



# Oregon

Theodore R. Kulongoski, Governor

## Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

[www.lcd.state.or.us](http://www.lcd.state.or.us)

### NOTICE OF ADOPTED AMENDMENT

June 19, 2007



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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: Jefferson County Plan Amendment  
DLCD File Number 001-07

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.

Appeal Procedures\*

### **DLCD ACKNOWLEDGMENT OR DEADLINE TO APPEAL: July 2, 2007**

This amendment was not submitted to DLCD for review prior to adoption. Pursuant to OAR 660-18-060, the Director or any person is eligible to appeal this action to LUBA under ORS 197.830 to 197.845.

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: Doug White, DLCD Community Services Specialist  
Jon Jinings, DLCD Regional Representative  
Sandy Mathewson, Jefferson County

<paa>

D L C D NOTICE OF ADOPTION

DEPT OF

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

JUN 12 2007

(See reverse side for submittal requirements)

LAND CONSERVATION AND DEVELOPMENT

Jurisdiction: Jefferson County Local File No.: 002-06 07-PA-01 (If no number, use none)

Date of Adoption: 6/6/07 (Must be filled in) Date Mailed: 6/11/07 (Date mailed or sent to DLCD)

Date the Notice of Proposed Amendment was mailed to DLCD: 7/14/2006 by city

- 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." Amended the Comprehensive Plan by adding 15 acres to the City of Culver UGB.

Describe how the adopted amendment differs from the proposed amendment. If it is the same, write "Same." Same

Plan Map Changed from: EFU to Urban and Urbanizable Zone Map Changed from: to Location: 12-13-19-201, Elbe Drive Acres Involved: 15 Specify Density: Previous: New: Applicable Statewide Planning Goals: 1-14 Was an Exception Adopted? Yes: No: X

DLCD File No.: 001-07 (NOA)



Did the Department of Land Conservation and Development receive a notice of 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 or Federal Agencies, Local Governments or Special Districts: City of Culver

Local Contact: Sandy Mathewson Area Code + Phone Number: 541-475-4462

Address: 85 SE "D" St.

City: Madras OR Zip Code+4: 97741

## 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** the adopted material, if copies are bounded please submit **TWO (2) complete copies** of documents and maps.
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 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 8-1/2x11 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](mailto:Larry.French@state.or.us) - **ATTENTION: PLAN AMENDMENT SPECIALIST.**



**BEFORE THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON FOR  
THE COUNTY OF JEFFERSON**

**IN THE MATTER OF AN AMENDMENT TO )  
THE COMPREHENSIVE PLAN TO ADD )  
15 ACRES TO THE CITY OF CULVER )  
URBAN GROWTH BOUNDARY )**

**Ordinance No. 0-82-07**

**WHEREAS**, Robert Griffin submitted an application to the City of Culver and Jefferson County for a quasi-judicial revision to the Comprehensive Plan to add tax lot 201 in Section 19, Township 12 South, Range 13 East to the City of Culver Urban Growth Boundary; and

**WHEREAS**, the City of Culver Planning Commission and City Council considered the application and approved the urban growth boundary expansion; and

**WHEREAS**, the Jefferson County Planning Commission held a public hearing on April 26, 2007, at which time they considered the staff report and accepted testimony on the application; and

**WHEREAS**, the Planning Commission found that the proposal was consistent with the Comprehensive Plan, statewide planning goals and state statutes, and by a vote of 6 in favor and no opposed voted to recommend that the Board of Commissioners approve the amendment; and

**WHEREAS**, the Jefferson County Board of Commissioners conducted a public hearing on May 23, 2007, at which time Commissioner Ahern declared an actual conflict of interest and recused himself, and Commissioner Bellamy declared a conflict of interest but participated in the decision in order to have a quorum; and

**WHEREAS**, testimony was received in favor of the application, but no persons appeared to testify in opposition to the application or submitted written testimony in opposition. At the conclusion of the hearing, the Board closed the record and deliberated on the application. After considering the Planning Commission recommendation and testimony, the Board voted unanimously to **AFFIRM** the Planning Commission recommendation.

**NOW THEREFORE**, the Jefferson County Board of Commissioners hereby **ORDAINS** as follows:

**1. Adoption of Comprehensive Plan Map Amendment**

Jefferson County hereby **AMENDS** the Comprehensive Plan to add tax lot 201 in Section 19, Township 12 South, Range 13 East to the City of Culver Urban Growth Boundary.



2. **Adoption of Findings**

The Board of Commissioners hereby finds that the amendment is in conformance with applicable statewide planning goals, state statutes, and Comprehensive Plan provisions, as set forth in the Findings of Fact in the attached Exhibit A.

3. **Zoning Designation**

The lands will continue to be zoned Exclusive Farm Use A-1 and will remain under County jurisdiction until they are annexed into the City.

