

BEFORE THE BOARD OF COMMISSIONERS
KLAMATH COUNTY, OREGONIN THE MATTER OF CLUP/ZC 5-93
FOR GRUENER

ORDER

1. NATURE OF THE APPLICATION

A hearing on this application was held before the Board of County Commissioners JUNE 22, 1993 with the Planning Commission in an advisory role. The applicant is requesting a CLUP/ZC from RURAL/R-1 to COMMERCIAL/CG on 2.7 acres located at the northeast corner of Tingley Ln. and Joe Wright Rd., south of Klamath Falls.

The applicant intends to develop the site to an electrical contracting of fice and equipment storage yard for his business (Preferred Electric).

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

2. NAMES OF THOSE INVOLVED

The applicant appeared and presented testimony in behalf of the application. The Planning Department was represented by Kim Lundahl, Senior Planner. The recording secretary was Karen Burg, Administrative Secretary. Members of the Board of County Commissioners who participated in this hearing were: F. Jean Elzner and Wes Sine. The County Planning Commission, with a quorum present, participated in an advisory manner.

3. LOCATION

The site considered in this application is 2.7 acres described as portions of Lots 1-4 Russell Acres, T.A. 3909-21B-400.

4. RELEVANT FACTS

The applicant has requested a CLUP/ZC from RURAL/R-1 to COMMERCIAL/CG on 2.7 acres located at the northeast corner of Joe Wright Rd. and Tingley Ln. Land Use to the south includes the Midland Grange Hall and Crossroads Mobile Home Park. To the southwest is a manufactured home on a 1 acre property. The

north property line is the Lost River Diversion Canal. To the west is another non farm home on 6.24 acres. A heavy equipment repair facility is established to the south and east of the subject property.

5. GOAL EXCEPTION

This is an application for a plan/zone amendment within an existing exception area outside the Urban Growth Boundary of Klamath Falls. The change requested is to a zone/use not considered per OAR 660-04-018, a discussion of the "reasons" for this change is required. OAR 660-04-020 & 022 set out the reasons necessary to justify an "exception" under Goal 2, part II(c).

The record developed for this application demonstrates the use proposed "contractors office/storage yards" are suitable for location on this property as low-intensity commercial uses not requiring the infrastructure support afforded by location within the UGB such as municipal water, sewer, fire and police protection are found appropriate.

The record also shows the location of this proposal, on the main stem road between Hwy 97 and Kingsley Field, an International Airport, is found advantageous to the use as to delivery of required materials and distribution of the offered services.

6. 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 Designation shall be approved if the reviewing authority finds that the application meets all applicable review criteria set out in Section 48.030 of the Code as follows:

1. The proposed change is supported by specific studies or other factual information which documents the public need for the change;

The applicant gave testimony concerning the need to locate his electrical contracting business in a central location with good highway access between Kingsley Field one and one half miles to the east and Hwy 97 one mile to the

west. The Board finds the applicants testimony and corroboration by the Staff and the Planning Commission compelling.

2. & 3. The proposed change complies with policies of the Comprehensive Plan and the Oregon Statewide Planning Goals and Administrative Rules; The most affected local/state policy/Goal is Goal 9- "Economic Development." The Board finds based on Exhibits a-d, staff presentation and applicant testimony the conversion of 2.7 acres to a commercial designation consistent and supportive of the Goal. The Board finds the change in plan designation is supported by the record, exhibits, and testimony in that the use of the property would be an appropriate use of the site, given the size, location, aspect, necessity, and surrounding land use.

The Board finds the above criteria, 1 & 2, are satisfied as set out.

7. ARTICLE 47-CHANGE OF ZONE DESIGNATION: 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 does not afford special privileges to an individual property owner not available to the general public or outside the overall public interest for the change;

As the Board has found the proposed plan change consistent with state/local guidelines/policies the request in change to an implementing zone of CG is consistent. The Board finds the property owners of Klamath County may avail themselves of this application process upon initiation of the required process. The applicant has demonstrated a public need for the proposed project, a business location, in this area 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, an electrical contracting yard/office, is a permitted use in the CG 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 is adjacent to improved/maintained/paved roads connecting Hwy 97 to Kingsley Field.

The property derives indirect access from Hwy 97 and neither the Oregon Department of Transportation or Klamath County Public Works Dept. has responded to this application.

The Board finds additional traffic above the present level appropriate to the use will not be generated on Tingley Ln. or Joe Wright Rd.

4. The proposed change of zone will have no adverse effect on the appropriate use and development of abutting properties.

The Board finds property and surrounding land uses are developed or proposed for industrial/commercial use 1/2 mile to the east on Joe Wright Rd.. The Midland Grange Building is immediate to the south across Joe Wright Rd.. The conversion of the subject property to a commercial plan/zone is found to be consistent with the existing/surrounding land use of the area as set out in applicants testimony and corroborated by the Staff and Planning Commission.

The Board finds the above criteria 1-4, are satisfied as set out.

8. ORDER

The Board of County Commissioners finds based on testimony received, and exhibits a-f, 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.

The Board notes a letter from the Department of Land Conservation and Devel-

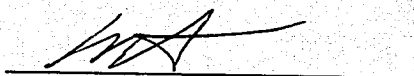
opment dated June 4, 1993 has been entered as Exhibit "F" and was considered. In response to this letter the applicant submitted a response dated June 14, 1993 as Exhibit "E" which states the applicant will consent to the imposition of a "limited use overlay" to the subject property.

The Board finds limiting the use of this property to those uses defined as "Building and Garden Sales" in Article 11 of the Code will mitigate the concerns set out in the June 4 letter.

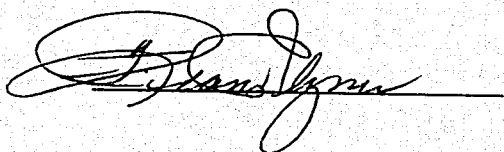
Therefore, it is ordered the request for CLUP/ZC 5-93 is approved for a Change in the Land Use Plan from RURAL to COMMERCIAL and a zone change from R-1 to CG subject to the imposition of a "limited use overlay zone" restricting permitted uses to those defined within "Building and Garden Sales" in the Code.

DATED this 6 day of JULY, 1993

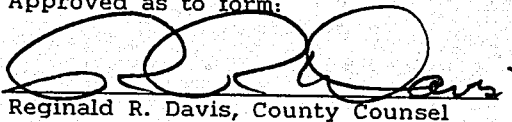
Commissioner



Commissioner



Approved as to form:



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 _____ day
of July A.D., 19 93 at 9:49 o'clock A.M., and duly recorded in Vol. M93
of Deeds on Page 16662.

FEE none

Evelyn Biehn County Clerk

By Pauline Muehlen

Return: Commissioners Journal