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BEFORE THE BOARD OF COMMISSIONERS  
OF KLAMATH COUNTY, OREGON

IN THE MATTER OF CLUP/ZC 8-96  
FOR ROBERT BROWN

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ORDER

1. **NATURE OF THE APPLICATION:** The applicant is requesting a Comprehensive Land Use Plan and Zone Change (CLUP/ZC) from AGRICULTURE/EFU-G to FORESTRY/F on 398 acres located east of the Westside Rd., 12 miles north of Rocky Point. This change is requested to facilitate consideration of a mineral extraction facility on a portion of the site and considered by the Planning Commission as CUP 45-96.

2. **NAMES OF THOSE INVOLVED:** A Hearing on this application was conducted AUGUST 27, 1996. The applicant was represented by Stewart Cleave who appeared and entered testimony in behalf of this 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 property is located is Sec. 2, T 34S R 6E. WM., located east of the Westside Rd., twelve miles north of Rocky Point.

4. **FINDINGS OF FACT:**

A. **Background Information**

The 397 acre parcel is flat terrain, Class VII soils, and has no physical development. Surrounding the subject property are parcels of property zoned F and EFU-G. These designations were approved by the Board of Commissioners when the Comprehensive Plan for

Klamath County was developed and acknowledged November 25, 1931.

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**5. HISTORIC USE:**

The subject property has been used for mineral extraction purposes on a sporadic basis, intense management for forestry or agriculture purposes has not occurred.

**6. EXCEPTIONS DOCUMENTATION:**

As this is a plan/zone change involving resource plan/zones from one to another, an EXCEPTIONS STATEMENT is NOT required. The Department of Land Conservation and Development (DLCD) was notified and has NOT responded.

**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 the applicant.

The Board finds there is demonstrated need for additional lands that can be permitted for mineral extraction facilities (CUP 45-96).

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, 3, - Agricultural Lands, 4- Forest Lands, 5 - Natural Resources, and 9 - Economic Development.

Because of its size and proximity to existing Mineral Extraction and Forest uses proposed use for an expanded mineral extraction facility is found to be of no conflict.

The Board finds a positive impact would be realized by the conversion of the Agriculture planned

zoned property to an extractive use to be in harmony with the current trend in Klamath County, expanding 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 EFU-G to F, will not decrease the agricultural land inventory to an appreciable degree.

The Board finds there is a definite demonstrated need for this type of development, a mineral extraction site.

#### **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 EFU-G to F 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 398 acres in size. The applicant will need to submit a DOGAMI application which, prior to approval, will need to be reviewed by the Planning Director.

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 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 uses 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 resource uses. The development of this property will not interfere or impact commercial agriculture and forestry uses.

#### **9. OTHER CONSIDERATIONS:**

The subject property IS within an area set out as an active Bald Eagle Nest, a Goal 5 resource. This was recognized by the applicant and contacted agencies. Exhibit G sets out an operation plan agreeable to the applicant and those agencies charged with protecting the resource. These conditions are set out as required in related case CUP 45-96.

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-J and testimony entered.

**11. CONCLUSION AND ORDER:**

The Board of Commissioners finds the subject property is particularly well suited and sited for the proposed use. 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 AGRICULTURE/EFU-G to FORESTRY/F 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.**

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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 PM., and duly recorded in Vol. M96 of Deeds on Page 27392.

FEE No Fee Return:Commissioners Journal

Bernetha G Letsch, County Clerk

By 