

ORDINANCE NO. 89-1033

AN ORDINANCE AMENDING TITLE XI: CHAPTER 2, SECTION 3 OF THE 1963 CITY CODE, ZONING: OFFICIAL ZONING MAP OF OREGON CITY, BY CHANGING CERTAIN DISTRICTS:

OREGON CITY ORDAINS AS FOLLOWS:

Whereas, public necessity and the general welfare of Oregon City require changes to certain districts, which changes have been heard by the City Planning Commission and approved by it after public notice and hearing as required by Title XI: Chapter 13, Section 2 of the 1963 City Code, and the City Commission after public notice and hearing finding that the following described properties which were annexed to Oregon City on August 24, 1989 are hereby changed as follows:

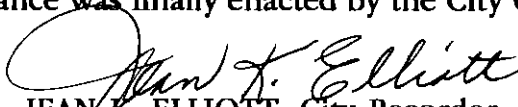
Properties in the Central Point Road/McCord Road area (Tax Lots 1000 and 1100, Map 3-2E-7B), as defined in the Portland Metropolitan Area Local Government Boundary Commission Final Order No. 2665 and described in attached Exhibit "A."

Properties are hereby changed from a Clackamas County Comprehensive Plan designation of Low Density Residential to an Oregon City Comprehensive Plan designation of Low Density Residential, and from a Clackamas County zoning designation of "FU-10" Future Urban 10-Acre Minimum to an Oregon City zoning designation of "R-10" Single-Family Residential. Change is subject to the following conditions:

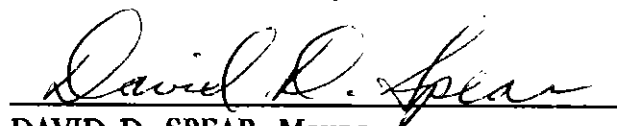
1. That road dedication along S. Central Point Road and S. McCord Road be required.
2. That the property owners sign a waiver of remonstrance to formation of a local improvement district for sanitary sewer.

In support of these changes and conditions, the City Commission adopts and incorporates by reference herein the findings of fact and conclusions of law, attached as Exhibit "B".

Read first time at a regular meeting of the City Commission held on the 1st day of November, 1989, and the foregoing ordinance was finally enacted by the City Commission this 1st day of November, 1989.


JEAN K. ELLIOTT, City Recorder

ATTESTED this 1st day of November, 1989.


DAVID D. SPEAR, Mayor

ORDINANCE NO. 89-1033

Effective Date: December 1, 1989.

EXHIBIT A

LEGAL DESCRIPTION

of

CENTRAL POINT ROAD ANNEXATION

1

A tract of land situated in the S. S. White D.L.C. No. 41 and the M. N. McCarver D.L.C. No. 40 in the Northwest quarter of Section 7, Township 3 South, Range 2 East, of the Willamette Meridian, Clackamas County, Oregon, and being more particularly described as follows:

COMMENCING at the most Northerly corner of said White D.L.C. No. 40; THENCE S. 42° 15' W. along the Northwesterly line thereof, a distance of 4488.00 feet to the Northeast corner of that certain tract of land described in contract to Doyle B. Moore, et ux., as recorded under Recorder Fee No. 77-13199, Deed Records; THENCE S. 47° 15' E. a distance of 30.00 feet to a point in the Southeasterly line of Central Point Road (Market Road No. 24, a 60 foot right-of-way), said point being also the **POINT OF BEGINNING** of the tract herein to be described;

