

BEFORE THE HEARINGS OFFICER
FOR KLAMATH COUNTY, OREGON

| | |
|----------------------------------|-------------------------------|
| In the Matter of a Request for) | C.U.P. No. 4-85 |
| CONDITIONAL USE PERMIT) | FINDINGS OF FACT, CONCLUSIONS |
| for) | OF LAW AND DECISION |
| SCOTT JOHNSTON) | |

THIS MATTER came before the Assistant Hearings Officer, JAMES R. UERLINGS, on the 21st day of February, 1985, at 1:30 p.m. in 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 represented by his agent, JEFF COOK; the applicant was also present. The Planning Department was represented by Jonathan Chudnoff. Several persons testified in favor and in opposition to this request for a conditional use permit.

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

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 applicant, SCOTT JOHNSTON, is one of the owners of the subject property located in the SE $\frac{1}{4}$ SE $\frac{1}{4}$ of

1 Section 30, Township 39, Range 8, Klamath County, Oregon,
2 consisting of approximately 30 acres, generally located
3 along the northwest portion of Highway 66, about one (1)
4 mile East of Keno.

5 2. The other owners of the subject property
6 are GWEN JOHNSTON and DON JOHNSTON.

7 3. The applicant desires this conditional use permit
8 to allow an extensive impact facility in a non-resource
9 zone. The proposal is for a motorcycle and all terrain
10 vehicle race course with related pit area, concession
11 stands, parking and restrooms. The permit is being sought
12 for thirty (30) acres.

13 4. The tract is located on a ranch, about one-third
14 of which is irrigated pasture. The remainder is juniper
15 hills and ridges. The track would be in the hills, at least
16 one-quarter mile from the property line.

17 5. The proposed access follows an existing farm
18 road, skirting the irrigated land.

19 6. There are homes on Clover Creek Road, one-third
20 mile or more from the proposed race track. There is a
21 steep ridge between these homes and the track. (See
22 Exhibit "E".) There are homes along Highway 66 with a
23 direct view of the track area, about one-half mile away.
24 The neighbors have raised concerns about noise, dust and
25 traffic. The DEQ requires a noise impact study prior
26 to the race track construction. This has not yet been

completed.

7. The Plan Designation is Non-Resource, the Zone Designation is NR, and Adjacent and/or Surrounding Zoning is NR, R-1, P.U.D. and EFU-CG.

8. The property's physical characteristics are as follows: dimensions of 1143' x 1143', within the Johnston Ranch. The shape is square, the vegetation consists of junipers, scattered oaks and brush. The topography is rolling to steep terrain. Drainage consists of surface runoff in a southeasterly direction. The SCS Soil Class is VI and VII, and the Timber Site Productivity Rating is V.

9. Unique physical characteristics of the surrounding land consists of wooded ridges.

10. Access is via a private cinder road to Highway 66.

11. Sewer consists of portable toilets and water would be provided by well.

12. Utility districts serving the area are Pacific Power and Light and Pacific Northwest Bell. The Keno Fire District serves the area.

13. The area consists of several rural residential homesites. The majority of those persons testifying in opposition testified that they chose rural homesites in this area because of its aesthetic setting and the tranquility of the area. Many of them spent several months

1 searching the Klamath County area in order to find an
2 ideal homesite and chose this area because of its unique
3 characteristics.

4 14. The previously granted conditional use permit
5 provides for the construcion of a similar type race track
6 at the Bill Scholtes Park, located approximately ten (10)
7 miles West of the proposed site. That race track is
8 currently in the development stage with an expected start-up
9 date of between Summer, 1985, and Summer, 1986.

10 15. The nature of the topography of the area
11 surrounding the race track would allow for the noise of
12 the motorcyles and all terrain vehicles to reverberate
13 throughout the immediate basin. The applicant indicated
14 that certain types of muffler devises would be used on the
15 motorcycles and all terrain vehicles in an attempt to
16 reduce the noise. However, there has not been a
17 Department of Environmental Quality study on the noise
18 characteristics of the proposed use and therefore, there
19 is insufficient evidence for the applicant to meet his
20 burden of proof upon this issue.

21 16. Those persons testifying in opposition addressed
22 the topography of the area and the fact that the area currently
23 is very tranquil and any addition of motorcycles and all
24 terrain vehicles in the area could do nothing but cause
25 additional detrimental noise.

