

BEFORE THE BOARD OF COMMISSIONERS
KLAMATH COUNTY, OREGON

IN THE MATTER OF CLUP/ZC 12-94
FOR EDWARD MIKOLAJCZYK

ORDER

1. NATURE OF THE APPLICATION

A Hearing on this application was held before the Board of County Commissioners JUNE 28, 1994, with the Planning Commission in an advisory role. The applicants are requesting a CLUP/ZC from AGRICULTURE/EFU-CG to RURAL/R-1 on 6.14 acres (MNP 17-88 Lots 1-3) in the Agency Lake area west of Chiloquin.

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

2. NAMES OF THOSE INVOLVED

The applicant was present. The Planning Department was represented by Kim Lundahl, Senior Planner. The recording secretary was Karen Burg. Members of the Board of County Commissioners who participated in this hearing were: Wes Sine and Ed Kentner. The Planning Commission, with a quorum present, participated in an advisory manner. NO opposition testimony was entered. A list of those participating is included in the Planning Department file for this application.

3. LOCATION

Described as Lots 1-3, MNP 17-88 located in Section 18, T. 35S R. 7E. T.A. 3507-18-200. Generally located east of the Modoc Point Rd., 1/4 mile north of Lake Forest Dr., Oregon Shores.

4. RELEVANT FACTS

The applicant requested a CLUP/ZC from AGRICULTURE/EFU-CG to RURAL/R-1 on 6.14 acres on the east side of the Agency Lake. The plan/zone designation to the north and south is AGRICULTURE/EFU-CG, east and west is RURAL/R-1.

The property is an "island" bounded by rural development and man-made features such as a highway separating it from established agricultural uses far to the north.

The applicant has submitted an exceptions statement outlining the characteristics of the property, soil type and agricultural productivity, agricultural products, the community, development history, etc. This document was considered and is on file.

Applications for changes to land use plan (CLUP) and zone changes (ZC) are reviewed pursuant to Articles 47 and 48 of the Code.

5. EXCEPTIONS STATEMENT

As this is a request involving "Resource Lands" an exceptions statement was required of the applicant. This exceptions statement should be considered for conformance with OAR 660-04-028, Exception Requirements for Land Irrevocably Committed to Other Uses. The adequacy of this document was considered and findings developed in support of the document previous to consideration of the request per Articles 47 and 48.

OAR 660-04-028(6) sets out mandatory findings that must be considered.

a. existing adjacent uses:
 north- rural use
 south- rural use
 east- rural use - Oregon Shores Subdivision
 west- rural use

b. existing public facilities and services:

Public facility and service districts have been made aware of this request and did not respond. Fire, Sheriff, Ambulance and Schools are readily available in this area.

c. parcel size and ownership patterns of the exception area and adjacent lands:

This property is located within a strip of property 470 feet wide between the west boundary of Oregon Shores, an intensively developed subdivision with

10000 sq ft lots and the Modoc Point Rd. The properties to the north, south, and west are divided into rural lots.

d. neighborhood and regional characteristics.

Rural use is the predominant land use pattern.

e. natural or man-made impediments separating the exception area from adjacent resource land.

The exception area is isolated from the commercial agricultural operations by the existing adjacent rural uses and a county right of way. This remnant parcel is not suited to agricultural use due to its location and proximity to conflicting uses with agriculture.

The BOARD finds the applicants documentation accurately reflects the planning considerations and facts pertaining to the proposed exception area, a recommendation of approval for this "exceptions statement" is warranted.

6. ARTICLE 48-CHANGE OF LAND USE PLAN:

A proposed Change of Comprehensive Plan Designation shall be approved if the reviewing authority finds that:

- a. the proposed change is in compliance with the Statewide Planning Goals,
- b. the proposed change is in conformance with all policies of the Klamath County Comprehensive Plan:

The most affected local/state policy/Goal is that relating to "Agricultural Lands," Goal 3 of the planning program. Applicant indicates this application will not conflict with this goal as the conversion of agricultural lands is not at issue as the exception area is not agriculturally viable due to its proximity to existing conflicting rural uses and small size.

7. ARTICLE 47-CHANGE OF ZONE DESIGNATION:

A proposed change of zone shall be approved if the reviewing authority finds that:

a. The change of zone is in conformance with the Comprehensive Plan, and all provisions of the Land Development Code.

As the applicants "Exceptions Statement" and request for a change in the Land Use Plan designation are approved the requested zone change from EFU-CG to R-1 will be in conformance.

b. 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 applicant has filed MNP 23-88 which divided the property into three parcels of 2.0 acres +/- which demonstrates the requested zoning is practical when applied to the subject property.

c. 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 property will be accessed via an improved and paved county road, Modoc Point Rd..

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

The proposed use is an extension/in fill of the existing land use pattern to the east and west. Accordingly, as an extension/in fill there will not be an adverse impact.

8. CONCLUSIONS AND ORDER

The Board of County Commissioners finds the applicant has satisfied the pertinent review criteria as set out in OAR 660-04-028(6) 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 THE DICD WAS INFORMED OF THIS APPLICATION APRIL 26, 1994 AND HAS NOT ENTERED RESPONSE.

THEREFORE, it is ordered the request for CLUP/ZC 12-94 is approved for MIKOLAJCZYK from AGRICULTURE to RURAL and EFU-CG to R-1.

DATED this 5th day of JULY, 1994

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.

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Klamath County the 7th day
of July A.D., 19 94 at 2:08 o'clock P. M., and duly recorded in Vol. M94
of Deeds on Page 21044

FEE none
Commissioners Journal

Evelyn Biehn County Clerk

By Patricia C. Miller