



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

09/20/2011

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

FROM: Plan Amendment Program Specialist

SUBJECT: City of Klamath Falls Plan Amendment
DLCD File Number 004-11

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, October 03, 2011

This amendment was submitted to DLCD for review prior to adoption pursuant to ORS 197.830(2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

***NOTE:** The Acknowledgment or Appeal Deadline is based upon the date the decision was mailed by local government. A decision may have been mailed to you on a different date than it was mailed to DLCD. As a result, your appeal deadline may be earlier than the above date specified. NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.

Cc: Joe Slaughter, City of Klamath Falls
Angela Lazarean, DLCD Urban Planning Specialist
Jon Jinings, DLCD Regional Representative

<paa> YA



FORM **2**

DLCD

Notice of Adoption

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

In person electronic mailed

DATE STAMP

DEPT OF

SEP 15 2011

LAND CONSERVATION AND DEVELOPMENT

For Office Use Only

Jurisdiction: *City of Klamath Falls* Local file number: *5-2-11*
 Date of Adoption: *September 7, 2011* Date Mailed: *September 12, 2011*
 Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? Yes No Date: *May 19, 2011*
 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".

Rezoned approximately 5.57 acres of land from Apartment Residential to General Commercial. This property, along with another 1.10 acres of property, currently zoned General Commercial, was the former site of The Mollies truck stop and restaurant. The proposed zone change has been requested in order to facilitate the redevelopment of the site as a truck stop and travel center.

Does the Adoption differ from proposal? Please select one

No

Plan Map Changed from: *Residential* to: *Commercial*
 Zone Map Changed from: *Apartment Residential* to: *General Commercial*
 Location: *3817 Hwy 97N, 3809-19AA-00100, 00400 & 00600* Acres Involved: *5.57*
 Specify Density: Previous: *min lot size 5,000 sqft* New: *min lot size 5,000 sqft*
 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. 004-11 (18837) [16762]

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

ODOT, Klamath County, KCFD No. 1, Basin Transit Service

Local Contact: *Joe Slaughter* Phone: *(541) 883-5361* Extension: *N/A*
Address: *jslaughter@ci.klamath-falls.or.us* Fax Number: *541-883-5390*
City: *Klamath Falls* Zip: *97601* E-mail Address: *226 S. 5th Street*

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 the adopted amendment, please print a completed copy of Form 2 on light green paper if available.
3. Send this Form 2 and one complete paper copy (documents and maps) of the adopted amendment to the address below.
4. Submittal of this Notice of Adoption must include the final signed ordinance(s), all supporting finding(s), exhibit(s) and any other supplementary information (ORS 197.615).
5. Deadline to appeals to LUBA is calculated **twenty-one (21) days** from the receipt (postmark date) of adoption (ORS 197.830 to 197.845).
6. In addition to sending the Form 2 - Notice of Adoption to DLCD, please also remember to notify persons who participated in the local hearing and requested notice of the final decision. (ORS 197.615).
7. Submit **one complete paper copy** via United States Postal Service, Common Carrier or Hand Carried to the DLCD Salem Office and stamped with the incoming date stamp.
8. Please mail the adopted amendment packet to:

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

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

<http://www.oregon.gov/LCD/forms.shtml>

Updated December 16, 2010

Planning

Ordinance No. 11-06

**A SPECIAL ORDINANCE REZONING APPROXIMATELY 5.57 ACRES OF LAND
FROM APARTMENT RESIDENTIAL TO GENERAL COMMERCIAL**

WHEREAS, the applicant, Pilot Travel Center, LLC, with consent from the landowner South Valley Bank and Trust, submitted a written proposal for a zone change; and

WHEREAS, a public hearing was held on July 18, 2011, pursuant to applicable laws, at which time all evidence relevant to said proposed zone change was considered by the Planning Commission; and

WHEREAS, hearing notices were duly given and the City Council held a public hearing on August 15, 2011, on the recommendation of and including the record of the Planning Commission concerning the zone change; and

WHEREAS, pursuant to such record and hearing the City Council has determined the zone change to be in compliance with the Community Development Ordinance and the Comprehensive Plan; and

WHEREAS, the City Council adopted the findings of the Planning Commission attached hereto and incorporated by this reference as Exhibit B; NOW, THEREFORE,

THE CITY OF KLAMATH FALLS ORDAINS AS FOLLOWS:

Section 1

Subject to the conditions stated in Section 2 of this Ordinance, the zoning designation of approximately 5.57 acres, as shown on the map attached hereto as Exhibit A, is hereby changed from Apartment Residential to General Commercial.

