

**BEFORE THE BOARD OF COMMISSIONERS  
OF KLAMATH COUNTY, OREGON**

**IN THE MATTER OF CLUP/ZC 18-94  
FOR GARRY JOURNEY**

**ORDER**

**1. NATURE OF THE APPLICATION:** The applicant is requesting a Comprehensive Land Use Plan and Zone Change (CLUP/ZC) from Forestry/F to Industrial/IH on 6.2 acres located approximately one mile south of the Crescent Lake Cutoff, west of the KNRR, west of Crescent.

**2. NAMES OF THOSE INVOLVED:** A Hearing on this application was conducted DECEMBER 20, 1994 and continued to FEBRUARY 28, 1995. The applicant is Garry Journey who appeared and entered testimony in behalf of his application. The Planning Department was represented by Kim Lundahl. Karen Burg was the Recording Secretary. Members of the Board of County Commissioners who participated in this Hearing were: C. H. McMillan, III, F. Jean Elzner and Dave Henzel. The County Planning Commission, with a quorum present, participated in an advisory manner. A Notarized list of those who participated is on file at the Planning Department.

**3. LOCATION:** The subject property is designated Klamath County Tax Assessor Lot 2408-36-1400. It is located in portions of Section 36, T 24S R8E WM. and encompasses 27.88 acres m/l. The area within the tax lot considered in this application is tax lot 1400 described in Deed Book Volume M 90-16989 less the north and south 195 ft m/l and the east and west 407 ft m/l, defining an area of 6.2 acres m/l.

#### **4. FINDINGS OF FACT:**

##### **A. Background Information**

The twenty seven acre parcel is flat terrain with small scattered plots of second growth timber. On the developed area is a house, mobilehome, shop, corrals. The remainder is in pasture and stands of various age timber.

The subject property is one mile from the Crescent business district for grocery stores, public and private recreational facilities, auto repair and service, restaurants, telephone and power service, and State Highway 97. It is within the Crescent Rural Fire Protection District with a fire station being located approximately 1 1/4 mile northeast of the subject property.

Surrounding the subject property are parcels of property zoned R-1, IH and F. Within Exhibit H is a map which correctly reflects the current zoning. These designations were approved by the Board of Commissioners when the Comprehensive Plan for Klamath County was developed and acknowledged November 25, 1981.

It is within the Crescent Water District and domestic and fire protection water sources (fire hydrants) are existing at the property.

##### **5. HISTORIC USE:**

The subject property has not been used for any resource purpose for decades, and has never been used for agricultural purposes. In 1979 a one man mill and shop was located on the property and used to cut lumber. Next, an automobile wrecking yard was established on the property by Rod Sanger. The yard was operated for several years then Mr. Sanger relocated to Coburg. Following a man used the property as a Key Shop. Following this a secondary forest products operation was established until 1989. The applicant purchased the property in 1990.

Environmental Health Service Division evaluation of septic suitability from properties adjacent to the subject property have been completed. Based on tests conducted, approval of on-site sewage disposal systems is expected.

#### 6. EXCEPTIONS DOCUMENTATION:

The Department of Land Conservation and Development (DLCD) responded to notification of this application via letter dated June 16, 1994. Within the text of this letter signed by Doug White is the statement "To justify this request, we believe that a "reasons" exception to Goal 4 is required (OAR 660-04-020 and (022)." The Planning Commission discussed this requirement with the applicant at Hearing December 20, 1994 and required he submit this document to the Planning Department by February 17, 1995. The applicant submitted Exhibit H on February 23, 1995.

The following is an analysis of the information submitted (Exhibit H) as it relates to the requirements set out in OAR 660-04-020 & 022 as required by the DLCD June 16, 1994 (Exhibit C).

A. Characteristics of the Exception Area. The physical characteristics of the exception area, including its topography, history and current development are set forth above.

