

BEFORE THE BOARD OF COMMISSIONERS
KLAMATH COUNTY

IN THE MATTER OF AMENDING THE
COMPREHENSIVE PLAN MAP AND
ZONING MAP, (CLUP/ZC 1-99) FROM
HEAVY INDUSTRIAL TO COMMERCIAL
FOR OZ INVESTMENT, LLC

Whereas the Planning Commission on March 23, 1999, considered the request of OZ Investment, LLC, to amend the Klamath County Comprehensive Plan Map (CLUP/ZC 1-99) from Heavy Industrial to General Commercial, and the zone designation from IH to CG at it applied to a portion of Section 9 T39S R9E per Articles 47 and 48; and

Whereas, the applicant did present factual information and specific studies to support the request for the change, the Planning Commission recommended to the Board of Commissioners that the request be approved; and

Whereas the Board of Commissioners on March 23, 1999, after hearing the testimony and reviewing the applicants exhibits, up-held the Planning Commissions recommendation and approved the request to amend the Comprehensive Plan Map from Heavy Industrial to General Commercial and the zone change from IH to CG.

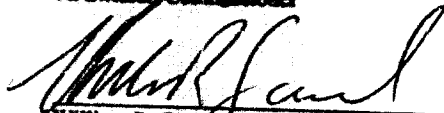
THEREFORE, THE BOARD OF COMMISSIONERS ORDAINS AS FOLLOWS:

The request to amend the Comprehensive Plan Map (CLUP/ZC 1-99) that applies to a portion of Section 9, T39S R9E, Tax Lot 200 be approved and adopts applicants Exhibit 1, Findings of Fact and Conclusions of Law. (KC Ex-1 of EX-B).

Dated this 6th day of July 1999


M. Steven West, Chairman


Al Switzer, Commissioner


William R. Gardner, Commissioner

Approved as to form.


Reginald R. Davis, County Counsel

BEFORE THE BOARD OF COMMISSIONERS

FOR THE COUNTY OF KLAMATH

STATE OF OREGON

IN THE MATTER OF AMMENDING THE)
 COMPREHENSIVE PLAN MAP AND)
 ZONING MAP FROM HEAVY INDUSTRIAL)
 TO COMMERCIAL WHICH AFFECTS A TOTAL)
 OF 6.89 ACRES OF LAND OWNED BY OZ)
 INVESTMENTS WHICH IS SITUATED)
 WEST OF WASHBURN WAY AND NORTH)
 OF LAVERNE AVENUE WITHIN THE URBAN)
 GROWTH BOUNDARY OF THE CITY OF)
 KLAMATH FALL, OREGON)
)
OZ Investment, LLC: Applicant)

PROPOSED FINDINGS OF FACT
 AND CONCLUSIONS OF LAW
 Applicants' Exhibit 1

I

NATURE, SCOPE AND INTENT OF APPLICATION

Applicant, OZ Investment, LLC, seeks to amend the Klamath County Comprehensive Plan Map and zoning designation. The amendment changes the plan map and zoning designations of the subject property from Industrial Heavy to Commercial General. The proposed change affects 6.89 acres. The property is situated approximately 769 feet west of Washburn Way and approximately 641 feet north of Laverne Avenue.

II

EVIDENCE SUBMITTED WITH APPLICATION

Applicant has submitted the following evidence with its application:

- Exhibit 1.** The proposed findings of fact and conclusions of law, demonstrating how the map amendment and zone change applications comply with the applicable substantive criteria
- Exhibit 2.** Completed application forms including power of attorney
- Exhibit 3.** Assessor plat maps (39-09-09AA and 39-09-09AD) which maps contain and depict the subject property and current county plan and zoning designations

Ex-1 of Ex B

- Exhibit 4. Site plan of the subject property
- Exhibit 5. The current deed of record for the subject property
- Exhibit 6. Authorization for permit application
- Exhibit 7. National Wetland Inventory map

