



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

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www.lcd.state.or.us

NOTICE OF ADOPTED AMENDMENT

May 22, 2007



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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Drain Plan Amendment
DLCD File Number 001-07

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 7, 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: Doug White, DLCD Community Services Specialist
John Renz, DLCD Regional Representative
Chris Lee, City of Drain

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Notice of Adoption

THIS FORM MUST BE MAILED TO DLCD
WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION
PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18

DATE STAMP: Received by May 17, 2007 Land Conservation and Development For DLCD Use Only

Jurisdiction: City of Drain

Local file number: ZC 07-01

Date of Adoption: 5/14/2007

Date Mailed: 5/18/2007

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? Select one Date: 3/5/2007

- Comprehensive Plan Text Amendment
Comprehensive Plan Map Amendment
Land Use Regulation Amendment
Zoning Map Amendment
New Land Use Regulation
Other:

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

The adopted amendment rezoned assessor's map 22-05-08-00 TL 300 from Rural Residential (RR-2) to Low Density Residential (R-1). Drain has an IGA with Douglas County that gives Drain planning authority over lands in their UGB. The tax lot is not proposed for annexation at this time because the City does not have sewere service available to this portion of the UGB.

Does the Adoption differ from proposal? Please select one
No.

Plan Map Changed from:

to:

Zone Map Changed from: RR-2

to: R-1

Location: north of Drain City limits west side of Umpqua Hwy

Acres Involved: 2

Specify Density: Previous: 1 per 2 acs

New: 7 lots per acre

Applicable statewide planning goals:

- 1-19 numbered checkboxes for statewide planning goals

Was an Exception Adopted? YES NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?

Yes No

If no, do the statewide planning goals apply?

Yes No

If no, did Emergency Circumstances require immediate adoption?

Yes No

DLCD # 001-07 (15929)

DLCD file No. _____

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

Local Contact: **Chris Lee**

Phone: **(541) 836-2417** Extension:

Address: **P.O. Box 158**

Fax Number: **541-836-7330**

City: **Drain**

Zip: **97435-**

E-mail Address: **assistant.drain@centurytel.net**

ADOPTION SUBMITTAL REQUIREMENTS

This form **must be mailed** to DLCD **within 5 working days after the final decision**
per ORS 197.610, OAR Chapter 660 - Division 18.

1. Send this Form and TWO Complete Copies (documents and maps) of the Adopted Amendment to:

**ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540**
2. Electronic Submittals: At least **one** hard copy must be sent by mail or in person, but you may also submit an electronic copy, by either email or FTP. You may connect to this address to FTP proposals and adoptions: **webserver.lcd.state.or.us**. To obtain our Username and password for FTP, call Mara Ulloa at 503-373-0050 extension 238, or by emailing **mara.ulloa@state.or.us**.
3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the Notice of Adoption is sent to DLCD.
6. In addition to sending the Notice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can now access these forms online at **<http://www.lcd.state.or.us/>**. Please print on **8-1/2x11 green paper only**. You may also call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518; or Email your request to **mara.ulloa@state.or.us** - ATTENTION: PLAN AMENDMENT SPECIALIST.

ORDINANCE NO. 403

AN ORDINANCE AMENDING THE CITY OF DRAIN ZONING MAP TO CHANGE THE ZONING OF CERTAIN LAND WITHIN THE CITY (TAX LOT 300 ASSESSOR'S MAP 22-05-08)

WHEREAS, the change to the zoning reflect existing land use patterns; and

WHEREAS, the proposed zoning change aids in the accomplishment of statewide and local goals and guidelines for the provision of residential land to provide a variety of living opportunities within the City limits; and

WHEREAS, the Drain Planning Commission held a public hearing on May 7, 2007 on the proposed zoning map amendment, and public notice of said meeting was published on April 19, 2007 in the Drain Enterprise, a newspaper of general circulation in the City of Drain, and the public was offered an opportunity to testify along with statements from various officials and staff and the contents of that meeting have been provided in written form; and

