



# Oregon

Theodore R. Kubongoski, 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

5/14/2010

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

FROM: Plan Amendment Program Specialist

SUBJECT: City of Klamath Falls Plan Amendment  
DLCD File Number 001-10

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: Thursday, May 27, 2010

This amendment was submitted to DLCD for review 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 Acknowledgment or 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. NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.

Cc: Kelly O'Neill, City of Klamath Falls  
Gloria Gardiner, DLCD Urban Planning Specialist  
Mark Radabaugh, DLCD Regional Representative

<paa> YA

**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**



Jurisdiction: City of Klamath Falls

Local file number: 7-Z-09

Date of Adoption: 05/04/10

Date Mailed: 05/06/10

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Select one** Date: 01/26/10

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

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

The applicants, Leo and Pauline Icenbice, Steve Shrifter, Joan Quinlan, Don and Vickie Dumbeck, Larry and Susan Snyder, and David Filippe propose to rezone approximately 0.68 acres (29,680 square feet) of land from Public Facility to Apartment Residential. The proposed zone change would eliminate the non-conforming residential uses on the parcels and make the zone more closely match the existing uses on the subject properties. All seven of the properties are used for single family homes. This proposal does not include any changes or modifications to the subject properties.

Does the Adoption differ from proposal? Please select one

2,400 square feet or .05 acres was added to the rezoned area. The additional property is owned by Larry and Susan Snyder, and David Filippe.

Plan Map Changed from: N/A

to: N/A

Zone Map Changed from: Public Facility (PF)

to: Apartment Residential (A)

Location: West of High Street, east of Jefferson Street, and south of N. 9<sup>th</sup> Street

Acres Involved: 0.68 acres (29,680 sq ft)

Specify Density: Previous: N/A

New: N/A

Applicable statewide planning goals:

1  2  3  4  5  6  7  8  9  10  11  12  13  14  15  16  17  18  19

Was an Exception Adopted?  YES  NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?

Yes  No

If no, do the statewide planning goals apply?

Yes  No

If no, did Emergency Circumstances require immediate adoption?

Yes  No

DLCD file No. 001-10 (18087) [16116]

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

City of Klamath Falls, Qwest, Pacific Power & Light, Klamath County Fire District #1, Charter Communications, Basin Transit, Avista Gas, USBR, Klamath Falls City School District

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Local Contact: Kelly O'Neill

Phone: (541) 883-5360 Extension: 369

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

Fax Number: 541-883-5390

City: Klamath Falls

Zip: 97601

E-mail Address: [koneill@ci.klamath-falls.or.us](mailto:koneill@ci.klamath-falls.or.us)

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## 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 Complete Copies (documents and maps) 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. Electronic Submittals: At least **one** hard copy must be sent by mail or in person, or by emailing [larry.french@state.or.us](mailto:larry.french@state.or.us).
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 now access these forms online at <http://www.lcd.state.or.us/>. Please print on **8-1/2x11 green paper only**. You may also 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**.

Updated March 17, 2009

**A SPECIAL ORDINANCE REZONING SEVEN PARCELS OF PROPERTY ABUTTING NORTH 9TH STREET AND HIGH STREET AND MEASURING APPROXIMATELY 0.68 ACRES (29,680 SQUARE FEET) FROM PUBLIC FACILITY TO APARTMENT RESIDENTIAL**

**WHEREAS**, the applicants, Leo and Pauline Icenbice, Steve Shrifter, Joan Quinlan, Don Dumbeck, Larry and Susan Snyder, and David Filippe, have submitted a written proposal for zone changes for seven parcels of real property which are hereafter described and shown on Exhibit A; and

**WHEREAS**, the Planning Commission held a public hearing on March 22, 2010, pursuant to applicable laws, at which time all evidence with reference to said proposed zone changes was considered by the Planning Commission; and

**WHEREAS**, hearing notices were duly given and the City Council held a public hearing on April 19, 2010, on the recommendation of and including the record of the Planning Commission concerning the zone changes; and

**WHEREAS**, pursuant to such record and hearing the City Council has determined the zone changes 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 designations for seven parcels of property (totaling approximately 0.68 acres) as shown on the map attached hereto as Exhibit A, and legally described below, are each hereby changed from Public Facility to Apartment Residential.

**LEGAL DESCRIPTIONS:**

Lots 1 and 2 of Block 52 of Nichols Addition located in the SW ¼ SE ¼, Section 29, T38S, R9E, WM, Klamath County, Oregon.

The northerly 59 feet of westerly 40 feet of Lot 7 of Block 43 of Nichols Addition, and a 124 foot by 60 foot vacated portion of Washington Street, and the westerly 40 feet by 59 feet and northeasterly 80 feet by 15 feet of Lot 7 of Block 43, and the northeasterly 80' by 15' of Lot 2 Block 43 of Nichols Addition, all located in the NW ¼ NE ¼, Section 32, T38S, R9E, WM, Klamath County, Oregon.


