



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

02/25/2013

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

FROM: Plan Amendment Program Specialist

SUBJECT: City of Gladstone Plan Amendment
DLCD File Number 002-12

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: Thursday, March 14, 2013

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 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: Clayton Glasgow, City of Gladstone
Gordon Howard, DLCD Urban Planning Specialist
Jennifer Donnelly, DLCD Regional Representative

<paa> YA



FORM 2

DLCD

Notice of Adoption

In person electronic mailed

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A
M
P

DEPT OF

FEB 21 2013

LAND CONSERVATION
AND DEVELOPMENT

This Form 2 must be mailed to DLCD within 20-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: **Gladstone**

Local file number: **Z0549/550-12-CP/Z**

Date of Adoption: **2/12/2013**

Date Mailed: **2/19/2013**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? Yes No Date: 10/11/2012

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".
Plan and Zone change from Single Family Residential/ R-5 to Commercial/C-3

Does the Adoption differ from proposal? Please select one
no

Plan Map Changed from: **Single Family Res** to: **Commercial**

Zone Map Changed from: **R-5** to: **C-3**

Location: **620 Arlington Street; T.2S.,R2E.,Sec20DB, TL11300** Acres Involved: **0**

Specify Density: Previous: **8** 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...

35-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. 002-12 (19550) [17364]

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

Local Contact: **Clay Glasgow**

Phone: (503) 742-4520 Extension:

Address: **150 Beaver Creek Road**

Fax Number: **503-742-4500**

City: **Oregon City**

Zip: **97045-**

E-mail Address: **clayg@clackamas.us**

ADOPTION SUBMITTAL REQUIREMENTS

This Form 2 must be received by DLCD no later than 20 working 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 the adopted amendment, please print a completed copy of Form 2 on **light green paper if available**.
3. Send this Form 2 and one complete paper copy (documents and maps) of the adopted amendment to the address below.
4. Submittal of this Notice of Adoption must include the final signed ordinance(s), all supporting finding(s), exhibit(s) and any other supplementary information (ORS 197.615).
5. Deadline to appeals to LUBA is calculated **twenty-one (21) days** from the receipt (postmark date) by DLCD of the adoption (ORS 197.830 to 197.845).
6. In addition to sending the Form 2 - Notice of Adoption to DLCD, please also remember to notify persons who participated in the local hearing and requested notice of the final decision. (ORS 197.615).
7. Submit **one complete paper copy** via United States Postal Service, Common Carrier or Hand Carried to the DLCD Salem Office and stamped with the incoming date stamp.
8. Please mail the adopted amendment packet to:

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

9. **Need More Copies?** Please print forms on 8½ -1/2x11 **green paper only if available**. If you have any questions or would like assistance, please contact your DLCD regional representative or contact the DLCD Salem Office at (503) 373-0050 x238 or e-mail plan.amendments@state.or.us.

ORDINANCE NO. 1440

AN ORDINANCE APPROVING AN AMENDMENT TO THE CITY'S
COMPREHENSIVE PLAN AND ZONING MAPS

WHEREAS, a property owner applied to change the comprehensive plan designation and relevant zoning on his property (T2, R2E, Section 20DB, Tax Lots 11300-11700) (the "Property") from residential to commercial as specifically described in the findings attached to this ordinance;

WHEREAS, after holding a duly noticed public hearing, the Gladstone Planning Commission recommended the City Council deny the application;

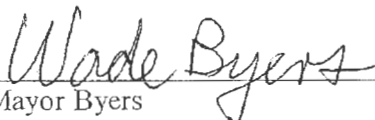
WHEREAS, after holding a duly noticed public hearing, the Gladstone City Council approved the application.

NOW, THEREFORE, THE CITY OF GLADSTONE ORDAINS AS FOLLOWS:

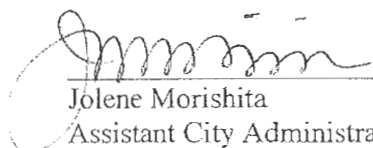
- Section 1. The Property's comprehensive plan designation is changed from single family residential to commercial.
- Section 2. The Property's zoning designation is changed from R-5, single family residential to C-3, commercial.
- Section 3. The City Administrator or his designee is authorized to amend Gladstone's comprehensive plan and zoning maps accordingly.
- Section 4. This ordinance is supported by findings, attached as Exhibit A and incorporated into this ordinance by reference.

This ordinance is adopted by the Gladstone City Council and approved by Mayor Byers this 12th day of February 2013.

