



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

NOTICE OF ADOPTED AMENDMENT

May 22, 2007

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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: Wallowa 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: June 4, 2007

This amendment was submitted to DLCD for review with less than the required 45-day notice because the jurisdiction determined that emergency circumstances required expedited review. 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: Doug White, DLCD Community Services Specialist
Jon Jinings, DLCD Regional Representative
Lance Bailey, Wallowa County

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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

DEPT OF

(See reverse side for submittal requirements)

MAY 17 2007

LAND CONSERVATION AND DEVELOPMENT

Jurisdiction: Wallowa County Local File No.: 2C#07/01

Date of Adoption: April 16th 2007 Date Mailed: 5/15/07

Date the Notice of Proposed Amendment was mailed to DLCD: 2/12/07

- 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."

Rezone a parcel consisting of approximately 36.30 acres in the Exclusive Farm Use (EFU) zone to Rural Residential (R-1) zone. The minimum parcel size in the R-1 zone is 5 acres.

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: EFU to R-1

Zone Map Changed from: EFU to R-1

Location: 2S, 44, 03, TC#101 Acres Involved: 36.30

Specify Density: Previous: 160 Acre lot size New: 5 Acre lot size

Applicable Statewide Planning Goals: Goal II, Goal III, Goal V

Was an Exception Adopted? Yes [X] No: []

DLCD File No.: 001-07 (15876)

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: A

If no, do the Statewide Planning Goals apply. Yes: A No: ___

If no, did The Emergency Circumstances Require immediate adoption. Yes: ___ No: ___

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

Wallowa County, City of Enterprise

Local Contact: Lance Bailey Area Code + Phone Number: 541-426-4543 x23

Address: 101 S. River St. Room B-1

City: Enterprise Zip Code+4: 97828-1363

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 - ATTENTION: PLAN AMENDMENT SPECIALIST.

**BEFORE THE BOARD OF COMMISSIONERS
IN AND OF THE COUNTY OF WALLOWA
IN AND FOR THE STATE OF OREGON**

**IN THE MATTER OF AN AMENDMENT TO THE)
WALLOWA COUNTY COMPREHENSIVE LAND USE) ORDINANCE-2007-002
PLAN AND ZONE MAP.)**

WHEREAS, Wallowa County fully implemented land use regulations in 1972, adopted its Comprehensive Land Use Plan and Land Development Ordinance in 1977 and completed the process of periodic review in 1989 and 1995; **and**

WHEREAS, The Wallowa County Planning Department received from Brian and Cristin Ricker an application to amend the Wallowa County Comprehensive Land Use Plan and Zone Map to designate Tax Lot 101, Township 2 South, Range 44 East, Section 03 (36.3 acres) which lies north of Hwy 82 just outside of the Enterprise Urban Growth Boundary, as Rural Residential (R-1) from Exclusive Farm Use (EFU); **and**

WHEREAS, hearings on this matter have been properly noticed by three continuous weekly notices in a newspaper of general circulation; **and**

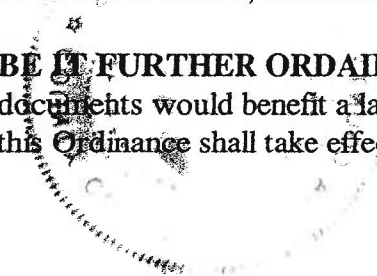
WHEREAS, the Wallowa County Planning Commission having held a public hearing on February 27, 2007, and March 27, 2007, and the Board of Commissioners having a public hearing on April 16, 2007, and having considered all testimony;

IT IS HEREBY ORDAINED that the Wallowa County Land Use Plan and Zone Map be amended to designate and zone the entire Tax Lot 101, Township 2 South, Range 44 East, Section 03 which lies north of Hwy 82 just outside of the Enterprise Urban Growth Boundary, as Rural Residential (R-1); **and**

BE IT FURTHER ORDAINED that the attached findings of the Wallowa County Planning Commission, dated March 1, 2007, are concurred in and adopted by the Wallowa County Board of Commissioners; **and**

BE IT FURTHER ORDAINED that should it be determined that any portion of this Ordinance be declared invalid, such declaration shall not affect the validity of any other portion; **and**

BE IT FURTHER ORDAINED that as the immediate adoption of the above referenced documents would benefit a landowner of Wallowa County, an emergency is declared to exist and this Ordinance shall take effect immediately from and after the date of its passage.

