



# Oregon

Theodore R. Kulongoski, Governor

## Department of Land Conservation and Development

635 Capitol Street NE, Suite 150

Salem, Oregon 97301-2524

Phone: (503) 373-0050

First Floor/Costal Fax: (503) 378-6033

Second Floor/Director's Office: (503) 378-5518

Web Address: <http://www.oregon.gov/LCD>

### NOTICE OF ADOPTED AMENDMENT

September 21, 2006

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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Madras Plan Amendment  
DLCD File Number 003-06



The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Copies of the adopted plan amendment are available for review at DLCD offices in Salem, the applicable field office, and at the local government office.

Appeal Procedures\*

### **DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: October 6, 2006**

This amendment was submitted to DLCD for review with less than the required 45-day notice because the jurisdiction determined that emergency circumstances required expedited review. 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 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 DATE SPECIFIED ABOVE.**

cc: Gloria Gardiner, DLCD Urban Planning Specialist  
Mark Radabaugh, DLCD Regional Representative  
Chuck McGraw, City of Madras

<paa> ya



**FORM 2 Notice of Adoption**

THIS FORM MUST BE MAILED TO DLCD  
WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION  
PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18

DATE STAMP

**DEPT OF**  
**SEP 18 2006**  
**LAND CONSERVATION AND DEVELOPMENT**

Jurisdiction: City of Madras Local file number: RZ-05-5

Date of Adoption: \_\_\_\_\_ Date Mailed: \_\_\_\_\_

Date original Notice of Proposed Amendment was mailed to DLCD: 1/4/2006

- |  |  |
|--|--|
| <input type="checkbox"/> Comprehensive Plan Text Amendment | <input checked="" type="checkbox"/> Comprehensive Plan Map Amendment |
| <input type="checkbox"/> Land Use Regulation Amendment     | <input checked="" type="checkbox"/> Zoning Map Amendment             |
| <input type="checkbox"/> New Land Use Regulation           | <input type="checkbox"/> Other: _____                                |

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

**The applicant seeks to re-designate and rezone approximately 8 acres from Rural Residential-10 (RR-10) to Single Family Residential (R-1). the subject property is located within the Madras UBG and will be annexed into the city limits to allow development for single family residences.**

Describe how the adopted amendment differs from the proposed amendment. If it is the same, write "SAME". If you did not give Notice for the Proposed Amendment, write "N/A".

**Same**

Plan Map Changed from: Rural Residential to: Single Family Residential

Zone Map Changed from: RR-10 to: R1

Location: Adjacent to city limits Acres Involved: 8

Specify Density: Previous: 1du/10acres New: 1du/7500 sq ft

Applicable Statewide Planning Goals: 2, 10 and 14

Was and Exception Adopted?  YES  NO

DLCD File No.: 003-06 (14915)

Did the Department of Land Conservation and Development receive a Notice of Proposed Amendment.....

**Forty-five (45) 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

Affected State or Federal Agencies, Local Governments or Special Districts:

**DLCD**

Local Contact: **Chuck McGraw** Phone: **(541) 475-3388** Extension:

Address: **71 SE D Street** City: **Madras**

Zip Code + 4: **97741-** Email Address: **cmcgraw@ci.madras.or.us**

## ADOPTION SUBMITTAL REQUIREMENTS

This form **must be mailed** to DLCD **within 5 working days after the final decision**  
per ORS 197.610, OAR Chapter 660 - Division 18.

1. Send this Form and TWO (2) Copies of the Adopted Amendment to:

**ATTENTION: PLAN AMENDMENT SPECIALIST  
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT  
635 CAPITOL STREET NE, SUITE 150  
SALEM, OREGON 97301-2540**

2. Submit **TWO (2) copies** the adopted material, if copies are bounded please submit **TWO (2) complete copies** of documents and maps.

3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.

4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.

5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the Notice of Adoption is sent to DLCD.

6. In addition to sending the Notice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.

7. **Need More Copies?** You can copy this form on to 8-1/2x11 green paper only; or call the DLCD Office at (503) 373-0050; or Fax your request to:(503) 378-5518; or Email your request to **mara.ulloa@state.or.us** - ATTENTION: PLAN AMENDMENT SPECIALIST.

