

BEFORE THE BOARD OF COMMISSIONERS
OF KLAMATH COUNTY, OREGON

IN THE MATTER OF CLUP/ZC 11-98
FOR PARADISE HILL DEVELOPMENT LLC

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 617 acres and NON RESOURCE/NR to COMMERCIAL/CG on 4 acres generally located east of the intersection of Hwy 97N and Wocus Rd..

2. NAMES OF THOSE INVOLVED: A Hearing on this application was conducted OCTOBER 27, 1998. The applicant, Frank Goodson, and his representatives Mike Spencer, Doug Adkins, and Tomas Pedersen appeared and entered testimony in behalf of this application. Kim Lundahl represented the Planning Department. Members of the Board who participated in this Hearing were: William R. Garrard, M. Steven West and Al Switzer. 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 north of Wocus, and is *generally* located in portions of Section 6-8 T 38S R 9E..

4. FINDINGS OF FACT:

A. Background Information

The 621 acre property has an average slope of 18-19% and has been used for very limited grazing and wildlife habitat. The subject property is six miles from the Klamath Falls Downtown business district for grocery stores, public and private recreational facilities, auto repair and service, restaurants, telephone and power services. It is within the KCFD #1 with a fire station six miles south..

5. HISTORIC USE:

The majority of the subject property was divided into 20 acre+ parcels via Tract 1316, Paradise Hill. The subject property had been used for resource purposes, having been used for very limited grazing and wildlife habitat.

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 Board's 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.

The applicant provided data from Multiple Listings (Ex. KK) purporting a shortage of properties available for rural use.

FINDING: The Board finds this information DID NOT demonstrate the public need for this change in the Comprehensive Plan which shall be supported by specific studies or other factual information.

Criteria 48.030 B (2) - The proposed change complies with policies of the Comprehensive Plan. Ordinance 44.64 amended Goal 11, Policy 12 of the Comprehensive Plan; Policies Document to allow the consideration of plan changes from Non-Resource to Rural designations. These changes must be considered via the four criteria set out in the Ordinance.

FINDING: The Board finds the testimony and evidence submitted DID NOT demonstrate compliance with the four criteria set out in Ordinance 44.64 (Goal 11, Policy 12).

8. ZONE CHANGE REVIEW CRITERIA - ARTICLE 47:

Article 47 of the Klamath County Land Development Code contains the review criteria that must be addressed in approving a change of zone. The specific criteria and the Boards findings are as follows:

Section 47.030 B 3 – The property affected by the proposed change of zone designation is properly related to streets and roadsto adequately serve the types of uses allowed in conjunction with such zoning.

FINDING: Based on the testimony and evidence submitted by the Oregon Dept. of Transportation (Ex. Q) the Board finds the proposed change inconsistent with the function, level of service and safe operation of Hwy 97.

Section 47.030 B 4 – The proposed change of zone 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 documents the need for this change.

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

9. PLANNING COMMISSION RECOMMENDATION:

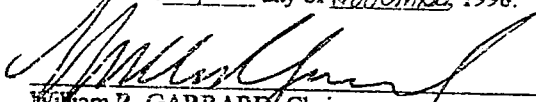
Although the Planning Commission has recommended APPROVAL of this application, the Board after full consideration of the recommendation and review of the exhibits A-OO and testimony reverses the Planning Commission based on the findings above.

10. CONCLUSION AND ORDER:


The Board of Commissioners finds the subject property was NOT demonstrated to be well suited and sited for the proposed changes and did not accept the Planning Commissions recommendation. Specifically the Boards finds compliance with the criteria set out in Section 47.030 B (3),(4) & (5) and 48.030 B (1) and (2) were not demonstrated. Proper notice of the application and the hearing was given. The intent of the statewide planning goals has been met.

THEREFORE, pursuant to motion made by M. Steven WEST and seconded by Al SWITZER, it is hereby ordered the change of Comprehensive Land Use Plan Designations and Zonings of the subject property from NON-RESOURCE/NR to RURAL/R-5 and COMMERCIAL/CG are DENIED.

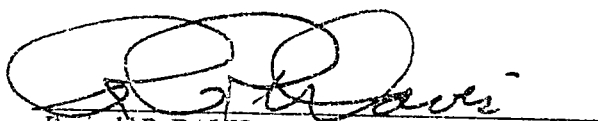
DATED this 14th day of November 1998.


William R. GARRARD, Chair


M. Steven WEST, Commissioner


Al SWITZER, 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 BOC the 6th day
of November A.D. 19 98 at 11:49 o'clock A. M., and duly recorded in Vol. M98
of Deeds on Page 40756.

FEE No Fee

Return: Commissioners Journal

By Bernetha G. Letsch, County Clerk
Kathleen Ross