



Oregon

Theodore R. Kubongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

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www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

06/02/2014

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

FROM: Plan Amendment Program Specialist

SUBJECT: City of Lake Oswego Plan Amendment
DLCD File Number 008-13

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: Wednesday, June 18, 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: Johanna Hastay, City of Lake Oswego
Gordon Howard, DLCD Urban Planning Specialist
Jennifer Donnelly, DLCD Regional Representative

<paa> YA



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

FOR DLCD USE	008-1B
File No.:	(20132)
	[17884]
Received:	5/28/2014

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 Lake Oswego

Local file no.: **LU 13-0049**

Date of adoption: 05/06/14 Date sent: 5/28/2014

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): 12/12/13
 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): Johanna Hastay, Associate Planner

Phone: 503-534-5740 E-mail: jhastay@ci.oswego.or.us

Street address: 380 A Avenue, PO Box 369 City: Lake Oswego Zip: 97034-

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 R-15 to R-7.5. 2.14 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): 5316, 5324 & 5362 Carman Dr. (21E07AC-02500, -02600, -02700).

- 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-15 to R-7.5. Acres: 2.14

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:

Location of affected property (T, R, Sec., TL and address): 5316, 5324 & 5362 Carman Dr. (21E07AC-02500, -02600, -02700)

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

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.

NOTICE OF ADOPTED CHANGE – SUBMITTAL INSTRUCTIONS

1. A Notice of Adopted Change must be received by DLCD no later than 20 days after the ordinance(s) implementing the change has been signed by the public official designated by the jurisdiction to sign the approved ordinance(s) as provided in [ORS 197.615](#) and [OAR 660-018-0040](#).

2. A Notice of Adopted Change must be submitted by a local government (city, county, or metropolitan service district). DLCD will not accept a Notice of Adopted Change submitted by an individual or private firm or organization.

3. **Hard-copy submittal:** When submitting a Notice of Adopted Change on paper, via the US Postal Service or hand-delivery, print a completed copy of this Form 2 on light green paper if available. Submit **one copy** of the proposed change, including this form and other required materials to:

Attention: Plan Amendment Specialist
Dept. of Land Conservation and Development
635 Capitol Street NE, Suite 150
Salem, OR 97301-2540

This form is available here:

<http://www.oregon.gov/LCD/forms.shtml>

4. **Electronic submittals** of up to 20MB may be sent via e-mail. Address e-mails to plan.amendments@state.or.us with the subject line “Notice of Adopted Amendment.”

Submittals may also be uploaded to DLCD’s FTP site at http://www.oregon.gov/LCD/Pages/papa_submittal.aspx.

E-mails with attachments that exceed 20MB will not be received, and therefore FTP must be used for these electronic submittals. **The FTP site must be used for all .zip files** regardless of size. The maximum file size for uploading via FTP is 150MB.

Include this Form 2 as the first pages of a combined file or as a separate file.

5. **File format:** When submitting a Notice of Adopted Change via e-mail or FTP, or on a digital disc, attach all materials in one of the following formats: Adobe .pdf (preferred); Microsoft Office (for example, Word .doc or docx or Excel .xls or .xlsx); or ESRI .mxd, .gdb, or .mpk. For other file formats, please contact the plan amendment specialist at 503-934-0017 or plan.amendments@state.or.us.

6. **Content:** An administrative rule lists required content of a submittal of an adopted change ([OAR 660-018-0040\(3\)](#)). By completing this form and including the materials listed in the checklist below, the notice will include the required contents.

Where the amendments or new land use regulations, including supplementary materials, exceed 100 pages, include a summary of the amendment briefly describing its purpose and requirements.

7. Remember to notify persons who participated in the local proceedings and requested notice of the final decision. ([ORS 197.615](#))

If you have any questions or would like assistance, please contact your DLCD regional representative or the DLCD Salem office at 503-934-0017 or e-mail plan.amendments@state.or.us.

Notice checklist. Include all that apply:

- Completed Form 2
- A copy of the final decision (including the signed ordinance(s)). This must include city *and* county decisions for UGB and urban reserve adoptions
- The findings and the text of the change to the comprehensive plan or land use regulation
- If a comprehensive plan map or zoning map is created or altered by the proposed change:
 - A map showing the area changed and applicable designations, and
 - Electronic files containing geospatial data showing the area changed, as specified in [OAR 660-018-0040\(5\)](#), if applicable
- Any supplemental information that may be useful to inform DLCD or members of the public of the effect of the actual change

ORDINANCE NO. 2634

AN ORDINANCE OF THE LAKE OSWEGO CITY COUNCIL AMENDING THE COMPREHENSIVE PLAN MAP AND ZONING MAP FOR 5316, 5324 AND 5362 CARMAN DRIVE (TAX LOTS 2500, 2600, AND 2700 OF TAX MAP 21E07AC); REZONING THE SUBJECT PARCELS FROM R-15 TO R-7.5, AND ADOPTING FINDINGS (LU 13-0049).

