



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

AMENDED NOTICE OF ADOPTED AMENDMENT

September 21, 2007

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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Cottage Grove Plan Amendment
DLCD File Number 005-06



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 4, 2007

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
Matthew Crall, DLCD Transportation Planner
Marguerite Nabeta, DLCD Regional Representative
Amanda Ferguson, City of Cottage Grove

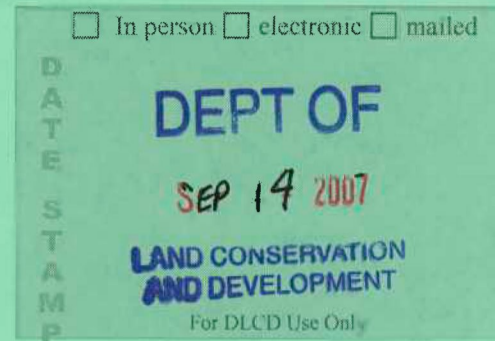
<paa> ya/

FORM **2**

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



Jurisdiction: **City of Cottage Grove**

Local file number: **OA 3-06**

Date of Adoption: **9/10/2007**

Date Mailed: **9/13/2007**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: 9/29/2006

- | | |
|---|---|
| <input type="checkbox"/> Comprehensive Plan Text Amendment | <input type="checkbox"/> Comprehensive Plan Map Amendment |
| <input checked="" type="checkbox"/> Land Use Regulation Amendment | <input type="checkbox"/> Zoning Map Amendment |
| <input type="checkbox"/> New Land Use Regulation | <input type="checkbox"/> Other: |

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".
Repealed Ord. No. 2741 and adopted new site review conditions for discount retail use in CT Commercial Tourist District (18.28.020(U)).

Does the Adoption differ from proposal? No, no explanation is necessary

Plan Map Changed from: **N/A**

to: **N/A**

Zone Map Changed from: **N/A**

to: **N/A**

Location: **Commercial Tourist District**

Acres Involved: **0**

Specify Density: Previous: **N/A**

New: **N/A**

Applicable statewide planning goals:

- | | | | | | | | | | | | | | | | | | | |
|-------------------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|-------------------------------------|--------------------------|--------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
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Was an Exception Adopted? YES NO

Did DLCD receive a Notice of Proposed Amendment...

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

DLCD # 005-06 (15593)

DLCD file No. _____

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

ODOT, Lane County Transportation

Local Contact: **Amanda Ferguson**

Phone: **(541) 942-3340** Extension: **124**

Address: **400 Main Street**

Fax Number: **541-942-1267**

City: **Cottage Grove**

Zip: **97424-**

E-mail Address: **planner@cottagegrove.org**

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 Complete Copies** (documents and maps) 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. **Electronic Submittals:** At least **one** hard copy must be sent by mail or in person, but you may also submit an electronic copy, by either email or FTP. You may connect to this address to FTP proposals and adoptions: **webserver.lcd.state.or.us**. To obtain our Username and password for FTP, call Mara Ulloa at 503-373-0050 extension 238, or by emailing **mara.ulloa@state.or.us**.
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 now access these forms online at **<http://www.lcd.state.or.us/>**. Please print on **8-1/2x11 green paper only**. You may also 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. 2953
CITY OF COTTAGE GROVE**

AN ORDINANCE AMENDING CHAPTER 18.28.020 (U) OF THE COTTAGE GROVE MUNICIPAL CODE RELATING TO PERMITTED USES IN THE CT COMMERCIAL TOURIST DISTRICT, AND REPEALING ORDINANCE NO. 2741.

THE CITY OF COTTAGE GROVE ORDAINS AS FOLLOWS:

Section 1. Purpose. The purpose of this ordinance is to amend Section 18.28.020 'Permitted Uses' of the Cottage Grove Municipal Code to ensure consistency with modified Ordinance No. 2741, and to modify site review conditions established under Ordinance No. 2741.

