



Oregon

John A. Kitzhaber, M.D., Governor

Department of Land Conservation and Development

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

Date: June 02, 2015
Jurisdiction: City of Eugene
Local file no.: Z 15-3
DLCD file no.: 001-15

The Department of Land Conservation and Development (DLCD) received the attached notice of adopted amendment to a comprehensive plan or land use regulation on 05/26/2015. A copy of the adopted amendment is available for review at the DLCD office in Salem and the local government office. This amendment was submitted without a signed ordinance.

Notice of the proposed amendment was submitted to DLCD 36 days prior to the first evidentiary hearing.

Appeal Procedures

Eligibility to appeal this amendment is governed by ORS 197.612, ORS 197.620, and ORS 197.830. Under ORS 197.830(9), a notice of intent to appeal a land use decision to LUBA must be filed no later than 21 days after the date the decision sought to be reviewed became final. If you have questions about the date the decision became final, please contact the jurisdiction that adopted the amendment.

A 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).

If the amendment is not appealed, it will be deemed acknowledged as set forth in ORS 197.625(1)(a). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

DLCD Contact

If you have questions about this notice, please contact DLCD's Plan Amendment Specialist at 503-934-0017 or plan.amendments@state.or.us



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

FOR DLCD USE
 File No.: 001-15
 { 23712 }
 Received: 5/26/2015

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 15-3/ST 15-2/TIA 15-1**

Date of adoption: 5/8/15

Date sent: 5/26/2015

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): 3/24/15

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): Jacob Callister, Associate Planner

Phone: 541-682-5317

E-mail: jacob.l.callister@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
change. | to | acres. | A goal exception was required for this |
| Change from
change. | to | acres. | A goal exception was required for this |
| Change from
change. | to | acres. | A goal exception was required for this |
| 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: 33.76
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:
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Location of affected property (T, R, Sec., TL and address): 17-04-02-31/01500

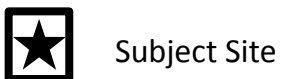
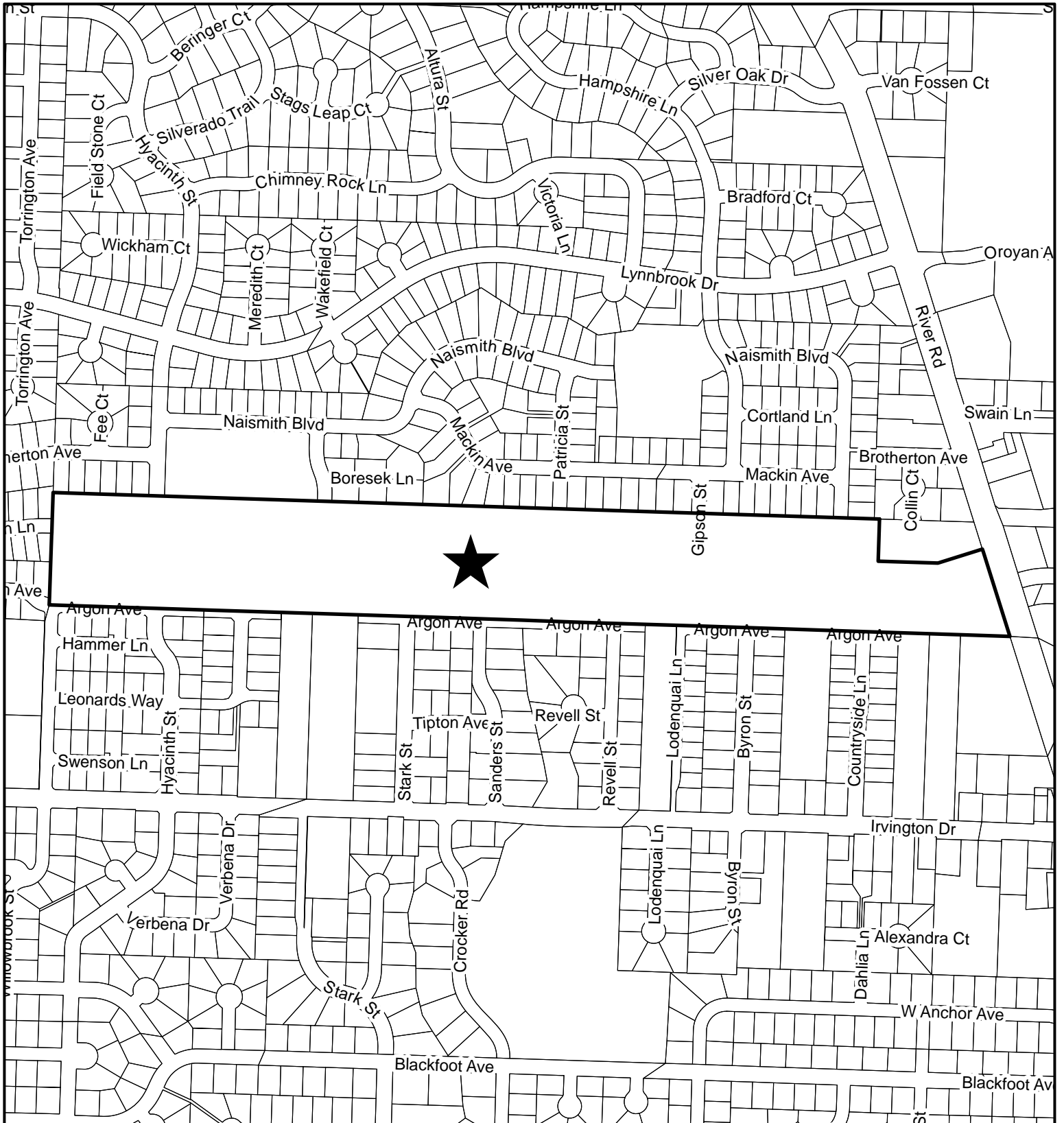
List affected state or federal agencies, local governments and special districts:

