



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

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Salem, Oregon 97301-2524

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Web Address: <http://www.oregon.gov/LCD>

NOTICE OF ADOPTED AMENDMENT

September 26, 2006

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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: Washington County Plan Amendment
DLCD File Number 011-06



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: October 12, 2006

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
Ron Eber, DLCD Farm/Forest Specialist
Aisha Willits, Washington County

<paa> ya/



DLCD NOTICE OF ADOPTION

This form must be received by DLCD within 5 working days after the final decision per ORS 197.610, OAR Chapter 660 - Division 18 (See reverse side for submittal requirements)

Jurisdiction: Washington County

Local File No.: Ordinance No. 667 (If no number, use none)

Date of Adoption: September 19, 2006 (Must be filled in)

Date Mailed: September 21, 2006

Date the Notice of Proposed Amendment was mailed to DLCD: July 19, 2006

- Comprehensive Plan Text Amendment, Comprehensive Plan Map Amendment, Land Use Regulation Amendment, Zoning Map Amendment, New Land Use Regulation, Other: (Please specify type of action)

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached." Ordinance No. 667 amended the Community Development Code to implement Senate Bill 863. Senate Bill 863 was Adopted by the 2005 Legislature to enact provisions for deferred replacement permits in the AF-20 and EFU land use Districts. An applicant that qualifies for a deferred replacement permit must remove their existing dwelling within 90 days, Allowing the applicant to replace the dwelling at any time in the future, subject to building, plumbing and sanitation codes And other requirements relating to health and safety or to siting at the time of construction.

Describe how the adopted amendment differs from the proposed amendment. If it is the same, write "SAME." If you did not give notice for the proposed amendment, write "N/A." Same

Plan Map Changed from: N/A to: N/A

Zone Map Changed from: N/A to: N/A

Location: EFU and AF-20 land within the county Acres involved: N/A

Specified Change in Density: Previous: N/A New: N/A

Applicable Statewide Planning Goals: 1, 2, 3, 10, 11

Is an Exception Proposed? Yes: No: X

Was an Exception Adopted? Yes: No: X

DLCD No: 011-06 (15397)

Did the Department of Land Conservation and Development receive a notice a Proposed Amendment FORTY-FIVE (45) days prior to the first evidentiary hearing? Yes: No:

If no, do the Statewide Planning Goals apply? Yes: No:

If no, did The Emergency Circumstances require immediate adoption? Yes: No:

Affected State and Federal Agencies, Local Governments or Special Districts:
Washington County

Local Contact: Aisha Willits, Senior Planner Area Code + Phone Number: 503-846-3961

Address: Washington County DLUT, 155 N First Avenue, Suite 350-14

City: Hillsboro Zipcode + 4: 97124-3072

Email Address: Aisha_willits@co.washington.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 (2)** Copies 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. Submit **TWO (2) copies** of the adopted material, if copies are bound, please submit **TWO (2)** complete copies of documents and maps.
3. Please Note: Adopted materials must be sent to DLCD no 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 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 copy this form on to 8½ x 11 inch green paper only; or call the DLCD Office at (503) 373-0050; or Fax your request to (503) 378-5518; or email your request to Larry.French@state.or.us – ATTENTION: PLAN AMENDMENT SPECIALIST.

AGENDA

WASHINGTON COUNTY BOARD OF COMMISSIONERS

Agenda Category: Public Hearing – First Reading and Public Hearing – (All rural
Land Use & Transportation; County Counsel CPOs)

Agenda Title: **PROPOSED ORDINANCE NO. 667 – AN ORDINANCE
AMENDING THE COMMUNITY DEVELOPMENT CODE
RELATING TO DEFERRED REPLACEMENT DWELLING
PERMITS IN THE EFU AND AF-20 DISTRICTS**

Presented by: Brent Curtis, Planning Division Manager; Dan Olsen, County Counsel

SUMMARY (Attach Supporting Documents if Necessary)

Ordinance no. 667 proposes to amend several sections of the Washington County Community Development Code relating to replacement dwellings within the Exclusive Farm Use (EFU) and Agriculture and Forestry – 20 Acre (AF-20) Districts. The ordinance was filed to implement the provisions of Senate Bill 863, adopted by the Oregon Legislature in 2005. Senate Bill 863 amended Oregon Revised Statute 215.213 to create a new provision relating to deferred replacement permits within exclusive farm use zones. In Washington County, those zones are the EFU and AF-20 Districts. The changes proposed by Ordinance No. 667 would allow applicants to replace dwellings within the EFU and AF-20 Districts at any time provided that they have obtained a deferred replacement permit and comply with all conditions of approval.

On September 6, 2006, the Planning Commission conducted a public hearing on the ordinance. The Planning Commission's recommendation will be included in the staff report, which will be provided to the Board prior to the September 19, 2006 hearing. Copies of the report will also be available at the Clerk's desk prior to the hearing.

- Consistent with Board policy about public testimony, testimony about the ordinance is limited to three minutes for individuals and twelve minutes for a representative of a group.

DEPARTMENT'S REQUESTED ACTION:

Read Ordinance No. 667 by title only and conduct the public hearing. At the conclusion of the public hearing, adopt Ordinance No. 667.

COUNTY ADMINISTRATOR'S RECOMMENDATION:

I concur with the requested action.

100-601000

ADOPTED

Agenda Item No. 5.b.

Date: 9/19/06

FILED
JUL 18 2006
Washington County
County Clerk

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR WASHINGTON COUNTY, OREGON

ORDINANCE No. 667

An Ordinance Amending the
Community Development Code
Element of the Comprehensive Plan
Relating to Deferred Replacement
Permits in the EFU and AF-20 Districts

The Board of County Commissioners of Washington County, Oregon, ordains:

SECTION 1

A. The Board of County Commissioners of Washington County, Oregon, recognizes that the Community Development Code ("CDC") element of the Comprehensive Plan (Volume IV) was readopted with amendments on September 9, 1986, by way of Ordinance No. 308, with portions subsequently amended by Ordinance Nos. 321, 326, 336-341, 356-363, 372-378, 380, 381, 384-386, 392, 393, 397, 399-403, 407, 412, 413, 415, 417, 421-423, 428-434, 436, 437, 439, 441-443, 449, 451-454, 456, 457, 462-464, 467-469, 471, 478-481, 486-489, 504, 506-512, 517-523, 525, 526, 528, 529, 538, 540, 545, 551-555, 558-561, 573, 575-577, 581, 583, 588, 589, 591-595, 603-605, 607-610, 612, 615, 617, 618, 623, 624, 628, 631, 634, 635, 638, 642, 644, 645, 648, 649, 654, 660, and 661.

