



Oregon

Theodore R. Kubongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

04/07/2014

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 006-12

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: Monday, April 21, 2014

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: Becky Taylor, City of Eugene
Gordon Howard, DLCD Urban Planning Specialist
Ed Moore, DLCD Regional Representative
Thomas Hogue, DLCD Economic Development Policy Analyst
Gary Fish, DLCD Transportation Planner
Amanda Punton, DLCD Natural Resources Specialist

<paa> YA



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

FOR DLCD USE

File No.: 006-12 (19563)
[17824]
Received: 3/31/2014

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 12-4**

Date of adoption: 1/15/13

Date sent: 3/31/2014

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): 10/25/12

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: becky.g.taylor@ci.eugene.or.us

Street address: 99 West 10th

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 I-2/AG	to GO	Acres: 7.65
Change from /WP/WB Overlay	to /WB Overlay	Acres: 7.65
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: /WP and /WB to /WP Acres added: 7.65 Acres removed: 7.65

Location of affected property (T, R, Sec., TL and address): 17-04-33-41/700 and 800 - West 13th and Commerce

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 DLCDC 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.

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

ZONE CHANGE REQUEST

Application File Name (Number):
Cuddeback Holdings, LLC (Z 12-4).

Applicant's Request:
To change the split-zoning of the subject properties from I-2/AG/WB/WP Light-Medium Industrial and Agricultural with Wetland Buffer and Waterside Protection overlays to GO/WB General Office with Wetland Buffer overlay.

Subject Property/Zoning/Location:
Tax Lots 700 and 800 of Lane County Assessor's Map 17-04-33-41; located at the southwest corner of Commerce Street and West 13th Avenue.

Applicant/Owner:
Cuddeback Holdings, LLC.

Applicant's Representative:
Nick Klingensmith, Law Office of Bill Kloos, (541) 912-5280.

Lead City Staff:
Becky Taylor, Associate Planner, Eugene Planning Division,
Phone: (541) 682-5437.

Relevant Dates:
Zone Change application submitted on September 20, 2012; application deemed complete on October 16, 2012; public hearing held December 5, 2012; record held open for new evidence until December 12 and for rebuttal evidence until December 19, 2012; applicant was allowed until December 26, 2012 to file final written argument.

Summary of the Present Request

The applicant is requesting approval to change the zoning of the subject property (Tax Lots 700 and 800 of Assessor's Map 17-04-33-41), located just south and southwest of the intersection of West 13th Avenue and Commerce Street. The total area of request is approximately 7.64 acres, with Tax Lot 700 being approximately 3.56 acres in size and

Tax Lot 800 being approximately 4.09 acres in size. The subject property is relatively flat and vacant.

Adjacent lands to the south, west, and east are Goal 5 protected wetlands owned by the Nature Conservancy. Adjacent lands to the north are developed with commercial uses, namely Wal-Mart. Farther to the north is West 11th Avenue, a major arterial that is dominated by abutting commercial uses. Farther to the east are several buildings under light-medium industrial use. Residential uses are located farther to the southeast. Farther to the west is Willow Creek, which is a protected Goal 5 natural resource that flows northward along the west boundary of the former "speedway" property, which is also surrounded by Goal 5 protected wetlands.

Both tax lots are split-zoned I-2 Light-Medium Industrial and AG Agricultural; both tax lots have /WB Wetland Buffer and /WP Waterside Protection overlay zones. These overlay zones were applied to the property by the City of Eugene in its implementation of the West Eugene Wetlands Plan (City file Z 95-18). The applicant's request is to change the zoning of both lots to GO/WB General Office with Wetland Buffer Overlay. The /WP Waterside Protection Overlay removal is requested because, as a result of a prior property line adjustment (City file LA 04-68), the subject property is no longer affected by the protected waterway. The request does not involve changing the boundaries of any protected natural resources or their regulated setback areas. Additional details of the proposal are included on the applicant's written statement and supporting documentation.

Summary of the Public Hearing

The public hearing was held on December 5, 2012. Aside from the staff presentation and comments from the applicant's representative, there was no testimony at the public hearing. In fact, there were no members of the general public in attendance at the hearing. No hearing exhibits were submitted at the hearing. After a discussion of the Transportation Planning Rule in relation to the present proposal, the City and applicant agreed to keep the record open for the submission of additional information. The public hearing was closed on December 5.

Documents Considered by the Hearings Official

Application and application narrative.
Completeness review correspondence.
DLCD Form 1.
Public notice for public hearing and mailing list.
Public hearing meeting agenda.
Zone change staff report, with attachments.
Transportation Planning Rule history documents provided by City Attorney's Office.
Referral comments cover memorandum correspondence.
Referral comments from DLCD.
Referral comments from Public Works.

