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BEFORE THE HEARINGS OFFICER
KLAMATH COUNTY, OREGON

IN THE MATTER OF CUP 7-97 FOR JIM SCOTT
TO ESTABLISH A HOME NOT IN CONJUNCTION WITH FARM USE

1. NATURE OF THE REQUEST:

The applicant wishes to establish a home as a use not in conjunction with farm use on a 6.94 acre property generally located east of the N. Malin Rd., between Rajnus and the Malin Loop Rds, Malin. This request was heard by the Hearings Officer MARCH 21, 1997 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 appeared and offered testimony in support of the application. The Planning Department was represented by Kim Lundahl and Karen Burg.

3. LOCATION:

The property under consideration is generally located north and east of Malin. Located in Section 10, T 41S R 12E. T.A. 4112-10-800.

4. RELEVANT FACTS:

The property is within the Agriculture plan designation and has an implementing zone of EFU-C. The parcel is 14.62 acres in size and IS presently under farm tax deferral. Land use and lot sizes in the area are similar to that proposed by this application. A farm home was historically located on this property. Residential land use and similar lot sizes are also found within one mile of this project. Fire protection is available from Malin RFPD with a station two miles south.

5. FINDINGS:

All evidence submitted as the staff report, exhibit$ b-__, and offered testimony show that the approval criteria as set out in Code Article 54 have 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 is compatible with the predominant adjacent land uses as the existing residential density of the area will not be markedly increased.

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 commercial farm use. The proposed non-farm residence will not interfere with the on-going use as sufficient lot area and geographic boundaries provide a buffer/setback from agricultural management practices and the remaining acreage will still be farmed. 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/resource 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 large lot rural residential and commercial farming. The land use pattern of the area will not be modified as the residential intensity will only be marginally 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 non farm parcel is markedly smaller than the 80 acre size required by HB 3661 and are therefore thought not appropriate for commercial farm use?? The Hearings Officer finds this non farm parcel size unsuitable for commercial agricultural use due to its marginally substandard size, 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 from a county maintained paved road. Use of the road will not interfere with farm practices.

6. ORDER:

Therefore, it is ordered the request of SCOTT, CUP 7-97 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 existing previously approved resource management practices on nearby lands.

2. This CUP will expire two years from the date below unless utilized or an extension is approved by the Planning Director.

3. This CUP is not valid until proof this property has been withdrawn from farm deferral status and all penalties associated with withdrawal have been paid and proof of same submitted to the Planning Director.

DATED this 21 day of MARCH, 1997

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 33.004 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 Hearings Officer the 24th day of March A.D., 19 97 at 9:06 o'clock A M., and duly recorded in Vol. M97, of Deeds on Page 8539.

Return: Commissioners Journal

FEE No Fee

Bernetha G. Letsch, County Clerk

by Kathleen Rosal