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## BOARD OF COUNTY COMMISSIONERS

KLAMATH COUNTY, OREGON

Vol. <sup>17</sup> 82 Page 18550

1  
2 IN THE MATTER OF THE APPLICATION)  
3 FOR COMPREHENSIVE LAND USE PLAN )  
4 CHANGE AND ZONE CHANGE NO. 10-82 )  
5 FOR RAY BIXLER )

O R D E R

6 THIS MATTER having come on for hearing upon the application  
7 of Ray Bixler for a Comprehensive Land Use Plan change from  
8 Urban Residential to General Commercial and a zone change from  
9 RS (Suburban Residential) to CC (Community Commercial), by the  
10 Klamath County Planning Commission, on real property described  
11 as Section 1, Township 39, Range 9, being Tax Lot 300. Public  
12 hearings having been heard by the Klamath County Planning  
13 Commission on April 27, May 25, June 22 and October 26, 1982,  
14 wherefrom the testimony, reports, and information produced at  
15 the hearing by the applicant, members of the Planning Department  
16 Staff and other persons in attendance, the Planning Commission  
17 recommended approval to the Board of County Commissioners.  
18 Following action by the Planning Commission, a public hearing  
19 before the Board of County Commissioners was regularly held on  
20 August 30, and December 6, 1982, wherefrom the testimony at said  
21 hearing it appeared that the record below was accurate and  
22 complete and it appears from the testimony, reports and exhibits  
23 introduced at the hearing before the Planning Commission that the  
24 application for a change of Comprehensive Land Use Plan and zone  
25 change for the subject property, should be granted.

26 The Board of County Commissioners makes the following  
27 Findings of Fact and Conclusions of Law as required by  
28 Ordinance.

FINDINGS OF FACT:

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1. Testimony indicated the applicant to be Ray Bixler.

2. Staff report and testimony indicated that the general location of the site was on the south side of South Sixth Street and approximately 240 feet west of Patterson Street.

3. It was indicated that the lot was approximately .88 acres in size and rectangular in shape.

4. Testimony indicated existing uses on lot was a house which was being used as an office and also there was a mobile home in behind existing house, with remaining lot being an open field.

5. The applicant made application to change land use on subject lot from RS (Suburban Residential) to CG (General Commercial). This request went before the Planning Commission on April 27, 1982, which was continued to May 25, 1982, where Planning Commission heard testimony from staff, applicant and people in opposition. Having heard all the testimony and reviewing all exhibits that pertained to the application, the Planning Commission recommended approval of the Comprehensive Land Use Change. The vote was 4 - 1. Application of the CLUP was continued to June 22, 1982 for decision only. The zone change portion of the application was also continued to June 22, 1982, with further testimony for zone change portion only.

6. At the June 22, 1982 Planning Commission Hearing, after reviewing testimony from opponent and proponent on zone change application, the Planning Commission recommended approval of the CLUP and zone change to the Board of Commissioners.

1           7. On August 30, 1982, before the Board of Commissioners,  
2 after hearing testimony, reviewing the exhibits from proponents  
3 and opponents and staff, the Board of Commissioners made a motion  
4 that the CLUP and zone change be remanded back to the Planning  
5 Commission to reconsider the application for a change to  
6 Community Commercial instead of General Commercial.

7           8. The Planning Commission, on October 26, 1982, reviewed  
8 the remanded decision of the Board of Commissioners, and after  
9 taking testimony from proponent, opponents and staff, and review-  
10 ing exhibits, the Planning Commission recommended to the Board  
11 of Commissioners for approval that the Community Commercial zone  
12 be applied to subject property instead of the General Commercial  
13 zone.

14           9. The Board of Commissioners found per testimony that  
15 site for change, access would be off of South Sixth Street, a  
16 paved four-lane State Highway. Highway appears to be able to  
17 carry the kind of traffic that would be generated by the proposed  
18 use.

19           10. Testimony indicated that the affect on adjacent and  
20 surrounding properties would be minimal to none in that use would  
21 not adversely effect surrounding uses.

22           11. Information from staff report indicated site is served  
23 by city water and has sewer hook-up to South Suburban Sewer  
24 District. Also has electricity and telephone facilities.

25           12. Testimony indicated that site for change had a deed  
26 restriction, restricting commercial use, however, it was felt  
27 deed restrictions were more in the nature of private regulation

1 and that deed restrictions were more properly debated or deferred  
2 in the courts.

3 13. Testimony from adjacent property owners and other  
4 agencies and Area Committees, indicated that notification had  
5 been sent to all those of concern.

6 14. It was pointed out that subject site was located in  
7 Homeland Tracts Subdivision and that no exception was needed due  
8 to the committed nature of the area.

9 15. It was found site for change in use was not in an  
10 historic area or having significant natural resources.

11 16. Staff report indicated site was under the Urban Growth  
12 Boundary line. This particular item was sent to the City of  
13 Klamath Falls for their refer and recommend comments due to the  
14 UGB Agreement adopted by County and City. The City of Klamath  
15 Falls, on May 17, 1982, before the City Council recommended  
16 approval of change in land use.

17 17. Testimony indicated that site for change was to be  
18 utilized for a real estate office and insurance school, which  
19 uses are allowed in the Community Commercial zone.

20 CONCLUSIONS OF LAW:

21 1. The Board of County Commissioners concludes that this  
22 change in zone permits orderly and beneficial development, while  
23 protecting the character of neighborhoods and communities, and  
24 the social and economic stability of the County.

25 2. The Board of County Commissioners conclude that this  
26 change in zone supports the protection and preservation of the  
27 County's space and recreational resources while providing for

1 providing for appropriate development.

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

5 NOW, THEREFORE, it is hereby ordered that the application  
6 for the Comprehensive Land Use Plan change from Urban Residential  
7 to Community Commercial and zone change from RS to CC for  
8 Ray Bixler on the subject property is hereby granted.

9 DONE AND DATED THIS 27<sup>th</sup> DAY OF December, 1982.

10  
11 Harold L. Wynne  
12 Chairman

13  
14 Alvin A. Thayer  
15 Commissioner

16  
17 Walter K. Brown  
18 Commissioner

19 APPROVED AS TO FORM:  
20 Boivin & Boivin:

21 By: Robert Boivin

22  
23 STATE OF OREGON; COUNTY OF KLAMATH; ss.

24 Filed for record . Klamath County

25 This 29<sup>th</sup> day of December A.D. 19 82 at 1:57 o'clock P. M., and

26 duly recorded in Vol. M82 of Deeds on Page 18550.

27 EVELYN BIEHN, County Clerk

By Bernetha A. Hetch

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No Fee