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Fee: NO FEE

BEFORE THE KLAMATH COUNTY BOARD OF COMMISSIONERS

IN THE MATTER OF FILE NUMBER CLUP/ZC 9-22**FINAL ORDER**

WHEREAS, the applicant, Adkins Engineering and Surveying LLP for Wood River Mercantile, requested approval of an amendment to the Comprehensive Plan designation from Rural Residential to Rural Commercial and change the zoning designation from Rural Residential (R5) to Rural Community Commercial (RUC-C) on 2.13 acre property; and

WHEREAS, the subject property is described as Tax Lot(s) 0800 in Section 021AA in Township 33 South, Range 71/2 East Willamette Meridian; and

WHEREAS, the Klamath County Planning Department provided proper notice of a public hearing held on February 28, 2023 before the Klamath County Planning Commission and Board of County Commissioners; and

WHEREAS, the applicant submitted said request for the Comprehensive Plan amendment and associated zone change in due form for consideration; and

WHEREAS, based on testimony entered and consideration of the whole record, and accepting the information provided in the application submittals as findings of fact and Findings in the Staff Report and attached as Exhibit B, the Klamath County Planning Commission concluded the application was in conformance with State Law, Klamath County Land Development Code and Comprehensive Plan, and forwarded a recommendation of Approval for Planning File CLUP/ZC 9-22 to the Board of County Commissioners; and

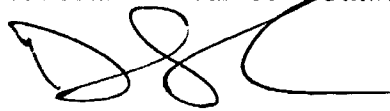
WHEREAS, based on testimony entered and after consideration of the whole record; and with a recommendation for approval from the Klamath County Planning Commission, the Klamath County Board of Commissioners acting within their authority, accepted the Planning Commission's recommendation, and unanimously **APPROVED** the request of Planning File CLUP/ZC 9-22.

NOW, THEREFORE, THE KLAMATH COUNTY BOARD OF COMMISSIONERS
ORDER AS FOLLOWS:

The Klamath County Planning Director shall draft for adoption by the Board of
County Commissioners an ordinance amending the Klamath County
Comprehensive Plan - General Land Use Plan Map and Zoning Map to reflect the
proposed revision to the plan designation and zoning change as shown on
attached Exhibit A.

Dated this 4th day of April, 2023


FOR THE BOARD OF COMMISSIONERS


Chair

Not Present

Commissioner


Commissioner


County Counsel
Approved as to form

NOTICE OF APPEAL RIGHTS

This decision may be appealed to the Oregon Land Use Board of Appeals (LUBA)
within 21 days following the date of the mailing of this order. Contact LUBA for
information as how to file this appeal (LUBA by phone 1-503-373-1265 or mail at 550
Capitol Street NE, Suite 235, Salem, Oregon 97301-2552). Failure to do so in a timely
manner may affect your rights.

EXHIBIT "A"

Map of Comprehensive Plan and Zoning Change
from Rural Residential to Rural Commercial and change the zoning designation from Rural
Residential (R5) to Rural Commercial (RUC-C).

