

BEFORE THE HEARINGS OFFICER  
FOR KLAMATH COUNTY, OREGON

In the Matter of a

CONDITIONAL USE PERMIT

for

ROGER W. SCHOOLER and  
CHERYL SCHOOLER

CASE NO. 3-83

FINDINGS OF FACT, DECISION  
AND ORDER

THIS MATTER came on for a hearing before the Klamath County Assistant Hearings Officer, JAMES R. UERLINGS, on April 21, 1983, at 1:30 p.m. in the Commissioners' Hearing Room at the Klamath County Courthouse. The hearing was held pursuant to Notice given in conformity with the Klamath County Development Code and related ordinances. The applicant, ROGER W. SCHOOLER, was present at the Hearing and presented evidence and testimony. The Klamath County Planning Department was represented by Jonathan Chudnoff.

Additionally, the Hearings Officer incorporated into this Hearing all testimony and Exhibits "A" through "F" offered and received in the prior Hearing in the matter of a request for a zone change for said applicants, Number 3-83, and in addition, received into evidence Exhibits "A" through "D" for the request for a conditional use permit.

The Hearing was then closed. The Assistant Hearings Officer, after reviewing all the evidence presented, makes the following decision:

\* \* \* \* \*

FINDINGS OF FACT, DECISION AND ORDER  
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ATTORNEY AT LAW  
110 NORTH SIXTH STREET  
SUITE 209  
KLAMATH FALLS, OREGON  
97601

503/884-7364

1 FINDINGS OF FACT:

2 1. The applicants are the owners of the property  
3 located within Klamath County and described as Section 3,  
4 Township 39, Range 9, Tax Lot 3909-344-5800, located on the  
5 north side of Hilyard Avenue between Summers Lane and Crescent  
6 Street, Klamath County, Oregon.

7 2. The applicants desire a conditional use permit  
8 to allow for the development of a fourteen (14) lot mobile  
9 home subdivision. The current plan designation is urban  
10 residential, and the zone designation is RH. The adjacent  
11 and/or surrounding zoning is RH and RS. The property is  
12 400' x 250', consisting of 2.41 acres, irregular in shape.  
13 The SCS soil class is III. The site is located within one-half  
14 ( $\frac{1}{2}$ ) mile of Altamont Elementary School and Mazama High School  
15 and is adjacent to Hilyard Park.

16 3. Sewer is provided by South Suburban Sanitary  
17 District and water by the City of Klamath Falls. The property  
18 is served by Klamath County Fire District #1, Pacific Power  
19 and Light, Pacific Northwest Bell and Klamath Irrigation District.  
20 Fire District #1 recommended that the installation of a fire  
21 hydrant adjacent to the entry of the subdivision be made a con-  
22 dition of the granting of this zone change. No evidence was  
23 provided by the Fire District as to the feasibility and cost of  
24 such construction. The applicant testified that the current  
25 City water line serving the property would not allow for the  
26 proper installation of a fire hydrant.

1 4. One witness appeared to testify in regards to  
2 this application, in addition to the applicant, and basically  
3 noted that this zone change would reduce the density allowed  
4 within the zone and thereby probably enhance the livability of  
5 the area. This witness did recommend that the appropriate  
6 Klamath County officials review the installation of traffic  
7 control devices or traffic pattern usage in general in the area.  
8 KLAMATH COUNTY DEVELOPMENT CODE CRITERIA:  
9

10 1. Klamath County Development Code Section 44.003  
11 sets forth the criteria for consideration in the application  
12 for a conditional use permit:

13 A. That the use is conditionally permitted  
14 in the zone in which it is proposed.

15 B. That the location, size, design and operating  
16 characteristics of the proposed uses is in conformance with  
17 the Klamath County Comprehensive Plan.

18 C. That the location, size, design and operating  
19 characteristics of the proposed development will be compatible  
20 with, and will not adversely effect, the livability or appropriate  
21 development of abutting properties in the surrounding neighborhood.  
22 Consideration shall be given to the harmony in scale, bulk, coverage  
23 and density; to the availability of civic facilities and utilities;  
24 to harmful effects, if any, upon desirable neighborhood character;  
25 to the generation of traffic and the capacity of surrounding streets  
26 and to other relevant impact of the development.

D. That the location, design and site planning of

1 the proposed development will provide a convenient and functional  
2 living, working, shopping or civic environment and will be as  
3 attractive as the nature of the use and its location in this  
4 setting warrant.

5 2. Klamath County Code Section 44.001 sets forth  
6 the general purpose of Article 44, Conditional Use Permit, as  
7 follows: The purpose of the Conditional Use Permit is to  
8 provide a mechanism whereby uses which may be suitable only  
9 in certain locations or only if designed or operated in a  
10 particular manner may be allowed within the basic zone design-  
11 nations.

12 3. ORS 197.175 requires all zoning and related  
13 ordinances adopted by the County be in conformance with the  
14 State-wide Planning Goals.

15 KLAMATH COUNTY DEVELOPMENT CODE FINDINGS AND CONCLUSIONS:

16 1. The proposed use has a location, size, design  
17 and operating characteristics which are in conformance with  
18 the Klamath County Comprehensive Plan.

19 2. The location, size, design and operating char-  
20 acteristics of the proposed development will be compatible  
21 with, and will not adversely effect, the livability or the  
22 appropriate development of abutting properties and the surrounding  
23 neighborhood.

24 3. The proposed use will be in harmony in scale,  
25 bulk, coverage and density with the existing uses. No harmful  
26 effects will be made upon the desirable neighborhood character.

1 No additional generation of traffic beyond the capacity of the  
2 surrounding streets will be created.

3 4. The location, design and site planning of the pro-  
4 posed development will provide for a convenient and functional  
5 living, working, shopping, and civic environment and will be  
6 as attractive as the nature of the use and its location in  
7 this setting warrant.

8 5. See Findings of Fact 1-4.

9 STATE-WIDE PLANNING GOALS AND CRITERIA, AND FINDINGS:

10 See Exhibit "AA", Pages 1-7, attached hereto and  
11 incorporated by this reference.

12 CONCLUSIONS OF LAW AND DECISION:

13 1. This request for a conditional use permit on  
14 the subject property meets all the applicable Klamath County  
15 Development Code criteria and policies governing such.

16 2. This request for a conditional use permit is  
17 consistent with, and complies with, all the applicable State-  
18 wide Planning Goals and statutes.

19 3. The following conditions are deemed necessary  
20 in order to protect the health, safety and welfare of the citizens  
21 of Klamath County:

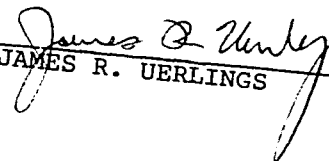
22 A. That the applicants follow their plot plan  
23 as submitted herein.

24 B. That the applicant take all steps necessary  
25 in order to prevent drainage from the property draining into  
26 the 1-C drain canal adjacent to the property.

FINDINGS OF FACT, DECISION AND ORDER  
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1 THEREFORE, it is hereby ordered that the request  
2 by the applicants for the Conditional Use Permit on the subject  
3 property described as Section 3, Township 39, Range 9, Tax Lot  
4 3909-344-5800, Klamath County, Oregon, is hereby granted pro-  
5 vided that the applicant follow the conditions as set forth  
6 above.

7 DATED this 26 day of April, 1983.  
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11   
12 JAMES R. UERLINGS  
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COMPREHENSIVE PLAN POLICIES AND STATE  
LAND USE GOALS 1 - 14

## GOAL NO. 1 - Citizen Involvement

- ☒ Complies    ☐ Does not Comply  
☐ Complies with conditions  
☐ Not applicable

## Relevant Policies:

County shall provide for citizen involvement opportunities.

## State Goal Issues:

Notice of hearing was sent to property owners within 250' of proposed site for change, also to appropriate agencies and published in the Herald and News

## GOAL NO. 2 - Land Use Planning

- ☒ Complies    ☐ Does not comply  
☐ Complies with conditions  
☐ Not applicable

## Relevant Policies:

1. County shall establish the following plan revision and evaluation schedule. Our plan allows for minor changes which are ongoing (Quasi Judicial), such as this application.

## State Goal Issues:

2. Existing land uses shall be preserved from redevelopment and conflicting nearby land uses. Nearby land uses are apartments to the east and a mobile home park to the north.

Article 46  
Major/Minor Partition  
Section 46.003 Review Criteria

	Complies	Does not Comply	N.A.
A -	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
B -	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
C -	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
D -	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
E -	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
F -	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
G -	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
H -	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
I -	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
J -	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
K -	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
L -	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

GOAL NO. 3 - Agricultural Lands

6513

- ☐ Complies ☐ Does not Comply  
☐ Complies with conditions  
☒ Not applicable

Relevant Policies:

Site is inside the UGB and zoned RH and therefore not relevant.