The property in question can be found on Klamath County Assessor's map R-3809-019AA, tax lots 00100, 00400 & 00600.

Section 2

CONDITIONS

For compliance with the Transportation Planning Rule (OAR 660-012), a trip cap is imposed on a 6.67-acre site (Klamath County Assessor's map R-3809-019AA, tax lots 00100, 00400, 00500 and 00600), limiting the overall site to a maximum of 313 net new weekday p.m. peak hour trips. Site Plan Review shall provide analysis documenting that the trip generation for the proposed use is below defined trip cap. This trip cap may be amended by an ordinance adopted by the Klamath Falls City Council.

Passed by the Council of the City of Klamath Falls, Oregon, the 6th day of September, 2011.

Presented to the Mayor, approved and signed this 7th day of September, 2011.



Mayor

ATTEST:



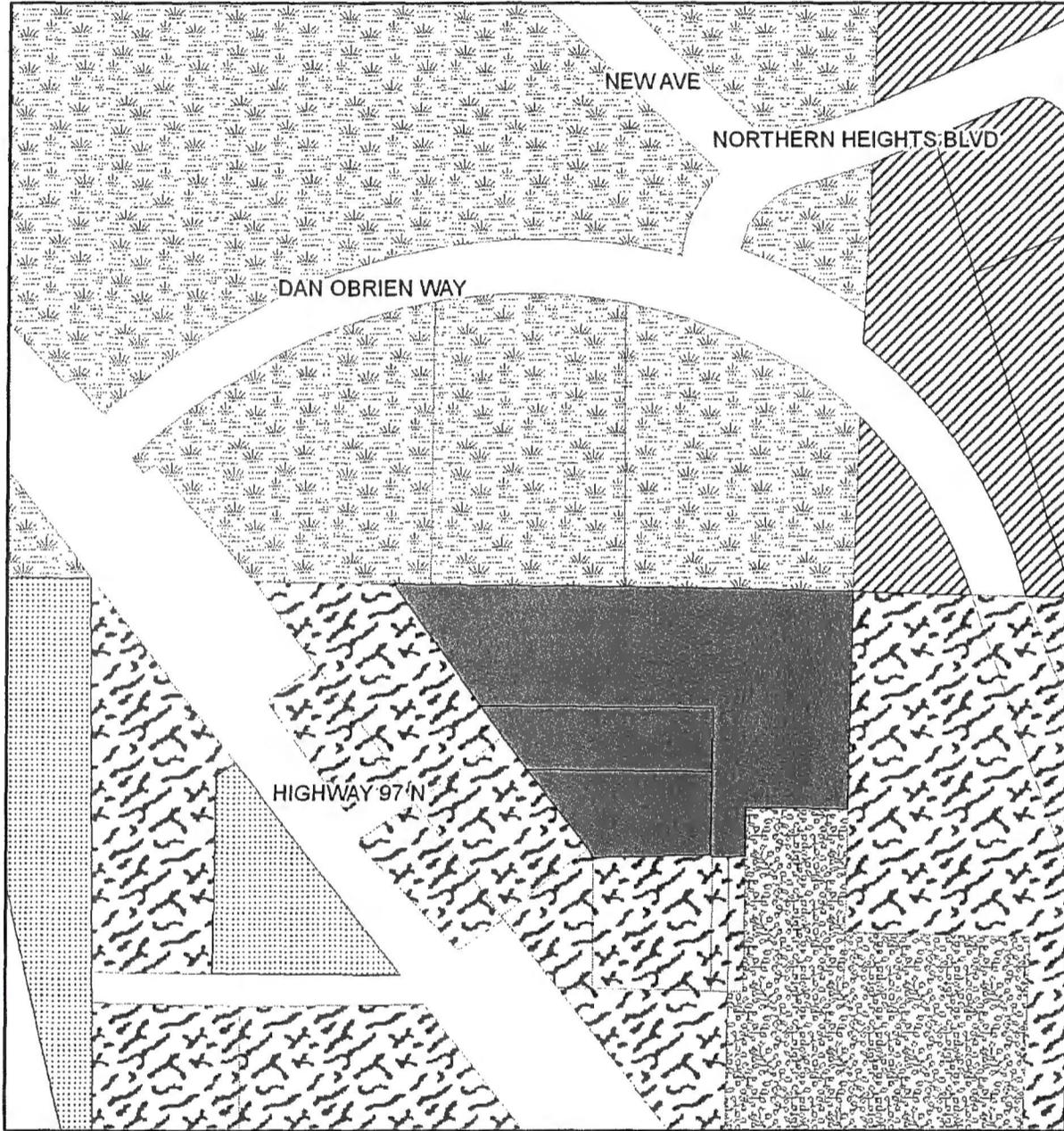
City Recorder

STATE OF OREGON }
COUNTY OF KLAMATH }ss.
CITY OF KLAMATH FALLS }

I, _____, Recorder (Deputy Recorder) for the City of Klamath Falls, Oregon, do hereby certify that the foregoing is a true and correct copy of an Ordinance duly adopted by the Council of the City of Klamath Falls, Oregon at the meeting on the 6th day of September, 2011 and therefore approved and signed by the Mayor and attested by the City Recorder.

City Recorder (Deputy Recorder)

EXHIBIT "A"
MAP



Legend

-  Subject Property
-  Apartment Residential
-  General Commercial
-  Light Industrial
-  Industrail
-  Planned Unit Development

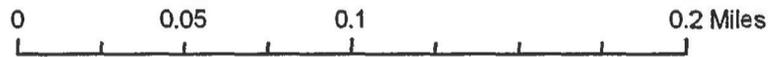


EXHIBIT "B"
FINDINGS

11.415 Required Findings. Prior to making a recommendation on the proposed change of zone, the Commission shall analyze the following criteria and incorporate such analysis in their decision:

A. Criterion The change of zone is in conformance with the Comprehensive Plan and all other provisions of Chapters 10 to 14 and any applicable street plans.

Staff Response: The following Comprehensive Plan Policies relate to the proposed zone change:

Policy 72: Klamath Falls' position as the retail center for south-central Oregon and northern California will be strengthened wherever possible.

Policy 77: Development which will assure the City of an adequate tax base will be encouraged and supported.

Policy 164: The City will make land use decisions that minimize distances to goods and services.

Policy 222: Land development will be in a systematic manner which contributes to the efficient use of public facilities, quality of the project, and livability of the community as a whole.

Policy 225: The appropriate reuse of land which is underdeveloped or where structures are deteriorating will be encouraged.

