



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

05/20/2013

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

FROM: Plan Amendment Program Specialist

SUBJECT: City of Pendleton Plan Amendment
DLCD File Number 002-12

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: Monday, June 03, 2013

This amendment was submitted to DLCD for review prior to adoption with less than the required 35-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 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: Evan MacKenzie, City of Pendleton
Gordon Howard, DLCD Urban Planning Specialist
Grant Young, DLCD Regional Representative

<paa> YA



FORM **2**

DLCD

Notice of Adoption

In person electronic mailed

DEPT OF

MAY 16 2013

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: **City of Pendleton**

Local file number: **AMD12-02**

Date of Adoption: **August 7, 2012**

Date Mailed: **May 13, 2013**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? Yes No Date: 05/04/2012

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".

Rezone of four tax lots (1.07 acres) from R-1 Low Density Residential to C-3 Service Commercial, consistent with all other property except one in a superblock that is zoned C-3. A portion of the property was irrevocably committed to commercial use (storage facility); the remainder was of a size and shape that was undevelopable under setback standards in residential zones.

Does the Adoption differ from proposal? Please select one

No

Plan Map Changed from: **R-1**

to: **C-3**

Zone Map Changed from: **R-1**

to: **C-3**

Location: **S end of Southgate Place at US395**

Acres Involved: **1.07**

Specify Density: Previous: **3.9-9 DU/acre**

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**

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. 002-12 (19328) [17454]

DLCD file No. _____

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

Umatilla County (for assessment purposes only)

Local Contact: **Evan MacKenzie**

Phone: **(541) 966-0261** Extension:

Address: **500 SW Dorion Ave**

Fax Number: **541-966-0251**

City: **Pendleton**

Zip: **97801**

E-mail Address: **evan.mackenzie@ci.pendleton.or.us**

ADOPTION SUBMITTAL REQUIREMENTS

This Form 2 must be received by DLCD no later than 5 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, please print this **Form 2** on light **green paper if available**.
3. **Send this Form 2 and One (1) Complete Paper Copy and One (1) Electronic Digital CD (documents and maps) of the Adopted Amendment to the address in number 6:**
4. **Electronic Submittals: Form 2 – Notice of Adoption will not be accepted via email or any electronic or digital format at this time.**
5. The Adopted Materials must include the final decision signed by the official designated by the jurisdiction. The Final Decision must include approved signed ordinance(s), finding(s), exhibit(s), and any map(s).
6. **DLCD Notice of Adoption must be submitted in One (1) Complete Paper Copy and One (1) Electronic Digital CD via United States Postal Service, Common Carrier or Hand Carried to the DLCD Salem Office and stamped with the incoming date stamp.** (for submittal instructions, also see # 5)] **MAIL the PAPER COPY and CD 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**

7. Submittal of this Notice of Adoption must include the signed ordinance(s), finding(s), exhibit(s) and any other supplementary information (see ORS 197.615).
8. Deadline to appeals to LUBA is calculated **twenty-one (21) days** from the receipt (postmark date) of adoption (see ORS 197.830 to 197.845).
9. In addition to sending the Form 2 - Notice of Adoption to DLCD, please notify persons who participated in the local hearing and requested notice of the final decision at the same time the adoption packet is mailed to DLCD (see ORS 197.615).
10. **Need More Copies?** You can now access these forms online at <http://www.lcd.state.or.us/>. You may also call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518.

ORDINANCE NO. 3824

AN ORDINANCE AMENDING ORDINANCE NO. 3442 (THE COMPREHENSIVE PLAN AND MAP) AND ORDINANCE NO. 3250 (THE ZONING MAP) THROUGH REZONE OF 1.07 ACRES FROM R-1 LOW DENSITY RESIDENTIAL TO C-3 SERVICE COMMERCIAL.

WHEREAS; pursuant to Oregon Statewide Goals, the City of Pendleton maintains an Urban Growth Boundary (UGB), which is intended to concentrate urban development so that agricultural lands may be preserved for agricultural uses; and

WHEREAS; all lands within the UGB are intended for urban development and should be zoned to permit development that will accommodate projected needs over a 20-year planning period; and

WHEREAS; the applicant has submitted a request to change the zoning on approximately 1.07 acres from R-1 Low Density Residential to C-3 Service Commercial; and

WHEREAS; the proposed rezone is consistent with nearby properties and uses; and

WHEREAS; the request supports the City's obligations under Goal 9 (Economic Development), "To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens" by increasing the amount of land available for new employee housing; and

WHEREAS; the request is consistent with the City's responsibilities under Goal 11 (Public Facilities and Services) because it will not overburden provision of services; and

WHEREAS; the request is consistent with the City's responsibilities under Goal 12 (Transportation Planning Rule) because it will not result in a significant impact to the transportation network; and

WHEREAS; the proposal is consistent with the standards and criteria for an amendment to the Zoning Ordinance because it complies with and implements the Comprehensive Plan in a manner consistent with Statute and Rule and reduces inconsistencies on the Zoning Map.

WHEREAS; notice was provided to the general public as set forth in Oregon Revised Statutes and the City of Pendleton Zoning Ordinance; and;

WHEREAS; adoption of the proposed amendments will not change or restrict the types of uses permitted outright or conditionally in any City zones; no "Measure 56" notice was required; and

WHEREAS; the City of Pendleton Planning Commission held a hearing on June 8, 2012, and recommended adoption of the proposed amendments based on the findings and conclusions contained in the staff report; and

WHEREAS; a public hearing was held before the City of Pendleton City Council on July 10, 2012, and all written and oral testimony concerning the matter was received and addressed at the hearing;

NOW, THEREFORE, THE CITY OF PENDLETON ORDAINS AS FOLLOWS:

Property described as Tax Lots 100, 101, 102, Map 2N-32-16BA; and Tax Lot 202, Map 2N-32-16CD, and further described in the attached legal description, containing 1.07 acres more-or-less, is hereby rezoned from R-1 Low Density Residential to C-3 Service Commercial.

PASSED by the City Council and approved by the Mayor August 7, 2012

APPROVED: *Phillip W. Houk*
Phillip W. Houk
Mayor

ATTEST: *A. F. Denton*
Andrea Denton, City Recorder

Approved as to Form:
Nancy Kerns
Nancy Kerns, City Attorney



Legal Description – Tax Lots 100, 101, and 102 on map 2N-32-16BA

Beginning at a point where the North line of Section 21, Township 2 North, Range 32, East of the Willamette Meridian, Umatilla County, Oregon intersects the Westerly right of way line of the relocated U.S. Oregon Highway No. 395 and the True Point of Beginning for this description; thence Southerly along said Westerly right of way line to its intersection with the Easterly right of way line of the Old U.S. Highway 395, now known as Montee Drive; thence Northerly along said Easterly right of way line to the North line of said Section 21; thence East along said North line to the point of beginning. Excepting therefrom any portion lying within the right of way of County Road No. 303 and Montee Drive.

Legal Description – Tax Lot 202 on map 2N-32-16CD

Portion of the Southwest Quarter of Section 16, Township 2 North, Range 32, East of the Willamette Meridian, Umatilla County, Oregon, and being described as follows:

Commencing at South Quarter corner of said Section 16; thence South 89°50'58" West along Southerly line of said Section 16, a distance of 206.29 feet to a 1/2 inch iron rod in Westerly right of way line of Highway No. 395 and the point of beginning; thence continuing South 89°50'58" West along Southerly line of said Section 16, a distance of 104.43 feet to a 1/2 inch iron rod in Easterly right of way line of Southgate Place; thence North 8°21'31" West along said Easterly right of way line a distance of 196.59 feet to 1/2 inch iron rod; thence North 89°39'57" East a distance of 182.71 feet to a 1/2 inch iron rod in Westerly right of way line of Highway No. 395; thence Southerly along said Westerly right of way line and along a circular curve, concave Southeasterly with a radius of 3349.04 feet, chord distance of 219.82 feet, chord bearing South 12°46'05" West and arc distance of 219.86 feet to the point of beginning;

All being East of the Willamette Meridian, Umatilla County, Oregon.



