

BEFORE THE PLANNING COMMISSION
OF KLAMATH COUNTY, STATE OF OREGON

In re:

Development Plan Submitted
by The Ponderosa of Klamath,
~~Ltd., for Westwood Hills~~

No. 24-83

FINDINGS OF FACT, CONCLUSIONS
OF LAW, AND ORDER -
DEVELOPMENT PLAN

This matter has come before the Planning Commission upon the application of The Ponderosa of Klamath, Ltd., for the approval of its Master Plan for Westwood Hills and the preliminary plats represented Units 1 and 2 thereof. Testimony from the applicant, its experts, and of the parties objecting to the application have been heard.

The application concerns the implementation of a currently existing PUD zone on property near Weyerhaeuser. This zone was adopted by Klamath County pursuant to specific finding in the legislature process, by Order dated November 25, 1981.

The property consists of approximately 1950 acres in two blocks, which are joined by an infinite point and an easement. The westerly most block contains approximately 680 acres, while the easterly block contains the balance. The easterly block fronts Highway 66 just adjacent to LaWanda Hills and approximately 6 miles from downtown Klamath Falls. Round Lake Road bisects the two properties. The property is presently dormant. It is generally hilly with Juniper covering and an understory of grass and sagebrush with a scattering of other undercovers. There are isolated pockets of Ponderosa Pine, however, none of commercial quantities or regrowth. In the front is an area of approximately 80 acres which has, from time to time in the past, been used to raise dry land grain. The property has been previously found by

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the County and State to be neither Goal 3 nor Goal 4 land, if clustering to the east block and appropriate drainage are utilized.

The proposed development is intended to provide primary residences of mixed housing types, located on tree covered land near Klamath Falls, together with supporting commercial uses and open spaces. Such a development with these features is not in existence near Klamath Falls. Approximately one-half of the lots allowed by the zoning designation will be devoted to manufactured or other affordable housing types. The balance are aimed at choice view lots and lots emphasizing equestrian activities. Lot placement will be as shown on the supporting graphics, except where it becomes apparent at final platting that lots within units need to be shifted due to boundaries and physical characteristics evident on the then available larger scale maps. Such shifts are not significant as long as the general traffic pattern is not changed and will take place only within each unit. A possible future stable area owned or provided by the Homeowners' Association is shown on the drawing.

The commercial area would have the uses permitted both outright and by conditional use as provided by the general commercial zone.

Except as noted for exceptions in each plat to be filed, setbacks and other building standards will be as set forth in the general commercial and rural residential zones. Each of the uses are identified as to location on the drawing. Lot sizes are as depicted on the drawing and will be generally less than one acre. It is anticipated that the commercial uses would include such things as small and large animal veterinarians, beauty parlors and shops, wearing apparel, financial

support services, grocery stores, and a gas and service station. The total proposed residential lots is equal to 390, which is equal to the total acreage of 1950 divided by the 5 acres overall density allowed by the zoning.

The housing mix so provided serves a variety of housing needs, as previously found by the County, and which needs still exist.

In addition to uses allowed on the established subdivision lots, there will be a common area (open space) of a significant amount. This will be open space but not available to the general public. This is shown on the drawings as the area upon which no lots are placed. This area will generally be left in its natural state, although it is anticipated that each of the two large ponds (one located in the northwest portion of the eastern block, and one toward the west side of the western block) will be enhanced and picnic areas provided as shown on the drawing. The area would thus be open to horseback riding. However, except for established roadways, no offroad vehicles or snowmobiles would be allowed, other than in established areas devoted to that purpose. It is anticipated that portions of the open area on the westerly side would be devoted to a four wheel drive course and, perhaps, snowmobiling. The areas and times and extent of usage will be those determined by Rules and Regulations of the Homeowners' Association, subject to the restrictions on placement noted herein. Open areas may be used for septic drainage areas and utility placement.

As was noted in the County Commissioners' Order approving this zone for this property, the use of buffering areas would resolve virtually all of the concern expressed by neighboring landowners as to

the affects upon the neighboring property due to development of this property. The development plan, as can be seen from the drawing, provides substantial buffering areas between areas of the development and the neighboring lands. As noted above, those areas will be generally left in their natural state.

In addition, to further mitigate those potential effects, the deed restrictions or Homeowners' Association By-Laws will include a prohibition against the running of dogs at large and the use of offroad vehicles, other than on established roadways or areas designated for those purposes. The area where either snowmobiling, four wheel drive, or other offroad vehicles would be allowed, would be solely in the western block of property, toward the southeastern corner thereof, but in no event closer than one-eighth of a mile to the outside boundaries of the PUD.

As a result of the buffering and provision of substantial open spaces, the lots are centralized and clustered in the southern portion of the eastern block. This locates the housing nearest to existing housing. Because of the terrain features of the land and its building characteristics, it is not feasible to more compactly situate the lots.