Section 2. Procedural Compliance. This amendment is in compliance with Title 18, Chapter 18.58 of the Municipal Code of the City of Cottage Grove and is based upon the City Council's determination, after a Planning Commission public hearing and recommendation and a public hearing before City Council, that this text amendment is a proper implementation of the Comprehensive Land Use Plan and is in the public interest and welfare of the residents of the City of Cottage Grove. This ordinance is based upon the findings and conditions adopted by the City Council following the public hearing before the Council. Said findings are attached hereto, marked Exhibit "A", and by this reference incorporated herein. Said Site Review Conditions are attached hereto, marked Exhibit "B" and by this reference incorporated herein.

Section 3. Amendments. Chapter 18 of the Municipal Code of the City of Cottage Grove is hereby amended as follows:

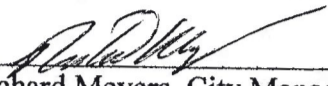
A. Section 18.28.020(U) is hereby repealed and the following Section substituted in lieu thereof is hereby adopted:

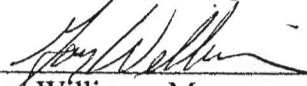
"18.28.020(U). Tourist and highway-oriented services similar to the above, including not more than one interstate-oriented major retail facility consisting of a retail or discount retail center located on a site of 10 to 20 acres zoned CT and not CT/L within ¼ mile of the North I-5 interchange, subject to special conditions upon site review and occupancy attached as exhibit B and as set forth in the findings adopted in support of Ordinance No. 2953 attached as exhibit A."

B. City of Cottage Grove Ordinance No. 2741 is hereby repealed.

Ordinance No. 2953, Wal-Mart Ordinance Amendment (OA-3-06)

Passed by the Council and approved by the Mayor this 10th day of September, 2007.


Richard Meyers, City Manager


Gary Williams, Mayor

Dated: Sept. 10, 2007

Dated: Sept. 10, 2007

Ordinance No. 2953, Wal-Mart Ordinance Amendment (OA-3-06)

EXHIBIT A:

FINDINGS OF FACT

**ORDINANCE AMENDMENT (OA-3-06)
COMMERCIAL TOURIST PERMITTED USE/
TOURIST RETAIL SITE CONDITIONS TEXT AMENDMENT**

1. PacLand, on behalf of the property owners of the Wal Mart property and the two vacant lots that front onto Row River Road, made an application to amend the Cottage Grove Zoning Ordinance Section 18.28.020 (U). The proposed amendments would update existing site conditions placed on discount retail uses in the CT Commercial Tourist District by Ordinance 2741 (adopted March 14, 1994) with revised Site Conditions.

2. The proposed text amendment will change the text of Section 18.28.020(U) as follows (~~striketrough~~ of deleted text and new text in **bold**):

U. Tourist and highway-oriented services similar to the above, including no more than one interstate-oriented major retail facility consisting of a retail or discount retail center located on a site of 10 to 20 acres zoned CT and not CT/L within ¼ mile of the North I-5 Interchange, subject to special conditions upon site review and occupancy **as detailed in Ordinance No. 2953.** ~~as set forth in the findings adopted in support of Ordinance No. 2741 (Ord 2741).~~

3. The special conditions originally contained in Ordinance No. 2741 will be repealed and replaced with updated conditions contained in Ordinance No. 2953 as follows:

- a. The discount-retail facility shall be located on a tourist-commercial site placed at the back of the commercial tourist site, provide for reasonably direct, safe and convenient pedestrian circulation, and provide landscaping of the large impervious areas.
- b. The park and ride facility shall be acknowledged and noted on the plans at design review so that it is an integral park of the development and the parking needs for the park and ride are provided for.
- c. The entry-way to the discount-retail facility shall include an attractive kiosk available for use by the City as a guide to tourist and tourist-commercial attractions, activities, and enterprises in the Cottage Grove area.
- d. The discount-retail facility itself shall be limited to 150,000 square feet.
- e. The entrance to the discount-retail facility shall be oriented toward the entrance road.
- f. The commercial development along Row River Road shall be at least 30,000 square feet.

