



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

August 15, 2008



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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Medford Plan Amendment
DLCD File Number 008-08

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Copies of the adopted plan amendment are available for review at DLCD offices in Salem, the applicable field office, and at the local government office. This amendment was submitted without a signed ordinance.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: August 29, 2008

This amendment was submitted to DLCD for review prior to adoption with less than the required 45-day notice. 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 DATE SPECIFIED ABOVE.**

Cc: Gloria Gardiner, DLCD Urban Planning Specialist
John Renz, DLCD Regional Representative
Marilyn Primm, City Of Medford

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DLCD

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

In person electronic mailed

DATE STAMP

DEPT OF

AUG 11 2008

LAND CONSERVATION AND DEVELOPMENT

For DLCD Use Only

Jurisdiction: **City of Medford**

Local file number: **A-07-089**

Date of Adoption: **7/17/2008**

Date Mailed: **8/7/2008**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: 5/21/2008

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other: **Annexation**

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".
Annexation and Zone Change for one parcel (382W01BD 7900) totaling 0.88 acres.

Does the Adoption differ from proposal? No, no explanation is necessary

Plan Map Changed from:

to:

Zone Map Changed from: **RR-5**

to: **SFR-00**

Location: **382W01BD 7900**

Acres Involved:

Specify Density: Previous: **5 acre min. lot size**

New: **1 dwelling per lot**

Applicable statewide planning goals:

- | | | | | | | | | | | | | | | | | | | |
|-------------------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|-------------------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
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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 file No. 008.08 (16914)

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

Medford Rural Fire Protection District #2

Local Contact: **Marilyn Primm**

Phone: (541) 774-2380 Extension:

Address: **200 South Ivy Street**

Fax Number: **541-774-2564**

City: **Medford**

Zip: **97501-**

E-mail Address: **marilyn.primm@ci.medford.or.us**

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. 2008-142

AN ORDINANCE proclaiming annexation to the City of Medford of one parcel totaling 0.88 acres plus the adjoining Happy Valley Drive right-of-way, located on the east side of Happy Valley Drive approximately 90 feet north of Shafer Lane, and concurrent zone change from County RR-5 (Rural Residential – 5 acre minimum lot size) to City SFR-00 (Single-Family Residential – one dwelling unit per existing lot) and withdrawal of said property from Medford Rural Fire Protection District #2, effective when notice is received from the Secretary of State, but not to occur before November 6, 2008.

WHEREAS:

1. The owner of the land in the territory to be annexed has consented in writing to the annexation, said consent having been heretofore filed with the City Recorder in the manner prescribed by law; and

2. The City Council by Resolution No. 2008-103 adopted June 19, 2008, dispensed with the elections submitting to the registered voters of the city the question of annexing said property and set 7:00 o'clock p.m. on the 17th day of July, 2008, in the Council Chambers of the City Hall in said city as the time and place of hearing thereon, together with a zone change to SFR-00, and withdrawing said property from Medford Rural Fire Protection District #2, at which time and place the registered voters of the city and other interested parties were given an opportunity to be heard on the question; and

3. Notices of said public hearing were published and posted in the manner and for the time prescribed by law and the public hearing was duly held by and before the City Council as provided by law and by the terms of said resolution and the published notice, and it appears to be in the best interest of the city and of the area involved that it be annexed to the City of Medford, that the area be rezoned to SFR-00, and that the area be withdrawn from Medford Rural Fire Protection District #2.

4. The City Council finds and determines that the facts and conclusions in the Staff Report dated July 9, 2008, attached as Exhibit "A" and incorporated herein, are true and correct and are hereby adopted as the findings of the council; now, therefore,

THE CITY OF MEDFORD ORDAINS AS FOLLOWS:

Section 1. The following described area in Jackson County, Oregon, to-wit:

Beginning at the Southeast corner of Lot 2, Block 2, WEBBER PARK SUBDIVISION, according to the official plat thereof, now of record, Jackson County, Oregon, said point being the Northeast corner of that area annexed into the City of Medford through Ordinance Number 2005-167; thence NORTH, along the East line of said Lot 2 and along the West line of that area annexed into the City of Medford through Ordinance Number 2007-30, 165.00 feet to the Northeast corner of

said Lot 2; thence WEST, along the North line of said Lot 2 and along the South line of that area annexed into the City of Medford through Ordinance Number 8399 passed July 3, 1997, 263.27 feet to the Southwest corner thereof; thence WEST, 30 feet to the West line of Happy Valley Drive; thence SOUTH, along said West line, 165 feet to the North line of that area annexed into the City of Medford through Ordinance Number 2000-105; thence EAST, along said North line and the North line of that area annexed into the City of Medford through Ordinance Number 2005-167, 292.55 feet to the point of beginning. Containing 1.11 acres, more or less

shall be annexed to the City of Medford, Oregon, and rezoned to SFR-00 as provided herein.

