

BEFORE THE HEARINGS OFFICER OF KLAMATH COUNTY, OREGON

In The Matter of the Request) No. 3-90
 for a Zone Change for) FINDINGS OF FACT,
 BETTLES FAMILY, LTD.) CONCLUSIONS OF LAW AND
 _____) DECISION

This matter came before Richard C. Whitlock, Hearings Officer for Klamath County, Oregon on March 23, 1990, in the Klamath County Commissioner's hearing Room. The Hearing was held pursuant to notice given in conformity with the Klamath County Land Development Code and related ordinances. Jim Legget, an authorized representative of the Applicant, appeared at the hearing and testified in favor of the application. The Klamath County Planning Department was represented by J. Kim Lundahl and the Recording Secretary was Karen Burg. The Klamath County Planning Department file and all contents thereof were incorporated in the record as evidence, including Exhibits A (Staff Report), B (Plot Plan), D (Highway Division letter), and E (Assessor's Map). The Hearings Officer, after reviewing the evidence presented, makes the following Findings of Fact, Conclusions of Law and Decision:

FINDINGS OF FACT:

1. The Applicant has applied for a Zone Change from CR Zone (Recreation Commercial) to CG Zone (General Commercial). The subject property is an approximately 2.01 acre parcel located outside the Klamath Falls Urban Growth Boundary, north of the Williamson River Bridge on the west side of Highway 97, south of the Highway 62 junction, and is legally

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described as a portion of NE 1/4, Section 21, Township 35 S, Range 7 EWM, Tax Account No. 3507-21-600. The access for the subject property is off of Williamson River Drive to the South of the property which abuts the Highway 97 right-of-way.

2. Applicant wishes to establish a mobile home sales lot and separate real estate sales office on the property which are not allowed in the CR Zone, the present designation. Staff advised that mobile home sales is not specifically listed anywhere in the Land Development Code, but has been allowed previously as "retail sales" in the General Commercial Zone (CG) [LDC 51.011 (B) (25)] by the Planning Director.

3. The property is presently vacant with extensive existing commercial use to the south (The Waterwheel Recreational Campground, real estate sales and construction supply business), extensive existing commercial use to the east across Highway 97 (cafe & motel) and an ongoing commercial quarry operation to the West on a 42 acre parcel. The zone to the north is EFU/CG.

4. The Applicant proposes a small, maximum six (6) unit mobile home sales facility and a small real estate sales office on the parcel. Applicant indicates a need for mobile home sales in the area pointing to a large number of mobile homes nearby. The Comprehensive Plan also expresses preference for this type of affordable housing in Goal 10, Policies 6 and 10.

5. Highway 97 is three lanes at the Williamson River Drive intersection [two (2) lanes south and one (1) lane

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north]. The State Highway Division in Exhibit D objected to the proposed change because "large residential shopping centers" are permitted in the CG zone and the increased traffic would be too burdensome. The Hearings Officer specifically finds that the small size of the parcel (2.01 acres) precludes such development. The Highway Department also requests the access to Williamson River Drive be limited to a minimum of 60 feet west of the iron pin common to Williamson River Drive, U.S. 97 and tax lot 600. The Highway Department further requires no private signs on the U.S. 97 Highway right-of-way (ORS 374.305 and 377.650).

KLAMATH COUNTY LAND DEVELOPMENT CODE CRITERIA:

1. Article 47 of the Land Development Code sets forth the review criteria for granting a change of zone designation. Section 47.003 provides as follows:

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

- A. The change of zone is in conformance with the Comprehensive Plan, and all other provisions of the Land Development Code;
- 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 such zoning;
- 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;
- D. The proposed change of zone will have no adverse effect (sic) on the appropriate use and development of abutting properties."

2. Section 51.011 sets forth the purpose, permitted

uses, and property development standards for the General Commercial (CG) zone.

3. Section 51.012 sets forth the purpose, permitted uses, and property development standards for the Recreational Commercial (CR) zone.

KLAMATH COUNTY GOALS AND POLICY COMPLIANCE:

1. Goal 1: Citizen Involvement

A. Notice of this hearing was sent to all affected agencies, was published in the Herald & News newspaper and notification was sent to surrounding property owners.

2. Goal 2: Land Use Planning

A. This hearing was held pursuant to all requirements of the Klamath County Land Development Code. There is no proposed change in comprehensive land use designation and Applicant seeks only a more general commercial use than is presently authorized. This land use application was initiated by an individual and is considered a "minor" change because it does not have a significant effect beyond the immediate area of the proposed change.

