



# Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

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Salem, Oregon 97301-2524

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

## NOTICE OF ADOPTED AMENDMENT

September 26, 2006

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 015-06



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: October 11, 2006**

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: Gloria Gardiner, DLCD Urban Planning Specialist  
Gary Fish, DLCD Regional Representative  
Jennifer Donnelly, City of Hood River

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**FORM 2**

DEPT OF

SEP 21 2006

**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

(See second page for submittal requirements)

Jurisdiction: City of Hood River

Local File No.: 2006-50  
(If no number, use none)

Date of Adoption: 12 September 2006  
(Must be filled in)

Date Mailed: 20 September 2006  
(Date mailed or sent to DLCD)

Date the Notice of Proposed Amendment was mailed to DLCD: 20 September 2006

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

(Please Specify Type of Action)

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

A comprehensive plan and zone map amendment for a zone change from Urban Low Density residential (R-1) to Urban High Density residential (R-3) for approximately .45 acres of land.

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: R-1 to: R-3

Zone Map Changed from: R-1 to: R-3

Location: 1215 Nix Drive 3N 10E 35DA #4800

Acres Involved: .45 acres

Specify Density: Previous: N/A

New:

Applicable Statewide Planning Goals: Goals 2 and 9

Was an Exception Adopted? Yes:  No:

Does Adopted Amendment affect the areas in unincorporated Hood River County where the

Zoning Code applies? Yes  No

DLCD File No.: 015-06  
(15298)

Did the Department of Land Conservation and Development receive a notice of Proposed Amendment **FORTY FIVE (45) days prior to the first evidentiary hearing.** Yes: X No:

If no, do the Statewide Planning Goals apply. Yes:  No:

If no, did The Emergency Circumstances Require immediate adoption. Yes:  No:

Affected State or Federal Agencies, Local Governments or Special Districts: ODOT, Hood River County

Local Contact: Jennifer Donnelly

Area Code + Phone Number: 541-387-5224

Address: PO Box 27

City: Hood River

Zip Code+4: 97031

Email Address: Jennifer@ci.hood-river.or.us

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## 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 ANotice of Adoption is sent to DLCD.
6. In addition to sending the ANotice 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 Larry.French@state.or.us - ATTENTION: PLAN AMENDMENT SPECIALIST.

## ORDINANCE 1911

### (AN ORDINANCE AMENDING THE CITY'S COMPREHENSIVE LAND USE PLAN AND ZONING MAP FOR PROPERTY LOCATED AT 3N 10E 35DA tax lots 4800)

**WHEREAS**, the City of Hood River Planning Commission held a public hearing on August 16, 2006, to consider an application for a quasi-judicial plan and zone map amendment according to Chapter 17.08 to change the zoning designation on the property located at 3N 10E 35DA tax lot 4800;

**WHEREAS**, the applicant requested a plan and zone change from Urban Low Density Residential R-1 to Urban High Density Residential R-3 and the Planning Commission recommended granting the request;

**WHEREAS**, the City of Hood River notified the Department of Land Conservation and Development in writing on June 13, 2006;

**WHEREAS**, following issuance of notice as required by the Hood River Municipal Code, the Hood River City Council held a public hearing on August 28, 2006 at which time the Council considered the Planning Commission's record and recommendation, the Planning Staff's report, and testimony presented, if any;

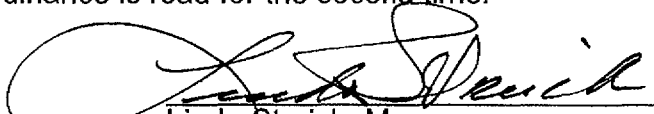
**WHEREAS**, the Hood River City Council adopts the Planning Commission's findings of fact and conclusions of law set forth in the findings signed August 18, 2006, and approves the application for the requested plan and zone map amendment with the additional condition that the property can only be developed as residential use.

**NOW, THEREFORE**, the City of Hood River ordains as follows:

The Comprehensive Land Use Plan and Zoning Maps of the City of Hood River are hereby amended by changing the zoning designation of property located at 3N 10E 35DA tax lots 4800 from Urban Low Density Residential R-1 to Urban High Density Residential R-3 for the purpose of residential use.

Read for the first time 12 September 2006.