Section 2. The above-described property annexed to the City of Medford is hereby withdrawn from Medford Rural Fire Protection District #2 at the effective date of annexation.

Section 3. The City Recorder shall submit to the Secretary of the State of Oregon a certified copy of this Ordinance. The City Recorder shall also, within ten days of the effective date of this annexation, send copies of this Ordinance to the County Clerk, County Assessor of Jackson County, Oregon, and Medford Rural Fire Protection District #2.

PASSED by the council and signed by me in authentication of its passage this 17 day of July, 2008.

ATTEST: /s/Glenda Owens
 City Recorder

/s/Gary H. Wheeler
 Mayor

APPROVED: July 17, 2008.

/s/Gary H. Wheeler
 Mayor

EXHIBIT A

STAFF REPORT

File No: A-07-89 Annexation

Applicants: Dennis and Cheryl Beard

Request: Consideration of annexing to the City of Medford one parcel totaling 0.88 acres plus the adjoining Happy Valley Drive right-of-way, located on the east side of Happy Valley Drive approximately 90 feet north of Shafer Lane, and concurrent zone change from County RR-5 (Rural Residential – 5 acre minimum lot size) to City SFR-00 (Single-Family Residential – one dwelling unit per existing lot) and withdrawal of said property from Medford Rural Fire Protection District #2, effective when notice is received from the Secretary of State, but not to occur before November 6, 2008.

Background:

This application was submitted for one (1) tax lot (382W1BD TL7900) owned by Dennis and Cheryl Beard. The property currently has one single-family dwelling unit and a barn.

This consent to annex for this property constitutes 100% of the property owners, who own 100% of the land, and 100% of the assessed value. Therefore, per ORS 222.170(1), this annexation may be approved without holding an election.

Annexation Findings

Section 10.197 "Annexation Criteria"

The City Council must find that the following State requirements are met in order to approve an annexation:

- 1. The land is within the City's Urban Growth Boundary,*
- 2. The land is contiguous to the current city limits, and*
- 3. Unless the land being considered for annexation is enclaved by the City or the City chooses to hold an election, a majority of the land owners and/or electors have consented in writing to the annexation per ORS 222.125 or ORS 222.170.*

ORS 222.170(1) states that:

*“ (1) The legislative body of the city need not call or hold an election in any contiguous territory proposed to be annexed if more than half of the owners of land in the territory, who also own more than half of the land in the contiguous territory and of real property therein representing more than half of the assessed value of all real property in the contiguous territory consent in writing to the annexation of their land in the territory and file a statement of their consent with the legislative body on or before the day: (a) the public hearing held under ORS 222.120, if the city legislative body dispenses with submitting the question to the electors of the city; or ” ****

1. The subject parcel is within the City’s Urban Growth Boundary.
2. The subject parcel is contiguous to the current City limits along the north, east and south property lines.
3. There are two property owners for the parcel, and they have consented to the annexation in writing. This consent constitutes 100% of the property owners, who own 100% of the land, and 100% of the assessed value. Therefore, per ORS 222.170(1), this annexation may be approved without holding an election.

Zone Change Findings:

Only zone change criteria that are relevant to this particular application are listed. *** indicates where irrelevant text has been omitted for brevity.

MLDC Section 10.198 "Zoning of Annexed Property"

“At the time of annexation, the City will apply a City zoning designation comparable to the previous County zoning designation. Where no comparable City zoning designation exists, the SFR-00 (Single-Family Residential –one dwelling unit per existing lot) zone will be applied.”

The SFR-00 (Single-Family Residential- one dwelling per existing lot) zoning district is the most comparable to the County’s RR-5 (Rural Residential - 5 acre minimum lot size) zoning district found in the City’s *Land Development Code*. Both zones allow residential development and neither will allow further subdivision of the existing parcel. Partitioning of the parcel cannot take place until a City zone, other than SFR-00, is approved.

Section 10.227 "Zone Change Criteria"

“The approving authority shall approve a quasi-judicial zone change if it finds that the zone change complies with subsections (1) and (2) below:

(1) The proposed zone is consistent with the Oregon Transportation Planning Rule (OAR 660) and the General Land Use Plan Map designation. (When the City of Medford’s Transportation System Plan (TSP) is adopted, a demonstration of consistency with the acknowledged TSP will assure compliance with the Oregon Transportation Planning Rule.)”

It has been determined that the zone change is consistent with the *Transportation Planning Rule (OAR 660-12-060)* described below, because it will not significantly affect an existing or planned transportation facility. The proposal is consistent with the General Land Use Plan Map which has a UR (Urban Residential) designation in that the SFR-00 zoning district is allowed within all land use designations as listed in the General Land Use Plan Map Element of the City of Medford *Comprehensive Plan*.

