



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

September 21, 2007



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 008-07

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Copies of the adopted plan amendment are available for review at DLCD offices in Salem, the applicable field office, and at the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: October 9, 2007

This amendment was submitted to DLCD for review prior to adoption with less than the required 45-day notice. 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.

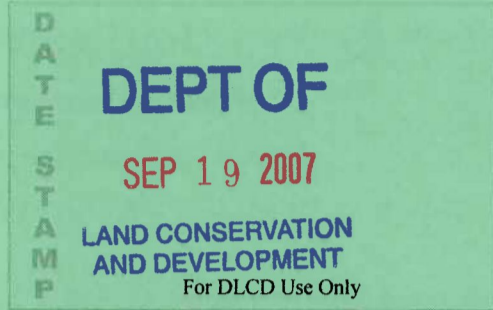
***NOTE: THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAN IT WAS MAILED TO DLCD. AS A RESULT YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE DATE SPECIFIED ABOVE.**

Cc: Doug White, DLCD Community Services Specialist
Mark Radabaugh, DLCD Regional Representative
Jon Jinings, Dlcd Regional Representative
Larry Ksionzyk, Community Development Planning Specialist
Les Wilson, Klamath County

<paa> y/

FORM 2 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: Klamath County Local file number: ZC 10-07 CUP 22-07
Date of Adoption: 9/14/2007 Date Mailed: 9/14/2007
Date original Notice of Proposed Amendment was mailed to DLCD: 7/3/2007

- Comprehensive Plan Text Amendment
- Land Use Regulation Amendment
- New Land Use Regulation
- Comprehensive Plan Map Amendment
- Zoning Map Amendment
- Other: _____

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".
Applicant requests a zoning map change from Heavy Industrial (IH) to Light Industrial (IL). The subject parcel is approximately 120 acres. Applicant is also requesting a PUD overlay (CUP 22-07) per Article 83, Section 83.050B of the Klamath County Land Development Code.

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: N/A to: N/A

Zone Map Changed from: Heavy Industrial (IH) to: Light Industrial (IL)

Location: R-3909-01600-00200-000 Acres Involved: 120± acres

Specify Density: Previous: N/A New: N/A

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

Was and Exception Adopted? YES NO

DLCD File No.: 008-07 (16221)

Did the Department of Land Conservation and Development receive a Notice of Proposed Amendment.....

Forty-five (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

Affected State or Federal Agencies, Local Governments or Special Districts:

DLCD, Klamath County, ODOT, KCFD #1, City of Klamath Falls, Klamath Falls Airport, South Suburban Sanitary District, Klamath Irrigation, Klamath Drainage, DSL, US Army Corp of Engineers

Local Contact: **Les Wilson** Phone: **(541) 883-5121** Extension: **3085**
Address: **305 Main Street** City: **Klamath Falls**
Zip Code + 4: **97601-** Email Address: **lwilson@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** - ATTENTION: PLAN AMENDMENT SPECIALIST.

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

IN THE MATTER OF
FILE NUMBERS ZC 10-07 & CUP 22-07 FINAL ORDER

WHEREAS, the Secretary to the Klamath County Planning Commission issued Final Orders for Planning Files ZC 10-07 and CUP 22-07 in proper form on August 1, 2007; and

WHEREAS, Adkins Consulting Engineers Inc, appellant and applicant for Juanita S. Fairclo (Goode) and Ewauna Park LLC, filed a timely Notice of Intent and Statement of Appeal of a Final Order (Planning File CUP 22-07) as required by Klamath County Land Development Code Article 33; and

WHEREAS, the State of Oregon Department of Transportation, appellant, filed a timely Notice of Intent and Statement of Appeal of Final Orders (Planning Files ZC 10-07 and CUP 22-07) as required by Klamath County Land Development Code (KCLDC) Article 33; and

WHEREAS, appellants requested the Klamath County Board of County Commissioners review of KCLDC zone change approval standards concerning a Transportation Impact Analysis for Planning File ZC 10-07 and the Conditional Use Permit (CUP 22-07) for a Planned Unit Development, including Conditions of Approval concerning traffic mitigation, additional and final review requirements and procedures, and interpretation of KCLDC Article 83.080(G) open space; and

WHEREAS, the Klamath County Board of County Commissioners held a properly advertised appeal hearing on September 5, 2007; and

WHEREAS, on September 5, 2007, appeal testimony by appellants and parties based on the record was considered by the Klamath County Board of County Commissioners, which Findings of Fact and Conclusions of Law in support of a decision to approve included the requested permits in accordance with Article 33 of the Klamath County Land Development Code and Comprehensive Plan; and

