



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

January 30, 2008



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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: Yamhill County Plan Amendment
DLCD File Number 016-07

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: February 15, 2008

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: Doug White, DLCD Community Services Specialist
Gary Fish, DLCD Regional Representative
Ken Friday, Yamhill County

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FOR 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

☐ In person ☐ electronic ☐ mailed

DATE
STAMP

DEPT OF

JAN 28 2008

LAND CONSERVATION
AND DEVELOPMENT

For DLCD Use Only

Jurisdiction: **Yamhill County**

Local file number: **Z-06-07**

Date of Adoption: **1/16/2008**

Date Mailed: **1/25/2008**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: **9/20/2007**

☐ 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".

To change the zoning from Heavy Industrial to Light Industrial

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

Plan Map Changed from:

to:

Zone Map Changed from: **HI Heavy Ind.**

to: **LI Light Ind.**

Location: **1720 SW Highway 18, McMinnville**

Acres Involved: **7**

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

DLCD # 016-07 (16418)

DLCD file No. _____

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

Local Contact: **Ken Friday**

Phone: (503) 434-7516 Extension: 3630

Address: **525 NE Fourth Street**

Fax Number: **503-434-7544**

City: **McMinnville**

Zip: **97128-**

E-mail Address: **fridayk@co.yamhill.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 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.



BOARD OF COUNTY COMMISSIONERS

KATHY GEORGE • LESLIE LEWIS • MARY P. STERN

535 NE Fifth Street • McMinnville, OR 97128-4523
(503) 434-7501 • Fax (503) 434-7553
TTY (800) 735-2900 • www.co.yamhill.or.us

January 17, 2008

Harold Washington
19191 SW Peavine Road
McMinnville, OR 97128

Catherine Wright
Attorney at Law
P O Box 625
McMinnville, OR 97128

RE: Planning Docket Z-06-07

Dear Mr. Washington and Ms. Wright:


At the January 16, 2008 formal session of the Board of Commissioners, the Board adopted Board Order 08-52 approving the request for a zone change from HI Heavy Industrial to LI Light Industrial on Tax Lots 4430-2200, 2300, and 2400.

Findings in support of the Board's decision are contained in Exhibit "A" of Board Order 08-52, a copy of which is enclosed. Copies may also be reviewed in the Planning Department during normal business hours. The Planning Department is located at 525 NE Fourth Street, McMinnville, Oregon.

This action constitutes a final action by Yamhill County on the application, but you should be aware that a final land use decision by a local government may be appealed to the Land Use Board of Appeals in most circumstances. An appeal must be filed within 21 days of the date the decision became final, which was January 16, 2008. A successful appeal could revoke this approval.

If you have any questions regarding the county's action, you may contact me at the phone number listed above or the Planning Department (434-7516).

Sincerely,


Mary P. Stern, Chair
Board of Commissioners

MS-CW:cw

Enclosure

cc: ☒ Planning Department

JAN 23 2008
YAMHILL COUNTY PLANNING

BEFORE THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON

FOR THE COUNTY OF YAMHILL

SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

In the Matter of Approval of a Zone Change from HI Heavy)
Industrial to LI Light Industrial for a 7.5 Acre Parcel,) Board Order 08-52
Docket Z-06-07, Tax Lots 4430-2200, 2300 and 2400,)
Applicant Washington Roofing)

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the "Board")
sat for the transaction of county business on January 16, 2008, Commissioners Mary P. Stern, Leslie
Lewis and Kathy George being present.

IT APPEARING TO THE BOARD that Washington Roofing requested approval of a zone
change from Zone change from HI Heavy Industrial to LI Light Industrial, and

IT APPEARING TO THE BOARD that the matter was heard at a duly noticed public
hearing before the Planning Commission November 1, 2007, which voted for approval, and no
appeal was filed. NOW, THEREFORE,

IT IS HEREBY ORDERED BY THE BOARD, that the application is approved as detailed
in the Findings for Approval, attached as Exhibit "A" and by this reference incorporated herein. This
ordinance, being necessary for the health, safety, and welfare of the citizens of Yamhill County, and
an emergency having been declared to exist, is effective upon passage.

DONE this 16th day of January, 2008, at McMinnville, Oregon.

ATTEST:

YAMHILL COUNTY BOARD OF COMMISSIONERS

IAN COLEMAN
County Clerk

By: Anne Britt
Deputy Anne Britt



Mary P. Stern
Commissioner

MARY P. STERN

Leslie A. Lewis
Commissioner

LESLIE LEWIS

Kathy George
Commissioner

KATHY GEORGE

APPROVED AS TO FORM:

Rick Sanai
Rick Sanai, Assistant County Counsel

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B.O. 08-52

Ord. Washington Roofing

Exhibit "A" Findings for Approval

DOCKET NO.: Z-06-07

REQUEST: Zone change from HI Heavy Industrial to LI Light Industrial.

