



# Oregon

Theodore R. Kulongoski, Governor

**Department of Land Conservation and Development**

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Salem, OR 97301-2540

(503) 373-0050

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[www.lcd.state.or.us](http://www.lcd.state.or.us)

## NOTICE OF ADOPTED AMENDMENT

December 20, 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 017-06



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: January 2, 2007**

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  
Mark Radabaugh, DLCD Regional Representative  
Joe Slaughter, City Of Klamath Falls

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# FORM 2

## 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  
DEC 13 2006  
LAND CONSERVATION  
AND DEVELOPMENT

Jurisdiction: City of Klamath Falls Local File No.: 9-2-06  
(If no number, use none)

Date of Adoption: 12/5/06 Date Mailed: 12/11/06  
(Must be filled in) (Date mailed or sent to DLCD)

Date the Notice of Proposed Amendment was mailed to DLCD: 8/10/06

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."

The rezoning of approximately 17,000 square feet of Medium Density Residential property to General Commercial

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."

Same

Plan Map Changed from: Residential to Commercial

Zone Map Changed from: Medium Density Residential to General Commercial

Location: R-3809-33DC-5600 (lots), 5800 (lot) and 5800 Acres Involved: 0.27 Acres

Specify Density: Previous: 5,000 sq ft New: 5,000 sq ft

Applicable Statewide Planning Goals: 1, 2, 9 + 10

Was an Exception Adopted? Yes:  No:

DLCD File No.: 017-06 (15433)

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: City of Klamath Falls, Klamath County & Klamath County Fire Dist. #1

Local Contact: Joe Slaughter Area Code + Phone Number: (541) 883-5361

Address: 226 S. 5<sup>th</sup> 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.

*Planning*

Ordinance No. 06-32

**A SPECIAL ORDINANCE GRANTING ZONE CHANGE FOR 0.27 ACRES OF  
PROPERTY FROM MEDIUM DENSITY RESIDENTIAL TO GENERAL  
COMMERCIAL.**

**WHEREAS**, there has been submitted to the City of Klamath Falls a written proposal for zone change of certain real property by the Klamath Falls City Council thereof, which property is hereinafter described; and

**WHEREAS**, a public hearing was held on October 23, 2006, pursuant to applicable laws, at which time all evidence and objection with reference to said proposed zone change were considered by the Planning Commission; and

**WHEREAS**, the City Council, hearing notices having been duly given, did hold a public hearing on November 20, 2006, 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:**

The zoning designation of 0.27 acres as shown on the map attached hereto as Exhibit A, and described as Lots 6 and 7, Block 203 of Mills 2<sup>nd</sup> Addition, is hereby changed to General Commercial

Passed by the Council of the City of Klamath Falls, Oregon, the 4<sup>th</sup> day of December, 2006.

Presented to the Mayor, approved and signed this 5<sup>th</sup> day of December, 2006.



\_\_\_\_\_  
Mayor

ATTEST:



\_\_\_\_\_  
City 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 4<sup>th</sup> day of December, 2006 and therefore approved and signed by the Mayor and attested by the City Recorder.

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



**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. 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:

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

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

Staff Analysis: Approximately 6 feet of the retail store is located on tax lot 5700 (lot 7) with the remaining lot used for off-street parking. Tax lot 5800 (lot 7) was previously used for off-street parking by Gil's Video. Tax lot 5600 (lot 6) is owned by the applicant and contains a deteriorated garage built from native stones. This zone change will facilitate the development of these lots and will help preserve the garage.

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

Staff analysis: This zone change will allow commercial growth on unutilized land in an area developed with commercial, industrial, and residential uses. This zone change will allow for natural in-fill.

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, based on staff's interpretation. This criterion is met.

**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: This property is approximately 0.27 acres (11,761 square feet) in size, and rectangular in shape, which does not preclude any reasonable development of additional retail or other uses permitted within the General Commercial zone considering the property's size. The minimum lot size for Medium Density and General Commercial is 5,000 square feet.

Proposed 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 right-of-ways in the vicinity of the property are Owens Street, White Avenue, a 20' wide alley and S. 6<sup>th</sup> Street to the south of the property. Owens Street is a 60' wide right-of-way with 28' wide paved travel lanes. There are 14' wide sidewalks, no planting strip and 6" of curb. The existing retail store property lot 8) has 120' of frontage. White Avenue is a 60' wide right-of-way with 28' wide paved travel lanes. Adjacent to the site on White Street are 5' wide sidewalks, 8' of planting strip and 6" of curb. The alley to the south is 20' wide and unimproved. Lots 6, 7 and 8 each have 50' of frontage on these rights-of-way.

As part of the S. 6<sup>th</sup> Street improvement project, the City Public Works Department will be making adjustments to these rights-of-way. The improvements are estimated to start during the fall of 2007. The improvements will increase the Owens Street width travel lanes by removing 8' of sidewalk. No other right-of way changes are anticipated for Owens or White Street.

The most recent use of the property in question is parking for the retail stores (Merits and Gil's Video) and a garage. The rights-of-way adequately serve the existing traffic generated from the site and there is no evidence that this zone change would have negative impacts on the street system.

Proposed Finding: The property affected by the proposed zone change is properly related to Owens Street, White Avenue and a public alley. This criterion is met.

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

Staff Response: There is no evidence that the proposed Zone Change will have any adverse effect on abutting properties or the permitted uses thereof. The adjacent residents have not contacted the Planning Department in opposition to the proposed zone change or the Code Enforcement Office with complaints about the existing uses. The proposed development of this property should not have an adverse effect on neighboring properties given continued compliance with all City and other agency rules and regulations.

Proposed Finding: The proposed change of zone will not have an adverse effect on abutting property or the permitted uses thereof. This criterion is met.