"Where applicable, the proposed zone shall also be consistent with the additional locational standards of the below sections (1)(a), and (1)(b), (1)(c), or (1)(d). Where a special area plan requires a specific zone, any conflicting or additional requirements of the plan shall take precedence over the locational criteria below."

There are no locational standards for the SFR-00 zone.

2. *It shall be demonstrated that Category A urban services and facilities are available or can and will be provided, as described below, to adequately serve the subject property with the permitted uses allowed under the proposed zoning, except as provided in subsection (c) below. The minimum standards for Category A services and facilities are contained in the MLDC and Goal 3, Policy 1 of the Comprehensive Plan "Public Facilities Element."*

(a) Storm drainage, sanitary sewer, and water facilities must already be adequate in condition, capacity, and location to serve the property or be extended or otherwise improved to adequately serve the property at the time of issuance of a building permit for vertical construction.

(b) Adequate streets and street capacity must be provided in one of the following ways:

(i) Streets which serve the subject property, as defined in Section 10.461(2), presently exist and have adequate capacity;

The "Public Facilities Element" of the *Comprehensive Plan* lists two categories of public facilities. Category "A" facilities include sanitary sewer, storm drain, and water systems; and transportation (streets). These facilities are the minimum necessary to support development and must, therefore, be available or made available upon development. Since no additional subdivision may occur on the subject property until a City zone, other than the SFR-00 zone, is approved by the City, it can be found that the Category "A" urban services and facilities that currently serve the property are also available to adequately serve the subject property with the permitted uses allowed under the SFR-00 zoning district. A more thorough review of the facilities necessary to serve the subject site will be done when an application for a more intense City zone is received by the City.

Oregon Transportation Planning Rule 660-012-0060

Plan and Land Use Regulation Amendments

(1) Where an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation would significantly affect an existing or planned transportation facility, the local government shall put in place measures as provided in section (2) of this rule to assure that allowed land uses are consistent with the identified function, capacity, and performance standards (e.g. level of service, volume to capacity ratio, etc.) of the facility. A plan or land use regulation amendment significantly affects a transportation facility if it would:

(a) Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);

(b) Change standards implementing a functional classification system; or

(c) As measured at the end of the planning period identified in the adopted transportation system plan:

(A) Allow land uses or levels of development that would result in types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;

(B) Reduce the performance of an existing or planned transportation facility below the minimum acceptable performance standard identified in the TSP or comprehensive plan; or

(C) Worsen the performance of an existing or planned transportation facility that is otherwise projected to perform below the minimum acceptable performance standard identified in the TSP or comprehensive plan.

Applying the SFR-00 zoning designation to this parcel is considered a change in a land use regulation; therefore, per *Section 660-012-0060 of the Oregon Transportation Planning Rule* cited above, it must be determined whether the zone change will significantly affect an existing or planned transportation facility.

The SFR-00 zone was created in the City specifically as a holding zone, meaning that it will not allow an increase in the amount of traffic generated from the site over that which was allowed by the previous County zoning district. The current County zoning district on the subject parcel is RR-5 (Rural Residential – 5 acre minimum lot size). This tax lot is smaller than the 2.5 acre minimum and contains one dwelling. RR-5 zoning allows one single-family dwelling unit. Partitioning and further development of the parcel cannot take place until a City zone, other than SFR-00, is approved, therefore, no additional trips will be generated under the new SFR-00 zoning.

Conclusion:

As per the above referenced Annexation Findings, this proposal can be found to be consistent with the City of Medford *Land Development Code* Criteria 10.197 in that the subject annexation area is:

1. Within the City's Urban Growth Boundary,
2. Contiguous to the current city limits, and
3. 100% of the land owners have consented in writing to the annexation per ORS 222.170(1).

Under the legislative zone change provision for annexations found in MLDC Section 10.198, the City will apply a comparable City zoning designation at the time of annexation. The subject parcel is currently zoned County RR-5 (Rural Residential – 5 acre minimum lot size). SFR-00 (Single-Family Residential – One dwelling unit per existing lot) is the most comparable zoning, and application of this zoning to the subject site meets all applicable zone change criteria per the above zone change findings.

RECOMMENDED ACTION:

Approval of A-07-89 per the Staff Report dated July 9, 2008, including a Vicinity Map and the following actions:

1. The subject property shall be zoned SFR-00 at the effective date of annexation.
2. The subject property shall be withdrawn from Medford Rural Fire Protection District #2 at the effective date of annexation.

Marilyn Primm, Planner I

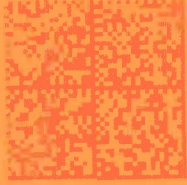
Reviewed by: _____
Kelly Akin
Senior Planner

CITY COUNCIL AGENDA: July 17, 2008

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08/08/2008

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RETURN RECEIPT
REQUESTED

PLAN AMENDMENT SPECIALIST
DEPT. OF LAND CONSERVATION
AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540