

BEFORE THE HEARINGS OFFICER KLAMATH COUNTY, OREGON

In the Matter of the Request for a Conditional Use Permit by)
)
) CUP 52-97
)
) ORDER
 STARCOM TECHNOLOGIES, INC.,)
)
 Applicant.)
 _____)

1. NATURE OF THE REQUEST:

The applicant wishes to permanently establish a communications testing facility to test new equipment designs and evaluate performance over the communications link. The placement of the equipment testing facility was previously permitted as Temporary Use Permit 5-96. The request was heard by the Hearings Officer on July 11, 1997, pursuant to Ordinances 44 and 45. The request was reviewed for conformity with Land Development Code Article 54 and 44.030.

2. NAMES OF THOSE WHO PARTICIPATED:

The Hearings Officer in review of this application was Neal G. Buchanan. The applicant appeared through its agent, Bob Korpi, and Jillian Hanington who appeared and offered testimony in support of the application. The Planning Department was represented by Kim Lundahl, and the recording secretary was Karen Burg.

3. PROPERTY LOCATION:

The property under consideration is generally located west of Kern Swamp Road, approximately two miles south of Highway 66.

4. RELEVANT FACTS:

The property has an implementing zone of EFU-CG. The legal land owners are Lester Hinton and Paula Hinton. The entirety of the parcel is some 116.3 acres in size. However, the facility itself is only approximately 450 feet long and of minimal width.

5. EVIDENCE RECEIVED:

Exhibit A (the Staff Report) together with Application and attachments.

6. FINDINGS:

The Hearings Officer finds this application:

1. Is compatible with farm use because cattle are able to graze all around the site without damage to themselves or the applicant's equipment. Further, the antenna towers are freestanding, which requires no guy wires. The lack of guy wires means that the growing and harvesting of hay can be accomplished right up to the towers and small building. The lease agreement specifies that the applicant will restore the property to its existing state upon termination of the lease. The installation thus will result in very little farm property being taken out of agricultural production, and virtually none being taken out of permanent agricultural production by this installation.

2. Does not interfere seriously with accepted farming practice on adjacent lands devoted to farm use because the communication building is small and unmanned most of the time. All phone, power and antenna cables are buried. The frequencies that this communication employs, 40-50 megahertz, are not harmful to man or animals. The permit holder has also indicated a willingness as a condition of this approval to enter into a covenant (which need not be recorded, as the applicant is not the legal land owner) which will prohibit the permit holder and successors in interest from filing complaint concerning valid farming practices on nearby lands. The Hearings Officer finds that this will mitigate impact to farming operations.

3. Does not alter the stability of the overall land use pattern of the area. The land use pattern of the area will not be modified as the residential intensity not be increased.

4. Access to the parcel is from Kern Swamp Road. Use of Kern Swamp Road and any parking in the area will only minimally interfere with farm practices.

7. ORDER:

Therefore, it is ordered that the request of Starcom Technologies, Inc. for CUP 52-97 is approved, subject to the following conditions:

1. The applicant shall enter into a restrictive covenant prohibiting the permit holder and their successors in interest from filing complaint concerning accepted resource management practices that may occur on nearby lands; provided, however, that inasmuch as the applicant is not the fee owner of the real property, such restrictive covenant need not be recorded; and

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2. The CUP granted will expire two years from the date below unless a development permit is obtained or an extension of time is approved by the Planning Director.

DATED this 14th day of JULY, 1997.



NEAL G. BUCHANAN
Deputy 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 the 15th day
of July A.D. 19 97 at 9:18 o'clock A. M., and duly recorded in Vol. N97
of Deeds on Page 22029.

Return: Commissioners Journal

Bernetha G. Letsch, County Clerk

FEE

No Fee

By

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