



# Oregon

Theodore R. Kulongoski, Governor

## Department of Land Conservation and Development

635 Capitol Street NE, Suite 150

Salem, Oregon 97301-2524

Phone: (503) 373-0050

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Second Floor/Director's Office: (503) 378-5518

Web Address: <http://www.oregon.gov/LCD>

### NOTICE OF ADOPTED AMENDMENT

August 16, 2006

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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Klamath Falls Plan Amendment  
DLCD File Number 013-06



The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Copies of the adopted plan amendment are available for review at DLCD offices in Salem, the applicable field office, and at the local government office.

Appeal Procedures\*

#### **DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: August 31, 2006**

This amendment was submitted to DLCD for review prior to adoption with less than the required 45-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 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 DATE SPECIFIED ABOVE.**

Cc: Gloria Gardiner, DLCD Urban Planning Specialist  
Matthew Crall, DLCD Transportation Planner  
Sandra Zaida, City Of Klamath Falls

<paa> ya/



**DLCD NOTICE OF ADOPTION**

This form **must be mailed** to DLCD **within 5 working days after the final decision** per ORS 197.610, OAR Chapter 660 - Division 18

(See reverse side for submittal requirements)

DEPT OF  
AUG 14 2006  
LAND CONSERVATION  
AND DEVELOPMENT

Jurisdiction: CITY OF Klamath Falls Local File No.: 4.2.99  
(If no number, use none)

Date of Adoption: 8-8-06 Date Mailed: 8-10-06  
(Must be filled in) (Date mailed or sent to DLCD)

Date the Notice of Proposed Amendment was mailed to DLCD: 7-7-06

- Comprehensive Plan Text Amendment
- Land Use Regulation Amendment
- New Land Use Regulation
- Comprehensive Plan Map Amendment
- Zoning Map Amendment
- Other: amendment of ordinance/removal of conditions  
(Please Specify Type of Action)

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached."

Removal of 4 conditions from an ordinance approving a zone change and amending a master plan.

Describe how the adopted amendment differs from the proposed amendment. If it is the same, write "Same." If you did not give notice for the proposed amendment, write "N/A."

Plan Map Changed from: N/A to \_\_\_\_\_  
Zone Map Changed from: N/A to \_\_\_\_\_

Location: N OF HIGHWAY 140 W + ORINDALE Acres Involved: 604

Specify Density: Previous: N/A New: N/A

Applicable Statewide Planning Goals: \_\_\_\_\_

Was an Exception Adopted? Yes: \_\_\_\_\_ No: X

DLCD File No.: 013-06 (15366)

Did the Department of Land Conservation and Development receive a notice of Proposed

Amendment **FORTY FIVE (45) days prior to the first evidentiary hearing.** Yes:  No:

If no, do the Statewide Planning Goals apply. Yes:  No:

If no, did The Emergency Circumstances Require immediate adoption. Yes:  No:

Affected State or Federal Agencies, Local Governments or Special Districts: ODOT

Local Contact: Sandra Zaida Area Code + Phone Number: 541-883-5361

Address: 226 S. 5th St

City: Klamath Falls Zip Code+4: 97601

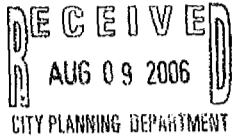
## ADOPTION SUBMITTAL REQUIREMENTS

This form **must be mailed** to DLCD **within 5 working days after the final decision**  
per ORS 197.610, OAR Chapter 660 - Division 18.

1. Send this Form and TWO (2) Copies 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**
2. Submit **TWO (2) copies** the adopted material, if copies are bounded please submit **TWO (2) complete copies** of documents and maps.
3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the "Notice of Adoption" is sent to DLCD.
6. In addition to sending the "Notice of Adoption" to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can copy this form on to 8-1/2x11 green paper only ; or call the DLCD Office at (503) 373-0050; or Fax your request to:(503) 378-5518; or Email your request to [Larry.French@state.or.us](mailto:Larry.French@state.or.us) - ATTENTION: PLAN AMENDMENT SPECIALIST.

S. View Plan.

ORDINANCE NO. 06- 21 \_\_\_\_\_



A SPECIAL ORDINANCE AMENDING ORDINANCE NO. 02-16,  
ENTITLED "A SPECIAL ORDINANCE APPROVING AN  
AMENDMENT TO THE SOUTHVIEW PLANNED UNIT  
DEVELOPMENT MASTER PLAN, ON VOLUNTARY REMAND  
FROM THE LAND USE BOARD OF APPEALS,"  
BY REMOVING CONDITIONS S, T, U, AND V FROM EXHIBIT C

WHEREAS, Southview Properties Development, LLC submitted to the City of Klamath Falls a written proposal for a planned unit development master plan amendment of certain real property by the Klamath Falls City Council thereof; and

WHEREAS, a hearing was held on May 22, 2000, pursuant to applicable laws at which time all objections or remonstrances with reference to said proposed master plan amendment were considered by the Planning Commission; and