Ordinance No. 2953, Wal-Mart Ordinance Amendment (OA-3-06)

- g. Design review shall be of the total development, including the 150,000 square foot discount retail facility, the 30,000 square foot commercial development (more than one building) along Row River Road, and the park and ride area.
- h. A traffic impact study, including traffic signal analysis, shall be submitted at the time of design review. The required mitigation shall include, but not be limited to, applicant participation on a pro-rata share for the signal at Row River Road and Thornton Road.
- i. Prior to the occupancy of the addition to the discount-retail facility to bring it up to 150,000 square feet, the 30,000 square feet of commercial space along Row River Road shall be constructed and their building permit(s) finalized, i.e. an occupancy permit issued for the shell(s) with minimum electrical, plumbing and heating.

4. On January 3, 2006 PacLand submitted a consolidated application for an Ordinance Amendment, Design Review, and Sign Variance.

5. On February 1, 2006 the City requested additional information with respect to the Ordinance Amendment and determined that the Design Review and Variance applications could not be processed concurrent with the Ordinance Amendment application. The City returned the Design Review and Variance applications to the applicant.

6. On April 13, 2006 PacLand submitted additional information for the Ordinance Amendment.

7. On May 5, 2006 additional information was requested for the Ordinance Amendment.

8. On May 23, 2006 PacLand submitted additional information.

9. On June 2, 2006 staff accepted the Ordinance Amendment. As a legislative action completeness was not required but staff did find it complete.

10. Between June and September additional information was provided to staff related to traffic, including a traffic impact analysis (TIA) and revised TIA. A detailed list is provided in the staff report on pages 23 & 24.

11. A forty-five day notice was given to DLCD on September 29, 2006 to repeal Ordinance No. 2741 and adopt new site review conditions for discount retail use in the CT Commercial Tourist District, with an attached Draft Ordinance.

12. Publication of the Notice of Public Hearing was published in the Cottage Grove Sentinel on December 27, 2006 and notice was mailed on December 27, 2006 for a public hearing to be held on January 17, 2007.

13. Notice was posted on the subject site on January 5, 2007 for the public hearing to

Ordinance No. 2953, Wal-Mart Ordinance Amendment (OA-3-06)

be held on January 17, 2007.

14. A public Hearings was held on January 17, 2007 before the Planning Commission. The Planning Commission opened up the hearing and staff made a brief presentation of the staff report which had been available seven days prior to the hearing. The applicant made a presentation and did propose to amend their application by allowing the development of up to 9,000 square foot commercial development on Tax lots 204 & 205. Various members of the public testified on behalf and against of the application. At 10:30 PM the Planning Commission voted to continue the public hearing to January 31, 2007.

15. A Public Hearing was held on January 31, 2007 where public against the application testified before the Planning Commission. The Planning Commission at 10:30 PM voted to continue the public hearing to February 14, 2007.

16. A Public Hearing was held on February 14, 2007 before the Planning Commission. People spoke for and against the application before the applicant's representative presented rebuttal testimony. The public hearing was closed. The Planning Commission discussed the application and deliberated on the application. The Planning Commission passed a motion directing staff to prepare findings of fact to deny the application based on items 1, 4, 6(c) and 6(g) of 18.58.180 of the Cottage Grove Municipal Code.

17. Staff prepared findings of fact for the Planning Commission's consideration at their meeting of February 21, 2007.

18. On February 21, 2007 the Planning Commission adopted a recommendation to the City Council that the Ordinance Amendment be denied based on items 1, 4, 6(c) and 6(g) of 18.58.180 of the Cottage Grove Municipal Code, and the finding that the proposed Ordinance Amendment was not in the best interest of the City.

19. On April 30, 2007 the City Council held a public hearing on the proposed Ordinance Amendment. In response to the Planning Commission's concerns reflected in its recommendation, the applicant proposed limiting the discount-retail store to no more than 150,000 square feet and reserving capacity for 30,000 square feet of retail development on tax lots 204 and 205. The Council closed the hearing after receiving public testimony and the applicant's rebuttal. Council directed staff to review the testimony and the new proposal that the applicant brought to Council for their consideration, and continued the hearing to May 14th.

