

KLAMATH COUNTY, OREGON

1 In the Matter of Request for
 2 Conditional Use Permit No. 27-85
 3 for Theron & Helene Gorden

) Klamath County Planning
) Findings of Fact and Order

4 A hearing was held on this matter on August 1, 1985, pursuant
 5 to notice given in conformity with Ordinance No. 45.2, Klamath
 6 County, before the Klamath County Hearings Officer, Brad Aspell.
 7 The applicant was present. The Klamath County Planning Department
 8 was Represented by Jonathan Chudnoff. The Hearings Reporter was
 9 Karen Burg.

10 Evidence was presented on behalf of the Department and on
 11 behalf of the applicant. There were no adjacent property owners
 12 present.

13 The following exhibits were offered, received, and made a
 14 part of the record:

15 Klamath County Exhibit A, Staff Report

16 Klamath County Exhibit B, Plot Plan

17 Klamath County Exhibit C, Explanatory Letter

18 Klamath County Exhibit D, Assessor's Map

19 Klamath County Exhibit E, Aerial Photo

20 The hearing was then closed, and based upon the evidence
 21 submitted at the hearing, the Hearings Officer made the following
 22 Conclusions of Law:

23 CONCLUSIONS OF LAW:

24 1. The proposed use is conditionally permitted in the zone
 25 within which it is proposed to be located.

26 2. The location, size, design and operating characteristics
 27 of the proposed use are in conformance with the Klamath County
 28 Comprehensive plan.

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1 3. The location, size, design and operating characteristics
2 of the proposed use will be compatible with and will not have a
3 significant adverse affect on the appropriate development and use
4 of abutting property for the surrounding area. The granting of
5 this Conditional Use Permit is consistent with the goals of the
6 Land Conservation and Development Commission.

7 4. The granting of this Conditional Use Permit is subject
8 to the following conditions:

9 A. The applicant shall construct the proposed 3 bedroom
10 house on the property as is generally shown by Exhibit B, to this
11 application.

12 B. The applicant shall limit the construction of all
13 accessory buildings to areas on the subject property where grade,
14 slope or soil conditions are not conducive to agricultural
15 pursuits.

16 FINDINGS OF FACT:

17 The requested Conditional Use Permit has been granted with
18 conditions, based upon the following findings of fact:

19 1. The subject property is located in the W $\frac{1}{2}$ of Section 22,
20 Township 39, Range 11 E.W.M., Klamath County Oregon, and is known
21 for assessment purposes as Tax Lot 4900. The property is located
22 2 miles south of Bonanza, on West Langell Valley Road. The
23 mailing address is Rt. 1, Box 203, Bonanza, Oregon, 97623. The
24 property is designated as agriculture on the Comprehensive Land
25 Use Plan designation and zoned EFU-CG. The property consists of
26 approximately 20 acres and is wedge shaped as shown in Exhibits D
27 and E. Vegetation is mixed; the flat portion consisting of farm
28 land is currently in alfalfa production. A hill rising to the

1 southwest is covered with native grass, bushes and scattered
2 juniper trees. This later condition covers approximately 3/4 of
3 the total parcel. The property is at the northern edge of the
4 medium/high density deer winter range which in addition includes
5 most of the hills to the south and east. Adjacent and surrounding
6 zoning includes property designated EFU-CG and FR. The property
7 is in close proximity to the Bonanza View Dairy.

8 2. Applicant seeks to build a three bedroom home on the
9 hilly portion near the driveway adjacent to the easterly property
10 line. Applicant states to their knowledge the area in question
11 has not been farmed in the last 25 years. It remains possible
12 that the land was never tilled. The area may have been used at
13 one time for grazing.

14 3. Access to property is gained from the West Langell Valley
15 Road, a paved public road meeting County Road standards. The
16 property lies within the Klamath County School District and is
17 served by Bonanza School. Sewage disposal is by individual septic
18 system, water by individual wells. Utilities serving the property
19 include Pacific Power & Light Company (electricity), United Tele-
20 phone (telephone). The property is within the territory served
21 by Bonanza Rural Fire Protection District. Applicant has received
22 subsurface sewage disposal authorization. Drainage occurs by
23 surface run off in the northerly direction. The property has two
24 primary soil classes one VII on the hill, and soil II on the farm
25 land.

26 5. This application is subject to Article 51, Section 51.018
27 of the Land Development Code (exclusive farm use--crop land/
28 grazing land), Article 44 of the Land Development Code

1 (Conditional Use Permit requirement). Specifically Section
 2 51.018(d) provides 5 criteria for granting a Conditional Use
 3 Permit for non-farm dwellings:

- 4 "1. is compatible with farm use as defined in this Code and
- 5 consistent with the agricultural land use policy adopted by
- 6 the legislative assembly in ORS 215.253,
- 7 2. does not interfere seriously with accepted farming prac-
- 8 tices on adjacent lands devoted to farm use,
- 9 3. does not materially alter the stability of the overall
- 10 land use pattern of the area,
- 11 4. is situated upon generally unsuitable land for the pro-
- 12 duction of farm crops and livestock considering the terrain,
- 13 adverse soil or land conditions, drainage and flooding, vege-
- 14 tation, location and size of tract, and
- 15 5. complies with such other conditions as the Board of
- 16 County Commissioners or its designate considers necessary."