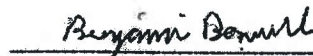



ADOPTED BY THE WALLOWA COUNTY BOARD OF COMMISSIONERS THIS 16TH
DAY OF APRIL 2007.


WALLOWA COUNTY BOARD OF COMMISSIONERS


Mike Hayward Chairman


Dan DeBoie, Commissioner


Benjamin Boswell, Commissioner


Reviewed by County Counsel


Attested by Executive Assistant, Sandy Lathrop


Recorded by County Clerk, Dana Roberts



WALLOWA COUNTY PLANNING COMMISSION

WALLOWA COUNTY COURTHOUSE
101 S. RIVER STREET, ROOM B-1
ENTERPRISE, OR 97828

IN THE MATTER OF THE REQUEST)	
FOR A MAJOR AMENDMENT TO THE)	
WALLOWA COUNTY)	FINDINGS OF FACT,
COMPREHENSIVE LAND USE PLAN)	CONCLUSIONS, AND
TO CHANGE THE ZONE OF 36.3)	RECOMMENDATIONS OF THE
ACRES AND REVISE THE WALLOWA)	WALLOWA COUNTY PLANNING
COUNTY COMPREHENSIVE LAND)	COMMISSION
USE PLAN AND MAP ACCORDINGLY)	

ZC#07-01, Ricker, Zone Change, EFU to R-1

The request was properly advertised for three consecutive weeks, February 20 and 26, 2007 (Observer) and February 15, 2007 (Chieftain). Applicable property owners were notified by mail on February 14, 2007. Notice of Proposed Amendment was sent to DLCD on February 12, 2007. The request came before the Wallowa County Planning Commission for Hearing initially on February 27, 2007, with Approval and Adoption on March 27, 2007. These findings are for an Major Amendment to the Wallowa County Comprehensive Land Use Plan (WCCLUP) and Map. Specifically, to change the zoning of 36.3 acres from EFU to R-1. The Planning Commission, having reviewed the record, the materials introduced in the above-referenced hearing, and having heard and considered oral testimony in the above-referenced hearing, and being fully advised makes the following findings of fact and recommendation.

01. **APPLICANT:** Brian and Cristin Ricker
02. **REQUEST:** To change the zoning of tax lot 101 (36.3 acres) from Exclusive Farm Use (EFU) to Rural Residential (R-1).
03. **PROPERTY LOCATION:** The property description is 02S 44E Section 03 tax lot 101

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March 1, 2007
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04. **PARCEL CHARACTERISTICS:** The parcel contains 36.30 assessed acres and is located north of Hwy 82 just outside of the Enterprise UGB. The Parcel is zoned EFU. Access is from Frontage Road. The property contains no improvements such as dwellings or accessory buildings.
05. **REVIEW CRITERIA:** Article 5 (Public Hearing Review), Sections 5.010 and 5.040; and Article 8 (Amendments), Sections 8.010, 8.015, 8.020 and 8.025(1); Article 17 (Rural Residential) Section 17.010; ORS 197.732; OAR 660-004-0000 through 0022 (that part pertaining to this application) and any other applicable zoning ordinances or goals of the Wallowa County Land Development Ordinance.

SECTION 5.010, PURPOSE: The Public Hearing Review procedures set forth in this article are designed to provide the means of reviewing applications for uses and developments which may have a significant impact on neighboring uses and developments; amendments to the land use plan; zoning map or implementing ordinances; the health, safety, or welfare of the citizens; or on the provision of public services; therefore, they require review in an open and public forum.

FINDING 5.1: The Planning Commission finds that the proposed zone change is an amendment to the WCCLUP and Zone Map and that the amendment was properly reviewed in an open and public forum; therefore, the above criteria have been met.

SECTION 5.040, CONDITIONS OF APPROVAL AND PERFORMANCE GUARANTEES:

01. The Public Hearing Review authority may impose such conditions of approval upon a permit as are deemed necessary to insure the use or development complies with the applicable standards and criteria.
02. The Administrative Review authority may require a performance guarantee to insure the use or development is implemented in the manner detailed in the application. Performance guarantees are authorized and regulated by Article 40, Performance Guarantee.

FINDING 5.2: The Commission finds that it is necessary to impose conditions of approval regarding this application, but not a performance guarantee.

