



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

May 12, 2008



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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Gervais Plan Amendment
DLCD File Number 001-08

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: May 29, 2008

This amendment was submitted to DLCD for review 45 days 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 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.**

Cc: Doug White, DLCD Community Services Specialist
Steve Oulman, DLCD Regional Representative
Marjorie Mattson, City of Gervais

<paa> ya/

FORM 2

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

☐ In person ☐ electronic ☐ mailed

DEPT OF

MAY 09 2008

LAND CONSERVATION
AND DEVELOPMENT

For DLCD Use Only

Jurisdiction: *City of Gervais*

Local file number: *ZC/CP 08-01*

Date of Adoption: *May 1, 2008*

Date Mailed: *May 8, 2008*

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Select one** Date: *1/16/08*

☐ Comprehensive Plan Text Amendment

☒ Comprehensive Plan Map Amendment

☐ Land Use Regulation Amendment

☒ Zoning Map Amendment

☐ New Land Use Regulation

☐ Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

The General Plan Map designation was changed from Industrial (I) to Residential (R-1) and the zone district was changed from Light Industrial (IL) to Residential (R-1)

Does the Adoption differ from proposal? Please select one

no

Plan Map Changed from: *listed above*

to: *listed above*

Zone Map Changed from: *listed above*

to: *listed above*

Location: *Map 5 SW 26 CA/3300
Lots 5, 6, 7, and 8 Block 55 of Gervais*

Acres Involved: *.517ac*

Specify Density: Previous:

New:

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 #001-08 (16651)

DLCD file No. _____

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

Local Contact: Maryorie Mattson Phone: 503-588-6177 Extension: _____
Address: Land Use Planner Fax Number: 503-588-6094
City: MWVCOG 105 High St SE E-mail Address: m.mattson@mwvco.org
City: Salem Zip: 97301
or Sam Sasaki @ City of Salem 503-792-4222

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 your request to: (503) 378-5518; or Email your request to **mara.ulloa@state.or.us** - ATTENTION: PLAN AMENDMENT SPECIALIST.

CITY OF GERVAIS, COUNTY OF MARION

STATE OF OREGON

An Ordinance amending
The General Plan Designation and
The Zone District
For Identified Property

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)
)

ORDINANCE NO. __01-2008__

WHEREAS, the City of Gervais received an application to change the City General Plan designation and the Zone District of certain property; and

WHEREAS, the City Council has the authority to review the application according to applicable Statewide Planning Goals, City of Gervais Comprehensive Plan goals and policies, and the City of Gervais Development Code, Section 3.110; and

WHEREAS, the City Council conducted public hearings on Thursday, March 6, 2008, and Thursday, April 3, 2008, on the application to change the General Plan designation and Zone District of the subject property at which time the public was given full opportunity to be present and heard on the matter; and

WHEREAS, based on the evidence in the record and the testimony and evidence presented at the public hearing, the City Council determined that the application meets the applicable approval criteria; NOW, THEREFORE,

THE CITY OF GERVAIS DOES ORDAIN AS FOLLOWS:

Section 1. The City Council adopts the staff report and findings attached as Exhibit A; and

Section 2. The City Council of the City of GERVAIS does hereby amend the General Plan Designation from Industrial to Residential and the Zone District from Light Industrial (IL) to Residential-Single-Family/Duplex (R-1) for property identified as:

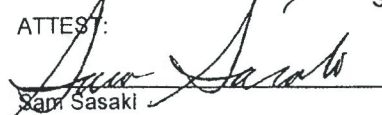
Lots 5, 6, 7 and 8 in Block 55 of Gervais, in the County of Marion, State of Oregon, according to plat recorded in Book 1, Page 5 of Plat Maps; and

Also referenced as Marion County Assessor's map page and tax lot numbers: 5 2W26CA/3000; and shown in Exhibit B.

Read for the first time: 5-1-08
Read for the second time: 5-1-08
Adopted by the City Council: _____
Approved by the Mayor: _____

ATTEST:

Shanti Platt, Mayor


Sam Sasaki
City Recorder

ORDINANCE NO. ____, GP/ZC 08-01

5-1, 2008

CITY OF GERVAIS
524 Fourth Street
P. O. Box 329
Gervais, OR 97026-0329

NOTICE OF CITY COUNCIL ACTION

General Plan Amendment and Zone Change
for property located North of Alder Avenue, South of Birch Avenue,
East of 6th Street, and West of the alley between 5th and 6th Streets

GPMA/ZC 08-01

APPLICANT:	Jimmy Swee, J. A. Development Company (Tigard, OR)
OWNER:	317 LLC
LOCATION:	Marion County Assessor Map/Tax lot numbers: 5 2W 26 CA/3300 (Gervais Town Plat, Block 55, Lots 5 through 8)
APPLICABLE CRITERIA:	City of Gervais General Plan, General Plan Goals and Policies City of Gervais Development Code, subsection 3.110.03 Statewide Planning Goals, 1, 2, 9, 10, and 11

Following a public hearing conducted on March 6, 2008, continued to April 3, 2008; the Gervais City Council granted a request to change the General Plan designation from Industrial to Residential, and to rezone the subject property .46 acre in size from Light Industrial (IL) to Residential – Single Family/Duplex (R-1) for property identified as Gervais Town Plat, Block 55, Lots 5 through 8 based upon the facts and findings as presented below and compliance with the listed conditions of approval.

Note: For purposes of these conditions, “Owner” refers to the Applicant/Owner and his/her successors, and assigns.