CITY OF PENDLETON PLANNING COMMISSION
Comprehensive Plan/Zoning Map Amendment Planning Commission Recommendation

File No.: AMD12-02
Deemed Complete: May 4, 2012
Prepared: May 30, 2012
Hearing Date: June 7, 2012
120-Day Limit: N/A for legislative actions

APPLICANT/ OWNER: Steve Richards
Eastern Oregon Development
42980 Haney Ln
Pendleton, OR 97801

SITE LOCATION: West of Southgate Pl and S of SW Quinney Ave
DESCRIPTION: Map 2N-32-21BA, Tls 00100, 00101, 00102 (0.41ac)
Map 2N-32-16CD, Tax Lot 202 (0.66ac)

ZONING: R-1 Low Density Residential

PROPOSAL: Request to rezone 48,800 square feet (1.07 acres) +/- from R-1 Low Density Residential to C-3 Service Commercial.

REVIEWED BY: Evan MacKenzie, City Planner

ATTACHMENTS: Application and supplemental materials
Assessor Map 2N-32-21BA

PREPARED BY: Evan MacKenzie, City Planner

Ordinance No. 3824 Tentatively Scheduled for City Council Review

First Reading June 19, 2012

Second Reading and Consideration July 3, 2012

ATTACHMENTS:

Application and supplemental materials

SUMMARY:

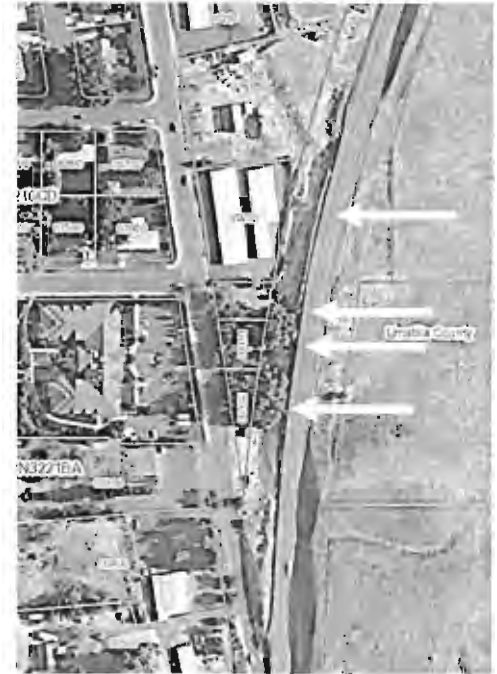
The applicant/property owner requests consideration of an amendment to the City of Pendleton Comprehensive Plan and Zoning maps. The proposed amendment would rezone approximately 1.07 acres of land currently zoned R-1 Low Density Residential to C-3 Service Commercial, which is consistent with abutting properties to the north.

The subject property is currently developed with one dwelling. The applicant/property owner has submitted the request in order to consider potential uses for the subject property consistent with those in the vicinity. **Although the applicant is pursuing this proposal in order to consider redevelopment of the site consistent with his storage units on TL 202, no development has been proposed at this time.**

APPLICABLE CRITERIA AND STANDARDS:

The standards applicable to uses in R-1 and C-3 zones are contained in Articles IV and VI of the Zoning Ordinance (No. 3250). The criteria for approval of a text or map amendment to the Zoning Ordinance or Comprehensive Plan are contained in Article XXI (Sections 147-150).

The proposed development must comply with applicable provisions contained in Chapter 10 of the General Ordinances of the City of Pendleton, and the City of Pendleton Comprehensive Plan. Generally, unless otherwise noted, if a request is found to be consistent with the General Ordinances it is considered consistent with the Comprehensive Plan.



In addition to local code, the request must comply with additional criteria and standards as contained in Oregon Revised Statutes (ORS) and Oregon Administrative Rules (OAR). Amendments to the City's Comprehensive Plan, specifically the Goal 9 (Economic Development), Goal 11 (Public Facilities) and Goal 12 (Transportation) elements, must be completed as part of this rezone. Action on this request requires approval by both the Planning Commission (in the form of a recommendation to Council) and City Council (by ordinance).

SECTION 2. PURPOSE: The text of this Ordinance and zoning map constitute the zoning ordinance and regulations for the area within the Urban Growth Boundary of the City of Pendleton and are adopted to protect and promote the public health, safety and welfare, and to provide the economic and social advantages which result from the orderly and planned use of land resources.

1. EXISTING ZONE

ARTICLE IV. RESIDENTIAL ZONES

LOW DENSITY RESIDENTIAL ZONE R-1

SECTION 13. DESCRIPTION AND PURPOSE. To provide for the transition of large, sparsely settled areas from rural or agricultural characteristics to urban one-family residential use and to provide areas where a partial agricultural atmosphere is retained.

SECTION 14. USES PERMITTED OUTRIGHT. In a Low Density Residential Zone R-1, the following uses and their accessory uses are permitted outright:

- A. City Park;
- B. Condominium;
- C. Dwelling, duplex; or two single family dwellings on a minimum lot size of 6,000 square feet (subject to the provisions of Section 22), provided the distance between principal buildings is a minimum of ten feet;
- D. Dwelling, single family (attached or detached);
- E. Keeping of livestock (except swine), fowl, rabbit and bees primarily for personal, noncommercial use, provided that:
 - (1) in the case of livestock, it shall be kept in an enclosure having a minimum area of 2,500 square feet for each animal kept therein.
 - (2) in the case of rabbits or other like animals or fowl, animals or fowl shall be kept in an enclosure having not less than fifteen (15) square feet for each animal or fowl.
 - (3) in any event no structure, building, corral, or enclosure erected or maintained for purposes of keeping livestock, rabbits or fowl shall be located within one hundred (100') feet of a dwelling, school, church, hospital, public playground or public building;
- F. Manufactured Home, Class A, provided that it is located within a Class A or Class B Manufactured Housing Subdistrict, and Class B, provided that it is located within a Class B Manufactured Housing Subdistrict, both subject to the requirements of Sections 31 and 32 of this Ordinance.
- G. Residential Homes and Residential Facilities;
- H. Townhouse.

SECTION 15. CONDITIONAL USES PERMITTED. In a Low Density Residential (R-1) zone, the following uses and their accessory uses are permitted when authorized in accordance with the provisions of Sections 131-137 of this Ordinance:

- A. Agricultural Production and Services (SIC Major Groups 01 - 07);
- B. Animal Clinic, Kennel, or Hospital;
- C. Cemetery;
- D. Church;
- E. Day Nursery, Social Services (SIC Major Group 83);
- F. Dwelling, multi-family, provided that:
 - (1) Housing development shall not exceed more than nine (9) dwelling units per gross acre;
 - (2) The primary access shall be via a street that is improved or will be improved to City standards prior to occupancy of any unit, unless otherwise approved by the Planning Commission;
 - (3) Public facilities and services are available to the site and are deemed adequate by the City to meet the requirements of this use. Any extension or oversizing of sewer/water and/or storm water to serve the development shall be totally at the expense of the developer and consistent with applicable City policies and ordinances;
 - (4) That a sum be paid (for parks and recreation purposes) in accordance with the Subdivision Ordinance prior to issuance of a building permit;