WHEREAS the Planning Commission has recommended the proposed zoning map amended be approved with conditions; and

WHEREAS, the City Council has reviewed the entire record of the proceedings, and finds in favor of the recommendation of the Planning Commission, and hereby adopts by reference the findings of the Planning Commission referenced above and attached as Exhibit "A", Findings of Fact and Decision Before the Planning Commission of the City of Drain : File No. ZC-07-01; Zone Change – Steven G. Cooper

WHEREAS the City Council held a public hearing on May 14, 2007 on the proposed zoning map amendment and public notice of said meeting was published on April 19, 2007 in the Drain Enterprise, a newspaper of general circulation in the City of Drain, and the public was offered an opportunity to testify along with statements from various officials.

NOW THEREFORE, the City of Drain ordains as follows:

Section 1. The zoning map of the City of Drain as adopted is amended from Rural Residential (RR-2) to Low Density Residential (R-1), for tax lot 300 of Assessor's map 22-05-08.

Section 2. The City Council adopts as "Findings of Fact" the Findings and associated Staff Reported included in the Planning Commission's action and generally summarized below:

1. This request for a Zone Change was heard by the Drain Planning Commission at a public meeting held on Monday, May 7, 2007 at 7:00 P.M and on by Drain City Council on Monday, May 14, 2007 at 7:00 P.M. in the Meeting Room of the Drain Civic Center, Drain, Oregon.

2. Notification of the request and hearing was mailed to property owners of record within 300 feet of the subject site.
3. A Notice of Public Hearing was published on April 19, 2007 in the Drain Enterprise.
4. The Planning Commission received the staff report and accepted written and oral testimony and evidence prior to and during the meeting.
5. The Planning Commission reviewed the request in light of the Goals and Policies of the City of Drain Comprehensive Plan, Development Ordinance and Development Standards. The findings of this review are included below.
6. The Planning Commission voted to recommend approval of the requested amendment for a zoning map change for tax lot 300 of assessor's map 22-05-08 from Rural Residential to Low Density Residential.
7. The Planning Commission at its May 7, 2007 meeting, adopted the findings of fact, and forwarded a recommendation of approval with conditions to the City Council on this amendment request.
8. The proposed zoning map amendment is consistent with the City of Drain Development Ordinance.
9. The zoning map amendment is consistent with the Drain Comprehensive Plan Land Use Plan Diagram and Plan policies as discussed in the findings of fact.

AMENDMENT OF ZONING MAP: Based on the foregoing findings, the City Council hereby declares that the parcel addressed as 196 Umpqua Highway 99, Drain, and identified by the Douglas County Assessor as Tax Lot 300, Map 22-05-08DC, to be reclassified as R-1 Low Density Residential from RR-2 Rural Residential on the City Zoning Map. The following conditions of approval shall apply to this zone change:

1. All future development shall comply with all applicable standards and regulations of the City Development Ordinance and city Development Standards.
2. All required permits shall be obtained prior to any future development.

SEVERABILITY: Should any section, provision, clause or portion of this Ordinance be declared by the Courts to be invalid, the same shall not affect the validity of the Ordinance as a whole, or any part thereof, other than the part so declared to be invalid.

**PASSED BY THE CITY COUNCIL OF THE CITY OF DRAIN, DOUGLAS COUNTY, OREGON,
THIS 14TH DAY OF MAY 2007.**

Suzanne Anderson
Suzanne Anderson, Mayor

ATTEST:

