



# 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

4/15/2010

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

FROM: Plan Amendment Program Specialist

SUBJECT: City of Dallas Plan Amendment  
DLCD File Number 002-10

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: Wednesday, April 28, 2010

This amendment was not submitted to DLCD for review prior to adoption pursuant to OAR 660-18-060, the Director or any person is eligible to appeal this action to LUBA under ORS 197.830 to 197.845.

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 Acknowledgment or 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. NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.

Cc: Jason Locke, City of Dallas  
Gloria Gardiner, DLCD Urban Planning Specialist

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FORM **2**

**DLCD**

# Notice of Adoption

In person  electronic  mailed

**DATE STAMP**

**DEPT OF**

**APR 08 2010**

**LAND CONSERVATION AND DEVELOPMENT**

This Form 2 must be mailed to DLCD within **5-Working Days after the Final Ordinance is signed** by the public Official Designated by the jurisdiction and all other requirements of ORS 197.615 and OAR 660-018-000

Jurisdiction: **City of Dallas**

Local file number: **N/A**

Date of Adoption: **4/5/10**

Date Mailed: **4/7/10**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD?  Yes  No Date:

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 council corrected a map error and rezoned the Walmart property from Commercial Neighborhood (CN) to Commercial General (CG) as specified in a previously adopted Resolution of Intent to Rezone.**

Does the Adoption differ from proposal?

Plan Map Changed from:

to:

Zone Map Changed from: **CN**

to: **CG**

Location: **321 NE Kings Valley Highway**

Acres Involved: **8.8**

Specify Density: Previous: **N/A**

New: **N/A**

Applicable statewide planning goals:

**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. 002-10 (18231) [16075]

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**DLCD file No.** \_\_\_\_\_

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

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Local Contact: Jason Locke

Phone: (503) 831-3565 Extension:

Address: 187 SE Court St

Fax Number: 503-623-2339

City: Dallas

Zip: 97338

E-mail Address: [jason.locke@ci.dallas.or.us](mailto:jason.locke@ci.dallas.or.us)

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## ADOPTION SUBMITTAL REQUIREMENTS

This Form 2 must be received by DLCD no later than 5 days after the ordinance has been signed by the public official designated by the jurisdiction to sign the approved ordinance(s) per ORS 197.615 and OAR Chapter 660, Division 18

1. This Form 2 must be submitted by local jurisdictions only (not by applicant).
2. When submitting, please print this Form 2 on light green paper if available.
3. Send this Form 2 and One (1) Complete Paper Copy and One (1) Electronic Digital CD (documents and maps) of the Adopted Amendment to the address in number 6:
4. **Electronic Submittals: Form 2 – Notice of Adoption will not be accepted via email or any electronic or digital format at this time.**
5. The Adopted Materials must include the final decision signed by the official designated by the jurisdiction. The Final Decision must include approved signed ordinance(s), finding(s), exhibit(s), and any map(s).
6. DLCD Notice of Adoption must be submitted in One (1) Complete Paper Copy and One (1) Electronic Digital CD via United States Postal Service, Common Carrier or Hand Carried to the DLCD Salem Office and stamped with the incoming date stamp. (for submittal instructions, also see # 5)] MAIL the PAPER COPY and CD 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

7. Submittal of this Notice of Adoption must include the signed ordinance(s), finding(s), exhibit(s) and any other supplementary information (see ORS 197.615).
8. Deadline to appeals to LUBA is calculated **twenty-one (21) days** from the receipt (postmark date) of adoption (see ORS 197.830 to 197.845).
9. In addition to sending the Form 2 - Notice of Adoption to DLCD, please notify persons who participated in the local hearing and requested notice of the final decision at the same time the adoption packet is mailed to DLCD (see ORS 197.615).
10. **Need More Copies?** You can now access these forms online at <http://www.lcd.state.or.us/>. You may also call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518.

ORDINANCE NO. 1717

An Ordinance changing the zoning designation of a parcel of real property from CN, Commercial Neighborhood to CG, Commercial General; and amending the Dallas Zoning Map.

