

THE BOARD OF COMMISSIONERS OF UMATILLA COUNTY

STATE OF OREGON

In the Matter of Amending )  
Comprehensive Plan and ) ORDINANCE NO. 2007-09  
to include Goal 14 Exception )  
and Comprehensive Plan Map for )  
Commercial Use for CIFF )  
Enterprises )

WHEREAS the Board of Commissioners has adopted a Comprehensive Plan for Umatilla County and also has ordained Ordinance No. 83-04, adopting the County Land Development Ordinance, codified in Chapter 152 of the Umatilla County Code of Ordinances;

WHEREAS an application was received from CIFF Enterprises requesting Umatilla County to allow the re-zoning of rural property to allow for commercial use on property owned by Robert W. and Delores M. Jackson, and Richard W. and Janice E. Harvey, which would require an exception to Goals 3 and 14;

WHEREAS the Umatilla County Planning Commission held a public hearing on April 13, 2006 to review the application and the proposed amendment to the plan and recommended that the Board of Commissioners adopt the amendment;

WHEREAS the Board of Commissioners held a public hearing on May 2, 2006, to consider the proposed amendment, and voted to adopt Ordinance No. 2006-13;

WHEREAS on August 21, 2006, the Oregon Department of Land Conservation and Development filed a Notice of Intent to Appeal with the Land Use Board of Appeals;

WHEREAS the county filed a motion for voluntary remand, which was granted by the Land Use Board of Appeals on April 12, 2007;

WHEREAS the Board of Commissioners held a public hearing on June 19, 2007, to consider supplemental evidence in support of the application, and voted to approve the application.

NOW, THEREFORE the Board of Commissioners of Umatilla County ordains the adoption of the following amendment to the Umatilla County Comprehensive Plan:

To be added under the section entitled East County Commercial on Page XVIII-421:

The property (identified as Jackson/Harvey) located at the southwest intersection of State Highway 11 and Stateline Road, to be designated commercial is described as Lots 2 and 7, Grandview Orchard Tracts, as located in Section 13, Township 6 North, Range 35, East of the Willamette Meridian, Umatilla County, Oregon, excepting any roads and rights-of-way.

The County has previously approved a Goal 3 exception for the property based on the fact that the property is irrevocably committed to non-farm uses; therefore, Goal 3 does not apply. This section considers the standards applicable to an exception to Goal 14. The applicable criteria are set forth at OAR 660-014-0040.

A County can justify an exception to Goal 14 to allow establishment of new urban development on undeveloped rural land. Reasons that can justify why the policies in Goals 3, 4, 11 and 14 should not apply can include but are not limited to findings that an urban population and urban levels of facilities and services are necessary to support an economic activity that is dependent upon an adjacent or nearby natural resource.

FINDING: The Board finds that the reason justifying the exception is that urban uses are necessary in the proposed location in order to generate economic development in furtherance of Goal 9. Testimony in the record establishes that employment growth, new business development, and ad valorem tax receipts have stagnated in the County; that approval of the exception in this location will generate economic development that will reverse these trends; that reversing these trends is in furtherance of Goal 9 and the Comprehensive Plan; and that there are no adequate alternative sites within the Urban Growth Boundary of any municipality that can achieve the County's Goal 9 objectives to the same degree as this location. Thus, the Board finds the exception necessary to achieve the important policy objective of economic development.

Additional criteria for approving a Goal 14 exception are set forth at OAR 660-014-0040(3), which provides as follows:

(3) To approve an exception under section (2) of this rule, a county must also show:

(a) That Goal 2, Part II(c)(1) and (c)(2) are met by showing that the proposed urban development cannot be reasonably accommodated in or through expansion of

existing urban growth boundaries or by intensification of development in existing rural communities.

FINDING: Based upon evidence in the record, the Board finds that the proposed urban development is a large-format retail store commonly known as a "big box" that requires all of the following minimum site characteristics:

(a) A minimum of 18 contiguous acres that are generally rectangular in shape in order to accommodate the store, loading docks, parking areas, and still achieve buffers and setbacks that ensure compatibility. Smaller sites will undermine the County's Goal 9 objectives and compromise the long-term viability of the use by reducing available parking, restricting access, potentially disrupting adjacent uses, and providing infeasible returns to offset the investment required in the use.

(b) At least 1000 feet of depth to accommodate semi trucks delivering goods to the store. Semi trucks will be the primary means of delivery to the store, and such trucks require substantial paved areas near loading docks and free from parked cars in order to turn around and unload their wares.

(c) Adequate public facilities, which will require direct access to a four-lane arterial such as Highway 11 to accommodate the high volume of vehicular traffic generated by store customers, employees, and suppliers.

(d) Adequate public services, which will require water and sewer services.

The Board finds that the proposed location meets these characteristics.

