

BEFORE THE HEARINGS OFFICER  
KLAMATH COUNTY, OREGON

In the Matter of the Request for	)	
Comprehensive Land Use Plan and	)	Order on Request for Review
Zone Change 4-85 for Walter	)	of Conditions
Petersen, Applicant	)	
	)	

THIS MATTER came before the Hearings Officer for a Review of the Conditions of a Comprehensive Land Use Plan and Zone Change which was approved on July 16, 1985. At that time, two conditions were placed upon the approval which required the applicant to erect one or more fences along Miller Avenue and at the rear of his property when it was developed. The applicant has requested that those conditions be removed.

The hearing was held in the Commissioners Hearing Room on November 20, 1992 at 9:00 a.m.. The Planning Department was represented by Carl Shuck, Planning Director, and the recording secretary was Karen Burg. The Applicant appeared with his attorney, Michael L. Spencer and both testified in favor of the application. Mr. Ed Hampton and Mr. Dan Rice testified in opposition to the request.

All testimony, exhibits and records of prior proceedings are incorporated by this reference into this Order.

RELEVANT REVIEW CRITERIA

The Review Criteria to be considered by the Hearings Officer in this matter is found in Article 47.030, Change of Zone Designation, Article 48.030, Change of Comprehensive Plan Designation, and Article 71, Vehicular Access and Circulation.

FINDINGS OF FACT

The Hearings Officer makes the following findings of fact:

1. The requirement of fencing is one not found on any other CLUP/ZC approval in the immediate area. *MS*

2. The two witnesses speaking in opposition to the application expressed concern about the property being used as an access route to the bars located on South Sixth Street but had no specific concerns regarding the use of applicant's property. Such access is to property owned by individuals unrelated to the applicant herein.

3. The Order approving the CUP would require fencing only if the property was developed and, since it could be used for access without being developed and without,

therefore, being fenced, the objections raised to removal of the condition are not supported by the evidence.

4. The Klamath County Land Development Code was amended in 1990. The amendments to the Site Plan Review, if a Type II Review under Article 22.040 is utilized, will give adequate notice and opportunity for the parties objecting to this request to fully participate in the process and will allow all parties to know the exact use proposed. Adequate protection of the surrounding properties can be achieved through this process without overly burdening the applicant.

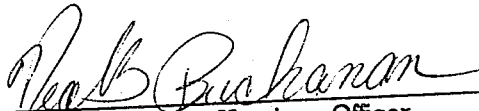
### CONCLUSIONS OF LAW

Based upon the findings of fact entered herein, the Hearings Officer concludes that the application for removal of the conditions regarding fencing of the subject property meets all applicable review criteria of the Klamath County Land Development Code.

### ORDER

Based upon the findings of fact and conclusions of law herein, it is hereby Ordered that the Applicant's request for removal of the conditions regarding fencing of the front and back of the subject property are hereby removed. However, any site plan review conducted on this property shall be conducted as a Type II Review.

Dated this 3 day of December, 1992.

  
Neal G. Buchanan, 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 10th day  
of Dec. A.D., 19 92 at 2:48 o'clock P.M., and duly recorded in Vol. M92  
of Deeds on Page 29299.

Evelyn Biehn County Clerk

By Deborah Mulendore

FEE none

Return: Commissioners Journal