

BEFORE THE HEARINGS OFFICER
FOR KLAMATH COUNTY, OREGON

In the Matter of a)	No. 7-84
)	
COMPREHENSIVE LAND USE PLAN)	FINDINGS OF FACT, CONCLUSIONS
CHANGE AND ZONE CHANGE)	OF LAW AND DECISION
)	
for)	
)	
RAY HUNT)	
)	

THIS MATTER came before the Klamath County Assistant Hearings Officer, JAMES R. UERLINGS, on July 5, 1984, at 1:30 p.m. in the Klamath County Commissioners' Hearing Room. The Planning Department was represented by CARL SHUCK and the applicant appeared in person.

Exhibits "A" through "D"(1,2) were offered, received into evidence and made a part of the record.

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

FINDINGS OF FACT:

1. The applicant, RAY HUNT, is the owner of the subject property. The property is generally located in Lot 12, Block 2, FIRST ADDITION TO ALTAMONT ACRES, on the Southeast corner of Avalon and Cannon Streets, a suburban area of Klamath Falls, Oregon.

2. The property has a plan designation of Urban, and a zone designation of Suburban Residential. Adjacent and/or surrounding zoning consists of Suburban Residential to

FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION
-1-

1 the East, Northeast and South, General Commercial to the
2 North and Heavy Industrial to the West.

3 3. The property's dimensions are 107' x 200',
4 consisting of .49 acres, rectangular in shape. Vegetation
5 consists of lawn and trees and the topography is level.
6 Surface runoff is to streetside drains.

7 4. Avalon Street, which runs in a North-South
8 direction on the West side of the property, is a gravel
9 street. Cannon Avenue, which is a paved street, runs in an
10 East-West direction on the North side of the property.

11 5. The property is served by South Suburban
12 Sanitary District, water is provided by the City of Klamath
13 Falls, and the following utility districts serve the property:
14 Pacific Power and Light, Pacific Northwest Bell and Klamath
15 Irrigation District. Fire service is provided by the County
16 Fire District No. 1.

17 6. The applicant desires this CLUP change and
18 zone change in order that the property be re-zoned from
19 Suburban Residential to General Commercial. He then intends
20 to operate the property as a used car lot. The property is in a
21 bordered area where residential, commercial and industrial
22 zones come together. However, from the review of Exhibit
23 "C" and the notations contained thereon, it appears that this
24 property, being on the Easterly side of Avalon Street,
25 is in an area which is almost exclusively residential.
26 Avalon Street appears to be a dividing line between the

1 industrial, commercial uses and the residential uses.

2 The land to the East and South is developed with numerous
3 houses and mobile homes, mostly on one-quarter (1/4) acre
4 lots. A vacant lot to the North across Cannon Street
5 was re-zoned to Commercial in 1980 to allow for expansion
6 of mini-warehouses on Crosby Street. However, this expansion
7 did not occur. To the West, across Avalon Street, and the
8 O & C railroad tracks, is a vacant lot zoned for industrial
9 use.

10 KLAMATH COUNTY DEVELOPMENT CODE CRITERIA:

11 1. Klamath County Development Code Section 47.003
12 sets forth the general criteria for consideration in a zone
13 change:

14 A. The change of zone is in conformance with
15 the Comprehensive Plan, and all other provisions of the Land
16 Development Code;

17 B. The property affected by the change of zone
18 is adequate in size, and shape, to facilitate those uses that
19 are normally allowed in conjunction with such zoning;

20 C. The property affected by the proposed change
21 of zone is property related to streets and to adequately serve
22 the type of traffic generated by such uses that may be permitted
23 therein; and

24 D. The proposed change of zone will have no adverse
25 effect on the appropriate use and development of abutting
26 properties.

FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION

1 2. Klamath County Development Code, Section 47.001,
2 sets forth the general purpose of Article 47, "Change of Zone
3 Designation." The purpose of the zone change is to provide
4 for revisions in response to individual land owners' needs
5 and for zone changes required to maintain conformance with
6 the Klamath County Comprehensive Plan.