III

RELEVANT SUBSTANTIVE APPROVAL CRITERIA

The criteria governing comprehensive plan and zoning map amendments are set forth in the Klamath County Land Development Code (KCLDC) 48.030. The criteria are recited verbatim as follows:

KCLDO Article 48 Change of Comprehensive Plan Designation (Quasi-Judicial)**48.030 Review Criteria**

- A. A request for a change of comprehensive Plan designation may only be approved if it meets all applicable review criteria;
- B. A request for a change of Comprehensive Plan designation shall be reviewed against the following criteria:
 - 1. The proposed change is supported by specific studies or other factual information which documents the public need for the change;
 - 2. The proposed change complies with policies of the Comprehensive Plan; and
 - 3. The proposed change complies with the Oregon State wide Planning Goals and Administrative Rules. Exceptions to the Statewide Planning Goals, shall be based upon Statewide Planning Goal 2, Part II (Exceptions) as interpreted by Oregon Administrative Rules (OAR Chapter 660, Division 4).

KCLDO Article 47 Change of Zone Designation (Quasi-Judicial)**47.030 Review Criteria**

- A. A request for a change of zone designation may only be approved if it meets all applicable review criteria.
- B. A request for a change of zone designation shall be reviewed against the following criteria:
 - 1. The proposed change of zone designation is in conformance with the Comprehensive Plan and does not afford special privileges to an individual property owner not available to the general public or outside the overall public interest for the change;
 - 2. The property affected by the change of zone designation is adequate in size and shape to facilitate any uses allowed in conjunction with such zoning;

3. The property affected by the proposed change of zone designation is properly related to streets and roads and to other public facilities and infrastructure to adequately serve the types of uses allowed in conjunction with such zoning;
4. The proposed change of zone designation will have no significant adverse effect on the appropriate use and development of adjacent properties; and
5. The proposed change is supported by specific studies or other factual information which documents the need for the change.

Plan amendments are also subject to the Oregon Transportation Planning Rule, in which the relevant criteria is in OAR 660-12-060(1):

Oregon Transportation Planning Rule - OAR 660-12-060(1): Amendments to ' * * * 'acknowledged comprehensive plans, * * * 'which significantly affect a transportation facility shall assure that allowed land uses are consistent with the identified function, capacity, and level of service of the facility.

IV

STIPULATIONS MADE BY APPLICANT

Applicant herewith agrees to stipulate to the following:

1. The construction standards for public facilities will be consistent with those jointly adopted by Klamath County and the City of Klamath Falls. Actual construction standards for facility extensions will be determined at the time engineering is provided for the service extensions.
2. All needed public facilities and services will be provided prior to or concurrent with development of the subject property.

V

FINDINGS OF FACT

The Board of Commissioners ("Board") finds the following facts to be true with respect to this matter:

Property Location: The property is located approximately 769 feet westerly off Washburn Way and approximately 641 feet north of LaVerne Street. The property is in the jurisdiction of the county and within the City of Klamath Falls Urban Growth Boundary.

Ownership: The property is owned in fee simple by OZ Investment, LLC which has given its consent to the application. See, Exhibit 2.

Existing Land Use: The property is presently vacant and covered with natural grasses.

Intended Land Use: If approved, the applicant intends to develop the property with uses consistent with the proposed Commercial General zoning district. Applicant expressed its

27090

intention to annex the property following development.

Property Description: The property proposed for map amendment and zone change measures 359 feet by 828 feet and consists of approximately 6.89 acres. A map depicting the area of the map and zone change is depicted on maps attached as Exhibits 3 and 4. The subject property is described in the records of the Klamath County Assessor as Tax Lot 200 on maps 39-09-09AA and 09AD.

Existing and Proposed Zoning: The property is presently zoned Industrial Heavy, a County plan map and zoning designation. The applicant has requested that the property be rezoned consistent with the adjacent Commercial General zone pursuant to a separate application which has been submitted concurrently with the application to amend the comprehensive plan map.

