



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

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Salem, Oregon 97301-2524

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

NOTICE OF ADOPTED AMENDMENT

March 9, 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 015-05



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. This adoption was adopted by the City on February 28, 2006, and passed the 21-day appeal period from the date of the adoption.

Appeal Procedures*

DLCD DEADLINE TO APPEAL: Acknowledged under ORS 197.625 and ORS 197.830 (9)

This amendment was submitted to DLCD for review 45 days prior to adoption. Pursuant to ORS 197.625 if no notice of intent to appeal is filed within the 21-day period set out in ORS 197.830 (9), the amendment to the acknowledged comprehensive plan or land use regulation or the new land use regulation shall be considered acknowledged upon the expiration of the 21-day period.

Under ORS 197.830 (9) a notice of intent to appeal a land use decision or limited land use decision shall be filed not later than 21 days after the date the decision sought to be reviewed becomes final.

***NOTE: THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS ADOPTED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAN IT WAS MAILED TO DLCD.**

Cc: Gloria Gardiner, DLCD Urban Planning Specialist
Mark Radabaugh, DLCD Regional Representative
Sandra Zaida, City of Klamath Falls

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FORM 2

DEPT OF

DLCD NOTICE OF ADOPTION

MAR 06 2006

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)

LAND CONSERVATION
AND DEVELOPMENT

Jurisdiction: CITY OF KLAMATH FALLS Local File No.: 6.2.05
(If no number, use none)

Date of Adoption: 07 FEBRUARY 06 Date Mailed: 02 MARCH 06
(Must be filled in) (Date mailed or sent to DLCD)

Date the Notice of Proposed Amendment was mailed to DLCD: 28 FEB 06

☐ Comprehensive Plan Text Amendment ☒ Comprehensive Plan Map Amendment
☐ Land Use Regulation Amendment ☒ Zoning Map Amendment
☐ New Land Use Regulation ☐ Other: _____

(Please Specify Type of Action)

Summarize the adopted amendment. Do not use technical terms. Do not write see Attached.≡

ZONE CHANGE OF 76.82 ACRES FROM SPECIAL RESERVE
TO PLANNED UNIT DEVELOPMENT AND AN AMENDMENT
TO THE 1000 ACRE PLANNED UNIT DEVELOPMENT.

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 AN/A.≡

SAME

Plan Map Changed from: SR to PUD

Zone Map Changed from: SR to PUD

Location: N. OF HWY 140, S. OF LAKEVIEW DRIVE; WESTERN MOST PROPERTY IN UGB Acres Involved: 76.82 acres
Specify Density: Previous: _____ New: 2.18 du/acre

Applicable Statewide Planning Goals: _____

Was an Exception Adopted? Yes: _____ No: X

DLCD File No.: 015-05 (14609)

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: _____

Local Contact: Sandra Zaida Area Code + Phone Number: 541.983.5361

Address: 276 S. 5th Street City: Klamath Falls

Zip Code+4: 97601 Email Address: szaida@ci.klamath-falls.or.us

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. **DO NOT**

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 this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not 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 Mara.Ulloa@state.or.us - **ATTENTION: PLAN AMENDMENT SPECIALIST.**

Planning (cc)

**A SPECIAL ORDINANCE GRANTING A ZONE CHANGE FOR
APPROXIMATELY 76.82 ACRES LOCATED NORTH OF HIGHWAY 140
WEST FROM SPECIAL RESERVE TO PLANNED UNIT DEVELOPMENT AND
AMENDING THE PINE VALLEY PLANNED UNIT DEVELOPMENT MASTER PLAN**

WHEREAS, the applicant, Jon Barkee on behalf of Jeld-Wen, has submitted a written proposal for a zone change of certain real property which is hereinafter described; and

WHEREAS, the applicant also submitted a request to amend the 1986 Pine Valley Master Plan; and

WHEREAS, public hearings were held on October 10, October 24, November 14, and November 28, 2005, pursuant to applicable laws, at which time all evidence and objection with reference to said proposed zone change and master plan amendment were considered by the Planning Commission; and

WHEREAS, the Planning Commission recommended conditional approval of the zone change and master plan amendment to City Council on November 28, 2005; and

WHEREAS, the City Council hearing notices having been duly given, held a public hearing on December 19, 2005 on the recommendation of and including the record of the Planning Commission concerning the zone change and master plan amendment; and

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

WHEREAS, the City Council revised the findings and conditions of the Planning Commission and adopted findings and conditions attached hereto and incorporated by this reference as Exhibit A;

NOW THEREFORE,

THE CITY OF KLAMATH FALLS ORDAINS AS FOLLOWS:

edw.
300 The zoning designation of the property commonly referred to as Klamath County Tax Assessor's map R-3808-26, Tax Lot ~~100~~, and as shown on the map attached hereto as Exhibit B is hereby changed from Special Reserve to Planned Unit Development, and the Pine Valley Planned Unit Development Master Plan site plan attached hereto as Exhibit C is hereby amended, subject to fulfillment of the attached conditions.

Passed by the Council of the City of Klamath Falls, Oregon, the 6th day of February, 2006.

Presented to the Mayor, approved and signed this 7th day of February, 2006.


Mayor

ATTEST:


City Recorder (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 6th day of February, 2006 and therefore approved and signed by the Mayor and attested by the City Recorder (~~Deputy Recorder~~).

