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BEFORE THE HEARINGS OFFICER  
FOR KLAMATH COUNTY, OREGON

In the Matter of a Request for)	C.U.P. 9-85
CONDITIONAL USE PERMIT	)
for	)
CAROL RAJNUS	)
_____	)

FINDINGS OF FACT, CONCLUSIONS  
OF LAW AND DECISION

THIS MATTER came before the Assistant Hearings Officer, JAMES R. UERLINGS, on the 7th day of March, 1985, at 1:30 p.m. 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, CAROL RAJNUS, appeared in person and the Planning Department was represented by Jonathan Chudnoff. Prior to the commencement of the hearing, the Assistant Hearings Officer disclosed on the record that he had previously represented CAROL RAJNUS on an attorney-client relationship on a legal matter that had no relationship whatsoever to this planning issue. The Assistant Hearings Officer asked those persons present whether they had an objections to the Assistant Hearings Officer conducting and ruling on this hearing. No person indicated any objection or question to the Assistant Hearings Officer continuing with the hearing.

The following exhibits were marked, entered and received into evidence and made a part of the record:  
FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION  
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1 Exhibits "A" through "E".

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

5 FINDINGS OF FACT:

6 1. This is a request for an conditional use permit  
7 for a non-forest homesite in the FR zone. The affected  
8 property is a 2.62 acre parcel with a mobile home on it.  
9 The rest of the Rajnus' property includes a 130 acre parcel, about  
10 evenly divided between juniper uplands and improved pasture  
11 and a 31 acre parcel of irrigated cropland.

12 2. The homesite is on one of the upland areas  
13 and access to it is over existing roads along field boundaries.  
14 The applicant no longer lives on the property, although her  
15 family continues to farm it. The proposed sale of the homesite  
16 is a result of a divorce proceeding. The applicant for this  
17 conditional use permit is CAROL RAJNUS. The property is  
18 located east of Harpold Road, about one-half mile south  
19 of a 500 KV line crossing. The legal description of this  
20 property is Tax Lot 900, located in the NW $\frac{1}{4}$  SE $\frac{1}{4}$  of Section  
21 29, Township 40, Range 12, Klamath County, Oregon.

22 3. The plan designation of the property is Forestry,  
23 the zone designation is FR and adjacent and/or surrounding  
24 zoning is FR.

25 4. The property's physical characteristics  
26 are as follows: dimensions-370' x 309', consisting of 2.62 acres;  
FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION  
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1 shape-rectangular; vegetation-junipers and brush; topography-  
2 gradual slope up to the north and general drainage-surface  
3 runoff in a southerly direction. The SCS Soil Classification  
4 is III and the Timber Productivity Rating is none.

5 5. Unique physical characteristics of the surround-  
6 ing land consists of a borderline area between irrigated  
7 farm land to the south and wooded hills to the north.

8 6. Access to the property is over an easement  
9 to Harpold Road.

10 7. Public facilities and services consist of  
11 Klamath County School District (Malin), and recreation is  
12 provided on the property and surrounding rural land and  
13 the Malin Park. Sewer is provided by septic system and  
14 water by well. The utility districts serving the property  
15 are Pacific Power and Light and United Telephone. Fire  
16 service is provided by Malin Fire District.

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

FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION

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

2. Klamath County Development Code Section 51.021(D) sets forth that non-forest uses conditionally permitted shall be subject to review in accordance with the following criteria. The review authority must find that each such use:

- A. Is compatible with forest uses;
- B. Does not interfere seriously with accepted forestry practices on adjacent lands devoted to forest uses;
- C. Does not materially alter the stability of the overall land use pattern of the area;
- D. Is situated on generally unsuitable land for the production of forest crops and livestock, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of tract;
- E. Considers forest site productivity and minimizes the loss of productive forest lands;
- F. Meets the standards relating to the availability of fire protection as set forth in Article 69 of the Klamath County Development Code and other rural services, and

FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION

1 will not overtax those services; and,

2 G. Complies with such other conditions as  
3 the governing body of the County considers necessary.

4 3. Klamath County Development Code Section 51.021  
5 (E)(2) sets forth that the minimum lot size does not apply  
6 to non-forest uses. All proposed partitioning of land for  
7 one of the non-forest uses permitted in the Klamath County  
8 Development Code Section 51.021(C) and (D) shall meet the  
9 following criteria:

10 A. The parcel shall be designed to use the least  
11 amount of forest land consistent with the needs of the proposed  
12 use. Wherever possible, land unsuited for forest uses shall  
13 be uses.