Read for the second time and approved: 12 September 2006, to become effective 30 days after the ordinance is read for the second time.

  
Linda Streich, Mayor

ATTEST:

  
Jill Rommel, City Recorder

**BEFORE THE CITY OF HOOD RIVER CITY COUNCIL  
HOOD RIVER, OREGON**

In the Matter of the plan and )  
zone map amendment for ) **FINDINGS AND DECISION**  
Indian Creek Cottages )

**BACKGROUND INFORMATION:**

- A. **REQUEST:** A request for a rezone for .45 acres from Urban Low Density Residential (R-1) to Urban High Density Residential (R-3);
- B. **APPLICANT/PROPERTY OWNER:** Tara Johnston and Gene Wixon/Jennifer L. Roberts
- C. **PROPERTY LOCATION:** The property is located at the southwest corner of Nix Drive and 12<sup>th</sup> Street; 3N 10E 35DATax Lot #4800.
- D. **ZONING AND LAND USES:**
  - 1. North: C-2; Car wash and future commercial building.
  - 2. South: C-2; undeveloped, potentially future Community College.
  - 3. West: R-1; single family residential.
  - 4. East: State Highway and C-2.
- E. **HISTORY:**
  - 1. Complete application 13 June 2006.
  - 2. DLCD notice mailed 13 June 2006.
  - 3. Notice of public hearing mailed 12 July 2006.
  - 4. Public Hearing before the Planning Commission 16 August 2006 and City Council 28 August 2006.
- F. **RECORD:**
  - 1. Staff report and attachments.
  - 2. Original public hearing notice.
  - 3. Applicant's submittal, including updates.
  - 4. Oral and written testimony submitted to the Planning Commission on or before 16 August 2006.
  - 5. Oral and written testimony submitted to the City Council on or before 28 August 2006.
- G. **APPLICABLE ORDINANCE CRITERIA:**
  - 1. Hood River Municipal Code (HRMC), Section 17.03.010 – Urban Low Density Residential
  - 2. HRMC, Section 17.03.030 – Urban High Density Residential
  - 3. HRMC, Chapter 17.08 - Zone Changes and Plan Amendments.
  - 4. HRMC Chapter 17.09 – Review Procedures.

**II. FINDINGS OF FACT AND CONCLUSIONS**

- A. **Section 17.08.020(C):** The application shall not be approved unless the proposed zone/plan change amendment would be in compliance with the Comprehensive Plan, Zoning Ordinance and the criteria set

forth in Section 17.08.030.

B. **Section 17.08.030 - Criteria:** Zone or plan changes may be approved if one or more of the following exists:

1. **Zone/plan changes shall only be made if the zone change will not be unreasonably harmful or incompatible with existing uses on nearby properties; or**

This criteria requires evaluating the effect of having new uses as a result of the new zone with respect to existing uses on nearby properties. Typically, the City defines the surrounding area or nearby properties to include the notice area. The notice area is appropriate in this case because it is 250 feet and crosses a variety of existing uses.

In evaluating the effect of having new uses, this criteria looks at the impacts of the new uses on the existing uses—whether the effects are harmful, and it looks at the impact of existing uses on the new uses—whether incompatibility will result.

The primary differences between the two zones (R-1 and R-3) are (1) professional offices are a conditional use in the R-3 zone and not allowed in the R-1 zone, and (2) a greater variety and density of residential uses are allowed in the R-3 zone than the R-1 zone.

The proposed zone change from R-1 to R-3 will allow for greater diversity and density of residential uses. Currently, this site has one single family residence on it. With the current zoning this parcel could be divided into two residential lots. With a rezone to R-3 this parcel could be divided into three 5,000 square feet lots with 50 feet of frontage. This primary difference is the type of development permitted in the R-3 zone versus the R-1 zone. In the R-3 zone the lots could be developed as multi-family or townhouses or a higher density Planned Unit Development,

The addition of higher density residential uses would not cause any harmful effects because the uses remain residential. Traffic issues would be addressed at the plan review stage for higher density development, and traffic from the subject parcel would not be required to drive through the adjacent residential neighborhood because the subject parcel is located with direct access from Nix to Tucker Road.

