

BEFORE THE BOARD OF COMMISSIONERS
OF KLAMATH COUNTY, OREGONIN THE MATTER OF CLUP/ZC 6-97
FOR DONALD JOHNSTON

ORDER

1. NATURE OF THE APPLICATION: The applicant requested a Comprehensive Land Use Plan and Zone Change (CLUP/ZC) from NON RESOURCE/NR to RURAL/R-5 on 290 acres located north and east of Hwy 66 (Greensprings) one mile east of Keno.

2. NAMES OF THOSE INVOLVED: A Hearing on this application was conducted JUNE 24, 1997 and continued to SEPTEMBER 30, 1997. The applicant and his representative Jerry Barrett appeared and entered testimony in behalf of his application. The Planning Department was represented by Kim Lundahl. Members of the Board who participated in this Hearing were: Al Switzer, William R. Garrard, and M. Steven West. 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 located just east of Keno, and is described as portions of Section 29-32 T 39S R 8E.

4. FINDINGS OF FACT:A. Background Information

The 290 acre property is generally below 15% in slope and has been used for resource purposes for decades. The subject property is one mile from the Keno business district for grocery stores, public and private recreational facilities, auto repair and service, restaurants, telephone and power services. It is within the KENO RFPD with a fire station one mile west.

To the west of the subject property are parcels of property zoned R-1. 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 been used for resource purposes for a century, having been used for agricultural purposes.

6. EXCEPTIONS DOCUMENTATION:

As this is NOT a plan/zone change involving resource plan/zones, an EXCEPTIONS STATEMENT WAS NOT required.

7. COMPREHENSIVE PLAN CHANGE REVIEW CRITERIA - ARTICLE 48:

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

Criteria 48.030 B (1) - The proposed change is supported by specific studies or other factual information which documents the public need for the change.

FINDING: The public need for this change in the Comprehensive Plan WAS NOT supported by specific studies or other factual information.

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 specific criteria and the Boards findings are as follows:

Section 47.030 B (4) - The proposed change of zone designation will have no adverse effect on the appropriate use and development of adjacent properties;

FINDING: Based on the written and oral testimony of adjacent and affected property owners the Board finds that the proposed change would impact the use and development of adjacent property and this application does not comply with this criteria.

Section 47.030 B 5 - The proposed change is supported by specific studies or other factual information which document the need for this change.

FINDING: The Board finds that the testimony presented does not document the need for this change.

10. PLANNING COMMISSION RECOMMENDATION:

The Board appreciates and respects the Planning Commission effort and involvement with the Planning process.

Although the Planning Commission has recommended APPROVAL of this application, the Board after full consideration of the recommendation and review of the exhibits and testimony reverses the Planning Commission for the reasons stated above.

11. CONCLUSION AND ORDER:

The Board of Commissioners finds the subject property was NOT demonstrated to be well suited and sited for the proposed rural development and does not accept the Planning Commissions recommendation. Specifically the Boards finds compliance with the criteria set out in Section 47.030 B (4) & (5) and 48.030 B (4) were not demonstrated.

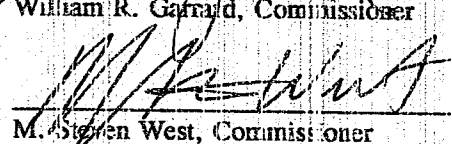
Proper notice of the application and the hearing was given. The intent of the statewide planning goals have been met.

THEREFORE, pursuant to motion made by William GARRARD and seconded by M. Steven WEST, it is hereby ordered the change of Comprehensive Land Use Plan designation and Zoning of the subject property from NON-RESOURCE/NR to RURAL/R-5 IS DENIED.

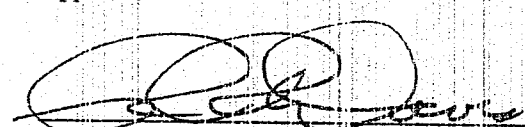
DATED this 7th day of October, 1997.


Al Switzer, Chair


William R. Garrard, Commissioner


M. Steven West, 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 execution 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 B.O.C. the 8th day
of October A.D., 19 97 at 11:57 o'clock A.M., and duly recorded in Vol. M97
of Deeds on Page 33158

FEE No Fee

By Bernetha G. Letsch County Clerk
