



Oregon

Theodore R. Kubongoski, 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

06/24/2009

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

FROM: Plan Amendment Program Specialist

SUBJECT: City of Lincoln City Plan Amendment
DLCD File Number 004-09

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: Tuesday, July 07, 2009

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.

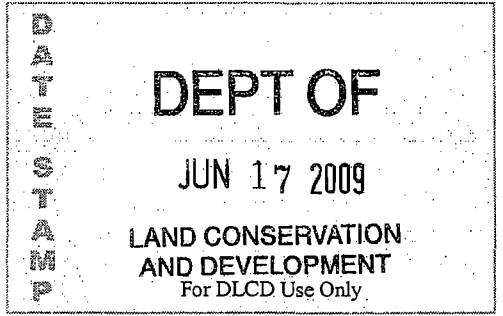
***NOTE:** THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAT IT WAS MAILED TO DLCD. AS A RESULT, YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.

Cc: Richard Townsend, City of Lincoln City
Gloria Gardiner, DLCD Urban Planning Specialist
Laren Woolley, DLCD Regional Representative

<paa> YA

2 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 Lincoln City Local file number: ZOA 2009-04

Date of Adoption: June 8, 2009 Date Mailed: June 16, 2009

Date original Notice of Proposed Amendment was mailed to DLCD: April 1, 2009

- Comprehensive Plan Text Amendment
- Land Use Regulation Amendment
- New Land Use Regulation
- Comprehensive Plan Map Amendment
- Zoning Map Amendment
- Other: _____

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

Amend the GC General Commercial and RC Recreation Commercial zones to allow mixed use developments. Amend the definition of Mixed Use to allow mixed use to occur in the same building or in separate buildings.

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: n/a to: _____

Zone Map Changed from: n/a to: _____

Location: _____ Acres Involved: _____

Specify Density: Previous: _____ New: _____

Applicable Statewide Planning Goals: _____

Was an Exception Adopted? YES NO

DLCD File No.: 004-09 (17471) [15566]

Did the Department of Land Conservation and Development receive a Notice of Proposed Amendment.....

Forty-five (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

Affected State or Federal Agencies, Local Governments or Special Districts:

Local Contact: Richard Townsend Phone: (541) 996-2153 Extension: _____
Address: PO Box 50 City: Lincoln City 97367
Zip Code + 4: 97367 Email Address: rtown@lincolncity.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 (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.

- 1 I. Manufactured homes when developed in accordance with the standards
- 2 specified in LCMC 17.52.250;
- 3 J. Essential emergency communications and warning facilities.
- 4 K. Mixed-use development.

5
6 **Section 3.** Section 17.32.020 of the Lincoln City Municipal Code is amended to read as
7 follows:

8 17.32.020 Uses Permitted.

9 In a GC zone, the following are given as examples of those uses that meet the
10 intent of this zone:

- 11 A. Convenience service/retail use;
- 12 B. Eating and drinking establishments, excluding drive-in restaurants;
- 13 C. Carpet, rug, fabric and interior decorating shops including reupholstering,
- 14 making of draperies and other similar articles which are conducted as part of, and
- 15 secondary to, a retail sales operation;
- 16 D. Sporting goods stores;
- 17 E. Motels and resorts;
- 18 F. Building supply stores;
- 19 G. Public facilities;
- 20 H. Garden supplies and nursery;
- 21 I. Community meeting buildings, fraternal or social organizations;
- 22 J. Automotive parts and accessories;
- 23 K. Printing;
- 24 L. Carpenter, plumbing, cabinet, upholstering and sheet metal shops, if conducted
- 25 wholly within an enclosed building;
- 26 M. Appliance sales and service;
- 27 N. Single-family dwellings, if developed under the standards in the R-1 zone;
- 28 O. Mini-warehouses, if existing on or if site plan approval was applied for before
- 29 June 9, 2008. Mini-warehouses in existence on or applied for before June 9, 2008,
- 30 may be expanded within the boundaries of the lot or lots they occupied as of that
- 31 date, subject to the standards applicable as of the date of application for expansion;
- 32 P. Time-share units, when developed under the standards of LCMC 17.28.040;
- 33 Q. Bed and breakfast accommodations;
- 34 R. Professional and business offices;
- 35 S. Art gallery and studio;
- 36 T. Physical therapy;
- 37 U. Equipment rental establishments;
- 38 V. Physical fitness center;
- 39 W. Manufactured homes when developed in accordance with the standards
- 40 specified in LCMC 17.28.090(C) and 17.52.250;
- 41 X. Veterinary clinics.
- 42 Y. Mixed-use development.

