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BEFORE THE BOARD OF COMMISSIONERS
KLAMATH COUNTY, OREGONIN THE MATTER OF CLUP/ZC 10-91
FOR ROY AGARD

ORDER

1. NATURE OF THE APPLICATION

A hearing on this application was held before the Board of County Commissioners September 24, 1991, with the Planning Commission in an advisory role.

The applicant is requesting a CLUP/ZC from Agriculture/EFU-C to Industrial/IL on 5.73 acres located west of Hwy 97 and south of Klamath Falls in the Midland Area. This application is in follow up to the earlier application made by Mr. Agard on property at the "Pioneer Tavern" for the same use, Husky Log Homes, heard and denied by the Board July 23, 1991 (CLUP/ZC 8-91).

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 Roy Agard. The Planning Department was represented by Kim Lundahl, Senior Planner. The recording secretary was Karen Burg. Legal advice was given by Rod Davis, County Counsel. Members of the Board of County Commissioners who participated in this hearing were: Harry Fredricks, Ed Kentner and Wes Sine. The County Planning Commission, with a quorum present, participated in an advisory manner.

3. LEGAL DESCRIPTION

A portion of section 30, Township 39 South, Range 9 East, W.M.. Generally located west of Hwy 97, south of the "18 Wheeler Truckstop" Midland Area. T.A. 3909-30-1100.

191 SEP 30 PM 3 06

4. RELEVANT FACTS

The applicant requested a CLUP/ZC from Agriculture/EFU-C to Industrial/IL on 5.73 acres located east of Klamath Falls. The plan/zone designation to the north and east is commercial/CT. The plan/zone designation of properties to the south is Agriculture/EFU-C. The zoning of the property to the west controlled by the ODFW as a wildlife refuge is OS & C. 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 "c") 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- commercial use, "18 Wheeler"
- south- agriculture
- east- commercial use, "Basin Hydraulics"
- west- Miller Island Wildlife Refuge

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:

this property is located west of Hwy 97 and east of the SPRR tracks. This "strip" is differentiated into many small acreage holdings having an average depth of 375'.

d. neighborhood and regional characteristics:

commercial/industrial use is established to the north and east.

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

the exception area is isolated from the commercial agricultural operations by the existing adjacent commercial/industrial uses and the Wild life Refuge. This remnant parcel is not suited to agricultural use due to its location, high ground water and poor soils.

As the Board 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" is 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 commercial/industrial 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 IL 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 a site plan conceptually detailing the proposed industrial use, a sawmill producing parts for his log home business. The proposed development, subject to review per Article 41, 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 road, Hwy 97, which is the properties east frontage and boundary. The provided access is has been reviewed by ODOT and their respose was considered by the Board.

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 north and east. Accordingly, as an extension there will not be an adverse impact.

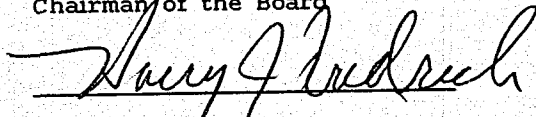
8. CONCLUSIONS AND ORDER

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.

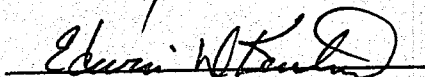
Therefore, it is ordered the request for CLUP/ZC 10-91 is approved for Roy Agard from Agriculture to Industrial and EFU-C to IL.

DATED this day of September, 1991

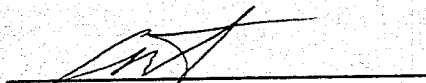
Chairman of the Board



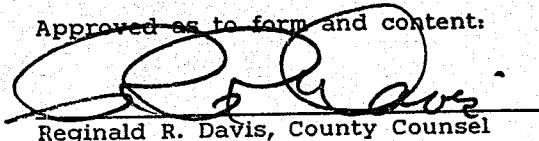
Commissioner



Commissioner



Approved as to form and content:



Reginald R. Davis, 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.

CLUP/ZC 10-91 AGARD

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STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Klamath County the 30th day
of Sept. A.D., 19 91 at 3:06 o'clock P M., and duly recorded in Vol. M91
of Deeds on Page 19832

Evelyn Biehn, County Clerk

FEE none

By Quinn Mulendore

Return: Commissioners Journal