WHEREAS, by Resolution No. 2207, adopted by the City Council and approved by the Mayor on February 4, 1980, the City Council expressed its intent to change the zone applicable to that certain real property described on Exhibit 1, and shown on the map on Exhibit 2, attached hereto and by reference incorporated herein, from CR, Commercial Restricted and RA, Residential Agriculture, to CR, Commercial General, upon the fulfillment of certain conditions as set forth in said Resolution No. 2207; and

WHEREAS, the conditions set forth in said Resolution have been fulfilled with respect to the real property described on Exhibit A; and

WHEREAS, Ordinance No. 1583, adopted by the City Council in 1999, erroneously designated said real property CN, Commercial Neighborhood; and

WHEREAS, after due public notice, on March 1, 2009, the City Council held a public hearing on the change of zone of the property herein; and

WHEREAS, after said public hearing the Council determined that the proposed zone change is in keeping with the intent of the City Council as expressed in said Resolution No. 2207, and appropriate to effect the change in the zone of the real property that is the subject of this Ordinance and to amend the zoning map of the City accordingly; NOW, THEREFORE,

THE CITY OF DALLAS DOES ORDAIN AS FOLLOWS:


Section 1. The Findings and Conclusions set forth in the staff report on this matter, submitted into the record herein at the hearing on March 1, 2010, are hereby adopted and approved as the Findings and Conclusions in support of this zone change as Exhibit B.

Section 2. The zoning designation of the real property described on Exhibit 1 hereto is hereby changed from CN, Commercial Neighborhood, to CR, Commercial General.

Section 3. The Dallas Zoning Map shall be, and is hereby declared

amended in accordance with the zone change effected by this ordinance as shown in Exhibit C.

Read for the first time: March 15, 2010  
Read for the second time: April 5, 2010  
Passed by the City Council: April 5, 2010  
Approved by the Mayor: April 5, 2010

  
\_\_\_\_\_  
JAMES B. FAIRCHILD, MAYOR

ATTEST:

  
\_\_\_\_\_  
JERRY WYATT, CITY MANAGER

**EXHIBIT A**  
**Store #2315, Dallas, OR**

A parcel of land situated in Section 28, Township 7 South, Range 5 West of the Willamette Meridian in Polk County, Oregon, being more particularly described as follows:

PARCEL 1

Beginning at a 3/4" iron pipe marking the Northeast corner of Block 9, GERMANTOWN in the City of Dallas, Polk County, Oregon; thence North 00°06'41" East along the East boundary line of said GERMANTOWN a distance of 378.41 feet to a 5/8" iron rod with a yellow plastic cap marked "PLS 1678" marking a point on the southeasterly Right-of-way line of Kings Valley Highway (state Highway No. 223); thence North 54°27'20" East along said right-of-way line, a distance of 333.85 feet to a 5/8" iron rod with a yellow plastic cap marked "PLS 1678" marking a point 60 feet left of Engineers Station P.T. 124+22.50; thence northeasterly continuing along said right-of-way line along the arc of a offset spiral curve to the left (the chord of which bears North 53°06'57" East 404.10 feet) an arc distance of 404.19 feet to a 5/8" iron rod with a yellow plastic cap marked "PLS 1678" marking a point 60 feet left of Engineers Station P.C.S.120+22.50; thence North 44°59'11" East along said right-of-way line, a distance of 123.22 feet to a 5/8" iron rod with a yellow plastic cap marked "PLS 1678" marking the Northwest corner of Lot 1, Block 1, NORTH DALLAS TRADE CENTER – Phase 1 as recorded in Volume 9, Page 8, Book of Town Plats for Polk County, Oregon; thence South 00°17'24" East along the West line of said subdivision and the southerly extension thereof, a distance of 981.97 feet to a point on the northerly right-of-way line of East Ellendale Avenue (from said point a 5/8" iron rod with a red plastic cap marked "PLS 1658" bears North 00°17'24" West 0.26 feet); thence South 81°18'21" West along said right-of-way line a distance of 60.63 feet to a point marking the Southeast corner of that tract of land conveyed to James B. Faulkner and Billie H. Faulkner, by instrument recorded in Volume 72, page 37, Book of Records (from said southeast corner a 5/8" iron rod bears South 00°14'30" East 0.15 feet); thence North 00°16'22" West along the East line of said Faulkner tract, a distance of 221.83 feet to the Northeast corner thereof; thence South 81°32'37" West along the North line of said Faulkner tract, a distance of 216.02 feet to a point which bears North 08°47'28" West 20.08 feet from the Northeast corner of that tract of land conveyed to Ellendale Professional Building, a Co-partnership by instrument recorded in Volume 133, Page 1214, Book of Records; thence South 08°47'28" East 20.08 feet to said Northeast corner of said Ellendale Professional Building Co-partnership tract; thence South 79°54'38" West along the Northerly line of said Ellendale Professional Building Co-partnership tract, a distance of 117.78 feet to the northwest corner of that tract of land described in Volume 142, Page 1623, Book of Records; thence following the northerly line of said tract South 79°51'23" West a distance of 99.63 feet to the northwest corner of said tract; thence following the west line of said tract South 00°12'04" West a distance of 206.21 feet to a 5/8" iron rod with a yellow plastic cap marked "PLS 1678" marking a point on the northerly right-of-way line of said East Ellendale Avenue; thence South 79°56'12" West along said northerly right-of-way a distance of 117.18 feet to the Southeast corner of that tract of land described in Volume 169, Page 1505, Book of Records; thence North 00°06'40" East along the East line of said tract, a distance of 153.45 feet; thence leaving the east line of said tract South 89°42'31" West 98.43 feet to a point on the West line of said tract described in Volume 169, Page 1505; thence North 00°06'40" East along said West line a distance of 30.65 feet to a point on the North boundary line of Block 9 of said GERMANTOWN; thence South 89°52'58" East along said boundary line a distance of 11.81 feet to the point of beginning. Parcel 1 contains 419,448 Square Feet (9.629 Acres), more or less.

