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1 BEFORE THE HEARINGS OFFICER  
2 Klamath County, Oregon  
3 In the Matter of a Request for ) C. U. P. 15-85  
4 CONDITIONAL USE PERMIT ) FINDINGS OF FACT, CONCLUSIONS  
5 for ) OF LAW AND DECISION  
6 EDWARD and ANNE MALONEY )  
7

8 THIS MATTER came before Assistant Hearings Officer,  
9 JAMES R. UERLINGS, on the 4th day of April, 1985, at 1:30  
10 p.m. in the Klamath County Commissioners' Hearing Room.  
11 The hearing was held pursuant to notice given in conformity  
12 with the Klamath County Development Code and related ordinances.  
13 The applicant, ANNE MALONEY, appeared in person and the Planning  
14 Department was represented by Jonathan Chudnoff.

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

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

21 FINDINGS OF FACT:

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

FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION  
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10:00

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

FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION

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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  
      FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION

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 used.

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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1                   KLAMATH COUNTY DEVELOPMENT CODE FINDINGS AND CONCLUSIONS:

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

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:

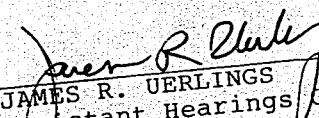
26          1. This request for a conditional use permit on the  
FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION  
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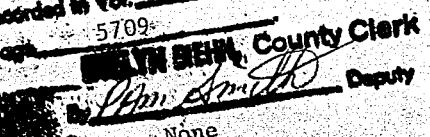
1           subject property meets all applicable Klamath County Development  
2           Code criteria and policies governing such.

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

7           THEREFORE, IT IS HEREBY ORDERED that this request  
8           for a conditional use permit on the subject property is granted.  
9           DATED this 15 day of April, 1985.

10             
11           JAMES R. UERLINGS  
12           Assistant Hearings Officer,  
13           Klamath County

14           STATE OF CALIFORNIA  
15           County of Klamath  
16           Filed for record as required by  
17           law.

18           on the 19th day of April A.D. 19 85  
19           at 11:43 o'clock A.M. and duly  
20           recorded in Vol. M85 of Deeds  
21           Page 5709  
22           By  John Smith, County Clerk  
23           John Smith, Deputy  
24           None

25           Return: Commissioner's Journal

26           FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION