



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us

NOTICE OF ADOPTED AMENDMENT

July 24, 2007



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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Corvallis Plan Amendment
DLCD File Number 005-07

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: August 9, 2007

This amendment was not submitted to DLCD for review prior to adoption. Pursuant to OAR 660-18-060, the Director or any person is eligible to appeal this action to LUBA under ORS 197.830 to 197.845.

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
Marguerite Nabeta, DLCD Regional Representative
Fred Towne, City of Corvallis

<paa>

FORM 2

DEPT OF

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

JUL 20 2007

(See reverse side for submittal requirements)

**LAND CONSERVATION
AND DEVELOPMENT**

Jurisdiction: City of Corvallis Local File No.: 2DC07-00001
(If no number, use none)

Date of Adoption: 7/16/07 Date Mailed: 7/18/07
(Must be filled in) (Date mailed or sent to DLCD)

Date the Notice of Proposed Amendment was mailed to DLCD: NA

- 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."
Removes the Residential Planned Development Overlay from the subject site and reverts the entire site back to GI (General Industrial) from its PD(RS-12) and Medium High Density Residential CP and zoning designations

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."
N/A

Plan Map Changed from: Med. High Dens. Res. to General Industrial
Zone Map Changed from: PD(RS-12) to GI
Location: SW 7th St. and Western Blvd. Acres Involved: 5.4
Specify Density: Previous: 12-20 u/ac. New: NA
Applicable Statewide Planning Goals: 1 and 10
Was an Exception Adopted? Yes: _____ No: X

DLCD File No.: 005-07 (NOA)

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: _____

Local Contact: none Area Code + Phone Number: 541-766-6908

Address: P.O. Box 1083 City: Corvallis

Zip Code+4: 97335-1083 Email Address: fred.towne@oci.corvallis.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.



Community Development
Planning Division
501 SW Madison Avenue
Corvallis, OR 97333

CORVALLIS CITY COUNCIL NOTICE OF DISPOSITION

ORDER 2007-082

CASE: 7TH Street Station Administrative Zone Change to Remove a Residential Planned Development Overlay (ZDC07-00001)

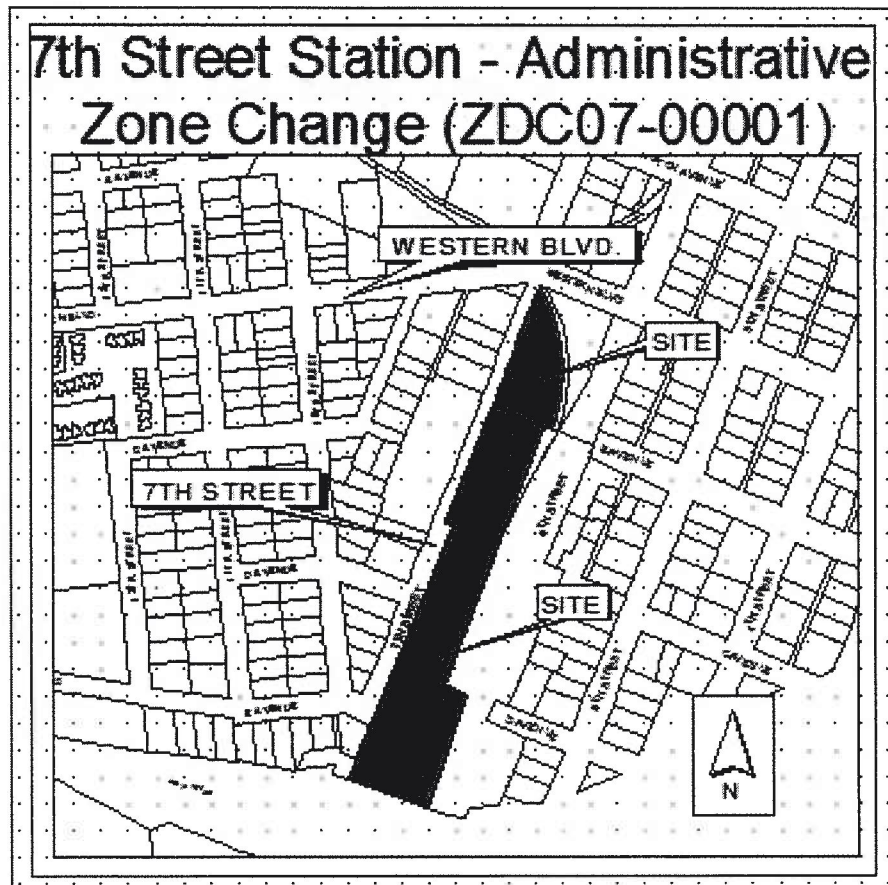
REQUEST: Approval of an Administrative Zone Change to remove the Residential Planned Development Overlay from several tax lots within the PD(RS-12) portion of the 7th Street Station site.

