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BEFORE THE HEARINGS OFFICER  
KLAMATH COUNTY, OREGON

IN THE MATTER OF CUP 6-93 FOR ANDERSON  
TO ESTABLISH A RESIDENCE  
NOT IN CONJUNCTION WITH FARM USE

ORDER

1. NATURE OF THE REQUEST:

The applicant wishes to establish an existing residence as not in conjunction with farm use on 2.0 acres west of Godowa Springs Rd., 1/2 mile north of Hwy 140 at Beatty. This request was heard by the Hearings Officer APRIL 16, 1993 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.

2. NAMES OF THOSE WHO PARTICIPATED:

The Hearings Officer in review of this application was Michael L. Brant. Mr. Anderson 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 15, Township 36S Range 12E W.M.. T.A. 3612-15-5300.

4. RELEVANT FACTS:

The property is within the Agriculture plan designation and has an implementing zone of EFU-CG. The property fronts an improved paved County road. And is proposed to be 2.0 acres in size and is under farm tax deferral. The 1450 sq. ft. residence proposed for non farm use is existing. The Land Use Capability Classification of the property is Class IV. Surrounding residential use includes twenty five homes within a two-mile radius. The property is NOT within a structural fire protection district.

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 will be 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.

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 2.0 acre property from vacant to residential 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 application before the Hearings Officer does NOT propose an increase in residential density as the unit proposed as a non farm residence has been in existence since 1900.

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 will not be compromised by the conversion of an existing residence 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 condi-

tions, drainage and flooding, vegetation, location, and size of the tract because:

The proposed parcel is 2.0 acres in size. The Hearings Officer finds this parcel size unsuitable for commercial agricultural use due to its size, poor soils, micro-climate and topography. The impact of removing this marginal value land from the County farmland base is found to be insignificant.

5. Complies with other conditions felt necessary, because;

The applicant will be required to file a Property Line Adjustment application prior to the effect of this approval.

6. ORDER:

Therefore, it is ordered the request of Miller ANDERSON for C.U.P. 6-93 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 until the applicant provides the Planning Department with evidence that the lot or parcel upon which the dwelling is 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. This permit will expire in two years unless an approved Property Line Adjustment or partition resulting in the creation of a two acre non farm property is secured.

DATED this 16th day of APRIL, 1993

Michael L. Brant

Michael L. Brant, 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 20th day  
of April A.D., 19 93 at 11:48 o'clock A M., and duly recorded in Vol. M93  
of Deeds on Page 8186  
Evelyn Biehn - County Clerk  
By Pauline M. Anderson

FEE none

Return: Commissioners Journal