Dated this 6<sup>TH</sup> day of June, 2007.

BOARD OF COMMISSIONERS:



Mike Ahern, Commission Chair



Bill Bellamy, Commissioner



John Hatfield, Commissioner

Attest:



**Appeal Information**

Planning Casefile #07-PA-01

This decision may be appealed to the Land Use Board of Appeals within 21 days of the Jefferson County Board of Commissioners Decision. Oregon Revised Statute (ORS) 197.830 sets forth the review procedures. Copies of the Board of Commissioners decision and the state statute are available from the Community Development Department located at 85 SE "D" Street, Madras, Oregon 97741.

Board of Commissioners adoption date: June 6, 2007

The complete file is available for review at the Jefferson County Community Development Department. For further information, contact the Community Development Department. Phone (541) 475-4462.

## EXHIBIT A

### FINDINGS OF FACT

- A. The proposal is for a revision to the Comprehensive Plan map to add 15 acres to the Culver Urban Growth Boundary (UGB). OAR 660-024 contains rules to clarify procedures and requirements regarding the amendment of a UGB. The rules are effective April 5, 2007. The County may choose to not apply the rules to applications initiated prior to that date, as is the case with the present application. However, the applicant chose to address the OAR, so the County will do the same. OAR 660-024-0000(3)(d) states that a local government choice whether to apply the rule must include the entire division 24 and may not differ with respect to individual rules in the division.
- B. Since the application involves a single property, it is a quasi-judicial land use decision. Comprehensive Plan Part 5, Quasi-Judicial Amendments, states that in order to be approved, the proposed amendment must:
1. *Comply with applicable Statewide Planning Goals, Oregon Revised Statutes and Administrative Rules, or comply with requirements for an exception to the goal(s);*

**Finding:** The County's Comprehensive Plan was recently revised and has not been acknowledged, so the Statewide planning Goals are directly applicable and must be addressed. An exception to the goals has not been proposed.

Statewide planning Goal 1 requires that the county provide the opportunity for citizens to be involved in the planning process. Notice of the public hearings to consider the proposal was mailed to all property owners within 750 feet of the subject property and was published in the Madras Pioneer. Providing the opportunity for public input complies with Goal 1.

The revised Comprehensive Plan and Zoning Ordinance set out procedures and regulations for land use decision-making, in compliance with Goal 2. OAR 660-024-0020(1) states that the exception process in Goal 2 is not applicable when amending a UGB.

OAR 660-024-0020(1) states that Goals 3 and 4 are not applicable when amending a UGB, and states that Goal 5 applies to a UGB amendment only in areas added to the UGB. There are no designated Goal 5 resources on or near the property, so Goal 5 is not applicable.

Goal 6 requires that the air, water and land resources of the state be maintained or improved. The proposal is simply to add land to the Culver UGB. The zoning and use of the property will remain the same until the property is annexed into the city. Potential impacts to air, water and land resources will be considered by the City at the time a request for annexation and rezoning is submitted.



The property is not subject to any significant natural hazards (Goal 7). There are no known geologic faults in the county, and the earthquake hazard is considered to be moderate. The NRCS Soil Survey description of the soils making up the property does not indicate any constraints to development. Terrain is flat. The property is not in a mapped flood hazard area. The property is bordered by roads, irrigated farm land and urban development, so the wildfire hazard is minimal.

The property is not needed to meet the recreational needs of the citizens of the county, so the proposal does not conflict with Goal 8.

Goal 9 requires jurisdictions to provide adequate opportunities for economic development. The city has indicated that it has sufficient industrial and commercial land inside the city limits, so Goal 9 is not applicable.

Goal 10 requires that sufficient buildable lands be provided in urban and urbanizable areas to provide for the housing needs of the citizens of the state. The city has indicated that because of the extremely rapid growth that has occurred over the last five years, it is essentially out of residential land. OAR 660-024-0040(1) states that the UGB must be based on the adopted 20-year population forecast. The adopted forecast shows that the City of Culver was projected to have a population of 1,085 in year 2007, and a population of 1,898 in 2027. The city has calculated that a population of 1,354 can be accommodated within the existing city limits, leaving a need for additional residential land to provide housing for 544 persons. The city conducted a residential lands need assessment in 2006, which indicated that, based on a 7,500 square foot minimum lot size for residential lots and allowing 20 percent for public facilities such as roads, 4.65 housing units can be provided per acre of land. The assessment determined that there is an average of 2.18 persons per household (calculated by dividing the existing population by the number of houses receiving sewer service). Based on these figures, there is a need for 250 new housing units to meet residential needs through 2027, which would require 53.6 acres of land. If a 25 percent figure is used for public facilities, the amount of land needed increases to 57 acres. 45 acres were added to the UGB last year, leaving a need for an additional 9 – 12 acres. The subject property is 15 acres, so includes more land than is needed to meet projected housing needs. However, the Board finds that the difference between 12 and 15 acres is minimal, and it is reasonable to allow the entire parcel to be added to the UGB because of the location of the property surrounded by other lands either in the city or UGB.

