

BEFORE THE HEARINGS OFFICER OF KLAMATH COUNTY, OREGON

In the Matter of the Request for a Conditional Use)

Permit by:

SAY for BEARE.

) ORDER

) CASE NUMBER

1. NATURE OF THE REQUEST

The applicant has applied for a permit to locate an agricultural sales and service facility on 5.97 acres Zoned EFU-CG. This request was heard by the hearings officer July 24, 1998. The request was reviewed for conformance with Klamath County Land Development Code Article 54.

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 just south of the South Chiloquin Road on Hwy 97.

The access to the property is via Hwy 97. Fire protection is provided by the Chiloquin-Agency Lake Rural Fire Protection District. The land is presently developed as a residence but is unused for any commercial uses. Sewerage will be provided by a septic system. The water will be provided by a well. The area is zoned EFU-CG.

4. MATERIALS CONSIDERED

All evidence submitted by the applicant, and the Staff Report was considered as was the oral testimony given July 24, 1998.

5. FINDINGS

The Hearings officer FINDS AS FOLLOWS:

- a. The development of this type of use is not included in the outright permitted uses for this zoning, however the LDC permits agricultural sales and services subject to certain findings.
- b. Approval of the requested structure and use will not create conditions or circumstances that are contrary to the purposes or intent of county planning laws.
- c. Active resource use has NOT occurred on the subject property or the adjacent properties in the recent past. The property is not large enough for legitimate forestry use, nor is it viable for normal agricultural uses.
- d. Fire protection is provided and the threat to spreading fire to resource productive properties is mitigated.
- e. The use of the land in the area is presently residential and not particularly compatible with the zoning.
- f. The property has been used for non-agricultural business purposes in the past.
- g. Adjacent and nearby lands are in small parcels, in highly diverse ownership and many are being used for rural residential living and other commercial uses.

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- h. The location of a business on the parcel will not destabilize the existing land use pattern of the area.
- i. 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.
- j. Road access is sufficient.

6. ORDER

Therefore, it is hereby ordered that the applicants request to develop an AGRICULTURAL SALES AND SERVICE FACILITY, a feed and grain store, is approved subject to the following conditions:

- a. That if it has not been already obtained with the previous use, approval is obtained for on-site sewage disposal and that the applicant provides proof of clearance from the Environmental Health Services Division and Building before occupying the premises for commercial uses.
- 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. The parcel shall be checked against the Division of State Lands (DSL) most current wetlands inventory maps and a determination shall be made as to whether or not a wetland is located on the property. If there is a DSL recognized wetland on the portion of the parcel proposed for development the conditions of LDC 54.050(G) shall be met before construction begins.

Dated this 5th day of August, 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.

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STATE OF OREGON; COUNTY OF KLAMATH: ss.

Filed for record at request of Klamath County the 7th day
of August, A.D., 1998 at 3:11 o'clock P. M., and duly recorded in Vol. 498
of Deeds on Page 29202

Return: Commissioners Journal

FEE

No Fee

Bernetha G. Letsch, County Clerk

By Kathleen P. [Signature]