B. Subsequent ongoing planning efforts of the County indicate a need for changes to the CDC element of the Comprehensive Plan to provide deferred replacement permits in the EFU and AF-20 Districts. The Board takes note that such changes are

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1 necessary to assure consistency with state law and are for the benefit of the residents of
2 Washington County, Oregon.

3 C. Under the provisions of Washington County Charter Chapter X, the Land
4 Use Ordinance Advisory Commission has carried out its responsibilities, including
5 preparation of notices, and the County Planning Commission has conducted one or more
6 public hearings on the proposed amendments and has submitted its recommendations to
7 the Board. The Board finds that this Ordinance is based on those recommendations and
8 any modifications made by the Board, as a result of the public hearings process.

9 D. The Board finds and takes public notice that it is in receipt of all matters and
10 information necessary to consider this Ordinance in an adequate manner, and that this
11 Ordinance complies with the Statewide Planning Goals, and the standards for legislative
12 plan adoption, as set forth in Chapters 197 and 215 of the Oregon Revised Statutes, the
13 Washington County Charter, and the Washington County Community Development Code.

14 SECTION 2

15 The following exhibits, attached hereto and incorporated herein by reference, are
16 adopted as amendments to the designated documents as follows:

- 17 A. Exhibit 1 (1 page) amends CDC Section 201-4, EXPIRATION;
18 B. Exhibit 2 (1 page) amends CDC Section 340, EXCLUSIVE FARM USE
19 DISTRICT (EFU);
20 C. Exhibit 3 (1 page) amends CDC Section 344, AGRICULTURE AND
21 FOREST DISTRICT (AF-20); and
22

1 D. Exhibit 4 (5 pages) amends CDC Section 430-8, ALTERATION,
2 RESTORATION OR REPLACEMENT OF A LAWFULLY
3 ESTABLISHED DWELLING, INCLUDING MANUFACTURED
4 DWELLINGS, IN THE EFU, EFC, AF-20, AF-10, AF-5 AND RR-5
5 DISTRICTS THROUGH A TYPE I OR II PROCEDURE.

6 SECTION 3

7 All other Comprehensive Plan provisions that have been adopted by prior
8 ordinance, which are not expressly amended or repealed herein, shall remain in full force
9 and effect.

10 SECTION 4

11 All applications received prior to the effective date shall be processed in accordance
12 with ORS 215.427 (2005 Edition).

13 SECTION 5

14 If any portion of this Ordinance, including the exhibit, shall for any reason be held
15 invalid or unconstitutional by a body of competent jurisdiction, the remainder shall not be
16 affected thereby and shall remain in full force and effect, and any provision of a prior land
17 use ordinance amended or repealed by the stricken portion of this Ordinance shall be
18 revived and again be considered in full force and effect.

19 SECTION 6

20 The Office of County Counsel and Department of Land Use and Transportation are
21 authorized to prepare planning documents to reflect the changes adopted under Section 2
22 of this Ordinance, including deleting and adding textual material and maps, renumbering

1 pages or sections, and making any technical changes not affecting the substance of these
2 amendments as necessary to conform to the Washington County Comprehensive Plan
3 format.

4 SECTION 7

5 This Ordinance shall take effect on November 23, 2006.

6 ENACTED this 19th day of Sept., 2006, being the 1st reading
7 and 1st public hearing before the Board of County Commissioners of Washington
8 County, Oregon.

9 BOARD OF COUNTY COMMISSIONERS
10 FOR WASHINGTON COUNTY, OREGON

11 **ADOPTED**

12 John Lopez for
CHAIRMAN

13 Barbara Hejtmanek
RECORDING SECRETARY

14 READING

14 PUBLIC HEARING

15 First September 19, 2006
16 Second _____
17 Third _____
18 Fourth _____
19 Fifth _____
20 Sixth _____

15 September 19, 2006
16 _____
17 _____
18 _____
19 _____
20 _____

19 VOTE: Aye: Brian, Leeper, Dwyck, Nay: _____
Rogers, Schouten

20 Recording Secretary: Barbara Hejtmanek Date: September 19, 2006

CDC Section 201-4, EXPIRATION, is amended to reflect the following:

201-4 Expiration

201-4.NEW In the EFU and AF-20 Districts, an approved deferred replacement permit pursuant to Section 430-8 allows the construction of a replacement dwelling at any time.

CDC Section 340, EXCLUSIVE FARM USE DISTRICT (EFU), is amended to reflect the following:

340-3 Uses Permitted Through a Type I Procedure

The following uses are permitted subject to the specific standards for the use set forth below and in applicable Special Use Sections of Section 430, as well as the general standards for the District, the Development Standards of Article IV and all other applicable standards of the Code.

340-3.1 Accessory Uses and Structures - Section 430-1.

340-3.2 Alteration, restoration or replacement of a lawfully established dwelling. In the case of replacement, the existing dwelling shall be removed or demolished. A waiver of the right to remonstrate against commonly accepted farm or forest practices shall be recorded for this use. For required standards see Sections 430-8.1, and 8.3, and 8.4.

340-3.3 Deferred replacement permit – Section 430-8.4.

340-3.34 Property Line Adjustment - Section 610-1.1.

340-3.45 Co-located antennas, excluding those antennas regulated by Section 430-109.11 or otherwise exempt pursuant to Sections 430-109.1 and 201-2 – Section 430-109.3.

