



Oregon

Theodore R. Kubongoski, 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

04/23/2014

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

FROM: Plan Amendment Program Specialist

SUBJECT: City of Hermiston Plan Amendment
DLCD File Number 001-14

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, May 08, 2014

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: Clint Spencer, City of Hermiston
Gordon Howard, DLCD Urban Planning Specialist
Grant Young, DLCD Regional Representative
Gary Fish, DLCD Transportation Planner

<paa> YA



NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

FOR DLCD USE
File No.: 001-14 (20202)
[17849]
Received: 4/17/2014

Local governments are required to send notice of an adopted change to a comprehensive plan or land use regulation **no more than 20 days after the adoption.** (See OAR 660-018-0040). The rules require that the notice include a completed copy of this form. **This notice form is not for submittal of a completed periodic review task or a plan amendment reviewed in the manner of periodic review.** Use Form 4 for an adopted urban growth boundary including over 50 acres by a city with a population greater than 2,500 within the UGB or an urban growth boundary amendment over 100 acres adopted by a metropolitan service district. Use Form 5 for an adopted urban reserve designation, or amendment to add over 50 acres, by a city with a population greater than 2,500 within the UGB. Use Form 6 with submittal of an adopted periodic review task.

Jurisdiction: City of Hermiston

Local file no.: **2014 Zoning Text Amend**

Date of adoption: 3/24/2014 Date sent: 4/17/2014

Was Notice of a Proposed Change (Form 1) submitted to DLCD?

Yes: Date (use the date of last revision if a revised Form 1 was submitted): 1/23/2014
No

Is the adopted change different from what was described in the Notice of Proposed Change? Yes No
If yes, describe how the adoption differs from the proposal:

Yes - Removed distance requirement, within 150 feet of Residential Zone in C-1 zone

Local contact (name and title): Clint Spencer, City Planner

Phone: 541-567-5521

E-mail: cspencer@hermiston.or.us

Street address: 180 NE 2nd Street

City: Hermiston

Zip: 97838-

PLEASE COMPLETE ALL OF THE FOLLOWING SECTIONS THAT APPLY

For a change to comprehensive plan text:

Identify the sections of the plan that were added or amended and which statewide planning goals those sections implement, if any:

N/A

For a change to a comprehensive plan map:

Identify the former and new map designations and the area affected:

- | | | | |
|-------------------------|----|--------|--|
| Change from N/A change. | to | acres. | A goal exception was required for this |
| Change from N/A change. | to | acres. | A goal exception was required for this |
| Change from N/A change. | to | acres. | A goal exception was required for this |
| Change from N/A | to | acres. | A goal exception was required for this change. |

Location of affected property (T, R, Sec., TL and address): N/A

The subject property is entirely within an urban growth boundary

The subject property is partially within an urban growth boundary

ORDINANCE NO. 2217

AN ORDINANCE AMENDING CHAPTER 157 OF THE CITY OF HERMISTON CODE OF ORDINANCES TO AMEND THE BUILDING HEIGHT RESTRICTION IN COMMERCIAL ZONES.

THE CITY OF HERMISTON DOES ORDAIN THE FOLLOWING:

SECTION 1. Subsection 157.040(D) of Chapter 157 of the Hermiston Code of Ordinances is amended to read as follows:

(D) *Height of Buildings.* In a C-1 zone, ~~within 150 feet of a residential zone,~~ no building shall exceed ~~35~~ **50** feet in height.

SECTION 2. Subsection 157.041(E) of Chapter 157 of the Hermiston Code of Ordinances is amended to read as follows:


(E) *Height of Buildings.* In a C-2 zone, no building shall exceed a height of ~~35~~ **50** feet.

SECTION 3. The findings of fact as adopted by the City Council on March 24, 2014 are incorporated herein by reference.

SECTION 4. This ordinance shall take effect on the thirtieth day after its enactment.

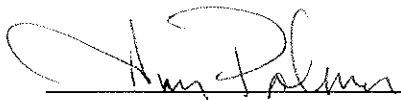
PASSED by the Common Council this 24th day of March 2014.

