

## BEFORE THE HEARINGS OFFICER OF KLAMATH COUNTY, OREGON

In the Matter of the Request	)	C.U.P. 15-87
for a Conditional Use Permit	)	FINDINGS OF FACT, CONCLUSIONS
for PATRICK M. GISLER.	)	OF LAW AND ORDER

This matter came before Hearings Officer William M. Ganong on June 4, 1987 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. Patrick Gisler, the Applicant, was present and represented herself at the Hearing and the Klamath County Planning Department was represented by Mr. Kim Lundahl and the Recording Secretary was Janet Libertajt. The Klamath County Planning Department file and all contents thereof were incorporated in the record as evidence. The County Hearings Officer, after reviewing the evidence presented, makes the following Findings of Fact, Conclusions of Law and Decision:

FINDINGS OF FACT:

1. The Applicant applied for a Conditional Use Permit to locate a non-forest home on 40 acres of land zoned Forestry. The property is generally located 1,800 feet west of Highway 97 north at milepose 175. The subject property is Klamath County Assessor Tax Lot No. 2309-13D0-00100. The property is located in Klamath County, Oregon.
2. The applicant intends to construct his personal residence and a shop and yard for logging equipment on the subject property.

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3. The Klamath County Planning Department Staff Report dated May 28, 1987 and the Findings therein are adopted hereby and incorporated herein by this reference.

4. Mr. Gisler testified that the house and shop will be located on a former log deck which is located on the property. The soils on the site have been compacted and photographs taken by the Planning Department Staff show that the area supports no forest growth. The vegetation on the subject site is composed of dense rabbit brush and some trees that do not exceed 3 to 4 inches in diameter. Access to the property is available by easement across the adjoining property located easterly of the subject property and from Linda Drive which is located in the subdivision located immediately west of the subject property. The applicant testified and the Hearings Officer finds that the location of the proposed residence will never support a commercial tree crop.

KLAMATH COUNTY LAND DEVELOPMENT CODE CRITERIA

Code Section 51.020 sets forth the permitted and conditional uses allowed in the Forestry Zone. Paragraph D of that section allows a single family residence not used in conjunction with forest uses. Paragraph E of that section sets forth the conditional use permit criteria which must be addressed in reviewing an application for a Conditional Use Permit in the Forestry Zone.

KLAMATH COUNTY LAND USE GOALS AND POLICIES COMPLIANCE

The Goals and Policy Findings set forth in the Klamath County Planning Department Staff Report are adopted and incorporated herein by this reference.

KLAMATH COUNTY CODE FINDINGS OF FACT AND CONCLUSIONS

Klamath County Land Development Code Section 51.020 (E) requires the following Findings and Conclusions.

A. The proposed use is compatible with forest uses. The site of the proposed residence and shop is the site of a prior log mill and log deck. The site does not presently support any commercial timber and the construction of a residence, subject to the conditions set forth below, at the subject site will not impact the forest use of the remaining portion of this property or any adjoining property and is compatible with forest uses on the subject property.

B. The proposed use will not interfere seriously with accepted forestry practices on adjacent lands devoted to forest uses and will not significantly increase the cost of forestry operations on such land. The adjoining lands to the west and south of the subject property have been divided and are being used for residential use and contain no forest uses. The adjoining property to the east of the subject property is the site of a mineral extraction area and is also not being used for any forest use. The property north of the subject property is owned by the United States and managed by the Bureau of Land Management. That property is being used for forest uses. The proposed house will

be set back approximately 160 feet from the northerly boundary line which is common to the BLM property. As long as the applicant complies with the forest siting criteria set forth in Code Section 51.020 (G) there will be no serious interference with accepted forestry practices on the adjacent land. Generally, the most serious interference resulting from residential or recreational use of property in a forest area is the danger caused by potential wild fires. Fire protection to the subject property is provided by the Walker Range Patrol Association and the danger of wild fire will decrease as a result of the provision of an adequate water supply on the subject property by the applicant and the maintenance of appropriate fire breaks as required by the Code Section set forth above.

C. The proposed use does not materially alter the stability of the overall land use pattern in the area. As set forth above, the overall land use pattern in the area is predominantly residential subdivisions with a backing of forest land and forest uses on the BLM property and mineral extraction area on the property lying easterly of the subject property. The establishment of a single family residence on this 40 acre tract will not materially alter the land use patterns in the area.

D. The proposed use is situated on generally unsuitable land for the production of forest crops and livestock. As set forth above, the proposed residence will be located on a former mill site and log deck site. The prior heavy industrial use of the property has compacted the soils of the site so that they are

generally unsuitable for the production of forest crops and livestock. The pictures showing the lack of vegetation on the subject site support this finding.

E. The proposed use considers the forest site productivity rating, minimizes the loss of productive forest land and is limited in size to the area suitable and appropriate to the needs of the proposed use. The subject 40 acre parcel has a timber site productivity rating of Class VI. Said rating is a relatively low productivity rating. The particular site on which the residence will be constructed has a substantially lower potential productivity than the Class VI rating applied to the parcel in general. Construction of a house on the proposed site will not result in the loss of any productive forest land and the scale of the house, driveway area, parking area and shop as shown on the site plan shows that the scale of proposed development is limited in size to that which is generally appropriate for the proposed use as a single family residence.

F. The site meets the standards relating to the availability of fire protection and other rural services that will not overtax those services. The Walker Range Patrol Association submit a letter, Exhibit D, which states that they can and will provide appropriate fire protection to the subject site and expect that the development of the property as proposed will reduce the chances of wildfire emanating from the subject site. The only other necessary rural services, water and sewer, will be provided by onsite facilities subject to the siting criteria of the Klamath

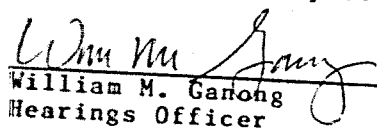
County Department of Health Services. The proposed use will not overtax services available to this rural residential area.

G. The proposed use shall comply with the following conditions of the review authority which the review authority considers necessary. Conditions which the Hearings Officer considers necessary are that the applicant comply with the residential siting standards set forth in Section 51.020; that the applicant control domestic dogs on the property so that dogs are not allowed to run loose and harass deer that may be located on the subject property or adjoining property; and that the applicant comply with other Building Code and Land Development Code requirements and the siting requirements of the Klamath County Department of Health Services.

#### CONCLUSIONS OF LAW AND ORDER

The subject application for a Conditional Use Permit to site a single family residence on the subject property is granted subject to compliance by the applicant and his successors in interest with the Land Development Code residential siting standards, the siting requirements of the Klamath County Department of Health Services and the other land development and building code requirements and that the applicant not allow domestic dogs to harass deer on the subject property or on adjacent properties.

DATED this 30th day of June, 1987.

  
William M. Ganong  
Hearings Officer

GISLER C.U.P. - Page 6

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Klamath County Planning Department the 7th day  
of July A.D. 19 87 at 9:08 o'clock A M., and duly recorded in Vol. M87  
of Deeds on Page 11835.

FEE NONE

Return: Commissioners' Journal

Evelyn Biehn, County Clerk  
By 