APPLICANT: 7th Street Station, LLC
1900 Front Street NE
Salem, OR 97303

OWNER: 7th Street Station, LLC
1900 Front Street NE
Salem, OR 97303

LOCATION:


The subject property is located on the south side of Western Boulevard, on the east side of 7th Street, north of Highway 20/34, and west of the Willamette and Pacific Rail Line and 5th Street. The property is also identified on Assessor's Map 12-5-2-BC, as Tax Lot 1702; and on Assessor's Map 12-5-2-BB, as Tax Lot 16002 & the southern half of Tax Lot 16001.



DECISION: The Corvallis City Council conducted a public hearing on June 4, 2007, and held deliberations on June 18, 2007. The City Council decided to:

- 1) Deny the Appeal of the Director's Decision approving the District Change that removes the residential Planned Development Overlay from the subject site;
- 2) Approve a Comprehensive Plan Amendment such that the subject site reverts back to its pre-Planned Development General Industrial Comprehensive Plan designation;
- 3) Approve a District Change such that the subject site reverts back to its pre-Planned Development GI (General Industrial) Zone;

The City Council adopts the ordinance and findings of fact prepared by staff and attached here, which consist of a set of formal findings; the complete staff report to the City Council, including attachments and dated May 26, 2007; the additional written testimony regarding the appeal submitted between June 4, 2007, and June 11, 2007; the Council's statements and reasoning in favor of the application found in the City Council minutes from the June 4, 2007, and June 18, 2007, meetings; and written testimony submitted at the hearings regarding the appeal are by reference incorporated herein, and are hereby adopted by the City Council.



Mayor

Signed this 17th day of July, 2007

ORDINANCE 2007 - 19

AN ORDINANCE relating to a Comprehensive Plan Map Amendment, modifying Ordinance 98-53, as amended.

WHEREAS, the City Council held a duly advertised public hearing on June 4, 2007, regarding an appeal of the Community Development Director's approval of a Zone Change that would remove a Residential Planned Development Overlay from a 5.4-acre site zoned PD(RS-12) and with a Medium High Density Residential Comprehensive Plan Map designation. The Seventh Street Station site is located on the west side of the Willamette and Pacific Railroad line, south of Western Boulevard, east of 7th Street, and north of Highway 20/34, in Corvallis, Oregon. The original proposal was to construct 91 multi-family and townhouse units on the property. The site is adjacent to an existing rail line and switching yard and contains a warehouse in the middle of the property and a billboard at the northern end. The application is proposed by 7th Street Station, LLC. The property is identified on Assessor's Map 12-5-2-BC, as Tax Lot 1702; and on Assessor's Map 12-5-2-BB, as Tax Lot 16002 & the southern half of Tax Lot 16001.

WHEREAS, at the public hearing before the City Council concerning the appeal, interested persons and the general public were given an opportunity to be heard. The City Council held deliberations concerning the proposed change on June 18, 2007, and the recommendations of staff were reviewed by Council.