- (5) A site plan (indicating vehicular access and movement, parking, landscaping and fencing or buffering) shall be submitted to and approved by the Planning Commission (subject to the requirements of Sections 119-121 of this Ordinance) prior to issuance of a building permit;
- (6) An agreement, recorded by the property owner, shall be instituted that will prohibit the parcel of land approved for multi-family use under this Section from being further developed or subdivided for purposes of sale or building development. Lands left undeveloped or in open space shall be maintained by the property owner so as not to conflict with the provisions of Ordinance No. 2422 (Section 16 and other applicable sections);
- G. Governmental structure or land use, public and semi-public use; or structures, including, but not limited to: SIC Major Groups 43, 91, 92, 93, 94, 95 and 96;
- H. Home occupation; as provided in Section 29 of this Ordinance;
- I. Hospital and Health Care Facility, SIC Groups 805 and 806;
- J. Light Industrial Uses (SIC Major Groups 25, 27, 36, 38, and 39, and SIC Groups 205, and 357);
- K. Manufactured Home Park, Manufactured Home Subdivision, Vacation Trailer Parks (Individual Conditional Use permits not required for each unit within approved parks or subdivisions);
- L. Neighborhood Commercial, see Article V, Section 28, for details;
- M. Schools and Colleges (SIC Major Group 82);
- N. Transportation and Communication Facilities (SIC Major Groups 40, 4221, 4225, 45, 46, 4783, 48 and 49).

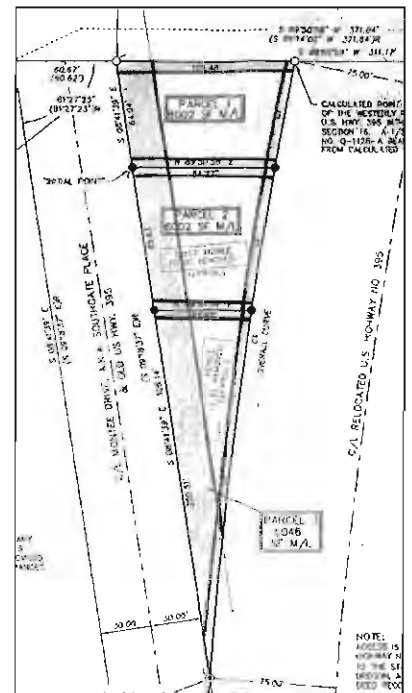
SECTION 24. YARD (SETBACK) REGULATIONS. The yard (setback) requirements in all residential zones shall be as follows:

- A. Front Yard: twenty (20) foot minimum;
- B. Side Yard: five (5) foot minimum, except on corner lots, where ten (10) feet are required on the side abutting the street, and in the case of attached single-family dwellings, where a zero lot line is allowable (with the provision of common "party" wall construction);
- C. Rear Yard: five (5) foot minimum, except in the case of attached single-family dwellings, where a zero rear lot line is allowable (with the provision of common "party" wall construction).

FINDINGS: The uses above are allowed, either outright or conditionally, in the R-1 zone.

The image at right shows TLs 100, 101 and 102 with the minimum setbacks of all residential zones superimposed. The setbacks render TL 102 (southernmost lot) virtually unbuildable. TLs 100 and 101 are technically buildable, but the dimensions of the two lots do not result in a favorable building envelope.

CONCLUSION: If the proposal for rezone is approved, the development standards of the R-1 zone would no longer apply to the subject property. Standard residential setbacks make the undeveloped properties very difficult to build.



2. **PROPOSED ZONE**

ARTICLE VI. COMMERCIAL ZONES

SERVICE COMMERCIAL ZONE (C-3)

SECTION 40. DESCRIPTION AND PURPOSE. To provide areas for retail and service uses that are accessible to the entire community.

SECTION 41. USES PERMITTED OUTRIGHT. In a Service Commercial (C-3) zone, the following uses and their accessory uses are permitted outright, except as provided in Section 45 of this Ordinance:

- A. Auto Repair, Services, and Garages (SIC Major Groups 50 and 75);
- B. Business and Personal Services (SIC Major Groups 472, 72, 73, 76 except 769, and 89);
- C. Commercial Amusement and Recreation (SIC Major Groups 78 and 79);
- D. Contractors (SIC Major Groups 15 and 17);
- E. Dwelling, multi-family, or residential facility, subject to the condition that:
 - (1) Housing development shall not exceed eighty (80) dwelling units per gross acre;

- (2) The use occupies space above a permitted ground floor use;
- (3) The primary access shall be via a collector or arterial street (as designated in the Comprehensive Plan) that is improved or will be improved to City standards prior to occupancy of any unit, unless approved by the Planning Commission;
- (4) Public facilities and services are available to the site and are deemed adequate by the City to meet the requirements of this use. Any extension or oversizing of sewer/water and/or storm sewer to serve the development shall be totally at the expense of the developer and consistent with applicable City policies and ordinances;
- (5) That a sum be paid (for parks and recreation purposes) in accordance with the Subdivision Ordinance prior to issuance of a building permit;
- (6) A site plan (indicating vehicular access and movement, parking, landscaping and fencing or buffering) shall be submitted to and approved by the Planning Commission (subject to the requirements of Sections 119-121 of this Ordinance) prior to issuance of a building permit. One (1) off-street parking space per residential unit shall be required; said spaces being located no more than 250 feet from the building they serve. All private off-street parking locations shall be approved by the Planning Commission;
- F. Eating Establishment and Food Stores (SIC Major Group 54 and 5812);
- G. Financial, Law, Insurance, and Real Estate Offices (SIC Major Groups 60, 61, 62, 63, 64, 65, 66, 67, and 81);
- H. General Retail (SIC Major Groups 52, 53, 55 except 554, 56, 57, and 59 except 598);
- I. Health Services (SIC Major Group 80 except 806);
- J. Transit Facilities (SIC Major Group 41)

SECTION 42. CONDITIONAL USES PERMITTED. In the Service Commercial (C-3) zone, the following uses and their accessory uses are permitted when authorized in accordance with the provisions of Sections 131-137 of this Ordinance:

- A. Communication Facilities (SIC Major Group 48);
- B. Drinking Establishments (SIC code 5813);
- C. Dwelling, caretaker or manager only;
- D. Dwelling, multi-family, or residential facility, subject to the condition that:
 - (1) Housing development shall not exceed eighty (80) dwelling units per gross acre;
 - (2) The use does not occupy space above a permitted ground floor use;
 - (3) The primary access shall be via a collector or arterial street (as designated in the Comprehensive Plan) that is improved or will be improved to City standards prior to occupancy of any unit, unless otherwise approved by the Planning Commission;
 - (4) Public facilities and services are available to the site and are deemed adequate by the City to meet the requirements of this use. Any extension or oversizing of sewer/water and/or storm sewer to serve the development shall be totally at the expense of the developer and consistent with applicable City policies and ordinances;
 - (5) That a sum be paid (for parks and recreation purposes) in accordance with the Subdivision Ordinance prior to issuance of a building permit;
 - (6) A site plan (indicating vehicular access and movement, parking, landscaping and fencing or buffering) shall be submitted to and approved by the Planning Commission (subject to the requirement of Sections 119-121 of this Ordinance) prior to issuance of a building permit. One (1) off-street parking space per residential unit shall be required; said spaces being located no more than 250 feet from the building they serve. All private off-street parking locations shall be approved by the Planning Commission;
- E. Educational Services (SIC Major Group 82);
- F. Governmental, public or semi-public use or structures--including, but not limited to: SIC Major Groups 43, 91, 92, 93, 94, 95 and 96;
- G. Hospitals (SIC 806);
- H. Hotels, Motels, Mobile Home Parks, other lodging (SIC Group 70);
- I. Membership Organizations (SIC Major Group 86);
- J. Museums, Art Galleries, Zous (SIC Major Group 84);
- K. Printing and publishing (SIC Major Group 27);
- L. Railroad Facilities (SIC Major Group 40);
- M. Service Station (SIC Group 554);
- N. Social Service Organizations (SIC Major Group 83);
- D. Transportation Service (SIC Major Groups 47, except 472, and 49);
- P. Warehousing, motor freight (SIC Major Group 42).

