



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

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NOTICE OF ADOPTED AMENDMENT

February 26, 2008



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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Hood River Plan Amendment
DLCD File Number 008-07

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Copies of the adopted plan amendment are available for review at DLCD offices in Salem, the applicable field office, and at the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: March 11, 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 THAN IT WAS MAILED TO DLCD. AS A RESULT YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE DATE SPECIFIED ABOVE.**

Cc: Gloria Gardiner, DLCD Urban Planning Specialist
Amanda Punton, DLCD Natural Resource Specialist
Gary Fish, DLCD Regional Representative
Carmel Bender, Compensation Claim Planning Specialist
Jessica Kinder, City of Hood River

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301 OAK STREET
P.O. BOX 27
HOOD RIVER, OREGON 97031

(541) 386-1488

February 19, 2008

RE: Exhibit A to Ordinance 1938

Enclosed is 'Exhibit A' to Ordinance 1938 for your reference. Please feel free to contact me if you have any questions.

Sincerely,

Jessica Kinder
City of Hood River
Planning Assistant
541.387.5210
jessica@ci.hood-river.or.us
301 Oak St
Hood River, OR 97031

DEPT OF

FEB 20 2008

LAND CONSERVATION
AND DEVELOPMENT

ORDINANCE NO. 1938

(An ordinance amending Chapter 17.22 of the Hood River Municipal Code to eliminate nonconforming uses and modify a portion of the setback for CO-R1)

WHEREAS, the City adopted Ordinance 1874 on January 23, 2006, pursuant to Goal 5 of the Statewide Goals and implementing rules thereof;

WHEREAS, Ordinance 1874 adopted Chapter 17.22—Natural Resource Overlay into Title 17 of the City's Code;

WHEREAS, Chapter 17.22 is intended to protect and restore wetlands and water bodies and their associated riparian areas (water bodies and their associated riparian areas are referred to as "riparian corridors");

WHEREAS, development in wetlands is generally subject to permitting under federal and state law and development in riparian corridors generally is subject to permitting under Chapter 17.22;

WHEREAS, nonconforming structures in wetlands and riparian corridors are generally considered permitted and allowed to remain but may not be expanded;

WHEREAS, the Columbia River waterfront area is specifically designated as the Columbia River Infill Waterfront Area ("CRIWA") in Chapter 17.22 and subject to regulation separately from other riparian corridors in Section 17.22.030;

WHEREAS, toxins from stormwater contaminants are present in the Columbia River and pollutants, chemicals, and other contaminants from other sources of runoff may pose a risk to the public health, safety and welfare. The setbacks and limits on development imposed by Section 17.22.030 are intended, in part, to protect against and limit the amount toxins that reach the Columbia River;

WHEREAS, Section 17.22.030 allows legal nonconforming structures to remain, but not expand;

WHEREAS, the status of a structure as a nonconforming use may lower the value of the structure;

WHEREAS, application of the setback imposed by Section 17.22.030 to real property owned by D.M. Stevenson Ranch, LLC ("DMSR") creates a nonconforming structure, which together may diminished the value of the land;

WHEREAS, Best Western Hood River Inn and Felix Tomlinson appealed Ordinance 1874 to the Land Use Board of Appeals on February 9, 2006;

WHEREAS, Best Western Hood River Inn has agreed to withdraw from the appeal to LUBA if the amendments to 17.22.030 set forth below are approved;

WHEREAS, the City Council adopts the findings of fact and conclusions of law set forth in the Staff Report dated November 8, 2007 as supplemented by the Supplemental Staff Report dated November 26, 2007, and attached as Exhibit B.

NOW, THEREFORE, THE CITY OF HOOD RIVER ORDAINS AS FOLLOWS:

Section 17.22.030 of the Hood River Municipal Code is amended to read as follows:
[deletions shown in ~~strike-out~~ and additions shown in underline]

17.22.030 Columbia River Infill Waterfront Area

A. **Purpose.** The Columbia River Infill waterfront Area and portions, identified on the Columbia River Infill Waterfront map, within the City of Hood River are valuable economic, recreational, scenic and natural resources for the community. The Columbia River Waterfront Infill Area is intended to conserve and enhance the natural resource values of areas along the Columbia River and a portion of the Hood River within the city by;

1. Conserving and restoring habitat for wildlife, fish and other aquatic life;
2. Protecting and enhancing water quality for human use and aquatic life;
3. Controlling erosion;
4. Improving coordination between the city and agencies regarding development activities near waterways;
5. Promoting development that is compatible with the purpose of the Columbia River Infill waterfront Area;
6. Promoting the preservation and restoration of native riparian vegetation;
7. Conserving and protecting property values; and
8. Encouraging development, preservation and enhancement of reasonable public access to major waterways for recreational use and visual enjoyment.
9. Protecting the Columbia River and its users from stormwater contaminants that pose a threat to the health and safety of the users.

