



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

06/18/2012

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

FROM: Plan Amendment Program Specialist

SUBJECT: Umatilla County Plan Amendment
DLCD File Number 004-12

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: Friday, June 29, 2012

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 Acknowledgment or 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. NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.

Cc: Tamra Mabbott, Umatilla County
Jon Jinings, DLCD Community Services Specialist
Grant Young, DLCD Regional Representative

<paa> YA



FORM 2

DLCD

Notice of Adoption

In person electronic mailed

DEPT OF

JUN 11 2012

LAND CONSERVATION AND DEVELOPMENT

For Office Use Only

This Form 2 must be mailed to DLCD within **5-Working Days after the Final Ordinance is signed** by the public Official Designated by the jurisdiction and all other requirements of ORS 197.615 and OAR 660-018-000

Jurisdiction: **Umatilla County**

Local file number: **P-105-12; Z-295-12**

Date of Adoption: **6/7/2012**

Date Mailed: **6/8/2012**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? Yes No Date: 4/19/2012

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".

Co-adopt a City of Hermiston Plan Map and Zoning Map amendment to change approximately 28 acres from Industrial (M-1) to Commercial (C-2). Land is within Hermiston Urban Growth Area. Amendment is also part of their Periodic Review Work Program.

Does the Adoption differ from proposal? Please select one

No

Plan Map Changed from: **Industrial**

to: **Commercial**

Zone Map Changed from: **Industrial (M-1)**

to: **Commercial (C-2)**

Location: **southwest corner of Hwy 395 and Punkin Ctr Road**

Acres Involved: **28**

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...

35-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. _____

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

ODOT, City of Hermiston, County Public Works Department

Local Contact: **Tamra Mabbott**

Phone: (541) 278-6246 Extension:

Address: 216 se 4th st

Fax Number: 541-278-5480

City: Pendleton

Zip: 97801-

E-mail Address: tamra@co.umatilla.or.us

ADOPTION SUBMITTAL REQUIREMENTS

This Form 2 must be received by DLCD no later than 5 working days after the ordinance has been signed by the public official designated by the jurisdiction to sign the approved ordinance(s) per ORS 197.615 and OAR Chapter 660, Division 18

1. This Form 2 must be submitted by local jurisdictions only (not by applicant).
2. When submitting the adopted amendment, please print a completed copy of Form 2 on light green paper if available.
3. Send this Form 2 and one complete paper copy (documents and maps) of the adopted amendment to the address below.
4. Submittal of this Notice of Adoption must include the final signed ordinance(s), all supporting finding(s), exhibit(s) and any other supplementary information (ORS 197.615).
5. Deadline to appeals to LUBA is calculated **twenty-one (21) days** from the receipt (postmark date) by DLCD of the adoption (ORS 197.830 to 197.845).
6. In addition to sending the Form 2 - Notice of Adoption to DLCD, please also remember to notify persons who participated in the local hearing and requested notice of the final decision. (ORS 197.615).
7. Submit **one complete paper copy** via United States Postal Service, Common Carrier or Hand Carried to the DLCD Salem Office and stamped with the incoming date stamp.
8. Please mail the adopted amendment packet to:

**ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540**

9. **Need More Copies?** Please print forms on 8½ -1/2x11 green paper only if available. If you have any questions or would like assistance, please contact your DLCD regional representative or contact the DLCD Salem Office at (503) 373-0050 x238 or e-mail plan.amendments@state.or.us.

RECEIVED

JUN 07 2012

UMATILLA COUNTY
RECORDS

THE BOARD OF COMMISSIONERS OF UMATILLA COUNTY

STATE OF OREGON

In the Matter of Co-Adopting)
 City of Hermiston Ordinance) ORDINANCE NO. 2012-11
 No. 2187 Amending City of)
 Hermiston Comprehensive Plan)
 Map Designation from Industrial)
 to Commercial and Zoning Map)
 from Light Industrial to)
 Outlying Commercial)

WHEREAS the City of Hermiston and Umatilla County have previously entered into a Joint Management Agreement applying to lands within the City Urban Growth Area, and pursuant to the agreement, amendments to the City of Hermiston Comprehensive Plan and Implementing Ordinances for application to the Urban Growth Area, are referred to Umatilla County for adoption;

WHEREAS on March 26, 2012, the Hermiston City Council adopted Ordinance No. 21587 to amend its Comprehensive Land Use Plan Map, to change four properties from Industrial to Commercial and amend the Zoning Map from Light Industrial (M-1) to Outlying Commercial (C-2);

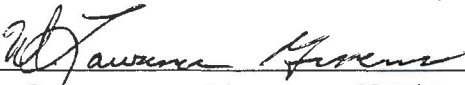
WHEREAS, at its May 24, 2012 meeting, the Umatilla County Planning Commission reviewed the ordinance and recommended that the Board of Commissioners co-adopt the ordinance;

WHEREAS the Board of Commissions held a public hearing on June 7, 2012, to consider the co-adoption of the ordinance and voted to co-adopt the ordinance.

