



Oregon

Theodore R. Kubongoski, 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

02/05/2013

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

FROM: Plan Amendment Program Specialist

SUBJECT: City of Independence Plan Amendment
DLCD File Number 004-12

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: Tuesday, February 19, 2013

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: Renata Wakeley, City of Independence
Gordon Howard, DLCD Urban Planning Specialist
Angela Lazarean, DLCD Regional Representative
Gary Fish, DLCD Transportation Planner

<paa> YA



FORM 2

DLCD

Notice of Adoption

In person electronic mailed

DEPT OF

JAN 29 2013

LAND CONSERVATION AND DEVELOPMENT

For Office Use Only

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

Jurisdiction: **City of Independence**

Local file number: **ZC-02-12**

Date of Adoption: **January 8, 2013**

Date Mailed: **January 28, 2013**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? Yes No 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".

Rezone 11.3 acres of a 66 acre parcel from an RS-Residential Single Family designations to a RH- Residential High Density designation. An application for minor partition to partition the 11.3 acres from the 66 acre parcels is in process.

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

Plan Map Changed from: **n/a**

to: **n/a**

Zone Map Changed from: **Single-Family Resid (RS)** to: **High Density Resid (RH)**

Location: **Tax Lot 2001, Map 8421**

Acres Involved: **11**

Specify Density: Previous: **NTE 8 du/acre**

New: **NTE 20 du/acre**

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. 004-12 (19583) [17344]

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

Local Contact: Phone: () - Extension:
Address: Fax Number: - -
City: Zip: E-mail Address:

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.

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

Updated December 30, 2011

**BEFORE THE CITY COUNCIL OF THE CITY OF INDEPENDENCE
STATE OF OREGON, COUNTY OF POLK**

An Ordinance Amending the City of]	
Independence Zoning Map for Tax]	
Lot No. 8421AA 2001]	COUNCIL BILL #2013-01

ORDINANCE NO. 1517

WHEREAS, the City initiated this request to amend the City Zoning Map to rezone the subject property, located generally on the east side of North Hwy. 51, Independence, Oregon, Tax Lot No. 8421AA 2001 (Property), from its current Low Density Residential (RS) zoning to High Density Residential (RH) zoning; and

WHEREAS, on December 13, 2012, the Independence Planning Commission conducted a properly noticed public hearing, provided the public an opportunity to comment on the proposed rezone, and adopted findings and recommended Council approval of the requested rezone; and

WHEREAS, the Independence City Council conducted a properly noticed public hearing concerning the proposed rezone and provided the public with an opportunity to be heard; and

WHEREAS, the Council has reviewed the record and Planning Commission recommendation of approval, and has determined to approve the rezone. **NOW, THEREFORE,**

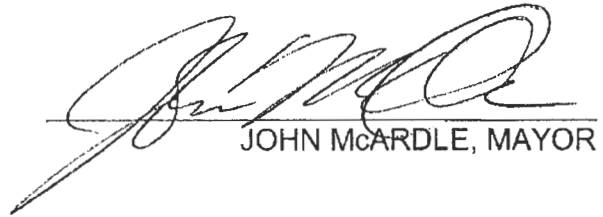
THE CITY OF INDEPENDENCE DOES ORDAIN AS FOLLOWS:

Section 1. Findings. The City of Independence hereby adopts the findings in support of this Zoning Map amendment, as contained in the Staff Report attached hereto as Exhibit "A", and by this reference incorporated herein.

Section 2. Property Description. The Property described above and as more particularly described in Exhibit "B" (attached hereto and by this reference incorporated herein) is hereby rezoned from Low Density Residential (RS) to High Density

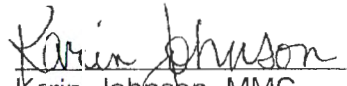
Residential (RH), as illustrated on Exhibit B. All official maps of the City are hereby amended to conform to the changes enacted by this ordinance.

READ for the first time: January 8, 2013
READ for the second time: January 8, 2013
APPROVED by Council: January 8, 2013
SIGNED by the Mayor: January 8, 2013
EFFECTIVE DATE: January 8, 2013



JOHN McARDLE, MAYOR

ATTEST:



Karin Johnson, MMC
City Recorder

EXHIBIT 'A'
STAFF REPORT



CITY OF INDEPENDENCE

COMMUNITY DEVELOPMENT DEPARTMENT

STAFF REPORT

TO: Independence City Council

FILE: ZC-02-12

HEARING: January 8, 2013, 7:30 pm,
Independence Civic Center, City Council Chambers
555 South Main Street, Independence, OR 97351

APPLICANT: City of Independence
P. O. Box 7
Independence, OR 97351

**SUBJECT
PROPERTY:** Section 21AA, Township 8 South, Range 4 West Willamette
Meridian. Lot 2001. Property is located generally east of Highway
51, north of Polk Street and south of Hanna Road.

