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BEFORE THE HEARINGS OFFICER OF KLAMATH COUNTY, OREGON

In the Matter of the Request)
for a Conditional Use Permit)
for JAMES HOPKINS and NEDRA)
HOPKINS.)

C.U.P. 20-87
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. James Hopkins and Nedra Hopkins were present at the hearing and represented themselves. 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 applied for a Conditional Use Permit to construct a residence not in conjunction with forest use on a parcel of property which is approximately 8.4 acres in size. The property is located west of the Keno-Worden Road in Klamath County, Oregon and is Klamath County Tax Assessor Lot 4008-07-2300.
2. The Hearings Officer viewed the subject property with the Planning Department Staff.

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3. The Applicants will apply for the partition of 8.4 acres from a larger parcel if the subject application for a Conditional Use Permit is granted. The Applicants intend to give this parcel to their son, who will then build a home on the property.

4. The Findings of Fact set forth in the Klamath County Planning Department Staff Report are incorporated herein by this reference. The subject property containing SCS Class VII soils and has a timber class site rating of V. The observation of the Hearings Officer is that the area where the home will be located has exposed rock with juniper and grass cover. In addition, there are a few pine trees located in the area. The site of the proposed residence is definitely not forest land or agricultural land. However, the Hearings Officer finds that both the land lying above and below the subject site are being used for agricultural purposes.

5. Access to the site will be provided by an easement granted by the Applicants and the site will be served by an individual well and septic system. No testimony in opposition to the request was received from any public agencies or private persons. The subject site is not located in any winter deer range or within the eagle roost, buffer or flyway areas.

6. The State of Oregon owns a large parcel of property located generally westerly of the subject property. The State property was ravaged by fire many years ago and attempts by the State Department of Forestry to raise commercial pine trees on the

State land have failed. There is no other commercial forest enterprise or activity being conducted in the general area.

KLAMATH COUNTY LAND DEVELOPMENT CODE CRITERIA

Land Development Code Section 51.021 provides that a single family residence not in conjunction with forest use may be granted in the FR zone when located on nonresource land. Section 51.021 D sets forth the criteria which the review authority must address when considering a Conditional Use Permit for a nonforest use.

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

The Hearings Officer makes the following Findings and Conclusions pursuant to the review criteria for siting a single family residence not in conjunction with forest use in the FR Zone:

1. The siting of the home is compatible with forest uses. The primary forest uses in the general area are wildlife uses of the Pierson Butte area and the failed plantation on the land of the State of Oregon. However, the subject property is not within the Pierson Butte Wildlife Range and the State's repeated attempts to establish its land as commercial forest land have failed. There is no reason to believe that the siting of the subject home will be incompatible with any nearby forest use so long as the Applicant complies with the conditions set forth hereinafter.

2. The construction of a single family residence on the subject property will not interfere with accepted forestry practices on adjacent lands devoted to forest use. As stated above, the only forestry practice being conducted on any adjacent lands are those attempts by the State Department of Forestry to establish the adjacent state land as a commercial forest. The Forestry Department has planted seedlings on that property and conducted other management practices in an attempt to establish forest growth on the State land. Those attempts have failed. The siting of this residence will not interfere in any manner with the Forestry Department's attempts to establish a commercial forest on the State land so long as the Applicant complies with the conditions set forth hereinafter.

3. The construction of a single family residence on the subject property will not materially alter the stability of the overall land use patterns in the area. The land use patterns in the area consist of agricultural uses both on the Applicant's land and on the land lying adjacent to the subject property and large lot residential uses. The establishment of a single family residence on the proposed 8.4 acre parcel will not interfere with any adjacent agricultural forestry uses nor will it alter the established land use patterns of the area.

4. The house will be constructed on land which is generally unsuitable for the production of forest crops and livestock. The proposed site of the home is a very rocky hillside which contains some small junipers and a few pine trees. The Hearings Officer

viewed the subject property and is convinced that the land on which the house will be located is unsuitable for the production of forest crops or livestock.

5. The subject property contains a timber class rating of V. However, timber class ratings are applied to general areas and are not very site specific. In the present case, because of the exposed rock on the site of the proposed home and the lack of any productive forest in the general area, the Hearings Officer finds that the construction of a single family residence at the site proposed by the Applicant will not result in the loss of any productive forest land.

6. The subject property is served by the Keno Rural Protection District. The Keno fire station is located several miles from the subject property. The subject property has good access via Keno-Worden Highway and the privately owned road owned by the Applicants which leads to the subject property. The proposed use will be served by an individual well and septic system as long as the Applicant complies with the fire protection requirements of the code and requirements for rural services provided by the Code.

ORDER

The request for a Conditional Use Permit to site a single family residence not in conjunction with forest use on the above described property is hereby granted subject to the following conditions:

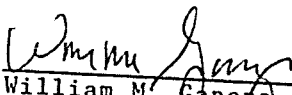
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1. The Applicant shall comply at all times with the setbacks for fire safety and other siting standards set forth in the Land Development Code Section 51.021 (F).

2. The Applicant shall comply with all requirements of the Klamath County Department of Health Services concerning the installation of the septic system to serve the subject property.

3. The Applicants shall comply with all other Land Development Code requirements, Building Code requirements, and other County Ordinances and State laws concerning the development and use of the subject property.

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 12910.

FEE NONE

Return: Commissioners' Journal

Evelyn Biehn,

By

County Clerk
