



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

October 31, 2007

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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Pendleton Plan Amendment
DLCD File Number 006-07



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: November 13, 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
Mark Radabaugh, DLCD Regional Representative
Mike Muller, City of Pendleton

<paa> ya

FORM 2

D L C D NOTICE OF ADOPTION

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

(See reverse side for submittal requirements)

DEPT OF

OCT 24 2007

LAND CONSERVATION AND DEVELOPMENT

Jurisdiction: CITY OF PENDLETON Local File No.: 2007-02 (If no number, use none)

Date of Adoption: OCTOBER 16, 2007 (Must be filled in) Date Mailed: OCT 22, 2007 (Date mailed or sent to DLCD)

Date the Notice of Proposed Amendment was mailed to DLCD: AUGUST 10, 2007

- 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."

ZONE CHANGE FROM M-1 LIGHT INDUSTRIAL TO C-1 CENTRAL COMMERCIAL FOR 0.89 ACRES OF PROPERTY LOCATED ON THE NORTHEAST CORNER OF THE INTERSECTION OF SW 20TH STREET & SW COURT AVENUE.

Describe how the adopted amendment differs from the proposed amendment. If it is the same, write "Same." If you did not give notice for the proposed amendment, write "N/A."

SAME

Plan Map Changed from: LIGHT INDUSTRIAL to CENTRAL COMMERCIAL

Zone Map Changed from: M-1 to C-1

Location: 1923 SW COURT AVE AND 1323 SW 20TH STREET Acres Involved: 0.89 ACRES

Specify Density: Previous: NA New: NA

Applicable Statewide Planning Goals: 2 & 9

Was an Exception Adopted? Yes: No: X

DLCD File No.: 006-07 (16301)

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, UMATILLA COUNTY & UTILITY COMPANIES

Local Contact: MIKE MULLER Area Code + Phone Number: 541-966-0126

Address: 500 SW DORION City: PENDLETON

Zip Code+4: 97801 Email Address: mike.muller@ci.pendleton.or.us

ADOPTION SUBMITTAL REQUIREMENTS

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

1. Send this Form and TWO (2) Copies of the Adopted Amendment to:
**ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540**
2. Submit **TWO (2) copies** the adopted material, if copies are bounded please submit **TWO (2) complete copies** of documents and maps.
3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the "Notice of Adoption" is sent to DLCD.
6. In addition to sending the "Notice of Adoption" to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can copy this form on to 8-1/2x11 green paper only; or call the DLCD Office at (503) 373-0050; or Fax your request to:(503) 378-5518; or Email your request to Mara.Ulloa@state.or.us - ATTENTION: PLAN AMENDMENT SPECIALIST.

ORDINANCE NO. 3763

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

WHEREAS, the Pendleton Planning Commission received a request from Clear Creek Cattle Company, Gary Jellum-Owner's Representative, to rezone a 0.89 acre (38,554 sq ft) parcel of property located on the northeast corner of the intersection of SW 20th Street and SW Court Avenue from M-1 (Light Industrial) to C-1(Central Commercial) zone described below:

A tract of land located in the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$, and the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 10, Township 2 North, Range 32 East of the Willamette Meridian described as follows:

(TAX LOT 2300, MAP 2N3210BC) The North 50 feet of Lot 25 Hazel Addition to the Town, now City of Pendleton, County of Umatilla, State of Oregon.

(TAX LOT 2400, MAP 2N3210BC) The West 121.04 feet of the South 69.01 feet of Lot 25, in Hazel Addition to the Town, now City of Pendleton, in Umatilla County, Oregon.

