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## BEFORE THE HEARINGS OFFICER OF KLAMATH COUNTY, OREGON

In the Matter of the Request )  
 for a Conditional Use Permit )  
 for HARVEY BEENEY )

C.U.P. 37-87  
 FINDINGS OF FACT, CONCLUSIONS  
 OF LAW AND ORDER

This matter came before Hearings Officer William M. Ganong on September 3, 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. The applicant represented himself at the Hearing. The Klamath County Planning Department was represented by Mr. Kim Lundahl and the Recording Secretary was Karen Burg. 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 initiate the sale of alcoholic beverages, wine and beer, in conjunction with the sale of food at the Dairy Cafe. The subject property is located in Dairy, Oregon which is approximately 18 miles east of Klamath Falls and is Klamath County Tax Assessor Lot No. 3811V-34B-700. The subject parcel is approximately .82 acres in size and contains a building which has housed the Dairy Cafe for many years and a parking lot.

2. The adjoining property to the east is a Union 76 gasoline station and to the west is Rice's Feed Store and Garage. Across Highway 140 from the subject property was the former location of

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the Dairy Tavern which burned. There are no other establishments for the consumption of beer and wine on the premises in Dairy.

3. Notice of the subject land use application was given by the Planning Department to adjacent property owners and to numerous governmental agencies. No comment has been received from anyone notified of the proceedings. The Dairy Cafe will be operated by the applicant. Both the applicant and Kim Lundahl testified they have no knowledge of any problems in the past in the Dairy area related to the sale of alcoholic beverages for consumption on the premises.

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

5. The subject property is zoned CH-Highway Commercial.

#### KLAMATH COUNTY LAND DEVELOPMENT CODE CRITERIA

Klamath County Land Development Code Section 51.014 (C) allows, with a Conditional Use Permit, eating and drinking establishments in the CH Zone. Code Section 44.003 lists the criteria which must be reviewed in granting a Conditional Use Permit.

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

Pursuant to the Review Criteria set forth in Klamath County Land Development Code Section 44.003, the following Findings and Conclusions are made:

A. That the proposed use of the subject property for the sale of beer and wine for consumption on the premises in

connection with the sale of food is conditionally permitted in the CH Zone.

B. The location, size, design and operating characteristics of the proposed use are in conformance with the Klamath County Comprehensive Plan. The subject property has been used as a Cafe and operated as a Cafe for many years. The only change the subject permit will allow will be the sale of alcoholic beverages consisting of beer and wine on the premises. Said use is allowed by the Klamath County Comprehensive Plan.

C. The location, size, design and operating characteristics of the proposed development will be compatible with and will not have any significant adverse affect on the appropriate development and use of abutting properties in the surrounding neighborhood. The only change which will result from the granting of this permit will be to allow the operator of the Cafe to serve beer and wine in conjunction with the sale of food. Historically, the Dairy Tavern was located across Highway 140 from the subject property. The Tavern burned and beer and wine are not currently available for consumption on the premises in Dairy. The plot plan submitted by the applicant shows that there is adequate off street parking on the subject parcel. The access from Highway 140 is clear and safe. The subject property is served by required rural services and the people in Dairy should experience no adverse affect from the allowance of the subject application.

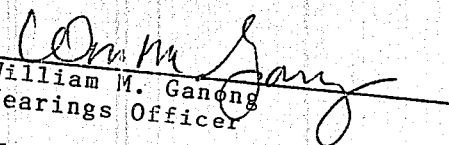
ORDER

The subject application for a Conditional Use Permit by Harvey Beeney to sell alcoholic beverages consisting of beer and

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wine in conjunction with the sale of food at the Dairy Cafe on the property described above is granted subject to Mr. Beeney and his successors in interest complying at all times with all property development standards of the Klamath County Land Development Code, all requirements of the Klamath Building Code, all requirements of the Klamath County Department of Health Services and the requirements of the Oregon Liquor Control Commission and other regulating bodies.

DATED this 4th day of September, 1987.

  
William M. Ganong  
Hearings Officer

Klamath County Land Development Code Section 24.007 provides:

"An Order of the Hearings Officer shall be final unless appealed within ten (10) days of its mailing by a party having standing in accordance with the procedures set forth in Chapter 3, Article 33 of this Code."

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Klamath County Planning Department the 9th day  
of Sept. A.D., 19 87 at 3:43 o'clock P M., and duly recorded in Vol. M87  
of Deeds on Page 16381  
FEE NONE  
Return: Commissioners' Journal  
By Evelyn Biehn, County Clerk  
