



Oregon

Theodore R. Kubongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

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NOTICE OF ADOPTED AMENDMENT

12/16/2013

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 013-13

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: Thursday, January 02, 2014

This amendment was submitted to DLCD for review prior to adoption with less than the required 35-day notice. 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: Becky Taylor, City of Eugene
Gordon Howard, DLCD Urban Planning Specialist
Ed Moore, DLCD Regional Representative

<paa> YA



NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

FOR DLCD USE
013-13 (20056)
File No.: [17708]
Received: 12/11/2013

Local governments are required to send notice of an adopted change to a comprehensive plan or land use regulation **no more than 20 days after the adoption.** (See [OAR 660-018-0040](#)). The rules require that the notice include a completed copy of this form. **This notice form is not for submittal of a completed periodic review task or a plan amendment reviewed in the manner of periodic review.** Use [Form 4](#) for an adopted urban growth boundary including over 50 acres by a city with a population greater than 2,500 within the UGB or an urban growth boundary amendment over 100 acres adopted by a metropolitan service district. Use [Form 5](#) for an adopted urban reserve designation, or amendment to add over 50 acres, by a city with a population greater than 2,500 within the UGB. Use [Form 6](#) with submittal of an adopted periodic review task.

Jurisdiction: City of Eugene

Local file no.: **Z 13-10**

Date of adoption: 11/27/13 Date sent: 11/27/2013

Was Notice of a Proposed Change (Form 1) submitted to DLCD?

- Yes: Date (use the date of last revision if a revised Form 1 was submitted):
- No

Is the adopted change different from what was described in the Notice of Proposed Change? Yes No
If yes, describe how the adoption differs from the proposal:

Local contact (name and title): Becky Taylor

Phone: 541-682-5437 E-mail: becy.g.taylor@ci.eugene.or.us

Street address: 99 West 10th Avenue City: Eugene Zip: 97401-

PLEASE COMPLETE ALL OF THE FOLLOWING SECTIONS THAT APPLY

For a change to comprehensive plan text:

Identify the sections of the plan that were added or amended and which statewide planning goals those sections implement, if any:

For a change to a comprehensive plan map:

Identify the former and new map designations and the area affected:

- Change from _____ to _____ . _____ acres. A goal exception was required for this change.
- Change from _____ to _____ . _____ acres. A goal exception was required for this change.
- Change from _____ to _____ . _____ acres. A goal exception was required for this change.
- Change from _____ to _____ . _____ acres. A goal exception was required for this change.

Location of affected property (T, R, Sec., TL and address): _____ . _____

- The subject property is entirely within an urban growth boundary
- The subject property is partially within an urban growth boundary

If the comprehensive plan map change is a UGB amendment including less than 50 acres and/or by a city with a population less than 2,500 in the urban area, indicate the number of acres of the former rural plan designation, by type, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

If the comprehensive plan map change is an urban reserve amendment including less than 50 acres, or establishment or amendment of an urban reserve by a city with a population less than 2,500 in the urban area, indicate the number of acres, by plan designation, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

For a change to the text of an ordinance or code:

Identify the sections of the ordinance or code that were added or amended by title and number:

For a change to a zoning map:

Identify the former and new base zone designations and the area affected:

Change from AG to R-1. Acres: .5

Change from to . Acres:

Change from to . Acres:

Change from to . Acres:

Identify additions to or removal from an overlay zone designation and the area affected:

Overlay zone designation: . Acres added: . Acres removed:

Location of affected property (T, R, Sec., TL and address): 750 North Terry / 17-04-29-11-00400

List affected state or federal agencies, local governments and special districts: City of Eugene

Identify supplemental information that is included because it may be useful to inform DLCD or members of the public of the effect of the actual change that has been submitted with this Notice of Adopted Change, if any. If the submittal, including supplementary materials, exceeds 100 pages, include a summary of the amendment briefly describing its purpose and requirements.