**ORDINANCE NO. 755**

**AN ORDINANCE AMENDING THE CITY OF MADRAS COMPREHENSIVE PLAN AND ZONE MAP, AND DECLARING AN EMERGENCY.**

**WHEREAS**, the City of Madras adopted its Comprehensive Plan and Zone Map in 1970 whereby Plan Designations and Zones were adopted to regulate growth within the City's Urban Growth Boundary; and

**WHEREAS**, the City of Madras adopted a new Urban Growth Boundary in June 2003. As part of this urban growth boundary expansion, a 74.96 acre area was included inside the new Urban Growth Boundary ; and

**WHEREAS**, the subject 8 acres located in T11S., R14E., Section 6C, tax lot 800 was designated as Rural Residential and zoned RR-10 until such time as the necessary public facilities and services were available to develop the property at an urban density; and

**WHEREAS**, the subject property has been annexed into the city limits and the necessary public facilities and services are now available to allow urban developments. It is appropriate to re-designate and re-zone the subject property for residential uses as Single Family Residential (R-1); and

**WHEREAS**, the proposed amendments were presented to the City of Madras Planning Commission on February 1, 2006 and to the City Council on February 28, 2006 for review through the public hearing process; and

**WHEREAS**, there were no citizen comments made during the hearings.

**NOW, THEREFORE**, the City of Madras ordains as follows:

**SECTION 1:** The City of Madras Comprehensive Plan and Zone Map shall be amended to re-zone tax lot 800 in T11S., R14E., Section 6C from Rural Residential (RR-10) to Single Family Residential (R-1)

**SECTION 2:** The Findings of Fact in support of the amendment, shall hereby be attached as Exhibit 'A' and incorporated herein by this reference.

**SECTION 3: EMERGENCY CLAUSE**

The City Council of the City of Madras, having reviewed the Comprehensive Plan of the City of Madras, and the need for enactment of ordinances to regulate land use within the City does hereby determine that this ordinance is necessary for the immediate preservation of the public peace, health and safety of the citizens of the City of Madras and an emergency is hereby declared to exist, and this Ordinance shall become in full force and effect from and after the date it is enacted and signed by the Mayor.

ADOPTED by the City Council of the City of Madras this 14<sup>th</sup> day of March, 2006.

Ayes: 5  
Nays: 0  
Abstentions: 0  
Absent: 0  
Vacancies: 1

  
\_\_\_\_\_  
Frank Morton, Mayor

ATTEST:

  
\_\_\_\_\_  
Karen J. Coleman, City Recorder

**CITY OF MADRAS  
FINDINGS AND RECOMMENDATION**

**REQUEST:** Re-zone the subject 8 acres from Rural Residential (RR-10) to Single Family Residential (R-1) to allow future residential development and urban densities.

**FILE NUMBER:** RZ -05-5

**APPLICANT:** Brian D'Ambrosio/TRIO Development, 12550 SE 93<sup>rd</sup> Ave., Clackamas, OR 97015

**OWNER:** Keith & Cynthia Schmidt, 604 NE Bean Drive, Madras, OR 97741

**DATE:** February 21, 2006

**APPLICABLE ORDINANCE PROVISIONS**

1. City of Madras Comprehensive Plan, Administrative Procedures, **-Quasi-judicial Revisions**

**EXHIBITS**

1. Application, burden of proof statement, and all other materials submitted by the applicant.
2. Vicinity Map
3. 45-day Notice to DLCDD dated January 4, 2006.
4. Notice to adjoining property owners dated January 11, 2006.

**FINDINGS OF FACT**

1. **Location:** The subject property is located at 604 NE Bean Drive and is further described as being T11. R14, Section 6C, tax lot 100.
2. **Zone, Map and Comprehensive Plan Designation:** The property is zoned Rural Residential (RR-10) on the City of Madras Comprehensive Plan and Zoning Map.
3. **Site Description and Surrounding Land Uses:** The subject property is developed with a single family residence, the properties to the north and south along NE Bean Drive are also developed with single family residences.

4. **Proposal:** Change the existing Comprehensive Plan and Zone Map designation of tax lot 100 from Rural Residential (RR-10) to Single Family Residential (R1) so that the subject 8 acres can be combined with property owned by TRIO Development for a residential subdivision.
5. **Agency and Neighbor comments:** Staff didn't receive comments from any of the affected agencies or any of the surrounding property owners.

## **CONCLUSIONARY FINDINGS:**

### **1. ADMINISTRATIVE PROCEDURES.**

In order to submit a favorable recommendation for the proposed change to the City Council, the Planning Commission shall establish the compelling reasons and make a finding of fact for the proposed change. These include:

- a. The proposed change will be in conformance with statewide planning goals.
- b. There is a demonstrated need for the proposed change.

### **FINDING:**

The Statewide Planning Goals applicable to this proposal are Goal 2 (Land Use Planning), Goal 10 (Housing) and 14 (Urbanization).

