BEFORE THE HEARINGS OFFICER
KLAMATH COUNTY, OREGON

IN THE MATTER OF CUP 47-93 FOR
TAYLOR TO ESTABLISH A RESIDENCE
NOT IN CONJUNCTION WITH FARM USE ORDER

1. NATURE OF THE REQUEST:

The applicant wishes to establish a residence not in conjunction with farm use on 2.09 acres west of the Hill Rd., east of the "G" canal, Henley area. This request was heard by the Hearings Officer AUGUST 20, 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. 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. PROJECT LOCATION:

The property under consideration is located in a portion of the NE 1/4 NE 1/4 NE 1/4 sec. 6, T 40S R 10E. T.A. 4010-6-100.

4. RELEVANT FACTS:

The property is within the Agriculture plan designation and has an implementing zone of EFU-C. The property is 1/4 mile west of Chalet Vista subdivision, is 2.09 acres in size and IS NOT under farm tax deferral. The property has been evaluated for subsurface sewage feasibility and the applicant indicates there is a system on-site. The Land Use Capability Classification of the property is Class III & IV.

The properties adjacent to this property to the north, south, and west are found to be devoted to commercial agriculture. The land use to the east is R-5, Chalet Vista, an acknowledged rural exception area.

Surrounding residential use includes twelve homes within a two-mile radius.

The property IS 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 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. 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 2.09 acre property to rural residential use.

2. Does not interfere seriously with accepted farming practices on adjacent lands devoted to farm use because:

The properties to the east are found NOT to be engaged in commercial agriculture. These properties are found devoted to rural use. The property in question is found to be of little resource value due to its location and size which is far below the minimum lot size 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 lifestyle and will not be compromised by the conversion of an adjacent par-

cel 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 2.09 acres in size. The Hearings Officer finds this parcel size unsuitable for commercial agricultural use due to its size. 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 property is within a structural fire protection district. The potential exists that a new residential use could cause a structural fire to spread 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 TAYLOR for C.U.P. 47-93 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 nor shall a building permit for a non-farm dwelling be issued under this order until the applicant, within 30 days of the date below, 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. This permit will expire in two years unless the approved residence is established or a request for an extension of time is filed with the Planning Department.

DATED this 20th day of AUGUST, 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 23rd day of Aug. A.D., 19 93 at 11:48 o'clock A M., and duly recorded in Vol. M93, of Deeds on Page 21088.

FEE none

Return: Commissioners Journal

Evelyn Biehn, County Clerk

By Doreen Muldoon