City Recorder (Deputy Recorder)

EXHIBIT A

FINDINGS AND CONDITIONS

This proposal is being reviewed according to the provisions of the Klamath Falls Community Development Ordinance (Chapters 10-14), specifically Sections 11.400-11.440, regarding Zone Changes and Sections 12.360-12.395 regarding Planned Unit Developments.

Zone Change Criteria for Approval

- 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.

The following Comprehensive Plan Policies are applicable to the zone change:

Policy 3: Natural vegetation along streams, drainage ways, and other shorelines will be maintained and conserved. There are no streams or shorelines on the subject property.

Proposed finding: The applicant has proposed a subdivision layout to maintain and conserve natural drainage ways and the vegetation associated with them.
This policy is met.

Policy 7: Areas of dense standing trees and shrubbery will not be considered for extensive development; tree cutting should be minimized except where mandated for fire protection or wildlife enhancement.

Proposed finding: There appear to be substantial tree stands adjacent to the northwest and southeast corners of the SR zoned parcel. The applicant is not proposing subdividing the northwest corner at this time, but the southwest corner is proposed for development. Staff recommends creating a maximum building envelope to minimize or eliminate unnecessary tree cutting and removal. It is also possible to permit tree removal on lots by permit only; Applicants would submit residential site plans to the Home Owners Association or Architectural Design Review Committee with existing trees and trees proposed for removal. The HOA or Committee would be the overseer of the tree removal. This would need to be addressed in the Development Standards for the PUD.

This policy is met with the modified site plan submitted to the Council on December 19, 2005, which reduces proposed lots in forested areas, and with the conditions that the applicant includes in its development standards maximum building envelopes for treed lots and a tree removal process.

Policy 38: Development will not be considered for wildlife-sensitive areas such as Link River Canyon, surface water shorelines, and dense forest land.

Proposed finding: The Comprehensive Plan outlines forested lands which are similar to the aerial photo submitted by the applicant at the October 24, 2005 Planning Commission hearing. The applicant is creating a large continuous band of open space which runs north/south from HWY 140 to Lakeshore Drive and has created smaller open space areas within the forested lands. These open space areas provide better overall protection for forested areas than the existing SR zone and the 1986 Master Plan.

This policy is met with the modified site plan submitted to the Council on December 19, 2005.

Policy 39: Where development occurs adjacent to wildlife habitats, every possible design and construction technique will be used to mitigate adverse impacts.

Proposed finding: The applicant has not submitted development standards to date. The design and construction techniques can be outlined in the standards. The Oregon Department of Fish and Wildlife requested a construction window from August to December 31st within a one-half mile radius of the known bald-eagle nest on the south side of HWY 140. The Planning Commission found that a radius of one-quarter mile is adequate. This finding was based on: (1) the presence of HWY 140 between the eagle nest and the subject property (construction noise will not be any more disruptive to eagle nesting than highway noise); and (2) the un rebutted testimony of the applicant that a buffer of one-quarter mile between an eagle nest and development activities was adequate to maintain an active eagle nest at the Running Y Resort. Staff recommends including ODFW's other recommendations (outlined in correspondence dated October 24, 2005) as conditions, also.

This policy is met with the following conditions: The applicant shall create development standards to address the design and construction techniques; the applicant shall not

engage in construction within one-quarter mile radius of the bald eagle nest south of HWY 140 between January 1 and July 31 unless ODFW determines the nesting site is inactive; The applicant shall maintain the standing trees within a 200' buffer adjacent to Highway 140 in the vicinity of the bald eagle nest south of HWY 140; the applicant shall include in the CC&Rs: 1) that human-wildlife conflicts can be expected and ODFW can provide only limited assistance, 2) there is a City Code prohibiting artificial feeding or salting of wildlife (except songbirds), and 3) restrictions on perimeter fencing (ensuring wildlife passage).

Policy 43: Bald eagle nesting sites and habitats will be protected in consideration of the US Fish and Wildlife Service's Bald Eagle Advisory Guidelines for Oregon.

Proposed finding: The Oregon Department of Fish and Wildlife requested a construction window from August to December 31st within a one-half mile radius of the known bald-eagle nest on the south side of HWY 140. They also recommended a vegetation screen of the homes within this radius. The Planning Commission found that a radius of one-quarter mile is adequate, for the reasons discussed under Policy 39.

This policy is met with the conditions that the applicant shall not engage in construction within one-quarter mile radius of the bald eagle nest south of HWY 140 between January 1 and July 31 unless ODFW determines the nesting site is inactive; The applicant shall maintain the standing trees within a 200' buffer adjacent to Highway 140 in the vicinity of the bald eagle nest south of HWY 140.

Policy 47: Harmonious relationships between natural topographic features, parks, homes, businesses, streets, and open spaces will be promoted.

Proposed finding: The applicant has not submitted development standards to date. The relationships between natural topographic features, parks, homes, businesses, streets, and open spaces can be outlined in the development standards.

This policy is met with the condition that development standards be created to address the relationships between natural topographic features, parks, homes, businesses, streets, and open spaces.

Policy 49: Efforts will be made to preserve the open spaces and scenic values of hilltops and other similar promontories, including public access to them.

Proposed finding: The applicant has not submitted development standards to date. Height restrictions, building setbacks and trail regulations can be outlined in the development standards. The applicant's preliminary trail system provides access to open space within the development. The applicant has agreed to make the trail system available for use by the public.

This policy is met with the condition that development standards be created addressing the preservation of open spaces, scenic values and assuring public access to them. This policy is met by public access to the trails within the development.