NOW THEREFORE, THE CITY OF CORVALLIS ORDAINS AS FOLLOWS:

Section 1. The findings of fact prepared by staff and contained in Exhibit A, which consist of a set of formal findings; the complete staff report to the City Council, including attachments and dated May 26, 2007; the additional written testimony regarding the appeal submitted between June 4, 2007, and June 11, 2007; the Council's statements and reasoning in favor of the application found in the City Council minutes from the June 4, 2007, and June 18, 2007, meetings; and written testimony submitted at the hearings regarding the Appeal, are by reference incorporated herein, and are hereby adopted by the City Council.

Section 2. The applicants have borne their burden of proof, and the applicable criteria have been met for removal of the Planned Development Overlay from the subject site, in conformance with the State-mandated requirement;

Section 3. The City's previous two actions (the Comprehensive Plan Map Amendment from industrial to residential use, and the Planned Development Overlay) were inextricably linked at the time of passage;

Section 4. If only the Planned Development Overlay is removed, the decision would be out of compliance with the citizen participation, housing, transportation, economy, and environmental quality provisions of the Corvallis Comprehensive Plan, which the City is also required to conform with;

Section 5. The required removal of the Planned Development Overlay, also requires the removal of the initial Comprehensive Plan Map Amendment; therefore,

Section 6. The Director's decision regarding the Zone Change is UPHELD, and the request is APPROVED with the following modification:

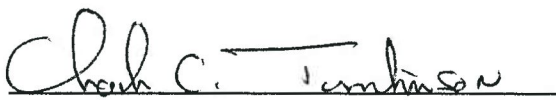
- The PD (RS-12) Medium High Density Residential Zone and Comprehensive Plan Map designations placed on the subject property under an action in 2003, at which time the Planned Development Overlay was integrally and intrinsically linked, are removed, thus causing the site designation to revert to the original GI (General Industrial) General Industrial Zone and Comprehensive Plan Map designations.

Therefore, the appeal of the Director's decision to approve the Zone Change, is DENIED, and the Comprehensive Plan Map designation is amended to General Industrial.

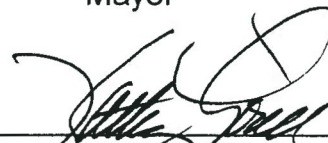
PASSED by the Council this 16TH Day of JULY, 2007.

APPROVED by the Mayor this 16TH Day of JULY, 2007.

Effective this 26TH Day of, JULY 2007.



Mayor

ATTEST: 

City Recorder

**BEFORE THE CITY COUNCIL
OF THE CITY OF CORVALLIS**

In the matter of a City Council decision to deny the appeal of a Community Development Director's decision to **approve** the requested **Zone Change removing the Residential Planned Development Overlay** from a 5.4- acre, Medium High Density Residential site zoned PD(RS-12).

ZDC07-00001

PREAMBLE

This matter before the Corvallis City Council is an appeal of the Community Development Director's approval of a Zone Change that would remove a Residential Planned Development Overlay from a 5.4-acre site zoned PD(RS-12) and with a Medium High Density Residential Comprehensive Plan Map designation. The Seventh Street Station site is located on the west side of the Willamette and Pacific Railroad line, south of Western Boulevard, east of 7th Street, and north of Highway 20/34, in Corvallis, Oregon. The original proposal was to construct 91 multi-family and townhouse units on the property. The site is adjacent to an existing rail line and switching yard and contains a warehouse in the middle of the property and a billboard at the northern end. The application is proposed by 7th Street Station, LLC. The property is identified on Assessor's Map 12-5-2-BC, as Tax Lot 1702; and on Assessor's Map 12-5-2-BB, as Tax Lot 16002 & the southern half of Tax Lot 16001.

The Community Development Director issued Order No. 2007-036 on April 25, 2007, approving the request by 7th Street Station, LLC to remove the Residential Planned Development Overlay, consistent with the provisions of Land Development Code Section 2.2.50- Quasi-judicial Change Procedures for Administrative Zone Changes.