SECTION 8.010, PURPOSE: The purpose of this article is to provide for change in needs, desires, and rate of development in Wallowa County. Revisions to the land use plan, to the text of this ordinance, to the land use plan map, and to the zoning map affecting areas more than ten

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acres in size will be regarded as major amendments to be processed as a legislative action. Small tract zone changes on areas less than ten acres in size adjacent to the proposed zone will be regarded as minor amendments to be processed as Quasi-Judicial actions.

FINDING 5.3: As this proposed amendment is a zone change involving more than 10 acres (36.3 acres), the Planning Commission finds that this is a major amendment and shall be processed as a legislative action.

SECTION 8.015, AUTHORIZATION TO INITIATE AMENDMENTS: Amendments may be initiated in one of the following ways:

01. By resolution of the County Court referring a proposed amendment to the commission.
02. By action of the Planning Commission.
03. By request of the Planning Director, said request relating to actions deemed necessary to bring the zoning map or land use plan map into compliance with state law.
04. By petition from a resident or residents of Wallowa County and/or owners of land within Wallowa County - said petition must be accompanied by the appropriate fee.

FINDING 5.4: The request for a revision to the WCCLUP and Zone Map was properly brought before the Planning Commission by the applicants, Brian and Cristin Ricker, Wallowa County land owners and their representative, Roland Johnson. Therefore, the Planning Commission finds that the amendment was correctly initiated.

SECTION 8.020, AMENDMENT REQUEST CONTENT: Requests for major and minor amendments shall be filed with the Planning Department. Requests shall include the following information:

01. Party initiating the amendment.
02. In the case of an amendment to the land use plan or text of this ordinance, the portions that are to be deleted, if any, and the proposed replacement or addition.
03. In the case of an amendment to the land use plan map or zoning map, the request should identify the areas to be directly affected by the current map classification or zone.
04. Statements demonstrating compliance with the applicable review criteria of section 8.025.

FINDING 5.5: The Planning Commission finds that the content of the amendment application met the above criteria.

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SECTION 8.025, REVIEW CRITERIA: Requests for amendments shall be reviewed for conformance to the applicable criteria:

01. Major amendments shall meet the following:

- A. The proposed amendment is in conformance with statewide planning goals and guidelines and other applicable state laws.

FINDING 5.6: The applicant has show, via written and oral testimony, that the proposed rezone does meet the criteria of both ORS 197.732 and OAR 660-004-0000 through 0022, such as, the parcel, tax lot 101 was part of a larger parcel (140 acres) which has been reduced to 36.3 acres with the difference being rezoned and annexed by the City of Enterprise or included in its UGA. Additionally, it is not economically feasible to continue commercial farm use due to associated costs and the parcel's small size. Therefore, the Planning Commission finds that the above criteria are met. See the applicants narrative for additional discussion.

- B. The proposed amendment is in conformance with all other elements of the land use plan and land use plan map.

FINDING 5.7: The applicant has show, via written and oral testimony, that the proposed rezone does meet the criteria of the Wallowa County Comprehensive Land Use Plan and Ordinance Articles, such as, the location of the parcel adjacent to the UGA of the City of Enterprise and surrounding EFU parcels will allow this parcel to become a buffer between urban and agricultural uses. Additionally, the conversion of 36.3 acres of EFU ground to R-1 will not likely create undo interference with accepted farming practices in the area due to the isolation of the parcel. Therefore, the Planning Commission finds that the above criteria are met. See the applicants narrative for additional discussion.

- C. The proposed amendment is in the public interest and serves the purpose and intent of the local planning process.

FINDING 5.8: Please see Findings 5.6 and 5.7. As the Commission has found that the criteria for paragraphs A and B above are met, and that the Planning Commission, having reviewed the materials introduced, and having heard and considered oral testimony all in an open and public hearing as required by the local planning process, the Commission finds that the criteria of paragraph C are met.

SECTION 8.030, NOTICE OF HEARING:

- 01. Notice of public hearing before the Planning Commission for the purpose of considering an amendment brought forth under this article shall be published in a newspaper of general circulation for three consecutive weeks prior to the hearing date.

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02. The notice of public hearing shall be designed to reasonably inform the public of the nature and intent of the proposal and shall, at a minimum, contain the following information:
 - A. Date, time, and place of the hearing.
 - B. Party initiating the amendment.
 - C. General description of the proposed amendment and notification to the public of the hours and place where the amendment can be reviewed in its entirety.

