



Oregon

Theodore R. Kubongski, 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

8/3/2010

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

FROM: Plan Amendment Program Specialist

SUBJECT: City of Stayton Plan Amendment
DLCD File Number 006-10

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: Monday, August 16, 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: Dan Fleishman, City of Stayton
Gloria Gardiner, DLCD Urban Planning Specialist

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FORM 2

DLCD

Notice of Adoption

In person electronic mailed

DEPT OF

JUL 27 2010

LAND CONSERVATION AND DEVELOPMENT

DATE STAMP

For Office Use Only

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 Stayton**

Local file number: **11-06/10**

Date of Adoption: **July 19, 2010**

Date Mailed: **July 26, 2010**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? Yes No Date: 6/4/2010

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".

Comprehensive Plan map and Zoning map amendment from Commercial Retail to Downtown Residential Mixed Use.

Does the Adoption differ from proposal? Please select one

No

Plan Map Changed from: **Commercial Retail**

to: **Downtown Residential Mixed Use**

Zone Map Changed from: **Commercial Retail**

to: **Downtown Residential Mixed Use**

Location: **104 E Virginia St**

Acres Involved: **0.3**

Specify Density: Previous: **not applicable**

New: **12-30 units**

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. _____

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

none

Local Contact: **Dan Fleishman**

Phone: (503) 769-2998 Extension:

Address: **362 N 3rd Ave**

Fax Number: **503-767-2134**

City: **Stayton**

Zip: **97383**

E-mail Address: **dfleishman@ci.stayton.or.us**

DLCD File No 006-10 (18428) [16247]

ORDINANCE NO. 929

AN ORDINANCE CHANGING THE COMPREHENSIVE PLAN DESIGNATION AND ZONING OF THE PROPERTY AT 104 E VIRGINIA STREET

WHEREAS, Bernard Riesterer is the owner of 104 E Virginia St, Stayton, Oregon and has submitted an application for a comprehensive plan map and zoning map amendment from Commercial Retail (CR) to Downtown Residential Mixed Use (DRMU) as to that property ("subject property");

WHEREAS, the property is located at the corner of N 1st Ave and E Virginia St and identified as tax lot 6100, Township 9, Range 1 West of the Willamette Meridian, Section 10DB, Stayton, Oregon;

WHEREAS, the property is 9,400 square feet or 0.22 acres in size;

WHEREAS, the properties to the north, across E Virginia St, are zoned CR and are sites of a personal care establishment and a single family detached dwelling. The property to the west, across N 1st Ave is zoned CR and contains two single family detached dwellings. The property to the south is zoned CR and contains a single family detached dwelling. The property to the east is zoned Downtown Residential Mixed Use and contains a church;

WHEREAS, the subject property is currently occupied by two buildings. One building is a single family detached dwelling. The second building is a one-story building that has most recently been used as a mixed use building, with two residential dwellings and a professional office. The professional office has been vacated and the owner desires to convert the building to a multifamily dwelling;

WHEREAS, multifamily dwellings are permitted in the CR zone only as part of a mixed use building and only if no residential uses are on the ground floor;

WHEREAS, applications for an amendment to the comprehensive plan and zoning maps are required to satisfy approval criteria contained within Stayton Municipal Code (SMC) Title 17, Section 17.12.170.6;

WHEREAS, following a public hearing on June 28, 2010, the Stayton Planning Commission unanimously approved an order recommending that the City Council hold a hearing and approve the application;

WHEREAS, the City Council held a public hearing on the application on July 19, 2010, and, pursuant to SMC 17.12.170.6, the City Council makes the following findings regarding each of the approval criteria:

- a. *The proposed amendment is compatible with the existing provisions of the plan, as measured by:*
 1. *If a map amendment, the land area affected by the change, current uses in the area and the proposed uses.*

Finding: The parcel consists of less than ¼ acre of land. The majority of the neighboring properties are used for residential purposes. No change in the property is proposed except conversion of one unit within an existing building from commercial to residential. The property has been a nonconforming use.