43
44 **Section 4.** Section 17.08.010 of the Lincoln City Municipal Code is amended to delete
45 the current definition of "Mixed Use" and replace it with a new definition as follows:

1 "Mixed use" means a development that includes a mix of commercial and residential
2 uses that are planned and developed together on the same site or adjoining sites. The
3 mix of uses may occur in the same building or in separate buildings.
4

5 **Section 5.** In the event that any provision of this ordinance is determined by a court of
6 competent jurisdiction to be invalid or unenforceable, such invalid provision shall be
7 severed and the remaining provisions of the ordinance that have not been held invalid or
8 unenforceable shall continue to be valid and enforceable to the fullest extent permitted by
9 law.

10 PASSED AND ADOPTED by the City Council of the City of Lincoln City this

11 8th day of June, 2009.
12
13

14 Lori Hollingsworth
15 LORI HOLLINGSWORTH, MAYOR

16 ATTEST:

17
18 Cathy Steere
19 CATHY STEERE, CITY RECORDER
20
21
22

ORDINANCE 2009-07
EXHIBIT "A"

Conformance with Statewide Land Use Planning Goals

- (1) Goal 1: "Citizen Involvement" - All proposed documents were made available for public review and purchase and assistance was available to interpret and explain the technical information. All affected property owners were noticed regarding the public hearings on the amendment, including Measure 56 notice, and hearing notices were published in local papers in accordance with notice requirements. Therefore, the amendments are consistent with Goal 1.
- (2) Goal 2: "Land Use Planning" - This goal is to establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to insure an adequate factual basis for such decisions and actions. The Lincoln City Comprehensive Plan and its implementation measure, the Lincoln City Zoning Ordinance, was adopted by the City Council of Lincoln City after public hearings and have been reviewed on a periodic cycle to take into account changing public policies and circumstances. Opportunities were provided for review and comment by citizens and affected governmental units during preparation, review, and revision of the plan and implementing ordinances. Review of this application in accordance with the Lincoln City Comprehensive Plan and the applicable zoning ordinance provisions establishes conformance with this goal.
- (3) Goal 3: "Agricultural Lands" - The areas affected by the amendment are located within the City's Urban Growth Boundary. The area is currently designated and zoned for urban development and will remain as such. No agricultural lands will be affected by the amendment. Therefore, Goal 3 is not applicable.
- (4) Goal 4: "Forest Lands" - The areas affected by the amendment is located within the City's Urban Growth Boundary. The area is zoned for urban development. Moreover, the affected areas do not contain any designated forest lands. Therefore, Goal 4 is not applicable.
- (5) Goal 5: "Open Spaces, Scenic and Historic Areas and Natural Resources" - The areas affected by the amendment are located within the City's Urban Growth Boundary. The application of the amendment is limited to lands zoned for Recreation Commercial and General Commercial use. They do not include any areas currently zoned Open Space or Park. They do include the one property listed on the National Register of Historic Places, the Dorchester House, but the amendment does not by itself authorize any development inconsistent with its historic designation. The areas subject to the amendment do not include any sites designated as significant aesthetic resources. The amendment will not affect any such areas. Therefore, the amendment is consistent with Goal 5.
- (6) Goal 6: "Air, Water and Land Resources Quality" - The amendment will not serve to increase the waste and process discharges already being generated within the affected areas. Such discharges include solid waste, thermal, noise, atmospheric or water pollutants, contaminants or products therefrom. Therefore the amendment is consistent with Goal 6.

