



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

August 20, 2007



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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Dundee Plan Amendment
DLCD File Number 001-07

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 31, 2007

This amendment was submitted to DLCD for review prior to adoption with less than the required 45-day notice. Pursuant to ORS 197.830 (2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

***NOTE: THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAN IT WAS MAILED TO DLCD. AS A RESULT YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE DATE SPECIFIED ABOVE.**

Cc: Gloria Gardiner, DLCD Urban Planning Specialist
Jason Locke, DLCD Regional Representative
Melody Osborne, City Of Dundee

<paa> ya/

FORM 2

D L C D NOTICE OF ADOPTION

DEPT OF

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)

AUG 13 2007

**LAND CONSERVATION
AND DEVELOPMENT**

Jurisdiction: City of Dundee Local File No.: ZC 07-03-04
(If no number, use none)

Date of Adoption: 6-7-07 Date Mailed: ~~6-22-07~~ 8-7-07
(Must be filled in) (Date mailed or sent to DLCD)

Date the Notice of Proposed Amendment was mailed to DLCD: 3-7-07

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 ASee Attached.≡

Rezoned property located at 990 N. Hwy 99W
from R-2 (Residential) to CBD (Central Business
District). Comprehensive Map for 990 N. Hwy 99W
changed from Residential to Commercial.

Describe how the adopted amendment differs from the proposed amendment. If it is the same, write ASame.≡ If you did not give notice for the proposed amendment, write AN/A.≡

N/A

Plan Map Changed from : R to C

Zone Map Changed from: R-2 to CBD

Location: 990 N. Hwy 99W Acres Involved: 9,000 ft²

Specify Density: Previous: N/A New: N/A

Applicable Statewide Planning Goals: 9, 10, 11, 12, 14

Was an Exception Adopted? Yes: No:

DLCD File No.: 001-07(15939)

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: ODOT,

Dundee Fire Department

Local Contact: Melody Osborne Area Code + Phone Number: 503-538-3922

Address: PO Box 220 City: Dundee

Zip Code+4: 97115-0220 Email Address: _____

ADOPTION SUBMITTAL REQUIREMENTS

This form **must be mailed** to DLCD **within 5 working days after the final decision**
per ORS 197.610, OAR Chapter 660 - Division 18.

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

**ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540**

2. Submit **TWO (2) copies** the adopted material, if copies are bounded please submit **TWO (2) complete copies** of documents and maps.
3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the ANotice of Adoption is sent to DLCD.
6. In addition to sending the ANotice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can copy this form on to 8-1/2x11 green paper only ; or call the DLCD Office at (503) 373-0050; or Fax your request to:(503) 378-5518; or Email your request to Larry.French@state.or.us - ATTENTION: PLAN AMENDMENT SPECIALIST.

CITY OF DUNDEE
ORDINANCE No. 452-2007

AN ORDINANCE APPROVING AN AMENDMENT TO THE CITY OF DUNDEE COMPREHENSIVE PLAN AND ZONING MAP, AMENDING ORDINANCE NO. 197, AND DECLARING AN EMERGENCY.

WHEREAS, an application requesting a zone change from Single Family Residential (R-2) to Central Business District (CBD) and an amendment of the Comprehensive Plan designation from "Medium Density Residential" to "General Commercial" was filed on land located on the west side of Highway 99W and identified as 976 Highway 99W;

WHEREAS, the property is located approximately midway between 9th and 10th Streets on the west side of Highway 99W and is further identified as located within Township 3 South; Range 3 West; Section 26DD; Tax Lot #1402.

WHEREAS, the City Council of the City of Dundee adopted a single map incorporating both the Comprehensive Plan and zoning map designation pursuant to Ordinance No. 197 on the 10th day of April 1978;

WHEREAS, pursuant to Ordinance No. 197 the "R-2" zoning is commensurate with the Medium Density Residential designation of the City of Dundee Comprehensive Plan;

WHEREAS, pursuant to Ordinance No. 197 the "C" zoning is commensurate with the General Commercial designation of the City of Dundee Comprehensive Plan;

WHEREAS, the City Recorder referred the applications for review, investigation, comment to all citizens, counties, special districts, state or federal agencies, and other persons deemed to have an interest in or affected by the applications and allowed not less than ten days for a reply from the date of mailing;

WHEREAS, the City Recorder caused notice of the hearing on the applications to be published on the 31st day of March in a newspaper of general circulation in the City prior to the City Planning Commission hearing;

