



Oregon

Theodore R. Kubongski, 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

2/25/2010

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 011-09

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: Wednesday, March 10, 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

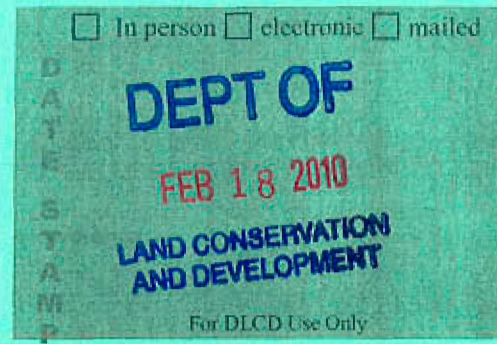
<paa> YA

PROP **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



Jurisdiction: **City of Klamath Falls**

Local file number: **6-Z-09**

Date of Adoption: **02/17/10**

Date Mailed: **02/17/10**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Select one** Date: **10/14/09**

- 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, Donald Metzler, Vernon VanCamp, Bonita Steers, and James Pinniger propose to rezone 24,000 sq ft of land from Public Facility (PF) to Medium Density Residential (MD). 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. Three of the properties are used for single family homes, while the fourth dwelling is used as a duplex. This proposal does not include any changes or modifications to the subject properties.

Does the Adoption differ from proposal? Please select one

Not at all

Plan Map Changed from: **N/A**

to: **N/A**

Zone Map Changed from: **Public Facility (PF)**

to: **Medium Density Residential (MD)**

Location: **North of Lytton Street, east of Holabird Avenue, and south of Southern Pacific Railway.**

Acres Involved: **0.55 acres (24,000 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. 011-09 (17786) [15996]

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

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

Ordinance No. 10-01

**A SPECIAL ORDINANCE REZONING FOUR PARCELS OF PROPERTY ABUTTING
HOLABIRD AVENUE, LOWELL STREET, AND LYTTON STREET AND MEASURING
APPROXIMATELY 0.55 ACRES (24,000 SQUARE FEET) FROM PUBLIC FACILITY TO
MEDIUM DENSITY RESIDENTIAL.**

WHEREAS, the applicants, Vernon VanCamp, Donald Metzler, Bonita Steers, and James Pinniger, have submitted a written proposal for zone changes for four parcels of real property which are hereafter described and shown on Exhibit A; and

WHEREAS, a public hearing was held on December 14, 2009, pursuant to applicable laws, at which time all evidence and objection with reference to said proposed zone changes were considered by the Planning Commission; and

WHEREAS, hearing notices were duly given and the City Council held a public hearing on January 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 four parcels of property (totaling approximately 0.55 acres) as shown on the map attached hereto as Exhibit A, and described below, legally are each hereby changed from Public Facility to Medium Density Residential.

LEGAL DESCRIPTIONS:

Vernon Van Camp – Lakeview Addition, Block 57, Lot 7 (2203 Holabird Avenue)

Donald Metzler – Lakeview Addition, Block 57, the westerly 60 feet of Lots 5 & 6 (625 Lowell Street)

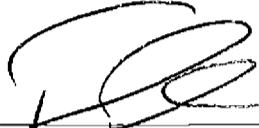
Bonita Steers – Lakeview Addition, Block 60, Lot 6 (827 Lytton Street)

James Pinniger – Lakeview addition, Block 60, Lot 7 (805/815 Lytton Street)

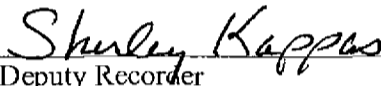
The properties can be found on Klamath County Assessor's map R-3809-029BA tax lots 02700, 02800, 03300 and 03400.

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

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



Mayor

ATTEST:


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 16 day of February, 2010 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**

NE1/4 NW1/4 SEC. 29 T.38S. R.09E. WM.
KLAMATH COUNTY

38 09 29BA
KLAMATH FALLS

THIS MAP WAS PREPARED FOR
ASSESSMENT PURPOSE ONLY

SEE MAP 38 09 20CD



**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.

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 Medium Density Residential will remove property that would otherwise be reserved for public facility related uses, thus supporting Comprehensive Plan Policy 224.

All four properties meet lot coverage and height requirements per Chapter 12 of the Community Development Ordinance (CDO). 2203 Holabird Avenue meets all setback requirements, while 625 Lowell Street, 827 Lytton Street, and 805/815 Lytton Street each meet only three of the four setback requirements. Below is a property breakdown:

2203 Holabird Avenue: House built in 1982. Planning Division address files have no building permit or residential review permit information on file. Coverage 2,006 sq ft (including house, garage, deck, and porch), height 21', setbacks - front yard 22', interior side yard 5', exterior side yard 21', and rear yard 17'. The structures on this property meet lot coverage (33.4%), height, and setback requirements for MD.

