



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

05/26/2009

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

FROM: Plan Amendment Program Specialist

SUBJECT: Douglas County Plan Amendment
DLCD File Number 001-09

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Due to the size of amended material submitted, a complete copy has not been attached. 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: Friday, June 05, 2009

This amendment was submitted to DLCD for review 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 THAT IT WAS MAILED TO DLCD. AS A RESULT, YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.

Cc: Jonathan Wright, Douglas County
Doug White, DLCD Community Services Specialist

Thomas Hogue, DLCD Regional Representative

<paa> YA

Notice of Adoption

DEPT OF

MAY 18 2009

LAND CONSERVATION AND DEVELOPMENT

**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: **DOUGLAS COUNTY**

Local file number: **09-007**

Date of Adoption: **5/13/09**

Date Mailed: **5/15/09**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **YES** Date: **2/27/09**

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".

Douglas County Land Department, request for a Comprehensive Plan Map and Text Amendment to remove a Dredge Material Disposal (DMD) site (Site VI), from the Coastal Comprehensive Plan, together with a Zone Change to remove the D/MO Overlay from the Site to allow future development of uses allowed in the underlying Industrial Zone, given that the filling of Site VI has been completed. DMD Site VI is a 4.00+/- acre portion of a 14.38+/- acre lot of record located on Bolon Island in the Umpqua River.

Does the Adoption differ from proposal? **No**

Plan Map Changed from: **DMD**

to: **NO DMD**

Zone Map Changed from: **D/MO**

to: **NO D/MO**

Location: **North east side of Bolon Island, between Lower Smith River Road and the N.P.R.R. railroad spur, approx. 1,200' northeast of the Urban Growth Boundary of Reedsport.**

Acres Involved: **4+/-**

Specify Density: Previous: **Na**

New: **Na**

Applicable statewide planning goals:

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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 file No. 001-09 (17396) [15526]

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

ODOT, DLCD, Port of Coos Bay, Port of Umpqua, Coastal Planning Advisory Committee ODF&W, DSL, NPRR, City of Reedsport, CFPA, Central Lincoln People's Utility, Verizon, Gardiner Sanitary District, City of Reedsport, Sewer System, Reedsport School District 105, Umpqua Soil & Water District.

Local Contact: **Jonathan Wright** Phone: (541) 440-4289 Extension: Na
Address: **Rm 106, Justice Bldg, Douglas County Courthouse** Fax Number: **541-440-6266**
City: **Roseburg** Zip: **97470** E-mail Address: **jmwright@co.douglas.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, or by emailing **larry.french@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 **larry.french@state.or.us** - **Attention: Plan Amendment Specialist.**

MAY 13 2009

**BEFORE THE BOARD OF COMMISSIONERS
OF DOUGLAS COUNTY**

BARBARA E. NIELSEN, COUNTY CLERK

RE: DOUGLAS COUNTY LAND DEPARTMENT)
request for a Comprehensive Plan Map and)
Text Amendment to remove a Dredge Material)
Disposal Site (Site VI) from the Comprehensive Plan,)
together with a Zone Change to remove the DMD)
Overlay from the Site to allow future development)
of uses allowed in the underlying Industrial Plan)
Designation and (M-3) Heavy Industrial Zone, on a)
4.00± acre portion of a 14.38 acre parcel on the)
northeast side of Bolon Island.)

**ORDER
PD File No. 09-007**

DOUGLAS COUNTY LAND DEPARTMENT ("applicant") requested a Comprehensive Plan Map and Text Amendment to remove DMD Site VI from the Comprehensive Plan, as Site 6 has been certified by the Douglas County Public Works Director as having been filled to capacity. Once a DMD site has been certified as having been filled to capacity, it may be removed from the Plan through the Plan Amendment process, with a corresponding Zone Change to remove the DMD Overlay from the site. The subject Site is a 4.00± acre portion of a 14.38 acre parcel located on the northeast side of Bolon Island, between Lower Smith River Road and the Northern Pacific Railroad rail spur. The Douglas County Planning Commission ("Commission") heard the matter on April 16, 2009, and unanimously approved the request. The Commission also unanimously adopted Findings of Fact approving the matter at the April 16, 2009 Planning Commission meeting.

Richard Sommer filed a timely appeal of the Commission Decision on April 27, 2009.

The Board members individually reviewed the procedural facts in the Commission Record. Having reviewed the Record, the Board members individually determined the Planning Commission Decision contains a thorough Record and did not deem it necessary to hold an additional hearing before the Board. The Board members each also considered that, if the appellant pursues a higher level of review, eliminating the Board hearing will expedite the process for all parties involved. Based on their review of the Commission Record and the above enumerated considerations, the Board opted to decline review of this matter.

