



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

August 6, 2008



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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Madras Plan Amendment
DLCD File Number 009-07

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: August 20, 2008

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
Mark Radabaugh, DLCD Regional Representative
Bill Holmstrom, DLCD Transportation Planner
Tammy McHaney, City of Madras

<paa> ya/

FORM 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



Jurisdiction: City of Madras Local file number: RZ-07-4

Date of Adoption: 7/22/2008 Date Mailed: 7/30/2008

Date original Notice of Proposed Amendment was mailed to DLCD: 12/5/2007

- | | |
|--|---|
| <input type="checkbox"/> Comprehensive Plan Text Amendment | <input 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".

The City of Madras amended their Comprehensive Plan and Zone Map for the rezone of approximately 1.68 acres of R-1 (Single Family Residential) Property to C-1 (Corridor Commercial) which is located inside the City limits and Urban Growth Boundary.

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: _____ to: _____

Zone Map Changed from: R-1 to: C-1

Location: 11-13-2 DA #2000 Acres Involved: 1.68

Specify Density: Previous: 7500 sq. Ft. New: 0 min lot

Applicable Statewide Planning Goals: 2 & 9

Was and Exception Adopted? YES NO

DLCD File No.: 009-07 (16576)

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:

Deschutes Valley Water; City of Madras; DLCD

Local Contact: **Tammy McHaney** Phone: **(541) 475-3388** Extension: _____

Address: **71 SE "D" Street** City: **Madras**

Zip Code + 4: **97741-1685** Email Address: **tmchaney@ci.madras.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.

ORDINANCE NO. 805

AN ORDINANCE AMENDING THE CITY OF MADRAS COMPREHENSIVE PLAN AND ZONE MAP FOR THE REZONE OF APPROXIMATELY 1.68 ACRES OF R-1 (SINGLE-FAMILY RESIDENTIAL) PROPERTY TO C-1 (CORRIDOR COMMERCIAL), AND DECLARING AN EMERGENCY.

WHEREAS, the City of Madras adopted its Comprehensive Plan and Zone Map in 1970 whereby plan designations and zones were adopted to regulate growth within the City's Urban Growth Boundary; and

WHEREAS, City staff in cooperation with the property owners, Kevin and Deirdre O'Meara, submitted an application for the rezone of approximately 1.68 acres (more particularly described as Assessor's Map #11-13-2 DA, Tax Lot #2000) of R-1 (Single-Family Residential) property to C-1 (Corridor Commercial), after taking into consideration the fact that when the North Y intersection was reconfigured, several existing C-1 parcels were reduced in size and/or purchased by the Oregon Department of Transportation resulting in a reduction of commercial property at that location, and based on the fact that this change in zone designation is compatible with the surrounding C-1 zoning as the subject parcel is currently surrounded on three sides by commercial property; and

WHEREAS, the purpose of the rezone is to increase the City's 20-year commercial land supply which was found, by the adopted Urbanization Report dated November, 2007, to be 150 acres short of meeting the 20-year commercial land supply requirement; and

WHEREAS, a public hearing was scheduled before the City Planning Commission on January 16, 2008 to accept comments from the public on the proposed rezone; however, the hearing had to be continued at that time to March 5, 2008 to provide the new Planning Director with sufficient time to prepare the appropriate staff report; and

WHEREAS, the Planning Commission, on March 5, 2008, found it necessary to continue the hearing once again to March 19, 2008 as the required staff report had not yet been completed; and

WHEREAS, the Planning Commission, on March 19, 2008, after hearing comments from the public and considering all written evidence in the record, deliberated the matter fully, adopted the Findings of Fact and Conclusions of Law contained in the staff report, incorporated the comments from the Oregon Department of Transportation regarding their request that the City provide a Transportation Impact Analysis (TIA) Exemption Letter, and forwarded a recommendation to the City Council that the Council approve the rezone of Assessor's Map #11-13-2 DA, Tax Lot #2000 from R-1 (Single-Family Residential) to C-1 (Corridor Commercial); and

WHEREAS, the City Council held a public hearing during their regularly scheduled City Council meeting on April 22, 2008 to allow the public to attend and present comments on the proposed rezone; and