On May 7, 2007, Mr. Sam Hoskinson, Ms. Leslie Bishop, Ms. Cathy Pettigrew, Mr. Joe DeFrancesco, Mr. Taylor Murray, Ms. Ruby Moon, Ms. Gail Hoiem, Ms. Nancy Hagood, Ms. Katie Murray, and Mr. Matthew Bolduc jointly filed an appeal of the Director's decision to approve the Administrative Zone Change. Land Development Code Section 2.19.30.02.a.3 states that appeals of Administrative Zone Change decisions by the Director shall be heard by the City Council. The appellants' letter dated May 7, 2007, states the following:

- Under Order 2003-116, after a public hearing process, Corvallis City Council re-zoned the subject property from General Industrial GI (GENERAL INDUSTRIAL) to RS-12 with a Planned Development Overlay. A number of compatibility issues were identified between the subject property, the GI property to the east (i.e. the railroad switching yard), and the lower-density residential properties to the west (i.e. Avery's Addition). It was the intent of the City Council that these compatibility issues were to be addressed through the future public hearing process; thus the Planned Development Overlay was placed on the property. Please reference the Corvallis City Council Notice of Disposition Order 2003-116, notably the Conditions of Approval and Formal Findings, for a list of compatibility issues. To quote the referenced findings, "The Council notes the proposed Planned Development Overlay

zone will ensure that compatibility factors are considered prior to development of the property.” Thus, in recognition that the Land Development Code did not sufficiently address the existing compatibility issues, City Council’s decision to rezone the property was contingent on the zone designation containing the PD Overlay.

- By not appealing the above mentioned City Council decision to a higher authority, both the public and the land owner agreed that RS-12 with a PD Overlay was an appropriate zone designation for the subject property. Thus, the land use decision was an agreement made between the public, the land owner, and City Council. It is extremely unfair to the public for the City to remove the PD Overlay, thereby retracting this consensus agreement made during the 2003 public hearing process.
- Given that the City Council made the decision to place the PD Overlay on the property, we feel the City Council should be the hearing authority to take responsibility for deciding whether or not to remove the PD Overlay from the property.

The appellants cite the Council’s Notice of Disposition and Formal Findings in Order 2003-116, which pertain to the Council’s August 18, 2003, approval of the following:

- a. A Comprehensive Plan Map Amendment (CPA01-00005) to change the Comprehensive Plan Map designation of the 6.2-acre 7th Street Station site from General Industrial to 5.4 acres of Medium-high Density Residential and 0.8 acres of Mixed Use Commercial;
- b. A District Map Change (ZDC03-00005) to modify the zoning designation of the site from General Industrial to 5.4 acres of PD(RS-12) (Medium-high Density Residential with a Planned Development Overlay) and PD(MUC) (Mixed Use Commercial with a Planned Development Overlay); and
- c. A Conceptual Development Plan (PLD03-00005) to develop up to 91 dwelling units and a commercial building on the site, subject to specific conditions of approval.

The City Council held a duly-advertised public hearing on the appeal on June 4, 2007, at which time the hearing was opened, public testimony was heard, and the hearing was closed. The record was held open for seven days to allow additional written testimony to be submitted. Following deliberations, the City Council voted 6-3 to approve a modified Zone Change to remove the Planned Development Overlay as requested and to return the Comprehensive Plan and Zoning Map designations of the 5.4-acre site to its previous GI (General Industrial) designations.

A. Background Specific to the Subject Site:

1. August 18, 2003, City Council Approvals: On August 18, 2003, the City Council approved the following:
 - a. A Comprehensive Plan Map Amendment (CPA01-00005) to change the Comprehensive Plan Map designation of the 6.2-acre 7th Street Station site from General Industrial to 5.4 acres of Medium-high Density Residential and 0.8 acres of Mixed Use Commercial;
 - b. A District Map Change (ZDC03-00005) to modify the zoning designation of the site from General Industrial to 5.4 acres of PD(RS-

12) (Medium-high Density Residential with a Planned Development Overlay) and PD(MUC) (Mixed Use Commercial with a Planned Development Overlay); and

- c. A Conceptual Development Plan (PLD03-00005) to develop up to 91 dwelling units and a commercial building on the site, subject to specific conditions of approval.