03. If the proposed amendment is determined by the Planning Department to affect a limited area of the County, mailed notice of the hearing shall be provided to all owners of property directly affected by the amendment and to all owners of property lying within:
 - A. One hundred (100) feet of the exterior boundary of the subject property where the subject property is wholly or in part within an urban growth boundary;
 - B. Two hundred and fifty (250) feet of the exterior boundary of the subject property where the subject property is outside an urban growth boundary and not within a farm or forest zone;
 - C. Seven hundred fifty(750) feet of the exterior boundary of the subject property where the subject property is within a farm or forest zone.

In addition, mailed notice of the hearing shall be given to all parties the Department may have reason to believe are substantially affected by the proposed amendment. Mailed notice of hearing shall be provided no less than 15 days prior to the hearing date.

FINDING 5.9: The request was properly advertised for three consecutive weeks, February 20 and 26, 2007 (Observer) and February 15, 2007 (Chieftain). Applicable property owners were notified by mail on February 14, 2007. Notice of Proposed Amendment was sent to DLCD on February 12, 2007. All notices contained the required information. Therefore, the Planning Commission finds that the above criteria are met.

SECTION 8.035, AMENDMENT REVIEW PROCESS:

01. Amendment proposals brought forth under this article shall be conducted in the manner prescribed in the conduct of hearings ordinance unless supplemented by rules adopted prior to the commencement of the evidentiary portion of the hearing.

02. At least two public hearings shall be held on a major amendment unless it is deemed by the Planning Department that a joint meeting by the Planning Commission and the County Court is sufficient.

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ZC#07-01, Ricker, Zone Change, EFU to R-1

March 1, 2007

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03. The Planning Commission shall hear and review the proposal for compliance with the applicable review criteria. The Planning Commission shall adopt findings of fact demonstrating the proposals compliance or non-compliance with each review criterion. The Planning Commission shall place the findings, conclusions, and recommendations in writing and forward the same to the County Court.
04. Following receipt of the Planning Commission's recommendation, the County Court shall, within 90 days, hold a second public hearing. Based upon testimony taken at the second hearing together with the Planning Commission's recommendation and testimony from the first hearing, the Court shall adopt findings demonstrating the proposal's compliance or non-compliance with the applicable review criteria. The decision shall be set forth in writing and shall specify findings and conclusions of the Court.
05. The County Court may, at its own discretion, hold both of the required hearings.

FINDING 5.10: As this proposed major amendment has been properly reviewed by the Planning Commission at public hearings, a public hearing is scheduled before the Board of Commissioners, and the Planning Commission has made its recommendation to the Board of Commissioners, adopted these findings of fact and forwards and recommends them to the Board of Commissioners as required by the legislative process, the Planning Commission finds that within its purview, the amendment review process has been followed.

SECTION 17.010, PURPOSE: The purpose of the Rural Residential Zone is to provide areas suitable for small acreage parcels and to maintain a buffer between urban and farm or forest uses.

FINDING 5.11: The Commission finds that a change to Rural Residential zone, as proposed will provide an area suitable for small acreage parcels and will maintain a buffer between surrounding EFU zoned land and the City of Enterprise to the east.

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04. CONCLUSION:

It is the opinion of the Planning Commission that all applicable criteria have been met, and the Commission finds that the proposed Major Amendment is in compliance with the review criteria. Therefore, the Planning Commission forwards this Major Amendment to the County Board of Commissioners with the recommendation that the Amendment be adopted.

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05. CONDITIONS OF APPROVAL:

The Planning Commission finds that all of the following conditions are able to be met as imposed since the applicant is willing and the Commission finds reasonable evidence to support the conclusion that each is feasible.

01. For the parts which they retain ownership of, Brian and Cristin Ricker will make a best effort to control noxious weeds on the subject parcel.

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ZC#07-01, Ricker, Zone Change, EFU to R-1

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04. DECISION:

Based upon the information submitted, the comments of interested parties and the findings, the review authority finds this application satisfies all review criteria, and is hereby recommended for adoption as presented. The vote on the motion is 4 in favor and 0 opposed with 0 abstaining.

March 27, 2007
DATE OF ACTION


ERIN MELVILLE, CHAIRMAN
WALLOWA COUNTY PLANNING COMMISSION

This recommendation may be appealed to the Wallowa County Board of Commissioners pursuant to Article 7, Appeal. The provisions of Notice of Intent to Appeal accompanied by the appeal fee must be received by the Wallowa County Planning Department by 5:00 p.m. April 9, 2007.

As this is a proposal for a Major Amendment, it will, as a matter of procedure, be reviewed and approved or denied by the County Board of Commissioners.

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