



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

11/24/2008

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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Tualatin Plan Amendment
DLCD File Number 008-08

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, December 05, 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 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

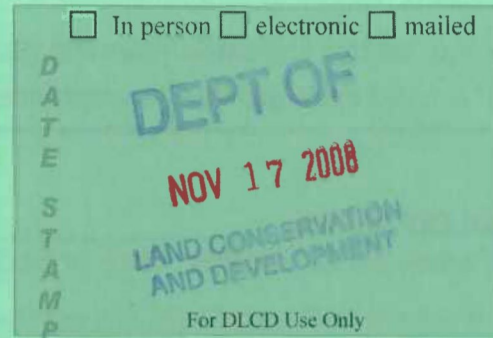
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DLCD

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 Tualatin**

Local file number: **PTA-08-05**

Date of Adoption: **11/10/2008**

Date Mailed: **11/14/2008**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: 7/29/2008

- | | |
|---|---|
| <input checked="" type="checkbox"/> Comprehensive Plan Text Amendment | <input type="checkbox"/> Comprehensive Plan Map Amendment |
| <input checked="" type="checkbox"/> Land Use Regulation Amendment | <input 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".

Amendment strikes requirement that res(idential) development build to a min of 80% of the max dwelling units (DUs) per acre allowed by the applicable res planning district. (Tualatin has a combined comp plan and development code; a district is both a future land use designation and a zoning district.) Metro via Ord. No. 02-969B (2002) rescinded requirement from Metro Code 3.07.120(A)(1)(a). Amendment preserves ability of Tualatin to comply w/ OAR 660-007-0035(2) (the MHR).

Does the Adoption differ from proposal? **Yes**, Please explain below:

The adoption differs from the original proposal only in amended language, not intent. The adopted ordinance is attached.

Plan Map Changed from: **n/a** to:

Zone Map Changed from: **n/a** to:

Location: **n/a** Acres Involved:

Specify Density: Previous: **min 80% of residential max** New: **no such min**

Applicable statewide planning goals:

- | | | | | | | | | | | | | | | | | | | |
|--------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 | 18 | 19 |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

Was an Exception Adopted? YES NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing? Yes No

DLCD # 008-08 (17051)

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:

Washington County Dept. of Land Use and Transportation, Clackamas County Dept. of Transportation and Development; Metro; School Districts 3J, 7J, 23J, and 88J; ODOT; TriMet.

Local Contact: **Colin Cortes**

Phone: (503) 691-3024 Extension:

Address: **18876 SW Martinazzi Ave**

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

City: **Tualatin**

Zip: **97062-7497**

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, but you may also submit an electronic copy, by either email or FTP. You may connect to this address to FTP proposals and adoptions: **webserver.lcd.state.or.us**. To obtain our Username and password for FTP, call Mara Ulloa at 503-373-0050 extension 238, or by emailing **mara.ulloa@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

ORDINANCE NO. 1272-08

AN ORDINANCE REMOVING RESIDENTIAL MINIMUM DENSITY REQUIREMENTS; AMENDING TDC 5.040, 36.160, 36.162, 36.242, 40.015, 40.050, 41.015, 42.015, 43.015, AND 44.015 (PTA-08-05).

WHEREAS upon the application of Doug Rux, City of Tualatin Community Development Director, a public hearing was held before the City Council of the City of Tualatin on October 27, 2008, related to removing residential minimum density requirements and amending TDC 5.040, 36.160, 36.162, 36.242, 40.015, 40.050, 41.015, 42.015, 43.015, and 44.015 (PTA-08-05); and

WHEREAS notice of public hearing was given as required under the Tualatin Community Plan by publication on September 25, 2008, 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; and 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 a notice of public hearing was given as required by mailing to affected property owners, which is evidenced by Affidavits of Mailing marked "Exhibit C" and "Exhibit D," attached and incorporated by this reference; and

WHEREAS the Council conducted a public hearing on October 27, 2008, 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 Council vote resulted in approval of the application by a vote of [7-0] with all council members present; and

WHEREAS based upon the evidence and testimony heard and considered by the Council and especially the City staff report dated October 27, 2008, the Council makes and adopts as its Findings of Fact the findings and analysis in the staff report attached as "Exhibit E," which are incorporated by this reference; and

WHEREAS based upon the foregoing Findings of Fact, the 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. Therefore,

THE CITY OF TUALATIN ORDAINS AS FOLLOWS:

Section 1. TDC Section 5.040 is amended to read as follows:

This section describes the purpose of each residential planning district.

