

BEFORE THE BOARD OF COMMISSIONERS
KLAMATH COUNTY, OREGONIN THE MATTER OF CLUP/ZC 7-90
FOR STEVE McMANUS

ORDER 90 - 203

1. NATURE OF THE APPLICATION

A hearing on this application was held before the Board of County Commissioners May 29, 1990, with the Planning Commission in an advisory role. The applicant is requesting a CLUP/ZC from Forestry/Forestry Range to Agriculture/EFU-C on 78 acres located south of Taylor Rd., west of Dodds Hollow Rd., northeast of Merrill.

This application was reviewed 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. The Planning Department was represented by Kim Lundahl, Senior Planner. The recording secretary was Karen Burg, Administrative Secretary. Legal advice was given by Michael Spencer, County Counsel. Members of the Board of County Commissioners who participated in this hearing were: Harry Fredricks and Roger Hamilton. The County Planning Commission, with a quorum present, participated in an advisory manner. Bob Petrick appeared and offered testimony in clarification.

3. LEGAL DESCRIPTION

A portion of the East 1/2 NW 1/4 Section 32 Township 40S, Range 11E W.M.. T. A. 4011-32-400.

4. RELEVANT FACTS

The applicant requested a CLUP/ZC from Forestry/Forestry Range to Agriculture/EFU-C on 78 acres located northeast of Merrill. Zoning designations to the north and west include Forestry Range. EFU-C zoning is adjacent to the southwest and east. The property is not presently qualified for farm

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tax deferral due to lack of agricultural use by the previous property owner.

The applicant submitted supporting documentation which was included in the consideration of this request by the review body.

The supporting documentation included photos as Exhibit "e" which were found to accurately represent the improvement of the property to a more productive agricultural property.

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

5. 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/Goals are Goal 3-"Agricultural Lands" and Goal 4-"Forestry Lands". The Board finds based on Exhibits a-e, staff presentation and applicant testimony the conversion of 78 acres to another "resource" designation consistent with both Goals. The change in plan designation is supported by the record, exhibits, and testimony in that the use of the property has been appropriately converted through agricultural practices to property that is appropriately planned for agricultural uses, given the size, location, aspect, and land capability classifications set out as Exhibit "d".

6. 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;

As the Board has found the proposed plan change consistent with state/local

guidelines/policies the request in change to an implementing zone of EFU-C consistent.

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 developed by the applicant, commercial grazing in conjunction with a noncontiguous operation, is an allowed/permitted use in either the FR or EFU-C zone. The existing/developed use of the property is found to be better protected by the standards of the EFU-C zone.

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; No change in the present use of the property is contemplated by this application. Accordingly the Board finds additional traffic above the present level appropriate to the use will not be generated on Taylor Rd. or Dodds Hollow Rd..

D. The proposed change of zone will have no adverse effect on the appropriate use and development of abutting properties.

The Board finds property and surrounding land uses are developed to agriculture. The conversion of the subject property to an agricultural zone is found to be consistent with the existing surrounding land use of the area as set out in applicants testimony.

7. CONCLUSIONS AND ORDER

The Board of County Commissioners 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 10-89 is approved for a

Change in the Land Use Plan from Forestry to Agriculture and a zone change from Forestry/Range to EFU-C.

DATED this / day of June, 1990

Chairman of the Board

Harry J. Mulcahy
Commissioner

Bob Hamilton

Approved as to form and content:

Michael L. Spencer
Michael L. Spencer, 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 the 7th day
of June A.D., 19 90 at 2:29 o'clock PM., and duly recorded in Vol. M90
of Deeds on Page 11021.

FEE none

Evelyn Biehn, County Clerk

By *Paulene Mulendare*

Return: Commissioners Journal