



# Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

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## 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: City of The Dalles Plan Amendment  
DLCD File Number 003-06



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 3, 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: Gloria Gardiner, DLCD Urban Planning Specialist  
Mark Radabaugh, DLCD Regional Representative  
Steven Santos, DLCD Economic Development Planning Specialist  
Richard Gassman, City of The Dalles

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# NOTICE OF ADOPTION

DEPT OF

This form must be mailed to DLCD not later than 5 working days after adoption  
ORS 197.615 and OAR Chapter 660, Division 18

JUL 14 2006

See reverse side for submittal requirements

LAND CONSERVATION  
AND DEVELOPMENT

Jurisdiction City of The Dalles Local File # ZOA 71-06; CPA 32-06  
Date of Adoption July 10, 2006 Date Mailed July 13, 2006  
Date the Proposed Notice was mailed to DLCD 3-31-06

- Comprehensive Plan Text Amendment
- Comprehensive Plan Map Amendment
- Land Use Regulation Amendment
- Zoning Map Amendment
- New Land Use Regulation

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

Rezone of one parcel of approximately 67 acres from Industrial to Commercial / light Industrial.

Describe how the adopted amendment differs from the proposed amendment. If it is the same, write "Same." If you did not give notice of the proposed amendment, write "N/A."

Same.

Plan Map Change From Industrial to Commercial / light Industrial  
Zone Map Change From Industrial to Commercial / light Industrial

Location: The Dalles Acres Involved: 67.2

Specify Density: Previous Density N/A New Density N/A

Applicable Goals: 2, 12 Was an Exception adopted?  Yes  No

DLCD File # 003-06 (15124) DLCD Appeal Deadline \_\_\_\_\_

Did DLCD receive a Notice of Proposed Amendment 45 days prior to the final hearing?

Yes     No:     The Statewide Planning Goals do not apply  
 Emergency Circumstances Required Expedited Review

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

O.DOT

Local Contact: Richard Grassman Phone: 541-296-5481x1151  
Address: 313 Court St. The Dalles, OR 97058

## SUBMITTAL REQUIREMENTS

ORS 197.615 and OAR Chapter 660, Division 18

1. Send this Form and **One (1) Copy** of the Adopted Amendment to:  
**Department of Land Conservation and Development**  
**1175 Court Street, N.E.**  
**Salem, Oregon 97310-0590**
2. Submit **three (3) copies** of bound documents and maps larger than 8½ by 11 inches.
3. 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 be extended if you do not submit this Notice of Adoption within **five working days** of the final decision. Appeals to LUBA may be filed within **21 days** of the date Notice of Adoption is sent to DLCD.
6. In addition to sending Notice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.

If you need more copies of this form, please call the DLCD at 503-373-0050 or this form may be duplicated on green paper.

AN ORDINANCE APPROVING ZONING ORDINANCE AMENDMENT NO. 71-06 AND COMPREHENSIVE PLAN AMENDMENT NO. 32-06, FOR A PARCEL MEASURING APPROXIMATELY 67.2 ACRES, LOCATED ON THE SOUTHWEST END OF RIVER ROAD

WHEREAS, on March 20, 2006, WM3, Inc., an Oregon corporation, submitted an application requesting a zone change and a Comprehensive Plan amendment for a parcel measuring approximately 67.2 acres located on the Southwest end of River Road in The Dalles, to change the Comprehensive Plan Map and Zoning Ordinance Map from "I" - Industrial to "CL1" - Commercial/Light Industrial; and

WHEREAS, the City Planning Commission conducted public hearings on the application on May 18 and June 1, 2006, and voted to recommend the City Council approve the requested zone change and Comprehensive Plan amendment, with five (5) recommended conditions of approval; and

WHEREAS, on June 12, 2006, the City Council conducted a public hearing on the application; and

WHEREAS, a staff report was presented to the City Council and public testimony was received at the public hearing; and

WHEREAS, following the close of the public hearing, the City Council deliberated, and voted 5 to 0, to approve the requested zone change amendment and Comprehensive Plan amendment, with six (6) conditions of approval, based upon findings of fact and conclusions of law; and

WHEREAS, City Council directed staff to prepare an ordinance setting forth proposed findings of fact and conclusions of law; and

