

ORDINANCE NO. 873

AN ORDINANCE AMENDING THE CITY OF STAYTON'S COMPREHENSIVE PLAN, CHAPTER 7, "ECONOMY" AND STAYTON MUNICIPAL CODE, TITLE 17, TO LIMIT THE SIZE OF BIG BOX STORES AND MALLS.

WHEREAS, it has been shown there are many small towns that realize a loss in the number of retail establishments when "big box" stores integrate into a community;

WHEREAS, big box stores, because of their regional draw, attract additional traffic which can result in traffic loadings that can exceed the capacity of the existing street system at peak hours;

WHEREAS, small business employ, on average, a higher number of workers per number of sale dollars than generated by big box stores;

WHEREAS, impacts on the City's infrastructure and economy increase proportionately with the size of the store;

WHEREAS, money spent in locally owned businesses tends to reticulate in the local economy to a greater degree (multiplier effect) than in a chain or franchised store; and

WHEREAS, the Stayton Planning Commission held public hearings addressing the subject of limiting the size of big box stores (Land Use File # 05 - 04/04) on July 26, 2004 and August 23, 2004 and the City Council held its public hearing on this subject on October 4, 2004 where upon, the Stayton City Council directed preparation of the Order with findings and conclusions to support the Council's action granting approval to amend the City of Stayton's Comprehensive Plan and Stayton Municipal Code (SMC) Title 17 accordingly.

NOW, THEREFORE, the Stayton City Council does ordain as follows:

SECTION 1. The Stayton Comprehensive Plan and Stayton Municipal Code, Title 17 are amended as set forth in the Council's Order (Exhibit A). Order of the Stayton City Council dated November 15, 2004

SECTION 2. Upon adoption by the Stayton City Council and Mayor's signing, this Ordinance with the Order (Exhibit A) shall become effective 30 days after the date of signing.

SECTION 3. This Ordinance, with said Order dated November 15, 2004, shall be furnished to the State of Oregon, Department of Land Conservation and Development forthwith.

ADOPTED BY THE STAYTON CITY COUNCIL this 22nd day of November, 2004.

Signed: NOV 23, 2004 CITY OF STAYTON
BY: Gerry Aboud
GERRY ABOUD, MAYOR

Signed: NOV. 23, 2004 ATTEST: Chris Childs
CHRIS CHILDS, CITY ADMINISTRATOR

APPROVED AS TO FORM: David A. Rhoten
DAVID A. RHOTEN, CITY ATTORNEY

BEFORE THE STAYTON CITY COUNCIL

In the matter of amendments
to City of Stayton
Comprehensive Plan and
Stayton Municipal Code
Title 17

Big Box Retail Stores and
Malls, File # 05-04/04

FINAL ORDER OF APPROVAL

1. NATURE OF THE APPLICATION

This matter comes before the Stayton City Council on the application for amending the City of Stayton Comprehensive Plan, Chapter 7, Economy and Stayton Municipal Code (SMC), Title 17 to limit the size of big box stores and malls.

II. PUBLIC HEARING

A. Planning Commission Action

A public hearing was duly held on this proposal before the Stayton City Council July 26, 2004 and August 23, 2004. At those hearings the City Council reviewed Land Use File # 05-04/04 Comprehensive Plan amendments which was made part of this record. Notice was sent to all Stayton property owners (Measure 56), published in the Stayton Mail, posted on the access channel, posted at City Hall, library, and community center building.

The persons listed in **Attachment 'A'** appeared at the hearings and provided testimony on the proposal. No objection was raised as to notice, jurisdiction, conflicts, of interest, or to evidence or testimony presented at the hearing.

At the conclusion of the hearing, the City Council deliberated on the issue and recommended the City Council approve the proposed goal and policy amendments to Chapter 7 Economy of the Stayton Comprehensive Plan and SMC Title 17.

City Council Action

A public hearing was duly held on this application before the Stayton City Council on October 4, 2004. At the hearing, Land Use File #05-04/04 was made part of this record.

The persons listed in **Attachment 'A'** appeared at the hearing and provided testimony on the proposal. No objection was raised as to notice, jurisdiction, conflicts, of interest, or to evidence or testimony presented at the hearing.

At the conclusion of the hearing, the City Council approved the application, with findings, to amend the Stayton Comprehensive Plan and Stayton Municipal Code, Title 17, to limit the size of big box stores.

