



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

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NOTICE OF ADOPTED AMENDMENT

December 21, 2006



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

FROM: Mara Ulloa, Plan Amendment Program Specialist

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

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Due to the size of amended material submitted, a complete copy has not been attached. 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: January 3, 2007

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
Laren Woolley, DLCD Regional Representative
Pete Wall, City of Toledo

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D L C D NOTICE OF ADOPTION

DEC 14 2006

This form must be mailed to DLCD within 5 working days after the final decision per ORS 197.610, OAR Chapter 660 - Division 18 (See reverse side for submittal requirements)

LAND CONSERVATION AND DEVELOPMENT

Jurisdiction City of Toledo

Local File No.: RZ-3-06 (If no number, use none)

Date of Adoption December 6, 2006 12/13/06 (Must be filled in)

Date Mailed: December 13, 2006 (Date mailed or sent to DLCD)

Date the Notice of Proposed Amendment was mailed to DLCD: September 28, 2006

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

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

Rezone approximately 1.57 acres from Public Lands designation to Commercial zone designation.

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 Change from: City Public Lands to City Commercial

Zone Map Change from: City Public Lands to City Commercial

Location: 496 NE Highway 20 Acres Involved: 1.57 acres

Specific Change in Density: Current: N/A Proposed: N/A

Applicable Statewide Planning Goals: #2 and #9

Was an Exception Adopted? Yes: No: X

DLCD No.: 003-06 (15617)

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: City of Toledo

Lincoln County

Local Contact: Pete Wall Area Code + Phone Number: (541)336-2247 x 211

Address: P.O. Box 220 FAX 541/336-3512

City: Toledo, Oregon Zip Code + 4: 97391-0220

ADOPTION SUBMITTAL REQUIREMENTS

This form **must be mailed** by DLCD **within 5 working days after the final decision**
per ORS 197.610, OAR Chapter 660 - Division 18
and Senate Bill 543 and effective on June 30, 1999.

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 bound please submit **TWO (2) complete copies** of documents and maps.
3. Please Note: Adopted materials must be sent to DLCD no 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 plans adopted findings and supplementary information.
5. The deadline to appeal will 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 CITY COUNCIL OF THE CITY OF TOLEDO, OREGON

In the Matter of the Request for)
a Rezone of Assessor's Map # 11-10-8 CD)
Tax Lots 3000, 3001, and 3002)
)
City of Toledo,)
Applicant.)

ORDER

City of Toledo File No. RZ-3-06

This matter came before the City Council on December 6, 2006. The Council held a public hearing, allowing for testimony and introduction of evidence from proponents, opponents, and others. The City Council evaluated the application based on the applicable criteria. Approval of the application is based on the staff report and attachments, testimony presented at the public hearing, recommendation of the Planning Commission, and the following Criteria, Facts, Findings and Conditions of Approval as adopted by the City Council:

CRITERIA FOR EVALUATING THE REZONE:

Rezone Request and Comprehensive Plan Change:

1. 2000 Toledo Comprehensive Land Use Plan-Article 2, objective 8 (Page 19). Any change must be consistent with the Oregon Statewide Planning Goals and guidelines and other applicable criteria. In addition, the applicant must show circumstances have changes, that there is a public need for the amendment, and that the need cannot reasonably be met by any other method.
2. Toledo Municipal Code Section 17.80.050 Criteria for quasi-judicial map amendments

A recommendation or a decision to approve, approve with conditions, or to deny an application for a quasi-judicial amendment shall be based on all of the following criteria:

- A. Demonstration of compliance with all applicable comprehensive plan policies and map designations. Where this criterion cannot be met, a comprehensive plan amendment shall be prerequisite for approval;
- B. Demonstration of compliance with applicable standards and criteria of this code and other applicable implementing ordinances;
- C. Evidence of a change in the neighborhood or community or a mistake or inconsistency in the comprehensive plan or land use maps regarding the property which is subject of the application.

3. 2000 Toledo Comprehensive Land Use Plan

Article 7: Natural Hazards:

Goal 1: Prevent loss of life and property damage by requiring appropriate safeguards for all development of properties within known natural hazard

areas. Natural hazards include: floods, tsunamis, earthquakes, landslides and slop hazards, weak foundation soils, high groundwater, wind/windthrow/winter storms, and wildfires.

Article 9: Economic Development:

Goal 1: Improve the economic position of all elements of Toledo's economic base by retaining and expanding the current businesses while recruiting new businesses into the community.

Goal 2: Ensure an adequate supply of appropriately zoned land to provide for the full range of economic development opportunities in Toledo including commercial, industrial, water dependent, office and institutional services development.

Article 11: Public Facilities and Services:

Goal 1: Provide reliable, high quality, efficient, and cost effective public facilities and services for the residents of Toledo.