Goal 11 requires that cities or counties develop a public facility plan for areas within a UGB containing a population greater than 2,500. The proposed UGB expansion will not increase the population to that level, so will not trigger the need for public facilities planning. However, the subject property will need to be provided with city services and utilities before it can be developed. The adequacy of existing public facilities is discussed further in Finding (C).

Goal 12 requires jurisdictions to provide a safe, convenient and economic transportation system. The property is bordered by Iris Lane and Elbe Drive, which are county roads. OAR 660-024-0020(1)(d) states that the transportation planning rule requirements under

OAR 660-012-0060 need not be applied to a UGB amendment when the land added to the UGB retains the zoning that was assigned prior to inclusion in the boundary. The zoning of the subject property will remain EFU A-1 until it is annexed into the city. Compliance with Goal 12 and OAR 660-012 will need to be addressed at the time of annexation.

The proposal conserves energy because the property is adjacent to the city, so energy expended for transportation will be minimized, in accordance with Goal 13. The requirements of Goal 14 are addressed in Finding C.

2. *Comply with all applicable Comprehensive Plan goals and policies; and*

**Finding:** Comprehensive Plan Goal 14, Policies 1 and 1.1 apply to urban growth boundaries. They state:

*Policy 1: The County should cooperate with each city to determine where and when an urban growth boundary should be expanded.*

*1.1 Expansion of an existing urban growth boundary shall be in accordance with state requirements, including the priority of land to be included within the urban growth boundary. Non-irrigated land should have a higher priority for inclusion in the boundary than irrigated land.*

All applicable state requirements for the UGB amendment have been addressed. The subject property is irrigated, but so are all other properties surrounding the city, so there is no difference in priority based on irrigation alone.

3. *Be necessary due to changes in physical, economic or social conditions, population growth, or development patterns which require an adjustment in the land use designations in the area where the amendment is proposed.*

**Finding:** The expansion of the UGB is necessary because the city needs to have additional land available for annexation in order to meet housing needs for projected population growth over the 20-year planning period.

C. The application is subject to Goal 14, which states:

*Establishment and change of urban growth boundaries shall be based on the following:*

- (1) Demonstrated need to accommodate long range urban population, consistent with a 20-year population forecast coordinated with affected local governments; and*
- (2) Demonstrated need for housing, employment opportunities, livability or uses such as public facilities, streets and roads, schools, parks or open space, or any combination of the need categories in this subsection (2).*



*In determining need, local government may specify characteristics, such as parcel size, topography or proximity, necessary for land to be suitable for an identified need.*

*Prior to expanding an urban growth boundary, local governments shall demonstrate that needs cannot reasonably be accommodated on land already inside the urban growth boundary.*

**Finding:** As stated in the previous finding, the city needs 9 - 12 additional acres of residential land to accommodate projected population increase over the next 20 years, based on the coordinated population forecast that was adopted by the city in August, 2006 and by the county in October, 2006. No specific characteristics were identified as being necessary for land to be suitable to meet the need for additional residential land. 45 acres was added to the UGB last year, which will accommodate the projected city population through the year 2025 (based on the city's calculated capacity for 1,354 persons within the existing city limits, and 4.65 housing units per acre, housing 2.18 persons per household). Culver is a small community in a rural area that traditionally has met residential housing needs through 7500 square foot or larger single-family residential lots. Although there is nothing in the record to indicate that the issue of increasing density by adopting a smaller minimum lot size or designating more land for multi-family residential use was addressed by the City Council, the Board presumes that the City does not wish to increase density in this manner. While Goal 14 requires the consideration of the efficient accommodation of identified land needs, it does not mandate that residential land needs be met by increasing density or reducing the acknowledged minimum lot size. Consequently, the Board finds that the application complies with Goal 14.

*The location of the urban growth boundary and changes to the boundary shall be determined by evaluating alternative boundary locations consistent with ORS 197.298 and with consideration of the following factors:*

- (1) *Efficient accommodation of identified land needs;*
- (2) *Orderly and economic provision of public facilities and services;*
- (3) *Comparative environmental, energy, economic and social consequences; and*
- (4) *Compatibility of the proposed urban uses with nearby agricultural and forest activities occurring on farm and forest land outside the UGB.*

**Finding:** ORS 197.298 is addressed in Finding (D). The land that is proposed to be added to the UGB is adjacent to the city limits and existing urban residential areas. It is level so can efficiently be developed at an urban scale with minimal development constraints.

