



Oregon

Theodore R. Kubongoski, 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

11/5/2009

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

FROM: Plan Amendment Program Specialist

SUBJECT: Baker County Plan Amendment
DLCD File Number 002-09

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: Friday, November 27, 2009

This amendment was submitted to DLCD for review 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 THAT IT WAS MAILED TO DLCD. AS A RESULT, YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.

Cc: Tara Andrews, Baker County
Gloria Gardiner, DLCD Urban Planning Specialist
Jon Jinings, DLCD Regional Representative

<paa> YA

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



Jurisdiction: **Baker County**

Local file number: **PA-09-002**

Date of Adoption: **October 21, 2009**

Date Mailed: **October 27, 2009**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? Date: **August 6, 2009**

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".

The Baker County Board of Commissioners has accepted a zoning text amendment to Baker County's Zoning and Subdivision Ordinance, Section 1009.02(D) Class I Land Division Standards (D.), which reads as follows:
D. Sanitary sewage disposal facilities are available to the property line of each lot or parcel that is 2 acres or less, or, as an alternative, each lot or parcel shall be approved for subsurface sewage disposal. Parcels greater than two acres shall identify on the final plat that sewage disposal shall be provided by a DEQ approved sanitary sewage disposal system.

Does the Adoption differ from proposal? Please select one

Yes, the original wording proposed by the applicant was slightly different than the language adopted by the Board of Commissioners.

Plan Map Changed from:

to:

Zone Map Changed from:

to:

Location:

Acres Involved:

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 |
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Was an Exception Adopted? YES NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?

Yes No

If no, do the statewide planning goals apply?

Yes No

If no, did Emergency Circumstances require immediate adoption?

Yes No

DLCD file No. _____

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

Local Contact: **Tara Andrews**

Phone: **(541) 523-8219** Extension:

Address: **1995 Third Street**

Fax Number: **541-523-5925**

City: **Baker City**

Zip: **97814**

E-mail Address: **tandrews@bakercounty.org**

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, or by emailing **larry.french@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 **larry.french@state.or.us** - **Attention: Plan Amendment Specialist**.

IN THE BOARD OF COUNTY COMMISSIONERS OF THE STATE OF OREGON
FOR THE COUNTY OF BAKER

IN THE MATTER OF)
IN THE MATTER OF PA-09-002 TO AMEND) ORDER NO. 2009-173
THE BAKER COUNTY ZONING AND)
SUBDIVISION ORDINANCE SECTION)
1009.02(D) TO ALLOW A CHANGE IN THE)
REQUIREMENTS FOR PARTITIONING)
PROPERTY.

Applicant: Scott Hartell, 49117 Anthony Lakes Highway, North Powder, Oregon 97867.

The above named applicant applied to Baker County requesting approval from the Baker County Commissioners for an amendment to the Baker County Zoning and Subdivision Ordinance, Section 1009.02(D).

The current language for Section 1009.02(D) of the Baker County Zoning and Subdivision Ordinance 833 will be stricken from the Zoning Ordinance and the following language (italicized and underlined) will be inserted reading as follows:

D. Sanitary sewage disposal facilities are available to the property line of each lot or parcel or as an alternative each lot or parcel shall be approved for subsurface sewage disposal. Any facility for or method of sewage disposal shall be approved in accordance with the applicable State regulations.

Sanitary sewage disposal facilities are available to the property line of each lot or parcel that is 2 acres or less, or, as an alternative, each lot or parcel shall be approved for subsurface sewage disposal. Parcels greater than 2 acres shall identify on the final plat that sewage disposal shall be provided by a DEQ approved sanitary sewage disposal system.

A public hearing on the above-entitled matter was held before the Baker County Planning Commission on September 24, 2009. The Baker County Planning Commission closed the public hearing at the September 24, 2009 meeting, and a decision to recommend approval of the amended language to the applicant's request to amend the Baker County Zoning and Subdivision Ordinance was made.

The Baker County Board of Commissioners conducted a public hearing on October 7, 2009 and October 21, 2009 and **APPROVED** the request to amend the Baker County Zoning and Subdivision Ordinance, Section 1009.02(D) with the underlined language above, based upon the applicable review criteria, findings of fact and conclusions as contained in the attached 'Exhibit A', and public testimony received.

