



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

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NOTICE OF ADOPTED AMENDMENT

June 14, 2007



TO: Subscribers to Notice of Adopted Plan
or Land Use Regulation Amendments

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Sandy Plan Amendment
DLCD File Number 001-06

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: June 27, 2007

This amendment was submitted to DLCD for review 45 days prior to adoption. Pursuant to ORS 197.830 (2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

***NOTE: THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAN IT WAS MAILED TO DLCD. AS A RESULT YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.**

Cc: Gloria Gardiner, DLCD Urban Planning Specialist
Meg Fernekees, DLCD Regional Representative
Tracy Brown, City of Sandy

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DEPT OF

NOTICE OF ADOPTION

JUN 07 2007 This form must be mailed to DLCD not later than 5 working days after adoption ORS 197.615 and OAR Chapter 660, Division 18

LAND CONSERVATION AND DEVELOPMENT

See reverse side for submittal requirements

Jurisdiction City of Sandy Local File # 04-034

Date of Adoption June 4, 2007 Date Mailed June 6, 2007

Date the Proposed Notice was Mailed to DLCD

- Comprehensive Plan Text Amendment Comprehensive Plan Map Amendment
X Land Use Regulation Amendment Zoning Map Amendment
New Land Use Regulation

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached."

Ordinance No. 2007-07 repeals Ordinance No. 2005-03, minimum lot sizes in the R-1 Zoning District. Describe how the adopted amendment differs from the proposed amendment. If it is the same, write "Same." If you did not give notice of the proposed amendment, write "N/A."

Same: N/A

Plan Map Change From no change to no change

Zone Map Change From no change to no change

Location: N/A Acres Involved: N/A

Specify Density: Previous Density N/A New Density N/A

Applicable Goals: 1,2,10,14 Was an Exception adopted? Yes X No

DLCD File # 001-06 (15092) DLCD Appeal Deadline
Did DLCD receive a Notice of Proposed Amendment 45 days prior to the final hearing?

- Yes No The Statewide Planning Goals do not apply
Emergency Circumstances Required Expedited Review

Affected State or Federal Agencies, Local Governments or Special Districts:

Local Contact: Tracy A. Brown, Director of Planning Phone: 503-668-4886

Address: City of Sandy, 39250 Pioneer Blvd., Sandy OR 97055

ORDINANCE NO. 2007-07

AN ORDINANCE REPEALING MINIMUM LOT SIZES IN THE R-1 ZONING DISTRICT.

WHEREAS, the Land Use Board of Appeals (LUBA) remanded Ordinance No. 2005-03 to the City for further findings to justify the minimum lot sizes imposed by that ordinance;

WHEREAS, on remand the City has received evidence and testimony related to the minimum lot size standard in the R-1 zone;

WHEREAS, City staff and the City Attorney's office has reviewed and analyzed that evidence;

WHEREAS, the City contracted with an independent consultant, EcoNW, to review and analyze that evidence; and


WHEREAS, after that review and analysis City staff, the City Attorney's office and EcoNW determined that the minimum lot size standards in the R-1 zone could not be justified based upon the City's housing needs identified in 1997.

NOW, THEREFORE, THE CITY OF SANDY DOES ORDAIN AS FOLLOWS:

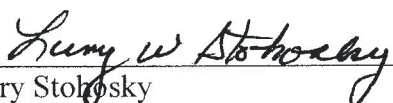
Section 1: Sandy Municipal Code Section 17.36.30 "Development Standards" is amended as described in Exhibit A, attached and incorporated by reference.

Section 2: A more detailed explanation regarding the repeal of the R-1's minimum lot sizes is attached as Exhibit B and incorporated by reference.

THIS ORDINANCE ADOPTED BY THE COMMON COUNCIL AND APPROVED BY THE MAYOR THIS 4th DAY OF JUNE, 2007.


Linda K. Malone
MAYOR

ATTEST:


Larry Stohrsky
City Recorder

DEPT OF
JUN 13 2007
**LAND CONSERVATION
AND DEVELOPMENT**

ORDINANCE NO. 2007-07
EXHIBIT A

Note: Matter in ~~strikethrough~~ is deleted language. Matter in **boldface** is amended language.