625 Lowell Street: House built in 1940. Planning Division address files have no building permit or residential review permit information on file. Coverage 1,319 sq ft (including house, garage, and deck), height 13', setbacks - front yard 25', interior side yard 24', exterior (alley) side yard 6', and rear yard 9'. The structures on this property meet lot coverage (21.9%), height, and three of the four setback requirements for MD. The structures do not meet the exterior side yard setback requirement of 10' for MD.

827 Lytton Street: House built in 1971 with building permit #14377 approval. Planning Division address files have no residential review permit information on file. Coverage 1,740 sq ft (including house and garage), height 13', setbacks - front yard 10', exterior side yard 44', exterior (alley) side yard 16', and rear yard 8'. The structures on this property meet lot coverage (29%), height, and three of the four setback requirements for MD. The structures do not meet the front yard setback requirement of 20' for MD.

805/815 Lytton Street (duplex): House built in 1970 with building permit #14202 approval. Planning Division address files have no residential review permit information on file. Coverage 2,005 sq ft (including house, carport, deck, and shed), height 13', setbacks - front yard 11', exterior side yard 18', exterior (alley) side yard 22', and rear yard 11'. The structures on this property meet lot coverage (33.4%), height, and three of the four setback requirements for MD. The structures do not meet the front yard setback requirement of 20' for MD.

2203 Holabird Avenue was built when the property was zoned Public Facility according to Zoning Maps from 1981. According to Section 12.345 of the 1981 CDO, "Uses permitted in a Public Facilities zone shall be subject to the provisions of Section 12.805 to 12.855 regarding the Design Review." According to Planning Division records no Design Review or Conditional Use Permit application was submitted for the house at 2203 Holabird Avenue

625 Lowell Street was built before Ordinance 5095, which established a Zoning Ordinance in 1959. Structures built before 1959 are more likely than structures built after 1959 to have current coverage or setback nonconformities. When the structures at 625 Lowell Street were built the property was most likely zoned for residential uses.

827 Lytton Street and 805/815 Lytton Street were both built when the properties were zoned Residential R-5. The structures were permitted uses in R-5, but according to R-5 standards the structures built on these properties should have had 20' front yard setbacks. Both houses were built after obtaining building permits. The building permits did not address setback requirements.

Three of the four properties (625 Lowell Street, 827 Lytton Street, and 805/815 Lytton Street) would have setback nonconformities in Medium Density Residential; however, three of the four properties (2203 Holabird Avenue, 625 Lowell Street, and 827 Lytton Street) all have setback nonconformities in Public Facility. All four properties are currently non-conforming according to use in PF. Permitting the change of zone would create use conformance for all four 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. Three of the properties do not meet setback requirements in Chapter 12, but are considered legal non-conforming. Permitting the change of zone would create use conformance for all four 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.

Response: The minimum required lot size for Public Facility zones is 5,000 sq ft. The minimum required lot size for Medium Density Residential is also 5,000 sq ft. All four of the subject properties are 6,000 sq ft, which is larger than the minimum lot size required for Medium Density Residential lots.

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.

Response: The properties are bordered by the street right-of-ways for Holabird Avenue, Lowell Street, Lytton Street, Harriman Avenue, and Academy Street. The Klamath Falls Urban Area Transportation System Plan (TSP) identifies all five streets as local streets. The portions of Holabird Avenue and Lowell Street that serve 2203 Holabird Avenue and 625 Lowell Street are unimproved streets, but do provide vehicular access. The portions of Harriman Avenue and Academy Street that are adjacent to 827 Lytton Street and 805/815 Lytton Street are platted right-of-ways that are unimproved and not currently accessible by vehicle. The City of Klamath Falls does not require property owners to improve the substandard rights-of-ways for single family residences and duplexes.

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 Medium Density 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.

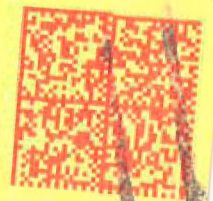
Response: Only one neighboring property owner, at 2142 Ohio Avenue contacted City staff by phone regarding the proposed change of zone. The adjacent property expressed no concerns with the proposed

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. This review will insure that the site is developed appropriately for the proposed use and any potential adverse effect on abutting properties will be mitigated.

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

DEPT OF KLAMATH FALLS
LAND CONSERVATION
AND DEVELOPMENT
P.O. Box 237
Klamath Falls, OR 97601

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