



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

AMENDED NOTICE OF ADOPTED AMENDMENT

January 28, 2008

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 005-07



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: February 8, 2008

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
Matthew Crall, DLCD Transportation Planner
Richard Gussman, City of The Dalles

<paa> ya

2 Notice of Adoption

THIS FORM **MUST BE MAILED** TO DLCD
WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION
 PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18

DATE
STAMP

DEPT OF
JAN 22 2008
**LAND CONSERVATION
 AND DEVELOPMENT**
 For DLCD Use Only

Jurisdiction: City of The Dalles Local file number: CPA 36-07; ZOA 73-07
 Date of Adoption: 1-14-08 Date Mailed: 1-18-08
 Date original Notice of Proposed Amendment was mailed to DLCD: 10-8-07

- | | |
|--|--|
| <input type="checkbox"/> Comprehensive Plan Text Amendment | <input checked="" type="checkbox"/> Comprehensive Plan Map Amendment |
| <input type="checkbox"/> Land Use Regulation Amendment | <input checked="" type="checkbox"/> Zoning Map Amendment |
| <input type="checkbox"/> New Land Use Regulation | <input type="checkbox"/> Other: _____ |

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

Change comprehensive plan map and zoning map from
Mobile Home Residential to general commercial on a
4.23 acre parcel.

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 Changed from: Mobile Home Residential to: General commercial
 Zone Map Changed from: Mobile Home Residential to: General Commercial
 Location: 3500 East 2nd St. The Dalles Acres Involved: 4.23
 Specify Density: Previous: 20 units per acre New: N/A
 Applicable Statewide Planning Goals: 2 - Land Use Planning; 9 - Econ Development; 10 - Housing

Was and Exception Adopted? YES NO

DLCD File No.: 005-07 (16462)

Did the Department of Land Conservation and Development receive a Notice of Proposed Amendment.....

Forty-five (45) days prior to first evidentiary hearing? Yes No

If no, do the statewide planning goals apply? Yes No

If no, did Emergency Circumstances require immediate adoption? Yes No

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

Local Contact: Dick Gassman Phone: (541) 296-5481 Extension: 1151
Address: 313 Court Street City: The Dalles, OR 97058
Zip Code + 4: 97058- Email Address: rgassman@ci.the-dalles.or.us

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 this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not 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 **mara.ulloa@state.or.us** - ATTENTION: PLAN AMENDMENT SPECIALIST.

GENERAL ORDINANCE NO. 08-1289

COPY

AN ORDINANCE APPROVING ZONING ORDINANCE
AMENDMENT NO. 73-07 AND COMPREHENSIVE PLAN
AMENDMENT NO. 36-07, FOR A PARCEL MEASURING 4.23
ACRES, LOCATED AT 3500 EAST SECOND STREET

WHEREAS, on October 5, 2007, Rakesh Malhan submitted an application requesting a zone change and Comprehensive Plan amendment for a parcel measuring 4.23 acres, located at 3500 East Second Street in The Dalles, to change the Comprehensive Plan Map and Zoning Ordinance Map from "RMH" - Mobile Home Residential District to "CG" - General Commercial; and

WHEREAS, the City Planning Commission conducted a public hearing on the application on December 6, 2007, and voted to recommend the City Council approve the requested zone change and Comprehensive Plan amendment; and

WHEREAS, on December 10, 2007, 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 4 to 0, to approve the requested zone change amendment and Comprehensive Plan amendment, based upon findings of fact and conclusions of law; and

WHEREAS, the 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,

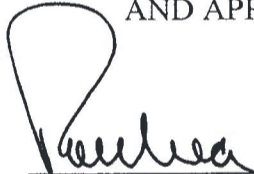
THE COUNCIL OF THE CITY OF THE DALLES ORDAINS AS FOLLOWS:

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 Rakesh Malhan for Zoning Ordinance Amendment No. 73-07 and Comprehensive Plan Amendment No. 36-07, concerning a request to change the zone designation for a parcel measuring 4.23 acres located at 3500 East Second Street, from "RMH" - Mobile Home Residential District to "CG" - General Commercial, is hereby approved.

PASSED AND ADOPTED THIS 14TH DAY OF JANUARY, 2008.


