



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

8/27/2010

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 004-10

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Due to the size of amended material submitted, a complete copy has not been attached. 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, September 09, 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.

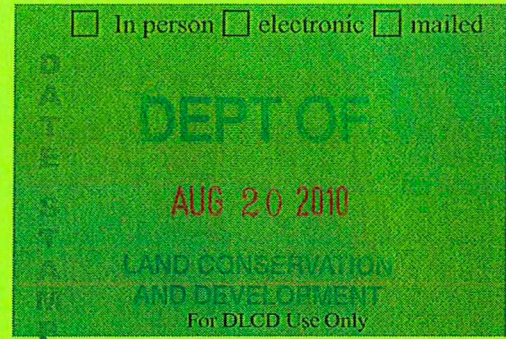
*NOTE: The Acknowledgment or Appeal Deadline is based upon the date the decision was mailed by local government. A decision may have been mailed to you on a different date than it was mailed to DLCD. As a result, your appeal deadline may be earlier than the above date specified. NO LUBA Notification 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

<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: 1-Z-10

Date of Adoption: 08/17/10

Date Mailed: 08/18/10

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? YES Date: 05/13/10

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, Steven Lowell and Sebastian Gutierrez, propose to rezone 7,348.50 sq ft of land from Medium Density Residential (MD) to Neighborhood Commercial (NC). The proposed zone change would eliminate the non-conforming commercial uses on the properties and make the zone more closely match the existing uses. This proposal does not include any changes or modifications to the subject properties.

Does the Adoption differ from proposal? NO

Plan Map Changed from: N/A

to: N/A

Zone Map Changed from: Medium Density Residential (MD)

to: Neighborhood Commercial (NC)

Location: South of East Main Street, west of Owens Street, east of Richmond Street

Acres Involved: 0.17 acres (7,348 sq ft)

Specify Density: Previous: N/A

New: N/A

Applicable statewide planning goals:

- | | | | | | | | | | | | | | | | | | | |
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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. _____

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

Local Contact: Kelly O'Neill

Phone: (541) 883-5360 Extension: 369

Address: 226 S. 5th Street

Fax Number: 541-883-5390

City: Klamath Falls

Zip: 97601

E-mail Address: koneill@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.

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**.
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** - **Attention: Plan Amendment Specialist**.

Updated March 17, 2009

A SPECIAL ORDINANCE REZONING THREE PARCELS OF PROPERTY ABUTTING RICHMOND STREET AND OWENS STREET THAT ARE APPROXIMATELY 0.17 ACRES (7,348 SQUARE FEET) FROM MEDIUM DENSITY RESIDENTIAL TO NEIGHBORHOOD COMMERCIAL

WHEREAS, the applicants, Steven Lowell and Sebastian Gutierrez, have submitted a written proposal for zone changes for three parcels of real property which are hereafter described and shown on Exhibit A; and

WHEREAS, the Planning Commission held a public hearing on June 28, 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 August 2, 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 three parcels of property (totaling approximately 0.17 acres) as shown on the map attached hereto as Exhibit A, and legally described below, are each hereby changed from Medium Density Residential to Neighborhood Commercial.

LEGAL DESCRIPTION:

Lots 25 and 26 of Block 14 of Industrial Addition located in the NE ¼ NW ¼, Section 33, T38S, R9E, WM, Klamath County, Oregon.

The properties can be found on Klamath County Assessor's map R-3809-033BA tax lots 16900, 16800, and 16700.

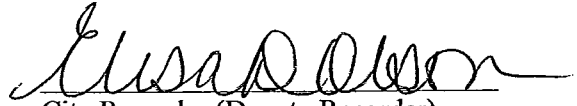
Passed by the Council of the City of Klamath Falls, Oregon, the 16th day of August, 2010.

Presented to the Mayor, approved and signed this 17th day of August, 2010.



