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BEFORE THE HEARINGS OFFICER

Vol. M80 Page 5804

KLAMATH COUNTY, OREGON

|                              |   |                            |
|------------------------------|---|----------------------------|
| In the Matter of Request for | ) |                            |
| Conditional Use Permit 12-86 | ) | Klamath County Planning    |
| for Kenneth & Darlene Getz   | ) | Findings of Fact and Order |
| _____                        | ) |                            |

A hearing was held on this matter on March 20, 1986, pursuant to notice given in conformity with Ordinance No. 45.2, Klamath County, before the Klamath County Hearings Officer, Jim Spindor. The applicant was present. The Klamath County Planning Department was represented by Kim Lundahl. The Hearings Reporter was Janet Libercajt.

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

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

- Klamath County Exhibit A, Staff Report
- Klamath County Exhibit B, Plot Plan
- Klamath County Exhibit C, Assessor's Map
- Klamath County Exhibit D, Explanation of Proposal
- Klamath County Exhibit E, Letter from Health Department
- Klamath County Exhibit F, Pictures submitted by applicant

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

CONCLUSIONS OF LAW:

1. The proposed use is conditionally permitted in the zone

1 within which it is proposed to be located.

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

5 3. The location, size, design and operating characteristics  
6 of the proposed use will be compatible with and will not have a  
7 significant adverse affect on the appropriate development <sup>and</sup> use of  
8 abutting property <sup>in</sup> the surrounding neighborhood so long as the  
9 conditions set forth hereinbelow are followed.

10 4. The granting of this Conditional Use Permit is consistent  
11 with the goals of the LCDC.

12 5. The requirements of Section 85.003 with regard to home  
13 occupations have been met in that:

14 a. The occupation will be conducted entirely within a  
15 permitted accessory building;

16 b. The occupation will not be the primary use and it  
17 will be operated by the residents of the property;

18 c. The business will employ only residents of the  
19 property;

20 d. No equipment will be used except such as may be used  
21 for purely domestic or household purposes;

22 e. The area of the accessory building used for the home  
23 occupation will be no more than 50 percent of the floor area of  
24 the residence;

25 f. The occupation will not require internal or  
26 external alterations or involved construction features to change  
27 the principal character or use of the dwelling involved;

28 g. Only one sign shall be permitted on the property

1 and said sign shall not exceed six square feet in area and shall  
2 not be lighted at night;

3 h. There is adequate off-street parking which shall be  
4 maintained by the applicant;

5 i. There will be no storage of materials out of doors.

6 6. This Conditional Use Permit is granted subject to the  
7 following conditions:

8 a. This home occupation shall not cause noise which  
9 is offensive to the surrounding neighbors.

10 b. This home occupation shall not cause any smell  
11 which is offensive to the surrounding neighbors.

12 c. The maximum number of quail on the property at any  
13 one time shall be 4,000.

14 d. The applicants shall comply with all federal, state  
15 and local regulations which control commercial bird raising  
16 and processing.

17 e. Prior to commencing use, the applicants shall  
18 provide written clearance from the following affected  
19 agencies: South Suburban Sanitary District, Klamath County  
20 Fire District No. 1, Department of Agriculture, Division of  
21 Health Services, Oregon Department of Fish and Wildlife,  
22 and the Klamath Humane Society.

23 f. This permit shall become null and void upon  
24 conveyance or use of the property by someone other than  
25 Kenneth and Darlene Getz.

26 g. This permit shall be reviewed within one year from  
27 the date of this order to determine whether the above  
28 mentioned conditions have been followed, and to consider

any other reasons why the permit should not be continued.

FINDINGS OF FACT:

The requested use has been granted based on the following Findings of Fact:

1. Kenneth and Darlene Getz, operating a business known as K & D Quality Quail, are applying for a Conditional Use Permit for raising and processing up to a maximum of 4,000 quail within six weeks <sup>periods of</sup>, as a home occupation pursuant to Article 85 of the Code.

2. The property is within the Suburban Residential zone, is rectangular in shape, being approximately 100 feet by 205 feet. Several residences surround the property in question, with the nearest being within approximately 150 feet from the accessory building which is planned to be used for raising quail.

3. The quail are to be grown, processed and delivered to restaurants and others by the applicants. The operation will be conducted entirely within an enclosed accessory building.

4. As a practical matter, the applicants have been raising quail on this property for some time and now have approximately 1200 birds on the property. The applicants state they have had no complaints from surrounding neighbors and that no noise will be generated from this home occupation nor will there be offensive smell generated from the property.

5. The applicants gave uncontested testimony as follows with regard to the home occupation:

a. That the occupation will not be the primary use of the property and that it will be operated entirely by Mr. and Mrs. Getz who reside on the property.

1 b. That no equipment will be used except such as may  
2 be used for purely domestic or household purposes.

3 c. The area of the accessory building to be used for  
4 the home occupation will not exceed 50 percent of the floor  
5 area of the residence.

6 d. That one small sign will be used.

7 e. That there is adequate off-street parking which will  
8 be maintained by the applicants. Further, that the  
9 occupation shall generate little to no additional traffic.

10 f. That there will be no outdoor storage of materials  
11 with regard to the home occupation.

12 6. Notice of this hearing was sent to the surrounding  
13 property owners, to concerned public agencies, and published in  
14 the Herald & News, the Klamath Falls newspaper.

15 7. No one testified in opposition to the granting of this  
16 Conditional Use Permit, and there was no evidence presented that  
17 there would be any adverse affects on the appropriate development  
18 and use of the abutting property ~~owners~~<sup>85</sup> and the surrounding  
19 area so long as the conditions set forth hereinabove are  
20 followed.

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

23 That real property described as

24 "being generally located north of Laverne Street, 200 feet  
25 east of Altamont Drive at 3435 Laverne Avenue, and more  
26 particularly described as portions of Lots 9 & 10, Block 7,  
27 Altamont Acres, Tax Account No. 3909-10AC-4800, Klamath  
28 County, Oregon,"

is hereby conditionally granted a Conditional Use Permit in  
accordance with the terms of the Klamath County Zoning Ordinance

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No. 45.2, and, henceforth, will be allowed to establish a Quail Farm in the RS (Suburban Residential) zone.

Entered at Klamath Falls, Oregon, this 8th Day of April, 1986.

KLAMATH COUNTY HEARINGS DIVISION

Jim Spindor  
Jim Spindor, Hearings Officer

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of \_\_\_\_\_ the 8th day of April A.D., 19 86 at 2:52 o'clock P M., and duly recorded in Vol. M86 of \_\_\_\_\_ Deeds: \_\_\_\_\_ on Page 5804.

FEE NONE  
Return: Commissioner's Journal

By Evelyn Biehn, County Clerk  
Pam Smith