

BEFORE THE HEARINGS OFFICER
FOR KLAMATH COUNTY, OREGON

In the Matter of a) CASE NO. 1-84
REQUEST FOR A CONDITIONAL)
USE PERMIT) FINDINGS OF FACT, CONCLUSIONS
OF LAW AND ORDER

for)
LON and BONNIE MABON)

THIS MATTER came on for a hearing before the Klamath County Assistant Hearings' Officer, JAMES R. UERLINGS, on March 1, 1984, at the Klamath County Commissioners' Hearing Room. The hearing was held pursuant to notice given in conformity with the Klamath County Development Code and related ordinances. The applicant was present at the hearing and the Planning Department was represented by Jonathan Chudnoff.

The following exhibits were marked and entered into evidence and made a part of the record: Exhibits "A" through "J".

The Assistant Hearings Officer, after reviewing the evidence presented, makes the following findings of fact, conclusions of law and decision.

FINDINGS OF FACT:

1) The subject property is owned by Donald O. Bieber and Glenda Bieber. The applicants, LON T. MABON and BONNIE J. MABON, have filed an authorization to act as agents for owners of the property for this proceeding.

2) The subject property is located at 7748 Highway 140
FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER
Page 1.

1 consisting of the easterly 196.4' of Tract 14 of Junction
2 Acres, Klamath County, Oregon.

3 3) The plan designation is urban residential,
4 the zone designation is suburban residential and the adjacent
5 zoning consists of suburban residential and general commercial.

6 4) The property's physical characteristics
7 include the dimensions of 196.4' x 663', an acreage of 2.99
8 acres with a rectangular shape, vegetation which consists of
9 lawn and trees around the house and a pasture in the back,
10 the topography is level around the house with a gradual slope
11 down to the South behind the house, and general drainage consists
12 of surface runoff. The unique physical characteristics of
13 the surrounding lands consists of a large-lot residential
14 agricultural area at the fringe of the urban area.

15 5) Access to the property is provided off
16 State Highway 140.

17 6) Public services and facilities are as follows:
18 The property sewer system consists of sewer tanks, water is
19 provided by well, and utility districts serving the property
20 consist of Pacific Power and Light, Pacific Northwest Bell
21 and Enterprise Irrigation District. The fire district
22 serving the property is County Fire District No. 1. The Henley
23 Citizens Advisory Group was notified of the proposed conditional
24 use permit but no comments were received.

25 7) The applicants are requesting this permit in
26 order to operate a group care home for the elderly. This would

1 be a retirement home for persons not needing intensive nursing
2 and medical attention. Initially, there would be five (5)
3 residents with future growth potential to fifteen (15).
4 Homes of this type are subject to registration or licensing
5 by Oregon Senior Services Division. The applicants have operated
6 a similar group home in Bishop, California, with very favorable
7 results as indicated by Exhibits "E" and "F". At the time
8 of the hearing on February 2, 1984, the new ordinance had
9 not gone into effect authorizing the group care facility
10 in this zone. The new code became effective on February 29,
11 1984, and this hearing was held on March 1, 1984, based upon
12 the new code criteria. At the time of the March 1, 1984, hearing,
13 the applicants displayed a copy of the license they have obtained
14 from the Oregon Senior Services Division in order to operate
15 the home for 5 residents. The applicants indicated that in
16 order to obtain this license, they needed to comply with the
17 Klamath County Health Department and Building Department's
18 regulations respecting health, sanitation and safety requirements.
19 Therefore, they have indicated that these requirements have
20 been met.

21 8) Additionally, the Planning Department indicated
22 that the applicants have obtained an access permit from the
23 Oregon State Highway Division.

24 9) Exhibit "H" is a letter received from a
25 neighboring property owner named Karla McCambridge addressing
26 certain concerns regarding the facility.

1 Those concerns and the applicants' responses are as follows:
2

3 A) That the area is composed mostly of
4 single family residential homes: The code itself allows
5 for the establishment of a group care facility in a single
6 family residential zone.