WHEREAS, the City Council has reviewed the proposed findings of fact and conclusions of law, attached to this ordinance as Exhibit "A", and incorporated herein by this reference;

NOW, THEREFORE,

THE COUNCIL OF THE CITY OF THE DALLES ORDAINS AS FOLLOWS:

Section 1. The City Council hereby adopts and approves the findings of fact and conclusions of law set forth in Exhibit "A". Based upon these findings of fact and conclusions of law, the application of WM3, Inc., for Zoning Ordinance Amendment No. 71-06 and Comprehensive Plan Amendment No. 32-06, concerning a request to change the zone designation for a parcel measuring approximately 67.2 acres located on the Southwest end of River Road, from "I" - Industrial to "CLP" - Commercial/Light Industrial, is hereby approved, with the following conditions:

1. Annexation of the property will be required.
2. Any development of the subject property will require an application for site plan approval to be heard by the Planning Commission as a quasi-judicial hearing, pursuant to the City of The Dalles Land Use and Development Code Subsection 3.020. The site plan review criteria identified in LUDO Subsection 3.030.040 shall not be met until the requirements of OAR 660-012-0060 are satisfied.
3. As part of the site plan review process, ODOT and DLCD will be given notice of the hearing and an opportunity to participate.
4. The City Council shall adopt the pending Transportation System Plan prior to making a final decision upon this rezone request.
5. As part of the site plan approval, the City shall make findings that development of the area subject to site plan review does not significantly impact the transportation system as defined by OAR 660-012-0060(1); or the City will take actions as

required in OAR 660-012-0060(2). The TPR analysis shall take into consideration the area subject to site plan review. Each site plan review on this property will take into account the cumulative effect of development.

6. As part of the site plan review, the applicant shall provide a traffic impact study based upon engineering standards and criteria approved by ODOT to analyze the traffic impact of the area subject to site plan review. The City shall use the standards established in the 1999 Oregon Highway Plan and adopt findings evaluating the impact on transportation facilities from development of the area subject to site plan review.


7. Development of this property shall not reduce the capacity of the adjacent freeway interchange below that reserved for the development and redevelopment of the areas zoned industrial and for the Discovery Center. The required reserve capacity shall be established by the City, in consultation with ODOT, after receipt of the traffic study required in Condition No. 6.

8. As development of the site occurs, each additional development will pay into a City fund for future improvements to the interchange. The total amount will be determined on estimated costs of future improvements. Each development will pay their proportional share of the total using the total capacity divided by the amount of capacity used as determined by traffic impact studies for each stage of development.


PASSED AND ADOPTED THIS 10<sup>TH</sup> DAY OF JULY, 2006.

Voting Yes, Councilor: Zukin, Seckora, Broehl, Davison  
Voting No, Councilor: None  
Absent, Councilor: Tenney  
Abstaining, Councilor: None

AND APPROVED BY THE MAYOR THIS 10<sup>TH</sup> DAY OF JULY, 2006.

  
\_\_\_\_\_  
Robb Van Cleave, Mayor

Attest:

  
\_\_\_\_\_  
Julie Krueger, MMC, City Clerk

FINDINGS OF FACT  
AND  
CONCLUSIONS OF LAW

1. The request for a Zoning Ordinance Amendment and Comprehensive Plan Amendment is to redesignate a portion of Tax Lot 700 of Section 28, Township 2 North, Range 13 East, Willamette Meridian, Wasco County, Oregon, from Industrial ("I") to Commercial/Light Industrial ("CLI"). The subject parcel measures approximately 67.2 acres. The property is located at the Southwest end of River Road, adjacent to the Chenoweth Interchange for Interstate 84.
  
2. The application was found to be complete by the Planning Department on March 31, 2006. The application for a Zone Change and Comprehensive Plan Amendment were combined into a single hearing under the provisions of Section 3.100 of the City's Land Use and Development Ordinance (hereinafter "LUDO"). Staff reports were prepared for the hearings before the Planning Commission and City Council setting forth the applicable criteria and standards, and proposed findings of fact. The initial public hearing before the Planning Commission was held on May 18, 2006, which complied with LUDO requirements and Department of Land Conservation and Development Commission requirements. Notices of the hearing before the Planning Commission and City Council were properly mailed and published, as required by the LUDO and DLCD regulations. The Zone Change application was reviewed on May 18, 2006, which is more than 30 days after the application was deemed complete, as required by the LUDO.
  