SIGNED by the Mayor this 24th day of March 2014.



MAYOR Council President

ATTEST:



CITY RECORDER



Planning Department

180 NE 2nd Street
Hermiston, OR 97838
Phone: (541)567-5521
Fax: (541)567-5530
planning@hermiston.or.us

To: Mayor and City Council
From: Clinton Spencer, City Planner
Subject: Request from Planning Commission to Amend Commercial Building Heights
Date: January 9, 2014

The planning commission has granted numerous building height variances over the past few years. In each case, there has been no opposition from neighboring property owners or the general public. The current building height limit in commercial and residential zones is 35 feet. The 35 foot limit originally came from the fire department who had limited ladder capability in the past. The fire department's current ladder truck allows up to 75 feet of height extension making the 35 foot height limit less important.

After reviewing the height limits in similarly sized communities in Oregon and discussing the issue with the fire marshal, the planning commission determined that there was no compelling reason to maintain the 35 foot height limit for commercial buildings. However, the commissioners wanted to maintain the 35 foot limit for residential buildings citing the low density nature of Hermiston's residential character. A copy of the report to the planning commission is attached to this memo for the city council's reference.

At the January 8 meeting the planning commission made a unanimous recommendation to the city council that the council initiate proceedings to amend the maximum allowable building height in the C-1 and C-2 zones to 50 feet. Under Section 157.226(A) of the Hermiston Zoning Code, the city council may initiate amendments to the zoning ordinance.

Recommended Action

Staff recommends that the city council accept the planning commission's recommendation and initiate proceedings to amend the Hermiston Zoning Code to raise the maximum building height in the C-1 and C-2 zones from 35 to 50 feet. This initiation will direct staff to prepare the text amendment and schedule public hearings in front on the planning commission and city council in March.

Approve/Support for Regionally Significant Industrial Area Designation - Cook Site

Assistant City Manager Morgan stated Governor Kitzhaber's Regional Solutions Team has recommended that Hermiston's Cook Industrial Site be designated as a "Regionally Significant Industrial Area" (RSIA). Designation as a RSIA can carry several advantages, including potential for priority funding from the state and marketing awareness. The over-riding justification for the recommendation was Hermiston's superior 30 mile radius labor shed area.

There are three purposes listed by the ERRC for designating an area as a RSIA:

1. Preservation - protecting valuable assets from conversion to uses other than industrial.
2. Investment - targeting priority locations for investment in industrial improvements.
3. Marketing - raising the profile of an area.

There are currently only three other RSIA's in the state, and none in eastern Oregon. The City of Hermiston must nominate the property for it to be considered by the state for designation. If the application is approved, projects at the Cook Site, or projects which help serve industry at the Cook Site may be viewed more favorably for state funding assistance. Councilor Anderson moved and Councilor Primmer seconded to approval the submitting of an application to the Oregon Economic Recovery Review Council to designate the Cook Industrial Site as a "Regionally Significant Industrial Area". Motion carried unanimously.

Approve/Initiate Proceedings to Amend Commercial Building Heights

City Manager Brookshier reported the planning commission has granted numerous building height variances over the past few years. In each case, there has been no opposition from neighboring property owners or the general public. The current building height limit in commercial and residential zones is 35 feet. The 35 foot limit originally came from the fire department who had limited ladder capability in the past. The fire department's current ladder truck allows up to 75 feet of height extension making the 35 foot height limit less important. At the January 8 meeting the planning commission made a unanimous recommendation to the city council that the council initiate proceedings to amend the maximum allowable building height in the C-1 and C-2 zones to 50 feet. Under Section 157.226(A) of the Hermiston Zoning Code, the city council may initiate amendments to the zoning ordinance. Staff recommends that the city council accept the planning commission's recommendation and initiate proceedings to amend the Hermiston Zoning Code to raise the maximum building height in the C-1 and C-2 zones from 35 to 50 feet. This initiation will direct staff to prepare the text amendment and schedule public hearings in front of the planning commission and city council in March. Councilor Primmer moved and Councilor Kirwan seconded to direct staff to prepare the text amendment and initiate proceedings to amend the Hermiston Zoning Code to raise the maximum building height in the C-1 and C-2 zones from 35 to 50 feet. Motion carried unanimously.