THENCE continuing S. 47°15' E. along the Northeast line of said Moore tract a distance of 660 feet, more or less, to the most Easterly corner thereof; THENCE S. 42° 15' W. along the Southeast line of said Moore tract and its Southwesterly extension a distance of 535 feet, more or less, to a point in the Southwesterly line of McCord Road (County Road No. 374 ½, a 40 foot right-of-way); THENCE N. 47° 15' W. along the Southwesterly line thereof a distance of 16 feet, more or less, to the most Easterly corner of that certain tract of land conveyed to Wilhelm H. Deppenmeier, et ux., by deed as recorded on December 9, 1957 in Book 534, Page 127, Deed Records; THENCE S. 42° 15' W. along the Southeast line thereof a distance of 677.82 feet to the most Southerly corner thereof; THENCE N. 47° 45' W along the Southwest line thereof and its Northwesterly extension a distance of 703.50 feet to a point in the Northwest line of said Central Point Road; THENCE N. 42° 15' E. along the Northwesterly line thereof a distance of 565 feet, more or less, to a point at the intersection with the Northeasterly line of Partlow Road (County Road No. 374 ½, a 40 foot right-of-way); THENCE Southeast along the Southeasterly extension of said Northeasterly line of said Partlow Road, a distance of 60 feet to a point in the Southeasterly line of said Central Point Road; THENCE N. 42° 15' E. along the Southeasterly line thereof a distance of 600 feet, more or less, to the **POINT OF BEGINNING**.

Containing an area of 17.47 acres, more or less.

EXHIBIT B

BEFORE THE CITY COMMISSION OF THE CITY OF OREGON CITY

IN THE MATTER OF A Comprehensive Plan)	FINDINGS OF FACT
Amendment and Zone Change for)	AND CONCLUSIONS
Properties Annexed in August, 1989,)	OF LAW
File No. PZ-89-06		

This matter came before the City Commission of Oregon City at a public hearing on October 12, 1989. Based on the evidence and testimony presented, the City Commission finds and concludes as follows:

1. This City-initiated proceeding involves the application of City comprehensive plan and zoning designations to two previously unincorporated parcels recently annexed to the City of Oregon City. Parcel 1 is identified as Tax Lot 1100, Assessor's Map 3-2E-7B. Parcel 1 is owned by Doyle B. and Jessica Y. Moore, consists of approximately 6.86 acres, and is occupied by one single-family dwelling. Parcel 2 is identified as Tax Lot 1000, Assessor's Map 3-2E-7B. Parcel 2 is owned by William H. and Lilli F. Deppenmeier, consists of approximately 9.23 acres, and is occupied by two single-family residences.

2. Parcels 1 and 2 are located at 19300 and 19360 S. Central Point Road.

3. Parcels 1 and 2 have been designated Low Density Residential on the Clackamas County Comprehensive Plan map and were zoned FU-10, Future Urban, 10-acre minimum. The City initiated this proceeding to convert the comprehensive plan and zoning designations for these parcels from County to City.

4. On September 26, 1989, the Oregon City Planning Commission held a public hearing on this proposal. The Planning Commission recommended that the parcels be redesignated low density residential and rezoned R-10.

5. Oregon City's acknowledged comprehensive plan controls the plan designations which may be applied to annexed lands. The Plan's "Growth and Urbanization" element requires the City to redesignate annexed lands consistent with the County designation applied to those lands. Table I, on page G-3 of the City's acknowledged plan, requires that lands County-designated "Low Density Residential" shall be redesignated "Low Density Residential" by the City following annexation. This provision is consistent with the acknowledged Oregon City-Clackamas County Dual Interest Area Agreement, which provides in Section 5 that

"Upon annexation, the City may either leave the County plan and implementing regulations intact or, in accordance with ORS 215.130 and through the plan amendment process, pages G-5 and G-6 of the Oregon City Comprehensive Plan, and Section 11-2-5 of the Oregon City Code, convert the County Plan and zoning classifications, and thereby apply all City Plans and land use regulations to the annexed areas. ***. Such a change upon annexation to corresponding designations is deemed by the parties to be a coordinated planning effort. A change of plan and zoning designation to other than a corresponding City Plan and zoning designation upon annexation shall comply with applicable Statewide Planning Goals and the undertaking in the process provided by the City and ORS 197.605 to 197.650 and 215.130."

