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Vol. 178 Page 17657

BEFORE THE HEARINGS OFFICER

KLAMATH COUNTY, OREGON

In the Matter of a Request for )  
CONDITIONAL USE PERMIT )

C.U.P. 37-86

for )

FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND  
DECISION

KLARA MATHIS )

THIS MATTER came before Assistant Hearings Officer,

JAMES R. UERLINGS, on the 18th day of September, 1986, 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, KLARA MATHIS, appeared in person and the Planning Department was represented by Kim Lundahl.

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. The applicant desires this conditional use permit in order to legitimize an existing residence and related buildings in an FR zone which was previously an EFU-CG zone. Residences have been located on the site since approximately 1903 and residential use is clearly established on this particular tract.

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1                   2. The property is located in Section 34, Township  
2 40S, Range 8 East of the Willamette Meridian and is known as tax  
3 lot 4008-34-200,600,700 and 900. The general location of the  
4 property is the Southeast side of Highway 97 at the town of  
5 Worden.  
6

7                   3. The applicant has requested a minor partition  
8 which would separate the property into a 10 acre, 27 acre and 13  
9 acre parcel; the 13 acre parcel is that on which the dwelling  
10 exists.  
11

12                   4. The comprehensive plan designation of the property  
13 is Agriculture and the zone is FR.  
14

15                   5. Water service is provided by individual wells and  
16 sewage disposal by existing sub-surface systems. Electricity is  
17 provided by Pacific Power and Light and telephone by Pacific  
18 Northwest Bell. Fire protection to the property is provided by  
19 the Keno Fire District.  
20

21                   6. The property's physical characteristics are as  
22 follows: plan designation is Forest/Range, the zone designation  
23 is Forest/Range; the dimensions are 13.19 acres; the shape is  
24 irregular; the topography is generally level with poorly defined  
25 drainage; general drainage consists of surface drainage to the  
26 East; vegetation consists of scattered juniper and bitterbrush  
and access is provided by Highway 97; the soil classes are III  
and IV and there is no timber productivity rating on this  
property.

1           7. The physical characteristics of the surrounding  
2 land consist of the Worden Truck Stop which is heavily used by  
3 traffic, both truck and vehicular, traveling North-South on the  
4 State Highway through Klamath Falls, i.e., Highway 97, and  
5 Tri-cord Farms Grain Elevators, South of the property which  
6 additionally have heavy truck traffic during the farm season.  
7 Adjacent and surrounding zoning consists of R-5 to the West, F/R  
8 to the South and EFU-CG to the North and East.

9           8. No comments have been received by any of the  
10 agencies to which the application has been directed nor have any  
11 comments been received from the LCDC on the minor partition  
12 filed by the applicant.

13 KLAMATH COUNTY DEVELOPMENT CODE CRITERIA:

14           1. Klamath County Development Code Section 44.003  
15 sets forth the criteria for consideration in the application of  
16 a conditional use permit:

17           A. That the use is conditionally permitted in the  
18 zone in which it is proposed.

19           B. That the location, size, design and operating  
20 characteristics of the proposed uses is in conformance with the  
21 Klamath County Comprehensive Plan.

22           C. That the location, size, design and operating  
23 characteristics of the proposed development will be compatible  
24 with, and will not adversely effect, the livability or appropri-  
25 ate development of abutting properties in the surrounding  
26 neighborhood. Consideration shall be given to the harmony in

1 scale, bulk and utilities; to harmful effects, if any, upon  
2 desirable neighborhood character; to the generation of traffic  
3 and the capacity of surrounding streets and to other relevant  
4 impact of development.

5 KLAMATH COUNTY GOALS AND POLICIES COMPLIANCE:

6 GOAL 1 - Citizen Involvement: A public hearing on  
7 this matter was set for September 18, 1986. Notice was sent to  
8 surrounding property owners, concerned public agencies, posted  
9 in public places and published in the Herald and News.

10 GOAL 2 - Land Use Planning: Compliance with Section  
11 51.021(D) of the Klamath County Land Development Code has been  
12 met in that:

13 (a) The use is compatible with forest uses;

14 (b) The use does not interfere seriously with  
15 accepted forest practices on adjacent land devoted to forest  
16 use; this is clear since the property has been in residential  
17 use for approximately 85 years;

18 (c) The use does not materially alter the stabil-  
19 ity of the overall land use pattern in the area; again, this is  
20 clear from historical use of the property;

21 (d) The land is situated on generally unsuitable  
22 land for the production of forest crops and livestock, consider-  
23 ing the terrain, adverse soil or land conditions, drainage,  
24 flooding, vegetation, and location and size of the tract;

25 (e) The use considers forest site productivity  
26 and minimizes the loss of productive forest lands;

1 (f) The use meets the standards relating to the  
2 availability of fire protection as set forth in Article 69 of  
3 the Code and other rural services and will not overtax those  
4 services.

