



Oregon

Kate Brown, Governor

Department of Land Conservation and Development

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

Date: January 11, 2016

Jurisdiction: City of Eugene

Local file no.: Z 15-8

DLCD file no.: 001-16

The Department of Land Conservation and Development (DLCD) received the attached notice of adopted amendment to a comprehensive plan or land use regulation on 01/08/2016. 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 less than 35 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.: 001-16 {24212}
Received: 1/8/2016

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 15-8**

Date of adoption: 12/16/15

Date sent: 1/8/2016

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): 10/30/15

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

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 _____ 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 R-1/PD/WR	to R-1	Acres: 10.11
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: /PD/WR Acres added: Acres removed: 10.11

Location of affected property (T, R, Sec., TL and address): 17-03-08-32/07300 & 08600

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

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

INTRODUCTION

Application File Name (Number):

Sterling Woods 2nd Addition (Z 15-8/ST 15-4/OC2 15-1)

Applicant's Request:

Zone change from R-1/PD/WR Low-Density Residential with a Planned Development and Water Resources overlay to remove the PD overlay, an overlay zone correction to remove the WR overlay, and tentative approval for a 36-lot subdivision.

Subject Property/Location:

Located west of Gilham Road, north of Ayres Road. Tax Lots 7300 and 8600 of Assessor's Map 17-03-08-32.

Relevant Dates:

Application submitted on July 29, 2015; application deemed complete on October 22, 2015; public hearing held on December 2, 2015.

Applicant's Representative:

Renee Clough of Branch Engineering.

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 December 2, 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, Gabe Flock, Senior Planner, and Steve Nystrom, Principal Planner, were present for the hearing. Callister presented the staff report at the public hearing, recommending approval of the application. Renee Clough spoke in favor of the application. Dan Edgar, who was neutral, also spoke about his concerns with the application. No one spoke in opposition to the application. At the conclusion of the public hearing, the Hearings Official closed the record.

FACTS

The subject property is zoned R-1 Low-Density Residential with a PD Planned Development Overlay and a WR Water Resources Overlay. The property was originally part of a larger parent parcel that was approved for a planned unit development in 1997. As part of that earlier development, 28 single family dwellings were constructed and are known as the Sterling Woods 1st Addition. The rest of the parent parcel was zoned C-1 Commercial and R-2 Medium-Density Residential. During a City-initiated review in 2013, the property was rezoned from C-1 and R-2 to R-1. The 2013 rezone did not consider the existing overlay zones. The present application is to remove the PD Overlay because the original reason for the PD Overlay was because of the mixed-use contemplated under the C-1 and R-2 zoning. The application seeks to remove the Water Resources Overlay because the applicant believes the property was improperly included in the Water Resources Overlay zone. The application also seeks tentative approval for a 36 lot subdivision.

DOCUMENTS CONSIDERED BY THE HEARINGS OFFICIAL

I have considered all of the documents in the planning file for the proposed zone change and tentative subdivision application, (Z 15-8/ST 15-4/OC2 15-11) as well as the testimony and documents provided at the public hearing.

ANALYSIS

The staff report does a very thorough job explaining why all the numerous approval criteria are satisfied. The overwhelming number of findings in the staff report are not challenged, and 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 the findings in the staff report, except as follows.

Some neighbors were concerned about traffic and pedestrian safety in the area of the proposed subdivision. Both the staff report findings and staff testimony at the public hearing explain that the traffic anticipated to be generated by the proposed subdivision is minimal and would not adversely affect the neighborhood, let alone violate any approval criteria related to traffic or safety. The staff report findings and staff testimony explain that public improvements such as sidewalks will be required as conditions of approval, and I agree with staff that with the required improvements safety will be improved in the area.

Dan Edgar testified as a neutral party at the public hearing about potential concerns with the proposed development. At the public hearing, Mr. Edgar was satisfied with the City's explanations

regarding his concerns. To the extent any of Mr. Edgar's concerns were not satisfied, the staff report findings address the issues and explain why the approval criteria are satisfied. The applicant has satisfied all of the approval criteria.

The applicant requests that proposed Condition of Approval 8 be clarified to explain that the access restriction strip to be required along Gilham Road be part of the right-of-way dedication, rather than taken from the lots abutting Gilham Road. I agree with the applicant and modify the proposed Condition of Approval.

