

BEFORE THE KLAMATH COUNTY PLANNING COMMISSION  
KLAMATH COUNTY, OREGON

76165

Vol. 1487 Page 11123

O R D E R

1 IN THE MATTER OF REQUEST FOR )  
2 CONDITIONAL USE PERMIT 7-87 )  
3 FOR A NON-FARM DWELLING IN A )  
4 FARM USE ZONE FOR GILBERT AND )  
5 HAZEL BOTELHO )

5 I. NATURE OF APPLICATION

6 A hearing was held on this matter on May 26, 1987, pursuant  
7 to notice given in conformity with Ordinances No. 44 and No. 45.  
8 This hearing was held before the Klamath County Planning Commission.

9 The request for a non-farm dwelling in an Exclusive Farm Use  
10 zone was considered pursuant to Section 51.017(D)(1-5) of the  
11 Land Development Code.

12 II. NAMES OF THOSE INVOLVED

13 The applicants, Gilbert and Hazel Botelho, were present at  
14 the hearing and testified. The Planning Department staff was  
15 present, represented by Roy R. Huberd. The Klamath County Counsel,  
16 Robert Boivin, was present. There was no oral or written opposi-  
17 tion presented at the hearing.

18 III. LEGAL DESCRIPTION

19 The property is located east of Klamath Falls-Midland Highway  
20 (Tingley Lane), one quarter mile north of Joe Wright Road; speci-  
21 fically, the S $\frac{1}{2}$  of the SW $\frac{1}{4}$  of Section 16, Township 39S, Range 9EWM,  
22 Tax Lot 700.

23 IV. RELEVANT FACTS

24 The property has an agriculture Plan designation with the  
25 zone being Exclusive Farm Use-Cropland (EFU-C). The property is  
26 39 acres in size and is square in shape. The topography is  
27 generally flat with drainage to the south. The area is being  
28 used as grazing land for cattle. The parcel has access off of the

12 PM JUN 25 1987

1 Klamath Falls-Midland Highway, more commonly known as Tingley Lane.  
2 The soils as classified by the Soil Conservation Service are as  
3 follows: 7A Calumus, 28 Henley, 19A Fordney, and 53 Malin, with  
4 Soil Class ranging from II-IV. There is no Timber Site Produc-  
5 tivity Rating. Agricultural practices are characteristic of the  
6 surrounding lands. The Lost River Diversion Canal is about  $\frac{1}{4}$   
7 mile to the south. The subject property is served by individual  
8 well; land is outside of the Klamath Falls Water District. The  
9 property is outside of any sewer district and can only be served  
10 by an individual subsurface system. The property is served by  
11 Klamath County Fire District No. 1, Pacific Power and Light,  
12 CP National Gas, and the Henley School District.

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

15 Klamath County Exhibit A, Application for Change of Land Use  
16 Klamath County Exhibit B, Affidavit of Mailing  
17 Klamath County Exhibit C, Staff Report  
18 Klamath County Exhibit D, Assessor's Maps  
19 Klamath County Exhibit E, Photographs  
20 Klamath County Exhibit F, Bargain and Sale Deed - Statutory

21 Form

22 Klamath County Exhibit G, Minor Partition Map (Topography)  
23 Klamath County Exhibit H, Environmental Health Dept. Comments

24 The property is presently receiving farm tax deferral. The  
25 applicants testified to the fact that they were requesting this  
26 non-farm dwelling for themselves. Their daughter and son-in-law  
27 would then live in the old home and manage the farm.

28 /////

1 V. RELEVANT APPROVAL CRITERIA

2 Refer to Pages 4 and 4a of the Staff Report attached hereto  
3 for conformance with relevant Klamath County Policies. Section  
4 51.017(D)(1-5) of the Land Development Code states:

- 5 D. NON-FARM DWELLINGS: Single family dwelling not in  
6 conjunction with farm use may be established subject to a Condi-  
7 tional Use Permit and a finding that each such dwelling:  
8 1. is compatible with farm use as defined in this Code and  
9 consistent with the agricultural land use policy adopted by the  
10 legislative assembly in ORS 215.243,  
11 2. does not interfere seriously with accepted farming prac-  
12 tices on adjacent lands devoted to farm use,  
13 3. does not materially alter the stability of the overall  
14 land use pattern of the area,  
15 4. is situated upon generally unsuitable land for the pro-  
16 duction of farm crops and livestock, considering the terrain,  
17 adverse soil or land conditions, drainage and flooding, vegetation,  
18 location and size of the tract, and  
19 5. complies with such other conditions as the Board of County  
20 Commissioners or its designate considers necessary.

21 VI. FINDINGS

22 All evidence submitted and testimony given by the Planning  
23 staff and the applicant show that the approval criteria both from  
24 Ordinance 44 and Ordinance 45, specifically Section 51.017(D)(1-5)  
25 has been satisfied.

26 VII. CONCLUSIONS

27 The applicant has satisfied the review criteria in that  
28 correct notice was given, all relevant Comprehensive Plan Policies  
C.U.P. 7-87  
Page 3

1 were complied with, and there were not violations to the Goal 3  
2 agricultural policies. The applicant stated this new residence  
3 was needed for a non-farm dwelling and the Land Development Code  
4 Section 51.017(D)(1-5) were not violated for the following  
5 reasons:

6 D. 1. That the proposed dwelling is compatible with farm  
7 use as defined and ORS 215.243 is not being violated in that the  
8 larger block of agricultural land will remain in farm use.

9 D. 2. The proposed dwelling will not interfere seriously  
10 with accepted farming practices on adjacent lands devoted to farm  
11 use because the new dwelling will be located on a very small par-  
12 cel bordered by Tingley Lane to the west and by the parent parcel  
13 on the other three sides.

14 D. 3. The proposed dwelling will not materially alter the  
15 stability of the overall land use pattern of the area, mainly  
16 because of its small size.

17 D. 4. No finding - no comment.

18 D. 5. One condition will be imposed - see below.

19 VIII. ORDER

20 Therefore, it is hereby ordered that the request for a Condi-  
21 tional Use Permit for a non-farm dwelling be approved subject to  
22 the following conditions regarding on-site sewage disposal:

23 1. A Site Evaluation and a Permit will be issued prior to  
24 installation of a new system; and

25 2. An Authorization Notice will be approved prior to connect-  
26  
27  
28

11127

1 ing to, or changing the use of, an existing structure.  
2

3 Dated this 24 day of JUNE, 1987.  
4

5 CHAIRMAN OF PLANNING COMMISSION  
6 *Frank J. [Signature]*  
7

8 SECRETARY TO THE PLANNING COMMISSION  
9 *Ray [Signature]*  
10

11  
12  
13  
14 APPROVED AS TO FORM AND CONTENT:  
15 *Robert [Signature]*  
16 Legal Counsel  
17  
18  
19  
20  
21  
22

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Klamath County Planning Department the 25th day  
of June A.D. 19 87 at 12:12 o'clock P M., and duly recorded in Vol. M87,  
of Deeds on Page 11123.

FEE

NO FEE

Return: Commissioners' Journal

Evelyn Biehn, County Clerk  
By *[Signature]*

C.U.P. 7-87  
Page 5