B. Characteristics of Adjacent Lands. To the east is a manufactured home on seven acres, Porters Saw Shop, Batesons Stables and another manufactured home. To the south is a 43 acre parcel zoned IH, but vacant. Southwest is a coffin manufacturing shop. Due west is a residence on 40 acres. To the north is Crown Pacific forest reserve.

C. Description of Neighboring Properties and Their Use. Not adjacent, but nearby uses include the KNRR R/W to the east, A pole mill 1/4 mile to the south, a shop for logging equipment to the southwest. North 1/4 mile is a complex of rental cabins, Red Rock Acres. The Crescent RSC is 3/4 mile north and east. A major transportation corridor, Hwy 97, is 1/2 mile to the east.

D. Existing Businesses Located Within One Mile Radius.

1. M & L Enterprises - secondary forest products processing
2. Log Home Builder
3. Crown Pacific Timber Mill - large mill operation
4. Loggers Shop
5. RV park
6. Chipping location
7. Commercial Stables
8. Rental Cabins
9. Machine Shop
10. Trucking Firm

E. Existing Public Facilities and Services. The subject property is located in the Crescent Rural Fire Protection District and the fire station is located approximately 1 1/4 of a mile northeast of the subject property in Crescent.

The property is within the Crescent Water District and both domestic and fire protection requirements are provided. There are two hydrants adjacent to the property.

Access to the property is provided by the Crown Pacific Road maintained along the west side

of the KNRR. This road provides for through traffic to many properties and is a looped system with several outlets to Hwy 97.

Within OAR 660-04-020 are the criteria to be discussed. The mandatory criteria, discussion and Board Findings are:

A. OAR 660-04-020 2 a - Reasons why the state policy embodied in the applicable goals should not apply and why the use requires a location on resource land.

The Board finds the uses set out by the applicant: logging equipment repair, auto wrecking facility, a secondary processing of forest products, are well suited to the exception site.

The location, outside of an RSC, but within a Fire District and Water Service District providing fire hydrants is unique, but ideal to the uses proposed.

The Board finds the site is visually screened from the KNRR road by distance, tree growth and a solid visual screening fence.

B. OAR 660-04-020 2 b - Areas which do not require a new exception cannot reasonably accommodate the use.

A. The Applicant testified and submitted documentation including maps and photos (Exhibit E, pg. 7) that all areas zoned Industrial were inappropriate to the uses envisioned.

A litany of existing properties indicates they are either poorly located, too small, or committed to uses already.

The Board finds the applicants intended uses require a new exception area be approved.

B. The applicant entered testimony justifying other areas which do not require an exception cannot accommodate the uses envisioned.

Other areas, which do not require an exception, are found to be committed to other uses or located in areas which, if the proposed uses were established, would create a use conflict.

The Board finds the uses proposed could reasonably be accommodated on the exception parcel as, even though it is located outside the Crescent RSC, it does enjoy a level of services comparable to properties located in the Crescent RSC.

The Board finds documentation and testimony in support of an "exceptions" has been submitted and reviewed and APPROVES the applicants efforts as supportive.

**7. COMPREHENSIVE PLAN CHANGE REVIEW CRITERIA - ARTICLE 48:**

Klamath County Land Development Code Section 48.030A sets forth the review criteria for approving a comprehensive land use plan change. The criteria and the applicant's evidence which responds to the criteria are as follows:

A. The public need of this change in the Comprehensive Plan is shown by testimony entered by Garry Journey and Exhibits D & H.

The Board finds there is demonstrated need for an automobile dismantling facility as no such LEGAL facility exists between Chiloquin and Bend along the Hwy 97 corridor.

The Board finds there is demonstrated need for a secondary forest products facility as the direction of forest products processing is to smaller facilities operating with a small overhead manufacturing specialized products. i.e. fencepost, vs. dimension lumber. The Board finds this facility could increase local employment.

The Board finds there is demonstrated need for a larger logging equipment repair facility as existing facilities are located on small parcels within the Crescent RSC and are unable to expand.

