



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

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www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

01/22/2013

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

FROM: Plan Amendment Program Specialist

SUBJECT: City of Eugene Plan Amendment
DLCD File Number 005-12

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: Wednesday, February 06, 2013

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: Steve Ochs, City of Eugene
Gordon Howard, DLCD Urban Planning Specialist
Ed Moore, DLCD Regional Representative

<paa> YA



FORM 2

DLCD

Notice of Adoption

This Form 2 must be mailed to DLCD within **5-Working Days after the Final Ordinance is signed** by the public Official Designated by the jurisdiction and all other requirements of ORS 197.615 and OAR 660-018-000

☐ In person ☐ electronic ☐ mailed

DATE
STAMP

DEPT OF
JAN 17 2013
LAND CONSERVATION
AND DEVELOPMENT

For Office Use Only

Jurisdiction: **City of Eugene**

Local file number: **Z 12-1**

Date of Adoption: **1/16/2013**

Date Mailed: **1/16/2013**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? ☒ Yes ☐ No Date: 6/6/2012

☐ 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".

Zone Change on 4 parcels from R-1 Low Density Residential to R-2 Medium Density Residential.

Note: The local appeal deadline has passed this decision is final and cannot be appealed otherwise.

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

Plan Map Changed from: **No change**

to:

Zone Map Changed from: **R-1**

to: **R-2**

Location: **85 and 95 East 20th Avenue, 1980 and 1960 Oak**

Acres Involved: **0.36**

Specify Density: Previous: **0-14**

New: **10-28**

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...

35-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. 005-12 (19433) [17323]

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

Local Contact: **Steve Ochs**

Phone: **(541) 682-2547** Extension:

Address: **99 West 10th Avenue**

Fax Number: - -

City: **Eugene**

Zip: **97401-**

E-mail Address: **steve.p.ochs@ci.eugene.or.us**

ADOPTION SUBMITTAL REQUIREMENTS

This Form 2 must be received by DLCD no later than 5 working days after the ordinance has been signed by the public official designated by the jurisdiction to sign the approved ordinance(s) per ORS 197.615 and OAR Chapter 660, Division 18

1. This Form 2 must be submitted by local jurisdictions only (not by applicant).
2. When submitting the adopted amendment, please print a completed copy of Form 2 on light green paper if available.
3. Send this Form 2 and one complete paper copy (documents and maps) of the adopted amendment to the address below.
4. Submittal of this Notice of Adoption must include the final signed ordinance(s), all supporting finding(s), exhibit(s) and any other supplementary information (ORS 197.615).
5. Deadline to appeals to LUBA is calculated **twenty-one (21) days** from the receipt (postmark date) by DLCD of the adoption (ORS 197.830 to 197.845).
6. In addition to sending the Form 2 - Notice of Adoption to DLCD, please also remember to notify persons who participated in the local hearing and requested notice of the final decision. (ORS 197.615).
7. Submit **one complete paper copy** via United States Postal Service, Common Carrier or Hand Carried to the DLCD Salem Office and stamped with the incoming date stamp.
8. Please mail the adopted amendment packet to:

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

9. **Need More Copies?** Please print forms on 8½ -1/2x11 green paper only if available. If you have any questions or would like assistance, please contact your DLCD regional representative or contact the DLCD Salem Office at (503) 373-0050 x238 or e-mail plan.amendments@state.or.us.

**DECISION OF THE HEARINGS OFFICIAL
FOR THE CITY OF EUGENE, OREGON**

ZONE CHANGE REQUEST

Application File Name (Number):

Hollar, Jeff & Shirley (Z 12-1).

Applicants' Request:

Zone change approval from R-1 Low Density Residential to R-2 Medium Density Residential.

Subject Property/Zoning/Location:

Tax Lots 5900, 6100, 6200 and 6300, Assessor's Map 18-03-06-11; located at 60 East 19th Alley, 1960 Oak Street and 85/95 East 20th Avenue; the property is currently zoned R-1 Low Density Residential.

Applicants/Owners:

Jeffrey and Shirley Hollar, Barbara Joliffe.

Applicants' Representative:

Larry Reed, JRH Transportation, phone: (541) 687-1081.