The applicant also requests that proposed Conditions of Approval 12 and 13 be removed. Those proposed Conditions of Approval relate to the requirement to create a private street to serve lots 24 through 27 and 32 through 36. The applicant would prefer not to have to create a private street to serve those lots. EC 9.6703(2) provides that "[i]f eight or more single-family or duplex dwellings will share one access connection, the driveway shall be designed and constructed as a private street in accordance with EC 9.6875." Although there are four lots on each side of the disputed access, the applicant argues that two of the lots will take access off on the public street Laurel Lane rather than from the disputed access. As the December 2, 2015 e-mail from Ed Haney explains, however, due to the location of the lots that the applicant proposes to take access of Laurel Lane, Public Works does not recommend locating that many access locations so close together on Laurel Lane. I agree with the analysis in the email. I agree with proposed Conditions of Approval.¹

DECISION

Based upon the available evidence and preceding findings, the Hearings Official APPROVES the applicant's request for a zone change from R-1 Low-Density Residential with PD and WR Overlays to R-1 Low-Density Residential, and for approval of a 36-lot tentative subdivision, with the following conditions of approval.

CONDITIONS OF APPROVAL

1. Include a note on the plan that "Protective fencing for trees identified to be preserved shall be installed under the direction of a certified arborist and inspected and approved by the City prior to beginning any construction related activities. All protective tree fencing shall remain in place until completion of all construction activities; any relocation or removal of the protective fencing shall also occur under the direction of a certified arborist, with

¹ The applicant's primary concern regarding the necessity for a private street was the need to form a homeowners association to maintain the street. At the public hearing, staff explained that were alternatives that could be employed to avoid creating a homeowners association.

approval by the City.”

2. Include a note on the plan that “No excavation, grading, material storage, staging, vehicle parking or other construction activity shall take place within the identified tree protection areas without approval by the City.”
3. Include a note on the plan that “The removal of trees indicated ‘to be removed’ is not required; said removal may occur at the applicant or future owners’ discretion.”
4. Include, on the final site plan, the note that “Removed trees #13 and #21 shall be replaced at a ratio of two trees for each one tree removed. Replacement trees shall be native species, with a minimum caliper of 2 inches for deciduous (canopy) trees and a minimum height of 5 feet for coniferous or evergreen trees. Planting, watering and general maintenance of replacement trees shall be conducted by the property owner in a manner that ensures their establishment and long term survival.” The final site plan must also show the proposed location of the replacement trees
5. 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.
6. The applicant shall submit a street tree agreement application with a street tree plan to the City Urban Forester for review prior to final plat approval. The applicant will be required to submit a financial guarantee insuring street trees will be planted and maintained in accordance with the applicable EC 7.280 requirements. The applicant shall obtain an approved street tree agreement prior to final plat approval.
7. The applicant shall provide documentation that EWEB has received a financial guarantee, ensuring water will be provided to each lot in the plat.
8. On the final plat, the applicant shall create an access restriction strip along the eastern boundaries of lots 31-36, abutting Gilham Road. The access restriction dedication may be part of the right-of-way dedication, rather than taken from the lots abutting Gilham Road.
9. Prior to final plat approval, approval for an alternate street name to replace “Laurel Lane” and approval for a private street name shall be obtained from the regional road naming group.
10. 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 corresponding FIRM numbers and date; determination of the BFE for each lot (or the most conservative for the entire development) with an explanation of the methodology.

11. The final plat shall include a note stating which lots are within the SFHA and BFE for those lots.
12. Prior to final plat approval, the applicant shall revise Sheet 2 – Tentative Subdivision Plan and the typical section for the “Private Joint Access Driveway” on Sheet 3 to reflect the applicable requirements for Private Streets contained in “Section M. Private Streets and Alleys” on Page 39 Exhibit A of the City Council Resolution No. 4608 in the Eugene Arterial and Collector Street Plan.
13. The private street shall be labeled on the final plat as “Approved Street Name – Private.” The shared access easement that creates the private street and which is subject to City review and approval prior to recording with the final plat shall be cross-referenced on the plat and shall be accompanied by a maintenance agreement, which addresses the rights and responsibilities of each lot to access and maintenance of the shared private drive.²

Dated this 16th day of December, 2015.

Mailed this 18th day of December 2015.

