

BEFORE THE HEARINGS OFFICER KLAMATH COUNTY, OREGON

In the Matter of the Request for a
Conditional Use Permit by

CUP 2-98

CRATER LAKE REALTY for HARLENE, VIVIAN
and DELBERT KIMBOL,

ORDER

Applicant.

A. NATURE OF THE REQUEST:

The applicant wishes to establish a home as a use not in conjunction with farm use on property generally located between Highway 62 and Modoc Point Road, 1/2 mile south of intersection with Highway 422 N. This request was heard by the Hearings Officer February 6, 1998 pursuant to Ordinances 24 and 44. The request was reviewed for conformity with Land Development Code Article 54 and with O.R.S. 215.243.

B. 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 the recording secretary was Karen Burg. Witnesses offering testimony were: Linda Long.

C. LOCATION:

The property under consideration is generally located between Highway 62 and Modoc Point Road, 1/2 mile south of intersection with Highway 422 N. It is described as a portion of the East 1/2 SW 1/4 Section 30, Township 34 S, Range 7 EWM Tax Account #3407-3400-800.

D. RELEVANT FACTS:

The property is within the Agriculture plan designation and has an implementing zone of EFU-CG. The parcel is 89 acres in size. Land use and lot sizes in the area are similar to that proposed by this application. Residential land use and similar lot sizes are also found within one mile of this project. Fire protection is available from Chiloquin /Agency Lake RFD.

E. EVIDENCE RECEIVED:

Exhibits A (the Staff Report) through C (the latter being a letter from ODOT) were received.

F. FINDINGS:

From a review of the evidence, it appears that the approval criteria as set out in Code Article 54 have been satisfied.

The Hearings Officer finds this application demonstrates that the parcel under review:

1. Does not already have an existing dwelling.

The parcel is presently undeveloped.

2. Will not force a significant change in or significantly increase the cost of accepted farming or forest practices on nearby lands devoted to farm or forest use.

The surrounding parcels are found to be developed to rural residential use. The proposed non-farm residence will not interfere with on-going use as the largest portion of the subject properties will remain in hay production or pasture and 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. The proposed home will be situated upon land generally unsuitable 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.

The portion of the parcel to be used for the building site thought not appropriate for commercial farm use. The Hearings Officer finds this portion of the parcel unsuitable for commercial agricultural use.

4. Is compatible with farm use and is consistent with state agricultural land-use policy which is designed to conserve agricultural lands.

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.

5. The dwelling will be sited on a parcel created before January 1, 1993.

The parcel was created prior to January 1, 1985.

6. Does not alter the stability of the overall land use pattern of the area.

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 be only marginally increased.

7. Access to the parcel is available and adequate.

Access to the parcel can be from either Modoc Point Road, a paved road, or from another paved road, Highway 62. Use of either road will not interfere with farm practices. The letter from ODOT indicates that there is no permitted access to Highway 62. It would thus appear that access will, in the absence of the acquisition of a permit from ODOT, be from Modoc Point Road.


G. ORDER:

Therefore, it is ordered the request of Harlene, Vivian and Delbert Kimbol for CUP 2-98 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. This CUP will expire two years from the date below unless utilized or an extension is approved by the Planning Director.

DATED this 20th day of February, 1998.


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 33.030 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 23rd day of February A.D., 19 98 at 1:39 o'clock P. M., and duly recorded in Vol. M98 of Deeds on Page 5771.
Return: Commissioners Journal By Bernetha G. Letsch, County Clerk
FEE ☐ No Fee ☒