340-4 Uses Permitted Through a Type II Procedure

The uses listed in Sections 340-4.1 and 340-4.2 are permitted subject to the specific standards for the use set forth below and in applicable Special Use Sections of Section 430, as well as the general standards for the District, the Development Standards of Article IV and all other applicable standards of the Code. Approval may be further conditioned by the Review Authority pursuant to Section 207-5. Unless the use is specifically exempted, the Review Authority shall make specific findings with respect to the standards in Section 340-4.3.

340-4.1 Permitted Uses which are exempt from Section 340-4.3:

A. Accessory dwellings customarily provided in conjunction with farm use – Section 430-37.2 D. A waiver of the right to remonstrate against commonly accepted farm or forest practices shall be recorded for this use.

B. Alteration, restoration or replacement of a lawfully established dwelling not permitted through a Type I procedure. A waiver of the right to remonstrate against commonly accepted farm or forest practices shall be recorded for this use. For required standards see Sections 430-8.2, and 8.3, and 8.4.

CDC Section 344, AGRICULTURE AND FOREST DISTRICT (AF-20), is amended to reflect the following:

344-3 Uses Permitted Through a Type I Procedure

The following uses are permitted subject to the specific standards for the use set forth below and in applicable Special Use Sections of Section 430, as well as the general standards for the District, the Development Standards of Article IV and all other applicable standards of the Code.

344-3.1 Accessory Uses and Structures - Section 430-1.

344-3.2 Alteration, restoration or replacement of a lawfully established dwelling. In the case of replacement, the existing dwelling shall be removed, demolished, or converted to an accessory structure, pursuant to Section 430-8.1. A waiver of the right to remonstrate against commonly accepted farm or forest practices shall be recorded for this use. For required standards see Sections 430-8.1, and 8.3, and 8.4.

344-3.3 Deferred replacement permit – Section 430-8.4.

344-3.34 Property Line Adjustment - Section 610-1.1.

344-3.45 Co-located antennas, excluding those antennas regulated by Section 430-109.11 or otherwise exempt pursuant to Sections 430-109.1 and 201-2 – Section 430-109.3.

344-4 Uses Permitted Through a Type II Procedure:

The uses listed in Section 344-4.1 and 344-4.2 are permitted subject to the specific standards for the use set forth below and in applicable Special Use Sections of Section 430, as well as the general standards for the District, the Development Standards of Article IV and all other applicable standards of the Code. Approval may be further conditioned by the Review Authority pursuant to Section 207-5. Unless the use is specifically exempted, the Review Authority shall make specific findings with respect to the standards in Section 344-4.3.

344-4.1 Permitted Uses which are exempt from Section 344-4.3:

A. Accessory dwellings customarily provided in conjunction with farm use – Section 430-37.2 D. A waiver of the right to remonstrate against commonly accepted farm or forest practices shall be recorded for this use.

B. Alteration, restoration or replacement of a lawfully established dwelling not permitted through a Type I procedure. A waiver of the right to remonstrate against commonly accepted farm or forest practices shall be recorded for this use. For required standards see Section 430-8.2, and 8.3, and 8.4.

abcdef Proposed additions

~~abedef~~ Proposed deletions

CDC Section 430-8, ALTERATION, RESTORATION OR REPLACEMENT OF A LAWFULLY ESTABLISHED DWELLING, INCLUDING MANUFACTURED DWELLINGS, IN THE EFU, EFC, AF-20, AF-10, AF-5 AND RR-5 DISTRICTS THROUGH A TYPE I OR II PROCEDURE, is amended to reflect the following:

430-8.1 Alteration, restoration or replacement of a dwelling, through a Type I procedure, when the following standards are met:

A. The applicant shall demonstrate the dwelling was lawfully established on or after April 6, 1959 by submitting the following information:

- (1) A development application approval for the dwelling issued on or after April 6, 1959;
- (2) A building permit for the dwelling issued on or after April 6, 1959; or
- (3) A certificate of zoning compliance for the dwelling issued on or after April 6, 1959; or

B. The applicant demonstrates the dwelling was lawfully established by providing documentation from the Department of Assessment and Taxation that the dwelling was established prior to April 6, 1959;

C. The existing dwelling shall have:

- (1) Intact exterior walls and roof structure;
- (2) Indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;
- (3) Interior wiring for interior lights; and
- (4) A heating system.

Acceptable documentation for items (1) through (4), above, may include photographic evidence that the given feature or features are present and in working order. In addition, for compliance purposes, the applicant shall submit a photograph that depicts the overall dwelling structure as it appears from the public right-of-way or access drive.

D. In the case of replacement, the existing dwelling structure is removed, demolished, or converted to an accessory structure as specified in FG. below, within ninety (90) days of completion of the replacement dwelling.

E. In the EFC District, the replacement dwelling also meets the standards in Section 428-3 (forest structure siting and fire safety standards for dwellings reviewed through a Type I procedure).

F. In the EFU and AF-20 Districts, the applicant may request a deferred replacement permit. For required standards, see Section 430-8.4.

G. To convert to an accessory structure, and render a dwelling uninhabitable, the applicant must complete all of the following, as verified by a site inspection:

(1) In the kitchen:

- a) Remove all appliances including the stove, oven, refrigerator, dishwasher, and trash compactor;
- b) Remove the sinks, countertops and cabinets;
- c) Remove or terminate all 220-volt electrical circuits to kitchen appliances in a manner conforming to the One & Two Family Dwelling Electrical Code;
- d) Remove fuel supply lines (if any) to kitchen appliances and cap service lines at the supply source in the wall in conformance with the One & Two Family Dwelling Mechanical Code.

(2) In all bathrooms:

Remove the toilets, sinks, and tub/shower facilities;

(3) Terminate the water supply into the converted structure and cap off all plumbing fixtures (including those in the kitchen) in a manner conforming to the Oregon Specialty Code;

(4) The property owner shall record a restrictive covenant in the Department of Records stating the converted dwelling structure is not eligible to be, nor will be used as a dwelling.

