

BEFORE THE HEARINGS OFFICER
KLAMATH COUNTY, OREGONIN THE MATTER OF CUP 19-93 FOR
GIBSON TO ESTABLISH A RESIDENCE NOT
IN CONJUNCTION WITH FOREST USEORDER1. NATURE OF THE REQUEST:

The applicant wishes to establish a home as a single family residence not in conjunction with forest use on 5 acres m/l north of Chiloquin. The request was heard by the Hearings Officer MAY 28, 1993 pursuant to Ordinances 44 and 45. The request was reviewed for conformance with Land Development Code Article 55.

2. NAMES OF THOSE WHO PARTICIPATED:

The Hearings Officer in review of this application was Michael L. Brant. 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.

3. LEGAL DESCRIPTION:

The subject property is located west of Royal Coachman Dr., at the west end of Eastern Brooks Dr., Winema Peninsula, north of Chiloquin. The parcel is described as a portion of the SW 1/4, NW 1/4 Section 27, Township 34S, Range 7E W.M.. T.A. 3407-27B-1300 & 1400.

4. RELEVANT FACTS:

A. ACCESS: The property is accessed by easement roads west from the Winema Peninsula Subdivision Roadnet.

B. FIRE PROTECTION: The property is within the Chiloquin/Agency Lake RFD, a structural fire protection district. The applicant has also proposed fuel breaks around the residence to reduce the potential of a structural fire spreading to the surrounding lands.

C. LAND USE: The property is 5 acres of undeveloped land. The site has been used for recreation over the last 15 years. There is a non commercial density of trees on the property. Ninety percent of the property is sagebrush and a few aspens comprise the remainder of the vegetation.

D. SEWERAGE: The applicant indicates septic evaluation has not been accomplished.

E. SLOPE: Available topographic mapping and site inspection indicates slopes of 0-10% predominate the site.

F. WATER: Proposed on site well.

G. PLAN/ZONING: The plan/zone designation of the project site and properties in all compass directions is Forestry. A rural exception area, Winema Peninsula, is 1/2 mile to the east.

5. RELEVANT CRITERIA:

The standards and criteria relevant to this application are found in the Klamath County Comprehensive Plan (Goal 4) and the Klamath County Land Development Code, specifically Article 55.

6. FINDINGS:

All evidence submitted as the staff report, exhibits b-d, and offered testimony were considered in this Order.

6.1 With regard to the Statewide Planning Goals and the Klamath County Comprehensive Plan, the Hearings Officer makes the following findings:

A. The goal of the Forest Lands Element is to conserve forest lands for the production of wood fiber and other forest uses, protect forest lands from incompatible uses, and to ensure a continued yield of forest products and values.

B. Forest Uses are defined by Statewide Planning Goal 4 and the Comprehensive Plan to include:

1. The production of trees and forest products;

2. watershed protection and wildlife and fisheries habitat;
3. soil protection from wind and water;
4. grazing of livestock;
5. maintenance of clean air and water;
6. outdoor recreational activities
7. open space, buffers from noise, and visual separation of conflicting uses.

FINDING: The Hearings Officer finds that dwellings are not included in the list of forest uses. The Land Development Code does, however, permit residences subject to conditional use findings that the dwelling is located on lands generally unsuitable for timber management and not needed for other permitted forest uses and is otherwise consistent with the County's acknowledged criteria. Evidence was adduced which showed the County Assessor has deemed this land ineligible for forest tax deferral since it is not suitable for such use because of current tree density. An examination of the land shows this area is approximately 90% sagebrush.

C. Policy 4 of the Klamath County Forest Lands Goal states "The County shall regulate development of nonforest uses in forest areas". The "rationale" for such policy is "to protect the health, safety and welfare of County Citizens" and "to reduce fire danger to man-made structures and forest resources".

FINDING: The proposed residence is within a structural fire protection district. And with the provision of required fuelbreaks, the readily available wildland fire protection provided by the ODF and access provided, there is an insignificant risk of fire and risk to the adjacent uses.

6.2 With regard to the Klamath County Land Development Code, the Hearings Officer makes the following findings:

EXHIBIT "A"

Lot 13, Block 4, TRACT NO. 1019, WINEMA PENINSULA - UNIT NO. 2
according to the official plat thereof on file in the office of the County
Clerk of Klamath County, Oregon.

EXCEPTING THEREFROM, that portion deeded to the State of Oregon in Deed Volume
M89, page 21761, Microfilm Records of Klamath County, Oregon, more particularly
described as follows:

A parcel of land lying in Lot 13, Block 4, TRACT NO. 1019, WINEMA PENINSULA - UNIT
NO. 2, Klamath County, Oregon; the said parcel being that portion of said lot
lying Westerly of a line parallel with and 225 feet Easterly of the center line of
the relocated Main Runway and Approach Surfaces of the Chiloquin State Airport which
center line is described as follows:

Beginning at Engineer's center line Station 100+00, said Station being 2685.48 feet
North and 61.88 feet East of the Northwest corner of Section 34, Township 34 South,
Range 7, East of the Willamette Meridian, Klamath County, Oregon; thence South 6
degrees 54' 32" West 4500 feet to Engineer's center line Station 145+00.

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Mountain Title co the 2nd day
of June A.D., 19 93 at 11:36 o'clock A M., and duly recorded in Vol. M93
of Deeds on Page 12579.

FEE \$35.00

Evelyn Biehn County Clerk

By Oseline Muelindore