

BEFORE THE HEARINGS OFFICER

FOR KLAMATH COUNTY, OREGON

In the Matter of a	)	C.U.P. 8-85
	)	
CONDITIONAL USE PERMIT	)	FINDINGS OF FACT, CONCLUSIONS
	)	OF LAW AND DECISION
for	)	
	)	
DAYTON O. HYDE	)	

THIS MATTER came before the Assistant Hearings Officer, JAMES R. UERLINGS, on the 7th day of March, 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, DAYTON O. HYDE, appeared in person along with his attorney, BRUCE HUFFMAN. The Planning Department was represented by Jonathan Chudnoff.

The following exhibits were marked, entered and received into evidence and made a part of the record:

Exhibits "A" through "G".

The Assistant Hearings Officer disclosed, prior to the commencement of the hearing, that his law firm had represented DAYTON O. HYDE previously on legal matters but that they were not representing DAYTON O. HYDE in this land use matter.

The Assistant Hearings Officer asked those persons present if anyone objected to him conducting the hearing. No objections or comments were made. The Assistant Hearings

FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION

1 Officer therefore proceeded to conduct the hearing.

2 The Assistant Hearings Officer, after reviewing  
3 the evidence presented, makes the following Findings of  
4 Fact, Conclusions of Law and Decision.

5 FINDINGS OF FACT:

6 1. This request is for a personal-use airport  
7 within an EFU-G zone. The applicant is the owner of  
8 Yamsi Ranch at the head of the Williamson River. He proposes  
9 to construct a 50' x 3500' cinder airstrip which will be  
10 about 1200' north of the Williamson River Highway and about  
11 three-fourths of a mile west of the ranch homes and buildings  
12 which are owned by the applicant. The surrounding area is  
13 national forest, and public and private timber land and  
14 pasture land. Other than the applicant's home and the nearby  
15 Yamsay Guard Station, there are no homes within five miles  
16 or more.

17 2. The applicant, DAYTON O. HYDE, is the owner  
18 of the subject property described as the Yamsi Ranch,  
19 along the Williamson River Highway. The legal description  
20 is Sections 5 and 8, Township 33, Range 11, Klamath County,  
21 Oregon.

22 3. The plan designation for the property is  
23 agricultural, the zone designation is EFU-G, and adjacent  
24 and/or surrounding zoning is EFU-G and F.

25 4. The property's physical characteristics  
26 are as follows: dimensions for the proposed strip-50' x 3500';

FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION

1 acreage or footage consists of 4.25 acres which would be  
2 affected by the airstrip and aircraft parking area; the shape  
3 is rectangular and the topography is nearly level. The  
4 general drainage consists of surface runoff in a northerly  
5 direction. The SCS Soil Classification is V and the  
6 Timber Site Productivity rating is none.

7 5. No public facilities or services are  
8 affected by this planned airstrip. Testimony indicated  
9 that, should any fire occur in the area, there is a very  
10 short response time by state, federal and county forest  
11 service personnel. A representative from the Oregon State  
12 Forestry Department felt that there was not a significant  
13 fire hazard from this proposed airstrip.

14 6. The applicant is the owner of a very large  
15 tract of land upon which he is conducting a farming and  
16 ranching operation. Those areas immediately surrounding  
17 the applicant's property also consists of uses which include  
18 farming and ranching. The applicant has performed an exten-  
19 sive study upon those areas of his property which would  
20 be feasible for an airstrip. He has concluded that, of those  
21 areas available, this would be an ideal site as it is located  
22 near the Williamson River Highway and therefore would provide  
23 ground transportation access to the airstrip. Additionally,  
24 it is located a considerable distance from any wildlife  
25 habitat which would be affected by the aircraft usage.  
26 The applicant indicated that there would be at most approxi-

FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION

1 mately 30 takeoffs and landings per year and most probably  
2 less. The applicant indicated that he would agree that  
3 a condition be placed on the usage of the airstrip to  
4 the effect that all takeoffs be made to the southerly  
5 direction unless wind or other weather conditions require  
6 a takeoff to be in a northerly direction. The land upon  
7 which the strip is to be located is not agricultural or  
8 timber productivity land but is rather a rock and pumice  
9 area on the applicant's ranch. The applicant intends that  
10 the airstrip be used primarily for smaller planes and  
11 he will comply with those conditions as contained in  
12 Section 11.002 of the Klamath County Land Development Code  
13 regarding personal use airports.

14 7. The applicant indicated that he felt that  
15 it was necessary to have this airstrip located on his  
16 ranch to allow for cattle buyers to fly into not only  
17 his ranch but also surrounding ranches in order to purchase  
18 cattle. He additionally indicated that the addition of this  
19 airstrip would provide access to his property and surround-  
20 ing lands in case of medical emergencies.

21 8. Weyerhaeuser Company, who owns adjoining  
22 forest productivity land, entered Exhibit "D" in which  
23 they indicate that they are supportive of this project  
24 and find no adverse impacts that will occur. They addi-  
25 tionally indicate that the airstrip will be beneficial  
26 to ranch operations.

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1           9. The applicant indicated that he is in the process  
2 of obtaining State Aeronautics Division approval as well  
3 as D.E.Q. approval for the airstrip and would agree that  
4 the conditional use permit should contain conditions that  
5 D.E.Q. approval and State Aeronautics Division approval  
6 should be required.

