

In the Matter of the Conditional)
Use Permit for)
DAVID J. BLEHA)
_____)
)

CONDITIONAL USE PERMIT
CASE NO. 33-94

ORDER MODIFYING HEARING OFFICER'S
APPROVAL OF CONDITIONAL USE PERMIT

05-17-45ATT:33 RCVO

Procedural Background. The subject Conditional Use Permit was first approved by Klamath County Land Use Hearing Officer Michael L. Brant by Order dated May 25, 1994. Hearing Officer Brant's Order contained no conditions. Chris and Glenda Jones,

Kenneth Olmstead, and John Abbott appealed the Hearing Officer's decision to the Board of Commissioners. By Order dated August 4, 1994, the Board of Commissioners reversed the Hearing Officer's decision. The Board found that the Hearing Officer had failed to consider the Appellant's testimony concerning alleged adverse impacts of the proposed shotgun shooting range on the Appellant's neighboring residences. The Applicant then appealed the Board of Commissioners' Order to the Land Use Board of Appeals. On October 18, 1994, the County and the Applicant stipulated to the entry of an Order by the Land Use Board of Appeals remanding the case to the Klamath County Board of Commissioners and then remanding the case to the County's Land Use Hearings Officer. On February 17, 1995, Land Use Hearings Officer Neal G. Buchanan held a supplemental hearing to address the issues raised by the initial appellants. By Order dated March 15, 1995, Hearing Officer Buchanan approved the Conditional Use Permit subject to the Applicant's compliance with six conditions set forth in the Order. On March 21, 1995, Richard T. Luttrell appealed Hearing Officer Buchanan's Order to the Board of County Commissioners. A hearing was held before the Board of County Commissioners on the appeal on April 25, 1995.

Statement of the Reasons for Appeal. The Appellant's Letter of Appeal of Land Use Decision cites the following concerns:

- "1. Permit does not clearly list the limits or conditions of the shooting range.
2. We don't think the noise & dust factor have yet been satisfactorily addressed, nor the livability of our neighborhood."

Prior to the commencement of the hearing before the Board of Commissioners, the Appellant and the Applicant stipulated to 19 conditions. Those conditions are set forth on Exhibit A attached hereto and incorporated herein by this reference.

Commissioners agrees with the Appellant that the Hearing Officer's Order does not clearly list the limits or conditions of the permit. However, the Board of Commissioners finds that the conditions stipulated to by the Appellant and by the Applicant cure or correct the deficiencies with the Hearing Officer's Order.

The concerns raised by the Appellant and the other opponents with standing can be summarized as follows:

- a. Concern about fire danger;
- b. Concern with safety of the shot fall area;
- c. Concern about dust from the use of the county roads that service the property;
- d. Concern about noise emanating from the shotgun shooting range;
- e. Concerns about the types of weaponry to be used on the shotgun shooting range; and
- f. The amount of traffic that might be generated by the range.

The Board of Commissioners finds that there is substantial evidence in the record to sustain the findings of the Hearing Officer:

"That the location, size, design, and operating characteristics of the proposed development will be compatible with and will not have significant adverse effects on the appropriate development and use of abutting properties and the surrounding neighborhood."
[LDC § 44.003 (C)]

Each of the concerns raised by the neighbors is specifically addressed in the Findings of Fact contained in the Hearing Officers's Order, which said Findings of Fact are incorporated herein by this reference. The adoption of the conditions


attached hereto as Exhibit A assures the Appellant and other
objecting parties that the assumptions made by the Hearing
Officer will be carried out by the Applicant, The conditions
significantly limit the scope and use of the shotgun shooting
range and provide significant protection for the adjoining
properties.

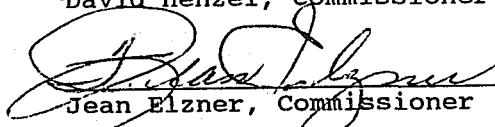
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ORDER

IT IS HEREBY ORDERED that the Order of the Hearing Officer
approving Conditional Use Permit No. 33-94 is modified to
incorporate as conditions of approval the 19 conditions set forth
on Exhibit A attached hereto. The conditions set forth on
Exhibit A replace the conditions set forth in the Hearing
Officer's Order. Conditional Use Permit No. 33-94 is granted
subject to the conditions set forth on Exhibit A.

