

## BEFORE THE HEARINGS OFFICER OF KLAMATH COUNTY, OREGON

In the Matter of the Request for a Conditional Use )

) ORDER CUP 23-98

Permit by: Randy Shaw for Transue )

)

## 1. NATURE OF THE REQUEST

The applicants Randy Shaw, for Transue, have applied to re-establish a forest dwelling on 5.45 acres zoned Forestry/Range. This request was heard by the hearings officer April 17, and continued for more information until May 1, 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 was Karen Burg.

One letter was received from the Klamath Tribes which indicated that they were interested in the anthropological/archaeological value of the property. Based on this concern the hearing was continued for two weeks to allow the tribe to present further information if they felt that this was an area of concern. No further information was received.

## 3. LOCATION OF PROPERTY

East of HWY 97, north of the Kla-Mo-Ya Casino in Chiloquin.

The access to the property is via an existing road/drive and legal easement. Fire protection will be provided by 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 mainly class VIe. 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, and May 1, 1998.

## 5. FINDINGS:

The Hearings officer FINDS AS FOLLOWS:

- a. That the area has been previously developed and disturbed significantly in that previous development.
- b. That the Klamath Tribes had requested a walk-through but did not testify at the hearing of May 1 or provide further information on this area and why it was considered to have potential for anthropological/archaeological significance.
- c. That the area is not in an overlay and that it is unlikely that undisturbed sites exist in this location.
- d. 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.
- e. The parcel in question was legally created.
- f. The parcel meets the "template" forest dwelling criteria, there are over 7 contiguous parcels and at least 3 residences which existed in 1993.

- g. Approval of the requested structure will not create conditions or circumstances that are contrary to the purposes or intent of county planning laws.
- h. Active resource use has not occurred on the subject property or the adjacent properties. The property is not large enough for legitimate forestry use, and is not viable for agriculture.
- i. Fire protection is provided and the threat to spreading fire to resource productive properties is mitigated.
- j. The use of the land in the surrounding area is mixed rural residential and rural commercial.
- k. The location of a residence on the parcel will not destabilize the existing land use pattern of the area.
- l. 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.
- m. There is no Goal 5 Overlay to the area.
- n. 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.
- o. There is no dwelling presently sited on this parcel.
- p. Road access is sufficient.
- q. This property is not under forest deferral and no stocking requirements need be met.

## 6. ORDER

Therefore, it is hereby ordered that the applicant's 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.

Dated this 15<sup>th</sup> day of May, 1998

Joan-Marie Michelsen  
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 (7) following the mailing date of this order.

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Klamath County the 18th day  
of May A.D., 19 98 at 2:39 o'clock P. M., and duly recorded in Vol. M98,  
of Deeds on Page 16855.

Return: Commissioners Journal

Bernetha G. Letsch, County Clerk

FEE No Fee

By Kathleen Ross