



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

05/27/2011

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

FROM: Plan Amendment Program Specialist

SUBJECT: Jackson County Plan Amendment  
DLCD File Number 007-10

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, June 10, 2011

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 Acknowledgment or 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. NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.

Cc: Josh LeBombard, Jackson County  
Jon Jinings, DLCD Community Services Specialist

Ed Moore, DLCD Regional Representative

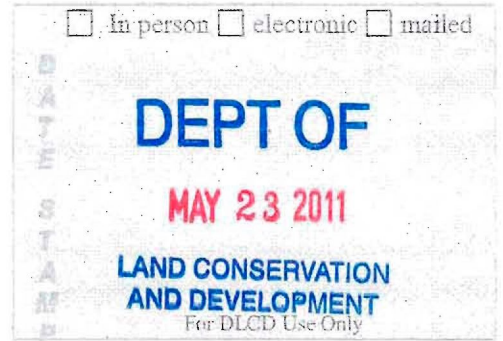
<paa> YA/

**FORM 2**

# 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



Jurisdiction: **Jackson**

Local file number: **LRP2010-00009**

Date of Adoption: **May 18, 2011**

Date Mailed:

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

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".

Proposal for a Comprehensive Plan Map and Zoning Map Amendment and reasons exception to Statewide Planning Goal 11 to allow the U.S. Veteran's Cemetery to connect to sewer service.

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

Plan Map Changed from: **Not allowing sewer service**

to: **Allowing sewer service**

Zone Map Changed from: **Not allowing sewer service**

to: **Allowing sewer service**

Location: 2763 Riley Road, Eagle Point, OR.

Acres Involved: **42.87**

Specify Density: Previous: **n/a**

New: **n/a**

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 file No.** \_\_\_\_\_

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

Rogue Valley Sewer Service, City of Eagle Point

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Local Contact: **Josh LeBombard**

Phone: (541) 774-6944 Extension:

Address: 10 S. Oakdale

Fax Number: - -

City: Medford

Zip: 97501

E-mail Address: [lebobjm@jacksoncounty.org](mailto:lebobjm@jacksoncounty.org)

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## **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](mailto: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](mailto:larry.french@state.or.us) - **Attention: Plan Amendment Specialist.**

BEFORE THE BOARD OF COMMISSIONERS  
STATE OF OREGON, COUNTY OF JACKSON

IN THE MATTER OF A PROPOSAL FOR A )  
COMPREHENSIVE PLAN MAP AND ZONING )  
MAP AMENDMENT AND REASONS )  
EXCEPTION TO STATEWIDE PLANNING )  
GOAL 11 TO ALLOW THE U.S. VETERAN'S )  
CEMETERY TO CONNECT TO SEWER )  
SERVICE AT 2763 RILEY ROAD, EAGLE )  
POINT AND FURTHER DESCRIBED AS TAX )  
LOTS 36-1W-02D-1700, 36-1W-02CD-100, )  
AND 36-1W-11-300. FILE NO. LRP2010-00009 )

ORDINANCE NO. 2011-8

RECITALS:

1. Pursuant to Chapter 197 and 215 of the Oregon Revised Statutes, and in conformance with the Statewide Planning Goals, Jackson County's Comprehensive Plan (JCCP) and implementing ordinances have been acknowledged by the Oregon Land Conservation and Development Commission (LCDC).
2. On November 24, 2010 an application for a Comprehensive Plan Map and Zoning Map Amendment and reasons exception to Statewide Planning Goal 11 to allow the U.S. Veteran's Cemetery to connect to sewer service was received by Jackson County.
3. A notice of the proposed amendment was provided to the Department of Land, Conservation and Development (DLCD) on December 15, 2010.
4. On February 10, 2011, the Jackson County Planning Commission held a properly advertised public hearing to consider the evidence and testimony on this application.

5. On April 13, 2011, the Jackson County Board of Commissioners held a properly advertised public hearing to consider the evidence and testimony on this application. After public testimony and deliberations, the Board of Commissioners voted unanimously to accept the recommendations of the Jackson County Planning Commission (JCPC) and concluded the public hearing.

***Now, therefore,***

*The Jackson County Board of Commissioners finds and concludes as follows:*

#### **SECTION 1. FINDINGS OF FACT:**

Based upon the evidence and arguments presented, the Board of Commissioners makes the following findings of fact with respect to this application. Where factual conflicts arose, the Board of Commissioners has resolved them consistent with these findings.

- 1.1 The Board of Commissioners finds that proper legal notice was sent to the applicant and property owners within 750 feet of the subject property and affected agencies on January 19, 2011. Legal notice was published in the Sunday, January 30, 2011 edition of the Medford Mail Tribune.
- 1.2 The Board of Commissioners finds that the JCPC's recommendations are based upon following proper procedures and are consistent with available evidence. The Board of Commissioners hereby adopts, as its own, the Findings of Fact contained in the JCPC's Recommendation for Approval, incorporated herein and attached as Exhibit "A."

#### **SECTION 2. LEGAL FINDINGS:**

- 2.1 The Board of Commissioners hereby adopts, as its own, the Legal Findings contained in the JCPC's Recommendation for Approval, incorporated herein and attached as Exhibit "A."

#### **SECTION 3. CONCLUSIONS:**

Based on the evidence and arguments included in the record, the Board of Commissioners concludes that the proposed Comprehensive Plan Map and Zoning Map Amendment and reasons exception to Statewide Planning Goal 11 to allow the U.S. Veteran's Cemetery to connect to sewer service, is justified and in compliance with the Jackson County Land Development Ordinance, the Statewide Planning Goals, Oregon Administrative Rules, and the Jackson County Comprehensive Plan. Where factual conflicts arose, the Board of Commissioners has resolved them consistent with these conclusions.