However, the City Council finds that the addition of non-residential uses would cause harmful effects and incompatibility because it would cause the neighborhood to lose its residential neighborhood characteristics. The residents of the neighborhood spoke against the zone change for fear that the zone change would cause the residential character of their neighborhood to be lost. Although the subject property is adjacent to commercial zoning, as is the neighborhood, limiting the subject parcel to residential uses will provide a buffer.

**CONCLUSION:** Based on the above evidence, there is potential

incompatibility between the new uses that would be allowed in the proposed R-3 zone. However, a condition of approval limiting the uses to residential only will allow this condition to be met.

2. **A mistake was made in the original zone/plan designation;**  
The Comprehensive Plan adopted in 1983 designated this parcel Urban Low Density Residential (R-1).

**Conclusion:** Based on the above, a mistake was not made in the original zone designation.

3. **There is a public need for the change and this identified need will be served by changing the zone/plan designation for the subject properties; and/or**

The Planning Department evaluates public need from a comprehensive standpoint. For example, to demonstrate a public need for this request, the applicant must demonstrate that there is an inadequate supply of R-3 land and that the proposed use is uniquely suited to the property. Public need is not, however, the need of individual property owners.

The supplemental housing study states that there is a need for more R-3 land base within the City of Hood River, specifically 9.24 acres. There is not a shortage of R-1 zoned land. The commissioners stated that the housing lands inventory was from 1997 and the need has increased significantly since then. The commissioners also stated that based on the visioning process the City did this past fall there is an identified public need for R-3 land, affordable housing and work force housing. This specific parcel of land is in a good location for greater density than what is allowed on an R-1 parcel because it is adjacent to an arterial road, 12<sup>th</sup> street, and very close to the shopping area and future community college. The easy location would allow for more pedestrian and bicycle trips. The City Council found that there is a need for more R-3 land for residential purposes. To ensure that the subject property meets the need for more R-3 land for residential development, the City Council added a condition to the zone change limiting development for residential purposes only.

**Conclusion:** Based on the above, there is a demonstrated public need for the zone change in this area.

4. **Conditions have changed within the affected area, and the proposed zone/plan change would therefore be more suitable than the existing zone/plan designation.**

Conditions have changed in Hood River. This is the only parcel of land that is zoned R-1 that is next to highway 281/12<sup>th</sup> Street. Typically parcels with frontage on a roadway intended for more traffic have a higher intensity use.

The general neighborhood is changing. There is an application for a Community College across Indian Creek from this development, to the east of 12<sup>th</sup> Street there are several new commercial buildings going in, many of them with a specialty in healthcare

(Camron Administrative Site Plan Review).

**Conclusion:** Based on the above, staff finds that conditions have changed enough to warrant a zone change in the area.

5. **The Planning Commission shall consider factors pertinent to the preservation and promotion of the public health, safety and welfare including, but not limited to:**
  - a) **The character of the area involved;**
  - b) **Its peculiar suitability for particular uses;**
  - c) **Conservation of property values; and**
  - d) **The direction of building development.**

The above factors are taken into consideration in the findings of fact in the criteria, above.

### **C. COMPREHENSIVE PLAN**

1. **GOAL 1 - CITIZEN INVOLVEMENT: Maintain a citizen involvement program that ensures the opportunity for citizens to be involved in all phases of the planning process.**  
All applicable notice and public hearing procedures are being followed to process this application.
2. **GOAL 2 - LAND USE PLANNING: 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.**  
The policies listed under Plan Review and Revisions discuss the process and criteria for revisions and changes to the comprehensive plan (including the zone map). After careful review and discussion with the City Attorney, staff finds that the criteria under D. of this section relate specifically to legislative revisions to the comprehensive plan, not quasi-judicial changes. Legislative revisions are broad in scope and can be initiated only by the Planning Commission or City Council, while quasi-judicial changes are narrow in scope and can be initiated by the property owner. Quasi-judicial changes are evaluated pursuant to Sections 17.08.020 through 17.08.050 of the HRMC (see findings under II.A. and II.b., above).
3. **GOAL 3 - AGRICULTURAL LANDS: To preserve and maintain agricultural lands.**  
Not applicable.
4. **GOAL 4 - FOREST LANDS: To conserve forest lands for forest uses.**  
Not applicable.
5. **GOAL 5 - OPEN SPACES, SCENIC AND HISTORIC AREAS, AND NATURAL RESOURCES: To conserve open space and protect natural, historic, and scenic resources.**  
The proposed change will not adversely impact any Goal 5 natural



resources. The property is near Indian Creek and the flood plain area. Any and all development shall be 50 feet from the top of bank of the creek, this will be evaluated at the time of a development application.