SIZE: 11.3 acres

EXHIBITS: EXHIBIT A Assessor maps
EXHIBIT B Application materials

REQUEST:

The applicant is requesting approval to rezone those portions of the subject parcel currently zoned Low Density Residential (RS) to High Density Residential (RH).

PROCEDURE:

Pursuant to Subchapter 11 of the Independence Development Code (IDC), Zone Changes are processed as a Type III quasi-judicial application. Approval criteria are included under Subchapter 12 of the IDC. The application was received by the City on October 31, 2012, and the application was determined complete on November 2, 2012. Notice was properly mailed under 11.015.C and 11.025.A to surrounding property owners on November 5, 2012 and published in the Itemizer Observer on November 7, 2012. Notice was also provided to the Oregon Department of Land Conservation and Development, Oregon Department of Transportation, Independence Public Works, and Independence Community Development Department.

Per 12.015, the Planning Commission holds a public hearing and forwards its recommendation on the requested action to the City Council within 30 days from the date of the Commission's hearing. At the December 3, 2012 hearing, the Planning Commission had to continue the public hearing to December 13th as they lacked a quorum. The City Council also continued their December 11, 2012 hearing to January 8th as the Council was lacking a recommendation from the Planning Commission. Both hearing continuations were announced at the public hearing to a date and time certain.

The City has until **March 5, 2013** to approve, conditionally approve, or deny the application.

APPEAL

There is no right to appeal the Planning Commission's recommendation. Appeal of the City Council's final decision is to the Land Use Board of Appeals (LUBA).

BACKGROUND:

The entire parcel is approximately 66 acres in size with an upper terrace of approximately 12.5 acres, and a lower terrace of approximately 53.5 acres. Of the 12.5 acre upper terrace, 11.3 acres has a currently zone designation of Low Density Residential (RS) and is the portion of the entire parcel that is the subject to this application. The remainder of the parcel is not proposed for rezone and not subject to this application. The portions of the subject parcel included in this application is outside of the regulatory floodplain and is currently vacant with a large retaining wall built to separate the upper and lower terraces.

- North: The subject property abuts the city limits to the north. Comprehensive Plan designations for the property to the north, outside City Limits and Inside the Urban Growth Boundary have a Medium Density Residential (RM) designation. There is a portion of land to the northwest that is inside the city limits and zoned Light Industrial.
- South: The property abuts Light Industrial (IL) and Agricultural (AG) land directly to the south, with a mix of (RS) Low Density Residential, Light Industrial, and High Density Residential (RH) more generally to the south.

East: The lower terrace is zoned Public Service (PS) and the City has shown intent to develop the lower terrace as a City-owned ball field complex with a boat ramp. The lower terrace is within the floodplain and floodway.

West: Eight properties abut the property to the west and all are zoned Light Industrial

The applicants are requesting approval to rezone 11.3 acres from Low Density Residential (RS) to High Density Residential (RH). A concurrent application to partition the proposed residential land from the other zones- Mixed Use Pedestrian Friendly Commercial (MUPC) and Public Service (PS)- is in process. No future development plans for the residentially zoned property have been submitted to the City to date. The property is currently listed as for sale by the City.

Future use of the site is subject to conformance with the City Comprehensive Plan, Municipal Code, Development Code and additional criteria as outlined below.

APPLICABLE APPROVAL CRITERIA:

Independence Development Code, Subchapter 12.025

ANALYSIS OF APPLICABLE APPROVAL CRITERIA

Subchapter 12 Zone Changes and Plan Amendments

12.025 Standards for Zone Changes

No zone change shall be approved by the Planning Commission or enacted by the City Council unless it conforms to the Comprehensive Plan, including the Transportation System Plan, and at least one of the following standards is met (see A-C below):

Findings: To approve the application, the City Council must find that the application shows compliance with the Comprehensive Plan and Transportation System Plan and at least one of criteria 12.025.A-C as outlined below.

