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BEFORE THE HEARINGS OFFICER OF KLAMATH COUNTY, OREGON

In the matter of the request for a)
 Conditional Use Permit for)
 BERNARD LEE SIMONSEN,)
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)

CONDITIONAL USE PERMIT
 NO. 78-92

This matter came before Michael L. Brant, Hearings Officer for Klamath County, Oregon on May 14, 1993 in the County Commissioners' Meeting Room in Klamath Falls, Oregon. This matter was heard November 6, 1992 and February 5, 1993 and an order was entered by the hearings officer denying the request February 19, 1993. The action was appealed to the Klamath County Board of Commissioners and heard April 8, 1993. An order remanding the case to the hearings officer was entered April 19, 1993. The hearing was held pursuant to notice given in conformity with the Klamath County Land Development Code and related statutes and ordinances. The Klamath County Planning Department was represented by Mr. Kim Lundahl, and the recording secretary was Ms. Karen Burg. The Klamath County Planning Department file and all the exhibits and other contents therein is incorporated by this reference into this matter. The applicant was present and testified in favor of the permit. Greg Garcia, DVM also testified in favor of the permit. Michael L. Spencer, attorney at law, representing Clyde and Linda Collins and Golf Resources, Inc. testified and argued against the permit. Susan Langfelder and Kent Gooding also testified in opposition to the permit. Rachel Thurston of the Oregon Department of Transportation testified. Ms. Thurston did not testify in favor of nor in opposition to the permit but explained the requirements of the Oregon Department of

Transportation for the issuance of a road approach permit to accommodate the applicant's proposed use. Based upon the evaluation of the evidence received, the hearings officer makes the following findings of fact and conclusions:

FINDINGS OF FACT

1. The applicant is requesting a Conditional Use Permit to establish a livestock sale facility upon premises consisting of 17.6 acres zoned EFU-C. The proposal is to conduct auction sales of registered cattle in a 6,800 square foot presently existing building with a sale ring and seating area provided. Permanent and temporary livestock pens would be located south and west of said building.

2. The property is located at 9390 Highway 140 East approximately 1 1/2 miles east of the Highway 39 junction with Highway 140 East in Klamath County, Oregon more particularly described as follows:

A portion of the Northwest 1/4 Southwest 1/4,
Section 8, Township 39 South, Range 10 East
of the Willamette Meridian.

Tax Account No.: 3910-8-500

3. Access to the property is presently provided by an Oregon Department of Transportation Highway Division Approach Permit for a single residence. A new permit is required for any change in use. The proposed permit would constitute a change of use.

4. Authority for the proposed permit is found in LDC Section 54.030 C and reviewed in accordance with Section 54.040 and Article 71 Sections 71.010 and 71.020 C.

5. The subject property is within an EFU-C Zone and the applicant's requested Conditional Use Permit is conditionally permitted in this zone.

6. The applicant has not obtained a new access permit from the Oregon Department of Transportation Highway Division.

7. The applicant proposed to limit the number of auctions per year to six involving cattle on the premises and possible video sales in which no sale cattle would be located on the premises. The number of cattle for any one auction would be 100 or less.

8. Objections to the permit include noise, odor, and traffic.

9. The present EFU-C Zone permits livestock production and livestock sales are a permitted conditional use.

10. The purpose of the EFU-C Zone is to preserve and maintain agricultural lands for farm use and future needs of agricultural products and are intended to guarantee the preservation and maintenance of those areas so classified for farm use free from conflicting nonfarm uses and influences.

CONCLUSION

1. The proposed use complies with the policies of the comprehensive plan.

2. The proposed use is in conformance with all other required standards and criteria of this code except the requirements of Article 71 which requirements may be met at a future time.

3. The location, size, design, operating characteristics of

the proposed use will not have a significant adverse impact on the liveability, value or appropriate development of abutting properties and the surrounding area in view of the fact that livestock production is a permitted use.

4. The use will not enforce a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use.

5. The use will not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

ORDER

Based upon the findings and conclusions herein the Conditional Use Permit application is approved upon the condition the applicant complies with the requirements of LDC Article 71 Sections 7.010 and 71.020C; and further upon the condition that the number of auctions be limited to no more than six per year with no more than 100 livestock for sale on the premises for each event.

DATED THIS 25th day of May, 1993.

Michael L. Brant

Michael L. Brant
Hearings Officer

KLAMATH COUNTY LAND DEVELOPMENT CODE SECTION 24.060 PROVIDES:

"An Order of the Hearings Officer may be appealed to the Board of County Commissioners within seven (7) days of its mailing as set forth in Article 33."

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Klamath County the 28th day of May A.D., 19 93 at 9:41 o'clock A M., and duly recorded in Vol. 493 of Deeds on Page 12214.

FEE No Fee
Return: Commissioners Journal

Evelyn Biehn County Clerk
By *Annelle Mueller*