The City Commission concludes that the City designation applied to these parcels corresponds to that previously applied by the County, satisfied the requirements of the Plan's Growth and Urbanization Element and the Urban Growth Management Agreement, and renders the statewide goals inapplicable to this process.

6. The City Code provisions applicable to zone changes for annexed areas are Section 11, Chapter 12, and Section 11-2-5. Section 11-12-1 and 11-12-2 authorize the City to initiate zoning changes, with the matter first referred to the Planning Commission. Section 11-12-3 requires public hearings on proposed zone changes. The City Commission finds and concludes that these requirements are met. Section 11-12-4 authorizes the City Commission to attach conditions to a zone change as it deems necessary in the public interest. The City Commission has attached conditions to this zone change pursuant to this authority. Justification for the conditions is set forth below.

7. Section 11-2-5 of the City Code provides that the rezoning of newly annexed lands "reflect the City zone closest to the most appropriate County land use classification as illustrated in Table A." Table "A" provides that for lands designated Low Density Residential, the appropriate City zones are R-10, R-8, or R-6. The Code provides the City Commission with the discretion to determine which of these zoning districts is most appropriate under the circumstances.

8. Incorporated properties immediately adjacent to the subject parcels are zoned predominantly R-10. There is some undeveloped R-8 property about 1000 feet northeasterly on Central Point Road. The City Commission further believes testimony that more intensive low density development, as allowed under R-8 or R-6 zoning would not be as compatible at this time.

9. Code Section 11-12-4 authorizes the City Commission to impose conditions and requirements on zone changes as it deems necessary in the public interest. The City Commission approves this zone change to R-10 contingent upon two conditions. One condition requires the property owners to dedicate land for roadway purposes along S. Central Point Road and S. McCord. The second condition requires the property owners to sign a waiver of remonstrance to the formation of a local improvement district for sanitary sewer.

10. The City Commission finds that the conditions attached to the zone change are necessary to serve the public interest for the following reasons:

(a). The existing FU-10 zoning permits a residential dwelling at a very low, rural density of one unit per 10 acres. However, R-10 zoning allows residential development at an urban density of approximately four units to the acre. This constitutes a significant increase in the permitted intensity of use.

(b). The Portland Metropolitan Area Boundary Commission's action approving annexation of these parcels to the City authorized their development for urban rather than rural uses. Upon rezoning to R-10, urban uses are permitted outright. Therefore, it is appropriate to attach conditions reflective of needs created by the more intensive uses allowed.

(c). With respect to the condition requiring road dedication, the City heard and believes testimony and finds that S. Central Point Road and S. McCord Road are narrow. The City Commission determines that these narrow roads need widening to serve the additional population allowed under R-10 zoning. The City finds that it may be necessary in the future to realign one or both roads to better serve the area. At such time, the City will determine the fair share of costs for such realignment. Consequently, the City is requiring each property owner to dedicate land, as needed, to provide adequate road right-of-way.

(d). Regarding the waiver of remonstrances for sanitary sewers, the City Commission finds this condition is warranted in the public interest because R-10 zoning permits development at urban densities. Urban development requires sanitary sewer services. At such time as a local improvement district is formed, each property owner will be assessed his or her fair share of the costs. The signing of a waiver of remonstrance does not commit these property owners to any particular amount of cost at this time, but simply commits them to participating in the LID and bearing their fair share of the costs. The City Commission concludes that participation in an LID for sanitary sewer is necessary in the public interest to assure that urban development in this location is served with sanitary sewer and to assure that such services can be provided in a timely, orderly and efficient manner.



CITY OF OREGON CITY

INCORPORATED 1844

FOR AGENDA
DATED

November 1, 1989

COMMISSION REPORT

Page 1 of 1

TO THE HONORABLE MAYOR AND COMMISSIONERS

Subject: Ordinance No. 89-1033 Adopting
Findings of Fact and Conclusion of Law
for a Plan and Zone Change for
Tax Lots 1000 and 1100, Map No. 3-2E-7B

Report No. 89-231

On the November 1, 1989 City Commission agenda is Ordinance No. 89-1033 that enacts a Plan and Zone Change for the Deppenmeier and Moore properties on Central Point and McCord Roads.

