



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 18, 2006

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

FROM: Mara Ulloa, Plan Amendment Program Specialist

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



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 2, 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
Darren Nichols, DLCD Regional Representative
Matthew Crall, DLCD Transportation Planner
Mike Muller, City of Pendleton

<paa> ya



FORM 2

D L C D 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 reverse side for submittal requirements)

DEPT OF

SEP 13 2007

LAND CONSERVATION AND DEVELOPMENT

Jurisdiction: CITY OF PENDLETON Local File No.: ZC 06-01 (If no number, use none)

Date of Adoption: 09-05-06 (Must be filled in) Date Mailed: 09-11-06 (Date mailed or sent to DLCD)

Date the Notice of Proposed Amendment was mailed to DLCD: 06-12-06

- Comprehensive Plan Text Amendment Comprehensive Plan Map Amendment
Land Use Regulation Amendment Zoning Map Amendment
New Land Use Regulation Other: (Please Specify Type of Action)

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

REZONE THAT PORTION OF PROPT. LYING BETWEEN US HWY 30 (WESTGATE) VS HWY 37 (NORTHGATE) & OLD OREGON TRAIL HWY (NW CARDEN AVE) TO C-1 (CENTRAL COMMERCIAL) EXHIBIT MAP ATTACHED

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: MED. DENSITY RESIDENTIAL to COMMERCIAL

Zone Map Changed from: R-2 to C-1

Location: NORTH SIDE OF NW WESTGATE @ VS HWY #37 Acres Involved: 1.5 ACRES

Specify Density: Previous: 5-18 DWELLINGS/ACRE New: MAX. 160 DWELLINGS/ACRE

Applicable Statewide Planning Goals: 2, 10, 14

Was an Exception Adopted? Yes: No: X

DLCD File No.: 001-06 (15303)

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: 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: STATE DEPT. OF TRANSPORTATION

Local Contact: MIKE MULLER Area Code + Phone Number: 541-966-0261

Address: 500 SW DORION AVENUE City: PENDLETON

Zip Code+4: 97801-2090 Email Address: mike.muller@ci.pendleton.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.

ORDINANCE NO. 3736

AN ORDINANCE AMENDING ORDINANCES NO. 3442 AND 3250 (THE 1990 COMPREHENSIVE PLAN, AND THE OFFICIAL ZONING MAP) BY REZONING A CERTAIN DESCRIBED AREA FROM R-1, MEDIUM DENSITY RESIDENTIAL TO C-1, CENTRAL COMMERCIAL AND ADOPTING FINDINGS OF FACT

WHEREAS, the Pendleton Planning Commission received a request from Blue Mountain Community College to rezone a 1.5 acre parcel of property located on the northwest corner of the intersection of Westgate (US Hwy 30) at Northgate (US Hwy 37), legally described below:

That portion of land owned by Blue Mountain Community College which is located in the NE ¼ of Section 9, Township 2 North, Range 32 East of the Willamette Meridian; and abutted by the west ROW of the Pendleton Cold Springs Highway (US Hwy 37), the north ROW of the Oregon Trail Highway (US Hwy 30), and the south ROW of the Old Oregon Trail Highway (Carden Avenue); Pendleton, Oregon, Umatilla County, State of Oregon.

All lands subject to this rezoning are further depicted on Exhibit "A", attached hereto and incorporated herein by this reference; and,

WHEREAS, the Pendleton Planning Commission has conducted a public hearing on said request August 3, 2006, and recommended the adoption of findings of fact and conclusions of law attached hereto as Exhibit "B" and incorporated herein by this reference; and,

WHEREAS, the City Council has held a public hearing on said request and accepts the recommendation of the Planning Commission to approve the request; and,

WHEREAS, the Oregon Department of Land Conservation and Development has been given a 45 day period before the first evidentiary hearing in which to review and comment on the request.

