

**CITY OF KLAMATH FALLS  
PLANNING COMMISSION**

**Staff Report  
7-Z-09**

**March 22, 2010**

**I. TITLE**

Request to rezone approximately 0.68 acres (29,680 square feet) of land from Public Facility to Apartment Residential.

**II. SUMMARY AND BACKGROUND**

The applicants, Leo and Pauline Icenbice, Steve Shrifter, Joan Quinlan, Don Dumbeck, Larry and Susan Snyder, and David Filippe propose to rezone approximately 0.68 acres (29,680 square feet) of land from Public Facility to Apartment Residential. The area proposed for rezoning is made up of seven separate properties. The properties are addressed as 414 North 9<sup>th</sup> Street, 410 North 9<sup>th</sup> Street, 406 North 9<sup>th</sup> Street, 332 North 9<sup>th</sup> Street, 322/320 North 9<sup>th</sup> Street, 310 North 9<sup>th</sup> Street, and 304 North 9<sup>th</sup> Street. The properties can be found on Klamath County Assessor's map R-3809-029DC tax lots 16300, 16200, 16100 and on map R-3809-032AB tax lots 00801, 00600, 00400, and 00300. The properties can also be described as Nichols Addition, Lots 1 & 2 of Block 52, and a 60' by 124' vacated portion of Washington Street, and the westerly 40' by 59' and northeasterly 80' by 15' of Lot 7 of Block 43, and the northeasterly 80' by 15' of Lot 2 Block 43.

The proposed zone change would eliminate the non-conformity for the existing residential uses on the parcels and make the zone more closely match the existing uses on the subject properties. While some of the properties will still have setback nonconformities even if the zone is changed to Apartment Residential, the proposed change of zone would create use conformance for the entirety of all seven properties. All seven houses were built prior to the adoption of the first City of Klamath Falls Zoning Ordinance #5095, which was adopted on November 2<sup>nd</sup>, 1959. While some of the houses have added small additions, porches, exterior sheds, garages, and fences over the years, the original primary residences all predate residential review permit requirements. For a more detailed explanation on all properties see Criterion A in the Required Findings on page 2 of this staff report. This proposal does not include any changes or modifications to the subject properties. Surrounding properties are zoned Apartment Residential and Public Facility.

**Public Facility:** Public Facility (PF) zoning requires a 10' setback from all property lines unless the yard abuts a residential zone. If the yard abuts a residential zone a setback of 15 feet, plus one foot for every foot the proposed nonresidential structure exceeds 28' in height, is required. The maximum building height in Public Facility zones is 70' and the maximum lot coverage is 100% so long as parking, setbacks, and landscaping requirements are met. The minimum required lot size for Public Facility zones is 5,000 sq ft. Uses allowed in Public Facility zones include: cemeteries, churches, government offices, hospitals, fraternal lodges, and schools. Private schools, recreational vehicle parks, and telecommunication facilities are allowed with a conditional use permit.

**Apartment Residential:** Apartment Residential (A) setback requirements are 20' for front yards, 10' for exterior side yards, and 5' for all rear and interior side yards. The maximum allowed lot coverage in Apartment Residential zones is 60%. The maximum building height in Apartment Residential zones is 45'. The minimum required lot size for Medium Density Residential is 5,000 sq ft. Uses allowed in Apartment Residential zones include: single family dwellings, duplexes, tri-plex, four-plex, apartment,

manufactured homes, residential homes, residential facilities, and parks and recreation facilities. Manufactured home parks, bed & breakfasts, business offices, child care facilities, child treatment centers, day cares, private schools, professional offices, telecommunication facilities, cemeteries, churches, government offices, hospitals, fraternal lodges, and schools are allowed with a conditional use permit.

Referring Agency Comments:

Engineering: “There are no proposed changes to any existing City water or sewer services to the properties shown per this application request. City Engineering does not anticipate any increases to existing traffic counts that would warrant a traffic analysis. From a public works position we have no concerns at this time.”

KCFD #1: “I have reviewed the Administrative Review Sheet for File No. 7-Z-09 and Klamath County Fire District No. 1 has no objection to the applicant’s request to re-zone the property to Apartment Residential (A).”

Basin Transit: “No comment.”

Avista Utilities:	No comments were received.
Charter Communications:	No comments were received.
Pacific Power and Light:	No comments were received.
Qwest:	No comments were received.
USBR:	No comments were received.
City Manager:	No comments were received.
Klamath Falls City Schools:	No comments were received.
Opponents:	No comments were received.
Proponents:	No comments were received.

**III. RELEVANT REVIEW CRITERIA**

**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:

**A. Criterion 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.**

Staff Response: The following Comprehensive Plan Policies relate to the proposed zone change:

Policy 224: Public facility capacity and expansion scheduling will be a key factor in land use planning.

