



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

June 19, 2008



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 014-07

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: July 7, 2008

This amendment was submitted to DLCD for review 45 days 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 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.**

Cc: Doug White, DLCD Community Services Specialist
Jon Jinings, DLCD Regional Representative
Amanda Punton, DLCD Natural Resource Specialist
Les Wilson, Klamath County

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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: **CLUP/ZC 14-07**

Date of Adoption:

Date Mailed: **6/13/2008**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: 9/21/2007

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other: **GOAL 5 Aggregate**

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

Amend the Klamath County Comprehensive Plan and Zoning designation from Exclusive Farm Use to Non Resource. Add aggregate/mineral resource site to the Goal 5 Significant Resource Overlay.

Does the Adoption differ from proposal? No, no explanation is necessary

Plan Map Changed from: **Agricultural**

to: **Non-Resource**

Zone Map Changed from: **EFU-C**

to: **NR**

Location: **R-3909-02800-01600-000**

Acres Involved: **77**

Specify Density: Previous: **1 EFU Dwelling**

New: **6 dwellings**

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. 014-07 (16420)

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

DLCD, Klamath County, Department of Agriculture, DOGAMI, KCFD #1, ODOT, Klamath Irrigation District, USBR, City of Klamath Falls, KF Airport

Local Contact: **Leslie C. Wilson, Planning Director** Phone: **(541) 883-5121** Extension: **3079**
Address: **305 Main Street** Fax Number: **541-885-3644**
City: **Klamath Falls** Zip: **97601-** E-mail 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 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, but you may also submit an electronic copy, by either email or FTP. You may connect to this address to FTP proposals and adoptions: webserver.lcd.state.or.us. To obtain our Username and password for FTP, call Mara Ulloa at 503-373-0050 extension 238, or by emailing mara.ulloa@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 mara.ulloa@state.or.us - ATTENTION: PLAN AMENDMENT SPECIALIST.

FORM 2

DLCD

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RECEIVED

MAY 21 2008

KLAMATH COUNTY

BEFORE THE BOARD OF COMMISSIONERS
FOR KLAMATH COUNTY, OREGON

RECEIVED
MAY 07 2008
BOARD OF COUNTY COMMISSIONERS

IN THE MATTER OF FILE NUMBER CLUP/ZC 14-07

FINAL ORDER

WHEREAS, Dennis Dixon, property owner and applicant, requested approval of a Post Acknowledgment Plan Amendment (PAPA) under the provisions of OAR 660-023-0180, processed as a quasi-judicial amendment to the COMPREHENSIVE LAND USE PLAN MAP for approximately 77.27± acres of property from Agricultural to Non-Resource with a Goal 5 (Significant Resource Overlay, 1C/3C Mineral Aggregate designation), and a CHANGE OF ZONE from EFU-C (Exclusive Farm Use – Cropland) to NR (Non Resource); and,

WHEREAS, the applicant submitted findings of fact and conclusions of law consistent with OAR 660-023-0180 supporting the request, including reports on the quantity of the aggregate on site, as submitted by Lidestone Engineering of Fort Collins, Colorado, and reports on quality of the resource, as provided by the ODOT testing laboratory in Salem, Oregon, as well as location assessment, traffic impact information and other data including an Economic Analysis of Construction Aggregate Markets, and an Analysis and Forecasts of the Demand for Rock Materials in Oregon from the Department of Geology and Mineral Industries (DOGAMI), consistent with the requirements for an ESEE Analysis as required by the rule; and,

WHEREAS, the applicant submitted findings of fact and conclusions of law addressing Article 47 (Change of Zone Designation Criteria) and Article 48 (Change of Comprehensive Plan Designation Criteria) of the Klamath County Land Development Code, including discussion of the specific studies and other factual information which documented the public need for the change, and which also demonstrated the property was non-resource due to the predominance of Class VII soils on site; and,

WHEREAS, the Klamath County Planning Department provided proper notice of a public hearing to be held on November 27, 2007 before the Klamath County Planning Commission and Board of County Commissioners; and,

WHEREAS, the Klamath County Planning Commission and Board of Commissioners took testimony, and continued the hearing at the request of the applicant until January 22, 2008 to allow the applicant to modify the application for zone change from SRO (Significant Resource Overlay) to NR (Non-Resource); and,