NOW, THEREFORE the Board of Commissioners of Umatilla County ordains the co-adoption by Umatilla County, Oregon, of the City of Hermiston Ordinance No. 2189, amending City of Hermiston Comprehensive Plan Map for the four properties from Industrial to Commercial and amending Zoning Map from Light Industrial (M-1) to Outlying Commercial (C-2), a copy of which ordinance is attached to this document and incorporated by this reference.

DATED this 7th day of June, 2012.

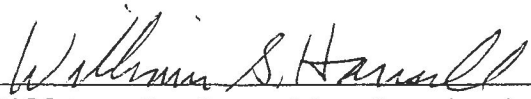
UMATILLA COUNTY BOARD OF COMMISSIONERS



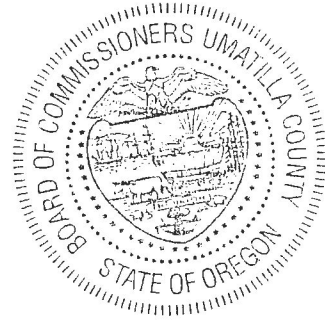
W. Lawrence Givens, Chair



Dennis D. Doherty, Commissioner



William S. Hansell, Commissioner



ATTEST:
OFFICE OF COUNTY RECORDS



Records Officer



ORDINANCE No. 2187

AN ORDINANCE AMENDING THE CITY OF HERMISTON'S COMPREHENSIVE PLAN MAP AND ZONING MAP.

THE CITY OF HERMISTON DOES ORDAIN AS FOLLOWS:

SECTION 1. The following described property shall be changed on the City of Hermiston comprehensive plan map from "Industrial" to "Commercial" and on the City of Hermiston zoning map from Light Industrial (M-1) to Outlying Commercial (C-2), to-wit:

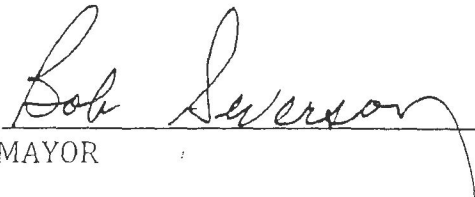
Beginning at a point at the southeast corner of the northeast quarter of the northeast quarter, Township 4 North, Range 28 EWM; thence west 1513 feet along the midsection of said northeast quarter of the northeast quarter; thence north 1038.64 feet; thence east 269.43 feet; thence north 444.34 feet to a point on the south right-of-way line County Road No. 612; thence east along said right-of-way line to the intersection of County Road No. 612 and N. First Street; thence south along west line of N. First Street to the point of beginning.

SECTION 2. The Findings of Fact as adopted by the Hermiston City Council on March 26, 2012 are incorporated herein by reference.

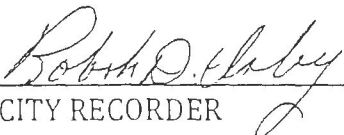
SECTION 3. The effective date of this ordinance shall be the thirtieth day after enactment.

PASSED by the Common Council this 26th day of March 2012.

SIGNED by the Mayor of Hermiston this 26th day of March 2012.


MAYOR

ATTEST:


CITY RECORDER

BEFORE THE BOARD OF COMMISSIONERS FOR UMATILLA COUNTY

In the Matter of a Request by the City of Hermiston to Co-adopt a Comprehensive Plan Map Amendment and a Zoning Map Amendment changing the plan and zone designation of four parcels from Industrial to Commercial.

**FINDINGS OF FACT AND
CONCLUSIONS OF LAW
RECOMMENDING APPROVAL OF A
LEGISLATIVE MAP AMENDMENT
FOR THE CITY OF HERMISTON
URBAN GROWTH AREA.**

1. Introduction

This Umatilla County Planning Commission (the "Planning Commission") has considered and recommended the Board of Commissioners approve the request by the City of Hermiston to co-adopt changes to the Comprehensive Plan and Zoning Map designation of lands within the Hermiston Urban Growth Area.