7 B) That the proposed site is adjacent to
8 Highway 140 and creates a problem of access for transportation
9 in and out of the property: That issue was addressed by the
10 Highway Division with the granting of the access permit and
11 since the current plans of the facility are for only five (5)
12 residents, there is no indication that any of these residents
13 would be having their own vehicles and there does not appear
14 to be an access problem.

15 C) Ms. McCambridge addresses the issue that
16 there may be a danger of the residents wandering out onto
17 Highway 140: The applicants have indicated that there is
18 a special screening process which the proposed residents
19 go through to determine whether or not they have ever had
20 the problem of wandering away from the care facility. Only
21 those who do not have a potential to wander from the care
22 facility will be housed. Additionally, there is one (1) or
23 more persons on twenty-four hour duty at the proposed facility
24 and there is only a small gate and small passageway between
25 the hedge which the residents could go through in order to
26 get onto the highway. The applicants felt that, due to the
screening, restrictions and twenty-four hour supervision,

1 there would be no problem of occupants wandering onto the
2 highway.

3 D) The last issue of eventuality of fifteen
4 (15) residents at the facility: This can be addressed by the
5 placement of a condition on this conditional use permit that
6 it be limited to five (5) residents without prior hearing.

7 KLAMATH COUNTY DEVELOPMENT CODE CRITERIA:

8 1) Klamath County Development Code Section 44.003
9 sets forth the criteria for consideration in the application
10 of a conditional use permit:

11 A. That the use is conditionally permitted in
12 the zone in which it is proposed.

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

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

25 KLAMATH COUNTY DEVELOPMENT CODE FINDINGS AND CONCLUSIONS:

26 1) The proposed use is conditionally permitted in
FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER
Page 5.

1 the zone in which it is proposed under Section 51.005(c)(1).

2 2) The location, size, design and operating character-
3 istics of the proposed use is in conformance with the Klamath
4 County Comprehensive Plan.

5 3) The location, size, design and operating character-
6 istics of the proposed development will be compatible with, and
7 will not adversely effect, the livability or the appropriate
8 development of the abutting properties and surrounding neigh-
9 borhood.

10 4) Consideration has been given to the harmony in
11 scale, bulk, coverage and density; to the availability of
12 civic facilities and utilities; to harmful effects, if any,
13 upon the desirable neighborhood character; to the generation
14 of traffic and the capacity of surrounding streets to handle
15 such.

16 5) The following conditions are deemed necessary
17 in order to protect the health, safety and welfare of the
18 citizens of Klamath County:

19 A. That the applicant follow the plot plan.

20 B. That the applicant continue to always maintain
21 a license issued by the State of Oregon for the care of the
22 residents as maintained in the facility. If at any time the
23 applicant's license to care for residents is revoked or suspended
24 by the State of Oregon, this conditional use permit will be
25 automatically revoked and will not be reinstated prior to
26 a new hearing.

1 C. That the number of residents at the facility
2 at any one time be limited to five (5). If the applicants
3 should desire to increase the number above five, a new condi-
4 tional use permit will need to be sought.

5 STATE-WIDE PLANNING GOALS AND CRITERIA:

6 See Exhibit "AA" attached hereto and incorporated
7 by this reference.

8 CONCLUSIONS OF LAW AND DECISION:

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

12 2) This request for a conditional use permit is
13 consistent with, and complies with, all the applicable State-
14 wide Planning Goals and review criteria.

15 3) The conditions as set forth above are deemed
16 necessary to protect the health, safety and welfare of the
17 citizens of Klamath County and are made a part of this Order.

18 Therefore, it is hereby ordered that this request
19 for a conditional use permit on the subject property herein
20 described is hereby granted subject to the conditions as set
21 forth above.

22 DATED this 16 day of March, 1984.

23
24
25
26

JAMES R. UERLINGS

COMPREHENSIVE PLAN POLICIES AND STATE
LAND USE GOALS 1 - 14

3750

GOAL NO. 1 - Citizen Involvement

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

Relevant Policies:

1. "The County shall provide for continued citizen involvement opportunities."

State Goal Issues:

A public hearing has been set for February 2, 1984. Notice has been published in the Herald and News and mailed to neighboring property owners, the Henley Area Committee and concerned public agencies.