3. The applicant presented testimony that not all of the 67.2 acre parcel was available for development, due to identified wetlands on the site, and a high voltage power line easement across the site. The applicant estimated that a total of 53 net acres of the site could be utilized for development. Testimony was submitted that the site was capable of being served with public infrastructure including water, sewer and other necessary utilities. Dan Meader, the applicant's principal planner, presented testimony that development of the site will provide an opportunity for the City Public Works Department to satisfy a long term goal of reconnecting the Port of The Dalles water mains back into the City's system located on West Sixth Street, to eliminate the potential of stagnation of water and provide for redundant water feed to the area. Mr. Meader presented testimony that sanitary sewer would be provided either from West Second Street or from existing mains located near Crates Way and River Road, and that storm drainage would be discharged in accordance with City regulations.
  
4. The applicant submitted testimony that the location of the site was a critical factor in determining the need to request the change in zoning for the property from Industrial ("I") to Commercial/Light Industrial ("CLI"). Dan Meader, the applicant's principal planner, submitted testimony that the property's location, adjacent to the Chenoweth Interchange, made the site an ideal location for Commercial/Light Industrial Development. Mr. Meader cited the development

of the Port of The Dalles Industrial Park, as an example of a successful industrial development which was located slightly away from immediate freeway access. Mr. Meader testified Commercial and Light Industrial Development typically relies upon a broad customer base, which needs to be located within easy access of transportation corridors.

5. The application for a Zone Change and Comprehensive Plan Amendment did not require the applicant to specify a particular use for development of the property. The applicant presented testimony that it was considering commercial retail and professional offices, which would be conducive to the freeway interchange access, as well as uses similar to the light industrial uses which have been developed upon the Port of The Dalles Industrial site. The applicant presented testimony that there would be significant grade and other site improvement costs to develop the site, which costs could be economically recovered if the site were zoned Commercial/Light Industrial ("CLP"), but not if the property retained its current designation as Industrial ("I").

6. A letter submitted into the record, signed by Andrea Klaas, Executive Director for the Port of The Dalles, indicated in June 2001, the Port and Northwest Aluminum entered into a partnership to develop a strategic plan for the property. At the Council hearing, Ms. Klaas presented a map of the property, which showed a proposal to divide the property into smaller parcels. Ms. Klaas testified that one of the findings from the strategic plan was that the property was better suited for Commercial/Light Industrial development. Ms. Klaas indicated that due to the potential cost of infrastructure for development of the site, rezoning the land to Commercial/Light Industrial ("CLP") was the most financially sensible course of action, allowing development which would be consistent with the Port's proposed primary use of the property.

7. The City's Comprehensive Plan indicates 207.55 acres of industrial land as vacant and buildable, and the industrial land use forecast provided for 170 acres of vacant buildable industrial land within the Urban Growth Boundary. The Comprehensive Plan listed 109.5 acres of commercial land as vacant and buildable, and indicated that approximately 150 acres of commercial land would be needed during the planning period. The Comprehensive Plan indicated the majority of this need could be met through utilization of under-developed commercial lands and by converting some vacant land designated for industrial uses along West Second Street to a Commercial/Light Industrial ("CLP") designation.

8. The applicant presented testimony summarizing data from a study entitled "Land Use Needs and Allocations Analysis", prepared by Erik C. Rundell, a RARE Planner for the City, dated August 2005. Mr. Rundell's report showed 568.22 acres of land designated for commercial use within the City limits, of which only 31.66 acres were available and buildable. Mr. Rundell's report noted there were only 87.54 acres of land designated for industrial uses, within the City limits, which were classified as vacant and buildable. Mr. Rundell's report identified 66.72 acres of land designated for commercial use and located within the Urban Growth Boundary, as available for development. Mr. Rundell's report showed 547.12 acres of land designated for industrial use and located within the Urban Growth Boundary, available for development. The subject property would be part of the 547.12 acres available for industrial



development. The applicant submitted a letter signed by William Reid, Chief Financial Officer of Northwest Aluminum Company, indicating they were marketing approximately 130 acres of industrial property, which would be available for development for industrial uses.

