

BEFORE THE HEARINGS OFFICER OF KLAMATH COUNTY, OREGON

In the matter of the request
of JAMES SMEJKAL

NONCONFORMING USE
VERIFICATION AND
RESIDENTIAL
SITING PERMIT

NO. NCU/V 1-92

This matter came before Neil D. Smith, Hearings Officer for Klamath County, Oregon on 17 April 1992 in the County Commissioners' Meeting Room in Klamath Falls Oregon. The Klamath County Planning Department was represented by Mr. Mark Richards the recording secretary was Ms. Karen Burg. The complete Klamath County Planning Department file and all the exhibits and other contents pertaining to this plat is incorporated by this reference into this matter.

The Hearing was held pursuant to notice given in conformity with the Klamath County Land Development Code and related Statutes and Ordinances. The applicant for the above referenced Conditional Use Permit, was present and testified. Mr. Smejkal was represented by Mr. Joseph J. Leahy, Esq.. Mr. Smejkal's information was received and found to be in favor of the application as was the report of the staff.

There were no objections either written or on the record made to this application.

FINDINGS OF FACT

1. Those property descriptions and application information contained in exhibit A are hereby made a part of the record and by this reference incorporated herein as findings of fact.

2. The Applicant's requested Non-Conforming Use Verification and siting application for Tall Pines Estates conforms with the conditions set forth in chapter 13 of the Land Development Code.

3. The location of Tall Pines Estates has been established since 1985.

4. The development is complete and has been so completed since 1985. The testimony stated that a sum in the approximate amount of \$400,000.00 has been expended for the installation of roadways, a bridge and septic systems on all lots.

5. The applicant cites CLAKAMAS COUNTY v HOLMES et ux 265 OR 193 (1973) as authority for the granting of this per-

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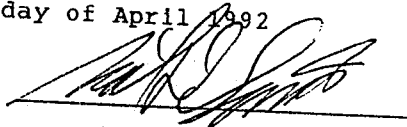
mit since the Applicant has a "vested" right to the development prior to zone changes by the County. The applicant has shown clearly that the findings of fact set forth in exhibit D at III without question meet the test set forth in the case cited.

6. There were no persons or departments present who expressed any opposition to this application. There is, however a letter marked and received as exhibit J from the Oregon Department of forestry expressing concern regarding normal forest practices on adjacent timber lands. They cite specifically section 55.080 (c) (1). That concern is well taken and will be attended to in the order herein.

ORDER

Based upon the findings herein the Non-Conforming Use Verification and residential siting permit for the Tall Pines Estates is granted on condition that each deed contain a Covenant running with the land that they will not interfere or bring any action to prohibit or impede normal forest practices on the lands in the close proximity on this Plat.

DATED this 17th day of April 1992



Neil D. Smith, Hearings Officer

KLAMATH COUNTY LAND DEVELOPMENT CODE SECTION 24.007 PROVIDES:

" An Order of the Hearings Officer shall be final unless appealed within seven (7) days of its mailing by a party having standing in accordance with the procedures set forth in Chapter 3, Article 33 of this Code"

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Klamath County the 20th day
of April A.D., 19 92 at 2:30 o'clock P M., and duly recorded in Vol. M92
of Deeds on Page 8390

FEE none

Evelyn Biehn County Clerk

By Dorise Mullendore

Return: Commissioners Journal