

90-14079

REVIEWED
101 - 0108
LEGAL COUNSEL

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

An Ordinance Amending Ordinance *
No. PL-15, the Deschutes County *
Zoning Ordinance of 1979, as *
Amended, Amending the Text for a *
Zone Change Allowing Dog Kennels *
as a Conditional Use in EFU Zones, *
and Declaring an Emergency. *

90 MAY 17 PM 3:08
MARY SUE PENHOLLOW
COUNTY CLERK

ORDINANCE NO. 90-018

WHEREAS, Terry Duffin, proposed a zone change for a text amendment to Ordinance No. PL-15 allowing dog kennels as a conditional use within the EFU-20 zone; and

WHEREAS, notice of hearing was given in accordance with law; and

WHEREAS, the Planning Commission held a hearing on the proposed zone change and text amendment on March 14 and March 28, 1990; and

WHEREAS, the Planning Commission recommended that dog kennels be allowed as a conditional use in all EFU zones by decision dated April 11, 1990; and

WHEREAS, the decision of the Planning Commission has not been appealed; now, therefore,

THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON, ORDAINS as follows:

Section 1. That Ordinance No. PL-15, Section 4.010(3), be amended by the addition of the following:

"Q. Dog kennels."

Section 2. That Ordinance No. PL-15, Section 4.020(3), be amended by the addition of the following:

"Q. Dog kennels."

Section 3. That Ordinance No. PL-15, Section 4.030(3), be amended by the addition of the following:

"Q. Dog kennels."

Section 4. That Ordinance No. PL-15, Section 4.040(3), be amended by the addition of the following:

"Q. Dog kennels."

1 - ORDINANCE NO. 90-018

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Section 5. That the Board of County Commissioners adopts as its findings in support of the amendments set forth in Sections 1 through 4 of this Ordinance the Findings and Recommendation of the Planning Commission dated April 11, 1990, attached hereto and by this reference incorporated herein as Exhibit "A."

Section 6. This Ordinance being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this Ordinance takes effect on its passage.

DATED this 16th day of May, 1990.

BOARD OF COUNTY COMMISSIONERS
OF DESCHUTES COUNTY, OREGON

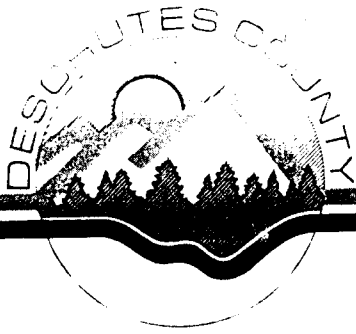
Lois Bristow Prante
LOIS BRISTOW PRANTE, Commissioner

Tom Throop
TOM THROOP, Chair

Dick Maudlin
DICK MAUDLIN, Commissioner

ATTEST:

Andrea S. Blum
Recording Secretary



Community Development Department

Administration Bldg./1130 N.W. Harriman/Bend, Oregon 97701
(503) 388-6575

Planning Division
Building Safety Division
Environmental Health Division

FINDINGS AND DECISION

FILE NUMBER: ZC-90-2

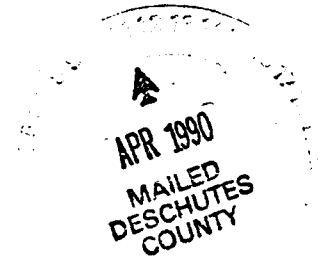
APPLICANT: Terry Duffin
34 N.W. Portland Avenue
Bend, Oregon 97701

PROPERTY OWNER: James & Marion Carroll
7260 Young Avenue
Redmond, Oregon 97756

ATTORNEY: Greg Hendrix
716 N.W. Kansas
Bend, Oregon 97701

REQUEST: To change the zone text of the EFU-20
zone to allow for dog kennels.

REVIEWER: Jim Raisanen

**LEGAL FINDINGS:**

1. PL-15, Deschutes County Zoning Ordinance.
 - Section 4.040. Exclusive Farm Use Zone - EFU-20.
 - Article 8. Conditional Uses.
 - Article 10. Amendments.
2. PL-20, The Deschutes County Comprehensive Plan Year 2000.
3. Ordinance 82-011. County Procedures Ordinance.

BASIC FINDINGS:

1. **LOCATION:** The subject property is located at 7260 S.W. Young Avenue, Redmond and is further described as Tax Lot 702 in Township 16S, Range 12E, Section 14. The text amendment is for all Exclusive Farm Use - EFU-20 zones.

2. **ZONING:** The subject property is zoned EFU-20 and is designated Agriculture by the Deschutes County Comprehensive Plan Year 2000. The surrounding area is zoned EFU-20.
3. **SITE DESCRIPTION:** The subject parcel is 30 acres. Approximately 25 acres are relatively flat and covered with range grasses and irrigated areas of alfalfa. The proposed kennels are to be placed in a rocky, elevated area on the southwest corner of the parcel that has natural vegetation including a moderate cover of junipers.
4. The applicant is proposing to amend PL-15, The Deschutes County Zoning Ordinance to include dog kennels as a Conditional Use in Exclusive Farm Use - EFU-20 zones. The applicant has concurrently applied for a Conditional Use to locate a dog kennel on the subject parcel.
5. The Planning Division has received letters from many parties opposed to the Conditional Use portion of this application. None of them were opposed to the zone change portion of the application. There were three letters received in support of the zone change text amendment.
6. The Planning Division Received the following transmittals:

THE PUBLIC WORKS DEPARTMENT:

The applicant must show written documentation that the parcel has legal access via easement to Young Avenue.