Policy 52: Tree removal will be discouraged wherever possible.

Proposed finding: Staff recommends creating a maximum building envelope to minimize or eliminate unnecessary tree cutting and removal. It is also possible to permit tree removal on lots by permit only. Applicants would submit residential site plans to the Home Owners Association or Architectural Design Review Committee with existing trees and trees proposed for removal. The HOA or Committee would be the overseer of the tree removal. This would need to be addressed in the Development Standards for the PUD.

This policy is met with the modified site plan and the conditions that the applicant includes in its development standards maximum building envelopes for treed lots and/or a tree removal process.

Policy 53: Low intensity public use of major drainage ways for open space purposes will be encouraged.

Proposed finding: The applicant's proposed master plan preserves a large continuous band of open space in a major drainage way, as well smaller open space areas. The applicant's preliminary trail system provides public access to these areas.

This policy is met with the condition that public access to the trails within the development be permitted.

Policy 61: The City will encourage identification and/or preservation of significant historic landmarks, archaeological, and architectural sites which meet established and applicable criteria.

Proposed finding: The applicant obtained an archaeological survey of the property, but has indicated that the report has not been finalized; the report has not yet been submitted to the City.

This policy is met with the condition that the applicant supply City Staff a copy of the archaeological report and proposed preservation measures prior to any construction.

Proposed Finding for Criterion A: 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. **This criterion is met with the above mentioned 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.**

Proposed Finding: The parcel proposed for rezoning from SR to PUD is approximately 77 acres in size, well over the required 5 acre minimum for a PUD. It is adjacent to an existing PUD (the Pine Valley PUD approved in 1986 but never developed) and is proposed for inclusion in the master plan revision. The overall site, including the additional 77 acres, is in excess of 1003 acres. The Timber Inventory Map from the Comprehensive Plan identifies a portion of the 77-acre site as Mixed Conifer Forest. At the November 21, 2005 Planning Commission hearing, the applicant submitted a revised master plan that reduces impact on these forested areas.

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.**

Proposed Finding: The property is contiguous with the Pine Valley PUD which identifies access from Highway 140 and through the Southview PUD. No streets exist on adjacent lands with the exception of HWY 140. The property affected by the proposed zone change is properly related to Highway 140 in that the master plan calls for an internal connection between this piece of property and the remainder of the PUD which will adequately serve the type of traffic generated by such uses that may be permitted within the PUD zone. **This criterion is met.**

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

Proposed Finding: The proposed change of zone from Special Reserve to PUD will have no adverse effect on abutting property or the permitted uses thereof with the implementation of conditions.

To the extent that this criterion can be construed to apply to the balance of the PUD (i.e., the portion of the subject property already approved for the Pine Valley PUD in 1986), it is important to note, as discussed below under Comprehensive Plan Policy 170, that there is no feasible connection between the development proposed in the applicant's Master Plan and property owned by Mr. Ahalt. Moreover, the absence of a street connection between the Pine Valley project and the Ahalt property does not constitute an "adverse effect" within the meaning of this criterion. The Ahalt property does not have an existing street connection to the Pine Valley site, and the applicant's proposed Master Plan does nothing to alter the status quo.

This policy is met with the modified site plan submitted to Council by the applicant on December 19, 2005 and the condition that the applicant includes in its development standards maximum building envelopes for treed lots and/or a tree removal process.

Planned Unit Development Criteria for Approval

- 1. Criterion Development of remaining contiguous property under the same ownership can be accomplished as provided in Chapters 10 to 14.**

Proposed Finding: This criterion is met to the extent it is applicable. The contiguous property under the same ownership is outside of the city's jurisdiction and outside of the

UGB. However, the master plan identifies five roads connecting both pieces of property, facilitating the development of the adjacent property to the northwest.

2. **Criterion** Adjoining land under separate ownership can either be developed or be provided access that will allow its development in accordance with the Comprehensive Plan and Chapters 10 to 14.

Proposed Finding: The proposal is for a gated community to control motor vehicle access. All streets within the development will be private. The applicant has provided two points of access for the residents of Pine Valley to the neighboring Southview PUD. The primary points of ingress and egress for both Southview and Pine Valley PUDs will be through access onto Highway 140. Access has been provided for adjoining property to the northwest of the Pine Valley PUD. This property is outside the City and outside the UGB. Adjoining property to the east has direct access onto Lakeshore and these properties are largely developed. Along this east side of the PUD, slopes are severe and north facing. Residents along Lakeshore expressed serious safety concerns, especially in the winter, about a PUD access on the east side.

One property owner, Mark Ahalt, argued before both the Planning Commission and the City Council that the Pine Valley PUD must provide street connectivity to his adjacent property. The Ahalt property is outside the City limits and the UGB; therefore, it is not property that could be developed "in accordance with the Comprehensive Plan and Chapters 10 to 14." Even assuming for purposes of argument that this criterion could apply to the Ahalt property, testimony from Lynn Bruno of W&H Pacific, the applicant's engineering firm, indicated that slopes along the common boundary between the proposed master plan and Mr. Ahalt's property make a street connection infeasible. The City Council finds that testimony persuasive. Mr. Ahalt's property also abuts property owned by the applicant that is outside the City limits and the UGB. The applicant has indicated that its property outside the City may be a future expansion of the Pine Valley project. However, the applicant has not applied to Klamath County for approval of such an expansion. Moreover, the City does not have jurisdiction over any land use applications for an expansion outside the City limits. Finally, the Ahalt property has frontage on Lakeshore Drive. Therefore, it can be developed even without a connection to PUD currently being proposed by the applicant.

