

BEFORE THE BOARD OF COMMISSIONERS
KLAMATH COUNTY, OREGON

IN THE MATTER OF CLUP/ZC 10-93
FOR KAPEL-SARDINIA

1. NATURE OF THE APPLICATION

A hearing on this application was held before the Board of County Commissioners NOVEMBER 23, 1993 with the Planning Commission in an advisory role. The applicant is requesting a CLUP/ZC from AGRICULTURE/EFU-G to FORESTRY/F on 160 acres located 1/2 mile south of the Military Crossing Rd., 3 miles east of Hwy 97.

The applicant intends to convey a 60 acre portion of her property to an adjacent property owner and approval of this application is required to facilitate a Property Line Adjustment.

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: Ed Kentner, 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 160 acres described as portions of sections 10 & 15 T 30S R 8E W.M. T.A. 3008-0000-200.

4. RELEVANT FACTS

The applicant has requested a CLUP/ZC from AGRICULTURE/EFU-G to FORESTRY/F on 160 acres located 1/2 mile south of the Military Crossing Rd., 3 miles east of Hwy 97. Land use in all compass directions is mixed forestry and agricultural use, primarily low intensity open range grazing.

5. GOAL EXCEPTION

This is an application for a plan/zone amendment outside any Urban Growth Boundary. As the change requested is from one "resource" zone to another, exceptions to Goals 3 & 4 are not required for discussion.

The record developed for this application demonstrates the use proposed "Forestry" is suitable for this property.

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 actual condition/use of the 160 acre property and how this better conforms to the conditions/use typified by FORESTRY plan/zone, i.e. the property is heavily timbered and is grazed only incidentally by wandering cattle. 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 are 3 & 4, Forestry and Agriculture. The Board finds based on Exhibits a-d, staff presentation and applicant testimony the conversion of 160 acres to another "resource" designation is have no impact on either 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 "F" is consistent. The Board finds the property owners of Klamath County may avail themselves of this application process upon initiation of the required process.

2. The property affected by the change of zone is adequate in size and shape to facilitate those uses normally allowed in conjunction with the zoning.

The property is 160 acres in size. The required minimum lot size in the "F" zone is 80 acres. The property is larger than the minimum required.

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 accessed by an easement south from the Military Crossing Rd., a maintained graded road. As no change in the intensity of use is proposed, the existing access is found adequate.

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 use similar to that existing/proposed for the applicants property.

The conversion of the subject property to another resource zone is found to be consistent with the 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-d, 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.

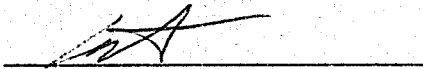
Therefore, it is ordered the request for CLUP/ZC 10-93 is approved for a Change in the Land Use Plan from AGRICULTURE to FORESTRY and a zone change from EFU-G to F.

DATED this 30th day of NOVEMBER, 1993

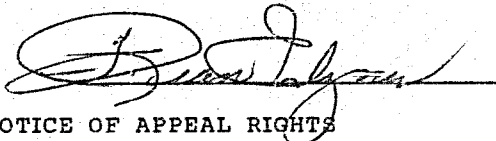
Commissioner



Commissioner



Commissioner



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.

CLUP/ZC 10-93

-4-

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Klamath County the 1st day of Dec. A.D., 19 93 at 3:09 o'clock P.M., and duly recorded in Vol. M93 of Deeds on Page 31952.

FEE none

Evelyn Biehn County Clerk

By Wendie Williams