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.

Addyson Creek (Z 15-3/ST 15-2/TIA 15-1)

17-04-02-31/01500

AG Agricultural to R-1 Low Density Residential



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

**ZONE CHANGE, TENTATIVE SUBDIVISION, AND
TRAFFIC IMPACT ANALYSIS**

INTRODUCTION

Application File Name (Number):

FAM-LEE, LLC - Addyson Creek (Z 15-3, ST 15-2 & TIA 15-1)

Applicant's Request:

Zone change from AG – Agricultural to R-1 – Low Density Residential, tentative subdivision approval, and traffic impact analysis for a 136 single-family residential subdivision.

Subject Property/Location:

Located adjacent to the west side of River Road, north of Irvington Road, and southwest of River Loop 2. The legal description is Map 17-04-02-31, Tax Lot 1500.

Relevant Dates:

Applications submitted on February 6, 2015; applications deemed complete on March 13, 2015; public hearing held on April 29, 2015.

Applicant's Representative:

Bill Kloos of the Law Office of Bill Kloos, PC.

Lead City Staff:

Jacob Callister, Associate Planner, Eugene Planning Division.

Summary of the Public Hearing

The Hearings Official held a public hearing on this application on April 29, 2015. The Hearings Official stated he had no conflicts of interests, was not biased, and had no *ex parte* communications to disclose. No person objected to the Hearings Official conducting the hearing. Jacob Callister (Callister), Associate Planner, and Gabe Flock, Senior Planner, were present for the hearing. Callister presented the staff report at the public hearing, recommending approval of the applications. A number of people spoke in favor of the applications, a number of people who were neutral testified about the applications, and a number of people testified in opposition to the applications. At the conclusion of the public hearing, the Hearings Official closed the record.

FACTS

The subject property is approximately 33 acres located adjacent to the west side of River Road, north of Irvington Road, and southwest of River Loop 2. The property is a long narrow rectangle stretching east to west that is approximately one block wide from north to south, and Spring Creek crosses the middle of the property north to south. The property was recently annexed into the City and is zoned AG – Agricultural with a WR – Water Resources overlay for Spring Creek which is a Goal 5 resource. A mature filbert orchard has been on the property for a long time, but the filbert orchard has not been managed well for the past few years and the trees are in various states of decline. The property borders River Road to the east and is surrounded on the other sides by residential housing. The prior owners of the property allowed the public to use the orchard for various activities such as a de facto dog park.

The applicant seeks to have the property rezoned to R-1 – Low-Density Residential while retaining the WR - Water Resources overlay. The request also seeks to subdivide the property into 136 residential lots. The proposal is to connect to River Road on the east, three local streets on the north, two local streets on the west, and to Argon Avenue at six locations on the south. As discussed later, the streets to the north and west are City streets while some of the streets to the south are county local access roads.