- 3.1 The Board of Commissioners concludes that proper public notice was given.
- 3.2 The Board of Commissioners hereby adopts, as its own, the Conclusions contained in the JCPC's Recommendation for Approval, incorporated herein and attached as Exhibit "A." These conclusions demonstrate that the application is in compliance with the

Jackson County Land Development Ordinance, the Statewide Planning Goals, Oregon Administrative Rules, and the Jackson County Comprehensive Plan.

**SECTION 4. DECISION:**

*Now, therefore,*

*The Board of County Commissioners of Jackson County ordains as follows:*

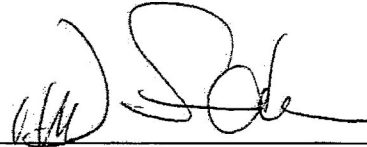
- 4.1. Based on the record of the public hearing and the recommendation of the Jackson County Planning Commission, attached hereto and incorporated herein as Exhibit "A", the Board of Commissioners hereby approves a Comprehensive Plan Map and Zoning Map Amendment for tax lots 36-1W-02D-1700, 36-1W-02CD-100, and 36-1W-11-300 and concludes that the subject property be added to Area of Special Concern 2003-1, Goal 11 Exception Areas.

**APPROVED** this 18<sup>TH</sup> day of May, 2011, at Medford, Oregon.

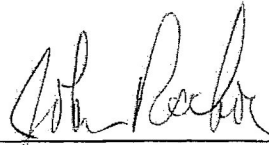
**JACKSON COUNTY BOARD OF COMMISSIONERS**

(ABSENT)

\_\_\_\_\_  
Dennis C. W. Smith, Chair



\_\_\_\_\_  
Don Skundrick, Commissioner



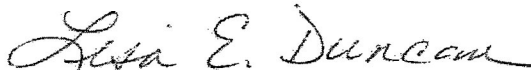
\_\_\_\_\_  
John Rachor, Commissioner

APPROVED AS TO  
LEGAL SUFFICIENCY:

ATTEST:



\_\_\_\_\_  
County Counsel



\_\_\_\_\_  
By: Recording Secretary

The Board of County Commissioner's Ordinance is the final decision on this action. This decision may be appealed to the Oregon Land Use Board of Appeals (LUBA). You must appeal this decision within 21 days of the date it is mailed. This decision is being mailed on May 20, 2011, and the LUBA appeal period will expire on June 10, 2011. Please contact LUBA for specific appeal information. They are located at 550 Capitol Street N.E. Suite 235, Salem, Oregon 97301-2552. They can be reached at (503) 373-1265.

**EXHIBIT A**

**BEFORE THE JACKSON COUNTY PLANNING COMMISSION  
STATE OF OREGON, COUNTY OF JACKSON**

**IN THE MATTER OF A PROPOSAL FOR A )  
COMPREHENSIVE PLAN MAP AND ZONING )  
MAP AMENDMENT AND REASONS )  
EXCEPTION TO STATEWIDE PLANNING )  
GOAL 11 TO ALLOW THE U.S. VETERAN'S )  
CEMETERY TO CONNECT TO SEWER )  
SERVICE. FILE NO. LRP2010-00009 )  
)**

**RECOMMENDATION  
FOR APPROVAL**

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**RECITALS:**

1. Pursuant to Chapter 197 and 215 of the Oregon Revised Statutes, and in conformance with the Statewide Planning Goals, Jackson County's Comprehensive Plan (JCCP) and implementing ordinances have been acknowledged by the Oregon Land Conservation and Development Commission (LCDC).
2. On November 24, 2010 an application for a Comprehensive Plan Map and Zoning Map Amendment and reasons exception to Statewide Planning Goal 11 to allow the U.S. Veteran's Cemetery to connect to sewer service was received by Jackson County.
3. A notice of the proposed amendment was provided to the Department of Land, Conservation and Development (DLCD) on December 15, 2010.
4. On February 10, 2011, the Jackson County Planning Commission held a properly advertised public hearing to consider the evidence and testimony on this application.

Now, therefore,

The Jackson County Planning Commission finds and RECOMMENDS as follows:

**SECTION 1. FINDINGS OF FACT:**

Based upon the evidence and arguments presented, the Planning Commission makes the following findings of fact with respect to this application. Where factual conflicts arose, the Planning Commission has resolved them consistent with these findings.



- 1.1 The Planning Commission finds that proper legal notice was sent to the applicant and property owners within 750 feet of the subject property and affected agencies on January 19, 2011. Legal notice was published in the Sunday, January 30, 2011 edition of the Medford Mail Tribune.
- 1.2 The Planning Commission finds that the subject property is described as tax lots 36-1W-02D-1700, 36-1W-02CD-100, and 36-1W-11-300. The subject property is located at 2763 Riley Road, Eagle Point, OR.
- 1.3 The Planning Commission finds that property owners were notified and comments were received by a number of property owners. Their comments were considered by the Planning Commission.

## **SECTION 2. LEGAL FINDINGS:**

To recommend approval of a Comprehensive Plan Map and Zoning Map Amendment and reasons exception to Statewide Planning Goal 11 to allow the U.S. Veteran's Cemetery to connect to sewer service the Planning Commission must find that the amendment is consistent with Jackson County Land Development Ordinance (JCLCO): Section 3.6 and 3.7.3(C); Jackson County Comprehensive Plan: Public Facilities and Services Element; and Statewide Planning Goals: Goal 11, Public Facilities and Services and Oregon Administrative Rules: OAR's 660-004-0020, 660-004-0022, and 660-011-0060

The Planning Commission adopts the Findings in the Staff Report, incorporated herein and attached as Exhibit A. These findings demonstrate that the application is in compliance with the Statewide Planning Goals, Oregon Administrative Rules, the Jackson County Comprehensive Plan, and the Jackson County Land Development Ordinance.

