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BEFORE THE HEARINGS OFFICER
KLAMATH COUNTY, OREGON

In the Matter of a Request for	)	C. U. P. 15-85
CONDITIONAL USE PERMIT	)	
for	)	FINDINGS OF FACT, CONCLUSIONS
EDWARD and ANNE MALONEY	)	OF LAW AND DECISION
	)	
	)	

THIS MATTER came before Assistant Hearings Officer, JAMES R. UERLINGS, on the 4th day of April, 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, ANNE MALONEY, appeared in person and 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 "D".

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

FINDINGS OF FACT:

1. This request for a conditional use permit is for a forest homesite in an FR zone. The applicants, EDWARD MALONEY and ANNE MALONEY, are the owners of the subject property located on the West side of Old Fort Road, about 300' South of Collman Dairy Road, with a legal description of Tax Lot 1700

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1 of a conditional use permit:

2 A. That the use is conditionally permitted in
3 the zone in which it is proposed.

4 B. That the location, size, design and operating
5 characteristics of the proposed uses is in conformance with
6 the Klamath County Comprehensive Plan.

7 C. That the location, size, design and operating
8 characteristics of the proposed development will be compatible
9 with, and will not adversely effect, the livability or appro-
10 priate development of abutting properties in the surrounding
11 neighborhood. Consideration shall be given to the harmony
12 in scale, bulk, and utilities; to harmful effects, if any,
13 upon desirable neighborhood character; to the generation
14 of traffic and the capacity of surrounding streets and to
15 other relevant impact of development.

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

20 A. Is compatible with forest uses;

21 B. Does not interfere seriously with accepted
22 forestry practices on adjacent lands devoted to forest uses;

23 C. Does not materially alter the stability
24 of the overall land use pattern of the area;

25 D. Is situated on generally unsuitable land for
26 the production of forest crops and livestock, considering the

1 a portion of the SE $\frac{1}{4}$, SW $\frac{1}{4}$ of Section 22, Township 38, Range 9,
2 Klamath County, Oregon.

3 2. The affected property is a parcel consisting of
4 3.55 acres with dimensions of 327.87' x 318.89' x 463.66' x
5 441.54'. The vegetation consists of brush and grass with
6 scattered junipers.

7 3. The site is a hilltop with general drainage con-
8 sisting of surface runoff. The SCS soil classification is IV
9 and the timber site productivity rating is none.

10 4. Access to the property is off a paved County
11 road, to-wit; Old Fort Road.

12 5. The site is served by the Klamath Falls City
13 School District and recreation is provided by urban area
14 parks. Sewer is provided by an installed septic system and
15 water is provided by installed well. Utility districts
16 serving the property are Pacific Power and Light and Pacific
17 Northwest Bell. The fire district serving the property is
18 Fire District No. 1.

19 6. The property was originally zoned FR as it is in
20 the fringe area of a larger, more extensive forest tract.
21 However, the site is across the street from the Urban Growth
22 Boundary and there is extensive home development in the
23 area. The applicants intend to live on the property.

24 KLAMATH COUNTY DEVELOPMENT CODE CRITERIA:

25 1. Klamath County Development Code Section 44.003
26 sets forth the criteria for consideration in the application

1 terrain, adverse soil or land conditions, drainage and flood-
2 ing, vegetation, location and size of tract;

3 E. Considers forest site productivity and
4 minimizes the loss of productive forest lands;

5 F. Meets the standards relating to the availa-
6 bility of fire protection as set forth in Article 69 of the
7 Klamath County Development Code and other rural services and
8 will not overtax those services; and,

9 G. Complies with such other conditions as the
10 governing body of the County considers necessary.

11 3. Klamath County Development Code Section 51.021
12 (E) (2) sets forth that the minimum lot size does not apply
13 to non-forest uses. All proposed partitioning of land for
14 one of the non-forest uses permitted in the Klamath County
15 Development Code Section 51.021(C) and (D). shall meet the
16 following criteria:

17 A. The parcel shall be designed to use the least
18 amount of forest land consistent with the needs of the proposed
19 use. Wherever possible, land unsuited for forest uses shall
20 be uses.

21 B. The parcel and the access to it shall be
22 designed so as not to interfere with accepted forest practices
23 on surrounding land.

24 C. That, where applicable, the proposed division
25 is consistent with the provisions of Klamath County Development
26 Code Section 83.007.

FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION
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KLAMATH COUNTY DEVELOPMENT CODE FINDINGS AND CONCLUSIONS:

1. The proposed use is conditionally permitted in the zone in which it is proposed.
2. The location, size, design and operating characteristics of the proposed use will be compatible with, and will not adversely effect, the livability and/or appropriate development of abutting properties in the surrounding neighborhood. In considering the location and operating characteristics of the proposed development, it appears that they will be compatible with, and will not have a significant adverse affect on, the abutting properties in the surrounding neighborhood.
3. The proposed single-family dwelling is compatible with the farm use as defined in this Code and consistent with the agricultural land use policies adopted by the legislative assembly in ORS 215.243.
4. The proposed use is compatible with forest uses.
5. The proposed use does not interfere seriously with accepted forestry practices on adjacent lands devoted to forest use.
6. The proposed use does not materially alter the stability of the overall land use pattern in the area.
7. The proposed use is situated on generally unsuitable land for production of forest crops and livestock, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract.

FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION

1 8. The proposed use considers poor site productivity
2 and minimizes the loss of productive forest lands. The evidence
3 indicates that the land is currently not used nor has it been
4 for forest productivity and has no productivity rating.

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

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

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

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

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

20 STATE-WIDE PLANNING GOALS AND REVIEW CRITERIA:

21 Compliance with the State-Wide Planning Goals and
22 review criteria was met by Klamath County on the subject property
23 at the time of the acknowledgement of Klamath County's Compre-
24 hensive Plan.

25 CONCLUSIONS OF LAW AND DECISION:

26 1. This request for a conditional use permit on the
FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION
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subject property meets all applicable Klamath County Development Code criteria and policies governing such.

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

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

DATED this 15 day of April, 1985.

James R. Uerlings
JAMES R. UERLINGS
Assistant Hearings Officer,
Klamath County

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

on this 19th day of April A.D. 1985
at 11:43 o'clock A M, and duly
recorded in Vol. M85 of Deeds
Page 5709
Walter Dean County Clerk
Walter Dean Deputy
Fee None

Return: Commissioner's Journal

FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION