BEFORE THE HEARINGS OFFICER OF KLAMATH COUNTY, OREGON

In the Matter of the Request for a Conditional Use Permit for DAVID and JUDY BAKKE.	)))	C.U.P. 38-88 FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

This matter came before Hearings Officer William M. Ganong on November 3, 1988 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. David Bakke was present and represented himself at the Hearing. The Klamath County Planning Department was represented by J. 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:

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FINDINGS OF FACT:

1. The Applicant has requested a Conditional Use Permit to expand an existing mobile home park from 9 units to 37 units in a R-1 residential zone. The property is located in downtown Beaver Marsh, Klamath County, Oregon. The property is Klamath County Tax Assessor Account No. 2808-20B-500.

2. The plat plan for the proposed expanded mobile home park, Exhibit B, submitted by the Applicant shows 31 mobile home spaces, an apartment building and three conventionally built single family residences. It also provides on site RV parking and storage

units. The proposed structures and spaces are layed out in a logical manner on 24 acres of land.

3. The Current and proposed access from U.S. Highway 97 is provided by a 10 foot wide, 190 foot long private easement which crosses, and effective splits in half an adjoining parcel of property. Said adjoining parcel of property is being purchased by the Walter's families. There are two existing residences on the Walters' property.

4. Written Testimony provided by several public agencies and by witnesses at the hearing raised the following concerns:

a. The existing and proposed access is inadequate and unsafe. Shirley Walters, Valerie Walters and Betty McCollum expressed concerns about the existing access. Mrs. McCollum testified that the easement is only ten feet wide, that the traffic from the existing units on the subject property cause dust and noise which adversely effects the Walters' residences and that during one morning of the week of the hearing she counted 20 cars that used the existing access.

Shirley Walters testified that both of the Walters families, who reside on the adjoining property which is crossed by the access road, have young children. She is concerned about the danger from the existing traffic, particularly the speed of the traffic, and is concerned that additional mobile home spaces will increase the danger.

Valerie Walters also testified about the existing danger from the access road. She testified that both she and Mr. Bakke have talked to the tenants, but have been unable to slow them down.

David Bakke testified that he is concerned about the vehicle speed over the easement, but does not think the tenants exceed 20 miles per hour and that the speeds of vehicles on Highway 97 are somewhat higher. He also testified that he has talked to the tenants and asked them to slow down and that the problem may be more with other users of the easement.

A second problem with the proposed access to the subject property is that it cannot comply with the minimum requirements of the Land Development Code. Code Section 84.002 J requires that the primary access to the mobile home park be provided by a dedicated street. The existing access is a private easement ten feet wide. The Code requires that public roads be a minimum of 32 feet wide.

The subject property abuts Highway 97 at the north end of the property. However, it is not clear whether an access permit for

the proposed use can be obtained from the State Highway Department.

b. The existing use poses a significant fire hazard. Said fire hazard results from an inadequate water supply and from trash, brush, debris and garbage on the land.

Mr. Bakke testified that he is in the process of replacing the existing water lines to increase the pressure and quantity of water to each unit.

Mr. Bakke also testified that he had piled the brush and debris and intents to burn it when fire restrictions allow. Mr. Bakke's testimony is challenged by a letter from the Chemult Rural Fire Protection District dated October 31, 1988 and a Letter from Gary and Nancy Mert dated November 2, 1988 which state that the problem still exists.

c. Mr. and Mrs. Mert are also concerned about possible contamination of domestic water wells by the addition of septic systems on the subject property. No evidence was presented which indicates any existing or potential problem. The siting and construction of septic systems is subject to the inspection and permit requirements of the Klamath County Department of Health Services.

d. The final concern raised by the Fire Department and neighboring landowners can be best characterized as Mr. Bakke's inability or failure to properly manage the existing mobile home park.

Mr. Bakke expressed frustration over his inability to deal with unwanted nuisances caused by the existing tenants, including the improper disposal of garbage, excessive vehicular speed and unwanted livestock, including goats, sheep and horses.

KLAMATH COUNTY LAND DEVELOPMENT CODE CRITERIA

Klamath County Land Development Code Article 84 sets forth the developments standards for a mobile home park. Said article allows a mobile home park to be sited in any zone allowing such use. The R-1 zone allows as conditional use a mobile home park. Section 44.003 sets out the review criteria for conditional use permits.

KLAMATH COUNTY CODE FINDINGS OF FACT AND CONCLUSIONS

The following Findings and Conclusions are made concerning the criteria set forth in Klamath County Land Development Code Section 44.003:

1. The proposed mobile home park is conditionally allowed in the R-1 zone. The subject property is zoned R-1.

2. The location, size, design and operating charateristics of the proposed development are in conformance with the Klamath County Comprehensive Plan.

3. The location, size, design and operating characteristics of the proposed mobile home park expansion are not compatible with and will have a significant adverse effect on the appropriate development and use of abutting properties.

The existing mobile home park traffic and debris are causing significant problems for the adjoining landowners. Said problem can be rectified by developing access to Highway 97 at the North end of the subject property and by instituting better management.

Possibly, the subject application could be granted subject to conditions addressing the various legitimate concerns of the neighboring land owners. However, such an Order would prevent the concerned neighbors from having any meaningful opportunity to review and question the Applicants proposals for complying with the conditions.

The applicant is encouraged to contact the State Highway Department and the fire District and to develope an amended application which addresses the concerns described in the Findings

of Fact above. If the Applicant finds that he can address said concerns, then he may file an Amended Application.

ORDER

The subject application for a Conditional Use Permit to expand the existing mobile home park is denied. The one-year limitation for filing a new application for a permit is hereby waived. The Applicant may file an Amended Application at such time as he is prepared to address and resolve the concerns of adjoining property owners described hereinabove.

DATED this 23rd day of November, 1988.

William M. Canong
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 the Code."

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Klamath County of Nov. A.D., 1988 at 4:10 o'clock P.M., and duly recorded in Vol. M88 of Deeds on Page 20171

FEE none

Evelyn Biehn, County Clerk

By Barbara Mullendore

Return: Commissioners Journal