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BEFORE THE HEARINGS OFFICER
KLAMATH COUNTY, OREGON

IN THE MATTER OF CUP 6-92 FOR RUSSELL
TO ESTABLISH A RESIDENCE ORDER
NOT IN CONJUNCTION WITH FARM USE

1. NATURE OF THE REQUEST:

The applicant wishes to establish a residence not in conjunction with farm use on 40 acres in Yonna Valley, east of Dairy. This request was heard by the Hearings Officer February 21, 1992 pursuant to Ordinances 44 and 45. The request was reviewed for conformity with Land Development Code Sections 54.060 and O.R.S. 215.243.

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2. NAMES OF THOSE WHO PARTICIPATED:

The Hearings Officer in review of this application was Neil D. Smith. 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 Karen Burg, Administrative Secretary.

3. LEGAL DESCRIPTION:

The property under consideration is 40 acres located in the NE 1/4 NE 1/4 of section 36 Township 37S Range 11VE. T.A. 3711V-00-7200.

4. RELEVANT FACTS:

The property is within the Agriculture plan designation and has an implementing zone of EFU-CG. The property is accessed by an graded county roads, Petersteiner and Yonna Loop rds. and is no longer under farm deferral. The Land Use Capability Classification of the property is Class IV & VI. The property is rated Class V for timber productivity. Properties to the north, south and west are found devoted to commercial agricultural production. The zoning is to the north is Forestry/Range. Zoning to the south and west is EFU-CG. Zoning to the east is R-1 Surrounding residential use includes six homes within a two-mile radius. The property is not within a structural fire protection district and

wildfire protection standards will be followed.

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 54.060 and O.R.S. 215.243 have been satisfied. The Hearings Officer finds this application;

1. Is compatible with farm use because:

The project site is legally and ownership divided from adjacent properties. The project site is found not to be devoted to commercial agricultural use and the conversion to such would be impractical because of the parcel size constraint posed by the applied 80 acre (EFU-CG) zoning.

The Hearings Officer finds that the use of the remnant parcel as a homesite compatible with potential agricultural use because the applicant has demonstrated that no conflict will result from the conversion of this 40 acre property from vacant to residential/limited agricultural use. Historically, there has been no 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, south and west are found to be engaged in commercial agriculture. Properties to the east are found devoted to rural life-style homes. The parcel in question is found to be of little resource value due to its location, topography, soils limitations and size which is far below the minimum lot size (80 acres) thought to represent a viable agricultural property.

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 reasonable 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 long established to rural/agriculture life-style and will not be compromised by the conversion of an adjacent vacant 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 40 acres in size. The Hearings Officer finds this parcel size unsuitable for commercial agricultural use due to its size below the 80 acre minimum thought to be a viable economic farm unit. The unit will be converted to limited agricultural use and will add to the agricultural land base in a non-economic level.

5. Complies with other conditions felt necessary, because;

The property is within a structural fire protection district. The potential exists that the residential use could cause a structural fire spreads to adjacent lands. Accordingly, the Hearings Officer finds the requirements set out in the L.D.C. will protect the resource land base that could result from any possible fire hazard posed by the non-farm residence.

6. ORDER:

Therefore, it is ordered the request of Mr. and Mrs. Russell for CUP 6-92 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 applicant must submit proof of clearances from the Environmental Health Services Division and Building Department to the Planning Director within two years following the date of this Order or apply for an extension of time.

DATED this 6th day of ~~February~~ MARCH, 1992

Neil D. Smith, 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 Article 33 of the Klamath County Land Development Code, together with the fee required within seven days following the mailing date of this order.

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Klamath County the 10th day of March A.D., 19 92 at 9:53 o'clock A M., and duly recorded in Vol. M92, of Deeds on Page 4893.

Evelyn Biehn County Clerk

By Pauline Mullendore

FEE none

Return: Commissioners Journla