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BEFORE THE BOARD OF COMMISSIONERS
KLAMATH COUNTY, OREGON

IN THE MATTER OF CLUP/ZC 11-93
FOR RIMA/NIMMO

ORDER

.. 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 COMMERCIAL/CR to RURAL/R-1 on 9 +/- acres located west of the Modoc Point Rd., one mile south of Patric Park, on the east shore of Agency Lake.

The applicants intend to divide their entire 10.18 acre property into six lots, five zoned R-1, and a sixth zoned CR (T 1285). The north 1.1 acre parcel is proposed to remain commercially zoned to facilitate a "bed-breakfast type facility" similar to the one now operated by the applicants at Fort Klamath.

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

2. NAMES OF THOSE INVOLVED

The applicants 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 9.0 acres described as portions of Gov't Lot 4, T 34S R 7E. T.A. 3407-31-2800.

4. RELEVANT FACTS

The applicant has requested a CLUP/ZC from COMMERCIAL/CR on 9.0 acres located on the east shore of Agency Lake. The 10.18 acre was planned/zoned to the existing commercial designation via CLUP/ZC 1-87. To the south is property zoned/developed to R-1 uses with four homes in existence. To the north are thirteen homes within 1/2 mile. To the west is Agency Lake and to the east are two agricultural interests established on parcels of less than the 80 acres acknowledged within the EFU-CG zone.

5. GOAL EXCEPTION

This is an application for a plan/zone amendment within an existing exception area outside any Urban Growth Boundary of Klamath Falls. The change requested is from one non-resource zone to another so an "exception statement" is not required. The original application, CLUP/ZC 1-87, was an application from AGRICULTURE/EFU-CG to COMMERCIAL/CR and set out reasons for the current "exceptions" area.

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

The record also shows the location of this proposal, a lakefront location between Klamath Falls and Crater Lake, a USPS National Park, is found advantageous to the uses proposed.

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 create additional lakefront properties with good highway access between Klamath Falls and Crater Lake to the north. 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 change of Plan/Zone to the current COMMERCIAL/CR zoning was supported by an "exceptions statement" approved for CLUP/ZC 1-87. The Board finds the current application is for a less intense use and finds the change requested beneficial and in compliance. 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 R-1 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 uses proposed by the applicants, via Tract 1285, are consistent with the acknowledged zoning designation, R-1.

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 Modoc Point to Crater Lake.

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 the Modoc Point 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 rural use adjacent to the north and south. The conversion of the subject property to a rural 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-g, the applicant has satisfied the pertinent review criteria as set out in Oregon Administrative Rules and Articles 47 and 48 of the Code. Cor-

rect 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 Development dated November 5, 1993 has been entered as Exhibit "E" and was considered. In response to this letter the applicant submitted a map dated November 12, 1993 as Exhibit "G" which delineates existing rural homes in the project area.

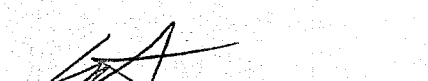
Therefore, it is ordered the request for CLUP/ZC 11-93 is approved for a Change in the Land Use Plan from COMMERCIAL to RURAL and a zone change from CR to R-1.

DATED this 30th day of NOVEMBER, 1993

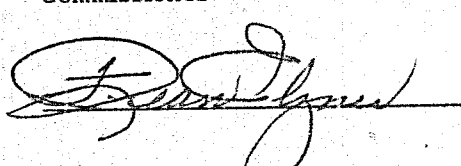
Commissioner



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.

CLUP/ZC 11-93 RIMA/NIMMO

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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 31956.

FEE none

Evelyn Biehn County Clerk

By Debra M. Mendenhall