Adjoining land under separate ownership can either be developed or be provided access that will allow its development in accordance with the Comprehensive Plan and Chapters 10 to 14. **This criterion is met with the requirement that Pine Valley's access to Southview match the location of the platted roads within Southview.**

3. **Criterion** The proposed street plan affords the most economic, safe, efficient and least environmentally damaging circulation of traffic possible under existing circumstances.

Proposed Finding: The revised proposed street plan proposes a second connection to Southview PUD facilitating traffic flow between and through the two developments. The proposal is a gated community allowing only the residents of the development to utilize the road system. The narrowness and sharp curves of Lakeshore Drive, coupled with severe icy conditions during the winter months, are not conducive to increased traffic which would be generated by an access to the development.

The proposed street plan affords the most economic, safe, efficient and least environmentally damaging circulation of traffic possible under existing circumstances as the internal system is for private use only and not open for through traffic. A connection to the Ahalt property is not feasible for this proposed PUD, for the reasons discussed under Criterion #2. **This criterion is met with the condition that the applicant obtains a written statement from ODOT approving a conceptual access plan to Highway 140 without the Lakeshore Drive connection.**

4. **Criterion** The master plan complies with applicable portions of the Comprehensive Plan, Chapters 10 to 14 and State and Federal laws.

The following Comprehensive Plan policies apply:

Policy 3: Natural vegetation along streams, drainage ways, and other shorelines will be maintained and conserved.

Proposed finding: The applicant has proposed a subdivision layout to maintain and conserve natural drainage ways and the vegetation associated with them.
This policy is met.

Policy 7: Areas of dense standing trees and shrubbery will not be considered for extensive development; tree cutting should be minimized except where mandated for fire protection or wildlife enhancement.

Proposed finding: There appear to be substantial tree stands adjacent to the northwest and southeast corners of the SR zoned parcel. The applicant is not proposing subdividing the northwest corner at this time, but the southwest corner is proposed for development. Staff recommends creating a maximum building envelope to minimize or eliminate unnecessary tree cutting and removal. It is also possible to permit tree removal on lots by permit only; Applicants would submit residential site plans to the Home Owners Association or Architectural Design Review Committee with existing trees and trees proposed for removal. The HOA or Committee would be the overseer of the tree removal. This would need to be addressed in the Development Standards for the PUD.

This policy is met with the modified site plan submitted to the Council on December 19, 2005, which reduces proposed lots in forested areas, and with the conditions that the applicant includes in its development standards maximum building envelopes for treed lots and a tree removal process.

Policy 38: Development will not be considered for wildlife-sensitive areas such as Link River Canyon, surface water shorelines, and dense forest land.

Proposed finding: The Comprehensive Plan outlines forested lands which are similar to the aerial photo submitted by the applicant at the October 24, 2005 Planning Commission hearing. The applicant is creating a large continuous band of open space which runs north/south from HWY 140 to Lakeshore Drive and has created smaller open space areas within the forested lands. These open space areas provide better overall protection for forested areas than the existing SR zone and the 1986 Master Plan.

This policy is met with the modified site plan submitted to the Council on December 19, 2005.

Policy 39: Where development occurs adjacent to wildlife habitats, every possible design and construction technique will be used to mitigate adverse impacts.

Proposed finding: The applicant has not submitted development standards to date. The design and construction techniques can be outlined in the standards. The Oregon Department of Fish and Wildlife requested a construction window from August to December 31st within a one-half mile radius of the known bald-eagle nest on the south side of HWY 140. The Planning Commission found that a radius of one-quarter mile is adequate. This finding was based on: (1) the presence of HWY 140 between the eagle nest and the subject property (construction noise will not be any more disruptive to eagle nesting than highway noise); and (2) the unrebutted testimony of the applicant that a buffer of one-quarter mile between an eagle nest and development activities was adequate to maintain an active eagle nest at the Running Y Resort. Staff recommends including ODFW's other recommendations (outlined in correspondence dated October 24, 2005) as conditions, also.

This policy is met with the following conditions: The applicant shall create development standards to address the design and construction techniques; the applicant shall not engage in construction within one-quarter mile radius of the bald eagle nest south of HWY 140 between January 1 and July 31 unless ODFW determines the nesting site is inactive; The applicant shall maintain the standing trees within a 200' buffer adjacent to Highway 140 in the vicinity of the bald eagle nest south of HWY 140; the applicant shall include in the CC&Rs: 1) that human-wildlife conflicts can be expected and ODFW can provide only limited assistance, 2) there is a City Code prohibiting artificial feeding or salting of wildlife (except songbirds), and 3) restrictions on perimeter fencing (ensuring wildlife passage).

Policy 43: Bald eagle nesting sites and habitats will be protected in consideration of the US Fish and Wildlife Service's Bald Eagle Advisory Guidelines for Oregon.

Proposed finding: The Oregon Department of Fish and Wildlife requested a construction window from August to December 31st within a one-half mile radius of the known bald-eagle nest on the south side of HWY 140. They also recommended a vegetation screen of the homes within this radius. The Planning Commission found that a radius of one-quarter mile is adequate, for the reasons discussed under Policy 39.

This policy is met with the conditions that the applicant shall not engage in construction within one-quarter mile radius of the bald eagle nest south of HWY 140 between January 1 and July 31 unless ODFW determines the nesting site is inactive; The

applicant shall maintain the standing trees within a 200' buffer adjacent to Highway 140 in the vicinity of the bald eagle nest south of HWY 140.