Final building inspection approval of the replacement dwelling shall not be granted until the conversion of the existing dwelling structure is complete.

430-8.2 Alteration, restoration or replacement of a lawfully established dwelling that is not permitted by Section 430-8.1, through a Type II procedure, when the following standards are met:

A. The applicant shall submit evidence which demonstrates the dwelling was lawfully established;

B. The existing dwelling shall have:

(1) Intact exterior walls and roof structure;

- (2) Indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;
- (3) Interior wiring for interior lights; and
- (4) A heating system.

Acceptable documentation for items (1) through (4), above, may include photographic evidence that the given feature or features are present and in working order. In addition, for compliance purposes, the applicant shall submit a photograph that depicts the overall dwelling structure as it appears from the public right-of-way or access drive.

C. In the case of replacement, the existing dwelling structure shall be:

- (1) Removed or destroyed within ninety (90) days of completion of the replacement dwelling; or
- (2) Converted to an accessory structure that is permitted by the primary district when the following standards are met:
 - (a) The accessory structure shall be reviewed in conjunction with the application for replacement of the dwelling and shall be by a Type II procedure if the accessory structure is permitted by a Type III procedure. Replacement of the dwelling shall not be allowed if the accessory structure is not approved. If the existing dwelling structure is not converted to the accessory structure within ninety (90) days of completion of the replacement dwelling the original dwelling structure shall be demolished or removed;
 - (b) The existing dwelling structure shall be altered to retain only interior walls, plumbing, wiring and fixtures determined necessary by the Review Authority for the accessory structure;
 - (c) The property owner shall record a restrictive covenant in the Department of Records stating the converted dwelling structure is not eligible to be used as a dwelling; and
 - (d) Final building inspection approval of the replacement dwelling shall not be granted until the conversion of the existing dwelling structure is complete.

D. In the EFC District, the replacement dwelling also meets the standards in Section 428-3 or 428-4 (Forest Structure Siting and Fire Safety Standards for Dwellings in the EFC District).

E. In the EFU and AF-20 Districts, the applicant may request a deferred replacement permit. For required standards, see Section 430-8.4.

430-8.3 Standards for Replacement Dwellings in EFU, EFC, and AF-20

- A. A replacement dwelling may be sited on any part of the same lot or parcel.
- B. A dwelling established under this section shall comply with all applicable siting standards. However, the siting standards shall not be applied in a manner that prohibits the siting of the dwelling.
- C. If the dwelling to be replaced is located on a portion of the lot or parcel not zoned for exclusive farm use, the applicant, as a condition of approval, shall execute and record in the deed records for Washington County a deed restriction prohibiting the siting of a dwelling on that portion of the lot or parcel. The restriction imposed shall be irrevocable unless a statement of release is placed in the deed records for the county. The release shall be signed by the Review Authority and state that the provisions of this section regarding replacement dwellings have changed to allow the siting of another dwelling. The Review Authority shall maintain a record of the lots and parcels that do not qualify for the siting of a new dwelling under the provisions of this section, including a copy of the deed restrictions and release statements filed under this section.
- D. A temporary residence approved under the standards of Section 430-135.2 A. is not eligible for replacement under these provisions.

430-8.4 Deferred Replacement Permits in the EFU and AF-20 Districts

- A. In the EFU and AF-20 Districts, the applicant may request a deferred replacement permit in conjunction with a development application for a replacement dwelling, or
- B. A deferred replacement permit may be granted through a Type I procedure by applicants that have prior development approval for a replacement dwelling. Applicants must provide evidence that:
 - (1) The dwelling exists on the site, and
 - (2) The development approval has not expired as prescribed in Section 201-4.
- C. Once approved, through either method described above, the deferred replacement permit allows construction of the replacement dwelling at any time provided the applicant complies with the following requirements:
 - (1) The existing dwelling is removed or demolished within ninety (90) days from the date of development approval or the date the deferred replacement permit is issued.
 - (2) The deferred replacement permit will become void if the existing dwelling is not removed or demolished within ninety (90) days.

- (3) The replacement dwelling must comply with applicable building codes, plumbing codes, sanitation codes and other requirements relating to health and safety or to siting at the time of construction.
- (4) The deferred replacement permit may not be transferred, by sale or otherwise, except by the applicant to the spouse or child of the applicant.

AGENDA

WASHINGTON COUNTY BOARD OF COMMISSIONERS

Agenda Category: Action – Department of Land Use & Transportation (All rural CPOs)

Agenda Title: ADOPT FINDINGS FOR ORDINANCE NO. 667

Presented by: Brent Curtis, Planning Division Manager

SUMMARY (Attach Supporting Documents if Necessary)

Ordinance no. 667 proposes to amend several sections of the Washington County Community Development Code relating to replacement dwellings within the Exclusive Farm Use (EFU) and Agriculture and Forestry – 20 Acre (AF-20) Districts. The ordinance was filed to implement the provisions of Senate Bill 863, adopted by the Oregon Legislature in 2005. Senate Bill 863 amended Oregon Revised Statute 215.213 to create a new provision relating to deferred replacement permits within exclusive farm use zones. In Washington County, those zones are the EFU and AF-20 Districts. The changes proposed by Ordinance No. 667 would allow applicants to replace dwellings within the EFU and AF-20 Districts at any time provided that they have obtained a deferred replacement permit and comply with all conditions of approval.

As required by ORS 197.615, post acknowledgment comprehensive plan amendments (e.g., amendments made to the County's Comprehensive Plan after it was acknowledged by the State Department of Land Conservation and Development as complying with the Statewide Planning Goals) must be accompanied by findings setting forth the facts and analysis showing that the amendments are consistent with the applicable Statewide Planning Goals, Oregon Revised Statutes, State Administrative Rules and the applicable provisions of Washington County's Comprehensive Plan.

Attached is the Resolution and Order to adopt the findings. The proposed findings will be provided to the Board prior to the hearing and will also be available at the Clerk's desk.