DONE and DATED this 21st day of October, 2009

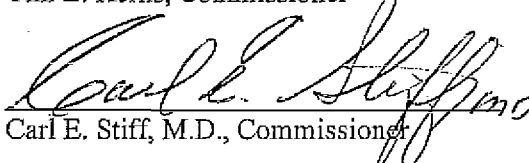
BAKER COUNTY BOARD OF COMMISSIONERS



Fred Warner Jr., Commission Chair



Tim L. Kerns, Commissioner



Carl E. Stiff, M.D., Commissioner

**Baker County Department of Planning and Community Development
BOARD OF COMMISSIONER FINAL REPORT AND DECISION
For Text Amendment to the Baker County Zoning and Subdivision Ordinance
PA-09-002**

STAFF REPORT DATE: October 27, 2009
REPORT PREPARED BY: Tara Andrews, Planner

I. GENERAL INFORMATION AND FACTS

Applicant:	Scott Hartell 49117 Anthony Lakes Hwy. North Powder, OR 97867
Land Use Review:	Text Amendment – Proposal to amend the text in the Baker County Zoning and Subdivision Ordinance, Section 1009.02.

II. NATURE OF REQUEST

The applicant, Scott Hartell, has requested to amend the wording in Section 1009.02 of the Baker County Zoning and Subdivision Ordinance 83-3. After staff review, public testimony, and Planning Commission and Board of Commissioner deliberation, the language underlined on page 2 has been adopted into the current Baker County Zoning and Subdivision Ordinance as Section 1009.02 (D). The current wording in the Zoning Ordinance is as follows, with emphasis added to the section that will be amended:

ARTICLE 10: SUBDIVISIONS, PARTITIONS, AND LOT LINE ADJUSTMENTS

SECTION 1009 STANDARDS FOR ROADS OR STREETS

SECTION 1009.02 CLASS I LAND DIVISION STANDARDS

A. Each lot or parcel shall have direct access to an existing City street, County road, public road or State highway or indirect access to such a street, road or highway, by way of a road or street created for such a purpose. Any road or street created to perform such indirect access shall conform to the standards as provided in this section. The access right-of-way provided herein shall have a minimum width of 60 feet.

B. The necessary drainage structures and fill are provided to prevent flooding. See Section 1008.

C. Domestic water supply facilities, excluding individual wells, are available to the property line of each lot or parcel meeting the standards of applicable State regulation.

D. Sanitary sewage disposal facilities are available to the property line of each lot or parcel or as an alternative each lot or parcel shall be approved for subsurface sewage disposal. Any facility for or method of sewage disposal shall be approved in accordance with the applicable State regulations.

The Board of Commissioners approved changing the text of 1009.02 (D) to read as follows:

D. Sanitary sewage disposal facilities are available to the property line of each lot or parcel that is 2 acres or less, or, as an alternative, each lot or parcel shall be approved for subsurface sewage disposal. Parcels greater than 2 acres shall identify on the final plat that sewage disposal shall be provided by a DEQ approved sanitary sewage disposal system.

E. Electricity shall be available to the property line of each lot or parcel.

F. Easement for utilities shall be provided along an appropriate property line to insure each lot or parcel is served. A utility easement shall be a minimum of 12 feet, which width may be evenly divided along common property lines.

G. The minimum length of a block shall be 440 feet and the maximum length shall be 1320 feet.

III. APPLICABLE STATE, COMPREHENSIVE PLAN, AND ORDINANCE PROVISIONS

The applicable statutory criteria for a Plan Amendment are from the Baker County Zoning and Subdivision Ordinance 83-3, Article 9. Generally, unless otherwise noted, if a request is found to be consistent with the Zoning and Subdivision Ordinance it is considered to be consistent with the Comprehensive Plan.

IV. ANALYSIS

A. Baker County Zoning and Subdivision Ordinance 83-3

SECTION 901 AUTHORIZATION TO INITIATE AMENDMENTS

An Amendment to the text of this Ordinance or the Zoning Map may be initiated by the County Court, the County Planning Commission, or by application of a property owner. The request by a property owner for an Amendment shall be accomplished by filing an application with the Planning Department in a manner described in Section 905 or 907 of this Article at least by the first working day of the month during which the action is to be heard.

Findings: The Planning Commission found that the amendment request was initiated by application of a property owner. The applicant submitted the proper application to amend Section 1009.02 of the Baker County Zoning and Subdivision Ordinance on July 29, 2009.

Conclusion: The Planning Commission found that the Text Amendment application was properly submitted and recommended that the criterion is met. The Board of Commissioners concurred and adopted the Planning Commission's findings and conclusions.

SECTION 902 AUTHORIZATION TO APPROVE OR DENY PROPOSED AMENDMENTS

The Planning Commission may approve, deny, or modify proposed Amendments to the Map or text of this Ordinance when such action is taken in accordance with the appropriate portions of Sections 903 through 907 of this Article.

Findings: The Planning Commission recommends approval of modified language to amend the Zoning Ordinance to the Board of Commissioners.

