

MAY - 4 1999

by Board or Commissioners

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF KLAMATH COUNTY, OREGON**

**IN THE MATTER OF CLUP/ZC 4-99
FOR DEBORAH AND JOHN JOHNSON**

ORDER

1. NATURE OF THE APPLICATION: The applicant has requested a Comprehensive Land Use Plan and Zone Change (CLUP/ZC) to reconfigure the current zoning boundaries. The 3 lots are currently zoned both rural residential (R-1) and general commercial (CG) and total 11.23 acres. The applicant has requested this based on Planning Staff recommendations to correlate zoning boundaries with the proposed Tract 1358.

2. NAMES OF THOSE INVOLVED: A Hearing on this application was conducted on APRIL 27, 1999. The applicant's representative Dennis Enzer from Tru-Line Surveying, appeared and entered testimony on behalf of the application. Kevin Russell represented the Planning Department. Members of the Board of County Commissioners who participated in this Hearing were: M. Steven West, Al Switzer, and William R. Garrard. 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: : Parcels lying adjacent to and 600 feet east of Washburn Way and adjacent to and 900 feet north of Midland Road.

MTL# - R-3909-033D0-01500,01600,01700

4. FINDINGS OF FACT: The applicant has requested a CLUP/ZC to reconfigure existing Rural Residential (R-1) and General Commercial (CG) zoning boundaries so they coincide with the proposed lot lines of Tract 1358. The properties currently consist of 3 separate tax lots totaling 11.23 acres. The existing zoning is comprised of 5.24 acres of CG and 5.99 acres of R-1. This proposal will create 7.53 acres of residential (R-1) and 3.7 acres of commercial (CG). Currently, Mt. Pacific Excavation operates a commercial business on tax lot # R-3909-033D0-01700-000 and this proposal will reconfigure the commercial zoning around this existing operation.

5. HISTORIC USE: Tax Lot #R- 3909-033D0-01700-000 is occupied by Mt. Pacific Excavation and is utilized as a commercial operation. The remainder of the lots are currently vacant with some minimal equipment storage.

6. EXCEPTIONS DOCUMENTATION: No Exception Statement was required from the Statewide Planning Goals.

7. COMPREHENSIVE PLAN CHANGE REVIEW CRITERIA – ARTICLE 48:

This request is to create zoning boundaries that conform to the existing and surrounding land uses. The properties currently contains both R-1 and CG zoning, and therefore the application is requesting a realignment of the zoning boundaries to follow the existing land use pattern.

The proposed change complies with Article 48 of the Klamath County Land Development Code as follows:

Goal 1 (Citizen Involvement) provides pertinent agencies and the general public opportunity to comment on the proposed application. This application met all of the notification and timeline requirements, therefore this application was in full compliance with all of the Goal 1 criteria.

Goal 2 (Land Use Planning) provides a framework for which applications must be reviewed. This project complies with the Klamath County Comprehensive Plan by creating zoning boundaries that coincide with existing property lines and follow the existing land use pattern. This application utilizes sound planning practices and the proposed reconfiguration will utilize the land in an efficient and harmonious manner.

Goal 10 (Housing) requires the County to permit development of rural residential on suitable lot size. This application meets all of the pertinent criteria of Article 61, therefore this application is proposing to create zoning boundaries to conform with the lot shapes and size requirements stipulated by the Klamath County Land Development Code.

Goal 11 (Public Facilities and Services) requires the application be served by an adequate road access, served by water and sewer/septic, be provided fire protection, and serviced by power, telephone, and other utilities. This proposal complies with all of the Goal 11 criteria and will be equipped with all public services and facilities.

8. ZONE CHANGE REVIEW CRITERIA – ARTICLE 47:

The proposed change of zone designation is in conformance with the Comprehensive Plan and does not afford special privileges to an individual property owner not available to the general public or outside the overall public interest for the change. The proposed change of zone is in conformance with the comprehensive plan and all other provisions of the Land Development Code. The relevant Land Development Code and Comprehensive Plan provisions have been addressed and the project is found in compliance.

This zone change/comprehensive land use change has been requested in conjunction with Tract 1358. The properties affected by this action are adequate in shape and size (1+ acres per R-1 lot) according to Article 61 of the Klamath County Land Development Code. In addition, this proposal will reconfigure zoning boundaries to comply with the current land use.

The application is in compliance with the Goal 11 (Public Facilities and Services) of the Klamath County Comprehensive Plan. The 7 residential lots will have access through Washburn Way, while the remaining commercially zoned lot will access the property through Midland Road.

The applicant is requesting the zone change to comply with proposed Tract 1358. This proposal is harmonious with the adjacent and surrounding property uses and therefore will utilize the land in a consistent manner. Mountain Pacific Excavation is an existing commercial operation and the parcels to the north west of this site are residential. The requested change will consistently situate the zoning to conform to the existing land use pattern.

9. OTHER CONSIDERATIONS:

The subject lots do not lie within a designated FEMA floodplain, nor a significant Goal 5 resource as defined by the Klamath County Comprehensive Plan.

10. PLANNING COMMISSION RECOMMENDATION:

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


11. CONCLUSION AND ORDER:

The Board of Commissioners finds the subject property is particularly well suited and sited for the proposed 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 Oregon Statewide Planning Goals have been met.

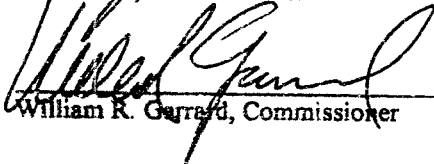
17431

THEREFORE, pursuant to a motion made by Al Switzer and seconded by William R. Garrard, it is hereby ordered the change of Comprehensive Land Use Plan designation and zoning of the subject property to reconfigure the existing Rural Residential/R-1 and General Commercial/CG IS APPROVED.


DATED this 5th day of May, 1999.


M. Steven WEST, Chairman


Al Switzer, Commissioner


William R. Garrard, 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 the 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 rights.

Return: Commissioners Journal

State of Oregon, County of Klamath
Recorded May 6, 1999, at 2:57 PM
at the referenced page, Vol. M99.
Linda Smith, County Clerk
Fee \$