The roadways serving for circulation within the development will be placed within 60 foot wide easements, but initially all would be private roadways. The development would retain the right to dedicate them to the County upon bringing them to County standards. It is contemplated that the roadways would be paved, but to a width of 20 feet which is a lesser width than required for County dedication, at least initially. The right-of-way would be cleared as necessary to

discourage encroachment on it by adjacent lot owners and as dictated for utility placement. The road base will be provided to 32 feet. In addition, there will be interior roads to the picnic areas (which on the eastern portion also serve as fire escape and access routes) and the existing roadway on the western block of land would be improved to gravel to allow access to that open space. Each of these are depicted on the drawing. Roadways will generally follow contours and require little in the way of roadway cuts or land alteration. Access to public ways is provided by accesses to both Round Lake Road and Highway 66, the existing County and State main highways and roads.

Power, telephone, and cable television, if available, will be underground, at least within units 2, 4, 5 and 6 where dwellings are present.

Individual septic tanks and drain fields will be utilized where possible (adjacent common areas will be available for individual drain fields to be maintained by the owner), and elsewhere individual septic tanks and common drain fields will be utilized, subject to Health Department review, to serve as the sewer system. The common drain fields will be in open areas, including the 80 acre field in the southeast corner of the property and other such suitable areas. Although a design of the system was contemplated at this time, it is now apparent that such systems are entirely dependant on individual siting; however, all subject to Health Department approval.

The water system will be individual wells and shared wells of no more than three per well. From the hydrology report it is apparent that satisfactory aquifers exist to serve the dwellings and not

degrade existing water use. The developer retains the right to construct a public system upon compliance with state law.

The property owners will be organized under the provisions of Oregon law relating to Planned Communities, as provided in ORS 94.550 to 94.780, thus the Homeowners' Association will have the right to assess, thereby creating a lien, for the maintenance, repair and upkeep of the common areas and common improvements. The Homeowners' Association will also be responsible for enforcing the restrictions on uses, etc., including the use of the common areas. Such an association is given the power by law to impose fines for violations of the rules of the association, which will include, but not be limited to dog control and the offroad use of vehicles. Such a fine may be imposed without resource to the courts first. Because this Homeowners' Association will have significant amounts of land to manage, including resources thereon such as timber and recreational uses of certain portions of the property, as well as roadways and other common facilities to maintain, the association will necessarily be more functioning and involved than many associations that exist.

The first phase of the development as proposed include Unit 1 and Unit 2. Other units will not be implemented until a sufficient number of the lots available in each of those dwelling units are sold. It is contemplated that thereafter either units 3 or 4 would be implemented, next whichever one of unit 3 or unit 4 which was not previously implemented, then unit 5, and lastly unit 6. Based upon current projections, it is contemplated that the implementation of such units will span a period of 6 years, or more. A proposed scheduling is set

forth in the Background Report submitted by the applicant. It is further contemplated that the "build out" on those units would span a much larger period, likely as much as 10 years. The physical structures within each unit would not be built until the plat for each unit is approved.

Concerns have been raised about the affect on traffic on Highway 66 and Round Lake Road as a result of this development, the potential dilaterious effect of increased surface drainage, the potential effect on schools, and interference with a proposed medium density deer winter range. The authorities responsible for traffic safety, design, construction, and use (the State Highway Division and the Klamath County Department of Public Works) are satisfied that the roadways are sufficient to carry the increased volume generated by this development once the access to Highway 66 is made. Making those improvements would be a condition, by the State, for the granting of its permit.

As redesigned, the project falls entirely within the Klamath Union High School District. No concerns have been expressed by the Klamath County School District or the Klamath Union High School District. The density is approximately one-half of the previously applied for density (in the 1978 application) with the result that the impact on the schools is minimized.

The drainage plan has been structured so that in each of the four drainage basins on the property an amount of drainage equal to the increase generated by the project is diverted to basins within the property and that resulting increase, together with much natural flow,

is channeled to the Weyerhaeuser and Passien properties. Those are the only two property owners who would be affected by the increase, and each have reached agreement with the developer for the discharge of that increase and much existing drainage across those landowners' properties. The drainage design has been designed in view of a 100 year storm, rather than a 25 year storm which is the normal design standard, thus resulting in a very conservative approach. There will be no detrimental affects from any increased drainage to any properties.

The currently adopted wildlife maps do not include a deer winter range near this property. There is, however, a proposed new map indicating a medium deer winter range which may include a part of this property. Because of the scale of the map, actions of the department, and topographical and other natural features, it is difficult to know exactly what properties are within that area as far as this property is concerned. It appears that at least the lower northwest corner of the eastern block may be within the deer winter range. No residences are designed to be placed on that land, and the access to that land by humans, motor vehicles, and cattle will be far less than is the present case. Thus, this development will enhance that resource rather than be detrimental to it.

The property owned by Mr. Ager and Mr. and Mrs. Kerns is unaffected by surface drainage, adjacent homes, or adjacent wells. The authorities with the responsibility for traffic safety simply do not share their fear, but instead find the highway adequate once the intersection improvements are made.

FINDINGS OF FACT

1. The Order of the Klamath County Board of Commissioners dated November 25, 1981, including its findings, is still relevant and correct and should be reaffirmed.