The properties can be found on Klamath County Assessor's map R-3809-029DC tax lots 16300, 16200, 16100 and on map R-3809-032AB tax lots 00801, 00600, 00400, and 00300.

Passed by the Council of the City of Klamath Falls, Oregon, the 3<sup>rd</sup> day of May, 2010.

Presented to the Mayor, approved and signed this 4<sup>th</sup> day of May, 2010.

  
\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_  
City Recorder

STATE OF OREGON            }  
COUNTY OF KLAMATH    }ss.  
CITY OF KLAMATH FALLS }

I, Elisa Olson, 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 3<sup>rd</sup> day of May, 2010 and therefore approved and signed by the Mayor and attested by the City Recorder.

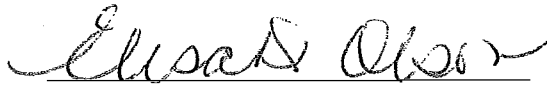
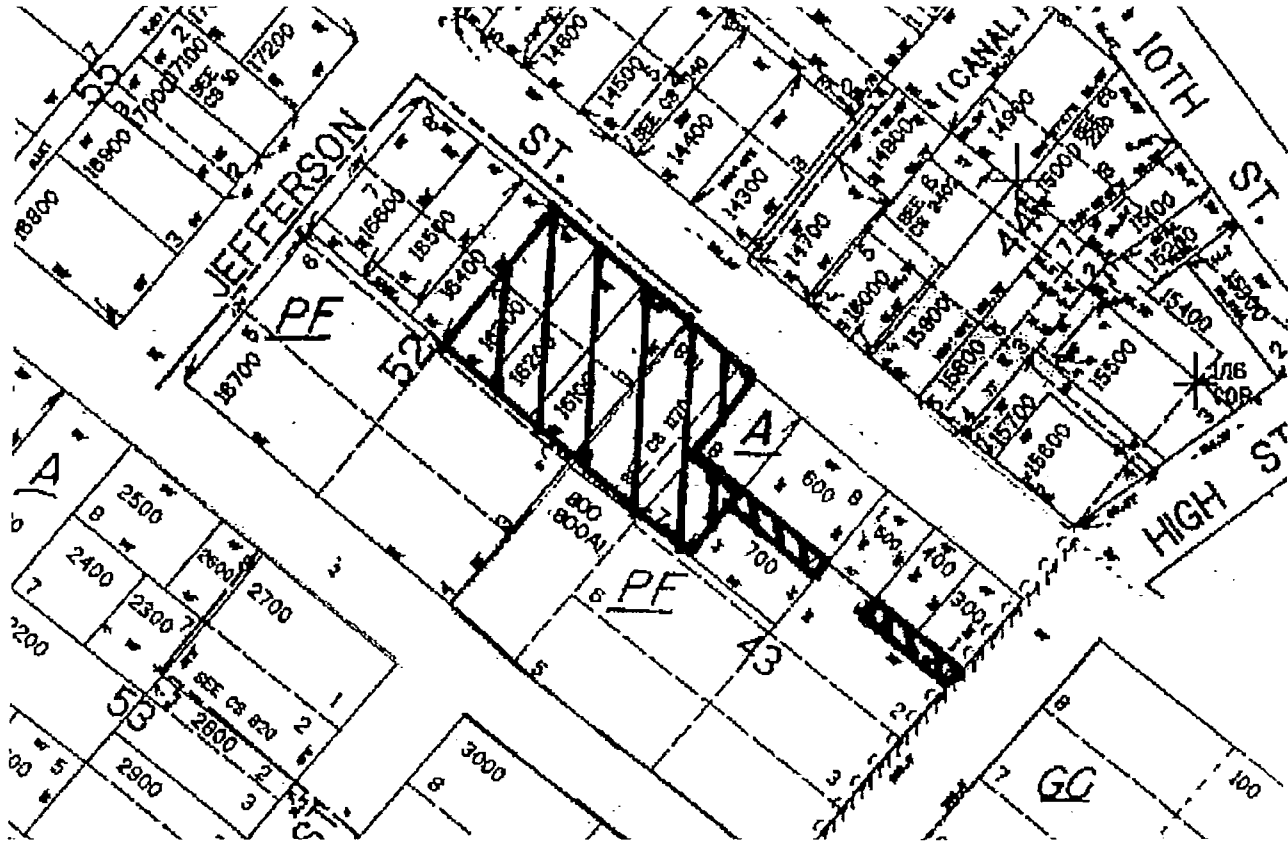
  
\_\_\_\_\_  
City Recorder (~~Deputy Recorder~~)

Exhibit A  
VICINITY MAP  
NO SCALE



- Subject Property



## 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. 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 224: Public facility capacity and expansion scheduling will be a key factor in land use planning.