Lead City Staff:

Steve Ochs, Associate Planner, Eugene Planning Division, phone: (541) 682-5453.

Relevant Dates:

Application submitted on May 18, 2012; supplemental information submitted on June 28, 2012 and November 6, 2012; public hearing held December 19, 2012; record closed December 19, 2012.

Summary of the Present Request

The property subject to this request consists of four contiguous tax lots totaling approximately 15,750 square feet (0.36 acre) which have frontage on Oak Street and East 20th Avenue. The lots are currently developed with single-family dwellings. Abutting property to the west is zoned R-1 and developed with a single-family dwelling. The surrounding area includes a mixture of low, medium and high density zoned properties and is developed primarily with single family homes and multi-family development. The vacant Civic Stadium property is located just to the south of the subject property and a large community commercial area that includes a variety of services is located two blocks to the north.

The applicants are requesting approval to change the current zoning of the subject property from R-1 Low Density Residential to R-2 Medium Density Residential. As noted in the applicants' materials, the applicants initially requested R-2 Medium Density Residential or R-3 Limited High Density Residential with a 40 dwelling unit per acre maximum and height limitation of 30 feet. After the applicants' initial submission, the applicants provided an email to staff on July 12, 2012 indicating that R-2 could be an alternative to R-3 in the event the R-3 analysis was not supported. Prior to the initial hearing set for September, the applicants put the application on hold and submitted an addendum on November 6, 2012 requesting only a zone change to R-2 Medium Density. A revised public notice was sent out and a new hearing date set.

Summary of the Public Hearing

The public hearing was held on December 19, 2012. After City staff's presentation, the applicants' representative testified. Only one person testified during the public comment portion of the hearing, and the testimony consisted of a short statement of overall support for the rezone proposal. Two hearing exhibits were introduced by the City and accepted into the record. Both exhibits related to applying the Transportation Planning Rule to this zone change application. No participant requested the opportunity to submit additional evidence or argument and there was no request to leave the hearing record open. The public hearing was closed on December 19; the record was closed on December 19.

Documents Considered by the Hearings Official

Application and application narrative.
Completeness review correspondence.
DLCD Form 1 with attachments.
Pre-hearing correspondence between City staff and applicants' representative.
Notice of public hearing cancellation.
Applicants' application amendment correspondence with attachments.
Public notice for public hearing and mailing list.
Revised DLCD Form 1 with attachments.
Application comment correspondence from Jim Poverman dated August 13, 2012.
Application comment correspondence from Dona Cork dated November 21, 2012.
Public hearing meeting agenda.
Zone change staff report, with attachments.
Transportation Planning Rule amendment history documents provided by City Attorney's Office.
Referral comments cover memorandum.
Referral comments from DLCD.
Referral comments from Public Works.
Hearing Exhibit A, Memorandum and attachments from City Attorney's Office.
Hearing Exhibit B, TPR significant impacts analysis provided by City staff.

Evaluation of the Zone Change Request

In accordance with EC 9.7330, I am required to approve, approve with conditions, or deny this Type III land use application for a zone change. My decision must be based on, and be accompanied by, findings that explain the criteria and standards considered relevant to the decision. My decision must also state the facts relied upon in rendering the decision, and explain the justification for the decision based upon the criteria, standards, and facts set forth. The applicable zone change approval criteria are shown below in **bold** typeface, with each criterion followed by my findings and conclusions related to each criterion.

EC 9.8865(1): The proposed zone change is consistent with applicable provisions of the Metro Plan. The written text of the Metro Plan shall take precedence over the Metro Plan diagram where apparent conflicts or inconsistencies exist.

Findings

The subject property is not specifically identified on the Metro Plan diagram, but is clearly recognized by abutting streets. The location of the subject property on the Metro Plan diagram is readily identifiable and is located within an area of medium density designation. The request for R-2 medium density zoning is consistent with the medium density designation in the Metro Plan. The City's R-2 zone is the only residential zone that implements the Metro Plan medium density designation.

I find that there are no Metro Plan policies that serve as mandatory approval criteria for this application. However, there are several Metro Plan policies within the residential element that I have considered in evaluating this zone change request. The Metro Plan policies I reviewed are the following shown in bold, followed by my findings.