Status of August 18, 2003, City Council Approvals: The Comprehensive Plan Map Amendment (CPA01-00005) and District Map Change (ZDC03-00005) are both in effect. The Conceptual Development Plan (PLD03-00005) was effective for 3 years and expired on August 18, 2006.

2. May 12, 2006, Planning Commission Denial: On May 12, 2006, the Planning Commission Notice of Disposition was signed for denial of the following:
 - a. A Major Planned Development Modification and Detailed Development Plan (PLD05-00019);
 - b. A Tentative Subdivision Plat (SUB05-00007); and
 - c. A Plan Compatibility Review (PCR05-00009).

As a result, no Detailed Development Plan was ever approved for the 7th Street Station site.

3. April 25, 2007, Director's Approval: On April 25, 2007, the Director Notice of Disposition (Order No. 2007-036) was signed for approval of an Administrative Zone Change to remove the Residential Planned Development Overlay from several tax lots within the PD(RS-12) portion of the 7th Street Station site. The properties for which the Residential Planned Development Overlay removal was approved by the Director are identified on Assessor's Map 12-5-2-BC, as Tax Lot 1702; and on Assessor's Map 12-5-2-BB, as Tax Lot 16002 & the southern half of Tax Lot 16001.

B. Background Pertaining to the Development of the City's Current Planned Development Overlay Provisions:

1. September 2003 and January 2004 State of Oregon Decisions: As part of the State-mandated update of the City of Corvallis planning documents, called Periodic Review, several decisions directly relating to Residential Planned Development Overlays occurred in the context of Statewide Planning Goal 10 and Oregon Revised Statute (ORS) 197.303 and 197.307, which pertain to "needed housing". The most recent and pertinent set of decisions that provides the history of the City of Corvallis' Administrative Zone Change process and review criteria for the subject 7th Street Station case include the following:
 - a. On September 2, 2003, the State of Oregon Department of Land Conservation and Development (DLCD) issued Order #001542, which

approved the City's housing inventory, analysis, and measures taken to address housing need.

- b. On September 22 and 23, 2003, the State of Oregon Land Conservation and Development Commission (LCDC) received, care of the State of Oregon Department of Land Conservation and Development (DLCD), appeals of DLCD's decision in Order #001542. The appeals were filed by Mr. Mel Stewart and Century Properties, LLC, respectively, and stated that the City had not gone far enough regarding the removal of residential planned development overlays. The appeals proposed further revisions to address this issue and also proposed further revisions to allow the removal of residential Conceptual and Detailed Development Plans.
- c. On January 21, 2004, the State of Oregon Land Conservation and Development Commission (LCDC) signed Approval Order 03-WKTASK-001601. This LCDC order:
 - 1) Agreed with appellants Mr. Stewart and Century Properties, LLC *“to the extent that:*
 - a) *The City did not remove the Planned Development (PD) zoning from all undeveloped properties where the PD zone was initiated by the City; and*
 - b) *A property owner should have the ability to quickly “opt out” of the PD development process, which is not clear and objective, when no Detailed Development Plan or Conceptual Development Plan that includes a Detailed Development Plan has been approved by the City in connection with the PD.”*
 - 2) Ordered the City to *“adopt the following specific revisions to the Corvallis Land Development Code within 90 days following any final appellate judgement on review of Corvallis’ Periodic Review:*
 - a) *With the consent of the property owner, to remove the PD overlay zone from residentially zoned property for which no Conceptual or Detailed Development Plan has been approved and is still in existence; and*
 - b) *To provide a process where a property owner may request and the City must approve the removal of a PD or PD overlay zone from residentially zoned property where the residentially zoned property does not have a Detailed Development Plan or a Conceptual Development Plan that includes a Detailed Development Plan on any part of the site.”*