Carl A. Patenode
Carl A. Patenode, City Administrator

STAFF REPORT

April 27, 2007

CITY OF DRAIN PLANNING COMMISSION

FILE NO. ZC-07-01: /ZONE CHANGE

Applicant/Owner: Steven G. Cooper

Address: P.O. Box 117, Drain, OR 97435

Map & Tax Lot No: 22-05-08DC – 300

Legal Description: Beginning at a T iron from which the section corner common to sections 4, 5, 8, and 9, Township 22 South, Range 5 West, Willamette Meridian, Douglas County, Oregon, bears north 28°49' East 1204.5 feet; thence South 48° 04' East 613.4 feet to a T iron; thence continuing South 48° 04' East 20.0 feet to a point; thence South 36° 28' West 171.0 feet to a point from which a T iron bears North 51° 41' West 20.0 feet to a T iron; thence continuing North 51° 41' West 662.9 feet to a T iron; thence North 50° 25' East 215.8 feet to the place of beginning. Except that portion conveyed for highway purposes. Also excepting that part conveyed to John W. Engle, et ux, by Recorder's No. 75-1086, records of Douglas County, Oregon.

Location: North of Rewson Drive and west of Hwy 99

PROPOSAL:

The owner/applicant is requesting a zone change for the above-referenced 2.24-acre Tax Lot in order to partition the property. The property is currently developed with a single-family dwelling.

Current Plan designation/zoning: Rural Residential/Rural Residential

Proposed Plan designation/zoning: Rural Residential/Low Density Residential

PRESENT SITUATION: The subject site is currently developed as a two-story single-family dwelling. The applicant wishes to partition the tax lot. The site is currently within the urban growth boundary (UGB) and receiving City water service, however no City sewer is available at this time and the site is served by on-site septic system. The site's inclusion in the UGB marks it for urbanization thus meeting the Comprehensive Plan policies for housing and urbanization.

Surrounding zoning: R-1 Low Density Residential zoning to the south, north, and west, and Woodland/Open Area/Agriculture to the east across Highway 99.

APPLICABLE CRITERIA: Sec. 9.355 Rezoning, City of Drain Development Ordinance

(1) A development permit allowing a change in use where a new zone designation is required and where this change is determined to be quasi-judicial in nature may be granted if the following criteria are met:

(a) The change is consistent with and promotes the objectives of the Comprehensive Plan.

(b) The change is consistent with and promotes the objectives of this code and the Standards Document.

AGENCY COMMENTS

None supplied as of April 27, 2007.

ISSUES: None.

STAFF RECOMMENDATION:

Based on the findings for the Zone Change stated in the Proposed Final Order for **ZC-07-01**, staff recommends conditional approval of the Zone Change. The proposed conditions of approval are specified in the Proposed Final Order.

All future additions and improvements to the property will be designed and constructed meet City development regulations. The proposed new zoning would be consistent with the current uses of properties to the north, south, and west and will not result in adverse impacts to the woodland/open area/agricultural uses to the east across Highway 99.

The change would therefore be consistent with and promote the objectives of the City Development Ordinance and City Development Standards.

POSSIBLE ACTIONS BY THE PLANNING COMMISSION

The Commission may:

- a. Approve the Zone Change with specified conditions of approval based on the findings in the Proposed Final Order.
- b. Modify the proposed findings or conditions of approval in the Proposed Final Order.
- c. Deny the Zone Change based on the Commission's findings.
- d. Continue the public hearing on the Zone Change if more information is needed.

ATTACHMENTS:

Assessors map section showing location of subject site and surrounding zoning
Site sketch plan

NOTICE:

Written notice of this application and its attendant hearings was mailed to surrounding property owners on April 17, 2007. Notice was also published in the Drain Enterprise newspaper.

PREPARED BY:

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Drain Planning
Lane Council of Governments
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**FINDINGS OF FACT AND DECISION
BEFORE THE PLANNING COMMISSION OF THE CITY OF DRAIN**

IN THE MATTER OF a request by Steven G. Cooper for a zone change and plan Amendment that would rezone his property from RR-2 Rural Residential 2-acre minimum to R-1 Low Density Residential. The subject property is Located at 196 Upmqua Hwy 99 Assessor's Map 22-05-08 Tax Lot 300

**FINDINGS OF FACT
AND DECISION
FILE NO: ZC-07-01
ZONE CHANGE
STEVEN G. COOPER**

I. OFFICIAL NOTICE

The City Planning Commission takes official notice of the following:

1. The City of Drain Comprehensive Plan, Development Ordinance and Development Standards and implementing ordinances.
2. The records of the City of Drain concerning publication and mailing notice.

