

BEFORE THE HEARINGS OFFICER OF KLAMATH COUNTY, OREGON

In the Matter of the Request for a Conditional Use)

Permit by: STEVENS FOR ALLEN.)

) ORDER

) CASE NUMBER CUP—41-99

1. NATURE OF THE REQUEST

The applicant, has applied for a permit to build a NON FARM HOME on 1.5 acres Zoned EFU-CG. This request was heard by the hearings officer July 2, 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.

3. LOCATION AND GENERAL DESCRIPTION OF PROPERTY

The property in question is por SW ¼ SW ¼ Sec 8, T 38S R 11E, TA 3811-8-1400.

There is sufficient legal access.

Fire protection is provided.

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.

The area is zoned EFU-C.

4. MATERIALS CONSIDERED

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

The applicant submitted voluminous materials including an excessive discussion of Vested Rights which appears to have been primarily motivated by politics or personal ideology. That discussion is not relevant to this case and is not part of the materials 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, 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 use of the land in the area is rural residential and not rural commercial.
- g. Adjacent and nearby lands are in small parcels, in highly diverse ownership and many are being used for rural residential living.
- h. The location of a residence on the parcel will not destabilize the existing land use pattern of the area.
- i. 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.
- j. The site is too small and 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.
- k. 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.
- l. There is no dwelling presently sited on this parcel although one was in the past.
- m. 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. A site plan, prepared pursuant to article 41, shall be reviewed and approved by the Planning Director prior to construction.
- f. The parcel shall be checked against the Division of State Lands (DSL) most current wetlands inventory maps and a determination shall be made as to whether or not a wetland is located on the property. If there is a DSL recognized wetland on the portion of the parcel proposed for development the conditions of LDC 54.050(G) shall be met before construction begins.
- g. 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.

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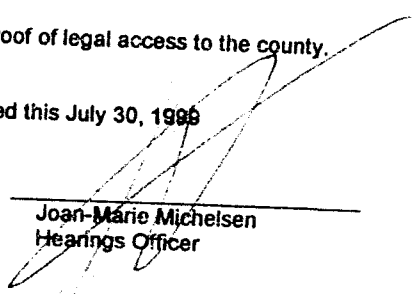
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- h. That prior to starting construction the applicant will provide proof of legal access to the county.

Dated this July 30, 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.

Return to Commissioner's Journal

State of Oregon, County of Klamath
Recorded 8/02/99, at 3:45 p. m.
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Linda Smith,
County Clerk Fee \$ 71/c HL