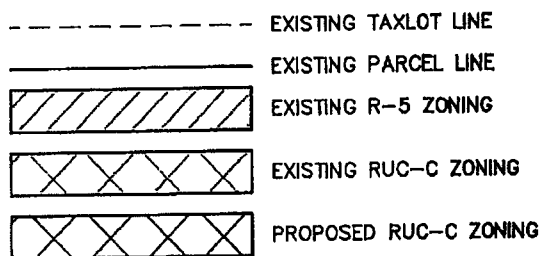
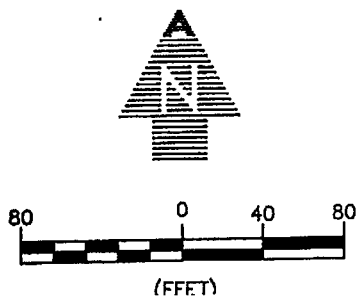
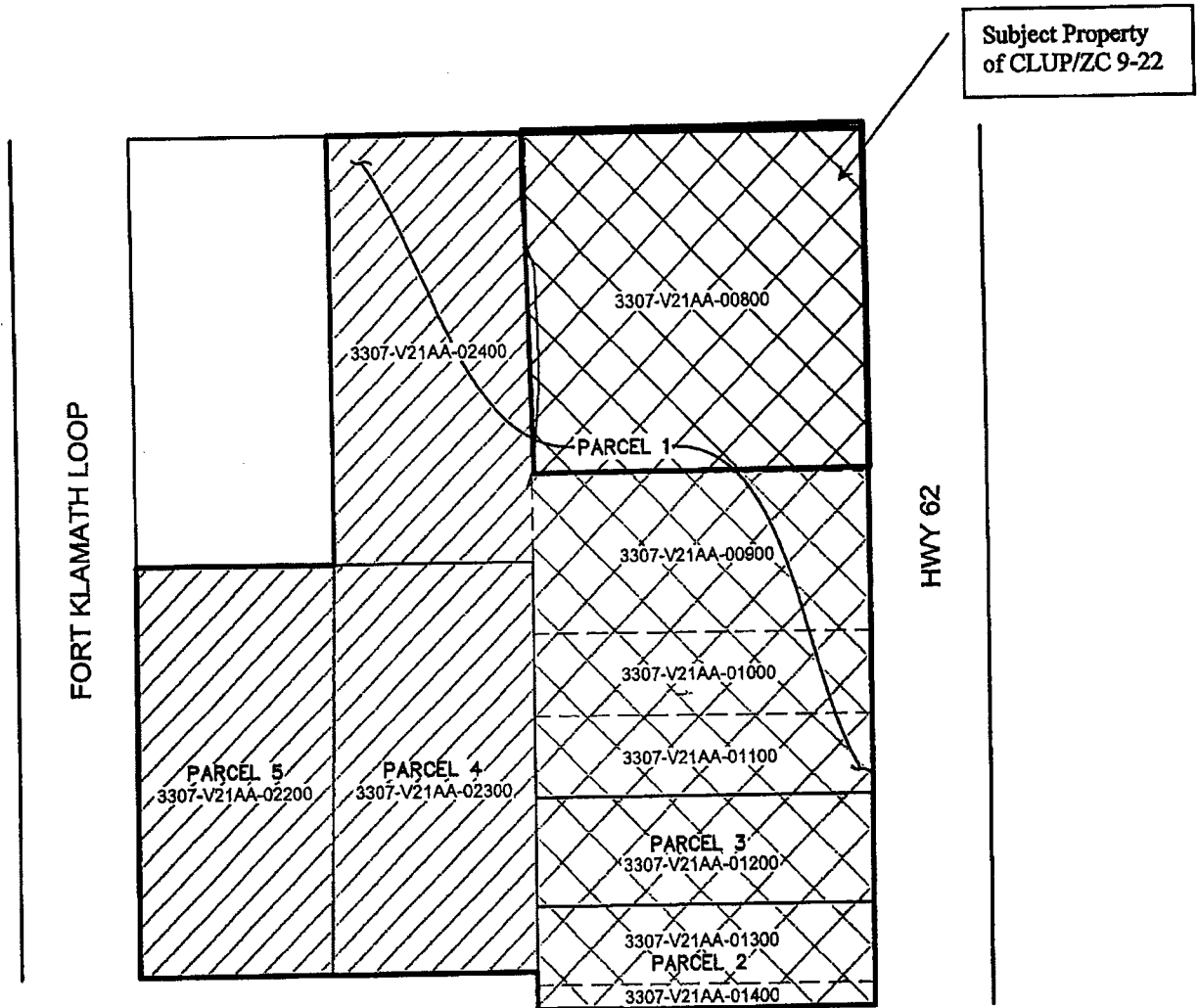


EXHIBIT "B"

BURDEN OF PROOF STATEMENT

In order to be granted approval, it is the applicant's responsibility to demonstrate that the following criteria have been met. Please attach additional sheets entitled **Burden of Proof** with each of the following sections listed and followed by **Findings of Fact** statements showing that the requirements are met.

Article 48.030 – Review Criteria, Change of Comprehensive Plan Designation

1. *The proposed change is supported by specific studies or other factual information, which documents the public need for the change.*

The property owner has 5 parcels that have both Rural Residential (R-5) and Rural Community Commercial (RUC-C) zone designations (see Exhibit A). There is an abandoned house, mobile home, fueling station, and store located on the subject property. Upon approval of the zone change/comprehensive plan designation, the property will continue to have both R-5 and RUC-C zone designations, however current tax lot 800 will be rezoned to RUC-C (see Exhibit B).

