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BEFORE THE BOARD OF COMMISSIONERS
KLAMATH COUNTY, OREGON

IN THE MATTER OF CLUP/ZC 6-90
FOR J. R. ENTERPRISES

ORDER 90-201

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 Agriculture/EFU-C to Rural/R-1 on 9 acres located in the Henley Area east of Klamath Falls.

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 Joe Riker. The Planning Department was represented by Kim Lundahl, Senior Planner. The recording secretary was Karen Burg. 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. Quintin and Paula McBain submitted a letter in opposition to this request.

3. LEGAL DESCRIPTION

A portion of section 19, Township 39 South, Range 10 East, W.M.. Generally at the west end of Rocking Horse Lane, Rolling Hills, Henley area.

T.A. 3910-19B-100 & 3910-19B-2300

4. RELEVANT FACTS

The applicant requested a CLUP/ZC from Agriculture/EFU-C to Rural/R-1 on 9 acres located east of Klamath Falls. The plan/zone designation to the north, south and west is Agriculture/EFU-C. The plan/zone designation of properties

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to the east is Rural/R-1. The property is an "island" bounded by natural and man made features separating it from established agricultural uses. 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.. This document (Exhibit "b") is attached hereto and incorporated in this order. 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 considered for 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-idle, proposed right-of-way, Southside Bypass
- south-"A" Canal, Klamath Project
- east-Rolling Hills Subdivision
- west-"K" Lateral irrigation canal, Klamath Irrigation District

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 east.

d. neighborhood and regional characteristics:

The Rolling Hills "neighborhood" has been evolving to non-resource use since the platting of the subdivision in the decade of the 70s. The platting of this development and others have modified the use of the area forever and has irrevocably committed the project area to non-resource use.

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

the exception area is separated from the main "Riker Ranch" by irrigation system canals developed by the Klamath Project. The size of the parcel and its relationship horizontally and vertically to the main ranch have precluded its use for commercial agricultural pursuits.

The Board and Commission find this document and testimony address Goals 11 and 14 of the Statewide Planning Program.

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, 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;

As the applicants "Exceptions Statement" and request for a change in the Land Use Plan designation are approved the requested zone change from EFU-C 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 alternatives conceptually detailing a rural residential subdivision over the property contained in the CLUP/ZC request. Alternative 1 & 2 (Exhibits "e" & "f"), 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 and paved roads from the east through the Rolling Hills subdivision. 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 east. Accordingly, as an extension there will not be an adverse impact.

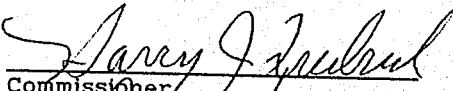
8. CONCLUSIONS AND ORDER

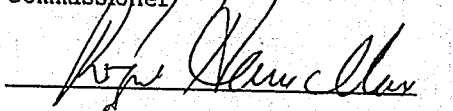
The Board of County Commissioners finds the applicant has satisfied the pertinent review criteria as set out in OAR 660-04-028(6) and Articles 47 and 48 of the Code. Correct notice was given and the intent of the statewide planning program has been met.

Therefore, it is ordered the request for CLUP/ZC 6-90 is approved for J. R. Enterprises from Agriculture to Rural and EFU-C to R-1.

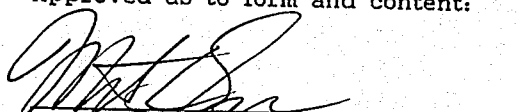
DATED this 1 day of June, 1990

Chairman of the Board


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 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 P.M., and duly recorded in Vol. M90 of Deeds on Page 11038.

FEE none

Return: Commission Journal

Evelyn Biehn, County Clerk

By Douglas Mulender