B. The proposed change is in compliance with state-wide planning goals. The relevant state-wide planning goals are; Goal 4, Forestry, Goal 11, Public Facilities and Services; and Goal 9, County Economy.

The subject property was planned and zoned for Forestry. The soil in the subject property is predominantly Class VII. The evidence described above demonstrated that this property is physically suitable for this use, if extenuating circumstances are not factored.

Because of its size, proximity to a diseased forest, and its proximity and similarity to other land already devoted to rural residential, commercial and industrial use, the Board finds the property is not suited to viable, forestry use. The conflicts which would arise from attempting to manage the property for forest uses prevent that resource use of the property. The property is physically separated from commercial, agricultural uses in the general area. The state-wide goals of preserving and protecting forest land from conflicting uses are not applicable to the subject property. The exception information set forth hereinabove demonstrates that the change in land use plan for the subject property from Forestry to Industrial, F to IH, will not decrease the forest land inventory and will not take any viable forest land out of production.

Goal 11, Public Facilities and Services, is designed to plan for the timely, orderly, and efficient arrangement of public facilities and services. In developing its Comprehensive Land Use Plan, the county studied the existing development of land in the county and the relationship between land development and the need for public facilities and services. Those studies are part of Klamath County's Comprehensive Plan. For Industrial development, the County identified in its comprehensive plan a need for the provision of the following services:

- (1) Road development and maintenance;
- (2) Water and septic services;
- (3) Fire protection; and
- (4) Power, telephone, and other utilities.

In comparing the provision of those services to the subject property, the preliminary plat for the subject property shows the layout of a road which will be constructed to County standards and which intersects with the Crescent Lake Cutoff. The road is maintained by Crown Pacific and land owners benefiting.

Water services are provided by the Crescent Water District. Individual septic systems are on site. Reports attached demonstrate the suitability of the property for septic systems.

The property is located in the Crescent Fire Protection District and a fire station is located 1 1/4 mile northeast of the subject property.

Electrical services and telephone services will be provided by underground conduits to the property. Other services available in the general area include public parks, privately owned grocery stores, churches, recreational facilities and other small community services.

Land Use Goal 9, County Economy, is designed to provide for the orderly and efficient development of economic opportunity. The Board finds the development of the exception site will result in the addition of economic opportunity in the Crescent area. The Board finds the gross number of jobs added to be a small number, but also finds any net increase in the Crescent area, a substantial improvement.

C. The proposed change is in conformance with policies of the Klamath County Comprehensive Plan. The subject application and planned use for the property is congruent with the policies for state-wide planning Goals 4, 9, and 11 which are described hereinabove.

As described above, this area is well-suited for Industrial use, is well-received by the public, and is a desirable location for the uses proposed.

The Board finds there is a definite demonstrated need for this type of development. The subject area contains the public and private services which the county deems necessary and services can accommodate the growth that will arise from the development of this property without any adverse effect.

**9. ZONE CHANGE REVIEW CRITERIA - ARTICLE 47:**

Article 47 of the Klamath County Land Development Code contains the review criteria which must be addressed in approving a change of zone. The criteria and the applicants' evidence of compliance therewith is as follows:

A. The proposed change of zone from Forestry to IH is in conformance with the comprehensive plan and all other provision of the Land Development Code. The relevant comprehensive plan, findings and policies are discussed hereinabove. In addition, many of the Land Development Code requirements are also discussed above or demonstrated.

B. The property affected by the change of zone is adequate in size and shape to facilitate the uses that are allowed in conjunction with such zoning. The property is 6.2 acres in size. The applicant has submitted herewith a preliminary development plan which, prior to initiation will need to be reviewed by the Commercial/Industrial Site Plan Review Committee.

The information submitted herewith demonstrates that domestic water, fire protection and septic systems and other required utilities are well suited for the development of the subject property. The subject property is adequate in size and shape to facilitate the planned use and the planned use provides a reasonable transition from Forestry to Industrial development.

