

BEFORE THE HEARINGS OFFICER OF KLAMATH COUNTY, OREGON

In the Matter of the Request) No. 8-90
 for Conditional Use Permit) FINDINGS OF FACT,
 for HOY JOHNSON.) CONCLUSION OF LAW
) AND ORDER

This matter came before Richard C. Whitlock, Hearings Officer of Klamath County, Oregon on April 6, 1990, 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. The applicant, Hoy Johnson, 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 Karen Burg. The Klamath County Planning Department file and all contents thereof were incorporated into the record as evidence, including Exhibits A through F. 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 locate a mobile home in the RH (High Density Residential) zone pursuant to Land Development Code Section 97.006(B)(1):

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"B. Discontinued Use - If the nonconforming use of land is discontinued for a period of two (2) years or more, any following use is to be in conformity with all applicable requirements of this Code, except:

"1. The use of a mobile home site for which all of the necessary utilities are in place may be resumed after a discontinuance of longer than two years subject to the granting of a conditional use permit."

2. The subject property is located on the north side of Beverly Drive and approximately 550 feet east of the intersection with the Eastside Bypass, with a Tax Account No. of 3809-34BB-1300. The site is within the Urban Growth Boundary.

3. Applicant, as well as staff, has indicated that there are two mobile homes to the west of subject site, with both mobile homes being single wide.

4. The applicant's site for mobile home is 100 x 140 or approximately 14,000 square feet which is 4,000 square feet more than the minimum lot area of 10,000 square feet for the RH zone. Applicant's plot plan indicates he can meet the required setbacks for the placement of his mobile home. Site has access off of Beverly Drive, a paved County road.

5. The Applicant's lot is located within Klamath County Fire District No. 1, has electricity (PP&L), and telephone available to the site, but the Applicant was not able to state that these utilities are installed or "in place" as required by LDC 97.006(B)(1). Applicant was also unable to satisfy the Hearings Officer that water and septic facilities

are "in place". Applicant testified that the property was last used as a mobile home site in 1970 or 1971 (approximately twenty years ago). At that time, there was a wooden septic facility in use which Applicant testified was no longer functional due to deterioration. Applicant also stated the only water available at that time was a 1/2 inch line which ran from his garage to the mobile home rental. In light of these facts, the Hearings Officer is forced to conclude that all of the "necessary" utilities are not "in place."

6. Brenda Franson, a nearby homeowner, testified in opposition to this application stating that the property is "swampy" during portions of the year, that water service is not hooked up and that an additional mobile home would significantly depreciate property values in the area.

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. Article 97, Section 97.006, Nonconforming Uses of Land, Paragraph (B)(1) sets forth those standards for siting a mobile home when use has been discontinued for longer than two years.

KLAMATH COUNTY CODE FINDINGS AND CONCLUSIONS:

The Hearings Officer makes the following findings:

1. As set forth above under the Klamath County Land Development Code criteria, Section 97.006(B)(1) allows for placement of a mobile home if certain conditions are met.

2. The location, size, design, and operating characteristics for the mobile home placement are in conformance with the Klamath County Comprehensive Plan.

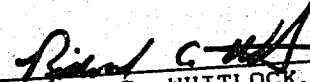
3. The location, size, design, and operating characteristics of this mobile home on the subject lot may have significant adverse affects on the appropriate development and use of abutting properties and the surrounding neighborhood. As set forth above in the Findings of Fact, although this neighborhood already contains three existing mobile homes, there was testimony indicating that the siting of a mobile home on this lot would have an adverse affect on the neighborhood. Because this property is zoned RH and mobile homes are no longer allowed, it is clear that further mobile home placements are intended to be discouraged.

4. The necessary utilities, specifically, septic and water, are available to the property, but are not "in place" as required by the Code.

ORDER:

The subject application for a Conditional Use Permit to site a mobile home on the above described property is denied.

DATED this 10th day of April, 1990.


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."
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STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Klamath County the 13th day
of April A.D., 19 90 at 3:38 o'clock P. M., and duly recorded in Vol. M90
of Deeds on Page 6984.

Evelyn Biehn - County Clerk
By Pauline Mickelson

FEE none

Return: Commissioners Journal