

**BEFORE THE HEARINGS OFFICER
KLAMATH COUNTY, OREGON**

**IN THE MATTER OF CUP 92-96 AND LP 59-96 FOR
JOHN ALARCON TO ESTABLISH USES NOT IN CONJUNCTION WITH FARM
USE AND DIVIDE THE PROPERTY**

1. NATURE OF THE REQUEST:

The applicant wishes to establish two new homes and an existing home, as uses not in conjunction with farm use on property south of Klamath Falls. Also considered was the request to partition the parent 35.7 acres into three parcels of 10.6, 16.9, and 8.2 acres. This request was heard by the Hearings Officer NOVEMBER 1, 1996 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 Michael L. Brant. The applicant appeared and offered testimony in support of the application. The Planning Department was represented by PW, HSH Karen Burg.

3. LOCATION:

The property under consideration is located east of Tingley Ln., 1/2 mile south of the Southside Expressway. Portion N 1/2 SW 1/4 Sec. 16, T 39S R 9E., T.A. 3909-16-600.

4. RELEVANT FACTS:

The property is within the Agriculture Plan designation and has an implementing zone of EFU-C. The parent property is 35.7 acres in size, is under farm tax deferral, is not within a Goal 5 overlay, and is rated Class III soils. Land uses and lot sizes in the area are similar to that proposed by this application. Rural-residential land use and similar lot sizes are also found within one mile of this project. Fire protection is provided by KCFD #1.

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 small parcel proposed as rural-residential is compatible with the predominant adjacent land uses as the existing density of the area will not be increased as the residence is long established.

The applicant has demonstrated the small parcel under consideration here is not considered commercial agricultural size due to small parcel sizes.

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 and commercial farm use. The proposed/existing non-farm use will not interfere with the on-going use as sufficient lot area and geographic boundaries provide a buffer/setback from agricultural management practices. 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 farm operations.

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 rural-residential and commercial farming. The land use pattern of the area will not be modified as the residential intensity will be not be markedly increased.

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. The proposed home is to be located on property with SCS rating III. The Hearings Officer finds this non farm parcel size unsuitable for commercial agricultural use due to its small size, and the testimony of the applicant stating a farm income suitable to support a family cannot be generated on this property.

5. Partitions creating parcels for non-farm uses are reviewed per the criteria set out in L.D.C. Article 45 and section 54.070.

The Hearings Officer finds this partition conforms to these criteria as set out below:

1. The parcels are created for proposed non-farm/farm uses. The small proposed parcels, as well as the parent parcel, are not viable for commercial agriculture since they are less than 80 acres.
2. Access to the parcel is from Tingley Ln.. Use of the road will not interfere with farm practices.

6. ORDER:

Therefore, it is ordered the request of ALARCON for CUP 92-96 and LP 59-96 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. LP 59-96 shall not be filed nor shall a building permit for a non-farm use be issued under this order until the applicant provides the Planning Department with evidence parcel 1 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. CUP 92-96 will not be effective until LP 59-96 is filed in the office of the County Clerk and will expire two years later unless utilized or extended.
4. LP 59-96 must comply with Code requirements, Oregon Revised Statutes and agency conditions prior to filing and will expire one year from the date below unless filed or extended.

DATED this 1st day of NOVEMBER, 1996

Michael L. Brant
Michael L. BRANT, 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 33.004 of the Klamath County Land Development Code, together with the fee required within SEVEN DAYS following the mailing date of this order.

REQUIREMENTS FOR FINAL APPROVALPartition No. LP 59-96/Alarcon

NOTE: THIS APPLICATION WILL EXPIRE ONE YEAR FROM THE PRELIMINARY APPROVAL DATE IF A TIME EXTENSION APPLICATION IS NOT MADE PRIOR TO THAT DATE.