20. On May 14, 2007 staff presented the Council with a report that concluded that the criteria for the text amendment including the concerns of the Planning Commission can be complied with, should Council choose to approve it. Council voted 5-2 in favor of the following motion:

Ordinance No. 2953, Wal-Mart Ordinance Amendment (OA-3-06)

“That option 3 be selected in which the expansion of the Wal-Mart is to be 150,000 square feet, and the four buildings along Row River Road (30,006 square feet) be available for any use in the C-2P Community Commercial District. That the application be TABLED until a new Transportation Impact Study is prepared and comments have been received from the Oregon Department of Transportation. Once received Council will hold a public hearing and open the record only on the TIA and ODOT comments after the required notification.”

21. On June 6, 2007 the applicant submitted to City staff an updated TPR analysis prepared by Transpo along with a letter from ODOT from Region 2 in Salem approving the analysis.

22. City staff solicited another approval letter directly from Region 5 ODOT in Springfield, which ODOT supplied on June 21, 2007, approving the TPR analysis.

23. On July 10, 2007, City staff determined that it was satisfied with the ODOT letter and scheduled a City Council hearing for August 13, 2007 to address the limited issues surrounding compliance with the Transportation Planning Rule, consistent with its action on May 14, 2007. The City Council following the closed public hearing on August 13, 2007 approved the Ordinance Amendment with conditions as recommended by staff detailed below:

The text amendment will change the text of Section 18.28.020(U) as follows (~~striketrough~~ of deleted text and new text in **bold**):

U. Tourist and highway-oriented services similar to the above, including no more than one interstate-oriented major retail facility consisting of a retail or discount retail center located on a site of 10 to 20 acres zoned CT and not CT/L within ¼ mile of the North I-5 Interchange, subject to special conditions upon site review and occupancy **as detailed in Ordinance No. _____**. ~~as set forth in the findings adopted in support of Ordinance No. 2741 (Ord 2741).~~

The special conditions originally contained in Ordinance No. 2741 will be repealed and replaced with updated conditions contained in Ordinance No. 2953 as follows:

- a. The discount-retail facility shall be located on a tourist-commercial site placed at the back of the commercial tourist site, provide for reasonably direct, safe and convenient pedestrian circulation, and provide landscaping of the large impervious areas.
- b. The park and ride facility shall be acknowledged and noted on the plans at design review so that it is an integral park of the development and the parking needs for the park and ride are provided for.
- c. The entry-way to the discount-retail facility shall include an attractive kiosk available for use by the City as a guide to tourist and tourist-commercial attractions, activities, and enterprises in the Cottage Grove area.
- d. The discount-retail facility itself shall be limited to 150,000 square feet.

Ordinance No. 2953, Wal-Mart Ordinance Amendment (OA-3-06)

- e. The entrance to the discount-retail facility shall be oriented toward the entrance road.
- f. The commercial development along Row River Road shall be at least 30,000 square feet.
- g. Design review shall be of the total development, including the 150,000 square foot discount retail facility, the 30,000 square foot commercial development (more than one building) along Row River Road, and the park and ride area.
- h. A traffic impact study, including traffic signal analysis, shall be submitted at the time of design review. The required mitigation shall include, but not be limited to, applicant participation on a pro-rata share for the signal at Row River Road and Thornton Road.
- i. Prior to the occupancy of the addition to the discount-retail facility to bring it up to 150,000 square feet, the 30,000 square feet of commercial space along Row River Road shall be constructed and their building permit(s) finalized, i.e. an occupancy permit issued for the shell(s) with minimum electrical, plumbing and heating.

Council directed staff to prepare the ordinance and findings. The vote on the motion was 6-1 and it passed.

24. The Ordinance Amendment is a legislative action.

25. The criteria used to review this application is 18.58.180 (B) Burden of Proof and the Transportation Planning Rule.

26. The application satisfies Section 18.58.180 (B)(1) - "Conformance with the comprehensive plan and zoning code."

The ordinance amendment conforms with both the comprehensive plan and zoning code. The comprehensive plan was not altered as a result of this legislative application, and the combination of the expanded discount retail facility and the ability to provide additional retail along Row River Road satisfies the applicable goals and objectives of the existing plan. At the time Ordinance 2741 was adopted in 1994, Council determined that a discount-retail facility at the current location was consistent with the comprehensive plan. The current proposal is not only consistent with the comprehensive plan, but also furthers its goals and objectives. To that end, the findings and supplemental findings from the 1994 decision that relate to compliance with the comprehensive plan are herein incorporated by reference.