B. **Applicability.**

Provisions of this section apply to all property within the boundaries of the Columbia River Infill waterfront Area within the City of Hood River, as identified on the Columbia River Infill Waterfront Map. Many parcels within the Columbia River Infill waterfront Area are affected by more than one sub-zone. Where this is the case, applicable development standards for each sub-zone shall apply within that

sub-zone's boundaries. Standards of this section shall apply in addition to applicable standards of the underlying zone. Where there are conflicts between sub-zone standards, the more restrictive standard shall apply.

C. **Permitted Uses.** The following uses are permitted outright in the Columbia River Infill waterfront Area:

1. Resource enhancement and restoration activities.
2. Land divisions, subject to requirements in Title 16.
3. Removal of non-native or invasive vegetative species.
4. Maintenance of existing roads.
5. Temporary emergency procedures necessary for the protection of property.
6. Actions taken by the City to correct or abate a nuisance.
7. Approved storm water discharge.
8. Existing lawn within the riparian area may be maintained, but not expanded into the resource area.
9. Existing utility lines.
10. Existing legal non-conforming structures. Replacement of non-conforming structures shall comply with this title.

D. **Ministerial and Administrative Review Approval.** The following uses are permitted in the Columbia River Infill Waterfront Area, subject to Ministerial or Administrative Review approval as may be applicable under the circumstances, including compliance with other natural resource agencies:

1. Repair, maintenance and replacement of existing utility lines.
2. Fencing.
3. Removal of a hazardous tree.
4. Maintenance of streambank stabilization and flood control structures.
5. ESEE Analysis Findings and Conclusion – The ESEE Analysis Findings and Conclusions identified in the Hood River Waterfront Goal 5 ESEE Analysis provide site specific exceptions to protection measures based on conflicting uses and mitigating consequences of implementation. The sites are specific to the Hood River Waterfront Goal 5 ESEE Inventory and Map.

E. **Conditional Uses** shall be pursuant to the zoning designation of the subject parcel.

F. **Prohibited Uses.**

1. New development on significant natural resource sites and property, except as permitted in the Hood River Waterfront Goal 5 identified above in the ESEE.
2. Removal of native vegetation from resource areas identified in the Hood River Waterfront Goal 5 ESEE.

Reach CO-R1

Basin: Columbia River
Size of Site: 0.74 acres
Location: East end of the water front, stretching from I-84 to the east opening of the marina.

Description of Resource:

CO-R1 is the shoreline of the Columbia River that extends from I-84 at the east end of the study area west to the marina. This reach is 1,895 feet long. The shoreline and riparian area are composed of fill material that was placed after construction of the Bonneville Dam in the 1930s. The entire riparian area is developed with a hotel, restaurants, parking lots, and access roads. The only vegetation is limited to mowed lawn and a few ornamental plants. The ornamental shrubs are primarily in front of the restaurants and are pruned to prevent them from growing too tall to obstruct views.

Existing Uses:

- Hood River Inn Hotel- Current use is a commercial business. Possible expansion in the future.
- Windsurfing school- Operates seasonally at the sandy beach on the east end of the reach. Public trail- Exists along the top of the rip rap.
- Public access for event staging.

ESEE ANALYSIS

The following table indicates the impacts on the resource of fully allowing the conflicting uses to occur, limiting the conflicting use, or prohibiting the conflicting use.

Conflicting Use	Prohibit	Limit	Allow
C-2	• loss of capitalized amenity values from water features • reduces employment opportunities • reduces expansion opportunities for recreation uses • retains the screening and buffering benefits • protects the functional value of the resource • preserves water quality • preserves fish habitat • loss of flexibility for new development or redevelopment	• conserves functional value of resource • improves water quality • limits habitat loss and possibly improves habitat quality • supports visual variety and impact • supports increase screening and buffering benefits • allows for maintenance of existing facility • supports educational and recreational values • provides for flexibility for new development or redevelopment	• retains development flexibility • supports services and employment opportunities • supports recreational values • decreases screening and buffering • detracts from site's scenic qualities • vegetation removal and increased impervious surfaces degrade water quality and quantity • soil erosion and bank destabilization • loss of sediment trapping capacity • habitat fragmentation and fish habitat loss

CONCLUSION

The amenities of the Columbia River are extremely valuable from an economic, social, and environmental perspective. The Columbia River is an economic amenity to commercial development. Protecting the view of the Columbia River and access to it will provide a higher property value, which will have a positive consequence to the City tax base. However, providing resource protection could directly affect the development potential.