(TAX LOT 2601, MAP 2N3210BC) Beginning at the Southwest corner of Lot 26, Hazel Addition to the Town, now City of Pendleton, Umatilla County, Oregon, said point being the Northwest corner of that tract conveyed to Harris Pine Mills, by Deed recorded in Book 274, Page 37, Umatilla County Deed Records, and the true point of beginning for this description; thence South along West line of Harris Pine Mills Tract a distance of 10 feet, more or less, to the North line of SW Court Place; thence Northeasterly along the North line of said SW Court Place a distance of 121 feet to the Southeast corner of said Harris Pine Mills Tract; thence Northwesterly along the East line, a distance of 10 feet to a point on the South line of said Lot 26; thence Northeasterly along said South line a distance of .04 feet, more or less, to the Southeast corner of that tract conveyed to Harris Pine Mills, Inc., by Deed recorded in Book 270, Page 318, Umatilla County Deed Records; thence North along the East line of said Harris Pine Mills Tract a distance of 74.01 feet to the Northeast corner thereof; thence Southwesterly along North line thereof, a distance of 121.04 feet to West line of said lot 26; thence South along said West line a distance of 74.01 feet to the point of beginning.

All lands subject to this rezoning are shown on Exhibit "A"; and,

WHEREAS, the Pendleton Planning Commission conducted a public hearing on this request on October 4, 2007, and recommended the adoption of findings of fact and conclusions of law attached hereto as Exhibit "B"; and,

WHEREAS, the City Council held a public hearing on this request and accepts the recommendation of the Planning Commission to adopt the findings of fact and approve the request; and,

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

NOW THEREFORE, CITY OF PENDLETON ORDAINS AS FOLLOWS:

SECTION 1. The official zoning map (established by Ordinance #3250) is amended to change the zoning of the property described herein from M-1, Light Industrial, to C-1, Central Commercial.

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

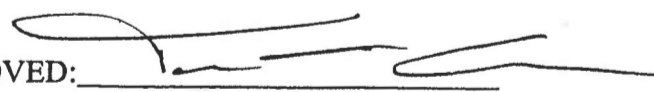
SECTION 3. The City Council adopts the Findings of Fact and Conclusions of Law as recommended by the Planning Commission (Exhibit "B") and grants said comprehensive plan map change and rezone.

