

BEFORE THE BOARD OF COMMISSIONERS
KLAMATH COUNTY, OREGON

IN THE MATTER OF CLUP/ZC 28-94
FOR ADRIAN & WANDA MITCHELL

ORDER

1. NATURE OF THE APPLICATION

A hearing on this application was held before the Board of County Commissioners DECEMBER 20, 1994.

The applicant is requesting a CLUP/ZC from TRANSPORTATION COMMERCIAL/CT to GENERAL COMMERCIAL/CR on 6.95 acres at the southwest corner of Hwy 138 & 97, Diamond Lake Junction.

The applicants intend to add a 14 space RV park in conjunction with their existing motel facility, Whispering Pines Motel.

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: Wes Sine, Ed Kentner and F. Jean Elzner. The County Planning Commission, with a quorum present, participated in an advisory manner. No one appeared in writing or in person opposing this application.

3. LOCATION

The site considered in this application is 6.95 acres located in the N 1/2 E 1/2 NE 1/4 NE 1/4 Sec. 12, T 29S R 7E. T.A. 2907-12AA-100.

4. RELEVANT FACTS

The applicant has requested a CLUP/ZC from TRANSPORTATION COMMERCIAL/CT to GENERAL COMMERCIAL/CR on 6.95 acres at Diamond Lake Junction. The property was planned/zoned to the existing commercial designation as an "exception area" recognized as an on-going commercial use by virtue of the long established motel.

To the immediate south the zoning is CR, to the east is CT, north is IL and F zoning is established to the west.

5. GOAL EXCEPTION

This is an application for a plan/zone amendment within an existing exception area 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 proposed (a small RV park is suitable for this location on this property as 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.

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 offered testimony concerning the need for additional tourist

facilities with good highway access between Klamath Falls, Diamond Lake and Bend. 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 COMMERCIAL/CT plan/zone was delineated as an "exceptions area" approved through the Acknowledgment process in 1985.

The application before the Board is for an accessory use to an existing commercial activity the Board 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 tourist and travelers facility 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 - 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 CR 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 rural residence, 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, a tourist/travelers facility, are consistent with the proposed zoning designation, CR.

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 Diamond Lake, Klamath Falls and Bend. The property derives direct access from Hwys 138 & 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 Diamond Lake Hwy.

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 commercial/industrial uses adjacent to the north, east 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-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.

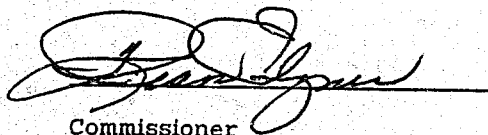
The Board notes a response from the Department of Land Conservation and Development HAS NOT been received.

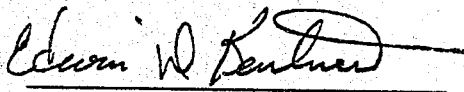
Therefore, it is ordered the request for CLUP/ZC 28-94 is approved for a Change in the Land Use Plan Designation from TRANSPORTATION COMMERCIAL to GENERAL COMMERCIAL and a Zone Change from CT to CR.

DATED this 23rd day of December, 1994.

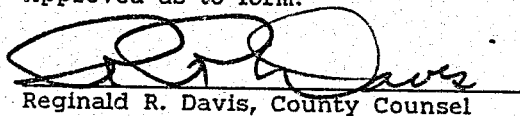
Commissioner

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 31st day of Jan A.D., 19 95 at 1:47 o'clock PM., and duly recorded in Vol. M95 of Deeds on Page 2168.

FEE none

Bernetha G. Letsch County Clerk

By Pauline Mendenhall

Comm. Journal

1799967

OREGON DEPARTMENT OF HUMAN RESOURCES
HEALTH DIVISION
CENTER FOR HEALTH STATISTICS
CERTIFICATE OF DEATH

Local File Number: 561

State File Number: 136

1. DECEASED'S NAME: **Ludmila Marie SPRIGGS**

2. SEX: **Fem.**

3. DATE OF DEATH (Month, Day, Year): **Dec. 23, 1994**

4. SOCIAL SECURITY NUMBER: **544 24 0280**

5a. AGE-Last Birthday (Years): **84**

5b. Under 1 Year: **Mos.**

5c. Under 1 Day: **Hours**

6. BIRTHPLACE (City and State or Foreign Country): **Austria**

7. DATE OF BIRTH (Month, Day, Year): **Feb. 8, 1910**

8. WAS DECEASED EVER IN U.S. ARMED FORCES? ☐ Yes ☒ No

9. PLACE OF DEATH (Check only one): ☐ Hospital ☐ Inpatient ☐ Outpatient ☐ DOR ☒ Other ☐ Nursing Home ☐ Decedent's Home ☐ Other (Specify):