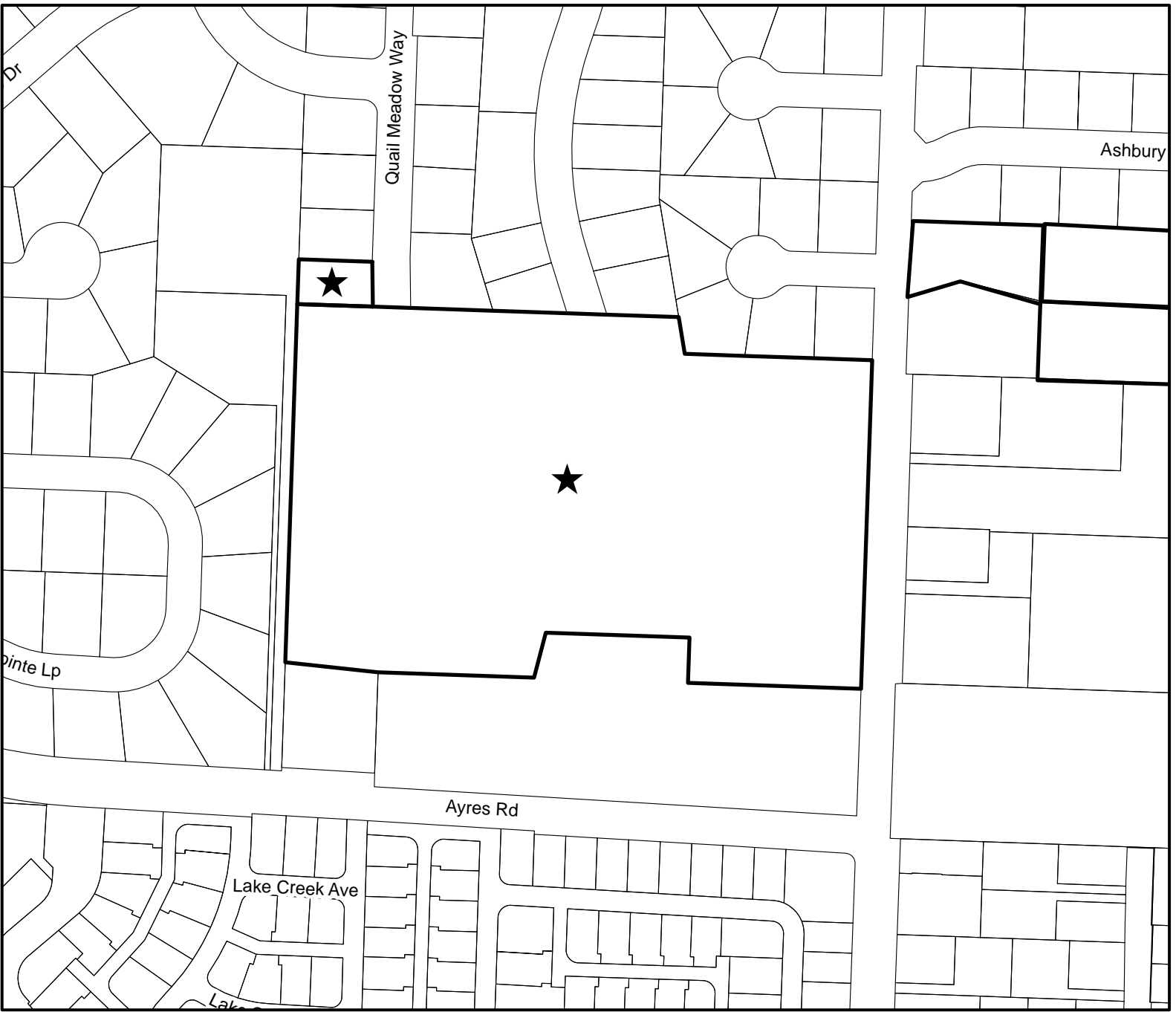



Fred Wilson
Hearings Official

SEE NOTICE OF HEARINGS OFFICIAL DECISION FOR STATEMENT OF APPEAL RIGHTS

² The requirements of the conditions of approval must be included on revised final site plans and included within a performance agreement consistent with EC 9.7025.

Sterling Woods, 2nd Addition (Z 15-8)
17-03-08-32/07300 & 08600



 Subject Site