The Owner has the burden to demonstrate compliance with all conditions of approval within one year of the date of adoption of the ordinance enacting the change in the General Plan designation change and zone district. Compliance with all conditions of approval will be objectively determined by the City of Gervais. All development on the property must be consistent with the approved plans.

I. REVIEW CRITERIA AND FINDINGS OF FACT

The General Plan Map Amendment was reviewed using selected Statewide Planning Goals (1, 2, 9, 10, and 11) and the City’ General Plan Goals and Policies. The zone change request shall be reviewed according to the criteria as indicated in the City of Gervais Development Code, subsection 3.110.03.

II. GENERAL PLAN MAP AMENDMENT

There are no specific criteria for a General Plan map designation amendment in the Gervais Development Code. The Gervais General Plan was acknowledged by the State of Oregon and is deemed to be in

At the portion of the public hearing conducted in March 2008, the applicant offered to coordinate the construction of public facilities based upon the listed conditions of approval with assurances in a format and actual construction agreement that is acceptable to the City. The construction of public facilities shall be according to the conditions of approval and as approved the City Engineer. The type of construction guarantee shall be as approved by the City Attorney.

F. City of Gervais General Plan- Housing Goals and Policies.

Goal: The City of Gervais shall encourage the development of a range of housing types and cost levels to adequately meet the needs of its citizens.

Policies:

1. The City of Gervais will provide adequate amounts of residential land within the urban growth boundary to permit development of housing for families of all income levels.

Finding: According the General Plan, projections indicate that the residential land supply is not sufficient to meet the demand for the development out to the year 2025. However, not all of the currently available residentially reserved land is fully developed. Approving the Plan change provides an additional one-half acre toward meeting the deficiency. The owner/applicant is proposing to use the property to development single-family dwellings.

Goal: The City of Gervais shall ensure that all new housing developments be provided with services (streets, sewer, water, ambulance, police and fire) and that future developments will not overburden the City's ability to provide such services. Further, to ensure that the cost of extending such services shall be borne by the developer.

Policies:

1. Residential development should be located in areas that can be served by public facilities and services. The extension of public facilities and services shall be paid for by the developer.
2. Residential development shall be consistent with the city's transportation plan in effect, or as amended, at the time development is proposed.

Finding: The General Plan map amendment cannot be approved without first providing public facilities and services by either improving or extending the public sewer, storm water drainage, and street systems according to the review and approval by the City Engineer and in compliance with City master plans and Public Works standards.

See findings in response to Statewide Planning Goal 11 as listed above.

G. City of Gervais General Plan - Land Use Goals and Policies

Goal: To provide adequate lands to service the needs of the projected population to the year 2025, and to ensure that conversion of property to urban uses in an orderly and timely manner.

Policies: General:

1. Zoning is an important means of regulating land uses. Future zoning and rezoning should be in conformance with this plan and its policies.

the year 2005, Table 20 indicates a total of 12.98 acres of either vacant or redevelopable land. Table 28, Comparison of Supply and Demand for Commercial and Industrial Land, Gervais 2015, indicates vacant and redevelopable land within the Industrial category as 20.17 acres.

Approving the General Plan amendment reduces land available to the City at this time for potential industrial users. Industrial-type employment often helps provide a better employment base within a community. Within the immediate vicinity of this property and with the exception of one single-family dwelling and a communications facility, there is vacant land that could be consolidated to create several acres for industrial use. Reducing the amount of land by .46 acre does not appear to significantly impact the City's supply of land reserved for industrial development

For the westerly portion of the block (Birch to Alder between 5th and 6th Streets), City Council will need in the future to consider maintaining a buffer between the residential designation and the industrial designation, such as, maintaining the public right-of-way (alley between 5th and 6th Street). The right-of-way is also needed for a future water main extension.)

III. ZONE CHANGE CRITERIA

The applicant's response to the criteria is as presented in Exhibit B.

A. Subsection 3.110.034 of the Development Code indicates that zone change proposals shall be approved if the applicant provides evidence substantiating the following:

1. The proposed zone change is appropriate for the General Plan land use designation on the property and is consistent with the description and policies for the applicable General Plan land use classification.

Finding: The zone change can be made consistent with the General Plan based upon the applicant volunteering to construct/install/extend public facilities (sanitary sewer, storm water drainaing, and public street improvements) to service the subject property. Needed improvements are as outlined in the conditions of approval.

2. The uses permitted in the proposed zone change can be accommodated on the proposed site without exceeding the physical capacity.

Finding: The area proposed for the zone change does not have public sewer or storm water drainage available to the subject property. Although public right-of-way exists, public streets are not constructed to local street standards. There are no facilities provided for pedestrian travel. The applicant/owner offered during the public hearing (March 6, 2008, continued to April 3, 2008) to construct and/or install the public facilities to support residential development.

3. Allowed uses in the proposed zone change can be established in compliance with the development requirements in this Ordinance.

Finding: The subject property has underlying subdivision lots. If the zone change is approved, the owner/applicant may work with the City in redesignation of the property for residential use. At the time of lot review and filing for building permits, the standards are imposed. There appears to be sufficient area to meet development standards within an R-1 zone district. If public facilities are made available to the properties, connections to the public services are required at the time of development.

340069
MID - WILLAMETTE VALLEY
COUNCIL OF GOVERNMENTS
105 High Street S.E.
Salem, OR 97301-3667



FIRST CLASS

Attn: Plan Amendment Specialist
DLCD
635-Capitol St NE, Suite 150
Salem OR 97301-2540