

BEFORE THE HEARINGS OFFICER OF KLAMATH COUNTY, OREGON

In the matter of the request)
 of WALTER PETERSON)

ZONE CHANGE
 NO. 4-85

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 This matter came before Neil D. Smith, Hearings officer for Klamath County, Oregon on 4 September 1992 in the County Commissioners' Hearing Room in Klamath Falls Oregon. The Klamath County Planning Department was represented by Mr. Kim Lundahl, Senior Planner the recording secretary was Mrs. Karen Burg. 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.

Testimony was heard from the applicant who stated that the fencing requirement be deleted since the character of the area had changed and through access was necessary for further development of the lot. The lot is presently being used by Pelican Tractor Co. for equipment storage of machinery and the gates are closed after normal business hours.

There was testimony from property owners and occupants residing on Miller Ave. who opposed the removal of the fence.

Mr. Don Rice testified that removal of the fence would allow direct access from the Playhouse Tavern to Miller Avenue thereby posing a safety hazard.

Mr. Hampton, another occupant of Miller Avenue, presented a petition (Exhibit 1) signed by some 20 individuals in opposition to the proposed modification of the present condition. He further expressed his opposition to allowing gates to be installed in the front and back of the lot. I.e. Between South Sixth Street and Miller Avenue.

FINDINGS OF FACT

1. The applicant wishes to have removed the requirement set forth in CLUP/ZC Order Amendment 4-85, dated 20 August 1985. He specifically wants the requirement set out in Paragraph 8, Page 6 of the original Order dated 16 July 1985 and the subsequent Order Dated 20 August 1985 be modified so as to remove the requirement that access to Miller Avenue may be gained from South Sixth Street.

2. Exhibit C shows that lots 5800 (fronting on Homedale Ave.), 6900, 7200, and 7300 (all fronting on Miller Ave.) are zoned RS; all other lots in the block are zoned CG even though they are used as residential lots or vacant.

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3. Lot 7100 under consideration here is presently fenced and gated and used for commercial purposes. It fronts on Miller Ave. To the South is Pelican Tractor Co., Leppert Machinery & Welding, Playhouse Tavern, a Restaurant, Dick Howard Meat Center, and Les Schwab Tire Center, all facing South Sixth Street with no access to Miller Avenue.

4. It is noted that the two enterprises directly abutting the subject lot are high traffic businesses on lots 8000, 8100U1 & U2.

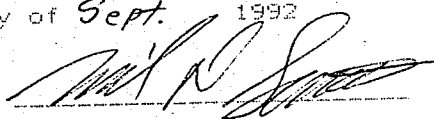
CONCLUSION

There is no logical reason to change the condition set out in the original order. That order was well thought out and is in the best interests of the residents and present use of Miller Avenue.

ORDER

Based upon the findings and conclusion herein the Amendment of the Order herein is denied to the extent that the property will remain fenced and access to Miller Avenue from South Sixth Street across this Lot will not be permitted.

DATED this 10th day of Sept. 1992



Neil D. Smith, Hearings Officer

KLAMATH COUNTY LAND DEVELOPMENT CODE SECTION 24.007 PROVIDES:

" An Order of the Hearings Officer shall be final unless appealed within seven (7) 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 11th day of Sept. A.D., 19 92 at 2:44 o'clock P M., and duly recorded in Vol. M92 of Deeds on Page 20816.

FEE none

Evelyn Biehn - County Clerk

By Raeburn Mullendore

Return: Commissioners Journal