**EXCEPT:**

Beginning at a point on the East line of that tract of land described in Volume 169, Page 1505, Deed Records which point bears North 89°52'58" West 11.81 feet and South 00°06'40" West 30.65 feet and North 89°42'50" East 98.43 feet from an iron pipe marking the Northeast corner of Block 9, GERMANTOWN in the City of Dallas, and being situated in Section 28, Township 7 South, Range 5 West of the Willamette Meridian in Polk County, Oregon; thence North 89°42'50" East 54.91 feet; thence South 00°06'40" West 145.48 feet to a point on the Northerly line of East Ellendale Avenue; thence South 79°56'12" West along said right-of-way line, a distance of 48.02 feet to the Southeast corner of said tract described in Volume 169, Page 1505, Deed Records; thence North 00°06'40" East along the East line of said tract, a distance of 153.65 feet to the place of beginning.

Briefly, the subject is described as a portion of the southeast 1/4 of the southwest 1/4 of section 28 in Township 7 South, Range 5 West in the Willamette Meridian in Polk County, Oregon. The property is also identified as Tax Lots 7S-5W-28CD: 200 and 202.

REPORT

TO: MAYOR JIM FAIRCHILD AND CITY COUNCIL

City of Dallas	Agenda Item No. 3.a	Topic: Wal-Mart Zone Change
Prepared By: Jason Locke, Community Development Director	Meeting Date: March 1, 2010	Attachments: Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
Approved By: Jerry Wyatt		

**RECOMMENDED ACTION:** Approve the zone change in accordance with Resolution No. 2207 and direct staff to prepare an Ordinance adopting said zone change.

**BACKGROUND:**

Location of subject property: 321 NE Kings Valley Highway  
 Map id: 7S5W28DB-Taxlot1400 and 7S5W28CA-Taxlot201  
 Property size: 8.8 ac +/-

Staff was recently contacted by representatives of the Wal-Mart Co. regarding the adoption of the amended Development Code. They had concerns related to the restrictions and requirements of the Commercial Neighborhood (CN) zoning designation. The conversation raised questions as to why the Wal-Mart property was zoned CN, a totally inappropriate zone for the use. The subject property is designated Commercial on the Comprehensive plan map.

After doing some fairly involved research, the following issues came to light:

1. In 1980, the City Council adopted Resolution No. 2207 Resolution No. 2207 was a resolution of intent to rezone the current Wal-Mart property (and other properties on the east side of Polk Station Road) from Commercial Restricted (CR) and Residential Agriculture (RA) to Commercial General (CG).
2. At that time, a resolution of intent to rezone meant that prior to the actual rezoning of the property by ordinance, the property must have a development plan approved by the Planning Commission. Once that plan was approved and the development implemented, an Ordinance adopting the zone change was adopted.
3. In February 1994, the Wal-Mart site development plan was approved by the Planning Commission after 2 public hearings utilizing standards and criteria from the Commercial General zoning district. The project was completed in 1995.
4. As far as staff can tell, there was no Ordinance adopting the zone change to Commercial General in 1995 or thereafter, as should have occurred.
5. In 1999, the CR designation appears to have been replaced by the CN designation, and was applied to the Wal-Mart property. There is no discernible reason this occurred, other than perhaps an oversight or error.

In order to correct past errors with respect to the zoning of the property, and failure to designate the zone change to CG when the site plan was approved in 1994, staff is recommending that the

City Council adopt an ordinance which would properly designate the property Commercial General (CG) on the city zoning map, in accordance with Resolution No. 2207.

