

BEFORE THE HEARINGS OFFICER OF KLAMATH COUNTY, OREGON

In the Matter of the Request for a Conditional Use)

Permit by: ROBERT KELLEHER)

ORDER

Case Number 29-99

1. NATURE OF THE REQUEST

The applicant has applied to establish a dwelling on 13 acres zoned FR. This request was heard by the hearings officer June 4, 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 OF PROPERTY

The property in question is located in Por NE ¼ Sec 24, T 40SR 11E, TA 4011-24-300

The access to the property is via existing roads.

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 poor.

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 testimony provided orally and in writing.

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. Adjacent and nearby lands are in small parcels, in highly diverse ownership and many are being used for rural residential living.
- g. The location of a residence on the parcel will not destabilize the existing land use pattern of the area.
- h. 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.
- i. The parcel was legally created.

- j. The parcel meets the requirements of the template test.
- k. The site is too small, 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.
- l. 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.
- m. There is no dwelling presently sited on this parcel.
- n. Road access is sufficient.
- o. This property is not under forest deferral and no stocking requirements need be met.
- p. ODFW has stated that this parcel is in the medium density deer range and requested a denial of the application.
- q. The deer problem can be mitigated.

6. ORDER

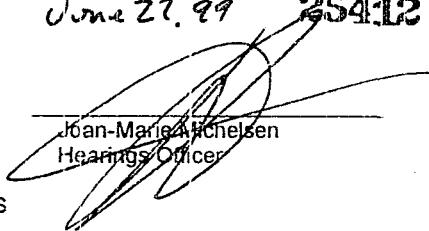
Therefore, it is hereby ordered that the applicants request to develop a forest dwelling is approved subject to the following conditions:

- 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.
- 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. 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.
- g. That no deer restrictive fencing be erected or replaced on the property except that which may be needed for a modest personal garden.
- h. That if any fencing is to be done in the future the design of such is ODFW approved for deer to be able to pass freely.
- i. That all structures be within 300 feet of Harpold Rd.

Dated this June 22, 1999

June 27, 99

25412


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.

Return to Commissioner's Journal

State of Oregon, County of Klamath
Recorded 6/28/99, at 10:36 a.m.
In Vol. M99 Page 25410
Linda Smith,
County Clerk Fee \$ 71.44