NOW THEREFORE, CITY OF PENDLETON ORDAINS AS FOLLOWS:

SECTION 1. The official zoning map (established by Ordinance #3250) is hereby amended to change the zoning of the property described herein from R-2, Medium Density Residential to C-1, Central Commercial.

SECTION 2. The official Land Use Map (Map I) of the Comprehensive Plan (established by Ordinance #3442) is hereby amended to change the land use designation of the property described herein from Light Industrial to Central Commercial.

SECTION 3. The City Council hereby adopts the Findings of Fact and Conclusions of Law as recommended by the Planning Commission (Exhibit "B") and grants said comprehensive plan map change and rezone.

PASSED by the vote of the Council members present and approved by the Mayor on this 05 day of September, 2006.

APPROVED: Phyllis W. Houk
Mayor

ATTEST: Gandi C. Zeske
City Recorder

APPROVED AS TO FORM: _____
City Attorney

LEGAL DESCRIPTION APPROVED: [Signature]
Engineering Dept.

F:\DATA\PLANNING\ZONECHNG\ZC06-01(BMCC)\ORDINANCE NO.DOC

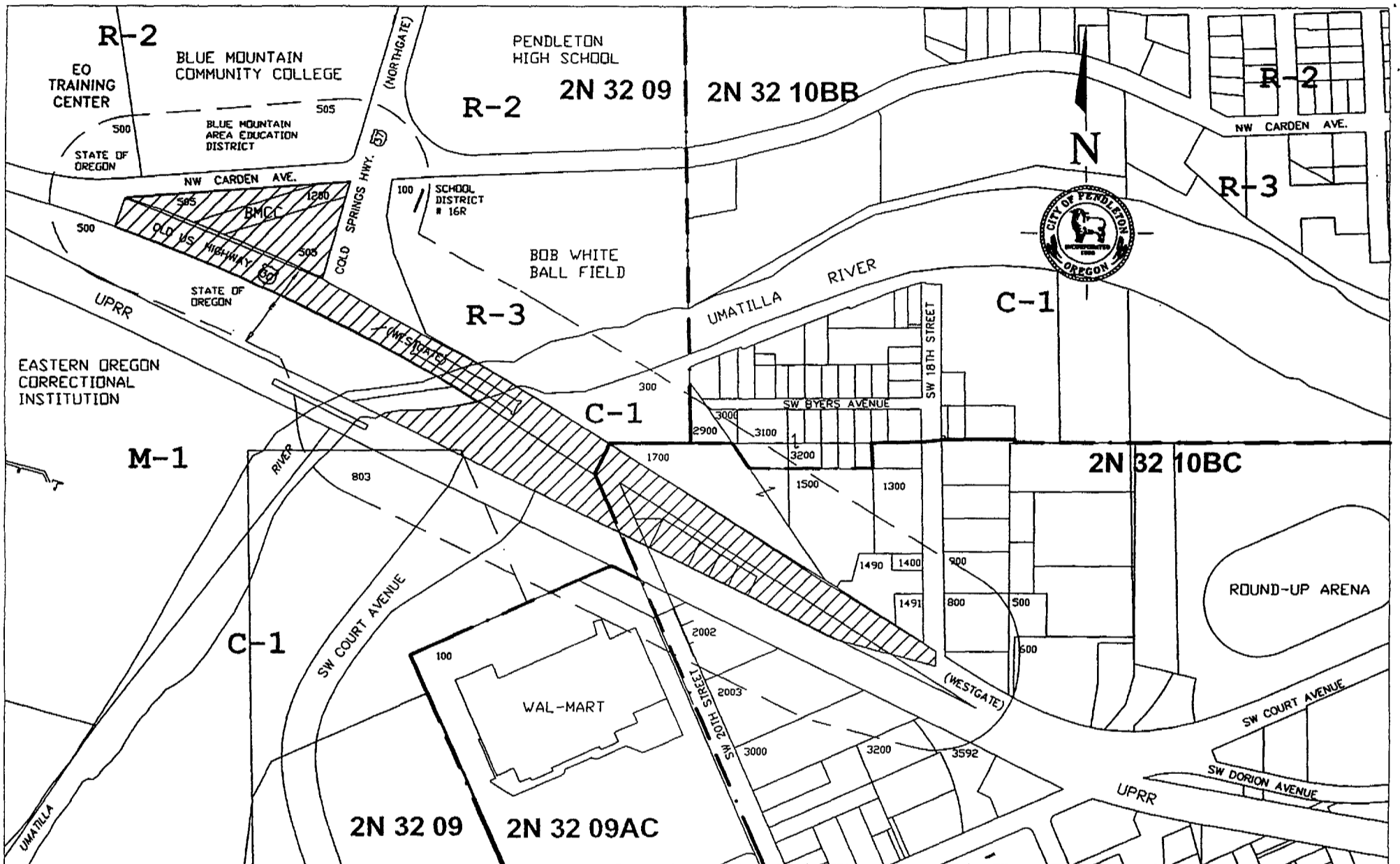
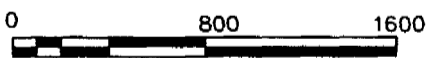


