

BEFORE THE HEARINGS OFFICER

FOR KLAMATH COUNTY, OREGON

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In the Matter of a

REQUEST FOR ZONE CHANGE

for

WILLIAM EMARD

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NO. 8-83

FINDINGS OF FACT, CONCLUSIONS  
OF LAW AND DECISION

THIS MATTER came before the Klamath County Assistant Hearings Officer, JAMES R. UERLINGS, on the 2nd day of June, 1983, at 1:30 p.m. in the Klamath County Commissioners' Hearing Room. The Planning Department was represented by its staff; Mr. Emard appeared in person. Exhibits "A" through "F" were offered and received into evidence.

Whereupon, the Assistant Hearings Officer makes the following findings of fact, conclusions of law and decision.

FINDINGS OF FACT:

1) The applicant is the owner of the subject property located within Klamath County along Larsen Creek, northeast of Woodland Park, generally described as the Westerly 550' of Tax Lot 1000, located in the SW $\frac{1}{4}$ , SW $\frac{1}{4}$  of Section 11, Township 34, Range 7, Klamath County, Oregon.

2) The current plan designation is Forestry; the zone designation is F-II and the adjacent or surrounding zoning is F-I, F-II and F-III.

3) The property has the dimensions of 800' x 550' consisting of 10.1 acres. The shape is rectangular and the

FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION  
Page 1

1 vegetation is scattered pines with some brush. The topography  
2 is level to the South, with a moderate slope up to the North.  
3 General drainage is in a southeastward direction. The soil  
4 class level is VI, with a timber productivity rating of V.

5 4) Access to the property is over private dirt roads.

6 5) The property is within the Woodland Park Special  
7 Road District, and the property is also located within Chiloquin-  
8 Agency Lake Fire Protection District.

9 6) The applicant wishes to re-zone 10.1 acres of  
10 this property in order to be able to partition and transfer  
11 it to his father. The applicant currently owns approximately  
12 thirty four (34) acres and would split off this 10.1 acre  
13 portion in order to transfer it to his father. All currently  
14 constructed buildings would be on the 10.1 acre portion of  
15 the property. The applicant in the future intends to build  
16 a house for himself on the remaining twenty four (24) acres.  
17 The applicant does not need to have the property in five (5)  
18 acre parcels, but is satisfied with the 10.1 acre parcel.

19 7) The applicant intends to continue the current  
20 use of pasture and horse raising on his property.

21 8) The area contains a mixture of public and private  
22 ownership parcels ranging in size from approximately eight (8)  
23 acres to over one hundred (100) acres. The land use is a mix-  
24 ture of sparse to dense pine cover along with some pasture and  
25 brush land.

26 9) Those expressing opposition to the proposed zone

FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION  
Page 2.

1 change were concerned with the following:

2 A) Additional road usage; and

3 B) Change in the character of the area to small  
4 lot subdivisions.

5 KLAMATH COUNTY DEVELOPMENT CODE CRITERIA:

6 1. Klamath County Development Code, Section 48.003,  
7 sets forth the general criteria for consideration in a zone  
8 change:

9 A) The proposed change of zone is in compliance  
10 with the Klamath County Comprehensive Plan and the provisions  
11 of this Code.

12 B) The proposed change of zone adequately responds  
13 to the site's specific conditions to minimize adverse effects  
14 upon surrounding property that would be affected by the proposed  
15 change.

16 2. Klamath County Development Code, Section 48.001,  
17 sets forth the general purpose of Article 48, "Change of Zone  
18 Designation", including the requirement that zone changes  
19 are required to maintain conformance with the Klamath County  
20 Comprehensive Plan.

21 3. ORS 197.175 requires all zoning ordinances  
22 adopted by a County be in conformance with the State-wide  
23 Planning Goals and guidelines.

24 KLAMATH COUNTY DEVELOPMENT CODE FINDINGS:

25 1. See Findings of Fact 1-9 as set forth above.

26 2. The zone change requested by the applicant is in

FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION  
Page 3.

1 compliance with the Klamath County Comprehensive Plan and the  
2 provisions of this Code.

3 3. The proposed change of zone adequately responds  
4 to the site's specific conditions to minimize adverse effects  
5 upon the surrounding property that would be effected by the  
6 proposed change. Specifically, the current vegetation in the  
7 area would cause any future dwellings or buildings which are  
8 constructed to be secluded from surrounding property owners.  
9 Additionally, the road system is adequate to provide for the  
10 possible one to two (1-2) car increase in traffic along  
11 the roadway.