NOTICE OF ADOPTED CHANGE – SUBMITTAL INSTRUCTIONS

1. A Notice of Adopted Change must be received by DLCD no later than 20 days after the ordinance(s) implementing the change has been signed by the public official designated by the jurisdiction to sign the approved ordinance(s) as provided in [ORS 197.615](#) and [OAR 660-018-0040](#).

2. A Notice of Adopted Change must be submitted by a local government (city, county, or metropolitan service district). DLCD will not accept a Notice of Adopted Change submitted by an individual or private firm or organization.

3. **Hard-copy submittal:** When submitting a Notice of Adopted Change on paper, via the US Postal Service or hand-delivery, print a completed copy of this Form 2 on light green paper if available. Submit **one copy** of the proposed change, including this form and other required materials to:

Attention: Plan Amendment Specialist
Dept. of Land Conservation and Development
635 Capitol Street NE, Suite 150
Salem, OR 97301-2540

This form is available here:

<http://www.oregon.gov/LCD/forms.shtml>

4. **Electronic submittals** of up to 20MB may be sent via e-mail. Address e-mails to plan.amendments@state.or.us with the subject line “Notice of Adopted Amendment.”

Submittals may also be uploaded to DLCD’s FTP site at http://www.oregon.gov/LCD/Pages/papa_submittal.aspx.

E-mails with attachments that exceed 20MB will not be received, and therefore FTP must be used for these electronic submittals. **The FTP site must be used for all .zip files** regardless of size. The maximum file size for uploading via FTP is 150MB.

Include this Form 2 as the first pages of a combined file or as a separate file.

5. **File format:** When submitting a Notice of Adopted Change via e-mail or FTP, or on a digital disc, attach all materials in one of the following formats: Adobe .pdf (preferred); Microsoft Office (for example, Word .doc or docx or Excel .xls or xlsx); or ESRI .mxd, .gdb, or .mpk. For other file formats, please contact the plan amendment specialist at 503-934-0017 or plan.amendments@state.or.us.

6. **Content:** An administrative rule lists required content of a submittal of an adopted change ([OAR 660-018-0040\(3\)](#)). By completing this form and including the materials listed in the checklist below, the notice will include the required contents.

Where the amendments or new land use regulations, including supplementary materials, exceed 100 pages, include a summary of the amendment briefly describing its purpose and requirements.

7. Remember to notify persons who participated in the local proceedings and requested notice of the final decision. ([ORS 197.615](#))

If you have any questions or would like assistance, please contact your DLCD regional representative or the DLCD Salem office at 503-934-0017 or e-mail plan.amendments@state.or.us.

Notice checklist. Include all that apply:

- Completed Form 2
- A copy of the final decision (including the signed ordinance(s)). This must include city *and* county decisions for UGB and urban reserve adoptions
- The findings and the text of the change to the comprehensive plan or land use regulation
- If a comprehensive plan map or zoning map is created or altered by the proposed change:
 - A map showing the area changed and applicable designations, and
 - Electronic files containing geospatial data showing the area changed, as specified in [OAR 660-018-0040\(5\)](#), if applicable
- Any supplemental information that may be useful to inform DLCD or members of the public of the effect of the actual change

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

ZONE CHANGE REQUEST

INTRODUCTION

Application File Name (Number):

Perry (Z 13-10)

Applicant's Request:

Zone change from AG Agricultural to R-1 Low-Density Residential.

Subject Property/Location:

Tax Lot 400 of Assessor's Map 17-04-29-11 located on the west side of North Terry Street south of Royal Avenue.

Relevant Dates:

Zone change application submitted on September 24, 2013; application deemed complete on October 4, 2013; public hearing held on November 20, 2013.

Applicant's Representative:

Applicant Richard Terry represented himself.

Lead City Staff:

Becky Taylor, Associate Planner, Eugene Planning Division.