DEPARTMENT'S REQUESTED ACTION:

Adopt the proposed findings for Ordinance No. 667 and sign the Resolution and Order memorializing the action.

COUNTY ADMINISTRATOR'S RECOMMENDATION:

I concur with the requested action.

100-601000

RO 06-198

Agenda Item No.	<u>7.b.</u>
Date:	<u>9/19/06</u>

1 IN THE BOARD OF COUNTY COMMISSIONERS

2 FOR WASHINGTON COUNTY, OREGON

3 In the Matter of Adopting) RESOLUTION AND ORDER
4 Legislative Findings in Support)
of Ordinance No. 667) No. 06-198

5 This matter having come before the Washington County Board of Commissioners at its
6 meeting of September 19, 2006; and

7 It appearing to the Board that the findings contained in Exhibit "A" summarize relevant facts
8 and rationales with regard to compliance with the Statewide Planning Goals, Oregon Revised
9 Statutes and Administrative Rules, and Washington County's Comprehensive Plan relating to
10 Ordinance No. 667; and

11 It appearing to the Board that the findings attached as Exhibit "A" constitute appropriate
12 legislative findings with respect to the adopted ordinance; and

13 It appearing to the Board that the Planning Commission, at the conclusion of its public hearing
14 on September 6, 2006, made a recommendation to the Board, which is in the record and has been
15 reviewed by the Board; and


16 It appearing to the Board that, in the course of its deliberations, the Board has considered the
17 record which consists of all notices, testimony, staff reports, and correspondence from interested
18 parties, together with audio tapes of the Planning Commission's proceedings, and other items
19 submitted to the Planning Commission and Board regarding this ordinance; it is therefore,

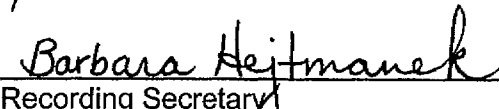
20 RESOLVED AND ORDERED that the attached findings in Exhibit "A" in support of Ordinance
21 No. 667 are hereby adopted.

22 DATED this 19th day of September, 2006.

	AYE	NAY	ABSENT
BRIAN	✓	—	—
SCHOUTEN	✓	—	—
LEEPER	✓	—	—
ROGERS	✓	—	—
APPROVED AS TO FORM:	—	—	—
DUYCK	✓	—	—

23 BOARD OF COUNTY COMMISSIONERS
24 FOR WASHINGTON COUNTY, OREGON

25 
Chairman

26 
27 Recording Secretary

28 
County Counsel
For Washington County, Oregon

EXHIBIT A

FINDINGS FOR ORDINANCE NO. 667 AMENDING THE COMMUNITY DEVELOPMENT CODE ELEMENT OF THE COMPREHENSIVE PLAN RELATING TO THE ESTABLISHMENT OF A DEFERRED REPLACEMENT PERMIT FOR THE EFU AND AF-20 LAND USE DISTRICTS

SEPTEMBER 19, 2006

GENERAL FINDINGS

Ordinance No. 667 amends the Community Development Code element of the Comprehensive Plan relating to deferred replacement permits in the Exclusive Farm Use (EFU) and Agriculture & Forestry (AF-20) Districts. In 2005, the Oregon Legislature adopted SB 863, which amended Oregon Revised Statute (ORS) 215.213, which describes the uses allowed within exclusive farm use zones. In Washington County, those zones are the EFU and AF-20 Districts. The deferred replacement permit allows applicants for a replacement dwelling to construct a new dwelling at any point in the future, provided the applicant complies with all conditions of approval.

The deferred replacement permit requires that the existing dwelling be demolished or removed within ninety days of the permit's issuance. If the dwelling is removed within ninety days, the dwelling can be replaced at any time. If the dwelling is not removed during that time period, the applicant's deferred replacement permit becomes void. The new dwelling is subject to all applicable building codes, sanitation codes and other requirements relating to the health and safety or to siting at the time of construction. The revised statute also states that the deferred replacement permit can be transferred only to the applicant's spouse or children. The changes made to the Community Development Code bring the county's Comprehensive Plan into compliance with Oregon Revised Statutes regarding uses allowed in exclusive farm use zones.

Because the ordinance would make changes that do not affect compliance with Oregon's Statewide Planning Goals (Goals), it is not necessary for these findings to address the Goals with respect to each amendment. The Board of County Commissioners (Board) finds that the Goals apply to amendments covered by these findings only to the extent noted in specific responses to individual Goals, and that each amendment complies with the Goals. Goals 15 (Willamette River Greenway), 16 (Estuarine Resources), 17 (Coastal Wetlands), 18 (Beaches and Dunes) and 19 (Ocean Resources) and related OARs are not addressed because these resources are not located within Washington County.

GOAL FINDINGS

The purpose of the findings in this document is to demonstrate that Ordinance No. 667 is consistent with Statewide Planning Goals, ORS and OAR requirements and the Washington County Comprehensive Plan.

Goal 1 - Citizen Involvement

CONCLUSION

Washington County has an acknowledged citizen involvement program that provides opportunities for citizens and other interested parties to participate in all phases of the planning process. In addition, Chapter X of the County Charter sets forth specific requirements for citizen involvement during review and adoption of land use ordinances. Washington County has utilized these requirements for the adoption of this ordinance. Plan compliance with Goal 1 is maintained by implementing these citizen involvement options. This conclusion is supported by the following facts:

FACTS

1. Washington County's Citizen Participation Policy is outlined in Resolution and Order 86-58.
2. Resolution and Order 86-58 endorses a variety of citizen involvement mechanisms. These include public hearings, town hall meetings, open houses, advisory committees, the Committee for Citizen Involvement (CCI) and Citizen Participation Organizations (CPOs).
3. Proposed Ordinance No. 667 and an accompanying summary were mailed on July 28, 2006 to the CPOs and CCI. Also on July 28, 2006, notice of the ordinance was mailed to special service districts and cities in Washington County and other interested parties. Additionally, notice of the proposed ordinance and copies of the ordinance were mailed to DLCD on July 19, 2006.
4. A copy of the proposed ordinance was made available for review at the Cedar Mill Library and the Tigard Public Library. Copies of the ordinance were also available for review in the office of the Department of Land Use and Transportation and on the county's website.
5. Chapter X of the County Charter requires that a display ad be published in local newspapers at least 14 days prior to the first hearing. Display ads for Ordinance No. 667 were published in the following newspapers: the Washington County Weekly section of *The Oregonian* on August 17, 2006 and *The Hillsboro Argus* on August 18, 2006.