Mayor

ATTEST:



City Recorder (Deputy Recorder)

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

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 16th day of August, 2010 and therefore approved and signed by the Mayor and attested by the City Recorder.

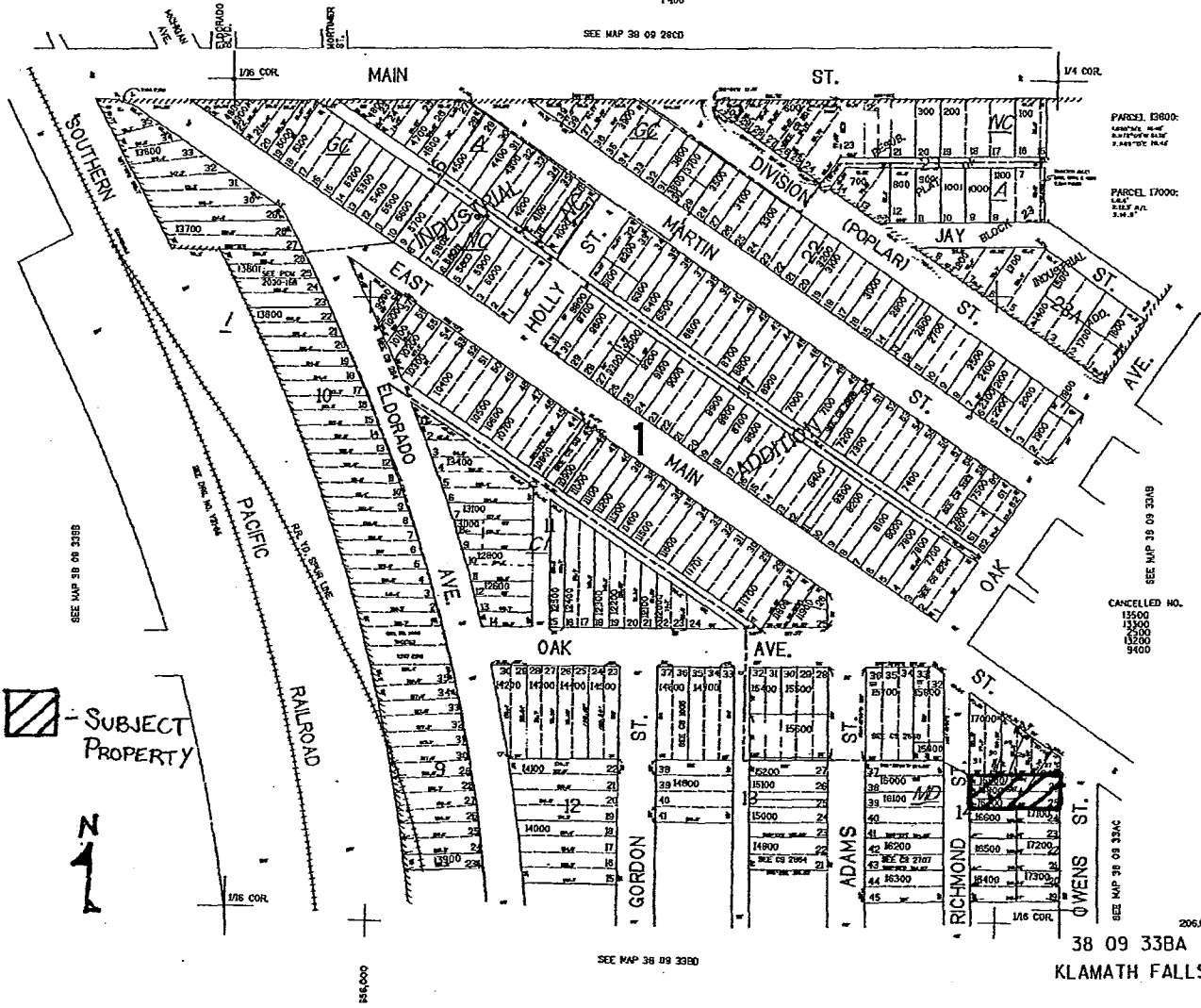
City Recorder (Deputy Recorder)

Exhibit A
VICINITY MAP
NO SCALE

THIS MAP WAS PREPARED FOR
ASSESSMENT PURPOSE ONLY

NE1/4 NW1/4 SEC. 33 T.38S. R.09E. W.M.
KLAMATH COUNTY

38 09 33BA
KLAMATH FALLS



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

Policy 244: In-filling of developable lands will be encouraged to minimize sprawl and take advantage of existing facilities and services.