Council Comments

Councilor Harkenrider expressed his sincere sympathy for the passing of Russ Dorran, stating he was a life long supporter of Hermiston and a great friend.

Zoning Text Amendment:

Proposal to Amend Chapter 157, subsections 157.040(D) and 157.041(E) of the Hermiston Code of Ordinances; Height of Buildings

Subsection §157.040(D) of Chapter 157 of the Hermiston Code of Ordinances is amended to read as follows:

(D) *Height of Buildings.* In a C-1 zone within 150 feet of a residential zone, no building shall exceed ~~35~~ **50** feet in height.

Subsection 157.041(E) of Chapter 157 of the Hermiston Code of Ordinances is amended to read as follows:

(E) *Height of Buildings.* In a C-2 zone, no building shall exceed a height of ~~35~~ **50** feet.

HERMISTON CITY COUNCIL

Regular Meeting

March 24, 2014

Council President Hardin called the regular meeting to order at 7:00 pm and declared a quorum present. Present were Councilors Myers, Gutierrez, Primmer, Davis and Harkenrider. Mayor Drotzmann and Councilors Anderson and Kirwan were excused. Staff members in attendance were City Manager Brookshier, City Attorney Luisi, Mark Morgan, Clint Spencer, Larry Fetter, Chief Edmiston, Judge Creasing, Amy Palmer, Bill Schmittle, Nate Rivera and Donna Moeller. News media present were Colin Murphy of the Hermiston Herald, Jade McDowell of the East Oregonian and Michael Kane of NE Oregon Now. The pledge of allegiance was given.

Minutes

Councilor Harkenrider moved and Councilor Primmer seconded that minutes of the March 3 regular meeting be approved for filing. Motion carried unanimously.

2013-14 Supplemental Budget Hearing

Council President Hardin asked if any councilor wished to declare a potential conflict of interest. There were none; the hearing was opened at 7:02 pm to consider a supplemental budget for the 2013-14 fiscal year.

City Manager Brookshier stated the proposed supplemental budget represents a 1.8% increase in the current 2013-14 fiscal year budget.

Finance Director Palmer reported the General Fund is being supplemented by \$38,000, the Transient Room Tax (TRT) Fund by \$37,500, the Special Revenue Fund by \$229,850, the Reserve Fund by \$387,500, the 911 Communications Fund by \$5,000, the Miscellaneous Special Revenue Fund by \$122,500, the HES Fund by \$10,000 and the Regional Water Fund by \$75,000. In addition the Municipal Court Special Revenue Fund is being decreased by \$11,000. The net change to the City budget is \$894,350. Resolution No. 1952, which will come before the council later in the meeting, supplements expenditures, decreases appropriations in one fund and transfers appropriations between categories for the 2013-14 fiscal year.

There were no comments from the council, and no one in the audience wished to comment. The hearing was closed at 7:15 pm.

Hearing/Height Variance Amendment

Council President Hardin asked if any councilor wished to declare a potential conflict of interest. There were none, the hearing was opened at 7:16 pm to consider amending the maximum building height for commercial zones from 35 feet to 50 feet, while leaving the maximum building height in residential zones at 35 feet; and in industrial zones no limitation exist.

City Planner Spencer read the hearing guidelines as follows:

The City Council is holding a hearing to consider amending both the Central Commercial (C-1) and the Outlying Commercial (C-2) Zones of the Hermiston Code of Ordinances by changing §157.040(D) and §157.041(E) to allow the height of buildings to exceed 35 feet with a maximum of 50 feet.

