

BEFORE THE BOARD OF COMMISSIONERS
KLAMATH COUNTY, OREGON

IN THE MATTER OF CLUP/ZC 17-94
BILLY BREEDLOVE FOR DIVERSIFIED FIBER

ORDER

1. NATURE OF THE APPLICATION

A hearing on this application was held before the Board of County Commissioners JULY 26, 1994.

The applicant is requesting a CLUP/ZC from RURAL/R-1 to INDUSTRIAL/IH on 16.5 acres located north of Hwy 140 E on the west side and within the Dairy RSC.

The applicants wish to legalize and then expand a pre-existing mill located on the property for 16 years.

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: Wes Sine, Ed Kentner, and F. Jean Elzner. The County Planning Commission, with a quorum present, participated in an advisory manner. A notarized list of those participating is in the Planning Department file regarding this application.

3. LOCATION

The site considered in this application is 16.5 described as parcel 1, MNP 80-41, located north of Hwy 140 E on the west side of Dairy. T.A. 3811-V33-600. Located in the SE 1/4 NE 1/4 Sec. 33, T 38S R 11E.

4. RELEVANT FACTS

The applicant has requested a CLUP/ZC from RURAL/R-1 to INDUSTRIAL/IH on 13.8 acres in Dairy. The property was planned/zoned to the existing rural designation as being within the Rural Service Center (RSC) boundary of Dairy. In the immediate RSC are lands zoned rural and commercial reflecting the existing land uses when the Land Use Plan was originally acknowledged. Zoning outside the Dairy RSC is Forestry Range to the north, south and east. EFU-CG is applied to farm lands to the west.

5. GOAL EXCEPTION

This is an application for a plan/zone amendment within an existing Rural Service Center outside any Urban Growth Boundary. The change requested is from one non-resource zone to another so an "exception statement" is not required.

The record developed for this application demonstrates the use existing (a lumber products mill) is suitable for the site and has, in fact, existed on this location for 16 years. The infrastructure support required by this location is found to have been sufficient for the non-conforming and for the proposed expansion.

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 in-

formation which documents the public need for the change;

The applicant offered testimony concerning the need for additional industrial properties with good highway access between Klamath Falls and Lakeview.

The applicant also presented testimony indicating the updating of the existing zoning to reflect existing use would have a positive effect on the County economy without adding burden to required services.

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 current RURAL/R-1 plan/zone was delineated within a Rural Service Center approved through the Acknowledgment process in 1985.

The application before the Board is to reflect an existing 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 as a millsite would be an appropriate use of the site, given the size, location, aspect, necessity, history and surrounding land use.

The Board finds the above criteria, 1 - 3, 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 IH 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 millsite, 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, industrial millsite, are consistent with the proposed zoning designation, IH.

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 Klamath Falls to Lakeview. The property derives direct access from Hwy 140 E and the Oregon Department of Transportation has participated in the process via ex. c requiring only that the an access permit be obtained.

The Board finds additional traffic above the present level appropriate to the use will not be generated on Hwy 140 E.

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 and commercial uses within the Dairy RSC. Lands outside the RSC are found devoted to resource uses. The conversion of the subject property to an industrial 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

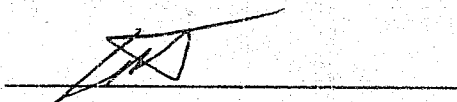
The Board of County Commissioners finds based on testimony received, and exhibits a-c, the applicant has satisfied the pertinent review criteria as set out in Oregon Administrative Rules and Articles 47 and 48 of the Code. Correct notice was given and the intent of the statewide planning program has been met.

The Board notes a response from the Department of Land Conservation and Development HAS NOT been received.

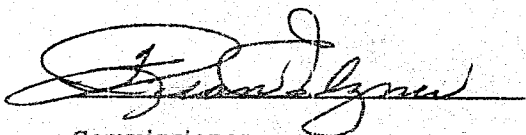
Therefore, it is ordered the request for CLUP/EC 17-94 is APPROVED for a Change in the Land Use Plan from COMMERCIAL to RURAL and a Zone Change from R-1 to IH subject to submittal/approval of a dust abatement program to/by the Planning Department designed to mitigate the impact of dust generated by this use.

DATED this ^{Aug.} 4th day of ~~April~~, 1994

Commissioner



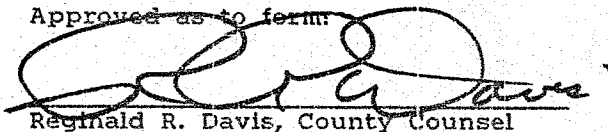
Commissioner



Commissioner

Out of Office

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 8th day of Aug A.D., 19 94 at 11:36 o'clock A.M., and duly recorded in Vol. M94 of Deeds on Page 24349.

FEE none
Commissioners Journal

Evelyn Biehn County Clerk
By Pauline Mullendorff