2. December 13, 2004, City Council Approval of Ordinance 2004-41: On December 13, 2004, in response to and in compliance with LCDC Order 03-WKTASK-001601, the City of Corvallis adopted Ordinance 2004-41. This ordinance was part of Phase III of the Land Development Code Update Project (LDT04-00001). It amended Land Development Code Chapters 1.2, 2.2, 2.5, 2.19, and 3.32 and created a new Land Development Code Chapter 3.33. These changes included the creation of an Administrative Zone Change process and review criteria to remove a Residential Planned Development Overlay on a site where no active Detailed Development Plan was present.
3. August 4, 2005, State of Oregon Land Conservation and Development Commission (LCDC) Approval Order 001677, acknowledging Completion of Periodic Review: On August 4, 2005, the State of Oregon Land Conservation and Development Commission (LCDC) approved all remaining aspects of the City of Corvallis Periodic Review. This included acknowledgment of the City's Ordinance 2004-41, indicating that the City had done what it had been ordered to do with respect to Residential Planned Development Overlays (LCDC Order 03-WKTASK-001601). The State of Oregon Department of Land Conservation and Development sent the Order 001677 on September 9, 2005.
4. October 16, 2006, City Council Ordinance 2006-24: On October 16, 2006, the City Council adopted Ordinance 2006-24, declaring an implementation date for the revised Land Development Code and other implementing land use documents. This implementation order declared this implementation date to follow resolution of all associated appeals and to implement all land use changes associated with Periodic Review and other land use changes to date, or be on December 31, 2006, whichever came first.
5. December 31, 2006: In accordance with City Council Ordinance 2006-24, the revised Land Development Code was implemented. All appeals had been resolved. This revised LDC included the planned development provision changes ordered by the State of Oregon LCDC, which were incorporated into the Phase III Land Development Code Update Project's Code revisions.

APPLICABLE CRITERIA

The Council notes that all applicable legal criteria governing review of this application are identified in the Staff Report to the City Council dated May 25, 2007, the Minutes of the City Council hearing dated June 4, 2007, the City staff memos containing additional written testimony to the City Council dated June 4, 2007, and June 12, 2007, and the Minutes of the City Council meetings dated June 4 and June 18, 2007.

FINDINGS RELATING TO ZONE CHANGE - ZDC07-00001

1. The City Council accepts and adopts the findings in support of the Director's decision included in the Staff Report to the City Council dated May 25, 2007; the additional written testimony in support of the appeal submitted between May 25, 2007, and June 11, 2007; and the statements and reasoning in favor of the

application found in the City Council minutes from the June 4, and June 18, 2007, meetings; including written testimony submitted at the hearings that support the appeal of the Zone Change decision.

The findings below supplement and elaborate on the findings contained in the materials noted above, all of which are attached hereto and incorporated herein. When there is a conflict between these findings and the above-referenced findings incorporated by reference, these findings shall prevail.

2. The City Council finds that the record contains all information needed to evaluate the Comprehensive Plan Amendment for compliance with the relevant criteria.
3. The City Council notes that the subject property is designated in the Corvallis Comprehensive Plan as Medium High Density Residential and is zoned PD(RS-12). The Council finds that this Comprehensive Plan designation and zoning would result in development on the site being evaluated against the Corvallis Land Development Code Chapter 3.6 - RS-12 (Medium High Density Residential) Zone and other applicable sections of the Corvallis Land Development Code.
4. The City Council notes the Conceptual Development Plan approval for this property has expired, and that no Detailed Development Plan was ever approved for the site. The City Council finds that the subject site is eligible for removal of the Residential Planned Development Overlay as an administrative process.
5. **Demonstrated Public Need** - The Council notes that per Comprehensive Plan Policy 1.2.3.A and LDC criteria 2.1.30.06.a.1, a Comprehensive Plan Amendment may only be approved when there is a demonstrated public need for the change.