7 3. ORS 197.175(2)(c) requires that Klamath County,
8 before its Comprehensive Plan and Land Use Regulations have
9 been acknowledged by the Commission, make land use decisions
10 in compliance with the goals of L.C.D.C.

11 4. Klamath County Development Code Section 48.003
12 sets forth that a proposed Change of Comprehensive Plan
13 Designation shall be approved if the reviewing authority finds
14 that:

15 A. The proposed change is in compliance with
16 the State-wide Planning Goals;

17 B. The proposed change is in conformance with
18 all policies of the Klamath County Comprehensive Plan; and,

19 C. The proposed change is supported by
20 specific studies or other factual information which documents
21 the public need for change.

22 KLAMATH COUNTY DEVELOPMENT CODE FINDINGS:

23 1. See Findings of Fact 1-6 as set forth above.

24 2. The proposed change in the Comprehensive Plan
25 designation is not in compliance with the State-wide Planning
26 Goals, in that the applicant has failed to show that existing
FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION
-4-

1 commercial land in an urban area cannot accomodate his
2 proposed use. The applicant's basic argument in this area
3 is that, because he currently owns the property, it would
4 be convenient for him to convert it into a used car lot.
5 Additionally, the applicant has failed to show that adequate
6 measures can be taken to avoid adverse effects upon surrounding
7 residential properties. If the change of zone was made to
8 General Commercial, it would allow a full range of such uses
9 and not only the auto sales proposal.

10 3. The proposed change of the Comprehensive Plan
11 designation is not in conformance with all the policies of the
12 Klamath County Comprehensive Plan.

13 4. The proposed change in the Comprehensive Plan
14 designation is not supported by specific studies or other
15 factual information which documents the public need for
16 the change.

17 5. The change of zone designation is not in confor-
18 mance with the Klamath County Comprehensive Plan designation
19 as such plan designation cannot be approved, in this situation.

20 6. The property affected by the zone change is
21 not adequate in size and shape to facilitate its use as a
22 used car lot, particularly when the residential use of the
23 property will also continue.

24 7. The property affected by the proposed change
25 of zone is not properly related to streets which are adequate
26 to serve the type of traffic generated by such a use in that

1 it lies immediately adjacent to a gravel road and is generally
2 located in a residential area. The use of the gravel road
3 to obtain access to a commercially zoned property would
4 generate considerable noise, dirt and dust in a residential
5 area which is not warranted under the circumstances.

6 8. Lastly, the proposed change of zone for the
7 reasons stated above will have an adverse effect upon the
8 appropriate use and development of abutting properties.

9 STATEWIDE PLANNING GOALS AND CRITERIA FINDINGS:

10 1. The applicant has failed to comply with Goal 2.
11 in that he has failed to document the public need for the
12 change by showing that existing commercial land in the
13 urban area cannot accomodate the use.

14 2. Additionally, the applicant has not demonstrated
15 that adequate measures can be taken to avoid adverse effects
16 on surrounding residential properties.

17 3. Also, a change of zone to General Commercial
18 would allow for a wide variety of uses, most all of which
19 would be inappropriate in a residential area.

20 4. Additionally, the applicant has not complied
21 with Goal 10. in that the proposed use of the property as
22 Commercial, though it now exists as a residential home site,
23 would intrude into an area developed for residential use.
24 Adverse effects would then follow on the neighboring properties
25 and are inappropriate for the reasons stated above under the
26 Klamath County Development Code Findings.

FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION

1 CONCLUSIONS OF LAW AND DECISION:

2 1. The C.L.U.P. and zone change do not satisfy
3 all applicable Klamath County Development Code criteria
4 and policies governing such.

5 2. The C.L.U.P. and change of zone are not
6 in conformity with the Klamath County Comprehensive Land
7 Use Plan and the statewide goals and statutes.

