



Oregon

Theodore R. Kubongski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

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www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

10/8/2009

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

FROM: Plan Amendment Program Specialist

SUBJECT: City of Lincoln City Plan Amendment
DLCD File Number 005-09

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: Wednesday, October 21, 2009

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.

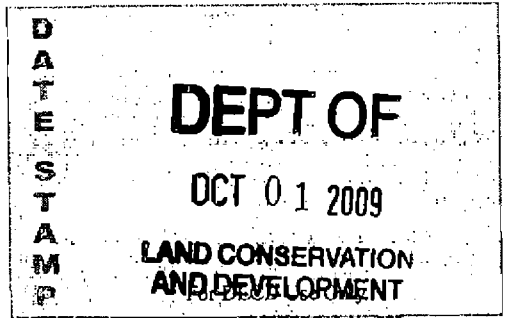
***NOTE:** THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAT IT WAS MAILED TO DLCD. AS A RESULT, YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.

Cc: Richard Townsend, City of Lincoln City
Gloria Gardiner, DLCD Urban Planning Specialist

Amanda Punton, DLCD Regional Representative
Bill Holmstrom, DLCD Regional Representative
Thomas Hogue, DLCD Regional Representative
Angela Lazarean, DLCD Regional Representative

<paa> YA

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 Lincoln City Local file number: CPA & ZC 2009-01
Date of Adoption: September 28, 2009 Date Mailed: September 30, 2009
Date original Notice of Proposed Amendment was mailed to DLCD: July 31, 2009

- Comprehensive Plan Text Amendment
Land Use Regulation Amendment
New Land Use Regulation
Comprehensive Plan Map Amendment
Zoning Map Amendment
Other:

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

Comprehensive Plan Map Amendment, to change the development category from High Density Residential, Medium Density Residential and Planned Industrial - to General Commercial (3.54 acres) and Open Space (14.62 acres). Zoning Map Amendment, to change zoning from Multi-Family Residential (R-M), Single-Family Residential (R-1-7.5) and Planned Industrial (P-I), to General Commercial (G-C) for 3.54 acres and Open Space (14.62 acres).

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: High Density Res., Medium Density Res., Planned Industrial to: General Commercial and Open Space
Zone Map Changed from: Multi-Family (R-M), Single-Family (R-1-7.5) and Planned Ind. (P-I) to: General Commercial (G-C) and Open Space (OS)
Location: South side of SE East Devil's Lake Rd, east of SE Oar Avenue Acres Involved: 18.16

Specify Density: Previous: New:

Applicable Statewide Planning Goals:

Was and Exception Adopted? [] YES [X] NO

DLCD File No.: 005-09 (17744) [15737]

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:

ODOT, DSL, Lincoln County

Local Contact: Richard Townsend Phone: (541) 996-2153 Extension: _____

Address: PO Box 50 City: Lincoln City

Zip Code + 4: 97367 - Email Address: rtown@lincolncity.org

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.

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ORDINANCE NO. 2009-16

AN ORDINANCE AMENDING THE LINCOLN CITY COMPREHENSIVE PLAN MAP AND ZONING MAP ADOPTED BY ORDINANCE NO. 84-01 (as amended)

THE CITY OF LINCOLN CITY FINDS THAT:

- A. The Planning Commission held a duly-noticed public hearing on amendment of the City's Comprehensive Plan Map and Zoning Map (adopted by Ordinance No. 84-01, as amended) on September 15, 2009 and recommended approval; and
- B. The Oregon Department of Land Conservation and Development was notified of the proposed amendment on July 31, 2009; and
- C. The City Council held a duly-noticed public hearing on amendment of the Comprehensive Plan Map and Zoning Map on September 28, 2009; and
- D. The proposed Comprehensive Plan Map and Zoning Map amendment conforms to and is consistent with the City's *Comprehensive Plan* Policies and Statewide Planning Goals for the reasons set forth in Exhibit "A"; and
- E. The proposed Comprehensive Plan Map and Zoning Map amendment is consistent with all applicable provisions of the Zoning Ordinance including, but not limited to, required initiation, processing and noticing requirements.

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

Section 1. The Comprehensive Plan Map of Lincoln City is hereby amended to change the Comprehensive Plan Map designation on the parcel identified as Lincoln County Assessor's Map 07-11-14CC, Tax Lot 100, from the designation High-Density Residential, Medium Density Residential, and Planned Industrial, to General-Commercial for 3.54 acres depicted as Parcel 1 on Exhibit "B" and Open Space for 14.62 acres depicted as Parcel 2 on Exhibit "B".

