

BEFORE THE HEARINGS OFFICER
FOR KLAMATH COUNTY, OREGON

In the Matter of a Request for	)	C.U.P NO. 11-86
CONDITIONAL USE PERMIT	)	
for	)	FINDINGS OF FACT,
	)	CONCLUSIONS OF LAW AND
	)	DECISION
DORIS KETARKUS, also known	)	
as DORIS DeGARMO.	)	

THIS MATTER came before the Assistant Hearings Officer, JAMES R. UERLINGS, on September 17, 1987, at 9:30 a.m. in the Klamath County Commissioner's Hearing Room. Conclusion testimony on September 17, 1987, the Hearings Officer indicated to those persons present that the Hearings Officer would view the property later that morning. The Hearings Officer thereafter continued the hearing until 9:00 a.m. on September 18, 1987. The hearing was reconvened on September 18, 1987 at 9:00 a.m. Conclusion of that hearing was that the hearings were closed. The matter had originally come before Hearings Officer James Spindor, in 1986. The Hearings Officer granted approval in April of 1986 on this same Conditional Use Permit. In April of 1987 construction for the placement of the desired mobile home began. Neighbors who apparently were not notified of the Conditional Use Permit application then contacted the Planning Department in regards to their lack of notice. Thereafter, a hearing was again held before the Hearings Officer, BILL GANONG, in order to determine

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3 whether the applicant had acted in good faith in providing notice
4 of the hearing to interested parties. The Hearings Officer in
5 June of 1987 determined that good faith was demonstrated by the
6 applicant, however the Klamath County Board of Commissioners
7 based on an appeal filed by the opponents, determined by Order
8 dated September 16, 1987 that the applicant had not shown good
9 faith effort in notifying surrounding property owners and
10 remanded this matter to the Hearings Officer for a new decision
11 upon the merits after property notice to interested persons. The
12 Applicant waived her right of appeal to that order at the
13 commencement of this hearing.

14 This hearing was held pursuant to notice given in
15 conformity with the Klamath County Development Code and related
16 Ordinances and pursuant to the direction given by the Klamath
17 County Board of Commissioners in their order dated September 16,
18 1987. The applicant appeared in person and the Planning
19 Department was represented by Kim Lundahl. The following
20 exhibits were marked, entered and received into evidence and made
21 a part of the record: Exhibits "A" through "L".

22 The Assistant Hearings Officer, after reviewing the
23 evidence presented, makes the following findings of fact,
24 conclusions of law and decision.

25 FINDINGS OF FACT:

- 26 1. The applicant desires a Conditional Use Permit for
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3 the placement of a second mobile home upon her property located
4 near Keno, Oregon. This Conditional Use Permit is requested
5 pursuant to Section 51004(D)(3).
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7 2. The property currently has a mobile home upon it.
8 This mobile home has a veranda type roof constructed over it.

9 3. The property is located at the intersection of Fawn
10 Lane and Keno-Worden Highway (N.W. corner). The legal
11 description is Lot 1, Block 1, Klamath River Sportsman Estates,
12 Tax Account No. 4008-17BD-1400.

13 4. The property plan designation is Rural Residential.
14 The Zone Designation is R-1. The property consists of
15 approximately 1.7 acres, triangular in shape. The topography
16 consists of the piece of property being bisected by a natural
17 drainageway running in a north-south direction.

18 5. General drainage of the property is to the natural
19 drainageway bisecting the property, and during the winter months
20 testimony indicated that the natural drainageway had considerable
21 flow to it.

22 6. Vegetation of the property consists of fir trees.

23 7. Access to the property is off of Fawn Lane, graveled
24 road.

25 8. Soil designation of the property is Class VII,
26 Timber Site Productivity Rating is Class V.
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3 9. There are no unique physical characteristics of
4 surrounding lands, the exception that most of the residences
5 along Fawn Lane are not mobile homes but are wood-frame homes,
6 most of them constructed within approximately the last ten years.

7 10. Adjacent and surrounding Zoning consists of forest
8 range to the North, R-1 to the South, EFU-CB to the East, and R-1
9 to the West.

10 11. Public Facilities and Services are water furnished
11 by individual well; sewer by individual subsurface systems; fire
12 protection by Ken Fire Protection District; electricity by
13 Pacific Power and Light and school service by Keno School
14 District.

15 12. Witnesses appearing at the hearing indicated that
16 the applicant currently was renting out the mobile home that is
17 already upon the subject property. They indicated that the
18 current residents did not take care of the property and in fact
19 had car parts and bodies on the property on several occasions,
20 and discarded mattress as well as other trash.

21 13. Based on the Hearings Officer's trip to the site, it
22 does appear that the subject property is currently as not as well
23 maintained as the residences further along Fawn Lane.
24 Additionally it should be noted that the subject property is the
25 first occupied lot on Fawn Lane off of the Keno-Worden Road.

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3 Testimony by opponents indicated that persons interested in
4 buying lots within the area would obtain a bad impression of the
5 subdivision in general if they were to be faced with a lot which
6 is not well maintained and which contains two mobile homes upon
7 their entry.