Policy 244: In-filling of developable lands will be encouraged to minimize sprawl and take advantage of existing facilities and services.

Policy 254: Allow growth to occur as naturally as possible without undue restrictions, or conversely, aggressive promotion.

Policy 259: Public and private actions will result in a net benefit for existing City residents and will contribute to the improvement of the local economy.

Although records show that the subject property has been zoned for high density residential use since before it was annexed into the city, in the early 1980's, the property has been used for commercial uses for at least the last 35 years. The location of the property is better suited for commercial uses rather than residential uses because the property abuts Hwy 97. The proposed zone change will allow for the redevelopment of the property as a commercial use allowing for an addition to the local commercial tax base, allowing for commercial development properly related to Hwy 97, and allowing for commercial development within the urban growth boundary. The proposed zone change will allow growth and redevelopment to occur as naturally as possible in the area and will result in the net benefit for existing City residents while contributing to the improvement of the local economy.

A Transportation Impact Study was prepared by Kittelson & Associates, Inc. for the proposed zone change and entitlements. While build-out of the site by 2015 could be accommodated outright, the conclusions of the study showed that the proposed zone change from Apartment Residential to General Commercial could result in as many as 339 net new weekday p.m. peak hour trips from the combined parcels on the roadway system. If the total amount of trips shown to be generated by the site were allowed the performance standard for the intersection of US 97 and Biehn Street and Campus Street would be reduced below the acceptable level. Kittelson & Associates, Inc. has proposed placing a "trip cap" on the site to allow a maximum of 313 net new weekday p.m. peak hour trips to be generated by the site. The number of trips will be monitored through the Design Review process. As new uses are proposed for the site a traffic study will be required to show the number of new trips generated by the proposed use. The applicant has included an analysis of the

proposed use of the property as a Pilot Travel Center. The study shows that the number of trips generated by that proposed use, 85 net new trips, will be far less than the proposed maximum number of trips, 313.