9. The applicant submitted a traffic study to determine the traffic impacts upon the Chenoweth Interchange associated with a potential shopping center development upon the subject property. The study showed the traffic generated by such a proposed use would overwhelm the existing intersections. The traffic impact study indicated the potential use would lower the existing level of service for the Eastbound and Westbound interchanges for Interstate 84 from a "B" to "F" by the year 2027. Dan Meader, the applicant's principal planner, presented testimony the site lies adjacent to River Road, which at the freeway overpass consists of over 80 feet of right-of-way and almost 70 feet of pavement. Mr. Meader testified the right-of-way narrows as it moves towards the Port from 80 feet down to approximately 40 feet at the Riverfront Trail. Mr. Meader testified additional right-of-way could be obtained from the site to increase the widths of the improved roadway and provide necessary public utilities. Mr. Meader testified that significant traffic control measures, including turn lanes, refuge lanes, and other traffic control devices such as traffic signals, would be required in any proposed development of the site.

10. Letters in opposition to the proposed Zone Change and Comprehensive Plan Amendment were submitted by Leonard Barry, expressing concerns about hazardous environmental conditions on the property. The applicant responded that an environmental study and wetlands study had been done on the property, and no hazardous substances were found.

Based upon the foregoing Findings of Fact, the Council makes the following Conclusions of Law:

11. The procedural requirements of Sections 3.010.040 and 3.010.050 for the application, and the review procedures for a Zone Change under Section 3.100.020 have been satisfied.

12. Section 3.100.030 sets forth the following review criteria for a Zone Change:

A Zone Change shall be granted if the following criteria are met:

- A. Conformance. The proposed Zone Change conforms with the Comprehensive Plan and all other provisions of this Ordinance.
- B. Suitability. The site is adequate in size and shape for uses normally allowed by the proposed zone.
- C. Streets and Traffic. The site is, or will be, adequately served by streets for the type and volume of traffic generated by uses that may be permitted in the new zone.

- D. Adverse Effect. The proposed Zone Change shall have minimal adverse effect on existing and future surrounding development.

Conformance with the Comprehensive Plan will be discussed in Finding No. 13, below. Concerning the suitability of the site, the City Council finds and concludes there is substantial evidence in the record to establish that the site is adequate in size and shape for uses normally allowed by the proposed zone. The site measures approximately 67.2 acres. The applicant presented testimony that approximately 53 acres of the site would be available for development. The Council finds and concludes the location of the site adjacent to access to Interstate 84 will make the property suitable for Commercial/Light Industrial ("CLI") uses. The property is capable of being divided into smaller parcels, in a manner consistent with the strategic marketing plan developed by the Port of The Dalles and Northwest Aluminum, which parcels could support uses similar to those uses which have been developed on the Port of The Dalles industrial property.

Regarding the review criteria concerning the adequacy of streets to meet the site's needs, and the volume of traffic generated by uses that may be permitted in the new zone, the traffic study submitted by the applicant showed a "worst case scenario" of a shopping center developed on the site, which would overwhelm the existing intersections at the Chenoweth Interchange. The level of service would be lowered from "B" to "F" by the year 2027. The applicant presented testimony that potential traffic impacts for uses allowed in the new zone could be addressed, through the provision of additional right-of-way which exists along River Road adjacent to the site, which would allow for construction of any required transportation improvements. The applicant indicated it was prepared to make necessary improvements to ensure that the adjacent street system was adequate to handle the traffic flow generated by development of the site. The Council finds and concludes the necessity for improvements, such as a refuge lane, widening the freeway ramps, or installing traffic control devices, such as traffic signals, can be addressed at the time an application is submitted for actual development of the site.

The Council finds and concludes that, under the State's Transportation Planning Rule (OAR 660-012-0600), it appears that the proposed Zone Change and Comprehensive Plan Amendment has the potential to significantly affect an existing transportation facility (the Chenoweth Interchange), as it may allow land uses or levels of development that would result in types or levels of travel or access that are inconsistent with the functional classification of an existing facility, or reduce the performance of an existing transportation facility below the minimum acceptable performance standard identified in a transportation system plan or a comprehensive plan. The Council finds and concludes that the inclusion of Conditions of Approval No. 2 through No. 5 will ensure that any development that occurs upon the site will be done in compliance with the State's Transportation Planning Rule, which will ensure that the streets adjacent to the site will be adequate to handle the traffic flow generated by any use allowed within the Commercial/Light Industrial ("CLI") district.