5 GOAL 4 - Forest Lands: See Exhibit "A" attached  
6 hereto and incorporated by this reference.

7 GOAL 6 - See Exhibit "A".

8 GOAL 7 - See Exhibit "A".

9 GOAL 11- See Exhibit "A".

10 GOALS 3,5,8-10, and 12-14 do not pertain or are not  
11 affected by this application.

12 KLAMATH COUNTY DEVELOPMENT CODE FINDINGS AND CONCLUSIONS:

13 1. The proposed use is conditionally permitted in the  
14 zone in which it is proposed.

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

23 CONCLUSIONS OF LAW AND DECISION:

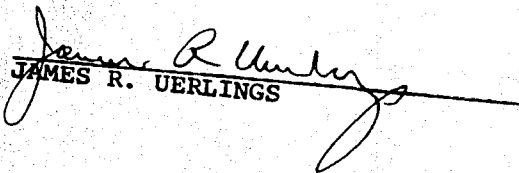
24 1. This request for a conditional use permit on the  
25 subject property meets all applicable Klamath County Development  
26 Code criteria and policies governing such.

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1                   2. This request for a conditional use permit is  
2 consistent with, and complies with, all applicable Klamath  
3 County land use planning policies.

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

6                   DATED this 26 day of September, 1986.  
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9                     
10                  JAMES R. UERLINGS  
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Conformance with Relevant Klamath County Policies:

Goal 1 - Citizen Involvement:

A public hearing on this matter has been set for September 18, 1986. Notice has been sent to surrounding property owners, concerned public agencies, posted in public places, and published in the Herald & News.

Goal 2 - Land Use Planning:

The property is zoned for forest use. The Hearings Officer must find the application for a non-forest homesite complies with Section 51.021(D) of the Land Development Code.

Goal 4 - Forest Lands:

Relevant Policies:

1. The following lands shall be designated forestry and shall be subject to the regulations of the Forestry and Forest/Range zones contained in the Land Development Code.
  - (1) Public or private industry forest lands located contiguously in large blocks, i.e., National Forest Service, BLM, Weyerhaeuser, Gilchrist timber lands;
  - (2) Significant wildlife and fishery habitat areas;
  - (3) Land having a predominant timber site productivity rating of I-VI;
  - (4) Isolated pockets of land within forest areas which do not meet the above criteria;
  - (5) Lands needed for watershed protection of recreation;
  - (6) Lands where extreme conditions or climate, soil and topography require the maintenance of vegetation cover irrespective of use;
  - (7) Other lands needed to protect farm or forest uses on surrounding designated agricultural or forest lands.
3. Existing forest uses shall be protected unless proposed land use changes are in conformance with the Klamath County Comprehensive Plan.
4. The County shall regulate development of non-forest uses in forested areas.

Conformance with Relevant Klamath County Policies Continued:

Goal 6 - Air, Water, and Land Resource Quality:

Policy 4: Urban and rural residential use shall be designated only when approved sewage disposal alternatives have been identified.

Goal 7 - Natural Disaster and Hazards Area:

The County shall consider site constraints in evaluating land use in fire hazard areas.

The Conditional Use Permit site is within the Keno Fire District. There appear to be no other known natural disaster or hazard areas in the vicinity of the proposed Conditional Use Permit.

Goal 11 - Public Facilities and Services:

This area is in the Keno School District. Water and sanitary facilities are provided by individual wells and septic systems. Power and telephone facilities also serve the area.

Goals 3, 5, 8-10, 12-14 do not pertain or are not affected by this application.

EXHIBIT "A", Page 2.

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of \_\_\_\_\_  
of \_\_\_\_\_ September \_\_\_\_\_ A.D., 19 86 at 2:45 o'clock P M., and duly recorded in Vol. M86  
of \_\_\_\_\_ Deeds on Page 17657.

FEE NONE

Return: Commissioners' Journal

By Evelyn Biehn, County Clerk

*Sam Smith*