

In the matter of the request)

of TOM W. SMITH)

) CONDITIONAL USE PERMIT

) CUP NO. 35-92

) LP NO. 23-92

This matter came before Neil D. Smith, Hearings Officer for Klamath County, Oregon on 29 May 1992 in the County Commissioners' Meeting Room in Klamath Falls Oregon. The Klamath County Planning Department was represented by Mr. Kim Lundahl, Senior Planner the recording secretary was Ms. Karen Burg. The Klamath County Planning Department file and all the exhibits and other contents therein 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 and Partition, was present and testified.

Witnesses information was received and found to be in favor of the permit.

There was opposition by the Oregon Department Of Fish and Wildlife by letter (exhibit F) which pointed out that the area in question here is partly in a Wildlife Overlay Area. That information was considered in this matter.

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 Conditional Use Permit and Partition is permitted in this zone.

3. The creation of this proposed partition will conform to all requirements consistent with Section 55.2 of the LAND DEVELOPMENT CODE in all its respects.

4. There was opposition to this application as presented by mail. No person appeared and submitted to questions during either hearing. (The first hearing was held on May 15, 1992 which was postponed to the above date for the purpose of allowing the applicant to consult with the ODF & W representative)

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5. The original application asked that this 80 acre parcel be divided into three parcels of approximately 27 acres each. (See exhibit B)

6. Mr. Smith, the applicant has agreed that he will only split this into two parcels consisting of a 27 acre parcel upon which his existing residence now is located combined with a 26 acre parcel to the North which is shown on exhibit B, thereby leaving only a 27 acre parcel to the East which is being applied for now.

7. Mr. Smith is presently suffering from Multiple Sclerosis, a debilitating disease, which is degenerative.

8. Mr. Smith's Brother is moving on the proposed adjacent 27 acres to the East for the purpose of retirement and caring for Mr. Smith in the later stages of his illness.

CONCLUSIONS

1. The use proposed here is permitted in this Zone and there would be no complication had it not been for the Wildlife Overlay.

2. Mr. Smith is presently providing care for the deer in the area by furnishing water and a salt lick for the animals. He has assured the Hearings Officer that he is interested in preservation of the Winter Range for these animals.

3. By permitting a limited split of this property which is only partly within the Wildlife Overlay there will be minimal impact on the habitat.

4. The applicant suffers from a serious illness which will eventually REQUIRE intensive attention to his needs and has arranged for that help on the proposed section divided off.

5. Reducing the Partition to two parcels rather than three will mitigate the impact if any upon wildlife.

ORDER

Based upon the findings herein the Conditional Use Permit and partition NO.35-92 and 23-92 Is Granted subject to the following conditions.

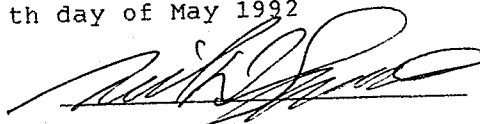
1. There will only be two parcels permitted.

A. Parcel # 1 will consist of the 27 acres upon which the present residence is located AND the 26 acre parcel

to the north of the residence
 B. Parcel #2 is the 27 acre lot to the east of the
 south and east of parcel #1

2. There will be no further human habitation on either
 parcel other than the home proposed on parcel #2.

DATED this 29 th day of May 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 2nd day
 of June A.D., 19 92 at 2:44 o'clock P.M., and duly recorded in Vol. M92,
 of Deeds on Page 11898.

Evelyn Biehn - County Clerk

FEE none

By Debra M. Mendenhall

Return: Commissioners Journal