## **SECTION 3. CONCLUSIONS:**

Based on the evidence and arguments included in the record, the Planning Commission concludes that the proposed Comprehensive Plan Map and Zoning Map Amendment and reasons exception to Statewide Planning Goal 11 to allow the U.S. Veteran's Cemetery to connect to sewer service, is justified and in compliance with the Jackson County Land Development Ordinance, the Statewide Planning Goals, Oregon Administrative Rules, and the Jackson County Comprehensive Plan. Where factual conflicts arose, the Jackson County Planning Commission has resolved them consistent with these conclusions.

- 3.1 Statewide Planning Goals: The Planning Commission concludes that this application complies with Statewide Planning Goals as discussed in Section II (A) of the staff report, attached hereto as Exhibit A.
- 3.2 Jackson County Comprehensive Plan: The Planning Commission concludes that this application complies with the Jackson County Comprehensive Plan as discussed in Section II (B) of the Staff Report, attached hereto as Exhibit A.

3.3 Jackson County Land Development Ordinance: The Planning Commission concludes that this application complies with the Jackson County Land Development Ordinance as discussed in Section II (C) of the Staff Report, attached hereto as Exhibit A.

3.4 Addition of Subject Property to Area of Special Concern (ASC) 2003-1, Goal 11 Exception Areas: The Planning Commission concludes that the subject property should be added to ASC 2003-1, Goal 11 Exception Areas.

3.5 Deed Declaration: The Planning Commission finds that a Deed Declaration shall be signed, notarized, and recorded by the property owner acknowledging that the sewer extension may not be used to: 1) justify uses not allowed in the underlying zoning district, 2) re-designate the area to a more intensive zone, or 3) justify future land division.

3.6 The Planning Commission concludes that proper public notice was given.


**SECTION 4. RECOMMENDATION:**


The Jackson County Planning Commission recommends approval of the Comprehensive Plan Map and Zoning Map Amendment for tax lots 36-1W-02D-1700, 36-1W-02CD-100, and 36-1W-11-300 and concludes that the subject property be added to Area of Special Concern 2003-1, Goal 11 Exception Areas.

This recommendation for APPROVAL adopted this 24th day of February, 2011, at Medford, Oregon.

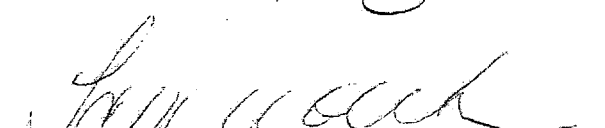
**JACKSON COUNTY PLANNING COMMISSION**


(Vote: Y=Yes; N=No; A=Abstain)

  
\_\_\_\_\_  
Don Greene, Chair

  
\_\_\_\_\_  
Richard B. Thierolf, Vice-Chair

  
\_\_\_\_\_  
Joel Ockunzzi, Commissioner

  
\_\_\_\_\_  
Tani Wouters, Commissioner

  
\_\_\_\_\_  
Craig Prewitt, Commissioner

ATTEST:   
\_\_\_\_\_  
Kelly Madding, Development Services Director



**JACKSON COUNTY  
DEVELOPMENT SERVICES**

***Public Sewer Connection***  
**STAFF REPORT**

**DEVELOPMENT  
SERVICES**

Josh LeBombard  
*Senior Planner*

10 South Oakdale Ave.  
Medford, OR 97501  
Phone: (541) 774-6944  
Fax: (541) 774-6791  
lebombjm@jacksoncounty.org

**OWNER:** U.S. Veteran's Administration  
Eagle Point National Cemetery  
2763 Riley Road  
Eagle Point, OR 97526

**FILE:** LRP2010-00009

**APPLICANT:** Anderson Engineering  
13605 1<sup>st</sup> Ave, N, Suite 100  
Plymouth, MN 55441

**AGENT:** Richard Stevens & Associates  
PO Box 4368  
Medford, OR 97501

**MAP DESCRIPTION:**

TWP: 36	RANGE: 1W	SECTION(S): 02D	TAX LOT(s): 1700
TWP: 36	RANGE: 1W	SECTION(S): 02CD	TAX LOT(s): 100
TWP: 36	RANGE: 1W	SECTION(S): 11	TAX LOT(s): 300

**LOCATION:** The property is located at 2763 Riley Road, Eagle Point, OR.

**NATURE OF APPLICATION:** Proposal for a Comprehensive Plan Map and Zoning Map Amendment and reasons exception to Statewide Planning Goal 11 to allow the U.S. Veteran's Cemetery to connect to sewer service.

**ZONING:** Exclusive Farm Use

**STAFF RECOMMENDATION:** Staff recommends approval.

**I. APPLICABLE CRITERIA**

To approve this application, the County must determine that it is in conformance with:

- A. Statewide Planning Goals: Goal 11, Public Facilities and Services and Oregon Administrative Rules: OAR's 660-004-0020, 660-004-0022, and 660-011-0060
- B. Jackson County Comprehensive Plan: Public Facilities and Services Element
- C. Jackson County Land Development Ordinance (JLCO): Section 3.6 and 3.7.3(C)

**II. FINDINGS OF CONFORMANCE WITH APPLICABLE CRITERIA**

- A. Statewide Planning Goals: Goal 11, Public Facilities and Services and Oregon Administrative Rules: OAR's 660-004-0020, 660-004-0022, and 660-011-0060

***OAR 660-011-0060. Sewer Service to Rural Lands***

(2) Except as provided in sections (3), (4), (8), and (9) of this rule, and consistent with Goal 11, a local government shall not allow:

- (a) The establishment of new sewer systems outside urban growth boundaries or unincorporated community boundaries;
- (b) The extension of sewer lines from within urban growth boundaries or unincorporated community boundaries in order to serve uses on land outside those boundaries;
- (c) The extension of sewer systems that currently serve land outside urban growth boundaries and unincorporated community boundaries in order to serve uses that are outside such boundaries and are not served by the system on July 28, 1998.

