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ORDINANCE NO. 21-06

A SPECIAL ORDINANCE REZONING APPROXIMATELY 0.43 ACRES OF LAND LEGALLY DESCRIBED AS LOTS 17-21 AND THE EASTERN PORTION OF LOT 22 OF BLOCK 8 OF THE INDUSTRIAL ADDITION SUBDIVISION FROM LIGHT INDUSTRIAL AND PUBLIC FACILITY TO MEDIUM DENSITY RESIDENTIAL

WHEREAS, there has been submitted to the City of Klamath Falls a written request for a change of zone of certain real property, which property is hereinafter depicted and described;

WHEREAS, a public hearing was held on September 13, 2021 pursuant to applicable laws, at which time all evidence with reference to said proposed change of zone was considered by the Planning Commission;

WHEREAS, the City Council, hearing notices having been duly given, held a public hearing on October 18, 2021, on the recommendation of and including the record of the Planning Commission concerning the change of zone;

WHEREAS, pursuant to such record and hearing, the City Council has determined the zone change be in compliance with the Community Development Ordinance (CDO) and to have met the criteria of the Urban Area Comprehensive Plan (Comprehensive Plan); and

WHEREAS, the City Council adopted the Recommended Findings of the Planning Commission as modified, attached hereto and incorporated by this reference as Exhibit B; NOW THEREFORE,

THE CITY OF KLAMATH FALLS HEREBY ORDAINS AS FOLLOWS:

The zoning designation of approximately 0.43 acres of land, as shown on the map attached hereto as Exhibit A, is hereby changed from Light Industrial (LI) and Public Facility (PF) to Medium Density Residential (MD).


The property is identified as Lots 17 – 21 and the eastern portion of Lot 22 of Block 8 of the Industrial Addition Subdivision and further identified as Klamath County Assessor Map Tax Lots R-3809-033BD-02800 – 03100. The subject lots are located at the southwest corner of Adams Street and Orchard Avenue.

This Ordinance shall become effective 30 days from enactment.

Passed by the Council of the City of Klamath Falls this 1st day of November, 2021.

City of Klamath Falls
returned at Counter

ned this 2nd day of November, 2021.



Mayor

ATTEST

Nickole Barrington
City Recorder

} ss.

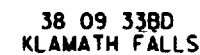
City Recorder

Map

THIS MAP WAS PREPARED FOR
ASSESSMENT PURPOSE ONLY

13. **100%**

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KLAMATH FALLS



Ordinance Exhibit “B”
Approval Criteria and Recommended Findings

Because the application under review is requesting a change of zone from Light Industrial (LI) and Public Facility (PF) zoning to Medium Density Residential (MD), the criteria for a Change of Zone in both the Urban Area Comprehensive Plan and the Community Development Ordinance (CDO) apply.

Urban Area Comprehensive Plan Review Criteria
Urban Area Zone Change Criteria

1. *Procedural Requirements:*

- a. The Department of Land Conservation and Development (DLCD) shall receive notification at least 35 days in advance of the first planning commission hearing for a zone change application in accordance with ORS 197.610 et seq. Post-Acknowledgment Procedures.*
- b. If a wetland is located on the subject property, the Department of State Lands shall be notified of the zone change proposal pursuant to ORS 227.030 Notice of proposed wetland development and ORS 215.418(5) Approval of development on wetlands, notice.*
- c. Local public notice for quasi-judicial map amendments shall be provided as set forth in ORS 197.763 Conduct of local quasi-judicial public hearings; notice requirements – and in relevant sections of the Klamath County LDC or the Klamath Falls CDO, depending on the location of the proposed zone change.*

Discussion: Notice of the zone change request was provided to DLCD on August 9, 2021. Inventoried wetlands are not located on the subject property. Local public notice has been issued per State and local regulations. For the Planning Commission meeting, notice to all property owners within 500’ of the subject lots under zone change consideration was mailed on August 30, 2021 with notice published in the Herald & News on September 3, 2021. For the City Council meeting, notice to all property owners within 500’ of the subject lots under zone change consideration was mailed on September 29, 2021 with notice published in the Herald & News on October 8, 2021

Recommended Staff Finding: The Planning Commission finds the Urban Area Zone Change Criteria, Procedural Requirements, have been satisfied. **This criterion is met.**

- 2. *Public Need:*** *To address Statewide Planning Goals 9 (Economic Development), 10 (Housing) and 11 (Public Facilities and Services), the applicant must demonstrate public need for the zone change by considering applicable relevant Volume II background studies and/or Volume III facility master plans as indicated below.*
- a. For small-scale zone changes in developed areas: The proposal must result in a more logical and coherent land use pattern, as determined by the review authority.*
 - b. For a zone change that would decrease the supply of buildable residential land: If the proposal would rezone buildable land (as defined in the Residential BLI) from a residential zone to a non-residential zone, or result in decreased residential densities,*

then the HNA found in Volume II: Background Plans and Studies must be consulted to ensure that the rezone does not result in a shortage of buildable land for a needed housing type. This analysis is necessary to demonstrate compliance with Statewide Planning Goal 10: Housing. For example, if there is a documented shortage in the supply of High Density Residential land in the Urban Area, then the proposed zone change cannot make this shortage worse. To compensate for the loss of land for needed housing, other Urban Area land may be rezoned for comparable residential use, so as to result in "no net loss" of buildable land for the needed housing type.

- c. For a zone change that would increase the supply of suitable commercial or industrial land: the proposal must meet a need for a targeted employment opportunity identified in the Economic Opportunities Analysis (EOA) using the medium growth scenario. The EOA is found in Volume II: Background Plans and Studies. Alternatively, the review body may rely on a written commitment to purchase the subject property for a specific employment opportunity to justify the need for an industrial zone change proposal.*
- d. For a Public Facilities rezone proposal: The property in question must be owned by a public or non-profit corporation and the project should be referenced in the relevant facility master plan found in Volume III: Facility Master Plans.*

Discussion: The proposed zone change from Light Industrial (LI) and Public Facility (PF) to Medium Density Residential (MD) zoning is largely in-line with the current zoning and existing uses immediately east of the subject lots. The subdivision block which the collective property (Lots 17 – 21 and the eastern portion of Lot 22 of Block 8 of the Industrial Addition Subdivision) is part of, is presently zoned LI and PF while all lots are undeveloped except for one lot adjacent to the subject lots which contains a single-family residence. The subject lots are immediately bordered to the east and northeast by MD zoning along both Adams Street and Orchard Avenue. Per the CDO, zoning extends to the centerline of the adjacent right-of-way. While the subject subdivision block's current zoning mix wouldn't typically merit a conversion to MD zoning, the subdivision block is undeveloped with the exception of the noted single-family residence within LI zoning. This residence is presently considered existing, non-conforming.

Staff believes the subdivision block was zoned LI due to proximity to the railroad mainline (west) and PF due to a prior youth baseball field (south). The baseball field presently isn't utilized while newer industrial development has tended to concentrate around larger greenfield properties (not adjacent to residential areas) with better truck access. While the LI zoning of the majority of lots under zone change consideration may have made historic sense, staff believes the requested zone change to MD properly reflects the block's sole existing improvement and existing MD zoning to the east and northeast and would result in a more logical land use pattern. Staff is unaware of any past inquiries for new industrial development over the collective lots under zone change consideration.

The requested zone change would increase not decrease the supply of buildable residential land. The 2009 Economic Opportunities Analysis (EOA) which provides an assessment of employment land needs (commercial and industrial) within the Urban Growth Boundary (UGB) focuses on sites sized 0.5 acres and larger. The collective property is 0.43 acres.

The requested zone change to Medium Density Residential would allow for the construction of new residential uses and help provide housing for the UGB's 1,314 expected new residents through 2039 as projected by the Klamath Falls Housing Needs Analysis (HNA). New housing units on rezoned MD land, if constructed, would contribute towards the estimated 609 needed dwellings over the HNA's 20-year (2019-2039) planning horizon. MD zoning allows for all needed housing typologies identified within the HNA up through fourplexes. While the Residential Buildable Lands Inventory (BLI) within the HNA notes a surplus of land within the MD zoning category (and all other residential zone categories) based on expected population growth and housing unit demand, additional housing units are presently needed within the Klamath Basin to alleviate tight supply and rising housing costs. The 2019 HNA notes about 40% of overall households and 54% of renters within Klamath Falls City limits are considered cost burdened which exceeds overall Klamath County and statewide figures. The provision of additional rental housing units in the near term, as proposed by the property owners and allowed within converted MD zoning, should anecdotally increase housing supply and affordability.

Recommended Staff Finding: The Planning Commission finds the Urban Area Zone Change Criteria, Public Need, has been satisfied. **This criterion is met.**

3. **Purpose:** *The proposed zone change shall be consistent with the purpose of and uses allowed by the proposed zone.*
- a. *Klamath County LDC describes the purpose of each zone and lists permitted and conditional uses in each zone. Table 2.3 lists each applicable base zone and its corresponding purpose.*
 - b. *Descriptions of most city zones have been brought forward from the old comprehensive plan (p.10). The Klamath Falls CDO includes definitions for each zone table listing permitted and conditional uses in each zone. Table 2.4 describes the purposes of city zones based in these documents.*
 - *(Current Zone(s)) LI – Light Industrial: A zone that allows for industrial enterprises where activities and operations do not significantly, adversely impact the surrounding properties, due to odor, particulate matter, smoke, noise, vibration, appearance, or similar impacts.*
 - *(Current Zone(s)) PF – Public Facility: Public or quasi-public structures generally used by government, non-profit organizations or large numbers of persons.*
 - *(Proposed Zone) MD – Medium Density Residential: A zone that allows for single-family residence through four-plex residential development with a maximum density of up to 14 dwelling units per net acre.*

Discussion: The proposed use(s), single-family residence(s), should the requested zone change be recommended and approved, is compatible with MD zoning intent. Staff would further review any requested land use at the time of application to ensure compliance with underlying zone.

Recommended Staff Finding: The Planning Commission finds the Urban Area Zone Change Criteria, Purpose, has been satisfied. **This criterion is met.**

4. ***Transportation:*** *The subject property is properly related to transportation facilities to adequately serve the range of uses allowed in conjunction with such zoning and is consistent with the Urban Area Transportation System Plan. The proposed rezone must also meet Transportation Planning Rule (TPR) OAR 660-012-0060 requirements. To demonstrate compliance with the TPR, the applicant may be required to submit a Traffic Impact Study that meets local and Oregon Department of Transportation requirements. The zone change proposal may be conditioned to include demand management strategies that limit peak hour trips to achieve consistency with the TPR.*

Discussion: There is limited traffic generation potential between the existing LI and PF zones and proposed MD zoning, specifically for the subject 0.43-acre collection of lots. All surrounding transportation facilities are presently built out. The subject lots front two developed streets, Adams Street and Orchard Avenue, and are an opportunity for infill development within an urbanized area. The applicant has shared a desire to construct up to three total single-family residences across the collective properties (a deed restriction will be required if improvements cross subdivision lot lines). MD zoning allows single-family residences and duplexes outright and triplexes and fourplexes conditionally. CDO Section 14.051, Transportation Planning, does not require the submission of transportation impact analysis documents for residential uses up through fourplexes due to limited traffic generation.

Recommended Staff Finding: The Planning Commission finds the Urban Area Zone Change Criteria, Transportation, has been satisfied. **This criterion is met.**

5. ***Adequate Public Facilities:*** *The subject property has adequate sanitary sewer, storm drainage and domestic water service to serve the range of uses allowed by the proposed zone.*
- a. *To make this adequacy finding, the subject property must be served or serviceable within the next 10 years as determined by the city, district and/or county engineer with jurisdiction.*
 - b. *The engineer's determination must consider the Urban Area Public Facilities Plan, and relevant facility master plans and capital improvement programs.*

Discussion: The subject lot is located within a built-out portion of the City with public existing facilities mostly adjacent to the collective property under zone change consideration. There are currently City water mainlines within both the Adams Street and Orchard Avenue rights-of-way. There are also currently City wastewater mainlines within both the Adams Street and Orchard Avenue rights-of-way. Through agency review, no comments were received that indicated substandard utilities. Stormwater is to be evaluated at the time of land use application.

