

SUPERIOR THE HEARINGS OFFICER OF KLAMATH COUNTY, OREGON

In the Matter of the Request)
for a Conditional Use Permit:)
for THIS WHEELSON.)

C.U.P. 35-86
FINDINGS OF FACT, CONCLUSIONS
OF LAW AND ORDER

This matter came on for a Supplemental Hearing before Hearings Officer William W. Gannoy on May 7, 1987 at 10:00 a.m. in the Klamath County Commissioner's Hearing Room. The Hearing was held pursuant to the Notice given in conformity with the Klamath County Land Development Code and related ordinances. The Applicant was represented by Mr. D. Reynolds and the Klamath County Planning Department was represented by Mr. Kim Lundahl.

This matter previously came on for hearing first before Assistant Hearings Officer James R. Herlings on February 5, 1987, and then before Hearings Officer William W. Gannoy on March 19, 1987. Hearings Officer Gannoy issued Findings of Fact, Conclusions of Law and Order dated March 31, 1987 which said Order is incorporated herein by this reference. The Order dated March 31, 1987 found that the applicant had not complied with the provisions of Klamath County Land Development Code Section 93.004 C.

At the Hearing on May 7, 1987, Mr. Reynolds offered additional testimony under oath. In addition, Mr. Reynolds had submitted a letter dated April 21, 1987 which was marked Exhibit 1 and which specifically addressed the criteria of said Section 93.004 C. The Hearings Officer after reviewing the additional evidence presented at said Hearing makes the following additional Findings of Facts, Conclusions of Law and Order:

FINDINGS OF FACT:

9059

1. The Findings of Fact contained in the Hearings Officer's Order dated March 31, 1967 are incorporated herein by this reference.

2. Mr. Reynolds discussed the subject Conditional Use Permit Application with Mr. Ralph Gyp, Wildlife Biologist, Oregon Department of Fish and Game, by telephone. Mr. Reynolds testified that Mr. Gyp told him it was the Department of Fish and Wildlife's policy to object to any development on areas which have been designated as Deer Winter Range areas.

3. Mr. Reynolds testified that Mr. Gyp told him the subject area has experienced a decrease in deer population in the past 10 years due to rural residential development on adjacent properties.

4. The subject property is already divided by the major access road to the area. That portion of the property lying northwesterly of Gold Finch Drive has no practical value other than as a residential home-site. The subject property has little or no value for timber production, agricultural production or any other use.

5. The subject property lies in an area that has been generally developed as rural residential or recreational subdivisions. There are no rare, irreplaceable, or irreplaceable natural features or scientific opportunities that have been identified on the subject property.

6. There are substantial areas in Alameda County which have been identified as valuable Deer-Winter Ranges and which are

generally held in large blocks and are generally undisturbed. It is beneficial to the County and to the Wildlife Resource that rural recreational development occur in clusters or in areas that have already been irretrievably committed to that type of activity. The area that surrounds the proposed property has been irretrievably committed to small rural lot use and the value of the subject property and surrounding properties for Deer-Winter Range has essentially been eliminated.

7. The subject property has no identified energy sources. There is no apparent hot water on the property or any hydro energy value. The property is brushy with small trees. It is isolated enough from urban residential uses so that any solar value of the property is limited to such use as the residential use of the property could utilize.

8. It would be beneficial to any wildlife resources in the area to limit uses which have been identified as conflicting uses such as not allowing vehicular access from the property to adjacent areas, except on public roads and a private driveway serving the subject property, and to limit domestic dogs and other domestic animals that may range from the property onto areas with wildlife values.

ELDORADO COUNTY LAND DEVELOPMENT CODE CRITERIA AND ELDORADO COUNTY LAND USE STANDARDS AND POLICIES COMPLIANCE

The Findings set forth in the Order dated March 11, 1987, are incorporated herein by this reference.

ELASITE COUNTY LAND DEVELOPMENT CODE, FINDINGS OF FACT

3001

1. The evidence contained in the record demonstrates that the subject property has no forest or wildlife value. The areas located on the property are stated. The only testimony presented under oath is that there is no or only very limited use of the property by deer, and that the property lies in an area that has been irrevocably committed to use as recreational and rural residential homesites.

