

BEFORE THE HEARINGS OFFICER OF KANSAS COUNTY, OREGON

In the Matter of a Application for Variance) Variance Application No. 5-87
and Application for Conditional Use Permit) CUP 9-87
(for GEORGE ULLERY and JANE ULLERY.))

FEEDINGS OF FACT, CONCLUSIONS
OF LAW AND DECISION

This matter came before William M. Gansky, Hearing Officer of Kansas County, Oregon, on May 22, 1987 in the Kansas County Commissioner's Hearing Room. The Hearing was held pursuant to Notice given in conformity with the Kansas County Land Development Code and related ordinances.

George Ullery, one of the applicants, represented himself at the hearing. The Kansas County Planning Department was represented by Carl Stuck and the recording secretary was Janet Libbey. The Kansas County Planning Department file and all contents thereof were incorporated in the record as evidence. The County Hearing Officer, after reviewing the evidence presented, makes the following Findings of Fact, Conclusions of Law and Decision:

1. The subject property is located west of State Highway 66 and Riverdale Drive and South of Auburn Avenue. It is Kansas County Assessor's Tax Lot 1300 in Section 5, Township 39, Range 9 E., R.M. The subject parcel contains approximately 1.10 acres.

2. The subject property is located in a residential area. The property lying northerly of the subject property is generally developed for single family residences. Immediately across the street from the subject property are two small single wide mobile homes and several small framed homes.

3. The subject property is owned by the Ullerys.

4. The Ullerys are requesting a Conditional Use Permit to site a mobile home on the subject property which is zoned R-100 Density Residential and for a Variance from the development standards contained in the Kansas County Land

Development Code Section 54.002 to site a mobile home which is less than 20 feet in width on the subject property.

5. The Hearings Officer personally viewed the subject property on May 4, 1967. No response was received from the Sections entitled to any of the neighboring landowners nor did any person other than the applicant appear at the subject hearing to testify. The findings contained in the staff report prepared for CIP 9-67 are incorporated herein by this reference.

6. The applicant does not own the mobile home which the applicant desires to place on the subject property.

KLASKE COUNTY LAND DEVELOPMENT CODE OUTLINE

1. Land Development Code Section 51.005 provides that a mobile home may be sited in the subject zone by obtaining a Conditional Use Permit.

2. Section 44.013 sets forth the criteria for granting a Conditional Use Permit.

3. Section 54.002 sets forth the development standards for placing of a mobile home within the Urban Growth Boundary.

KLASKE COUNTY CODES AND POLICIES COMPLIANCE

The Goals and policy findings of the Klamath County Planning Department's Staff Report to CIP 9-67 are hereby adopted and incorporated herein by this reference.

KLASKE COUNTY CODE FINDINGS AND CONCLUSIONS

1. With respect to the criteria for the granting of a Conditional Use Permit to site a mobile home in a low density residential zone, the following Findings and Conclusions are made:

A. The low density residential zone allows siting of a mobile home in that zone subject to a Conditional Use Permit.

B. The subject parcel is larger than most adjoining parcels in the area. The land located directly north of the subject parcel and across Auburn Street is subdivided into lots which are approximately 22 feet wide and 110 feet deep, thereby containing approximately 1/4 acre. The property located south of Auburn Street is generally developed for single family residential use. Several lots directly across the street from the subject property contain single wide small mobile homes. Most of the other lots contain frame houses which are very small in size. The property located west of the subject property is approximately 2 acres in size and contains one frame single family residence. The property located south of the subject property is approximately 6/10 of an acre in size. It contains no residence but was granted a Conditional Use Permit for the siting of a mobile home. (See Conditional Use Permit 24-25) The eastern boundary of the property is bordered by Interstate Drive which is bordered to the west by Highway 90. The property has good drainage and city water service. A mobile home can be sited on this property in full conformance with all of the set back requirements and other development standards contained in the code. The location, design and operating characteristics of the proposed use, a mobile home, on the subject property are in conformance with the Elmore County Comprehensive Plan.