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(9) A local government may allow the establishment of new sewer systems or the extension of sewer lines not otherwise provided for in section (4) of this rule, or allow a use to connect to an existing sewer line not otherwise provided for in section (8) of this rule, provided the standards for an exception to Goal 11 have been met, and provided the local government adopts land use regulations that prohibit the sewer system from serving any uses or areas other than those justified in the exception. Appropriate reasons and facts for an exception to Goal 11 include but are not limited to the following:

- (a) The new system, or extension of an existing system, is necessary to avoid an imminent and significant public health hazard that would otherwise result if the sewer service is not provided; and, there is no practicable alternative to the sewer system in order to avoid the imminent public health hazard, or
- (b) The extension of an existing sewer system will serve land that, by operation of federal law, is not subject to statewide planning Goal 11 and, if necessary, Goal 14.

**OAR 660-004-0020, Goal 2, Part II(c), Exception Requirements**

B) The four factors in Goal 2 Part II(c) required to be addressed when taking an exception to a Goal are:

- i) "Reasons justify why the state policy embodied in the applicable goals should not apply": The exception shall set forth the facts and assumptions used as the basis for determining that a state policy embodied in a goal should not apply to specific properties or situations including the amount of land for the use being planned and why the use requires a location on resource land;
- ii) "Areas which do not require a new exception cannot reasonably accommodate the use":
  - a) The exception shall indicate on a map or otherwise describe the location of possible alternative areas considered for the use, which do not require a new exception. The area for which the exception is taken shall be identified;
  - b) To show why the particular site is justified, it is necessary to discuss why other areas which do not require a new exception

cannot reasonably accommodate the proposed use. Economic factors can be considered along with other relevant factors in determining that the use cannot reasonably be accommodated in other areas. Under the alternative factor the following questions shall be addressed:

i) Can the proposed use be reasonably accommodated on nonresource land that would not require an exception, including increasing the density of uses on nonresource land? If not, why not?

ii) Can the proposed use be reasonably accommodated on resource land that is already irrevocably committed to nonresource uses, not allowed by the applicable Goal, including resource land in existing rural centers, or by increasing the density of uses on committed lands? If not, why not?

iii) Can the proposed use be reasonably accommodated inside an urban growth boundary? If not, why not?

c) This alternative areas standard can be met by a broad review of similar types of areas rather than a review of specific alternative sites. Initially, a local government adopting an exception need assess only whether those similar types of areas in the vicinity could not reasonably accommodate the proposed use. Site specific comparisons are not required of a local government taking an exception, unless another party to the local proceeding can describe why there are specific sites that can more reasonably accommodate the proposed use. A detailed evaluation of specific alternative sites is thus not required unless such sites are specifically described with facts to support the assertion that the sites are more reasonable by another party during the local exceptions proceeding.

iii) The long-term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in other areas requiring a Goal exception. The exception shall describe the characteristics of each alternative areas considered by the jurisdiction for which an exception might be taken, the typical advantages and disadvantages of using the area for a use not allowed by the Goal, and the typical positive and negative consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts. A detailed evaluation of specific alternative sites is not required unless such sites are specifically described with facts to support the assertion that the sites have significantly fewer adverse impacts during the local exceptions proceeding. The exception shall include the reasons why the consequences of the use at the chosen site are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site. Such reasons shall include but are not limited to, the facts used to determine which resource land is least productive; the ability to sustain resource uses near the proposed use; and the long-term economic impact on the general area caused by irreversible removal of the land from

*the resource base. Other possible impacts include the effects of the proposed use on the water table, on the costs of improving roads and on the costs to special service districts;*

*iv) "The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts." The exception shall describe how the proposed use will be rendered compatible with adjacent land uses. The exception shall demonstrate that the proposed use is situated in such a manner as to be compatible with surrounding natural resources and resource management or production practices. "Compatible" is not intended as an absolute term meaning no interference or adverse impacts of any type with adjacent uses.*

*C) If the exception involves more than one area for which the reasons and circumstances are the same, the areas may be considered as a group. Each of the areas shall be identified on a map, or their location otherwise described, and keyed to the appropriate findings.*

**OAR 660-004-0022, Reasons Necessary to Justify an Exception Under Goal 2, Part II(c)**

*An exception Under Goal 2, Part II(c) can be taken for any use not allowed by the applicable goal(s). The types of reasons that may or may not be used to justify certain types of uses not allowed on resource lands are set forth in the following sections of this rule:*

*A) For uses not specifically provided for in subsequent sections of this rule or OAR 660, division 014, the reasons shall justify why the state policy embodied in the applicable goals should not apply. Such reasons include but are not limited to the following:*

*i) There is a demonstrated need for the proposed use or activity, based on one or more of the requirements of Statewide Goals 3 to 19; and either*

*ii) A resource upon which the proposed use or activity is dependent can be reasonably obtained only at the proposed exception site and the use or activity requires a location near the resource. An exception based on this subsection must include an analysis of the market area to be served by the proposed use or activity. That analysis must demonstrate that the proposed exception site is the only one within that market area at which the resource depended upon can reasonably be obtained; or*

*iii) The proposed use or activity has special features or qualities that necessitate its location on or near the proposed exception site.*

*B) Rural Residential Development: For rural residential development the reasons cannot be based on market demand for housing, except as provided for in this section of this rule, assumed continuation of past urban and rural population distributions, or housing types and cost characteristics. A county must show why, based on the economic analysis in the plan, there are reasons for the type and density of housing planned which require this particular location on resource lands. A jurisdiction could justify an exception to allow residential development on resource land outside an urban growth boundary by determining that the rural location of the proposed residential development is necessary to satisfy the market demand for housing generated by existing or planned rural industrial, commercial, or other economic activity in the area.*

**FINDING:** OAR 660-011-0060(9) specifically states that "A local government may allow the establishment of new sewer systems or the extension of sewer lines not otherwise provided for in section (4) of this rule, or allow a use to connect to an existing sewer line not otherwise provided for in section (8) of this rule, provided the standards for an exception to Goal 11 have been met, and provided the local government adopts land use regulations that prohibit the sewer system from serving any uses or areas other than those justified in the exception." Additionally the rule provides that an appropriate reason and fact for an exception to Goal 11 includes "The extension of an existing sewer system will serve land that, by operation of federal law, is not subject to statewide planning Goal 11 and, if necessary, Goal 14."