The application states that this proposal for rezone is in conformance with Statewide Planning Goal 2 because the project takes place within the City of Madras, according to the land use designations as defined in the local Comprehensive Plan. The zoning designation proposed is one existing in the Madras Code, and consistent with urban levels of development. The change to the Comprehensive Planning designation proposed with this rezone is consistent with the Urban Growth Management Plan of the Madras Comprehensive Plan, acknowledged in periodic review by the State DLCD on June 30, 2003.

The Planning Commission finds that the applicants Burden of Proof Statement supports the conclusion that the application is in conformance with Statewide Planning Goal 2. The City of Madras has an acknowledged Comprehensive Plan as required by Goal 2. This plan was prepared according to the guidelines set forth under Goal 2. These guidelines include collecting necessary factual information; gradual refinement of the problems and issues and the alternative solutions and strategies for development; incorporation of citizen's needs and desires and development of broad citizen support and identification and resolution of possible conflicts with plans of affected governmental units.

The factual base of the plan included data on the natural resources, their capabilities and limitations; man-made structures and their utilities, their location and condition; population and economic characteristics of the city and the roles and responsibilities of governmental units.

Utilizing the guidelines and factual data, the subject property was designated for residential purposes at a rural density of 10-acres until such time as city services were available to the area.

The Planning Commission concurs with the applicant's statement that the area now has the available public utilities and services to warrant inclusion into the Madras city limits and that the proposed Single Family Residential (R-1) designation and zone conforms to Statewide Planning Goal 2.

The Planning Commission finds that application supports the conclusion that the proposal is in conformance with Statewide Planning Goal 10. It is found that The City of Madras complied with this goal during periodic review in 2003 by incorporating the findings of a housing study titled: "Residential Land Needs Analysis" by Kittelson and Associates, Inc. (in 1998 and updated 2001). The City based its Comprehensive Plan designations to meet Goal 10 on the designation of R-1 (the zoning proposed with this application). The acreage required to meet the need for this plan designation was identified in the Kittelson and Associates, Inc. report.

The applicants point to the June 2003 periodic review update to the Comprehensive Plan which included the subject property within a group of properties totaling 74.96 acres to be designated residential, in order to meet the need for housing identified in the report. As this designation was in response to a periodic review work task, in order to make the plan comply with Goal 10, staff concurs that it is consistent to zone this land at an urban-level of density to achieve the designation of the Plan, and hence, satisfy Goal 10. The plan designation for this property at present does not allow a density that will meet Madras' housing needs. This proposal for rezone is on lands being annexed into the City of Madras, to obtain a level of housing available to satisfy the statewide Goal for housing in urban areas.

The application states that this proposal is in conformance with Statewide Planning Goal 14 because Goal 14 identifies the process of designating urban growth boundaries as the tool to identify and separate urban and urbanizable lands from rural land. The land base for a city's UGB is to be consistent with a 20-year growth population forecast and the need for housing, employment opportunities, and public facilities. Land within urban growth boundaries shall be considered available for urban development, consistent with plans for the provision of urban facilities and services. In this rezone application, the applicant proposes to adopt urban densities as identified in the Madras Comprehensive Plan for single-family residential housing. The current zoning designation for this property would allow 1 residence on the 8 acre parcel, a density inadequate to urbanize lands, as the cost of infrastructure at urban standards cannot be reasonably borne by one household. This proposal for rezone is on lands being annexed into the City of Madras, and within the existing Urban Growth Boundary, to obtain densities consistent with urban levels of development.

The Planning Commission finds that the application shows that there is a demonstrated need for the proposed change because there has been a change in circumstances that warrants urban levels of density at this time. The specific change is that the land is subject to an annexation application, and will obtain water and sewer service from an adjacent property, zoned R-1 and



recently approved for annexation. Intervening lands between the subject property and lands already built to urban standards have recently been annexed, and development plans are being submitted for review. With annexation pending, and urban services required for development, it is timely to request that urban-level density be designated on the property.

The zoning on this property has retained a County designation of RR-10, a level of density inconsistent with the Madras Comprehensive Plan regarding Housing and Urbanization. Several parcels west of Bean Drive and south of Loucks Road were designated as "Residential" in the 2003 update to the Comprehensive Plan, yet were not zoned with urban densities to allow such development with full urban services.

### **RECOMMENDATION**

The Planning Commission recommends that the City Council approve the proposed Plan and Zone Map amendment to re-zone the subject property from Rural Residential (RR-10) to Single Family Residential (R1), and adopting the Conclusionary Findings in support of the Plan and Zone Map amendment.