The proposed zone change will cause the zoning of the subject properties to more closely match the existing uses of the properties. Re-zoning the properties from Medium Density Residential to Neighborhood Commercial will create use conformance for Mi Nuevo Nayarit and Collier's Cleaners. The zone change would also allow for future commercial development of the property that is not allowed without use conformance, thus supporting Comprehensive Plan Policy 244.

The first City of Klamath Falls Zoning Ordinance #5095, was adopted on November 2nd, 1959. Structures built before 1959 are more likely than structures built after 1959 to have current coverage or setback nonconformities. While two of the three properties have no identified year built, it is safe to assume they were all built prior to 1959. Below is a property breakdown:

314 East Main Street: There is no information on year built for the Mi Nuevo Nayarit building. Klamath County Building Department files show no building permit on file and the City of Klamath Falls Planning Division address files have no residential review permit on file. Staff calculates that the commercial structure covers approximately 3,171 sq ft of the approximately 3,171 sq ft lot. A portion of the property (portion of lot 26) which is approximately 986 sq ft is zoned MD.

316 East Main Street: House built in 1930. Klamath County Building Department files show no building permit on file and the house predates residential review permit requirements. According to assessor information the house covers approximately 994 sq ft of the approximately 5,400 sq ft lot. A portion of the property (portions of lots 26 and 25) which is approximately 2,641 sq ft is zoned MD.

318 East Main Street: There is no information on year built for the Colliers Cleaners building. Klamath County Building Department files show no building permit on file and the City of Klamath Falls Planning Division address files have no residential review permit on file. According to assessor information the commercial structure covers approximately 1,631 sq ft of the approximately 4,918 sq ft lot. A portion of the property (portions of lots 26 and 25) which is approximately 3,721 sq ft is zoned MD.

Two of the three properties are currently non-conforming according to use in Medium Density Residential. While some of the properties will still have setback and lot coverage nonconformities even if the zone is changed to Neighborhood Commercial, the proposed change of zone would create use conformance for all properties involved.

Proposed 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 three 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 Medium Density Residential zones is 5,000 sq ft. The minimum required lot size for Neighborhood Commercial is also 5,000 sq ft. Based on staff approximations, 316 East Main Street is larger than 5,000 sq ft, and 318 East Main Street is only approximately 82 sq ft smaller than 5,000 sq ft. The other property, being 314 East Main Street is approximately 3,171 sq ft which is smaller than 5,000 sq ft; however, the property is entirely covered with a structure that has a permitted retail business. The existing business, Mi Nuevo Nayarit, uses an adjacent property (308 East Main Street) for off-street parking and adjacent streets for on-street parking. While some setback requirements are not met for all three properties, and lot coverage is not met for 314 East Main Street, all three properties are legal non-conforming properties.

Proposed Finding: The properties affected by the change of zone are 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 Richmond Street and Owens Street. The Klamath Falls Urban Area Transportation System Plan (TSP) identifies Richmond Street and Owens Street as local streets. These two streets are fully improved, but Richmond Street only has sidewalks on the west side of the right-of-way as it is only 40 feet wide.

Proposed 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 Neighborhood Commercial 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: Staff has not received any written or verbal 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 sites are developed appropriately for the proposed use and any potential adverse effect on abutting properties will be diminished.

Proposed 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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08/18/2010

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US POSTAGE

Plan Amendment Specialist
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