8 14. The mobile home which the applicant wishes to place
9 upon the property is a 1969 Kit Mobile Home. The mobile home is
10 of the old type of construction and is small in dimension
11 compared to current mobile homes on the market. It is
12 approximately 1/2 - 1/3 the size of current mobile homes. The
13 applicant indicated that she is uncertain as to who would live in
14 the second mobile home, were it to be placed on the lot, and that
15 she would either occupy it herself with her daughter or would
16 rent it out.

17 15. The opponents testifying at the hearing gave the
18 following primary reasons for their opposition:

19 A. Apparent inability of the applicant to control the
20 current tenants on the property, allowing the property on several
21 occasions to allow trash, car parts and bodies to accumulate.

22 B. The fact that the subject site is located at the
23 entrance to the subdivision and with the placement of two older
24 mobile homes upon the property would cause detrimental effects to
25 future home sales in the area.

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3 C. The mobile homes upon the lot would not be
4 consistent with the general construction of home sites in the
5 area, that being wood-framed homes. Although the applicant has
6 had this mobile home placed on another lot substantially further
7 into the subdivision, the second lot has a large wood-frame home
8 constructed on it, not two mobile homes.

9 D. The opponents were concerned that the siting of an
10 additional mobile home upon the lot would add to the surface
11 runoff into the existing ditch, and did not feel that the drain
12 ditch could handle such additional surface runoff.

13 E. The opponents also raised opposition based upon a
14 recorded document entitled "Deed Restrictions, Covenants and
15 Conditions for Klamath River Sportsman's Estates" dated April 15,
16 1968 and recorded May 6, 1968 in Volume M68, page 4084 in the
17 records of Klamath County, Oregon. The Deed Restriction document
18 appears to indicate that there exists within the subdivision, or
19 should exist, an architectural control committee, which has to
20 review the proposed construction of any building within the
21 subdivision. Additionally, it appears to prohibit some of the
22 activity that the opponents complained about of the existing
23 tenant upon the applicant's property.

24 KLAMATH COUNTY DEVELOPMENT CODE CRITERIA:

25 1. Klamath County Development Code Section 44.003 sets
26 forth the criteria for consideration in the application of a
27 conditional use permit:

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4 A. That the use is conditionally permitted in the
5 zone in which it is proposed.

6 B. That the location, size, design and operating
7 characteristics of the proposed uses is in conformance with the
8 Klamath County Comprehensive Plan.

9 C. That the location, size, design and operating
10 characteristics of the proposed development will be compatible
11 with, and will not adversely effect, the livability or
12 appropriate development of abutting properties in the surrounding
13 neighborhood. Consideration shall be given to the harmony in
14 scale, bulk and utilities; to harmful effects, if any, upon
15 desirable neighborhood character; to the generation of traffic
16 and the capacity of surrounding streets and to other relevant
17 impact of development.

18 KLAMATH COUNTY GOALS AND POLICIES COMPLIANCE:

19 1. Goals 1 through 14 - See Exhibit 'AA' attached
20 hereto and incorporated by this referenced.

21 KLAMATH COUNTY DEVELOPMENT CODE FINDINGS AND CONCLUSIONS:

22 1. The proposed use is conditionally permitted under the
23 Klamath County Land Development Code for the zone in which it is
24 proposed.

25 2. The location, size, design and operating
26 characteristics of the proposed use are not in conformance with
27 the Klamath County Comprehensive Plan.

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3 3. The location, size, design and operating
4 characteristics of the proposed development will not be
5 compatible with and will have a significant adverse effect upon
6 the appropriate development and use of abutting properties in the
7 surrounding neighborhood. The Hearings Officer has given
8 consideration to the harmony in scale, bulk, coverage and
9 density, to the availability of utilities, to the harmful
10 effects, (if any), upon the desirable neighborhood
11 characteristics and livability, to the generation of traffic and
12 the capacity of the surrounding streets and other relevant
13 factors effecting the impact of this development

14 4. The rationale for this decision is based upon the
15 number of objecting property owners, and the reasons which they
16 gave for their objections. It is apparent from the testimony
17 that the applicant's use of the property by the placement of a
18 second mobile home will detract from the desirable neighborhood
19 characteristics of the area. Currently within near proximity to
20 the subject property, there are located well maintained and
21 constructed wood-frame dwellings. A mobile home upon the
22 property does not appear to be well maintained and based on a
23 testimony from the opponents, it is not regularly maintained by
24 its occupants. Placement of the second mobile home upon the site
25 may create surface water drainage problems as well as the
26 significant probability of reducing property values in the area.
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The proposed application therefore fails to provide harmony and scale, bulk coverage and density with the existing neighborhood characteristics and has a harmful effect upon the desirable neighborhood character as set forth above.

CONCLUSIONS OF LAW AND DECISION:

1. This request for a conditional use permit on the subject property is denied for the reason that it does not meet all applicable Klamath County Development Code criteria and policies governing such.

DATED this 23 day of September, 1987.


James R. Uerlings

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STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Klamath County Planning Department
of September A.D. 19 87 at 2:47 o'clock P. M., and duly recorded in Vol. M87
of Deeds on Page 17323

FEE NONE

Return: Commissioners' Journal

By Evelyn Biehn, County Clerk