The public trail and water access provides recreational and education opportunities. Expansion of the trail and adding amenities would provide an opportunity for the community to explore the recreation and education potential of the resource. The opportunity to provide educational and visual opportunities would be lost if development were allowed to occur without limits.

The Columbia River supports several listed salmonid species. Fish habitat generally deteriorates as land use becomes more intensive. Development along the Columbia River ~~results of this site would result in~~ increased run-off, pollutant loading and sedimentation to the Columbia River, which ~~would negatively~~ impacts fish populations. However, this reach (CO-R1) is already developed, as noted above, with a hotel, except for portions between the existing hotel and the water's edge, and on the eastern end of the reach.

Prohibiting conflicting uses would have a negative social and economic consequence to the City of Hood River. These uses (ie., the uses permitted in the C-2 Zone) shall be allowed to

continue with limits placed on them to protect the environment and provide for visual, recreation and education opportunity growth.

ESEE DECISION

Development shall be allowed to occur with certain limits. In addition to meeting current development standards, conflicting uses shall be allowed to occur provided the following limits are met to protect the resource:

- Any bank stabilization or bank alteration will be done using bio-engineering techniques.
- Stormwater runoff from all new impervious surfaces needs to be treated to DEQ stormwater discharge standards for the Columbia River prior to discharge off of the site. No runoff from swimming pools or decks into the Columbia River is permitted and all runoff and water from the pool must be directed to the sanitary sewer system in accordance with applicable rules and regulations.
- Public view points, benches and educational information shall be provided at regular intervals with a minimum of every 0.5 miles of trail.
- A public trail and water access shall be provided for recreational and educational opportunities.
- The use of herbicides and pesticides shall be limited to non-persistent, biodegradable products that are used according to the manufacture's recommendations.
- Except as modified in this ESEE Decision, there is a 75 foot setback from top of bank for all structures, expansion and redevelopment for Reach CO-R1.
- For the portion of Reach CO-R1 located within 3N 11E 30 Tax Lots 200 & 203 as shown on Exhibit A, the setback from top of bank is located at the footprint of the existing buildings (excluding decks) along the Columbia River as of the date of Ordinance 1938. An additional 10' may be used to satisfy federal and state health and safety requirements, but may not be used to otherwise expand the footprint. This setback does not apply to a dock and associated facilities located on a dock. This setback does not apply to temporary structures or materials erected or placed on a temporary basis not to exceed 120 days per year, such as tents, shelters, or pavers or other water-permeable patio material.
- Subject to administrative review, one swimming pool and associated decks, enclosures for pool mechanical facilities, and an enclosure for the pool may be located within the setback southeast of the buildings existing as of the date of Ordinance 1938, but shall not occupy more than 7,000 square feet of the setback area, and shall

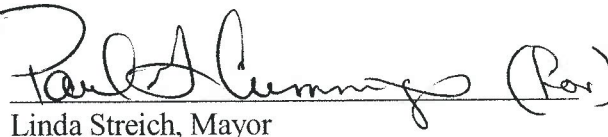
be located no less than 21 feet from the top of bank. The enclosure for the pool must be clear on at least two sides, not cover more than one-third of the pool, and must be located over the portion of the pool furthest from the Columbia River. As noted above, any other development is subject to a setback of 75 feet. Riparian enhancement within the portion of Reach CO-R1 shown on Exhibit A is required at a 3:1 replacement to loss ratio. Enhancement shall include, but not be limited to planting native riparian vegetation, placement of large woody debris, or controlling erosion. A riparian enhancement plan consistent with this provision and chapter prepared by a qualified professional must be submitted for review and approval in conjunction with the development proposal for the swimming pool.

- The setbacks do not apply to structures associated with these specific uses: non-motorized water sport schools and rentals and landscaping.