A.2 Residentially designated land within the UGB should be rezoned consistent with the Metro Plan and applicable plans and policies; however, existing agricultural zoning may be continued within the area between the city limits and the UGB until rezoned for urban uses.

This policy provides direction for zone changes and is relevant in this instance. As described above, the parcel is designated for medium density residential use. The proposed R-2 zone change is consistent with the plan designation by providing the allowable medium density and is therefore consistent with this policy.

A.9 Establish density ranges in local zoning and development regulations that are consistent with the broad density categories of this plan.

This policy provides context for this proposal as the City has established the R-2 zone which allows for 10 to 28 units per net acre and is appropriate for medium density. The

applicants' R-2 medium density proposal is consistent with this policy by allowing up to 28 units per acre.

Also, Policies A.10, A.11, A.12, and A.13 promote coordinating higher density with services, employment and transportation and creating opportunities for infill and are not in conflict or inconsistent with the existing medium density plan designation. These policies are worded in a general way to provide guidance to the City in determining the plan designation of various areas, and in some cases provide relevant guidance or may serve as requirements for a zone change. A zone change consistent with the medium density plan designation is consistent with these policies.

Last, the subject property is located in an area identified for nodal development in TransPlan. However, because the area is not designated for Nodal Development in the Metro Plan diagram, the addition of the /ND overlay is not required.

Conclusion

Based upon the above findings and consideration of Metro Plan policies, the proposal is consistent with the Metro Plan.

EC 9.8865(2): The proposed change is consistent with applicable adopted refinement plans. In the event of inconsistencies between these plans and the Metro Plan, the Metro Plan controls.

Findings

The subject property is located within the boundaries of the South Willamette Subarea Study refinement plan. The refinement plan notes the subject property is appropriate for medium density residential and the subject property is designated for medium density residential on the Metro Plan diagram. The following recommendation included in the study and adopted by City Council is relevant to this proposal.

"Recommendation 6: The zoning and planned use designations for the remainder of the study area should remain as is. In particular, the area on the east side of Willamette Street between 19th and the Civic Stadium property is an appropriate area for medium density residential development. The area on the east side of Willamette between 19th and 18th is appropriately designated and zoned as commercial." South Willamette Subarea Study at page 8.

The subject property is located on East 20th Avenue, east of Willamette Street between 19th and the Civic Stadium property (which is on the south side of 20th). Read as a whole, I read this refinement plan recommendation to provide that this area is appropriate for medium density residential, as this reading is consistent with the Metro Plan medium density designation. The proposed R-2 zoning is consistent with the medium density designation of the subject property as described in the recommendation and further supported by the land use diagram of the Metro Plan.

The subject property is represented on several maps within the West University Refinement Plan. However, the plan area depicted on these maps (such as the Land Use Diagram on page 57 and the Public Facilities map on page 22) clearly identifies the southern boundary of the plan area as 19th Street. As a result, the subject property is not within that plan area of the West University Refinement Plan.

Conclusion

The zone change proposal is consistent with applicable Metro Plan refinement plans.

EC 9.8865(3): The uses and density that will be allowed by the proposed zoning in the location of the proposed change can be served through the orderly extension of key urban facilities and services.

Findings

Key urban facilities and services referred to in the above criterion are defined in the Metro Plan as including wastewater service, stormwater service, transportation, water service, fire and emergency medical services, police protection, City-wide parks and recreation programs, electric service, land use controls, communication facilities, and public schools on a district-wide basis. Metro Plan at page V-3. The minimum level of key urban facilities and services are defined in the Metro Plan and include wastewater service, stormwater service, and transportation facilities.

The subject property receives wastewater service via a six-inch (6") pipe that was constructed in 1929 and slip-lined in 2011 to eliminate inflow and infiltration. During the slip-line construction, Public Works staff determined that the pipe currently surcharges due to uneven grades and the number of connections. The City indicates that additional units on this line would not be allowed. The applicants' written statement acknowledges that the existing six-inch pipe within East 19th Alley must be upgraded to a standard eight-inch in order to accommodate additional future development. Public Works indicates that the entire line, approximately four hundred and fifteen feet (415'), from the manhole (#3384) west of the properties in Oak Alley to the twelve-inch (12") main trunk east of Oak St. (to manhole #3370) would need to be upgraded and all existing service lines would need to be reconnected at time of future building permit for a re-development of the subject property. The existing 12-inch main is approximately 5 feet deep, which means the construction of the 8-inch pipe will be shallow and a concrete liner will be required under paved streets. Systems Development Charges could be offset with the applicant's construction of an 8-inch pipe system through SDC credits upon review of privately engineered public improvement.