3. Goal 3: Agricultural Lands

A. This particular application does not involve the use of agricultural lands and, therefore, Goal 3 is not applicable. Even though the property abuts an EFU/CG parcel, the present zoning is commercial and the change will have no foreseeable adverse effect on adjoining agricultural lands or facilities.

4. Goal 4: Forest Lands

A. This property is presently committed under zoning designations to commercial development and there is no evidence of any merchantable timber on the property.

5. Goal 5: Open Space, Scenic and Historic Areas, and Natural Resources

A. Because this property is presently committed to commercial development, there are no known adverse affects on open space, scenic and historic areas, or the natural resources of the area.

6. Goal 6: Air, Water and Land Resources Quality

A. There is no indication of any adverse affects.

7. Goal 7: Areas Subject to Natural Disasters and Hazards

A. There are no known natural disaster or hazard areas within or near this proposed site.

8. Goal 9: Recreation Needs

A. This site is presently committed to recreational commercial development and a zone change to general commercial would have no known significant adverse affects on the recreational needs of the area. The site is not presently developed and is not being used recreationally.

9. Goal 9: County Economy

A. The proposed zone change would have no known significant affect on the economy of the area, but might bolster the economy to some extent due to the proposed development.

10. Goal 10: Housing

A. Policy 10 of Goal 10 states that "the County shall encourage the siting and development of mobile home parks, mobile home subdivisions and individual mobile homes within the County. Innovative and improved approaches to siting, landscaping and design shall be encouraged." The proposed mobile home sales facility may advance Goal 10 housing needs within the area.

11. Goal 11: Public Facilities and Services

A. The subject property has septic capabilities, electricity, telephone and well water services available.

12. Goal 12: Transportation

A. The proposed development would have no significant adverse affect on the existing transportation systems in the area. The testimony is clear that additional traffic is expected to be generated, but it would appear given the close proximity of Highway 97, a major arterial, and given the fact that Williamson River Drive is a wide, clear access roadway, there would be no increase in traffic generated which could not be handled by existing roadways.

13. Goal 13: Energy Conservation

A. The proposed use of the property would have no known significant adverse affect on energy conservation issues in the County.

14. Goal 14: Urbanization

A. The zone change from recreational commercial to general commercial would not affect Goal 14.

KLAMATH COUNTY CODE FINDINGS AND CONCLUSIONS:

With respect to the application for a Zone Change from Recreational Commercial (CR) to General Commercial (CG), the Hearings Officer makes the following findings:

1. As set forth above under "Klamath County Goals and Policy Compliance", the proposed change of zone is in conformance with the Klamath County Comprehensive Plan and all other provisions of the Land Development Code.

2. 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 such zoning. Specifically, the testimony and evidence show that the use proposed by the Applicant would simply change the specific commercial uses allowed and would not change the general nature of the use.

3. 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 testimony established that access to the parcel will be gained by a driveway onto Williamson River Drive and then onto Highway 97. There was no evidence to suggest that the traffic generated by this proposed development would in any way burden the roadways in the area.

4. A proposed change of zone will have no adverse affect on the appropriate use and development of abutting properties. The testimony and exhibits established that the primary use of the area is commercial and quarry operations and the proposed use will be compatible. Some concerns of the Highway Department can be dealt with by conditions being placed on approval of this request.

DECISION:

The subject application for a zone change from Residential Commercial (CR) to General Commercial (CG) is hereby granted subject to the following conditions:

1. Applicant shall comply at all times with all

requirements of the Klamath County Land Development Code.

2. The access from the parcel shall not be directly onto U.S. Highway 97 but onto Williamson River Drive. This access shall be restricted to a minimum of 60 feet West of the iron pin marking the corner common to U.S. 97, Williamson River Drive and Tax Lot 600.

3. No advertising or portable signs are allowed within the U.S. 97 right-of-way as required by ORS 374.305 and 377.650.

DATED this 4th day of April, 1990.

Richard C. Whitlock
RICHARD C. WHITLOCK
HEARINGS OFFICER

Klamath County Land Development Code Section 24.007 provides:

"An Order of the Hearings Officer shall be final unless appealed within ten (10) days of its mailing by a party having standing in accordance with the procedures set forth in Chapter 3, Article 33 of this Code."

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Klamath County the 6th day
of April A.D. 19 90 at 9:39 o'clock AM. and duly recorded in Vol. M90
of Deeds on Page 6338.

Evelyn Biehn County Clerk
By Pauline M. Mendenhall

FEE none

Return: Commissioners Journal