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BEFORE THE BOARD OF COMMISSIONERS

KLAMATH COUNTY, OREGON

In the Matter of Request for)
Change of Land Use Plan and Zone) Klamath County Planning
Change 16-86/Raymond K. Mattson) Findings of Fact and Order

Order #87-152

87 JAN 15 PM 3 23

A hearing was held on this matter on December 10, 1986, pursuant to notice given in conformity with Ordinance No. 45.2, Klamath County, before the Klamath County Board of Commissioners. The Applicant was present and represented by B. J. Matzen. The Klamath County Planning Department was represented by Roy Huberd and Kim Lundahl. Interested land owners were present and those landowners as well as other land owners were represented by Donald R. Crane.

Evidence was presented on behalf of the Department, the Applicant, and interested land owners.

The exhibits listed in Exhibit A were offered, received, and made a part of the record.

The hearing was then continued to December 11, 1986 for decision only, and based upon the evidence submitted at the hearing, the Board of Commissioners made the following Findings of Fact:

FINDINGS OF FACT

1. Applicant is the registered owner of the subject property, which property is located 500 feet west of State Highway 39 and north of Falvey Road near Merrill, Oregon. The property Klamath County Planning - Findings of Fact and Order

1 is not designated by street address but is legally described
2 as a portion of Section 2, Township 41S, Range 10 E, WM and
3 bears tax account #4110-02DC-4400 and 4500. The location of
4 the property is shown in Klamath County Exhibits C and D. The
5 property is within the City of Merrill Urban Growth Boundary
6 and is designated in the Klamath County Comprehensive Land Use
7 Plan as Commercial (C) and carries a zone designation of Highway
8 Commercial (CH). The adjacent and surrounding zoning is as
9 follows: North - Highway Commercial; South - R-5; East - Highway
10 Commercial; and West - R-5. Property to the south is occupied
11 as residential property. Property to the north, east and west
12 is ranch land used for sheep and cattle production.

13 2. Applicant seeks a comprehensive land use plan change
14 and zone change from Commercial to Industrial and from Highway
15 Commercial (CH) to Heavy Industrial (IH). Applicable provisions
16 of the Klamath County Land Development Code, include Sections
17 48.002 (Review Procedure Comprehensive Plan Designation Change);
18 Section 47.003 (Review Criteria-Zone Change Designation); Section
19 51.011 (General Commercial Zone); and Section 51.016 (Heavy
20 Industrial Zone). Applicant seeks a comprehensive land use
21 plan and zone change to enable him to operate a wrecking yard
22 on the designated property.

23 3. The city of Merrill in response to notice of the hearing,
24 replied that "a motion was made regarding the zoning of the
25 Mattson property to keep the area zoned commercial. Council
26 approval was unanimous."

2 - Klamath County Planning - Findings of Fact and Order

1 4. The subject property is generally level, rectangular
2 in shape and approximately 2.7 acres in size. It is subject
3 to flooding with minimal surface drainage. Vegetation consists
4 of weeds and brush. Access to the property is provided from
5 Falvey Road. Soils are Class III. Timber Site Productivity
6 Rating is not applicable. Water is provided to the property
7 by West Merrill Water District, sewer is by an individual subsur-
8 face system. Fire protection is provided by Merrill Fire Protec-
9 tion District. Electricity is provided by Pacific Power & Light.
10 The property lies within the attendance area of the Klamath
11 County School District.

12 5. The following Klamath County Comprehensive Land Develop-
13 ment Plan policies are applicable:

14 A. Goal 1 (Citizen Involvement). This goal has been
15 met by giving notice of the hearing to adjacent property
16 owners and affected public agencies, by mailing of notice
17 and by publication in the Herald & News.

18 A hearing was held at the time and place contained
19 in the notice. At the hearing proponents and opponents
20 testified.

21 B. Goal 2 (Land Use Planning). This goal has not
22 been met. The proposed changes are inconsistent with uses
23 of surrounding property.