The proposed zone change will cause the zoning of the subject property to more closely match the existing uses of the property. Re-zoning the property from Public Facility to Apartment Residential will remove property that would otherwise be reserved for public facility related uses, thus supporting Comprehensive Plan Policy 224.

All seven houses were built prior to the adoption of the first City of Klamath Falls Zoning Ordinance #5095, which was adopted on November 2<sup>nd</sup>, 1959. While some of the houses have added small additions, porches, exterior sheds, garages, and fences over the years, the original primary residences all predate residential review permit requirements. Structures built before 1959 are more likely than structures built after 1959 to have current coverage or setback nonconformities. Below is a property breakdown:

414 North 9<sup>th</sup> Street: House built in 1920. Planning Division address files have no building permit on file and the house predates residential review permit requirements. The house and garage cover approximately 1,284 sq ft or 26% of the 4,960 sq ft lot. All of the property which is 4,960 sq ft is currently zoned Public Facility.

410 North 9<sup>th</sup> Street: House built in 1916. Planning Division address files have no building permit on file and the house predates residential review permit requirements. The house and garage cover approximately 1,194 sq ft or 24% of the 4,960 sq ft lot. All of the property which is 4,960 sq ft is currently zoned Public Facility.

406 North 9<sup>th</sup> Street: House built in 1916. Planning Division address files have no building permit on file and the house predates residential review permit requirements. The house and garage cover approximately 2,200 sq ft or 44% of the 4,960 sq ft lot. All of the property which is 4,960 sq ft is currently zoned Public Facility.

332 North 9<sup>th</sup> Street: House built in 1952. Planning Division address files have no building permit on file and the house predates residential review permit requirements. The house and garage cover approximately 2,240 sq ft or 18% of the 12,400 sq ft lot. The garage was built in 1994 with Residential Review Permit Number 84-94. A large portion of the property which is 9,800 sq ft is currently zoned Public Facility, while the remaining 2,600 sq ft is currently zoned Apartment Residential.

322/320 North 9<sup>th</sup> Street: House built in 1927. Planning Division address files have no building permit on file and the house predates residential review permit requirements. The house (duplex) covers approximately 1,350 sq ft or 21% of the 6,400 sq ft lot. A small portion of the property which is 1,200 sq ft is currently zoned Public Facility, while the remaining 5,200 sq ft is currently zoned Apartment Residential.

310 North 9<sup>th</sup> Street: House built in 1939. Planning Division address files have no building permit on file and the house predates residential review permit requirements. The house and garage cover approximately 1,462 sq ft or 46% of the 3,200 sq ft lot. A small portion of the property which is 600 sq ft is currently zoned Public Facility, while the remaining 2,600 sq ft is currently zoned Apartment Residential.

304 North 9<sup>th</sup> Street: House built in 1912. Planning Division address files have no building permit on file and the house predates residential review permit requirements. The house and garage cover approximately 1,211 sq ft or 38% of the 3,200 sq ft lot. A small portion of the property which is 600 sq ft is currently zoned Public Facility, while the remaining 2,600 sq ft is currently zoned Apartment Residential.

All seven properties are currently non-conforming according to use in Public Facility. While some of the properties will still have setback nonconformities even if the zone is changed to Apartment Residential the proposed change of zone would create use conformance for the entirety of all seven properties.

Proposed Finding: 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. All of the properties are considered legal non-conforming. Permitting the change of zone would create use conformance for the entirety of all seven properties. **This criterion is met.**

**B. Criterion 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.**

Staff Response: The minimum required lot size for Public Facility zones is 5,000 sq ft. The minimum required lot size for Apartment Residential is also 5,000 sq ft. Two of the subject properties are larger than 5,000 sq ft, which is larger than the minimum lot size required for new Apartment

Residential lots. The other five subject properties do not meet the current minimum lot size requirements, but they do meet lot coverage requirements for Apartment Residential.

Proposed Finding: The property affected by the change of zone is adequate in size and shape to facilitate the uses normally allowed in conjunction with the proposed zoning. **This criterion is met.**

**C. Criterion 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.**

Staff Response: The properties are bordered by the street right-of-ways for North 9<sup>th</sup> Street and High Street. The Klamath Falls Urban Area Transportation System Plan (TSP) identifies North 9<sup>th</sup> Street as a major collector and High Street as a local street. These two streets are fully improved.

Proposed Finding: The properties affected by the proposed zone change appear to be properly related to streets that adequately serve the type of traffic generated by the uses permitted in the Apartment Residential zone. **This criterion is met.**

**D. Criterion The proposed change of zone will have no adverse effect on abutting property or the permitted uses thereof.**

Staff Response: Only two neighboring property owners contacted City staff by phone regarding the proposed change of zone. Neither of the adjacent property owners expressed concern with the proposed change of zone. Staff has not received any written comments from neighboring property owners regarding the proposed change of zone. Any future use of the subject property will require a review by City Planning. Future reviews will insure that the site is developed appropriately for the proposed use and any potential adverse effect on abutting properties will be diminished.