III. FINDINGS OF FACT - GENERAL

A. Proposed Amendments to the Comprehensive Plan

The goals and policy statements that are incorporated in this order are the result of staff research and discussions among appointed officials. The overall objective was to assess the potential impact new big box stores and shopping centers may have on Stayton's existing retail infrastructure and how they "fit" in our City. The following policies and goals are a reflection of the quantitative conclusions derived from the research and qualitative assumptions resulting from workshop discussions.

B. Findings:

Various studies and reports were made available to the City Council during their discussion of big box stores and resulted in the following findings:

1. It can be shown there are many small towns that realize a loss in the number of retail establishments when big box stores integrate into a community.
2. Big box stores, because of their regional draw, attract additional traffic which can result in traffic loadings that can exceed the capacity of the existing street system at peak hours.
3. Small businesses employ, on average, a higher number of workers per number of sale dollars than generated by big box stores.
4. Impacts on the City's infrastructure and economy increase proportionately with the size of the store.
5. Money spent in locally owned businesses tends to reticulate in the local economy to a greater degree (multiplier effect) than in a chain or franchised store.
6. The studies and reports used in the analysis of store size are incorporated in File # 05-04/04.
7. The City has the right to establish the setback standards for all retail stores and malls in the Commercial Retail (17.16.690(5)) and Commercial General (17.16.700(5)) section of Stayton's Municipal Code (SMC) Title 17.

8. All commercial users in the City of Stayton are subject to SMC Site Plan Review (17.12.470).

C. Applicable State Wide Goals:

When preparing amendments to the comprehensive plan it is required that attention is given to the Statewide Planning Goals. These goals must be addressed to insure compliance with statewide objectives. Those Goals found applicable to this proposal are as follows:

1. Goal 6: Air, Water and Land Resources Quality

Finding:

One of the objectives of limiting size of commercial establishments within the City of Stayton is to lessen the impact on the City's air quality on adjacent land uses.

2. Goal 9: Economic Development

Finding:

The objective of the draft amendments to the Comprehensive Plan are to maintain and diversify the City's economic base and preserve the economic vitality of Stayton's downtown core.

3. Goal 11: Public Facilities and Services

Finding: Presently the City is working through the process of drafting a water and sewer master plan. The potential impacts of a big box store of 30,000+ square feet, at this juncture, could burden the City's existing infrastructure system.

D. Marion County Urban Growth Management Framework

1. Retail land uses that are over 60,000 square feet or 300 employees per building shall be located in the Urban Growth Boundaries of cities that are in excess of 10,000 people.

Finding: The City of Stayton Comprehensive Plan Goals and Policies and Development Code standards would meet the spirit of Marion County's standard.

E. Comprehensive Plan Amendments, Stayton Municipal Code (SMC) 17.08.220

2. Adoptions and Changes to Plan

- a. Method: The plan and amendments thereto, shall be adopted by ordinance, following proceedings conducted in accordance with the standards and criteria set forth in chapter 17.12 of this title.
- b. Categories of Changes
 - i. Amendment: A plan amendment may be a re-designation of an area from one land use classification to another or a modification to policies or text of the plan. An amendment in any form is generally considered to be site-specific. An amendment will be processed pursuant to 17.12 of this title.

Finding: The purpose is to amend the policies and goals as they relate to the City's Comprehensive Plan and Title 17. The proposal is site specific in that it will limit the size of big box stores to 30,000 square feet and malls to 80,000 square feet in the CR and CG zone districts.

F. Plan Amendments, SMC 17.12.420

5. APPROVAL CRITERIA: In order to approve a plan amendment, the following affirmative findings concerning the action must be able to be made by the decision authority.

- a. The proposed amendment is compatible with the existing provisions of the plan, as measured by:
 - 1) If a map amendment, the extent of existing and proposed land use allocations for requested uses.

Finding: There is no request for a map amendment, only that big box stores be limited to 30,000 square feet and malls be limited to 80,000 square feet. The land uses allowed in CR and CG Districts are to remain the same.

- 2) Impacts of the proposed amendment on land use and development patterns within the City as Measured by:
 - a) Traffic generation and circulation patterns;

Finding: By limiting the size of big box stores and malls at this time, it will lessen the impact on the City's current road system.

- b. Population concentrations;

Finding: The proposed amendments to the Comprehensive Plan and Development Code are not applicable to these criteria.

