

BEFORE THE HEARINGS OFFICER OF KLAMATH COUNTY, OREGON

In the Matter of the Request )	C.U.P. 36-88
for a Conditional Use Permit )	FINDINGS OF FACT, CONCLUSIONS
for VIVAN FOLEY and GAILYA )	OF LAW AND ORDER
MORGAN. )	

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. Gailya Morgan was present at the hearing and represented the Applicants. 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 applied for a Conditional Use Permit to construct a residence not in conjunction with forest use on a parcel of property which is approximately 9.21 acres in size. The property is located east of Wocus Road, north of Uhrmann Road in Klamath County, Oregon and is Klamath County Tax Assessor Lot 3809-7B-100.

2. The Applicants will apply for the partition of two - 2 acre parcels from a larger parcel if the subject application for a Conditional Use Permit is granted. The property is owned by

'88 DEC 7 AM 9 42

Vivian Foley. Gailya Morgan, Mrs. Foley's daughter-in-law, will build a home on the property.

3. The Findings of Fact set forth in the Klamath County Planning Department Staff Report are incorporated herein by this reference. The subject property contains SCS Class VI soils and has no timber class site rating. The area where the home will be located is rocky with juniper and grass cover. The site of the proposed residence is not forest land or agricultural land.

4. Access to the site will be provided from Wocus Road 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.

5. The land which adjoins the south boundary of the subject property is zoned R-5, residential. The subject property is zoned FR, Forestry-range.

#### 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. There are no forest uses in the general area. The subject property is not within any Wildlife Range. There is no reason to believe that the siting of the subject home will be incompatible with 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, there are no forestry practices on any adjacent lands.
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 zoning on adjacent land is R-5, 5 acres residential parcels. The establishment of a single family residence on the proposed parcel will not interfere with any 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 rocky and contains some small junipers.

5. The subject property contains no timber class rating. In the present case, because of the 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 Klamath County Fire District 1. The fire station is located several miles from the subject property. The subject property has good access via Wocus Road. The proposed use will be adequately 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:

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, including the minor partition requirements of the Land Development Code.

DATED this 30th day of November, 1988.

*William M. Garong*  
 \_\_\_\_\_  
 William M. Garong  
 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 Dec. A.D. 19 88 at 9:42 o'clock A.M., and duly recorded in Vol. M88  
 of Deeds on Page 20747  
 FEE none  
 Return: Commissioners Journal  
 Evelyn Biehn County Clerk  
 By Pauline Mullendore