Summary of the Public Hearing

The Hearings Official held a public hearing on this application on November 20, 2013. The Hearings Official stated he had no conflicts of interests and had no *ex parte* communications to disclose. No person objected to the Hearings Official conducting the hearing. Becky Taylor (Taylor), Associate Planner, and Gabe Flock, Senior Planner, were present for the hearings. Taylor presented the staff report at the public hearing, recommending approval of the zone change request.

Richard Perry (Perry) stated that he agreed with the staff report. There was no testimony either in favor or in opposition to the application. Consequently, there was no staff response or applicant's rebuttal. At the conclusion of the public hearing, the Hearings Official closed the record.

FACTS

The subject property is approximately .45 of an acre. The property is currently developed with a single-family dwelling with driveway access to North Terry Street. Adjacent properties are also developed with single-family dwellings. The property was annexed in 2006 as part of a

larger annexation that included approximately 28 acres and multiple property owners. Properties to the south are zoned R-1 Low-Density Residential, and properties to the north and west are zoned AG Agricultural. The applicant requests that the property be rezoned from AG Agricultural to R-1 Low-Density Residential. The Metro Plan designation for the property is Low Density Residential. The proposed zone change seeks to bring the zoning into compliance with the plan designation.

DOCUMENTS CONSIDERED BY THE HEARINGS OFFICIAL

I have considered all of the documents in the planning file for the proposed zone change (Z 13-10) as well as the testimony provided at the public hearing.

ANALYSIS

Eugene Code (EC) 9.8865 provides the criteria for approval of a zone change:

“Zone Change Approval Criteria. Approval of a zone change application, including the designation of an overlay zone, shall not be approved unless it meets all of the following criteria:

“(1) The proposed 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.

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

“(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.

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

“* * * * *

“(f) EC 9.2735 Residential Zone Siting Requirements. * * * * *

“(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.”

EC 9.8865(1)

EC 9.8865(1) requires that the proposed zone change be consistent with applicable provisions of the Metro Plan. The most obviously applicable provision of the Metro Plan is the plan designation for the property. The R-1 Low-Density Residential zone implements the Low Density Residential plan designation. Therefore, the proposed zone change is consistent with the plan designation.

The only Metro Plan policy identified as potentially applicable to the application is Policy A.2, which provides:

“Residentially designated land within the UGB should be zoned 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.”

Although, this policy does not provide a mandatory approval requirement for the application, the application fulfills and furthers this policy. The requested zone change is consistent with the plan designation and furthers the policies of the plan. Therefore, I find that the proposed zone change is consistent with the provisions of the Metro Plan and that EC 9.8865(1) is satisfied.

EC 9.8865(2)

EC 9.8865(2) requires that the proposed zone change be consistent with the applicable adopted refinement plans. In the present case, the applicable refinement plan is the Bethel-Danebo Refinement Plan (BDRP). The BDRP designates the property as R-1 Low-Density Residential, consistent with the requested zone change. Although the West Bethel-Danebo Development Node of the BDRP, which the property is within, contains a policy that provides for the establishment of a node of commercial and medium-density residential zoning on the north side of Royal Avenue, the property is south of Royal Avenue so it is not applicable. There do not appear to be any other applicable policies in the BDRP. Therefore, I find that the proposed zone change is consistent with the provisions of the applicable refinement plan and that EC 9.8865(2) is satisfied.

EC 9.8865(3)

EC 9.8865(3) requires that the uses and densities allowed by the proposed zoning can be served through the orderly extension of key urban facilities and services. Key urban facilities and services are defined in the Metro Plan as: 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. The staff report states that the uses and densities that will be allowed by the requested zone change can be serviced through the orderly extension of key urban facilities and services. I agree that the proposed uses and densities can be served through the orderly extension of key urban facilities and services. Therefore, I find that EC 9.8865(3) is satisfied.

