



Oregon

Theodore R. Kubongoski, 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

11/6/2009

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

FROM: Plan Amendment Program Specialist

SUBJECT: City of Tualatin Plan Amendment
DLCD File Number 008-09

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: Friday, November 27, 2009

This amendment was submitted to DLCD for review 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 THAT IT WAS MAILED TO DLCD. AS A RESULT, YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.

Cc: Colin Cortes, City of Tualatin
Gloria Gardiner, DLCD Urban Planning Specialist
Jennifer Donnelly, DLCD Regional Representative

<paa> YA

Notice of Adoption

in person electronic mailed

DATE STAMP

DEPT OF

OCT 30 2009

LAND CONSERVATION AND DEVELOPMENT

For DLCD Use Only

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

Jurisdiction: City of Tualatin

Local file number: PTA-09-06

Date of Adoption: 10/26/2009

Date Mailed: 10/30/2009

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? Yes. Date: 9/04/2009

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

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

The City extended all site development approvals issued on or after 1/01/2007 through 6/30/2009 beyond the normal one year with allowance for a 6-mos. extension to a single date certain, 12/31/2012, via Ord. No. 1291-09.

Does the Adoption differ from proposal? No.

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: n/a

New: n/a

Applicable statewide planning goals: None.

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19

Was an Exception Adopted? YES NO

Did DLCD receive a Notice of Proposed Amendment...

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

DLCD file No. 008-09(17818) [15798]

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

Local Contact: **Colin Cortes**

Phone: (503) 691-3024 Extension:

Address: **18876 SW Martinazzi Ave**

Fax Number: **503-692-0147**

City: **Tualatin**

Zip: **97062**

E-mail Address: **ccortes@ci.tualatin.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 Complete Copies (documents and maps) 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. Electronic Submittals: At least **one** hard copy must be sent by mail or in person, or by emailing **larry.french@state.or.us**.
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 now access these forms online at **<http://www.lcd.state.or.us/>**. Please print on **8-1/2x11 green paper only**. You may also 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**.

Updated March 17, 2009

ORDINANCE NO. 1291-09

AN ORDINANCE EXTENDING THE APPROVAL PERIODS OF CERTAIN ARCHITECTURAL REVIEW DECISIONS, AND AMENDING TDC 73.056 (PTA-09-06)

WHEREAS upon the application of the City of Tualatin Community Development Department, a public hearing was held before the Tualatin City Council on October 26, 2009 relating to extending the approval periods of issued architectural reviews (ARs) that the city issued on or after January 1, 2007 through June 30, 2009 to a date certain, December 31, 2012 and amending TDC 73.056 (PTA 09-06); and

WHEREAS notice of public hearing was given as required under the Tualatin Community Plan by publication in The Times, a newspaper of general circulation within the City which is evidenced by the Affidavit of Publication marked "Exhibit A," attached and incorporated by this reference; by posting a copy of the notice in two public and conspicuous places within the City, which is evidenced by the Affidavit of Posting, marked "Exhibit B," attached and incorporated by this reference; and

WHEREAS the Tualatin City Council conducted a public hearing on October 26, 2009, and heard and considered the testimony and evidence presented by the City staff and those appearing at the public hearing; and

WHEREAS after the conclusion of the public hearing the Tualatin City Council vote resulted in approval of the application by a vote of 5-0 with Councilors Maddux and Davis absent; and

WHEREAS based upon the evidence and testimony heard and considered by the Tualatin City Council and especially the City staff report, the Tualatin City Council makes and adopts as its Findings of Fact the findings and analysis in the staff report dated October 26, 2009, which are incorporated by this reference, and;

WHEREAS based upon the foregoing Findings of Fact, the Tualatin City Council finds that it is in the best interest of the residents and inhabitants of the City and the public; the public interest will be served by adopting the amendment at this time; and the amendment conforms with the Tualatin Community Plan; and therefore, the Tualatin Development Code should be amended.