2. The Master Plan (Development Plan) satisfies all of the conditions of the zone in that it contains the density therein provided, clusters the lots on the eastern block, and storm drain systems have been generally designated in the Master Plan and specifically designated on each of the two proposed plats, and are of such a character that we conclude, based upon the substantial evidence submitted, including the estimates presented to us which we deem reasonable, that the system will prevent increased quantity or velocity of storm drainage from damaging agricultural or other neighboring land. The Development Plan utilizes several phases.

3. The Master Plan complies with the general standards set forth in Article 86.001 of the Land Development Code in that the land use plan designation overlay is rural residential and general commercial, the property is under the ownership and control of a single entity which has the authority to take all the actions and exercise full authority to develop the land as a planned development, the plan contains phases, is so designed and situated as to encourage the utilization of solar energy, and contains both residential and commercial uses within it.

4. Chapter 827 of the 1983 Oregon Session Law provides:

It was the intent of the Legislature in enacting ORS Chapters 197, 215, and 227 not to prohibit, deter, delay, or increase the cost of appropriate development, but to enhance economic development and opportunity for the benefit of all citizens.

This plan enhances the economic development of the area not only because of the construction which will result, but also by providing a mixture of housing types, containing those features which are desired by many coming to the area, and opportunity for the citizens of the area to benefit from this development by having such a development available to them to live in should they so choose. The existence of this development will be an attraction for the area in bringing new industry to Klamath County.

5. Section 17 of the above said Chapter provides:

- (g) local government shall provide:
 - (A) reasonable opportunities to satisfy local and rural needs for residential and industrial development and other economic activities on appropriate lands outside urban growth boundaries, in a manner consistent with the conservation of the State's agricultural and forestland base; and
 - (B) (not applicable)

This development satisfies that requirement by providing for rural residential needs, together with compatible commercial uses, near Klamath Falls, but in a rural setting, containing the amenities desired by many coming to the area. There is little other land that is not agricultural but which has a tree cover, which is near Klamath Falls. Of existing properties available for immediate development, this is the nearest to Klamath Falls, and has virtually no impact on Goals 3, 4, or 5 resources.

6. Citizen involvement has again been met as the proposal was sent to the affected area committees, and the basis for our conclusions are set forth herein. Further, the applicant has twice, by written invitation, tried to meet with the adjoining landowners in the development stage. Those adjoining landowners (with the exception of one family) failed to go to the meetings.

7. A portion of the land lies on medium density deer winter range, which has few deer. The Department of Fish and Wildlife does not recommend no development, but the use of measures to resolve any conflict in uses. This is done by the provisions in the Master (Development) Plan by employing restrictions on use, road barriers, and fencing, prohibition against dogs at large, use of offroad vehicles, and discharging of firearms. The concerns of the Department of Fish & Wildlife as to animal damage are applicable to any rural development in a similar setting. With the Homeowners' Association in place, should the State no longer deal with those matters, the Association could, should it desire to do so.

8. Other than the public facilities included in the traffic and school aspects which were discussed above, facilities within the area, which are a rural level, are private and adequate for the proposed uses. The implementation of this PUD complies with the Goal 12 policies accepted by LCDC, since it provides for safe, convenient, and economic transportation systems to serve the anticipated growth, and in that this development does not allow placing a dwelling along arterials, other than those within the development.

That policy of Goal 12 is further enhanced particularly since a turning lane will be provided off Highway 66.

9. The implementation of this PUD by this Master Plan furthers Goal 13 by providing commercial areas within the development, to serve both the inhabitants of the development and many of those already living in the area which would reduce the number of trips necessitated by them in having to go to Klamath Falls. The result is significant gasoline savings. The location of this sort of rural development is nearer Klamath Falls than virtually all of the others which are available for foreseeable development and thus reduces the overall energy consumption. The general topography of the land has a southerly and easterly exposure which will not only reduce the costs of snow removal, but which will, in itself, encourage utilization of solar energy systems.

10. The urban policies under Goal 14 are not applicable to this development since it is rural in nature and does not involve urbanization.

CONCLUSIONS OF LAW, AND ORDER

1. The Order of the Klamath County Commissioners dated November 25, 1981, zoning this property is hereby ratified, reaffirmed, and incorporated herein.

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2. The Master Development Plan presented is hereby adopted,
including all of the provisions thereof.

Dated this 5th day of December, 1983.

Mildred Brooks
Mildred Brooks, Member

Georgia Dehlinger
Georgia Dehlinger, Member

Gordon DeArmond
Gordon DeArmond, Member

Gilbert Moty
Gilbert Moty, Member

Edward Livingston
Edward Livingston, Member

John Monfore
John Monfore, Member

APPROVED AS TO FORM:

Boivin & Boivin
Boivin & Boivin

Richard J. Nellipowitz
Chairman of Planning Commission
Richard Nellipowitz

STATE OF OREGON,)
County of Klamath)
Filed for record at request of

on this 6th day of Dec. A.D. 19 83
at 11:15 o'clock A M, and duly
recorded in Vol. M83 of Deeds
age 20793

EVELYN BIEHN, County Clerk

By Sam Smith Deputy
Fee None

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