WHEREAS, the Klamath County Board of County Commissioners finds the Oregon Department of Transportation's (ODOT) concerns about the risk of approval of Planning Files ZC 10-07 and CUP 22-07 are not well founded as their concerns will be properly addressed by the due process that occurs between this decision to move forward and final acceptance of the site plan; and, because of the Developer's stipulation to accomplish the Transportation Impact Analysis (TIA) in cooperation with ODOT before a final site plan is approved; and, because site plan approval will be appealable; and

WHEREAS, the Klamath County Board of County Commissioners finds ODOT had sufficient time to address the TIA between the time they received the application and the decision was made but still has not responded other than to say it was unsatisfactory, at this time; and

WHEREAS, the Klamath County Board of County Commissioners finds that in the case of Planning File CUP 22-07, KCLDC Article 83.080(G) is interpreted to mean the Planned Unit Development Open Space requirement of twenty-five percent (25%), 30-acres, includes landscaping inside parking areas; and

WHEREAS, the Klamath County Board of County Commissioners considered all written and oral testimony during its deliberations, and upon a unanimous decision the Klamath County Board of County Commissioners UPHELD Planning Commission Final Order ZC 10-07 and AMENDS Planning Commission Final Order CUP 22-07 in part; and

WHEREAS, the Board of County Commissioners at the conclusion of the appeal hearing on September 5, 2007, directed staff to prepare this final written order for their signatures and timely mail notice to all parties with standing.

NOW, THEREFORE, THE BOARD OF COMMISSIONERS OF KLAMATH COUNTY ORDERS:

1. ***Klamath County Planning Commission Planning File ZC 10-07 Final Order Upheld***
2. ***Klamath County Planning Commission Planning File CUP 22-07 Final Order Amended in part, as follows:***
 - a. Delete Conditions of Approval #7 and #13 in their entirety and include a new Condition of Approval #16 to require:
 - 1) Compliance with OAR 660-012-0060; and
 - 2) Submittal of a new Transportation Impact Analysis; and
 - 3) Submittal of a Transportation Mitigation Agreement; and
 - 4) ODOT's participation in the Site Plan Review process to ensure compliance with all transportation approval requirements; and
 - 5) Site Plan Review conducted as a Final Land Use Decision, per ORS Chapter 197.
 - b. Delete Condition of Approval #11 in its entirety and include a new Condition of Approval #17 requiring the owner/developer to return for Conditions of Approval compliance review by Klamath County Planning Department staff, at a twelve (12) month interval from start of initial construction
 - c. Amend Condition of Approval #15 to read, "twenty-five percent (25%) Open Space to include landscaping and tree island areas"

Dated this 14 day of September, 2007

FOR THE BOARD OF COMMISSIONERS

John W. Elliott / approved by
Chairman
[Signature]
Chairman

William B. Brown
Commissioner
[Signature]
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 (LUBA by phone 1-503-373-1265 or mail at 550 Capitol Street NE, Suite 235, Salem, Oregon 97301-2552). Failure to do so in a timely manner may affect your rights.

ZC 10-07/CUP 22-07 (PUD)

Adkins Consulting
2950 Shasta Way
Klamath Falls, OR 97603

Juanita Fairclo
6422 Hilyard Avenue
Klamath Falls, OR 97601

Michael Rudd
Brandsness, Brandsness, & Rudd
411 Pine Street
Klamath Falls, OR 97601

Bill Howard
Ferguson & Assoc
PO Box 1336
Bend, OR 97709

Danny Allen
2958 Hope Street
Klamath Falls, OR 97603

Craig Rovzar
2031 Van Ness Avenue
Klamath Falls, OR 97601

Paula Van Glack
34 NW Portland Ave
Bend, OR 97701

Jon Jinnings
DLCD
888 NW Hill Street
Bend, OR 97701

Devin Hearing
ODOT
63085 N Hwy 97, Ste 107
Bend, OR 97701

Tim Amuchastegui
1730 Quail Ridge Drive
Klamath Falls, OR 97601

Andrea Rabe
22539 Hwy 140 E
Dairy, OR 97625

Bill Hancock
6775 Arnold Ave
Klamath Falls, OR 97603

Jennifer Berry
26200 Washburn Way
Klamath Falls, OR 97603

City of Klamath Falls
Jeff Ball – City Manager
226 S 5th Street
Klamath Falls, OR 97601

Filed with the county clerk and mailed to the above
this 14 day of Sept, 2007



Alyssa Boles

Subscribed and sworn to before me this
_____ day of _____, 2007.

Notary Public for Oregon