EC 9.8865(4)

EC 9.8865(4) requires that the proposed zone change be consistent with certain applicable siting requirements, in this case EC 9.2735, which provides:

“Residential Zone Siting Requirements. In addition to the approval criteria of EC 9.8865 Zone Change Approval Criteria, a property proposed for the R-1.5 zone shall not

exceed the area needed to accommodate up to 8 rowhouse lots and shall be located at least 500 feet, as measured along existing street public right-of-way, from any other property zoned R-1.5”

The proposed zone change is from AG to R-1 and not R-1.5. Thus, EC 9.2735 is not applicable to the current application. Therefore, I find that EC 9.8865(4) is satisfied.

EC 9.8865(5)

EC 9.8865(5) requires that certain arrangements must be made with the City when an NR zone is applied based on EC 9.2510(3). The proposed zone change does not include any NR zoning, so this criterion does not affect the application. Therefore, I find that EC 9.8865(5) is satisfied.

Transportation Planning Rule

Oregon Transportation Planning Rule (TPR), OAR 660-012-0060(1) provides:

- “(1) If an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation (including a zoning map) would significantly affect an existing or planned transportation facility, then the local government must put in place measures as provided in section (2) of this rule, unless the amendment is allowed under section (3), (9) or (10) of this rule. A plan or land use regulation amendment significantly affects a transportation facility if it would:
 - “(a) Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);
 - “(b) Change standards implementing a functional classification system; or
 - “(c) Result in any of the effects listed in paragraphs (A) through (C) of this subsection based on projected conditions measured at the end of the planning period identified in the adopted TSP. As part of evaluating projected conditions, the amount of traffic projected to be generated within the area of the amendment may be reduced if the amendment includes an enforceable, ongoing requirement that would demonstrably limit traffic generation, including, but not limited to, transportation demand management. This reduction may diminish or completely eliminate the significant effect of the amendment.
 - “(A) Types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;
 - “(B) Degrade the performance of an existing or planned transportation facility such that it would not meet the

- performance standards identified in the TSP or comprehensive plan; or
- “(C) Degrade the performance of an existing or planned transportation facility that is otherwise projected to not meet the performance standards identified in the TSP or comprehensive plan.”

If a proposed zone change would “significantly affect an existing or planned transportation facility” then certain measures must be put in place to approve the zone change. An applicant for a zone change may avoid the analysis of OAR 660-012-0060(1) if it qualifies for an exception under OAR 660-012-0060(9), which 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 proposed R-1 Low-Density Residential zoning for the property is consistent with the existing comprehensive plan Low Density Residential designation, and the amendment does not change the comprehensive plan map. Thus, OAR 660-012-0060(9)(a) is satisfied.

The City’s acknowledged Transportation System Plan (TSP) is TransPlan. When TransPlan was adopted in 2001, the subject property was designated Low Density Residential and has remained unchanged. Thus, the proposed zoning is consistent with the TSP, and OAR 660-012-0060(9)(b) is satisfied.

The subject property was not exempted from the TPR at the time of an urban growth boundary agreement. Thus, OAR 660-012-0060(9)(c) is satisfied. Therefore, the proposed zone change does not significantly affect a transportation facility for purposes of the TPR and therefore complies with the TPR.

OTHER CHALLENGES


There was no opposition to the application either in written comments submitted prior to or at the public hearing or testimony provided at the public hearing. The staff report did not identify any other potential obstacles to approving the application, and I do not see that there are any.

DECISION

Based upon the available evidence and preceding findings, the Hearings Official APPROVES the applicant's request for a zone change from AG Agricultural to R-1 Low-Density Residential zoning.

Dated this 27th day of November, 2013.

Mailed this 27 day of November, 2013.



Fred Wilson
Hearings Official



SEE NOTICE OF HEARINGS OFFICIAL DECISION FOR STATEMENT OF APPEAL RIGHTS


Perry, Richard (Z 13-10)
17-04-29-11/00400

Change in zoning from AG Agricultural to R-1 Low Density Residential



Zoning

-  AG Agricultural
-  R-1 Low Density Residential

 Subject Site

