



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

December 11, 2007



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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Durham Plan Amendment
DLCD File Number 003-07

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: December 26, 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: Doug White, DLCD Community Services Specialist
Marguerite Nabeta, DLCD Regional Representative
Roland Signett, City of Durham

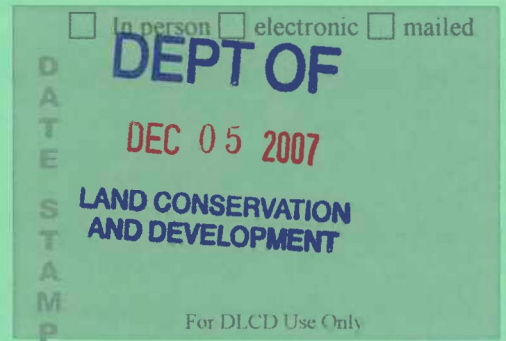
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PROP **2**

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: **Durham**

Local file number: **238-07**

Date of Adoption: **10/23/2007**

Date Mailed: **12/4/07**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: **6/7/2007**

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

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

Adds language to add accept a park in-lieu fee in place of recreational space dedication as a condition of approval for land divisions.

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

Plan Map Changed from: _____ to: _____

Zone Map Changed from: _____ to: _____

Location: _____ Acres Involved: _____

Specify Density: Previous: _____ New: _____

Applicable statewide planning goals:

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19

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**

003-07(16169)

DLCD file No. _____

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

City of Durham

Local Contact: **Roland Signett, City Administrator** Phone: **(503) 639-6851** Extension:
Address: **17160 SW Upper Boones Ferry Rd** Fax Number: **503-598-8595**
City: **Durham** Zip: **97224-** E-mail Address: **cityofdurham@comcast.net**

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. 238-07
AN ORDINANCE ESTABLISHING
A FEE-IN-LIEU OF
DEDICATION OF PUBLIC OPEN SPACE
AS A CONDITION OF LAND USE APPROVAL**

Whereas, the Council finds that existing City Land Use Code and Comprehensive Land Use Plan provisions for dedication of public open space in the course of developing property for various uses, from time to time do not serve the intended purpose and that alternative provisions to create a source of funds by which the City may acquire alternative sites for that purpose would serve the public health, safety and welfare, now, therefore,

THE CITY OF DURHAM, OREGON ORDAINS AS FOLLOWS:

Section 1. Purpose. The City by its Planning Commission or City Council may, as a condition of land use development approval, require payment of a fee in lieu of dedication of public open space when the City deems it necessary or desirable to:

-further the public health, safety and welfare by substituting funds to acquire other sites that would better accomplish the purposes of City's land use code and comprehensive land use plan; or

-allow for configurations of private property development that best utilize a site without requiring configuration of public open space that does not well serve a public purpose.

Section 2. Scope. This Ordinance shall apply to all land use applications for a planned unit development, a subdivision or partition (but not a lot line adjustment) or other application that seeks to transfer the total allowable structural density on a site to certain portions of the site or to transfer that density between or among various sites.

Section 3. Process. A. At the request of the applicant for a land use development approval or at the request of the City, as a condition of approval of the applications for land use development that are within the scope of this Ordinance, the City may waive the requirements of Chapter 2, Article 3, Section 2, Subsection A,4 in exchange for the applicant's promise to pay a fee in lieu of dedication of public open space. The fee shall be set as an amount substantially equal to the market value of the property that is the subject of the land use application if that property were developed to its highest and best use, expressed as the value in dollars per square foot times the square feet that the City otherwise would exact as a dedication for use as public open space.

B. The City may waive a dedication of public open space and allow or require payment of a fee in lieu of such dedication if the City finds:

i. A dedication would conflict with the access- or density requirements or objectives of the City's comprehensive land use plan or code; or,

ii. Natural features to be preserved on the site or the proposed configuration of the site after development would make it unlikely that any open space to be dedicated to the public would be usable for its intended purpose; or,

iii. To waive the dedication of open space in favor of payment of a fee in lieu would allow for a different configuration of the property after development that would better serve the intent of the City's comprehensive land use plan or code as to that type of development.

Section 4. Disposition of Fees Paid. A. A fee in lieu of dedication of open space that is allowed or required as a condition of land use development approval shall be due and payable prior to the issuance of the first site development (earthwork) or building permit for the use approved for the site.

B. The City shall establish and account annually for a separate fund for all revenue received in the form of fees in lieu of open space dedication and for the interest earnings on that revenue. The city shall segregate that fund for use only to acquire, assemble, improve and maintain real property that the Council in its discretion deems to be suitable for use as public open space.

C. The City shall show any and all proposed and actual expenditures of the fund described in this section in the City's annual or supplemental annual budget.

First Reading: 9-25-07

Second Reading: 10-23-07

CITY OF DURHAM

By: 

Gery Schirado, Mayor

ATTEST:


Roland Signett, City Administrator/Recorder

City of Durham
17100 SW Upper Becons Ferry
Durham, OR 97224



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PM
2007

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PM
2007

Att.: Plan Amendment Specialist
DLCD
635 Capitol St. NE, Suite 150
Salem, OR 97301-2540