

BEFORE THE HEARINGS OFFICER FOR KLAMATH COUNTY

In the matter of the request
for a Conditional Use Permit

Conditional Use Permit
Case No. CUP 84-97

Norman and Debra Fowler
Applicants

9/ 10. 20 P157

This matter came before Michael L. Brant, Hearings Officer for Klamath County, Oregon, on November 7, 1997, in the Klamath County Museum Meeting Room in Klamath Falls, Oregon. The hearing was held pursuant to notice given in conformity with the Klamath County Land Development Code and related statutes and ordinances. The Klamath County Planning Department was represented by Mr. Kim Lundahl and the recording secretary was Assistant Planner Karen Burg. The Klamath County Planning Department file and all the exhibits and other contents therein is incorporated by this reference into this matter. The Klamath County Planning Department staff report was received. The Applicant appeared. Based upon the evaluation of the Staff Report and consideration of the other evidence received, the Hearings Officer makes the following findings of fact and conclusions and makes the following decision.

FINDINGS OF FACT

The Applicants request a permit to allow development of a NON FARM HOME on 13.98 acres zoned EFU-CG. The hearing on this

application was held October 3, 1997 and was continued to November 7, 1997 to enable the Applicants to present additional evidence. The subject property is adjacent to other parcels and if combined with those other parcels would create a farm unit of eighty (80) or more acres. The applicants presented evidence that the expense obtaining power, drilling an irrigation well and purchasing the necessary of equipment for farming would far exceed the value of agricultural products which could be harvested. Also evidence was presented which established that the owners of the adjacent properties were not interested in farming or acquiring the Applicants' property. The Applicants contend that they cannot farm the property because the expense would be prohibitive and adjacent property owners would not participate in farming. Applicants state Brent Lake had been advising them to help prepare their application and would confirm that prohibitive expense of the farming operation was a determining factor to be considered in finding whether a property CAN be a farm unit.

Neither Brent Lake nor anyone else from DLCD or LCD confirmed the Applicants contentions.

The application of common sense would lead to the conclusion that a parcel which by itself is too small to be economically productive agriculture land cannot be combined with adjacent parcels to create a farm unit if owners of the adjacent units are unwilling to farm, lease or purchase Applicants' property, or enter into a farming partnership or joint farming venture.

The interpretation of the law which we are required to accept does not permit consideration of expense or the cooperative willingness or lack thereof of adjacent owners.

CONCLUSION

The record reveals that the proposed use does not meet the criteria set out in L.D.C. Article 54, Sections 54.070B3

ORDER

The requested Conditional Use Permit No. 84-97 is denied.

Dated this 18th day of November 1997

Michael L. Brant

Michael L. Brant
Hearings Officer

KLAMATH COUNTY LAND DEVELOPMENT CODE SECTION 24.060 PROVIDES:

"An Order of the Hearings Officer may be appealed to the Board of County Commissioners within seven (7) days of its mailing as set forth in Article 33."

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Klamath County Hearings Officer the 20th day of November A.D. 19 97 at 1:37 o'clock P.M., and duly recorded in Vol. M97 of Deeds on Page 38136.

Return: Commissioners Journal By Bernetha G. Letsch, County Clerk
FEE No Fee By Kathleen Rose