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BEFORE THE BOARD OF COMMISSIONERS
KLAMATH COUNTY, OREGON

In the Matter of the Application for a)
Conditional Land Use Plan and Zone) CLUP/ZC NO. 11-96
Change for Patrick and Cherie Appleby,)
Applicants.) ORDER

THIS MATTER came before the Planning Commission and Board of Commissioners of Klamath County, Oregon for a hearing on November 26, 1996. The hearing was held pursuant to Notice given in conformity with the Klamath County Land Development Code and related statutes and ordinances. The Klamath County Planning Department was represented by Kim Lundahl, and the Recording Secretary was Karen Burg. The County Planning Department file and all exhibits and other contents therein is incorporated by this reference into the record in this matter. The Applicants were represented by attorney William M. Ganong, who presented argument for the Applicants. No other parties testified. After hearing the staff report and information provided by the Applicants' representative, and after reviewing the Planning Department's file, the Planning Commission unanimously recommended to the Board of Commissioners that the Board of Commissioners approve the subject Application.

NATURE OF THE REQUEST

The Applicants requested a change in plan and zone designation from Forestry/F to Agriculture/EFU-CG on 117.9 acres of land generally located westerly of Beal Road, 2.5 miles south of State Highway 31, and three miles from the Deschutes County-Klamath County boundary.

RELEVANT FACTS

The subject property is currently zoned Forestry. The zoning probably results from the fact that the property is surrounded by Bureau of Land Management property, which is generally managed for forest uses, and the fact that at the time Klamath County adopted its comprehensive plan and zoning, the Soil Conservation Service had not completed a soil survey of Northern Klamath County. Therefore, it was not known what SCS soil types existed on the land in Northern Klamath County, and the County, therefore, was not able to designate any of that said land as agricultural based on soil types. However, the property has historically been used for agricultural purposes, primarily the grazing of cattle. The property is currently employed for agricultural purposes, and it is currently leased by the owners to a third party who uses the property and an adjoining Bureau of Land Management Grazing Permit for the pasturing and grazing of cattle.

The property is approximately 66 percent meadow and 34 percent lodgepole pine-grazing land. The Applicants have submitted a Farm Management Plan wherein, and conditioned upon the approval of this request, the Applicants intend to substantially improve the property for agricultural use. The Applicants intend to reseed the meadow areas; to fence and cross fence the subject property; to build corrals, barns, and other agricultural buildings; to drill a well so that water is available year round on the property; and eventually, to build a home in conjunction with the farm use on the property.

The property will remain in agricultural use, and the historic use of the property will not change. Because there will be no change in the historic use of the property, there are no attendant impacts on adjoining property that may arise as a result of this Application.

The soils on the property are SCS Class 6 soils. They are very good, highly productive soils, however, their production is limited due to the short growing season available in Northern Klamath County. Nevertheless, the property will produce net agricultural income, as shown in the Applicants' Farm Management Plan, of in excess of \$40,000 per year.

Fire protection can be provided by the La Pine Rural Fire Protection District on a contract basis. The Applicants have contacted the fire district and have agreed to provide the district with access to the Applicants' water supply system for purposes of fire protection. The subject property is served by other services reasonably necessary for rural land, including electrical power and telephone services.

The surrounding property is generally devoted to farm use, being primarily cattle grazing. Some of the surrounding properties have been developed with farm buildings in a manner similar to that proposed by the Applicants.

CODE CRITERIA AND FINDINGS

The code criteria for reviewing and approving a comprehensive land use plan and zone change are set forth in the Applications completed and submitted by the Applicants. The Applicants have addressed each of the criteria in their responses on their Application. The most relevant criteria for this review includes Comprehensive Plan Goal No. III, Policy 4, which provides that the county shall regulate overlapping agricultural and forestry lands in a manner that allows the market to determine the appropriate use for either. In this case, the evidence clearly demonstrates that the appropriate use for the subject property is agriculture. Therefore, the policy allows the county to plan, zone, and regulate the subject property for agricultural uses. The proposed plan and zone change does not conflict with any of the goals or policy statements

of Klamath County's Comprehensive Land Use Plan. The change requested by the Applicants is really a paper change, as there will be no significant change in the agricultural use of the property, other than that agricultural use will become more intense as the property is further developed for agricultural use. As the property will remain in agricultural use, similar to its historic use, the subject CLUP and Zone Change changes will have no significant impact on any of the adjoining land or on any of the agricultural or forestry practices on any of the adjoining or nearby land. The approval of the subject Application will further the intent of Goal III Agricultural Use by planning and zoning this property for agricultural use, thus preserving and maintaining the agricultural use of the land.

The Farm Management Plan submitted by the Applicants and the historic use of the property both demonstrate that the property is adequate in size and shape to facilitate any of the uses allowed in the agricultural zone. As is stated in the findings and facts set forth above, the property is served by streets and roads and other public facilities adequate to serve the types of use that will occur on the subject property. The proposed change in plan and zone designation will have no significant adverse affect on the appropriate use and development of adjacent properties. The proposed change is supported by specific studies and factual information, including the Applicants' consultant's report and the Applicants' Farm Management Plan, which document the need and appropriateness of the proposed changes.

ORDER

THEREFORE, IT IS ORDERED that the Applications for a Comprehensive Land Use Plan and Zone Change for the Applicants' property, which is more particularly described as Klamath County Tax Lot R-2310-0000-0170, are granted, and the Comprehensive Land Use Plan

designation for the subject property is changed from Forestry to Agriculture, and the zoning designation is changed from Forestry to Exclusive Farm Use/Crop Grazing.

DATED THIS 19th day of December, 1996.

KLAMATH COUNTY BOARD OF COMMISSIONERS

By: [Signature]
F. Jean Elzner, Chairperson

By: [Signature]
Nell Quonen, Board Member

By: [Signature]
Florence Wynne, Board Member

Approved as to Form:

[Signature]
Reginald R. Davis, County Legal Counsel

NOTICE OF APPEAL RIGHTS

You are hereby notified that this Order may be appealed to the Land Use Board of Appeals by filing with the Land Use Board of Appeals a Notice of Appeal as set forth in ORS 197.610-197.625. Said Notice of Appeal must be filed with the Land Use Board of Appeals on or before the 21st day after the date that this decision was mailed to parties entitled to Notice under ORS 197.615.

CLUP/ZC NO. 11-96

ORDER

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STATE OF OREGON : COUNTY OF KLAMATH: ss.

Filed for record at request of Klamath County the 23rd day
of December A.D., 19 96 at 9:25 o'clock A. M., and duly recorded in Vol. M96
of Deeds on Page 39638

FEE No Fee: Return: Commissioners Journal

Bernetha G. Letsch, County Clerk

by

[Signature]