FINAL PLAT REQUIREMENTS (Per Section 45.110 of the Land Development Code)

- A. Original Drawing - The original drawing of a partition plat shall be made in permanent black India type ink on 7 mil mylar, 18 inches by 24 inches in size with an additional 3 inch binding edge on the left side. The plat shall be of such a scale as required by the County Surveyor. The lettering of the approvals, the affidavit of the surveyor and all other information shall be of such a size or type as will be clearly legible, but no part shall come nearer any edge of the sheet than 1 inch. The original drawing shall be recorded in the County Clerk's office.
- B. Copy - One exact copy of the original plat made in permanent black India type ink or silver halide permanent photocopy on minimum 4 mil mylar, 18 inches by 24 inches in size shall be submitted to the Planning Director along with the original plat.
- C. Information shown on Plat:
 1. The partition number.
 2. The name of the person for whom the partition was made.
 3. Signature Blocks for the following:
 - a. Planning Director;
 - b. County Surveyor;
 - c. County Public Works Director (if applicable);
 - d. County Clerk;
 - e. Owner and contract purchaser of the subject property (if applicable).
 4. All requirements of ORS 92.050, 92.070(1), and ORS 209.250 where applicable.
 5. Street names adjacent to the partition.
 6. Water rights recording number. If a water right is not appurtenant to the property, a statement signed by the owner indicating such shall be shown on the plat.
- D. Supplemental Information to be filed with the Final Plat:
 1. A preliminary title report or partition guarantee issued by a title company in the name of the owner of the land and prepared within 30 days prior to submittal of the final plat showing all parties having any record title interest in the premises and what interest they have.
 2. A completed water rights statement if a water right is appurtenant to the property.

OTHER REQUIREMENTS:

1. Applicant is required to pay all advalorem taxes, any additional taxes, special assessments, fees, interest and penalties prior to partition being recorded.
2. Parcel #3 must be surveyed and monumented in accordance with ORS Chapter 92. The area along the north boundary is not a public road. The partitioner must create an access easement.
3. To establish a residence or other use where domestic sewage wastes will be generated on this parcel, applicant needs to comply with OAR Chapter 340 for on-site sewage disposal.
4. Klamath County Fire District No. 1 requires all weather capable apparatus access roadways which comply to UFC Section 902 (see attached).

34719



Klamath County Fire District No. 1

143 North Broad
Klamath Falls, Oregon 97601

541/885-2056
FAX 541/884-6920

October 4, 1996

Carl Shuck
Klamath County Planning Department
507 Main Street
Klamath Falls Or 97601

RE: CUP 92-96/LP 59-96
John and Darlene Alarcon

Dear Carl:

Klamath County Fire District No. 1 requires all weather capable apparatus access roadways which comply to UFC section 902, see attached.

If you have any questions or concerns regarding this matter, please feel free to contact me at 885-2056, Monday through Friday.

Sincerely,

A handwritten signature in cursive script that reads "Ron K. Eichellkraut".

Ron K. Eichellkraut
Fire Marshal

RKE:dg



Ex F

PART III**GENERAL PROVISIONS FOR SAFETY****ARTICLE 9 — FIRE DEPARTMENT ACCESS AND WATER SUPPLY****SECTION 901 — GENERAL**

901.1 Scope. Fire department access and water supply shall be in accordance with Article 9.

For firesafety during construction, alteration or demolition of a building, see Article 87.

901.2 Permits and Plans.

901.2.1 Permits. A permit is required to use or operate fire hydrants or valves intended for fire-suppression purposes which are installed on water systems and accessible to public highways, alleys or private ways open to or generally used by the public. See Section 105, Permit f.1.

EXCEPTION: A permit is not required for persons employed and authorized by the water company which supplies the system to use or operate fire hydrants or valves.

901.2.2 Plans.

901.2.2.1 Fire apparatus access. Plans for fire apparatus access roads shall be submitted to the fire department for review and approval prior to construction.

901.2.2.2 Fire hydrant systems. Plans and specifications for fire hydrant systems shall be submitted to the fire department for review and approval prior to construction.

901.3 Timing of Installation. When fire protection, including fire apparatus access roads and water supplies for fire protection, is required to be installed, such protection shall be installed and made serviceable prior to and during the time of construction.

EXCEPTION: When alternate methods of protection, as approved by the chief, are provided, the requirements of Section 901.3 may be modified or waived.

901.4 Required Marking of Fire Apparatus Access Roads, Addresses and Fire Protection Equipment.

901.4.1 General. Marking of fire apparatus access roads, addresses and fire protection equipment shall be in accordance with Section 901.4.

901.4.2 Fire apparatus access roads. When required by the chief, approved signs or other approved notices shall be provided and maintained for fire apparatus access roads to identify such roads and prohibit the obstruction thereof or both.

901.4.3 Fire protection equipment and fire hydrants. Fire-protection equipment and fire hydrants shall be clearly identified in a manner approved by the chief to prevent obstruction by parking and other obstructions.

When required by the chief, hydrant locations shall be identified by the installation of reflective markers.