10. FACILITY NAME (if not institution, give street and number): **Claimfont Nursing Center**

11. CITY, TOWN, OR LOCATION OF DEATH: **Klamath Falls**

12. COUNTY OF DEATH: **Klamath**

13. DECEASED'S USUAL OCCUPATION (Give kind of work done during most of working life. Do not use retired): **Homemaker**

14. KIND OF BUSINESS/INDUSTRY: **Own Home**

15. MARITAL STATUS - Married, Never Married, Widowed, Divorced (Specify): **Widowed**

16. SPOUSE (If Married, Widowed, Divorced) (Specify): **Charles Orville**

17. RESIDENCE - STATE: **Oregon**

18. COUNTY: **Klamath**

19. CITY, TOWN OR LOCATION: **Klamath Falls**

20. STREET AND NUMBER: **1320 Sargent**

21. INSIDE CITY LIMITS? ☒ Yes ☐ No

22. ZIP CODE: **97601**

23. WAS DECEASED OF HISPANIC ORIGIN? (Specify No or Yes - If yes, specify Cuban, Mexican, Puerto Rican, etc.) ☐ No ☒ Yes

24. RACE American Indian, Black, White, etc. (Specify): **White**

25. DECEASED'S EDUCATION (Specify only highest grade completed): **11**

26. FATHER - NAME first middle last: **Matthew Goldsmith**

27. MOTHER - NAME first middle maiden: **Marie**

28. INFORMANT - NAME and relationship to decedent: **Jerome Spriggs / Son**

29. METHOD OF DISPOSITION ☐ Mausoleum ☒ Burial ☐ Cremation ☐ Removal from State ☐ Donation ☐ Other (Specify):

30. PLACE OF DISPOSITION (Name of cemetery, crematory, or other place): **Klamath Memorial Park**

31. LOCATION - City or Town, State: **Klamath Falls, Oregon**

32. SIGNATURE OF FUNERAL SERVICE LICENSEE OR PERSON ACTING AS SUCH: *[Signature]*

33. LICENSE NUMBER (Of License): **3409**

34. NAME, ADDRESS AND ZIP OF FACILITY: **Ward's Klamath Funeral Home, Inc. 1945 Main / Klamath Falls, OR. / 97601**

35. REGISTRAR'S SIGNATURE: *[Signature]*

36. WAS GIFT MADE? ☐ Yes ☐ No ☒ N/A

37. DID HOSPITAL REPRESENTATIVE MAKE REQUEST FOR ANATOMICAL GIFT CONSENT? ☐ Yes ☐ No ☒ N/A

38. TO BE COMPLETED BY CERTIFYING PHYSICIAN

39. TIME OF DEATH: **13:15**

40. WAS MEDICAL EXAMINER NOTIFIED? ☐ Yes ☒ No

41. To the best of my knowledge, death occurred at the time, date, place and manner stated. (Signature): *[Signature]*

42. DATE SIGNED (Month, Day, Year): **December 28, 1994**

43. TO BE COMPLETED ONLY BY MEDICAL EXAMINER

44. TIME OF DEATH: **13:15**

45. DATE PRONOUNCED DEAD (Month, Day, Year, Hour): **12:15**

46. On the basis of examination and/or investigation, in my opinion death occurred at the time, date, place and due to the cause(s) and manner stated. (Signature): *[Signature]*

47. DATE SIGNED (Month, Day, Year): **December 28, 1994**

48. COUNTY: **Klamath**

49. NAME, TITLE, ADDRESS AND ZIP OF CERTIFIER/MEDICAL EXAMINER (Type or Print): **Blake D. Berven, MD / 2616 Clover / Klamath Falls, Oregon / 97601**

50. NAME OF ATTENDING PHYSICIAN IF OTHER THAN CERTIFIER (Type or Print):

51. IMMEDIATE CAUSE (ENTER ONLY ONE CAUSE PER LINE FOR (a), (b), AND (c)) Do not enter mode of dying, e.g. Cardiac or Respiratory Arrest

52. PART I

53. (a) DUE TO, OR AS A CONSEQUENCE OF: **Pneumonia**

54. (b) DUE TO, OR AS A CONSEQUENCE OF: **CVA**

55. (c) DUE TO, OR AS A CONSEQUENCE OF:

56. PART II

57. OTHER SIGNIFICANT CONDITIONS - Conditions contributing to death but not resulting in the underlying cause given in PART I.

58. Did tobacco use contribute to the death? ☐ No ☐ Probably ☒ Yes

59. Did alcohol use contribute to the death? ☐ No ☐ Probably ☒ Yes

60. Did drug use contribute to the death? ☐ No ☐ Probably ☒ Yes

61. Did other factors contribute to the death? ☐ No ☐ Probably ☒ Yes

62. MANNER OF DEATH ☐ Natural ☐ Pending investigation ☐ Accident ☐ Undetermined ☐ Suicide ☐ Legal ☐ Homicide

63. DATE OF INJURY (Month, Day, Year):

64. TIME OF INJURY: **M**

65. INJURY AT WORK? ☐ Yes ☒ No

66. PLACE OF INJURY - At home, farm, street, factory, office building etc. (Specify):

67. LOCATION (Street and Number or Rural Route Number, City or Town, State):

RESERVED FOR REGISTRAR'S USE

ORIGINAL-VITAL STATISTICS COPY

THIS IS A TRUE AND EXACT REPRODUCTION OF THE DOCUMENT OFFICIALLY REGISTERED AT THE OFFICE OF THE KLAMATH COUNTY REGISTRAR.

DATE ISSUED: **DEC 28 1994**

[Signature]
JANET BAILEY
COUNTY REGISTRAR
KLAMATH COUNTY, OREGON

45-2 Rev. 11-80

STATE OF OREGON: COUNTY OF KLAMATH: ss. Return: Jerry Spriggs, P.O. Box 1663, Klamath Falls, OR 97601

Filed for record at request of _____ the 31st day of Jan. A.D. 19 95 at 2:37 o'clock P.M. and duly recorded in Vol. 495 of Deeds on Page 2173

FEE \$10.00

Bernetha G. Letsch, County Clerk
By *[Signature]*