For stormwater service, there are ten-inch (10") and eighteen-inch (18") piped public stormwater facilities within East 20th Avenue and Oak Street which are sufficient to serve the subject property.

The subject property is well served by existing streets. The property is adjacent to East 20th Avenue and Oak Street, minor arterials. Access is also available on East 19th Alley.

The minimum level of key urban services is currently available, or can be extended in an orderly manner to the subject property.

Prior to the public hearing on this proposal, the City received two written comments expressing concern with the proposed rezoning. The comments did not specifically address applicable approval criteria, but the comments did express concerns with the future development and use of the property. While, the comments seemed best addressed within this criterion, I find that the comments cannot be dealt with within the confines of this zone change. Issues related to parking, student housing, rental stock, and future development are all issues that are not before me at this time. There is no development proposal before me. The neighbors will have the opportunity to voice their concerns when, or if, the applicants decide to develop the property.

Conclusion

The proposal meets this criterion.

EC 9.8865(4): The proposed zone change is consistent with the applicable siting requirements set out for the specific zone in:

(a) EC 9.2735 Residential Zone Siting Requirements.

Findings

These siting requirements apply only to the R-1.5 zone. As this request is for R-2, this criterion does not apply.

Conclusion

This criterion is satisfied.

EC 9.8865(5): In cases where the NR zone is applied based on EC 9.2510(3), the property owner shall enter into a contractual arrangement with the City to ensure the area is maintained as a natural resource area for a minimum of 50 years.

Findings

EC 9.8865(5) is inapplicable in this instance, as the proposed zone change does not include application of the NR zone.

Conclusion

This criterion is satisfied.

Transportation Planning Rule

Findings

The Transportation Planning Rule (TPR), OAR 660-012-0060, applies to zone change applications. This zone change does not implicate the functional classification of an existing or planned transportation facility or the standards implementing a functional classification system. As a result, for this application, the TPR requires additional analysis if the proposed zone change would significantly affect an existing or planned transportation facility, as defined in OAR 660-012-0060(1). However, OAR 660-012-0060(9) provides an exception to this analysis if the proposal meets the three elements of the subsection. OAR 660-012-0060(9) provides:

- “Notwithstanding section (1) of this rule, a local government may find that an amendment to a zoning map does not significantly affect an existing or planned transportation facility if all of the following requirements are met.
- (a) The proposed zoning is consistent with the existing comprehensive plan map designation and the amendment does not change the comprehensive plan map;
 - (b) The local government has an acknowledged TSP and the proposed zoning is consistent with the TSP; and
 - (c) The area subject to the zoning map amendment was not exempted from this rule at the time of an urban growth boundary amendment as permitted in OAR 660-024-0020(1)(d), or the area was exempted from this rule but the local government has a subsequently acknowledged TSP amendment that accounted for urbanization of the area.”

As discussed above, the subject property is designated as medium density residential on the City's adopted comprehensive plan map. The proposed R-2 zoning is consistent with that designation. The amendment does not change the plan map. The proposed rezone therefore meets the first element of the subsection 9 exception.

The City of Eugene's adopted and acknowledged Transportation System Plan (TSP) is the Eugene-Springfield Metropolitan Area Transportation Plan (TransPlan). The Eugene City Council adopted the current version of the plan on September 10, 2001, by Ordinance No. 20234. In 2001, the criteria for adopting TransPlan (classified as a “major update” to the 1986 version), was as follows: “(a) Consistency with the relevant statewide planning goals adopted by the Land Conservation and Development Commission; and (b) Consistency with the Eugene-Springfield Metropolitan Area General Plan (Metro Plan).”