Policy 47: Harmonious relationships between natural topographic features, parks, homes, businesses, streets, and open spaces will be promoted.

Proposed finding: The applicant has not submitted development standards to date. The relationships between natural topographic features, parks, homes, businesses, streets, and open spaces can be outlined in the development standards.

This policy is met with the condition that development standards be created to address the relationships between natural topographic features, parks, homes, businesses, streets, and open spaces.

Policy 49: Efforts will be made to preserve the open spaces and scenic values of hilltops and other similar promontories, including public access to them.

Proposed finding: The applicant has not submitted development standards to date. Height restrictions, building setbacks and trail regulations can be outlined in the development standards. The applicant's preliminary trail system provides access to open space within the development. The applicant has agreed to make the trail system available for use by the public.

This policy is met with the condition that development standards be created addressing the preservation of open spaces, scenic values and assuring public access to them. This policy is met by public access to the trails within the development.

Policy 52: Tree removal will be discouraged wherever possible.

Proposed finding: Staff recommends creating a maximum building envelope to minimize or eliminate unnecessary tree cutting and removal. It is also possible to permit tree removal on lots by permit only. Applicants would submit residential site plans to the Home Owners Association or Architectural Design Review Committee with existing trees and trees proposed for removal. The HOA or Committee would be the overseer of the tree removal. This would need to be addressed in the Development Standards for the PUD.

This policy is met with the modified site plan and the conditions that the applicant includes in its development standards maximum building envelopes for treed lots and/or a tree removal process.

Policy 53: Low intensity public use of major drainage ways for open space purposes will be encouraged.

Proposed finding: The applicant's proposed master plan preserves a large continuous band of open space in a major drainage way, as well smaller open space areas. The applicant's preliminary trail system provides public access to these areas.

This policy is met with the condition that public access to the trails be permitted.

Policy 61: The City will encourage identification and/or preservation of significant historic landmarks, archaeological, and architectural sites which meet established and applicable criteria.

Proposed finding: The applicant obtained an archaeological survey of the property, but has indicated that the report has not been finalized; the report has not yet been submitted to the City.

This policy is met with the condition that the applicant supply City Staff a copy of the archaeological report and proposed preservation measures prior to any construction.

Policy 86: Pedestrian and bicycle use will be promoted as alternative modes of transportation.

Proposed finding: The applicant proposes a trail route through the development. The trail system will be open to the general public, which will promote pedestrian and bicycle use, particularly with conditions requiring the trail system be developed with an all-weather surface and that the trail system extend to the east and west boundaries of the subject property. The trail route will roughly parallel the major roads and will connect the 'neighborhoods.' Reduction and elimination of through traffic resulting from the gating will enhance bicycle use of roadways within the development.

This policy is met with the conditions that the development trail system be open to the public, be developed with an all-weather surface, and be maintained year round as seasonally appropriate and necessary.

Policy 87: Urban sprawl will be curtailed and in-filling of vacant land promoted to reduce energy costs.

Proposed finding: The proposed density does not constitute urban sprawl as the property is on the edge of the urban growth boundary and the large tracts of vacant land adjacent to the parcel and outside of the UGB are under the same ownership. The large lot sizes create a transition to the lands outside of the UGB. The lower density also allows preservation of the dense stands of forest as well as drainage ways.

This policy is met.

Policy 97: The interrelationship of transportation, job sites, shopping sites, recreation, open space and scenery, education and similar activities will be emphasized to provide maximum and efficient use of public facilities and services.

Proposed finding: No job, shopping or education centers are proposed in this residential development and no public facilities are proposed for within the development. The neighboring Southview development will include substantial retail development. The proposed Pine Valley PUD will be required to have two street connections to the Southview development, to facilitate access to retail uses within Southview.

This policy is met.

Policy 98: Housing projects will serve a variety of ages, incomes, occupations and interests while maintaining individuality in design and aesthetic concern. Housing types for single adults and childless couples will be supported.

Proposed finding: The applicant has a target market which requests larger single family lots within a gated community. This housing option currently does not exist within Klamath Falls. The Pine Valley PUD will include areas for possible development of town homes or condominiums. This PUD will, therefore, promote a variety of housing types serving a variety of ages, incomes, occupations and interests within the Klamath Falls community.

This policy is met.

Policy 102: The City will encourage the use of innovative site development techniques and the mix of dwelling types in all undeveloped residential areas.

Proposed finding: The applicant has not submitted development standards to date. The development standards can address the development techniques. The applicant is proposed approximately two different dwelling types, but both constitute single family dwelling units according to the CDO. Though it is a large tract, as noted above, the proposed large lot gated community in a forested area will meet a housing need not currently addressed in the community.

This policy is met.

Policy 104: The construction of multi-family, low-income housing throughout the city will be supported.

Proposed finding: This policy does not require that multi-family, low-income housing be included in every proposed development or PUD. The community has adequate areas to accommodate the construction of multi-family, low-income housing.

This policy is met.

Policy 108: Housing for the elderly, including low maintenance smaller units, will be promoted.

Proposed finding: This policy does not require that low-maintenance smaller units be included in every proposed development or PUD. The Klamath Falls community has adequate areas for the construction of low maintenance smaller units and much of the target market for these homes will be retirees seeking safe, secure housing.

This policy is met.