The ordinance amendment satisfies the Economic goals of the original ordinance and City Council intent of their 1994 decision, in that the Wal-Mart expansion will broaden the economic base of Cottage Grove. As has been the case since 1994, the location provides major retail and shopping opportunities to local residents, travelers, and tourists alike. With signage visible to travelers on I-5, and easy access on and off the freeway, the

Ordinance No. 2953, Wal-Mart Ordinance Amendment (OA-3-06)

discount-retail facility will attract passers-by as well as those who live and work in the community. Although access to the store was one of the biggest concerns in 1994, those concerns have since been addressed through improvements to the north interchange. In 1994 ODOT would not approve a 160,000 square foot discount-retail store due to traffic impacts, and therefore the site condition was added limiting the size to 105,000 square feet. ODOT has now approved the most recent proposal for a 150,000 square foot store, so the earlier concerns that led to the 105,000 square foot limitation are no longer an issue.

The expanded Wal-Mart retail facility also satisfies the Economic Development Objectives. First, the addition of discount groceries will improve the commercial services in the community. The Wal-Mart expansion will offer a viable alternative to shopping opportunities in Eugene and Springfield, and will capture the purchasing power of residents that currently travel north for discount groceries. Capturing these dollars and creating a self-sufficient economy will help to protect Cottage Grove from simply turning into a bedroom community for Eugene and Springfield. One of the other objectives satisfied by the proposal is the access provided via major traffic collectors. The nearby freeway interchange as well as the frontage on Row River Road provides excellent access to both residents and passers-by. Finally, the proposed expansion along with development of the outparcels will create a compact area of commercial services and facilities within the city. As recognized in the recent zone change of parcels along Row River Road, this area is targeted for commercial development in the years to come. The Wal-Mart expansion will provide an economic boost to the anticipated growth in commercial development along Row River Road.

The Wal-Mart expansion also complies with the Energy Conservation Element of the comprehensive plan. Providing discount groceries in Cottage Grove conserves energy and contributes to a reduction in auto emissions by allowing local and regional residents to shop in Cottage Grove instead of having to travel to the Eugene-Springfield metro area, thereby reducing travel time and gasoline expenses.

The application conforms with the zoning code in that Section 18.58.020 specifically provides the procedure for amending the zoning ordinance, and Section 18.58.180 supplies the criteria under which such proposed amendments are evaluated. As discussed below, the proposed ordinance amendment satisfies all of the applicable criteria. In addition, the proposed 150,000 square feet of retail, including groceries, is a permitted use in the CT zone, as recognized by Council in 1994 and upheld by LUBA, and complies with the dimensional standards set forth in Section 18.28.

27. The Application satisfies Section 18.58.180(B)(2) – “The public need for the proposal.”

The applicant provided a detailed analysis of the public need for low cost groceries in Cottage Grove, as outlined in the study prepared by Ferrarini & Associates. The study demonstrates that a disproportionate number of Cottage Grove residents are living below the poverty line, and that a family’s food budget is one of the first items to be scaled back

Ordinance No. 2953, Wal-Mart Ordinance Amendment (OA-3-06)

when funds are not adequate. The study also demonstrates that Wal-Mart's discounted prices will provide a low cost alternative to paying higher than average grocery prices in Cottage Grove, or spending extra money on transportation to shop in Eugene and Springfield. Wal-Mart's discounted grocery prices will satisfy the need for low cost groceries in Cottage Grove.

The ordinance amendment is a necessary predicate in allowing Wal-Mart to add a grocery component to the existing store. Allowing Wal-Mart to add a grocery component will satisfy the need for low cost groceries in Cottage Grove. Therefore, the ordinance amendment satisfies a public need.