Both before and since the City Council adopted the 2001 TransPlan, the subject property was designated on the City's adopted comprehensive plan map as medium density residential. In adopting TransPlan, the City Council found TransPlan to be consistent with the Metro Plan, which includes the Metro Plan diagram. Since the 2001 Metro Plan diagram designated the subject property as medium density residential, the

2001 finding that TransPlan is consistent with the Metro Plan is a finding that TransPlan is consistent with a medium density residential designation for the property. Because R-2 zoning will not change (is consistent with) the property's comprehensive plan map designation, and TransPlan is consistent with the designation, R-2 zoning on the property is consistent with the City's acknowledged TSP.

Additionally, pursuant to OAR 660-012-0030(3), within UGBs, the determination of local and regional transportation needs must be based on population and employment forecasts and distributions that are consistent with the acknowledged comprehensive plan. The City's 2001 finding that TransPlan is consistent with OAR 660-012-0030(3) specifically states that TransPlan relied on the same forecasts and distributions that were relied upon for the Metro Plan periodic review. Because the 2001 Metro Plan designates the subject property as medium density residential, the forecasts and distributions relied upon for TransPlan were based on that same medium density residential designation. Since TransPlan was found to be consistent with OAR 660-012-0030(3), and acknowledged as such, the determination of transportation needs embodied in, and addressed by, TransPlan, is consistent with the subject property's medium density residential designation.

An identified purpose of the TPR is to "provide for the construction and implementation of transportation facilities, improvements and services necessary to support acknowledged comprehensive plans." OAR 660-012-0000(f). To that end OAR 660-012-0030(2) and (3) require that local governments adopt TSPs that include a determination of transportation needs; the determination of transportation needs must be based on population and employment forecasts and distributions that are consistent with the acknowledged comprehensive plan. It is this transportation need that TSPs must accommodate through existing and planned transportation facilities. As such, to determine the Eugene-Springfield area's transportation needs, TransPlan (adopted in 2001) was based on the same forecasts and distributions (e.g., Metro Plan designations) that were relied upon for the Metro Plan periodic review; the transportation needs that arise from the Metro Plan's 20-year plan for distribution of growth is the basis upon which TransPlan developed its transportation projects. This means that, as required by state law, TransPlan was based on the Metro Plan's land use designations and that TransPlan's planned transportation facilities were developed based on the Metro Plan's land use designations.

Accordingly, without something to the contrary in TransPlan, if a subject property held its current designation in 2001 when TransPlan was adopted and the proposed zone is consistent with the current designation, the proposed zone is consistent with TransPlan. Put another way, if a subject property held its current designation in 2001, TransPlan's transportation facility planning would have been based on the current designation; a zone consistent with the current designation is supported by, and consistent with, TransPlan's planned transportation facilities. To ensure that TransPlan does not provide something to the contrary necessitates a review of TransPlan to see if the subject property held unique status in the plan. In this case, the TSP does not identify

the subject property in any way that could question the zone's consistency with the TSP.

Both before and since the City Council adopted the 2001 TransPlan, the property was designated on the City's adopted comprehensive plan map as medium density residential. Accordingly, without something to the contrary in TransPlan, since the property held the current medium density residential designation in 2001 and the proposed R-2 zone is consistent with the current residential designation, the proposed R-2 zone is consistent with TransPlan. I found nothing in TransPlan that is inconsistent with the subject property being zoned R-2.

Last, as to the third element of the subsection 9 exception, the subject property was not exempted from the TPR at the time of an urban growth boundary amendment. The third element is satisfied.

Conclusion

Based on the findings above, the proposed zoning map amendment does not significantly affect an existing or planned transportation facility.

Decision

Based on the application, all additional materials in the record before the Hearings Official and the findings and conclusions contained in this decision, I APPROVE the requested zone change from R-1 to R-2 Medium Density Residential.

Dated this 2nd day of January, 2013.

Mailed this ____ day of January, 2013.