Section 2. The Zoning Map of Lincoln City is hereby amended to change the zoning designation on the parcel identified as Lincoln County Assessor's Map 07-11-14-CC, Tax Lot 100, from Multiple-Family Residential (R-M), Single-Family Residential (R-1-7.5) and Planned Industrial (P-I) to General Commercial (G-C) for 3.54 acres depicted as Parcel 1 on Exhibit "B" and Open Space (OS) for 14.62 acres depicted as Parcel 2 on Exhibit "B".

PASSED AND ADOPTED by the City Council of the City of Lincoln City this 28th day of September, 2009.


LORI HOLLINGSWORTH, MAYOR

ATTEST:


CATHY STEERE, CITY RECORDER

ORDINANCE NO. 2009-16
EXHIBIT A

**FINDINGS RELATING TO CONFORMITY WITH THE STATEWIDE PLANNING
GOALS AND THE LINCOLN CITY COMPREHENSIVE PLAN**

CPA 2009-01 AND ZC 2009-01
BI-MART, APPLICANT; CITY OF LINCOLN CITY, PROPERTY OWNER

Statewide Planning Goals

Goal 1: "Citizen Involvement" All documents relating to this proposal were made available for public review and purchase and assistance was available to interpret and explain the technical information. All affected property owners were noticed regarding the public hearings on the proposed Comprehensive Plan Map and Zoning Map Amendments and hearing notices were published in the local paper in accordance with notice requirements. Therefore, the amendments are consistent with Goal 1.

Goal 2: "Land Use Planning" This goal is to establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to insure an adequate factual basis for such decisions and actions. The Lincoln City Comprehensive Plan and its implementation measure, the Lincoln City Zoning Ordinance, was adopted by the City Council of Lincoln City after public hearing and has been reviewed on a periodic cycle to take into account changing public policies and circumstances. Opportunities were provided for review and comment by citizens and affected governmental units during preparation, review, and revision of the plan and implementing ordinances. Review of this application in accordance with the Lincoln City Comprehensive Plan and the applicable zoning ordinance provisions, establishes conformance with this goal.

Goal 3: "Agricultural Lands" The area affected by the proposed Comprehensive Plan Map and Zoning Map amendments is located in the City's Urban Growth Boundary. The area is currently designated and zoned for urban development and will remain as such. No agricultural lands will be affected by the amendments. Therefore, Goal 3 is not applicable.

Goal 4: "Forest Lands" The area affected by the proposed Comprehensive Plan and Zoning Map amendments is located in the City's Urban Growth Boundary. The area is zoned for urban development. Moreover, the affected area does not consist of any designated forest lands. Therefore, Goal 4 is not applicable.

Goal 5: "Open Spaces, Scenic and Historic Areas and Natural Resources" The area affected by the proposed Comprehensive Plan Map and Zoning Map amendments is located inside the City's Urban Growth Boundary. Of the 18.16 acres making up the subject property, 14.62 acres or over 80 percent is proposed to be zoned "Open Space." It will be preserved for open space in perpetuity since it was purchased with open space bond funds. This area, together with adjacent land to the north that the city also obtained with open space bond funds, is proposed in the city's 2001 *Parks Master Plan* as a proposed open space area. This area also includes two portions of a

large wetland, extending onto adjacent property to the east, that has been designated as a "significant wetland" (and thus cannot be developed) and that is a known Coho salmon habitat area. The remainder of the property, 3.54 acres, consists largely of filled land that has little function or value as open space. Because the proposed rezoning will result in the preservation of 14.62 acres of open space it is consistent with Goal 5.

Goal 6: "Air, Water and Land Resources Quality" The proposed Comprehensive Plan Map and Zoning Map amendments and associated future land use patterns will not serve to significantly increase the waste and process discharges being generated within the vicinity of the affected area, and such discharges will not violate federal or state requirements. Stormwater from the developable portion of the property will be pretreated and detained before being released from the site. Therefore the amendments are consistent with Goal 6.

Goal 7: "Areas Subject to Natural Disasters and Hazards" The subject site is not located within identified Natural Hazards areas. Therefore, Goal 7 is not applicable.

Goal 8: "Recreational Needs" The proposed Comprehensive Plan Map and Zoning Map amendments will preserve over 14 acres of open space land suitable for low impact recreation such as hiking and bird watching. Therefore, the proposed amendments are consistent with Goal 8.