ARTICLE VII. GENERAL PROVISIONS FOR COMMERCIAL ZONES

SECTION 43. LOT SIZE. In the Commercial zoning districts, there shall be no minimum lot size.

SECTION 44. YARDS. No yards shall be required in commercial zones, except when the property abuts or is less than sixty (60') feet from a residential zone, in which case the same yards shall be required as those in the abutting zone. The use of landscaped areas may be required

by the Planning Commission to buffer commercial uses from residential uses.

SECTION 45. LOT COVERAGE. There shall be no maximum lot coverage regulations for commercial zones; however, the construction of any commercial building over 25,000 square feet shall require authorization by the Planning Commission under the conditional use provisions of Sections 131-137 of this Ordinance, even if the use is permitted outright.

SECTION 46. BUILDING HEIGHT. The maximum allowable height of buildings in the commercial zones shall be as follows:

- A. Central Commercial: No limit;
- B. Tourist Commercial: 50 feet or 5 stories;
- C. Service Commercial: 50 feet or 5 stories.

Exceptions to Height Limits. The height limits of this Ordinance shall not apply to church spires, belfries, cupolas and domes not for human occupancy, monuments, water towers, observation towers, transmission towers, windmills, chimneys, smokestacks, derricks, conveyors, flagpoles, radio towers, masts, aerials, solar energy collectors and equipment used for the mounting or operation of such devices, and any other on-site energy generating device.

SECTION 47. FENCES. In a commercial zoning district, fences or walls not to exceed eight (8) feet in height may be located or maintained in any yard, except where the requirements of vision clearance apply. Any fence over six (6') feet in height requires a building permit.

SECTION 48. FUEL STORAGE TANK (ABOVE GROUND). Above ground fuel storage tanks, as defined by this Ordinance shall be located so that no portion of the tank is closer to a property line or building than stated below:

- 0 - 275 gallons 10 foot setback
- 276 - 750 gallons 15 foot setback
- 751 - 6000 gallons 25 foot setback

Said tanks shall also comply with all applicable local and state fire codes. Installation and dispensing permits shall be required from the Pendleton Fire Marshal and Oregon State Fire Marshal. Tanks with a capacity exceeding 6000 gallons shall be considered a bulk plant or tank farm and shall require a conditional use permit.

SECTION 49. DRIVEWAYS. In order to improve the access and safety of freight hauling, driveways outside of the downtown area, shall be constructed in accordance with the graphic in Section 25.

FINDINGS: The above uses and general provisions apply in the C-3 zone.

CONCLUSION: If the proposal for rezone is approved, the development standards of the C-3 zone would apply to the subject property.

3. STATE OF OREGON GOAL 9: ECONOMIC DEVELOPMENT (OAR 660-015-0000(9))

To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.

Comprehensive plans and policies shall contribute to a stable and healthy economy in all regions of the state. Such plans shall be based on inventories of areas suitable for increased economic growth and activity after taking into consideration the health of the current economic base; materials and energy availability and cost; labor market factors; educational and technical training programs; availability of key public facilities; necessary support facilities; current market forces; location relative to markets; availability of renewable and non-renewable resources; availability of land; and pollution control requirements.

Comprehensive plans for urban areas shall:

- 1. Include an analysis of the community's economic patterns, potentialities, strengths, and deficiencies as they relate to state and national trends;
- 2. Contain policies concerning the economic development opportunities in the community;
- 3. Provide for at least an adequate supply of sites of suitable sizes, types, locations, and service levels for a variety of industrial and commercial uses consistent with plan policies;
- 4. Limit uses on or near sites zoned for specific industrial and commercial uses to those which are compatible with proposed uses.

In accordance with ORS 197.180 and Goal 2, state agencies that issue permits affecting land use shall identify in their coordination programs how they will coordinate permit issuance with other state agencies, cities and counties.

GUIDELINES

A. PLANNING

- 1. A principal determinant in planning for major industrial and commercial developments should be the comparative advantage of the region within which the developments would be located. Comparative advantage industries are those economic activities which represent the most efficient use of resources, relative to other geographic areas.

2. The economic development projections and the comprehensive plan which is drawn from the projections should take into account the availability of the necessary natural resources to support the expanded industrial development and associated populations. The plan should also take into account the social, environmental, energy, and economic impacts upon the resident population.
3. Plans should designate the type and level of public facilities and services appropriate to support the degree of economic development being proposed.
4. Plans should strongly emphasize the expansion of and increased productivity from existing industries and firms as a means to strengthen local and regional economic development.
5. Plans directed toward diversification and improvement of the economy of the planning area should consider as a major determinant, the carrying capacity of the air, land and water resources of the planning area. The land conservation and development actions provided for by such plans should not exceed the carrying capacity of such resources.

8. IMPLEMENTATION

1. Plans should take into account methods and devices for overcoming certain regional conditions and deficiencies for implementing this goal, including but not limited to
 - (1) tax incentives and disincentives;
 - (2) land use controls and ordinances;
 - (3) preferential assessments;
 - (4) capital improvement programming; and
 - (5) fee and less-than-fee acquisition techniques.
2. Plans should provide for a detailed management program to assign respective implementation roles and responsibilities to those private and governmental bodies which operate in the planning area and have interests in carrying out this goal and in supporting and coordinating regional and local economic plans and programs.

Findings: The City of Pendleton Comprehensive Plan does not currently include a specific Goal 9 element or an adopted Buildable Lands Inventory. Findings and conclusions showing consistency with these documents are therefore not available.

The land under consideration is inside the City of Pendleton UGB and is zoned R-1 Low Density Residential. With the exception of the property immediately to the north, the remainder of the superblock is all zoned C-3. Due to the size, shape and setbacks of the subject properties development has proven difficult. A rezone to C-3 has the potential to allow development that would provide both a service and a return on investment, which would appear to satisfy the intent of Goal 9.

Conclusion: The proposal to rezone the subject property from R-1 to C-3 is generally consistent with the City of Pendleton Comprehensive Plan and Statewide Goal 9.

4. STATE OF OREGON GOAL 11: PUBLIC FACILITIES AND SERVICES (OAR 660-015-0000(11))

660-011-0045 Adoption and Amendment Procedures for Public Facility Plans

- (1) The governing body of the city or county responsible for development of the public facility plan shall adopt the plan as a supporting document to the jurisdiction's comprehensive plan and shall also adopt as part of the comprehensive plan:
 - (a) The list of public facility project titles, excluding (if the jurisdiction so chooses) the descriptions or specifications of those projects;
 - (b) A map or written description of the public facility projects' locations or service areas as specified in sections (2) and (3) of this rule; and
 - (c) The policy(ies) or urban growth management agreement designating the provider of each public facility system. If there is more than one provider with the authority to provide the system within the area covered by the public facility plan, then the provider of each project shall be designated.
- (2) Certain public facility project descriptions, location or service area designations will necessarily change as a result of subsequent design studies, capital improvement programs, environmental impact studies, and changes in potential sources of funding. It is not the intent of this division to:
 - (a) Either prohibit projects not included in the public facility plans for which unanticipated funding has been obtained;
 - (b) Preclude project specification and location decisions made according to the National Environmental Policy Act; or
 - (c) Subject administrative and technical changes to the facility plan to ORS 197.610(1) and (2) or 197.835(4).
- (3) The public facility plan may allow for the following modifications to projects without amendment to the public facility plan:

- (a) Administrative changes are those modifications to a public facility project which are minor in nature and do not significantly impact the project's general description, location, sizing, capacity, or other general characteristic of the project;
 - (b) Technical and environmental changes are those modifications to a public facility project which are made pursuant to "final engineering" on a project or those that result from the findings of an Environmental Assessment or Environmental Impact Statement conducted under regulations implementing the procedural provisions of the National Environmental Policy Act of 1969 (40 CFR Parts 1500-1508) or any federal or State of Oregon agency project development regulations consistent with that Act and its regulations.
 - (c) Public facility project changes made pursuant to subsection (3)(b) of this rule are subject to the administrative procedures and review and appeal provisions of the regulations controlling the study (40 CFR Parts 1500-1508 or similar regulations) and are not subject to the administrative procedures or review or appeal provisions of ORS Chapter 197, or OAR Chapter 660 Division 18.
- (4) Land use amendments are those modifications or amendments to the list, location or provider of, public facility projects, which significantly impact a public facility project identified in the comprehensive plan and which do not qualify under subsection (3)(a) or (b) of this rule. Amendments made pursuant to this subsection are subject to the administrative procedures and review and appeal provisions accorded "land use decisions" in ORS Chapter 197 and those set forth in OAR Chapter 660 Division 18.

