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BEFORE THE HEARINGS OFFICER

Vol. 1780 Page 18464

KLAMATH COUNTY, OREGON

In the Matter of Request for)	
Change of Land Use Plan and Zone)	Klamath County Planning
Change 11-86/Richard E. Horn)	Findings of Fact and Order

A hearing was held on this matter on August 7, 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 represented by Grant Appleton. 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 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
- Klamath County Exhibit E, Letter from Highway Division
- Klamath County Exhibit F, Applicant's Site Plan

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

FINDINGS OF FACT:

1. Applicant, Richard E. Horn, is the registered owner of the subject property. However, the applicant's representative Grant A. Appleton is a conditional purchaser of the subject property, contingent upon approval of this application. The property in question is located along State Highway 422 (Also known as Chiloquin-Williamson River Highway) approximately 1/4 mile northeast of the Highway 97 Intersection. The property is not designated by street address however its legal description is known as a portion of Government Lot 7, Section 34, Township 34 South, Range 7 E.W.M., lying northwesterly of the northwesterly right of way of the Chiloquin-Williamson River Highway, excepting therefrom the northerly 386.6 feet of the above described parcel as measured along the west boundary thereof; and bears tax account number 138-3407-03400-04801. The location of the property is shown in Klamath County, Exhibit E, the Assessor's Map, and the Klamath County Exhibit F, Applicant's Site Plan. The subject property is on the north side of State Highway 422 and located westerly of the intersection of Applegate Avenue. The Chiloquin Airport is located approximately one-half mile to the west. The property is within the City of Chiloquin Urban Growth Boundary and is designated in the Klamath County Comprehensive Land Use Plan as Industrial (I) and carries a zone designation of IH (Heavy Industrial), due in part to its close proximity to the City of Chiloquin Airport. The property is generally triangular in shape with the portion subject to this application being 2.32 acres of a larger parcel, consisting of 8.22 acres more or less. The

1 property is generally divided by a 200 foot deep commercial
2 corridor such that the front portion, trapezoidal in nature
3 carries a Comprehensive Land Use Plan and zone designation of
4 Commercial and General Commercial with the 2.32 acre parcel
5 closest to the airport being in the Industrial classification.
6 Property in the immediate vicinity is generally vacant.

7 2. Applicant seeks a comprehensive land use plan change and
8 zone change from Industrial to Commercial and from IH (Heavy
9 Industrial) to General Commercial. Applicable provisions of the
10 Klamath County Land Development Code, include Sections 48.002
11 (Review Procedure Comprehensive Plan Designation Change); Section
12 47.003 (Review Criteria-Zone Change Designation); Section 51.011
13 (General Commercial Zone); and Section 51.016 (Heavy Industrial
14 Zone). Applicant seeks a comprehensive land use plan and zone
15 change so as to unite the entire parcel under one plan designation
16 and one zone so as to build a regional community shopping center
17 serving the town of Chiloquin.

18 3. The hearings officer notes that no comments have been
19 received by the City of Chiloquin, although it was mailed notice.
20 The hearings officer further notes that the Industrial and Heavy
21 Industrial Comprehensive Land Use Plan and Zone Designations were
22 established for municipal airport use and expansions. The
23 hearings officer further notes that with the exception of a few
24 aircraft hangers and repair facilities no other industrial uses
25 are found within the Heavy Industrial Zone properties.
26

1 4. The subject property is generally level with general
2 drainage being sheet flow and generally ill defined. Vegetation
3 consists of thick bitterbrush with small scattered pines. The
4 subject property has a domestic water well site, and further from
5 the staff report appears to be served by the City of Chiloquin for
6 domestic water. The SCS soils classification is Class VI,
7 timbersite productivity rating is Class V, however the application
8 of both figures are questionable given the legislative history
9 designating the property as industrial. Access to the subject
10 property is gained off Highway 422, and the hearings officer notes
11 that the State Highway Division by its July 28, 1986 letter
12 (Exhibit E) provides that they Highway Division has no objection
13 to this application, at least as to the issues of access and
14 egress.

15 Sewer disposal is by subsurface septic systems. Fire
16 protection is provided by Chiloquin-Agency Lake Fire District,
17 with electricity provided by Pacific Power & Light Company,
18 telephone available by United Telephone Northwest. The property
19 lies within the attendance of the Chiloquin School District.

20 5. Applicant's testimony and from review of Klamath County
21 Exhibit F, applicant site's plan, Applicant proposes building a
22 rural regional shopping center to include a supermarket, shops,
23 restaurant, potentially a bank, similar compatible retail
24 establishments.

25 6. The hearings officer finds that the property was selected
26 as it fronts on a major arterial serving the City of Chiloquin,

off of U.S. Highway 97, and as well due to the convenience of persons living or vacationing in the Agency Lake area.

7. The hearings officer further finds that change in the Comprehensive Land Use Plan from Industrial to Commercial and a zone designation change from Heavy Industrial to General Commercial is in fact down zoning, in other words the adverse affect upon abutting properties is negated by a less intensive use.