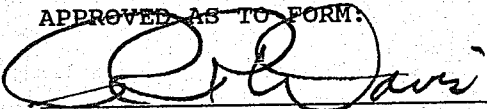
Dated this 15th day of May, 1995.


David Henzel, Commissioner


Jean Elzner, Commissioner

(Commission Chairman Cliff McMillan did not vote)

APPROVED AS TO FORM:


Reginald R. Davis
Klamath County Counsel

PROPOSED CONDITIONS

BLEHA CUP 33-94

The Conditional Use Permit shall be amended to provide the following conditions:

General Conditions:

1. The Applicant shall comply with the conditions set forth in the management plan proposed by the Oregon Department of Fish and Wildlife.
2. The Applicant shall observe all rules and regulations of the Oregon Department of Forestry. The Applicant shall provide access to the site to the Department of Forestry.
3. The Applicant shall, within 18 months after the date of this Order, drill a domestic water well on the property and provide restroom facilities which meet DEQ standards.
4. The Applicant shall maintain public liability insurance which covers the activities at the range and shall promptly provide proof of such coverage upon request to the Klamath County Planning Department.
5. The Applicant shall provide and service sanitary trash disposal containers at the range. The range shall be kept free of garbage and rubbish. No dumping shall be allowed on the property.
6. No overnight use of the range by motor homes, camp trailers, or other camping vehicles or facilities will be allowed.
7. The Applicant shall, within 120 days of the date of this Order, install two (2) inches of 3/4"-0" crushed rock compacted to 95% of maximum density as described in Applicant's Exhibit S-7 on Gearhart Drive from Hart Court to the intersection of Grace Drive and on Grace Drive from its intersection with Gearhart Drive to the road which serves the subject property. The Applicant shall pay one-third of the cost of annual maintenance and snow removal.
8. The Applicant shall provide the domestic well and associated water system required by condition 3., above.
9. The Applicant shall, within 18 months after the date of this Order, clear and, thereafter, maintain a fire break not less than 15 feet in width around the perimeter of the shot fall safety area on the north, south, and east sides of the range tying back into the main parking area of the range. (The main parking area provides a fire break on the west side of the range).

PROPOSED CONDITIONS -1-

10. The Applicant shall, within 18 months after the date of this Order, excavate and remove substantial additional material from the shot fall area to provide a shooting backstop area. (This improvement provides three benefits: 1) It improves safety by providing a better backstop in the shooting area; 2) It will block more sound; and 3) It allows for the practical recovery and recycling of spent shot.)

11. Smoking shall only be permitted in personal vehicles and in designated areas which are fire safe and maintained with appropriate cigarette disposal cans.

12. Open burning shall be conducted pursuant to the rules of the DEQ and appropriate fire departments.

13. The Applicant shall post the perimeter of the shot fall zone with No Trespassing warning signs located no more than 100 feet apart.

Range Operations Conditions:

14. At all times that the range is open and operating pursuant to this permit, there shall be a designated Range Master present who shall be authorized to enforce all of the safety rules outlined on Applicant's Exhibit S-10. All shooters shall sign the Applicant's Use Regulation Form.

15. The use of the range shall be limited to shotguns.

16. The Applicant shall maintain a log detailing the actual usage by the members and the log shall be available to County Planning Department employees upon request.

17. Use of the range shall be limited to twenty (20) shooters at a time.

18. The range shall be open to the members: a) no more than four days per week; and (b) only during the hours of 9 a.m. to 8 p.m., except Sunday when it can only be open from 10 a.m. to 5 p.m.

19. No alcoholic beverages shall be allowed on the shooting range while it is in use. No one whose judgment or shooting ability is impaired by alcohol or any other substance shall be allowed to shoot.

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Klamath County the 17th day of May A.D., 19 95 at 11:33 o'clock A M., and duly recorded in Vol. 1495 of Deeds on Page 12825

FEE No Fee

Return: Commissioners Journal

INDEXED