- (7) Goal 7: "Areas Subject to Natural Disasters and Hazards" - The areas affected by the amendment include some identified Natural Hazards areas. The city already has acknowledged ordinance standards relating to development in these areas, and the amendment does not authorize any development inconsistent with these natural hazard standards. Therefore the amendment is consistent with Goal 7.
- (8) Goal 8: "Recreational Needs" - The areas affected by the amendment do not include any areas zoned for open space or park use, nor does it of itself authorize any development inconsistent with the recreational needs of the community, region, or state. Therefore, the amendment is consistent with Goal 8.
- (9) Goal 9: "Economic Development" - The amendment does not affect the availability of land suitable for industrial and commercial development. Instead it provides for orderly development of commercial lands in a manner that is intended to promote a more attractive community and thereby enhance the appeal of the community as a place for economic activity. It does not relate to lands zoned for industrial development. Therefore, the amendment is consistent with Goal 9.
- (10) Goal 10: "Housing" - The amendment provides additional opportunities for needed housing types. By helping to increase the opportunities for mixed-use development the amendment will help to enhance the quality of the housing stock in Lincoln City. Therefore, the amendment is consistent with Goal 10.
- (11) Goal 11: "Public Facilities and Services" - Existing City water and sewer infrastructure and treatment facilities will not be affected by the amendment, nor will their ability to serve surrounding properties be affected. Therefore, the amendment is consistent with Goal 11.
- (12) Goal 12: "Transportation" - The amendment is consistent with the City's *Comprehensive Plan* and *Transportation Master Plan*. Therefore, the amendment is consistent with Goal 12.
- (13) Goal 13: "Energy Conservation" - The land use patterns and development allowed in association with the amendment promote walkability and therefore would have a positive effect on Energy Conservation. Therefore, the amendment is consistent with Goal 13.
- (14) Goal 14: "Urbanization" - The proposed amendment, through improving the aesthetic quality of the city, serve to promote the livability of Lincoln City, thereby reducing the need to expand the Urban Grown Boundary. Proposed densities of surrounding properties will not be changed. Therefore, the amendments are consistent with Goal 14.
- (15) Goal 15: "Willamette River Greenway" - The affected areas are not located within the Willamette River Greenway. Therefore, Goal 15 is not applicable.
- (16) Goal 16: "Estuarine Resources" - The affected areas of the amendment include some areas adjacent to a designated estuarine resource. However, the amendments, by themselves, do not authorize any development, and in fact by improving the aesthetic quality of development otherwise authorized by the acknowledged comprehensive plan and zoning

ordinance, will help to enhance the surroundings of estuarine resources. Therefore, the amendments are consistent with Goal 16.

- (17) Goal 17: "Coastal Shorelands" - The city's coastal shorelands include all land west of Highway 101, land within 500 feet of the ordinary high-water elevation of Devils Lake and Spring Lake, and land within 1,000 feet of the shoreline mean higher-high-water elevation of Schooner Creek, Drift Creek, and Siletz Bay estuaries. These coastal shorelands include some areas of Recreation Commercial and General Commercial zoning, and also include areas that have been designated as significant aesthetic resources. By helping to improve the aesthetic quality of commercial development, the amendment will improve the aesthetic character of the coastal shorelands in general and the significant aesthetic resources specifically. Therefore the amendment is consistent with Goal 17.
- (18) Goal 18: "Beaches & Dunes" - The affected areas of the amendment are not located within a beach or active dune area. Therefore, Goal 18 is not applicable.
- (19) Goal 19: "Ocean Resources" - Because the affected areas of the amendment are solely on the dry land areas of the city, and because the amendment will not by itself authorize any development, the amendment will not affect the nearshore ocean and continental shelf. Therefore, the amendment is consistent with Goal 19.

Conformance with Lincoln City Comprehensive Plan Goals

(1) Planning Goal

"To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions."

The Lincoln City Comprehensive Plan and its implementation measure, the Lincoln City Zoning Ordinance, was adopted by the City Council of Lincoln City after public hearing and has been reviewed on a periodic cycle to take into account changing public policies and circumstances. Opportunities were provided for review and comment by citizens and affected governmental units during preparation, review, and revision of the plan and implementing ordinances. Review of this amendment in accordance with the Lincoln City Comprehensive Plan and the applicable zoning ordinance provisions, establishes conformance with this goal.