Surrounding Land Uses: Maps attached as Exhibit 3 accurately depict the pattern of land partitioning and development in the surrounding area. Land uses that presently occur in the surrounding area consist of the following:

North: Land to the north is zoned Industrial Heavy and lies within the jurisdiction of Klamath County. The north boundary of the subject property is adjacent to land in the ownership of South Suburban Sanitation District and is the site of the sanitation lagoons.

South: Land to the south is within the corporate limits of the City of Klamath Falls and is zoned General Commercial and is occupied by Wal-Mart.

East: Land to the east is vacant, zoned Commercial General and lies within the jurisdiction of Klamath County.

West: Land to the west is zoned Industrial Heavy and is within the jurisdiction of Klamath County. This land is under the ownership of the South Suburban Sanitation District and is part of the sanitation facility.

Topography: The property is nearly identical to that property adjacent along its south boundary—the site of Wal-Mart. That site was determined by previous site plan approval to be at an elevation of roughly 4083 feet, and is essentially level. The land is covered with natural grasses and is otherwise void of trees, mature shrubbery, or other significant natural features.

Wetlands: The Natural Resource Conservation Service (NRCS) identifies the subject site to contain wetlands as shown on the Wetland Inventory Map.

Public Facilities: The following public facilities are available to the subject property:

Sanitary Sewer Collection Lines: Sanitary sewer collection and treatment is provided by the South Suburban Sanitary District, (SSSD). SSSD general manager, Kent Colahan, has advised the applicant that the condition and capacity of the sanitary sewer lines are sufficient to provide service to the subject property commensurate with the proposed plan map and zoning designations. The existing 8-inch line within Maywood Drive, at its terminus northeast of the subject property, is at a depth of 5.5 feet. The existing 10-inch line within Washburn Way, at the point where it makes a 90-degree turn east to Onyx Street, is at a depth of 9.25 feet. Connection to the Washburn Way line is the most favorable choice due to the depth at the point of connection.

Water Distribution Lines: Water service is provided by the City of Klamath Falls and is available upon annexation of the subject property to the city. According to representatives of the City of Klamath Falls, the capacity of the local water system is sufficient to provide fire protection. However, city representatives also advised applicant's representatives that the availability of water for commercial use will be reevaluated at the time of development. Other land uses, contemplated but not approved, within the surrounding area may necessitate improvements to the public water system serving the area.

A 12-inch water main exists within the right-of-way of Washburn Way and extends south to Anderson Road. A 12-inch water main extends west from Washburn Way traversing south across the Wal-Mart parking lot to Laverne Avenue and before continuing west within the right-of-way of Laverne Avenue and terminating at the west boundary of Tax Lot 400. An 8-inch main exists in Maywood Drive to the north. The system is looped through the Wal-Mart site, connecting the Washburn and Laverne mains.

Storm Drainage: According to Manny Molina, Sewer, Storm Drain and Thermal Superintendant for the City of Klamath Falls, an underground, enclosed storm water system exists within Washburn Way. Storm water runoff from the subject property will be directed to catch basins and diverted to the existing underground public storm drainage system. Development of the property will require an engineered storm drainage plan for the property.

Streets: The Board reaches the following findings of fact with respect to streets and traffic:

Street Classification: Ownership was transferred from the Department of Transportation (ODOT) to the City of Klamath Falls November 1, 1998 as a city street for that portion of Washburn Way from its intersection with LaVern Street to South 6th Street. ODOT representative Randy Bednar stated that Washburn Way was constructed as a State Highway with four travel lanes and center turn lanes with curb and gutter.

27092

Existing Traffic Loading: Information obtain from the Oregon Department of Transportation indicates 1997 Average Daily Trips (ADT) on Washburn Way .01 mile north of LaVern Avenue to be 11,400. 1997 ADT on LaVern Avenue .01 mile west of Washburn Way is 5,000.