Proposed Finding: The proposed change of zone will have no adverse effect on abutting property or the permitted uses thereof. **This criterion is met.**

#### **IV. REQUESTED MOTIONS/ACTIONS**

- Hold a public hearing and take testimony
- Motion to Accept the Proposed Findings as stated in the Staff Report
- Motion to recommend approval of the zone change to City Council based on the proposed findings

#### **V. DOCUMENTS ATTACHED**

- Vicinity Map
- Site Plan
- Combined Assessor Maps

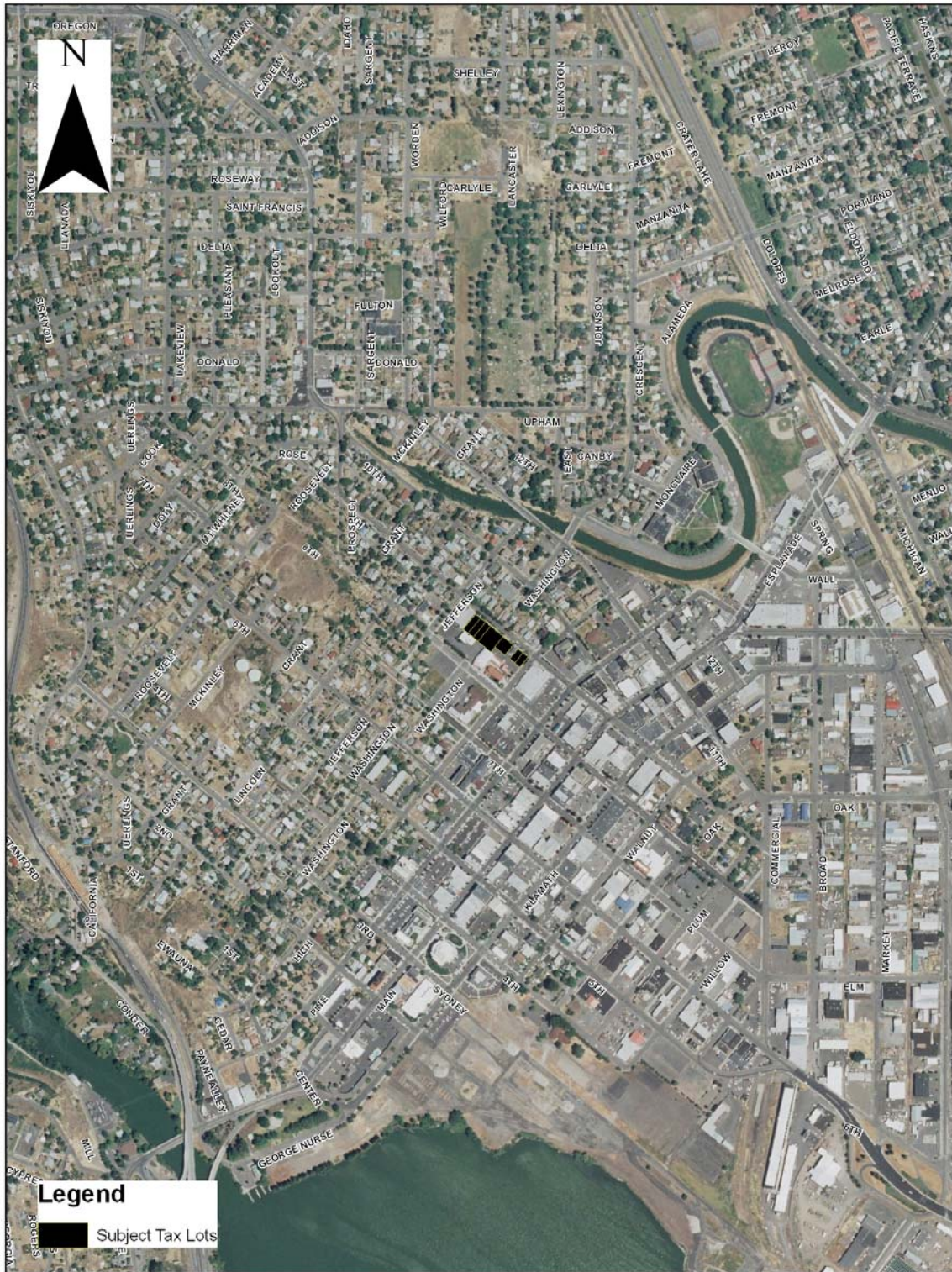
#### **VI. PUBLIC NOTICE**

Notice of this public hearing was mailed to 98 adjacent property owners within 500' of the subject properties in question on February 17, 2010 and published in the Herald and News on February 28, 2010.

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Kelly O'Neill,  
Planner

# Vicinity Map (No Scale)



# Site Plan