- (1) Low Density Residential Planning District (RL). To provide areas of the City suitable for single-family dwellings and manufactured homes. Common-wall dwelling units and small-lot subdivisions may be allowed by conditional use permit. ~~Residential development less than 80% of the allowed maximum density shall not be permitted.~~ Except for retirement housing and nursing and convalescent homes which shall not exceed 10 dwelling units per net acre and small-lot subdivisions and partitions and subdivisions affected by TDC 40.055, which shall not exceed 7.5 dwelling units per net acre, the maximum density of any residential use in this district shall not exceed ~~6.76~~ 4 dwelling units per net acre. The raising of agricultural animals and the construction of agricultural structures may be allowed by conditional use permit in those portions of the District designated on the Plan Map.
- (2) Medium-Low Density Residential Planning District (RML). To provide areas of the City suitable for common-wall dwellings such as condominiums, townhouses, duplexes, triplexes, and other multi-family dwellings. ~~Residential development less than 80% of the allowed maximum density shall not be permitted.~~ Condominiums and small-lot subdivisions may be allowed by conditional use permit. Owner occupancy of dwelling units shall be encouraged. Parks for manufactured dwellings shall be allowed in those portions of the district designated on the Plan Map. Except for retirement housing and nursing and convalescent homes which shall not exceed 15 dwelling units per net acre and manufactured dwelling parks with single-wide manufactured dwellings which shall not exceed 12 dwelling units per net acre, the maximum density of any residential use shall not exceed 10 dwelling units per net acre. The raising of agricultural animals and the construction of agricultural structures may be allowed by conditional use permit in those portions of the District designated on the Plan Map.
- (3) Medium-High Density Residential Planning District (RMH). To provide areas of the City suitable for townhouses, garden apartments and condominium developments. ~~Residential density less than 80% of the allowed maximum density shall not be permitted.~~ Except for retirement housing and nursing and convalescent homes, which shall not exceed 22.5 dwelling units per net acre, the maximum density of any residential use shall not exceed 15 dwelling units per net acre. The raising of agricultural animals and the construction of agricultural structures may be allowed by conditional use permit in those portions of the district designated on the Plan Map.
- (4) High Density Residential Planning District (RH). To provide areas of the City suitable for townhouses, high density garden apartments and condominium developments. ~~Residential density less than 80% of the allowed maximum density shall not be permitted.~~ Except for retirement housing and nursing and convalescent homes, which shall not exceed 37.5 dwelling units per net acre, the maximum density of any residential use shall not exceed 25 dwelling units per net acre.

- (5) High Density Residential/High Rise Planning District (RH-HR). To provide areas of the City suitable for high density apartment or condominium tower development to provide a maximum amount of preserved open space. ~~Residential density less than 80% of the allowed maximum density shall not be permitted.~~ Except for retirement housing and nursing and convalescent homes, which shall not exceed 45 dwelling units per net acre, the maximum density of any residential use shall not exceed 30 dwelling units per net acre.

Section 2. TDC Section 36.160 is amended to read as follows:

- (1) A subdivision or expedited subdivision application shall not be approved unless the City Engineer first finds that adequate public improvements are, or will be, made available to serve the proposed subdivision.
- (2) The City Engineer may approve, approve with conditions, or deny the application based upon demonstrated compliance with applicable City regulations. The City Engineer's decision shall be supported by written findings and reasons for the decision. Findings and reasons may consist of references to the applicable Development Code, ordinance provisions, or special studies. The decision shall also include an explanation of the rights of each party to request a review of the decision.
- (3) One copy of the subdivision plan and decision shall be filed with both the City Recorder and the City Engineer.
- (4) The decision of the City Engineer on a subdivision shall become final 14 calendar days after the date the notice of the decision is given, unless written request for review is sought.
- (5) The approval for the subdivision shall expire 24 months from the date the decision becomes final.
- (6) A subdivision plan approval may include restrictions and conditions. These restrictions and conditions shall be reasonably conceived to:
 - (a) protect the public from the potentially deleterious effects of the proposal;
 - (b) fulfill the need for public facilities and services created by the proposal, or increased or in part attributable to the impacts of the proposal; or
 - (c) further the implementation of the requirements of the Tualatin Development Code.
- ~~(7) A subdivision in the RL District for single family residential development or in the RML District for a small lot subdivision shall not be approved unless the number of lots meets the minimum 80 percent density requirement in the RL or RML Planning District.~~

