

## BEFORE THE HEARINGS OFFICER OF KLAMATH COUNTY, OREGON

In the Matter of the Request for a Conditional Use )

) ORDER

Permit by: Reddell for KETCHAM. )

) CASE NUMBER CUP-33-99

## 1. NATURE OF THE REQUEST

The applicant, has applied for a permit to build a NON FARM HOME on a 41.7 acre parcel. The land in question is Zoned EFU-Cg. This request was heard by the hearings officer June 18 1999. 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 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 is por NE ¼ Sec. 19 T 39S R 11E, TA 3911-19-1400+1500.

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

The land is presently undeveloped and 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 oral and written testimony presented.

## 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 and qualifies as A LOT OF RECORD.
- 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.
- e. Fire protection is provided and the threat to spreading fire to resource productive properties is mitigated.
- f. The use of the land in the area is mixed.
- g. Adjacent and nearby lands are primarily used for farming, but this lot is not currently usable.
- h. The location of a residence on the parcel will not destabilize the existing land use pattern of the area.
- 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.
- l. There are wildlife problems but they can be mitigated.

6. ORDER

Therefore, it is hereby ordered that the applicants request to develop a Lot of Record 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 before starting construction
- 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 receive approval for and develop an on-site well or other source of water consistent with LDC 55.06(C)(4).
- d. A site plan, prepared pursuant to article 41, shall be reviewed and approved by the Planning Director prior to construction.
- 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 the property owner, and any successors in interest, agree to hold the State of Oregon, and ODFW harmless for any and all damage which may be caused by wildlife and that the applicant file a waiver of liability with ODFW before starting construction.
- g. That dogs never be allowed to run loose on the property.
- h. That the applicant and his successors in interest take no actions which would threaten or harass the wildlife on the property including deer or elk.
- i. That no fencing be installed on the property which would interfere with the migration of deer or elk across the property.
- j. That fencing be constructed such that it will generally minimize any restriction to wildlife movement across the property. Except that there may be deer proof fencing used for a moderate sized personal garden space.

Dated this date: 23, 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

25425

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

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County Clerk Fee \$ n/7u