



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street NE, Suite 150

Salem, Oregon 97301-2524

Phone: (503) 373-0050

First Floor/Costal Fax: (503) 378-6033

Second Floor/Director's Office: (503) 378-5518

Web Address: <http://www.oregon.gov/LCD>

NOTICE OF ADOPTED AMENDMENT

September 11, 2006

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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Hermiston Plan Amendment
DLCD File Number 001-06



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: September 22, 2006

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
Darren Nichols, DLCD Regional Representative
J.R. Cook, Umatilla County
Clint Spencer, City of Hermiston

<paa> ya



SEP 05 2006

LAND CONSERVATION AND DEVELOPMENT

FORM 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

DATE STAMP For DLCD Use Only

Jurisdiction: City of Hermiston / Umatilla County Local file number: Ordinance # 2006-16
Date of Adoption: 8-30-06 Date Mailed: 8-31-06
Date original Notice of Proposed Amendment was mailed to DLCD: 1-19-06

- 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".
Zone change converting 7/10 acres from "Future Residential" to "Medium Density Residential" and amend the zoning map designation from "FU-10" to "R3." The zone change, per JMA, allows the City of Hermiston to Annex the property.

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: Future Residential to: Medium Density Residential
Zone Map Changed from: Future Urban 10 acres to: Multi-Family (R-3)
Location: Hwy 395 Acres Involved: 70
Specify Density: Previous: 1 DU / 10 acres New: 6 DU / Acre
Applicable Statewide Planning Goals: 1, 2, 5, 6, 10, 11, 12, 14
Was and Exception Adopted? YES NO

DLCD File No.: Hermiston (001-06) Umatilla Co. 009-06 (14949) (NOA)

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:

City of Hermiston, Umatilla County, ODOT, Hermiston Irrigation District,
United States Bureau of Reclamation, Confederated Tribes of Umatilla Indian
Reservation

Local Contact: J.R. Cook Phone: (541) 278-6291 Extension: N/A

Address: 216 S.E. 4th street City: Pendleton

Zip Code + 4: 97801 - Email Address: jrcook@co.umatilla.or.us

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.

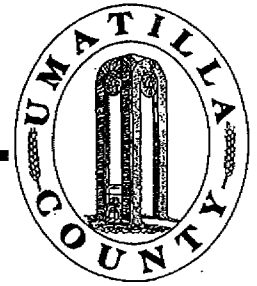
1. Send this Form and TWO (2) Copies of the Adopted Amendment to:

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.

Umatilla County

Department of Resource Services and Development



Director

Tamra Mabbott

August 31, 2006

Planning &
Development
Division:

American Development
Attn: Mark Zoller
415 E. Mill Plain Blvd.
Vancouver, WA 98660

LAND USE
PLANNING
541-278-6252

CODE
ENFORCEMENT
541-278-6300

RE: County co-adoption of American Development Conversion (City Ordinance #2118)

Emergency
Management
Division:

EMERGENCY
MANAGEMENT
541-966-3700

CHEMICAL
STOCKPILE
EMERGENCY
PREPAREDNESS
PROGRAM
(CSEPP)
541-567-2084
541-966-3700
1-877-367-2737

Dear Mark,

Enclosed is a copy of Umatilla County Ordinance No. 2006-16, as well as a copy of the Umatilla County Findings and Conclusions and a copy of the DLCD Notice of Adoption that was sent this date. A statutory 21-day appeal period commences on August 31, 2006, the day the Notice of Adoption is sent to DLCD.

Any appeals at this point must be made to the Land Use Board of Appeals (LUBA). If you wish to contact LUBA to determine whether an appeal has been filed, their address is: 550 Capitol Street NE, Suite 235, Salem, OR 97310; phone (503) 373-1265.

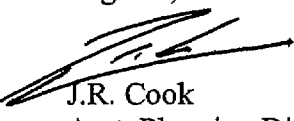
If the above is not clear of if we can be of further assistance, please do not hesitate to contact this office.