The Council notes that in the findings on the original Comprehensive Plan amendment that resulted in this property being designated PD (RS-12) Medium High Density Residential, Finding 6 cites housing data from the 2001 Land Development Information Report as establishing a demonstrated public need (a key part of the CP requirements for justifying a CP amendment) for more multifamily housing in close proximity to OSU and the downtown. The Council notes that since that time, the conditions regarding such housing have changed considerably. The most recent Land Development Information Report, that of 2004-05, shows that while the "needed housing" so explicitly cited as the reason for the Comprehensive Plan Amendment was never built on this site, since 2003 over 420 multifamily units have been built. The Council notes that of the 253 multifamily building permits issued in 2004-05, at least 140 are close to the OSU campus and 123 of those—the 10th & A St. apartments and the Campus Living Commons at SW 11th and Adams—are in close proximity to (less than a 5-minute walk from) the 7th St. Station site, which was only proposed for 91 units. Finally, an additional project with additional multifamily units is currently under construction in the same immediate area. The Council finds that based on these figures, there is no longer a public need for additional Medium High and High Density Residential land in this location or in the City.

7. **Compatibility** - The Council notes that one of the key issues of compatibility will be with respect to the interface between the subject site and the industrial property to the east. The Council notes that industrial properties are required to provide large

buffers between themselves and residential properties. However, The Council notes that site to the east is fully developed as a railroad line and switching area. The Council notes that the original approval included a Planned Development overlay on the subject site as part of the zoning designation request to address this issue with future reviews for development on the site. The Council notes that the Planned Development process would require a thorough review of transition and buffer elements in conjunction with specific development proposals.

The City Council notes that in the original decisions to amend the Comprehensive Plan Map designation for the property from GI to Medium High Density Residential and the zone from GI to RS-12, the Councilors at the time were aware of and acknowledged specific compatibility issues between the proposed PD (RS-12) Medium High Density Residential Zone and the existing neighborhood to the west. Council notes that the following Comprehensive Plan policies are meant to deal with compatibility conflicts and other issues that the change to the RS-12 Zone would not address without the oversight provided through inclusion of a Planned Development Overlay. They include Comprehensive Plan policies 9.2.1; 9.2.5.j; 11.3.9, 11.3.10, 11.3.12; 11.4.1, 11.4.3; and 8.9.3. The Council notes that these policies dealt with compatibility, traffic, parking, and industrial land development. The City Council finds that such Comprehensive Plan policies must be addressed with any request to remove the Planned Development Overlay from the residential site since they were intended to be addressed with proposed development.

Council notes that the minutes of the July 21, 2003, City Council meeting, at which the Council deliberated and made an initial decision on this case, make clear that the Council was aware of these compatibility and other concerns. The Council notes that those Councilors understood that the requisite Comprehensive Plan policies could be complied with only through the placement of a PD overlay on the property, which would require a public review of a Detailed Development Plan in connection with the Conceptual Plan and its related conditions of approval

The Council notes that the Comprehensive Plan also contains policies addressing noise conflicts between residential and industrial uses, including policies 7.2.2, 7.2.3, 7.2.4. Council notes that these policies direct the City to ensure that such conflicts are dealt with in land use actions and the review of development proposals. The Council notes that information was presented by the appellants indicating that noise from the switching yard would exceed the regulations of the U.S. Housing and Urban Development (HUD) for sites receiving HUD funding. Council notes that removal of the Planned Development Overlay from the subject site removes the City's ability to ensure that such conflicts are adequately addressed during the review of proposed development on the residential site. Council finds that leaving the RS-12 Zone on the subject site without the Planned Development Overlay would be inconsistent with the Comprehensive Plan with regard to noise conflicts.

6. **Buffering** - The Council notes that although the findings related to the Comprehensive Plan Amendment show that at the time the land use designation change to Medium High Density Residential fulfilled a public need for higher density residential land within close proximity to the downtown and OSU, the location of the subject site in close proximity to existing industrial uses pointed to the need for

adequate buffering between future residential development on the property and adjacent industrial uses.