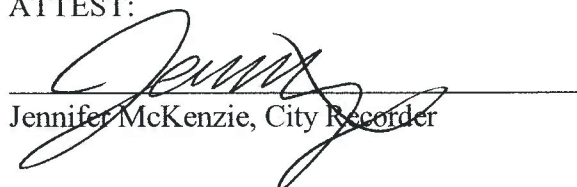
Read for the first time: November 26, 2007.

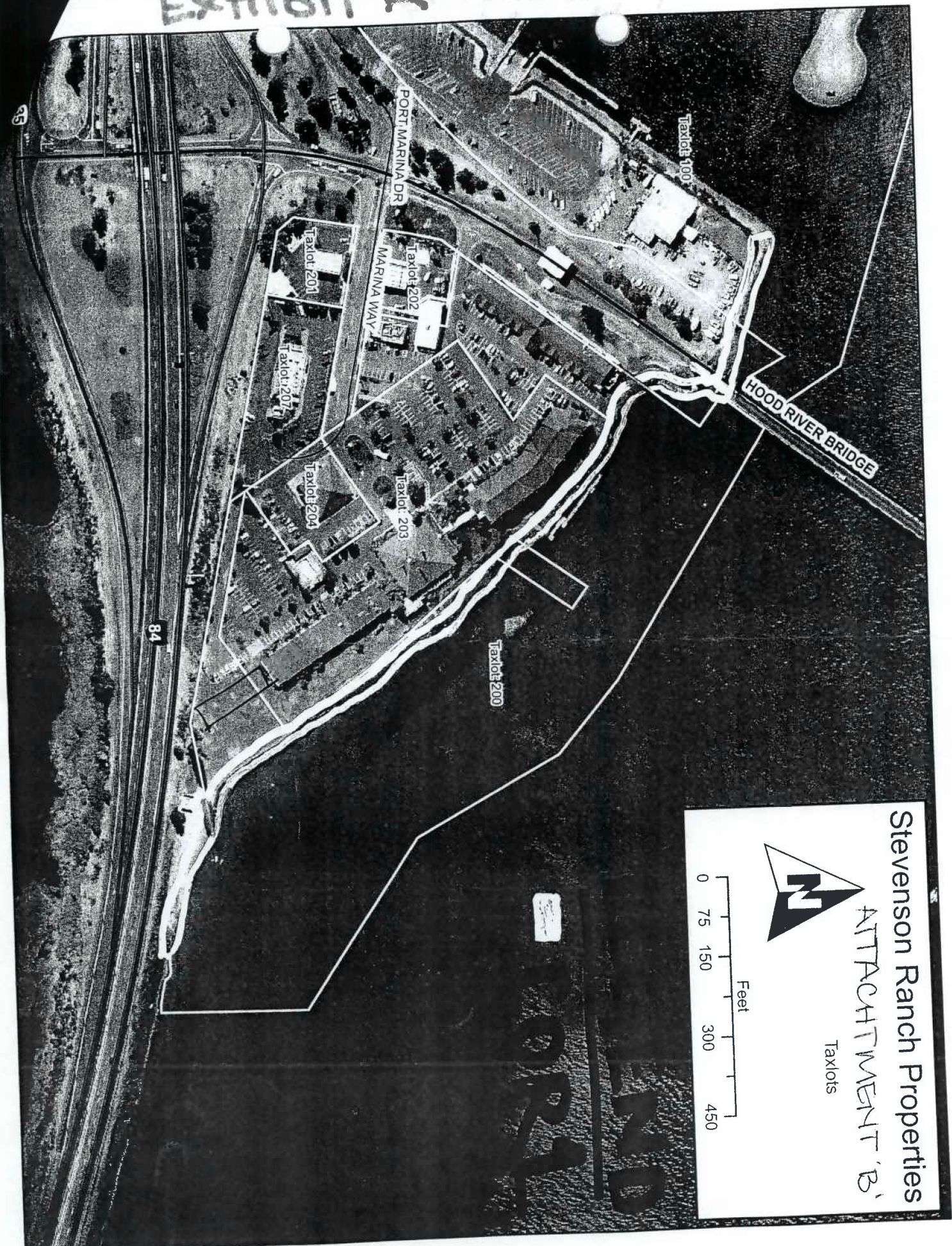
Read for the second time and passed: December 10, 2007, to become effective thirty (30) days hence.

Signed December 12, 2007.

 (For)
Linda Streich, Mayor

ATTEST:


Jennifer McKenzie, City Recorder



City of Hood River
P.O. Box 27
Hood River, OR 97031



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