WHEREAS, on April 22, 2008 staff asked that the City Council continue the hearing to May 27, 2008 to allow sufficient time to contract with a Certified Traffic Engineer to prepare the Transportation Impact Analysis Exemption Letter that had been requested by the Oregon Department of Transportation; and

WHEREAS, the Council, on May 27, 2008, was asked to continue the hearing to June 24, 2008 as the Transportation Impact Analysis Exemption Letter was not yet available; and

WHEREAS, on June 24, 2008, after taking into consideration all comments and written evidence presented during the hearings, and based on the findings of the Transportation Impact Analysis Exemption Letter dated May 23, 2008 from Ferguson and Associates, Inc. which indicated that the proposed rezone would have no significant impact the highway system, the City Council deliberated the matter fully, accepted the Findings of Facts and Conclusions of Law contained in the staff report, and accepted the Planning Commission's recommendation to approve the rezone; and

WHEREAS, as a condition of their approval, at the time a development application is received on the subject parcel, the applicant will be required to provide a Traffic Impact Analysis in compliance with City of Madras and ODOT requirements.

NOW, THEREFORE, the City of Madras ordains as follows:

SECTION 1: The Comprehensive Plan and Zone Map of the City of Madras are hereby amended to rezone Assessor's Map #11-13-2 DA, Tax Lot #2000 from R-1 (Single-Family Residential) to C-1 (Corridor Commercial).

SECTION 2: The Findings of Fact and Conclusions of Law contained in the staff report, attached hereto as Exhibit "A", which were approved by the Planning Commission and City Council, are hereby adopted and incorporated herein. Said findings have been designated by the City's Community Development Department as File #RZ-07-4

SECTION 3: The City's Community Development Department shall hereby provide the Oregon Department of Land Conservation and Development, and any others who are entitled to notice thereof, with a copy of the approved ordinance.

SECTION 4: If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

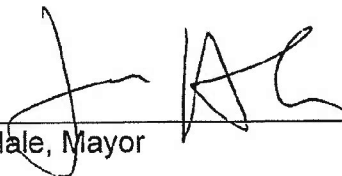
SECTION 5: This ordinance may be amended or repealed as provided by law.

SECTION 6: This ordinance may be corrected by order of the City Council to cure editorial and clerical errors.

SECTION 7: The City Council of the City of Madras, having reviewed the Comprehensive Plan of the City of Madras, and the need for enactment of ordinances to regulate land use within the City does hereby determine that this ordinance is necessary for the immediate preservation of the public peace, health, and safety of the citizens of the City of Madras and an emergency is hereby declared to exist, and this ordinance shall become in full force and effect from and after the date it is enacted and signed by the Mayor.

ADOPTED by the City Council of the City of Madras this 22nd day of July, 2008.

Ayes: 3
Nays: 0
Abstentions: 0
Absent: 3
Vacancies: 0



Jason Hale, Mayor

ATTEST:



Karen J. Coleman, City Recorder

STAFF RECOMMENDATION TO THE PLANNING COMMISSION

FILE NUMBER: RZ-07-4

DATE MAILED: March 12, 2008

HEARING DATE: March 19, 2008

APPLICANT: City of Madras
71 SE D Street
Madras Oregon 97741

OWNER: Kevin O'Meara
85 NW Poplar
Madras Oregon 97741

REQUEST: The applicant is requesting approval of a zone change from R-1, Single Family Residential to C-1 Corridor Commercial.

LOCATION: 85 NW Poplar Street
11-13-2DA, tax lot 2000.