As the Commission recalls, at its last regularly scheduled meeting a public hearing was held to consider the request to adopt City Zoning for recently annexed property. After much testimony the City Commission approved a low density plan designation and R-10 single-family zone designation for both properties with conditions on right-of-way dedication and non-remonstrance for sewer district formation.

Attached for Commission review and approval is Ordinance No. 89-1033 that adopts the Findings of Fact and Conclusions of Law for the Plan and Zone change.

Notice of proposed Ordinance No. 89-1033 was posted at City Hall, 320 Warner-Milne Road; Courthouse, 807 Main Street; and, Senior Center, 615 Fifth Street, by direction of the City Recorder. It is recommended that first and second readings be approved, for final enactment to become effective December 1, 1989.

THOMAS FENDER III
City Manager

JGB:im

attach.

cc: Development Services Director
William & Lilli Deppenmeier
Doyle & Jessica Moore

Oregon City, Oregon
Oct.27, 1989

Board Members of
Oregon City City Commission
City Hall
520 Warner Milne rd.
Oregon City, Oregon

Dear Board Members:

Please send a copy of your signed finality of the
Deppenmier-Moore 2665 annexation.

I remind the Board that ignoring the controlled use
of restricted use chemical pesticides thrown 50 feet in
the air to be effective on orchard canopy is a criminal
act as shown from the Oregon State licensed applicators
manual as given in exhibit C and testimony Oct.12, and
other testimony previously given.

Sincerely yours,

Richard H. Fensky
Richard H. Fensky
19470 S. Central Point rd.
Orego City, Oregon 97045

RECEIVED
CITY OF OREGON CITY

1989 OCT 31 PM 3:49

Personal Cleanup

Any time you spill a pesticide on yourself, wash immediately. When you finish working with pesticides or pesticide-contaminated equipment, take a shower. Wash your body and hair thoroughly with detergent and water. Work clothing should be changed daily. Place used clothing away from your other clothes and away from the family laundry. The pesticides remaining on your work clothes could injure persons who touch them. Do not allow children or pets to play in them. Be sure that the person who will be laundering your work clothes knows of the potential danger. Do not launder work clothes with the family laundry. Do not wash contaminated gloves, boots, respirators, or other equipment in streams or ponds. The pesticides could poison aquatic life or harm people, livestock, or wildlife.

Reentering Treated Areas

Unprotected persons should not enter an area immediately after a pesticide application. The waiting period is called the **reentry interval**. Workers not wearing proper protective clothing must always wait at least until sprays have dried or dusts have settled before entering an area treated with any pesticides. Some highly toxic carbamate and organophosphate pesticides have specific reentry times set by law. These times must be listed on the pesticide label. Some states have set even longer reentry times for some pesticides due to climatic conditions and other special hazards in their area.

If you are in charge of a pesticide application, you are responsible for warning workers and other people that an area has been treated with pesticides. You must either tell the people or put up warning signs, or you may do both. These signs must be placed at the usual point of entry to the areas or on bulletin boards where the workers normally gather for work instructions. If you have reason to believe that a person is not able to read, you must make a reasonable effort to make sure that person understands the warning. If necessary, you must arrange for these warnings to be given in other languages.

The warnings must include:

- areas, buildings, or fields which have been treated.
- length of time unprotected persons should stay out of areas (reentry interval), and
- what to do in case of exposure.

The above guidelines **will not** be listed on the label. However, you, the applicator, are responsible

for seeing that they are followed. The only exceptions are mosquito abatement and related public pest control programs and livestock and other animal treatments.