Post-hearing submission memorandum from City Attorney's Office dated December 12, 2012

Post-hearing submission letter from applicant's representative dated December 12, 2012.

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 applicant is requesting to change the base zoning of the subject property, which is currently a split of I-2 Light-Medium Industrial on the north half of the properties and AG Agriculture on the south half of the properties, to GO General Office. The applicant is also requesting to change the overlay zoning of the subject property, to remove the /WP Waterside Protection overlay zone. The application does not propose removal of the /WB Wetland Buffer overlay zone, so that overlay zoning will be retained.

The subject property is located within an area of Commercial designation depicted on the Metro Plan land use diagram. Although the designation is relatively clear in this case, the Metro Plan diagram explains that the plan designation for individual parcels requires further interpretation by reference to area refinement plans and other planning documents. The applicable refinement plan is the Willow Creek Special Area Study (WCSAS). The WCSAS also shows a Commercial designation for the subject property.

Both the Metro Plan diagram and the WCSAS show lands to the east as Light-Medium Industrial, lands to the south as High-Density Residential, lands to the west as Light-Medium Industrial, and lands to the north as Commercial. Based on this mix of surrounding designations, the applicant requests GO General Office zoning, which fits within the Community Commercial Center category provided in the Metro Plan, and which is defined in the Eugene Code as providing a compatible mix of office and residential development in transitional locations between residential and commercial uses. The GO zone is a good fit for the subject property because of its location between commercial development to the north and the residential uses to the

southeast. Also, the GO zoning is consistent with the Commercial designation for the subject property.

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 that I have considered in evaluating this zone change request. The Metro Plan policies I reviewed are the following shown in **bold**, grouped by Metro Plan element, followed by my findings.

B.2 Encourage economic development, which utilizes local and imported capital, entrepreneurial skills, and the resident labor force.

B.6 Increase the amount of undeveloped land zoned for light industrial and commercial uses correlating the effective supply in terms of suitability and availability with the projections of demand.

B.11 Encourage economic activities, which strengthen the metropolitan area's position as a regional distribution, trade, health and service center.

B.16 Utilize processes and local controls which encourage retention of large parcels or consolidation of small parcels of industrially or commercially zoned land to facilitate their use or reuse in a comprehensive rather than piecemeal fashion.

The proposed GO General Office zoning allows for a greater range of economic activities than the existing I-2 Light-Medium Industrial and AG Agriculture zonings of the subject property. This change can generally encourage economic development consistent with these policies.

It is also apparent that rezoning the property to a zone designation that is consistent with the plan designation will increase the amount of undeveloped land available for commercial uses. The subject property appears suitable for a rezone to GO because that zone designation allows for a range of uses that would complement the mix of commercial and light-industrial uses adjacent to the subject property and the residential uses nearby. Although no development proposal is required or submitted with this rezone proposal, the GO rezoning would allow development that mixes residential and commercial uses on the property, thereby creating a transition to the larger existing commercial development to the north. As a result, the GO zone could simultaneously increase the amount of commercially zoned land while also providing a buffer between the major retail center to the north and the residential uses and open space to the south.

The proposal involves a large parcel in single ownership that consists of two adjacent tax lots. Thus, the proposal appears to facilitate, or at least does not limit, the subject property's use in a comprehensive fashion.

C.6 Agricultural production shall be considered an acceptable interim and temporary use on urbanizable land and on vacant and underdeveloped land where no conflicts with adjacent urban uses exist.

A portion of the subject property is currently zoned AG. This policy only envisions agricultural uses within the UGB as interim and temporary uses. As a result, rezoning the AG property to GO is consistent with this policy.

F.3 Provide for transit-supportive land use patterns and development, including higher intensity, transit oriented development along major transit corridors and near transit stations; medium- and high-density residential development within 1/4 mile of transit stations, major transit corridors, employment centers, and downtown areas; and development and redevelopment in designated areas that are or could be well served by existing or planned transit.

The proposed GO zone allows for a higher intensity of both commercial and high-density residential development near a major arterial that is well served by transit service on West 11th Avenue. Additional transportation policies in the Metro Plan including F.14, F.15, and F.17 address the mobility needs of various users of the transportation system. Future development of the properties may also require a Traffic Impact Analysis to ensure that the surrounding transportation facilities can accommodate the traffic generated by the proposed uses.

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 applicable adopted refinement plan for the area of the proposed zone change is the Willow Creek Special Area Study (WCSAS). The WCSAS contains several provisions that merit discussion with this application.

