

'98 SEP -8 A11:19

BEFORE THE HEARINGS OFFICER OF KLAMATH COUNTY, OREGON

In the Matter of the Request for a Conditional Use)

Permit by: VAN WINKLE.)

ORDER

CASE NUMBER CUP-52-98

1. NATURE OF THE REQUEST

The applicant, has applied for a permit to build a NON FARM HOME on 46.76 acres Zoned EFU. This request was heard by the hearings officer April 3, 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 did not appear and offered no testimony other than his original application. The planning department was represented by Kim Lundahl. The recording secretary Karen Burg.

3. LOCATION OF PROPERTY

The property in question is located north of the Lost River and West of Spring Lake Rd.

There is legal access to the property.

Fire protection is provided.

The land is presently undeveloped and unused for residential uses.

Sewerage will be provided by a septic system.

No evidence was provided by applicant regarding the soils.

No evidence was provided by the applicant regarding the water availability.

4. MATERIALS CONSIDERED

All evidence submitted by the applicant and located in the Staff Report was considered.

5. FINDINGS

The Hearings officer FINDS AS FOLLOWS:

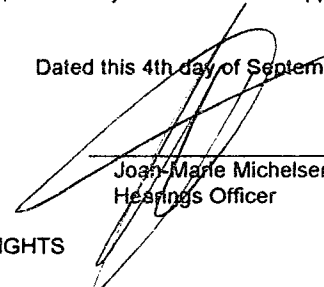
- a. The development of this type of structure is not included in the permitted uses for this zoning.
- b. Approval of the requested structure will create conditions or circumstances that are contrary to the purposes or intent of county planning laws.
- c. Active resource use has NOT occurred on the subject property but it has occurred on the adjacent property. The irrigation canal runs adjacent to the property. The property is in farmland deferral as of the date of the hearing.
- d. The property appears to be in more than one parcel and has not been consolidated.
- e. Fire protection is provided and the threat to spreading fire to resource productive properties is mitigated.
- f. The location of a residence on the parcel will destabilize the existing land use pattern of the area.
- g. The proposed structure is located on land that appears to be generally suitable for agriculture given that it is deferral.
- h. The wetlands status of the property is unknown.
- i. There is no dwelling presently sited on this parcel.
- j. Road access is sufficient.

- k. No evidence was received which would show that the approval of a structure here would not materially alter the stability of the overall land use pattern in the area. The only nearby parcel that was mentioned by the applicant is in production.
- l. There was no evidence presented that the structure is sited in such a way that it minimizes the impact on nearby farm operations.
- m. There is evidence that the present owner obtained property from a patent but there is no evidence regarding the date that this parcel was created.

6. ORDER

The burden of proof is on the applicant to establish by sufficient evidence that the requested development complies with the development code and Oregon law. The applicant submitted a sparse application and did not appear at the first hearing on this matter. In order to give the applicant time his office was apprised of the previous hearing and of the continuance granted at the request of the hearings officer in order to give the applicant time to appear and provide evidence. Lacking sufficient evidence upon which to approve this application, it is hereby ordered that the applicants request to develop a NON FARM HOME is denied.

Dated this 4th 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 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 33000.

Bernetha G. Letsch, County Clerk

FEE none Ret: Commissioners Journal

By 