WHEREAS, a notice of public hearing for consideration of this Ordinance was duly given in a manner required by law; and,

WHEREAS, a public hearing was held before the Planning Commission on February 10, 2014; and before the Lake Oswego City Council on April 15, 2014, to review the proposed amendments;

The City of Lake Oswego ordains as follows:

Section 1. The City Council hereby adopts the Findings and Conclusions (LU 13-0049) in Attachment A.

Section 2. The Comprehensive Plan Map and Zoning Map are amended to change the zone designations for the properties at 5316, 5324 and 5362 Carman Drive (Tax Lots 2500, 2600, and 2700, Map 21E07AC) from R-15 to R-7.5.

Section 3. Effective Date of this Ordinance: Pursuant to Lake Oswego City Charter Section 34, this ordinance shall be effective on the 30th day after its enactment.


Enacted at the regular meeting of the City Council of the City of Lake Oswego held on the 6th day of May, 2014.

AYES: Mayor Studebaker, Bowerman, Gudman, Gustafson, Hughes, Jordan, O'Neill

NOES: None

ABSTAIN: None


ABSTAIN: None



Kent Studebaker, Mayor

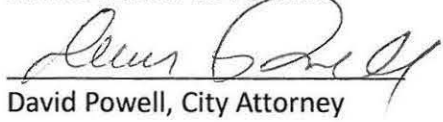
Dated: May 8, 2014

ATTEST:



Catherine Schneider, City Recorder

APPROVED AS TO FORM:

A handwritten signature in black ink, appearing to read "David Powell", written over a horizontal line.

David Powell, City Attorney

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**BEFORE THE CITY COUNCIL
OF THE CITY OF LAKE OSWEGO**

A REQUEST FOR COMPREHENSIVE PLAN MAP
AND ZONING MAP AMENDMENTS FROM R-15
TO R-7.5 FOR PROPERTIES AT 5316, 5324 AND
5362 CARMAN DRIVE

LU 13-0049-1834
FINDINGS AND CONCLUSIONS

NATURE OF PROCEEDINGS

This matter came before the Lake Oswego City Council on the Planning Commission’s recommendation to grant a request for Comprehensive Plan Map and Zoning Map amendments from Low Density Residential R-15 (R-15) to Low Density Residential R-7.5 (R-7.5) for properties at 5316, 5324 and 5362 Carman Drive. The proposed R-7.5 zone designation allows the same uses as the R-15 zone.

HEARINGS

The Planning Commission held a public hearing and considered this application at its meeting of February 10, 2014. On February 24, 2014, the Commission adopted findings, conclusions and an order recommending the map changes. The City Council held a public hearing and considered the Commission’s recommendation on April 15, 2014.

CRITERIA AND STANDARDS

- A. City of Lake Oswego Community Development Code-Procedure (LOC Chapter 50)
 - LOC 50.07.003.1.b Burden of Proof
 - LOC 50.07.003.7 Appeals
 - LOC 50.07.003.15 Major Development (excluding subsection d.ii).
 - LOC 50.07.003.5 Conditions of Approval
 - LOC 50.07.003.3 Notice of Public Hearing
 - LOC 50.07.003.4 Hearings before a Hearings Body

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LOC 50.07.003.16.a Legislative Decision Defined (Quasi-judicial Comp. Plan and Zone Map Amendments to be processed via Major Developments Procedures)

LOC 50.07.003.16.c Required Notice to DLCD

B. City of Lake Oswego Comprehensive Plan Policies

2014 Updated Comprehensive Plan:

Land Use Planning Chapter
Goal E, Comprehensive Plan Amendments
Policies E-1 and E-2

Complete Neighborhoods & Housing Chapter
Goal A, Housing Location and Quality
Policy A-1

1994 Comprehensive Plan:

- Goal 1: Citizen Involvement
Policies 1, 2, 3, 4 and 5
- Goal 2: Land Use Planning
Section 1, Land Use Policies and Regulations
Policies 1, 3, 5, 9, 10, 11, 14, 17, 20, 21, 24, 25, 26 and 27
Section 2 Community Design and Aesthetics
Policy 4
- Goal 5: Open Spaces, Historic & Natural Areas
Section 1, Fish and Wildlife Habitat
Policies 1, 2, 3, 5, 6 and 10
Section 2, Vegetation
Policies 1, 2, 3, 5, 9, 10, 12, 13 and 14
Section 5, Sensitive Lands
Policies 1, 6, 7 and 9
- Goal 6: Air, Water, Land Resource Quality
Section 1, Air Resources Quality
Policies 3, 4 and 5
Section 4, Sound Quality
Policies 4 and 7
- Goal 7: Areas Subject to Natural Disasters & Hazards
Section 3, Landslides, Erosion and Unstable Soils
Policies 1, 2, 3, 4 and 5
- Goal 8: Parks and Recreation
Policy 6
- Goal 10: Housing
Policies: 1, 3, 5, 6, 7, 13 and 14
- Goal 11: Public Facilities and Services
Section 1, Public Safety and Fire Protection
Policies 2, 5 and 12