THE CITY OF TUALATIN ORDAINS AS FOLLOWS:

Section 1. TDC 73.056 is amended to read:

Architectural Review approvals shall be void after one year unless:

(1) A building, or grading permit submitted in conjunction with a building permit application, has been issued and substantial construction under the permit has

taken place and an inspection performed by a member of the Building Division;
or

(2) An extension is requested by the applicant of the Architectural Review and approved by the Community Development Director and City Engineer. Before approving an extension the Community Development Director and City Engineer shall find that there have been no significant changes in any ordinances, standards, regulations or other conditions affecting the previously approved project so as to warrant its resubmittal. The following conditions shall also apply:

(a) An extension request shall be submitted prior to the initial one year expiration, and

(b) No more than one 6-month extension shall be granted for a project receiving Architectural Review approval; or

(3) The Architectural Review approval was granted on or after January 1, 2007 through June 30, 2009. In those cases approval shall be extended to December 31, 2012. Such approval shall not be eligible for extension under TDC 73.056(2). This subsection (3) shall terminate on January 2, 2013, without further action of the City Council.

INTRODUCED AND ADOPTED THIS 26th day of October 2009.

CITY OF TUALATIN, Oregon

BY 

Mayor

ATTEST:

BY 

City Recorder

APPROVED AS TO LEGAL FORM


CITY ATTORNEY

PTA-09-06 ATTACHMENT B:

ANALYSIS AND FINDINGS

The approval criteria of the Tualatin Development Code (TDC), Section 1.032, must be met if the proposed PTA is to be granted. The plan amendment criteria are addressed below:

1. Granting the amendment is in the public interest.

The national economic recession that officially began in December 2007 affects the regional and local real estate market. More than the number in any of the years prior to 2007, several architectural review (AR) approvals issued from 2007 through mid-2009 are expired or will expire soon. The amendment is in the public interest because it maintains economic development within the city by sustaining development and redevelopment projects. Allowing expiration of AR approvals of these projects would preclude them or, if the applicants remained motivated and financially capable, necessitate payment of fees for re-review of projects and the spending of time and third-party expenses to comply with AR. In the context of recession, greater individual occurrences of expired projects cumulatively would aggravate the local effects of the recession because of less business activity and less employment.

Granting the amendment is in the public interest. Criterion "A" is met.

2. The public interest is best protected by granting the amendment at this time.

As examined for Criterion A, in the context of recession, greater individual occurrences of expired projects cumulatively at this time would aggravate the local effects of the recession because of less business activity and less employment. It remains uncertain when the recession will end, and so the present is the best time for the amendment. Granting the amendment sends a signal to applicants that despite the recession, the City is helping applicants to meet their investment-backed expectations as much as is feasible. The timeframe of the amendment is also long enough that one could reasonably expect it extends past the end of the recession.

Granting the amendment at this time best protects the public interest.

3. The proposed amendment is in conformity with the applicable objectives of the Tualatin Community Plan.

There is no directly applicable objective of the Tualatin Community Plan. However, to put the amendment in context, the amendment covers a type of land use decision – architectural review (AR) – that covers site design and development review. AR

implements and comes after future land use and zoning designations and related regulations, combined as “planning districts,” defined in the in the Tualatin Development Code (TDC). The amendment does not affect or otherwise interfere with the comprehensive plan for the City or its land use planning in general. Because the TDC incorporates the Tualatin Community Plan, an amendment of TDC 73.056 – the section establishing time limits on AR approval – requires a plan amendment. However, the proposed amendment is more akin to a revision of a land development regulation than an amendment to a comprehensive plan and so is best viewed within this context.

The proposed amendment conforms with the objectives of the Tualatin Community Plan. Criterion “C” is met.

4. The following factors were consciously considered:

The various characteristics of the areas in the City.

The factor is not relevant to the proposed amendment because it does not affect any planning district designation or related regulation.

The suitability of the areas for particular land uses and improvements in the areas.

