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Vol. 187 Page 6301

BEFORE THE HEARINGS OFFICER  
FOR KLAMATH COUNTY, OREGON

In the Matter of a )  
CONDITIONAL USE PERMIT ) C.U.P. No. 4-87  
for ) FINDINGS OF FACT,  
JOHN RAY STARKMAN ) CONCLUSIONS OF LAW  
AND DECISION

THIS MATTER came on for hearing before Assistant  
Hearings Officer, JAMES R. UERLINGS, on the 2nd day of April,  
1987, at 10 A.M. in the Klamath County Commissioner's Hearing  
Room. The hearing was held pursuant to notice given in  
conformity with the Klamath County Development Code and related  
ordinances. The applicant was represented by Mr. Bill Kalita and  
the Planning Department was represented by Kim Lundahl.

The following exhibits were marked, entered and  
received into evidence: Exhibits "A" through "G".

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 is requesting this conditional use  
permit for the construction of a non-forest home in an F-R  
(Forest/Range) zone.

2. The property is located just South of the Sprague  
River Highway, one-quarter mile East of the Sprague River. The  
legal description of the property is "approximately five acres in  
the NE 1/4 of Section 14, Township 36 South, Range 10 East,  
Willamette Meridian, Klamath County, Oregon" located in Tax Lot  
No. 3610-1400-900.

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AND DECISION

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1           3. The Plan Designation of the property is  
2 Forestry/Range and the Zone Designation is F/R (Forest/Range).

3           4. The size of the property is 4.92 acres,  
4 rectangular in shape. The topography is level.

5           5. General drainage consists of surface drainage and  
6 sheet flow. Vegetation consists of grass, brush and sparse  
7 pines.

8           6. Access to the property is off the Sprague River  
9 Highway.

10          7. The soil classification is Class IV. and the  
11 timber productivity rating is Class VI.

12          8. Physical characteristics of surrounding lands  
13 consist of Large Lot Rural/Residential.

14          9. The Assessor's map, offered in evidence by the  
15 applicant, indicates that there are various parcels of property  
16 much smaller in size than the applicant's property lying just  
17 West of the South side of the Sprague River Highway. The  
18 property is also within a quarter-mile of the town of Sprague  
19 River which has residential development.

20          10. Adjacent and surrounding zoning consists of  
21 Forest/Range.

22          11. Public facilities and services to the property are  
23 water by on-site well, sewer by individual subsurface disposal  
24 system, fire protection by the Sprague River Volunteer  
25 Department, electricity by Pacific Power & Light and schools by  
26 the Klamath County School District.

27          12. Testimony from the applicant's representative, Mr.  
28 Kalita, indicated that there is very little timber upon the

1 property.

2 13. Although the Fish and Wildlife Department was  
3 notified about the hearing, they did not address any concern  
4 about residential development on the property. Failure to  
5 respond shall be taken as an admission on their part that there  
6 is no wildlife habitation upon the property.

7 KLAMATH COUNTY DEVELOPMENT CODE CRITERIA:

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

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

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

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

25 2. Klamath County Development Code Section 51.021(D)  
26 allows single-family residential use in the F/R (Forest/Range)  
27 zone, subject to the following criteria:

28 A. The uses conditionally permitted shall be

1 subject to review in accordance with the following criteria. The  
2 review authority must find that each such use:

3 (1) Is compatible with forest uses;

4 (2) Does not interfere seriously with the  
5 accepted forestry practices on adjacent lands devoted to forest  
6 use; and does not significantly increase the cost of forestry  
7 operations on such lands;

8 (3) Does not materially alter the stability  
9 of the overall land use pattern of the area;

10 (4) Is situated on generally unsuitable land  
11 for the production of forest crops and livestock, considering the  
12 terrain, adverse soil or land conditions, drainage and flooding,  
13 vegetation, location and size of tract;

14 (5) Considers forest site productivity,  
15 minimizes the loss of productive forest lands; and is limited in  
16 size to the area suitable and appropriate to the needs of the  
17 proposed use;

18 (6) Meets the standards relating to the  
19 availability of fire protection as set forth in Article 69 of  
20 this Code and other rural services and will not overtax those  
21 services; and,

22 (7) Complies with such other conditions as  
23 the review authority considers necessary to protect forest use.

