

BEFORE THE HEARINGS OFFICER OF KLAMATH COUNTY, OREGON

In the Matter of the Request for a Conditional Use)

Permit by: Laffargue/Leal.)

) ORDER

) CASE NUMBER CUP-98-98

1. NATURE OF THE REQUEST

The applicant, has applied for a permit to build a NON FARM HOME on 7.86 acres Zoned EFU-CG. This request was heard by the hearings officer November 20, 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 through an agent and offered testimony. The planning department was represented by Kim Lundahl. The recording secretary was Karen Burg.

3. LOCATION AND GENERAL DESCRIPTION OF PROPERTY

The property in question is por. Govt lot 22, sec 13 T 36S R 12E TA 3612-13-800.

The access to the property is off of Hwy 140.

Fire protection is problematic.

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

A mobile home was previously placed on the property in approximately the location that this structure will be located on.

Sewerage will be provided by a septic system.

The soils are class VII.

The water will be provided by a well.

The area is zoned EFU-CG.

4. MATERIALS CONSIDERED

All evidence submitted by the applicant and located in the Staff Report was considered as was the oral testimony given at the hearing on this matter.

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. Approval of the requested structure will not create conditions or circumstances that are contrary to the purposes or intent of county planning laws.
- d. 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.
- e. Fire protection is provided and the threat to spreading fire to resource productive properties is mitigated.

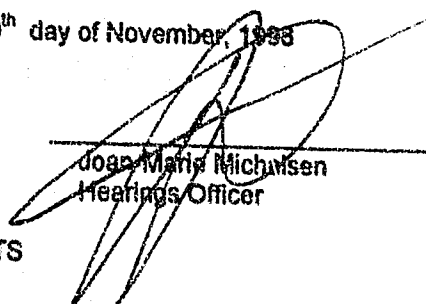
- f. The location of a residence on the parcel will not destabilize the existing land use pattern of the area.
- g. The proposed structure is located on land that is utterly unsuitable for timber or agriculture considering the size of the parcel, the soil, and the present vegetation.
- h. No loss of productive resource land will result and the commercial forest land base of Klamath County is not compromised by the requested use.
- i. 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. There is no dwelling presently sited on this parcel.
- k. Road access is sufficient marginal.
- 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 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 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.
- 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. That all required building and placement permits or an extension of time be obtained within two (2) years following the date of this order or this approval will be void.
- f. That prior to any construction or siting being done approval will be received from the Oregon Department of Transportation regarding access off of Hwy 140.
- g. The applicant is encouraged, but not specifically required, to reach some agreement with the Bly fire district regarding fire protection for this property.

Dated this 20th day of November, 1993


Donna Marie Michalsen
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

43218

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 24th day
of November A.D., 19 98 at 3:50 o'clock P. M., and duly recorded in Vol. M98
of Deeds on Page 43216.

Return: Commissioners Journal

FEE No Fee

By Bernetha G. Letsch, County Clerk
Kathleen Ross