See also Section 1001.7.

901.4.4 Premises Identification. Approved numbers or addresses shall be placed on all new and existing buildings in such a position as to be plainly visible and legible from the street or road fronting the property. Numbers shall contrast with their background.

901.4.5 Street or Road Signs. When required by the chief, streets and roads shall be identified with approved signs.

901.5 Obstruction and Control of Fire Apparatus Access Roads and Fire Protection Equipment. See Sections 902.2.4 and 1001.7.

901.6 Fire Protection in Recreational Vehicle, Mobile Home and Manufactured Housing Parks, Sales Lots and Storage Lots. Recreational vehicle, mobile home and manufactured housing parks, sales lots and storage lots shall provide and maintain fire hydrants and access roads in accordance with Sections 902 and 903.

EXCEPTION: Recreational vehicle parks located in remote areas shall be provided with protection and access roadways as required by the chief.

SECTION 902 — FIRE DEPARTMENT ACCESS

902.1 General. Fire department access roads shall be provided and maintained in accordance with Sections 901 and 902.

902.2 Fire Apparatus Access Roads.

902.2.1 Required access. Fire apparatus access roads shall be provided in accordance with Sections 901 and 902.2 for every facility, building or portion of a building hereafter constructed or moved into or within the jurisdiction when any portion of the facility or any portion of an exterior wall of the first story of the building is located more than 150 feet (45 720 mm) from fire apparatus access as measured by an approved route around the exterior of the building or facility. See also Section 902.3 for personnel access to buildings.

EXCEPTIONS: 1. When buildings are completely protected with an approved automatic fire sprinkler system, the provisions of Sections 902.2.1 and 902.2.2 may be modified by the chief.

2. When access roads cannot be installed due to location on property, topography, waterways, nonnegotiable grades or other similar conditions, the chief is authorized to require additional fire protection as specified in Section 1001.9.

3. When there are not more than two Group R, Division 3, or Group U Occupancies, the requirements of Sections 902.2.1 and 902.2.2 may be modified by the chief.

More than one fire apparatus road shall be provided when it is determined by the chief that access by a single road might be impaired by vehicle congestion, condition of terrain, climatic conditions or other factors that could limit access.

For high-piled combustible storage, see Section 8102.5.1.

For required access during construction, alteration or demolition of a building, see Section 8704.2.

902.2.2 Specifications.

902.2.2.1 Dimensions. Fire apparatus access roads shall have an unobstructed width of not less than 20 feet (6096 mm) and an unobstructed vertical clearance of not less than 13 feet 6 inches (4115 mm).

EXCEPTION: Vertical clearance may be reduced, provided such reduction does not impair access by fire apparatus and approved signs are installed and maintained indicating the established vertical clearance when approved by the chief.

Vertical clearances or widths shall be increased when, in the opinion of the chief, vertical clearances or widths are not adequate to provide fire apparatus access.

902.2.2.2 Surface. Fire apparatus access roads shall be designed and maintained to support the imposed loads of fire apparatus and shall be provided with a surface so as to provide all-weather driving capabilities.

902.2.2.3 Turning radius. The turning radius of a fire apparatus access road shall be as approved by the chief.

902.2.2.4 Dead ends. Dead-end fire apparatus access roads in excess of 150 feet (45 720 mm) in length shall be provided with approved provisions for the turning around of fire apparatus.

1994 UNIFORM FIRE CODE

902.2.1-902.2.4

EXCEPTIONS: 1. When buildings are completely protected with an approved automatic fire sprinkler system, the provisions of Sections 902.2.1 and 902.2.2 may be modified by the chief.

2. When access roads cannot be installed due to location on property, topography, waterways, nonnegotiable grades or other similar conditions, the chief is authorized to require additional fire protection as specified in Section 1001.9.

3. When there are not more than two Group R, Division 3, or Group U Occupancies, the requirements of Sections 902.2.1 and 902.2.2 may be modified by the chief.

More than one fire apparatus road shall be provided when it is determined by the chief that access by a single road might be impaired by vehicle congestion, condition of terrain, climatic conditions or other factors that could limit access.

For high-piled combustible storage, see Section 8102.5.1.

For required access during construction, alteration or demolition of a building, see Section 8704.2.

902.2.2: Specifications.

902.2.2.1: Dimensions. Fire apparatus access roads shall have an unobstructed width of not less than 20 feet (6096 mm) and an unobstructed vertical clearance of not less than 13 feet 6 inches (4115 mm).