6. **GOAL 6 - AIR, WATER AND LAND RESOURCE QUALITY: To maintain and improve the quality of the air, water, and land resources of the planning area to provide a relatively pollution free environment.**

This application does not increase or decrease the air, water and land resource qualities of the area because it does not involve development of the parcel. The proposed change will not impact any Goal 6 resources.

7. **GOAL 7 - NATURAL DISASTERS: To protect life and property from natural disasters and hazards.**

The site is near a but not in a floodplain; does not contain any environmental protection areas and has no designated geologic hazard areas within its boundaries.

8. **GOAL 8 - RECREATIONAL NEEDS: To satisfy the recreational needs of the citizens of the community and visitors to the area.**

The Parks and Recreation District Master Plan does not identify a need for a neighborhood/mini park in this general area. But there is a trail along Indian creek, with development review this trail may have the possibility of being expanded along the property. The condition of approval limiting development to residential uses will ensure this goal is met.

9. **GOAL 9 - ECONOMY: To diversify and improve the economy of the Hood River planning area.**

This Goal requires the City to ensure that there is adequate land with public services to meet the needs for economic growth and development. This proposal is consistent with Policy 3 and 6 of Goal 9 of the Hood River Comprehensive Plan:

Based on the above, this zone change will not adversely affect the economy in Hood River.

10. **GOAL 10 - HOUSING: To provide for the housing needs of the residents of Hood River.**

A change from R-1 to R-3 zone will increase the amount of land available for housing. The rezone would provide for a greater density and more variety of housing types that is needed in the City of Hood River.

11. **GOAL 11 - PUBLIC FACILITIES AND SERVICES: To plan and develop a timely, orderly, and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.**

The existing level of services are adequate. City water and sewer are available and in use on the subject parcel. Additional review of the public facilities will be made through a development review

for a specific proposal.

12. **GOAL 12 - TRANSPORTATION: To provide and encourage a safe, convenient and economic transportation system, realizing maximum mobility for the citizens of the community.**  
Oregon Department of transportation did not have any comments for this zone change. As proposed, this zone change will not degrade the transportation system. Additional review of the transportation system will be made through a development review for a specific proposal.
13. **GOAL 13 - ENERGY CONSERVATION: To conserve energy and encourage the use of renewable energy resources.**  
This proposal meets the Hood River Comprehensive Plan Policy #2 and #5 by allowing for greater density next to an arterial roadway.  
  
Public facilities and services shall be consolidated, where feasible, to save transportation costs, driving time, and building maintenance costs.
14. **GOAL 14 - URBANIZATION: To provide for an orderly and efficient transition from rural to urban land use.**  
Not applicable.

D. **STATEWIDE PLANNING GOALS & GUIDELINES**

1. **GOAL 1 - CITIZEN INVOLVEMENT: To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.**  
All applicable notice and public hearing procedures are being followed to process this application.
2. **GOAL 2 - LAND USE PLANNING: 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.**  
The request has been evaluated and processed according to an acknowledged Comprehensive Plan and Zoning Ordinance.
3. **GOAL 3 - AGRICULTURAL LANDS: To preserve and maintain agricultural lands.**  
Not applicable.
4. **GOAL 4 - FOREST LANDS: To conserve forest lands by maintaining the forest land base and to protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.**  
Not applicable.