2. In order for the portion of the property located Southwest of Gold Finch Road to be used for any purpose and have any value, the subject application must be granted, or the applicant will be substantially damaged.

3. The benefit to the public from allowing the proposed application to be granted clearly outweighs retention of the property in a natural state. The subject property is located in an area that has been heavily developed for rural residential and recreational purposes. The use of the subject property as requested by the applicant will be consistent with that use. The resource values of the Elasmith County Comprehensive Plan are enhanced by clustering these types of uses which have been found to be inconsistent or conflicting with resource uses as much as possible. The subject property is not unique, but rather is similar to the surrounding developed residential lots. It has no identified energy resources or other environmental social or economic factors which weigh in opposition to the proposed use.

4. The subject area has very little of any preservation value as a resource area or timber range area because of the prior lawfully existing rural residential development. The development of the subject property as a rural residential lot will not in any way impair long term big game habitat values. As those values have already been significantly altered to the point where the preservation value of those resources is still.

5. The evidence presented demonstrates that neither the subject property nor adjacent land within a radius of several miles are devoted to forest uses or subject to forest practices. The evidence demonstrates that the subject parcel lies in an area of planned recreational subdivisions and is an area containing a number of permanent residents. If the subject property is developed pursuant to the development criteria set forth in the Land Development Code, the proposed use will not interfere with any forestry practices in the area. There are no forestry operations occurring on any adjacent lands.

6. The proposed use does not materially alter the stability of overall land use patterns in the area. There are numerous residences located on established subdivisions and also on the unplatted land which adjoins the subject property. Evidence in the record demonstrates that the subject land although zoned forestry/range has little or no forestry value or value for forest crops. The size of the tract as divided by Gold Finch Road renders the tract generally unsuitable for the production of forest crops or livestock. In addition, the scattered nature of the

traces located on the property demonstrates that the property, 9253
generally not suitable for the production of forest crops.

7. The Findings and Conclusions concerning the Elsworth
County Land Development Code set forth in the order dated March
31, 1987, numbered 3, 4, 5, and 6 are incorporated herein by this
reference.

8. In order to mitigate any potential detrimental effect the
granting of this application will have on wildlife in the area, it
is appropriate to prohibit domestic dogs from the subject
property. It is further appropriate to prohibit the use of the
subject property for recreational vehicle access to any adjacent
lands.

CONDITIONS OF LUE AND PERMIT

1. Subject to the conditions set forth hereinafter, the
granting of the subject Conditional Use Permit is consistent with
the criteria and policies of the Elsworth County Land Use Plan and
Land Development Code.

2. The subject application for a Conditional Use Permit to
construct a single family residential structure in a forest/range
zone is granted on the following conditions:

1. The construction of dwelling on the subject property
shall be completed in conformance with all Elsworth County Land
Development and Building Codes and Oregon State Development
Criteria including, without limitation, OAS Chapter 310 regarding
on-site sewage disposal. Elsworth County Land Development Code

Section 51.021 (F) concerning setbacks for fire safety and other
sizing standards. 9064

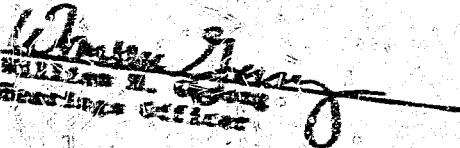
B. The applicant and her successors in interest, shall
not allow or keep any domestic dogs on the subject property.

C. The applicant and her successors in interest shall
not allow the use of the subject property for access to any
adjacent lands for recreational vehicles.

3. The violation of any of the conditions set forth above,
or any other land development laws or ordinances shall void this
permit and the use of the property allowed hereby.

Therefore, It is Herely Ordered that the Applicant is granted
a Conditional Use Permit to construct a single family residence
not in conjunction with forest use on that portion of the S23, W1,
Section 32, Township 37 S., Range 11 E., W.M. Elmore County,
Oregon lying Northwesterly of Goldfinch Drive.