17.36.30 DEVELOPMENT STANDARDS

Type	Standard
A. Minimum Lot Area	-
- Single detached dwelling	5,500 square ft.
- Single detached zero lot line dwelling	5,000 square ft.
- Other permitted uses	No minimum
A. Minimum Average Lot Width	
- Single detached dwelling	50 ft.
- Single detached zero lot line dwelling	40 ft.
- Single attached zero lot line dwelling	30 ft.
- Other permitted uses	No minimum
Ⓒ B. Minimum Lot Frontage	20 ft. except as allowed by Section 17.100.160
Ⓓ C. Minimum Average Lot Depth	No minimum
Ⓔ D. Setbacks	
- Front yard	10 ft. minimum
- Rear yard	15 ft. minimum
- Side yard (interior)	5 ft. minimum ¹
- Corner Lot	10 ft. minimum on side abutting the street ²
- Garage	22 ft. minimum for front vehicle access
	15 ft. minimum if entrance is perpendicular to the street (subject to Section 17.90.220)
	5 ft. minimum for alley or rear access
Projections into Required Setbacks	See Chapter 17.74
Accessory Structures in Required Setbacks	See Chapter 17.74
Structure Height	35 ft. maximum
Building Site Coverage	No minimum
Off-Street Parking	See Chapter 17.98

¹ Excluding zero-lot line development

² Must comply with clear vision requirements of Chapter 17.74

ORDINANCE NO. 2007-07

EXHIBIT B

LUBA provided the City with good instructions regarding what must be demonstrated on remand to justify the minimum lot sizes in the R-1. The Board stated that “the relevant inquiry under Goal 10 is whether the amendments will alter the types or densities of residential development that the HNA anticipates will actually occur in the city’s residential zones during the planning period.” *Id.* at 535. It further stated that in order to justify the R-1’s minimum lot sizes the City must demonstrate how the amendments “will not leave the city unable to accommodate expected housing needs with the land that is planned and zoned for that purpose.” *Id.* at 534.

The City’s housing needs analysis (HNA) has been adopted according to and in compliance with Goal 10 (the state housing goal). The HNA establishes target densities throughout the City’s residential zones that the City’s comprehensive plan assumes must be met to accommodate twenty years of growth within the City’s urban growth boundary (1997-2017). The target densities are expressed per acre of land.

In the R-1 zone, the HNA assumes an average density “buildout” (i.e. the expected average density in the R-1 zone at the end of the planning period in 2017) of eight units per acre. It is this average density that the City has to achieve in order to (1) accommodate the new units expected for the R-1 zone from 1997 through 2017 and (2) accommodate those units within its existing UGB.

As the evidence submitted and reviewed shows, 556 units have been built on 89.9 acres of land zoned R-1 from 1997 to the present. This equals an average density of 6.2 units per acre. This is 1.8 units lower than the eight units per acre average that the City must achieve to meet its identified housing needs for the R-1. The evidence also shows that single family homes (of both the detached and zero-lot-line variety) constitute the vast majority of the housing types built in the R-1 since 1997.

Based on a 6.2 units per acre average density in the R-1 to the present, in order to meet an eight unit per acre average by 2017 future development in the R-1 would need to equal 10 units per acre on average. Based on past experience it is reasonable to assume that single family dwelling types will dominate future development in the R-1. With the minimum lot sizes in place for single family detached and single family detached zero-lot-line, the maximum density a single family development could achieve is 8.7 units per acre if developed exclusively with detached zero-lot-line units (43,560 square feet / 5000 square feet), or 7.9 units per acre if developed exclusively with single family detached units (43,560 square feet / 5500 square feet).

Assuming a 20 percent deduction per acre for infrastructure as alluded to in the comprehensive plan ($.80 \times 43,560 = 34,848$ square feet) the above maximum densities fall to 7.0 ($34,848 / 5000$) and 6.4 ($34,848 / 5500$) respectively. Under any scenario, with the R-1 minimum lot sizes in place it is more reasonable than not to assume that the City will be unable to achieve an average density in the R-1 of 10 units per acre for the next ten years.

ORDINANCE NO. 2007-07

EXHIBIT B

With regard to the other changes made to the development standards at 17.36.30, the City notes that LUBA did not base its remand on any of those changes. In fact, the petitioner did not assign error to those changes, and only mentioned them in passing in its summary of material facts. LUBA, in footnote 6 of its opinion, stated it was not apparent how those changes “would affect development densities and petitioner makes no attempt to explain why that might be the case. We therefore do not consider this part of petitioner’s argument further.” The petitioner could have but did not appeal this aspect of the remand and the City believes that the other changes to 17.36.30 – changes apart from the minimum lot size requirements – are immune from further challenge and remain applicable to development in the R-1 zone.