Policy 111: Increased densities will be promoted to reduce energy consumption, facility and service costs, and urban sprawl.

Proposed finding: The proposal calls for one dwelling unit per 20,000 to 50,000 square foot parcel. The proposed density does not constitute urban sprawl as the property is on the edge of the urban growth boundary and the large tracts of vacant land adjacent to the parcel and

outside of the UGB are under the same ownership. The large lot sizes create a transition to the lands outside of the UGB and serve to preserve dense stands of forest and drainage ways.
This policy is met.

Policy 112: The City will preserve and encourage a mix of household and densities use.

Proposed finding: The proposal calls for one dwelling unit per 20,000 to 50,000 square foot parcel. The proposed density does not constitute urban sprawl as the property is on the edge of the urban growth boundary and the large tracts of vacant land adjacent to the parcel and outside of the UGB are under the same ownership. The large lot sizes create a transition to the lands outside of the UGB and serve to preserve dense stands of trees and habitat.
This policy is met.

Policy 128: A system of trails for pedestrian and non-motorized use will be established to lead out of the City into surrounding open spaces and scenic areas.

Proposed finding: **This policy is met with the condition that the applicant constructs a trail, open to the public, from the eastern boundary to the western boundary of the site.**

Policy 135: The community will create and maintain a diversified system of recreation lands and facilities that meets the recreation needs of all people, conserves energy, and enhances the environmental quality of the community.

Proposed finding: The applicant is proposing open space land within the development and a private recreation center. The area is conducive to passive recreation, such as open space and trails.

This policy is met if public access is given to the trail system, as the applicant has proposed and as required by Condition 6.

Policy 140: New direct access to arterials will be granted only after consideration is given to the land use and traffic patterns in the area of development, not just at the specific site. Frontage roads and access collection points will be encouraged.

Proposed finding: The applicant is proposing access directly onto HWY 140 and into Southview PUD. The remaining westerly access roads are proposed to connect to future construction, not yet permitted at this time, and outside of the UGB. There are no arterial roads proposed for access.

This policy is met to the extent it is applicable.

Policy 159: Population densities, land use patterns, and peak hour travel patterns will be used as principal criteria in evaluating future development plans.

Proposed finding: Although Parsons-Brinkerhoff, a traffic engineering firm, states Lakeshore Drive has the ability to handle the proposed traffic from this development so long as all other connections are constructed, the applicant modified the site plan to exclude the through access from Lakeshore Drive to Highway 140 based on testimony from Lakeshore residents citing safety concerns during winter months during which icy conditions are common on this narrow, winding roadway along the lake.

This policy is met with the condition that a revised traffic study be conducted looking at the effects on Highway 140 with no connection to Lakeshore Drive.

Policy 160: Development plans will reflect reasonable needs of motorists but not subvert other needs to the demands of the automobile.

Proposed finding: A public trail system is proposed within and through the development. BTS has the ability to service the development. Controlling motor vehicle access in the development will reduce traffic and promote alternative use of the streets.

This policy is met.

Policy 161: The transportation system will be designed to recognize and respect the characteristics of natural environmental features.

Proposed finding: The applicant designed the road layout to follow topography and attempts to meet the 10% grade requirement.

This policy is met.

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

Proposed finding: Commercial centers on the west side of the City are currently limited. Southview PUD, adjoining to the south, has designated land as available for commercial

development. Based on the success of the Running Y just to the north and the marketability of a large lot, gated community as proposed, the Pine Valley PUD is expected to develop rapidly and in turn provide substantial assistance in creating the demand necessary to move commercial development forward on the west side. This in turn will benefit the numerous other residential developments under development in the area, reducing the need to travel into the City. The Pine Valley PUD will include street connections to the Southview PUD to minimize the distance that residents of the Pine Valley development must travel in order to access any commercial development within the Southview PUD.

This policy is met.

Policy 170: The City will coordinate its transportation and land use planning and implementation measures with the County.

Proposed finding: The City, County and ODOT are currently working on a West Side Refinement Plan for the TSP; that process implements this policy by coordinating transportation planning between jurisdictions. At the City Council hearing, Mark Ahalt argued that this policy requires street connectivity between the proposed Pine Valley PUD and his adjacent property, which is located outside the City limits and is under County land use planning jurisdiction. The City disagrees. This policy simply requires coordination in planning; it does not mandate particular outcomes, including connectivity between the Pine Valley PUD and the Ahalt property.

This policy is met.

Policy 172: Adequate water service, either existing or immediately attainable, will be a precondition to any development project.

Proposed finding: The applicant is proposing a private water system.

This policy is met with the condition that all necessary permits are received through the state, as required by Condition 12.

Policy 192: Storm water flows within and to natural drainage courses will not, through development, exceed natural capacities within in the City.

Proposed finding: The applicant is proposing detention ponds on site. Runoff will be to County, State and private districts.

This policy is met with the condition that the applicant shall submit a stormwater master plan to the City Public Works Department, County Public Works Department and ODOT for review and approval. At the time of submittal, the applicant shall provide a copy of the stormwater master plan to the Lakeshore Irrigation District.

Policy 196: Adequate drainage facilities, either existing or immediately attainable, will be a precondition to any development project.

Proposed finding: **This policy is met with the condition that the applicant shall submit a stormwater master plan to the City Public Works Department, County Public Works Department and ODOT for review and approval. At the time of submittal, the applicant shall provide a copy of the stormwater master plan to the Lakeshore Irrigation District.**

Policy 212: New developments will be closely evaluated in terms of fire and police response times, and physical design criteria that enhance delivery of police and fire services.