WHEREAS, the City Recorder thereafter provided the coordination, review and filing of all responses and submitted them to the City Planning Commission prior to the hearing;

WHEREAS, the Planning Commission conducted a public hearing on the 18th day of April 2007, pursuant to the Rules of Procedure for the conduct of hearings related to land use matters and thereafter forwarded its recommendation for approval to the City Council (the recommendation is entitled ORDER OF RECOMMENDATION and dated April 26, 2007 and is signed by the Planning Commission Chair, Ted Crawford);

WHEREAS, the City Recorder provided notice of the hearing before the City Council;

WHEREAS, the City Council conducted a public hearing on the 15th day of May 2007 pursuant to the Rules of Procedure for the conduct of hearings related to land use matters;

WHEREAS, after conducting the hearing and considering the approval criteria for a zone change pursuant to Section 3.102 of the Dundee Development Ordinance, the City of Dundee Comprehensive Plan and other applicable law, the City Council approved the applications and directed staff to prepare the final Ordinance adopting the amendment to the zone and Plan maps.

NOW, THEREFORE, BASED ON THE FOREGOING, THE CITY OF DUNDEE DOES ORDAIN AS FOLLOWS:

Section 1. The City Council hereby amends the City of Dundee Comprehensive Plan Designation for the property described above from Medium Density Residential to General Commercial.

Section 2. The City Council hereby amends the City of Dundee Zoning Map for the property described above from Single Family Residential (R-2) to Central Business District (CBD).

Section 3. The City Council of the City of Dundee does hereby adopt those certain findings of fact, conclusionary findings and conditions of approval attached hereto as EXHIBIT "A" and by this reference made a part hereof.

Section 4. This ordinance being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist and this ordinance shall take effect upon its passage.

PASSED by the Council and SIGNED by the Mayor the 7th day June, 2007.

SIGNED:



Storr Nelson, Council President

Attest:



Rob Daykin, City Administrator/City Recorder

EXHIBIT "A"
CITY COUNCIL FINDINGS
Planning File No. 07-03-04

In the Matter of the)
Application of) 1. Comprehensive Plan Map Amendment
Russell and Alice Halstead) 2. Zone Change
)
)

I. NATURE OF THE APPLICATION

This matter comes before the Dundee City Council on the application of Russell and Alice Halstead to change the Comprehensive Plan designation from "Medium Density Residential" to "Commercial" and a Zone Change from Single Family Residential (R-2) to Central Business District (CBD) on an approximate 8,000 square foot parcel.

II. GENERAL INFORMATION

A. Location

The subject property is located on the west side of Highway 99W, approximately midway between 9th and 10th Streets. The property address is 970 Highway 99W and the County Assessor map identifies the parcel as within Township 3 South; Range 3 West; Section 26DD; Tax Lots #1402 and #1700.

B. Existing Development and Zoning

Tax Lot #1700 is designated "Commercial" in the Dundee Comprehensive Plan and zoned Central Business District (CBD) and contains approximately 9,000 square feet of area while Tax Lot 1402 is designed "Medium Density" and zoned Single Family Residential (R-2) and contains approximately 8,000 square feet of area. There is a commercial building on each tax lot along with associated parking. Access to the site is from Highway 99W. The entire property is served by public sewer and water.

C. Adjacent Zoning and Land Uses

Other R-2 zoned land is located to the west, north and south. All remaining adjacent land is zoned CBD and contains a variety of commercial uses.

D. Background Information

The applicants are requesting approval to change the Comprehensive Plan designation from "Medium Density Residential" to "Commercial" and a Zone Change from Single Family Residential (R-2) to Central Business District (CBD) on Tax Lot 1402.

III. PUBLIC HEARING

A. Planning Commission Action

A public hearing was held on this application before the Dundee Planning Commission on April 18, 2007. At the hearing, City Planning File 07-03-04 was made a part of the record. Two Commission members excused themselves from the hearing, citing a potential conflict of interest. All remaining Commission members indicated they were familiar with the property. Otherwise, no objection was raised as to jurisdiction, conflicts of interest, or to evidence or testimony presented at the hearing.

At the conclusion of the hearing, the Planning Commission deliberated on the issue and voted to recommend City Council approval of the proposed Plan Map Amendment and Zone Change and directed staff to prepare an Order of Recommendation for the Chair's signature.