APPLICANT: Catherine A. Wright representing Harold Washington

TAX LOT: 4430-2200, 2300 and 2400

LOCATION: 1720 SW Highway 18, McMinnville

PARCEL SIZE: Approximately 7.5 acres

CRITERIA: Sections 702, 703 and 1208.02 of the Yamhill County Zoning Ordinance; the Yamhill County Comprehensive Plan Goals and Policies.

FINDINGS:

A. Background Facts:

1. Property size: Approximately 7.5 acres.
2. Access: State Highway 18.
3. On-site Land Use: The property contains a large warehouse building.
4. Surrounding Land Use and Zoning: Property to the east is zoned EF-80, Exclusive Farm Use and contains an orchard. Property to the south is zoned LI Light Industrial and contains "D Stake Mill". Property to the north and west, across Highway 18 is within the city limits of McMinnville and is in residential use. The property to the southwest, across Highway 18 is in farm use and contains an older orchard.
5. Soils: The Yamhill County Soil Survey shows the entire parcel is composed of Woodburn and Wapato soils (WuB, WuC and Wc).
6. Water: On-site well.
7. Sewage Disposal: On-site septic system
8. Fire Protection: McMinnville Rural Fire District.
9. Previous Actions: None

Ord. Washington Roofing

B.O. 08-52

10. Request: The applicant is applying for the zone change in order to move Washington Roofing Company onto the property. The existing warehouse would be used as the main storage building for Washington Roofing Co. A new office building would also be constructed.

B. Zone Change and Plan Amendment Provisions and Analysis

1. The zone change portion of the request must comply with the standards and criteria in YCZO Section 1208.02. These provisions are:
 - (A) *The proposed change is consistent with the goals, policies, and any other applicable provisions of the Comprehensive Plan.*
 - (B) *There is an existing demonstrable need for the particular uses allowed by the requested zone, considering the importance of such uses to the citizenry or the economy of the area, the existing market demand which such uses will satisfy, and the availability and location of other lands so zoned and their suitability for the uses allowed by the zone.*
 - (C) *The proposed change is appropriate considering the surrounding land uses, the density and pattern of development in the area, any changes which may have occurred in the vicinity to support the proposed amendment and the availability of utilities and services likely to be needed by the anticipated uses in the proposed district.*
 - (D) *Other lands in the county already designated for the proposed uses are either unavailable or not as well-suited for the anticipated uses due to location, size, or other factors.*
 - (E) *The amendment is consistent with the current Oregon Administrative Rules for exceptions, if applicable.*
2. Regarding criterion (A) above, Comprehensive Plan goals and policies which may be pertinent are:

Industrial Development Goal Statement I.H.1: To concentrate industries of similar types, service needs, and performance characteristics within designated areas of each of the existing urban centers; to encourage adequate land for new industrial development within urban growth boundaries; to encourage the relocation of existing industries from undesirable locations in order to eliminate land use conflicts; to attract new industries in accordance with the need to achieve a more balanced local property tax and employment base, while maintaining a high standard of environmental quality; and to protect the stability and functional aspect of industrial areas by protecting them from incompatible uses.

Policy I.H.1.b: To the greatest extent possible, industrial areas will be located within urban growth boundaries. Those industrial areas located outside urban growth boundaries will be compatible with the industrial development goal and will be located where they can be adequately served by necessary major utility lines, including electric power substations and transmission lines, trunk sewer lines, trunk water lines, and where appropriate, trunk gas lines.

The above goal and policy encourage the location of industrial uses within existing urban areas and urban growth boundaries. Traditionally, Yamhill County has encouraged applicants to look to industrial property inside the boundary prior to making application for rezoning property outside of the Urban Growth Boundary. The property is across the highway from the city limits of McMinnville. The land in the immediate area that is zoned LI is already in use and is therefore not available for his intended use. The subject property is already developed with a warehouse which the applicant plans to use to house the equipment and materials for his business. Approving the zone change would take advantage of the fact that the site is already developed.

Part of the above goal is to attract new industries to achieve a broader, more stable tax base while maintaining a high standard of environmental quality. Changing the zone would still allow the property to be used for industrial uses. Being a developed site, it has already had its environmental impact on the site. The proposed use would not greatly increase the environmental impact from what already exists at the site.

Policy I.H.1.b states in part that industrial uses . . . will be located where they can be adequately served by necessary major utility lines, including electric power substations and transmission lines, trunk sewer lines, trunk water lines, and where appropriate, trunk gas lines. The purpose of this policy is to assure that industrial users which are expected to utilize large amounts of water or electricity will be located within close proximity to places where those utilities are located. In this case the proposed use is not anticipated to require major utility lines, or major sewer or water lines. The need is only anticipated to be basic power and water services. At this point, no additional public services are needed.

