

BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF KLAMATH COUNTY, OREGON

In the Matter of the Request for)
Comprehensive Land Use Plan)
and Zone Change 5-86 for)
Melba Windsor and Ronald Merman,)

FINDINGS OF FACT, CONCLUSIONS
OF LAW AND ORDER

THIS MATTER having come on for hearing before the Board of Commissioners on the 15th day of September, 1986, on Appeal 3rd day of July, 1986, by Frank and Barrie Peterson of the Findings of Fact and Order entered by Klamath County Hearings Officer, Jim Spindor "In the Matter of Request for Comprehensive Land Use Plan and Zone Change 5-86 for Melba D. Windsor and Ronald L. Merman"; and de novo review having been taken pursuant to Section 33.005 of the Klamath County Land Development Code. Applicant and respondent Ronald L. Merman was present and represented by counsel Bradford J. Aspell; Appellants Frank and Barrie Peterson were present and represented by attorney B.J. Matzen. Klamath County was represented by County Counsel, Robert D. Boivin, staff was present and represented by Kim Lundahl and Roy Huberd. The hearing was reported by Karen Burg.

Evidence was presented on behalf the department, the applicant and of appellants. 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

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1 Klamath County Exhibit D, Photographs
2 Klamath County Exhibit E, Letter from Funkners
3 Klamath County Exhibit F, Letter from Crookers
4 Klamath County Exhibit G, Letter from Sensenbach
5 Klamath County Exhibit H, Letter from Seeley
6 Klamath County Exhibit I, Letter from Ashby & McBride
7 Klamath County Exhibit J, Rendering of Storage and R.V. Park
8 Klamath County Exhibit K, Material Submitted by B.J. Matzen
9 Klamath County Planning Findings of Fact, Order and record of
10 hearing below.

11 The hearing was then closed, applicant and appellant's
12 through their respective counsel having entered a stipulation of
13 record, and based upon the evidence submitted at hearing, the
14 Board of Commissioners make the following Findings of Fact:
15 FINDINGS OF FACT

16 1. Applicant Melba D. Windsor is the owner of a portion of
17 the SE 1/4 SE 1/4 Section 3, Township 39 S, Range 9 E.W.M.,
18 Klamath County Oregon, bearing tax account number 3909-3DD-6100,
19 with the mailing address of 2964 Summers Lane, Klamath Falls,
20 Oregon. The property is a 2.4 acre site north of Hilyard Street
21 approximately 500 feet west of Summers Lane. The property is
22 bounded to the east by an apartment complex, to the west by Wiard
23 Park, and on the north by a mobile home park owned by the
24 appellants. The property in question generally is undeveloped
25 native grasses. The property in question is in close proximity to
26

1 Mazama High School, and within sight of the Wiard Street Tennis
2 Courts.

3 2. The property is presently designated by the Klamath
4 County Comprehensive Plan as residential (R) and carries a zone
5 designation of medium density residential (R-M). Applicant seeks
6 a change in the Comprehensive Land Use Plan to commercial (C) and
7 a zone change to general commercial (CG) to permit construction of
8 mini warehouses and R.V. storage, as shown by applicant's plot
9 plan Exhibit B.

10 3. Topography of the property is generally level with ill
11 defined drainage. The property is best described as vacant,
12 uncultivated land. Access to the property is gained off Hilyard
13 Avenue, a paved road approved to County Road Standards. The
14 property is further separated from adjoining properties by the
15 U.S. Bureau of Reclamation 1-CG drainline to the west.

16 4. The property is located within the Klamath Falls Urban
17 Growth Boundaries. Public facilities and services include
18 electricity supplied Pacific Power & Light Company, and fire
19 protection by Klamath County Fire District No. 1. The property is
20 within the attendance area of the Klamath County School District.
21 Water is provided by the City of Klamath Falls with sewage
22 disposal by South Suburban Sanitary District. No SCS soils
23 classification nor timbersite productivity rating has been given
24 to the property.