A future Land Partition application will be submitted to create two (2) parcels (See Exhibit C). Future LP Parcel A will be zoned RUC-C (currently tax lots 800, 900, 1000, 1100, 1200, 1300 and 1400), will front Highway 62, and will be used for commercial purposes to align with the uses of the property and existing commercial uses to the East. Future LP Parcel B will be zoned R-5 (currently tax lot 2400), the same as the surrounding properties, and will be used for residential purposes.

A change of the comprehensive plan designation to Rural Residential (R-5) and Rural Community Commercial (RUC-C) is in order to make the historic use of the site conforming with the underlying zone.

The properties on the East side of Highway 62 are zoned RUC-C. This zone change will enable proposed Future LP Parcel A to be used in a similar way. The properties to the West and South of proposed Future LP Parcel B are zoned R-5 and will enable this property to be used in a similar way. A zone change along with a future Land Partition would be conforming with current use of the general area.

2. *The proposed change complies with policies of the Comprehensive Plan.*

Indicate which of the following Goals are applicable or not applicable to your request and which **specific policies** of each are supportive of your request. (The policies of the Comprehensive Plan are available on the Klamathcounty.org web site at Planning Division, Codes and Plans.)

Note: Only those policies within the comprehensive plan that apply to the subject property are noted. Policies not noted hereon are not applicable to the proposal.

Goal 1 Citizen Involvement:

- 1) Policy: The County shall provide for continued citizen involvement opportunities after plan acknowledgment.

Citizen involvement is applicable to this request, as the County will advertise the public hearing to provide the applicant and interested parties the opportunity for a public hearing.

EXHIBIT B
CLUP/EC 9-22

Goal 2 Land Use:

1) Policy: The County shall establish the following plan revision and evaluation schedule:

This goal is met because the subject property does not have a significant effect beyond the immediate area of change.

7) Policy: To the extent feasible, the boundaries of zoning districts shall follow property lines except where the land use plan clearly requires otherwise. For zoning purposes, the land use plan shall be construed liberally, provided that the written policies of the plan are not thereby violated.

The new zoning district will follow property lines upon completion of a Land Partition, creating a contiguous Rural Community Commercial (RUC-C) zoning area with the properties to the East and a contiguous Rural Residential (R-5) zoning area with the properties to the West and South. No lots would be isolated in a different zoning area.

Goal 3 Agricultural Lands:

This goal is not applicable as there are no agricultural lands on the site.

Goal 4 Forest Lands:

This goal is not applicable as there are no forests or woodlands on the site.

Goal 5 Open Space, Scenic and Historic Areas, and Natural Resources:

This is not applicable as there are no Natural Resources, Scenic, or Open Space on or near the site.

Goal 6 Air, Water and Land Resource Quality:

The future use of the property will meet all environmental requirements so as to maintain and improve the quality of air, water, and land resources. The quality of the air will not be affected by a change of the comprehensive plan designation or future use of the property. Future development of the property will require wells to provide water and on-site sewage disposal systems. These systems will meet State and local government requirements to maintain and improve groundwater quality and land resources.

Goal 7 Areas Subject to Natural Disasters and Hazards:

This goal is not applicable as this site is not located in a floodplain, fault line or landslide areas.

Goal 8 Recreational Need:

This goal is not applicable to this site as there are already established recreation opportunities in the area (Jackson F Kimball State Recreation Site and Crater Lake National Park)

Goal 9 Economic Development:

1) Policy: The County shall work with local governments to coordinate and compile appropriate industrial and commercial site availability in order to develop a common regional economic development strategy.

This property is adjacent to a major highway (Highway 62). Commerce to and from the property after development will potentially increase.

14) Policy: The County shall provide appropriate land, facilities and resources to those economic activities that represent the most efficient use of resources, relative to other geographic areas.

The land involved in this proposal is adjacent to Highway 62. The property owner is proposing to use the portion of their property adjacent to Highway 62 that is to be zoned as RUC-C (Future LP Parcel A), for commercial use associated with a proposed store. In addition, the property owner is planning to use the portion of the property that will remain as R-5 (Future LP Parcel B) as residential use with a new residential house.

Goal 10 Housing

The property owner is planning on constructing a new residential house on tax lot 2400 (Future LP Parcel B). They also own adjacent residential property (tax lots 2200 & 2300). Two residential houses are also planned for these adjacent properties.

Goal 11 Public Facilities and Services:

This goal is not applicable as there are no public facilities proposed with this application. The future development will have their own wells and on-site sewer disposal systems as these public facilities are not available in the area.