City of Hermiston adopted Ordinance No. 2187 on March 26, 2012, in a regularly scheduled and properly noticed public hearing. Said Ordinance changed the City of Hermiston Comprehensive plan map from "Industrial" to "Commercial" and the City of Hermiston zoning map from Light Industrial (M-1) to Outlying Commercial (C-2) for the following properties:

1. Tax Lot 200 of Assessor's map 4N 28 03AA, Account Number 119107
2. Tax Lot 800 of Assessor's map 4N 28 03 AA; Account Number 119109
3. Tax Lot 900 of Assessor's map 4N 28 03 AA; Account Number 119110
4. Tax Lot 1000 of Assessor's map 4N 28 03 AA; Account Number 119111

UCDC section 152.750 is entitled "Authorization to Initiate Amendments." This section provides, in relevant part, "An amendment to the text of this Chapter or to a zoning map may be initiated by the County Board of Commissioners, the County Planning Commission, or by application of a property owner."

The Hermiston Planning Area Joint Management Agreement provides that "Amendments to the Comprehensive Plan applicable to the UGA may be initiated by the City, the County or an affected person. Such amendments shall be processed by the City and will be referred to the County by the City for review and comment at least ten (1) days prior to the City Planning Commission public hearing." And further that the "amendments will be adopted by ordinance by the City prior to referral to the County for co-adoption review via the County Planning Commission." And finally, the JMA establishes that the "County Planning Commission and Board of Commissioners will hold public hearings on all proposed amendments following receipt of City recommendations or co-adoption referrals." Hermiston JMA Section E. Areas within the UGB, Overall Provisions, paragraph 10, Page 6.

The Board of Commissioners finds that based on City Ordinance No. 2187, a document that was physically before the Planning Commission at its public hearing on May 24, 2012, and before the Board at its hearing on June 7, 2012, is, therefore, part of the record in these proceedings, that this Comprehensive Plan Map and Zoning Map amendment was properly referred pursuant to UCDC section 152.750. The Board of Commissioners, therefore, has the authority to consider the Plan and Zone Map amendment.

2. Procedural Matters

A. Categorization of this Matter

This matter is a legislative matter because it proposes to rezone four parcels of land.

B. Post-Acknowledgment Amendment

This legislative amendment is an amendment to the County's acknowledged Comprehensive Plan Map and Zoning Map. ORS 197.610(1) and OAR 660-018-0020(1) require that the County provide notice to the Director of the Oregon Department of Land Conservation and Development ("DLCD") 35 days prior to the initial evidentiary hearing. Thirty-five days prior to the May 24, 2012 Planning Commission initial evidentiary hearing is April 19, 2012. The record includes a copy of the County's notice to DLCD on DLCD's form. The County has satisfied ORS 197.610(1) and OAR 660-018-0020(1) by mailing the post-acknowledgement amendment notice so that it arrived at the office of the Director of DLCD 35 days prior to the initial evidentiary hearing.

UCDC 152.771(B) requires that the County provide a legal notice of the May 24, 2012 hearing by publication in a newspaper of general circulation in the County for at least ten days prior to the date of the hearing. The record includes a copy of the notice published in the *East Oregonian* newspaper on May 12, 2012.

The Board of Commissioners finds that the County has satisfied the post-acknowledgement amendment notice required by ORS 197.610(1) and OAR Chapter 660-018-0020(1) and the legal notice of hearing publication in UCDC 152.771(B).

C. Procedure

UCDC 152.752 is entitled "Public Hearings on Amendments." This section provides, in relevant part, "The Planning Commission shall conduct a public hearing on the proposed amendment according to the procedures in section 152.771 of this Chapter at its earliest practicable meeting after it is proposed. The decision of the Planning Commission will be final unless appealed, except in the case where the amendment is to the text of this Chapter, and the Planning Commission shall forward its recommendation to the Board of Commissioners for final action."

Notwithstanding, the Joint Management Agreement requires a public hearing before the Planning Commission and the Board of Commissioners. Therefore, the County held two hearings for this legislative amendment, one before the Planning Commission and another before the Board of Commissioners.