Goal 9: "Economic Development" The proposed Comprehensive Plan Map and Zoning Map amendments will allow the construction of a Bi-Mart store on the developable portion of the property. The construction alone will create substantial economic activity in the city. The city's *Comprehensive Economic Opportunities and Buildable Land Needs Assessment* has demonstrated that there is a shortage of vacant, commercially zoned property in the city and the UGB. There is no alternative site within the city or the UGB that contains the 3.5 acres needed for the Bi-Mart store (the Nelscott site earlier purchased by Bi-Mart also would have required rezoning).

While part of the subject property is zoned for industrial development, much of the area so zoned is unsuitable for industrial development due to topographic constraints and the existence of a significant wetland on the property. The city always has recognized that the 3.5 acres of developable land on the subject property is marginally small for an industrial park and would it require rezoning if it were to be developed industrially. It is likely that if Bi-Mart purchases the 3.5 acres the city will re-invest the portion of the proceeds representing the economic development grant into other property or assets promoting job creation.

Bi-Mart is an important economic resource for the city. The city has no big box retailers and will not have one as long as our big box ordinance is in place. Bi-Mart offers a great deal of the merchandise offered by big box stores at a competitive price. The new location for the store at this site would provide this shopping opportunity for residents at a central, accessible location. Moreover it would be synergistic with the existing Tanger outlet mall and likely would bring additional patrons to Tanger, especially in the off-season, just as Tanger patrons also would have improved access to Bi-Mart. The proposed rezoning would create an important economic opportunity in the city and therefore is consistent with Goal 9.

Goal 10: "Housing" The proposed Comprehensive Plan Map and Zoning Map amendments will remove some land zoned for residential development from the city's supply of vacant land, but much of this area is either significant wetland or so steeply sloped as to be actually unbuildable. Therefore, the proposed rezoning will not adversely affect the availability of land for residential development within the city and the UGB. The amendments are consistent with Goal 10.

Goal 11: "Public Facilities and Services" Existing City water and sewer infrastructure and treatment facilities have sufficient capacity to serve the proposed Bi-Mart store and will not be adversely affected by these amendments, nor will their ability to serve surrounding properties. Therefore, the amendments are consistent with Goal 11.

Goal 12: "Transportation" The proposed rezoning will result in a traffic level that is similar to what would be expected if the property were to be fully developed under its existing zoning. To the extent traffic from the Bi-Mart store would access Highway 101 at SE 12th Street, it would do so at an existing signalized intersection. The applicant has prepared a traffic analysis that demonstrates minimal impact on the city's transportation system. The Oregon Department of Transportation has concurred in this result. The amendments are consistent with Goal 12.

Goal 13: "Energy Conservation" The land use patterns and development allowed in association with the proposed Comprehensive Plan Map and Zoning Map amendments serve to focus development on vacant land located within the city and the UGB, as opposed to requiring new land to be brought in to allow development. Moreover, it will place development near an existing traffic corridor and result in energy efficiency as people are able to combine trips to more than one destination in this corridor. Therefore, the amendments are consistent with Goal 13.

Goal 14: "Urbanization" The proposed Comprehensive Plan and Zoning amendments relate only to land already zoned for urban development. Because so much of it actually is not developable, rezoning much of it into open space will not result in a need to expand the UGB. Proposed densities of surrounding properties will not be changed. Therefore, the amendments are consistent with Goal 14.

Goal 15: "Willamette River Greenway" The affected area is not located within the Willamette River Greenway. Therefore, Goal 15 is not applicable.

Goal 16: "Estuarine Resources" The affected area of the proposed Comprehensive Plan Map and Zoning Map amendments is not within or adjacent to a designated Estuarine Resource. Therefore, Goal 16 is not applicable.

Goal 17: "Coastal Shorelands" The subject site is not located within a Coastal Shoreland. Therefore, Goal 17 is not applicable.

Goal 18: "Beaches & Dunes" The affected area of the proposed Comprehensive Plan Map and Zoning Map amendments is not located within a designated beach or active dune area. Therefore, Goal 18 is not applicable.

Goal 19: "Ocean Resources" The affected area of the proposed Comprehensive Plan Map and Zoning map amendments will not affect the nearshore ocean and continental shelf. Therefore, Goal 19 is not applicable.

Comprehensive Plan Goals

(1) Planning Goal

"To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions."

This goal is to establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to insure an adequate factual basis for such decisions and actions. The Lincoln City Comprehensive Plan and its implementation measure, the Lincoln City Zoning Ordinance, was adopted by the City Council of Lincoln City after public hearing and has been reviewed on a periodic cycle to take into account changing public policies and circumstances. Opportunities were provided for review and comment by citizens and affected governmental units during preparation, review, and revision of the plan and implementing ordinances. Review of this application in accordance with the Lincoln City Comprehensive Plan and the applicable zoning ordinance provisions, establishes conformance with this goal.