DOCUMENTS CONSIDERED BY THE HEARINGS OFFICIAL

I have considered all of the documents in the planning file for the proposed zone change, tentative subdivision, and traffic impact analysis (Z 15-3, ST 15-2 & TIA 15-1) as well as the testimony and documents provided at the public hearing.

ANALYSIS

The staff report does a thorough job of analyzing and discussing the myriad approval criteria necessary for approval of a zone change, tentative subdivision, and traffic impact analysis. The overwhelming majority of those findings are not challenged by opponents. It would be a waste of the City's money and resources to review and repeat all of the unchallenged findings. Therefore, I adopt and incorporate in this decision the findings in the staff report, except as discussed below.

1. Tree Preservation

Opponents challenge the applications on the basis that the existing filbert orchard should be preserved. Initially, the applications do preserve all of the significant trees in the WR overlay zone

along Spring Creek. The applicant's arborist inventoried the trees, as well as their critical root zones, and all of the significant trees are preserved. Secondly, without delving into an extended discussion of needed housing law, the applicant is proceeding under the needed housing provisions of Eugene Code (EC) 9.8520. Under needed housing provisions, approval criteria must be clear and objective. Regarding tree removal and preservation under EC 9.8520(7)(a), an applicant must show that the proposal complies with EC 9.6880 through EC 9.6885. Under 9.6885(2), an applicant must only submit a written report by a certified arborist or licensed landscape architect that "reflect that consideration has been given to preservation" with certain priorities. EC 9.8665(2) does not actually require that trees be preserved. There is no dispute that the applicant provided the necessary report. Even if more than consideration was required, the filbert orchard is an agricultural crop rather than significant trees that would have to be preserved. Furthermore, the applicant's expert explains that the filberts are not healthy due to age and neglect. The applicant is not required by any approval criterion to preserve the filbert orchard, and all the trees in the WR overlay that need to be preserved are being preserved. This argument does not provide a basis to deny the applications.

2. Park Land

Opponents argue that the subject property has been operating as a de facto park for many years and that the land is needed for further use as a park. While it was certainly generous of the former owner to allow the public to use the orchard for many public purposes, there is nothing in the City Code that requires that the property be reserved for the public as a park. There is an existing park along the northwest boundary of the property, and the City explored the possibility of acquiring the property to add to the existing park. The staff report, however, explains that due to a number of reasons, including a lack of funds and the property not being identified on any park master plans, the decision was made not to acquire the property for additional park land. This argument does not provide a basis to deny the applications.

3. Traffic and Roads

While there was some discussion from opponents regarding the amounts of traffic and connectivity, the applicant's traffic impact analysis demonstrates that there is adequate capacity to meet the expected traffic to be generated from the proposed subdivision and that the connectivity requirements are satisfied. For instance, there are numerous proposed connections to the existing street pattern, and some opponents argued that there should be less or different connections. As the applicant explained, the connections were designed at the request of City planners to best satisfy the

City's connectivity requirements. The application easily satisfies the connectivity requirements of the EC.

Opponents to the south also argue that the county local access streets are inadequate to handle even the rather limited amounts of traffic to be generated from the proposed subdivision that would use the streets to the south. As the opponents explain, some of the streets to the south, in particular Stark Street and Sanders Street, are county local access roads, which means they are county public roads but the county does not maintain the roads. The residents who live along those roads are apparently required to make any repairs. According to opponents, those streets are not developed to City standards, are already in a poor state, and the opponents that live there should not be required to repair any damage caused by additional traffic from the proposed subdivision.

Generally, applicants are required to make half street improvements when developing a subdivision like the one proposed in this case. In the present case, the applicant is proposing to make full street improvements to the south. That is already above and beyond what is generally required. The applicant cannot be expected to make additional improvements off-site. The traffic impact analysis demonstrates that there is sufficient capacity on the streets to the south, including Stark Street and Sanders Street. While I am sympathetic to opponents' concerns about being responsible for the maintenance for local access roads, that is apparently the risk of using such roads. The staff report explains that the county will require the applicant to undergo a facility permit process which may address some of the opponents' concerns. Those concerns, however, do not provide a basis to deny the applications.