Goal 2: Plan, develop and maintain an orderly and efficient arrangements of public, urban-level facilities and services to serve as a framework for urban development within the City of Toledo and the Urban growth Boundary.

Article 5: Open spaces, Scenic and Historical Areas, and Natural resources:

Goal 1: Ensure the provision of open space and the protection of scenic and natural resources as required by state and federal law.

Goal 2: Protect natural resources such as wetlands and riparian habitat areas as required by state and federal law to ensure their continued contributions as natural areas, open spaces, wildlife and vegetative habitat, flood protection and strom water retention and conveyance areas.

FACTS:

1. City of Toledo, as the owner's of the property located at Lincoln County Assessor's Map # 11-10-08-CD Tax Lots 3000, 3001 and 3002 on September 22, 2006, submitted a request to rezone and amend 1.57 acres of property in the city limits of Toledo. See Staff Report Attachment 'B' (Letter).
2. Notification of the proposed annexation and rezone was completed in conformance with the notification requirements as evidenced by submission of the notification affidavits and hereby made part of the record at the November 8, 2006, Planning Commission

hearing and the December 6, 2006, City Council hearing.

3. Tax Lots 3000, 3001 and 3002 are zoned PL. All of the adjacent properties are within the Urban Growth Boundary (UGB) and rezoned RG. See Staff Report Attachment 'D' (Comprehensive Plan Map).
4. The parcels are 1.57 acres and irregularly shaped. The site is the location of the now vacant fire and rescue building.
5. Pending cost estimates for the job, the city fully intends to remove the administrative side of the building to minimize soil movement stresses associated with that side of the building. If possible, the restrooms and electrical room will be retained as well.
6. Article 14: Urbanization and Livability in the 2000 Toledo Comprehensive Land Use Plan provides data pertinent to this matter.
GOALS:
 1. Build Toledo as a small, cost effective, attractive, livable, and sustainable city by encouraging efficient land use patterns.
 2. Design and encourage land use patterns that:
 1. Are compact.
 2. can be effectively serviced.
7. There is no intent on the applicant's part to block, restrict or rescind any existing access to the lower properties.

OBJECTIVES:

1. Encourage commercial development which is properly serviced with public facilities to locate within the city limit.
2. Discourage low-density sprawl development in the Urban Growth Boundary which cannot be converted to commercial uses and densities when urban services become available.
3. Encourage compact development and the use of already serviced vacant and underdeveloped land through effective zoning, land division, and development standards and through the prioritization of public expenditures for municipal services.
4. The City of Toledo adopted the 1999 Buildable Lands Inventory (BLI) on April 4, 2001 and the 1999 BLI was acknowledged by the Department of Land Conservation and Development on May 14, 2002. The inventory clearly states a need for commercial properties.
5. Access to these tax lots is from Business Highway 20.

FINDINGS:

1. The proposed comprehensive plan change and rezone request meets the requirements for a plan amendment set forth in the 2000 Toledo Comprehensive Land Use Plan. A public need for the rezone exists as the 2000 Toledo Comprehensive Land Use Plan in Article 14, Goal #2 and Objectives #1, #2, and #5 have identified as a goal of the community to urbanize sensibly.
2. The City's intent is to smoothly recruit and permit new businesses to the area.
3. The requirements of Toledo Municipal Code Section 17.80.050 (Quasi-judicial map amendment) are met for the following reasons:
 - A. Criteria A is satisfied as the applicant has requested rezone and plan map change for consistency.
 - B. Criteria B is satisfied as TMC Section 17.04.050 (D) will be complied with as the applicant has requested a change in the 2000 Toledo Comprehensive Land Use Plan map. The designation of the property by plan is Public Lands. Zoning will be done in conjunction with the plan change and therefore the new zone designation will be in compliance with the comprehensive Land Use Plan designation and be Public Lands also Commercial designation.
 - C. Criteria C is satisfied as a change in the community exists with the commercial designation and probable development as commercial property.

THE COUNCIL ATTACHES THE FOLLOWING CONDITION OF APPROVAL:

1. The City, in its use of the Public Safety Building property, after the rezone, preserve to the adjacent property owners the access they now have across the Public Safety Building property to and from their property to NE Highway 20 in perpetuity.

Based on the staff report and attachments, testimony and evidence presented to the Planning Commission at the public hearing on November 8, 2006, and to the City Council on December 6, 2006, the Toledo City Council approves the Comprehensive Plan change and rezone request as meeting the applicable criteria including the 2000 Toledo Comprehensive Land Use Plan and Toledo Municipal Code Section 17.80.050.

IT IS ORDERED that the request for a Rezone in this matter is granted.

DATE: December 13, 2007

Sharon Branstiter
MAYOR, CITY OF TOLEDO