STAFF REVIEWER: Mike Morgan

APPLICABLE ORDINANCE PROVISIONS:

1. City of Madras Comprehensive Plan, Administrative Procedures,
 - **Quasi-judicial Revision**
2. City of Madras Development Code, Chapter 8; Development Regulations
 - Article 8, Amendments
 - **Section 8-12.8.2, Zone/Plan Map Amendments**

- Article 9, Administrative Provisions
 - Section 9.28, Proposed Amendments

EXHIBITS

The following exhibits have been submitted with this application:

1. Deed of Ownership
2. Application
3. Vicinity Map
4. Transportation Assessment Letter

FINDINGS OF FACT:

1. **LOCATION:** The subject property is located in the northwest portion of the City; on the north side of NW Poplar Street. The properties are further identified on Jefferson County Assessor's Map No. 11-13-2DA, tax lot 2000.
2. **ZONE, MAP AND COMPREHENSIVE PLAN DESIGNATION:** The subject property is zoned Single Family Residential (R-1) on the City of Madras Comprehensive Plan and Zoning Map.
3. **SITE DESCRIPTION AND SURROUNDING LAND USES:** The subject property is approximately 1.68 acres in size. The property rises sharply from the frontage road and has been disturbed by prior activity.

The property is bounded by NW Plum Street on the north and NW Poplar Street to the south.

4. **PROPOSAL:** The applicant is the City of Madras. City Staff in cooperation with the owner have brought forward this proposal. The area east of the future development of 3rd street is more appropriately zoned C-1. Reviewing the area in its totality shows that the area is surrounded on three sides by C-1. When the North Y intersection was reconfigured, several existing C-1 parcels were reduced in size and/or purchased by ODOT thus reducing the amount of C-1 property available at this location. Indeed, the recently adopted Urbanization Report indicates that Madras is 150 acres short of meeting its 20 year land supply for commercial property. The proposal rezones approximately 1.68 acres from R-1, Single Family Residential to C-1 Corridor Commercial and is compatible with surround C-1 zoning. This rezone helps compensate for lost commercial property and helps address the lack of commercially zoned property in Madras. No development of the site is proposed at this time. Primary access into the site will be off of NW Plum Street.
5. **PUBLIC NOTICE AND COMMENTS:** The City of Madras Planning Division sent notices of the request to surrounding owners of record of property as shown on the most recent property tax assessment roll within 250 feet of the subject property. No

letters of comments were received in response to this application notice prior to the mailing of the staff report.

6. **AGENCY COMMENTS:** Various agencies were also sent notices; their comments and recommendations are listed below in italics:

The following comments and recommendations received by various agencies and are not necessarily reflective of the Conditions of Approval for the proposed project.

FIRE DEPARTMENT COMMENTS:

No comments for Zone Change.

PUBLIC WORKS DEPARTMENT:

Public Works will reserve comments until the time of site plan application for the property being re-zoned.

Oregon Department of Transportation:

Would like a transportation assessment letter... "indicating why the proposed land use action is exempt."

RECOMMENDED AND CONCLUSIONARY FINDINGS:

CONFORMANCE WITH THE CITY OF MADRAS DEVELOPMENT CODE ORDINANCE NO. 723; ARTICLE 8; SECTION 8-12.8.2, ZONE/PLAN AMENDMENTS.

In order to submit a favorable recommendation for the proposed change to the City Council, the Planning Commission shall establish the compelling reasons and make a finding of fact for the proposed change. These include:

- 1. The proposed change will be in conformance with statewide planning goals.*

FINDING: Staff finds that the proposed zone change from R-1 to C-1 is consistent with adjoining land uses and helps address the required 20 year commercial land supply. The recently adopted Urbanization Report demonstrates that the City of Madras is 150.4 acres short of meeting its 20 year land supply for Commercial property. Having sufficient land zoned commercial is critical for development of jobs and services for the community of Madras.

- 2. There is a demonstrated need for the proposed change.*

FINDING: Staff finds that the proposal is in conformance with the Madras Comprehensive Plan Map because the property is essentially part of a virtual "island" of residential property surrounded on three sides by existing commercial zone, with its west boundary representing

the City limits of Madras. As indicated in #1 above, converting this 1.68 acres to commercial property helps to address the City's 20 year commercial land supply requirement.

3. In conformity with the Madras Comprehensive Plan, Zoning and Land Use Ordinance, and polices;

Staff has also evaluated the proposed zone change on the 14 Statewide Planning goals as set forth in the Madras Comprehensive Plan.

Goal 1 (Citizen Involvement):

Proper public notice has been completed. All decision making will occur in a pre-noticed public forums (Planning Commission and City Council). The public is afforded the opportunity to address the Planning Commission and City Council both verbally and in writing at each of these stages. Public comments are considered and evaluated throughout this process.