Existing Roadway Capacity: According to ODOT representative Randy Bednar, the capacity of Washburn Way is 25,000 ADT. According to applicant's traffic engineer, Dick Woelk, LaVerne Avenue has a threshold capacity of 10,000.

Summary Traffic Conclusions: Based upon the levels of existing traffic loading in relation to existing roadway capacity, the local street system can accommodate the additional levels of traffic that would be anticipated by the proposed plan and zone changes.

Police and Fire Protection: The property is served by the Klamath County Sheriff and Oregon State Police. Structural fire protection is provided to the subject property by the Klamath County Fire District #1, (South Suburban Fire District). Fire Station 3 is the nearest station located on Shasta Way approximately 2 to 3 miles from the subject property. Station 3 has an on-duty force of five full-time fire fighting or emergency personnel. Emergency response to the property for fire is estimated at approximately five (5) minutes.

Schools: A change in the property from Industrial Heavy to General Commercial will not negatively impact local schools because as commercial land, no additional school age children will result from the amendment. Ultimate commercial development of the property will produce additional property tax revenue that will be used, in part, to support local public schools.

Electricity: Electrical power is furnished by Pacific Corporation, (PP&L). Existing facilities are available to the site.

Natural Gas: Natural gas is furnished by CP National. Existing facilities presently serve the subject area.

Telephone: US West presently furnish telephone service to the subject area.

VI

CONCLUSIONS OF LAW

The **B O C C** reaches the following conclusions of law and ultimate conclusions with respect to this matter:

Procedural Review Type; Nature of the Amendment

The proposed land use actions are quasi-judicial in nature, under which, the burden of proof rests with the applicant. This document sets for the facts and conclusions of law by which the Board has determined that the proposed land use actions comply and are consistent with the relevant substantive criteria upon which each of the actions must be based.

Criterion 1

COMPREHENSIVE PLAN MAP AMENDMENT

ARTICLE 48: CHANGE OF COMPREHENSIVE PLAN DESIGNATION (QUASI-JUDICIAL)

KCLDC Section 48.030 Review Criteria

- A. A request for a change of Comprehensive Plan designation may only be approved if it meets all applicable review criteria;
- B. A request for a change of Comprehensive Plan designation shall be reviewed against the following criteria:
 - 1. The proposed change is supported by specific studies or other factual information, which documents the public need for the change;

Discussion; Conclusions of Law: The Board reaches the following conclusions of law with respect to Criterion 1:

- 1. The Klamath County Comprehensive Plan (KCCP), acknowledged by the Land Conservation and Development Commission (LCDC) to comply with the Statewide Planning Goals in 1985, is an expression of the public necessity as it relates to the various statewide goal topics.
- 2. Statewide Planning Goal 9, Economic Development, states:

"To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon Citizens."
- 3. The KCCP Economy Element cites the following among a list of plan element objectives:

"Encourage an increase in the supply of jobs available to persons with varying skills."
- 4. Applicant has asserted future development of the property with retail commercial uses will produce substantial temporary construction-related employment and permanent employment.
- 5. Table VI-1 on page VI-6 of the KCCP Atlas projects county employment in various sectors. Employment in the category of "Lumber and Wood" is projected to decline from 4,575 in 1980 to 4,140 in Year 2000. Agricultural and manufacturing employment is likewise projected to decline in Klamath County. Employment in the trade and services

sectors are projected to post substantial increases. The permanent jobs created by the subject property will be concentrated almost exclusively in the trade and services sectors.

6. Table VI-23 on page VI-32 of the KCCP Atlas projects county employment in the "Wholesale & Retail Trade" sector to increase from 4,800 to 11,170 jobs between Years 1980 to 2000.
7. Based upon the foregoing six points, the proposed amendment is found to be supported by factual information documenting a public need for the change and the amendment is concluded to be consistent in all respects with the requirements of Criterion 1.