Findings:

Comments from Tim Simons, Community Development Director

From a transportation perspective, I do not see a problem with the property being either R-1 or C-3. Most likely for a R-1 type of development there would be less trips generated than if the property was developed with a C-3 development. However, since the property fronts a City Collector street, the additional traffic should not create much, if any, of a problem. The additional trips created by the commercial type development would be minimal compared to the capacity of the Collector Street that the property fronts. In fact, changing it to a C-3 zone may be better suited because it is fronted by a Collector Street. Typically, because backing onto a Collector is frowned upon, the type of back-out driveways that many residential developments utilize are not desired. A commercial development would utilize a parking lot that can accommodate vehicles pulling forward into and out of the property in a forward direction.

As a note of interest, the configuration of the south end of the street may be changing in the near future. Oregon Department of Transportation (ODOT) has asked the City if we would work with them to close this road and the entrance to Hwy 395 to the south. Since the construction of the Hospital is going to create a new signalized intersection just south of Les Schwab Tires, where a protected left turn will be created to allow vehicles traveling from the south into this neighborhood, ODOT has asked that we close this intersection that is considered very dangerous due to its acute angle, limited sight distance, adverse grade, narrow pavement, and lack of traffic signal. ODOT has indicated that on a preliminary basis there may be State dollars available to help pay for the construction to close the south terminus of this road, and replace it with an adequate fire truck turn-around. They may allow a gated access road for emergency access into or out of the area if the other entrance/exit routes were blocked. The City and ODOT still need to work with Mr. Richards to determine the best turn-around configuration, and we may possibly be acquiring some property from Mr. Richards to accommodate the fire truck turn-around. Preliminary review indicates that the property that may need to be acquired would be unused ground by Mr. Richards due to the narrow, triangular configuration of his lot.

With regards to other public facilities, there are no huge problems with the property being rezoned. Presently the water and sewer run to the intersection of Southgate Place and Quinney Ave. If the property was to be developed as a residential type development, the water and sewer lines would probably need to be extended along the frontage of the property to a point to or past the building sites, either as public lines or private lines. Since there are no real development sites past Mr. Richards' site, we would probably allow the utility extensions to be private. If Mr. Richards pursues the mini-storage concept, there would probably not need to be any utilities extended, since mini storage units typically don't need water and sewer, and his property is the last site before the City Limit line. The street will need to be completed along the frontage of his property with either proposal, however with the ODOT turn around recommendation, the configuration may need to be determined and agreed upon between the City and State before any construction is completed. Any new storm water facilities in the street or on Mr. Richards' development could tie into the existing system presently located at the intersection of SW Quinney Ave. and Southgate Place. As with any new commercial development, Mr. Richards will have to provide on-site detention for any additional storm

water generated by the addition of impervious surfaces on the site. However, due to the small size of the site, I believe the detention facility would be small and could be placed adequately on the site, and tied into the existing storm sewer on Quinney Ave., or drain to the curb and be conveyed within the curb to a nearby catch basin.

- (1) The City of Pendleton Comprehensive Plan does not include a specific Goal 11/Public Facilities element. The subject property abuts SW Southgate Place to the west and Hwy 395 to the west. Southgate Place is served by City water, sanitary sewer and storm water. The City Engineer expressed no concern regarding the City's capacity to provide services in this area, regardless of the zone applied or the development that may occur.
- (2) The City can anticipate development in the subject area only in general terms; the exact location, timing and needs of new development cannot be fully predicted. The City of Pendleton has excess capacity to accommodate all needs within the directives established by Goal 11, NEPA, DEQ, and/or ORS.
- (3) No new development is proposed as part of this rezone request; no modifications to utilities are under consideration at this time. The small size of the subject properties limits potential impacts. If or when development is proposed that requires services or facilities not anticipated in the City's current plans, such changes will be evaluated pursuant to the requirements contained herein.
- (4) The City Engineer has stated that the proposed rezone will not result in a significant impact to public facilities.

Conclusion: The proposed rezone is consistent with the City's ability to provide utility facilities, and is also consistent with the standards established in Goal 11 for Public Facilities. **Criterion is met.**

5. STATE OF OREGON GOAL 12: TRANSPORTATION PLANNING RULE (OAR 660-015-0000(12))

Transportation planning in Oregon is guided by Statewide Planning Goal 12 and the Transportation Planning Rule (TPR, OAR 660-012). The Pendleton Transportation System Plan (TSP) was adopted in 2007 to meet the requirements of the TPR. Any proposed rezone may change the underlying assumptions of the TSP, and requires analysis, findings and conclusions to determine consistency with the function, capacity and performance standards of the TSP.

This process is specifically addressed in Section 0060, and requires a two-part analysis. Findings shall address whether or not the proposed amendment would "significantly affect" the transportation system as defined in subsections (1) and (4). If the amendment would result in a significant effect, then approval shall be conditioned upon mitigation measures as described in subsections (2) and (3).

Requirements of the TPR generally dictate the applicant submit a Traffic Impact Analysis (TIA) from a Registered Traffic Engineer documenting differential in potential trip generation between the existing and proposed zones. If the proposed zone has the potential for increased trip generation over the existing zone, the analysis shall calculate any projected change in the Level of Service (LOS) for affected intersections. Any analysis shall be coordinated with 0007 to ensure the methods used meet accepted standards. Analysis shall also account for additional public facilities such as sidewalks, bicycle lanes or other non-motorized facilities not accounted for in the TSP.

Alternately, the applicant or the City may rely on trip generation figures from the Institute of Transportation Engineers (ITE). If the City is to allow consideration based on generalities, a "worst case scenario" should be assumed, much as it would be under a TIA.

Preliminary notes:

As part of adoption of the 2007 TSP, the City approved changes to Ordinance No. 3481 requiring a Transportation Impact Study for "all development applications in which the proposed development is projected to have an impact upon any affected transportation corridor or intersection of local significance, unless the development application is exempt...or waived by the Public Works Director." A transportation impact study shall be based on traffic counts obtained within 20 months of the date of the development application.

The City did not require or conduct a TIS as part of this proposal, as the undeveloped portion of the subject properties is too small to have a considerable impact regardless of the development proposed. At 0.41 acres, the undeveloped portion of the subject property has the potential to support a minimum of 1.6 dwelling units and a

maximum of 3.7 dwelling units. However, given the shape of the lot(s) and the minimum 20-foot front setback (with 5' setbacks side & rear), it is quite likely that only one dwelling may be feasibly considered on the site. The size and shape of the property likewise constrain potential uses under the C-3 zone, although the lack of minimum setbacks does increase the development potential.

