

BEFORE THE BOARD OF COMMISSIONERS
KLAMATH COUNTY, OREGON

IN THE MATTER OF CLUP/ZC 6-92
FOR PETE BOURDET

ORDER

1. NATURE OF THE APPLICATION

A hearing on this application was held before the Board of County Commissioners SEPTEMBER 22, 1992, with the Planning Commission in an advisory role. The applicant is requesting a CLUP/ZC from Agriculture/EFU-CG to Commercial/CG on 2.96 acres located west of the intersection of Hwy 97 and 62, south of Chiloquin.

The development proposed for the property includes a real estate, attorney, title and bank offices.

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 Linda Long. The Planning Department was represented by Kim Lundahl, Senior Planner. The recording secretary was Karen Burg. Members of the Board of County Commissioners who participated in this hearing were: Ed Kentner and Wes Sine. The County Planning Commission, with a quorum present, participated in an advisory manner.

3. LOCATION

Portions of Gov't lots 3 & 4, Section 21, T 35S R 7E WM. Generally located west of Hwy 97 and south of the intersection of State Hwys 97 and 62, south of Chiloquin. T.A. 3507-21-400.

4. RELEVANT FACTS

The applicant requested a CLUP/ZC from Agriculture/EFU-CG to Commercial/CG on 2.96 acres west of Hwy 97, south of Chiloquin. The plan/zone designation to the north is agriculture/EFU-CG, to the south and east (across Hwy 97 is commercial/CR and CT. To the west is a mineral extraction site also zoned

EFU-CG. 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 character istics of the property, soil type and agricultural productivity, agricul tural 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. This exceptions statement should be considered for conformance with OAR 660-04-028, Exception Requirements for Land Irrevo cably 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- vacant property
- south- gift store and mini warehouse, Water wheel RV campground
- east- Rapids cafe, real estate office and motel/MH park
- west- commercial mineral extraction site

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 south of the intersection of Hwys 97 and 62 (Crater Lake Hwy). The properties fronting Hwy 97 have been differentiated into small parcels (2 +/- acres).

d. neighborhood and regional characteristics:

Commercial use is established to the south 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 uses and a mineral extraction site. This remnant parcel is not suited to agricultural use due to its location, size, and proximity to conflicting uses with agriculture.

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 potential conflicting uses.

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-CG to CG 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 commercial uses; a real estate office, bank, attorneys office and title company can be accommodated within the 2.96 acre parcel. The applicants site plan, 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 will be accessed indirectly by an improved and paved road, Hwy 97, which is the properties east frontage and boundary. The provided access will be reviewed through Site Plan review.

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

8. CONCLUSIONS AND ORDER

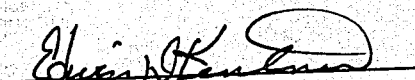
The Board of County Commissioners finds the applicant has satisfied the pertinent review criteria as set out in OAR 660-04-028(6) and Articles 47 and 48 of the Code. Correct notice was given and the intent of the statewide planning program has been met.

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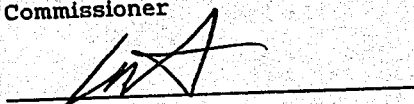
Therefore, it is ordered the request for CLUP/ZC 6-92 is approved for Pete Bourdet from Agriculture to Commercial and EFU-CG to CG.

DATED this 12 day of SEPTEMBER, 1992

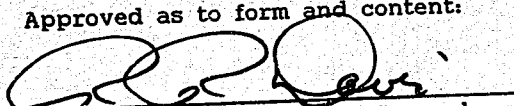
Commissioner



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.

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of _____ the 26th day
of Oct. A.D., 19 92 at 9:52 o'clock A M., and duly recorded in Vol. M92,
of _____ Deeds on Page 24931.

Evelyn Biehn, County Clerk

By Pauline Mueller

FEE none

Return: Commissioners Journal