

## BEFORE THE HEARINGS OFFICER OF KLAMATH COUNTY, OREGON

In the Matter of the Request	)	C.U.P. Case No. 9-89
for a Conditional Use Permit	)	FINDINGS OF FACT, CONCLUSIONS
for GLENN ERIC HAGER.	)	OF LAW AND ORDER

THIS MATTER came before Deputy Hearings Officer Michael C. Miller on April 6, 1989 in the Klamath County Commissioners' Hearing Room. The applicant was present and represented by Donald R. Crane, attorney at law. The Klamath County Planning Department was represented by Carl Shuck and the Recording Secretary was Karen Burg. The Klamath County Planning Department file and all contents thereof were incorporated into the record as evidence. Additionally, a letter from Craig Greenleaf, Acting Director of the Department of Land Conservation and Development was received into the record as Exhibit F to the staff report. The Deputy County Hearings Officer, after reviewing the evidence presented, makes the following Findings of Fact, Conclusions of Law and Decision:

FINDINGS OF FACT:

1. This application is for a Conditional Use Permit to construct one residence on approximately 20 acres located in a Forestry/Range Zone. The property is located west of Old Fort Road, approximately 3 miles from Klamath Falls city limits and is Klamath County Tax Assessor Tax Account No. 3809-22-300.

2. The subject property lies on a hillside which rises from the Klamath Falls Landfill near the Klamath Falls city limits at the bottom to the site of the former Oregon Technical Institute two miles away at the top of the hill. Old Fort Road adjoins and winds through an eroded gully between the two points. The

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overall land use pattern of the area between the two points and on the face of the hillside consists of a dairy with a residence in one valley, a grain field in another low area, a small feed lot in the bottom of a gulley adjoining the roadway and single family dwellings on other property which affords a view of the city either because the property lies on the top of knolls or because it is on the steep hillside. No portion of the steep hillside is used or is suitable for use for any purpose other than a residence. The proposed residence is consistent with the present land use pattern for the area and will not materially alter it. Many of the level areas of higher elevations i.e. "viewsites" have residences located on them. The low lying land is devoted to agriculture and the nonview hillsides are in a natural state. The number of viewsites able to be built on in the area is limited due to the steepness of the terrain.

3. The subject property contains 14 juniper trees, sagebrush, rocks and bunch grass. Other than occasional juniper, no trees are located within one mile of the property in any direction. The property has a timber class of VII and a soil class site rating of VII. The property has not previously been used for any forest use, range land, or commercial purpose.

4. There are no springs, streams, ponds, or other water sources on or near the property.

5. Wildlife on or near the property consists of small field animals and birds of prey. Deer travel over the property from the hilltop above to the vegetation below.

6. The proposed residence is compatible with forest uses of

the area. The land is unsuitable for the production of trees due to its soil and forestry classification, its southern exposure, and its nearness to the city of Klamath Falls. It is unsuitable for the processing of forest products due to its nearness to residential property and its distance from water and raw materials. The property is open hillside but is surrounded by privately owned property of the same type and would not provide a buffer for noise or visual separation of conflicting uses. No water shed protection or wildlife or fisheries habitat is provided other than by the bunch grass, rocks and sage which will not be materially disturbed by the proposed use. No soil protection from wind and water is provided except by rocks and sage brush which will be maintained. The maintenance of clean air and water will not be disturbed. The property has been under private ownership and no outdoor recreational activities will be disturbed. The land is unsuitable for grazing of livestock due to its poor soil class, lack of access to water, terrain and size.

7. The proposed use does not interfere seriously with accepted forestry practices on adjacent lands devoted to forest use because there are no adjacent lands devoted to forest use.

8. The property is generally unsuitable land for the production of forest crops and livestock considering its hillside terrain, its class VII soil and forest use ratings, its vegetation consisting only of sage and bunch grass, its location away from water with southern exposure, and its size of 20 acres.

9. No loss of productive forest lands will occur from the proposed use.

10. The property is located in Klamath County Fire District #1 and has a class 5 (out of 10) rating. It is located in an area of high fire danger on the Klamath County Planning Department's Wildlife Hazard Rating Map. The proposed use of the subject property as a residence was made known to the Klamath County Fire District #1 by notice from the Klamath County Planning Department and by a phone call from the applicant's attorney. Applicant's attorney was advised that the rating placed on the property by the Fire District was 5 out of 10, a good fire safety rating. The Fire District did not object to the proposed use.

11. The proposed use will not impact other governmental services in that the applicant already resides in the area, and his children will continue attending the same schools they presently attend.

12. The proposed use will not materially alter the stability of the overall land use pattern of the area because there are only a few suitable view sites available for building. Many of those have already been built upon. In an approximately 1 1/2 mile radius of the subject property, there are about 15 residences. The view afforded by the "viewsite" is the only reason for building a residence in the general area.

CONCLUSION AND ORDER:

The application does meet the criteria set forth for a nonforest use in the Forestry/Range Zone. Accordingly, the

Deputy Hearings Officer grants Conditional Use Permit No. 9-89 to establish a nonforest home on 20 acres zoned FR.

DATED THIS 26th day of April, 1989.

Michael C. Miller  
Michael C. Miller  
Deputy 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 the 27th day  
of April A.D., 19 89 at 3:28 o'clock P.M., and duly recorded in Vol. M89,  
of Deeds on Page 7299.

FEE none

Return: Commissioners Journal

Evelyn Biehn County Clerk

By Audrey Mullendore