PASSED by the City Council and approved by the Mayor on October 16, 2007

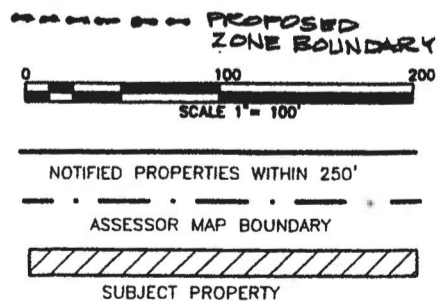
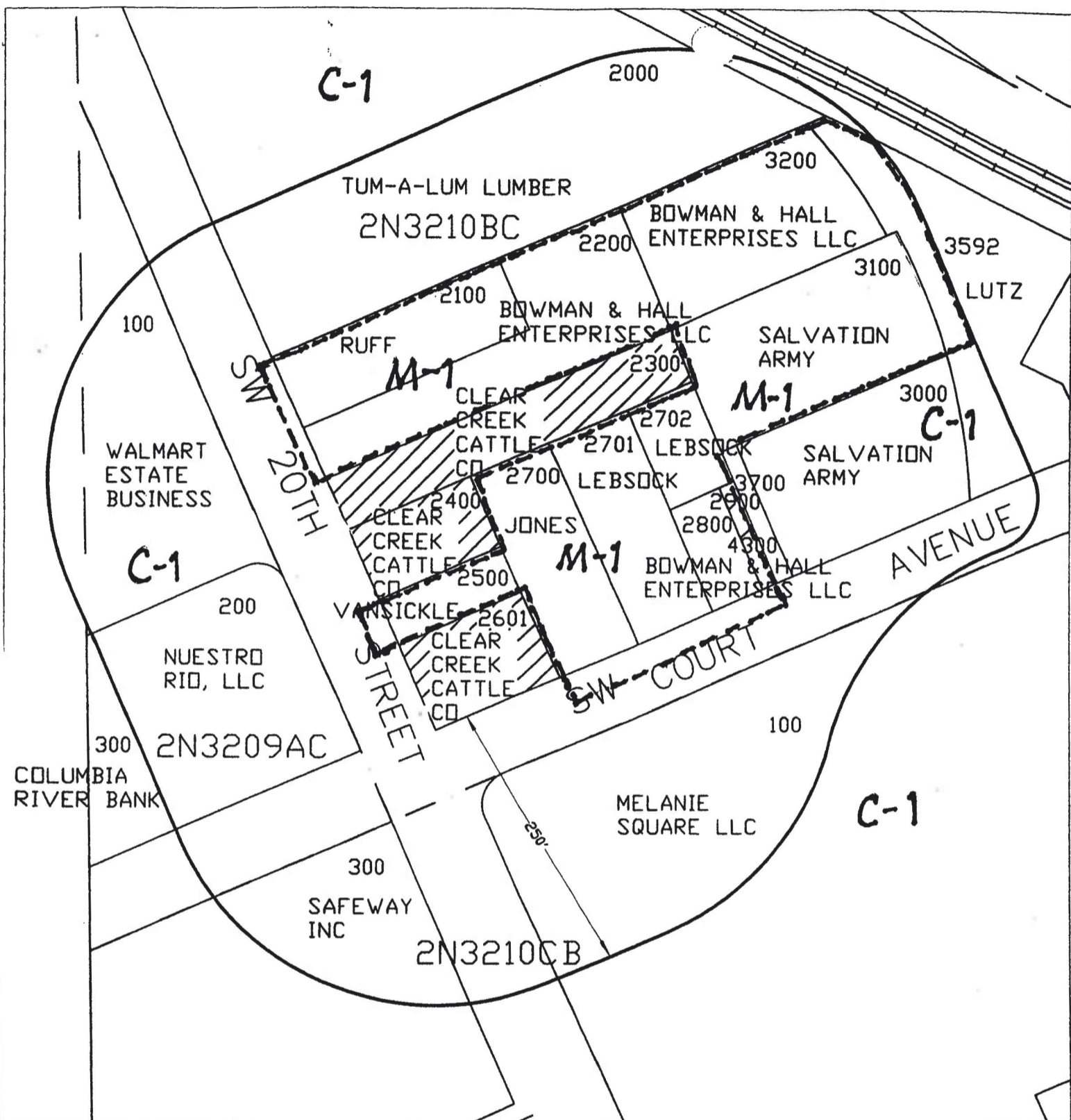
APPROVED: 
Mayor

ATTEST: 
City Recorder

APPROVED AS TO FORM: 
City Attorney

LEGAL DESCRIPTION APPROVED: 
Engineering Dept.