The applicant's representative has submitted additional arguments related to goals and policies that are incorporated into these Findings by this reference.

4. Criterion (B) requires a finding that there is an existing, demonstrable need for the uses allowed in a light industrial zone. The applicant has submitted e-mails from Beaver Pallet LLC and Amity Self Storage, both owned by John Eshleman, who expressed interest in additional light industrial zoned property. In addition the application contains an e-mail from Jeffery A Pomeroy of Team Pomeroy Moving and Storage. These were submitted to demonstrate there is a demand for light industrial land. The availability and suitability of other Industrial zoned lands will be discussed in Finding B.6.
5. Regarding criterion (C), as noted above in Finding A.4, the surrounding area has a mixture of uses. A lumber processing facility, "D Stake Mill" exists to the south on property zoned for light industrial use. Farm uses are adjacent to the east in the form of a filbert orchard.

Residential development does exist in the area but it is across Highway 18. It appears the proposed zone change is appropriate considering the surrounding land uses. The level of use is not expected to need any extension of services. The water is provided by the city and electrical power is already provided to the site.

6. Criterion (D) requires the consideration of whether there are other available lands in the county that are zoned for light industrial uses. Location, size and suitability are factors that may be considered. The applicant has submitted a search of commercial and industrial land for sale in Yamhill County. The information submitted is Exhibit E of the application. The Land Use Board of Appeals has previously ruled that properties on the market for sale at any give time is at best an indirect measure of the need or market demand for such properties and can not be exclusively used to show these other light industrial lots are not "available" to satisfy the need. Having said that, there is a limited amount of industrial land in Yamhill County that is not already in use. Tax Lot 5405-1202 is 9 acres is size, is adjacent to a highway, and is located between McMinnville and Amity. This property was recently rezoned by the Planning Commission, partly based on the fact that there was little LI zoned property in the area. The drawback with this property is that it is not already constructed with a warehouse.
7. Regarding criterion (E), an exception was already taken when the property was originally zoned HI Heavy Industrial and so was excepted from State Planning Goals 3 and 4 at that time. Gary Fish with the Department of Land Conservation and Development wrote a letter on a previous zone change to LI, dated September 11, 2007, stating that either an exception to Goal 14 should be required or the industrial uses should be limited to 35,000 square feet. The reasoning behind these comments were as follows:

"The goal states that: "In unincorporated communities outside urban growth boundaries counties may approve uses, public facilities and services more intensive than allowed on rural lands by Goal 11 and 14. . ." Industrial uses in rural unincorporated communities are limited to 40,000 square feet of building floor space.

The department and the Commission have approved rural industrial zones and uses as small scale, low impact in other counties as complying with Goal 14 that apply a 35,000 square foot of floor space maximum building size provision for new industrial uses."

The application does not contain a request for a Goal 14 exception so based on DLCD's interpretation, any approval would need to have a 35,000 square foot limitation on building floor area.

C. Goal 12 (Transportation Rule) Provisions and Analysis

The provisions of the Transportation Planning Rule, implementing Goal 12, must be addressed. OAR 660-12-060 contains the provisions that must be met:

(1) *Amendments to functional plans, acknowledged comprehensive plans, and land use regulations which significantly affect a transportation facility shall assure that allowed land uses are consistent with the identified function, capacity, and level of service of the facility.*

1. The property is already zoned for Heavy Industrial use. The property is served by Highway 18. Going from a Heavy Industrial to a Light Industrial zone would not change or amend the functional plan because the Comprehensive Plan designation of the property remains Industrial. Therefore, it appears that the proposed use is consistent with the identified function, capacity, and level of service of the local roads. The proposal will be subject to ODOT permitting process.

CONCLUSIONS:

1. The request is for approval of a zone change from HI, Heavy Industrial to LI Light Industrial in order to allow the operation of the Washington Roofing Company on-site.
2. The request complies with the Comprehensive Plan Goals and Policies.
3. Approval of the request would allow use of land that is already built and committed to an industrial use.
4. The requested zone change is appropriate for the area considering the level of services needed and available, and considering surrounding development.
5. The request will comply with the Transportation Planning Rule since the proposed uses are not as traffic intensive as heavy industrial uses. The proposal will be subject to ODOT permitting process.

DECISION:

The request by Washington Roofing Company for a zone change from HI, Heavy Industrial to LI, Light Industrial on Tax Lots 4430-2200, 2300 and 2400 is hereby approved.

B.O.08-52

**Yamhill County Dept
of Planning & Development**
525 NE Fourth St
McMinnville, OR 97128
<http://www.co.yamhill.or.us/plan/>

Plan Amendment Specialist
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