Additionally, UCDC 152.771(A)(1) provides that a public hearing is required for legislative amendments. Because this hearing is legislative, the Board of Commissioners finds that the procedures and requirements for a quasi-judicial hearing are not applicable to this hearing. Therefore, UCDC 152.772, which applies to quasi-judicial hearings, is inapplicable to this legislative proceeding.

3. Description of Amendment

Amendment changes the map designations of four properties located within the Hermiston Urban Growth Area; properties located at the southwest corner of Punkin Center Road and State Highway 395. The four properties are currently designated Industrial in the Comprehensive Plan Map and on the Zoning Map. The new designation will be Commercial for the Comprehensive Plan and Zoning map.

4. Approval Criteria

UCDC 152.751 requires that an amendment to the text of the UCDC shall comply with provisions of the Umatilla County Comprehensive Plan (the "Plan"), the Oregon Transportation Planning Rule (the "TPR"), OAR Chapter 660, division 12, and the Umatilla County Transportation Plan ("Transportation Plan"). The County also finds that because this text amendment is a post-acknowledgment amendment, ORS 197.175(1) requires that the Plan and Map amendment satisfy applicable Statewide Planning Goals (the "Goals") and other applicable administrative rules. The County finds that the UCDC does not contain substantive standards for an amendment to the UCDC text. The remainder of this section addresses the applicable approval criteria.

A. Applicable Statewide Planning Goals

There are 19 Goals. The Board of Commissioners finds that Goal 1, "Citizen Involvement," Goal 2, "Land Use Planning," and Goal 12, "Transportation," and Goal 14 "Urbanization" are relevant to this application.

(a) *Goal 1. "Citizen Involvement: To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process."*

Finding: The Board of Commissioners finds that the County has an acknowledged citizen involvement program. The citizen involvement program is implemented through UCDC Chapter 152. The public has two *de novo* opportunities to testify on this text amendment.

The County finds that Goal 1 is satisfied.

(b) **Goal 2. "Land Use Planning: To establish a land use planning process and policy framework as a basis for all decisions and actions related to the use of land and to ensure an adequate factual basis for such decisions and actions."**

Finding: Goal 2 requires that County land use actions be consistent with the County's comprehensive plan. Goal 2 also requires that the County's action on this text amendment be coordinated with affected governmental entities, as coordination is defined in ORS 197.015(5). Further, Goal 2, Guideline C.1 requires that the County have an adequate factual base for its decision adopting the text amendment.

The Board of Commissioners finds as follows on each requirement of Goal 2. First, the Board of Commissioners finds that the record contains evidence that the County has given notice of the application to affected governmental entities including, but not limited to, the City of Hermiston, County Public Works Department, the Oregon Department of Transportation ("ODOT") and the Hermiston Rural Fire District. Coordination requires that the affected governmental entities be provided with the proposed map amendment, given a reasonable opportunity to comment, and that the County incorporate their comments as much as is reasonable. The record reflects that the County has followed the coordination requirements.

The County finds that Goal 2 is satisfied.

(c) **Goal 12. "Transportation. To provide and encourage a safe, convenient and economic transportation system."**

Finding: The Board of Commissioners finds that this map amendment will have an impact on the County's transportation system, however, the impact can be mitigated by compliance with the County Transportation System Plan and by implementation of appropriate mitigation measures at the time of development. The Planning Commission recommended that a condition of approval be adopted that requires future development of the subject property be required to comply with the County TSP standards and provide appropriate mitigation to the level of acceptance to the County.

The subject property abuts a county roadway, Punkin Center Road (Co.Rd.No 1250), which is designated a Major Collector in the County Transportation System Plan. The spacing standard for a major collector is ¼ mile for a public road and 500 feet for a driveway. These spacing standards will apply to future development of the properties. Further, at the time of development, mitigation to the county facilities may also be required.

The City of Hermiston conducted a Traffic Impact Analysis and provided a copy to the county. That TIA is a part of the record for this application.

The Oregon Department of Transportation (ODOT) reviewed the rezone and submitted comments requesting that the county advise the applicant to the District Contact to determine permit requirements and obtain application information. Further, County concurs with ODOT finding that the rezone does have a "significant effect" on the transportation system and improvements to US 395 are recommended to mitigate those impacts. This is also included as a condition of approval of this legislative amendment.

