

BEFORE THE HEARINGS OFFICER OF KLAMATH COUNTY, OREGON

In the Matter of the Request for a Conditional Use)

) ORDER CUP 66-98

Permit by: BRAZIL)

)

1. NATURE OF THE REQUEST

The applicant has applied to establish a forest dwelling on 19.7 acres zoned Forestry. This request was heard by the hearings officer August 21, 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.

3. LOCATION OF PROPERTY

½ MILE WEST OF Hwy 97, two miles north of Gilchrist on the Little Deschutes River

The access to the property is via an existing road and there is legal access.

Fire protection will be provided.

The land is presently semideveloped and is unused for any commercial uses.

Sewerage will be provided by a septic system.

The soils are unmapped.

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 August 21, 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 3 contiguous parcels and at least 3 residences which existed in 1993.
- 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 commercial agriculture.
- f. Fire protection will be provided and the threat to spreading fire to resource productive properties is mitigated.
- g. The use of the land in the surrounding area is mixed rural residential and rural commercial.
- h. The location of a residence on the parcel will not destabilize the existing land use pattern of the area.
- i. 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.

- j. There is no Goal 5 Overlay to the area.
- k. 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.
- l. There is no dwelling presently sited on this parcel.
- m. Road access is sufficient.
- n. 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. And that the applicant provides a letter of agreement from a structural fire protection district stating that fire protection is provided.
- d. That any structures be sited outside of the 100 year flood plain.

Dated this 3rd day of September, 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 Planning Department the 8th day
of September A.D., 19 98 at 9:46 o'clock A M., and duly recorded in Vol. M98
of Deeds on Page 32927

FEE \$None

By Bernetha G. Letsch, County Clerk

/commissioners Journal