8. The hearings officer finds the following Klamath County Comprehensive Land Development Plan policies applicable:

A. Goal 1 (Citizen Involvement) has been met as notice has been given to adjacent property owners, affected public agencies, by mailing of notice and publication in the Herald & News. The hearings officer has conducted a hearing, called for public testimony, and finds that no adverse public input was received.

B. Goal 2 (Land Use Planning), has been met. Proposed changes consistent with present existing zone designation along the State Highway 422 corridor: that being General Commercial. Likewise this application meets the Comprehensive Land Use Plan change Review Criteria, LDC Section 47.003 and Zone Change Review Criteria, LDC Section 48.003.

C. The following goals do not directly apply to this application:

Goal 3 (Agricultural Lands); 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); and Goal 10 (Housing).

D. Goal 9 (Economy of the State) will be met Comprehensive Plan Policy 9 is for Klamath County to encourage plans and methods which emphasize expansion of an increased productivity from existing industries and from firms as a means to strengthen local and regional development and employment. The hearings officer finds that creation of a regional shopping area will do just that.

E. Goal 11 (Public Facilities and Services) has been met. Policy 12 provides that development proposal shall not be approved unless the types and levels of public facilities and services required are available or can be provided concurrently with the fine levels of development within urban and rural areas. Electrical, telephone and water service are all available within the immediate area; those services necessary for the properties intended use.

F. Goal 12 (Transportation) has further been met. The property fronts on U.S. Highway 422, a major arterial sufficient to serve the nature and type of traffic to be generated by the proposed use.

G. Goal 13 (Energy Conservation) has likewise been met. Approval of the Comprehensive Land Use Plan will permit creation of a regional shopping area near its potential customers and eliminating a long waste of travel to other shopping facilities.

1 H. Goal 14 (Urbanization) has been met, the proposed
2 development is within the City of Chiloquin Urban Growth
3 Boundary.

4 9. The hearings officer concludes that Section 48.003,
5 Review Criteria has been met and that proposed change is in
6 compliance with the Statewide planning goals; LDC 48.003(A); the
7 proposed change is in conformance with all policies of the
8 Klamath County Comprehensive Plan, LDC Section 48.003(b); the
9 proposed change is supported by factual information which
10 establishes that within the City of Chiloquin and immediate areas
11 that there are no individual properties in single ownerships
12 sufficient in size to encompass the type of development
13 contemplated by the application. Section 48.003(C) has been met.

14 10. In addition thereto, LDC Section 47.003 Review Criteria
15 dictates certain additional findings:

16 A. LDC Section 47.003(A) requires that the change of zone be
17 in conformance with Klamath County Comprehensive Plan, based upon
18 the approval above, Section 47.003(A) has been met.

19 B. The property affected by the change of zone must be
20 adequate in size and shape to facilitate those uses which are
21 normally allowed in conjunction with such zoning. Property
22 comprising of in excess of 8 acres is sufficient in size and shape
23 to facilitate the intended uses. Section 47.003(b) has been met.

24 C. The property affected by the proposed change of zone must
25 be properly related to the streets to adequately serve the traffic
26 generated by such use. State Highway 422 is such a highway, no

1 objections have been raised by the State Highway Division. LDC
2 Section 47.003(C) review criteria has been met.

3 D. The proposed change of zone must have must have no
4 adverse affect upon the appropriate use and development of
5 abutting properties. As set forth above, this application results
6 in a down zoning from Industrial to Commercial a use of less than
7 generally a less disruptive nature. Review Criteria 43.003(D) has
8 been met.

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

11 CONCLUSIONS OF LAW

12 1. The proposed Comprehensive Land Use Plan change is in
13 compliance with the Statewide Planning Goals.

14 2. The proposed Comprehensive Land Use Plan change is in
15 conformance with all policies of the Klamath County Comprehensive
16 Plan.

17 3. The proposed Comprehensive Land Use Plan change is
18 supported by specific studies or other factual information which
19 documents the public need for the change.

20 4. The change of zone is in conformance with the
21 Comprehensive Plan, and all other provisions of the Land
22 Development Code.

23 5. The property affected by the change of zone is adequate in
24 size and shape to facilitate those uses that are normally allowed
25 in conjunction with such zoning.
26

6. The property affected by the proposed change of zone is properly related to streets to adequately serve the type of traffic generated by such uses that may be permitted therein.

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

And accordingly orders that the application as affects

"A portion of government Lot 7, Section 34, Township 34 South, Range 7 E.W.M., lying northwesterly of the northwesterly right of way of the Chiloquin-Williamson River Highway, excepting therefrom the northerly 386.6 feet of the above described parcel as measured along the west boundary thereof."

is hereby approved.

Entered Klamath Falls, Oregon this 1 day of October, 1986.

KLAMATH COUNTY HEARINGS OFFICER

Bradford J. Aspell
BRADFORD J. ASPELL

CLUP & ZONE CHANGE/HORN
PAGE 9

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of _____ the 9th day
of October A.D., 19 86 at 11:54 o'clock A M., and duly recorded in Vol. 186
of _____ Deeds on Page 13464
By Evelyn Biehn, County Clerk

FEE NONE

Return: Commissioners' Journal