State Goal Issues:

GOAL NO. 4 - Forest Lands

- ☐ Complies ☐ Does not Comply  
☐ Complies with conditions  
☒ Not applicable

Relevant Policies:

Site is inside the UGB and zoned RH and therefore not relevant.

State Goal Issues:



GOAL NO. 5 - Open Space, Scenic and Historic Areas, and Natural Resources

6514

☐ Complies ☐ Does not Comply

☐ Complies with conditions

☒ Not applicable

Relevant Policies:

State Goal Issues:

There are no inventoried scenic, historic or natural resources in the area affected by this request.

GOAL NO. 6 - Air Water and Land Resource Quality

☒ Complies ☐ Does not Comply

☐ Complies with Conditions

☐ Not applicable

Relevant Policies:

Urban residential use shall be designated only when approved sewage disposal alternatives have been identified.

Site for change will be connected to City Water with sewage hookup with the South Suburban Sanitary District. Site is also outside the airport noise area.

State Goal Issues:

GOAL NO. 7 - Natural Disaster and Hazards Area

6515

- ☒ Complies ☐ Does Not Comply  
☐ Complies with conditions  
☐ Not applicable

Relevant Policies:

County shall consider site constraints in evaluating land use in fire hazard areas.

State Goal Issues:

Site for change is inside the UGB and is in Fire District No. 1.

It appears there are no other known natural disaster or hazard areas.

GOAL NO. 8 - Recreation Needs

- ☒ Complies ☐ Does Not Comply  
☐ Complies with conditions  
☐ Not applicable

Relevant Policies:

It appears plan does not have any relevant policies that pertain to this request. However, site for change is close to parks in surrounding area including tennis courts adjacent to the west. Mazama and Altamont School playing fields are within  $\frac{1}{2}$  mile.

State Goal Issues:

GOAL NO. 9 - County Economy

6516

- ☒ Complies ☐ Does not Comply  
☐ Complies with conditions  
☐ Not applicable

Relevant Policies:

Request for change is to establish a mobile home subdivision. This proposal could possibly help stimulate the local economy, especially the mobile home industry.

State Goal Issues:

GOAL NO. 10 - Housing

- ☒ Complies ☐ Does not Comply  
☐ Complies with conditions  
☐ Not applicable

Relevant Policies:

Residential property shall be zoned to allow the full range of housing types and densities of the comp. plan.

This request, if approved, will allow for a mobile home subdivision.

State Goal Issues:

GOAL NO. 11 - Public Facilities and Services

6517

- ☒ Complies ☐ Does not Comply  
☐ Complies with conditions  
☐ Not applicable

Relevant Policies:

The County may encourage the development of a public facility or service in an urbanizable area only when there is provision for the coordinated development of all other urban facilities and services appropriate to that area.

State Goal Issues:

This area already has water and sewer and electricity in the area. Site is also in the Mazama School District, as well as a Fire District.

GOAL NO. 12 - Transportation

- ☒ Complies ☐ Does not Comply  
☐ Complies with conditions  
☐ Not applicable

Relevant Policies:

Site for change has an apparent access off of Hilyard Avenue, which is a paved county road.

Basin Transit Bus service operates on Hilyard.

State Goal Issues:

6518

GOAL NO. 13 - Energy Conservation

- ☒ Complies ☐ Does Not Comply  
☐ Complies with conditions  
☐ Not applicable

Relevant Policies:

Site is inside the UGB and is situated close to the metropolitan area of Klamath Falls, meaning site is near areas of goods and services.

State Goal Issues:

GOAL NO. 14 - Urbanization

- ☒ Complies ☐ Does not Comply  
☐ Complies with conditions  
☐ Not applicable

Relevant Policies:

Site is inside the established UGB. Site has public facilities which makes efficient use of such facilities.

State Goal Issues:

STATE OF OREGON; COUNTY OF KLAMATH; ss.

Filed for record

this 28 day of April A.D. 19 83 at 1:46 clock P M., and  
duly recorded in Vol. M83, of 2 Deeds on Page 6506

no fee

By EVELYN BIEHN, County Clerk  
[Signature]