

BEFORE THE HEARINGS OFFICER OF KLAMATH COUNTY, OREGON

In the Matter of the Request for a Conditional Use)

Permit by: CHARLES AND JOAN MILLER)

ORDER

1. NATURE OF THE REQUEST

The applicants CHARLES AND JOAN MILLER have applied to establish a forest dwelling on 5 acres zoned Forestry. This request was heard by the hearings officer April 17, 1998. The request was reviewed for conformance with Klamath County Land Development Code.

2. NAMES OF PARTICIPANTS

The hearings officer reviewing this application is Joan-Marie Michelsen. The applicant appeared and offered testimony. The planning department was represented by Kim Lundahl. The recording secretary Karen Burg.

3. LOCATION OF PROPERTY

The property in question is located 40940 Hwy 97N, north of the S Chiloquin Rd.

The access to the property is via existing roads including the Indian Service Road and an existing easement. Fire protection will be provided by the Chiloquin Agency Lake RFPD. The land is presently semideveloped and is unused for any commercial uses. Sewerage will be provided by a septic system. The soils are class VI. The water will be provided by a well.

4. MATERIALS CONSIDERED

All evidence submitted by the applicant and located in the Staff Report was considered as was the oral testimony given April 17, 1998.

5. FINDINGS

The Hearings officer FINDS AS FOLLOWS:

- a. The development of this type of structure is not included in the permitted uses for this zoning, however the LDC permits residences subject to certain findings.
- b. The parcel in question was legally created.
- c. The parcel meets the "template" forest dwelling criteria, there are over 7 contiguous parcels and at least 3 pre-1993 homes within the template.
- d. Approval of the requested structure will not create conditions or circumstances that are contrary to the purposes or intent of county planning laws.
- e. Active resource use has NOT occurred on the subject property or the adjacent properties. The property is not large enough for legitimate forestry use, nor is it viable for agriculture.
- f. Fire protection is provided and the threat to spreading fire to resource productive properties is mitigated.
- g. The use of the land in the area is rural residential and not rural commercial.
- h. Adjacent and nearby lands are in small parcels, in highly diverse ownership and many are being used for rural residential living.
- i. The location of a residence on the parcel will not destabilize the existing land use pattern of the area.
- j. The proposed structure is located on land that is generally unsuitable for timber or agriculture considering the size of the parcel, the soil, and the present vegetation.

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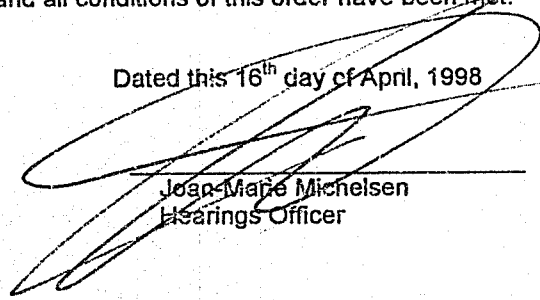
- k. The site is too small, ownership too divided, and the stocking too poor for viable forest management activity. No loss of productive resource land will result and the commercial forest land base of Klamath County is not compromised by the requested use.
- l. There is no Goal 5 Overlay to the area.
- m. As condition to this approval, a written covenant will be recorded which recognizes the rights of adjacent and nearby land owners and operators to conduct farm and forest operations consistent with currently accepted farming practices and the Forest Practices Act of Oregon.
- n. There is no dwelling presently sited on this parcel.
- o. Road access is sufficient.
- p. This property is not under forest deferral and no stocking requirements need be met.

6. ORDER

Therefore, it is hereby ordered that the applicants request to develop a template forest dwelling is approved subject to the following conditions:

- a. That approval is obtained for on-site sewage disposal and that the applicant provides proof of clearance from the Environmental Health Services Division and Building department within two (2) years following the date of this order, or obtain an extension of time, or this approval will be void.
- b. That the applicant files a restrictive covenant with the county clerk prohibiting the permit grantee and successors in interest from dividing the property or filing any complaint of any type or kind concerning the presently accepted resource management practices and farming uses that may occur on nearby lands devoted to commercial or other resource use.
- c. That the applicant complies fully with fire safety and other siting standards of the Land Use Code as set out in Article 69 of the LDC.
- d. That the applicant receive approval for and develop an on-site well or other source of water consistent with LDC 55.06(C)(4).
- e. A site plan, prepared pursuant to article 41, shall be reviewed and approved by the Planning Director prior to construction.
- f. The applicant is reminded and directed to comply with all previous orders, including the Hearings Officer Order of 9-15-1997 (TUP 26-96) and the order of the Justice Court of 3-30-1998 (VC 24-98). The applicant is forbidden to occupy the location until the manufactured dwelling is approved for occupancy by the County Building Department and all conditions of this order have been met.

Dated this 16th day of April, 1998


Joan Marie Michelsen
Hearings Officer

ORDER - 2

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Klamath County Hearings Officer the 17th day
of April A.D., 19 98 at 3:50 o'clock P. M., and duly recorded in Vol. M98
of Deeds on Page 12919.

Return: Commissioners Journal

Bernetha G. Letsch, County Clerk

FEE No Fee

By Kathleen Royal