12 4. Additionally, it is deemed necessary that a con-  
13 dition be added to the granting of this zone change that the  
14 parcel shall remain at 10.1 acres and shall not be further  
15 subdivided from that size.

16 STATE-WIDE PLANNING GOALS, CRITERIA AND FINDINGS:

17 See Exhibit "AA" attached hereto and incorporated  
18 by this reference.

19 CONCLUSIONS OF LAW AND DECISION:

20 A. The change of zone from Forestry-II to Forestry-III  
21 satisfies all applicable Klamath County Development Code criteria  
22 and policies governing rezonings.

23 B. The change of zone from Forestry-II to Forestry-III  
24 is in conformity with the Klamath County Comprehensive Land Use  
25 Plan.

26 C. The change of zone is consistent and complies with

FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION  
Page 4.

1 all the applicable State-wide Planning Goals and statutes.  
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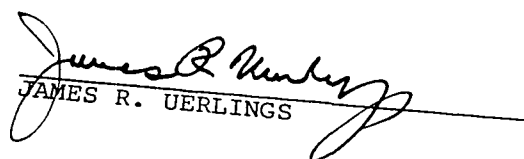
3 D. The health, safety and welfare of the residents  
4 of Klamath County require that the following conditions be  
5 placed on this change of zone designation:

6 1. That the applicant, and any subsequent owner  
7 of the property, shall not be entitled to reduce the size of  
8 this parcel under 10.1 acres; that is, the applicant and sub-  
9 sequent property owners shall not be able to further partition  
10 the property.

11 2. That the applicant shall take all necessary  
12 steps in order to fulfill his responsibility in regards to  
13 the private road system within the area. This provision  
14 shall further bind any successor-in-interest to the applicant's  
15 ownership of the subject property.

16 THEREFORE, is it hereby ordered that this zone change  
17 from F-II to F-III be granted, subject to the above set forth  
18 conditions.

19 DATED this 8 day of June, 1983.  
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23 JAMES R. UERLINGS  
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COMPREHENSIVE PLAN POLICIES AND STATE

9020

LAND USE GOALS 1 - 14

GOAL NO. 1 - Citizen Involvement

☒ Complies ☐ Does not Comply

☐ Complies with conditions

☐ Not applicable

Relevant Policies:

1. "The County shall provide for continued citizen involvement opportunities."

State Goal Issues:

A public hearing on this matter has been set for June 2, 1983. Notice has been sent to surrounding property owners, concerned public agencies and published in the Herald and News.

GOAL NO. 2 - Land Use Planning

☒ Complies ☐ Does not comply

☐ Complies with conditions

☐ Not applicable

Article 46  
Major/Minor Partition  
Section 46.003 Review Criteria

	Complies	Does not Comply	N.A.
Relevant Policies:			
A -	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
B -	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
C -	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
D -	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
E -	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
F -	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
G -	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
H -	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
I -	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
J -	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
K -	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
L -	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
State Goal Issues:			
The proposed zone change would retain the property in its present use as a horse ranch. The same general requirements apply to the F-III zone as to the present F-II zone. The proposed ten-acre parcel is consistent with other existing parcels in the area.			

Page 2  
GOAL NO. 3 - Agricultural Lands

9021

☒ Complies ☐ Does not Comply

☐ Complies with conditions

☐ Not applicable

Relevant Policies:

3. "Urban and rural development shall be directed onto SCS Class V - VIII soils consistent with the other policies of the plan."
4. "The County shall regulate overlapping agricultural and forestry lands in a manner that allows the market to determine the appropriate use for either."

State Goal Issues:

The property is used as a horse ranch and the portion to be rezoned includes two small barns, an arena and a small amount of irrigated pasture. There is a spring-fed pond near the south end of the parcel. The area is in Soil Class VI, and the proposed rezoning would not allow an overall change in use.

GOAL NO. 4 - Forest Lands

☒ Complies ☐ Does not Comply

☐ Complies with conditions

☐ Not applicable

Relevant Policies:

1. "Existing forest uses shall be protected unless proposed land use changes are in conformance with the Klamath County Comprehensive Plan."
2. "The County shall regulate development of non-forest uses in forested areas."