- c. Demand for public facilities and services;

Finding: One of the purposes for the proposed amendments is to lessen the impact on the City's existing infrastructure.

- d. Maintenance of public health and safety;

Finding: The draft goals, policies and development code amendments would lessen the amount of vehicle pollutants that would be generated by larger retail stores.

- e. Level of park and recreation facilities;

Finding: The draft policies, goals and Title 17 amendments will have no adverse effects on the City's park and recreation facilities.

- f. Economic activities;

Finding: The objective as described in Chapter 6, E-5 of the Comprehensive Plan is to encourage the diversification of the economic base. Promoting small business assists in maintaining that diversification.

- g. Protection and use of natural resources;

Finding: This criterion is not applicable to the proposed amendments.

- h. Natural hazards and constraints;

Finding: Not applicable to this proposal.

- i. Compliance of the proposal with existing adopted special purpose plans or program, such as public facilities improvement programs.

Finding: The proposed amendments are crafted to allow a re-evaluation of those amendments as a community grows.

- b. A demonstrated need exists for the product of the proposed amendment (land use designation or plan text amendment).

Finding: No additional land use designations are proposed with the proposed amendments.

- c. The proposed amendment complies with all applicable Statewide Planning Goals and administrative rule requirements, including compliance with Goal 14 and the Urban Growth Policies of the City of Stayton (Section 17.08.230 of this title) if a change in the urban growth boundary is requested.

Finding: The proposed amendments comply with the Statewide Planning Goals including Goal 14 relating to Urban Growth Policies. It is not the intent to expand the urban growth boundary.

- d. The proposed amendment is possible within the existing framework of the plan (e.g., no new land use designation categories, policy categories, or plan elements are necessary to accommodate the amendment).

Finding: The proposed amendments fit within the existing framework of the City's Comprehensive Plan and do not conflict with any adopted goals and policies.

- e. The amendment is appropriate as measured by at least one of the following criteria:

- 1) It corrects identified error(s) in the provisions of the plan.

Finding: Not applicable.

- 2) It represents a logical implementation of the plan.

Finding: The totality of the findings substantiates the implementation of the proposed amendments.

- 3) It is mandated by changes in federal, state, or local law.

Finding: Not applicable to this proposal.

- 4) It is otherwise deemed by the council to be desirable, appropriate, and proper.

Finding: Based on the City's present population and infrastructure capacity to accommodate large retail stores and malls and the overall impact a large retail store or mall would have on the community at this time, it is prudent to limit the size of retailers based on the goal and policy criteria until sometime in the future.

G. Draft Goals and Policies:

1. GOAL

Maintain downtown Stayton as an area for specialty shops, restaurants, entertainment, government offices, and professional offices.

Finding:

History has shown that, over time, many small communities with an established downtown realize a deterioration and loss of merchants in their downtown centers with the influx of large malls and big box stores. Therefore, the community's ability to survive is dependent on finding those retail and service sectors which are not part of the mainstream big retailer and creating an environment conducive to attracting those types of businesses to the old downtown.

2. GOAL

Enhance and protect the vitality of Stayton's existing commercial and service sector.

Finding:

There is strong evidence that in similar situations where a community of the size of Stayton had been experiencing relatively moderate growth, the influx of big box stores and shopping malls has a measured negative financial impact on the existing commercial sector and the community at large.

3. GOAL

Maintain a level of retail growth that is proportional to the size of the City and encourage the diversification of goods and services.

Finding:

A cursory review of the number of retail stores of 30,000 square feet or greater and the correlation to the size of a city's population indicates that a population the size of Stayton will have between one to three stores this size. Stores selected in this comparison were similar in size to Stayton and somewhat isolated from urban centers.

4. GOAL

Limit the size of Big Box stores and malls to lessen the impact on the city's air quality and adjacent land uses.

Finding:

The prevailing consensus is the larger the store, the greater the number of vehicle trips generated per-day because of their regional draw, thereby increasing the possibility of higher pollution levels.

1. *POLICY*

Shopping center malls shall be limited to 80,000 square feet and the "anchor store(s)" shall be limited to 30,000 square feet of the total mall floor area.

Finding:

Shopping center malls with big box stores as "anchors" may have the same infrastructure and economic impacts as a "stand alone" big box store. By limiting the size of the anchor store(s) to 30,000 square feet it insures that a variety of retailers occupy a mall.