County/State
Agency Liaisons:

OSU EXTENSION
SERVICE
541-278-5403

WATERMASTER
541-278-5456

Regards,


J.R. Cook
Asst. Planning Director

Attachments:

- (1) Umatilla County Ordinance #2006-16
- (2) Umatilla County Findings and Conclusions
- (3) DLCD Notice of Adoption

cc w/o attachments:

Doug Olsen, County Counsel
Clint Spencer, City of Hermiston
Mike Robinson, Perkins Coie
Attached Land Owner List

RECEIVED

AUG 30 2006

UMATILLA COUNTY
RECORDS

THE BOARD OF COMMISSIONERS OF UMATILLA COUNTY

STATE OF OREGON

In the Matter of Co-Adopting)
City of Hermiston Ordinance) ORDINANCE NO. 2006-16
No. 2118, Amending City of)
Hermiston Comprehensive Plan)
Map and to Convert Certain)
Lands from Urbanizable Status)
to Urban Status)

WHEREAS the City of Hermiston and Umatilla County have previously entered into a Joint Management Agreement applying to lands within the City Urban Growth Area, and pursuant to the agreement, amendments to the City of Hermiston Comprehensive Plan and Implementing Ordinances for application to the Urban Growth Area, are referred to Umatilla County for adoption;

WHEREAS on March 27, 2006, the Hermiston City Council adopted Ordinance No. 2118, to amend the Comprehensive Plan Map and convert certain lands from Urbanizable status to Urban status;

WHEREAS, at its May 25, 2006 meeting, continued to June 22, 2006, the Umatilla County Planning Commission reviewed the ordinance and recommended that the Board of Commissioners co-adopt the ordinance;

WHEREAS the Board of Commissions held a public hearing on August 30, 2006, to consider the co-adoption of the ordinance;

WHEREAS at its meeting of August 30, 2006, the Board of Commissioners voted unanimously to co-adopt the ordinance;

WHEREAS the Board of Commissioners, as part of its separate findings, found that there was substantial evidence in the record demonstrating that the City has adequate conveyance and treatment capacity for the sanitary sewer system to accommodate this conversion area and still accommodate existing City areas.

NOW, THEREFORE the Board of Commissioners of Umatilla County ordains the co-adoption by Umatilla County, Oregon, of City of Hermiston Ordinance No. 2118, amending City of Hermiston Comprehensive Plan Map and converting certain lands to Urban status, a copy of which is attached to this document and incorporated by this reference.

DATED this 30th day of August, 2006.

UMATILLA COUNTY BOARD OF COMMISSIONERS

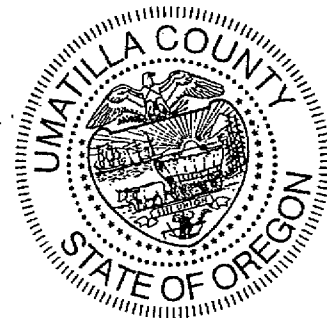
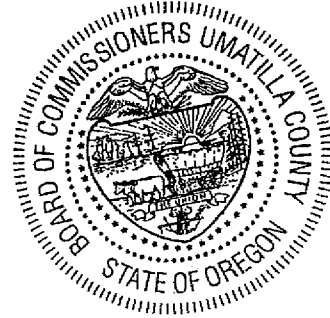
Dennis D. Doherty
Dennis D. Doherty, Chair

Emile M. Holeman
Emile M. Holeman, Commissioner

William S. Hansell
William S. Hansell, Commissioner

ATTEST:
OFFICE OF COUNTY RECORDS

Steve Churchill
Records Officer



ORDINANCE NO. 2118

AN ORDINANCE AMENDING THE CITY OF HERMISTON COMPREHENSIVE PLAN MAP AND TO CONVERT CERTAIN LANDS FROM URBANIZABLE STATUS TO URBAN STATUS LOCATED WITHIN THE URBAN GROWTH BOUNDARY OF THE CITY OF HERMISTON IN ACCORD WITH THE PROVISIONS OF POLICY 6 IN THE CITY'S COMPREHENSIVE PLAN.

THE CITY OF HERMISTON DOES ORDAIN AS FOLLOWS:

SECTION 1. The following described property shall be changed on the city comprehensive plan map from "Future Residential" to "Medium Density Residential" to-wit:

That portion of the Southeast Quarter of Section 2, Township 4 North, Range 28 East Willamette Meridian, Umatilla County, Oregon, being described as follows:

