

## BEFORE THE HEARINGS OFFICER OF KLAMATH COUNTY, OREGON

In the Matter of the Request for a Conditional Use )

Permit by: BIGGS. )

ORDER

CASE NUMBER CUP-55-99/LP 29-99

## 1. NATURE OF THE REQUEST

The applicant, has applied for a permit to divide the subject property into parcels of 1 AND 117 acres respectively and to lealize a NON FARM HOME on the 1 acre parcel. The land in question is Zoned EFU-C. This request was heard by the hearings officer. The request was reviewed for conformance with Klamath County Land Development Code Articles 54 and 55.

## 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 OF PROPERTY

The property in question is located at:

Por secs 3 + 10, T 41 S R 12E

The access to the property is via existing roads.

Fire protection will be provided.

The land is presently developed and used for commercial uses.

Sewerage will be provided by a septic system.

The soils are mixed.

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 submitted.

## 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 partition of this land into smaller parcels is conditionally allowable.
- c. The parcel in question was legally created.
- d. Approval of the requested structure will not create conditions or circumstances that are contrary to the purposes or intent of county planning laws.
- e. Active resource use has occurred on the subject property or the adjacent properties.
- f. Fire protection is provided and the threat to spreading fire to resource productive properties is mitigated.
- g. The use of he land in the area is mixed.
- h. The location of a residence on the smaller 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 and is not high value farm or forest land.
- j. 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.
- k. Road access is sufficient.
- 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 partition the property into 1 and 117 acre parcels is approved:

The 1 acre parcel is approved. The one acre parcel shall be split off of the larger one as shown on the submitted exhibits.

Therefore, it is hereby ordered that the applicants request to legalize a NON-FARM HOME on the smaller 1 acre parcel 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.

October 14, 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.

State of Oregon, County of Klamath  
Recorded 10/15/99, at 9:41 a.m.  
In Vol. M99 Page 40983  
Linda Smith,  
County Clerk Fee\$ NC