State Goal Issues:

The property is in timber site productivity class V, capable of producing 50 to 85 cubic feet of timber annually per acre. There is scattered to moderately dense pine cover on the parcel.

The rezoning would not alter the use of the property.

GOAL NO. 5 - Open Space, Scenic and Historic Areas, and Natural Resources

9022

☒ Complies ☐ Does not Comply

☐ Complies with conditions

☐ Not applicable

Relevant Policies:

State Goal Issues:

There are no inventoried historic, mineral or wildlife resources on the rezoned parcel. There are sufficient trees on this and adjacent parcels to screen new structures from view of neighboring houses and avoid adverse scenic impacts.

GOAL NO. 6 - Air Water and Land Resource Quality

☐ Complies ☐ Does not Comply

☐ Complies with Conditions

☒ Not applicable

Relevant Policies:

State Goal Issues:

With no change of use on the rezoned parcel, no adverse effects on air, water or land resource quality are evident. A new dwelling on the remaining property would have to comply with DEQ requirements for sewage disposal.

GOAL NO. 7 - Natural Disaster and Hazards Area

9023

☐ Complies ☐ Does Not Comply

☐ Complies with conditions

☒ Not applicable

Relevant Policies:

State Goal Issues:

There are no inventoried natural hazards on or adjacent to the rezoned property.

GOAL NO. 8 - Recreation Needs

☒ Complies ☐ Does Not Comply

☐ Complies with conditions

☐ Not applicable

Relevant Policies:

State Goal Issues:

Outdoor recreational opportunities exist on the property and on adjacent public lands (Collier Park). Chiloquin parks and playing fields are about four miles to the south.

GOAL NO. 9 - County Economy

9024

- ☐ Complies ☐ Does not Comply  
☐ Complies with conditions  
☒ Not applicable

Relevant Policies:

State Goal Issues:

Other than the possible construction of a new home, the zone change would not alter the Klamath County economy or provide new employment.

GOAL NO. 10 - Housing

- ☒ Complies ☐ Does not Comply  
☐ Complies with conditions  
☐ Not applicable

Relevant Policies:

State Goal Issues:

As stated by the applicant, the purpose of this zone change is to allow for sale of the present house and ten acres to his father. Applicant would construct a new home on the remaining 24 acres.

GOAL NO. 11 - Public Facilities and Services

9025

- ☒ Complies ☐ Does not Comply  
☐ Complies with conditions  
☐ Not applicable

Relevant Policies:

12. "Development proposals shall not be approved unless the types and levels of public facilities and services required are available or planned in the area."

State Goal Issues:

Electrical and telephone service are on the property. It is within the Chiloquin-Agency Lake Fire District which has a station at Chiloquin, about four miles south. Schools are also in Chiloquin.

GOAL NO. 12 - Transportation

- ☒ Complies ☐ Does not Comply  
☐ Complies with conditions  
☐ Not applicable

Relevant Policies:

13. "A safe, convenient and economic transportation system adequate to serve the anticipated growth, shall be developed that will minimize adverse social, economic and environmental impacts and costs of the transportation systems."

State Goal Issues:

Access to the property is via a private dirt road leading to Pine Ridge Road which is about .4 mile south of the Emard property. The County is in the process of acquiring right-of-way deeds for Pine Ridge Road which will be improved and maintained by the Woodland Park Special Road District. At present, it is a dirt and cinder road in good condition. The private road continues through the Emard property to serve some residents to the north. This road receives only sporadic maintenance by its users.

9026

GOAL NO. 13 - Energy Conservation

- ☐ Complies ☐ Does Not Comply  
☐ Complies with conditions  
☒ Not applicable

Relevant Policies:

State Goal Issues:

The rezoning would not affect energy use or conservation.

GOAL NO. 14 - Urbanization

- ☐ Complies ☐ Does not Comply  
☐ Complies with conditions  
☒ Not applicable

Relevant Policies:

State Goal Issues:

The property is outside of any urban or urbanizing area.

STATE OF OREGON; COUNTY OF KLAMATH; ss.

Filed for record .

his 9th day of June A. D. 19 83 at 11:31 o'clock A. M., and  
 July recorded in Vol. M83 of Deeds on Page 9015.

No Fee

By EVELYN BIEHN, County Clerk  
[Signature]

COMMISSIONERS JOURNAL

EXHIBIT "AA", Page 7.