The WCSAS contains a "land use diagram" covering the subject property, labeled as "Map E". Map E identifies the subject property for Commercial uses. The proposed GO zoning is consistent with this designation, as discussed above. In addition, WCSAS land use policy 3 provides that Map E "reflects land-use arrangements for the Willow Creek Basin and shall become one basis for future implementation through zoning or other applicable land use measures." The proposal is consistent with Map E and is similarly consistent with land use policy 3.

Land use policy 4 provides:

“The City of Eugene shall apply its planned unit development (PUD), cluster subdivision or site review procedures (as appropriate) in the Willow Creek Basin in at least three cases:

- a. Properties with an elevation and slope, soil and geological conditions which fit the criteria identified in Eugene’s South Hills Study for applying PUD procedures;
- b. Properties in or adjacent to designated natural areas will be developed under either PUD or site review procedures, depending on the scale and complexity of the project; and
- c. Properties along natural stream courses will be developed under either PUD or site review procedures depending on the scale and complexity of the project.”

With regard to 4a of the above policy, the subject property does not fit any of the South Hills Study criteria for PUD applicability, being a relatively flat site situated below 500 feet in elevation. As to 4b of the above policy, the “designated natural areas” of the WCSAS would be identified as “Natural Area” on the refinement plan’s “designation” map. As discussed above, Map E is the refinement plan’s land use designation map. Map E shows “Natural Area” designations in the Willow Creek Special Area Study with the number 8, which is geographically located south of West 18th Avenue, far from the subject property. As to 4c of the above policy, Map G of the WCSAS identifies “Environmental Assets.” The delineated “stream course” in the vicinity of the subject property is Willow Creek, which is the Goal 5 natural resource that is located west of the subject property. As discussed previously, this water resource has a protection setback regulated by the subject property’s /WP Waterside Protection overlay zoning; however, as a result of prior property line adjustments, the subject property is no longer within the regulated /WP resource and setback area. Hence, the applicant seeks to remove the /WP overlay zone. The applicant proposes to retain the property’s /WB Wetland Buffer setback, based on the protected wetlands designated in the West Eugene Wetlands Plan (WEWP). However, the WEWP wetlands are not identified as natural resources in the WCSAS.

The subject property is not adjacent to a “designated natural area”. As a result, there is no basis for requiring site review or PUD procedures based on the WCSAS.

WCSAS off-site public facilities policy 3 provides: “Analysis shall be conducted and appropriate measures taken to deal with urban level storm run-off from the Willow Creek Basin.” This policy addresses the importance of adequately handling stormwater runoff from urban development. No development is proposed with this application; thus, no urban storm runoff will arise from approval of the application. Should later development create impervious surface, the development will need to comply with current land use code requirements for the provision of stormwater management facilities. In addition,

the City's stormwater development standards will require future development of the site to also provide pollution-reduction or pre-treatment of runoff from impervious surfaces before discharging to the public conveyance system.

The applicant also addresses the West Eugene Wetlands Plan, which appears to direct local government actions rather than serve as mandatory approval criteria for the requested zone change. The relevant provision is Policy 3.12, which provides: "Protect and create buffer areas between regulated wetland boundaries and adjacent uses or developments." To the extent this policy requires consideration for this zone change application, the policy is implemented through the /WB Wetland Buffer overlay zoning to the subject property. As discussed previously, the subject property abuts protected wetlands; the applicant proposes to retain the /WB overlay zoning, which will establish setbacks from those abutting protected wetlands from certain development activities.

Conclusion

The proposed zone change is consistent with applicable refinement plan policies.

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 record shows that the uses and density that will be allowed by the proposed GO zone on the subject property can be serviced through the orderly extension of key urban facilities and services. Referral comments from Public Works staff confirm that the following key urban facilities and services are directly available to the subject property as follows: public wastewater and stormwater pipes are located within Commerce Street, abutting the subject property; and the properties have street access onto both Commerce Street and West 13th Avenue, which are classified as local commercial-industrial streets, consistent with the proposed zoning, and which are improved with 44 feet of pavement width within 70 feet of right-of-way.

As the properties are already within the City limits, the Eugene Water and Electric Board (EWEB) will provide water and electric services. Police protection is provided by the City of Eugene and emergency and fire services are currently provided on a regional basis by the cities of Eugene and Springfield. Qwest communications and a variety of

other telecommunications providers offer communications services throughout the Eugene/Springfield area and planning and building permit services are provided by the City of Eugene. The properties are located in the Willow Creek parks planning area; parks and recreation services will be provided by the City of Eugene. Additionally, education services will be provided by the Eugene 4J School District and the properties will be served by Twin Oaks Elementary School, Kennedy Middle School and Churchill High School.