A Design Review or Conditional Use Permit (depending on the type of use) will be required before any new business is allowed to operate on the subject property. This review process will insure all applicable portions of Chapters 10 to 14 of the Community Development Ordinance are met by the proposed use.

Finding: The change of zone is in conformance with the Comprehensive plan and all other provisions of Chapters 10 to 14 and any applicable street plans as long as the total number of p.m. hour vehicle trips for the entire 6.67-acre site (Klamath County Assessor's map R-3809-019AA, tax lots 00100, 00400, 00500 and 00600) is capped at 313 net new weekday p.m. peak hour trips. **This criterion is met with conditions.**

B. Criterion The property affected by the change of zone is adequate in size and shape to facilitate those uses that are normally allowed in conjunction with such zoning.

Staff Response: The minimum required lot size is 5,000 sq ft for both existing zones and proposed zones (Apartment Residential and General Commercial). The portion of the subject property considered by this proposed zone change is approximately 5.57 acres in size and the entire subject property is approximately 6.67 acres. The subject property is of adequate size and shape to facilitate any number of uses, or combination of uses, normally allowed in the General Commercial zone.

Finding: The property affected by the change of zone is adequate in size and shape to facilitate the uses normally allowed in conjunction with the proposed zoning. **This criterion is met.**

C. Criterion The property affected by the proposed change of zone is properly related to streets to adequately serve the type of traffic generated by such uses that may be permitted therein.

Staff Response: The property abuts Hwy 97 and is also accessed by a "backage" road constructed by ODOT to provide access to the back of the property from Dan O'Brien Way. There is an existing permit on file with ODOT for access to the property from Hwy 97. Trips generated by any new use will be monitored during the development review process to insure the recommended "trip cap" is not exceeded. Both ODOT and the City will be provided the opportunity to review appropriate trip generation information (submitted by the applicant) prior to permitting any new/additional use of the property.

Finding: The property affected by the proposed zone change is properly related to streets to adequately serve the type of traffic generated by the uses permitted in the General Commercial zone provided the total number of p.m. peak hour vehicle trips for the entire 6.67-acre site (Klamath County Assessor's map R-3809-019AA, tax lots 00100, 00400, 00500 and 00600) is capped at 313 net new weekday p.m. peak hour trips. **This criterion is met with conditions.**

D. Criterion The proposed change of zone will have no adverse effect on abutting property or the permitted uses thereof.

Staff Response: The proposed change of zone will allow for the continued use of the subject property for commercial uses. Since this has been the ongoing use of the property for many years the proposed zone change will create no discernable change to the property. The property is located in an area of mostly commercial and industrial zoning and uses. The proposed trip cap will insure that the proposed zone change will not negatively impact the hwy/street system in the vicinity.

A Design Review or Conditional Use Permit (depending on the type of use) will be required before any new business is allowed to operate on the subject property. This review process will insure all applicable portions of Chapters 10 to 14 of the Community Development Ordinance are met by the proposed use. This review will insure that the site is developed appropriately for the proposed use and any potential adverse effect on abutting properties will be mitigated.

Finding: The proposed change of zone will have no adverse effect on abutting property or the permitted uses thereof. **This criterion is met.**

CONDITIONS

1. For Transportation Planning Rule (OAR 660-012) conformance, provide a trip cap on the site limiting the overall 6.67-acre site (inclusive of both parcels, Klamath County Assessor's map R-3809-019AA, tax lots 00100, 00400, 00500 and 00600) to 313 net new weekday p.m. peak hour trips. Site Plan Review shall provide analysis documenting that the proposed use trip generation is below defined trip cap.



CITY OF KLAMATH FALLS, OREGON

P.O. BOX 237 - ZIP CODE 97601-0361

TEMP RETURN SERVICE REQUESTED



Hasler

012H16209577

\$00.440

09/12/2011

Mailed From 97601

US POSTAGE

Plan Amendment Specialist
DLCD
635 Capitol Street NE, Suite 150
Salem, OR 97301-2540

DEPT OF

SEP 15 2011

LAND CONSERVATION
AND DEVELOPMENT

973012540 C007