6. Chapter X of the County Charter requires that individual notice for the initial public hearings on the ordinance be mailed at least 14 days prior to the first hearing to those persons who have requested them in writing and paid a fee. Notice for Proposed Ordinance No. 667 was mailed on August 23, 2006.
7. The Planning Commission held a public hearing for this ordinance on September 6, 2006. This hearing resulted in a recommendation for adoption of Ordinance No. 667 to the Board of Commissioners. The Board of Commissioners held a public hearing on the ordinance on September 19, 2006 and voted to adopt Ordinance No 667.

Goal 2, Land Use Planning

CONCLUSION

Statewide Planning Goal 2 addresses Land Use Planning. Goal 2 requires an adequate factual base to support a decision and coordination with affected governmental entities. Washington County has an acknowledged land use planning process that provides for the review and update of the various elements of the Comprehensive Plan, which includes documents such as the Rural/Natural Resource Plan, Urban Planning Area Agreements and the Community Development Code. Washington County utilized this process to adopt this ordinance.

The amendments that were made to the Community Development Code by this ordinance are consistent with the parameters set forth in the acknowledged Comprehensive Framework Plan for the Urban Area - Policy 1, Implementing Strategy (d); and the Rural/Natural Resource Plan - Policy 1, Implementing Strategy (d). Plan compliance with Goal 2 is maintained by implementing these two strategies. This conclusion is supported by the following facts:

FACTS

1. The acknowledged Comprehensive Framework Plan for the Urban Area and Rural/Natural Resource Plan both require that legislative Plan and Code amendments be adopted by ordinance in accordance with the procedures specified in the Washington County Charter and State Law.
2. Chapter X, Section 100(d) of the County Charter defines "land use ordinances" to include any ordinance that amends a comprehensive plan. Ordinance No. 667 amends the county's Community Development Code, which is an element of the county's Comprehensive Plan. It is therefore a legislative land use ordinance in accordance with the definitions in Chapter X of the County Charter.

3. Chapter X of the Washington County Charter requires that initial notice of public hearings be prepared by the Land Use Ordinance Advisory Commission. The Commission met August 15, 2006 to draft a notice for Ordinance No. 667. The Charter also requires that the notice be mailed at least 14 days prior to the initial Planning Commission hearing to those persons who have requested notices in writing and paid a fee. This notice was mailed on August 23, 2006.
4. Chapter X requires that a display ad be published in a newspaper of general circulation 14 days prior to the initial Planning Commission hearing, which was held on September 6, 2006. ORS Chapter 215.060 requires the county to provide 14 days advance public notice prior to the first public hearing. Display ads were published in the following newspapers: the Washington County Weekly section of *The Oregonian* on August 17, 2006 and *The Hillsboro Argus* on August 18, 2006.
5. ORS 197.610, OAR 660-018-0020 and Senate Bill 543 (effective on June 30, 1999) require that notice of proposed amendments to the county's acknowledged comprehensive plan be forwarded to the Director of the Department of Land Conservation and Development (DLCD) at least 45 days before the first hearing. Notice of Proposed Ordinance No. 667 was mailed to DLCD on July 19, 2006.
6. At its hearing on April 18, 2006, the Board of County Commissioners authorized the 2006 Planning Division and Land Use Ordinance Work Program, which included the filing of an ordinance to update the county's standards for replacement dwellings located in Section 430-8 (Alteration, Restoration or Replacement of a Lawfully Established Dwelling, Including Manufactured Dwellings, in the EFU, EFC, AF-20, AF-10, AF-5 and RR-5 Districts through a Type I or II Procedure) of the Community Development Code. These changes were included in Proposed Ordinance No. 667.

Goal 3 - Agricultural Land

CONCLUSION

Policy 15, Implementing Strategies (a) and (f) of the Rural/Natural Resource Plan include provisions for the preservation of agricultural lands. Plan compliance with Goal 3 is maintained with the amendments made by Ordinance No. 667. The amendments are consistent with the county's acknowledged policies and standards for protecting agricultural lands identified under Goal 3. This conclusion is supported by the following facts:

FACTS

1. The EFU and AF-20 land use districts are Washington County's acknowledged exclusive farm use districts. Ordinance No. 667 amended Sections 340 (EFU) and

344 (AF-20) of the Community Development Code to add deferred replacement permits to the list of uses allowed in the EFU and AF-20 Districts. Section 430-8, the special use standards for replacement dwellings were also amended by Ordinance No. 667.

2. Section 430-8 (Alteration, Restoration or Replacement of a Lawfully Established Dwelling, Including Manufactured Dwellings, in the EFU, EFC, AF-20, AF-10, AF-5 and RR-5 Districts through a Type I or II Procedure) was amended to create standards for a deferred replacement permit in the EFU and AF-20 land use districts. This ordinance reflects changes made to Oregon Revised Statute 215.213 by the Oregon Legislature in 2005, which amended the list of approved uses in exclusive farm use districts to include deferred dwelling permits.
3. Ordinance No. 667 amended Sections 201-4 (Expiration), 340 (Exclusive Farm Use District) and 344 (Agriculture & Forest 20 Acre District) to implement Senate Bill 863, adopted by the Oregon Legislature in 2005. Section 201-4 was amended to state that applicants with approved deferred replacement permits can construct a replacement dwelling at any time. Sections 340 and 344 were amended to include deferred replacement permits as Type I and Type II uses.

