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BEFORE THE HEARINGS OFFICER
KLAMATH COUNTY, OREGON

IN THE MATTER OF CUP 75-89 FOR W.D. AND RONN
COLDIRON TO ESTABLISH A RESIDENCE
NOT IN CONJUNCTION WITH FARM USE

ORDER

1. NATURE OF THE REQUEST:

The applicant wishes to establish a residence not in conjunction with farm use on 6.98 acres east of the Sprague River, 1 mile north of the Sprague River Hwy at the 2nd crossing.

This request was heard by the Hearings Officer January 12, 1990 pursuant to Ordinances 44 and 45. The request was reviewed for conformity with Land Development Code Sections 51.018 D and O.R.S. 215.243.

2. NAMES OF THOSE WHO PARTICIPATED:

The Hearings Officer in review of this application was Richard C. Whitlock. The applicants representative, Linda Long, appeared and offered testimony in support of the application. The Planning Department was represented by Kim Lundahl, Senior Planner. The recording secretary was Leanne Mitchel, Administrative Secretary.

3. LEGAL DESCRIPTION:

The property under consideration is located in Section 32, Township 34 south, Range 9 east, W.M.. T.A. 3409-3200-900.

4. RELEVANT FACTS:

The property is within the Agriculture plan designation and has an implementing zone of EFU-CG. The property has frontage on the Sprague River, is 6.98 acres in size and is not under farm tax deferral. Access to the property is provided by a U.S.F.S. road extending north from the Sprague River Hwy. along the east bank of the River. The Land Use Capability Classification of the property is Class VI. The timber site rating

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is Class V.

The properties to the north and west are in commercial agricultural use, being 360 and 1000 acres in size. The zoning is the same as the subject property, EFU-CG. The ownership to the south and east is the Winemá National Forest. The zoning and plan designation of this property is Forestry. The property is not within a structural fire protection district, but the proposed dwelling will be within 100 feet of the Sprague River and the owners propose utilizing the river for fire protection and agree to the fuelbreak and siting restrictions of L.D.C. sec 51.020 G..

5. FINDINGS:

All evidence submitted as the staff report, exhibits b-f, and offered testimony show that the approval criteria as set out in Code section 51.017 D 1 has been satisfied. The Hearings Officer finds this application;

1. Is compatible with farm use because:

The proposed dwelling is accessed by a Forest Service road that ends at the subject property. The road does not extend through to the commercial agricultural property to the north. The use of the agricultural property is summer grazing. The proposed homesite is topographically screened from the grazing operation and does not have vehicle access.

The Hearings Officer finds the use of the remnant property as a homesite compatible with the neighboring agricultural use because the applicant has demonstrated conflict will not result from the conversion of the 6.98 acre property from vacant to residential use. Historically, there has been no logging or agricultural use of the property.

2. Does not interfere seriously with accepted farming practices on adjacent lands devoted to farm use because:

The properties to the north and west are found to be engaged in commercial

agriculture. The property in question is found to be of little resource value due to its location, topography, soils limitations and size. The proposal would not conflict with the farm use to the west as the Sprague River provides a discrete geographic boundary.

The existing farm use to the north is devoted to summer pasture for cattle. It is partially irrigated for this use.

The proposed non-farm residence will not conflict with this use as vehicular access is precluded and the homesite is topographically screened from the agricultural use.

The permit holder has volunteered as a condition of this approval to file a restrictive covenant which will prohibit the permit holder and successors in interest from filing complaint concerning valid farming practices on adjacent lands.

3. Does not alter the stability of the overall land use pattern of the area because:

The overall land use of the area is already long established and will not be compromised by the conversion of a remnant 6.98 acre parcel to a non-farm use. The land use pattern of the area will not be modified and will be perpetuated by this permit.

4. Is situated upon generally unsuitable land for the production of farm crops and livestock, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location, and size of the tract because:

The existing parcel is 6.98 acres in size. The Hearings Officer finds this parcel size unsuitable for commercial agricultural use due to its small size, poor soils and topography. The impact of removing 6.98 acres of mar-

ginal value land from the County farmland base is found minimal.

5. Complies with other conditions felt necessary, because;

The property is not within a structural fire protection district. This may cause an impact to adjacent agricultural and forest uses if a structural fire spreads to adjacent resource lands. Accordingly, the Hearings Officer finds the requirements set out in L.D.C. section 51.020 G. will mitigate the potential impact to the resource land base that may result from a the additional fire hazard posed by the non-farm residence.

6. ORDER:

Therefore, it is ordered the request of W.D. and Ronn Coldiron for C.U.P. 75-89 is approved subject to the following conditions:

1. The applicant shall file a restrictive covenant with the County Clerk prohibiting the permit holder and their successors in interest from filing complaint concerning accepted resource management practices that may occur on nearby lands.
2. The Conditional Use Permit shall not be final nor shall a building permit for a non-farm dwelling be issued under this order until the applicant provides the Planning Department with evidence that the lot or parcel upon which the dwelling is proposed to be located has been disqualified for valuation at true cash value for farm use and that any additional tax penalty imposed by the County Assessor has been paid.
3. The permit holder shall comply with L.D.C. section 51.020 G. RESIDENTIAL SITING STANDARDS to mitigate the effect of not being within a structural fire protection district.

DATED this 18th day of January, 1990

Richard C. Whitlock
Richard C. Whitlock, Hearings Officer

NOTICE OF APPEAL RIGHTS

You are hereby notified that this application may be appealed to the Klamath County Board of Commissioners by filing with the Klamath County Planning Department a Notice of Appeal as set out in Section 33.004 of the Klamath County Land Development Code, together with the fee required within ten days following the mailing date of this order.

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Klamath County the 22nd day
of Jan. A.D., 19 90 at 11:12 o'clock A.M., and duly recorded in Vol. M90,
of Deeds on Page 1413.

FEE none.

Evelyn Biehn - County Clerk
By Debbie Muelendore

Return: Commissioners Journal