The factor is not relevant to the proposed amendment because it does not affect any planning district designation or related regulation.

Trends in land improvement and development.

Taking the national economic recession and its local effects as a trend, the amendment acknowledges and accommodates this trend by attempting to counteract the additional strain on local business activity posed by the expiration of greater than usual numbers of approved projects.

The needs of economic enterprises and the future development of the area.

The amendment directly accommodates the needs of economic enterprises by attempting to counteract the additional strain on local business activity posed by the expiration of greater than usual numbers of approved projects.

Needed right-of-way and access for and to particular sites in the area.

The proposed amendment has no relation to any particular planning district and needed rights-of-way or access.

Natural resources of the City and the protection and conservation of said resources.

The proposed amendment does not interfere with protection and conservation of natural resources at a land use level. At the site development review level, projects approved through architectural review (AR) addressed the issue.

The amendment could affect natural resources indirectly. The amendment would allow projects with extended approval periods to comply with land use regulations in effect on the date of issuance without having to comply with regulations taking effect after that date. Agencies amend land use regulations every few years, and Clean Water Services (CWS) is an agency that amends its regulations frequently, last updated them in 2007, and has land use authority in conjunction with the City over AR projects. The agency is the stormwater and sewer agency for Washington County and has authority within all of the City. Because the agency has the power to enforce regulations of the Environmental Protection Agency (EPA), environmental protection is a prime mission. If the amendment is granted, CWS would likely urge applicants to comply voluntarily with new and amended regulations. It would likely necessitate a case-by-case determination of what applications would require re-review by staff and CWS. CWS placed conditions of approval on many of these applications based on regulations in effect at the time. However, whether applications remain subject to original or newly amended or enacted regulations, CWS regulations will continue to protect and conserve natural resources.

Prospective requirements for the development of natural resources in the City.

The consideration of the previous factor applies here also.

And the public need for healthful, safe, aesthetic surroundings and conditions.

Granting the amendment would not interfere with provision of healthful, safe, aesthetic surroundings and conditions for the public. Staff approved the subject projects through AR, which addresses this factor. The amendment is limited to extension of approval periods.

Proof of change in a neighborhood or area

Neither the applicant nor staff assert proof of change in a neighborhood or area.

Mistake in the Plan Text or Plan Map.

Neither the applicant nor staff assert a mistake in the Plan Text or Plan Map.

5. The criteria in the Tigard-Tualatin School District Facility Plan for school facility capacity have been considered when evaluating applications for a comprehensive plan amendment or for a residential land use regulation amendment.

Because the amendment does not relate to residential use, the criterion is not applicable.

6. Granting the amendment is consistent with the applicable State of Oregon Planning Goals and applicable Oregon Administrative Rules.

Of the 19 statewide planning goals, staff determined that none of the goals are applicable.

While Goal 9 appears applicable – to provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens – the amendment is not directly related to the meaning of the goal, which is land use planning and zoning that allows for diversified economic enterprises. The amendment is limited to sustaining projects approved through AR and does not affect or interfere with local land use planning that supports economic diversification.

Additionally, the Oregon State Legislature declined to extend of land use approvals during the 2009 regular session.

7. Granting the amendment is consistent with the Metropolitan Service District's Urban Growth Management Functional Plan.

The Urban Growth Management Functional Plan (UGMFP), codified in Metro Code 3.07, neither precludes the amendment nor regulates how a local government extends land use approvals. The criterion is met.

8. Granting the amendment is consistent with Level of Service F for the p.m. peak hour and E for the one-half hour before and after the p.m. peak hour for the Town Center 2040 Design Type (TDC Map 9-4), and E/E for the rest of the 2040 Design Types in the City's planning area.

Because the amendment does not related to vehicle trip generation at a land use level, the criterion is not applicable.



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10/29/2009

Mailed From 97062
US POSTAGE



City of Tualatin

18880 SW Martinazzi Avenue
Tualatin, Oregon 97062-7092

ATTN: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND
CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540