

BEFORE THE HEARINGS OFFICER
KLAMATH COUNTY, OREGON

IN THE MATTER OF CUP 72-89 FOR VICTOR AND
MARILYN CREED 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 9.42 acres north and west of Chiloquin.

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 Section 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 applicant 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.

3. LEGAL DESCRIPTION:

The property under consideration is located in the Southeast 1/4 of Section 30, Township 34 south, Range 7 east, W.M.. Generally located east of Crater Lake Hwy and south of the Chiloquin-Agency Lake Rd.. T.A. 3910-1600-600.

4. RELEVANT FACTS:

A. The property was legally created by M.N.P. 81-113 in 1981 prior to the adoption of the current Land Development Code and minimum lot size.

B. Size of parcel: 9.42 acres.

Date of Creation: 1981

Size of proposed Nonfarm parcel: 9.42 acres

Size of Remainder: 0

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C. Farm Assessment/Deferral

The subject parcel is not assessed as farmland.

D. Property Owner: George Pondella (in escrow to applicant)

E. Present Land Use: Vacant

Number of Dwellings: 0

G. Site Soils: S.C.S. L.C.C. Class IV, well drained pumice soil, not irrigated.

H. Topography: Slope to west and south, steep slope to north.

I. Surrounding Land Use: Large lot rural residential to the south, east and west. Grazing and farm use to the north.

J. Compatibility with Lands within 1/2 mile radius:

1. Range of parcel sizes: 7 to 100 acres

2. Number of Parcels: 7 smaller, 2 larger than project.

3. Overall Land Use Pattern: Large lot rural residential.

K. Fire Protection: Chiloquin/Agency Lake R.F.D. approximately 4 miles away with a response time of 10 to 15 minutes.

L. Access: Existing Easement road running east from State Hwy 62.

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 51.018 D has been satisfied. The Hearings Officer finds this application;

1. Is compatible with farm use because:

The applicants and staffs analysis of surrounding properties and their use indicates the size of the existing parcel, 9.42 acres and the proposed use as large lot rural/residential are compatible with the adjacent land uses to the east and west, and with the limited commercial farm use in the area. The parcel was legally created by M.N.P. 81-113 in 1981 prior to the adoption of the current Land Development Code.

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

The proposed residential use would not interfere as most parcels in the area are not devoted to commercial farm use. The Hearings Officer finds the proposed use is surrounded by existing residential use of a similar nature and parcel size to that proposed by the applicant. Access is existing and does not traverse or border commercial agricultural units.

The permit holder is required 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 large lot rural/residential use. The granting of this permit perpetuates the pattern established in the area through legal partitioning activity.

4. Is situated upon generally unsuitable land for the production of farm crops and livestock, because:

The proposed residence would be built on a parcel 9.42 acres in size. The Hearings Officer finds this parcel size unsuitable for commercial agricultural use due to its small size. The Hearings Officer finds the cost of converting this property to agricultural use, \$3000.00/acre, would far outweigh its benefit to the Agricultural land bases for Klamath County and the State of Oregon.

6. ORDER:

Therefore, it is ordered the request of Victor and Marilyn Creed for C.U.P.

72-89 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 or penalty imposed by the County Assessor has been paid.

DATED this 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 of the date of mailing of this decision.

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Klamath County the 23rd day
of Jan. A.D., 19 90 at 2:37 o'clock P. M., and duly recorded in Vol. M90,
of Deeds on Page 1586.

FEE none

By Evelyn Biehn County Clerk
Pauline Mullendore

Return: Commissioners Journal