

54353

Before the Board of Commissioners

Klamath County Oregon

IN THE MATTER OF CLUP/ZC 10/92
FOR FREDRICK and JESSIE FAHNER

ORDER

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1. NATURE OF THE APPLICATION

A hearing on this application was held before the Board of County Commissioners October 27, 1992 with the Planning Commissioners in an advisory role. The applicant is requesting a Plan/Zone designation change from Recreational Commercial/CR and Industrial Light/IL to Urban Residential/RS on 8.7 acres located South of the Southside Bypass between Memorial Drive and Reames Golf and Country Club. The applicant intends to Subdivide approximately 28 acres into 18 lots for residential and industrial use.

This application was reviewed pursuant to Articles 47 and 48 of the Klamath County Land Development Code.

2. NAMES OF THOSE INVOLVED

The applicant was represented by Douglas Adkins of Adkins Consulting Engineers Inc. who presented testimony in behalf of the applicant. The Planning Department was represented by Carl Shuck, planning Director. The recording secretary was Karen Burg, Administrative Secretary. Reginald Davis, County Council was present. Members of the Board of County Commissioners who participated in this hearing were: Harry Fredricks and Wes Sine. The County Planning Commission, with a quorum present participated in an advisory manner.

3. LOCATION

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The site considered in this application is 8.7 acres located in a portion of Section 8 of T39S, R9E, tax lot 700, 800, 1000, 1100.

4. RELEVANT FACTS

The applicant has requested a CLUP/ZC from Commercial Recreational/CR and Industrial Light/IL to Urban Residential/RS on 8.7 acres located South of the Southside Bypass between Memorial Drive and Reames Golf and Country Club. Zoning designations of land to the North and East are IH respectfully to the South IL, and to the West CR. Uses in the surrounding area are Reames Golf and Country Club to the West SturdiCraft to the South East and Klamath Humane Society to the East and across Memorial Drive and Southside Bypass to the North.

5. ARTICLE 48-CHANGE OF LAND USE PLAN: Conclusions and

Findings; Applications for changes to land use plan (CLUP) and zone changes (ZC) are reviewed pursuant to articles 47 and 48 of the code.

A proposed change of Comprehensive Plan Designations shall be approved if the reviewing authority finds that the application meets all applicable review criteria set out in Sections 48.003 of the Code as follows.

1. The proposed change is in compliance with the Statewide Planning Goals and Administrative Rules; The applicant gave

testimony concerning the lack of available home building sites adjacent to a golf course in the greater Klamath Falls area such as would be afforded by this development. Applicant also noted that approximately 14 acres of applicants adjacent property is approved for homesites under a Residential Suburban/RS zoning. The Board finds the applicants testimony and corroboration by the staff and Planning Commission compelling.

2 and 3. The proposed change complies with policies of the Comprehensive Plan and the Oregon Statewide Planning Goals and Administrative Rules and the proposed change is in conformance with all policies of the Klamath County Comprehensive Plan. The affected local/state policy goals are satisfied as follows:

Goal #5 ; A portion of Lot #9 is the top of a rock outcropping where it is reported Native Indians cremated their dead. This portion of Lot #9 will be preserved in its natural state.

Goal #6; Only minimal impact to air quality will occur during the construction phase. After construction, natural gas and electricity will be the primary sources of heat thereby minimizing the use of wood heater stoves Also streets will be paved to prevent added dust.

Goal #9; Construction of the infrastructure and houses will provide employment.

Goal #10; Unique quality housing currently not avai-

able in the area will be provided.

Goal #11; Municipal water, and sewer, natural gas, telephone, electricity and cable television will be provided within the development

Goal #12; The proposed changes will only allow three additional dwellings to be constructed within the development above what is proposed. Further, access to the development will be designed to the satisfaction of the Klamath County Public Works Director.

Goal #13; Energy will be conserved by providing residential development near employment, shopping and recreational opportunities.

Goal #14; With the proposed development located within the Urban Growth Boundary and adjacent to urban facilities these facilities (water, sanitary sewer, power, gas, telephone and cable television) will be extended through the proposed development and provide for additional service of these facilities within the Urban Growth Boundary

6. ARTICLE 47-CHANGE OF ZONE DESIGNATIONS; conclusions and

findings; A proposed change of zone shall be approved if the review authority finds that the application meets all review criteria set out in Section 47.030 of the Code;

1. The proposed change of zone designation is in conformance with the Comprehensive Plan and all other provisions of the Land Development Code. The Board has found the proposed

plan change consistent with State/Local guidelines/Policies the request in change to an implementing zone of RS is consistent.

The applicant proposes to develop an 18 lot subdivision for residential and light industrial use. The requested residential use will be for portions of Lots 1, 16, and 18 with all of Lot 2 remaining as industrial. Portions of Lots 5, 6, 7 and 8 will be for Residential/RS from Commercial Recreation/CR. Lot size range from .42 acres to 4.09 acres. The applicant has demonstrated a need for the proposed project through testimony and corroboration of the Staff and Planning Commission.

2. 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 use proposed by the applicants subdivision is a permitted use in the RS zone and subject to Site Plan approval.

3. 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 site will access off of Memorial Drive via a private road which will be maintained by a Homeowners Association. Because access is via a private road the length of cul-de-sac can exceed the 500 foot length. The private drive

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will be the only access point to the described property with exception of access to the IL Lot #2 located on the Southeast property boundary. A portion of Lot #9 has been identified as a Native American cremation site which site will be maintained in its existing natural state. The Board finds additional traffic above the present level appropriate to the use will not be detrimental on Memorial Drive or the Southside Bypass.

4. The proposed change of Zone will have no adverse effect on the appropriate use and development of abutting properties. The Board finds that the conversion of the subject property to a RS plan/zone is compatible with the existing surrounding land use of the area as set out in applicants testimony and corroborated by the Staff and Planning Commission.

5. The Board of County Commissioners finds based on testimony received, and from the application submitted that the applicant has satisfied the pertinent review criteria as set out in Oregon Administrative Rules and Articles 47 and 48 of the Code. Correct notice was given and the intent of the statewide planning program has been met.

7. ORDER

Therefore, it is ordered the request for CLUP/ZC 11/92 is approved for a Change in the Land Use Plan from GENERAL COMMERCIAL/CR and INDUSTRIAL/IL to URBAN RESIDENTIAL/RS. Tract 1274 is also approved subject to code requirements and conditions of Exhibit C attached.

DATED this 23 day of NOVEMBER, 1992

Chairman of the Board;

Harry J. Fredrick

Commissioner

Commissioner

[Signature]

Approved as to form:

Reginald R. Davis

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 Klamath County the 24th day of Nov. A.D., 19 92 at 2:11 o'clock P.M., and duly recorded in Vol. M92 of Deeds on Page 27918.

Evelyn Biehn County Clerk

By *[Signature]*

FEE none

Return: Commissioners Journal