STATE DEPARTMENT OF ENVIRONMENTAL QUALITY:

The applicant should verify his ability to comply with State DEQ noise control rules for commercial activities (OAR 340.35.035.)

DESCHUTES COUNTY BUILDING DIVISION:

Building Permits and all associated permits are required for office and grooming areas other than kennels.

THE COUNTY ASSESSOR'S DEPARTMENT:

Even though the dog kennels were added to the list of conditional uses allowed in an EFU Zone, they are not a qualified farm use for special taxes. The kennel is more of a commercial use like the boarding of horses for profit. For this reason, one of the conditions of approval should be the disqualification from farm value, the approximately four acres of scab land located in the southwest corner of the parcel.

THE FOLLOWING TRANSMITTALS HAD NO COMMENTS:

- Central Oregon Irrigation District
- Property Address Coordinator
- Redmond Fire Department

7. The Planning Commission held a public hearing on March 14, 1990 and continued the meeting until March 28, 1990 to hear testimony and discuss the Zone Change Text Amendment to allow dog kennels as a Conditional Use in EFU-20 zones in conjunction with a Conditional Use permit for a dog kennel. The Conditional Use (CU-90-11) was denied.

CONCLUSIONARY FINDINGS:

1. **ZONE TEXT AMENDMENT:** The State of Oregon has amended ORS 215.213 (2) (L), which allows dog kennels in EFU zones as a conditional use. PL-15 currently does not have this amendment included as part of the Exclusive Farm Use zones.

Proposed Language:

Section 4.010(3) of PL-15 is proposed to read:

(Q) Dog Kennels.

Section 4.020(3) of PL-15 is proposed to read:

(Q) Dog Kennels.

Section 4.030(3) of PL-15 is proposed to read:

(Q) Dog Kennels.

Section 4.040(3) of PL-15 is proposed to read:

(Q) Dog Kennels.

2. Section 10.025 of PL-15 states, "The applicant for a quasi-judicial rezoning must establish that the public interest is best served by a rezoning of the property. Factors to be demonstrated by the applicant are:

- (1) That the change conforms with the Comprehensive Plan, and the change is consistent with the Plan's introductory statement and goals."

The applicant's response is, "The change in classification is consistent with the introductory statement of the Comprehensive Plan (p. 15-16, p. 31) which states that marginal farm land can only be preserved through off-farm employment, hobby farming and creative methods to use marginal lands to preserve agricultural production. Dog kennels necessarily need space to care for the dogs and to reduce conflicts with neighbors. The state legislature has correctly assessed farm zones as a logical place for dog kennels. As long as buildings do not reduce the amount of usable farm land, there is no foreseeable friction between traditional agricultural activities and kenneling. Any foreseeable friction can be addressed through the Conditional Use process.

Moreover, dogs are ancestral helpers in farming and livestock production including pest control, herding, and companionship. Kenneling and training could reasonably be viewed as an agricultural activity itself."

- (2) That the change in classification for the subject property is consistent with the purpose and intent of the proposed zone classification.

The applicant's response is, "The change conforms with the Comprehensive Plan and the purpose and intent of the zone in that the Plan (p. 114-118) recognizes the need to continue to provide for income on agricultural lands which do not interfere with the agricultural uses in the zone. Kenneling of dogs is a permitted conditional use throughout the state and has been found by the state legislature not to hinder other agricultural uses."

- (3) That changing the zoning will presently serve the public health, safety and welfare considering the following factors:

- a. The availability and efficiency of providing necessary public services and facilities.

The applicant's response is, "Public services are available throughout the zone. The proposed change does not require any services not currently available. Waste can be disposed of in a drainfiled located in grazing land. Electricity for lights and heat exist throughout the zone."

- b. The impacts on surrounding land use will be consistent with the specific goals and policies contained within the Comprehensive Plan.

The applicant's response is, "The impacts on surrounding land use are consistent with the goals and policies of the Comprehensive Plan in that creative ways to increase farm income which do not conflict with existing agricultural practices are necessary to preserve marginal lands."

- (4) That there has been a change in circumstances since the property was last zoned, or a mistake was made in the zoning of the property in question."

The applicant's response is, "There has been a change in circumstances since the property was last zoned in that the state legislature now allows for dog kennels as a conditional use and this use was not previously specifically permitted."

3. A Goal 2 exception is not necessary because the ORS Agricultural Lands, Goal 3, allows for adopting exclusive farm use zones pursuant to chapter 215. ORS 215.213(2)(L) allows for dog kennels.

CONCLUSIONS:

The Planning Commission recommends approval of the text amendment to add dog kennels as a Conditional Use in all Exclusive Farm Use zones and recommends the Board of County Commissioners adopt a resolution to amend PL-15, The Deschutes County Zoning Ordinance.

DESCHUTES COUNTY PLANNING COMMISSION

George J. Read

George J. Read, Planning Director

JR:mic