Goal 2 (Land Use Process for Policy Framework):

As required and outlined in the City's Comprehensive Plan:

- (A) The Comprehensive Plan is being used as the basis for this land use decision, and;
- (B) Based on the changing commercial property needs in part caused by the Oregon Department of Transportation removing 2.71 acres of Commercial land in this area in 2006, and an additional 0.85 acres also in 2006 in order to construct the north Y intersection realignment project, it is necessary to make this adjustment to the zoning map to compensate for the resulting loss in buildable commercial property.

Goal 3 (Preserve and Maintain Agricultural Lands):

This project does not directly impact agricultural lands. The affected lands (1.68 acres) is currently zoned R-1 and has not been farmed. The affected property does not have irrigation rights and is not used for the transmission (canal) of irrigation water.

Goal 4 (Conserve Forest Lands):

The acknowledged Madras Comprehensive Plan finds that there are no forest lands within the City and because of this circumstance the City is not subject to this Goal.

Goal 5 (Conservation of Open Space):

The subject property is already privately owned and has been disturbed by prior use. No open space land is affected by this zone conversion from R-1 to C-1.

Goal 6 (Protection Air, Water and Land Resources):

As required by the Comprehensive Plan (and zoning ordinance):

- (A) Any development will be connected to the City's sewer system, which is available to serve this site;
- (B) The City has in-place policy and practices to preserve water quality, the rezone of this property to C-1 will not adversely affect these practices and because of new storm water mitigation requirements imposed on all new development, the eventual development of this property to C-1 will actually lead to better protection of the environment that is otherwise negatively affected by unregulated storm water runoff;
- (C) The City does require development to comply with all appropriate Federal, State and local standards and has in-place the mechanism to enforce that compliance.

Goal 7 (Protecting Property from Natural Hazards):

The City has a flood damage mitigation plan and ordinance in-place. The subject property is not in an area affected by flooding.

Goal 8 (Recreational):

There are no known impacts on the recreational needs of Madras affected by this zone change. Recreation projects in Madras will benefit to the extent that as this property is developed it will pay the required Park System Development Charge that enables the City to expand its Park and Trail system thus providing an indirect benefit to recreation.

Goal 9 (Economy)

This zone conversion will help the City by creating both new commercial opportunity and related jobs for the community. It is already established that the City requires 150.8 acres of new Commercial land to meet its 20 year supply requirements. It is further established that the existing Commercial Land inventory was further reduced when ODOT purchased 3.56 acres of Commercial zoned property in this immediate area. This rezone will add back 1.28 of commercial zone property to this area.

Goal 10 (Housing)

The rezone of this property does not negatively affect housing in Madras. Madras' recent Urbanization Report shows the community is well situated to meet housing needs. In addition, the City adopted new codes that allow for "second" floor residential use on commercial property. In addition the City is working with a variety of developers and agencies to ensure a broad range of housing types and costs are available in Madras.

Goal 11 (Public Facilities):

The rezone of this property complies with all standards set forth in the City's Comprehensive plan for public facilities.

1. The project does not interfere with the City's coordination and cooperation with the School district to help the district "provide adequate educational facilities."
2. Urban services (street, water, sewer, police coverage, planning, etc.) are and will continue to be available to the site of the subject property.
3. The City continues to coordinate with Deschutes Valley Water District and the subject property will be served by the District.
4. The City has adopted its Transportation Systems Plan in cooperation with ODOT.
5. The City continues to properly treat and dispose of waste water and this rezone does not negatively impact that ability.

Goal 12 (Transportation):

- (1) The subject property is served by an effective network of City streets, including two recently paved streets with pedestrian sidewalks.
- (2) The recently improved North Y project ensures safe and controlled access to the local streets serving the project. Only right in / right out is allowed southbound on US Highway 26 and access to Highway 97 is controlled through a recently installed traffic signal. The area is well served by these existing transportation improvements. In addition, at the time of development the City will require a Traffic Impact Analysis. If this TIA found additional mitigation was required, it would be imposed at that time. However, given the robust nature of the recently constructed street and highway improvements the need for such mitigation is highly unlikely. The eventual development of this project further benefits both the local and state transportation systems through Transportation SDCs. Transportation SDCs for a Commercial property are significantly larger than for residential. Given that the City has already committed SDC funds to both the local and state transportation system, SDC funds generated by this eventual commercial development better serve the financial needs for these commitments than what would be provided by residential transportation SDCs. Finally, in reality there is still no net increase in usable Commercial Zone property in this area given ODOT's use of commercial zone property to meet the needs of the North Y intersection project.