Concerning the criteria that the proposed Zone Change will have a minimal adverse effect on existing and future development, the Council finds and concludes the proposed Zone Change will not have such an adverse effect. The property across West Second Street, which the subject site touches is zoned Commercial/Light Industrial (“CLI”), which is compatible with the proposed Zone Change. The remainder of property adjacent to the subject site is zoned Industrial (“I”), which allows for uses which are compatible with uses allowed in the Commercial/Light Industrial (“CLI”) zone. The Council finds and concludes the subject site has the potential to be divided into smaller parcels of a size that has allowed development of other Commercial/Light Industrial (“CLI”) uses on the Port of The Dalles property. The Council also finds and concludes the conditions of approval concerning the State Transportation Planning Rule will ensure the proposed Zone Change will not have an adverse impact upon the transportation system which could negatively impact existing and future surrounding development.

13. Goal 2, Policy No. 5 of the City’s Comprehensive Plan provides as follows:

5. Evaluate proposed Comprehensive Plan amendments according to the following criteria:

- a. Compliance with the statewide land use goals and related administrative rules is demonstrated.
- b. Conformance with the Comprehensive Plan goals, policies and implementation measures is demonstrated.
- c. The change will not adversely affect the health, safety and welfare of the community.
- d. Adequate public facilities, services and transportation networks are in place, or are planned to be provided with the proposed change.
- e. Plan changes will be consistent with the vision.

Concerning compliance with Goal No. 9, Economic Development, the Council finds and concludes the applicant is contemplating development of the site for commercial and light industrial uses, primarily due to the site’s proximity to access provided by the Chenoweth Interchange for Interstate 84. The Council finds and concludes approval of the Zone Change and Comprehensive Plan Amendment will assist the City with achieving the goal of having 150 acres of vacant and buildable commercial land, and 170 acres of vacant and buildable industrial land, as set forth in the City’s Comprehensive Plan.

The Council finds and concludes the City’s Comprehensive Plan provides that the need for commercial land for the planning period covered by the Comprehensive Plan could be satisfied in part by converting some vacant land designated for industrial uses along West Second Street to

a Commercial/Light Industrial (“CLI”) designation. The Council finds and concludes there is substantial evidence in the record to establish that conversion of the site from Industrial (“I”) to Commercial/Light Industrial (“CLI”) is reasonable and financially prudent. The applicant presented testimony that due to the topography of the site, extensive costs would be incurred to develop the site, which costs could be recovered if the property were developed to provide for uses allowed in the Commercial/Light Industrial (“CLI”) district, but not in the Industrial (“I”) district. Testimony submitted by the Port of The Dalles confirmed that from a marketing strategy point of view, it made economic sense to rezone the site to Commercial/Light Industrial (“CLI”).

Regarding Goal 12, Transportation, Policy No. 7 provides that “Commercial and industrial developments shall provide adequate ingress and egress, off-street parking, and adequate landscaping.” The Council finds and concludes there is substantial evidence in the record to establish the applicant selected the site for development of commercial and light industrial uses, because of the convenient access provided by the Chenoweth Interchange adjacent to the site. The Council finds and concludes that the inclusion of Conditions of Approval No. 2 through No. 5 will ensure that no development can occur on the site until a site plan has been submitted, and an opportunity for interested parties, including ODOT and DLCDC, is provided to comment upon the application at a public hearing, and appropriate study and analysis are done and findings are prepared and adopted to ensure the application complies with the State Transportation Planning Rule, as required by the LUDO.

The Council finds and concludes there is substantial evidence in the record to establish that the proposed application is in conformance with the Comprehensive Plan goals, policies, and implementation measures. The Council finds and concludes that the proposed site is better suited for development of Commercial/Light Industrial uses, due to its proximity to the Chenoweth Interchange, and the ability to recover costs that will be required to improve the site for development if the property is rezoned. Granting the requested Comprehensive Plan Map Amendment will provide an opportunity for development of a sizable acreage of property that will increase the potential for employment in the local economy and create additional property tax revenue, which will benefit the health, safety, and welfare of the community. The Council also finds that with the conditions of approval included with the decision to approve the Zone Change and Comprehensive Plan Amendment, development of the site can be planned to ensure that adequate public facilities, services, and transportation systems are in place.