7           10. The applicant indicated that, currently,  
8 there is a considerable distance between his property and  
9 the closest airstrip located in Chiloquin. The applicant  
10 has had considerable experience in dealing with ecological  
11 and environmental issues and has restored a portion of his  
12 property to wildlife habitat in order to encourage develop-  
13 ment of wildlife in appropriate areas. The applicant has  
14 indicated that no wildlife is in proximity to the proposed  
15 strip nor would any be affected by the limited usage.

16           11. Exhibit "H" was present indicating Mr. Hyde's  
17 prior testimony in regards to the establishment of an  
18 airstrip at a different location. That testimony indicated  
19 that plane activity is often hazardous to wildlife. However,  
20 there was no indication, in the testimony presented, to  
21 indicate that Mr. Hyde's testimony at the prior hearing con-  
22 flicted with his testimony at the present hearing; in  
23 particular, there was no evidence presented directly to the  
24 Assistant Hearings Officer indicating the type of airstrip  
25 that was contemplated at the prior hearing in which Mr.  
26 Hyde's testimony was given nor was there any indication

1 at to whether the airstrip contemplated in the prior hearing,  
2 was as distant from the wildlife areas as the testimony  
3 at the current hearing indicated. Therefore, Exhibit "H"  
4 was not considered significant by the Assistant Hearings  
5 Officer.

6 KLAMATH COUNTY DEVELOPMENT CODE CRITERIA:

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

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

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

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

24 2. Klamath County Development Code Section 11.002  
25 sets forth the definition of the personal use of an airport  
26 and heliport as follows:

FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION  
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1 A. A personal-use airport or heliport as used  
2 in this section means an airstrip restricted except for  
3 aircraft emergencies, to use by the owner, and, on an  
4 infrequent and occasional basis, by his invited guests, and  
5 by commercial aviation activities in connection with agricult-  
6 ural operations. No aircraft may be based on a personal-use  
7 airport other than those owned or controlled by the owner of  
8 the airstrip. Exceptions to the activities permitted under  
9 this definition may be granted through waiver action by the  
10 Aeronautics Division in specific instances. A personal-use  
11 airport lawfully existing as of September 13, 1975, shall  
12 continue to be permitted subject to any applicable regula-  
13 tions of the Aeronautics Division.

14 KLAMATH COUNTY DEVELOPMENT CODE FINDINGS AND CONCLUSIONS:

15 1. The proposed use is conditionally permitted  
16 in the zone in which it is proposed.

17 2. The location, size, design and operating  
18 characteristics of the proposed use will be compatible with,  
19 and will not adversely effect, the livability and/or appro-  
20 priate development of abutting properties in the surrounding  
21 neighborhood. In considering the location and operating  
22 characteristics of the proposed development, it appears  
23 that they will be compatible with, and will not have a  
24 significant adverse effect, on the abutting properties in  
25 the surrounding neighborhood.

26 3. The applicant is proposing an airport for use

1 by himself and on an infrequent and occasional basis by  
2 invited guests and commercial aviation activities in  
3 connection with agricultural operations. Additionally,  
4 the applicant indicated that the airstrip may be used  
5 in aircraft emergencies. These proposed uses are in  
6 conformance with Section 11.002 "Airport and Heliport,  
7 Personal Use". The applicant indicated that no aircraft  
8 would be based on the personal use airstrip other than  
9 those owned by himself or controlled by the owner.

10 STATE-WIDE-PLANNING GOALS AND REVIEW CRITERIA:

11 Compliance with the State-wide Planning Goals  
12 and 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  
17 on the subject property meets all applicable Klamath County  
18 Development Code criteria and policies governing such.

19 2. This request for a conditional use permit  
20 is consistent with, and complies with, Klamath County  
21 Comprehensive Plan and State law.

22 3. The following conditions are imposed as  
23 essential to the health, safety and welfare of the citizens  
24 of Klamath County:

25 A. The applicant must obtain the required  
26 permit from the Oregon Aeronautics Division and that the



1 permit be submitted to the Planning Department prior to  
2 construction of the personal use airport.

3 B. The applicant must obtain the required  
4 noise impact study and submit it to the Department of  
5 Environmental Quality. The approved noise impact study  
6 from D.E.Q. must be submitted to the Planning Department  
7 prior to the commencement of development of the personal  
8 use airstrip.

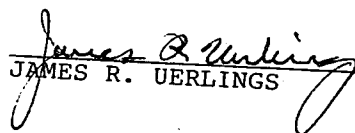
9 C. No aircraft other than those owned by  
10 or under the control of the applicant shall be based at  
11 the site.

12 D. The applicant shall comply with all  
13 other conditions as contained in Section 11.002, "Airport  
14 and Heliport, Personal Use".

15 E. The applicant shall designate the southerly  
16 runway as the primary runway for aircraft landing and  
17 departing from the airstrip. Aircraft may depart or land  
18 on a northerly runway only when wind and weather conditions  
19 shall require.

20 THEREFORE, IT IS HEREBY ORDERED that this request  
21 for a conditional use permit on the subject property  
22 is granted, subject to the above conditions.

23 DATED this 18 day of March, 1985.

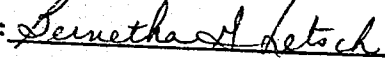
24  
25  
26  
  
JAMES R. UERLINGS

FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION

STATE OF OREGON: COUNTY OF KLAMATH:ss  
I hereby certify that the within instrument was received and filed for  
record on the 22nd day of March A.D., 1985 at 2:33 o'clock P M,  
and duly recorded in Vol.        of Deeds on page 4276

Fee: \$ None

EVELYN BIEHN, COUNTY CLERK

by: , Deput