

BEFORE THE HEARINGS OFFICER OF KLAMATH COUNTY, OREGON

In the matter of the request
of S.C. & J.O. CAROTHERS

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) ZONE CHANGE
) NO. ZC 11-91
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This matter came before Neil D. Smith, Hearings officer for Klamath County, Oregon on 8 November 1991 in the County Commissioners' Hearing Room in Klamath Falls Oregon. The Klamath County Planning Department was represented by Mr. Kim Lundahl the recording secretary was Ms. Karen Berg. The Klamath County Planning Department file and all the exhibits and other contents therein is incorporated by this reference into this matter.

The Hearing was held pursuant to notice given in conformity with the Klamath County Land Development Code and related Statutes and Ordinances. MRS. CAROTHERS, the applicant for the above referenced zone change, was present and testified. Mrs. Paschal information was received and found to be in favor of the permit.

The report prepared by staff was read and the contents thereof were received in evidence. Based upon the evaluation of the testimony and consideration of the evidence received, the Hearings Officer makes the following FINDINGS OF FACT AND CONCLUSIONS.

FINDINGS OF FACT :

1. The Applicant is requesting a Zone Change from CR (Recreation commercial) to CG (Wholesaling Light).
2. The property is located West of Highway 97, North of the Williamson River Bridge; T.A.3507-21-800 in Klamath County, Oregon;
3. Mrs. Carothers testified that the building to the right side of Exhibit "D" would be removed upon completion of the remodel of the existing building.
4. Authority for the proposed Zone Change found in section 47.003 of Article 47, paragraphs A through D.
5. The Applicant's requested zone change is not in derogation of the Comprehensive Plan or the Land Development Code.
7. The property is adequately served by maintained streets and municipal utilities and services.
8. The zone change will not alter the present de facto use of the adjacent properties or the character of the neighborhood.
9. Notices were sent to in conformance with relevant Klamath County Policy and there were no communications with

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6. ORDER:

Therefore, it is ordered the request of Calvin Caldwell for C.U.P. 69-91 is approved subject to the following conditions:

1. The applicant shall file a restrictive covenant with the County Clerk prohibiting the permit holder and their successors in interest from filing complaint concerning accepted resource management practices that may occur on nearby lands and prohibiting the further division of the property.
2. The Conditional Use Permit shall not be final nor shall a building permit for a non-farm dwelling be issued under this order until the applicant provides the Planning Department with evidence that the lot or parcel upon which the dwelling is proposed to be located has been disqualified for valuation at true cash value for farm use and that any additional tax penalty imposed by the County Assessor has been paid.

DATED this 7th day of November, 1991



Neil D. Smith, Hearings Officer

NOTICE OF APPEAL RIGHTS

You are hereby notified that this application may be appealed to the Klamath County Board of Commissioners by filing with the Klamath County Planning Department a Notice of Appeal as set out in Article 33 of the Klamath County Land Development Code, together with the fee required within seven days following the mailing date of this order.

STATE OF OREGON,
County of Klamath ss.

Filed for record at request of:

Klamath County
on this 13th day of Nov. A.D., 19 91
at 2:21 o'clock P M. and duly recorded
in Vol. M91 of Deeds Page 23729.
Evelyn Biehn, County Clerk
By Pauline Mueller Deputy.

Return: Commissioners Journal

CUP 69-91 CALDWELL

viable agricultural property.

The permit holder has volunteered as a condition of this approval to file a restrictive covenant which will prohibit the permit holder and successors in interest from filing complaint concerning reasonable farming practices on adjacent lands.

3. Does not alter the stability of the overall land use pattern of the area because:

The overall land use of the area is long established to rural/vacation/retirement life-style and will not be compromised by the conversion of an adjacent parcel to a non-farm use. The land use pattern of the area will not be modified and will be perpetuated by this permit.

4. Is situated upon generally unsuitable land for the production of farm crops and livestock, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location, and size of the tract because:

The existing parcel is 30.59 acres in size. The Hearings Officer finds this parcel size unsuitable for commercial agricultural use due to its size, poor soils, micro-climate and topography. The impact of removing this marginal value land from the County farmland base is found to be insignificant.

5. Complies with other conditions felt necessary, because;

The property is within a structural fire protection district. The potential exists that a new residential use could cause a structural fire spreads to adjacent lands. Accordingly, the Hearings Officer finds the requirements set out in L.D.C. in concert with the structural fire protection provided by the Fire District, will protect the resource land base that could result from any possible fire hazard posed by the non-farm residence.

The property is rated Class V for timber productivity.

The properties surrounding this property are found NOT devoted to commercial agricultural production. The zoning is the same as the subject property, EFU-CG.

Surrounding residential use includes eight homes within a 1/2 mile radius.

The property is within a structural fire protection district, and the proposed dwelling will be within a response time of 15-20 minutes.

5. FINDINGS:

All evidence submitted as the staff report, exhibits b-d, and offered testimony show that the approval criteria as set out in Code section 54.060 and O.R.S. 215.243 have been satisfied. The Hearings Officer finds this application;

1. Is compatible with farm use because:

The project site is legally and ownership divided from adjacent properties.

The project site is found not to be devoted to commercial agricultural use and the conversion to such would be impractical because of the parcel size.

The Hearings Officer finds that the use of the remnant parcel as a homesite compatible with potential agricultural use because the applicant has demonstrated that no conflict will result from the conversion of this 30.59 acre property from vacant to residential use. Historically, there has been no agricultural use of the property.

2. Does not interfere seriously with accepted farming practices on adjacent lands devoted to farm use because:

The properties to the north, south and east are found NOT to be engaged in commercial agriculture. These properties are found devoted to rural life-style homes on equivalent area parcels. The Crater Lake Hwy is the east property boundary. The property in question is found to be of little resource value due to its location, topography, soils limitations and size which is far below the minimum lot size (80 acres) thought to represent a