Voting Yes, Councilor: Wood, Dick, Broehl, Kovacich
Voting No, Councilor: None
Absent, Councilor: None
Abstaining, Councilor: Wilcox

AND APPROVED BY THE MAYOR THIS 14TH DAY OF JANUARY, 2008.



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 parcel described as Township 1 North, Range 13 East, Willamette Meridian, Wasco County, Oregon, 1AA, Tax Lot 500 from "RMH" Residential Mobile Home District to "CG" General Commercial District. The subject parcel measures 4.23 acres, and is located at 3500 East Second Street in The Dalles.
2. The application was found to be complete by the Planning Department on October 5, 2007. 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 December 6, 2007, which complied with LUDO requirements and Department of Land Conservation and Development Commission requirements. Notices of the hearings before the Planning Commission and the City Council were properly mailed and published, as required by the LUDO and DLCD regulations.
3. The applicant presented testimony that the subject property was originally zoned "CG" Commercial General, and that the zoning classification was changed in 1993 to "RMH". Testimony was presented that the zone change was being requested to facilitate construction of a hotel, which would be four stories in height and have between 80 to 85 units. The applicant submitted copies of a preliminary site plan and aerial photographs showing that approximately 2.25 acres of the site could be developed, and the remaining portion of the site was not subject to development due to the steep topography of the site. Under the current "RMH" zoning district, up to 91 dwelling units could be placed upon the subject parcel.
4. The applicant submitted drawings to the Planning Commission indicating where he was proposing to build a new road to serve the proposed hotel. The applicant testified the initial driveway would be shared, but the remaining portion of the new road would not impact the adjacent properties. The applicant also testified before the Planning Commission that under the terms of a purchase agreement for the property, there is an access easement for adjacent properties to the east, which would not be changed. The applicant testified that all persons currently using the access easement would use the proposed new entrance for the hotel.
5. The subject property is located on East Second Street, east of the interchange for Interstate 84 and Highway 197. In a letter dated October 29, 2007, the Department of Land Conservation and Development (DLCD) expressed a concern as to whether the requested zone change and Comprehensive Plan amendment could have a significant effect upon the State's transportation

system, which would require compliance with Statewide Planning Goal 12, the Transportation Planning Rule (TPR). A letter submitted from the Oregon Department of Transportation (ODOT) dated December 5, 2007, indicated that as the development portion of the site was likely being restricted to 2.25 acres due to the steep topography of the site, and that the applicant was proposing a project involving a hotel estimated to have a minimum number of 80 units, the proposed land use action would not have a major effect on the State's transportation system, and a transportation impact analysis which could be required in certain situations under the State's TPR, would not be necessary for the proposed project.

6. The October 29, 2007, letter from DLCDC also raised a concern regarding the impact of the potential loss of residentially designated and zoned land upon needed housing, as defined by Goal 10 (Housing) and Oregon Administrative Rule 660-008. DLCDC expressed a concern the proposed zone change and Comprehensive Plan amendment had the potential to reduce the City's land supply for manufactured housing. Jim Wilcox, a local real estate agent testifying in support of the application at the Planning Commission hearing, stated his opinion that since manufactured homes could be placed anywhere within the City, as long as they complied with the City's standards, the RMH zones had been pretty much reduced to the use as mobile home parks. Mr. Wilcox testified in his opinion, that a mobile home park would likely not be economically feasible upon the subject site, due to significant construction costs resulting from the steep topography of the site. Mr. Wilcox also testified the project would provide an opportunity to address certain issues related to utilities, including possible relocation of the natural gas line, installation of underground utilities, and issues concerning the capacity of the sewer line. City staff advised the Planning Commission members and City Council that manufactured homes are allowed outright in all residential zones, and that a reduction in the amount of RMH zoned land needed to be considered not just in relationship to the amount of available RMH zone land, but in relationship to the total amount of available residentially zoned land. Staff indicated its opinion was that the City had sufficient land still available for the placement of manufactured homes.

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

7. The procedural requirements of Section 3.010.040 for the application, and the review procedures for a zone change under Section 3.020.050 have been satisfied.

8. 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 a minimal adverse effect on existing and future surrounding development.

Conformance with the Comprehensive Plan will be discussed in Finding No. 9 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 subject site measures 4.23 acres. The applicant presented testimony that approximately 2.25 acres of the site would be available for development. The City Council finds and concludes that the location of the site on East Second Street, east of the interchange for Interstate 84 and Highway 197, provides access which makes the property suitable for a variety of general commercial uses.