EXHIBIT "A"



SCALE 1"=400'

--- ASSESSOR MAP BOUNDARY



AREA OF PROPOSED ZONE CHANGE

CITY OF PENDLETON - PLANNING DEPT

ZONE CHANGE FROM R-2 TO C-1

APPLICANT: BLUE MOUNTAIN COMMUNITY COLLEGE FILE NO: ZC06-01(BMCC)

DRAFTER: MWM

DATE: 8/10/06

SCALE AS SHOWN

K:\PROJECTS\Platts\Planning\drawings\public hearings & agreement\NW

www.bluecc.edu



Blue Mountain
Community College

JOHN H. TURNER, PRESIDENT

CITY OF PENDLETON
RECEIVED

JUL 28 2006

BMCC PENDLETON
2411 NW CARDEN
PO BOX 100
PENDLETON, OR 97801
541.276.1260

July 26, 2006

Michael W. Muller
City Planner
500 SW Dorion Avenue
Pendleton, OR 97801

Dear Mike:

Blue Mountain Community College has requested rezoning for Tax Lot 1200 and a portion of Tax Lot 505, Map 2N 32 09 from Medium Density Residential to Central Commercial.

Currently, the college is unable to use this lot for educational purposes. We would like to be able to use the property to assist in developing an internship site for our Tourism and Hospitality program by bringing in a business that would use our students as their employees. Approval of this rezoning request would set the conditions so the college could generate income from the property.

If you require any further information, do not hesitate to call me at 541-278-5950.

Sincerely,

John H. Turner
President

JHT:tlp

BMCC BAKER COUNTY
3275 BAKER STREET
BAKER CITY, OR 97814
541.523.9127

BMCC HERMISTON
980 SE COLUMBIA DRIVE
HERMISTON, OR 97838
541.567.1800

BMCC MILTON-FREEWATER
311 N COLUMBIA
MILTON-FREEWATER, OR 97862
541.938.7176

BMCC MORROW COUNTY
PO BOX 939/300 NE FRONT STREET
BOARDMAN, OR 97818
541.481.2099

**PLANNING COMMISSION
FINDINGS AND DECISION**

August 3, 2006

SUBJECT: Consideration of a recommendation to the City Council for a Comprehensive Plan Map change and rezoning of a 1.5 acre parcel of property located on the north side of Westgate Avenue (US Hwy 30) at the Northgate (US Hwy 37) intersection (identified as Tax Lot 1200 and a portion of Tax Lot 505, Map 2N 32 09, Umatilla County) from R-2 (Medium Density Residential) to C-1(Central Commercial) zone; Blue Mountain Community College, applicant. (File No. ZC06-01)

REVIEWED BY: Michael W. Muller, City Planner

RELEVANT CRITERIA:

1. Zoning Ordinance No. 3250, Section 147, 148 and 149 states the following:

SECTION 147. AUTHORIZATION TO INITIATE AMENDMENTS. An amendment to the text of this Ordinance or to a zoning map may be initiated by the City Council, the Planning Commission or by application of the property owner for an amendment by filing an application with the City Manager using forms prescribed pursuant to Section 157 of this Ordinance.