- 1 Section 2, Storm Water Management
- 2 Policies 3, 6, 8 and 9
- 3 Section 3, Water Treatment and Delivery
- 4 Policies 4, 7, 8 and 9
- 5 Section 4, Wastewater Collection and Treatment
- 6 Policies 1 and 2
- 7 Goal 12: Transportation
- 8 Subgoal 1, Major Streets System
- 9 Policies 1, 2, 4 and 5
- 10 Subgoal 4, Land Use/Transportation Relationships
- 11 Policies 1, 2, 4, 6, 9, 10 and 14
- 12 Subgoal 6, Walking
- 13 Policies 2, 3, 4 and 7
- 14 Subgoal 7, Bicycling
- 15 Policy 2
- 16
- 17 C. Special District Plan-Lake Forest Neighborhood Plan
- 18 Goal 1: Citizen Involvement
- 19 Policies 1, 2 and 3
- 20 Goal 2: Land Use Planning
- 21 Policies 1, 2, 4 and 6
- 22 Goal 5: Open Spaces, Scenic and Historic Resources and Natural Resources
- 23 Policies 1, 2, 3, 5 and 11
- 24 Goal 6: Air, Water and Land Resources
- 25 Subgoals 1, 2 and 3
- 26 Goal 10: Housing
- 27 Policies 1 and 3
- 28 Goal 11: Public Facilities
- 29 All Policies
- 30 Goal 12: Transportation
- 31 Policies 5, 7, 9, 12 and 13
- 32
- 33 D. Metro Urban Growth Management Functional Plan
- 34 Title 1: Requirements for Housing and Employment Accommodation
- 35 Title 13: Nature in Neighborhoods
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- 37 E. Regional Transportation Functional Plan
- 38
- 39 F. Transportation Planning Rule (Chapter 660, Division 12)
- 40 OAR 660-12-060(1) and (2)
- 41
- 42 G. Oregon Statewide Planning Goals
- 43 Goal 1: Citizen Involvement
- 44 Goal 2: Land Use Planning
- 45 Goal 5: Open Spaces, Scenic and Historic, and Natural Resources
- 46 Goal 6: Air, Water and Land Resources
- 47 Goal 7: Areas Subject to Natural Hazards
- 48 Goal 10: Housing
- 49 Goal 11: Public Facilities and Services
- 50 Goal 12: Transportation

1 **FINDINGS AND REASONS**

2 To the extent they are consistent with the City Council's supplementary findings, the
3 Council incorporates the January 31, 2013, staff report with all exhibits; the Planning
4 Commission's February 24, 2014, Findings and Conclusions; and the March 26, 2014, Council
5 Report with all exhibits as support for its decision, supplemented by the following further
6 findings and conclusions. In the event of any inconsistency between the Council's
7 supplementary findings and the incorporated material, the supplementary findings control.

8 Following are the City Council's supplementary findings:

9 The City Council has adopted an updated Comprehensive Plan, which became effective
10 on April 18, 2014 (the "2014 Plan"). The incorporated January 31, 2014 staff report ("January
11 Staff Report") and the Planning Commission proceedings in this matter all occurred before that
12 date. Consequently, Comprehensive Plan references in the record are to the previous version
13 of the Plan (the "1994 Plan"). Although, as pointed on pages 3 and 4 of the March 26, 2014
14 Council Report, all Comprehensive Plan policies relevant to this request have remained the
15 same, those policies have been reorganized and have different citations under the 2014 Plan.

16 The City Council concurs with the Planning Commission's findings that the request
17 meets all applicable criteria. The Council finds, however, that the January Staff Report
18 incorporated in the Commission's findings erred in concluding that a portion of a certain
19 Comprehensive Plan policy need not be addressed.

20 Policy 5(b)(ii)(E) of Section 1 of Goal 2 of the 1994 Plan requires the city to maintain
21 residential neighborhoods "at existing zone and plan density designations" except where the
22 applicant demonstrates certain criteria are met, including:

23 The applicant shall demonstrate a public need for the proposed plan/map
24 density change and that the proposed change will best meet the need when
compared to alternatives [Goal 2, Section 1 Policy 14(e)];

25 This same policy is now embodied in Policy E-2(b)(ii)(E) of the Land Use Planning chapter of the
26 2014 Plan, but without the bracketed reference appearing at the end of the 1994 edition.