Beginning at the Southwest corner of the Northwest quarter of the Southeast Quarter of said Section 2 and running; thence North along the west line of said Northwest Quarter 1308.31 feet to a point on the south line of Theater Lane (Co. Rd. #1244); thence East along said South line 230 feet; thence North 40 feet to a point on the north line of said Theater Lane. Said point lies 10 feet South of the Southeast corner of Lot 125 of "SUNSET ESTATES"; thence East along the north line of said Theater Lane 1097.53 feet to a point which lies 20 feet North of the Northeast corner of said Northwest Quarter; thence South 1348.94 feet to the Southeast corner of said Northwest Quarter; thence West along the South line of said Northwest Quarter 128.80 feet to a 5/8" iron rebar marking the Northeast corner of Tax Lot 600 4N 28 02D as it was described in the Umatilla County Assessors unrecorded file; thence S 2° 14' 41" E 703.80 feet to a 5/8" iron rebar; thence N 89° 53' 47" W parallel with the South line of said Kalal Tract 195.00 feet to a 5/8" iron rebar; thence S 2° 14' 41" E 195.00 feet to a 5/8" iron rebar on the South line of said Kalal Tract; thence N 89° 53' 47" W along said South line 992.56 feet to the Northwest corner of that tract of land deeded to Glenn Chowning, et al, described in a deed recorded on Reel 396, Page 107, Umatilla County Deed Records; thence N 0° 24' 53" W 10.43 feet to the Northeast corner of that tract of land deeded to Charles and Linda Reiber recorded in Book 309, Page 262, Umatilla County Deed Records; thence S 89° 41' 53" W 40.00 feet to the Northwest corner of said Reiber Tract; thence N 0° 24' 53" W along the West line of the Southwest Quarter of the Southeast Quarter of said Section 2 a distance of 878.38 feet to the point of beginning.

SECTION 2. The findings of fact as adopted by the City Council on March 27, 2006 are incorporated herein by reference.

SECTION 3. The effective date of this ordinance shall be the thirtieth day after enactment.

PASSED by the City Council this 27th day of March, 2006.

SIGNED by the Mayor this 27th day of March, 2006


MAYOR

ATTEST:


CITY RECORDER

**UMATILLA COUNTY BOARD OF COMMISSIONERS
FINDINGS AND CONCLUSIONS
AMERICAN DEVELOPMENT CO-ADOPTION REQUEST
HERMISTON ORDINANCE #2118
MAP #4N 28 02D, TAX LOTS 400, 500 and 600**

Applicant/Owner: American Development

Property Location: The property is located on the south side of E Theater Lane and directly east of the Pheasant Run Subdivision. The property is described as 4N 28 02D Tax Lots 400, 500 and 600.

Existing Use: The property contains one single family dwelling and the remaining area is vacant undeveloped land.

Surrounding Uses: To the north lies vacant undeveloped land. To the west lies the Pheasant Run Subdivision. To the east lies the Vista Park Mobile Home Park. To the south lie several industrial users.

Comp Plan Designation: The land proposed for conversion lies within the urbanizable portion of the urban growth boundary and has a Future Residential comprehensive plan map designation.

Surrounding Comp Plan Designations: Land to the north, east has a Future Residential comprehensive plan map designation. Land to the west has a Low Density Residential comprehensive map designation. Land to the south has an Industrial comprehensive plan map designation.

Existing Zoning: The land proposed for conversion has a zoning designation of Future Urban 10-Acre Minimum (FU-10).

Surrounding Zoning: Land to the north and east has a zoning designation of Future Urban 10-Acre Minimum (FU-10). Land to the west has a zoning designation of Duplex Residential (R-2). Land to the south has a zoning designation of Light Industrial (M-1).

Requested Comp Plan Map Designation and Requested Zoning: Medium Density Residential (M) and Multi-Family Residential (R-3).

Requirements

§157.226 of the Hermiston Code of Ordinances provides the method and approval criteria for granting or denying an amendment to the zoning map. The proposed amendment has been deemed a quasi-judicial change in that it involves the map and does not have widespread and significant impact beyond the immediate area of the proposed amendment. The following criteria as cited in §157.226(E) must be followed in deciding upon a quasi-judicial proceeding:

1. The burden in all land use proceedings is upon the applicant, whether a zone change, conditional use or variance is the subject of the hearing.
2. The requested zone change must be justified by proof that:
 - a. The change is in conformance with the comprehensive plan and also the goals and policies of the plan.
 - b. The showing of public need for the rezoning and whether that public need is best served by changing the zoning classification on that property under consideration.
 - c. The public need is best served by changing the classification of the subject site in question as compared with other available property.
 - d. The potential impact upon the area resulting from the change has been considered.
3. The courts will require a “graduated burden of proof” depending upon the more intensive land use that will occur as a result of the proposed rezoning.
4. Procedural process for a quasi-judicial hearing:
 - a. Parties at a public hearing must have an opportunity to be heard, to present and rebut evidence.
 - b. There must be a record which will support the findings made by the city council or planning commission.

Notice of the proposed action for a comprehensive plan map amendment or zoning map amendment shall be submitted to the Department of Land Conservation and Development 45 days prior to the date set for the initial hearing.

