

**65009**

BEFORE THE HEARINGS OFFICER

KLAMATH COUNTY, OREGON

In the Matter of Request for )  
 ) Klamath County Planning  
 4 Zone Change 12-86 for Earla Patton) Findings of Fact and Order

A hearing was held on this matter on July 17, 1986, pursuant to notice given in conformity with Ordinance No. 45.2, Klamath County, before the Klamath County Hearings Officer, Bradford J. Aspell. The applicant was present. The Klamath County Planning Department was represented by Kim Lundahl. The Hearings Reporter was Janet Libercajt.

Evidence was presented on behalf of the Department and on behalf of the applicant. There were no adjacent property owners present.

The following exhibits were offered, received, and made a part of the record:

Klamath County Exhibit A, Staff Report

Klamath County Exhibit B, Plot Plan

Klamath County Exhibit C, Assessor's Map

Klamath County Exhibit D, Pictures

The hearing was then closed, and based upon the evidence submitted at the hearing, the Hearings Officer made the following

Findings of Fact:

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1           1. Applicant is the owner of Lot 1800, Section 7, Township  
2 38 South, Range 9 E.W.M., Klamath County, Oregon, bearing tax  
3 account number 3809-7D-1800, with mailing address of Rt. 5, Box  
4 1054, Klamath Falls, Oregon 97601. The property is described as a  
5 parallelogram of approximately 7.11 acres fronting on Long Acre  
6 Lane in the Wocus area of Klamath Falls, Oregon. The property is  
7 designated residential rural in the Klamath County Comprehensive  
8 Land Use Plan and carries a zone designation of R-5. The property  
9 is outside the urban growth boundary and generally exists at  
10 transition area between larger acreages to the west and smaller  
11 acreages to the east, approaching U.S. Highway 97. The property  
12 is generally across Long Acre Lane or 1 acre in dimension with  
13 mixed zoning of R-1 and R-5 to the south. The property in  
14 question has an existing A-frame home and mobile home on it.

15           2. Topography of the property is generally level with  
16 undefined drainage, the property is best described as primarily  
17 pasturage with some residential vegetation surrounding the  
18 existing mobile home and inground house. Access to the property  
19 is gained on Long Acre Lane, a gravelled public road. Public  
20 facilities and services include electricity supplied by Pacific  
21 Power & Light Company, fire protection by Klamath County Fire  
22 District No. 1. The property is within the attendance of the  
23 Klamath County School District. Water is provided by individual  
24 existing wells and sewer by individual subsurface septic systems.  
25 SCS soils classification is Class IV, no timbersite productivity  
26 to the property is given.

3. Applicant seeks a zone change from R-5 (residential-5 acres) to R-1 (residential 1-acre) to facilitate a partition on subject parcel into a remaining 5.57 acre parcel and a 1.54 acre parcel. Review of prevalent parcel size within one-third mile or 660 feet indicates six parcels of the same or similar size of that being requested.

4. Applicable provisions of the Land Development Code includes section 51.004 (rural R-1 zone); Section 44.003, zone change - review criteria; and the applicable policies and procedures of the Klamath County Comprehensive plan.

5. Section 44.003(A) requires a finding that the change of zone is in conformance with the Klamath County Comprehensive Land Development Plan, the hearings officer finds as follows:

Goal 1 (Citizen Involvement) has been met as notice has been given to adjacent property owners, interested public agencies, by mailing of notice and publication in the Herald & News, and a public hearing has been called. The hearings officer specifically finds that no person has appeared in favor of or in opposition to the application.

Goal 2 (Land Use Planning), has been met, public hearing has been held and application is consistent with the policies and procedures of the Klamath County Land Development Code described above.

Goal 3 (Agricultural Lands), has been met. The property was zoned R-5 (rural residential-5 acres), prior to the effect date of adoption of the Klamath County Comprehensive Land Use Plan.

Property surrounding subject land are similarly zoned with R-5 and R-1. The proposed rezoning-partitioning will not adversely affect agricultural suitability as further noncompatible uses are proposed. Goal 3 has been met.

Goal 4 (Forest Lands); Goal 5 (Open Spaces, Scenic, Historic and Natural Resource Areas); Goal 6, (Air, Water and Land Resource Quality); Goal 7 (Natural Disaster and Hazard Area); Goal 8 (Recreation Needs); Goal 9 (Economy of the State); Goal 10 (Housing); Goal 12 (Transportation); Goal 13 (Energy Conservation); and Goal 14 (Urbanization) do not directly apply nor affect this application.