28. The Application does not trigger the need to evaluate Section 18.58.180(B)(3) – “How public need will be best served by changing the zone classification of the proponent's property as compared with other available property.” The application does not propose to change any zone classification. Therefore, this criterion does not apply.

29. The Application satisfies Cottage Grove Municipal Code Section 18.58.180(B)(4), which states:

“If other areas have been previously designated for a use of development submitted in the proposal, then the necessity for introducing the proposal into an area not previously contemplated and why the property owners there should bear the burden, if any, of introducing that proposal into their area.”

CGZO 18.58.020(U), permits “not more than one interstate-oriented major retail facility,” on a site 10 to 20 acres within ¼ mile of North I-5 interchange. Because the CT zone allows only one discount retailer, and there is only one site within ¼ mile of the North I-5 interchange that is between 10 and 20 acres, there are no “other areas...previously designated” for the discount retail center use in the CT zone. While it is true that other areas within a ¼ mile of the 174 interchange exit are zoned CT Commercial Tourist, they may not contain a site of 10 to 20 acres in an area that is already designated and developed with a discount-retail facility. Because the proposed use already exists in the area, and the expanded uses are permitted in the CT zone, the neighboring property owners are not being asked to bear the burden of introducing an unexpected use to the area. Council finds that to the degree this criterion is applicable, it is satisfied.

30. The Application does not trigger the need to evaluate Section 18.58.180(B)(5) – “Mistake in the original comprehensive plan.” The applicant does not assert that there is any mistake in the comprehensive plan. As discussed above, the application is consistent with the Comprehensive Plan. Therefore, this criterion does not apply.

31. The Application satisfies Section 18.58.180(B)(6) - “Change in the character of the neighborhood.”

In the context of a proposed ordinance amendment, the change in the character of the neighborhood is interpreted as weighing in favor of a proposed amendment rather than

Ordinance No. 2953, Wal-Mart Ordinance Amendment (OA-3-06)

presenting a reason for denial. Unless there is a change in the character of a given area there is no basis for changing the zoning ordinance criterion associated with development within that area. As Wal-Mart demonstrated in its application there have been significant changes in the character of the neighborhood surrounding its property that warrant the requested amendments to the Ordinance 2741 site review conditions. Most importantly, those changes include traffic improvements to the North I-5 interchange and the 2003 Zone Change of the outparcels and surrounding properties along Row River Road from CT to C2-P Community Commercial to promote commercial development in furtherance of the City's goal for Row River Road. Council anticipates that the Wal-Mart expansion will be an important catalyst in this development.

32. Council finds that the application is in compliance with OAR 660-012-0060, which is commonly referred to as the Transportation Planning Rule or TPR. ODOT supplied two letters, dated June 5, 2007 and June 21, 2007, which conclude that the applicant has complied with the TPR, and are incorporated herein by reference. In order to satisfy the TPR, Wal-Mart analyzed the traffic impacts of the proposed ordinance amendment based on a reasonable worst case scenario given the existing zoning. Based on that analysis ODOT concluded, and Council concur, that the analysis is accurate and that conclusions are reasonable. The proposed development of the 150,000 square foot discount-retail store and the 30,000 square foot commercial development will not significantly affect ODOT facilities.

33. Council recognizes that the 105,000 square foot size limitation imposed in Ordinance 2741 was solely related to traffic. There is no indication that the size of the discount retailer was intended to be permanently limited to 105,000 square feet regardless of whether the traffic issues were resolved. Because traffic issues in existence in 1994 have since been improved, continued reliance on the 105,000 square foot limitation is no longer justified.

34. Although the applicant seeks to amend the site review conditions imposed in Ordinance 2741, the expanded development continues to satisfy the original intent of Ordinance 2741. The intent of Ordinance No. 2741's site review conditions was "to assure that the sighting and orientation of the proposed use is integral with and "anchors" other tourist uses allowed in the tourist zoning district; to account for convenient vehicle and foot circulation; to welcome other tourist and public spaces." With the development of a larger discount-retail store, Wal-Mart will continue to anchor the commercial development in the surrounding area, and will allow for the integral development of the total site with the 30,000 square feet of commercial uses along Row River Road, as well as providing for convenient vehicle and foot circulation, and sharing of facilities. The discount retail facility will continue to be at the rear of the property so that customers pass by other commercial uses as they arrive and depart. This meets Council's original intent of an integral development of all the properties and allows Wal-Mart to meet its goal of offering low-priced groceries to the citizens of Cottage Grove.