Goal 13 (Energy):

This goal is met through the rezone of this property because it encourages compact urban growth and is an efficient use of existing public facilities.

Goal 14 (Findings – Urbanization):

The proposed rezone is consistent with the City adopted Comprehensive Plan policies relative to Urbanization.

- (1) The City has established urban growth boundaries and the subject property is within both the UGB and City limits.

- (2) The City has in-place an UGAMA with Jefferson County.
- (3) The City has in-place a methodology for changing the Urban Growth Boundary.
- (4) The City of Madras is actively "encouraging the development of complete, livable communities" and this rezone is consistent with the City's adopted policies relative to this goal.

CONFORMANCE WITH THE CITY OF MADRAS DEVELOPMENT CODE ORDINANCE NO. 723; ARTICLE 9; SECTION 8-12.8.2, ZONE/PLAN MAP AMENDMENTS.

Section 9.28: Proposed Amendments - *The City Council shall hold a public hearing on all changes to the Comprehensive Plan, zoning ordinance text and plan/zone map. All proposed amendments shall be processed in accordance with the public hearing procedures under Section 9.6 of this Ordinance. Text and map amendments shall also be submitted to the Department of Land Conservation and Development forty-five (45) days prior to the date set for final action except as provided for under ORS 197.610.*

FINDING: The Madras Planning Commission must first hold a public hearing to consider a recommendation to the City Council; after receiving the Planning Commission's recommendation, the City Council shall schedule a public hearing to take testimony on the request.

Pursuant to ORS 197.610, the City of Madras sent the 45-day notice to the Department of Land Conservation and Development (DLCD) on December 5, 2007, which was at least 45-days prior to the first evidentiary hearing held on January 16, 2008. The first evidentiary hearing was continued to March 5, 2008. The continued hearing was further continued to March 19, 2008 because staff needed additional time to adequately prepare findings and recommendations.

4. *That there is a change in circumstances or further studies justifying the amendment or mistake in the original zoning.*

FINDING: Staff finds that there was a change in circumstances:

- 1) When the City's newly adopted Urbanization report shows a need for commercial zone property.
- 2) ODOT reduced the amount and availability of commercial zone property in 2006 when it bought up 3.56 acres of privately owned and already zoned C-1 property. The rezone of the subject 1.28 acres helps to address these changes circumstances.

RECOMMENDATION

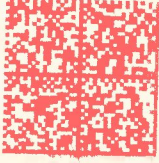
Based on the above Findings of Fact and Conclusionary Findings, Staff finds that the proposed zone change will meet the intent of the comprehensive plan and zone change criteria. Therefore, staff recommends that the Planning Commission recommend that the City Council approve the proposed Plan and Zone Map amendment to re-zone the subject property from Single Family Residential (R-1) to Corridor Commercial (C-1), and adopting the

Conclusionary Findings in support of the Plan and Zone Map amendment. If approved, the applicant should be subject to the following conditions of approval:

RECOMMENDED CONDITIONS OF APPROVAL

1. The applicant (City) shall provide a transportation assessment letter, indicating why the proposed land use action is exempt from a TIA at the time of zone change. This letter will be provided separately by the City. The letter will be based on the findings described herein.

UNITED STATES POSTAGE
RITNEY BOWES
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0002418895 JUL 30 2008
MAILED FROM ZIP CODE 97741



CITY OF MADRAS

71 S.E. D Street
Madras, OR 97741-1605
(541) 475-2344

To:

Attn: Plan Amendment Specialist
Dept. of Land Conservation & Development
635 Capitol Street NE, Suite 150
Salem, Oregon 97301-2540