Conclusions: The Board of Commissioners adopted the modified language recommended by the Planning Commission.

SECTION 903 STANDARDS FOR GRANTING AN AMENDMENT

To determine whether an Amendment shall be approved, denied or modified, the Commission shall find, in addition to the specific requirements in Sections 905, 906, and 907 of this Ordinance, that the proposal conforms with the County's Comprehensive Plan.

Note: In the Baker County Zoning and Subdivision Ordinance 83-3, Section 905 is titled Map Amendment Application Procedure, Section 906 is titled Environmental Impact Report Procedure, and Section 907 is titled Text Amendment Application Procedure.

Findings: The Planning Commission and the Board of Commissioners found the proposed amendment conforms to the Baker County Zoning Ordinance and the Baker County Comprehensive Plan.

Conclusion: Criterion is met.

SECTION 904 PUBLIC HEARING ON AMENDMENT

The Planning Commission shall conduct a public hearing on a proposed Amendment within 60 days after the Amendment is proposed and shall, within five working days after the hearing, recommend to the County Court approval, disapproval, or modified approval of the proposed Amendment. This hearing may be continued for just cause. After receiving the recommendation of the Planning Commission, the County Court shall hold a public hearing on the proposed Amendment within 30 days of Planning Commission action on the request. The Court shall announce its decision within 30 days of its public hearing. Amendments shall be subject to review by the State pursuant to ORS 197.610-197.630.

Findings: The applicant made application for the proposed Amendment on July 29, 2009. The Planning Commission conducted a public hearing on September 24, 2009, at 7:00 PM, at the Baker County Courthouse. The Planning Commission recommended approval of the proposed Text Amendment to the Board of Commissioners.

Conclusion: The Planning Commission conducted a public hearing and recommended modified approval of the proposed Amendment within the allotted time frame. The Board of Commissioners heard the recommendation during hearings held on October 7th and October 21st. DLCD was properly noticed of the proposed amendment. The Board of Commissioners found the criteria are met.

SECTION 907 TEXT AMENDMENT APPLICATION PROCEDURES

The following procedure shall be followed when initiating an Amendment to the text of this Ordinance.

- A. The applicant shall submit to the Planning Department a paper which includes the Section and Subsection of concern, the text of that Section as written, and the language change being applied for.
- B. The applicant shall also present written statements explaining why the change is being requested, the implications of the requested change for his specific property and for all property in general which is affected by the change, and a demonstration of compatibility of the change with the Comprehensive Plan.
- C. A Text Amendment is a legislative action. The Planning Commission shall make a recommendation to approve or deny a text amendment to the Board of Commissioners, after holding one or more public hearings. The Board of Commissioners may approve the text amendment and adopt an ordinance to enact the provisions into law, or may deny the text amendment, after holding one or more public hearings as required by law. In either case, the decision by the Board of Commissioners shall be final.

Findings:

- A) The application included the Subsection of concern (Section 1009.02 (D) of the Baker County Zoning and Subdivision Ordinance) and provided the text of the Section as written and the language change being applied for. See Section II above, Nature of Request, for proposed text amendment language. The applicant's proposed language was modified by the Planning Commission.
- B) See Exhibit "A" for the applicant's written statement.
- C) The Planning Commission held a public hearing on September 24, 2009, at 7:00 PM, at the Baker County Courthouse to review the proposed text amendment. Upon review, the Planning Commission has recommended approval of modified language to the Board of Commissioners.

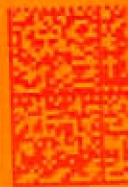
Conclusion: The Planning Commission concluded that the applicant submitted the proper paperwork for the requested text amendment. The Planning Commission held a public hearing on September 24, 2009 and recommended approval of the text amendment to the Board of Commissioners. The Board of Commissioners held public hearings on October 7th and October 21st and made a motion to approve the modified language recommended by the Planning Commission for the proposed text amendment. Criteria are met.

SECTION 908 RECORD OF AMENDMENTS

After filing the Amendment(s) with the County Clerk, the County Planning Department shall maintain records of Amendments to the text of the Ordinance and the Zoning Map.

V. SUMMARY CONCLUSIONS AND ADMINISTRATIVE DECISION

Based on the above review criteria, findings of fact and conclusions, and public testimony received, the Baker County Board of Commissioners **APPROVES** this request, PA-09-002, to amend the wording in Section 1009.02(D) of the Baker County Zoning and Subdivision Ordinance.



BAKER COUNTY PLANNING DEPARTMENT
BAKER COUNTY COURTHOUSE
1995 Third Street • Baker City, OR 97814
(541) 523-8219

ATTN: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND
CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, STE 150
SALEM, OR 97301-2540