



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us

NOTICE OF ADOPTED AMENDMENT

March 19, 2007

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 021-06



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 30, 2007

This amendment was submitted to DLCD for review 45 days prior to adoption. Pursuant to ORS 197.830 (2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

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

***NOTE: THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAN IT WAS MAILED TO DLCD. AS A RESULT YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.**

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

<paa> ya/

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 12 2007

LAND CONSERVATION
AND DEVELOPMENT

Jurisdiction: City of Klamath Falls Local File No.: 12-7-06
(If no number, use none)

Date of Adoption: 2-21-2007 Date Mailed: 3-8-07
(Must be filled in) (Date mailed or sent to DLCD)

Date the Notice of Proposed Amendment was mailed to DLCD: 10-13-06

- | | |
|--|--|
| <input type="checkbox"/> Comprehensive Plan Text Amendment | <input checked="" type="checkbox"/> Comprehensive Plan Map Amendment |
| <input type="checkbox"/> Land Use Regulation Amendment | <input checked="" type="checkbox"/> Zoning Map Amendment |
| <input type="checkbox"/> New Land Use Regulation | <input type="checkbox"/> Other: _____ |
- (Please Specify Type of Action)

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

The applicant rezoned 28 acres from Industrial 1 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: Industrial to General Commercial

Zone Map Changed from: I to GC

Location: 3909-400-100 Acres Involved: 28

Specify Density: Previous: 1:5000 New: 1:5000

Applicable Statewide Planning Goals: 1, 2, 9 and 12

Was an Exception Adopted? Yes: No:

DLCD File No.: 021-06(15627)

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

Local Contact: Erik Nobel Area Code + Phone Number: 541-883-5254

Address: PO Box 237

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.

Planning

Ordinance No. 07-04

A SPECIAL ORDINANCE GRANTING A ZONE CHANGE FOR 28.33 ACRES OF LAND LOCATED SOUTH OF SHASTA WAY, NORTH OF THE OC&E RIGHT-OF-WAY AND EAST OF THE RAILROAD TRACKS, FROM INDUSTRIAL TO GENERAL COMMERCIAL.

WHEREAS, the applicant, CA Galpin, 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 December 4, 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 January 16, 2007, 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 "C"; NOW THEREFORE,

THE CITY OF KLAMATH FALLS ORDAINS AS FOLLOWS:

The zoning designation of 28.33 acres, located south of Shast Way, north of the OC&E right-of-way and east of the railroad tracks, and which is identified with the Klamath County Assessor Maps as maps and tax lots 3909-400-100, 3909- 4AB-600, and 3909-4AB-600, and legally described in Exhibit "A" and shown on Exhibit "B" is hereby changed to General Commercial.

Passed by the Council of the City of Klamath Falls, Oregon, the 20th day of February, 2007.

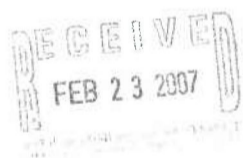
Presented to the Mayor, approved and signed this 21st day of February, 2007.

[Handwritten Signature]

Mayor

ATTEST:

Shirley Kappas
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 20th day of February, 2007 and therefore approved and signed by the Mayor and attested by the Deputy Recorder.

City Recorder (Deputy Recorder)

EXHIBIT "A"
LEGAL DESCRIPTION

PARCEL 1:

All that portion of Lots 70, 75, 76 and 77 of ENTERPRISE TRACTS, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon, as follows:

Beginning at a point on the Northerly line of the right of way of the Oregon, California and Eastern Railroad a distance of 534.2 feet from, at right angles to, and West of the East line of Lot 70, said point being the Southwest corner of the tract heretofore conveyed to Marshall E. Cornett et ux, by deed recorded in Volume 111, page 399, Deed Records of Klamath County, Oregon; thence North along the West boundary thereof 1023 feet, more or less, to the Northeasterly line of said Tract 70; thence Northwesterly along the Northeasterly line of Lots 70 and 75 as the case may be, 175.15 feet, more or less, to the intersection thereof with the Southerly line of Shasta Way; thence West along the Southerly line of Shasta Way and the Northerly line of Lots 75, 76 and 77, 1975 feet, more or less, to the Northeasterly line of the right of way of the Oregon, California and Eastern Railroad, sometimes called Klamath Falls Municipal Railroad, as said right of way is described in that certain deed from Enterprise Land & Investment Company to Robert E. Strahorn recorded in Volume 47 of Deeds at page 373 et seq., Records of Klamath County, Oregon; thence Southeasterly along the Northeasterly line of the right of way described in said deed to the point of beginning; but reserving and excepting from the operation hereof a strip of land 40 feet in width for a private roadway across the premises herein conveyed, the same to lie 20 feet on either side of the following described center line, to wit:

Beginning at the point of intersection of the Southerly line of Shasta Way, with the center line of East Main Street (formerly Stukel Street) in Klamath Falls, Oregon, if extended; thence South 22° 50' East 424.7 feet; thence South 2° West 371 feet, more or less to a point on the Northerly line of the right of way of the Oregon, California and Eastern Railroad, which is North 66° 38' West 30 feet, and North 23° 22' West 100 feet from the most Northerly corner of that certain parcel conveyed by the Enterprise Land and Investment Company to S.O. Johnson by deed dated December 9, 1922, recorded at page 387, in Volume 59 of Deed Records of Klamath County, Oregon; (subject to certain conditions as to use of said private road for purposes of ingress and egress, and the construction and maintenance of telephone and telegraph lines.)