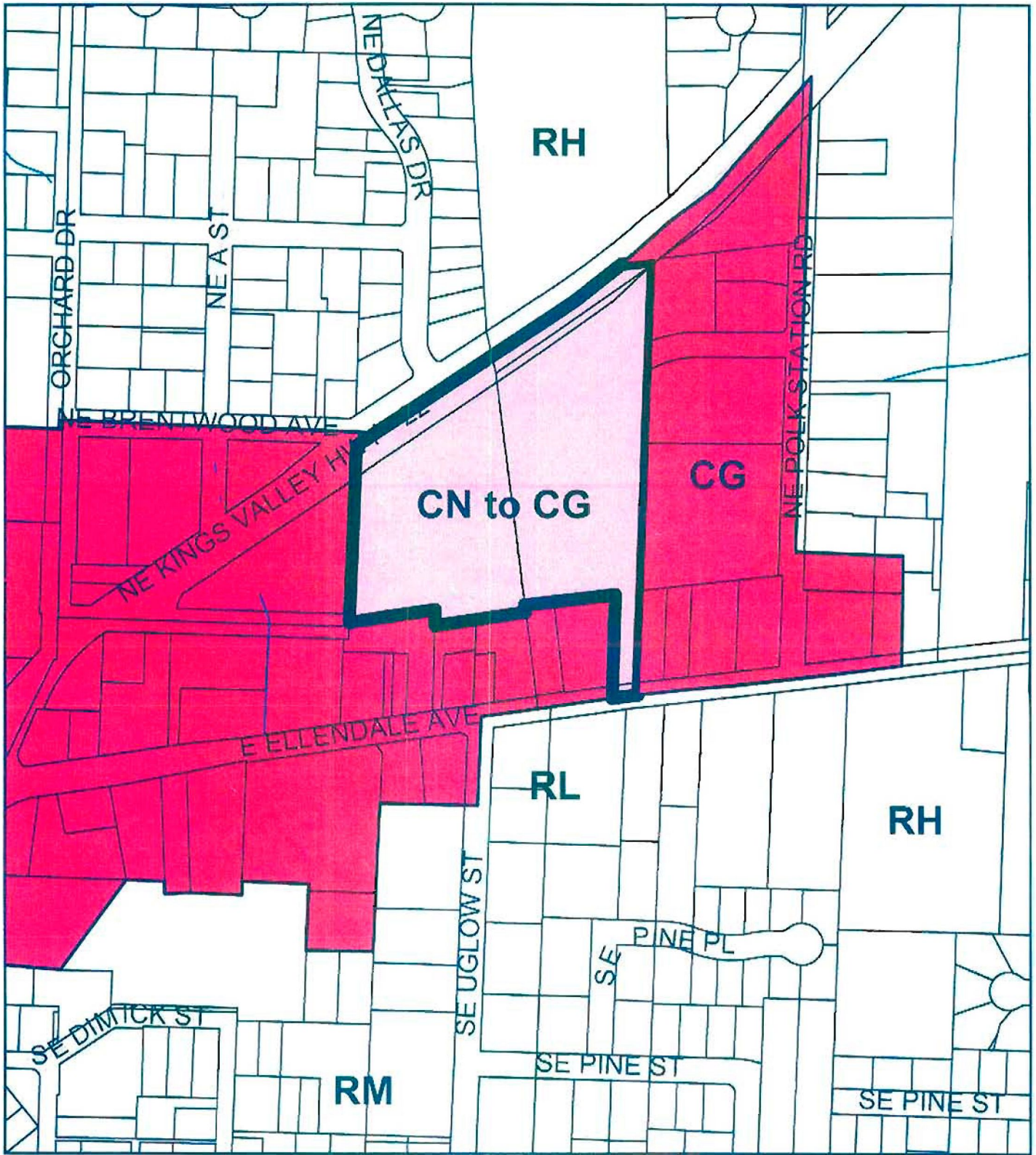
**FISCAL IMPACT: None**

**ATTACHMENTS:**

- A) Resolution No. 2207
- B) Site approval of the Wal mart store dated February 15, 1994
- C) Public Hearing Notice
- D) Map



EXHIBIT C





**City of Dallas**  
187 SE Court Street  
Dallas, OR 97338



**UNITED WE STAND**

**PRESORTED  
FIRST CLASS**



**UNITED STATES POSTAGE**  
  
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**TO:** ATTENTION: PLAN AMENDMENT SPECIALIST  
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT  
635 CAPITOL STREET NE, SUITE 150  
SALEM OREGON 97301-2540