The proposed zone change will cause the zoning of the subject property to more closely match the existing uses of the property. Re-zoning the property from Public Facility to Apartment Residential will remove property that would otherwise be reserved for public facility related uses, thus supporting Comprehensive Plan Policy 224.

All seven houses were built prior to the adoption of the first City of Klamath Falls Zoning Ordinance #5095, which was adopted on November 2<sup>nd</sup>, 1959. While some of the houses have added small additions, porches, exterior sheds, garages, and fences over the years, the original primary residences all predate residential review permit requirements. Structures built before 1959 are more likely than structures built after 1959 to have current coverage or setback nonconformities. Below is a property breakdown:

414 North 9<sup>th</sup> Street: House built in 1920. Planning Division address files have no building permit on file and the house predates residential review permit requirements. The house and garage cover approximately 1,284 sq ft or 26% of the 4,960 sq ft lot. All of the property which is 4,960 sq ft is currently zoned Public Facility.

410 North 9<sup>th</sup> Street: House built in 1916. Planning Division address files have no building permit on file and the house predates residential review permit requirements. The house and garage cover approximately 1,194 sq ft or 24% of the 4,960 sq ft lot. All of the property which is 4,960 sq ft is currently zoned Public Facility.

406 North 9<sup>th</sup> Street: House built in 1916. Planning Division address files have no building permit on file and the house predates residential review permit requirements. The house and garage cover approximately 2,200 sq ft or 44% of the 4,960 sq ft lot. All of the property which is 4,960 sq ft is currently zoned Public Facility.

332 North 9<sup>th</sup> Street: House built in 1952. Planning Division address files have no building permit on file and the house predates residential review permit requirements. The house and garage cover approximately 2,240 sq ft or 18% of the 12,400 sq ft lot. The garage was built in 1994 with Residential Review Permit Number 84-94. A large portion of the property which is 9,800 sq ft is currently zoned Public Facility, while the remaining 2,600 sq ft is currently zoned Apartment Residential.

322/320 North 9<sup>th</sup> Street: House built in 1927. Planning Division address files have no building permit on file and the house predates residential review permit requirements. The house (duplex) covers approximately 1,350 sq ft or 21% of the 6,400 sq ft lot. A small portion of the property which is 1,200 sq ft is currently zoned Public Facility, while the remaining 5,200 sq ft is currently zoned Apartment Residential.

310 North 9<sup>th</sup> Street: House built in 1939. Planning Division address files have no building permit on file and the house predates residential review permit requirements. The house and garage cover approximately 1,462 sq ft or 46% of the 3,200 sq ft lot. A small portion of the property which is 600 sq ft is currently zoned Public Facility, while the remaining 2,600 sq ft is currently zoned Apartment Residential.

304 North 9<sup>th</sup> Street: House built in 1912. Planning Division address files have no building permit on file and the house predates residential review permit requirements. The house and garage cover approximately 1,211 sq ft or 38% of the 3,200 sq ft lot. A small portion of the property which is 600 sq ft is currently zoned Public Facility, while the remaining 2,600 sq ft is currently zoned Apartment Residential.

All seven properties are currently non-conforming according to use in Public Facility. While some of the properties will still have setback nonconformities even if the zone is changed to Apartment Residential the proposed change of zone would create use conformance for the entirety of all seven properties.

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. All of the properties are considered legal non-conforming. Permitting the change of zone would create use conformance for the entirety of all seven properties. **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: The minimum required lot size for Public Facility zones is 5,000 sq ft. The minimum required lot size for Apartment Residential is also 5,000 sq ft. Two of the subject properties are larger than 5,000 sq ft, which is larger than the minimum lot size required for new Apartment Residential lots. The other five subject properties do not meet the current minimum lot size requirements, but they do meet lot coverage requirements for Apartment Residential.

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 properties are bordered by the street right-of-ways for North 9<sup>th</sup> Street and High Street. The Klamath Falls Urban Area Transportation System Plan (TSP) identifies North 9<sup>th</sup> Street as a major collector and High Street as a local street. These two streets are fully improved.

Finding: The properties affected by the proposed zone change appear to be properly related to streets that adequately serve the type of traffic generated by the uses permitted in the Apartment Residential 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.**

Staff Response: Only two neighboring property owners contacted City staff by phone regarding the proposed change of zone. Neither of the adjacent property owners expressed concern with the proposed change of zone. Staff has not received any written comments from neighboring property owners regarding the proposed change of zone. Any future use of the subject property will require a review by City Planning. Future reviews will insure that the site is developed appropriately for the proposed use and any potential adverse effect on abutting properties will be diminished.

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



CITY OF KLAMATH FALLS  
PLANNING DEPARTMENT  
P.O. Box 237  
Klamath Falls, OR 97601

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