EXCEPTION: Vertical clearance may be reduced, provided such reduction does not impair access by fire apparatus and approved signs are installed and maintained indicating the established vertical clearance when approved by the chief.

Vertical clearances or widths shall be increased when, in the opinion of the chief, vertical clearances or widths are not adequate to provide fire apparatus access.

902.2.2.2: Surface. Fire apparatus access roads shall be designed and maintained to support the imposed loads of fire apparatus and shall be provided with a surface so as to provide all-weather driving capabilities.

902.2.2.3: Turning radius. The turning radius of a fire apparatus access road shall be as approved by the chief.

902.2.2.4: Dead ends. Dead-end fire apparatus access roads in excess of 150 feet (45 720 mm) in length shall be provided with approved provisions for the turning around of fire apparatus.

(Text continues on page 1-47.)

1994 UNIFORM FIRE CODE

902.2.2.5-902.3.3

902.2.2.5 Bridges. When a bridge is required to be used as part of a fire apparatus access road, it shall be constructed and maintained in accordance with nationally recognized standards. See Article 90, Standard a.1.1. The bridge shall be designed for a live load sufficient to carry the imposed loads of fire apparatus.

Vehicle load limits shall be posted at both entrances to bridges when required by the chief.

902.2.2.6 Grade. The gradient for a fire apparatus access road shall not exceed the maximum approved by the chief.

902.2.3 Marking. See Section 901.4.

902.2.4 Obstruction and control of fire apparatus access.

902.2.4.1 General. The required width of a fire apparatus access road shall not be obstructed in any manner, including parking of vehicles. Minimum required widths and clearances established under Section 902.2.2.1 shall be maintained at all times.

Entrances to roads, trails or other accessways which have been closed with gates and barriers in accordance with Section 902.2.4.2 shall not be obstructed by parked vehicles.

902.2.4.2 Closure of accessways. The chief is authorized to require the installation and maintenance of gates or other approved barricades across roads, trails or other accessways, not including public streets, alleys or highways.

When required, gates and barricades shall be secured in an approved manner. Roads, trails and other accessways which have been closed and obstructed in the manner prescribed by Section 902.2.4.2 shall not be trespassed upon or used unless authorized by the owner and the chief.

EXCEPTION: Public officers acting within their scope of duty.

Locks, gates, doors, barricades, chains, enclosures, signs, tags or seals which have been installed by the fire department or by its order or under its control shall not be removed, unlocked, destroyed, tampered with or otherwise molested in any manner.

EXCEPTION: When authorized by the chief or performed by public officers acting within their scope of duty.

902.3 Access to Building Openings.

902.3.1 Required access. Exterior doors and openings required by this code or the Building Code shall be maintained readily accessible for emergency access by the fire department.

An approved access walkway leading from fire apparatus access roads to exterior openings required by this code or the Building Code shall be provided when required by the chief.

902.3.2 Maintenance of exterior doors and openings. Exterior doors or their function shall not be eliminated without prior approval by the chief. Exterior doors which have been rendered nonfunctional and which retain a functional door exterior appearance shall have a sign affixed to the exterior side of such door stating THIS DOOR BLOCKED. The sign shall consist of letters having principal stroke of not less than 3/4 inch (19.1 mm) wide and at least 6 inches (152.4 mm) high on a contrasting background. Required fire department access doors shall not be obstructed or eliminated. See Section 1207 for exit doors.

For access doors for high-piled combustible storage, see Section 8102.5.2.

902.3.3 Shaftway marking. Exterior windows in buildings used for manufacturing or for storage purposes which open directly on shaftways or other vertical means of communication between two or more floors shall be plainly marked with the word SHAFTWAY in red letters at least 6 inches (152.4 mm) high on a white background. Warning signs shall be easily discernible from the outside of the building. Door and window openings on such shaftways from the interior of the building shall be similarly marked with the word SHAFTWAY in a manner which is easily visible to anyone approaching the shaftway from the interior of the building, unless the construction of the partition surrounding the shaftway is of such distinctive nature as to make its purpose evident at a glance.

1-47



STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Klamath County the 4th day
of November A.D., 1996 at 11:07 o'clock A. M., and duly recorded in Vol. M96
of Deeds on Page 34715

FEE No Fee

Return:

Commissioners Journal

Bernetha G. Letsch, County Clerk

By

[Signature]