Criterion 2

2. The proposed change complies with policies of the Comprehensive Plan; and

Discussion; Conclusions of Law: Compliance with relevant policies of the comprehensive plan has been addressed by the Klamath County Planning Department in its staff report which are herewith incorporated and adopted.

Criterion 3

3. The proposed change complies with the Oregon Statewide Planning Goals and Administrative Rules. Exceptions to the Statewide Planning Goals, shall be based upon Statewide Planning Goal 2, Part II (Exceptions) as interpreted by Oregon Administrative Rules (OAR Chapter 660, Division 4).

The Board finds and concludes as follows for each of the relevant Statewide Planning Goals:

- **Goal 1: (Citizen Involvement),** requires cities

"To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process."

Discussion; Conclusions of Law: The Board concludes that citizen involvement consistent with the Goal 1 is assured through methods used by Klamath County to notify affected parties of public hearings during which the application was considered and by opportunities afforded parties to present evidence and argument. The notification and hearing procedures are in the land development ordinance and these are found to be consistent with Goal 1 and the requirements of Oregon Revised Statutes (ORS) 197.763.

- **Goal 2: (Land Use Planning)**

"To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions."

Discussion; Conclusions of Law (Continued): Statewide Planning Goal 2 is found to be inapplicable. The subject property is within the Klamath Falls UGB. In 1985, the Klamath County Comprehensive Plan, including the Klamath Falls UGB, was acknowledged by LCDC to be in full compliance with the Statewide Planning Goals. The subject property is presently planned and zoned for industrial use, a nonresource category. The proposed changes would convert the land to commercial use, a nonresource category. No exception to the Statewide Planning Goals under Goal 2 or OAR 660-04 is required to authorize changes from one non-resource category to another.

- **Goal 3: (Agricultural Lands):**

"To preserve and maintain agricultural lands."

Discussion; Conclusions of Law (Continued): The subject property is within an acknowledged UGB, and is presently planned and zoned for urban industrial use. Goal 3 is found and concluded to be inapplicable.

- **Goal 4: (Forest Lands):**

"To conserve forest lands by maintaining the forest land base and to protect the states forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture."

Discussion; Conclusions of Law (Continued): The subject property is within an acknowledged UGB, and is presently planned and zoned for urban industrial use. Goal 4 is found and concluded to be inapplicable.

- **Goal 5: (Open Spaces, Scenic and Historic Areas, and Natural Resources)**

"To conserve open space and protect natural and scenic resources."

Discussion; Conclusions of Law (Continued): The subject property is presently vacant and can be characterized as "open space" in the sense that no development exists upon the land. The property is generally level and presently covered with natural grasses. The property is located within an area which consists of existing commercial and industrial uses, other vacant commercial and industrial lands, railroad rights-of-way, and sanitation ponds operated and maintained by the South Suburban Sanitary District. No trees presently exist on the property.

There are no unique features that distinguish the property from other surrounding land as a scenic or natural resource.

The comprehensive plan does not identify the subject property as having any of the resources covered by the cited Statewide Planning Goal. The subject property is within an acknowledged UGB and is presently planned and zoned for urban industrial use. As such, the Board concludes that the change does not conflict with, and, therefore, is consistent with Goal 5.

- **Goal 6: (Air, Water and Land Resources Quality)**

"To maintain and improve the quality of air, water and land resources of the state."

Discussion; Conclusions of Law (Continued): Urban industrial and commercial uses produce similar air, water, and land resource impacts. The Board concludes that the change does not conflict with, and, therefore, is consistent with Goal 6.

- **Goal 7: (Areas Subject To Natural Disasters and Hazards)**

"To protect life and property from natural disasters and hazards."

Discussion; Conclusions of Law (Continued): Applicant believes that the subject property is subject to high seasonal groundwater. As such, representatives of the applicant have indicated it will undertake appropriate engineering and construction to overcome the hazard at the time of development. As no other natural hazards have been found to exist, the Board concludes that the application is consistent with the requirements of Goal 7.