2. *POLICY*

The size of big box stores shall be limited to 30,000 square feet to maintain competitive diversity in Stayton's retail economy.

Finding:

The policy does not deny the opportunity for a retail establishment to locate a store in the City of Stayton only to limit the size of the store.

3. *POLICY*

Two or more malls shall not be contiguous to one another.

Finding:

The purpose is to limit mall size to lessen the impact of traffic congestion and air quality on adjacent neighborhoods in any one area of the city.

4. *POLICY*

Big Box stores shall not exceed 30,000 square feet by using zero lot lines.

Finding:

To allow zero lot lines circumvents the purpose of limiting store size.

5. *POLICY*

Stayton may re-examine big box retail store limits once the City reaches a population of 13,000.

Finding:

There is the opportunity to re-evaluate the wisdom of the decision makers over time. Community attitudes, growth philosophy, and image of what the community wants to be continually change over time.

H. Proposed Amendments to the Development Code - Title 17

To implement the language incorporated in the draft goals and policies it is necessary to incorporate language in the zoning ordinance. Basically, two sections of the zoning code will be affected by the goals and policies and consist of the two commercial zone designations of Commercial Retail (CR) and Commercial General (CG).

PURPOSE

Commercial Retail (CR) District 17.16.690

Permitted Uses 2.

Add the following: *All retail stores are limited to 30,000 square feet of floor area.*

Add the following: *Malls are limited to 80,000 square feet with the largest retailer limited to 30,000 square feet.*

Finding: The proposed amendments fulfill the intent and objectives of the draft Comprehensive Plan Goals and Policies.

Commercial General (CG) District 17.16.700

Permitted Uses 2.

Add the following: *All retail stores are limited to 30,000 square feet in floor area.*

Add the following: *Malls are limited to 80,000 square feet with the largest retailer limited to 30,000 square feet.*

Finding: The proposed amendments fulfill the intent and objectives of the draft Comprehensive Plan Goals and Policies.

Add the following definition to Title 17 Section 17.04.100 Definitions

Mall: A center affording access to shops, businesses, and restaurants and not exceeding 80,000 square feet in floor area with no one store exceeding 30,000 square feet.

Big Box Store: A retail store that can exceed 30,001 square feet but is limited to 30,000 square feet within the City of Stayton.

VI. CONCLUSION

The proposed amendments are in keeping with the City of Stayton's objective of limiting the size of big box stores and is compliant with all applicable approval criteria.

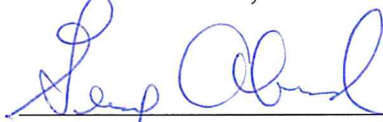
V. ORDER

It is hereby found the application does meet the relevant standards and criteria for approval. THEREFORE, it is the decision of the Stayton City Council that the Comprehensive Plan and Stayton Municipal Code, Title 17 amendments be approved.

VI. APPEAL DATES

The City Council's action may be appealed to the Oregon Land Use Board of Appeals pursuant to ORS 197.796.

APPROVED BY A VOTE OF THE STAYTON CITY COUNCIL ON THIS 22nd DAY OF NOVEMBER, 2004.



Gerry Aboud, Mayor

NOV 23, 2004
Date

ATTEST



Chris Childs, City Administrator

Nov. 23, 2004
Date

ATTACHMENT 'A'

The following is a list of individuals who testified at the public hearing before the Stayton Planning Commission on July 26, 2004 regarding Land Use File #05-04/04:

Proponent's Testimony:

Larry Ramsay
384 N. 4th Avenue, Apt. 8
Stayton, OR 97383

Dan Brummer
525 W. Burnett
Stayton, OR 97383

Myles McMillan
6143 Shaw Highway
Aumsville, OR

Susan Brandt
625 N. 7th
Stayton, OR 97383

The following is a list of individuals who testified at the public hearing before the Stayton City Council on October 4, 2004:

Proponent's Testimony:

John Gest
2110 East Pine Street
Stayton, OR 97383

John Brandt
625 North Seventh Avenue
Stayton, OR 97383

Dan Brummer
525 West Burnett Street
Stayton, OR 97383

Curt Froemke
1654 East Virginia Street
Stayton, OR 97383

Melodee Nolan
1196 East Virginia Street
Stayton, OR 97383

Letter from Susan Hatten

Opponent's Testimony:

Letter from Jim & Pat Kerr