



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us

NOTICE OF ADOPTED AMENDMENT

July 10, 2007



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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Dundee Plan Amendment
DLCD File Number 005-06

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Copies of the adopted plan amendment are available for review at DLCD offices in Salem, the applicable field office, and at the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: July 20, 2007

This amendment was submitted to DLCD for review prior to adoption with less than the required 45-day notice. 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 DATE SPECIFIED ABOVE.**

Cc: Gloria Gardiner, DLCD Urban Planning Specialist
Jason Locke, DLCD Regional Representative
Melody Osborne, City Of Dundee

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DLCD 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 02 2007

(See reverse side for submittal requirements)

LAND CONSERVATION AND DEVELOPMENT

Jurisdiction: City of Dundee Local File No.: WRA 06-25 (If no number, use none)

Date of Adoption: 6-7-07 (Must be filled in) Date Mailed: 6-22-07 (Date mailed or sent to DLCD)

Date the Notice of Proposed Amendment was mailed to DLCD: 9-20-06

- Comprehensive Plan Text Amendment
Comprehensive Plan Map Amendment
[X] 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."

The amendment changed the deadline for recording the final plat on a subdivision from one-year to eighteen months, and shorter reduced the length of time from one-year to six-months on a time extension request. 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."

The original proposal was to extend the length of time from one-year to two-years.

Plan Map Changed from: N/A to N/A

Zone Map Changed from: N/A to N/A

Location: N/A Acres Involved: N/A

Specify Density: Previous: 0 New: 0

Applicable Statewide Planning Goals: 10

Was an Exception Adopted? Yes: No: X

DLCD File No.: 005-06(15569)

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 Dundee

Local Contact: Melody Osborne Area Code + Phone Number: 503-538-3900

Address: PO Box 220

City: Dundee Zip Code+4: 97115-0220

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 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 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.

**CITY OF DUNDEE
ORDINANCE No. 451-2007**

AN ORDINANCE APPROVING AN AMENDMENT TO THE CITY OF DUNDEE DEVELOPMENT ORDINANCE.

WHEREAS, an application for an amendment to the Dundee Development Ordinance was filed with the City for the purpose of revising the plat recording and time extension requirements for subdivisions; identified as Land Use Regulation Amendment Planning File No. 06-25;

WHEREAS, the City Recorder referred the applications for review, investigation, comment to all citizens, counties, special districts, state or federal agencies, and other persons deemed to have an interest in or affected by the applications and allowed not less than ten days for a reply from the date of mailing;

WHEREAS, the City Recorder caused notice of the hearing on the application to be published on the 4th day of October in a newspaper of general circulation in the City prior to the City Planning Commission hearing;

WHEREAS, the City Recorder thereafter provided the coordination, review and filing of all responses and submitted them to the City Planning Commission prior to the hearing;

WHEREAS, the Planning Commission conducted public hearings on the 18th day of October 2006, pursuant to the Rules of Procedure for the conduct of hearings related to land use matters and thereafter forwarded its recommendation for City Council to approve the proposed amendment (the recommendation is entitled ORDER OF RECOMMENDATION and dated October 24, 2006 and is signed by the Planning Commission Chair, Ted Crawford);

WHEREAS, the City Recorder provided notice of the hearing before the City Council;

WHEREAS, the City Council conducted public hearings on the 6th day of March 2007, pursuant to the Rules of Procedure for the conduct of hearings related to land use matters;

WHEREAS, after conducting the hearing and considering the approval criteria pursuant to the City of Dundee Comprehensive Plan and other applicable law, the City Council approved the proposed amendments to the Development Ordinance and directed staff to prepare the final Ordinance adopting the amendment.


NOW, THEREFORE, BASED ON THE FOREGOING, THE CITY OF DUNDEE DOES ORDAIN AS FOLLOWS:

Section 1. The City Council of the City of Dundee does hereby APPROVE the amendments to the Dundee Development Ordinance attached hereto as EXHIBIT "A" and by this reference made a part hereof.

Section 2. The City Council of the City of Dundee does hereby adopt those certain findings of fact and conclusions attached hereto as EXHIBIT "B" and by this reference made a part hereof.

Section 3. This Ordinance shall take effect thirty days following its adoption as provided by the City Charter.

PASSED by the Council and SIGNED by the Mayor the 7 day June, 2007.