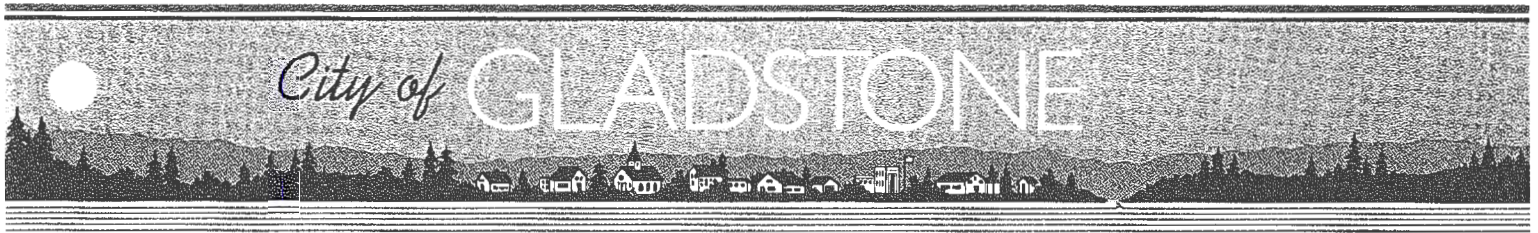
ATTEST:



Mayor Byers



Jolene Morishita
Assistant City Administrator



FINDINGS

Files: Z0549-11-CP & Z0550-11-Z

Date: February 12, 2013

Hearing(s): November 20, 2012 (PC) January 8, 2013 (Council)

I. GENERAL INFORMATION

- A. PROPOSAL: Comprehensive Plan designation change and Zone change to apply the City's Commercial designation and the C-3 zone.
- B. Legal Description: T2, R2E, Section 20DB, Tax Lots 11300-11700
- C. North side of Arlington Street, from Columbia Avenue to just west of 82nd Drive.
- D. Current/proposed Plan designation: Single Family Residential/Commercial
- E. Current/proposed Zone designation: R-5, Single Family Residential/C-3, General Commercial
- F. Site Description: This is a group of five (5) properties totaling approximately 0.80 acres in size. Generally speaking the site is in residential use on residential size lots. The area is relatively flat and fully developed with public facilities.

II. INTRODUCTION

This request is subject to Chapter 17.68, Amendments and Zone Changes, of Title 17 of the Gladstone Municipal Code ("GMC"). The applicant has submitted information to address the applicable criteria. That information includes: (1) the applicant's October 11, 2012 submittal prepared by Stiven Planning Services

City Hall
525 Portland Avenue
Gladstone, OR 97027
(503) 656-5223
FAX: (503) 650-8938
E-Mail: (last name)@ci.gladstone.or.us

Municipal Court
525 Portland Avenue
Gladstone, OR 97027
(503) 656-5224 ext. 1
E-Mail: municourt@ci.gladstone.or.us

Police Department
535 Portland Avenue
Gladstone, OR 97027
(503) 656-4253
E-Mail: (last name)@ci.gladstone.or.us

Fire Department
555 Portland Avenue
Gladstone, OR 97027
(503) 557-2776
E-Mail: (last name)@ci.gladstone.or.us

Public Library
135 E. Dartmouth
Gladstone, OR 97027
(503) 656-2411
FAX: (503) 655-2438

Senior Center
1050 Portland Avenue
Gladstone, OR 97027
(503) 655-7701
FAX: (503) 650-4840

City Shop
18595 Portland Avenue
Gladstone, OR 97027
(503) 656-7957
FAX: (503) 722-9078

III. FINDINGS AND CONCLUSIONS

The Council has reviewed this request in reference to the applicable provisions GMC. Based upon this review, it makes the following findings and conclusions:

A. Comprehensive Plan Amendment and Zone Change

1. Chapter 17.68 establishes the approval criteria for a zone change. Policy 5(c) of the Plan Evaluation and Update chapter of the Comprehensive Plan states, "An amendment to this plan shall be treated like a zone change. The same procedure for a zone change shall be adopted." Thus, Chapter 17.68 of the GMC applies to the Comprehensive Plan amendment as well as the zone change. Chapter 17.68 requires that the applicant "must show by a preponderance of the evidence" the following:

17.68.050(1) Granting the request fulfills a public need, the greater departure from present development policies or land use patterns, the greater the burden of the applicant.

This application proposes to change an area currently zoned for and developed with residential use to commercial zoning and future commercial development. Current Plan/Zone designations are consistent with existing use of the properties. The proposal involves a modest departure from these policies and patterns. The applicant has submitted responses to this criterion, particularly on Pages 15 and 16 of the supplemental application materials. Referencing a vacant lands inventory, certain Plan provisions and other information, the applicant attempts to establish a need for Plan and Zone change. Clearly, the existing business is unable to expand on the subject property. Further, and based on the vacant lands analysis provided by the applicant, it also appears that expansion in this particular area of town is somewhat limited, with the applicant attempting to show the only reasonable option is to change the Plan/Zone designations on the subject property so that the use may be relocated there.

