

BEFORE THE HEARINGS OFFICER  
KLAMATH COUNTY, OREGON

IN THE MATTER OF CUP 123-94 FOR  
JAMES BROWN TO ESTABLISH A HOME  
NOT IN CONJUNCTION WITH FARM USE

ORDER

## 1. NATURE OF THE REQUEST:

The applicant wishes to establish a new home as a use not in conjunction with farm use on 40.36 acres south of the Sprague River Pines subdivision, east of Chiloquin.

This request was heard by the Hearings Officer JANUARY 20, 1995 pursuant to Ordinances 44 and 45. The request was reviewed for conformity with Land Development Code Article 54 and with O.R.S. 215.243.

## 2. NAMES OF THOSE WHO PARTICIPATED:

The Hearings Officer in review of this application was Neal G. Buchanan.

The applicants representative, Linda Long, 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. LOCATION:

The property under review is located south of the Sprague River Pines subdivision, and is described as portions of the SW 1/4 NW 1/4 Sec. 27, east of the Sprague River. T.A. 3408-27B-6000.

## 4. RELEVANT FACTS:

The property is within the Agriculture plan designation and has an implementing zone of EFU-CG. The parent property is 40.36 acres in size and is NOT under farm tax deferral. Land use and lot sizes in the area are similar to that proposed by this application. Residential land use and similar lot

sizes are also found adjacent. Fire protection is provided by the C/ALRFD, 9.0 miles away with a response time of 20 minutes.

#### 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 Article 54 and 45 has been satisfied. The Hearings Officer finds this application;

##### 1. Is compatible with farm use because:

The analysis of surrounding properties and their use indicates the size of the proposed parcels and the proposed use as large lot rural-residential are compatible with the predominant adjacent land uses as the existing residential density of the area will not be markedly increased.

An additional home will not impact this most affected land use.

The applicant has demonstrated the small parcel under consideration here are not considered a commercial agricultural parcel size due to its small size.

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

The surrounding parcels are found to be developed to rural residential and low intensity farm use. The proposed non-farm residences will not interfere with the on-going use as sufficient lot area and geographic boundaries such as the existing drainage canals provide a buffer/setback from agricultural management practices and the small private pasturage may be used to support limited large animal use for the parcel.

The permit holder has proposed 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 valid farming practices on nearby lands.

The Hearings Officer finds this will mitigate impact to the limited farm operations in the immediate area.

3. Does not alter the stability of the overall land use pattern of the area because:

The overall land use of part of this area is found to be large lot rural residential and commercial farming. The land use pattern of the area will not be modified as the residential intensity will be marginally increased with the addition of one more residence in an area already impacted.

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 proposed non farm parcel is substantially smaller than the 80 acre size required by HB 3661 and are therefore thought not appropriate for commercial farm use. Hearings Officer finds this non farm parcel size unsuitable for commercial agricultural use due to its small size, location adjacent to developed residential use and the testimony of the applicant stating a farm income suitable to support a family cannot be generated on this property.

5. Access to the parcel is via the Sprague River Pines roadnet. Use of the road will not interfere with farm practices.

6. ORDER:

Therefore, it is ordered the request of JAMES BROWN for C.U.P. 123-94 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. CUP 112-94 will expire in two years from the date below unless a development permit is granted or an extension of time is granted.

3. Prior to development permit issuance, compliance with Article 59 of the Land Development Code, Flood Hazard Zone, will be demonstrated.

DATED this 20<sup>th</sup> day of JANUARY, 1995

Neal G. Buchanan  
Neal G. Buchanan, Hearings Officer

#### NOTICE OF APPEAL RIGHTS

You are hereby notified 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 Section 33.034 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 24th day  
of Jan A.D., 19 95 at 11:59 o'clock A.M. and duly recorded in Vol. M95  
of Deeds on Page 1657

Bernetha G. Letsch County Clerk

FEE none  
Comm. Journal

By Paula Miller