Review by the Board of Commissioners is controlled by Douglas County Land Use and Development Ordinance ("LUDO") Section 2.700.8:

"Review by the Board is discretionary. After a Notice of Review is filed, the Board may choose to either: 1) allow review, in which case, the Board shall decide to either hear the matter itself and set a date for holding the review hearing, or the Board may, for any reason, appoint a Hearings Officer to review the matter and make a final local decision in the Board's place, or; 2) decline to review the matter, so long as the appealed decision does not involve a Plan Amendment of land designated agricultural or forest land or

a goal exception. If Board review of a matter is declined, the lower decision shall stand. If Board review of a matter is declined, the Board shall adopt an order so stating, but the order need not state any reason for the Board's decision to decline review."

Review is discretionary so long as the application does not involve either a Plan Amendment of land designated agricultural or forest land, or a goal exception. In the case of the subject Plan Amendment, no goal exception or land designated agricultural or forest land is involved.


In the Board of Commissioner's discretion, review is declined. Because we decline review, the Commission's Decision – in the words of LUDO §2.700.8 – "shall stand." In other words, it is affirmed. The Commission's Decision of April 16, 2009 is attached hereto and incorporated herein as the County's final decision.

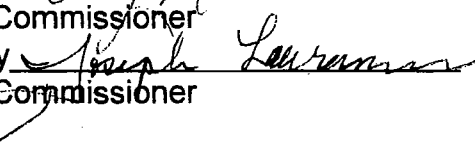
Review is declined.

Dated: May 13, 2009

DOUGLAS COUNTY BOARD OF
COMMISSIONERS

By  _____
Chair

By  _____
Commissioner

By  _____
Commissioner

BEFORE THE DOUGLAS COUNTY PLANNING COMMISSION

Douglas County Land Department, Findings of Fact and Decision, Planning Department
File No. 09-007.

This matter came on regularly for hearing before the Douglas County Planning Commission on April 16, 2009, in Room 216 of the Douglas County Courthouse.

The applicant's representative was present at the hearing.

The Planning Commissioners present at the hearing were: William Duckett, Javier Goirigolzarri, Brian Parkinson, Rich Raynor and Cindy Simmons.

The Planning Commission takes official notice of the following:

1. The Douglas County Comprehensive Plan, including the implementing Douglas County Land Use and Development Ordinance, adopted by the Douglas County Board of Commissioners December 31, 1980, effective April 1, 1981, and as later amended, which has been acknowledged by the Land Conservation and Development Commission on December 21, 1982, and by Compliance Acknowledgment Order 83-ACK-12 dated January 18, 1983.
2. The records of the Planning Department of Douglas County concerning publication and mailing of notice.

INTRODUCTION & PROCEDURAL FINDINGS OF FACT

1. The application was filed with the Planning Department at least 73 days prior to the April 16, 2009 public hearing.
2. At least 45 days prior to April 16, 2009, notice of the hearing was sent by mail to the applicant, to all property owners within 250 feet of the property which is the subject of the application, to service providers and governmental agencies and to the Coastal Planning Advisory Committee (PAC).
3. Notice of the hearing was given by publication in a newspaper of general circulation in the affected area at least 20 days prior to April 16, 2009.

Background

4. The applicant in this matter, Douglas County Land Department, submitted an application for a Comprehensive Plan Map and Text Amendment to remove a Dredge Material Disposal (DMD) site (Site VI), from the Comprehensive Plan, together with a Zone Change to remove the Dredge Material Disposal and Mitigation Site (D/MO) Overlay, to allow future development of uses allowed in the underlying Industrial Zone, given that the filling of Site VI has been completed. DMD Site VI is an approximate 4.00± acre portion (hereafter referred to as "the site"), of a 14.38± parcel, located on the northeast side of Bolon Island, between Lower Smith River Road and the Northern Pacific Railroad (N.P.R.R) spur, approximately 1,200' northeast of the Urban Growth Boundary of Reedsport.

5. On September 12, 2001, the County approved an Exception to Goal 11 (Public Facilities) and Goal 14 (Urbanization) for Bolon Island, allowing for urban services to be provided to the Island to facilitate urban industrial development at such time as any identified Dredge Material Disposal sites are no longer needed. Based on certification from Robb Paul, Douglas County Public Works Director, the subject site VI has been filled to capacity and the DMD overlay restriction is no longer applicable or necessary. The applicant proposes the subject Plan Amendment and Zone Change as a means of removing DMD Site VI from the Comprehensive Plan and removing the corresponding Overlay, thus allowing the site to be developed in accordance with its current Industrial Plan Designation and (M-3) Heavy Industrial zoning.
6. The written Staff Report issued on April 9, 2009, together with numerous exhibits, were presented to the Planning Commission during the April 16, 2009, hearing. The Staff Report described the nature of the application, provided pertinent background information along with applicable criteria and relevant Findings of Fact. The written Staff Report and the exhibits entered into Record are on file with the Planning Department.
7. At the April 16, 2009 hearing, the Planning Commission recognized parties in the matter which are contained in the Record on file with the Planning Department.
8. At the April 16, 2009 hearing, the Planning Commission first received testimony from the applicant's representative. The Commission then received testimony from those in support of the request, and then from several individuals who were opposed or who raised concerns over the potential environmental impacts of allowing the request.

SUBSTANTIVE FINDINGS OF FACT

On the basis of the testimony and evidence contained in the whole Record, the Planning Commission adopts the following findings of fact.