SECTION 148. COMPLIANCE WITH COMPREHENSIVE PLAN. An amendment to the text of this Ordinance or to a zoning map shall comply with the provisions of the City of Pendleton Comprehensive Plan text and Comprehensive Land Use Map. Any deviation from this section shall be preceded by an amendment to the Comprehensive Plan Text or to the Comprehensive Land Use Map.

SECTION 149. PUBLIC HEARING ON AMENDMENTS. The Planning Commission shall conduct a public hearing on the proposed amendment according to the procedures of Section 161 of this Ordinance at its earliest practicable meeting after it is proposed and shall, within forty (40) days after the hearing, recommend to the City Council approval, disapproval or modification of the proposed amendment. After receiving the recommendation of the Planning Commission, the City Council shall hold a public hearing on the proposed amendment and render a final decision within one hundred twenty (120) days after application submittal unless longer review is agreed upon by the City and applicant. Public hearings on amendments encompassing lands of a mobile home park shall be conducted after notification of park tenants at least twenty (20) but no more than forty (40) days prior to the hearing.

FINDINGS OF FACT:

1. The subject parcel of property described as that portion of land owned by Blue Mountain Community College which is located in the NE ¼ of Section 9, Township 2 North, Range 32 East of the Willamette Meridian; and abutted by the west ROW of the Pendleton Cold Springs Highway (US Hwy 37), the north ROW of the Oregon Trail Highway (US Hwy 30), and the south ROW of the Old Oregon Trail Highway (Carden Avenue); Pendleton, Oregon, Umatilla County, State of Oregon, totaling 1.5 acres abuts State Highway Right of Way to the south, zoned M-1, (Light Industrial), which extends southeasterly into properties zoned C-1 (Central Commercial). The properties southeast of the subject parcel that were zoned M-1 (Light Industrial) were acquired as State Highway Right of Way and US Hwy 30 (Westgate) was relocated and constructed upon these lands in 2005 as component of the "Cold Springs Highway- Southwest Court Place Project" to address the deficiencies identified in the 1996 Pendleton Transportation Plan, "SW 20th Street Extension Project" The adjacent property to the southwest is zoned M-1 (Light Industrial), is developed as a Medium Security State Prison (Eastern Oregon Correctional Institution) and separated from the subject parcel by the Union Pacific Railroad Main Line.

The adjacent property directly east of the subject parcel is Zoned R-2 (Medium Density Residential) and is developed as baseball field for High School, Babe Ruth and American Legion use. The adjacent property, south of the Umatilla River is zoned C-1 (Central Commercial) and developed into retail and commercial usage. Where a westerly extension of the C-1 zone along State Highway Right of Way to the southerly boundary of the subject parcel provides a contiguous relationship with existing commercial property; adjacent uses in the residential zone are educational, not

residential in character; it is appropriate and makes sense to rezone the parcel and right of way to conform with the predominate neighborhood land use characteristics of the commercial properties to the southeast.

2. Historically the parcel was below road grade and utilized as an outdoor practice arena for the College rodeo team. The existing access permit for the subject parcel is from the south side of Old Oregon Trail Highway (Carden Avenue) and Marilyn Holt, Assistant District Manager of the District 17, ODOT stated that no additional access permits will be issued for State Hwy 30 or State Hwy 37. To address issues identified in the Pendleton Transportation Plan which were resulting in a substandard intersection, the subject parcel was raised to road level with two construction projects on State Highway 37 (Northgate Avenue) and State Highway 30 (Westgate Avenue) that upgraded the intersection with Carden Avenue, channelized Nelson Creek, and realigned/signalized the intersection of State Highway 37 (Northgate Avenue) and State Highway 30 (Westgate Avenue) completed as a component of the "Cold Springs Highway- Southwest Court Place Project" to address the deficiencies identified in the 1996 Pendleton Transportation Plan, "SW 20th Street Extension Project". These deficiencies were further defined in the Environmental Assessment document for the "Cold Springs Highway-SW Court Place Project". The constructed improvements were designed to meet Federal Hwy, ODOT and ASSHTO standards.