B. City Council Action

A public hearing was held on this application before the Dundee City Council on May 15, 2007. At the hearing, City Planning File 07-03-04 was made a part of the record. Notice of the hearing was published pursuant to Section 3.202 of the Dundee Development Ordinance. No ex parte contacts were declared and no objection was raised as to jurisdiction, conflicts of interest, or to evidence or testimony presented at the hearing.

At the end of the hearing the City Council voted to approve the Plan Map Amendment and establishment of the Community Commercial (C) zone on the property. The Council found the proposal complied with the applicable decision criteria. Staff was directed to return with the appropriate adoption Ordinance.

IV. FINDINGS OF FACT-GENERAL

The Dundee City Council, after careful consideration of the testimony and evidence in the record, adopts the following Findings of Fact:

- A. The applicants are Russell and Alice Halstead.
- B. The subject property is located on the west side of Highway 99W, approximately midway between 9th and 10th Streets. The property address is 976 Highway 99W and the County Assessor map identifies the parcel as within Township 3 South; Range 3 West; Section 26DD; Tax Lots #1402 and #1700.
- C. Tax Lot #1700 is designated "Commercial" in the Dundee Comprehensive Plan and zoned Central Business District (CBD) and contains approximately 9,000 square feet of area while Tax Lot 1402 is designed "Medium Density" and zoned Single Family Residential (R-2) and contains approximately 8,000 square feet of area.

- D. There is a commercial building on each tax lot along with associated parking. Access to the site is from Highway 99W. The entire property is served by public sewer and water.
- E. Other R-2 zoned land is located to the west, north and south. All remaining adjacent land is zoned CBD and contains a variety of commercial uses.
- F. The applicants are requesting approval to change the Comprehensive Plan designation from "Medium Density Residential" to "Commercial" and a Zone Change from Single Family Residential (R-2) to Central Business District on Tax Lot 1402.
- G. Approval or denial of this request will be based on compliance with the decision criteria in the Dundee Comprehensive Plan and Dundee Development Ordinance, Section 3.102.

V. APPLICATION SUMMARY

- A. This parcel consists of two separate tax lots, each containing a commercial building. It appears a building permit for a restaurant was issued for Tax Lot 1402 in the 1990s without consideration of the residential zoning. The City became aware of this situation when the new occupants applied for a business license.
- B. To correct this situation, the applicants wish to establish the Central Business District (CBD) zone on the subject property (Tax Lot 1402). This action requires both a Comprehensive Plan Map Amendment and Zone Change. The request would change the Plan designation from "Medium Density Residential" to "Commercial" and the zoning from Single Family Residential (R-2) to CBD. There is no concurrent development request. If approved, the entire site (both Tax Lot 1700 and Tax Lot 1402) will be zoned CBD.
- C. Section 3.102.01 requires a zone change to be reviewed in accordance with the Type III review procedures. This application requires a review by both the Planning Commission and City Council, with the Commission providing a recommendation to Council and the Council rendering the final decision.
- D. The City Engineer reviewed the proposal and noted the proposed change will not impact current street or utility systems. No other contacted agency responded.

VI. FINDINGS - PLAN AMENDMENT AND ZONE CHANGE

- A. Dundee Development Ordinance does not identify any decision criteria for a change in the Comprehensive Plan map designation but does contain criteria to review a zone change. The Commission and Council previously found the criteria for the zone change may also apply to the decision regarding a change in the Plan map designation. The specific decision criteria are found in Section 3.102.03.

- B. Section 3.102.03.A. - The proposed zone is appropriate for the Comprehensive Plan land use designation on the property and is consistent with the description and policies for the applicable Comprehensive Plan land use classification.

FINDINGS: The proposed zone is entirely consistent with the proposed Plan designation. Both actions must consider the City's housing, economic and commercial goals and policies:

Housing - The Plan's general housing Goal is to meet the projected housing needs of the citizens. The applicable housing policy notes the following:

Economy - The Plan's general Goal is to meet a level of economic development adequate to meet the public need. The applicable policies are as follows:

Commercial - A major goal is to minimize the inefficiency and unsightliness along Highway 99W. Specific policies which apply are:

FINDINGS: Highway 99W is essentially the commercial core for the City. Comprehensive Plan "findings" indicate residential units along Highway 99W are slowly being reduced in favor of commercial development. This proposal is entirely consistent with this identified trend as it expands Commercial zoning along Highway 99W in a logical manner.

The current R-2 zoning allows higher density single family homes as a permitted use. However, this particular tax lot is fully developed with a commercial building and associated parking. For this reason, this change simply recognizes the existing land use pattern and will not impact the City's ability to provide land for residential development.