1. The applicable substantive criteria relied upon by the City in rendering the decision to amend the zoning text are contained in §157.226(E) of the Hermiston Code of Ordinances.
2. Testimony and evidence must be directed toward the criteria described above or other criteria in the comprehensive plan or land use regulations that the person believes to apply to the decision.
3. Failure to raise an issue by the close of the record at or following the hearing, in person or by letter, precludes appeal to the Land Use Board of Appeals (LUBA) or the city council based on that issue.
4. Failure to provide statements or evidence sufficient to afford the decision maker and the parties an opportunity to respond to that issue precludes appeal to LUBA or the city council based on that issue.
5. Prior to the conclusion of the evidentiary hearing, any participant may request an opportunity to present additional evidence, arguments, or testimony regarding the application. The City Council shall grant such a request by continuing the public hearing pursuant to ORS 197.763(6)(B) or leaving the record open for additional written evidence, arguments, or testimony pursuant to ORS 197.763(6)(C).

For this hearing, the process begins with the staff report, followed by testimony from the applicants and any other supporters of the application. This will be followed by opponents to the application. Finally, a rebuttal by the applicant will be allowed. The public hearing portion of the procedure will then be closed, and the City Council will consider the information and testimony received and render a decision.

City Planner Spencer reported a recent commercial development proposal for a new hotel highlighted the continuing need for perfunctory variances from building height in the city's commercial zones. The planning commission directed staff to research how other communities in Oregon addressed building heights.

After consideration of the information, the planning commission recommended that the city council amend the maximum building heights in the C-1 and C-2 zones from 35 to 50 feet. The city council then directed staff to begin the text amendment process and schedule hearings on the matter. The planning commission held a hearing on March 12, 2014 and recommended that the city council adopt text amendments raising the maximum building height.

The proposal under consideration by the city amends the maximum building height for commercial zones from 35 feet to 50 feet. Residential zones will still maintain the existing 35 foot height limitation and industrial zones do not have a height limitation at all.

There were no proponents or opponents who wished to address the council, and the hearing was closed at 7:20 pm.

Findings of Fact:

The following findings of fact for the Commercial Zone text amendment were presented:

1. Notice of the planning commission hearing was published in the Hermiston Herald at least 10 days prior to the hearing in accordance with §157.226 of the Hermiston Code of Ordinances.
2. No testimony was received as a result of the publication of the notice.
3. The planning commission held a public hearing on March 12, 2014 in accordance with §157.226(F). Following the closure of the hearing the planning commission made a unanimous recommendation that the amendment be adopted.
4. The city council held a public hearing on March 24, 2014.
5. The notice of proposed amendment was sent to the Department of Land Conservation and Development on February 3, 2014, more than 35 days prior to the first evidentiary hearing in accord with Oregon Administrative Rules, Chapter 660, Division 18. The notice to DLCD listed Umatilla County as an affected agency.
6. A notice of public hearing was provided to all affected agencies by direct mail. No comments were received as a result of that mailing.
7. Policy 2 requires the City to annually review development activity and its impacts.
8. A recent development proposal was the fifth height variance request in seven years. The City is proposing to update those standards to reflect the reality of development activities in the commercial zones.
9. A building height greater than 35 feet is consistent with the best planning practices in use in many other communities of similar size.
10. Increasing the maximum building height for commercial uses promotes increased density by allowing more commercial use to occupy the same footprint as the smaller height but with more available building square footage.
11. Increasing the maximum building height creates more certainty and stability for commercial development. Allowing a greater building height as a development standard eliminates the need for a variance process for many commercial structures.

Councilor Myers moved and Councilor Davis seconded to accept the findings of fact for the Commercial Zone text amendment as presented. Motion carried unanimously.

Councilor Primmer moved and Councilor Davis seconded to approve the proposed amendment and adopt the new building height language and incorporate it into the zoning ordinance. Motion carried unanimously.

Proclamation/Mayor's Day of Recognition for National Service

City Attorney Luisi read a proclamation submitted by Mayor Drotzmann proclaiming April 1, 2014, as National Service Recognition Day, and encourage residents to recognize the positive impact of national service in our city; to thank those who serve; and to find ways to give back to their communities.