The applicant presented evidence and testimony to the Council as to why the business could not reasonably relocate and expand into other commercially zoned areas in the City (e.g. McLoughlin Corridor or Portland Avenue area). The reasons are particularly set out in the January 7 Stiven memo. The Council also received testimony from John Lewis, owner of the business on the subject property, stating that his search for alternative properties yielded no reasonable sites on which his business could relocate.

The Council finds this evidence substantial and the testimony credible. While certainly the plan amendment and zone change will personally benefit the applicant, the Council also believes that granting the request will fulfill a public need as well. As the record demonstrates, Gladstone has one of the highest percentages of residentially zoned properties in the metro area. Granting the request will increase the City's commercial tax base, however modestly. Consistent with testimony in the record, it is the Council's belief that commercial uses result in a net property tax increase relative to residential uses because commercial uses demand fewer municipal services on average than residential uses.

This criterion is met.

17.68.050(2) *The public need is best carried out by granting the petition for the proposed action, and that need is best served by granting the petition at this time.*

The Council believes the public need for additional commercial land in Gladstone is best met by approving this application. As discussed above, a long time Gladstone business is seeking to expand its operations and seeks to continue to do so in Gladstone. The applicant has presented evidence as to why it reasonably needs to own the site on which its business will operate and how there are no available properties for sale in the vicinity. The Council is not insensitive to the concerns of the neighbors. Ideally, all commercial properties would present no conflicts with residential properties. However, such boundaries must begin and end somewhere and generally speaking there will always be some residences next to some commercial uses. The Council notes that when and if the property develops, it will have to proceed through a design review process which will prioritize screening the use from adjacent residential uses.

Some suggested that it would be better to wait and amend the plan and zoning designation on the property as part of a holistic

review of uses in the area of the property. While the idea certainly has merit, the Council notes that it has generally not sought to impose use changes on properties but rather consider changes proposed by property owners themselves. The Council sees no reason to deviate from that approach here and as such, and based on the evidence and testimony in the record, it finds that the need for additional commercial uses in the city is best met by approving the application.

This criterion is met.

17.68.050(3) *The proposed action is consistent with the Comprehensive Plan and Metro's Functional Plan (Metro Code 3.07).*

The proposed zone change would be consistent with the Land Use chapter of the Plan if the Plan map is changed to commercial.

The Functional Plan provisions relevant to this proposal are addressed as follows:

Title 1, Housing and Employment Accommodation: The applicant contends the zone change will not impact the city's ability to meet Metro's housing targets, as less than 1% of the land zoned for residential use will be impacted, and that employment opportunities will be provided if the request is approved. The Council agrees.

Title 2, Regional Parking: future development plans would be required to meet parking standards as listed in the Gladstone Municipal Code.

Title 3, Water Quality, Flood Management and Fish and Wildlife Conservation: The site in question is not identified as a Water Quality of Flood Management Area.

Title 4, Industrial and Employment Areas: Metro maps and designates certain areas as Industrial and Employment Areas. The property in question is not located in any designated industrial or employment area.

Title 5, Neighbor Cities and Rural Reserves: This Title establishes Metro policy regarding areas outside the Metro urban growth boundary and has no effect in Gladstone.

Title 6, Central City, Regional Centers, Town Centers and Station Communities: The zone change would not amend any centers, corridors, station communities or main streets.

Title 7, Affordable Housing: The general intent of this Title is to ensure housing is provided for households of all income levels. The applicant states "this application involves a quasi-judicial Comprehensive Plan and Zone change and does not involve legislative action by Gladstone affecting affordable housing." The Council finds that Gladstone will continue to have an abundance of housing types available after this application is approved.

Title 8, Compliance Procedures: This Title establishes procedures for Metro to require compliance with the Functional Plan and not affected by this proposal.

Title 9, Performance Measures: This title does not apply to this proposal.

Title 10, Definitions: This title does not apply to this proposal.

Title 11, Planning for New Urban Areas: This title does not apply to this proposal.

Title 12, Protection of Residential Neighborhoods: This Title deals with protecting residential neighborhoods from air and water pollution, noise and crime and to provide adequate public services. The application is not directly affected by this Title.

Title 13: Nature in Neighborhoods. None of the property in this proposal is identified as habitat by Metro.

These criteria are met.