After the close of the initial evidentiary hearing, the planning commission shall make findings of fact and recommend to the city council adoption, revision or denial of the proposed amendments. Notice of the hearing before the city council shall be by one publication in the local newspaper. After the close of the public hearing, the city council shall make findings of fact and adopt, adopt with changes, or deny the proposed amendments.

PROPOSED FINDINGS

CONVERSION

THE CHANGE IS IN CONFORMANCE WITH THE COMPREHENSIVE PLAN AND ALSO THE GOALS AND POLICIES OF THE PLAN

1. The City of Hermiston's comprehensive plan allows owners within the urban growth boundary to exercise their rights of development in a manner consistent with statewide goals and applicable comprehensive plan policies, as well as to provide efficient and orderly provision of public services and facilities.
2. The City's application process allows for citizen involvement by way of public hearings before the planning commission and city council (Policy 1). Testimony was received from adjacent property owners.
3. City services are available to the property within the existing Pheasant Run Subdivision adjacent to the property. Upon annexation and development, city services can readily be extended into the property and the costs associated with this extension, excepting any required major facilities to facilitate future growth, can be borne by the developer (Policy 5).
4. The comprehensive plan identifies the land as Future Residential.
5. The proposed change to Medium Density Residential allows a mix of low and high density residential uses. The development's goal is to blend the existing low density residential development to the west and the industrial uses to the south. The plan will be to mix low density residential and multi-family developments mixed with the existing adjacent developments.

DESCRIBE THE PUBLIC NEED FOR THE COMPREHENSIVE PLAN AMENDMENT AND WHETHER THAT PUBLIC NEED IS BEST SERVED BY THE CHANGING THE ZONING CLASSIFICATION ON THE PROPERTY UNDER CONSIDERATION

6. The current comprehensive plan designation allowed for and anticipated a future need for residential development in this area. The proposed change will fulfill the intent of the current designation.
7. Adjacent residential development has reached completion and it is necessary to expand the city boundaries and designate specific residential uses to all for the future housing demands of the City of Hermiston.

EXPLAIN HOW THE PUBLIC NEED IS BEST SERVED BY CHANGING THE CLASSIFICATION OF THE SITE IN QUESTION AS COMPARED WITH OTHER AVAILABLE PROPERTY

8. The proposed amendment will not change the overall residential designation of the property, but will define and specify how the existing zone shall be developed.

9. The site will be developed as proposed with a mixed use residential development which provides a reasonable transition between the neighboring single family, multi-family, industrial and manufactured housing uses that surround the project.

EXPLAIN HOW THE POTENTIAL IMPACT UPON THE AREA RESULTING FROM THE CHANGE HAS BEEN CONSIDERED

10. The proposed development will require additional utility and road infrastructure improvements. The impacts have been considered and analyzed for maximum efficiency and the best mitigation of traffic and utility demands.
11. In accordance with OAR 660-012-0060, the applicant has hired a traffic engineer to look at the traffic impacts of the proposed map amendments. The traffic engineer has submitted a report demonstrating that the proposed map amendments will not change the functional classification of any street or intersection impacted by the development.
12. The City states that utilities have the capacity to service the proposed development without major upgrades.

The County finds that substantial evidence in the whole record demonstrates that the City has adequate conveyance and treatment capacity for the sanitary sewer system to accommodate this conversion area and still accommodate existing and planned City areas. The evidence consists of the acknowledged Public Facilities Plan ("PFP") as required by Statewide Planning Goal 11, "Public Facilities and Service." The Department of Land Conservation and Development ("DLCD") has acknowledged the PFP as consistent with Goal 11. The record contains an acknowledgement letter from DLCD. The PFP concludes that the City has adequate conveyance and treatment capacity to handle all development within the City's Urban Growth Boundary, including urban and urbanizable areas.

Additionally, the City's Utility Engineer Al Shewey has testified that the treatment plant has adequate capacity to accommodate the expected residential development from this conversion area.

The County notes the lack of substantial evidence to the contrary regarding sanitary sewer treatment capacity. Therefore, the County finds as noted above that there is adequate sanitary sewer treatment capacity to accommodate the proposed residential development in this conversion area.

CO-ADOPTION OF HERMISTON ORDINANCE #2118 IS APPROVED:

UMATILLA COUNTY BOARD OF COMMISSIONERS



Dennis D. Doherty, Chairman



William S. Hansell, Commissioner



Emile M. Holeman, Commissioner