2. *Impact of the proposed amendment on land use and development patterns within the City, as measured by:*

a) *Traffic generation and circulation patterns;*

Finding: The proposed use would result in less traffic generation from the parcel than the previous uses or from continued occupancy of the third unit as a commercial use. The only uses in the DRMU and not permitted in CR are Personal and Household Goods Repair and Maintenance Services and Post Office. There a number of uses, such as automobile dealer; architectural, engineering and related services; scientific research and development services; hotel, motel, inn; and general automotive repair that are currently permitted in CR and not permitted in DRMU. Due to the size and location of this parcel, none of the above listed uses are likely to be proposed at this location. The permitted uses in the DRMU, in the worst case will not generate more traffic than uses currently permitted.

b) *Population concentrations;*

Finding: The Downtown Transportation and Revitalization Plan stressed the importance of increasing residential uses in and around the downtown area. The proposed zone amendment would allow more residential use in the downtown area and increase population density in the downtown area.

c) *Demand for public facilities and services;*

Finding: No expansions of the existing building are proposed with this application. The property is completely developed and urban services are fully available.

d) *Level of park and recreation facilities;*

Finding: The property is located within two blocks of an existing city park.

e) *Economic activities;*

Finding: The proposed amendment would continue to allow for the possibility of commercial use of the property.

f) *Protection and use of natural resources;*

Finding: There are no identified natural resources on or near this property.

g) *Natural hazards and constraints;*

Finding: There are no identified natural hazards and constraints on this property.

h) *Compliance of the proposal with existing adopted special purpose plans or programs, such as public facilities improvement programs.*

Finding: The site is fully developed and no further development is proposed at this time.

b. *A demonstrated need exists for the amendment based on the lack of available land in the districts where the proposed uses(s) is allowed.*

Finding: The application states that a need for the amendment based on the lack of available land does not exist. Further analysis has shown that multifamily dwellings are permitted only in the High Density Residential Zone (HD) and DRMU zone, without being part of a mixed use development. There is only one vacant parcel zoned HD. It is four acres in size

and located near the corner of Cascade Highway and Fern Ridge Road. There are two vacant parcels in the DRMU zone. However, the purpose of the application is to allow an existing building to be used as a multifamily dwelling without having to be part of a mixed use development and to allow the residential uses to be on the ground floor. No new development is proposed that would require land to otherwise be available.

- c. *The proposed amendment complies with all applicable Statewide Planning Goals and administrative rule requirements, including compliance with Goal 14 and the Urban Growth Policies of the City of Stayton (Section 17.08.230 of this title) if a change in the urban growth boundary is requested.*

Finding:

Goal 1 Citizen Involvement- The application is subject to the public hearing standards established in SMC 17.12.090 and 17.12.100 and Oregon Revised Statutes 227.160 to 186.

Goal 2 Land Use Planning- The City's adopted Comprehensive Plan was acknowledged by the Department of Land Conservation and Development (DLCD) on April 10, 1980. DLCD was notified of this proposed amendment on June 4, 2008. No exception is required whereas this is an amendment within the existing city limits.

Goal 3 Agricultural Land- The property for this proposal is located inside the City Limits and zoned with City urban development zones.

Goal 4 Forest Lands- The property for this proposal is located inside the City Limits and zoned with City urban development zones.

Goal 5 Open Spaces, Scenic and Historic Areas, and Natural Resources- This property is not designated as open space, scenic, or historic resources by the Comprehensive Plan or the adopted City Master Plans.

Goal 6 Air, Water and Land Resources Quality- No additional development is proposed.

Goal 7 Areas Subject to Natural Disasters and Hazards- There are no identified natural hazards on this property.

Goal 8 Recreational Needs- The City has Parks Master Plan that addresses the recreational needs of the community.

Goal 9 Economy- The Comprehensive Plan emphasizes the importance of nearby residences to the economic vitality of the downtown area. With the exception of automobile retail establishments, general automotive repair, and hotels and motels, the commercial uses in the CR zone are permitted in the DRMU zone.

Goal 10 Housing- The property has been used for a mix of commercial and residential uses. The immediate proposal is to convert the property to only residential use. The DRMU allows commercial uses, residential uses or mixed use. This proposal will not result in a change in the amount of residentially zoned land.

Goal 11 Public Facilities and Services- The property is fully served by public utilities. No change in demand for services is forecast.