- **Goal 8: (Recreational Needs)**

"To satisfy the recreational needs of the citizens of the state and visitors and , where appropriate, to provide for the siting of necessary recreational facilities including destination resorts."

Discussion; Conclusions of Law (Continued): The subject property has not been identified by any public agency as being suitable or appropriate for recreational uses or activities. The Board concludes that Goal 8 is inapplicable.

- **Goal 9: (Economic Development), requires cities:**

"To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens."

Discussion; Conclusions of Law (Continued): In the conclusions of law for Criterion 1, the relevant findings and economic development policies are cited. Based upon these (which are

herewith incorporated and adopted) the Board concludes, that the change will help provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens consistent with Goal 9.

- **Goal 10: (Housing)**

"To provide for the housing needs of citizens of the state."

Discussion; Conclusions of Law (Continued): The present IH zone, and proposed CG zone do not allow housing either as a permitted or conditional use. See, KCLDC Articles 52.4, 53.2, and 53.4. Moreover, the subject property is presently vacant, and no housing exists thereupon. Therefore, Goal 10 is found and concluded to be inapplicable.

- **Goal 11: (Public Facilities and Services),** requires cities:

"To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development."

Discussion; Conclusions of Law (Continued): Based upon the findings of fact, the proposed amendment can be served with a full and complete range of needed public facilities and services which are adequate in condition and capacity to support land uses permitted by the proposed amendment. As such, the Board concludes that the proposed amendment is consistent in all respects with Goal 11.

- **Goal 12: (Transportation),** is more precisely addressed through its implementing administrative rule—OAR 660-12-060—addressed herein below as Criterion 9. The Board concludes that the proposed amendment is consistent in all respects with Goal 12. In support thereof, the Board herewith incorporated by reference and adopts its findings of fact and conclusions of law for Criterion 9.

- **Goal 13: (Energy Conservation)**

"To conserve energy."

Discussion; Conclusions of Law (Continued): The Board concludes that Goal 13 is not relevant to the proposed amendment.

- **Goal 14: (Urbanization)**

"To provide for an orderly and efficient transition from rural to urban land use."

Discussion; Conclusions of Law (Continued): As the subject property is presently within the Klamath Falls UGB and no amendment to the UGB is required or proposed, the Board

concludes that the plan map amendment is not inconsistent, and, therefore, it is consistent with Goal 14.

Criterion 4

ZONE CHANGE

ARTICLE 47 CHANGE OF ZONE DESIGNATION (QUASI-JUDICIAL)

KCLDO 47.030 Review Criteria

- A. A request for a change of zone designation may only be approved if it meets all applicable review criteria.
- B. A request for a change of zone designation shall be reviewed against the following criteria:
 - 1. The proposed change of zone designation is in conformance with the Comprehensive Plan and does not afford special privileges to an individual property owner not available to the general public or outside the overall public interest for the change;

Discussion; Conclusions of Law: Compliance with relevant policies of the comprehensive plan has been addressed by the Klamath County Planning Department in its staff report which are herewith incorporated and adopted.

Criterion 5

- 2. The property affected by the change of zone designation is adequate in size and shape to facilitate any uses allowed in conjunction with such zoning;

Discussion; Conclusions of Law: The subject property consists of approximately 6.89 acres of generally level terrain and there are no physical limitations which can not be overcome through standard, accepted, and cost-effective engineering and construction practices. Moreover, the subject property is in a rectilinear configuration which the applicant's consulting urban planner, Craig Stone, has asserted will make it suitable for any allowable use in the CG zone under KCLDC Sections 52.420 and 52.430. As such, the Board concludes that the change is consistent with Criterion 2 because the property affected by the change of zone designation is adequate in size and shape to facilitate any uses allowed in conjunction with the proposed CG zoning.