The findings in the staff report explain how all the applicable approval criteria are satisfied. The opponents' arguments do not provide a basis to deny the applications. Therefore, I find that the applicant has satisfied all of the applicable approval criteria for a zone change, tentative subdivision approval, and traffic impact analysis.

DECISION

Based upon the available evidence and preceding findings, the Hearings Official APPROVES the applicant's request for a zone change from AG – Agricultural with a WR – Water Resources Conservation overlay to R-1 – Low-Density Residential with a WR – Water Resources Conservation overlay, tentative subdivision, and traffic impact analysis, subject to the following conditions of approval.

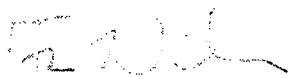
CONDITIONS OF APPROVAL

1. The applicant shall include a note on the final plat stating that Lot 45 is precluded from further land division in accordance with the maximum lot size exceptions at EC 9.2761(5)(a).
2. Prior to final plat approval, the applicant shall submit a revised site plan which eliminates the offset at the Patricia Street/Addyson Street intersection or increases the offset distance to 100 feet.
3. The applicant shall create a 1 foot reserve strip along the southerly margin of Chelsey Lane (to be renamed in accordance with other conditions of approval as noted below). The reserve strip, which shall be noted on the final plat as a 1-foot Reserve Strip "A", shall be conveyed to the City on a standard City form and recorded concurrent with the final plat.
4. Prior to final plat approval, the proposed street names for "Addyson Street", "Chelsey Lane", and "Jordan Lane" shall be subject to further review and approval in accordance with EC 9.6855.
5. Prior to final plat approval, the applicant shall revise the final site plan to depict 34-foot paving in a 60-foot right-of-way for Addyson Lane, between Patricia Street and River Road.
6. Prior to final plat approval, the applicant shall revise the final site plan so that the proposed right-of-way for the bike-ped path is identified as a Public Accessway for Bicycles, Pedestrians, and Storm Drainage.
7. Prior to final plat approval, a PEPI permit shall be issued for the construction of public improvements. In lieu of a PEPI permit, a bond or other financial instrument guaranteeing the construction of public improvements shall be submitted by the applicant and accepted by the City Engineer.
8. The applicant shall provide documentation that EWEB has received a financial guarantee, ensuring that water will be provided to each lot in the plat. It is noted that EWEB currently accepts cash payments, bond or irrevocable letter of credit as financial guarantees.
9. The applicant shall submit the following information on a copy of the final plat, prepared by a certified engineer or licensed surveyor: delineation of the SFHA boundaries with

- the corresponding FIRM numbers and date; determination of BFE for each lot (or the most conservative for the entire development) with an explanation of the methodology.
10. The final plat shall include a note stating which lots are within the SFHA and the BFE for those lots.
 11. On the final plat, the applicant shall dedicate a public storm drainage easement downstream from the proposed box culvert over that area lying between the top banks of Spring Creek.
 12. In order to protect the Critical Root Zone for Tree No. 1687, that portion of Lot 65 shown to be in the CRZ of Tree No. 1687 on the "Existing Tree Locations" Graphic dated April 28, 2015, shall be subject to a landscaping easement, to be shown on the final plans, that will prohibit construction in the landscape easement so long as that tree lives. Placement of a fence adjacent to the Conservation Easement shall be exempt from the landscape easement.
 13. The applicant's final site plans shall be revised to clearly label and refer to the proposed collective riparian area and wetland setback line as the "Water Resources Conservation Setback Line."
 14. All excavation and construction, and any related impacts shall be limited to the area within the footprint of the delineated /WR exemption as shown on the applicant's "Site Plan for Spring Creek and Goal 5 Exempt Existing Crossing."
 15. Protective fencing shall be installed at the boundary of the exempted area as shown on the site plans, with written confirmation provided from the applicant's surveyor or engineer as to the correct location, and subject to inspection and verification by City staff.
 16. Protective fencing shall also be installed at the boundary of the "Water Resources Conservation Setback Line" as shown on the applicant's revised final site plans, with written confirmation provided from the applicant's surveyor or engineer as to the correct location, and subject to inspection and verification by City Staff.
 17. The required protective fencing shall be installed prior to any construction related activity for the proposed development.

Dated this 8th day of May, 2015.

Mailed this 8 day of May 2015.



Fred Wilson
Hearings Official

SEE NOTICE OF HEARINGS OFFICIAL DECISION FOR STATEMENT OF APPEAL RIGHTS