The subject property is owned by the U.S.A. Veteran's Administration and has operated as a National Cemetery since 1952. Significant improvements are scheduled for the property including: a new Administration and Public Information Center building, a new maintenance building, and a vehicle storage building. Since the property is owned by the Federal Government and the existing and future uses will be public in nature, the request to extend sewer service for these purposes is, on its face, consistent with OAR 660-011-0060(9).

In addition to indicating that the subject proposal qualifies for an exception on its face, the application submitted on behalf of the U.S.A. Veteran's Administration provides a thorough description of the proposal's compliance with OAR 660-004-0020 and 0022 and provides an analysis of the long-term environmental, economic, social and energy consequences resulting from the use at the proposed site.

Excluding the information submitted in the application which contains opinion regarding local and state policies, Staff concurs with the information directed specifically at compliance with the OARs and accepts this information as being sufficient to comply with Statewide Planning Goal 11 and Oregon Administrative Rules: OAR's 660-004-0020, 660-004-0022, and 660-011-0060.

## **B. Jackson County Comprehensive Plan: Public Facilities and Services Element**

Public Facilities and Services Element: The stated goal of the element is "To plan and develop a timely, orderly, and efficient arrangement of public facilities and services to serve as a framework for urban and rural development."

Finding No. 1 states:

*"SEWAGE DISPOSAL SYSTEMS: Many of the rural subdivisions and clusters of small rural parcels in the County were created before zoning laws were implemented. Parcelization and subsequent settlement patterns in many parts of the County have developed independent of the land use planning process. In addition, many early land divisions were made without verification of available potable water supplies or septic waste disposal systems."*

*"The Bear Creek Valley Sanitary Authority was also created before the inception of statewide land use planning and local zoning. Based upon its original plan and existing sewer capacity, BCVSA is prepared to provide sewer services to a large*

*part of the County, but laws passed since the formation of the Sewer Authority restrict the extension of sewer service outside of cities and urban growth boundaries."*

*"The County recognizes four development categories for the provision of sewage disposal services, which establish the different circumstances that affect the availability of sewage disposal systems in various parts of the County."*

*"CATEGORY A: Development within city limits or within an incorporated city's urban growth boundary is subject to "Category A" development standards. The standard level of service for such areas includes conventional sewage collection and treatment that is part of regional or subregional sewerage system designed to accommodate urban level development."*

*"CATEGORY B: Development within an unincorporated urban containment boundary or an approved destination resort, or outside of an incorporated city's urban growth boundary in an area that constitutes a pocket of existing urban or suburban level development. Where a probable health hazard is deemed to exist and the area is geographically located so that connection to a regional or subregional sewerage system is determined to be a reasonable solution after alternatives have been evaluated, then conventional sewage collection and treatment systems designed to accommodate existing development may be provided."*

*"CATEGORY C: Development in an area outside of an incorporated city's urban growth boundary or urban containment boundary that constitutes a pocket of existing urban or suburban level development, but that is geographically located so that connection to a regional or subregional sewerage system is not feasible, is subject to "Category C" development standards. Where a probable health hazard is found to exist, sewer service may be provided by an on-site management district or small community waste disposal system designed to accommodate an appropriate level of development consistent with the Jackson County Comprehensive Plan."*

*"CATEGORY D: Development in an area that is developed to, or designated for, low density development, where all standards can be met for on-site waste disposal, is subject to "Category D" development standards. This standard allows on-site septic waste disposal systems."*

**"POLICY: RECOGNIZING THE NEED FOR VARIOUS TYPES AND LEVELS OF SANITATION SERVICE, JACKSON COUNTY SHALL STRIVE TO PROVIDE FOR SANITATION SERVICE AT LEVELS APPROPRIATE FOR THE NEEDS OF URBAN, URBANIZABLE, SUBURBAN, RURAL, AND OPEN SPACE LANDS."**

**"IMPLEMENTATION STRATEGIES:**

**A) Public sewer district should develop service plans identifying location and levels of service which are consistent with the Comprehensive Plan and the criteria identified in the above policy. These service plans, when deemed**



*consistent with the Jackson County Comprehensive Plan, should be adopted by the County as part of said plan.*

*B) Proposals for sewer collection facility projects shall be reviewed in accordance with, and for consistency with, the Jackson County Land Development Ordinance.*

*C) The County should create an exception process for circumstances where strict application of the Jackson County Land Development Ordinance may cause an unnecessary public hardship."*

Finding 2 begins:

*"EXTENSION OF SEWER SYSTEMS BEYOND URBAN GROWTH BOUNDARIES: The policies of the urban lands element support the concept of urban centered growth as a means to mitigate problems which occur with extensive urban and rural growth outside of urban growth boundaries. The extension of an urban facility beyond an urban growth or containment boundary creates the perception that the area near the facility is committed to urban growth. Therefore, it is desirable to avoid potential conflicts by limiting the location of urban levels of services, such as sewers, to urban growth boundaries and identified health hazard areas."*

