

18363

## BOARD OF COUNTY COMMISSIONERS

Vol. 1782 Page 17736

## KLAMATH COUNTY, OREGON

1  
2 IN THE MATTER OF THE APPLICATION)  
3 FOR COMPREHENSIVE LAND USE PLAN )  
4 CHANGE AND ZONE CHANGE NO. 22-82)  
5 FOR DONALD J. AND ELIDA LEGGET )

O R D E R

6 THIS MATTER having come on for hearing upon the  
7 application for Donald J. and Elida Legget for a Comprehensive  
8 Land Use Plan change from Forestry to Rural Residential and a  
9 zone change from F-I (Forestry) to RR (Rural Residential), by the  
10 Klamath County Planning Commission, on real property located in  
11 Section 7, Township 35, Range 7, being Tax Lot 2700. Public  
12 hearings having been heard by the Klamath County Planning Commission  
13 on September 28, 1982, wherefrom the testimony, reports, and  
14 information produced at the hearing by the applicant, members of  
15 the Planning Department Staff and other persons in attendance,  
16 the Planning Commission recommended approval to the Board of  
17 County Commissioners. Following action by the Planning Commission,  
18 a public hearing before the Board of County Commissioners was  
19 regularly held on November 29, 1982, wherefrom the testimony at  
20 said hearing it appeared that the record below was accurate and  
21 complete and it appears from the testimony, reports and exhibits  
22 introduced at the hearing before the Planning Commission that  
23 the application for a change of Comprehensive Land Use Plan and  
24 zone change for the subject property, should be granted.

25 The Board of County Commissioners makes the following  
26 Findings of Fact and Conclusions of Law as required by Ordinance  
27 No. 17, the Klamath County Zoning Ordinance:

FINDINGS OF FACT:

1           1. The Board of Commissioners finds the applicant's to  
2 be Donald J. and Elida Legget.

3           2. The Board of Commissioners finds the property to  
4 consist of approximately 80 acres near Agency Lake, Klamath  
5 County, Oregon. Described as Government Lots 19, 20, 25 and 26,  
6 Section 7, Township 35 South, Range 7, EWM. The tax lot number is  
7 3507-700-2700. The property is adjacent to Tract 1184 Oregon  
8 Shores Unit #2, First Addition, which lies to the south of the  
9 property; adjacent to Latakomie Shores which is directly west of  
10 the property. These properties are designated Rural Residential  
11 with 10,000 square-foot lots. To the north of the property is  
12 zoned agriculture five-acre minimum lots (AU-5) and to the east  
13 is F-I.

14           3. The Board of County Commissioners recently approved  
15 a comprehensive land use plan and zone change for Fred Koehler  
16 on property not adjacent, but immediately behind the subject  
17 property.

18           4. The Board of Commis-ioners finds no less than five  
19 public roads to provide access along three of the four sides of  
20 the property.

21           5. The Board of Commissioners finds the area generally  
22 to be developing into a rural residential community. A change  
23 of comprehensive land use plan and zone change will continue  
24 community development.

25           6. The Board of Commissioners finds that the size of the  
26 property being 80 acres is rectangular and alligned to legal  
27 access in such manner as to adequately provide for the proposed use.

1           7. The Board of Commissioners finds that the area  
2 consists of undulating hills with native shrubs and grasses  
3 covering a majority of the land and a small amount of Ponderosa  
4 Pine interspersed on the land.

5           8. The Board of Commissioners finds that through 37  
6 years of ownership by the applicant and the applicant's family,  
7 the property has not been in agricultural use, that there is no  
8 water on the property, that the cost of lifting water for  
9 agricultural use would be prohibitive, that the period of frost-  
10 free days and the topography of the land make it generally  
11 unsuited for farming.

12           9. The Board of Commissioners finds soil type to be  
13 4-E and is generally not well-suited for agricultural uses based  
14 upon the testimony and applicant's exceptions paper, which the  
15 Planning Commission and Board of Commissioners adopts; the Board  
16 of Commissioners issues exception to Goal 3.

