



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/Coastal Fax: (503) 378-6033

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

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

NOTICE OF ADOPTED AMENDMENT

July 19, 2006



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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: Clackamas County Plan Amendment
DLCD File Number 001-06

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: August 7, 2006

This amendment was submitted to DLCD for review 45 days 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 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.**

Cc: Doug White, DLCD Community Services Specialist
Ron Eber, DLCD Farm/Forest Specialist
Gary Hewitt, Clackamas County

<paa> ya/

FORM 2

D L C D NOTICE OF ADOPTION

DEPT OF

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

JUL 17 2006

(See reverse side for submittal requirements)

LAND CONSERVATION
AND DEVELOPMENT

Jurisdiction: Clackamas Local File No.: 20834-05-CP
20835-05-2
(If no number, use none)

Date of Adoption: 6-29-06 Date Mailed: 7-13-06
(Must be filled in) (Date mailed or sent to DLCD)

Date the Notice of Proposed Amendment was mailed to DLCD: 1-19-06

- Comprehensive Plan Text Amendment
 - Comprehensive Plan Map Amendment
 - Land Use Regulation Amendment
 - Zoning Map Amendment
 - New Land Use Regulation
 - Other: _____
- (Please Specify Type of Action)

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached."
Applicant is seeking to change the Comp. Plan designation on his
Forest property to Rural so the portion, approx. 29.45 acres,
may be zoned Rural Industrial (RI). The site had been
historically a log mill operation.

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: FOREST to Rural
Zone Map Changed from: Timber (TBR) to Rural Industrial (RI)
Location: 30924 SE Wildcat Mtn. Rd. Acres Involved: 37.65
Eagle Creek
Specify Density: Previous: _____ New: _____
Applicable Statewide Planning Goals: 3, 4
Was an Exception Adopted? Yes: X No: _____

DLCD File No.: 001-06 (14945)

Did the Department of Land Conservation and Development receive a notice of Proposed

Amendment **FORTY FIVE (45) days prior to the first evidentiary hearing.** Yes: No:

If no, do the Statewide Planning Goals apply. Yes: No:

If no, did The Emergency Circumstances Require immediate adoption. Yes: No:

Affected State or Federal Agencies, Local Governments or Special Districts: None

Local Contact: Gary Hewitt, Sr. Planner Area Code + Phone Number: 503 353-4519

Address: 9101 SE Sunnybrook Blvd. City: Clackamas

Zip Code+4: 97015 Email Address: garyh@co.clackamas.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 Larry.French@state.or.us - ATTENTION: PLAN AMENDMENT SPECIALIST.

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF CLACKAMAS COUNTY, STATE OF OREGON**

In the Matter of a Comprehensive
Plan and Zone Change
for Ted Copher.

ORDER NO. 2006-259
(Page 1 of 3)

File No.: Z0834-05-CP / Z0835005-Z

This matter coming regularly before the Board of County Commissioners, and it appearing that Ted Copher made application for a Comprehensive Plan amendment and zone change on property described as a portion of T3S, R4E, Section 05, W.M., Tax Lot 900, located southeast of the intersection of Wildcat Mountain Road and Eagle Creek Road; and

It further appearing that planning staff, by its report dated March 8, 2006, recommended approval of the application; and

It further appearing that the Planning Commission, at its March 13, 2006 meeting, recommended denial of the application; and

It further appearing that after appropriate notice a public hearing was held before the Board of County Commissioners on April 19, 2006, at which testimony and evidence were presented, and that a preliminary decision was made by the Board on April 19, 2006;

Based upon the evidence and testimony presented, this Board makes the following findings and conclusions:

1. The applicant requests approval of a Comprehensive Plan map amendment from Forest to Rural, and corresponding zone change from TBR to RI, including consideration of exceptions to Statewide Planning Goals 3 and 4.
2. In the discussion and materials relating to this application, there have been references to both an 18-acre area and a 25-acre area; this approval is granted for the 18-acre area shown on the attached map.
3. An exception to Goal 4 is justified on the basis that the 18 acres is "physically developed" to the extent that it is no longer available for forest uses. On this point, the Board adopts the discussion in the March 8, 2006 Planning Staff Report/Recommendation as its findings and conclusions.
4. As to Goal 3, the planning staff concluded that the property under consideration no longer needs the definition of agricultural land, and therefore Goal 3 does not apply. This Board

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agrees with that conclusion, for the reasons stated in the staff report/recommendation. In the alternative, this Board also concludes that a "physically developed" exception from Goal 3 is justified for the same reasons as the physically developed exception to Goal 4.

5. The Planning Commission questioned whether an exception to the Goals would be appropriate, given that the current unsuitability of the property for forest use was caused, at least in part, by activities of the owner of the property. This Board believes the focus must be on the current condition of the property, rather than the cause of that condition.

6. Another reason for the Planning Commission's recommendation of denial was that it did not believe the traffic study submitted by the applicant addressed the most traffic-intensive possible uses of the property; as explained by the planning department representative at the hearing before this Board, the traffic study does in fact address the worst case, and is sufficient.

7. This application meets the Comprehensive Plan requirements for a Comprehensive Plan map amendment for the reasons stated in the Planning Staff Report/Recommendation, which is hereby adopted as the findings and conclusions of this Board on that issue.

8. This application complies with the ZDO Section 1202 requirements for a zone change, for the reasons stated in the Planning Staff Report/Recommendation, which is hereby adopted as the findings and conclusions of this Board on that issue.

9. In answer to an argument made by opponent Joseph Cotter, this Board does not believe that a "physically developed" exception is precluded simply because the property could still be used for auxiliary forest operations such as storage of equipment or logs. This Board also does not agree that it is necessary to maintain this property in the Forest designation in order to conserve soil, water and air quality.

10. Mr. Cotter also argues for denial of this application in order to protect Eagle Creek. This Board finds the evidence does not demonstrate that approval of the application, particularly for only the northern 18 acres of the property, is likely to result in degradation of Eagle Creek.

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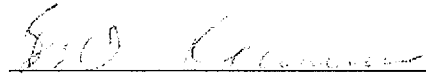
File No.: Z0834-05-CP / Z0835005-Z

11. Even if true, the fact that approval of this application would “alter the character of the neighborhood” as alleged by Mr. Cotter, is not a relevant criterion in consideration of this application.

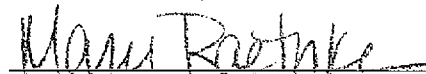
NOW, THEREFORE, IT IS HEREBY ORDERED
that exceptions are granted to Statewide Planning Goals 3 and 4, and the requested
Comprehensive Plan map amendment and zone change are granted for the 18-acre area shown on
the attached map.

DATED this 29th day of June, 2006.

BOARD OF COUNTY COMMISSIONERS



Bill Kennemer, Chair



Mary Raethke, Recording Secretary