6. The hearings officer specifically finds that Goal 6, (Air, Water and Land Resource Quality) will not be further adversely affected and that the structures in the immediate area are pre-existing and no further development is proposed.

7. Goal 11 (Public Facilities and Services) has been met in that no additional utilities, services or extensions are required for this application nor will approval of this application affect adjoining development or need or demand for additional facilities or services.

8. Subject to a condition which follows, the hearings officer concludes that LDC Section 47.003(A) have been met.

9. The property affected by the change of zone is adequate in size and shape to facilitate those uses that are normally allowed in conjunction with such zoning and that the minimum lot size for R-1 is 1.0 acres and the subject property proposed is

1.54 acres. Additionally the subject property, at 1.54 acres is similar in size and shape to properties adjoining this property which are being used for similar purposes. Section 47.003(b) has been met.

10. The subject property abuts on Wocus Road. The property affected by the proposed change of zone has access thereto and is properly related to the streets to adequately serve the limited additional traffic to be generated. LDC Section 47.003(C) review criteria has been met.

11. The proposed change of zone will have no adverse affect on the appropriate use and development of abutting properties. The hearings officer finds that to the immediate west of the subject property and directly across the street are similar size parcels have been created in the neighborhood of 1 to 2 acres. The hearings officer finds that the proposed change of zone may extend R-1 zoning slightly to the east but will have no adverse affect upon the appropriate use and development of abutting properties and that the applicants themselves are creating the parcel and retaining the other based upon the (D), limiting condition which follows. Review Criteria 43.003(D) has been met.

12. The hearings officer specifically finds however:

A. That successive partitioning of larger parcels into smaller ones especially in this area should be limited. That the approved rezoning will apply only to the new parcel created will be not less than 1.54 acres.

1 B. That no further partitioning nor zone changes shall be  
2 permitted from the applicant.

3 C. No further conditional use permits shall be granted on  
4 the applicant's retained property to permit placement of any  
5 further residences.

6 D. The retained property of 5.57 acres shall not be further  
7 partitioned.

8 Based upon the foregoing findings of fact the hearings  
9 officer makes the following Conclusions of Law.

10 CONCLUSIONS OF LAW

11 1. The change of zone is in conformance with the  
12 Comprehensive Plan, and all other provisions of the Land  
13 Development Code.

14 2. The property affected by the change of zone is adequate in  
15 size and shape to facilitate those uses that are normally allowed  
16 in conjunction with such zoning.

17 3. The property affected by the proposed change of zone is  
18 properly related to streets to adequately serve the tupe of  
19 traffic generated by such uses that may be permitted therein.

20 4. The proposed change of zone will have no adverse effect on  
21 the appropriate use and development of abutting properties.

22 5. The hearings officer specifically finds however:  
23 A. That successive partitioning of larger parcels into  
24 smaller ones especially in this area should be limited. That the  
25 approved rezoning will apply only to the new parcel created will  
26 be not less than 1.54 acres.

B. That no further partitioning nor zone changes shall be permitted from the applicant.

C. No further conditional use permits shall be granted on the applicant's retained property to permit placement of any further residences.

D. The retained property of 5.57 acres shall not be further partitioned.

Therefore the hearings officer based upon the foregoing findings of fact and conclusions of law accordingly orders as follows:

That the real property described as:

"Lot 1800, Section 7, Township 38 South, Range 9 E.W.M., Klamath County, Oregon"

as designated residential rural in the Klamath County Comprehensive Land Use Plan and carries a zone designation of R-5, and is hereby granted a change of zone described above subject to the terms and conditions contained therein.

Entered Klamath Falls, Oregon this 19 day of August, 1986.

KLAMATH COUNTY HEARINGS OFFICER

Bradford J. Aspell  
BRADFORD J. ASPELL

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STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of \_\_\_\_\_ the \_\_\_\_\_ 20th day  
of August A.D., 19 86 at 9:10 o'clock A M., and duly recorded in Vol. M86  
of Deeds on Page 14910.

FEE NONE

Return: Commissioners' Journal

Evelyn Biehn,  
By \_\_\_\_\_

County Clerk

Pam Smith