35. Wal-Mart has cooperated with the City in providing a development that not only meets a need identified by numerous Cottage Grove residents, but also satisfies the

Ordinance No. 2953, Wal-Mart Ordinance Amendment (OA-3-06)

desires of the Planning Commission and City Council. As part of this compromise, Wal Mart has agreed to a 150,000 square foot limitation for the discount retail facility and to the concurrent construction of 30,000 square feet of commercial space along Row River Road (tax lots 204 & 205). This development is consistent with Ordinance 2741, the Comprehensive Plan, and the expressed desire of the Planning Commission and City Council. Therefore, Council finds that its concerns as well as those expressed by the Planning Commission, have been satisfactorily addressed, and the proposed ordinance amendment is approved.

EXHIBIT B

SITE REVIEW CONDITIONS

- a. The discount-retail facility shall be located on a tourist-commercial site placed at the back of the commercial tourist site, provide for reasonably direct, safe and convenient pedestrian circulation, and provide landscaping of the large impervious areas.
- b. The park and ride facility shall be acknowledged and noted on the plans at design review so that it is an integral park of the development and the parking needs for the park and ride are provided for.
- c. The entry-way to the discount-retail facility shall include an attractive kiosk available for use by the City as a guide to tourist and tourist-commercial attractions, activities, and enterprises in the Cottage Grove area.
- d. The discount-retail facility itself shall be limited to 150,000 square feet.
- e. The entrance to the discount-retail facility shall be oriented toward the entrance road.
- f. The commercial development along Row River Road shall be at least 30,000 square feet.
- g. Design review shall be of the total development, including the 150,000 square foot discount retail facility, the 30,000 square foot commercial development (more than one building) along Row River Road, and the park and ride area.
- h. A traffic impact study, including traffic signal analysis, shall be submitted at the time of design review. The required mitigation shall include, but not be limited to, applicant participation on a pro-rata share for the signal at Row River Road and Thornton Road.
- i. Prior to the occupancy of the addition to the discount-retail facility to bring it up to 150,000 square feet, the 30,000 square feet of commercial space along Row River Road shall be constructed and their building permit(s) finalized, i.e. an occupancy permit issued for the shell(s) with minimum electrical, plumbing and heating.

EXHIBIT B

SITE REVIEW CONDITIONS

- a. The discount-retail facility shall be located on a tourist-commercial site placed at the back of the commercial tourist site, provide for reasonably direct, safe and convenient pedestrian circulation, and provide landscaping of the large impervious areas.
- b. The park and ride facility shall be acknowledged and noted on the plans at design review so that it is an integral part of the development and the parking needs for the park and ride are provided for.
- c. The entry-way to the discount-retail facility shall include an attractive kiosk available for use by the City as a guide to tourist and tourist-commercial attractions, activities, and enterprises in the Cottage Grove area.
- d. The discount-retail facility itself shall be limited to 150,000 square feet.
- e. The entrance to the discount-retail facility shall be oriented toward the entrance road.
- f. The commercial development along Row River Road shall be at least 30,000 square feet.
- g. Design review shall be of the total development, including the 150,000 square foot discount retail facility, the 30,000 square foot commercial development (more than one building) along Row River Road, and the park and ride area.
- h. A traffic impact study, including traffic signal analysis, shall be submitted at the time of design review. The required mitigation shall include, but not be limited to, applicant participation on a pro-rata share for the signal at Row River Road and Thornton Road.
- i. Prior to the occupancy of the addition to the discount-retail facility to bring it up to 150,000 square feet, the 30,000 square feet of commercial space along Row River Road shall be constructed and their building permit(s) finalized, i.e. an occupancy permit issued for the shell(s) with minimum electrical, plumbing and heating.