DATED May 21, 1967.


WILLIAM M. GENTRY
Hearings Officer

BEFORE THE HEARINGS OFFICER OF CLATSOP COUNTY, OREGON

In the Matter of the Request
for Conditional Use Permit for
IRIS WICKELSON.

C.T.P. 15-46

FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND ORDER

This matter came on for a Supplemental Hearing before
Hearings Officer, William M. Galloway, on March 19, 1947 at 10:30
a.m. to the Clatsop County Commissioner's Hearings Room. The
Hearing was held pursuant to notice given in conformity with the
Clatsop County Land Development Code and related ordinances. The
applicant was represented by Mr. D. Reynolds and the Clatsop
County Planning Department was represented by Ets Lundell.

This matter previously came on for hearing before assistant
Hearings Officer, James P. Darlings on February 5, 1947.
Following that hearing, Hearings Officer Darlings issued Findings
of Fact, Conclusions of Law and Order dated February 17, 1947,
which found that the applicant had not provided substantial
evidence from which the Hearings Officer could make findings of
fact and conclusions of law that the application met the criteria
of the Clatsop County Land Development Code for the siting of the
new forest home in a Forestry Image Zone pursuant to Section
51.021 of the Land Development Code. The said Findings of Fact,
Conclusions of Law and Order dated February 17, 1947, are
incorporated herein by this reference.

The Hearings Officer after reviewing the evidence presented
and personally viewing the property makes the following Findings
of Fact, Conclusions of Law and Order:

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER - Page 1

FINDINGS OF FACT

9066

1. The Findings of Fact set forth in the above referenced Order are incorporated herein by this reference.

2. Mr. Reynolds presented a cross section of a tree which was cut on the subject property. The cross section was approximately 5 inches in diameter and had growth rings indicating that the tree was approximately 20 years old. Mr. Reynolds testified that the tree from which the cross section was cut was representative of the other timber on the subject property.

3. The subject property is located approximately 4 miles from the Big Mountain Fire District Fire Department and is located within the Big Mountain Fire District.

4. The subject property is located several miles from the nearest Government owned timber land. Said timber land being located generally on the Eastern side of Big Mountain and also several miles from the nearest privately held timber land.

5. A neighboring tract of land was acquired by Bell-Ten Corporation, a timber products company. However, said land was cleared of trees and developed as agricultural land. Said tract is located at a lower elevation than the subject property, is of generally flat topography and better suited for use as agricultural land.

6. The subject application is made in conjunction with an application for a land partition. If the request for Conditional Use Permit is granted and the accompanying land partition is

granted, the parcel which is approximately 28.13 acres in size will be divided into two parcels. The largest of which will be 18.13 acres in size and the smaller parcel approximately 10 acres in size. The subject land is now divided by Gold Finch Road which is a well maintained public road.

7. The Oregon State Department of Fish and Wildlife submitted a letter dated March 9, 1987 which reiterated that Department's objection to the application for Conditional Use Permit. Said letter states that the subject area still provides, in the opinion of Department of Fish and Wildlife, various values that would be further impacted by added human development.

ILLWAKE COUNTY LAND DEVELOPMENT CODE CRITERIA

This application for Conditional Use Permit is subject to the Conditional Use Permit review criteria set forth in Section 11.003, the review criteria set forth in Section 31.021 (D) of the Forest Range Zone and Section 33.004 C 2 of the Significant Resource Area overlay zone.

ILLWAKE COUNTY LAND USE GOALS AND POLICIES COMPLIANCE

The Findings of the above referenced Order dated February 17, 1987 are incorporated herein by reference and adopted as the Findings for this Order with one exception. The Hearings Officer finds that Goal 1 does pertain to the subject property as the subject property is named Forestry/Range and Illwaco County, pursuant to its comprehensive plan, has adopted criteria which are referred to above for the regulation of development in the Forestry/Range Zone.