26 17. Several persons testifying in opposition
FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION
-4-

1 indicated that there are unique wildlife habitats in the
2 area consisting of bald eagle nesting areas and owl nesting
3 areas, as well as a deer wintering range with up to 40-50
4 deer being spotted from some of the witnesses' property.
5 The witnesses indicated that bald eagles not only overfly
6 the area, but nest within a near proximity to the proposed
7 site and similar witnesses testified that owls nest in
8 a close proximity to the proposed site.

9 18. Several witnesses indicated that the proposed
10 access road and Highway 66 already have periods of congestion
11 from traffic. The applicant indicated that up to 300 persons
12 may appear for the events planned for the property and that
13 the property would be used for events 40-50 days of the
14 year. Due to the effect of winter weather upon the property,
15 it is likely that these 40-50 days would be confined to the
16 late spring, summer and early fall periods of the year.

17 KLAMATH COUNTY DEVELOPMENT CODE CRITERIA:

18 1. Klamath County Development Code Section 44.003
19 sets forth the criteria for consideration in the application
20 of a conditional use permit:

21 A. That the use is conditionally permitted in
22 the zone in which it is proposed.

23 B. That the location, size, design and operating
24 characteristics of the proposed uses is in conformance with
25 the Klamath County Comprehensive Plan.

26 C. That the location, size, design and operating

1 characteristics of the proposed development will be compatible
2 with, and will not adversely effect, the livability or
3 appropriate development of abutting properties in the surround-
4 ing neighborhood. Consideration shall be given to the harmony
5 in scale, bulk, and utilities; to harmful effects, if any,
6 upon desirable neighborhood character; to the generation of
7 traffic and the capacity of surrounding streets and to other
8 relevant impact of development.

9 KLAMATH COUNTY DEVELOPMENT CODE FINDINGS AND CONCLUSIONS:

10 1. The proposed use is conditionally permitted
11 in the zone in which it is proposed.

12 2. The location, size, design and operating charact-
13 eristics of the proposed use will not be compatible with, and
14 will adversely effect, the livability and/or appropriate
15 development of abutting properties in the surrounding neigh-
16 borhood. This conclusion follows from the testimony given
17 that the area contains several rural residences and currently
18 has a very peaceful lifestyle. There are unique wildlife
19 in the area which would be disrupted on a continuing basis
20 by the proposed use. Traffic generated by the proposed
21 use could not be handled by the access road and/or Highway 66
22 in an adequate manner. Considering the location and operating
23 characteristics of the proposed development, it appears that
24 they will not be compatible with, and will have a significant
25 adverse effect on the appropriate development and use of
26 abutting properties in the surrounding neighborhood. Several

1 persons testifying in opposition to the proposed use indicated
 2 that they had spent considerable time in researching various
 3 residential areas within Klamath County within which to locate
 4 their rural homesite. The addition of a motorcycle/all terrain
 5 vehicle race track to this area would be a detriment to
 6 those individuals residing in the area, as well as to the
 7 wildlife habitat there. The dust from the race track, as well
 8 as the additional traffic generated by the use, has a
 9 significant adverse effect.

10 STATE- WIDE PLANNING GOALS AND REVIEW CRITERIA:

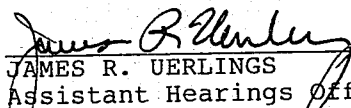
11 Compliance with the State-Wide Planning Goals and
 12 review criteria was met by Klamath County on the subject
 13 property at the time of the acknowledgement of Klamath
 14 County's Comprehensive Plan.

15 CONCLUSIONS OF LAW AND DECISION:

16 1. This request for a conditional use permit on
 17 the subject property does not meet all applicable Klamath
 18 County Development Code criteria and policies governing such.

19 THEREFORE, IT IS HEREBY ORDERED that this request
 20 for a conditional use permit on the subject property is
 21 denied.

22 DATED this 4 day of March, 1985.

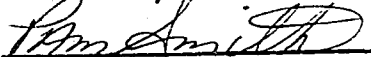
23
 24 
 25 JAMES R. UERLINGS
 26 Assistant Hearings Officer

FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION

-7-

STATE OF OREGON: COUNTY OF KLAMATH:ss
 I hereby certify that the within instrument was received and filed for
 record on the 6th day of March A.D., 19 85 at 11:37 o'clock A M,
 and duly recorded in Vol. M85, of Deeds on page 3307.

EVELYN BIEHN, COUNTY CLERK

by: , Deputy

Fee: \$ None