1. The proposed Plan Amendment and Zone Change to remove DMD Site VI from the Comprehensive Plan and Text and to remove the D/MO Overlay from the 4.00± acre portion (the site) of the 14.38 acre parcel, is subject to the criteria of the Land Use and Development Ordinance (LUDO) Article 35, Section 3.35.700.3, Article 38, Section 3.38.100 & Section 3.38.200 and Article 6, Section 6.500.
2. The Planning Commission finds that the Dredge Material Disposal Site VI on Bolon Island has been filled to capacity as certified by Robb Paul, Public Works Director, and has been prepared to accommodate the uses of the M-3 Industrial Zone based on a 2001 Planning Commission decision that approved a Plan Amendment for Bolon Island, consisting of an exception to Goal 11 (Public Facilities) and Goal 14 (Urbanization), allowing the subject property to provide enhanced urban industrial development.
3. The Planning Commission takes note that no development has been approved for the site at this time. The Planning Commission finds that the applicant has

conducted a review of environmental factors that may be present on the property and found the existence of wetlands based on a wetland delineation conducted by Stuntzner Engineering and Forestry, LLC, dated December 15, 2007. If needed, any development of wetlands in the future will comply fully with the requirements of the Department of State Lands (DSL). The Commission further finds that any subsequent development of the site will be required to be in compliance with any and all applicable Federal, State, and local regulations, standards and codes.

4. The Planning Commission finds that Gardiner Sanitary District has stated that they can provide sanitary sewer service and the City of Reedsport has stated that they can provide municipal water service to the site. Municipal services eliminate the need for onsite septic systems and wells, minimizing any impacts of Industrial development on the site to air, water, and land resources quality.
5. The Planning Commission finds that traffic impacts from the site would be negligible based on the property's direct access to Lower Smith River Road, County Road No. 48. The portion of Smith River Road that fronts the property is classified as a Major Collector. The Plan provides the guidance for principal highways and traffic impacts will be further addressed at the time of the site's development with an Industrial use. An access permit, reviewed and approved by Douglas County Public Works will be required at the time of development to ensure safe vehicular ingress and egress to the site.
6. The Planning Commission finds that a portion of the 14.38 acre parcel, north of Lower Smith River Road and South of U.S. Highway 101, has been identified as being subject to the 100 Year Floodplain. DMD Site VI, is located south of Lower Smith River Road and is not in an area identified by the Federal Emergency Management Agency (FEMA) as subject to the 100 Year Floodplain (Map Panel No. 230 of 1525).
7. The Planning Commission finds that DMD Site VI, as identified in the County Coastal Plan document, is far enough inland from the estuarine area that it has not been identified as having any estuarine designation.
8. The Planning Commission finds that the Shorelands Overlay applies to only a .005 of an acre portion at the most easterly tip of the site. The area to which the Overlay applies is low-lying and identified by the 2007, Stuntzner Engineering, Wetland Delineation, as being subject (in part) to a wetland, effectively excluding this portion of the property from development.
9. The 14.38± acre property contains two DMD Sites, Sites V & VI. Site V is located on the north side of the 14.38 acres, between U.S. Highway 101 and Lower Smith River Road, County Road No. 48, north of Site VI. The Planning Commission finds that future activities involving deposit of dredge spoils on Site V may result in noise, odors or other related impacts. In order to ensure that DMD Site V is available for use and not curtailed by the development of the subject site, a covenant shall be recorded against the site, waiving the right of the owner, lease holder, heirs, successors, and assigns, from objecting to the activities involving the placement of dredge spoils on Site V.

10. On the basis of the foregoing findings and with the adoption of the findings of the Staff Report, the Planning Commission concludes that the application meets the criteria for a Comprehensive Plan Amendment as stated in the LUDO, Section 6.500 and Zone Change as stated in the Douglas County LUDO, Section 3.38.100 & 200.

DECISION

Based on evidence received, the findings above and the findings contained in the Staff Report, we hereby APPROVE the request for a Comprehensive Plan Map and Text Amendment to remove a Dredge Material Disposal (DMD) site (Site VI), from the Coastal Comprehensive Plan Map and text, together with a Zone Change to remove the D/MO Overlay, to allow future development of uses allowed in the underlying Industrial Zone, Subject to the following condition.

- I. In order to minimize potential conflicts between DMD Site V and the future development of the subject site, a covenant shall be recorded against the 4.00± acre site (formerly Site VI), waiving the right of the owner, lease holder, heirs, successors, and assigns, from objecting to the activities or placement of dredge spoils on Site V.

Dated this 16th day of April, 2009.

DOUGLAS COUNTY PLANNING COMMISSION

By: 
Chairman

CLATSOP COUNTY PLANNING DEPARTMENT
ROOM 106, JUSTICE BUILDING
DOUGLAS COUNTY COURTHOUSE
ROSEBURG, OR 97470

DLCD
ATTN: PLAN AMENDMENT SPEC.
635 CAPITOL STREET NE SUITE 150
SALEM OR 97301-2540



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\$1.22
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