The Council notes that in accordance with Comprehensive Plan Policies 3.2.4 and 8.9.3, the obligation to address buffering between uses falls largely to the developer of the undeveloped property. The Council notes, however, that per LDC Section 3.24.30.02.a, development on General Industrial properties is typically required to provide a 100-foot buffer from adjacent residential properties, but no such buffer requirement is included for RS-12 Medium High Density Residential property adjacent to GI (General Industrial) property. The Council notes that in the case of the subject property, there is an existing General Industrial development located along the eastern property line of the site (the Willamette Pacific rail line). The Council notes that the proposed Zone Change could compromise the ability of the adjacent property owner to redevelop or expand development on the property, due to the 100-foot setback requirement. The Council notes that at least in part to address this concern, the Planned Development Overlay was requested by the property owner and was attached to the subject property, so that it would be reviewed through the Planned Development process, which allows flexibility in Code standards. The Council notes that since a 100-foot buffer would restrict development of most of the property to the east, the flexibility allowed through the PD process would allow for a design solution in which an effective buffer could be achieved within a smaller land area. The Council notes that in the previous decision, the Council found that an effective buffer can be established in this manner, consistent with Comprehensive Plan Policies 3.2.4, 8.9.3, and 13.2.2. The Council notes that removal of the Planned Development Overlay would not allow the review of such issues if development were proposed on the subject site. The Council finds that removal of the Planned Development Overlay from the site would allow development on the subject site to occur that is not consistent with the Comprehensive Plan's direction. The Council also finds that removal of the Planned Development Overlay would shift the burden of addressing the identified compatibility and buffering requirements off of the subject property and on to the adjacent GI (General Industrial) property.

The Council notes that under the subject site's previous GI (General Industrial) land use designations, no conflict existed between the property to the east that contains the rail line and the subject property. The Council notes that with the previous change from GI (General Industrial) to PD (RS-12) Medium High Density Residential, the owners of the subject site had elected to (and the City had agreed to this election) use the Planned Development Overlay to address compatibility and buffer issues on site and at the time of development. The Council notes that with the request to remove the Planned Development Overlay from the site, the owners are no longer willing to accept (and the City would no longer be able to enforce) this responsibility. The Council finds that reverting the Comprehensive Plan and Zoning Map designations for the subject site to their previous GI (General Industrial) designations would ensure that the compatibility and buffer requirements would continue to be the responsibility of the owners of the subject property.

7. **Public Involvement** - Council notes that the public process used to arrive at the PD (RS-12) Medium High Density Residential designations was a key factor. Council

notes that the residents of the neighborhood adjacent to the Seventh Street Station site did everything asked of local citizens in a land use case – cited specific criteria, addressed only the criteria, and presented a good case that convinced the Planning Commission to impose conditions of approval. Council notes that the State requires the City to remove the Planned Development Overlay, but doing so without considering citizen participation to date would imply that citizen participation is not valued. Council finds that if the Planned Development is removed, the remaining RS-12 Zone is inconsistent with the City's Comprehensive Plan policies regarding citizen involvement in land use actions and in conflict with Statewide Planning Goal 1- Citizen Involvement.

CONCLUSIONS

As the body charged with hearing appeals of Administrative Quasi-judicial Zone Changes to remove a residential Planned Development Overlay, the City Council has reviewed the record associated with the Zone Change and finds that:

- The applicable criteria have been met for removal of the Planned Development Overlay from the subject site, in conformance with the State-mandated requirement;
- The City's previous two actions (the Comprehensive Plan Map Amendment from industrial to residential use, and the Planned Development Overlay) were inextricably linked at the time of passage;
- If only the Planned Development Overlay is removed, the decision would be out of compliance with the citizen participation, housing, transportation, economy, and environmental quality provisions of the Corvallis Comprehensive Plan, which the City is also required to conform with;
- The required removal of the Planned Development Overlay, also requires the removal of the initial Comprehensive Plan Amendment; therefore,

The Director's decision regarding the Zone Change is UPHELD, and the request is APPROVED with the following modification:

The PD (RS-12) Medium High Density Residential Zone and Comprehensive Plan Map designations placed on the subject property under a 2001 action, at which time the Planned Development Overlay was integrally and intrinsically linked, are removed, thus causing the site designation to revert to the original GI (General Industrial) General Industrial Zone and Comprehensive Plan Map designations.

Therefore, the appeal of the Director's decision to approve the Zone Change, is DENIED.

DATED: July 16, 2007.


Charles C. Tomlinson

MAYOR