

BEFORE THE HEARINGS OFFICER OF KLAMATH COUNTY, OREGON

In the Matter of the Request)
for a Conditional Use Permit)
for WENDELL WELCOME)

C.U.P. 43-87
FINDINGS OF FACT, CONCLUSIONS
OF LAW AND ORDER

This matter came before Hearings Officer William M. Ganong on November 5, 1987 in the Klamath County Commissioner's Hearing Room. The Hearing was held pursuant to Notice given in conformity with the Klamath County Land Development Code and related ordinances. Wendell Welcome and Michael Welcome were present at the hearing and represented themselves. The Klamath County Planning Department was represented by Mr. Kim Lundahl and the Recording Secretary was Karen Burg. The Klamath County Planning Department file and all contents thereof were incorporated in the record as evidence. The County Hearings Officer, after reviewing the evidence presented, makes the following Findings of Fact, Conclusions of Law and Decision:

FINDINGS OF FACT:

1. The Applicant has requested a Conditional Use Permit to raise animals (rabbits) on land zoned Forestry. The subject property is located generally adjacent to Highway 97 north near the Deschutes County Border in Klamath County, and is Klamath County Tax Assessor Lot No. 2700 and 3000 in Section 13, T.23S., R.9E., W.M. The subject parcel contains approximately 9 acres.
2. The Findings of Fact set forth in the Klamath County Planning Department Staff Report are adopted hereby and incorporated herein by this reference.

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3. The Applicant intends to construct buildings and or pens suitable for housing 2,500 female breeding rabbits. The Applicant intends initially to build three 50 foot by 30 foot animal shelters and to later add three shelter 60 feet by 75 feet in size.

4. The subject property is heavily wooded with small diameter lodge pole pine trees. The Applicant testified that there are some trees which have Pine Beetle damage and are being removed. The Applicant testified that the existing trees are small in diameter because of the high density of trees. The Applicant testified that there is nothing about the property which makes it unsuitable for forest use.

5. The subject property is bordered to the North by BLM timberlands, to the south and west by Gilchrist Timber Company, to the west by several 1 acre recreational lots.

6. Several adjacent property owners testified in opposition to the application. Relevant concerns included visual obstruction of the view by the proposed shelters, health and odor concerns and whether the road and bridge which provide access to their land and the subject property are of adequate size.

KLAMATH COUNTY LAND DEVELOPMENT CODE CRITERIA

Section 51.020 D & E of the Klamath County Land Development Code sets out the criteria for reviewing a non-forest Conditional Use application.

KLAMATH COUNTY CODE FINDINGS OF FACT AND CONCLUSIONS

Code Section 51.020 D. provides:

"The following uses ... may only be approved subject to finding that they are located on land generally unsuitable for timber management ...

5. Animal Raising ..."

Code Section 51.020 E includes the following criteria:

"The review authority must find that each such use:

d. is situated on generally unsuitable land for the production of forest crops ..."

All of the evidence in the record supports the Applicant's testimony that there is nothing about the property which makes it unsuitable for forest use. The property is heavily wooded with lodge pole pine trees. The findings required by the Code Sections quoted above can not be made.

As the Application fails to meet the above said required finding it is not necessary to address the remaining criteria

ORDER

The subject application for a Conditional Use Permit to operate a non-forest commercial animal raising business on land zoned Forestry is denied.

DATED this 20th day of November, 1987.

William M. Ganong
William M. Ganong
Hearings Officer

Klamath County Land Development Code Section 24.007 provides:

"An Order of the Hearings Officer shall be final unless appealed within ten (10) days of its mailing by a party having standing in accordance with the procedures set forth in Chapter 3, Article 33 of this Code."

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STATE OF OREGON: COUNTY OF KLAMATH, ss.
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