Criterion 6

- 3. The property affected by the proposed change of zone designation is properly related to streets and roads and to other public facilities and infrastructure to adequately serve the types of uses allowed in conjunction with such zoning;

Discussion; Conclusions of Law: Based upon the findings of fact and further supported by the Board's conclusions of law with respect to Criteria 3 and 9, the Board concludes that adequate public facilities and services, and transportation facilities and services presently exist or will be upgraded so as to be available at the time of actual development to support any potential uses permitted under KCLDC Sections 52.420 and 52.430. On these bases, the Board also concludes that the subject property is properly related to streets and roads and to other public facilities and infrastructure to adequately serve the types of uses allowed in conjunction rezoning to Commercial General in full compliance with Criterion 6.

Criterion 7

4. The proposed change of zone designation will have no significant adverse effect on the appropriate use and development of adjacent properties; and

Discussion; Conclusions of Law: Based on the findings of fact and Exhibit 3, the adjacent properties consist of land planned and zoned for industrial and commercial uses. Lands adjacent along the south boundary of the subject property are zoned General Commercial (GC), a city zoning designation similar to the county's Commercial General zone and which property is occupied by a Wal-Mart retail store and land within an Industrial Heavy (IH) a county zoning designation which is developed with the offices for SSSD.

Lands adjacent along the east boundary of the subject property have a county zoning designation of Commercial General and Industrial Light and have been partitioned into individual lots which range from 19,121 square feet to 42,513 square feet in size. These lots are not yet developed.

Land adjacent along the north and west boundary of the subject property are IH a county zoning designation and is the site of SSSD Lagoons.

The applicant's consulting urban planner, Craig Stone, asserts that urban commercial and industrial uses typically have a high degree of compatibility. No significant adverse impacts are believed to result from the rezoning. Based on the foregoing, the Board concludes that the proposed change of zone designation is consistent with Criterion 7 because it will have no significant adverse effect on the appropriate use and development of adjacent properties

Criterion 8

5. The proposed change is supported by specific studies or other factual information, which documents the need for the change.

Discussion; Conclusions of Law: The Board incorporates and adopts its findings of fact and conclusions of law for Criterion 1—Subsection 48.030(B)(1). The Board concludes that

Criterion 1 is very nearly identical to the above Criterion 8 and it concludes that the change is consistent with Criterion 8 because the proposed change has been found to be supported by specific studies and other factual information which documents the need for the change.

Criterion 9

COMPLIANCE WITH THE OREGON TRANSPORTATION PLANNING RULE

Oregon Transportation Planning Rule - OAR 660-12-060(1): "Amendments to * * * acknowledged comprehensive plans, * * * which significantly affect a transportation facility shall assure that allowed land uses are consistent with the identified function, capacity, and level of service of the facility."

Discussion; Conclusions of Law: Based upon the findings of fact which demonstrate that existing traffic loading on Washburn Way is less than fifty percent of its design capacity, the Board concludes that the proposed amendment will not produce significant affects on any transportation facility. Therefore, the Board concludes that the change of zoning designation does not conflict, and, therefore, is consistent with OAR 660-12-060(1)—Criterion 9.

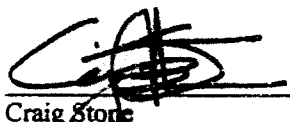
VII

ULTIMATE CONCLUSIONS

In summary conclusion, the Board ultimately concludes the comprehensive plan map amendment and change of zoning designation can and has been substantiated under each of the relevant criteria enumerated and discussed above as Criteria 1 through 9.

Respectfully submitted on behalf of applicant Oz Investment, LLC:

CRAIG A. STONE & ASSOCIATES, LTD.


 Craig Stone
 Consulting Urban Planner

Return to Commissioner's Journal

State of Oregon, County of Klamath
 Recorded 7/07/99, at 11:59 a. m.
 In Vol. M99 Page 27086
 Linda Smith,
 County Clerk Fee\$ KL