~~Don Sundeen~~ Storr Nelson
~~Mayor~~ Council President

Attest:

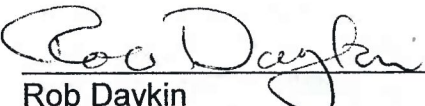

Rob Daykin
City Administrator/City Recorder

EXHIBIT "A"

The following changes shall be made to Section 3.107 (old language stricken, new language in **bold**):

3.107.03 Review Procedures

- B. Approvals of any preliminary plans for a subdivision or PUD shall be valid for ~~one-year~~ **eighteen (18) months** after the date of the written decision. A Final Plat for a subdivision shall be recorded within this time period or the approvals shall lapse. PUDs which do not involve the subdivision of property shall show substantial progress toward the construction of the project within the ~~one-year~~ **eighteen (18) month** period or the approval shall lapse.

- C. The Planning Commission, after holding a hearing may extend the approval period for any subdivision or PUD for not more than ~~one (1)~~ **six (6) additional year months**. **The request shall be subject to the following provisions:**
 - 1. Requests for extension of approval time shall be submitted in writing thirty (30) days prior to the expiration date of the approval period.

 - 2. **During the review of an extension request, the conditions of approval in the written decision may be revised to reflect ordinance changes if the applicant so elects, and may be revised to reflect changes in site conditions.**

3.107.05 Process for Final Plat Approval

- A. Within ~~one-year~~ **eighteen (18) months** of the final decision approving a preliminary plat, a final approved plat shall be recorded with the County Recorder. If the final plat is not recorded within ~~one-year~~ **eighteen (18) months**, the preliminary approval shall lapse.

- H. Effective Date for Final Plat Approval. The approval process for a development shall become final upon the recording of the approved final plat together with any required documents with the County Recorder. Approved final **preliminary** plats shall become void ~~one year~~ **eighteen (18) months** after final City approval if they are not recorded.

EXHIBIT "B"
CITY COUNCIL FINDINGS
DEVELOPMENT ORDINANCE TEXT AMENDMENT

In the Matter of the)	Planning File No. LURA 06-25
)	
Application of)	1. Land Use Regulation
)	Amendment
City of Dundee)	

I. NATURE OF THE APPLICATION

This matter comes before the Dundee City Council on the application of the City of Dundee to amend the Dundee Development Ordinance, to extend the time period for recording a final subdivision plat from one year to two years, and, to clarify requirements for a time extension to record the plat.

II. GENERAL INFORMATION

A. Location and Site Description

The proposal will affect all property within the City where subdivisions are permitted.

B. Background Information

The proposed action would amend language in Section 3.107 increasing the recording time for a final subdivision plat from one year to eighteen months and clarify requirements for a time extension to record the plat. The amending language is contained in Exhibit "A" of this adoption Ordinance.

III. PUBLIC HEARING

A. Planning Commission Action

A public hearing was held on this application before the Dundee Planning Commission on October 18, 2006. At the hearing, City Planning File LURA 06-25 was made a part of the record. No objection was raised as to jurisdiction, conflicts of interest, or to evidence or testimony presented at the hearing.

At the conclusion of the hearing, the Planning Commission deliberated on the issue and voted to recommend City Council approval of the proposed amendments to the Dundee Development Ordinance, directing staff to prepare an Order of Recommendation for the Chair's signature.

B. City Council Action

A public hearing was held on this application before the Dundee City Council on March 6, 2007. At the hearing, City Planning File LURA 06-25 was made a part of the record. No objection was raised as to jurisdiction, conflicts of interest, or to evidence or testimony presented at the hearing. At the conclusion of the hearing, the City Council voted to consider the matter regarding the proposed amendments to the Development Ordinance and directed staff to prepare an adoption Ordinance.

IV. FINDINGS OF FACT-GENERAL

The Dundee City Council, after careful consideration of the testimony and evidence in the record, adopts the following Findings of Fact:

- A. The applicant is the City of Dundee.
- B. The proposal will affect all zones where subdivisions are permitted.
- C. The proposed action would amend language in Section 3.107 increasing the recording time for a final subdivision plat from one year to eighteen months and clarify requirements for a time extension to record the plat. The amending language is contained in Exhibit "A" of this adoption Ordinance.
- D. Approval or denial of this request shall be based on the Oregon Statewide Land Use Goals and the Dundee Comprehensive Plan.