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, under the current "RMH" zoning district, up to 91 dwelling units could be placed upon the subject property. ODOT provided written documentation expressing its opinion that there would not be any significant effect upon the State's transportation facilities, if development occurred upon the 2.25 acres which is capable of development, and the development involved a hotel estimated to have 80 units. The City Council finds and concludes that under the State's TPR, the proposed zone change would not have a significant effect upon the State's transportation facilities. The City Council further finds and concludes that East Second Street, and the interchange for Interstate 84 and Highway 187, and the proposed entrance road for the project, reflect the types of streets that will be adequate to serve the site of the proposed hotel, and the volume of traffic generated by the types of uses that are allowed in the "CG" zone.

Concerning the criteria that the proposed zone change will have minimal adverse effect on existing and future development, the City Council finds and concludes the proposed zone change will not have such an adverse effect. The adjacent property to the east of the subject site is already zoned "CG". East Second Street, the Union Pacific Railroad, and the interstate freeway are located to the north of the subject site. The applicant presented testimony that access for the existing residential properties would be maintained. The residential properties to the south of the subject site are built at a significantly higher elevation, and the view from these properties should not be negatively impacted by the height of the proposed hotel.

9. Goal 2, Policy 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 the compliance with the statewide land use goals and related administrative rules, the City Council finds and concludes that this criteria has been satisfied, as the evidence in the record establishes that the requested Comprehensive Plan amendment will not have a significant effect upon the State's transportation facilities, as that term is defined in Goal 12 of the State Transportation Planning Rule.

The City Council finds and concludes there is substantial evidence in the record to show the requested Comprehensive Plan amendment is in conformance with the City's Comprehensive Plan goals, policies, and implementing measures. The Council finds and concludes the proposed site is better suited for development of commercial uses, than for the uses allowed in the "RMH" zone, due to the proximity of the interchange for the freeway and Highway 197, and the site's location on East Second Street. Approval of the requested amendment will allow for development 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. Certain adjacent property is already zoned "CG". Access to adjacent residential properties, and the existing view which those properties have, will be preserved and maintained. The Council finds and concludes that the existing access to the site from the interchange of the freeway and Highway 197 and Second Street, and the proposed road to serve the site will create a transportation network that is adequate to serve the site with the proposed change to the City's Comprehensive Plan. The Council also finds and concludes there is substantial evidence in the record to ensure there will be adequate public facilities and services for the site, by relocating the existing natural gas line if necessary, installing underground utilities, and addressing issues related to the capacity of the existing sewer line.

For Goal 14, Urbanization, the City's Comprehensive Plan indicates the updated forecast of residential land use needs projects a need for 245 acres of vacant and buildable land for the

forecast period of 1990 to 2010. The total number of new housing units is estimated at 1,333. The Comprehensive Plan indicates that the existing supply of vacant and buildable land is adequate to meet this need. The forecast for residential land needs includes a calculation for the percentage of manufactured homes (25%) that will be needed as part of the City's overall housing mix. Manufactured homes will be allowed on individual lots within single family homes. The City Council finds and concludes the proposed Comprehensive Plan amendment complies with Goal 10 (Housing) and the Oregon Administrative Rules (OAR 660-008) concerning the potential impact of the amendment upon needed housing, as the evidence in the record establishes that the proposed amendment will not significantly reduce the supply of land for manufactured housing within the City.

The City's Comprehensive Plan for Goal 14 also indicates the projected forecast for the need for commercial properties for the forecast period for 1990 to 2010 shows a need of 150 acres of vacant and buildable land. The City Council finds and concludes that approval of the requested Comprehensive Plan amendment will assist in achieving the goal of providing 150 acres of vacant and buildable land for commercial purposes, which is consistent with Policy #1 of Goal 9 of the Comprehensive Plan concerning Economic Development.

Policy #8 of Goal 12 of the City's Comprehensive Plan concerning Transportation, provides that "Commercial and industrial developments shall provide adequate ingress and egress, off-street parking, and adequate landscaping". The City Council finds and concludes there is substantial evidence in the record to establish the requested Comprehensive Plan amendment supports this policy. The record establishes the applicant selected the site for commercial development, because of the convenient access to and from the site provided by the adjacent interchange for the interstate freeway and Highway 197, and the presence of Second Street.