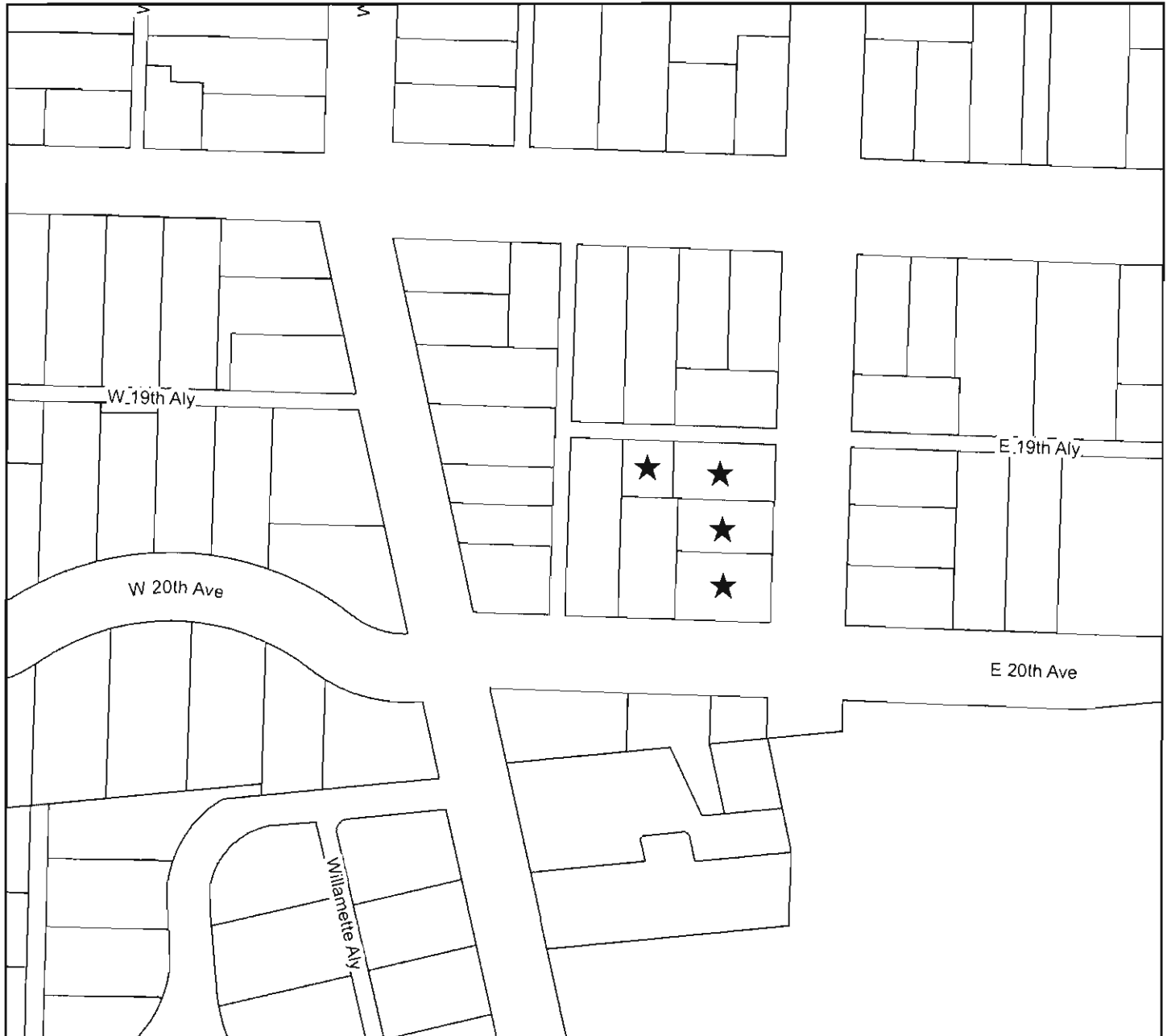
Ross M. Williamson
Hearings Official

SEE NOTICE OF HEARINGS OFFICIAL DECISION FOR STATEMENT OF APPEAL RIGHTS

Hollar, Jeff & Shirley (Z 12-1)
18-03-06-11/05900, 06100, 06200, 06300



Change of zoning from R-1 Low Density Residential
to R-2 Medium Density Residential



Zoning



Subject Site



Land Conservation and Development

Department of
Land Conservation
and Development
97401

DEPT OF

JUN 17 2013

LAND CONSERVATION
AND DEVELOPMENT



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ZIP 97401
041L11223877

Attn: Planning & Development Specialist
DLC

635 Capitol St. NE, Suite 150
Salem, Oregon 97301-2540