V. APPLICATION SUMMARY

- A. Development Ordinance Section 3.107.03 requires a preliminary subdivision plat to be recorded within one year of the final date of approval (this also applies to planned unit developments). During that time, and prior to recording, the developer is required to submit engineering plans and make the necessary on-site and off-site public facility improvements. If a plat cannot be recorded within the one year time period, the applicant may request a time extension. Barring approval of a time extension, failure to record a final plat within the one year time period voids the decision and requires a developer to submit a new application.
- B. The last three subdivisions approved by the City required time extensions. One was subsequently platted and two are in the process of beginning or completing public facility improvements. Based on this record, it appears the one-year requirement may be impractical. Part of the issue is timing. A subdivision approved in late summer will likely not begin construction until late spring making it difficult to meet the one-year deadline. A second concern is development often requires improvements to the off-site public infrastructure which further delays completion.

- C. After considering several options, the Council agreed to amend the Development Ordinance to allow an applicant eighteen months to record a plat. Since this will increase the amount of time to record, the Council found it appropriate to limit the number of time extensions to a single six-month request. If a plat is not recorded by the end of the time extension a new application is required. Requiring a new application will also allow the City to incorporate any changes to the Development Ordinance in their decision. The specific changes affect Section 3.107.03.B., and, Section 3.107.05.A. and H., and are noted in Exhibit "A" of this adoption Ordinance.

VI. FINDINGS

- A. Section 3.101.04 of the Development Ordinance states that an amendment to laws or policies is subject to the procedural process for a Type IV action. This action must be initiated by City staff, the Planning Commission or the City Council. In this case, the action was initiated by City staff with the support of the City Administrator. Section 3.207 requires hearings to be held before both the Commission and Council, with the Commission having an advisory role and the final decision rendered by the Council. There are no specific decision criteria that must be addressed. Ordinance amendments generally need to comply with the Statewide Land Use Goals as well as conform to existing Comprehensive Plan polices.
- B. The Statewide Land Use Goals establish the basis for all planning within the State. All local plans and implementing ordinances are required to be consistent with the policies and objectives of the Statewide Goals.

FINDING: Compliance with the Statewide Goals is noted as follows:

Goal 1, Citizen Involvement: Public hearings on the new Development Ordinance will be held before both the Commission and City Council. This is consistent with City procedures regarding citizen involvement.

Goal 2, Land Use Planning: The proposal does not involve exceptions to the Statewide Goals. Adoption actions are consistent with the acknowledged Comprehensive Plan and Development Ordinance.

Goal 3, Agricultural Lands: The proposal does not involve or affect farm land.

Goal 4, Forest Lands: The proposal does not involve or affect forest land.

Goal 5, Open Spaces, Scenic and Historic Areas, and Natural Resources: The proposed revisions do not alter existing requirements regarding open space, scenic, historical or natural resources.

Goal 6, Air, Water and Land Resource Quality: Identified air, water and land quality concerns are not directly affected.

Goal 7, Natural Hazards: Development requirements for natural hazard areas are not altered or otherwise affected.

Goal 8, Recreational Needs: Land required or planned for recreational purposes will not be altered.

Goal 9, Economic Development: The amendments will neither enhance nor detract from economic development.

Goal 10, Housing: This action does not affect residential zoning or the ability to provide needed housing.

Goal 11, Public Facilities: The action does not alter requirements for the installation of public and private utilities.

Goal 12, Transportation: The amendments do not affect traffic patterns or transportation plans.

Goal 13, Energy Conservation: This action is neutral with regard to energy conservation.

Goal 14, Urbanization: The amendments do not affect the City's ability to create a compact urban form envisioned by this Goal.

Goals 15 to 19, Willamette River Greenway, Estuarine Resources, Coastal Shores, Beaches and Dunes, Ocean Resources: The proposal does not involve land within the Willamette Greenway or coastal areas.

In general, the proposed amendments are entirely consistent with the intent of the Statewide Goals or the individual goals do not apply to the amendments.

- C. In addition to compliance with the Statewide Goals, the proposed amendments must be consistent with the City's applicable Comprehensive Plan policies. In reviewing this matter, it was determined the Plan does not specifically address recording requirements for subdivisions.
- D. Allowing eighteen months to record a final plat appears appropriate given timing and facility improvement issues. Further, by limiting time extensions, the City will be given the opportunity to review a new application and incorporate any revisions to the Development Ordinance.

VII. CONCLUSION

For the reasons stated above, the City Council concludes the proposed Ordinance revisions contained in Exhibit "A" of this document comply with the decision criteria.

Notice List

There were no requests for notification of final decision approval.

WJ