Goal 12 Transportation:

This goal is not applicable as the subject property already has adequate access to Highway 62, and no new public transportation infrastructure is necessary. The property owner also owns adjacent property (tax lots 2200 & 2300). A 30' wide access/utility easement from Fort Klamath Loop across tax lots 2200 & 2300 will be created and recorded for Future LP Parcel B.

Goal 13 Energy Conservation:

This goal does not apply as there are no energy needs required due to a comprehensive plan amendment.

Goal 14 Urbanization:

This goal is not applicable as the property is currently developed as a commercial use within Fort Klamath. The future development will have their own wells and on-site sewer disposal systems as these public facilities are not available in the area.

3. *The proposed change complies with the Oregon Statewide Planning Goals and Administrative Rules including the Transportation Planning Rule (OAR 660, Division 12).*

If applicable, exceptions to the Statewide Planning Goals shall be based upon Statewide Planning Goal 2, Part II (Exceptions) as interpreted by Oregon Revised Statutes 197.732 and Oregon Administrative Rules (OAR Chapter 660, Division 4).

The proposed change complies with Oregon Statewide Planning Goals and Administrative Rules including the Transportation Planning Rule (OAR 660, Division 12). The classification of the existing transportation facility surrounding the property is established and will not change with the zone change/comprehensive plan designation. The proposed development will not degrade the performance of the existing transportation facility.

BURDEN OF PROOF STATEMENT

In order to be granted approval, it is the applicant's responsibility to demonstrate that the following criteria have been met. Please attach additional sheets entitled Burden of Proof with each of the following sections listed and followed by Findings of Fact statements showing that the requirements are met.

Article 47.030 – Review Criteria, Zone Change

1. *Explain how 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 property owner has 5 parcels that have both R-5 and RUC-C zone designations (See Exhibit A). Upon approval of the concurrent comprehensive plan designation, the property will continue to have both R-5 and RUC-C zone designations, however current tax lot 800 will be rezoned to RUC-C (see Exhibit B). A future Land Partition application will be submitted to create two (2) parcels (See Exhibit C). Future LP Parcel A will be zoned RUC-C (currently tax lots 800, 900, 1000, 1100, 1200, 1300 and 1400), will front Highway 62, and will be used for commercial purposes to align with the uses of the property and existing commercial uses to the East. Future LP Parcel B will be zoned R-5 (currently tax lot 2400), the same as the surrounding properties, and will be used for residential purposes. The zone change to create a RUC-C zoned property fronting Highway 62 and an R-5 zoned property will be in conformance with the Comprehensive Plan.

2. *Explain how the property affected by the change of zone designation is adequate in size and shape to facilitate any uses allowed in conjunction with such zoning.*

The subject property is currently 2.13 acres and has both R-5 and RUC-C zone designations. Once a Land Partition is completed (see Exhibit C), the commercial lot (Future LP Parcel A) will be created consisting of 72,250 square feet (170' x 425'), exceeding the minimum shape and size for RUC-C zoning of the Klamath County Development Code. The residential lot (Future LP Parcel B) will be created and consist of 0.46 acres, which is less than the minimum lot size for R-5 (5 acre) zoning per the Klamath County Land Development Code. However, all the adjacent property currently zoned R-5 are less than the minimum lot size.

3. *Explain how the property affected by the proposed change of zone designation is properly related to streets and roads and to other public facilities and infrastructure to adequately serve the types of uses allowed in conjunction with such zoning.*

The proposed commercial lot (Future LP Parcel B) will have access from Highway 62. The property owner also owns adjacent property (tax lots 2200 & 2300). A 30' wide access/utility easement from Fort Klamath Loop across tax lots 2200 & 2300 will be created and recorded for Future LP Parcel B.

4. *Explain why the proposed change of zone designation will have no significant adverse effect on the appropriate use and development of adjacent properties.*

The properties on the East side of Highway 62 are zoned RUC-C. This zone change will enable Future LP Parcel A to be used in a similar way. The properties to the West and South of proposed Future LP Parcel B are zoned R-5 and will enable this property to be used in a similar way.

5. *Show that the proposed change is supported by specific studies or other factual information, which documents the need for the change.*

The zone change will allow this property to be used in a like manner of nearby and adjacent properties that are already zoned RUC-C and R-5. The property owner wants to be conforming with general land use patterns in the area.