



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

### NOTICE OF ADOPTED AMENDMENT



April 14, 2006

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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: Klamath County Plan Amendment  
DLCD File Number 001-06

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: April 26, 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: Doug White, DLCD Community Services Specialist  
Jon Jinings, DLCD Regional Representative  
Alwin Turiel, Klamath County

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**FORM 2**

**DLCD NOTICE OF ADOPTION DEPT OF**

This form must be mailed to DLCD within 5 working days after the final decision APR 10 2006  
per ORS 197.610, OAR Chapter 660 - Division 18

(See reverse side for submittal requirements)

**LAND CONSERVATION  
AND DEVELOPMENT**

Jurisdiction: Klamath County Local File No.: CW012C 1-06  
(If no number, use none)

Date of Adoption: 4/5/06 Date Mailed: 4/6/06  
(Must be filled in) (Date mailed or sent to DLCD)

Date the Notice of Proposed Amendment was mailed to DLCD: 2/28/06

- Comprehensive Plan Text Amendment
- Comprehensive Plan Map Amendment
- Land Use Regulation Amendment
- 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."  
Change comp plan and zone within unincorporated rural  
Community of Chemult from R-5 to CRC and authorize an exception  
to statewide planning goal 14. The purpose of the change is to accommodate  
a 7000 sq ft refueling & travel center for semi-trucks/automobiles  
 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."

No rural community plan boundary change was necessary.  
An exception to statewide planning goal 14 was included to  
allow a 7000 sq ft. building within the CRC zone.

Plan Map Changed from: Rural Residential to Commercial

Zone Map Changed from: W of Hwy 97 and W of Damen St. Chemult to 10.87 ac

Location: R-5 Acres Involved: CRC

Specify Density: Previous: R-5 (5 acre) New: Commercial - N/A

Applicable Statewide Planning Goals: 1, 2, 4, 6, 7, 9, 11, 12, 14

Was an Exception Adopted? Yes:  No:

DLCD File No.: 001-06  
(14928)

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: Health Svcs, Surveyor, Plw, State Dept. Forestry, Drinking Water, DLCD, ODOT, USDA Forest Svc, Chemult RFPD, CAT

Local Contact: Alwin Turiel Area Code + Phone Number: (541) 883-4200

Address: 305 Main St City: Klamath Falls

Zip Code+4: 97603 Email Address: aturiel@co.klamath.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 (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 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 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 [Mara.Ulloa@state.or.us](mailto:Mara.Ulloa@state.or.us) - **ATTENTION: PLAN AMENDMENT SPECIALIST.**

**BEFORE THE BOARD OF COMMISSIONERS of  
KLAMATH COUNTY**

**IN THE MATTER OF FILE NUMBER CLUP/ZC 01-06**

**FINAL ORDER**

WHEREAS, Pilot Travel Centers, LLC for Ken Wilson, applicant, has requested approval of an amendment of the COMPREHENSIVE LAND USE PLAN MAP and CHANGE OF ZONE for; (1) two parcels totaling 2.37 acres currently zoned RCR with a Limited Use (R-5) Overlay, and (2) an 8.5 acre portion of a 15 acre parcel zoned R-5; and

WHEREAS, the proposed COMPREHENSIVE LAND USE PLAN MAP and ZONE CHANGE amendment would designate the above referenced parcels for commercial use under the Chemult Rural Commercial (CRC) zoning designation within the Chemult Rural Unincorporated Community; and

WHEREAS, the proposed development will occur as an integrated use thus necessitating a replat of the three existing parcels to create two parcels; and

WHEREAS, the COMPREHENSIVE LAND USE PLAN MAP and ZONE CHANGE will provide for the development of a 7,000 sq ft semi-truck and automobile fueling/retail service center and restaurant on a 10.87 acre site (Pilot Travel Centers LLC); and

WHEREAS, the use is proposed to serve the community and surrounding area and the travel needs of people passing through the area; and

WHEREAS, the Klamath County Planning Department provided proper notice of public hearings held before the Klamath County Planning Commission and Board of County Commissioners on February 28, 2006; and

WHEREAS, the applicant and Klamath County Planning Department (Exhibit A) provided findings in the record that support approval; and

WHEREAS, Exhibits D through CC provide additional evidence supporting approval; and