The City has adopted a comprehensive plan which guides the City's decisions for zoning. The Comprehensive Plan identifies the subject parcel as providing residential and commercial lands on the upper terrace, along with public use lands on the lower terrace. To recommend approval, the City Council must find that the information the applicant provided shows compliance with the applicable comprehensive plan goals and policies. The re-designation of the residential land from lower density residential to higher density residential is in compliance with the applicable Comprehensive Plan designation as it will continue to provide for and meeting residential housing needs - both zone designations provide/meet housing needs in this area. The rezone also allows for the increased density and access to public space for all residential housing type as the rezone will allow for a variety of housing needs in proximity to public open space.

A request for comments from City public works, Community Development Staff, and the Oregon Department of Transportation was submitted on November 21, 2012. Comments may be submitted up to the hearing date but at the time of drafting of this staff report, comments/concerns had not been received. Given the proposed rezone of the 11 acres

maintains the property within residential uses, the Planning Commission finds the application conforms to the Comprehensive Plan and does not substantially negatively affect the City's Transportation System Plan.

The Planning Commission finds the zone change conforms to the Comprehensive Plan and Transportation System Plan.

A. The zoning on the land for which the zone change is initiated is erroneous and the zone change would correct the error;

Findings: Staff and the Planning Commission found this criterion does not apply.

B. Conditions in the neighborhood surrounding the land for which the zone change is initiated have changed to such a degree that the zoning is no longer appropriate and the zone change would conform to the new conditions of the neighborhood;

Findings: The subject property received a Comprehensive Plan Map Amendment and Zone Change in April 2010 (see File No. CPMA/ZC-02-2010 and Resolution #10-1273). The approval was related to the rezone of the property to permit a public use ball field complex and surrounding commercial and residential development and created an additional 11 acres of residential lands to meet the 2009 Buildable Lands Inventory (BLI). Since the 2009 BLI was adopted and the 2010 Comprehensive Plan Map Amendment added residential lands to the City, the City has completed wetlands assessments of other residential lands added as part of the 2009 Urban Growth Boundary (UGB) expansion. The 2012 report, titled the Southwest Independence Concept Plan, found that fewer housing units than originally anticipated can be accommodated as part of the UGB expansion. Originally estimated to accommodate up to 2,500 housing units, it is now estimated that the southwest corridor area will be able to accommodate between 950 and 1,500 units. The Mixed Density Residential (MX) zone for the SW corridor continues to be determined to be the most appropriate at this time for the SW parcel as it provides for a mix of housing units along with addressing commercial needs for the area.

The City believes the proximity of the subject residentially zoned land and application to the downtown commercial core and to future public open space and bicycle/pedestrian infrastructure makes it ideal for the accommodation of a variety of residential uses. The surrounding lands already has a mix of low, medium, and high density residential lands and the City believes the rezone to a higher density will continue to allow for a variety of residential land with convenient access to transportation networks, commercial zones, and public space.

The Planning Commission found the rezone to be appropriate to changes in the area and found the above criterion to be met. The property is currently vacant and no information regarding future development has been provided. The City has listed the property for sale. Staff and the Planning Commission finds the rezone better fits with recent and proposed future development within the area related to open space, ball fields, river

access, proximity to the commercial core and future bicycle and pedestrian networks and, as such, the subject property should be rezoned to a higher density.

The Planning Commission found this criteria is met.

C. *There is a public need for land use of the kind for which the zone change is initiated and that public need can best be met by the zone change.*

Findings: Discussion and finding for 12.025 (B), above, are hereby incorporated by reference. The Planning Commission found this criteria is met.

SUMMARY FINDINGS OF FACT/CONDITIONS OF APPROVAL:

- 1) The subject property is: Section 21, Township 8 South, Range 4 West Willamette Meridian. Tax Lot 2001.
- 2) The owner of record is the: City of Independence, P.O. Box 7, Independence, Oregon.
- 3) The property is currently within city limits and has a current Comprehensive Plan of Residential and Public. The current zoning designation for the portions subject to the rezone application is Low Density Residential (RS).
- 4) The application meets the standards for approval found in: Subchapter 12.

CONCLUSIONS/RECOMMENDATIONS:

Based on the findings in this report, the Planning Commission found the application (File #ZC-02-12) met the requirements for Zone Change found in Subchapter 12 of the Independence Development Code. The Planning Commission recommend that the City Council adopt the findings in the staff report and **APPROVE** this application (File #ZC-02-12) with the conditions of approval outlined above.