Proposed finding: The proposal is for a gated community, reducing emergency service response time and the ability to use the roads as public ways. The applicant revised the road layout, eliminating the access to Lakeshore Drive within the PUD. The applicant submitted a letter from KCFD#1 on December 13, 2005.

This policy is met with the condition that the applicant obtains a written statement from the City Police Department indicating that the elimination of the Lakeshore Drive connection will not result in an unacceptable emergency service response time.

Policy 223: Standards for urbanization will encourage flexibility and innovation in development, permitting mixtures of land uses and intensities which contribute to the quality of the community.

Proposed finding: The PUD encourages flexibility and innovation in development. The proposed density does not constitute urban sprawl as the property is on the edge of the urban growth boundary and the large tracts of vacant land adjacent to the parcel and outside of the UGB are under the same ownership. The large lot sizes create a transition to the lands outside of the UGB and serve to protect dense stands of forest and habitat, as well as drainage ways.

This policy is met.

Policy 231: Residential densities adjacent to major arterials will be increased.

Proposed finding: There are no arterials adjacent to this proposal. The proposed density does not constitute urban sprawl as the property is on the edge of the urban growth boundary and the large tracts of vacant land adjacent to the parcel and outside of the UGB are under the same ownership. The large lot sizes create a transition to the lands outside of the UGB.
This policy is met.

Policy 233: Core commercial and residential densities will be as high as practical for energy and transportation advantages.

Proposed finding: The applicant is not proposing any core commercial areas. Residential densities are low (one dwelling unit per 20,000 to 50,000 square feet) (see Policy 164 discussion above). The proposed density does not constitute urban sprawl as the property is on the edge of the urban growth boundary and the large tracts of vacant land adjacent to the parcel and outside of the UGB are under the same ownership. The large lot sizes create a transition to the lands outside of the UGB and allow for increased protection of forested areas and natural drainage ways.
This policy is met.

Policy 248: The existing imbalance of predominate southern and eastern urbanization, with its adverse effects on facilities and services, transportation, and energy consumption, will be corrected by promotion of urbanization to the north and west, thereby establishing geographically a 'balanced' urban form.

Proposed finding: This proposal is located in the northwest corner of the UGB.
This policy is met.

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

Proposed finding: The community is growing at a rapid pace and the City supports development that is thought out and will have a positive effect on the community for generations to come. This development offers a housing option not currently available in the City.
This policy is met.

The following are required for submittal per Section 12.375 (Master Plan Submittal Requirements) of the CDO:

- (1) A general land use map setting forth the proposed uses of all sectors within the subject property and the approximate acreage of each. **This requirement is met.**
- (2) A topographic map of the property. **This requirement is met.**
- (3) The type and character of structures and the number of dwelling units per net acre proposed for each residential area. **This requirement is met.**
- (4) A statement of the standards of population density for the various proposed residential land uses. **This requirement is met.**
- (5) The general location of all proposed public facility sites and the approximate area of each. **This requirement is not applicable as no public facilities are proposed.**
- (6) The general location of major thoroughfares. **This requirement is met.**
- (7) A preliminary report and overall plan describing proposed provisions for storm and other drainage, sewage disposal, water supply and such other public improvements and utilities as the Public Works Director may require. *According to the City Public Works Director, no conceptual plan has been submitted for review and approval for connection to City Sewer.* **This requirement is met with the condition that the applicant submits a conceptual wastewater management plan to the Public Works Department for review and approval.**
- (8) A written statement of development standards as they relate to the allocation of land within the development plan to all proposed types of land use. *The private CC&Rs do not qualify as development standards enforceable by the City.* **This requirement is met with the condition that development standards be created and submitted to the City.**
- (9) Delineation of subareas if development is to be in phases and a schedule of the order of development of each phase. If only one phase is anticipated, the developer may elect to combine the Master Plan requirements with those of the Development Plan under the Conditional Use Permit procedure. **This requirement is met, per the amended master plan and the Applicant's Written Statement.**

(10) The Master Plan shall be submitted in a form approved by the Director. The Council shall review the Master Plan and approve, conditionally approve, disapprove or refer the same back to the Commission for further study and recommendation. Any such plan is subject to the final approval of the Council. Any conditions placed upon such approval shall be clear and objective. **This requirement is met.**

Proposed Finding: The master plan complies with the applicable portions of the Comprehensive Plan, Chapters 10 to 14 and State and Federal laws with conditions. **This criterion is met with the above outlined conditions.**

5. **Criterion** The project results in an equal or superior product than would have resulted from following the base development standards of the applicable zoning district, as provided in Chapter 12.

Proposed finding: The base development standard for residential development within the city is a minimum lot size of 5,000 square feet. This proposal meets those development requirements. The project results in at least an equal product than would have resulted from following the base development standards of the applicable zoning district, as provided in Chapter 12. It offers a housing option in demand by potential new residents and one not currently available to the City. The proposed density does not constitute urban sprawl as the property is on the edge of the urban growth boundary and the large tracts of vacant land adjacent to the parcel and outside of the UGB are under the same ownership. The large lot sizes create a transition to the lands outside of the UGB and preserves forested areas, habitat and natural drainage ways. Increased protection of these site features contributes to the quality of the development.
This policy is met.