Recommended Staff Finding: The Planning Commission finds the Urban Area Zone Change Criteria, Public Facilities, has been satisfied. **This criterion is met.**

6. ***Residential Zoning Location:*** *The following locational guidelines shall be considered by the review body for rezoning proposal to the following residential zones:*

- a. *High Density Residential should be located within 1000 feet of transit service or should have frontage along a collector or arterial street.*
- b. *Medium Density Residential should be located within a half mile of transit service and should have frontage along a collector street or higher classification.*
- c. *Zone changes to Low Density Residential and Suburban Residential should not be allowed adjacent to an arterial street.*

Discussion: The subject lots under zone change consideration are located within a half-mile of the Mainline #2 transit route operated by Basin Transit Services (BTS). While Criteria 6(b) recommends that MD zoning be located along a collector or higher street classification, MD zoning has been requested so as to be consistent with the residential zoning type immediately east and northeast of the subject lots. Notedly, there is presently no Single-Family Residential (SF) zoning in the entirety of the Mills Addition neighborhood. With recent changes to State law, there is presently little difference between the City's SF and MD zones as duplexes are now permitted in all areas where single-family residences are allowed. This specific Comprehensive Plan criteria will be evaluated in the future.

Recommended Staff Finding: The Planning Commission finds the Urban Area Zone Change Criteria, Residential Zoning Location, has been adequately satisfied. **This criterion is met.**

7. **Commercial Zoning Location:** *EXCLUDED – DOES NOT APPLY (presently zoned LI and PF and not requesting a zone change to commercial)*
8. **Topographical Constraints:**
 - a. *Areas with slopes that are predominantly 25 percent or greater and land within the 100-year floodplain should not be rezoned for High or Medium Density Residential uses.*
 - b. *Areas with substantial topographic constraints, such as predominant slopes of 15% or greater, or substantial floodplain or wetland limitations, are not considered suitable for industrial or commercial development. To demonstrate suitability, the review authority may require engineering and mitigation studies that result in an effective mitigation plan.*

Discussion: There are no topographical constraints, the collective lots are generally flat without slope.

Recommended Staff Finding: The Planning Commission finds the Urban Area Zone Change Criteria, Topographical Constraints, has been satisfied. **This criterion is met.**

9. **Contiguity:**
 - a. *In situations where up-zoning is proposed, the subject property should have comparable or more intensive zoning on at least one side to minimize incompatible land uses, and to restrict "spot-zoning".*
 - b. *The contiguity requirement shall not apply to Neighborhood Commercial or Mixed-Use zones, or to rezoning of 20 acres or more or contiguous land (where adequate buffers can be provided to mitigate potential adverse impacts from the rezoning).*

Discussion: The request for MD zoning is not considered an up-zone from the existing LI and PF zones. Per the CDO, zoning extends to the centerline of the adjacent right-of-way. MD zoning exists on the eastern side of Adams Street directly east of and adjacent to the collective properties under zone change consideration.

Recommended Staff Finding: The Planning Commission finds the Urban Area Zone Change Criteria, Contiguity, has been satisfied. **This criterion is met.**

10. ***Size and Shape:*** *The subject property is adequate in size and shape to accommodate the proposed use or uses allowed in the proposed zone.*

Discussion: The subject lots under zone change consideration are approximately 25' x 140' or 3,500 sq. ft. each. The minimum lot size for all City zones is 5,000 sq. ft. The subject lots are pre-existing however and would remain non-conforming whether or not the requested zone change is approved. Given small lot dimensions, the development of any future land use would face additional constraints. If the zone change request were approved and a future Residential Review application submitted for any new residential type, standards for lot setbacks and coverage would be evaluated and required to be met. Through conversation with the applicants given the small underlying subdivision lot sizes, the construction of a residence on each standalone lot is unlikely. Rather, the creation of Deed Restrictions that would combine and allow structures to cross underlying lot lines will likely be pursued. This action would in effect increase the underlying lot sizes and limit the number of residences that could be constructed over the collective lots.

Recommended Staff Finding: The Planning Commission finds the Urban Area Zone Change Criteria, Size and Shape, has been satisfied. **This criterion is met.**

11. ***Historic Sites and Structures:*** *Rezoning of land will identify potential impacts on designated historic sites and structures and mitigate such impacts to the extent feasible.*

Discussion: No known designated historic sites or structures would be impacted by the requested rezone. The collective property is currently undeveloped.

