

1999 JUN 28 AM 10:35

Vol M99 Page 25407

BEFORE THE HEARINGS OFFICER OF KLAMATH COUNTY, OREGON

In the Matter of the Request for a Conditional Use )

Permit by SCRIMSHER. )

) ORDER

) CASE NUMBER CUP—17-99, 11-99

1. NATURE OF THE REQUEST

The applicant, has applied for a permit to allow an existing home to be designated a non-farm home on 10.2 acres and to divide 153 acres in to two parcels of 10.2 acres and 142 acres respectively. The properties are Zoned EFU-C/Ag.. This request was heard by the hearings officer June 7, 1999. 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 AND GENERAL DESCRIPTION OF PROPERTY

The property in question is pors Sec 34 and 27, T 40S R 10E, East of IOOF Cemetery Rd..

There is sufficient legal access.

Fire protection is provided.

Sewerage is be provided by a septic system.

4. MATERIALS CONSIDERED

All evidence submitted by the applicant, the Staff Report and the oral testimony given at the hearing on this matter were considered.

5. FINDINGS

The Hearings officer FINDS AS FOLLOWS:

- a. The development of this type of permit 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 before 1993.
- 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 occurred on the subject property or the adjacent properties. The smaller residential property is not large enough for legitimate forestry use, nor is it viable for agriculture.
- e. The location of a residence on the parcel will not destabilize the existing land use pattern of the area.
- f. The proposed structure is located on land that is generally unsuitable for timber or agriculture considering the size of the parcel, the soil, the flooding and high water table, and the present vegetation.
- g. 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.
- h. Road access is sufficient.

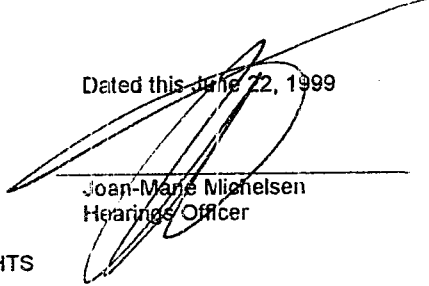
- i. That the remaining parcel is over 80 acres in size.
- j. That the requirements of 54.090 are met.

6. ORDER

Therefore, it is hereby ordered that the applicants request to designate the existing structure as a NON FARM HOME is approved subject to the following conditions:

- a. 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.
- b. That the applicant provides notice to the county assessor that the lot or parcel is no longer being used as farmland.

Dated this ~~June~~ 22, 1999

  
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**

Partition No. 11-99/Scrimsher

**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 45.100 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 ad valorem taxes, any additional taxes, special assessments, fees, interest and penalties prior to partition being recorded.
2. The partition is exempt from surveying requirements due to parcel size.

Return to Commissioner's Journal

State of Oregon, County of Klamath  
 Recorded 6/28/99, at 10:35 a.m.  
 In Vol. M99 Page 25409  
 Linda Smith,  
 County Clerk Fees \$17.00