WHEREAS, the City Council, hearing notice having been duly given, did hold a public hearing on July 3, 2000 regarding the master plan amendment request; and

WHEREAS, on August 21, 2000 the City of Klamath Falls approved an amended Planned Unit Development (Ordinance #00-15) sought by Southview Properties Development, LLC; and

WHEREAS, the Oregon Department of Transportation ("ODOT") appealed the decision to the Land Use Board of Appeals; and

WHEREAS, on April 10, 2001 the Land Use Board of Appeals remanded the matter to the City of Klamath Falls in *ODOT v. City of Klamath Falls*, 39 Or LUBA 641, *aff'd* 177 Or App 1 (2001); and

WHEREAS, the remand from the Land Use Board of Appeals required the City to address the following issues:

- (a) The Transportation Planning Rule, OAR 660-0012-0060,
- (b) The effect of CDO § 10.415(4) on adjacent property owned by ODOT and Klamath County, and
- (c) Balancing applicable provisions of the Transportation System Plan with other Comprehensive Plan Provisions; and

WHEREAS, the City Council, hearing notice having been duly given, did hold a public hearing on May 6, 2002 regarding the remand; and

WHEREAS, on May 20, 2002 the City of Klamath Falls approved an amended Planned Unit Development (Ordinance #02-09) sought by Southview Properties Development, LLC; and

WHEREAS, on June 7, 2002 ODOT did file a Notice of Intent to Appeal the City of Klamath Falls' decision; and

WHEREAS, on July 22, 2002, based upon an impending settlement agreement between ODOT and Southview, the City Council authorized staff to seek a voluntary remand from LUBA; and

WHEREAS, a Cooperative Improvement Agreement has been signed by both the applicant, Southview Properties Development, LLC and ODOT; and

WHEREAS, the Land Use Board of Appeals signed a Voluntary Remand Order on August 26, 2002; and

WHEREAS, the City Council, hearing notice having been duly given, did hold a public hearing on September 3, 2002 regarding the voluntary remand; and

**WHEREAS**, the City Council adopted Ordinance #02-16 on April 1, 2002 which contains Findings in Exhibit B and Conditions in Exhibit C; and

**WHEREAS**, four conditions (S, T, U, and V) relating to traffic and trip counts were imposed pursuant to an interim agreement with ODOT and Southview Properties Development, LLC; and

**WHEREAS**, in February of 2006 ODOT and Southview Properties Development, LLC entered into an agreement in which ODOT agreed not to oppose or encourage to oppose Southview's attempts to lift the existing 425 p.m. peak hour trip cap and related conditions; and

**WHEREAS**, Southview Properties development, LLC requested conditions S, T, U, and V, relating to the trip cap be removed to reflect the February 2006 agreement; and

**WHEREAS**, the Council did determine the master plan amendment of said property to be in the best interest of the City and the contiguous territory; and

**WHEREAS**, to the extent that anything in this Ordinance is inconsistent with the Findings and Conditions adopted with Ordinance #00-15, and Ordinance #02-16, these Conditions control;

NOW THEREFORE,

**THE CITY OF KLAMATH FALLS ORDAINS AS FOLLOWS:**

Special Ordinance No. 02-16 is hereby amended as follows, with conditions S, T, U, and V being removed from Exhibit C [deleted language in ~~strike through~~ font]:

**EXHIBIT C  
CONDITIONS OF APPROVAL**

- A. Pursuant to Section 12.380 of the Community Development Ordinance, the applicant shall apply for and receive a Conditional Use Permit for each development phase prior to commencement of site work on said development phase. Conditional Use Permit applications shall be consistent with the approved Southview Planned Unit Development Master Plan to be filed with the City of Klamath Falls Planning Department.
- B. This approval is limited to the residential density, land use pattern, circulation pattern, land development standards, and storm drainage improvements reflected on the approved Southview PUD Master Plan to be filed with the City of Klamath Falls Planning Department, and cannot be substantially modified without a PUD Master Plan Amendment by the approving authority.
- C. If the applicant develops Conditions, Covenants, and Restrictions (CC&Rs) for the property, the CC&Rs shall be consistent with the Development Guidelines. The applicant shall submit the CC&Rs to the city planning department for comments 30 days prior to recordation.
- D. To ensure a street system interconnected with adjacent properties, the applicant shall dedicate to the City, at no cost, a one-foot wide out lot at the terminus of all streets intended to continue to adjacent properties, at the time of subdivision for each development phase.
- E. As part of the Conditional Use Permit process for each development phase, the Applicant shall provide a detailed Master Utility Plan showing proposed private and public utility systems, including water, sewer, electric, gas, drainage, telephone, telecommunications, and any other services that will supply the subject property.
- F. At approval of each final plat, land identified as special reserve on the approved PUD Master Plan shall either be retained as special reserve, or designated as private or public open space. Land designated as open space shall be conveyed and maintained under one, or a combination, of the following options:

1. To a public agency. The City's acceptance of any such areas shall be subject to the City's Parks, Recreation and Open Space Master Plan and adopted parks policies.
2. To a private non-profit organization, such as a land trust.
3. To one or more associations of owners or tenants created as non-profit corporation under the laws of the state.

