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BEFORE THE BOARD OF COMMISSIONERS
KLAMATH COUNTY, OREGONIN THE MATTER OF CLUP/ZC 6-89
FOR H. W. AND ELIZABETH TURNQUIST

ORDER # 90-010

1. NATURE OF THE APPLICATION

A hearing on this application was held before the Board of County Commissioners July 25, 1989, with the Planning Commission in an advisory role.

The applicant is requesting a CLUP/ZC from agriculture/EFU-CG to Rural/R-1 on 37 acres located 1/4 to 1/2 mile from the east shore of Agency Lake. The application was considered pursuant to Articles 47 and 48 of the Klamath County Land Development Code.

2. NAMES OF THOSE INVOLVED

The applicant was represented by Jim Legget, The Planning Department was represented by Kim Lundahl, Senior Planner. The recording secretary was Karen Burg, Administrative Secretary. There was no opposition to this request.

3. LEGAL DESCRIPTION

A portion of the SE 1/4, section 7, Township 35 south, Range 7 east, W.M.. Generally 1 mile north of the intersection of Modoc Point Hwy. and Hwy. 422 south, Agency Lake area.

4. RELEVANT FACTS

The applicant requested a CLUP/ZC from Agriculture/EFU-CG to Rural/R-1 on 37 acres located east of Agency Lake. The plan/zone designation to the south and west is Rural/R-1. The

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plan/zone designation of properties to the north and west is Agriculture/EFU-CG.

The applicant has submitted a exceptions statement outlining the characteristics of the property, soil type and agricultural productivity, agricultural products, the community, development history, etc.

Applications for changes to land use plan (CLUP) and zone changes (ZC) are reviewed pursuant to Articles 47 and 48 of the Code.

5. EXCEPTIONS STATEMENT

As this is a request involving "Resource Lands" an exceptions statement was required of the applicant. After consideration staff determined this exceptions statement should be prepared in conformance with OAR 660-04-028, Exception Requirements for Land Irrevocably Committed to Other Uses.

The adequacy of this document was considered and findings developed in support of the document previous to consideration of the request per Articles 47 and 48.

OAR 660-04-028(6) sets out mandatory findings that must be considered.

a. existing adjacent uses:

north-vacant, agricultural plan/zoned
south-Bellavista subdivision, rural plan/zone
east-vacant, agricultural plan/zone
west-large lot rural residential, rural plan/zone

b. existing public facilities and services:

public facility and service districts have been made aware of this request and have not responded.

c. parcel size and ownership patterns of the exception area and adjacent lands:

an aerial photo and zoning map were reviewed as exhibits. These show substantial rural-residential development to the north, south, and west. The owner of the property to the east is Perla Development Company, the developer of the Oregon Shores developments to the north and south of the proposed exception area. This property is vacant and is being held until area development warrants additional rural densities. Applicant's statement includes a discussion of the evolution of this area to rural use.

d. neighborhood and regional characteristics:

the Agency Lake "neighborhood" has been evolving to non-resource use since the creation of the Oregon Shores and Latakomie Shores developments in the decade of the 70s. The platting of these developments modified the use of the area forever and has irrevocably committed the area to non-resource use.

e. natural or man-made impediments separating the exception area from adjacent resource land.

the exception area is heavily brushed and of unsuitable terrain for commercial agricultural use. The small size of the parcel, 37 acres, precludes its use for most agricultural pursuits. Adjacent agricultural zoned, but not utilized, land to the east is in a large block ownership of 396.40 acres. This land is of the same terrain and vegetative

type and is not suitable to agricultural use without a large amount of conversion work. The same applies to the exception area.

As the department has received no comment to the contrary and feels the applicants documentation accurately reflects the planning considerations and facts pertaining to the proposed exception area, a recommendation of approval for this "exceptions document was warranted.

6. ARTICLE 48-CHANGE OF LAND USE PLAN:

A proposed Change of Comprehensive Plan Designation shall be approved if the reviewing authority finds that:

A. the proposed change is in compliance with the Statewide Planning Goals, and B. the proposed change is in conformance with all policies of the Klamath County Comprehensive Plan: The most affected local/state policy/Goal is that relating to "Agricultural Lands," Goal 3 of the planning program. Applicant indicates this application will not conflict with this goal as the conversion of agricultural lands is not at issue as the exception area is not agriculturally viable due to its small parcel size, lack of irrigation, rolling terrain, brushy vegetation and its proximity and similarity to lands already devoted to rural use.

7. ARTICLE 47-CHANGE OF ZONE DESIGNATION:

A proposed change of zone shall be approved if the reviewing authority finds that:

A. The change of zone is in conformance with the

Comprehensive Plan, and all provisions of the Land Development Code;

If the applicants "Exceptions Statement" and request for a change in the Land Use Plan designation are approved the requested zone change from EFU-CG to R-1 will be in conformance.

B. 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 the zoning.

The applicant has submitted an exhibit conceptually detailing a 32 lot rural residential subdivision over the property contained in the CLUP/ZC request. The proposed subdivision, in conformance with requested R-1 zoning, demonstrates the requested zoning is practical when applied to the subject property.

C. 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. The subject property is accessed by improved roads from the south through the Bella Vista subdivision and from the west from the Modoc Point Highway. The provided access is adequate and in conformance with Public Works standards concerning road improvements for rural subdivisions.

D. The proposed change of zone will have no adverse effect on the appropriate use and development of abutting properties. The proposed use is an extension of the existing land use pattern to the west and south. Accordingly, as an extension

there will not be an adverse impact.

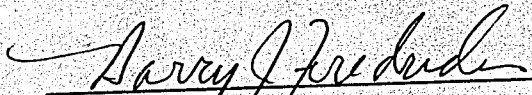
8. CONCLUSIONS AND ORDER

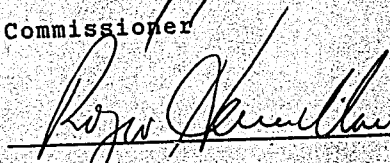
The Planning Commission finds the applicant has satisfied the pertinent review criteria as set out in OAR 660-04-028(6) and Articles 47 and 48 of the Code. Correct notice was given and the intent of the statewide planning program has been met. Therefore, it is ordered the request for CLUP/ZC 6-89 is approved.

DATED this 1 day of August, 1989

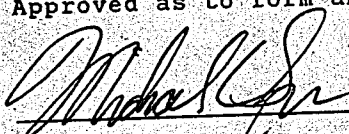
Chairman of the Board


Commissioner


Commissioner


Commissioner

Approved as to form and content:


Michael L. Spencer, County Counsel

NOTICE OF APPEAL RIGHTS

You are hereby notified that this decision may be appealed to the Klamath County Board of Commissioners by filing with the Planning Department a Notice of Appeal as set out in Section 33.004 of the Klamath County Land Development Code, together with the required fee within ten days of the date of mailing.

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STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Klamath County the 8th day
of Aug. A.D., 19 89 at 4:45 o'clock P.M., and duly recorded in Vol. M89,
of Deeds on Page 14680.

FEE none

Evelyn Biehn, County Clerk
By Darlene M. Mullen

Return: Commissiones Journal