1 The January Staff Report interpreted “zone and plan density designations” as referring
2 to each of the three Land Use Classifications within the city’s Housing Needs Analysis: Low
3 Density (single-family dwellings in R-7.5, R-10 and R-15 zones), Medium Density (single-family
4 dwellings in R-3, R-5 and R-6 zones), and High Density (multi-family dwellings in a number of
5 listed zones). Since both R-15 and R-7.5 are within the same classification, it was concluded
6 that a zone change from one to the other would not be a change of a “zone and plan density
7 designation” and therefore Policy 5(b)(E) of the 1994 Plan [E-2(b)(ii)(E) under the 2014 Plan]
8 would not apply. As a result, there would be no need for the applicant to demonstrate that the
9 proposed zone change would best meet the identified public need when compared with
10 alternatives.

11 The City Council finds, however, that the alternatives analysis is required. Policy 14(f) of
12 Section 1 of Goal 2 of the 1994 Plan, now Policy E-1(f) of the Land Use Planning chapter of the
13 2014 Plan, provides that *all* proposals to amend the Comprehensive Plan Map or Zoning Map –
14 not just those calling for changes to residential density designations – must show that the
15 amendment will best meet the identified public need versus available alternatives. In fact,
16 Policy 5(b)(ii)(E) of the 1994 Plan, quoted above, references this general zone change policy in
17 brackets (albeit with a typographical error citing subsection 14(e) rather than 14(f)¹). Policy
18 5(b)(ii)(E) does not create an exception to, or otherwise modify, Policy 14(f). It operates simply
19 as a cross-reference to the already-applicable requirements of 14(f).² Likewise, although the
20 text of Policy E-2(b)(ii)(E) of the 2014 Plan does not include a bracketed citation, it nevertheless
21 simply repeats the general requirements of Policy E-1 (f) of the 2014 Plan, including the
22 required alternatives analysis, which already apply to this application.

23
24 _____
25 ¹ A review of each subsection, (e) and (f), makes the typographical error obvious.

26 ² Subsections (A), (B), (C), (D), (F), and (G) of Policy 5(b)(ii) also operate as cross references to already-applicable policies appearing elsewhere in the 1994 Plan.

1 In addition, the Council finds that “existing zone and plan density designations,” as used
2 in the quoted policies, refers to the current specific residential zone density designation for a
3 particular property (R-15 in this case), as opposed to any of several density designations that
4 may be collectively listed within a “Land Use Classification” in the Housing Needs Analysis. A
5 proposed zone change from R-15 to R-7.5 changes the density designation.

6 The Council agrees with the Planning Commission’s finding that there is a public need
7 for an orderly and progressive residential lotting pattern that furthers compatible residential
8 living and a sense of neighborhood in the specific area that includes the subject properties. The
9 subject properties are currently zoned for a minimum lot size that is inconsistent with the
10 surrounding development pattern. The City Council agrees with the Commission’s analysis and
11 determination that the proposed R-7.5 zone designation for the subject properties is necessary
12 in order to allow a pattern of future development on the site that will be consistent with that of
13 the neighborhood.

14 Because substantial evidence in the record establishes that there is a public need to
15 rezone these specific properties in order to achieve development consistency in this specific
16 area, the same evidence also establishes compliance with the requirement of Policy 5(b)(ii)(E)
17 of the 1994 Plan, and Policy E-2(b)(ii)(E) of the 2014 Plan, that the proposed rezoning will best
18 meet that identified public need as compared to alternatives. Unlike a more generalized public
19 need for more R-7.5 land, for which alternative locations may be available, the need to rectify a
20 potentially inconsistent lotting pattern in this specific location can be met only through
21 rezoning these specific properties.

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CONCLUSION

The City Council concludes that LU 13-0049 complies with all applicable criteria and should be approved. The Council also concludes that proposed Ordinance 2634, which implements LU 13-0049, should be enacted.

AYES: Mayor Studebaker, Bowerman, Gudman, Gustafson, Hughes, Jordan, O'Neil


NOES: None

ABSENT: None

ABSTAIN: None

EXCUSED: None

DATED this 6th day of May, 2014.



Kent Studebaker, Mayor

ATTEST:



Catherine Schneider, City Recorder

Prior Comprehensive Plan Designation: Low Density Residential R-15

Approved Comprehensive Plan Designation: Low Density Residential R-7.5 (per Ordinance 2634, attached)



City of Lake Oswego – LU 13-0049
05/28/14

Prior Zoning Designation: Low Density Residential R-15

Approved Zoning Designation: Low Density Residential R-7.5 (per Ordinance 2643, attached)