The Board further finds that the proposed development cannot be reasonably accommodated in or through an expansion of existing urban growth boundaries. The closest urban growth boundary is that of Milton-Freewater, more than four (4) miles to the south. Testimony in the record establishes that there are no sites within the Milton-Freewater UGB large enough to site the proposed big box store. In fact, the spreadsheet of commercial and industrially zoned lots within the Milton-Freewater UGB indicates that there are no parcels within the UGB that are even close to meeting the use's minimum size requirements.

An opponent suggested an alternative site (Luisi) within

Milton-Freewater. The identified site, however, consists of several individual lots of insufficient sizes in different ownerships. The Board accepts evidence submitted by the local Realtor and applicants' representatives that the site is inappropriate for the proposed use and that there is no way to install a signalized intersection in that location. Based on all of this evidence, the Board finds that the Luisi site in Milton-Freewater could not reasonably accommodate the use.

The Board also finds that other potential alternatives within the Milton-Freewater UGB are likewise inadequate. One potential urbanized site, owned by Vernon and Penelope Rodighiero, is less than 11 acres in size and not located on Highway 11. Finally, the business park property located on the south side of the City does not provide sufficient depth to accommodate the use.

The Board also finds that, based upon substantial evidence in the record, the proposed urban development cannot be reasonably accommodated through the expansion of existing UGBs. The City of Milton-Freewater will not deliver sewer and water service to any sites outside of the City limits. Thus, such unincorporated locations will not have adequate public services and therefore cannot reasonably accommodate the proposed urban development.

The Board also finds the proposed location is uniquely situated to successfully further the County's Goal 9 objectives and related County Plan policies due to the site's location immediately adjacent to the State of Washington. The proposed retail use projects a significant market base located in Washington due to Oregon's more favorable sales tax system. Thus, the Board finds that proximity to Washington is another favorable characteristic of the proposed site.

(b) That Goal 2, Part II(c)(3) is met by showing that the long-term environmental, economic, social and energy consequences resulting from urban development at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located on other undeveloped rural lands, considering:

(A) Whether the amount of land included within the boundaries of the proposed urban development is appropriate, and

(B) Whether urban development is limited by the air, water, energy and land resources at or available to the proposed site, and whether urban development at the

proposed site will adversely affect the air, water, energy and land resources of the surrounding area.

FINDING: Long-term environmental, economic, social and energy consequences will not be significantly more adverse at this site than would typically result from the same proposal being located on other undeveloped rural lands. The site is not limited by soil, air, water or energy capacity nor will the commercial use adversely affect air, water, energy and land resources of the surrounding area. The property currently is zoned for industrial and rural residential uses, and the proposed use will not result in significantly more adverse ESEE consequences than uses already allowed under the existing zoning. The surrounding area along the Highway 11 corridor already consists of a mix of industrial and commercial lands, and is largely composed of Goal 3 exception areas. The amount of land included within the boundaries of the proposed urban development is appropriate for the proposed use (and the Board finds is very close to the minimum necessary for the use), and the entire property must be rezoned in order to provide sufficient space for the development and related wastewater and sewage treatment.

(c) That Goal 2, Part II(c)(4) is met by showing that the proposed urban uses are compatible with adjacent uses or will be so rendered through measures designed to reduce adverse impacts considering:

(A) Whether urban development at the proposed site detracts from the ability of existing cities and service districts to provide services; and

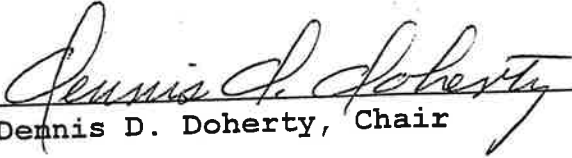
(B) Whether the potential for continued resource management of land at present levels surrounding and nearby the site proposed for urban development is assured.

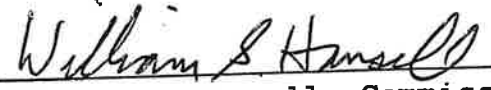
FINDING: Compatibility with adjacent uses will be ensured through the imposition of a condition of approval designed to mitigate potential impacts on nearby residential uses. Urban development at this location will not detract from the ability of nearby cities, such as Milton-Freewater, to provide public services.

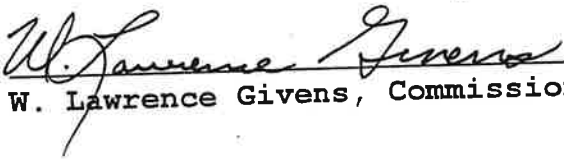
The plan designation of the property is changed from Rural Residential and Light Industrial, to Commercial, and all maps in the Comprehensive Plan are changed to reflect this amendment.

DATED this 19th day of June, 2007.

UMATILLA COUNTY BOARD OF COMMISSIONERS

  
Dennis D. Doherty, Chair

  
William S. Hansell, Commissioner

  
W. Lawrence Givens, Commissioner

ATTEST:  
OFFICE OF COUNTY RECORDS

  
Records Officer