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 use that may be permitted therein. The proposed preliminary plan submitted by the applicants show the access street proposed for the property. The width and design of the street is in compliance with the code and the access will be built to county specifications. County and state roads which serve the subject property have the capacity to carry the increased traffic which will be generated by the businesses located on the subject property.

D. The proposed change of zone will have no adverse effect on the appropriate use and development of adjacent properties. As described above, the subject property lies in the hart of an area which is committed to development as non-resource uses. The pattern of development surrounding the subject property is rural residential/commercial/industrial. The land use to the east and southeast is significantly denser than that on the subject property. The development of this property will not interfere or impact commercial agriculture and forestry uses. The property is not well suited for either purpose as outlined herein. Property surrounding the subject property is similarly not well suited for agriculture or forestry purposes.

#### **10. OTHER CONSIDERATIONS:**

The subject property does not lie within any identified fish or wildlife resource area. The exception site contains no mineral or aggregate resources, historic or cultural values, energy resources, or other resources listed under Goal 5 of the Klamath County Comprehensive Plan. The proposal does not conflict with any natural resource values, and it does not conflict with any air, water, or land resource quality criteria.

The subject property is not in an area subject to natural disaster or hazards and is not required for the recreational needs of the state and its visitors. The development of the property will enhance economic development of Klamath County by increasing the tax base value, providing jobs for the citizens that are here and providing demands for the private retail and commercial interests of the Crescent area and Klamath County generally.

#### **11. PLANNING COMMISSION RECOMMENDATION:**

The Planning Commission has recommended APPROVAL of this application based on findings set out in motion made by Ernest Palmer and seconded by Doug Everett. The Board sincerely appreciates the Planning Commission effort and involvement with the Planning process. The Board has fully considered the recommendation, Exhibits A-H and testimony entered.

#### **12. CONCLUSION AND ORDER:**

The Board of Commissioners finds the subject property is particularly well suited and sited for industrial development. The development of the property will meet a demonstrated need for the specified uses. Basically, if not on the subject property, then where?

As to the "exceptions statement" the Board finds the documentation does support a "committed exception" and finds it does comply with OAR 660-04-020 & 22.

The applicants have satisfied the review criteria set out in Article 47 and 48 of the Klamath County Land Development Code.

Proper notice of the application and the hearing was given. The intent of the statewide planning goals have been met.

THEREFORE, it is hereby ordered the change of Comprehensive Land Use Plan designation and zoning of the subject property from FORESTRY/F to INDUSTRIAL/IH is APPROVED subject to the application of a LIMITED USE OVERLAY (Art. 59.8) as suggested by the DLCD, recommended by the Planning Commission and APPROVED by the Board.

The Board ORDERS the official plan/zoning map to be amended to note the application of the Limited Use Overlay to the subject property and approved uses limited to:

1. Auto Wrecking Yard & Heavy Equipment Repair (Sec. 53.420 G).
2. Secondary Processing of Forest Products (Sec. 53.420 L).


DATED this 3<sup>rd</sup> day of MARCH, 1995.

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C. H. McMillan, III, Chair

  
F. Jean Ezner, Commissioner

  
Dave Henzel, Commissioner

Approved as to form:

  
Reginald R. Davis  
County Counsel

#### NOTICE OF APPEAL RIGHTS

You are hereby notified this decision may be appealed to the Land Use Board of Appeals within 21 days following the date of mailing of this ORDER. Contact the Land Use Board of Appeals for information as how to file this appeal. Failure to do so in a timely manner may affect your right to appeal.

STATE OF OREGON: COUNTY OF KLAMATH : ss.

Filed for record at request of Klamath County the 7th day  
of March A.D., 19 95 at 10:40 o'clock A M., and duly recorded in Vol. M95  
of Deeds on Page 5016

Bernetha G. Letsch, County Clerk

FEE none

By 