17 A. The Hearings Officer finds pursuant to Section 51.018(d)
 18 that the dwelling while technically a non-farm dwelling would, if
 19 applicant managed the farm be a permitted use.

20 B. That while the current minimum lot size in the present
 21 zone is 80 acres, the parcel was created at a time when the pro-
 22 perty met the minimum lot size of prior the A-F zone, 20 acres.

23 C. Development of the residence is compatible with the
 24 existing farm use, and will not substantially reduce open land,
 25 will preserve the maximum amount of suitable farm land, not cause
 26 expansion of urban development. The property appears to be an
 27 isolated, small, parcel generally surrounded by many large parcels
 28 as shown in Exhibit D and E. A history of use of the land

1 indicates that a part of the property has historically been used
2 for agriculture or grazing. Applicant proposes to limit place-
3 ment of the residence to areas in which neither grazing nor crop
4 production has occurred in the past. Location of the residence is
5 sufficiently far removed from the crop land as to pose no inter-
6 ference with accepted farm use practices. The Hearings Officer
7 can ascertain no reason that approval of this application will
8 truly alter the stability of the overall farm use pattern in the
9 area due to the large acreages and farming production adjoining
10 applicant's land. The residence is situated on generally un-
11 suitable land for production, farm crops, and livestock con-
12 sidering the sloping grade, the adverse class VII soils, the rocky
13 conditions of the land, the nature of the existing vegetation,
14 being sagebrush and juniper trees, and the actual size of the
15 requested residence.

16 6. Article 44 Section 44.030, View Criteria has likewise
17 been met.

18 A. The uses conditionally permitted in the EFU-CG Zone.

19 B. The proposed uses with the Klamath County Comprehensive
20 plan as shown below.

21 C. The proposed development will not have significant ad-
22 verse effects on appropriate development and use of abutting
23 properties based in part, upon the fact that while notice was
24 given no adjacent property owners appeared or contested the
25 application.

26 D. While the subject property is marginally situated within
27 a significant resource overlay zone, a medium to high deer winter
28 range area, the Hearings Officer finds, from reading Exhibit F

1 (a report from the wildlife biologist of the Oregon Department of
2 Fish and Wildlife) that the Department's concern appears to be
3 damage which may result from deer eating ornamental and garden
4 vegetation. The Hearings Officer concludes the letter that
5 applicants development will not interfere with the Department of
6 Fish & Wildlife plan and concludes that the exception procedure of
7 Section 83.003(d) is unnecessary.

8 This Hearings Officer finds that the application complies
9 with comprehensive land use plan of Klamath County. Specifically
10 the Hearings Officer finds goals 4, 7, 8, 13, and 14 are inapplic-
11 able.

12 The Hearings Officer finds goals 1, citizen involvement has
13 been complied with as appropriate notice was given to adjacent
14 property owners, the general public and affected public agencies.

15 Goal 2 has been met in that applicable review criteria have
16 been addressed by the applicant.

17 Agricultural land goal 3 has been met that there will be no
18 loss of agricultural means.

19 Goal 5 has been met, while the property is located on the
20 northern edge of the medium/high density deer winter range, little
21 if any interference will result.

22 Goal 6, water and land resource quality will be met as the
23 subject property will pass DEQ approval.

24 Goal 9 county economy will meet in that the Conditional Use
25 Permit will provide short-term economic benefits through home
26 construction.

27 Housing goal 10 will likewise be met by the creation of a
28 homesite.

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1 Goal II has been met as noted above in that the public
 2 facilities and services are available to serve the homesite
 3 including fire protection, schools, electrical service and tele-
 4 phone.

5 The Hearings Officer, based on the foregoing Findings of
 6 Fact, accordingly orders as follows:

7 That real property is described as
 8 "being generally located two miles south of Bonanza on West
 9 Langell Valley Road, and more particularly described as Tax
 10 Lot 4900, located in the W $\frac{1}{2}$ of Section 22, Township 39,
 11 Range 11, Klamath County, Oregon,"
 12 is hereby conditionally granted a Conditional Use Permit in
 13 accordance with the terms of the Klamath County Zoning Ordinance
 14 No. 45.2, and, henceforth, will be allowed a Conditional Use
 15 Permit to allow a non-farm homesite on a 20 acre parcel in the
 16 EFU-CG zone.

17 DATED this 28th day of August, 1985.

18 HEARINGS OFFICER,

19 BY:

20 Bradford J. Aspell
 21 BRADFORD J. ASPELL
 22
 23

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of _____
 of August A.D., 19 85 at 9:59 o'clock A M., and duly recorded in Vol. M85 day
 of Deeds on Page 13798

FEE NONE

Ret: Commissioners Journal

Evelyn Biehn, County Clerk
 By Tom Smith

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