25 5. Applicable provisions of the Klamath County Land
26 Development Code include Section 48.003-Review Criteria (Change of
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1 Comprehensive Plan designation); Section 47.003-Review Criteria
2 (Change of zone designation); Section 51.011-General Commercial
3 (CG); and the applicable policies of the Klamath County
4 Comprehensive Plan.

5 6. Section 48.003(A) requires a finding of the proposed
6 change be in compliance with the Statewide Planning goals and
7 Section 48.003(b) the proposed change is in conformance with all
8 policies of the Klamath County Comprehensive Plan. In this regard
9 the Board finds as follows:

10 A. Goal 1 (Citizen Involvement) has been met as notice has
11 been given to adjacent property owners, affected public agencies,
12 by mailing of notice and publication in the Herald & News. A
13 public hearing has been called, decision rendered, appeal taken,
14 and the subsequent, de novo hearing has been held. The Board
15 specifically finds that ample opportunity for public input and
16 consideration of this applications has afforded all.

17 B. Goal 2 (Land Use Planning), has been met. Public
18 hearings have been held and policies and procedures of the Klamath
19 County Land Development Code have been applied set forth
20 hereinabove.

21 C. The Board finds that the following goals either do not
22 directly apply or are not applicable to this request:
23

24 Goal 3 (Agricultural Lands); Goal 4 (Forest Lands); Goal 5
25 (Open Spaces, Scenic, Historic and Natural Resource Areas); Goal
26 6, (Air, Water and Land Resource Quality); Goal 7 (Natural
Disaster and Hazard Area); Goal 8 (Recreation Needs); Goal 9

1 (Economy of the State); and Goal 14 (Urbanization) do not directly
2 apply nor affect this application.

3 D. The Board finds that Goal 10 (Housing) will not be
4 specifically adversely affected, in that approval of this
5 application will not take substantial real property out of
6 available inventory of suitably designated land available for
7 housing. The Board further finds that medium density residential
8 development, generally apartments, high density mobile home parks
9 are generally overbuilt in the immediate area.

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

15 F. Goal 12 (Transportation) has been met. Hilyard Avenue is
16 adequate in size and shape to facilitate the uses normally
17 associated with the development of R.V., Boat storage and mini
18 warehousing.

19 G. Goal 13 (Energy Conservation) will be met by providing
20 ample storage area and rental storage space for residences within
21 the immediate area minimizing the need for lengthy travel.

22 The Board concludes that LDC Review Criteria 48.003(A) and
23 (B) have been met.

24 7. A proposed change in the Comprehensive Plan designation
25 shall be approved if the change is supported by specific studies
26 or factual information which documents the public need for the

1 change. Here, the Board finds that R.V., trailer and boat storage
2 are generally desired by homeowners, mobile home park residents
3 and apartment dwellers located conveniently close to their
4 respective residences. The Board further finds that mini
5 warehouses providing small enclosed, dry storage facilities are
6 likewise demanded by the same individuals. Such uses are normally
7 incident to residential living, but are more difficult to find in
8 medium and high density areas. The Board further finds that there
9 are no properties available of suitable size and appropriately
10 designated under the Comprehensive Plan and Zoning Ordinance to
11 facilitate such development. While the Board remains concerned
12 approval of this application would tend to suggest creation of a
13 "spot zone", the Board concludes that public need for the change
14 is shown and adequate safeguards can be afforded for protection of
15 the public health, safety and welfare.

16 8. Based upon the above the Board finds that the Review
17 Criteria for Comprehensive Land Use Plan zone change has been met.

18 9. LDC Section 47.003(A) provides that a zone change shall
19 be approved if the reviewing authority shall find that the change
20 of zone is in conformance with the Comprehensive Plan and all
21 other provisions of the Land Development Code. As set forth
22 above, this criteria has been met.

23 10. LDC 47.003(B) requires that the property affected by the
24 change of zone be adequate in size and shape to facilitate those
25 uses which are normally allowed in conjunction with such zoning.
26 This application together with the approval which follows

1 necessary restricts development of the subject property to but one
2 of a number of lawfully permitted uses on property zoned general
3 commercial; that of recreational vehicle, boat storage, mini
4 warehouses and an onsite manager's residence. The property is 2.4
5 acres and from the plot plan and the size of the property is
6 adequate for the intended use.