Section 3. TDC Section 36.162 is amended to read as follows:

- (1) After the City Engineer has approved, or conditionally approved, the subdivision or expedited subdivision plan, but before the subdivision plat has been approved, any proposed modifications to the subdivision plan shall be submitted to the City Engineer for approval. The City Engineer shall

- determine if the proposed modifications are material or immaterial in nature.
- (2) Immaterial modifications to a subdivision plan approval are changes which do not result in noncompliance with subdivision approval criteria, and include:
 - (a) lot dimension changes;
 - (b) street location changes;
 - (c) lot pattern changes; and
 - ~~(d) density decreases provided the 80 percent minimum density requirement is met.~~
 - (3) Immaterial modifications shall meet the following standards:
 - (a) Accessways to adjacent streets or properties shall not be relocated more than 25 feet from the location approved on the subdivision plan. In addition, accessways shall not be relocated to a different adjacent property.
 - (b) Stub streets shall not be changed to non-through streets.
 - (c) Cul-de-sacs shall not be changed to stub streets.
 - (d) Density decreases shall not exceed a 20 percent reduction in the total number of approved lots or dwelling units ~~provided the 80 percent minimum density requirement is met.~~ For an Expedited Subdivision Application, the density shall not be decreased to a density that would violate the density criterion for the Expedited Subdivision Application process ~~nor violate the 80 percent minimum density requirement.~~
 - (e) The proposed modification shall not result in a change or deletion of a condition of approval of the subdivision plan approval. Changes to the conditions of approval shall be processed as set forth in TDC 36.162(4) and (5).
 - (4) If the proposed modifications are found to be immaterial and the subdivision plan as modified meets the conditions of the earlier subdivision plan approval, the requirements of the TDC and other applicable regulations, the City Engineer shall approve in writing the proposed modifications with or without conditions.
 - (5) A proposed material modification, or a modification which results in a subdivision plan that no longer meets the conditions of the subdivision plan approval or the requirements of the TDC and other applicable regulations, shall require a new application in accordance with TDC 36.120. The application shall follow the limited land use process as described in TDC 36.140. An Expedited Subdivision Application shall be submitted to the City Engineer for a decision.
 - (6) The nonrefundable fee for modification of the subdivision plan approval, as established by resolution of the City Council, shall be submitted with the request for modification.

Section 4. TDC Section 36.242 is amended to read as follows:

- (1) After the partition application has received final approval, including requested minor variances to the dimensional standards of the lots or the minimum lot

- size, whether or not subject to conditions, but before the partition plat has been approved, any proposed modifications to the partition plan shall be submitted to the City Engineer for approval. The City Engineer shall determine if the proposed modifications are material or immaterial in nature.
- (2) Immaterial modifications to a final decision for a partition application are changes which do not result in a noncompliance with partition approval criteria, and include:
 - (a) lot dimension changes;
 - (b) street location changes; and
 - (c) lot pattern changes.
 - (3) Immaterial modifications shall meet the following standards:
 - (a) Accessways to adjacent streets or properties shall not be relocated more than 25 feet from the location approved on the partition plan. In addition, these improvements shall not be relocated to a different adjacent property.
 - (b) Stub streets shall not be changed to non-through streets.
 - (c) Cul-de-sacs shall not be changed to stub streets.
 - (d) The proposed modification shall not result in a change or deletion of a condition of approval of the final decision. Changes to the conditions of approval shall be processed as set forth in TDC 36.242 (5) and (6).
 - (4) If the proposed modifications are found to be immaterial and the partition plan as modified meets the conditions of the final decision, the requirements of the TDC ~~including the 80 percent minimum density requirement~~ and other applicable regulations, the City Engineer shall approve in writing the proposed modifications with or without conditions. The decision shall be filed and mailed as set forth in TDC 31.074 or in accordance with state law for Expedited Partition Plans.
 - (5) A proposed modification that is determined to be material in nature or which results in a partition plan that no longer meets the conditions of the final decision or the requirements of the TDC ~~including the 80 percent minimum density requirement~~ and other applicable regulations, shall require a new application in accordance with TDC 36.220.
 - (6) The nonrefundable fee for modification of the final decision, as established by resolution of the City Council, shall be submitted along with the request for modification or the partition plan approval.

