



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

October 9, 2008

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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: Coos County Plan Amendment
DLCD File Number 009-07



The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: October 22, 2008

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
Dave Perry, DLCD Regional Representative
Patty Evernden, Coos County

<paa> yal

DLCD

Notice of Adoption

In person electronic mailed

DATE
STAMP

DEPT OF

OCT 02 2008

LAND CONSERVATION
AND DEVELOPMENT

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

Jurisdiction: **Coos County (10/1/08)**

Local file number: **AM-07-08/RZ-07-08**

Date of Adoption: **9/24/2008**

Date Mailed: **10/1/2008**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: 9/10/07

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

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

Amend the Coos County Comprehensive Plan official zoning map and Zoning and Land Development Ordinance to rezone the subject property from Rural Residential-5 (RR-5) to urban residential-2 (UR-2).

**ADOPTED ON REMAND
FROM LUBA**

*ALCA # 009-07
Withdrawn by Coos Co.
rezone 11/6/07*

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

Plan Map Changed from: **rural residential**

to: **urban residential**

Zone Map Changed from: **Rural Residential-5 (RR-5)**

to: **Urban Residential-2 (UR-2)**

Location: **T.28S, R12.W, S06A, TL 102, 103, 104**

Acres Involved: **64**

Specify Density: Previous:

New:

Applicable statewide planning goals:

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19

Was an Exception Adopted? YES NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?

Yes No

If no, do the statewide planning goals apply?

Yes No

If no, did Emergency Circumstances require immediate adoption?

Yes No

DLCD 009-07 (16384)

*(original proposal withdrawn
& then Appealed
2008-046*

DLCD file No. _____

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

City of Coquille, Coquille RFPD, Department of Forestry and Coos County Road Dept.

Local Contact: **Patty Evernden, Planning Director** Phone: (541) 396-3121 Extension: 210
Address: **Coos County Courthouse** Fax Number: 541-756-8630
City: **Coquille, OR** Zip: 97423- E-mail Address: **pevernden@co.coos.or.us**

ADOPTION SUBMITTAL REQUIREMENTS

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

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

**ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540**

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

BEFORE THE BOARD OF COMMISSIONERS
FOR THE COUNTY OF COOS, OREGON

Remand from LUBA concerning Plan)
Amendment and Rezone Applications)
submitted by Timothy and Janice Sperber)

FINAL ORDER
08-09-086PL

A. SUMMARY

1. On August 23, 2007, Timothy and Janice Sperber filed an application requesting a plan amendment/rezone (AM-07-08/RZ-07-08) to allow plan and zone change of 63.50 acres from Rural Residential-5 (RR-5) to Urban Residential-2 (UR-2), or rezone the property to Rural Residential-2 (RR-2) if the UR-2 rezone was denied. The applicants further proposed that, if the property was not rezoned as requested, the property should be removed from the City of Coquille's Urban Growth Boundary (UGB) and rezoned to Rural Residential-2 (RR-2).

The subject property is legally described as Township 28S, Range 12W, Section 6A, Tax Lots 102, 103 and 104.

2. On November 8, 2007, the Planning Commission denied the application finding that the zone change application did not conform with the applicable criteria because the applicants failed to meet the burden of proof.

3. On November 21, 2007, Mr. Sperber appealed the Planning Commission's decision to the Board of Commissioners. The Board of Commissioners affirmed the Planning Commission's decision.

4. Mr. Sperber appealed the Board's decision to the Land Use Board of Appeals (LUBA). On June 23, 2008, LUBA sustained, in part, the applicants'/petitioner's First and Second Assignments of Error and remanded the county decision. LUBA found that the county's findings were inadequate to demonstrate that the zone change application did not conform with the applicable criteria.

B. HEARING AND RECORD

A hearing was held on September 9, 2008, and continued to September 11, 2008, by the Board of Commissioners based on the record of the proceedings.

C. RELEVANT CRITERIA AND STANDARDS

The standards and criteria applicable to this application are found in the Coos County Comprehensive Plan (CCCP), and the Coos County Zoning and Land Development Ordinance (CCZLDO). The criteria and standards applicable to this application are:

"The Hearings Body shall, after a public hearing on any rezone application, either:

"1. Recommend the Board of Commissioners approve the rezoning, only if on the basis of the initiation or application, investigation and evidence submitted, all the following criteria are found to exist:

"a. the rezoning will conform with the Comprehensive Plan***; and

"b. the rezoning will not seriously interfere with permitted uses on other nearby parcels; and

"3. Deny the rezone if the findings [1.a. and 1.b. ***] above cannot be made. Denial of a rezone by the Hearings Body is a final decision not requiring review by the Board of Commissioners unless appealed."