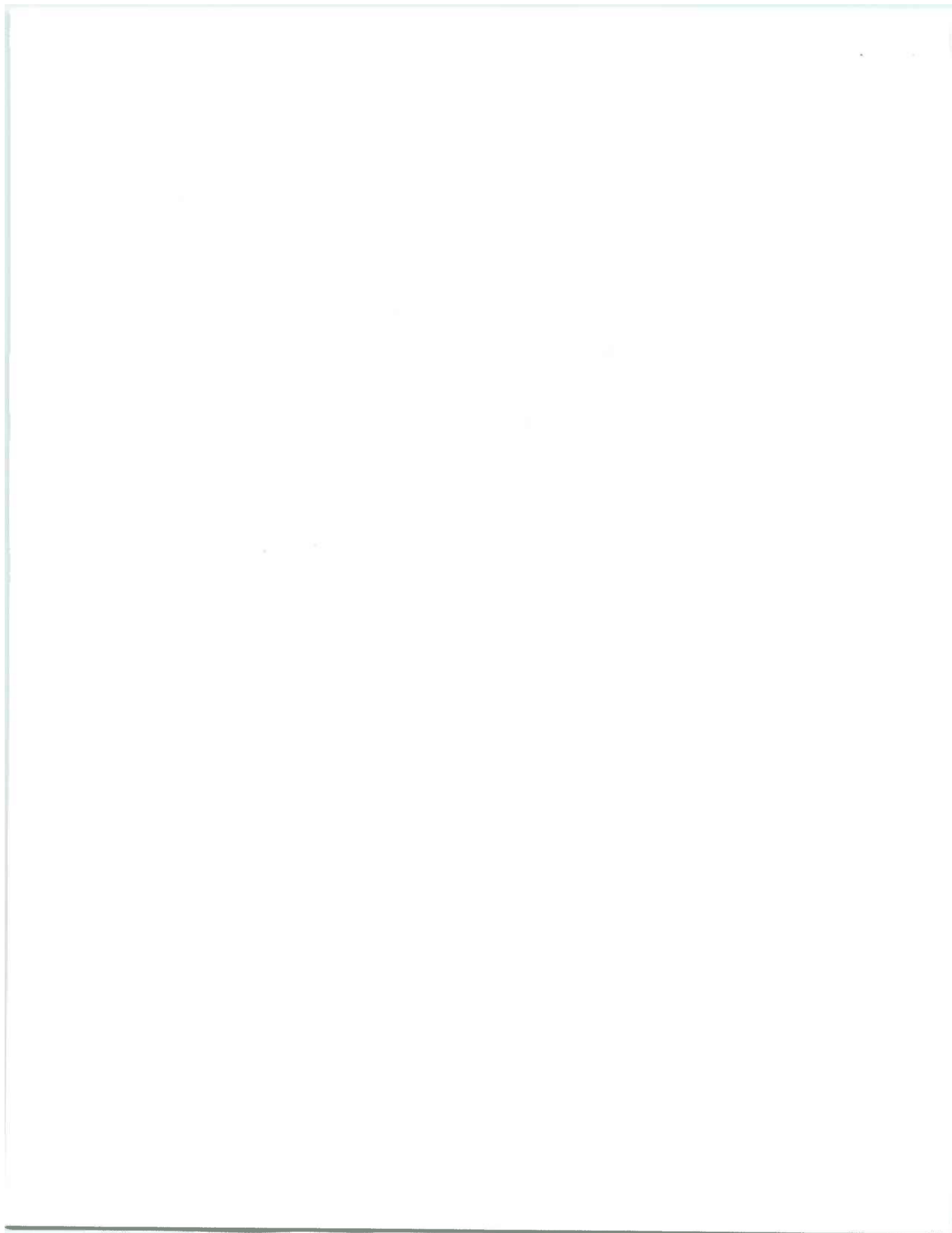
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**CITY OF PENDLETON-
 PLANNING DEPARTMENT**

EXHIBIT "A"
 REQUEST FOR A ZONE CHANGE
 FROM M-1 TO C-1
 FILE No. ZC07-02(WHITNEY)

SCALE AS SHOWN 7/31/07 JAM
 K:\PROJECTS\Plots\Planning\drawings\public hearings & agreements\SW\ZC07-02(WHITNEY).dwg



**PLANNING COMMISSION
FINDINGS AND DECISION (EXHIBIT 'B')**

October 4, 2007

Consideration of a recommendation to the City Council regarding a Comprehensive Plan Map change and rezoning of a 0.89 acre (38,554 sq ft) parcel of property located on the northeast corner of the intersection of SW 20th Street and SW Court Avenue (identified as Tax Lot(s) 2300, 2400, & 2601, Map 2N 32 10BC, Umatilla County) from M-1 (Light Industrial Zone) to C-1 (Central Commercial Zone); Clear Creek Cattle Co., owner. (File No. ZC07-02).

REVIEWED BY: Michael W. Muller, City Planner

RELEVANT CRITERIA:

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

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

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

SECTION 149. PUBLIC HEARING ON AMENDMENTS. The Planning Commission shall conduct a public hearing on the proposed amendment according to the procedures of Section 161 of this Ordinance at its earliest practicable meeting after it is proposed and shall, within forty (40) days after the hearing, recommend to the City Council approval, disapproval or modification of the proposed amendment. After receiving the recommendation of the Planning Commission, the City Council shall hold a public hearing on the proposed amendment and render a final decision within one hundred twenty (120) days after application submittal unless the City and applicant agree upon longer review.