Key urban services are currently available, or can be extended in an orderly manner to the subject 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 9.2150 Commercial Zone Siting Requirements.
- (q) EC 9.4715 /WP Waterside Protection Overlay Zone Siting Requirements.
- (t) EC 9.4815 /WB Wetland Buffer Overlay Zone Siting Requirements.

Findings

The commercial zone siting requirements referred to in EC 9.2150 pertain to the establishment of C-1 and C-4 zoning. The request is for GO zoning, and as such, the siting requirements are inapplicable.

As noted in EC 9.4715, the /WP overlay zone applies to streams, rivers, channels, ponds and other water features and adjacent areas that meet the approval criteria of EC 9.8865 and that are specified for protection in an adopted plan, as described in EC 9.4720. The /WP overlay zone was previously applied to the subject property, to protect Willow Creek as specified in the West Eugene Wetlands Plan. However, as a result of prior property line adjustments (LA 04-68), the subject property is no longer within the footprint of the waterside protection area. The subject property no longer meets the applicable /WP overlay zone siting requirements of EC 9.4715.

The /WB overlay zone applies to property adjacent to wetlands identified for protection in the West Eugene Wetlands Plan. As addressed above, the subject property abuts protected wetlands to the south. Consistent with the Wetlands Plan and applicable siting requirements, /WB overlay zoning will remain in place as part of the zone change.

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), found at OAR 660-012-0060, applies to zone change applications. This zone change does not implicate the changing of the functional classification of an existing or planned transportation facility or the changing of 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 commercial on the City's adopted comprehensive plan map. The proposed GO zoning is consistent with the current commercial comprehensive plan map designation for commercial use. The

amendment does not change the plan map. The proposed rezone therefore meets the first element of the subsection 9 exception.

The current comprehensive plan map designation (with which the proposed zone change is consistent) was in place in 2001, the year that the City Council adopted TransPlan. Pursuant to state and local requirements, in order for the City Council to have adopted TransPlan, the Council was required to conclude that TransPlan is consistent with the City's adopted comprehensive plan.

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 Commercial. 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 Commercial, the 2001 finding that TransPlan is consistent with the Metro Plan is a finding that TransPlan is consistent with a commercial designation for the property. Because a commercial zoning will not change (is consistent with) the property's comprehensive plan map Commercial designation, and TransPlan is consistent with the Commercial designation, a commercial 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 Commercial, the forecasts and distributions relied upon for TransPlan were based on that same Commercial 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 Commercial designation.

DLCD provided a written comment on this application via an email dated November 16, 2012. The comment concerned the City staff's TPR analysis under the subsection 9 exception. DLCD suggested that the City needs to conduct a more thorough analysis of the TSP in order to determine that the proposed zone change is "consistent" with the City's TSP. DLCD did not offer any insights into the methodology they consider

appropriate. Moreover, DLCD did not indicate that there were any mandatory approval criteria to be found within the City's TSP that should be more fully considered as part of the analysis of consistency.

Spurred by the DLCD comments, at the public hearing I sought additional information from the City and the applicant on the issue of TSP consistency for purposes of addressing the elements of the TPR subsection 9 exception. Both the City and the applicant provided post-hearing briefing on this subject and I find this briefing persuasive and informative – especially in light of the lack of specificity in the comments from DLCD. I specifically find that the post-hearing submissions adequately address DLCD's comments and, with the analysis provided below, the applicant has shown the zone change is "consistent with the [City's] TSP".

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 Commercial. Accordingly, without something to the contrary in TransPlan, since the property held the current Commercial designation in 2001 and the proposed GO zone is consistent with

the current Commercial designation, the proposed GO zone is consistent with TransPlan. I found nothing in TransPlan that is inconsistent with the subject property being zoned GO.

Also, as the applicant points out in its post-hearing submission, TransPlan land use policy 3 supports this zone change. This TransPlan policy was incorporated into the Metro Plan as policy F.3 within the transportation element. The policy was addressed above. This land use policy is the only arguably relevant policy within TransPlan. Having considered all of the above, including the relevant text of TransPlan, it is apparent that this zone change request is consistent with TransPlan, the City's adopted TSP. As a result, the rezoning proposal meets the second element of the subsection 9 exception.

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 I-2/AG/WB/WP Light-Medium Industrial and Agricultural with Wetland Buffer and Waterside Protection overlays to GO/WB General Office with Wetland Buffer Overlay.