The property owner has indicated that the Community College has the opportunity to develop, the now vacant parcel, into an income generating property and having a commercial use constructed upon it. Potential increases in traffic, associated with the development of uses allowed with C-1 (Central Commercial) zone can be accommodated by the recently completed road system and intersections, constructed by ODOT in 2005. The current reconfigured intersections and zoning will be reflected in the TGM funded revision of the Pendleton Transportation Plan that is occurring during 2006-07 fiscal year.

3. If this request is recommended for approval by the Planning Commission, the City Council will be presented with an ordinance amendment that would be considered in public hearing for enactment that would redesignate and rezone the subject property on the Comprehensive Plan Map and the Zoning Map from R-2 (Medium Density Residential) zone to C-1(Central Commercial) zone.

4. The Department of Land Conservation and Development (DLCD) have been provided notice of this proposal. This notice is provided pursuant to ORS 197.610 and OAR Chapter 660, Division 18, and must be sent at least 45 days prior to the initial evidentiary hearing date to allow the DLCD staff the opportunity to file an objection and/or attend the hearing if they have a concern. The final hearing date before the City Council will be scheduled for the September 5, 2006 meeting.

5. On December 16, 1980, the City Council adopted a standard condition to be placed upon all land use requests to protect the city taxpayer from any costs of potential appeals to the decisions. This condition shall be applied in this case as well.

CONCLUSIONS: The proposed redesignation and rezone is valid for the following reasons, as well as those that are presented above:

1. The proposal recognizes the need for applying the appropriate zoning that is compatible with and matches the land use of the properties in the vicinity.
2. The C-1 zoning is contiguous to the subject property and would represent a logical extension thereof.

RECOMMENDATION: The Planning Commission forwards a favorable recommendation to the City Council to enact an ordinance that would accomplish to redesignate and rezone the subject parcel from R-2 (Medium Density Residential) zone to C-1 (Central Commercial) zone, subject to the following condition:

1. The applicant(s) have the burden of proof regarding all requests affecting this subject property, and the applicant(s) recognize that it is the sole obligation of the applicant(s) to substantiate this request.

If any administrative review, suit or action is instituted in connection with any appeal of this decision, the applicant(s) shall be required to: (1) reimburse the city of all costs incurred in defending this action, including, but not limited to, attorneys fees, staff costs, and materials and other related cost; (2) notify the city that the applicant(s) do not desire to undertake such costs and will drop the request; or (3) defend the city's actions on behalf of the city.

The applicant(s) shall notify the City Manager within five days from the city's receipt of any notice of appeal by

delivering a written statement to the City Manager advising the City Manager whether the applicant(s) will reimburse the City for all costs as described above; desires to drop the request; or intends to defend the City's actions on behalf of the City.

In the absence of written communication from the applicant(s) within the allotted five days, the City may, at its option, presume the applicant(s) desire to drop the request and the City shall have no obligation to defend the appeal.

In appeals involving questions of City wide significance, the City may participate in the proceedings described herein at its own expense. Nothing in this condition affects the applicant's right to retain independent counsel in making its own legal appearance on appeal.

If any proceeding, including recession, is instituted by the applicant(s), in which the City is a party, in connection with any controversy arising out of this request, the applicant(s) will indemnify and hold the City harmless from any costs of the action, including a reasonable amount to be fixed by the court as attorney fees in such suit or action, both at trial and on appeal.

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