WHEREAS, the Klamath County Planning Commission concluded the proposed changes are consistent with or can be made consistent with the COMPREHENSIVE PLAN through imposition of a site plan controlled Limited Use (LU) overlay on the replatted parcel to be rezoned to CRC, and;

WHEREAS, the Klamath County Planning Commission further concluded an exception to Statewide Planning Goal 14 is needed to authorize a 7,000 square foot commercial building within the acknowledged Chemult Rural Unincorporated Community; and

WHEREAS, the Applicant presented additional written and oral evidence at the hearing, including the following supplemental findings:

*"The Chemult Rural Commercial Zoning District (the "UC") has been established pursuant to the Unincorporated Communities Rule adopted by the Land Conservation and Development Commission. OAR Chapter 660, Division 022, "Unincorporated Communities". The Unincorporated Communities Rule implements Statewide Planning Goal ("Goal") 14, "Urbanization". OAR 660-022-0030(10) and Klamath County Development Code ("KCDC") Section 52.72 authorize commercial structures within the UC but such commercial structures may not exceed 4,000 square feet. The Pilot Travel Centers commercial structure is proposed to be 7,000 square feet. Therefore, an exception to Goal 14 is required.*

*Based on substantial evidence in the whole record, the applicant demonstrated that a reasons exception to Goal 14 pursuant to OAR 660-004-0020(1) and (2) and 660-004-0022 is necessary to provide travel services to the public on US Highway 97. The record contains substantial evidence demonstrating why the criteria for the Goal 14 exception are satisfied.*

*This Goal 14 exception hereby authorizes a 7,000 square foot commercial structure on Tax Lots T27S, R8E, Section 021CB, Tax Lots 3500, 3700, 3800 and 3900, and T27S, R8E, Section 02000, Tax Lot 400 within the UC, subject to the site plan approved pursuant to condition of approval 2.B and as shown on Exhibit "H", and;*

WHEREAS, On February 28, 2006, based on testimony entered and consideration of Exhibits A-BB, the Klamath County Planning Commission, upon finding the application is in conformance with Articles 47, 48 and 59 of the Klamath County Land Development Code and Comprehensive Plan, approved the request of File Number CLUP/ZC 01-06 as revised in the February 28, 2006 letter from Applicant's agent, Michael C. Robinson, which was submitted at the public hearing; and

WHEREAS, On February 28, 2006, based on testimony entered and consideration of Exhibits A-BB, and upon a unanimous recommendation for approval from the Klamath County Planning Commission, the Board of County Commissioners approved the request of File Number CLUP/ZC 01-06, subject to the conditions and stipulations contained in the record of the proceedings and the specific conditions of site plan approval attached hereto as Exhibit 1; and

WHEREAS, The Board of County Commissioners found that development pursuant to and consistent with a Goal 14 exception may occur on the properties listed below in the Chemult Rural Commercial Zoning District (the "UC"); and

WHEREAS, the Board of County Commissioners, having approved the Goal 14 exception at the conclusion of the public hearing on February 28, 2006, adopted this final written order approving the exception and timely mailed notice to parties with standing and the Department of Land Conservation and Development.

**NOW, THEREFORE, THE BOARD OF COMMISSONERS OF KLAMATH COUNTY ORDAINS AS FOLLOWS:**

*The Klamath County Comprehensive Land Use Plan Map is amended to include:  
TOWNSHIP 27S., RANGE 08E., SECTION 021CB TAX LOT 3500 (1.31 acres) and 3900 (1.05 acres).  
TOWNSHIP 27S., RANGE 08E., SECTION 02000 TAX LOT 400 (8.5 acre portion 15 acres)  
as a Rural Service Center (RSC) with a Limited Use (LU) site plan controlled overlay; and*

**The Klamath County Zoning Map is amended to include:**

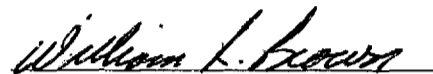
TOWNSHIP 27S., RANGE 08E., SECTION 021CB TAX LOT 3500 (1.31 acres) and 3900 (1.05 acres).