Renata Wakeley
City Planner

Zone Change 02-2012 (ZC-02-12)

City Council Action Options:

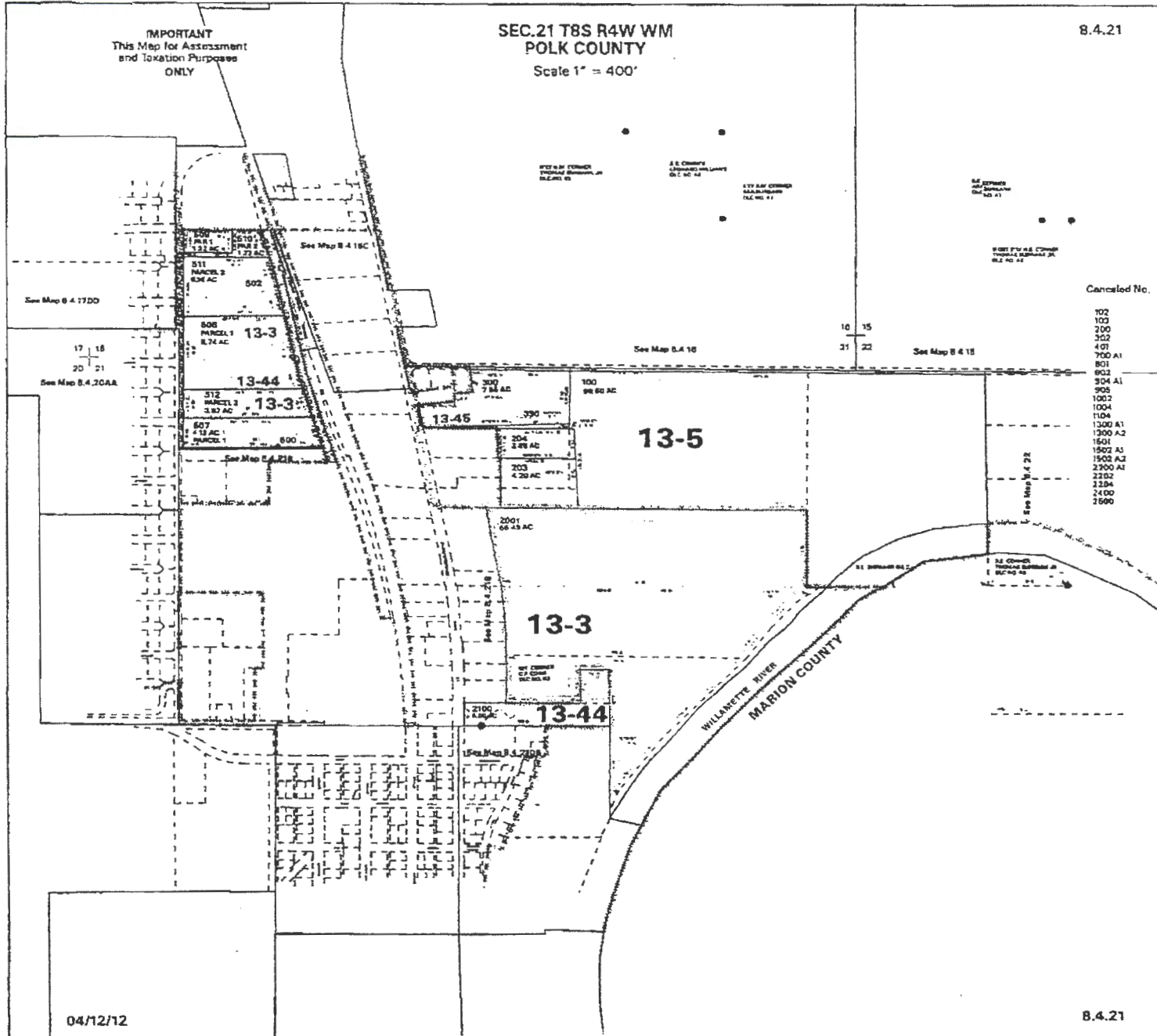
- A. A motion to adopt the findings in the staff report and approve Zone Change 02-12:
 1. As recommended by staff and the Independence Planning Commission; or
 2. As further conditioned/ revised by the City Council (stating any revisions).

- B. A motion to continue the Zone Change request to a time and date certain.
- C. A motion to deny the Zone Change request (stating findings for the denial and any conditions of approval).

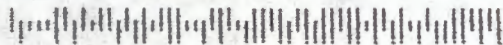
EXHIBIT 'B'

LEGAL DESCRIPTION & MAP

Tax Lot No. 8421AA 2001



Mid-Willamette Valley
Council of Go
100 High St. SE
Salem, OR 97301



Attn: Plan Amendment Specialist
DLCD
635 Capitol St NE, Ste 150
Salem OR 97301-2540