Goal 4 - Forest Lands

CONCLUSION

Policy 16 of the Rural/Natural Resource Plan includes provisions for the preservation of forest lands. Amendments made by Ordinance No. 667 are consistent with Goal 4; OAR Chapter 660, Division 06; and the county's acknowledged policies for preservation of forest lands. This conclusion is supported by the following facts:

FACTS

1. The EFC District is Washington County's acknowledged exclusive forest district. Ordinance No. 667 did not amend the applicable Plan policies or Code standards related to forest land resources which impact the county's compliance with Goal 4. Therefore, it is not necessary to make specific findings for Goal 4.

Goal 5 - Open Spaces, Scenic and Historic Areas and Natural Resources

CONCLUSION

Policies 10, 11 and 12 of the Comprehensive Framework Plan for the Urban Area, Policies 7, 9, 10, 11, 12 and 13 of the Rural/Natural Resource Plan and various sections of the Community Plans and the Community Development Code include provisions for

the protection of Goal 5 resources. In addition, OAR 660-023-0250 requires application of current Goal 5 provisions to Post Acknowledgment Plan Amendments (PAPAs) initiated on or after September 1, 1996 when the PAPA creates or amends a resource list or a portion of an acknowledged plan or land use regulation that protects a significant Goal 5 resource or if the PAPA allows new uses that could be conflicting uses with a particular significant Goal 5 site.

Plan compliance with Goal 5 is maintained with amendments made by Ordinance No. 667. The amendments are consistent with the county's acknowledged policies and standards for the protection of Goal 5 resources as well as those set forth in OAR 660, Division 23. This conclusion is supported by the following facts:

FACTS

1. Ordinance No. 667 amended the Community Development Code element of the Comprehensive Framework Plan relating to the creation of a deferred replacement permit in the EFU and AF-20 Districts. The ordinance does not amend any Plan policies or strategies or Code standards related to natural resources, therefore, it is not necessary to make specific findings for Goal 5.

Goal 6 - Air, Water and Land Resource Quality

CONCLUSION

Policies 4, 5, 6 and 7 in the Comprehensive Framework Plan for the Urban Area and Policies 4, 5, 6, and 7 of the Rural/Natural Resource Plan provide for the maintenance and improvement of the quality of air, water and land resources.

Plan compliance with Goal 6 is maintained with the amendments made by Ordinance No. 667. The amendments are consistent with the county's acknowledged policies and standards for the protection of Goal 6 resources. This conclusion is supported by the following facts:

FACTS

1. The Community Development Code standards related to these resources are contained in Section 379 (Mineral and Aggregate Overlay District), Section 410 (Grading and Drainage), Section 423 (Environmental Performance Standards) and Section 426 (Erosion Control).
2. Ordinance No. 667 amended the Community Development Code element of the Comprehensive Framework Plan relating to the creation of a deferred replacement permit in the EFU and AF-20 Districts. Ordinance No. 667 did not amend the applicable Plan policies or Code standards related to air, water or land resources

which impact the county's compliance with Goal 6. Therefore, it is not necessary to make specific findings for Goal 6.

Goal 7 - Natural Disasters and Hazards

CONCLUSION

Policy 8 in the Comprehensive Framework Plan for the Urban Area and Policy 8 in the Rural/Natural Resource Plan set out the county's policy to protect life and property from natural disasters and hazards. Plan compliance with Goal 7 is maintained with the amendments made by Ordinance No. 667. The amendments are consistent with the county's acknowledged policies and standards for regulating development exposed to potential natural disasters and hazards addressed by Goal 7. This conclusion is supported by the following facts:

FACTS

1. The Community Development Code standards relating to natural disasters and hazards are contained in Sections 410 (Grading and Drainage) and 421 (Flood Plain and Drainage Hazard Area Development).
2. Ordinance No. 667 amended the Community Development Code element of the Comprehensive Framework Plan relating to the creation of a deferred replacement permit in the EFU and AF-20 Districts. Ordinance No. 667 did not amend the applicable Plan policies related to flood plain areas, or to natural disasters and hazards. Therefore, it is not necessary to make specific findings for Goal 7.

Goal 8 - Recreation Needs

CONCLUSION

Policies 33 and 34 of the Comprehensive Framework Plan for the Urban Area, Policy 24 of the Rural/Natural Resource Plan and the individual Community Plans address the recreational needs of the citizens of Washington County and visitors. Plan compliance with Goal 8 is maintained with the amendments made by Ordinance No. 667. The amendments are consistent with the county's acknowledged policies and strategies for satisfying recreational needs as required by Goal 8. This conclusion is supported by the following facts:

FACTS

1. The Code standards related to recreation uses are contained in Sections 405 (Open Space), 430-11 (Amusement Park), 430-25 (Campground), 430-50 and 430-51

(Golf Courses), 430-69 (Hunting and Fishing Preserves), 430-95 (Parks – Type I), 430-97 (Parks – Type II), 430-100 (Private Hunting and Fishing Operations in the EFC District), 430-125 (Shooting Club), 430-131 (Special Recreation Use) and 431-7 (Common Open Space).

2. Ordinance No. 667 amended the Community Development Code element of the Comprehensive Framework Plan relating to the creation of a deferred replacement permit in the EFU and AF-20 Districts. Ordinance No. 667 did not directly amend any Plan policies or strategies or Code standards relating to Goal 8. Therefore, it is not necessary to make specific findings for Goal 8.

Goal 9 - Economy of the State

CONCLUSION

Policy 20 in the Comprehensive Framework Plan for the Urban Area and Policies 15, 16, 20 and 21 in the Rural/Natural Resource Plan set out the county's policies to strengthen the local economy. The Community Development Code contributes to a sound economy by providing standards that facilitate development in an orderly and efficient fashion. Plan compliance with Goal 9 is maintained with the amendments made by Ordinance No. 667. The amendments are consistent with the county's acknowledged policies and strategies for strengthening the local economy as required by Goal 9. This conclusion is supported by the following facts:

FACTS

1. Implementing Strategy a. of Policy 20 (Urban Area Economy) of the county's Comprehensive Framework Plan for the Urban Area states in part that, "The County will clarify and streamline the development review process in the Community Development Code." While there are no specific Code standards directly related to this goal, amendments to the Code should follow this policy to achieve the economic development goal.
2. Ordinance No. 667 amended the Community Development Code element of the Comprehensive Framework Plan relating to the creation of a deferred replacement permit in the EFU and AF-20 Districts. Ordinance No. 667 did not directly amend any Plan policies or strategies or Code standards relating to Goal 9. Therefore, it is not necessary to make specific findings for Goal 9.