Due to the construction of the new St Anthony Hospital facility east of Southgate, the City has been working with ODOT to construct an extension of SW 37th Street that will bisect the superblock on which the subject property lies. This will create a full access intersection to Southgate/395 north of the subject property, which will likely result in full or partial closure of the intersection of Southgate Place and 395 directly south of the site. Closure of this intersection has been supported by ODOT and the City due to numerous crashes and near misses.

0AR 660-012-0060 - Plan and Land Use Regulation Amendments

- (l) Where an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation would significantly affect an existing or planned transportation facility, the local government shall put in place measures as provided in section (2) of this rule to assure that allowed land uses are consistent with the identified function, capacity, and performance standards (e.g. level of service, volume to capacity ratio, etc.) of the facility. A plan or land use regulation amendment significantly affects a transportation facility if it would:
- (a) Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);
 - (b) Change standards implementing a functional classification system; or
 - (c) As measured at the end of the planning period identified in the adopted transportation system plan:
 - (A) Allow land uses or levels of development that would result in types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;
 - (B) Reduce the performance of an existing or planned transportation facility below the minimum acceptable performance standard identified in the TSP or comprehensive plan; or
 - (C) Worsen the performance of an existing or planned transportation facility that is otherwise projected to perform below the minimum acceptable performance standard identified in the TSP or comprehensive plan.

Findings: The proposed amendment would increase the amount of commercially-zoned land in the City of Pendleton by approximately 1.07 acres. However, the majority of the subject property (TL202, 0.66 acres) is already developed with a commercial storage facility. The applicant's stated intent is to expand the existing facility. This limits the potential impacts of the proposed rezone to the remaining undeveloped 0.41 acres.

Under the existing R-1 zone, a number of residential uses could be accommodated outright. Although a variety of uses can be approved conditionally, with only 0.41 acres and a narrow shape the minimum 20-foot front setback reduces those options (and resulting trip generation) considerably. Due to these constraints, the proposed amendment would not permit any uses likely to result in significantly higher trip generation than those that may be contemplated under the existing zone.

(a) & (b): The City of Pendleton Transportation System Plan (TSP) identifies Southgate Place as a Collector. A rezone of the subject 1.07 acres to the same zoning as others to the north would not result in the need to reconsider the functional classification of Southgate Place, or change the standards implementing a functional classification system.

(c)(A): The existing R-1 zoning allows various residential activities, but also permits other uses conditionally. The uses permitted in the C-3 zone are more varied but given the size of the subject properties, the uses do not necessarily have the potential to generate much more additional traffic. Given the small size of the property in question, city staff has not commissioned a trip generation study specific to this rezone.

(c)(B): As noted previously, the types of development that may be contemplated under C-3 have little potential to result in greater traffic impact than those that may be contemplated today through a conditional use in R-1. Such development is unlikely to reduce the performance of an existing or planned transportation facility below the minimum acceptable performance standard identified in the TSP, if an impact is noticed at all.

(c)(C): No existing or planned transportation facility in the vicinity is projected to perform below the minimum acceptable performance standard identified in the TSP; no such failure is expected to occur sooner should the application be approved. Comments provided by the City Engineer indicate that future improvements to the north will actually result in improved traffic safety and circulation in the area.

Although approval of the request will permit consideration of development that is not currently allowed outright under the standards of the R-1 zone, no alternative city zone would result in greater uniformity with the surrounding C-3 zone or result in less (potential) trip generation. **No new development is proposed as part of this request.**

Conclusion: Approval of the request would have no immediate impact on existing transportation facilities, and is unlikely to result in a significant future impact on existing or planned transportation facilities. **The City of Pendleton is not required to put in place the measures as provided in section (2) of this rule.**

- (2) Where a local government determines that there would be a significant effect, compliance with section (1) shall be accomplished through one or a combination of the following:
- (a) Adopting measures that demonstrate allowed land uses are consistent with the planned function, capacity, and performance standards of the transportation facility.
 - (b) Amending the TSP or comprehensive plan to provide transportation facilities, improvements or services adequate to support the proposed land uses consistent with the requirements of this division; such amendments shall include a funding plan or mechanism consistent with section (4) or include an amendment to the transportation finance plan so that the facility, improvement, or service will be provided by the end of the planning period.
 - (c) Altering land use designations, densities, or design requirements to reduce demand for automobile travel and meet travel needs through other modes.
 - (d) Amending the TSP to modify the planned function, capacity or performance standards of the transportation facility.
 - (e) Providing other measures as a condition of development or through a development agreement or similar funding method, including transportation system management measures, demand management or minor transportation improvements. Local governments shall as part of the amendment specify when measures or improvements provided pursuant to this subsection will be provided.

Findings: Findings and conclusions from previous sections are included herein by reference. No significant impact is projected to result.

Conclusion: Criterion is not applicable to this request.

- (3) Notwithstanding sections (1) and (2) of this rule, a local government may approve an amendment that would significantly affect an existing transportation facility without assuring that the allowed land uses are consistent with the function, capacity and performance standards of the facility where:
- (a) The facility is already performing below the minimum acceptable performance standard identified in the TSP or comprehensive plan on the date the amendment application is submitted;
 - (b) In the absence of the amendment, planned transportation facilities, improvements and services as set forth in section (4) of this rule would not be adequate to achieve consistency with the identified function, capacity or performance standard for that facility by the end of the planning period identified in the adopted TSP;
 - (c) Development resulting from the amendment will, at a minimum, mitigate the impacts of the amendment in a manner that avoids further degradation to the performance of the facility by the time of the development through one or a combination of transportation improvements or measures;
 - (d) The amendment does not involve property located in an interchange area as defined in paragraph (4)(d)(C); and
 - (e) For affected state highways, ODOT provides a written statement that the proposed funding and timing for the identified mitigation improvements or measures are, at a minimum, sufficient to avoid further degradation to the performance of the affected state highway. However, if a local government provides the appropriate ODOT regional office with written notice of a proposed amendment in a manner that provides ODOT reasonable opportunity to submit a written statement into the record of the local government proceeding, and ODOT does not provide a written statement, then the local government may proceed with applying subsections (a) through (d) of this section.

Findings: No significant impacted is projected; criterion is not applicable.

Conclusion: Criterion is not applicable to this request.

