

24175

Vol. 1996 Page 27384
BEFORE THE BOARD OF COMMISSIONERS
OF KLAMATH COUNTY, OREGON

IN THE MATTER OF CLUP/ZC 3-96
FOR MAGNESS/PONDELLA

ORDER

1. **NATURE OF THE APPLICATION:** The applicant is requesting a Comprehensive Land Use Plan and Zone Change (CLUP/ZC) from FORESTRY/FR to NON-RESOURCE/NR on 76 acres, a part of a 116 acre ownership, located north of Uhrmann Dr, and Wocus Rd., Wocus.

2. **NAMES OF THOSE INVOLVED:** A Hearing on this application was conducted AUGUST 27, 1996. The applicants were Barbara MAGNESS and George PONDELLA who appeared and entered testimony in behalf of their 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: F. Jean Elzner and Nell Kuonen. The County Planning Commission, with a quorum present, participated in an advisory manner. A notarized listing of those who participated is on file at the Planning Department.

3. **LOCATION:** The subject property is legally described as LP 21-91. It is located in portions of secs. 6 & 7. T 38S R 9E, WM.

4. **FINDINGS OF FACT:**

A. **Background Information**

The 76 acre parcel is rolling terrain, Class VII soils, and is NOT developed. The subject property is 6 miles from the Downtown 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 KCFD #1 Fire Protection District with a fire station being located

approximately 3 mile south of the subject property.

Surrounding the subject property are parcels of property zoned NR, EFU-C and R-5. These designations were approved by the Board of Commissioners when the Comprehensive Plan for Klamath County was developed and acknowledged November 25, 1981.

5. HISTORIC USE:

The subject property has not been used for any resource purpose for decades, and has never been used for agricultural purposes. 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:

As this is a plan/zone change involving resource plan/zones, an EXCEPTIONS STATEMENT is required. The Department of Land Conservation and Development (DLCD) did respond to this application via letter dated May 7, 1996. The applicants submitted response June 18, 1996 and further comment was NOT received from the DLCD.

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 MAGNESS/PONDELLA.

The Board finds there is demonstrated need for additional large rural properties as a need/demand for the existing zoned property has not been made.

B. The proposed change is in compliance with state-wide planning goals. The relevant state-wide planning goals are; Goals 1 - Citizen Involvement, 2 - Land Use Planning, 4- Forest Lands, 10 - Housing and 11 - Public facilities and Services.

The subject property was planned and zoned for Forestry use at the request of the property owner in 1981 and endorsed by the Citizens Steering Committee.

Because of its size and proximity to expanding rural/residential uses the proposed use for large (20 acre +) rural lots is found to be of no conflict.

The Board finds a positive impact would be realized by the conversion of the Forest planned zoned property to a Rural use to be in harmony with the current trend in Klamath County, expanding rural/residential development. The state-wide goals of preserving and protecting land uses from conflicting uses are applicable to the subject property. The information set forth hereinabove demonstrates that the change in land use plan for the subject property from FR to NR, will not decrease the forest land inventory to an appreciable degree.

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 Commercial 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 property is accessed by a maintained County road, Wocus Rd..

Water services are provided by well. Individual septic systems are nearby.

The property is located in the KCFD #1 Fire Protection District and a fire station is located 3 mile south 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.

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 1, 2, 4, 10 and 11 which are described hereinabove. As described above, this area is well-suited for Rural use and is a desirable location for the uses proposed.

The Board finds there is a definite demonstrated need for this type of development, a large lot rural 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.

8. 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 FR to NR 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 74 acres in size. The applicant will need to submit a partition which, prior to initiation will need to be reviewed by the Planning Director via the Land Partition review process.

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.

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 existing road is in compliance with the code. County and state roads which serve the subject property have the capacity to carry the increased traffic which will be generated by the homes 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 heart of an area which is committed to development as non-resource uses. The pattern of development surrounding the subject property is rural residential and non-commercial agriculture. The land use to the south 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.

9. 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 area and Klamath County generally.

10. PLANNING COMMISSION RECOMMENDATION:

The Planning Commission has recommended APPROVAL of this application. The Board sincerely appreciates the Planning Commission effort and involvement with the Planning process. The Board has fully considered the recommendation, Exhibits A-I and testimony entered.

11. CONCLUSION AND ORDER:

The Board of Commissioners finds the subject property is particularly well suited and sited for rural development. The development of the property will meet a demonstrated need for the specified uses.

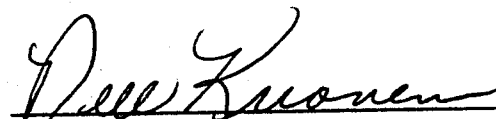
Proper notice of the application and the hearing was given. The intent of the statewide planning goals have been met.

THEREFORE, pursuant to motion made by Nell Kuonen and seconded by F. Jean Elzner, it is hereby ordered the change of Comprehensive Land Use Plan designation and re-zoning of the subject property from FORESTRY/FR to NON-RESOURCE/NR IS APPROVED.

DATED this 29th day of August, 1996.

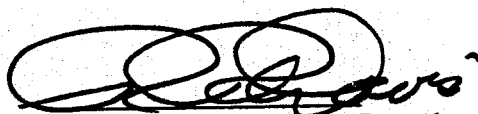


F. Jean Elzner, Chair



Nell Kuonen, 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 3rd day
of September A.D., 19 96 at 2:41 o'clock P M., and duly recorded in Vol. M96,
of Deeds on Page 27384.

FEE No Fee Return: Commissioners Journal By Bernetha G Letsch, County Clerk
