

BEFORE THE HEARINGS OFFICER
KLAMATH COUNTY, OREGON

IN THE MATTER OF CUP 15-90 FOR BILL AND JOELLEN
TAYLOR 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 10.77 acres east of Maupin Rd., 1/2 mile north of Transformer Rd.. This request was heard by the Hearings Officer May 4, 1990 pursuant to Ordinances 44 and 45. The request was reviewed for conformity with Land Development Code Sections 51.017 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 appeared and offered testimony in support of the application. The Planning Department was represented by Kim Lundahl, Senior Planner. The recording secretary was Karen Burg, Administrative Secretary.

3. LEGAL DESCRIPTION:

The property under consideration is located in Section 34, Township 40 south, Range 12 east, W.M.. T.A. 4012-34-800.

4. RELEVANT FACTS:

The property is within the Agriculture plan designation and has an implementing zone of EFU-C. The property has frontage on Maupin Rd., is 10.77 acres in size and is under farm tax deferral.

Access to the property is provided by a private drive extending east from the County maintained road.

The property has been evaluated for subsurface sewage feasibility.

The Land Use Capability Classification of the property is Class III.

The property is not rated for timber productivity.

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The properties to the north, south, east and west are in commercial agricultural use, being devoted to alfalfa, potatoes and grazing. The zoning is the same as the subject property, EFU-C. The land use to the east is mixed crops and cattle grazing. To the west is also cattle grazing.

Surrounding residential use includes three homes within a 1/2 mile radius. The property is within a structural fire protection district, and the proposed dwelling will be within a response time of 15 minutes.

5. FINDINGS:

All evidence submitted as the staff report, exhibits b-d, and offered testimony show that the approval criteria as set out in Code section 51.017 D 1 and O.R.S. 215.243 have been satisfied. The Hearings Officer finds this application;

1. Is compatible with farm use because:

The proposed homesite is located to the north end of the property. This location diminishes the value of the agricultural use the least as a pump house and well already subtract from the usable acreage.

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 a small portion of the 10.77 acre property from idle to residential use.

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

The properties to the north, south, east 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 size. The proposal would not conflict with the farm use to the west as Maupin Rd. provides a discrete geographic boundary. The existing farm use to the north is devoted to alfalfa and is irrigated

for this use.

The proposed non-farm residence will not conflict with this use as vehicular access is precluded from all the agricultural uses.

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 already long established and will not be compromised by the conversion of a small 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 Hearings Officer finds this parcel size unsuitable for commercial agricultural use due to its size. The impact of removing this marginal value land from the County farmland base is found minimal.

5. Complies with other conditions felt necessary, because;

The property is within a structural fire protection district. The potential exists that a new residential use may cause an impact to adjacent agricultural uses if a structural fire spreads to adjacent resource lands. Accordingly, the Hearings Officer finds the structural fire protection provided by the Malin Fire District, will mitigate the potential impact to the resource

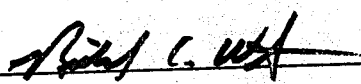
land base that may result from a the additional fire hazard posed by the non-farm residence.

6. ORDER:

Therefore, it is ordered the request of Bill & Joellen Taylor for C.U.P. 15-90 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.

DATED this 8 day of May, 1990


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.

CUP 15-90 TAYLOR
STATE OF OREGON: COUNTY OF KLAMATH: ss.

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Filed for record at request of Klamath County the 10th day of May A.D., 19 90 at 11:38 o'clock A M., and duly recorded in Vol. M90 of Deeds on Page 8885.

FEE none

Evelyn Biehn County Clerk
By Pauline Muelandore

Return: Commissioners Journal