TOWNSHIP 27S., RANGE 08E., SECTION 02000 TAX LOT 400 (8.5 acre portion 15 acres)

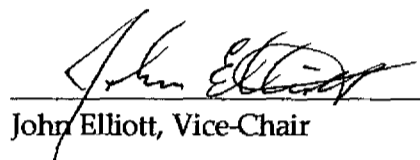
as a Chemult Rural Commercial (CRC)/Limited Use (LU) zoning designation.

Dated this 5<sup>th</sup> day of April, 2006

**FOR THE BOARD OF COMMISSIONERS**



Bill Brown, Chairman



John Elliott, Vice-Chair



Al Switzer, Commissioner



W. Daniel Bunch, County Counsel

Approved as to form

**NOTICE OF APPEAL RIGHTS**

This decision may be appealed to the Oregon Land Use Board of Appeals (LUBA) within 21 days following the date of the mailing of this order. Contact LUBA for information as how to file this appeal. Failure to do so in a timely manner may affect your rights.

**EXHIBIT 1**  
**SITE PLAN CONTROLLED LIMITED USE OVERLAY**  
**CONDITIONS OF APPROVAL**

1. **KCLDC ARTICLE 59.8 – LIMITED USE OVERLAY.**
  - A. *ARTICLE 59.830(C)(D)-Limited Use Overlay* applies to a *specific use* upon a change in zoning designation. With respect to Ordinance 44.61, the provisions of the Limited Use Overlay as it applies to the existing R-5 zone within the Chemult Rural Unincorporated Community are *modified* on the subject parcels as follows:
    1. With respect to OAR 660-022-0030, a Limited Use Overlay provides for a *higher intensity of use* on the site than is allowed in the CRC zone, which justifies the proposed 7,000 square foot building.
    2. Upon construction of a community sewage collection system within the Chemult Rural Unincorporated Community, the development shall connect to the system.
    3. No further expansion associated with this use other than those indicated in the approved site plan shall be allowed until the formation of a sewer district and a community sewage collection system is complete and available. Minor modifications to adjust site plan components that do not exceed the maximum permitted building square footage may be authorized by the Planning Director.
    4. In order to describe the property included in the Limited Use Overlay, a Meets and Bounds legal description of both replatted parcels must be submitted as a condition of Final Map approval. The replat must be properly recorded in accordance with the requirements of KCLDC ARTICLE 45.100 through 45.110.
  - B. A Limited Use Overlay requires site plan approval to change an existing zoning designation. As a binding condition of approval of the rezone, site plan approval is granted pursuant to the provisions of KCLDC ARTICLE 59.850(A,B,C)-LIMITED USE OVERLAY– SITE PLAN REQUIREMENTS as follows:
    1. The Site Plan and Final Map demonstrate compliance with respect to Exhibit P, conditions 1, 2, 3, 5 and 6.
    2. Development of the project is subject to all other agency comments contained in Exhibits A-BB. Construction types and total cubic footage along with a description of potential exposure hazards resulting from the project will be supplied to the State Fire Marshal prior to issuance of development permits (Greg Davis, 541.883.5713 X255).
    3. Access to property fronting on a state highway is subject to permits issued by the ODOT State Highway Division. In addition, access to and parking on Damon Street, which is a public right of way, is subject to issuance of an access permit by Klamath County Public Works.
    4. The applicant stipulates to a shared parking arrangement with the Wheel Café and County Library located immediately south of the proposed project.
    5. Legal access (i.e., an easement) to the western portion of the existing R-5 zoned parcel that will be replatted without frontage on a public road shall be recorded as part of the Final Map (see LP 20-06). The 30 foot access easement to be recorded as part of the replat must be named Damon

Street on the Final Plat and must benefit the County library and Wheel Café located adjacent to the project.

6. Because the zone change was conditionally approved prior to the required replat (LP 20-06), improvements on the property described on the site plan as "a portion of Tax Lot R-2708-02000-00400" that are rezoned to RCR is the only area of the original parcel to be dedicated to septic facilities, snow removal storage and overflow parking.

Until recordation of the Final Map, the tentative map shall be considered site specific as shown on an approved Site Plan. Non-structural improvements, such as sanitation, shall be permitted upon approval from involved regulatory agencies and issuance of a Land Use Compatibility Statement (LUCS) authorizing development by Klamath County (see LUCS06-0097).