Goal 12 Transportation- Conversion of the property from mixed use to residential will result in a decrease in traffic generation.

Goal 13 Energy Conservation- No new development of the site is proposed at this time.

Goal 14 Urbanization- The property is located within the City limits.

Goal 15 Willamette River Greenway- The City of Stayton is not located in the Willamette River Greenway.

Goal 16 Estuarine Resources- The City is not located near an estuarine area.

Goal 17 Coastal Shorelands, Goal 18 Beaches and Dunes, Goal 19 Ocean Resources- The City is not located on the Oregon Coast.

- d. *The proposed amendment is possible within the existing framework of the plan (e.g., no new land use designation categories, policy categories, or plan elements are necessary to accommodate the amendment).*

Finding: The application proposes changing the designation to an existing zone.

- e. *The amendment is appropriate as measured by at least one of the following criteria:*

- 1) *It corrects identified error(s) in the provisions of the plan.*

Finding: There is no error in the existing plan or zoning map.

- 2) *It represents a logical implementation of the plan.*

Finding: The Comprehensive Plan does encourage residential uses close to the downtown area.

- 3) *It is mandated by changes in federal, state, or local law.*

Finding: The proposed amendments are self-initiated by the applicant.

- 4) *It is otherwise deemed by the council to be desirable, appropriate, and proper.*

Finding: There are no City Council goals that address the particulars of the Comprehensive Plan and its maps in general.

WHEREAS, pursuant to the findings above, the City Council concludes that the Comprehensive Plan amendment proposal is compliant with all applicable review criteria.

NOW, THEREFORE, the City of Stayton ordains:

Section 1. Comprehensive Plan Map and Official Zoning Map Changed. Based on the Findings and Conclusions set forth above the Stayton Comprehensive Plan and Zone Maps are amended as follows:

Area to be changed from Commercial Retail Zone to Downtown
Residential Mixed Use Zone

Beginning at the intersection of the centerline of E Virginia Street and the alley between N 1st Avenue and N 2nd Avenue; proceeding westerly along the centerline of E Virginia Street to the centerline of N 1st Avenue; then southerly along the centerline of N 1st Avenue to a point opposite the southwest corner of tax lot 6100, Township 9, Range 1 West of the Willamette Meridian, Section 10DB; then easterly along the south lot line of tax lot 6100 to the centerline of the alley between N 1st Avenue and N 2nd Avenue; then proceeding northerly along the alley between N 1st Avenue and N 2nd Avenue to the centerline of E Virginia Street and the point of beginning.

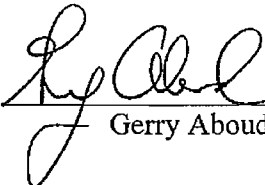
Section 2. Effective Date. This ordinance shall become effective 30 days after adoption by the Stayton City Council and the Mayor's signing.

Section 3. Notification to State. This Ordinance shall be forthwith furnished to the State of Oregon, Department of Land Conservation and Development

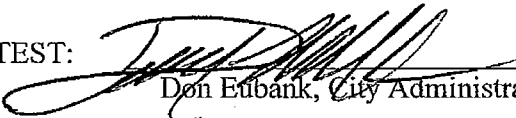
ADOPTED BY THE STAYTON CITY COUNCIL this 19th day of July, 2010.

CITY OF STAYTON

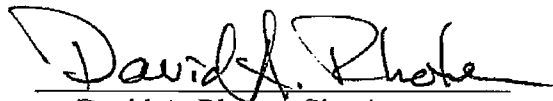
Signed: 7/19, 2010

BY: 
Gerry Aboud, Mayor

Signed: 7/19, 2010

ATTEST: 
Don Eubank, City Administrator

APPROVED AS TO FORM:


David A. Rhoten, City Attorney

VIRGINIA

VIRGINIA

Land Use File 11-06/10

104 E Virginia St

Comprehensive Plan and Zoning Map Amendment

1ST

CR

DRMU

Current Zoning Boundary

Proposed Zoning Boundary





CITY OF STAYTON
362 N. THIRD AVENUE
STAYTON, OREGON 97383

To

ATTN: PLAN AMENDMENT
SPECIALIST
DEPT. OF LAND CONSERV. & DEV.
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540



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