The County finds that this Goal is satisfied with the inclusion of two conditions of approval; one to comply with County TSP and provide appropriate mitigation at the time of development, and two, to mitigate impacts to State Highway 395 to mitigate impacts at the time of development.

(d) Goal 14. Urbanization. “To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.”

The County finds that the city and county have mutually agreed to plan for growth inside the urban growth area by the terms set forth in the Hermiston Planning Area Joint Management Agreement (JMA), updated and signed on April 12, 20024. This proposed co-adopt of a plan map and zoning map amendment is consistent with the terms of the JMA.

The County finds that this Goal is satisfied.

B. Applicable Oregon Administrative Rules

The Board of Commissioners finds that the only applicable administrative rule is the TPR. OAR 660-012-0060(1) requires that amendments to acknowledged land use plans be reviewed to determine whether there is a "significant affect" on affected transportation facilities. OAR 660-012-0060(2) provides that the significant affect for non-failing transportation facilities may be mitigated and OAR 660-012-0060(3) provides that there is no significant affect where a failing facility is not made worse by the text amendment.

C. Applicable Plan Policies

The Board of Commissioners finds that there are three relevant plan chapters, Chapter 4, "The Planning Process", Chapter 5, "Citizen Involvement," and Chapter 17 "Urbanization."

(a) Chapter 4, "The Planning Process"

Finding 2: "Under present laws County jurisdiction over unincorporated urbanizing lands cannot be transferred to cities."

Policy 2: “Cities’ plans for unincorporated urbanizable areas are by reference part of this plan.”

Finding: The Board of Commissioners finds that this policy is satisfied where the county and city have mutually agreed to Joint Management Agreement and this legislative amendment is consistent with the JMA for plan and map amendments within the urban growth area.

The County finds that this policy is satisfied.

(b) Chapter 5, "Citizen Involvement"

(1) ***Policy 1: "Provide information to the public on planning issues and programs, and encourage citizen input to planning efforts."***

Finding: The Board of Commissioners finds that Chapter 5, Policy 1 is satisfied because of the publication of notice of the Planning Commission and Board of Commissioners hearings in a newspaper of county-wide circulation and because there are 2 *de novo* hearings where the public may testify on the proposed text amendment.

The Count finds that this policy is satisfied.

(2) ***Policy 5: "Through appropriate media, encourage those County residents' participation during both city and County deliberation proceedings."***

Finding: The Board of Commissioners finds, as explained above, that the publication of notice of the Planning Commission hearing and the Board of Commissioners hearing in a newspaper of county-wide circulation fulfills this requirement.

The County finds that this policy is satisfied.

(c) Chapter 17, "Urbanization"

Policy 1. "Adopt and enforce city plans and substantive standards for unincorporated areas within urban growth boundaries."

Finding: The Board of Commissioners finds that the proposed co-adopt of a map and zone change has the effect of upholding the substantive standards for zoning and development of the four parcels.

The County finds that this policy is satisfied.

Policy 3. Specify by agreement with the cities the processes for amendments to unincorporated urban growth plans.

Finding: The Board of Commissioners finds that this legislative action is consistent with the Joint Management Agreement.

The County finds that this policy is satisfied.

5. Conclusion

For the reasons explained in these findings, the Board of Commissioners finds that the applicable approval criteria for this Comprehensive Plan Map and Zoning Map amendment have been satisfied, subject to the following conditions.

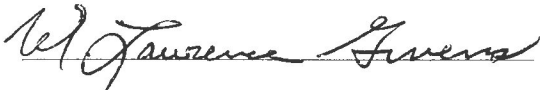
Conditions of Approval

1. Future development of the subject property shall be subject to compliance with the County Transportation System Plan standards. Appropriate mitigation,

including but not limited to improvements to county facilities, may be required and shall be determined at the time of development.

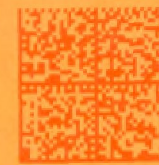
2. Future development of the subject property shall be subject to improvements to US 395 to mitigate impacts.

UMATILLA COUNTY BOARD OF COMMISSIONERS



W. Lawrence Givens, Chairman

Date: _____



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DEPT OF

JUN 11 2012

LAND CONSERVATION
AND DEVELOPMENT



**Umatilla County
Department of
Land Use Planning**

216 SE 4th Street
Pendleton, OR 97801

ATTN: Plan Amendment Specialist
**Dept of Land Conservation
and Development**
635 Capitol Street NE. Ste. 150
Salem, OR 97301-2540