24 C. Goal 3 (Agricultural Lands); Goal 4 (Forest Land);
25 Goal 5 (Open Spaces, Scenic, Historic and Natural Resource
26 Areas); Goal 6 (Air, Water and Land Resource Quality);

3 - Klamath County Planning - Findings of Fact and Order

1 Goal 7 (Natural Disaster and Hazard Area); Goal 8 (Recreation
2 Needs); Goal 9 (Economy of the State); Goal 10 (Housing);
3 Goal 11 (Public Facilities and Services). These goals
4 do not apply to this property.

5 D. Goal 12 (Transportation). This goal has been
6 met in that the property fronts Falvey Road, a main connector
7 street for Merrill, Oregon.

8 E. Goal 13 (Energy Conservation). This goal has
9 been met in that the proposed use conserves energy by increas-
10 ing development in an area where needed utilities are already
11 in place and by keeping the business close to the majority
12 of its potential customers.

13 F. Goal 14 (Urbanization). This goal is met in that
14 the property is within the Merrill Urban Growth Boundary
15 and is served by all needed urban facilities and services.

16 6. The proposed change is not in compliance with the State-
17 wide Planning Goals; LDC 48.003(A) nor is it in compliance with
18 all policies of the Klamath County Comprehensive Plan; LDC Section
19 48.003(b) because the proposed use of the subject property is
20 not compatible with the zoned, existing and appropriate uses
21 of the adjoining properties.

22 Based upon the foregoing Findings of Fact, the board of
23 Commissioners make the following:

24 CONCLUSIONS OF LAW

25 1. The proposed Comprehensive Land Use Plan change
26 is not in compliance with the Statewide Planning Goals.

4 - Klamath County Planning - Findings of Fact and Order

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2. The Klamath County Board of Commissioners and Planning Commission cannot decide on a change of land use until the City of Merrill acts first on such Plan change since the County has adopted the City Plan map for lands within the Urban Growth Boundary.

3. The proposed Comprehensive Land Use Plan change is not in conformance with all policies of the Klamath County Comprehensive Plan.

4. The proposed Comprehensive Land Use Plan change is not supported by specific studies or other factual information which documents the public need for the change.

5. The change of zone is not in conformance with the Comprehensive Plan, and all other provisions of the Land Development Code.

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 adverse effect on the appropriate use and development of abutting properties.

8. The application for change of land use by change of zone designation and change of comprehensive plan designation

1 nation as filed by Raymond K. Mattson is hereby denied.
2 Dated this 14th Day of January, 1987
3 December, 1986.

KLAMATH COUNTY BOARD OF COMMISSIONERS

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6
7 Jim Rogers
8 Jim Rogers, Chairman of the Board
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10 Roger Hamilton
11 Roger Hamilton, Commissioner
12

13 Carroll Zon Gerbert
14 Carroll Zon Gerbert, Commissioner
15

16 Approved as to Form and Content:
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18 Robert D. Boivin
19 Robert D. Boivin, County Legal Counsel
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LIST OF EXHIBITS

719

- A. Staff Report
- B. Plot Plan
- C. Assessor's Map
- D. Assessor's Map
- E. Petition from Individuals in Favor of Zone Change
- F. Letter from Robert Taylor
- G. City of Merrill Letter
- H. Comments from Environmental Health
- I. Letter from Robert Taylor
- J. Letter from Frances Gray
- K. Letter from Norman Simpson
- L. Letter from Tom Ongman
- M. Letter from D. L. Nourse
- N. Letter from Alice McIntyre
- O. Road Service Report from Ray's Body Shop
- P. Letter from Milton and Sydney Fiegi
- P. 1-5 - Fiegi Photos
- Q. DMV Application
- R. 1 - Taylor Assessment
- R. 2 - Taylor Assessment

STATE OF OREGON,
County of Klamath ss.

Filed for record at request of:

on this 15th day of January A.D. 19 87
at 3:23 o'clock P M. and duly recorded
in Vol. M87 of Deeds Page 713

Evelyn Biehn

By

County Clerk

Blumetha J. Ketch

Deputy.

Fec. None

EXHIBIT A

Klamath County Planning - Findings of Fact and Order

Return to: Commissioners Journal