C. The siting of a mobile home on the subject property will be compatible with the development on adjoining properties and the surrounding neighborhood. As stated above, this lot is larger than those located across Auburn Street which contain small houses and mobile homes. The property located south of the subject property has been granted a Conditional Use Permit to site a mobile home. The siting of a mobile home on the property subject to the standards of Section 34 in the Land Development Code will be compatible with and will have

no significant adverse effect on the use of adjoining properties and the surrounding neighborhood.

2. With respect to the application for a variance from the provisions of Section 94 which regulate the size of a mobile home within the Green Creek boundary, the following findings and conclusions are made:

1. The applicant has not purchased the mobile home which he apparently desires to place on the property. The mobile home which the applicant desires to place on the property is approximately 34 feet wide and 20 feet in length. Elmore County Land Development Code requires that a mobile home placed within the Green Creek boundary be not less than 20 feet in width.

2. Other than the lost opportunity to purchase the subject mobile home, the applicant will not suffer any practical difficulty or unnecessary hardship because of the denial of the variance requested. There is no evidence that any conditions exist with respect to the property that caused a difficulty not created by the applicant. The code does require a minimum size for the mobile home, but that condition and requirement applies to all land within the Elmore Falls Green Creek boundary. No evidence has been presented which will sustain findings in favor of a variance to the requirements of Section 94 to be granted in this matter.

CONCLUSIONS OF LAW AND ORDER

1. The request for a variance to place a mobile home on the subject property which does not comply with the minimum width requirements of Section 94 of the Land Development Code is denied.

2. The request for a Conditional Use Permit to place a mobile home on the property is found to be consistent with the policies and criteria of the Elmore County Land Development Code is granted.

3. The applicant, in siting a mobile home on the subject property, must comply with all development standards and criteria set forth in the Elbert County Land Development Code and any other county or state ordinances or laws regulating the development of this property.

DATED this 12th day of May, 1987.

William K. Gering

WILLIAM K. GERING
County Clerk

Conformance with Relevant Elmore County Policies:

Citizen Involvement:

The County shall provide for continued citizen involvement. The Planning Department sent notice to surrounding property owners and agencies of concern. Notice was published in the Elmore and News and posted in public places.

Land Use Planning:

zoning shall be consistent with the land use plan. The site is zoned for Density Residential, and per Land Development Code Section 51.005, paragraph C, No. 6, a mobile home is a conditional use in that zone.

Criteria for approval are per Article 41, Section 41.003(2)-(3).

- A. That the use is conditionally permitted in the zone in which it is proposed to be located.
- B. That the location, size, design, and operating characteristics of the proposed use are in conformance with the Elmore County Comprehensive Plan.
- C. That the location, size, design and operating characteristics of the proposed development will be compatible with and will not have significant adverse effects on the appropriate development and use of adjoining properties and the surrounding neighborhood. Consideration shall be given to harmony in scale, bulk, coverage, and density; to the availability of civic facilities and utilities; characteristics and livability; to the generation of traffic and the capacity of surrounding streets; and to any other relevant impact of the development.

Min. Water and Land Resources Ordinance:

Policy: Minimum lot sizes and/or maximum residential densities shall be established that will determine the need for a sewage disposal system. Size location criteria and standards for septic units shall also be established.

The size is 1.10 acres. Health Department requirements for placing the proposed septic tank shall be met.

Conformance with Relevant Elsworth County Policies Contains:

Public Facilities:

The site has electricity and telephone service, water, and sewer facilities. The site is located in First District No. 1.

Planning Department Conclusions and Recommendations:

The proposed use is conditionally permitted in the Low Density Residential zone.

The use meets the standards of the Low Density Residential zone (see plot plan).

The site is 1.10 acres and the use appears to be compatible with the surrounding neighborhood. There are other mobile homes in the area (see photos).

Access is off Jackson Avenue, which appears able to carry the kind of traffic that would be generated from the proposed use, a mobile home.

Based on the above, staff recommends approval.

STATE OF OREGON COUNTY OF CLATSOP

For the purpose of _____

of _____

A.D. 19 _____

By _____

County Clerk _____

Recorder _____

Notary Public _____