ALSO EXCEPTING and excluding that certain parcel described as follows:

Beginning at a point which is forty feet Southerly along the Easterly line of Martin Street, if extended from the Northeast corner of Martin Street and Shasta Way, being the point of beginning; thence Easterly parallel with Shasta Way 250 feet; thence Southerly parallel with Martin Street, if extended, 100 feet; thence Westerly parallel with Shasta Way, 250 feet, thence Northerly parallel with Martin Street, if extended, 100 feet to the point of beginning.

ALSO excepting that certain portion of Lots 70 and 75 of ENTERPRISE TRACTS, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon, described as follows:

(Parcel 1 continued)

Beginning at a point in the Northerly line of Lot 75 a distance of 17.48 feet Southeasterly of the intersection of the South line of Shasta Way with the Southerly line of Sixth Street; thence West parallel to and 10 feet distant from the South line of Shasta Way, 38.0 feet; thence South 35° West 170 feet; thence South 81.5 feet; thence East 268.00 feet, more or less, to the property heretofore conveyed to Marshall E. Cornett et ux by deed recorded in Volume 111, page 399 of records of Klamath County, Oregon; thence North along the Westerly line of Cornett Tract 130 feet, more or less, to the Northerly line of Lot 70, otherwise the Southerly line of Sixth Street; thence Northwesterly along the Southerly line of Sixth Street 160.67 feet, more or less, to the point of beginning.

ALSO excepting all that portion of Lot 75 of ENTERPRISE TRACT, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon, bounded and described as follows:

Beginning at a point which is 260 feet South of and 150 feet East of the intersection of the East line of Martin Street in the Supplemental Plat of the Westerly portion of Block 242 of Mills Second Addition with the North line of Shasta Way; thence East 104 feet, more or less, to a point 40 feet West of the Southwest corner of the tract heretofore deeded to Safeway Stores, Inc.; thence North 100 feet; thence West 104 feet, more or less; thence South 100 feet to the point of beginning.

ALSO excepting all that portion described as follows:

Beginning at a point 40 feet South of and 250 feet East of the intersection of the East line of Martin Street and the North line of Shasta Way in the City of Klamath Falls, Oregon; thence East along a line parallel to Shasta Way and 40 feet South of the North line thereof, a distance of 90 feet; thence Southwesterly to a point 20 feet East of the Southeast corner of that tract of land deeded to Clarence A. Poole et ux in deed recorded in Book 126, page 294 of Deed Records of Klamath County, Oregon; thence West 20 feet; thence North 100 feet to the point of beginning, being a part of Tract 75 of ENTERPRISE TRACTS, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon.

ALSO EXCEPTING all the following:

Beginning at an iron pipe on the West line of the Cornett property which lies South 0° 03' 45" West a distance of 117.83 feet from the iron pin which marks the intersection of the West line of that certain parcel of land conveyed to Marshall E. Cornett et ux by deed recorded on page 399 of Volume 111 of the Deed Records of Klamath County, Oregon, and the Southerly right of way line of the present South Sixth Street in the City of Klamath Falls, Oregon, and running thence: continuing South 0° 03' 45" West along the West line of the Cornett Tract a distance of 60.0 feet to a 3/4" iron pipe; thence North 89° 56' 15" West a distance of 270.5 feet to a 1" iron pipe which lies on the East line of an unnamed street; thence North 0° 22' 30" West along the East line of the unnamed street a distance of 60.0 feet to a 5/8" iron pipe which marks the Southwest corner of that certain tract deeded to Safeway Stores and recorded on page 156 of Volume 140 of the Deed Records of Klamath County, Oregon; thence South 89° 56' 15" East along the Southerly line of the above mentioned Safeway Stores tract a distance of 270.9 feet, more or less, to the point of beginning, said tract being a portion of Tracts 70 and 75 of ENTERPRISE TRACTS, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon.

(Parcel 1 continued)

ALSO EXCEPTING, any portion of the above described property contained in deeds to the State of Oregon, for highway purposes, recorded on pages 49 and 260 of Volume 146, Deed Records of Klamath County, Oregon.

SAVE AND EXCEPT rights of way over and across said premises, either of record or apparent upon the property.

AND EXCEPTING THEREFROM any portion thereof lying within the right of way of the Oregon California and Eastern Railroad.

