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BEFORE THE HEARINGS OFFICER OF KLAMATH COUNTY, OREGON

In the Matter of the Request )  
for a Conditional Use Permit )  
for JOHN N. FARLOW )

C.U.P. 24-87  
FINDINGS OF FACT, CONCLUSIONS  
OF LAW AND ORDER

This matter came before Hearings Officer William M. Ganong on July 2, 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. John N. Farlow was represented at the Hearing by Floyd E. Burks. The Klamath County Planning Department was represented by Mr. Kim Lundahl and the Recording Secretary was Donna Verling. 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 has requested a Conditional Use Permit to site one nonforest residence on each of three parcels of property which the applicant intends to create by a minor partition. The property is generally located near milepost 175 on State Highway 97 North in Klamath County, Oregon. It is Klamath County Tax Assessor Account No. 2310-1100. The subject property is currently one parcel containing 120 acres. The land is zoned forestry.
2. The applicant has conducted some thinning and logging operations on the property during the past year. Mr. Burks testified that the primary purpose for the logging was to ready

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the subject property for use as homesites. The subject property is located between the Dalles-California Highway and the developed Antelope Meadows residential recreational subdivision.

3. The Oregon Department of Forestry submitted a letter, Exhibit F, which requests that the application be analyzed critically. Said letter states that the overall land use pattern in the area centers around forestry and forest management and that the development proposed by the applicant would be in conflict with the forest practices in the area. There is no evidence that the State Department of Forestry manages any forest land in that area and in fact the letter submitted by the Department states that the forest land in the area is managed by the U.S. Government.

4. The United States Department of Agriculture, Forest Service, also submitted a letter, Exhibit G. That letter states that the Department has reviewed the subject application and finds no problem with the request of applicant. The Forest Service letter states that the subject land is within a designated subdivision zone and has highway access. The letter further states that the major concern in this area is fire protection and the spread of fire onto National Forest lands and requests that the applicant be required to supply adequate water supplies for personal use and fire suppression needs and to be aware of current fire regulations.

5. The Oregon Department of Fish and Wildlife also submitted a letter, Exhibit E. That letter does not oppose the applicant's request but does request that the development of the property

occur near the road to allow for use of the rear portion of the property by migrating deer and that dogs be kept from running at large because the property is within a heavily used deer migration corridor. Mr. Burke testified at the hearing, that the applicant would comply with an Order of the Hearings Officer incorporating the requests of the Department of Fish and Wildlife.

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

#### KLAMATH COUNTY LAND DEVELOPMENT CODE CRITERIA

The criteria for reviewing a Conditional Use Permit for a nonforest use is set out in Klamath County Land Development Code Section 51.020 (E). Code Section 51.020 (G) provides standards for the siting of nonforest residences in the forest zones.

#### KLAMATH COUNTY LAND USE GOALS AND POLICIES COMPLIANCE

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

#### KLAMATH COUNTY CODE FINDINGS OF FACT AND CONCLUSIONS

Pursuant to the Review Criteria set forth in Klamath County Land Development Code Section 51.020 (E), the following Findings and Conclusions are made:

A. The siting of a one single family residence on each of the three proposed 40 acre lots is compatible with existing forest uses and practices. The governmental agency most directly responsible for conducting forest practices in this area is the United States Department of Agriculture, Forest Service. The

Forest Service letter states that the use is compatible with their management of nearby federal forest lands so long as appropriate fire protection measures are required as the property is developed. The Oregon Department of Forestry's objections to the subject permit are directly contradicted by the Forest Service letter. As the U.S. Forest Service is most directly responsible for the forest practices in this area, the Hearings Officer finds the letter of the U.S. Forest Service to be more credible.

B. Subject to compliance with the conditions set forth hereafter, the siting of one single family residence on each of the three proposed 40 acre lots will not seriously interfere with accepted forestry practices on adjacent lands devoted to forest use and will not significantly increase the cost of forestry operations on such lands. The applicant has already conducted some thinning and logging activities on his property which should increase the forest productivity of the subject property. So long as the subsequent developers of these lots comply with the forest siting criteria contained in the code and other policies and regulations of local, state and federal governmental agencies, the development of a single family residence on each of the proposed lots will not seriously interfere with accepted forestry practices and operations in this area.

C. The overall land use pattern in this area is development of large lot residential recreational lots. This finding is supported by the letter from the U.S. Department of Agriculture, Forest Service, and by the maps contained in the Planning Department file showing the size of lots in this area and the

relationship of the subject property to the Antelope Meadows subdivision.

D. The subject property, like much of the property in that area, is generally unsuitable for the production of commercial forest crops and livestock. This finding is supported by the pictures included in the record and the testimony of Mr. Burke. This is generally an area of small lodgepole pine. The Lodgepole species up until recently was considered a noncommercial timber species. Lodgepole is now being used in stud production and woodchip production. However, the small size of the trees in this area indicates a lack of moisture, soil nutrient or other factors which make this land generally unsuitable for the production of commercial forest crops. Even if this land were suitable for the production crops, the siting of a single family residence on each of the proposed 40 acre parcels would remove very little forest land from production. The development of residences on these proposed lots most likely will enhance the forest production of the lots as it will result in more intensive forestry practices on this land.

E. The timber site rating of the subject property is Class V. Subject to compliance with the conditions set forth hereafter, the development of one single family residence on each of the proposed 40 acre lots will minimize the loss of productive forest land and will limit the area removed from forest use.

F. A condition to the granting of this Conditional Use Permit will be that the future development of the proposed lots, if the applicant's application for a minor partition is granted,

must comply with the fire protection requirements of Article 69 of the Klamath County Land Development Code. The lots will be served by individual wells and septic systems. They are adjacent to public roads with good access to a major state highway. The development of the lots as proposed will not overtax the necessary rural services required for the proposed use.

ORDER

The subject application for a Conditional Use Permit for the construction of one single family residence on each of three proposed 40 acre lots on the land described above is granted subject to the following conditions.

1. Approval of a minor partition of the subject property;
2. No part of any structures shall be constructed more than 300 feet from the U.S. Forest Service Road which provides access to the subject land and is the northern boundary of the subject land;
3. No dogs shall be permitted to run loose on the subject property or onto adjacent properties or allowed in any way to harass wildlife on the subject property or adjacent land;
4. The development of the subject property shall comply with all Klamath County Land Development Code Sections and Criteria including, without limitation, Section 51.020 (G) which sets out residential siting standards for dwellings in forest zones;
5. The development of the property shall comply with all the requirements of the Klamath County Department of Health Services, with the Klamath County Building Code and with all other County

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Ordinances, State and Federal laws and regulations concerning the development and use of the subject property; and

6. The failure of the owner and developer of this property, or any successor in interest, to comply with the conditions set forth above, shall result in a further public hearing by the appropriate review authority and reconsideration of the criteria set forth in the Land Development Code existing at that time. The granting of this Conditional Use Permit is made specifically subject to the right of Klamath County, Oregon to revoke this permit and require the removal of any development on the property in the event any of the criteria set forth above are hereafter violated.

DATED this 15th day of July, 1987.

  
William M. Ganong  
Hearings Officer

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Klamath County Planning Department the 20th day  
of July A.D. 19 87 at 4:26 o'clock P M., and duly recorded in Vol. M87  
of Deeds on Page 12886.

FEE

NONE

Return: Commissioners' Journal

Evelyn Biehn, County Clerk  
By 