- (4) Determinations under sections (1)-(3) of this rule shall be coordinated with affected transportation facility and service providers and other affected local governments.
- (a) In determining whether an amendment has a significant effect on an existing or planned transportation facility under subsection (1)(c) of this rule, local governments shall rely on existing transportation facilities and services and on the planned transportation facilities, improvements and services set forth in subsections (b) and (c) below.
- (b) Outside of interstate interchange areas, the following are considered planned facilities, improvements and services:
- (A) Transportation facilities, improvements or services that are funded for construction or implementation in the Statewide Transportation Improvement Program or a locally or regionally adopted transportation improvement program or capital improvement plan or program of a transportation service provider.
- (B) Transportation facilities, improvements or services that are authorized in a local transportation system plan and for which a funding plan or mechanism is in place or approved. These include, but are not limited to, transportation facilities, improvements or services for which: transportation systems development charge revenues are being collected; a local improvement district or reimbursement district has been established or will be established prior to development; a development agreement has been adopted; or conditions of approval to fund the improvement have been adopted.
- (C) Transportation facilities, improvements or services in a metropolitan planning organization (MPD) area that are part of the area's federally-approved, financially constrained regional transportation system plan.
- (D) Improvements to state highways that are included as planned improvements in a regional or local transportation system plan or comprehensive plan when ODOT provides a written statement that the improvements are reasonably likely to be provided by the end of the planning period.
- (E) Improvements to regional and local roads, streets or other transportation facilities or services that are included as planned improvements in a regional or local transportation system plan or comprehensive plan when the local government(s) or transportation service provider(s) responsible for the facility, improvement or service provides a written statement that the facility, improvement or service is reasonably likely to be provided by the end of the planning period.
- (c) Within interstate interchange areas, the improvements included in (b)(A)-(E) are considered planned facilities, improvements and services, except where:
- (A) ODOT provides a written statement that the proposed funding and timing of mitigation measures are sufficient to avoid a significant adverse impact on the Interstate Highway system, then local governments may also rely on the improvements identified in paragraphs (b)(D) and (E) of this section; or
- (B) There is an adopted interchange area management plan, then local governments may also rely on the improvements identified in that plan and which are also identified in paragraphs (b)(D) and (E) of this section.
- (d) As used in this section and section (3):
- (A) Planned interchange means new interchanges and relocation of existing interchanges that are authorized in an adopted transportation system plan or comprehensive plan;
- (B) Interstate highway means Interstates 5, 82, 84, 105, 205 and 405; and
- (C) Interstate interchange area means:
- (i) Property within one-half mile of an existing or planned interchange on an Interstate Highway as measured from the center point of the interchange; or
- (ii) The interchange area as defined in the Interchange Area Management Plan adopted as an amendment to the Oregon Highway Plan.
- (e) For purposes of this section, a written statement provided pursuant to paragraphs (b)(D), (b)(E) or (c)(A) provided by ODOT, a local government or transportation facility provider, as appropriate, shall be conclusive in determining whether a transportation facility, improvement or service is a planned transportation facility, improvement or service. In the absence of a written statement, a local government can only rely upon planned transportation facilities, improvements and services identified in paragraphs (b)(A)-(E) to determine whether there is a significant effect that requires application of the remedies in section (2).

Findings: Findings and conclusions from previous sections are included herein by reference. Southgate Place provides access to the site and is a City of Pendleton facility. All affected facilities are pre-existing or included in the City of Pendleton Transportation System Plan. The City of Pendleton is only relying on existing and planned facilities to accommodate traffic impacts of the proposal; facilities not already included in existing plans are not necessary or under consideration.

Conclusion: All facilities impacted by the proposal are pre-existing facilities documented in City of Pendleton, Umatilla County and/or ODOT plans. **Criterion is met.**

- (5) The presence of a transportation facility or improvement shall not be a basis for an exception to allow residential, commercial, institutional or industrial development on rural lands under this division or OAR 660-004-0022 and 660-004-0028.

Findings: The subject property is within the City of Pendleton Urban Growth Boundary and is currently zoned R-1; this proposal seeks to rezone the property to a commercial zone consistent with the City of Pendleton Comprehensive Plan and nearby properties. No exception to development on rural lands is proposed. This criterion is not applicable.

Conclusion: Criterion is not applicable.

- (6) In determining whether proposed land uses would affect or be consistent with planned transportation facilities as provided in 0060(1) and (2), local governments shall give full credit for potential reduction in vehicle trips for uses located in mixed-use, pedestrian-friendly centers, and neighborhoods as provided in (a)-(d) below;
- (a) Absent adopted local standards or detailed information about the vehicle trip reduction benefits of mixed-use, pedestrian-friendly development, local governments shall assume that uses located within a mixed-use, pedestrian-friendly center, or neighborhood, will generate 10% fewer daily and peak hour trips than are specified in available published estimates, such as those provided by the Institute of Transportation Engineers (ITE) Trip Generation Manual that do not specifically account for the effects of mixed-use, pedestrian-friendly development. The 10% reduction allowed for by this section shall be available only if uses which rely solely on auto trips, such as gas stations, car washes, storage facilities, and motels are prohibited;
 - (b) Local governments shall use detailed or local information about the trip reduction benefits of mixed-use, pedestrian-friendly development where such information is available and presented to the local government. Local governments may, based on such information, allow reductions greater than the 10% reduction required in (a);
 - (c) Where a local government assumes or estimates lower vehicle trip generation as provided in (a) or (b) above, it shall assure through conditions of approval, site plans, or approval standards that subsequent development approvals support the development of a mixed-use, pedestrian-friendly center or neighborhood and provide for on-site bike and pedestrian connectivity and access to transit as provided for in 0045(3) and (4). The provision of on-site bike and pedestrian connectivity and access to transit may be accomplished through application of acknowledged ordinance provisions which comply with 0045(3) and (4) or through conditions of approval or findings adopted with the plan amendment that assure compliance with these rule requirements at the time of development approval; and
 - (d) The purpose of this section is to provide an incentive for the designation and implementation of pedestrian-friendly, mixed-use centers and neighborhoods by lowering the regulatory barriers to plan amendments which accomplish this type of development. The actual trip reduction benefits of mixed-use, pedestrian-friendly development will vary from case to case and may be somewhat higher or lower than presumed pursuant to (a) above. The Commission concludes that this assumption is warranted given general information about the expected effects of mixed-use, pedestrian-friendly development and its intent to encourage changes to plans and development patterns. Nothing in this section is intended to affect the application of provisions in local plans or ordinances which provide for the calculation or assessment of systems development charges or in preparing conformity determinations required under the federal Clean Air Act.

Findings: Findings and conclusions from previous sections are included herein by reference. Although permitted within the C-3 zone, no mixed-use/pedestrian-friendly centers or neighborhoods are proposed or anticipated at this time. No development is proposed as part of this request. This criterion is not applicable.

Conclusion: Criterion is not applicable.

- (7) Amendments to acknowledged comprehensive plans and land use regulations which meet all of the criteria listed in (a)-(c) below shall include an amendment to the comprehensive plan, transportation system plan the adoption of a local street plan, access management plan, future street plan or other binding local transportation plan to provide for on-site alignment of streets or accessways with existing and planned arterial, collector, and local streets surrounding the site as necessary to implement the requirements in Section 0020(2)(b) and Section 0045(3) of this division:
- (a) The plan or land use regulation amendment results in designation of two or more acres of land for commercial use;
 - (b) The local government has not adopted a TSP or local street plan which complies with Section 0020(2)(b) or, in the Portland Metropolitan Area, has not complied with Metro's requirement for street connectivity as contained in Title 6, Section 3 of the Urban Growth Management Functional Plan; and

(c) The proposed amendment would significantly affect a transportation facility as provided in 0060(I).

Findings: Less than two acres of land is designated for conversion to commercial use. The City of Pendleton has an adopted TSP and previous findings show that the proposal will not significantly affect a transportation facility. The remaining subsections do not have to be met. No additional Comprehensive Plan amendment is necessary pursuant to this criterion.

Conclusion: No amendment is necessary pursuant to this section. **Criterion is not applicable.**

(B) A "mixed-use, pedestrian-friendly center or neighborhood" for the purposes of this rule, means:

(a) Any one of the following:

(A) An existing central business district or downtown;

(B) An area designated as a central city, regional center, town center or main street in the Portland Metro 2040 Regional Growth Concept;

(C) An area designated in an acknowledged comprehensive plan as a transit oriented development or a pedestrian district; or

(D) An area designated as a special transportation area as provided for in the Oregon Highway Plan.

(b) An area other than those listed in (a) which includes or is planned to include the following characteristics:

(A) A concentration of a variety of land uses in a well-defined area, including the following:

(i) Medium to high density residential development (12 or more units per acre);

(ii) Offices or office buildings;

(iii) Retail stores and services;

(iv) Restaurants; and

(v) Public open space or private open space which is available for public use, such as a park or plaza.