To assure long-term maintenance of special reserves, open spaces, common areas, drainage ways, and retention basins, the applicant shall execute a recordable local improvement contract applicable to the entire PUD, and binding heirs, successors and assigns in a form acceptable to the City Attorney and applicable to future formation of maintenance local improvements districts (LIDs) for the maintenance of such of open spaces, common areas, drainage ways, retention basins, and parks.

- G. With each application for conditional use permit or tentative subdivision approval the applicant shall designate a pedestrian and bicycle circulation system, which can include sidewalks, bicycle lanes and dedicated access ways. The circulation system shall include a connection to Moore Park, adjacent properties and Lynnewood Open Space. Access ways shall be incorporated into a recorded tract, and shall be conveyed and maintained in the following manner:
1. To one or more associations of owners or tenants created as non-profit corporation under the laws of the state; with an option for the city to obtain the access ways at no cost, at such time as the city is willing to commit to the maintenance of the access ways; or
  2. To the city if, at the time of recording, the city commits to the maintenance of the access ways.

This condition is not intended to affect the rights of the applicant or the city with respect to systems development charges.

- H. For each approved tentative plat, the applicant shall provide, at no cost to the City, detailed engineering drawings for proposed public and private utility systems meeting the requirements of the City of Klamath Falls design standards prior to final plat approval.
- I. Prior to the sale of any residential lot, the applicant shall record a notice regarding aircraft noise and overflight information in deed records for the parcel.
- J. The applicant shall submit for review and approval to the City Engineering Division, each platting and construction phase of the development.
- K. The applicant shall construct and size for final 'build-out' water utility infrastructure as all phases progress.
- L. The applicant shall construct the sanitary sewer line to the gravity portion of Running Y sewer line; or shall provide another connection approved by the City Public Works Director.
- M. The applicant shall erect streetlights meeting City requirements along any public roadways.
- N. The applicant shall submit to the City Planning Department, for review and approval, proposed Development Standards for Commercial and High Density Residential uses at the time of Conditional Use Permit application for the associated Phase.
- O. The applicant shall create and record Public Development Standards, applicable to each type of development, which will be enforced by the City Planning Department. In its review of building permits, the city may review the application for compliance with the objective standards of the Development Standards.
- P. Development proposed in the Lindley Way Residential District will not be permitted until eastern access to the site is provided.

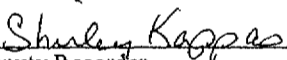
- Q. The access road from the Orindale Draw area to the Mountaintop and Lindley Way areas shall not cross outside the urban growth boundary unless the applicant obtains appropriate exception, or established that the access road is otherwise allowable under state law.
- R. The applicant shall provide a street connection stubbed to the northern property line in the Lindley Way Residential District, as indicated in applicants Hearing Exhibit 1.
- ~~S. Development on the Southview property shall be limited such that fewer than 425 p.m. peak-hour trips enter or exit the property onto Highway 140.~~
- ~~T. Prior to submitting an application for a conditional use permit, preliminary subdivision approval or development review approval for any portion of the Southview property, the Applicant shall provide the City of Klamath Falls and the Oregon Department of Transportation with a p.m. peak-hour traffic count to and from the Southview property onto Highway 140 for all existing development. Notwithstanding this condition to the contrary, the Applicant shall not be required to provide traffic counts for the conditional use permit for the first 200 residential units. Traffic counts shall be required for any Conditional Use Permit applied for commercial development of any nature on the Southview Property regardless of the number of residential units in place or approved for placement.~~
- ~~U. Any increase in the number of trips permitted beyond that contemplated in this Decision will require an amendment to the Planned Unit Development approval through a zone change. A zone change will require a demonstration of compliance with the Transportation Planning Rule, OAR 660-012-0060.~~
- ~~V. It is agreed by the parties that the City of Klamath Falls will proceed with amendments to the City's Transportation System Plan (TSP) by July 2006.~~

Passed by the Council of the City of Klamath Falls, Oregon, the 7<sup>th</sup> day of August, 2006.

Presented to the Mayor, approved and signed this 8<sup>th</sup> day of August, 2006.

  
 \_\_\_\_\_  
 Mayor

ATTEST:

  
 \_\_\_\_\_  
 Deputy Recorder

STATE OF OREGON            }  
 COUNTY OF KLAMATH        }  
 CITY OF KLAMATH FALLS    }     SS

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 7th day of August, 2006 and therefore approved and signed by the Mayor and attested by the Deputy Recorder.

\_\_\_\_\_  
 City Recorder (Deputy Recorder)