- C. Section 3.102.03.B. - The uses permitted in the proposed zone can be accommodated on the proposed site without exceeding its physical capacity.

FINDINGS: The subject property contains a commercial building and parking. There is no evidence this level of development exceeds the site's capacity.

- D. Section 3.102.03.C. - Allowed uses in the proposed zone can be established in compliance with the development requirements in this Ordinance.

FINDINGS: As noted, the site is developed with commercial building and parking. Specific development requirements will only apply at such time any expansion or similar improvements occur.

- E. Section 3.102.03.D. - Adequate public facilities, services, and transportation networks are in place or are planned to be provided concurrently with the development of the property.

FINDINGS: The site is fully serviced and the City Engineer indicated the proposed Plan amendment and Zone Change will not result in additional impacts to the public facility systems.

- F. Section 3.102.03.E. - For residential zone changes, the criteria listed in the purpose statement for the proposed zone shall be met.

FINDINGS: This criterion does not apply to the request.

- G. Section 3.102.03.F. - The following additional criteria shall be used to review all nonresidential changes:

1. The supply of vacant land in the proposed zone is inadequate to accommodate the projected rate of development of uses allowed in the zone, or the location of the appropriately zoned land is not locationally or physically suited to the particular uses proposed for the subject property, or lack site specific amenities required by the proposed use, **and**,
2. The supply of vacant land in the existing zone is adequate, assuming the zone change is granted, to accommodate the projected rate of development of uses allowed in the zone.

FINDINGS: The criteria address the adequacy of the land supply. Item "1." asks whether there is insufficient for the proposed zone and "2." asks if there is sufficient land within the existing zone to accommodate future demand. City staff converted information from the buildable lands inventory project (*Urbanization Report*) to address future requirements. The material is summarized below:

Type	Needed Net Acres	Available Net Acres	Surplus/(Deficit)
Residential Subtotal	166	272	106
Public	49	16	(33)
Mixed Use	8	0	(8)
Mixed Use (Residential and Public)	223	288	65
Commercial	27	13	(14)
Industrial	35	17	(18)
Employment Subtotal	62	30	(32)
Total	285	318	33

Based on the above information there is a surplus of residential land (106 acres) over the 20-year time period but a deficit of land for commercial purposes (14-acres). Therefore, the proposal complies with both criteria.

3. The proposed zone, if it allows uses more intensive than other zones appropriate for the land use designation, will not allow uses that would destabilize the land use pattern of the area or significantly adversely affect adjacent properties.

FINDINGS: Although residentially zoned, the site commercially developed. The city is not aware of any adverse impacts resulting from the existing improvements.

- H. Pursuant to Section 3.201.03.H., conditions may be placed on any Type III land use action. Conditions must relate to either: (1) protection of the public from potentially deleterious effects of the proposed use; or, (2) fulfillment of the need for public service demands. No conditions are recommended at this time as the site is currently developed.
- I. Under Oregon Administrative Rules OAR 660-012-0060 "Plan and Land Use Regulation Amendments," amendments to functional plans, acknowledged comprehensive plans which significantly affect a transportation facility may not affect the function, capacity and performance standards of the facility. While the request will change the zone, there is no change in use as the parcel is commercially developed. Therefore, there is no change in the functional classification or impact resulting from the Plan amendment and zone change.
- J. The site is developed with a commercial building and associated parking. While the existing development may have prompted the application, it also appears the location, size and available access to the site would certainly lend itself to commercial, and not residential, uses. Further, the findings clearly indicate the Comprehensive Plan encourages commercial uses along Highway 99W and the resultant change will not reduce the potential for residential development.

VII. CONCLUSION

The City Council found the Comprehensive Plan Map Amendment and Zone Change application complies with the applicable decision criteria and approves the following map amendments:

- A. Amend the Comprehensive Plan Map by changing the Comprehensive Plan designation from "Medium Density Residential" to "Commercial" on property located in Township 3 South; Range 3 West; Section 26DD; Tax Lot #1402.

- G. Amend the Zoning Map by changing the zoning from Single Family Residential (R-2) to the Central Business District (CBD) on property located in Township 3 South; Range 3 West; Section 26DD; Tax Lot #1402.



List of Persons Requesting Notice

Russ and Alice Halstead
20580 SW Chapman Road
Sherwood, Oregon 97140

A to Z Wineworks
PO Box 489
Dundee, Oregon 97115