Dated this 31st day of December, 2012.

Mailed 1/2/2013.



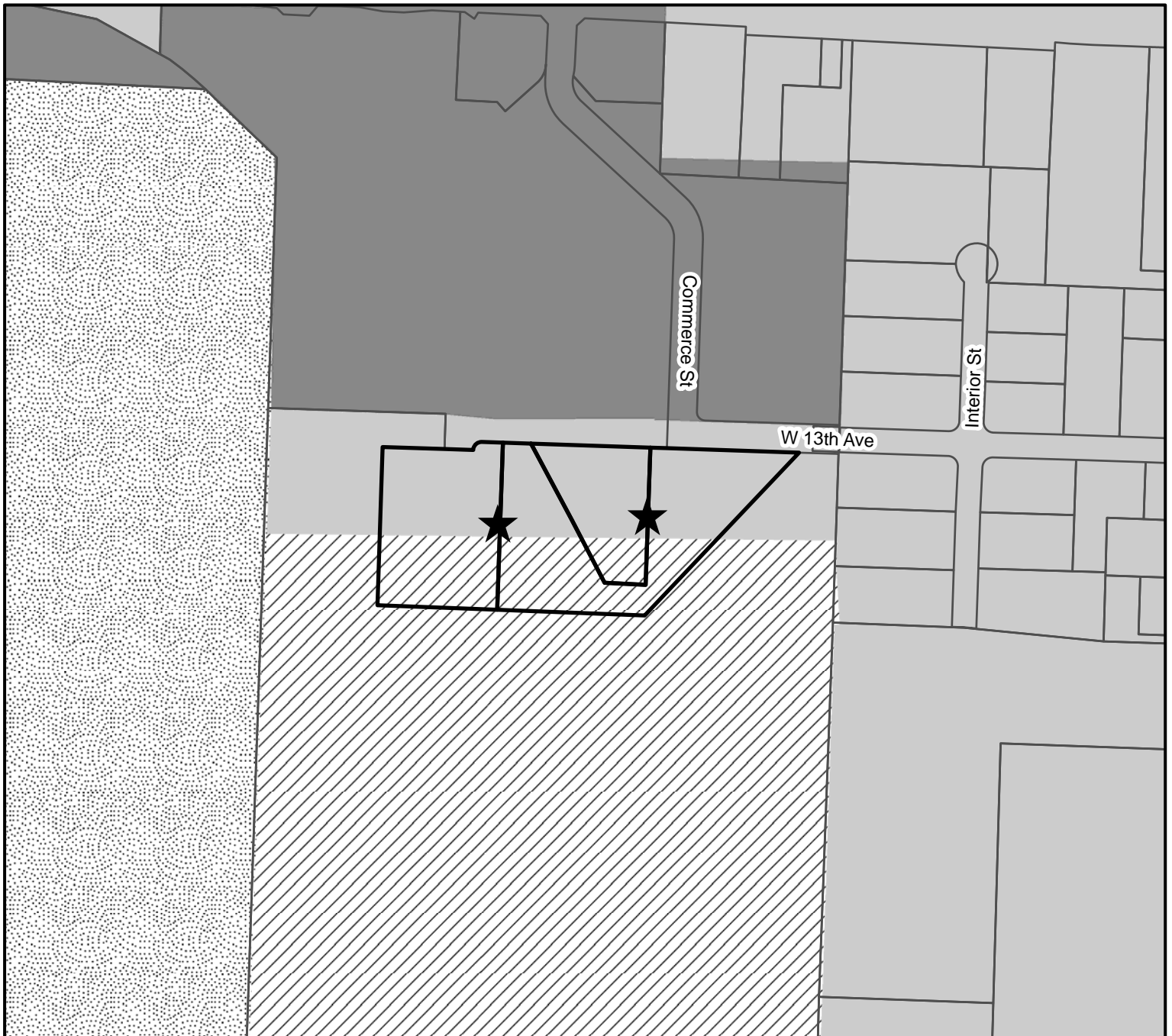
Ross M. Williamson
Hearings Official

SEE NOTICE OF HEARINGS OFFICIAL DECISION FOR STATEMENT OF APPEAL RIGHTS






Cuddeback Holdings (Z 12-4) 17-04-33-41/00700 and 00800



Change of zoning from I-2 Light-Medium Industrial and AG Agricultural to GO General Office and removing the /WP Waterside Protection overlay



Zoning

-  AG Agricultural
-  C-2 Community Commercial
-  I-2 Light-Medium Industrial
-  NR Natural Resource
-  Subject Site