Recommended Staff Finding: The Planning Commission finds the Urban Area Zone Change Criteria, Historic Sites and Structures, has been satisfied. **This criterion is met.**

12. ***Noise Sensitive Uses:*** *Based on DEQ rules (OAR Chapter 340, Division 35):*
a. Zone changes that allow uses that generate substantial noise should not be located next to noise-sensitive uses unless noise attenuation measures are assured.
b. EXCLUDED – DOES NOT APPLY. (Airport related)

Discussion: The collective lots present LI and PF zoning could potentially allow future noise generating uses that could impact noise sensitive uses. Residential uses are not considered substantial noise generators and are rather considered noise sensitive uses that could potentially be impacted by commercial, industrial, or public uses. The requested zone change, if approved, could limit the construction of substantial noise generating uses.

Recommended Staff Finding: The Planning Commission finds the Urban Area Zone Change Criteria, Noise Sensitive Uses, has been satisfied. **This criterion is met.**

13. **Neighborhood Impacts:** The review body shall consider impacts on uses allowed by zoning for properties within 500 feet of the proposed zone change.
- Where substantial adverse impacts are identified, the review body may condition the zone change to mitigate identified impacts.
 - Where substantial adverse impacts are identified but cannot be reasonably mitigated, the review body should deny the zone change.

Discussion: No comments, either positive or negative, were received from property owners within the 500' zone change notice area. If the collective lots are re-zoned to MD, they could be developed with residential uses permitted within MD zoning. Medium density residential uses do not typically have neighborhood impacts, especially within a built-out urban area. Existing and like uses are present in the immediate surrounding area.

Recommended Staff Finding: The Planning Commission finds the Urban Area Zone Change Criteria, Neighborhood Impacts, has been satisfied. **This criterion is met.**

14. **Planned Unit Development:** EXCLUDED – DOES NOT APPLY.

15. **Air/Rail Transportation Zone:** EXCLUDED – DOES NOT APPLY.

Community Development Ordinance (CDO) Review Criteria

Article 7. Change of Zone

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:

- 1. 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.*

Discussion: The Urban Area Comprehensive Plan requirements are addressed through the findings above. Conformance with the Comprehensive Plan was met. Complete CDO conformance will be determined through any future subsequent development review.

Recommended Staff Finding: The Planning Commission finds the CDO Change of Zone Criteria, Required finding (A), has been satisfied. **This criterion is met.**

- 2. 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.*

Discussion: The subject platted subdivision lots are considered existing, non-conforming for minimum lot size. The lots are and will remain below minimum CDO lot size standards

regardless of the zone change request. Any future development of the lots will be evaluated against CDO standards at the time of application. The applicant has requested a Deed Restriction to “combine” multiple underlying subdivision lots to alleviate size constraints.

Recommended Staff Finding: The Planning Commission finds the CDO Change of Zone Criteria, Required finding (B), has been satisfied. **This criterion is met.**

3. *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.*

Discussion: The subject lots under zone change consideration fully front either Adams Street or Orchard Avenue, both improved City streets. The subject lots are located within a built-out portion of the City and offer an opportunity for infill development. Per CDO Section 14.051, Transportation Planning, the submission of transportation impact analysis documents are not required for low to mid-density residential uses given lower trip generations.

Recommended Staff Finding: The Planning Commission finds the CDO Change of Zone Criteria, Required finding (C), has been satisfied. **This criterion is met.**

4. *The proposed change of zone will have no adverse effect on abutting property or the permitted uses thereof. (Ord. 17-10, 2017)*

Discussion: Notice of the zone change request and public hearing was sent to all property owners within 500’ of the subject lots. No responses have been received as of the date of this Staff Report’s publication. If the zone change under consideration is recommended and approved, uses permitted within MD zoning would be allowed as are typical in the surrounding neighborhood.

Recommended Staff Finding: The Planning Commission finds the CDO Change of Zone Criteria, Required finding (D), has been satisfied. **This criterion is met.**

11.435 Required findings.

Prior to rendering a decision on a change of zone, the Council shall make such written findings as required in Section 11.415 (Required findings). (Ord. 17-10, 2017)