*"POLICY: RECOGNIZING THE URBAN GROWTH/CONTAINMENT BOUNDARY AS THE DIVIDING LINE BETWEEN URBAN AND RURAL DEVELOPMENT, THE COUNTY SHALL NOT ALLOW NEW EXTENSIONS OF SEWER PROJECTS BEYOND THESE BOUNDARIES EXCEPT AS ALLOWED IN POLICY 1 AFTER REVIEW BY THE PLANNING COMMISSION AND APPROVAL BY THE BOARD OF COMMISSIONERS OR AS PROVIDED FOR BY STATE LAW, AS DISCUSSED IN POLICY 5 BELOW."*

Finding 5 begins:

*"RURAL SEWER SERVICE: The existence of a sewer line through a rural area, between an urban area and the health hazard area it serves, creates a potential land use conflict. Land use densities in rural areas are generally low, allowing five-acre rural residential lots or larger farm units. The presence of sewers can create the perception that development of more intensive uses is anticipated or planned, consequently encouraging speculative land sales and pressure for land use or zoning changes. Consequently, construction of new sewer systems or extension of existing sewer systems to serve rural areas located outside acknowledged urban growth boundaries or unincorporated community boundaries is restricted pursuant to Statewide Planning Goal 11 and OAR 660, Division 11 to existing public health hazard areas. The 2003 Oregon State Legislature, through House Bill 2674 (effective January 1, 2004), relaxed the restriction to allow on-site sewer facilities to serve industrial development on old or diminished mill sites as described in the bill. Any other situation would require that an exception to Statewide Planning Goal 11 be justified pursuant to the Goal 2 exceptions process."*

*"POLICY: CONNECTIONS TO SEWER OR WATER LINES IN AREAS LOCATED OUTSIDE ACKNOWLEDGED URBAN GROWTH BOUNDARIES OR UNINCORPORATED COMMUNITY BOUNDARIES MAY BE PERMITTED ONLY PURSUANT TO STATE LAW AND THE JACKSON COUNTY LAND DEVELOPMENT ORDINANCE."*

**FINDING:** The Jackson County Comprehensive Plan includes substantial findings and policies recognizing the need to provide for sewer connections outside urban growth boundaries and unincorporated community boundaries due to pre-existing patterns of development, pre-existence of a rural sewer service provider, and the severe site limitations imposed by local topography, soil conditions, natural hazard areas, and limited lot size. The flexibility was considered essential to pursue the Goal 11 mandate to plan and develop a timely, orderly, and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.

Policies 1, 2, and 5 of the Public Facilities and Services Element, (specifically Policy 5), allow the establishment or extension of a sewer system outside of an urban growth boundary and unincorporated community boundary pursuant to state law and the JCLDO. The state amended OAR 660-011-0060 in 1998 and 2005 to allow an extension of a sewer system "...provided the standards for an exception to Goal 11 have been met, and provided the local government adopts land use regulation that prohibit the sewer system from serving any uses or areas other than those justified in the exception."

Altogether, the Public Facilities and Services Element of the Comprehensive Plan allows for the extension of a sewer system to connect to the subject parcel if the standards for an exception to goal 11 and the local ordinances are met.

### **C. Jackson County Land Development Ordinance (JCLCO): Section 3.6 and 3.7.3(C)**

#### *3.6.1 Authorization*

*Public sewer systems may be constructed or extended within urban growth boundaries and acknowledged unincorporated communities without County review except where a floodplain development permit is required.*

*Pursuant to Statewide Planning Goal 11, the following sewer projects are restricted to public health hazard situations established in OAR 660-011-0060(2), unless otherwise justified within an acknowledged Goal 11 Exception Area, or as otherwise provided by State law (ORS 197.712):*

- A) New sewer systems outside urban growth boundaries or unincorporated community boundaries;*
- B) The extension of sewer lines from within urban growth boundaries or unincorporated community boundaries in order to serve uses on land outside those boundaries; or*

C) *The extension of sewer systems that currently serve land outside urban growth boundaries and unincorporated community boundaries in order to serve new or existing uses that are outside such boundaries, except when necessary to mitigate a public health hazard.*

### 3.6.2 Procedure

*Where a sewer project has been constructed in accordance with a County approved sewer extension permit that was issued in accordance with rules in effect prior to the 1998 Goal 11 rule change, connections approved as part of the project may be made in accordance with the approved sewer extension permit conditions as a Type 1 procedure.*

*Permitted uses and lawfully established structures on properties approved for sewer connection as depicted in ASC 2003-1 shall be permitted connection through a Type 1 procedure.*

*Permit applications for new sewer systems or sewer extensions to be constructed outside urban growth or unincorporated community boundaries in order to mitigate a public health hazard situation will be processed under the Type 2 procedures of this Ordinance, and in accordance with the provisions of OAR 660-011-0060. To be accepted as complete, a sewer permit application must be filed with a health hazard determination and recommendation from the Oregon Department of Environmental Quality (DEQ) or the Oregon Health Division.*

*Applications for sewer projects to be justified by goal exception will be processed as comprehensive plan amendments under the Type 4 procedures of this Ordinance, and in accordance with the provisions of the Comprehensive Plan and state law for goal exceptions.*

### 3.6.3 Approval Criteria

*The basis for approval of a development permit for a sewer service to rural lands will be OAR 660-011-0060 to mitigate existing public health hazard situations, unless a goal exception is justified for another purpose. Approval of an application for a Statewide Planning Goal 11 Exception Area must ensure that only rural land uses will be served, unless an exception to Statewide Planning Goal 14 is also justified for urban uses. If a Goal 11 exception is justified, the exception area will be depicted as within ASC 2003-1 on the Jackson County Comprehensive Plan and Zoning Maps, and uses within the area will be restricted to those justified in the exceptions document.*

**FINDING:** A Zoning Map amendment has been requested though this application to include the subject property in ASC2003-1. A restrictive covenant or declaratory statement, to be recorded against the deed to the affected property, should be required as a condition, prior to sewer system connection. The condition may require the property owner to acknowledge that the sewer extension may not be used to: 1) justify uses not allowed in the underlying zoning district, 2) re-designation of the area to a more intensive zone, nor 3) justify future land division. Therefore, with the aforementioned conditions, Section 3.6 is met.