City facilities and services will need to be available to the property before it can be developed. The city water system is operated by Deschutes Valley Water District, which has capacity to serve additional residential development. Information from the city that was submitted with the application indicates that the existing sewer treatment plant has

capability to handle a population of about 1,200 persons, and that it has reached its design limit. The Planning Commission received testimony from Thelma Krueger, who stated that she is the City of Culver Sewer Commissioner. Ms. Krueger stated that the existing sewer system is working without overflowing, and that it can easily be upgraded by digging a new treatment pond to increase its capacity. Based on this testimony, the Board finds that the City will be able to provide public facilities and services in an orderly and economic manner, as required by Goal 14.

Since the city is surrounded by agricultural land, there is little difference in the environmental, energy, economic, or social consequences of which land is added to the boundary, with the exception that the west side of the city is zoned for industrial uses, so there would be greater social consequences to future residents if lands west of the city were brought into the UGB for residential development.

There are no forest lands in the area. The subject property is bordered by agricultural land to the east and south. However, the land to the east is within the UGB, so may be developed for residential uses in the future. There is a dwelling and agricultural buildings at the southern end of the subject property, which, if retained, will separate future urban development on the remainder of the parcel from the adjacent farm land to the south. Consequently, there will be minimal adverse impact on agricultural activities.

D. ORS 197.298 contains regulations for prioritizing which land should be included in a UGB, stating:

- (1) *In addition to any requirements established by rule addressing urbanization, land may not be included within an urban growth boundary except under the following priorities:*
  - (a) *First priority is land that is designated urban reserve land under ORS 195.145, rule or metropolitan service district action plan.*
  - (b) *If land under paragraph (a) of this subsection is inadequate to accommodate the amount of land needed, second priority is land adjacent to an urban growth boundary that is identified in an acknowledged comprehensive plan as an exception area or nonresource land. Second priority may include resource land that is completely surrounded by exception areas unless such resource land is high-value farmland as described in ORS 215.710.*
  - (c) *If land under paragraphs (a) and (b) of this subsection is inadequate to accommodate the amount of land needed, third priority is land designated as marginal land pursuant to ORS 197.247 (1991 Edition).*
  - (d) *If land under paragraphs (a) to (c) of this subsection is inadequate to accommodate the amount of land needed, fourth priority is land designated in an acknowledged comprehensive plan for agriculture or forestry, or both.*
- (2) *Higher priority shall be given to land of lower capability as measured by the capability classification system or by cubic foot site class, whichever is appropriate for the current use.*



- (3) *Land of lower priority under subsection (1) of this section may be included in an urban growth boundary if land of higher priority is found to be inadequate to accommodate the amount of land estimated in subsection (1) of this section for one or more of the following reasons:*
- (a) *Specific types of identified land needs cannot be reasonably accommodated on higher priority lands;*
  - (b) *Future urban services could not reasonably be provided to the higher priority lands due to topographical or other physical constraints; or*
  - (c) *Maximum efficiency of land uses within a proposed urban growth boundary requires inclusion of lower priority lands in order to include or to provide services to higher priority lands.*

**Finding:** The City of Culver does not have an urban reserve. There are no exception areas or nonresource land adjacent to the UGB, nor are there any resource lands in the vicinity that are surrounded by exception areas. There are no marginal lands in the county. The city is surrounded by land that is zoned EFU A-1, so the only option to expand the UGB is to take in agricultural land.

All of the agricultural land surrounding the city is irrigated. According to the NRCS Soil Survey, the subject property is composed of agricultural capability class II soils. The majority of other lands surrounding the city are also composed of soils that are class II. However, there is an area of class III soils east of the subject property, within tax lot 12-13-20-200, and there is a swath of class IV soil southeast of the city making up the majority of tax lots 12-13-20-100 and 12-13-17-1000, 1100, 1200, 1300 and 1400.

Tax lots 1100 – 1400 are each approximately two acres in size, are developed with dwellings, and are separately owned. Consequently, they would have limited suitability for being redeveloped at an urban scale. An open North Unit Irrigation District canal crosses tax lot 100, and separates tax lot 1000 from the city. The canal would limit the ability of the City to extend water and sewer lines or to develop a road network across the canal, making these lots less suitable for annexation.

According to the prioritization requirements of ORS 197.298(1) and (2), the subject property is of lower priority for inclusion within the UGB than tax lots 12-13-20-100 and 200. However, the Board finds that adding the subject property to the UGB is appropriate because it is bordered by the city limits on the north and west and by the existing UGB on the east. This location, combined with the relatively small size of the parcel, makes it less suitable for continued agricultural use than tax lots 100 and 200.

**CONCLUSION:** The Board concludes that the request to expand the Culver urban growth boundary complies with applicable criteria and statewide planning goals and is needed to meet housing needs based on the City's projected population over the next twenty years.