An applicant must meet both criteria 1.a. and 1.b. in order for a rezone application to be approved.

D. REVIEW OF THE FIRST ASSIGNMENT OF ERROR

In the petitioners/applicants' first assignment of error, the petitioners/applicants challenged the county's findings that the zone change application did not comply with CCZLDO Section 5.1.400(1)(a).

The Board finds:

1. Applicants bear the burden of proof to provide substantial evidence to demonstrate compliance with 5.1.400(1)(a), which requires that the rezoning will conform with the Comprehensive Plan, in order for the zone change application to be approved.

2. Urban zoning would conform with the CCCP because the subject property is suitable, necessary and available for urban development.

3. The subject property was included in the City of Coquille's UGB with an expectation that the property will someday be annexed to the City and the property is, therefore, urbanizable.

4. The CCCP established the UR-2 zoning district to be used within UGB and UUC boundaries. The subject property is located in the UGB and should be zoned appropriately. Once this property is zoned UR-2 it can be developed accordingly and eventually absorbed in to The City of Coquille as intended in the City of Coquille's and Coos County's Comprehensive Plans.

5. The Board finds that the applicants have provided substantial evidence to demonstrate that rezoning of the subject property from RR-5 to UR-2 complies with the CCCP. The applicants have met the burden of proof required to be met under CCZLDO Section 5.1.400(1)(a).

E. REVIEW OF THE SECOND ASSIGNMENT OF ERROR

In the petitioners/applicants' second assignment of error, the petitioners/applicants challenged the county's findings that the zone change application did not comply with CCZLDO Section 5.1.400(1)(b).

The Board finds:

1. Applicants bear the burden of proof to provide substantial evidence to demonstrate compliance with 5.1.400(1)(b), which requires that the rezoning will not seriously interfere with permitted uses on other nearby parcels, in order for the zone change application to be approved.

2. Most parcels near the subject property are zoned RR-5 and located within the same UGB as is the property, or located within the city limits of the City of Coquille.

3. Permitted uses in a UR-2 zoning district are more restrictive than permitted uses in a RR-5 zoning district.

4. Approval of the UR-2 rezone request does not grant the applicants any relief from the requirement to abide by all other provisions and standards set forth in the CCCP and CCZLDO as the subject property is developed.

5. Applicants have provided substantial evidence to demonstrate that rezoning of the subject property from RR-5 to UR-2 will not cause any serious interference with permitted uses on other nearby parcels. The applicants have met the burden of proof required to be met under CCZLDO Section 5.1.400(1)(b).

F. Conclusion

Based on the findings and reasons stated above, the Board of Commissioners concludes that the proposed rezone from RR-5 to UR-2 is consistent with the Coos County Comprehensive Plan and the proposed rezone will not seriously interfere with permitted uses on other nearby parcels.

REM-08-03

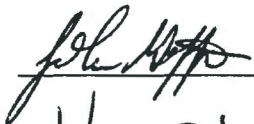
Final Order 08-09-086PL

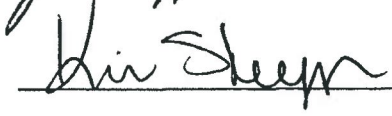
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NOW THEREFORE, IT IS HEREBY ORDERED that the applicants' requested plan amendment/rezone change of 63.5 acres, legally described as Township 28S, Range 12W, Section 6A, Tax Lots 102, 103 and 104, from Rural Residential-5(RR-5) to Urban Residential-2 (UR-2) is approved.

ADOPTED this 24th day of September, 2008.

BOARD OF COMMISSIONERS





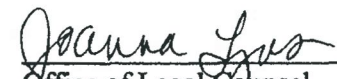


ATTEST

APPROVED AS TO FORM:



Recording Secretary



Office of Legal Counsel

CERTIFICATE OF MAILING

I hereby certify that on September 25, 2008, I deposited the attached NOTICE OF ADOPTION into the U.S. mail, in an envelope with first class postage affixed thereto.