7 11. Section 47.003(C) requires that the property affected by
8 the proposed change of zone be properly related to streets to
9 adequately serve the type of traffic generated by such uses as may
10 be permitted therein. As stated above the use of the property
11 shall be limited to recreational vehicle, boat storage, and mini
12 warehouse activities. Accordingly access and egress to this
13 subject property will necessarily be limited. Hilyard Avenue as a
14 paved road improved to County standards is adequate in size and
15 shape to facilitate the traffic to be generated by the intended
16 use. Section 47.003(C) has likewise been met.

17 12. LDC Section 47.003(D) requires the proposed change of
18 zone shall have no adverse affect on appropriate use and
19 development of abutting properties. In this regard the Board
20 finds that it is necessary to impose certain conditions upon the
21 approval of this application as follows:

22 A. Use of the subject property and the approval granted
23 herein shall limit activity on the subject property to
24 recreational vehicle, boat storage and mini warehouse storage
25 only. Applicant shall not permit nor suffer the premises to be
26 regularly occupied by a tenant or his employees engaged in sales,

1 manufacture or distribution from the mini storage facilitate, save
2 and except storage incidental to and as an adjunct to lawfully
3 conducted commercial activity elsewhere; it being the intent of
4 the Board not to permit uses generally associated with commercial
5 industrial park.

6 B. Applicant shall redesign the plot plan so as not to allow
7 R.V. storage, boat storage along the easterly boundary of the
8 property common to the mobile home park of Frank and Barrie
9 Peterson, but shall build a mini warehouse building in that area
10 instead.

11 C. Applicant shall be required to erect as a condition to
12 approval a 6 foot high fence to provide a visual barrier along the
13 perimeter of the subject property. The property shall
14 additionally meet all other landscaping requirements of the Land
15 Development Code.

16 13. Based upon the foregoing findings of fact, the Board
17 enters the following Conclusions of Law.
18 CONCLUSIONS OF LAW

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

21 2. The proposed Comprehensive Land Use Plan change is in
22 conformance with all policies of the Klamath County Comprehensive
23 Plan.

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

1 4. The change of zone is in conformance with the
2 Comprehensive Plan, and all other provisions of the Land
3 Development Code.

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

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

10 7. The proposed change of zone will have no adverse effect on
11 the appropriate use and development of abutting properties based
12 upon the following conditions:

13 A. Use of the subject property and the approval granted
14 herein shall limit activity on the subject property to
15 recreational vehicle, boat storage and mini warehouse storage
16 only. Applicant shall not permit nor suffer the premises to be
17 regularly occupied by a tenant or his employees engaged in sales,
18 manufacture or distribution from the mini storage facilitate, save
19 and except storage incidental to and as an adjunct to lawfully
20 conducted commercial activity elsewhere; it being the intent of
21 the Board not to permit uses generally associated with commercial
22 industrial park.

23 B. Applicant shall redesign the plot plan so as not to allow
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C. Applicant shall be required to erect as a condition to approval a 6 foot high fence to provide a visual barrier along the perimeter of the subject property. The property shall additionally meet all other landscaping requirements of the Land Development Code.

And accordingly orders that the application as affects "SE 1/4, SE 1/4, Section 3, Township 39 South, Range 9 E.W.M., Klamath County, Oregon."

is hereby approved.

Entered Klamath Falls, Oregon this 20th day of October, 1986.

BOARD OF COUNTY COMMISSIONERS

Jim Rogers
Jim Rogers, Chairman of the Board

Roger Hamilton
Roger Hamilton, Commissioner

Carroll Zon Gerbert
Carroll Zon Gerbert, Commissioner

APPROVED AS TO FORM AND CONTENT

Robert D. Bolvin
Robert D. Bolvin
County Legal Counsel

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STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of _____ the 22nd day
of October A.D., 19 86 at 4:35 o'clock P M., and duly recorded in Vol. 186
on Page 19266
of _____ Deeds
By Evelyn Biehn, County Clerk
Sam Smith

FEE NONE

Return: Commissioners' Journal