## 3.7 AMENDMENTS TO THE COMPREHENSIVE PLAN OR ZONING MAPS

### 3.7.3 Approval Criteria

*Any amendment must comply with all applicable Statewide Planning Goals, Oregon Administrative Rules and the Comprehensive Plan as a whole. In addition, the following specific approval criteria apply:*

#### *C) Minor Comprehensive Plan Map or Zoning Map Amendments (Quasi-Judicial)*

*All proposed minor map amendments will be reviewed for compliance with the criteria set forth below and with all other applicable provisions of this Ordinance and the Comprehensive Plan:*

- 1) Adequate public safety, transportation, and utility facilities and services can be provided to the subject property. In the case of a minor zoning map amendment, adequate transportation facilities must exist or be assured.*
  
- 2) The minor map amendment will not prevent implementation of any area of special concern or restrictions specified for that area in Chapter 7 or the adopting ordinance creating it, or both.*
  
- 3) On resource zoned lands outside urban growth boundaries, the entire parcel is included in the minor Comprehensive Plan Map unless the purpose of the amendment conforms with the criteria of Policy 1 of the Comprehensive Map Designations Element.*
  
- 4) Map amendments outside urban growth boundaries and urban unincorporated communities that will result in a minimum residential lot size smaller than 10 acres meet the requirements for an exception to Statewide Planning Goal 14.*
  
- 5) Any minor Zoning Map amendment is consistent with the Comprehensive Plan Map designation.*
  
- 6) In the case of a minor Comprehensive Plan Map amendment, community benefit as a result of the minor map amendment is clearly demonstrated.*
  
- 7) In determining the appropriateness of the proposed redesignation, the White City or Jackson County Planning Commission and Board of Commissioners will consider any factors relevant to the proposal, which may include: topography, geology, hydrology, soil characteristics, climate, vegetation, wildlife, water quality, historical or archaeological resources, scenic resources, noise, open space, existing site grading, drainage, adverse impacts on other property in the vicinity, and any other factors deemed to be relevant to the application.*

**FINDING:** The subject property has electricity service, water is available from the Medford Water Commission, and transportation is provided from Riley Road, a public road. RVSS has a sanitary sewer line serving the residential properties immediately to the West of the subject property. Therefore, adequate public safety, transportation, and utility facilities and services are available or can be provided to the subject property. The connection of the RVSS sewer line to the property will provide adequate sewer service for the anticipated Federal uses.

No area of special concern is identified as overlapping the subject parcel. Therefore, the minor map amendment will not prevent implementation of any area of special concern. The entire parcel is proposed for the minor Comprehensive Plan Map amendment. This application will not result in a division of land. The proposed amendment does not change the Comprehensive Plan Map designation from Agricultural Land. The proposal has the potential to mitigate a future potential public health hazard, which may result if an on-site septic system is used instead of sewer; thus a community benefit to Jackson County is provided. The Comprehensive Plan Map and Zoning Map designation will not be changed from Agricultural Land as a result of this application.

III. **CONCLUSION:** Staff recommends the proposed Goal 11 exception for tax lots 36-1W-02D-1700, 36-1W-02CD-100, and 36-1W-11-300 is found to be justified by reasons pursuant to ORS 197.732(1)(c), OAR 660-004-0020, OAR 660-004-0022, and OAR 660-011-0060. Staff further concludes that the subject parcel be added to Area of Special Concern 2003-1, Goal 11 Exception Areas, in accordance with JCLDO Section 3.6. Staff supports a Planning Commission recommendation to the Board of Commissioners approving the Comprehensive Plan Map and Zoning Map Amendment with the following conditions.

1. **Approved Exception:** The Goal 11 Exception applies only to tax lots 36-1W-02D-1700, 36-1W-02CD-100, and 36-1W-11-300
2. **Deed Declaration:** A Deed Declaration shall be signed, notarized, and recorded by the property owner acknowledging that the sewer extension may not be used to: 1) justify uses not allowed in the underlying zoning district, 2) re-designate the area to a more intensive zone, or 3) justify future land division.

**JACKSON COUNTY PLANNING DIVISION**



By: Josh LeBombard  
Senior Planner

Date: \_\_\_\_\_



**JACKSON  
COUNTY**  
Oregon

**DEPT OF**

**MAY 23 2011**

**NOTICE OF ADOPTION**  
LAND CONSERVATION  
AND DEVELOPMENT

Pursuant to Oregon Revised Statutes (ORS) 197.615, you are hereby being notified that the Jackson County Board of Commissioners adopted Ordinance No. 2011-8 at a properly advertised public hearing on May 18, 2011, at 1:30 p.m., in the Auditorium of the Jackson County Offices, 10 South Oakdale, Medford, Oregon 97501.

The ordinance will go into effect on July 17, 2011 (60 days from the date of adoption). A description of the ordinance follows:

Ordinance No. 2011-8 amends the Comprehensive Plan Map and Zoning Map and allows a reasons exception to Statewide Planning Goal 11 to allow the U.S. Veteran's Cemetery to connect to sewer service at 2763 Riley Road, Eagle Point and further described as tax lots 36-1w-02d-1700, 36-1w-02cd-100, and 36-1w-11-300. File LRP2010-00009.

This notice is being mailed to you on May 20, 2011, which is within five working days after the adoption date of the ordinance(s) as required by ORS 197.615. If you have any questions on the effect of this ordinance, please contact **Josh LeBombard** at Development Services, Room 100, County Offices, 10 South Oakdale, Medford, Oregon 97501. Telephone: Medford 774-6944; Jackson County residents outside of Medford's local calling area 1-800-452-5021 and enter the next four digit extension 6944.