Dated: September 25, 2008



Jill Barzee, Administrative Planner



Coos County Planning Department
Coos County Courthouse Annex, Coquille, Oregon 97423

(541) 396-3121 Ext.210
FAX (541) 396-2690 / TDD (800) 735-2900

PATTY EVERNDEN

PLANNING DIRECTOR

NOTICE OF ADOPTION

September 25, 2008

Applicants: Timothy and Janice Sperber
56767 Cougar Road
Coquille, Oregon 97423

File No: REM-08-03 Coos County Ordinance No. 08-09-086PL

Property Description: Township 28, Range 12, Section 06A, Tax Lots 102,
103, 104

This notice is to inform you that on September 24, 2008, the Board of Commissioners adopted the above-referenced Ordinance on remand finding that the applicants have met their burden of proof. This order will amend the Coos County Comprehensive Plan (CCCP) official zoning map and Zoning and Land Development Ordinance (ZLDO) to rezone the subject property from Rural Residential-5 (RR-5) to Urban Residential-2 (UR-2).

The adopted ordinance is attached to this notice. All material concerning this file may be reviewed at the **Coos County Planning Department, 225 N. Adams, Coquille, Oregon**, Monday through Friday from 8 a.m. to 12 p.m. and 1 p.m. to 5 p.m.

The adoption of the above-referenced ordinance may be appealed to the Land Use Board of Appeals (LUBA), pursuant to ORS 197.830 to 197.845, by filing a Notice of Intent to Appeal within 21 days of the date this notice was deposited

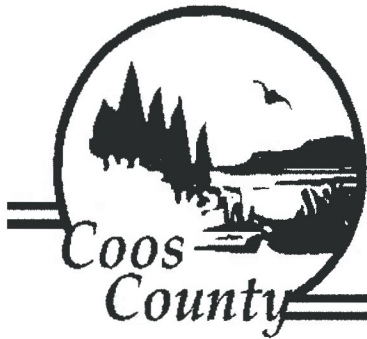
in the mail, as indicated on the attached Certificate of Mailing. LUBA may be contacted by phone at 503-373-1265, or in writing at 550 Capitol St. NE, Suite 235, Salem, Oregon 97301-2552.

If you have any questions pertaining to this notice or the adopted ordinance, please contact the Planning Department at (541) 396-3121 or 756-2020, extension 210.

Sincerely,
COOS COUNTY PLANNING DEPARTMENT


Jill Barzee, Administrative Planner

C: Dave Perry, DLCD
Planning Commission
File



Coos County Planning Department

Coos County Annex, 225 North Adams Street, Coquille, Oregon 97423
Mailing Address: Planning Department, Coos County Courthouse, Coquille, Oregon 97423

(541) 396-3121 Ext.210

FAX (541) 756-8630 / TDD (800) 735-2900

PATTY EVERNDEN

PLANNING DIRECTOR

CERTIFIED MAIL 7007 0220 0000 0761 2903

October 1, 2008

Larry French
Plan Amendment Specialist
Dept. of Land Conservation & Development
635 Capitol St. NE, Ste. 150
Salem, Oregon 97301-2540

DEPT OF

OCT 02 2008

**LAND CONSERVATION
AND DEVELOPMENT**

RE: Form 2, DLCD Notice of Adoption for AM-07-08/RZ-07-08, Sperber

Dear Mr. French:

Enclosed please find the Form 2 Notice of Adoption with two (2) copies of the adopted Ordinance 08-09-086PL.

This application was originally denied by the Coos County Planning Commission on November 8, 2007. Mr. Sperber appealed the decision to the Board of Commissioners (Board) who denied the appeal on November 21, 2007. Mr. Sperber then appealed the decision to LUBA who, on June 23, 2008, sustained in part the first and second assignments of error, and remanded the County's decision. On September 24, 2008, the Board adopted the above-referenced ordinance.

If you have any questions, or we can be of further service, please do not hesitate to phone the Department at (541) 396-3121, extension 210.

Sincerely,

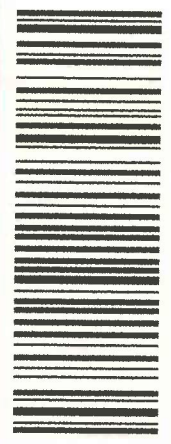
COOS COUNTY PLANNING DEPARTMENT

Jan Mollé, Planning Secretary

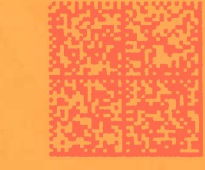
c: David Perry
file

County Planning Department
000 County Courthouse
Coquille OR 97423

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OCT 01 2008

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Larry French, Plan Amendment Specialist
DLCD
635 Capitol St. NE, Ste. 150
Salem OR 97301-2540