PARCEL 2:

All that portion of Lot 75 of ENTERPRISE TRACTS, according to the official plat thereof on file in the office of the County Clerk of Klamath County, Oregon, bounded and described as follows:

Beginning at a point which is 260 feet South of and 150 feet East of the intersection of the East line of Martin Street in Supplemental Plat of Westerly portion of Block 242, Mills Second Addition with the North line of Shasta Way; thence East 104 feet, more or less, to a point 40 feet West of the Southwest corner of the tract heretofore deeded to Safeway Stores, Inc.; thence North 100 feet; thence West 104 feet, more or less, thence South 100 feet to the point of beginning.

Tax Account No:	3909-00400-00100-000	Key No:	530349
Tax Account No:	3909-004AB-00600-000	Key No:	531142
Tax Account No:	3909-004AB-00800-000	Key No:	797819

Exhibit B
VICINITY MAP
No Scale



Exhibit C
FINDINGS

**RELEVANT REVIEW CRITERIA, FACTS AND ANALYSIS, AND
PROPOSED FINDINGS**

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 Change of Zones.

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 streets plans.*

Staff's Analysis: The proposed zone change is supported by the following Comprehensive Plan Policies:

Economy Policies

72. Klamath Falls position as the retail center for South Central Oregon and northern California will be strengthened whenever possible.

Staff Response: This proposed zone change, if approved, will open 28 acre property to commercial development. With the recent commercial activity, the City does not have many large vacant properties for commercial development. The development of this property with retail uses will help strengthen Klamath Falls position of the retail center. **This policy is met.**

Transportation

148. The City will develop a bikeway/pedestrian system within budget limits and where appropriate to connect residential neighborhoods, schools, parks and commercial areas.

Staff Response: The property in question is adjacent to the Rails to Trail right of way. If approved, this commercial area will be connected to other commercial areas, schools and residential areas via the Rail to Trails bike and pedestrian path. **This policy is met.**

164 The city will make land use decision that minimizes distances to goods and services.

Staff Response: The approval of this zone change will strengthen the central business district keeping retail conveniently located in the center Klamath Falls which helps minimize the travel distance for all of the citizens. This development would be located on the OC&E trail creating a convenient path for the pedestrian and bicyclist to access the retail center. **This policy is met.**

Land Use

225. The appropriate reuse of land which is underdeveloped or where structure are deteriorating will be encourage.

Staff Response: The historical use of the property is a concrete plant. The concrete plant was shut down many year ago and since this property has be vacant. The property in question is the northern boundary of a large section (180 acres) of land zoned industrial. The development of the property in question will help the industrial property to the south development by providing better access to city streets. The development of the property in question will require the upgrading of various streets and intersection. **This policy is met.**

237. The central business district will receive top priority consideration for commercial land uses, with appropriate neighborhood commercial centers supplementing, not distracting from the central business district or conflicting surrounding residential areas.

Staff Response: The area around the Washburn Way South 6th Street is the central business district of Klamath Falls. All of the land zoned for commercial

in the area has been developed. This zone change will allow the continued growth of the central business district. **This policy is met.**

238 Strip commercialism will be avoided, due to its adverse effects on traffic, energy, safety, and convenience.

Staff Response: Currently from the intersection of South 6th Street to west to the viaduct South 6th is strip commercialism. South 6th Street is lined with commercial uses, but behind those commercial uses is either vacant industrial land (south side of 6th Street) or residential property (north side of the 6th Street). If this zone change is approved, it will provide depth to the commercial zone reducing the strip commercialism that has developed. **This policy is met.**

239 Land designated for industrial use shall be preserved for that use and protected from incompatible uses.

Staff Response: The property in question is currently zoned for industrial use. This zone change will remove this property from the industrial inventory; however the general commercial zone is not incompatible use. The two zones share many of the same allowed uses. If this property was to be commercial developed, many of the streets as they exist today will need to be enhanced. The enhancing of existing streets and creation of new streets will help encourage the development of the industrial lands to the south. **This policy is met.**

Findings: Criterion has been met based on facts and analysis.

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's Analysis: The property affected by this zone change is 28.23 acres, which is much greater than the minimum lot size of 5,000 square feet. The property is large enough to support any commercial use allowed by the Community Development Ordinance.

Findings: Criterion has been met based on the facts and analysis.

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's Analysis: Development of this property may require some off site improvements. The required off site improvements would be the same if this property was developed as industrial use or commercial use. This will be determined when the property is proposed to be developed and a detailed traffic study is completed. The property is in proper relation to the existing streets.

Findings: Criterion has been met based on the facts and analysis.

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

Staff's Analysis: No evidence has been submitted showing an adverse effect on abutting properties. Given adjacent zoning, the abutting properties and those in the surrounding area will not be adversely affected by the proposed zone change. If this property is developed, it may have a positive effect on the abutting property, opening them up to development.

Findings: Criterion has been met based on the facts and analysis.