(2) Citizen Involvement Goal

"Develop a Citizen Involvement Program which ensures the continued participation of citizens in the land use planning process."

The City has developed a Citizen Involvement Program. In addition, the public hearing process, with notice to the public and property owners and review of the amendment by the Planning Commission (a citizen board), and the City Council (a citizen board) establishes conformance with this goal.

(3) Public Services and Utilities Goal

"To plan and develop a timely, orderly, and efficient arrangement of public facility and services which compliment the area and serve as a framework for urban and rural development."

Public services and utilities generally already are in place in the areas affected by the amendment. The proposed amendment will not adversely affect the availability or arrangement of public services and utilities. The goal is satisfied.

(4) Urbanization Goal

"To promote an orderly and efficient transition of land uses from rural to urban."

The amendment, because it does not change the total list of allowed uses in the city, will not increase the need to expand the Urban Growth Boundary. Proposed densities of surrounding properties will not be changed and in fact by allowing housing where previously it was not allowed it will have the effect of reducing the need to expand the UGB. This goal is satisfied.

(5) Natural Hazard Goal

"The City shall control development in hazardous areas to protect life and property from natural disasters and hazards."

The areas affected by the amendment include some identified Natural Hazards areas. The city already has acknowledged ordinance standards relating to development in these areas, and the amendment does not authorize any development inconsistent with these natural hazard standards. This goal is satisfied.

(6) Housing Goal

"To provide for the housing needs of all citizens."

The amendments will provide additional opportunities for needed housing types. It does not decrease the amount of land available for housing because residential uses are already permitted or conditional in the Recreation Commercial and General Commercial zones, but are not currently allowed to be mixed with commercial uses. The amendment may increase the availability of adequate numbers of needed housing units at price ranges and rent levels commensurate with the local area. Therefore, the amendments are consistent with the housing goal.

(7) Economy Goal

"To support the tourist industry and achieve a degree of diversity in the community which will allow a balanced economy that will, in turn, support an adequate level of services for all members of the area."

The amendment provides for greater flexibility in development of commercial lands in a manner that is intended to promote a more attractive community and thereby enhance the appeal of the community as a place for economic activity. The amendment, therefore, meets the goal.

(8) Aesthetic Goal

"To develop a livable and pleasing city which enhances man's activities while protecting the exceptional aesthetic quality of the area."

The point of the amendment is to carry out this goal. This goal is satisfied.

(9) Transportation Goal

"To provide a safe, convenient and rapid transportation network to facilitate the movement of goods and people."

The amendment does not, of itself, create any additional transportation impacts on the existing transportation system. Therefore, this goal is satisfied.

(10) Energy Goal

"To conserve energy."

The proposed amendment will not have any adverse effects on the energy goal. Therefore, the goal is satisfied.

(11) Overall Environmental Goal

"To achieve a balance between the need to provide housing and services and the need to protect and enhance the natural environment of the city."

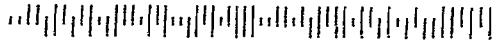
The amendment will not, of itself, have any adverse effects on the natural environment. It does not add to or delete from the city-wide list of allowed uses. This goal is satisfied.

(12) Shoreland, Beaches, Dunes, Estuary and Ocean Resources Goal

"To conserve, protect, and enhance the coastal resources of the city."

The city's coastal shorelands include all land west of Highway 101, land within 500 feet of the ordinary high-water elevation of Devils Lake and Spring Lake, and land within 1,000 feet of the shoreline mean higher-high-water elevation of Schooner Creek, Drift Creek, and Siletz Bay estuaries. These coastal shorelands include some areas of General Commercial zoning, and also include areas that have been designated as significant aesthetic resources. By helping to improve the aesthetic quality of commercial development, the amendment will improve the aesthetic character of the coastal shorelands in general and the significant aesthetic resources specifically. Therefore the amendment is consistent with this goal.

OR 97367



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Attn: Plan Amendment Specialist
Dept. of Land Conservation & Development
635 Capitol Street NE, Suite 150
Salem, OR 97301-2540