

BEFORE THE HEARINGS OFFICER OF KLAMATH COUNTY, OREGON

In the Matter of the Request) C.U.P. 77-89
 for the Conditional Use Permit) FINDINGS OF FACT,
 for JOHN SPILLANE.) CONCLUSION OF LAW
) AND ORDER
)

This matter came before Richard C. Whitlock, Hearings Officer of Klamath County, Oregon on December 15, 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. John Spillane the Applicant, was present at the hearing and testified in favor of the application. The Klamath County Planning Department was represented by Mr. J. Kim Lundahl 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 (staff report), B (assessor's map), C (plot plan) and several communications clarifying the access to the property. 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 is requesting a Conditional Use Permit to place a mobile home in the R1 Zone (Rural Residential) as an additional residence pursuant to Land Development Code Section 51.004(C)(3).

24913

2. The subject property is located at 5811 Homedale Road, Klamath Falls, Oregon, and is legally described as a portion of SE 1/4, SE 1/4 of Section 14, Township 39, Range 9 E.W.M., Tax Account No. 3909-014DD-2200. The property is located in the R1 (Rural Residential) Zone and is approximately .94 acres in area. This location is outside the Urban Growth Boundary. The mobile home which Applicant desires to place on the property was manufactured in the 1960's, is twelve (12) feet wide by fifty-five (55) feet long, and contains a total of approximately 660 square feet.

3. John Spillane testified at the hearing that his parents are elderly and responsibility for their care has fallen to the Applicant and the mobile home would be used by the parents of the applicant as their permanent residence. Mr. Spillane testified that the single-wide mobile home is owned by the family and that there is some possibility that his parents might purchase a double-wide mobile home in the near future for placement on the property. Mr. Spillane testified there are numerous other mobile homes in the area but there are no other "double residence" properties in the area. Mr. Spillane also stated he had discussed this mobile home placement with some of his neighbors and they were very supportive of the idea.

4. The Planning Department staff recommends a five or six year restriction on this placement because new zoning restrictions being discussed by the Klamath County Commissioners would prohibit additional residences on lots

less than two acres located in the R-1 zone. There was no testimony in opposition to this application despite the fact that eleven (11) nearby property owners were notified of this application.

6. The Applicant's lot is located within Klamath County Fire District No. 1 boundaries, has electricity, water and septic facilities. Access will be off Homedale Road, as direct access to the Southside Bypass is restricted by the State Highway Division, and placement of the mobile home as requested will comply with all setback requirements.

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. Land Development Code Section 51.004(C)(3) provides that an additional mobile home residence may be sited on a lot in the R1 Zone (Rural Residential) by Conditional Use Permit.

3. Klamath County Land Development Article 84, which sets forth the standards for siting mobile homes within the Klamath Falls Urban Growth Boundary, is not applicable to this application.

KLAMATH COUNTY CODE FINDINGS AND CONCLUSIONS:

With respect to the application for Conditional Use Permit to site a mobile home in the R1 Zone, the Hearings Officer makes the following findings:

(1) As set forth above under the Klamath County Land Development Code Criteria [Land Development Code

51.004(C)(3)1, the R1 Zone allows a mobile home for an additional residence as a Conditional Use. The proposed occupants of the mobile home are the applicant's elderly parents who require closer care.

(2) The location, size, design and operating characteristics of the mobile home placement are in conformance with the Klamath County Comprehensive Plan. The subject property is served by water, electrical and sewer services. The subject lot is of adequate size both in width and depth to site the subject mobile home on the lot in a manner which will meet all setback requirements.

(3) The location, size, design and operating characteristics of the addition of this mobile home on the subject lot is 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 neighborhood contains a number of existing mobile homes situated nearby. There was no testimony or evidence whatsoever that would indicate that the siting of a mobile home on this lot as an additional residence for a relative will have any adverse affect on the neighborhood or abutting properties. Eleven (11) neighbors were notified and no negative comments were received.

ORDER:

The application for a Conditional Use Permit to site a mobile home as an additional residence for the use of persons

24916

related to the owner or contractual purchaser on the above described property is granted. This Conditional Use Permit is specifically restricted to use of the mobile home by the parents of the Applicant herein and any mobile home placed on the property shall comply with all existing property development standards, including setbacks. This Conditional Use Permit shall expire on December 31, 1995, or in the event the home is no longer occupied by the elderly parents of the Applicant whichever shall first occur.

DATED this 20th of December, 1989.

Richard C. Whitlock
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 27th day
of December A.D., 19 89 at 10:17 o'clock A M., and duly recorded in Vol. M89
of Deeds on Page 24912

FEE None

Evelyn Biehn County Clerk
By Bernetha J. Hetsch

COMMISSIONERS JOURNAL