Goal 10 - Housing

CONCLUSION

Policies 21, 22, 23 and 24 of the Comprehensive Framework Plan for the Urban Area and Policies 19 and 25 of the Rural/Natural Resource Plan address the provision of housing in the urban and rural areas of the county. The Community Development Code contributes to the provision of adequate housing by establishing standards that facilitate development in an orderly and efficient fashion. Plan compliance with Goal 10 is maintained with the amendments made by Ordinance No. 667. The amendments are consistent with the county's acknowledged policies and standards for regulating housing in the urban and rural area as required by Goal 10. This conclusion is supported by the following facts:

FACTS

1. Ordinance No. 667 amended Section 430-8 (Alteration, Restoration or Replacement of a Lawfully Established Dwelling, Including Manufactured Dwellings, in the EFU, EFC, AF-20, AF-10, AF-5 and RR-5 Districts through a Type I or II Procedure) to create standards for deferred replacement permits in the EFU and AF-20 land use districts. This ordinance reflects changes made to Oregon Revised Statute 215.213 by the Oregon Legislature in 2005, which amended the list of approved uses in exclusive farm use districts to include deferred dwelling permits.
2. Ordinance No. 667 also amended Sections 201-4 (Expiration), 340 (Exclusive Farm Use District) and 344 (Agriculture & Forest 20 Acre District) to implement Senate Bill 863, adopted by the Oregon Legislature in 2005. Section 201-4 was amended to state that applicants with approved deferred replacement permits can construct a replacement dwelling at any time. Sections 340 and 344 were amended to include deferred replacement permits as Type I and Type II uses.

Goal 11 - Public Facilities and Services

CONCLUSION

Policies 15, 25, 26, 27, 28, 29, 30 and 31 of the Comprehensive Framework Plan for the Urban Area and Policy 22 of the Rural/Natural Resource Plan address the provision of public facilities and services in the urban and rural areas of unincorporated Washington County. The Community Development Code requires that adequate public facilities and services be available for new development. Plan compliance with Goal 11 is maintained with the amendments made by Ordinance No. 667. The amendments are consistent with the county's acknowledged policies and strategies for the provision of public facilities and services as required by Goal 11. The amendments are also consistent with the

provisions of Chapter 660, Division 11 of the Oregon Administrative Rules and Oregon Revised Statute 195.110. This conclusion is supported by the following facts:

FACTS

1. The standards for public facilities and services in the Community Development Code are outlined in Article V (Public Facilities and Services).
2. In 1991, Washington County adopted a public facility plan, consistent with OAR 660, Division 11. Ordinance No. 667 does not amend the Washington County Public Facilities Plan.
3. Ordinance No. 667 amended the Community Development Code element of the Comprehensive Framework Plan relating to the creation of a deferred replacement permit in the EFU and AF-20 Districts. Ordinance No. 667 did not directly amend any Plan policies or strategies or Code standards relating to Goal 11. Therefore, it is not necessary to make specific findings for Goal 11.

Goal 12 - Transportation

CONCLUSION

Policy 32 of the Comprehensive Framework Plan for the Urban Area, Policy 23 of the Rural/Natural Resource Plan, and in particular the Washington County 2020 Transportation Plan, describe the transportation system necessary to accommodate the transportation needs of Washington County through the year 2020. Implementing measures are contained in the Transportation Plan and the Community Development Code. Plan compliance with Goal 12 is maintained with the amendments made by Ordinance No. 667. The amendments are consistent with the county's acknowledged policies and strategies for the provision of transportation facilities and services as required by Goal 12 (the Transportation Planning Rule or TPR, implemented via OAR Chapter 660, Division 12) and the Regional Transportation Plan (RTP). This conclusion is supported by the following facts:

FACTS

1. Ordinance No. 667 did not amend the applicable Plan policies related to transportation. Therefore, it is not necessary to make specific findings for Goal 12.

Goal 13 - Energy Conservation

CONCLUSION

Policies 36, 37, 38, 39 and 40 of the Comprehensive Framework Plan for the Urban Area and Policy 25 of the Rural/Natural Resource Plan address energy conservation in the urban and rural areas of unincorporated Washington County. The Community Development Code implements the energy conservation policies by establishing standards that promote energy efficient development, especially in Article IV. Plan compliance with Goal 13 is maintained with the amendments made by Ordinance No. 667. The amendments are consistent with the county's acknowledged policies and strategies for promoting energy conservation as required by Goal 13. This conclusion is supported by the following facts:

FACT

1. Ordinance No. 667 did not amend the applicable Plan policies or code sections related to energy conservation. Therefore, it is not necessary to make specific findings for Goal 13.

Goal 14 - Urbanization

CONCLUSION

Policies 13, 14, 16, 17, 18 and 19 of the Comprehensive Framework Plan for the Urban Area address urbanization within the Regional Urban Growth Boundary. The Community Development Code implements the urbanization policies by establishing standards to promote appropriate urban development. The Community Plans implement the urbanization policies by designating sufficient land for appropriate development. Plan compliance with Goal 14 is maintained with the amendments made by Ordinance No. 667. The amendments are consistent with the county's acknowledged policies and strategies for urbanization as required by Goal 14. This conclusion is supported by the following facts:

FACTS

1. Ordinance No. 667 amended the Community Development Code element of the Comprehensive Framework Plan relating to the creation of a deferred replacement permit in the EFU and AF-20 Districts. Ordinance No. 667 did not directly amend any Plan policies or strategies or Code standards relating to Goal 14. Therefore, it is not necessary to make specific findings for Goal 14.