6. **Criterion** The proposal results in a balanced exchange; for the developer, flexible development standards, maximum land utilization and alternate ownership options. For the community, greater preservation of natural features and natural resources, greater proportions of useable open space and recreation facilities. For both, a greater opportunity for housing at all income levels.

Proposed Finding: The area is conducive to passive recreation, such as open space and trails. The proposed density does not constitute urban sprawl as the property is on the edge of the urban growth boundary and the large tracts of vacant land adjacent to the parcel and outside of the UGB are under the same ownership. The large lot sizes create a transition to the lands outside of the UGB and serve to protect stands of trees, habitat, and natural drainage ways. The trail system will provide public access to a large open space system. The developer will be able to offer an ownership option not currently available in the City.
This policy is met if public access is given to the trail system.

7. **Criterion** Potential impacts to adjoining properties have been adequately mitigated through site design and attached development conditions.

Proposed Finding: The applicant modified the master site plan, eliminating the connector road from HWY 140 to Lakeshore Drive. The connector road originally proposed by the applicant was a serious concern of numerous adjacent property owners. The Lakeshore Drive residents are opposed to the connection from the PUD to Lakeshore Drive as it would increase the amount of traffic on the road, increasing the number of wildlife/vehicle encounters and the possibility of a pedestrian/vehicle encounter given the narrowness and winding nature of the road coupled with the persistent hazardous conditions during the winter months.

Potential impacts to adjoining properties have been adequately mitigated through site design and attached development conditions. **This criterion is met with the removal of the Lakeshore connection and the condition that the additional connection to Southview PUD be constructed.**

8. **Criterion** All utilities, access ways, open space and recreation areas not dedicated to the public use are owned and maintained by a homeowner's association or other acceptable private legal entity with the responsibility for and capability of adequate maintenance and care of such facilities, to the satisfaction of the City Attorney and City Engineer.

Proposed Finding: All utilities, access ways, open space and recreation areas not dedicated to the public use are proposed to be owned and maintained by a homeowner's association or other acceptable private legal entity with the responsibility for and capability of adequate maintenance and care of such facilities, to the satisfaction of the City Attorney and City Engineer. **This criterion is met.**

9. **Criterion** The applicant has demonstrated the ability to finance the project through final completion.

Proposed Finding: The applicant is Jon Barkce, on behalf of the property owner JELD-WEN, Inc. The applicant/owner has demonstrated the ability to finance the project through final completion based on its established track record with the Running Y Resort development. This criterion is met.

Proposed Conditions for 6-Z-05

1. The applicant shall design maximum building envelopes for treed lots and outline them in the development standards and/or implement a tree removal process outlining it in the development standards.
2. The applicant shall create development standards to address: (a) the design and construction techniques; (b) the relationship between natural topographic features, parks, homes, businesses, streets, and open spaces; and (c) the preservation of the open spaces, scenic values and assuring public access to them.
3. The applicant shall not engage in construction between the dates of January 1st to July 31st within the one-quarter mile radius of the bald eagle nest south of Highway 140, and at no other time, unless ODFW indicates the nesting site is inactive.
4. The applicant shall maintain a vegetative screen of standing trees within a 200-foot buffer adjacent to Highway 140 in the vicinity of the bald eagle nest south of Highway 140.
5. If the applicant develops CC&Rs for the property, the CC&Rs shall be consistent with the Development Standards. Any CC&Rs shall notify property owners within the development that conflicts between people and wildlife can be expected and ODFW can provide only limited assistance; there is a City Code prohibiting the artificial feeding or salting of wildlife (except songbirds); and restricting the installation of perimeter fencing (ensuring wildlife passage).
6. The applicant shall provide public access to the trails within the development.
7. The applicant shall develop the trail system with an all-weather surface.
8. The applicant shall extend the trail system to the east and west boundaries of the site.
9. The applicant shall supply City Staff a copy of the archaeological report and proposed preservation measures prior to any construction.
10. The applicant shall have Pine Valley's access to Southview match the location of the platted/master planned roads within Southview.
11. The applicant shall create a second northerly access to Southview PUD.
12. The applicant shall receive all necessary permits through the state for the private water system.
13. The applicant shall submit a storm water master plan to the City Public Works Department, County Public Works Department, and ODOT for review and approval. At the time of submittal, the applicant shall provide a copy of the storm water master plan to the Lakeshore Irrigation District.
14. The applicant shall provide additional submittals required per City Public Works, as outlined in their comments.
15. The applicant shall construct all proposed street connections.
16. 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 Pine Valley Master Plan on file with the City of Klamath Falls Planning Division.
17. The applicant shall, prior to connection to the gravity sewer line, submit a conceptual wastewater management plan to City Public Works for review and approval.
18. Prior to approval of the final plat for the first phase of development, the applicant shall obtain a written statement from ODOT approving a conceptual access plan to Highway 140 without the Lakeshore Drive connection.
19. Prior to approval of the final plat for the first phase of development, the applicant shall submit a revised traffic study looking at the effects of removing the Lakeshore Drive connection.

20. Prior to approval of the final plat for the first phase of development, the applicant shall obtain written statements from Klamath County Fire District No. 1 and the City Police Department stating the removal of the Lakeshore Drive connection will not result in an unacceptable emergency response time.
21. The development may be "gated" as proposed by the applicant to control motor vehicle access into the development provided: (a) the development shall not be security fenced or walled; (b) all streets within the development shall be privately maintained; (c) if any public parks or other publicly funded facilities are developed within the development, access to such facilities shall not be gated.

EXHIBIT B

VICINITY MAP
No Scale