24 KLAMATH COUNTY GOALS AND POLICIES COMPLIANCE:

25 See Exhibit "A" attached hereto and incorporated by  
26 this reference.

27 KLAMATH COUNTY DEVELOPMENT CODE FINDINGS AND CONCLUSIONS:

28 1. The proposed use is compatible with forest uses as

1 the size of the site prevents it from being used as an economic  
2 unit for forest production.

3 2. The use does not interfere seriously with accepted  
4 forestry practices on adjacent lands devoted to forest use as  
5 those uses do not exist and are not contemplated on the subject  
6 property or adjacent lands.

7 3. The proposed use does not materially alter the  
8 stability of the overall land use pattern in the area as the  
9 overall land use pattern is not forestry but rural residential  
10 and, in fact, consists of parcels smaller in size than the  
11 applicant's. The application will then contribute to the  
12 stability of the predominant land use rather than to detract from  
13 it.

14 4. The proposed use is situated on generally  
15 unsuitable land for production of forest crops. The size of the  
16 property is such that it is not an economic unit for forest  
17 production and the S.C.S. rating is Class IV, which is poor.

18 5. The timber site productivity is VI. This permit  
19 minimizes the loss of productive forest land due to the poor  
20 classification and, in the area, was lost to forest use  
21 previously due to parcelization.

22 6. The property is in a low fire danger area and is  
23 within the response area of the Sprague River Volunteer Fire  
24 Department. It is within one-quarter mile of the town limits of  
25 Sprague River.

26 7. The proposed use is conditionally permitted under  
27 the Klamath County Land Development Code for the zone in which it  
28 is proposed.

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AND DECISION

8. The location, size, design and operating characteristics of the proposed use are in conformance with the Klamath County Comprehensive Plan.

9. The location, size, design and operating characteristics of the proposed development will be compatible with, and will not have a significant adverse effect on, the appropriate development and use of abutting properties in the surrounding neighborhood.

CONCLUSIONS OF LAW AND DECISION:

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

2. This request for a conditional use permit on the subject property is consistent with, and complies with, all applicable Klamath County land use planning policies.

3. The following conditions are deemed appropriate to protect the health, safety and welfare of the citizens of Klamath County:

A. That the applicant follow his plot plan, Exhibit "B", filed with the Application for Change of Land Use.

B. That the applicant obtain the necessary permits from the Klamath County Health Department prior to constructing and occupying a residence upon the property.

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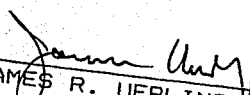
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NOW, THEREFORE, IT IS HEREBY ORDERED that this request  
for a conditional use permit on the subject property is granted,  
subject to the applicant following the conditions as set forth  
above.

DATED this 14 day of April, 1987.

  
JAMES R. UERLINGS



## Conformance with Relevant Klamath County Policies:

### Goal 1 - Citizen Involvement:

A public hearing on this matter has been set for March 19, 1987. Notice has been sent to surrounding property owners, concerned public agencies, posted in public places, and published in the Herald and 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 use in forested areas.



Conformance with Relevant Klamath County Policies:

Goal 5 - Open Space, Scenic and Historic Areas, and Natural Resources:

The Oregon Department of Fish and Wildlife has identified this area as a low density deer winter range.

Land Development Code Section 83.005(1) requires a maximum density of 1 D.U./40 acres (if clustered). The parcel size covered by this request is 4.92 acres.

Goal 7 - The County shall consider site constraints in evaluating land use in fire hazard areas.

The conditional use permit site is within the Sprague River Volunteer Fire Department service area. 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 County School District. Water and sanitary facilities are provided by individual wells and septic systems. Power and telephone facilities also serve the area.

Goal 12 - Transportation:

This project will have access off of the Sprague River Highway. This road is County maintained and is able to carry the kind of traffic that would be generated from the proposed use.

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Klamath County Planning Department the 14th day  
of April A.D., 19 87 at 3:43 o'clock P M., and duly recorded in Vol. M87,  
of Deeds on Page 6301.

FEE

NO FEE

Return: Commissioners' Journal

Evelyn Biehn, County Clerk  
By [Signature]