17           10. The Board of Commissioners finds based upon the  
18 evidence of timber cruise, the testimony of applicants, pictures  
19 of the subject property that the forest classification type V  
20 suggests that the potential of the site for commercial forestation  
21 would be below average. Adjacent recreation developments  
22 surrounding the subject property make forest uses inappropriate.  
23 The Board of Commissioners therefore adopts the applicant's  
24 exceptions in fully as if set forth herein, and grants exception  
25 to Goal 4.

26           11. The Board of Commissioners finds that a change in  
27 comprehensive land use plan from Forestry (F) and zone designation  
28 from Forestry (F) to Rural Residential is most suited to the land

1 and to compatibility with the surrounding subject properties in  
2 and for the reason that adjacent properties on two sides are  
3 designated for high density rural recreation development and that  
4 such an application would permit the density buffer between high  
5 density concentration and five-acre parcels to the north and five  
6 to twenty-acre parcels to the east.

7 12. The Board of Commissioners finds that from the  
8 testimony public services are being provided within the area  
9 including the new Chiloquin-Agency Lake Rural Fire Protection  
10 Substation, less than 1000 yards from the subject property.

11 13. The Board of Commissioners find that access would be  
12 provided to the property from one of five existing public roads  
13 or easements, and that carrying capacity of the roads and the  
14 method of access on to public highway 427 will not create traffic  
15 congestion.

16 14. The Board of Commissioners finds that there will be  
17 no negative effect upon the adjacent and surrounding properties;  
18 that said use will not adversely effect agricultural or forestry  
19 uses.

20 15. The Board of Commissioners finds that there is  
21 adequate evidence to establish the availability of suitable  
22 quantity and quality of water and the ability to dispose of septic  
23 effluent on the subject property with such lot sizes as minimally  
24 permitted to meet all health considerations.

25 16. The Board of Commissioners finds that such change is  
26 consistent with the Planning Allocation Chart and not inconsistent  
27 with other adjacent uses or plan development.

1           17. The Board of Commissioners finds that natural  
2 resources will not be adversely affected in that there is no  
3 critical wildlife habitat or identified deer winter range in the  
4 area.

5           18. The Board of Commissioners finds that the area is  
6 presently suited with public utilities and improvements sufficient  
7 to serve rural residential homesites, including the availability  
8 of electrical service on the property and telephone.

9           19. The Board of Commissioners finds that a rural  
10 residential development in the Agency Lake area would foster and  
11 encourage recreational needs of the citizens of the state as well  
12 as to help diversify and improve the economy of the area compatible  
13 with Goals 8 and 9.

14           20. The Board of Commissioners further finds that this  
15 application furthers Goal 10, Housing, by providing adequate,  
16 suitable inventory of buildable housing lots in the area.

17           21. The Board of Commissioners finds that the application  
18 is consistent with Goal 11 by encouraging development in a  
19 particular area so as to permit the efficient arrangement and  
20 development of public facilities to service a framework for rural  
21 development.

22           CONCLUSIONS OF LAW:

23           1. The Board of County Commissioners conclude that this  
24 change in Comprehensive Land Use Plan and zone permits orderly  
25 and beneficial development, while protecting the character of  
26 neighborhoods and communities, and the social and economic  
27 stability of the County.

2. The Board of County Commissioners conclude that this change in Comprehensive Land Use Plan and zone supports the protection and preservation of the County's space and recreational resources while providing for appropriate development.

3. The Board of County Commissioners conclude that this change in Comprehensive Land Use Plan and zone will further the goals and policies of the Klamath County Comprehensive Plan.

NOW, THEREFORE, it is hereby ordered that the application for the Comprehensive Land Use Plan change from Forestry to Rural Residential and zone change from F-I (Forestry) to RR (Rural Residential) for Donald J. and Elida Legget on the subject property is hereby granted.

DONE AND DATED THIS 13<sup>th</sup> DAY OF December, 1982.

Harold L. Wynne  
Commissioner Wynne

Chris A. Cheyne  
Commissioner Cheyne

Neil Kuonen  
Commissioner Kuonen

APPROVED AS TO FORM:  
Boivin & Boivin:

Robert Boivin

STATE OF OREGON,  
County of Klamath

for record at request of

This copy of Dec. A.D. 1982

at 11:31 o'clock A M, and duly

recorded in Vol. M82 of Deeds

17736

EVELYN BIEHN, County Clerk

James McNamee Deputy

No Fee COMMISSIONERS JOURNAL