GOAL NO. 2 - Land Use Planning

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

Article 46
Major/Minor Partition
Section 46.003 Review Criteria

Relevant Policies:

State Goal Issues:

The area is planned and zoned for suburban, single-family residential use. A group care home is permitted, subject to meeting conditions which may be necessary to make it compatible with the surrounding area.

	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

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

3751

Relevant Policies:

State Goal Issues:

The area is planned for urban residential use and is developed with single-family homes. Agricultural use of this and nearby property is incidental to the residences and is on a non-commercial basis.

GOAL NO. 4 - Forest Lands

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

Relevant Policies:

State Goal Issues:

Area soils have no timber site productivity rating and no history of commercial timber management.

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

3752

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

Relevant Policies:

State Goal Issues:

There are no inventoried scenic, historic or natural resources on or near the property.

GOAL NO. 6 - Air Water and Land Resource Quality

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

Relevant Policies:

1. "The County shall support efforts to maintain and improve the quality of air resources."
2. "All solid waste discharge will be disposed of in accordance with the County Solid Waste Management Plan."
4. "Urban and rural residential use shall be designated only when approved sewage disposal alternatives have been identified."

State Goal Issues:

The residents would not have cars and not add to air pollution. The property is within the solid waste collection franchise area of the Klamath Disposal Company, served by the landfill on Old Fort Road. All needed sanitary facilities are to be provided in accordance with the requirements of the County Health Services Department.

GOAL NO. 7 - Natural Disaster and Hazards Act

3753

☐ Complies ☐ Does Not Comply

☐ Complies with conditions

☒ Not applicable

Relevant Policies:

State Goal Issues:

The area has a low fire hazard rating. There are no known natural hazards affecting the area.

GOAL NO. 8 - Recreation Needs

☒ Complies ☐ Does Not Comply

☐ Complies with conditions

☐ Not applicable

Relevant Policies:

State Goal Issues:

The property is close to the recreational facilities of the Klamath Falls urban area including the Klamath Basin Senior Center on Arthur Street (about 3 miles away).

GOAL NO. 9 - County Economy

3754

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

Relevant Policies:

State Goal Issues:

The proposed home would provide employment for a family moving into the area.

GOAL NO. 10 - Housing

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

Relevant Policies:

1. "Residential property shall be zoned to allow the full range of housing types and densities of the Comprehensive Plan."

State Goal Issues:

The proposed group home would provide housing for elderly persons who are unable to maintain a household on their own, but who do not need a high level of nursing care.

GOAL NO. 11 - Public Facilities and Services

3755

☒ Complies ☐ Does not Comply

☐ Complies with conditions

☐ Not applicable

Relevant Policies:

12. "Development proposals shall not be approved unless the types and levels of public facilities and services required are available or planned in the area."

State Goal Issues:

Electrical and telephone services are on the property. Fire District No. 1 has a fire station on 6th Street, about 3/4 mile away.

GOAL NO. 12 - Transportation

☐ Complies ☐ Does not Comply

☒ Complies with conditions

☐ Not applicable

Relevant Policies:

State Goal Issues:

The residents of the home would not have cars. Transportation would be provided by the home operators, by Klamath Basin Senior Services or by taxi. Access to the property may require a permit from the Highway Division (see Exhibit D).

GOAL NO. 13 - Energy Conservation

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

3756

Relevant Policies:

State Goal Issues:

The proposed home is in an area where all needed utilities are available and is near all needed facilities and services of the urban area. Energy savings in transportation are possible.

GOAL NO. 14 - Urbanization

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

Relevant Policies:

State Goal Issues:

The property is at the fringe of the Klamath Falls urbanized area where the future extension of urban utilities is feasible.

RETURN: Commissioners Journal

Exhibit "AA", Page 7.

STATE OF OREGON: COUNTY OF KLAMATH:ss
I hereby certify that the within instrument was received and filed for record on the 8th day of March A.D., 1984 at 2:01 o'clock P. M. and duly recorded in Vol. 434, of Deeds on page 3742.

Fee \$ None

EVELYN BIEHN, COUNTY CLERK

by Pam Smith Deputy