You may review this ordinance, or you may purchase a copy for \$.25 for the first page and \$.10 for each additional page, at Development Services, Room 100, County Offices, 10 South Oakdale, Medford, Oregon 97501, between the hours of 8:00 a.m. and 4:00 p.m., Monday, Tuesday, Thursday and Friday; and 11:00 a.m. to 4:00 p.m on Wednesday.

The Board of County Commissioner's Ordinances are the final decisions on this action. Pursuant to State law, Jackson County is hereby notifying all persons who participated in the hearings, either in writing or orally. This decision may be appealed to the Oregon Land Use Board of Appeals (LUBA). You must appeal this decision within 21 days of the date it is mailed. This decision is being mailed on May 20, 2011, and the LUBA appeal period will expire on June 10, 2011. Please contact LUBA for specific appeal information. They are located at 550 Capitol Street N.E. Suite 235, Salem, Oregon 97301-2552. They can be reached at (503) 373-1265.

Attachments: Notary Packet

NOTARY PAGE

STATE OF OREGON )  
 )  
COUNTY OF JACKSON )

I, Patricia A. Guida, being first duly sworn, depose and say that on behalf of Jackson County Development Services, I gave notice of Board of Commissioners Ordinance No. 2011-8 by mailing a copy of the Notice of Adoption by regular mail to each of the following named persons at their respective last known addresses, to wit: (as attached)

Each of said copies of the Notice were enclosed in a sealed envelope addressed to the persons at the addresses above set forth, with postage thereon fully prepaid and was deposited in the post office at Medford, Oregon, on May 20, 2011.

Patricia A. Guida  
Signature

Personally appeared before me this 20<sup>th</sup> day of May, 2011, the above named Patricia A. Guida who acknowledged the foregoing affidavit to be her voluntary act and deed.



Marisa J. Harris  
Notary Public for Oregon  
My Commission Expires: 7/23/14

NOTICE OF ADOPTION SENT TO: AGENCIES, PROPERTY OWNERS AND INTERESTED PERSONS.

APPLICANT NAME: ANDERSON ENGINEERING  
FILE NO: LRP2010-00009

FILE NO. LRP2010-00009  
NOTICE OF ADOPTION  
APPLICANT: ANDERSON ENGINEERING  
DATE CREATED: 05/19/2011

APPLICANT LRP2010-00009  
ANDERSON ENGINEERING  
13605 1<sup>ST</sup> AVE N, STE 100  
PLYMOUTH MN 55441

OWNER LRP2010-00009  
VETERANS ADMINISTRATION  
2763 RILEY RD  
EAGLE POINT OR 97524

AGENT LRP2010-00009  
RICHARD STEVENS & ASSOC  
PO BOX 4368  
MEDFORD OR 97501

BOARD OF COMMISSIONER LRP2010-00009  
DENNIS C.W. SMITH, CHAIR

BOARD OF COMMISSIONER LRP2010-00009  
JOHN RACHOR

BOARD OF COMMISSIONER LRP2010-00009  
DON SHUNDRICK

STAFF LRP2010-00009  
KELLY MADDING, DIRECTOR  
DEVELOPMENT SERVICES

STAFF LRP2010-00009  
JOSH LEBOMBARD, PLANNER  
DEVELOPMENT SERVICES

AGENCY LRP2010-00009  
FRANK HAMMOND  
COUNTY COUNSEL

IP LRP2010-00009  
RUSS LOGUE  
ROADS DEPT

IP LRP2010-00009  
DON HICKMAN  
JACKSON COUNTY FD #3  
8383 AGATE RD  
WHITE CITY OR 97503

IP LRP2010-00009  
WADE DENNY  
RVSS  
PO BOX 3130  
CENTRAL POINT OR 97502

IP LRP2010-00009  
DIANE MARCUM  
316 ROBERT T JONES JR BLVD  
EAGLE POINT OR 97524

IP LRP2010-00009  
ALFRED BUCK  
1214 STEVENS RD  
EAGLE POINT OR 97524

IP LRP2010-00009  
DAVID CRUSE  
389 LEANDRA LN  
EAGLE POINT OR 97524

IP LRP2010-00009  
DIANA BROUSSARD  
38 MEADOW LANE  
SHADY COVE OR 97539

IP LRP2010-00009  
JEFF HANSEN  
1134 ARROWHEAD TRAIL  
EAGLE POINT OR 97524

IP LRP2010-00009  
BARRY ROBERTSON  
3437 BOULDER CREEK CT  
NAPA CA 94558

IP LRP2010-00009  
HOWARD NICKELSON  
1105 PUMPKIN RIDGE DR  
EAGLE POINT OR 97524

IP LRP2010-00009  
GAIL ANN DORSEY  
1239 POPPY RIDGE DR  
EAGLE POINT OR 97524

IP LRP2010-00009  
TERRY NOBLE  
311 ROBERT TRENT JONES BLVD  
EAGLE POINT OR 97524

IP LRP2010-00009  
NANCY FREELAND  
331 PATRICIA LN  
EAGLE POINT OR 97524

IP LRP2010-00009  
JIM/MARY MERRITT  
PO BOX 557  
EAGLE POINT OR 97524

IP LRP2010-00009  
ROBERT MILLER  
C/O CITY OF EAGLE POINT  
17 S BUCHANAN ST  
EAGLE POINT OR 97524

IP LRP2010-00009  
DOINA M CISMAS-JEFFERY  
261 ROBERT T JONES BLVD  
EAGLE POINT OR 97524





## Development Services

10 South Oakdale Ave., Room 100  
Medford, Oregon 97501-2902



Hasler

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05/20/2011

Mailed From 97501  
US POSTAGE

DEPT OF  
MAY 23 2011  
LAND CONSERVATION  
AND DEVELOPMENT

DLCD  
PLAN AMENDMENT SPECIAL  
635 CAPITOL STREET NE STE 150  
SALEM OR 97301-2540