WHEREAS, on January 22, 2008, the Klamath County Planning Commission held a properly advertised public hearing, and took additional written and oral testimony, and then again continued the hearing; and,

WHEREAS, on February 26, 2008, the Klamath County Planning Commission, based upon the written and oral testimony presented at this and previous hearings, deliberated to a decision, concluding the proposed changes were consistent with or can be made consistent with the applicable Goals and Policies of the Comprehensive Plan upon application of the Non-Resource zoning district, and subject to compliance with all the requirements of State and Federal law, statutes, rules and policies; including, but not limited to, the provisions of OAR 660-023-0180 and the requirements of the Department of Geology and Mineral Industries (DOGAMI); and the applicable provisions of the Klamath County Land Development Code; and,

WHEREAS, on February 26, 2008, the Klamath County Planning Commission adopted as its own the Findings of Fact and conclusions of law as provided by the applicant and contained in the Staff Report, and concluded that the application was in conformance with the provisions of Articles 47 and 48 of the Klamath County Land Development Code, and forwarded a recommendation of approval of File Number CLUP/ZC 14-07 to the Board of County Commissioners, and,

WHEREAS, on February 26, 2008, the Board of County Commissioners held a properly noticed public hearing, which was continued to April 1, 2008, and again to April 21, 2008, where additional testimony regarding compliance with the provisions of OAR 660-023-180 and Articles 47 and 48 and the Klamath County Land Development Code were entered into the record; and,

WHEREAS, on April 21, 2008, the Board of County Commissioners, based upon given testimony and consideration of the Findings of Fact as adopted by the Klamath County Planning Commission and recommendation for approval, APPROVED File No. CLUP/ZC 14-07, noting the amendment included a change in zoning designation to NR (Non-Resource) based upon compelling evidence in the whole record that the property was comprised of soils that were not suitable for farm or forest use, and did not require a Goal 3 or 4 exception; further, that the application was consistent with OAR 660-023-0180 and Articles 47 and 48 of the Klamath County Comprehensive Plan and Land Development Code.

The land was demonstrated to be non-resource, and non-agricultural land because of the predominance of Class VII soil, lack of need to be used in conjunction with other agricultural operations, poor grazing capability, draughty soil types and limited irrigation. Furthermore, the land was demonstrated to be unsuitable for forest use as the soil type has no forest capability, and there is a lack of surrounding forest uses on abutting or nearby parcels; and,

WHEREAS, the Board of Commissioners also found that, based upon the testimony and information in the whole record, that there was a documented need for the change to the Plan Map and Zoning Map in terms of a need for additional aggregate resources of this quality in the vicinity of the City of Klamath Falls.

**NOW, THEREFORE, THE BOARD OF COMMISSIONERS OF KLAMATH COUNTY
ORDERS AS FOLLOWS:**

The Klamath County Comprehensive Land Use Map designation is amended to include:

TOWNSHIP 39 South, RANGE 09 East, Section 28, Tax Lot 01600, a 77.27± acre parcel, as Non-Resource; with, Klamath County Goal 5 Mineral/Aggregate (OAR 660 Division 16) Significant Resource Overlay (SRO) having 1C/3C site protection; and, with restrictions and processes identified in OAR 660 Division 23 that may override Division 16 as applicable; and,

The Klamath County Zoning Map designation is amended to include:

TOWNSHIP 39 South, RANGE 09 East, Section 28, Tax Lot 01600, a 77.27± acre parcel, as a Non-Resource (NR) zoning district.

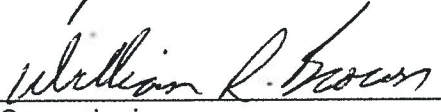
DATED THIS 12th DAY OF MAY, 2008:




Chairman



Commissioner



Commissioner



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 an appeal (LUBA: Phone 1-503-373-1265 or mail to 550 Capitol Street NE, Suite 235, Salem, OR 97301-2552). Failure to do so in a timely manner may affect your rights.

Klamath County
Planning Department
305 Main Street
Klamath Falls, OR 97601

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DEPT OF LAND CONSERVATION DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
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