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## BEFORE THE HEARINGS OFFICER OF KLAMATH COUNTY, OREGON

In the Matter of the Request for a Conditional Use )

Permit by:

Adkins for EARLE.

) ORDER

) CASE NUMBER CUP-61-98/LP 25-98

## 1. NATURE OF THE REQUEST

The applicant, has applied for a permit to divide the subject property into parcels of 6.8 and 3 acres respectively and to build a NON FARM HOME on the 3 acre parcel. The land in question is Zoned FR. This request was heard by the hearings officer August 21, 1998. The request was reviewed for conformance with Klamath County Land Development Code Article 54 and 55.

## 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 AND OVERVIEW OF PROPERTY

The property in question is west of the intersection of Hildebrand Rd and Hwy 140 E, at 2988 Hildebrand Rd.

There is legal and adequate access to the property via existing roads.

The property has fire protection.

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

Sewerage will be provided by a septic system.

The soils are class VII.

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. Approval of the requested structure 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. The property is not large enough for legitimate forestry use, nor is it viable for agriculture.
- 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 rural residential and not rural commercial.
- f. The location of a residence on the parcel will not destabilize the existing land use pattern of the area.

- g. The proposed structure is located on land that is generally unsuitable for timber or agriculture and is not high value farm or forest land.
- h. The site is too small and 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.
- i. There is no Goal 5 Overlay to the area.
- j. 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.
- k. Road access is sufficient.
- l. 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 partition the property and to develop a NON FARM HOME 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 provide the Klamath County Planning Department with a letter stating that fire protection is provided
- c. 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.
- 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. Clean-up of property required prior to recordation of map.

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.

# REQUIREMENTS FOR FINAL APPROVAL

32997

Partition No. LP 25-98/Earle

NOTE: THIS APPLICATION WILL EXPIRE ONE YEAR FROM THE PRELIMINARY APPROVAL DATE IF A TIME EXTENSION IS NOT MADE PRIOR TO THAT DATE.

## FINAL PLAT REQUIREMENTS (Per Section 45.110 of the Land Development Code)

- A. Original Drawing - The original drawing of a partition plat shall be made in permanent black India type ink on 7 mil mylar, 18 inches by 24 inches in size with an additional 3 inch binding edge on the left side. The plat shall be of such a scale as required by the County Surveyor. The lettering of the approvals, the affidavit of the surveyor and all other information shall be of such a size of type as will be clearly legible, but not part shall come nearer any edge of the sheet than 1 inch. The original drawing shall be recorded in the County Clerk's office.
- B. Copy - One exact copy of the original plat made in permanent black India type ink or silver halide permanent photocopy on minimum 4 mil mylar, 18 inches by 24 inches in size shall be submitted to the Planning Director along with the original plat.
- C. Information shown on final plat:
1. The partition number.
  2. The name of the person for whom the partition was made.
  3. Signature blocks for the following:
    - a. Planning Director;
    - b. County Surveyor;
    - c. County Public Works Director (if applicable);
    - d. County Clerk;
    - e. Owner and contract purchaser of the property (if applicable).
  4. All requirements of ORS 92.050, 92.070(1), and ORS 209.250 where applicable.
  5. Street names adjacent to the partition.
  6. Water rights recording number. If a water right is not appurtenant to the property, a statement signed by the owner indicating such shall be shown on the plat.
- D. Supplemental information to be filed with the final plat:
1. A preliminary title report or partition guarantee issued by a title company in the name of the owner of the land and prepared within 30 days prior to submittal of the final plat showing all parties having any record title interest in the premises and what interest they have.
  2. A completed water rights statement if a water right is appurtenant to the property.

## OTHER REQUIREMENTS:

1. Applicant is required to pay all advalorem taxes, any additional taxes, special assessments, fees, interest and penalties prior to partition being recorded.
2. The partition must be surveyed and monumented in accordance with ORS Chapter 92.
3. Location clean-up required prior to recordation.

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Klamath County the 8th day of Sept A.D., 19 98 at 11:19 o'clock A M., and duly recorded in Vol. M98 of Deeds on Page 32995.

FEE none Ret: Commissioners Journal

Bernetha G. Letsch, County Clerk

By Danette Mullender