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BEFORE THE HEARINGS OFFICER OF KLAMATH COUNTY, OREGON

In the Matter of the Request) C.U.P. 73-89
 for the Conditional Use Permit) FINDINGS OF FACT,
 for CHARLOTTE STOREY and ROBERT) CONCLUSION OF LAW
 L. BOUCHER.) AND ORDER

This matter came before Richard C. Whitlock, Hearings Officer of Klamath County, Oregon on December 1, 1989, in the Klamath County Commissioners' Hearing Room. The Hearing was held pursuant to notice given in conformity with the Klamath County Land Development Code and related ordinances. Charlotte Storey, one of the Applicants, was present at the hearing and testified in favor of the application. The Klamath County Planning Department was represented by Mr. J. Kim Lundahl and the Recording Secretary was Leanne Mitchel. The Klamath County Planning Department file and all contents thereof were incorporated in the record as evidence, including Exhibits A, B, C and D.

The Hearings Officer, after reviewing the evidence presented, makes the following Findings of Fact, Conclusions of Law and Decision.

FINDINGS OF FACT:

1. The Applicants have applied for a Conditional Use Permit to allow a commercial kennel (KLDC 11.002) in the R-1 Zone (Rural) pursuant to Land Development Code Section 51.004 C.(12). The subject property is approximately five (5) acres and is located north of Valley View Drive in the Sprague River

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Acres Subdivision, approximately three miles north of Beatty, Oregon and is Klamath County Tax Account No. 3612-1B-1700. The nearest neighbor is approximately one-quarter (1/4) mile to the east and the neighbor would not hear the dogs under any conditions.

2. The Applicants presently have five (5) small size dogs of the Yorkshire Terrier and Chihuahua breeds and they expect to receive some additional dogs of the same breeds as a result of Ms. Storey's mother recently passing away. Mr. Lundahl, who visited the site, was very impressed by the very comfortable conditions and constant attention provided the dogs by Applicants.

3. The dogs live in the house with the Applicants and are only outside to eliminate, to exercise and to play. The Applicants have a large fenced area around the house for the animals to be outside and the Applicants will not be building any outside kennel facility.

4. Ms. Storey testified they are only seeking this application to keep all of their existing dogs and to add her Mother's dogs and they would do some limited breeding to a maximum of approximately ten (10) new puppies per year, all of which will be sold.

5. Applicants agreed on the record that a maximum of twelve (12) dogs of the Yorkshire Terrier and Chihuahua breeds would be allowed, with the possible exception of one larger dog to serve as a security dog to compete with the coyotes and other predators in the area.

6. There were no witnesses or letters in opposition to this application.

KLAMATH COUNTY LAND DEVELOPMENT CODE CRITERIA:

1. Article 44 of the Land Development Code sets forth the criteria for granting a Conditional Use Permit.

2. Section 51.004 C.(12) allows a kennel as a conditional use in the R-1 (Rural) Zone.

3. A "commercial kennel" is defined in Article 11 as:
"Any lot or premises on which four (4) or more dogs or other animals are kept for boarding, training and selling for compensation."

KLAMATH COUNTY CODE FINDINGS AND CONCLUSIONS:

With respect to the application for Conditional Use Permit to allow a commercial kennel on a parcel in the R-1 (Rural) Zone, the Hearings Officer makes the following findings:

1. As set forth above under the Klamath County Land Development Code Criteria, the R-1 (Rural) Zone allows a kennel as a Conditional Use. [KLDC 51.004 C.(12)]

2. The location, size, design and operating characteristics of the commercial kennel (as restricted by the conditions imposed herein) are in conformance with the Klamath County Comprehensive Plan.

3. The location, size, design and operating characteristics of the noncommercial kennel (as restricted by the conditions imposed herein) on the subject lot is compatible with and will have no significant adverse affects on the
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appropriate development and use of abutting properties and the surrounding neighborhood. As set forth above in the Findings of Fact, this parcel is very large and is not within earshot of any neighbors, particularly due to the fact that the dogs live inside the residence with the Applicants and are such small dogs.

ORDER:

The subject application for a Conditional Use Permit to allow a commercial kennel on the above described property is granted, subject to the following conditions:

1. The permit is limited to a maximum of twelve (12) dogs of the Yorkshire Terrier and Chihuahua breeds, provided, however, that one of the twelve permitted dogs may, at the option of the Applicants, be a dog of another breed.
2. The dogs will not be allowed to stray off the subject property at any time.
3. This permit will expire at any time when the number of dogs maintained by the Applicants and residing on the subject property is reduced to three (3) or less.

DATED this 27th day of December, 1989.

Richard C. Whitlock
RICHARD WHITLOCK, 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.

Filed for record at request of Klamath County the 11th day
of Dec. A.D., 19 89 at 11:52 o'clock A.M., and duly recorded in Vol. M89
of Deeds on Page 23841.

FEE non

Evelyn Biehn, County Clerk

By Pauline Mullendore

Return: Commissioners Journal