17.68.050(4) *Proof of significant change in a neighborhood or community or a mistake in the planning or zoning for the property under consideration, when relevant.* The applicant demonstrated that there exists a lack of available and suitable sites for a variety of commercial businesses to expand within the I-205 interchange commercial district. The Council agrees. The applicant also demonstrated that other commercially zoned areas of the city are either not appropriate for service-oriented businesses or are not appropriately zoned for uses allowed in the C-3 zone. The Council also notes that uses in the general vicinity the property have become increasingly commercial in nature (e.g. a Harley Davidson dealership, a gas station and various fast-food

restaurants have all appeared in the last 10 years). Therefore, the Council finds that the neighborhood has significantly shifted from a largely residential area to one that is increasingly commercial. Based on the evidence presented by the applicant, this criterion is met.

17.68.050(5) *The property and affected area is presently provided with, or concurrent with development can be provided with, adequate public facilities, including, but not limited to, transportation systems.* The subject property is an area fully served by public facilities, including adequate transportation systems. Applicant has presented a traffic study to support this conclusion. **This criterion is met.**

2. Findings are required concerning the Comprehensive Plan amendment's compliance with the Statewide Planning Goals and Guidelines.
 - a. Goal 1 - "Citizen Involvement" - The purpose of this goal is to provide citizens the opportunity to be involved in the planning process. Notices were mailed to the owners of properties within 250 feet of the subject property, and a minimum of two (2) public hearings will be held. Goal 1 is satisfied.
 - b. Goal 2 - "Land Use Planning" – Goal 2 requires local jurisdictions to adopt comprehensive plans and ordinances to implement those plans. This process for Comprehensive Plan amendment is consistent with the Gladstone Comprehensive Plan and Municipal Code, thereby satisfying Goal 2.
 - c. Goal 3 - Agricultural Lands – Gladstone has no designated agricultural lands. This goal is inapplicable.
 - d. Goal 4 – Forest Lands – Gladstone has no designated forest lands. This goal is inapplicable.
 - e. Goal 5 - Open Spaces, Scenic and Historic Areas, and Natural Resources – Goal 5 requires local jurisdictions to inventory a dozen types of natural and cultural resources, such as wetlands and wildlife habitat; determine which sites are significant; and undertake an evaluation to determine which sites will be protected and to what extent. The subject property does not include any sites or areas.
 - f. Goal 6 – Air, Water and Land Resources Quality – This Goal requires the Comprehensive Plan and implementing ordinances to be consistent with state and federal pollution standards. This

Goal is inapplicable to the proposed Plan amendment because the amendment does not seek to change the city's pollution standards.

- g. Goal 7 – Areas Subject to Natural Disasters and Hazards – This Goal covers development in areas subject to natural disasters and hazards, such as floods or landslides. The proposed Plan amendment will have no impact on the city's regulations pertaining to natural disasters and hazards. The subject property has not been identified as being at risk for a natural disaster or hazard that would be a basis for preventing the commercial development allowed by the new Plan designation.
- h. Goal 8 – Recreational Needs – This Goal requires the city to plan for recreation needs. The Comprehensive Plan designates such areas and this proposal does not adversely affect that planning.
- i. Goal 9 – Economy of the State – Goal 9 requires the city to plan and zone for an adequate supply of commercial and industrial land. The proposal furthers Goal 9 in that additional commercial land would result.
- j. Goal 10 – Housing – Goal 10 requires local jurisdictions to inventory residential lands and to accommodate an adequate supply of a variety of housing types. The proposed zone change would decrease city's supply of residential land by less than 1%.
- k. Goal 11 – Public Facilities and Services – This Goal requires local jurisdictions to plan for such public facilities and services as water, sewer and fire protection. Public Facilities and Services are available to serve this property.
- l. Goal 12 – Transportation – Goal 12 requires the city to adopt a transportation system plan (TSP) that provides for a variety of types of transportation facilities. The applicant provides information to show compliance with the Transportation Planning Rule and the adopted TSP. A traffic study is included with the application.
- m. Goal 13 – Energy Conservation – This Goal requires land use to maximize energy conservation. The proposed zone change will have no impact on the city's plan policies or implementing regulations regarding energy conservation.
- n. Goal 14 – Urbanization – This Goal requires the establishment of urban growth boundaries and planning for sufficient land to meet

urban needs. This Goal is inapplicable to Gladstone because the city is within the Metro urban growth boundary and all lands bordering the city are already urban lands.

- o. Goal 15 – Willamette Greenway – This Goal establishes procedures for administering the greenway that protects the Willamette River. The subject property is not within the greenway; therefore, this Goal is inapplicable.
- p. Goals 16 through 19 pertain to coastal jurisdictions only.

IV. ORDER

For the above reasons the Council approves the application.

**Development Services Building
Dept. of Transportation & Development
Land Use and Zoning
150 Beaver Creek Road
Oregon City, OR 97045**

DEPT OF

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AND DEVELOPMENT**

**ATTN: PLAN AMENDMENT SPECIALIST
DLCD
635 CAPITOL STREET, NE SUITE 150
SALEM OR 97301-2540**