8 THEREFORE, it is hereby ordered that the C.L.U.P.
9 and the zone change are hereby denied.

10 DATED this 9 day of July, 1984.

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JAMES R. UERLINGS

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FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION

COMPREHENSIVE PLAN POLICIES AND STATE

11940

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 July 5, 1984. Notice has been sent to surrounding property owners and 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.
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"/>

Relevant Policies:

State Goal Issues:

The proposed change must meet the review criteria of Section 47.003 (zone change) and Section 48.003 (plan change). The applicant must document the public need for this change by showing that existing commercial land in the urban area cannot accommodate his proposed use. Applicant must also show that adequate measures will be taken to avoid adverse effects on surrounding residential properties. Consideration must be given not only to the proposed auto sales, but to the full range of uses allowed by the CG zone.

GOAL NO. 3 - Agricultural Lands

11941

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

Relevant Policies:

State Goal Issues:

The property is within the Klamath Falls urbanized area. Commercial development of this site would not affect agricultural land.

GOAL NO. 4 - Forest Lands

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

Relevant Policies:

State Goal Issues:

The property is within the Klamath Falls urbanized area. No forest land would be affected by this proposal.

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

11942

☐ Complies ☐ Does not Comply

☐ Complies with conditions

☒ Not applicable

Relevant Policies:

State Goal Issues:

There are no inventoried Goal 5 resources on or adjacent to the property affected.

GOAL NO. 6 - Air Water and Land Resource Quality

☒ Complies ☐ Does not Comply

☐ Complies with Conditions

☐ Not applicable

Relevant Policies:

State Goal Issues:

With the existing commercial and industrial land to the north and west, commercial development of this property would not detract significantly from the air, water or land quality.

GOAL NO. 7 - Natural Disaster and Hazards Area

11943

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

Relevant Policies:

State Goal Issues:

No natural hazards are known to affect the area of the proposed zone change.

GOAL NO. 8 - Recreation Needs

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

Relevant Policies:

State Goal Issues:

Commercial development of this property would not affect the need or availability of recreational facilities in the urban area.

GOAL NO. 9 - County Economy

11944

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

Relevant Policies:

State Goal Issues:

The proposed zone change would provide some economic benefits by making more land available for commercial development. The overall economic effects would be small in view of existing vacant commercial parcels.

GOAL NO. 10 - Housing

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

Relevant Policies:

State Goal Issues:

The proposed commercial property, now a homesite, would intrude into an area developed for residential use. Adverse effects on the neighborhood would be minimized by observing the requirements for fencing, landscaping, signs and lighting as noted under "Planning Department Conclusions," above.

GOAL NO. 11 - Public Facilities and Services

☒ Complies ☐ Does not Comply

11945

☐ 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..."

State Goal Issues:

Electrical, telephone, water and sewer service are available. The property is within a fire protection district.

GOAL NO. 12 - Transportation

☒ Complies ☐ Does not Comply

☐ Complies with conditions

☐ Not applicable

Relevant Policies:

State Goal Issues:

The property fronts on two local streets--Avalon and Cannon. At present, these streets serve mainly residential traffic.

The main access to the area is via Avalon, which skirts the residential area and would not cause a disturbance to residents.

GOAL NO. 13 - Energy Conservation

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

11916

Relevant Policies:

State Goal Issues:

No effects on energy use or conservation are apparent.

GOAL NO. 14 - Urbanization

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

Relevant Policies:

State Goal Issues:

The property is within the Klamath Falls urbanized area. All needed urban utilities and services are available.

Return: Commissioners Journal

STATE OF OREGON: COUNTY OF KLAMATH:ss

I hereby certify that the within instrument was received and filed for record on the 16th day of July A.D., 19 84 at 11:58 o'clock A M, and duly recorded in Vol M84, of Deeds on page 11933.

Fee: \$ None

EVELYN BIEHN, COUNTY CLERK

by: [Signature], Deputy