FINDINGS OF FACT:

1. The subject parcel of property described as Tax Lots 2300, 2400 & 2601, Map 2N 32 10BC, Umatilla County, Oregon, totals 0.89 acres (38,554 sq ft).
2. The subject parcel of property described as Tax Lots 2300, 2400 Map 2N 32 10BC, Umatilla County, Oregon, totaling 0.58 acres front on SW 20th Street and are adjacent to property to the west, which is zoned C-1, Central Commercial (Wal Mart/Tax Lots 100 - 500, Map 2N 32 09AC).
3. The subject parcel described as Tax Lot 2601 Map 2N 32 10BC, Umatilla County, Oregon, totaling 0.31 acres is adjacent to the south-southwest (Melanie Square - Safeway /Tax Lot 100 Map 2N 32 10CB & Tax Lot 300 Map 2N 32 10CB), zoned C-1 Central Commercial.
4. All of the subject property, totaling 0.89 acres, abuts north and northeasterly properties (Tax Lots 2100-2200, 2500, 2700 - 2800, & 3100-3200, Map 2N 32 10BC), zoned M-1, which is developed as residential and industrial uses.
5. The majority of the surrounding property is zoned C-1, Central Commercial. Rezoning of the subject parcel to conform to the existing commercial land use characteristics would bring this area more into compliance with the majority uses.
6. The property owner has indicated that he has the opportunity to further develop the parcel. Parcels that abut SW 20th Street and SW Court Avenue display various forms of commercial - residential property. The majority of the commercial activities along SW Court Avenue focus on primarily central commercial uses. The extension of this zone to include the subject parcel would help reduce a spot zone of industrial property; thereby bringing this area into compliance with neighboring zoning.
7. The subject 0.89 acre parcel is currently zoned M-1 (Light Industrial) and allows air transportation facilities, automobile and vehicle services, retail business materials, business services, communication facilities, contractors, repair services, transportation facilities, wholesaling, solid waste transfer stations, and light industrial facilities. The proposed rezone to C-1 (Central Commercial) will allow automobile services, business and personal services, commercial amusement facilities, residential uses, eating and drinking establishments, financial/law/insurance/ real estate offices, general retail, government facilities, health services, hotels, membership

organizations, parking garages, publishing facilities, and transit facilities. The balance of the neighboring adjacent lots contain such uses and the development of the subject parcel will meld with the C-1 zoned uses.

8. If the Planning Commission recommends this request for approval, the City Council will be presented with an ordinance amendment that would be considered in public hearing for enactment that would re-designate and rezone the subject property on the Comprehensive Plan Map and the Zoning Map from M-1 (Light Industrial) zone to C-1 (Central Commercial) zone.
9. The Department of Land Conservation and Development (DLCD) have been provided notice of this proposal. This notice is provided pursuant to ORS 197.610 and OAR Chapter 660, Division 18, and must be sent at least 45 days prior to the initial evidentiary hearing date to allow the DLCD staff the opportunity to file an objection and/or attend the hearing if they have a concern. The final hearing date before the City Council will be scheduled for the October 16, 2007 meeting.
10. On December 16, 1980, the City Council adopted a standard condition to be placed upon all land use requests to protect the city taxpayer from any costs of potential appeals to the decisions. This condition shall be applied in this case as well.

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

1. The proposal recognizes the need for applying the appropriate zoning that is more compatible with and matches the land use of the properties in the vicinity.
2. The C-1 zoning is contiguous to the subject property and would represent a logical extension thereof.
3. The rezoning of the area to C-1 would bring a spot zone of 1.98 acres of M-1 zoning into compliance with the neighborhood uses.

RECOMMENDATION: The Planning Commission forwards a favorable recommendation to the City Council to enact an ordinance that would accomplish to re-designate and rezone the subject parcel from M-1 (Light Industrial) zone to C-1 (Central Commercial) zone, subject to the following condition:

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

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

The applicant(s) shall notify the City Manager within five days from the city's receipt of any notice of appeal by delivering a written statement to the City Manager advising the City Manager whether the applicant(s) will reimburse the City for all costs as described above; desires to drop the request; or intends to defend the City's actions on behalf of the City.

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

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

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