POCKET CARD

DETACH AND CARRY WITH YOU

STATE OF OREGON DEPARTMENT OF AGRICULTURE PRIVATE PESTICIDE APPLICATOR CERTIFICATE	
FENSKY, RICHARD H 19470 S CENTRAL PT OREGON CITY OR 97045	CERT NO 014764
ISSUED 06/23/88	EXPIRES 09/30/93
SIGNATURE <i>Richard H. Fensky</i>	

THE ATTACHED I.D. CARD IS REQUIRED BY CRS 634 FOR THE PURCHASE OF RESTRICTED PESTICIDES. YOU ARE REQUIRED TO PRESENT THIS CARD TO THE PESTICIDE DEALER FOR PURCHASE

STATE OF OREGON
DEPARTMENT OF AGRICULTURE
635 CAPITOL STREET, N.E.
SALEM, OR 97310-0110



FENSKY, RICHARD H
19470 S CENTRAL PT
OREGON CITY
OR 97045

TEST RESULTS 0080

NOT VALID UNLESS SIGNED

absence of a "Restricted-Use Pesticide" statement does not mean that the product is not hazardous; it may simply mean that the pesticide has not yet been classified.

Certification of Applicators

Persons who are not certified pesticide applicators may not purchase or use restricted pesticides unless they are directly supervised by a certified applicator.

Certification requires training or testing for competency in the safe and effective handling and use of these pesticides.

Your state or a federal agency will conduct the training and/or tests for certification. Your state may impose stricter standards than those required by FIFRA. The U.S. Environmental Protection Agency requires each state to maintain a program to assure that certified applicators have current certification. Check with your state to determine the requirements you need to meet.

Many adjoining states have developed agreements to allow certification in one state to be accepted in the nearby states or throughout a region. If you will be operating in more than one state, you should check with the proper authorities to determine whether separate training and/or testing for certification is necessary for each state.

There are two types of certified pesticide applicators—private applicators and commercial applicators.

Private Applicators

Private applicators are persons who use or supervise the use of restricted-use pesticides in producing an agricultural commodity on property owned or rented by themselves or their employer, or on the property of another person with whom they trade services. Examples of private applicators are farmers, ranchers, floriculturists, and orchardists. Private applicators are trained and/or tested in the safe use and handling of pesticides and pest control practices associated with agricultural operations.

Commercial Applicators

Commercial applicators are persons who use restricted-use pesticides for hire on property other than their own, and government workers (public operators) who apply pesticides in their jobs. Commercial applicators are trained and tested in the general areas of safe use and handling of pesticides

and then receive further training in one or more specific categories of application, including:

- agricultural pest control (plant or animal),
- forest pest control,
- ornamental and turf pest control,
- seed treatment,
- aquatic pest control,
- right-of-way pest control,
- industrial, institutional, structural, and health-related pest control,
- public health pest control,
- regulatory pest control,
- demonstration and research pest control.

Several states have different or additional categories for commercial applicators. These include, for example, aerial application, wood preservation, and use of antimicrobials.

You must determine which categories best fit your business needs. It is illegal to apply a restricted-use pesticide in a category in which you are not certified.

Penalties

If you violate the law or regulations enacted under FIFRA, you are subject to civil penalties. They can be as much as \$5,000 for each offense (\$1,000 for private applicators). Before EPA can fine you, you have the right to ask for a hearing in your own city or county. Some violations of the law may also subject you to criminal penalties. These can be as much as \$25,000 or one year in prison, or both, for commercial applicators; \$1,000 and/or 30 days in prison for private applicators.

Registration

Every pesticide which is bought, sold, or used in the United States must, by law, be registered by the U. S. Environmental Protection Agency. EPA approves not only the product itself, but also each separate use for which it is intended, and the product label. You are responsible for applying only those pesticides which are registered. You may encounter three major types of registration:

- federal registration,
- special local needs registration,
- emergency exemptions from registration.

Federal EPA registrations are the most familiar. Most pesticide uses are registered this way. Look for the official EPA registration number (which must appear on the label) to be sure you are buying an approved product.