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BEFORE THE HEARINGS OFFICER OF KLAMATH COUNTY, OREGON

In the Matter of the Request	)	C.U.P. 66-89
for the Conditional Use Permit	)	FINDINGS OF FACT,
for Klamath Pacific Corporation	)	CONCLUSION OF LAW
	)	AND ORDER

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This matter came before Richard C. Whitlock, Hearings Officer of Klamath County, Oregon on October 20, 1989 in the Klamath County Commissioners' Hearing Room. The Hearing was held pursuant to notice given in conformity with the Klamath County Land Development Code and related ordinances. Jim McClung, an authorized representative of the Applicant was present at the hearing and testified in favor of the application. The Klamath County Planning Department was represented by Mr. Carl Shuck and the Recording Secretary was Leanne Mitchel. The Klamath County Planning Department file and all contents thereof were incorporated in the record as evidence, including Exhibits A, B, C, and D, and a letter from the State Highway Department (Exhibit E) was also received into the record. The 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 authorize a retail tire sales and tire changing facility in the IL Zone (Light Industrial) pursuant to Land Development Code Section 51.015(c). The subject property is a 2.46 acre parcel located approximately 400 feet South of

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Hilyard on the West side of Washburn Way, Klamath Falls, Oregon and is Klamath County Tax Account No. 3909-9AA-1100 and 700 and is located within the Klamath Falls Urban Growth Boundary.

2. The Staff report indicated that the proposed use could either be considered a commercial use accessory to light industrial uses (e.g. light repairs or repair services) as authorized by LDC 51.015(c)(10) or highway related commercial as authorized by LDC 51.015(c)(4). The letter from the Oregon State Highway Department confirmed there is an existing access permit for Washburn Way with three (3) conditions imposed:

- 1) Paving the existing approach;
- 2) The increase in traffic cannot create a safety hazard; and
- 3) There can be no change from the commercial use now authorized.

The Applicant's authorized agent testified that Klamath Pacific Corporation did not intend to get into the tire business, but the CUP is being requested to enable the sale of the parcel, with eventual improvements, to Basin Tire for the transfer of that business to the new location.

3. There are similar types of businesses already located in the area of the subject property, including Klamath Auto Wrecking, Clough Oil Distributors and the Summit Toyota Dealership (including automotive maintenance and repair) on the east side of Washburn Way and the Army Store (retail sales) and Rays Auto and Battery (automotive repair) on the west side of Washburn Way. There was no testimony in

opposition to this request.

4. The Applicant's parcel is located within Klamath County Fire District No. 1 and has electricity, telephone, water and sewer facilities available. Access will be off Washburn Way and the Applicant agreed on the record to submit a site plan for Planning Department administrative approval in order to assure compliance with all development standards.

KLAMATH COUNTY LAND DEVELOPMENT CODE CRITERIA:

1. Article 44 of the Land Development Code sets forth the criteria for granting a Conditional Use Permit.

2. Section 51.015(c) sets forth the uses allowed by Conditional Use Permit in the IL (Light Industrial) Zone.

KLAMATH COUNTY CODE FINDINGS AND CONCLUSIONS:

With respect to the application for Conditional Use Permit to allow a retail tire sales and tire changing facility in the IL Zone, the Hearings Officer makes the following findings:

(1) The IL Zone allows highway related commercial use and commercial use accessory to other Light Industrial uses as Conditional uses.

(2) The location, size, design and operating characteristics of the proposed use are in conformance with the Klamath County Comprehensive Plan.

(3) The location, size, design and operating characteristics of the proposed use on the subject lot are compatible with and will have no significant adverse effects on the appropriate development and use of abutting properties and the surrounding neighborhood. As set forth above in the

Findings of Fact, this area contains a number of similar existing businesses. There was no testimony or evidence whatsoever that would indicate in any manner that the proposed use will have any adverse effect on the neighborhood or abutting properties.

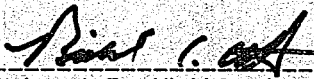
ORDER:

The subject application for a Conditional Use Permit to site a mobile home on the above described property is granted, subject to the following conditions:

1. That the applicant comply with all standards and conditions required by the State Highway Division regarding the access onto Washburn Way.

2. That the applicant file a site plan for administrative approval by the Klamath County Planning Director per Sections 41.004, 41.005, and Articles 41, 65, 68 and 71 of the Land Development Code.

DATED this 24th of October, 1989.


Richard C. Whitlock, 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 26th day
of Oct. A.D. 19 89 at 9:13 o'clock AM., and duly recorded in Vol. M89,
of Deeds on Page 20505.

FEE none

Evelyn Biehn, County Clerk

By Caulise Mullendore

Return: Commissioners Journal