14 B. The parcel and the access to it shall be  
15 designed so as not to interfere with accepted forest practices  
16 on surrounding land.

17 C. That where applicable, the proposed division  
18 is consistent with the provisions of Klamath County Development  
19 Code Section 83.007.

20 KLAMATH COUNTY DEVELOPMENT CODE FINDINGS AND CONCLUSIONS:

21 1. The proposed use is conditionally permitted  
22 in the zone in which it is proposed.

23 2. The location, size, design and operating  
24 characteristics of the proposed use will be compatible with,  
25 and will not adversely effect, the livability and/or appro-  
26 priate development of abutting properties in the surrounding

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1 neighborhood. In considering the location and operating  
2 characteristics of the proposed development, it appears that  
3 they will be compatible with, and will not have a significant  
4 adverse affect, on the abutting properties in the surrounding  
5 neighborhood.

6 3. The proposed single-family dwelling is compatible  
7 with the farm use as definied in this Code and consistent  
8 with the agricultural land use policies adopted by the legis-  
9 lative assembly in ORS 215.243.

10 4. The proposed use is compatible with forest uses  
11 and has been established as a use on the property for  
12 several years.

13 5. The proposed use does not interfere seriously  
14 with accepted forestry practices on adjacent lands devoted  
15 to forest use.

16 6. The proposed use does not materially alter the  
17 stability of the overall land use pattern in the area.  
18 The evidence indicates that the land use pattern is changing  
19 from one of range land to one of agricultural use.

20 7. The proposed use is situated on generally  
21 unsuitable land for production of forest crops and livestock,  
22 considering the terrain, adverse soil or land conditions,  
23 drainage and flooding, vegetation, location and size of the  
24 tract.

25 8. The proposed use considers poor site productivity  
26 and minimizes the loss of productive forest lands.

1 The evidence indicates that the land is currently not used  
2 nor has it been for forest productivity and has no productivity  
3 rating.

4 9. The proposed use meets the standards relating  
5 to the availability of fire protection as set forth in  
6 Article 69 of the Klamath County Land Development Code  
7 and other rural services and will not over-tax those services.

8 10. The proposed use complies with such other  
9 conditions as the governing body of the County considers  
10 necessary.

11 11. The parcel is designed to use the least amount  
12 of forest land consistent with the needs of the proposed use  
13 and, in fact, the land is unsuited for forest use currently.

14 12. This parcel, and the access to it, are designed  
15 so as not to interfere with accepted forest practices on  
16 surrounding land.

17 13. The proposed use is consistent with the provisions  
18 of Section 83.007 of the Klamath County Land Development Code.

19 STATE-WIDE PLANNING GOALS AND REVIEW CRITERIA:

20 Compliance with the State-wide Planning Goals and  
21 review criteria was met by Klamath County on the subject prop-  
22 erty at the time of the acknowledgement of Klamath County's  
23 Comprehensive Plan.

24 CONCLUSIONS OF LAW AND DECISION:

25 1. This request for a conditional use permit on  
26 the subject property meets all applicable Klamath County

1 Development Code criteria and policies governing such.

2 2. This request for a conditional use permit is  
3 consistent with, and complies with, all applicable State-  
4 wide Planning Goals and review criteria and the Klamath  
5 County Comprehensive Plan.

6 THEREFORE, IT IS HEREBY ORDERED that this request  
7 for a conditional use permit on the subject property is  
8 granted.


9 DATED this 14 day of March, 1985.

10  
11   
12 JAMES R. UERLINGS

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18  
19 STATE OF OREGON,  
20 County of Klamath )  
21 Filed for record at request of

22 on this 21st day of March A.D. 19 85  
23 at 10:01 o'clock A M, and duly  
24 recorded in Vol. M85 of Deeds  
25 Page 4148

26 EVELYN BIEHN, County Clerk

By  Deputy

Fee None

Return: Commissioners Journal

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