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Vol. <sup>M</sup>74 Page <sup>8540</sup>

BOARD OF COUNTY COMMISSIONERS

In and For the County of Klamath, State of Oregon

IN THE MATTER OF THE  
APPLICATION FOR CHANGE  
OF ZONE NUMBER 74-5 BY  
HECTOR N. CARNES

O R D E R

This matter having come on for hearing upon the application of Hector N. Carnes for a change of zone, said change application being numbered Zone Change 74-5 and said application having been heretofore recommended from the C-5 (Commercial Highway) and RA (Residential Agriculture) zones to the M-3 (Heavy Industrial) zone by the Klamath County Planning Commission, a description of the real property referred to in said application being Lots 33 and 34, Highland Park, Klamath County, Oregon, also known as 7242 Hillyard Avenue, and a public hearing on said application having been regularly held at various times and for the final time on June 19, 1974 before the Board of Commissioners, and it appearing to said Board of Commissioners from the testimony, reports, and information produced at said hearing by the applicant, interested parties, the Planning Commission and Planning Department, that the application should be granted, the Board of Commissioners makes the following findings as required by Ordinance Number 17, the same being the Klamath County Zoning Ordinance:

1. That the Board of County Commissioners of Klamath County, Oregon, advised the applicant, Hector N. Carnes, prior to the adoption of a Comprehensive Land Use Plan and the enactment of zoning that the applicant's real property, which is the premises located at 7242 Hillyard Avenue, Klamath County, Oregon, was compatible with the present use of adjacent properties, and approved the issuance of a license for an auto wrecking yard on these premises; and

2. That in March of 1972 the State of Oregon, by and



through its Motor Vehicles Division, issued a license for the operation of a wrecking yard at 7242 Hilyard Avenue to said Hector N. Carnes, and that said license was renewed in 1973; and

3. That the said Hector N. Carnes was in the business of auto wrecking as early as January and February of 1972, and that said business was continued without interruption through the enactment of the Klamath County Zoning Ordinance No. 17 on December 7, 1972 on the premises at 7242 Hilyard Avenue, more specifically described as Lots 33 and 34 of Highland Park, a subdivision of Klamath County, Oregon; and

4. Based on the above findings of fact, the Board of County Commissioners finds that the premises at 7242 Hilyard Avenue, being Lots 33 and 34 of Highland Park, Klamath County, Oregon, were used as a wrecking yard prior to the development of the Klamath County Comprehensive Land Use Plan and before the adoption of the Klamath County Zoning Ordinance Number 17, and therefore, the Comprehensive Land Use Plan and zoning maps are in error and should be corrected; and

Having made the above findings of fact, the Board of County Commissioners now reaches the following conclusions of law:

1. That the Klamath County Zoning Ordinance Number 17, Section 11.007, provides that no use shall at the time of the enactment of this Ordinance be nonconforming, and that it is a duty and obligation of the Klamath County Planning Commission to forthwith cause necessary public hearings to be held for the purpose of correcting any such deficiencies and to cause to be zoned properly any incorrectly zoned property, and that the Klamath County Planning Commission acted properly in initiating the applicant's Comprehensive Land Use Plan and Zone Change; and

2. That the issue to be resolved is whether the premises in question were sufficiently used as a wrecking yard prior to the enactment of the Klamath County Zoning Ordinance Number 17, and therefore any evidence or testimony on other issues is not relevant to the issue at hand.



8542

ORDER: ZONE CHANGE NUMBER 74-5  
HECTOR N. CARNES  
Page 3 of 3

Based upon the above findings of fact and conclusions of law, the Board of County Commissioners now enters and makes the following order:

IT IS HEREBY ORDERED that the application of Hector N. Carnes for a change of zone from C-5 (Commercial Highway) and RA (Residential Agriculture) zones to M-3 (Heavy Industrial) zone, a particular description of the real property referred to in said application being Lots 33 and 34, Highland Park, Klamath County, Oregon, also known as 7242 Hilyard Avenue, said change application being numbered Zone Change 74-5, is hereby approved.

DONE AND DATED this 12<sup>th</sup> day of July 1974.

*Raymond Williams*  
Chairman of the Board

*R. A. Ryle*  
County Commissioner

*Lloyd Giff*  
County Commissioner

Approved as to form

*Harry D. Bowen*  
Harry D. Bowen, Legal Counsel

STATE OF OREGON; COUNTY OF KLAMATH; ss.

Filed for record at request of KLAMATH COUNTY BOARD OF COMMISSIONERS

this 15th day of JULY A. D. 1974 at 11:30 o'clock A., and

July recorded in Vol. 1474, of DEEDS on Page 8510

NO FEE

W. D. MILNE, County Clerk

By *W. D. Milne*