



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street NE, Suite 150

Salem, Oregon 97301-2524

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

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

NOTICE OF ADOPTED AMENDMENT

March 15, 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 020-05

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.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: March 27, 2006

This amendment was submitted to DLCD for review 45 days prior to adoption. Pursuant to ORS 197.625 (1), 197.830 (2), and 197.830 (9) 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 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
Ian Morgan, 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

MAR 10 2006

LAND CONSERVATION AND DEVELOPMENT

Jurisdiction: City of Klamath Falls Local File No.: 9-2-05 (If no number, use none)

Date of Adoption: 3-6-06 (Must be filled in) Date Mailed: 3-9-06 (Date mailed or sent to DLCD)

Date the Notice of Proposed Amendment was mailed to DLCD: 12-5-05

- Comprehensive Plan Text Amendment Comprehensive Plan Map Amendment
Land Use Regulation Amendment X 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."

Re-zone approx. .7 acres 32,032 sq. ft from Commercial to light industrial. The property is used as a storage facility which is a non-conforming use for commercial zone.

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: General Commercial to Industrial

Zone Map Changed from: General Commercial to Industrial

Location: 3809-28CB-11900 Acres Involved: .73 acres

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

Applicable Statewide Planning Goals: 1,2,6,9

Was an Exception Adopted? Yes: No: X

DLCD File No.: 020-05 (14849)

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: Ian Morgan Area Code + Phone Number: (541) 883-5272

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 - ATTENTION: PLAN AMENDMENT SPECIALIST.

Comm. Dec.

Ordinance No. 06- 06

A SPECIAL ORDINANCE GRANTING A ZONE CHANGE FOR .73 ACRES IN SIZE, LOCATED NORTHWEST OF ESPLANADE AVENUE, SOUTHWEST OF THE "A" CANAL, AND NORTHEAST OF THE SOUTHERN PACIFIC RAILROAD, FROM GENERAL COMMERCIAL TO LIGHT INDUSTRIAL.

WHEREAS, the applicant, Tim Amuchastegui, has submitted a written proposal for a zone change of certain real property which is hereinafter described; and

WHEREAS, a public hearing was held on January 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 February 21, 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,

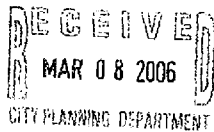
THE CITY OF KLAMATH FALLS ORDAINS AS FOLLOWS:

The zoning designation of certain property, delineated as "subject site" on the map attached hereto as Exhibit "A" and further identified below, is hereby changed to Light Industrial.

That certain triangular tract of land bounded by the Esplanade in Second Hot Springs Addition to the City of Klamath Falls, Oregon, the Railroad right of way and the United States Government Canal described as follows: Commencing at a point formed by the Northerly line of the Esplanade and the Southerly line of the United States Government Canal; thence along the Northerly line of the Esplanade 169.2 feet to the intersection with the Easterly line with the Railroad right of way; thence Northwesterly along said Railroad right of way 480.4 feet to the intersection of the Railroad right of way and the United States Government Canal right of way; thence Southwesterly along said Canal right of way to the place of beginning, being situated in the West half of the Southwest Quarter of Section 28, Township 38 South, Range 9 East of the Willamette Meridian. Being also shown on the current Klamath County Assessors Map R-3809-028CB as Tax Lot 11900.

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

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



[Signature]

Mayor

ATTEST:
[Signature]

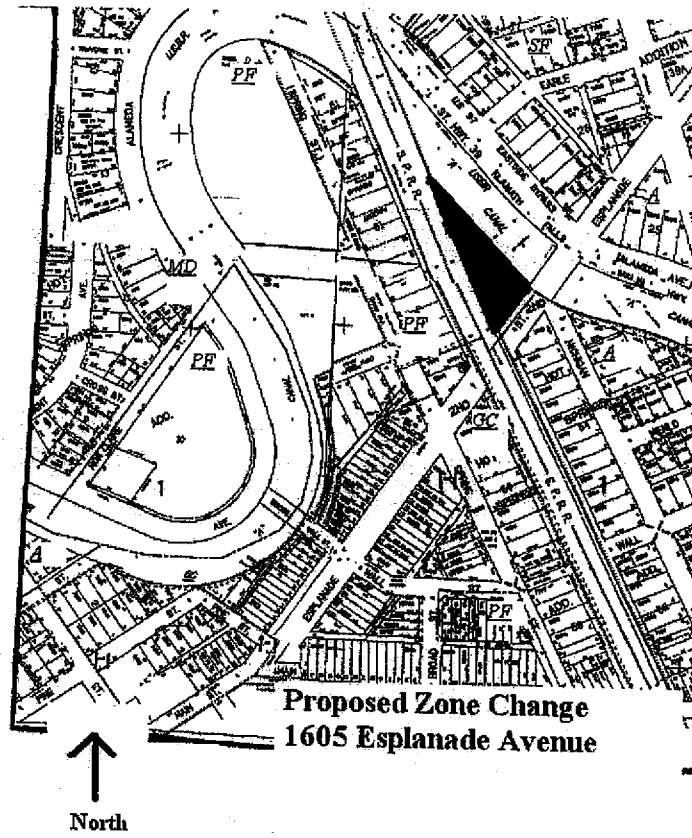
City Recorder (Deputy Recorder)

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 March, 2006 and therefore approved and signed by the Mayor and attested by the City Recorder (Deputy Recorder).

City Recorder (Deputy Recorder)

Exhibit A
VICINITY MAP
(No Scale)



**Exhibit B
FINDINGS**

1. **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 73: Existing and planned commercial and industrial areas will be protected from encroachment by incompatible land uses.

Policy 239: Lands designated for industrial use shall be preserved for that use and protected from incompatible uses.

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.

Comprehensive Plan policies 73 and 239 are not intended to absolutely prohibit, under any circumstances, the rezoning of land zoned industrial and/or commercial; these policies are intended to require the City : a) to maintain an adequate inventory of industrial and commercial properties to support anticipated growth in the community; and b) to insure the integrity of commercial and industrial zones by enacting zoning regulations that prohibit uses within industrial and commercial zones that are incompatible with and would interfere with industrial and commercial uses.

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.

2. **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 lot size for both General Commercial and Light Industrial is 5,000 square feet. A storage facility is a non-conforming use for General Commercial zoning, and the zone change to Light Industrial will bring the property into conformance. This lot is approximately 32,032 square feet in size and triangular in shape, which does not preclude any reasonable development considering the property's size. The property is currently developed and no additional structures are proposed at this time.

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.

3. **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 current use of the property has been the same since the late 1970's, and there is no anticipated change in use. The right-of-way adjacent to the property is Esplanade Avenue, which is 80' wide with improved roads, sidewalks and curbs along both the southeast and northwest sides of the right-of-way. The right-of-way adequately serves the traffic generated from the site since the late 1970's and there is no evidence that this zone change would have negative impacts on the road.

Finding: The property affected by the proposed zone change is properly related to Esplanade Avenue and has handled the amount of traffic for the current use for over 20 years. This criterion is met.

4. **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 proposed zone change should

not have an adverse effect on neighboring properties given the development's continued compliance with all City and other agency rules and regulations and the geographical location adjacent to the railroad, 'A' canal, and Crater Lake Parkway.

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