Section 5. TDC Section 40.015 is amended to read as follows:

~~Except for lots created through the partition process for single-family dwellings, housing density shall be at least 80% of the maximum density allowed. Housing density shall not exceed 6.76.4 units per net acre, except as set forth below:~~

- (1) The maximum density for small-lot subdivisions, and partitions and subdivisions affected by TDC 40.055, shall not exceed 7.5 dwelling units per net acre.
- (2) The maximum density for nursing and convalescent homes and retirement housing in accordance with 34.170(2) shall not exceed 10 dwelling units per

net acre. ~~The 80% minimum density shall be based on 6.7 dwelling units per net acre, not 10.~~

Section 6. TDC Section 40.050 is amended to read as follows:

Except as otherwise provided, the lot size for a single-family dwelling shall be:

- (1) The minimum lot area shall be an average of 6,500 square feet ~~provided the smallest lot shall be at least 6,000 square feet.~~
- (2) The average lot width shall be at least 30 feet.
- (3) When a lot has frontage on a public street, the minimum lot width shall be 50 feet on a street and 30 feet around a cul-de-sac bulb.
- (4) The maximum building coverage shall be 45 percent.
- (5) For flag lots, the minimum lot width at the street shall be sufficient to comply with at least the minimum access requirements contained in TDC 73.400(7) - (12).

Section 7. TDC Section 41.015 is amended to read as follows:

~~Housing density shall be at least 80% of the maximum density allowed.~~ Housing density shall not exceed 10 dwelling units per net acre, except as set forth below:

- (1) Where provided by TDC 41.150.
- (2) The maximum density for singlewide manufactured dwelling parks or parts of parks used for singlewide units shall not exceed 12 dwelling units per net acre. ~~The 80% minimum density shall be based on 10 dwelling units per net acre, not 12.~~
- (3) The maximum density for nursing and convalescent homes and retirement housing in accordance with 34.170(2) shall not exceed 15 dwelling units per net acre. ~~The 80% minimum density shall be based on 10 dwelling units per net acre, not 15.~~

Section 8. TDC Section 42.015 is amended to read as follows:

~~Housing density shall be at least 80% of the maximum density allowed.~~ Housing density shall not exceed 15 dwelling units per net acre, except as set forth below:

- (1) Where provided by TDC 42.150.
- (2) The maximum density for nursing and convalescent homes and retirement housing in accordance with 34.170(2) shall not exceed 22.5 dwelling units per net acre. ~~The 80% minimum density shall be based on 15 dwelling units per net acre, not 22.5.~~

Section 9. TDC Section 43.015 is amended to read as follows:

~~Housing density shall be at least 80% of the maximum density allowed.~~ Housing density shall not exceed 25 dwelling units per net acre, except as set forth below:

- (1) Where provided by TDC 43.180.

- (2) The maximum density for nursing and convalescent homes and retirement housing in accordance with 34.170(2) shall not exceed 37.5 dwelling units per net acre. ~~The 80% minimum density shall be based on 25 dwelling units per net acre, not 37.5.~~

Section 10. TDC Section 44.015 is amended to read as follows:

~~Housing density shall be at least 80% of the maximum density allowed.~~ Housing density shall not exceed 30 dwelling units per net acre, except as set forth below:

- (1) Where provided by TDC 44.160.
(2) The maximum density for nursing and convalescent homes and retirement housing in accordance with 34.170(2) shall not exceed 45 dwelling units per net acre. ~~The 80% minimum density shall be based on 25 dwelling units per net acre, not 37.5.~~

INTRODUCED AND ADOPTED this 10th day of November, 2008.

CITY OF TUALATIN, OREGON

BY 
Pro Tem Mayor

ATTEST:

BY 
Acting City Recorder

APPROVED AS TO LEGAL FORM


CITY ATTORNEY

049J82043608

\$01.51

11/14/2008

Mailed From 97062

US POSTAGE

neopost



City of Tualatin
18880 SW Martinazzi Avenue
Tualatin, Oregon 97062-7092

ATTENTION: PLAN AMENDMENT SPECIALIST
DLCD
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-254