II. FINDINGS OF FACT

1. This request for a Zone Change was heard by the Drain Planning Commission at a public meeting held on Monday, May 7, 2007 at 7:00 P.M and on by Drain City Council on Monday, May 14, 2007 at 7:00 P.M. in the Meeting Room of the Drain Civic Center, Drain, Oregon.
2. Notification of the request and hearing was mailed to property owners of record within 300 feet of the subject site.
3. A Notice of Public Hearing was published on April 19, 2007 in the Drain Enterprise.
4. The Planning Commission received the staff report and accepted written and oral testimony and evidence prior to and during the meeting.
5. The Planning Commission reviewed the request in light of the Goals and Policies of the City of Drain Comprehensive Plan, Development Ordinance and Development Standards. The findings of this review are included below.

III. APPLICABLE CRITERIA AND FINDINGS OF THE PLANNING COMMISSION

Section 9.215 Type III Procedure of the City Development Ordinance requires that the Planning Commission shall review this application and make a recommendation to the City Council as to whether it should be approved, approved with conditions or denied. The Planning Commission has reviewed this application under the criteria deemed applicable and cited below, and adopted findings for each criterion as listed below.

APPLICABLE CRITERIA: Sec. 9.355 Rezoning, City of Drain Development Ordinance

- (1) *A development permit allowing a change in use where a new zone designation is required and where this change is determined to be quasi-judicial in nature may be granted if the following criteria are met:*
 - (a) *The change is consistent with and promotes the objectives of the Comprehensive Plan.*

Planning Commission findings, Subsection (a): The only element identified as pertinent to this application in the City Comprehensive Plan is Section E. Housing Element. This Element describes the City Housing Goal as:

“TO PROVIDE ADEQUATE ENERGY EFFICIENT AND AFFORDABLE HOUSING TO MEET THE NEEDS OF CURRENT AND FUTURE RESIDENTS”

The proposal to change the zoning of tax lot 300 from Rural Residential two acre minimum to Low Density Residential is consistent with Comprehensive Plan because it provides more adequate, energy efficient and affordable housing to meet the needs of current and future residents of the City and its future growth areas. The site is currently in the City’s urban growth boundary (UGB). The proposed zone change successfully addresses the City Housing Goal because the site has already been identified for urbanization based on its inclusion in the UGB. Lands for urbanization are limited in the area based on the constraints on lands surrounding the City. Locations below 390’ elevation and with slopes less than 25% and committed to non-resource uses were selected to be included within the UGB for future potential growth

In Section E. ***Future Housing*** a need for approximately 93 additional housing units was identified for the year 2020. 59%-63% of the expected new housing units were identified to be single family dwellings. The City has yet to meet this number and the proposed zone change contributes to meeting the identified housing need.

The proposed zone change is consistent with and promotes the objectives of the City Comprehensive Plan.

(b) *The change is consistent with and promotes the objectives of this code and the Standards Document.*

Planning Commission findings, Subsection (b): All future additions and improvements to the property will be designed and constructed meet City development regulations. The proposed new zoning would be consistent with surrounding residential and provide no adverse impact to nearby agricultural uses. The proposed zone change is consistent with and promotes the objectives of the City Development Ordinance and City Development Standards.

IV. DECISION

Based on the application materials, testimony and evidence received, staff report and its findings cited above, the City of Drain recommends that the City Council APPROVE the proposed Zone Change ZC-07-01 as presented, subject to the following proposed conditions:

1. All future development shall comply with all applicable standards and regulations of the City Development Ordinance and City Development Standards.
2. All required permits shall be obtained prior to any future development.

ATTEST:

Carl Patenode, City Administrator

Glen Swift, Planning Commission Chair