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER - Page 1

WILLIAM A. GORDON
COUNTY CLERK
ILLWAKE COUNTY, OREGON

CLATSOP COUNTY LAND DEVELOPMENT CODE, FINDINGS AND CONCLUSIONS

1. The evidence contained in the record demonstrates that the only potential forest use of this property is for wildlife habitat. The applicant had not been referred to the Oregon Department of Fish and Wildlife pursuant to the requirements of Code Section 83.004 C and E, and the applicant was not prepared to present evidence from which findings concerning the criteria in said sections can be made.

2. Except for potential wildlife habitat, the evidence presented demonstrates that neither the subject land nor adjacent lands within a radius of several miles are devoted to forest uses or are subject to forest practices. The evidence demonstrates that the subject parcel lies in an area of planned recreational subdivisions and in an area containing a number of permanent residents. If the subject property is developed pursuant to the development criteria set forth in the Land Development Code, the proposed use will not interfere with any forestry practices in the area. The Hearings Officer finds that there are no forestry operations occurring on any adjacent lands.

3. The proposed use does not substantially alter the stability of the overall land use patterns in the area. There are numerous residences located on the established subdivisions and also on the unplatted land which adjoins the subject property. Evidence in the record demonstrates that the subject land, although zoned as Forestry/Range, has little or no forestry value or value for forest crops. The tree crops section presented by Mr. Reynolds

1 demonstrates that the subject property is generally not suitable
2 for the production of forest crops. The size of the tract, as
3 divided by Gold Finch Road, renders the tract generally
4 unsuitable for the production of forest crops and livestock.

5 4. The evidence referred to above demonstrates that
6 notwithstanding the forest site productivity maps, the subject
7 property has little actual site productivity and the development
8 of this property as opposed to land with greater forest
9 productivity minimizes the loss of productive forest lands in
10 Elsworth County.

11 5. The subject property is located in the Big Mountain Fire
12 District and also in the Road Maintenance District for the
13 maintenance of Gold Finch Road and the other roads in the area.
14 Gold Finch Road is an all weather maintained road and the subject
15 property is located relatively close to the Big Mountain Fire
16 District Fire Station. If the subject property is developed
17 subject to the fire safety and curing standards set forth in the
18 Land Development Code Section 31.0215, the application will meet
19 the standards relating to the availability of fire protection and
20 other rural service as set forth in Article 69 of the Code.

21 6. The proposed use as a single family and forest residence
22 is conditionally permitted in the Forestry/Range Zone.

23 7. As the applicant has not addressed the criteria set
24 forth in Article 21-Significant Resource Area, I cannot find that
25 the applicant has complied with the criteria set forth in Code
26 Sections 41.001 B and C.

WILLIAM R. GIBBS
COUNTY CLERK
ELSWORTH COUNTY, MISSOURI

CONCLUSIONS OF LAW AND DECISION

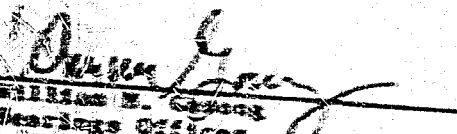
9670

1. The applicant is encouraged to meet with representatives of the Oregon Department of Fish and Wildlife to discuss the criteria set forth in Section 83.004 C. If the applicant and the Department of Fish and Wildlife are able to agree on a development and management plan that will allow the proposed use and preserve the resource which the Department of Fish and Wildlife believes exists on the subject property, then the subject permit will, upon submission of said management plan, be approved subject to the existing criteria set forth in Code Section 51.0217 and the other development criteria set forth in the applicable code sections.

2. If the applicant and the Department of Fish and Wildlife are not able to agree upon a management plan, then the applicant must address the review criteria contained in Section 83.004 C 1.

3. The hearing on this application is continued to April 2, 1987 at 9:00 a.m. for consideration of the requirements of Article 83-Significant Resource Area.

Dated: March 31, 1987.


William H. Gibson
Hearings Officer

FINDINGS OF FACT, CONCLUSIONS OF LAW AND OTHER - Page 6

TOWN OF OREGON, COUNTY OF CLATSOP

Filed for record in report of _____
of _____
AD. S. N. C. AED. dated _____
by _____