5. **GOAL 5 - OPEN SPACES, SCENIC AND HISTORIC AREAS, AND NATURAL RESOURCES: To conserve open space and protect natural and scenic resources.**  
The proposed change will not adversely impact Goal 5 resources.
6. **GOAL 6 - AIR, WATER AND LAND RESOURCE QUALITY: To maintain and improve the quality of the air, water, and land resources of the state.**  
This application does not increase or decrease the air, water and land resource qualities of the area because it does not involve development of the parcel.
7. **GOAL 7 - NATURAL DISASTERS: To protect life and property from natural disasters and hazards.**  
The subject parcel is not within a designated hazard area.
8. **GOAL 8 - RECREATIONAL NEEDS: To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.**  
The Parks and Recreation District Master Plan does not identify a need for a neighborhood/mini park in this general area. See findings under Comprehensive Plan, Goal 8, above.
9. **GOAL 9 - ECONOMY: To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.**  
See findings under Comprehensive Plan, Goal 9, above.
10. **GOAL 10 - HOUSING: To provide for the housing needs of the citizens of the state.**  
See findings under Comprehensive Plan, Goal 10, above.
11. **GOAL 11 - PUBLIC FACILITIES AND SERVICES: To plan and develop a timely, orderly, and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.**  
See findings under Comprehensive Plan, Goal 11, above.
12. **GOAL 12 - TRANSPORTATION: To provide and encourage a safe, convenient and economic transportation system.**  
See findings under Comprehensive Plan, Goal 12, above.
13. **GOAL 13 - ENERGY CONSERVATION: To conserve energy.**  
See findings under Comprehensive Plan, Goal 13, above.
14. **GOAL 14 - URBANIZATION: To provide for an orderly and efficient transition from rural to urban land use.**  
Not applicable.

E. **TRANSPORTATION PLANNING RULE: Oregon Administrative Rule (OAR) 660-12-060 (1) and (2) provide as follows:**

1. **Amendments to comprehensive plans, functional plans and**

**land use regulations which significantly affect a transportation facility shall assure that allowed land uses are consistent with the identified function, capacity and level of service of the facility.**

2. **A land use regulation amendment significantly affects a transportation facility if it:**

- a) **Changes the functional classification of an existing or planned transportation facility;**
- b) **Changes standards implementing a functional classification system;**
- c) **Allows types of levels of land uses which would result in levels of travel or access which are inconsistent with the functional classification of a transportation facility; or**
- d) **Would reduce the level of service of the facility below the minimum acceptable level identified in the TSP.**

The proposed zone change from R-1 to R-3 will not significantly affect the transportation facilities in this area. The Oregon Department of Transportation comments are as follows;

We (ODOT) have reviewed the applicant's proposal to rezone their property from R1 to R3. The subject site is in the vicinity of OR 281. The primary access will be onto Nix Drive. ODOT has determined there will be no significant impacts to state highway facilities and that no additional state review or mitigation is required. However, additional zone changes along Nix Drive may have cumulative impacts on intersection with OR 281 and would require additional traffic impact analysis.

The rezone would be consistent with the Transportation Planning Rule in that providing greater density next to higher volume roadways is encouraged as well as putting higher density near shopping areas to encourage the use of bicycle or walking as opposed to driving is encouraged.

The City has received a few letters that address concerns with traffic on Nix Drive. At this time this is not a failing intersection and any development on this parcel would be evaluated for its specific impact on the neighborhood at the time of development.

### **III. CONCLUSIONS AND DECISION:**


Based upon the above findings of fact, the City Council concludes that the applicant has met its burden of proof of proving compliance with all of the applicable approval standards and the Council **APPROVES** the Plan Zone Map Amendment application subject to the following conditions of approval:

- 1. Approval is for a plan/zone map amendment from Urban Low Density Residential to Urban High Density Residential on the property located at the southwest corner of Nix Drive and 12<sup>th</sup> Street; 3N 10E 35DATax Lot #4800.


2. Only the residential uses listed in HRMC 17.03.030 (A)(1)-(4), (6), (9), (11) & (12); and (B)(6) are allowed on the subject property.
3. Any development or change of use on the property **prior to** the effective date of this amendment, pursuant to adoption by the City Council, shall comply with the standards of the Urban Low Density Residential Zone.
4. Any development or change of use on the property **after** the effective date of this amendment, pursuant to adoption by the City Council, shall comply with the standards of the Urban High Density Residential and this decision.

**IV. DECISION:** The City Council approves the Plan and Zone Map Amendment for Indian Creek Cottages based on the above findings of fact and subject to the conditions of approval.

**APPROVED BY THE CITY OF HOOD RIVER CITY COUNCIL** the 12<sup>th</sup> day of **September, 2006.**

  
Linda Streich, Mayor

ATTEST:

  
Jill Rommel, City Recorder