(B) Generally include civic or cultural uses;

(C) A core commercial area where multi-story buildings are permitted;

(D) Buildings and building entrances oriented to streets;

(E) Street connections and crossings that make the center safe and conveniently accessible from adjacent areas;

(F) A network of streets and, where appropriate, accessways and major driveways that make it attractive and highly convenient for people to walk between uses within the center or neighborhood, including streets and major driveways within the center with wide sidewalks and other features, including pedestrian-oriented street crossings, street trees, pedestrian-scale lighting and on-street parking;

(G) One or more transit stops (in urban areas with fixed route transit service); and

(H) Limit or do not allow low-intensity or land extensive uses, such as most industrial uses, automobile sales and services, and drive-through services.

Findings: No mixed-use development is proposed; this criterion is not applicable.

Conclusion: Criterion is not applicable.

Summary conclusions relating to Goal 12:

The existing R-1 zone is not consistent with the remainder of the superblock on which the property lies. Rezone of the subject properties will have little to no impact on existing or planned transportation facilities due to the small size of the undeveloped area and development constraints resulting from its shape. **Approval of the request is consistent with the City's responsibilities under Goal 12.**

6. ARTICLE XXI. AMENDMENTS

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 longer review is agreed upon by the City and applicant. Public hearings on amendments encompassing lands of a mobile home park shall be conducted after notification of park tenants at least twenty (20) but no more than forty (40) days prior to the hearing. (Section 149, as amended by Ordinance No. 3428, passed May 2, 1989.)

SECTION 150A. ZONING MAP. An amendment to the text of this Ordinance or to a zoning map shall comply with the provisions of the City of Pendleton Transportation System Plan. More intense development may be permitted where amendments to this Ordinance include amendments to the performance standards for the facility to allow such intense development. No amendments may allow land uses or levels that are inconsistent with the functional classification of an existing or planned transportation facility. (Section 150A, as added by Ordinance No. 3745, passed June 19, 2007.)

SECTION 150. RECORD OF AMENDMENTS. The City Recorder shall maintain records of amendments to the text and zoning map of this Ordinance in a form convenient for use by the public.

FINDINGS: The Commission, and ultimately City Council, must make findings that the proposal complies with the Comprehensive Plan. The City of Pendleton Comprehensive Plan (Ord. No. 3442) was adopted by the City in 1983 and acknowledged by the State in 1990. Although a valid document, the comprehensive plan does not address State Goals, specifically Goal 9 (Economic Development): “To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.” Staff is therefore unable to make a finding that this proposal explicitly complies (or does not comply) with the Comprehensive Plan.

The City has an adopted Urban Growth Boundary (UGB), which is intended to focus urban development on the inside in order to preserve agricultural lands on the outside. The subject property is inside the UGB and in a small pocket of residential land on a block dominated by commercially zoned land. There are a total of three possible commercial zones within the City of Pendleton:

1. C-1 Central Commercial
2. C-2 Tourist Commercial
3. C-3 Service Commercial

The C-1 zone is only applied in and near the downtown area. The C-2 zone is generally only applied adjacent to interstate interchanges. The C-3 zone is applied to commercial areas outside the C-1 area, and to other properties on the same “superblock as the subject properties, which leaves the C-3 zone as the logical choice if the property is given a commercial zone.

The proposal will result in less restrictive land use regulations on the subject property. Unless testimony is presented to the contrary, staff can find no evidence that increasing development opportunities would reduce property values; therefore, no “Measure 56” notice was provided.

Notice of the proposed amendment was sent to DLCD on May 4, 2012. The proposed action was noticed in the *East Oregonian* on June 2 as an agenda item for the June 7, 2012, Planning Commission meeting.

CONCLUSION: Planning Commission considers the criteria met. The matter must be referred to the City Council for adoption by Ordinance. The Planning Commission recommends forwarding a recommendation of approval to the City Council.

ARTICLE XXII. ADMINISTRATIVE PROVISIONS

SECTION 164. CONSENT TO ANNEXATION REQUIRED.

Any land use action on land inside the Pendleton Urban Growth Boundary but not inside the Pendleton city limits shall carry, as a condition of approval, that:

- A) if the property abuts the City limits of the City of Pendleton, property owner shall provide a consent to the City for annexation; or
- B) if the property is inside the Urban Growth Boundary but does not abut the City limits of the City of Pendleton, property owner shall provide a consent to the City for annexation at such time as the property does abut the city limits.

7. SUMMARY FINDINGS:

1. Although the applicant states that the intent is to consider development of additional storage facilities, no development is proposed as part of this request for rezone.
2. The property under consideration contains 1.07 acres and is currently zoned R-1 Low Density Residential.
3. The applicant proposes to rezone the property to C-3 Service Commercial.
4. There are only three commercial zones available for the subject lands: C-1 Central Commercial, C-2 Tourist Commercial, and C-3 Service Commercial.
5. Rezoning the subject property to the C-3 Service Commercial Zone would be consistent with properties on the same block and would allow consideration of development possibilities consistent with those properties, but not allowed under the current zone.
6. The proposed rezone is consistent with the City's obligations under Statewide Goal 9 (Economic Development) because approval of the request provides additional opportunities for commercial development in an area unlikely to support future residential development.
7. The proposed rezone is consistent with the City's obligations under Statewide Goal 11 (Public Facilities) because approval of the request will not compromise the City's ability to provide critical services.
8. The proposed rezone is consistent with the City's obligations under Statewide Goal 12 (Transportation Planning Rule) because it will not require reclassification of area streets or result in trip generation in excess of what could be permitted under the existing zoning.
9. Approval of the request is consistent with the Comprehensive Plan and Zoning Ordinance because it zones the subject lands consistent with other nearby properties on the same block.

8. SUMMARY CONCLUSIONS:

1. The properties constitute four of five lots zoned R-1 on a "superblock" otherwise zoned C-3.
2. Rezone of the property from R-1 to C-3 would be consistent with properties on the same block to the north, excepting the single property to the north under separate ownership.
3. The request complies with criteria for an amendment to the Comprehensive Plan and Zoning maps.
4. The request complies with the City's responsibilities under Goal 9 (Economic Development).
5. The request complies with the City's responsibilities under Goal 11 (Public Facilities and Services).
6. The request complies with the City's responsibilities under Goal 12 (Transportation Planning Rule).
7. Specific conditions are not necessary to ensure that approval of this request will protect the best interests of the property owner(s), surrounding property or neighborhood, and/or the City as a whole.

A request for map amendment may not be approved unless all applicable decision criteria and standards are found met. In this case, staff was able to make findings and conclusions that all criteria are met. Pursuant to testimony presented and/or deliberations conducted at the hearing the Commission may make its own findings and conclusions regarding the approval criteria or conditions of approval.

The applicant has the burden of proof regarding all requests affecting this subject property, and they recognize that it is the sole obligation of the applicant to substantiate this request. If any administrative review, suit or action is instituted in connection with any appeal of this decision, the applicant 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 does 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 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 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 within the allotted five days, the City may, at its option, presume the applicant desires 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, in which the City is a party, in connection with any controversy arising out of this request, the applicant 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.

10. CONDITIONS OF APPROVAL

1. Annexation is required pursuant to Zoning Ordinance Section 164. Ordinance 3825, annexing the subject properties, has been prepared for review and consideration as a separate action.

11. MOTION FOR RECOMMENDATION TO CITY COUNCIL

Commissioner Porter motioned to adopt the findings and conclusions prepared by staff as set forth in action AMD12-02 and that the request for a Comprehensive Plan Map and Zoning Map Amendment to rezone the area from R-1 Low Density Residential to C-3 Service Commercial, as set forth in action AMD12-02 be recommended for approval to the City Council, based on the information, findings and conclusions as recommended by staff and agreed upon by the Commission; Commissioner Furstenberg seconded the motion. The motion passed unanimously.

EM



CITY OF PENDLETON

Planning & Building Department
500 SW Dorion Avenue
Pendleton, OR 97801



DEPT OF

MAY 16 2013

**LAND CONSERVATION
AND DEVELOPMENT**

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