

BEFORE THE BOARD OF COMMISSIONERS  
KLAMATH COUNTY, OREGON

IN THE MATTER OF CLUP/ZC 7-89  
FOR RAY DRISCOLL

ORDER #90-038

1. NATURE OF THE APPLICATION

A hearing on this application was held before the Board of County Commissioners August 22, 1989, with the Planning Commission in an advisory role.

The applicant is requesting a CLUP/ZC from Forestry/Forestry to Industrial/IL on 1.25 m/1 acres located 6 miles south of Fort Klamath, east of the former Klamath Agency. This application was considered pursuant to Articles 47 and 48 of the Klamath County Land Development Code.

2. NAMES OF THOSE INVOLVED

The applicant was present and presented testimony in behalf of the application. Kurt Gruen appeared and offered testimony from a neutral position. The Planning Department was represented by Kim Lundahl, Senior Planner. The recording secretary was Karen Burg, Administrative Secretary. Members of the Board of County Commissioners who participated in this hearing were: Ted Lindow and Harry Fredricks. The County Planning Commission, with all present, participated in an advisory manner.

3. LEGAL DESCRIPTION

A portion of the SW 1/4, section 18, Township 34 south, Range 7 east, W.M..  
T. A. 3407-18CC-100.

1989 OCT 4 PM 3 31

#### 4. RELEVANT FACTS

The applicant requested a CLUP/ZC from Forestry/Forestry to Industrial/IL on 1.25 m/l acres located east of the Crater Lake Hwy. The plan/zone designation to the west is Commercial/CR (P.U.D.). The plan/zone designation of properties to the north, south and east is Forestry/Forestry.

The applicant has submitted an "Exceptions Statement" outlining the characteristics of the property, operation plan, methods of production, description of the bottling process, method of delivery, history of the parcel, 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 660-04-022 3 a, for Rural Industrial Development and the four factors set out in OAR 660-04-020 2.

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.

The Board of County Commissioners finds Exhibit "b" as attached addresses the mandatory criteria and adopts this document as submitted. 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

"Forest Lands" Goal 4 of the planning program. Applicant

indicates this application will not conflict with this

goal as the conversion of commercial forestry lands is not at issue as the

exception area is not viable for forestry use due to its small parcel size,

brushy vegetation and proximity to conflicting uses, i.e. rural residential

and commercial properties.

**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 FORESTRY TO INDUSTRIAL-LIGHT 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 use proposed by the applicant, "Crater Lake Pure Spring Water", is a site specific use justified by the "Exceptions Statement". Accordingly the Board finds this property is adequate in size and shape to accommodate the proposed use only and this zone change is approved subject to "limited use overlay" per section 52.007 of the code limiting the use of the property to the use justified in the "Exceptions Statement".

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 applicants documentation indicates two trucks will be the added vehicle volume per day. The Board finds this increase will not be significant given the level of improvement existing on the Crater Lake Highway.

D. The proposed change of zone will have no adverse effect on the appropriate use and development of abutting properties. The property already contains a residential use, pump station and powerhouse. The construction of a bottling house with one employee is found not to detract from the ability of abutting property owners to utilize their properties to the extent of the applied zonings.



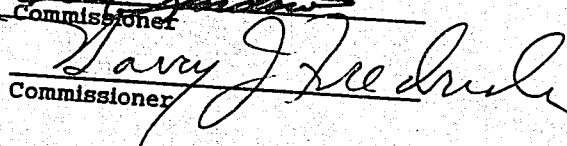
8. CONCLUSIONS AND ORDER

The Planning Commission finds the applicant has satisfied the pertinent review criteria as set out in Oregon Administrative Rules and Articles 47 and 48 of the Code. Correct notice was given and the intent of the statewide planning program has been met.

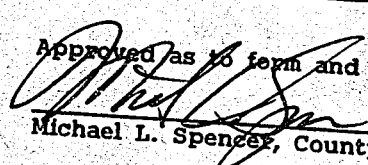
Therefore, it is ordered the request for CLUP/ZC 7-89 is approved for a Change in the Land Use Plan from Forestry to Industrial and a zone change from Forestry to Industrial-Light with a Limited Use Overlay.

DATED this 4 day of August, 1989  
Chairman of the Board

  
Commissioner

  
Commissioner

Approved as to form and content:

  
Michael L. Spence, County Counsel

NOTICE OF APPEAL RIGHTS

You are hereby notified that this decision may be appealed to the Land Use Board of Appeals within 21 days following the mailing of this order. Contact the Klamath County Planning Department for information as how to file this appeal. Failure to do so in a timely manner may affect your right to appeal this decision.

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Klamath County  
of Oct. 19 89 at 3:31 o'clock P.M., and duly recorded in Vol. M89  
of Deeds on Page 18742

FEE none

Evelyn Biehn  
County Clerk

By A. Andrew Mendenhall

CLUP/ZC 7-89 OREGON  
Return: Commissioners Journal