(2) Citizen Involvement Goal

"Develop a Citizen Involvement Program which ensures the continued participation of citizens in the land use planning process."

The City has developed a Citizen Involvement Program. In addition, the public hearing process, with notice to the public and property owners and review of the application by the Planning Commission (a citizen board), and the City Council (a citizen board) establishes conformance with this goal.

(3) Public Services and Utilities Goal

"To plan and develop a timely, orderly, and efficient arrangement of public facility and services which compliment the area and serve as a framework for urban and rural development."

Public services and utilities already are in place in the areas surrounding the site of the proposed amendments. The proposed amendments will not adversely affect the availability or arrangement of public services and utilities. The goal is satisfied.

(4) Urbanization Goal

"To promote an orderly and efficient transition of land uses from rural to urban."

The proposed Comprehensive Plan and Zoning amendments relate only to land already zoned for urban development. Because so much of it actually is not developable, rezoning much of it into open space will not result in a need to expand the UGB. Proposed densities of surrounding properties will not be changed. This goal is satisfied.

(5) Natural Hazard Goal

"The City shall control development in hazardous areas to protect life and property from natural disasters and hazards."

The subject site is not within identified Natural Hazard areas. Therefore, Goal 5 is not applicable.

(6) Housing Goal

"To provide for the housing needs of all citizens."

The proposed Comprehensive Plan Map and Zoning Map amendments will remove some land zoned for residential development from the city's supply of vacant land, but much of this area is either significant wetland or so steeply sloped as to be actually unbuildable. Therefore, the proposed rezoning will not adversely affect the availability of land for residential development within the city and the UGB. Therefore, the proposed amendments are consistent with the housing goal.

(7) Economy Goal

"To support the tourist industry and achieve a degree of diversity in the community which will allow a balanced economy that will, in turn, support an adequate level of services for all members of the area."

The proposed Comprehensive Plan Map and Zoning Map amendments will allow the construction of a Bi-Mart store on the developable portion of the property. The construction alone will create substantial economic activity in the city. The city's *Comprehensive Economic Opportunities and Buildable Land Needs Assessment* has demonstrated that there is a shortage of vacant, commercially zoned property in the city and the UGB. There is no alternative site within the city or the UGB that contains the 3.5 acres needed for the Bi-Mart store (the Nelscott site earlier purchased by Bi-Mart also would have required rezoning).

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(8) Aesthetic Goal

"To develop a livable and pleasing city which enhances man's activities while protecting the exceptional aesthetic quality of the area."

The subject parcel is not on the city's inventory of significant aesthetic resources. Development on the property will be subject to the city's commercial design standards, and through the site plan review process the proposed Bi-Mart store already has demonstrated compliance with the aesthetic requirements these standards contain. To the extent that the property will be rezoned for open space the natural aesthetic quality of the area will be protected. This goal is satisfied.

(9) Transportation Goal

"To provide a safe, convenient and rapid transportation network to facilitate the movement of goods and people."

The proposed rezoning will result in a traffic level that is similar to what would be expected if the property were to be fully developed under its existing zoning. To the extent traffic from the Bi-Mart store would access Highway 101 at SE 12th Street, it would do so at an existing signalized intersection. The applicant has prepared a traffic analysis that demonstrates minimal impact on the city's transportation system. The Oregon Department of Transportation has concurred in this result. Therefore, this goal is satisfied.

(10) Energy Goal

"To conserve energy."

The land use patterns and development allowed in association with the proposed Comprehensive Plan Map and Zoning Map amendments serve to focus development on vacant land located within the city and the UGB, as opposed to requiring new land to be brought in to allow development. Moreover, it will place development near an existing traffic corridor and result in energy efficiency as people are able to combine trips to more than one destination in this corridor. Therefore, the goal is satisfied.

(11) Overall Environmental Goal

"To achieve a balance between the need to provide housing and services and the need to protect and enhance the natural environment of the city."

The proposed rezoning would create two results. First, it would provide an opportunity for needed and desirable commercial development within the city. Second, it would preserve a substantial area of important natural resources including significant wetlands and Coho habitat. This goal is satisfied.

(12) Shoreland, Beaches, Dunes, Estuary and Ocean Resources Goal

"To conserve, to protect, to enhance the coastal resources of the city."

The affected area of the proposed Comprehensive Plan Map and Zoning Map amendments is not located within or adjacent to coastal shorelands. Therefore, this goal is not applicable.



MAILED FROM ZIP CODE 97301
 \$ 01.220

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