

## BEFORE THE HEARINGS OFFICER KLAMATH COUNTY, OREGON

In the Matter of the Request for a  
Conditional Use Permit by

STEPHEN HILBERT and DEBBIE HILBERT,

Applicants.

CUP 3-96

ORDER

## 1. NATURE OF THE REQUEST:

The applicant wishes to establish a bed and breakfast facility on 100 acres zoned EFU-CG. The request was heard by the Hearings Officer on March 15, 1996 pursuant to Ordinances 44 and 45. The request was reviewed for conformity with Land Development Code Article 54 and O.R.S. 215.243.

## 2. NAMES OF THOSE WHO PARTICIPATED:

The Hearings Officer in review of this application was Neal G. Buchanan. The applicants appeared and offered testimony in support of the application. The Planning Department was represented by Kim Lundahl, and the recording secretary was Karen Burg.

## 3. PROPERTY LOCATION:

The property under consideration is generally located east of the Williamson River at the intersection of Highways 62 and 97. See legal description attached hereto, marked Exhibit A.

## 4. RELEVANT FACTS:

The property has an implementing zone of EFU-CG. The parcel is approximately 100 acres in size. The planned facility is to encompass three residential structures on the property.

## 5. EVIDENCE RECEIVED:

Exhibits A (the Staff Report) through C.

## 6. FINDINGS:

The Hearings Officer finds this application:

1. Is compatible with farm use because the use is compatible with the predominant adjacent land uses, and the existing residential density of the area will not be markedly increased.

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2. Does not interfere seriously with accepted farming practices on adjacent lands devoted to farm use. The applicant has proposed as a condition of this approval to file a restrictive covenant which will prohibit the applicant and successors in interest from filing complaint concerning valid farming practices on nearby lands. The Hearings Officer finds that this will mitigate impact on farm operations.

3. Does not alter the stability of the overall land use pattern of the area. The land use pattern of the area will not be modified as the residential intensity will only be marginally increased.

4. Access to the parcel is from Highway 97 along an easement to the subject property. Use of the roadway will not interfere with farm practices.

7. ORDER:

Therefore, it is ordered that the request of Stephen and Debbie Hilbert CUP 3-96 is approved subject to the following conditions:

1. The applicant shall file a restrictive covenant with the County Clerk prohibiting the applicant and their successors in interest from filing complaint concerning accepted resource management practices that may occur on nearby lands.

2. Proof of legal access to the satisfaction of the Planning Director must be on file prior to the issuance of any development permits.

3. Any development of the bed and breakfast operation shall be in conformity with Article 85.050, or such Article as subsequently replaces Article 85.050. A copy of the present Article 85.050 is attached hereto, marked Exhibit B.

4. This CUP will expire two years from the date below unless a development permit is obtained or an extension is approved by the Planning Director.

DATED this 18 day of MARCH, 1996.

  
NEAL G. BUCHANAN  
Hearings Officer

## NOTICE OF APPEAL RIGHTS

You are hereby notified this application may be appealed to the Klamath County Board of Commissioners by filing with the Klamath County Planning Department a Notice of Appeal as set out in Section 33.004 of the Klamath County Land Development Code, together with the fee required within SEVEN DAYS following the mailing date of this order.

## 2. LEGAL DESCRIPTION OF PROPERTY

Lot 33, Section 9; SW $\frac{1}{4}$  SW $\frac{1}{4}$  SW $\frac{1}{4}$  and Lot 15, Section 10; W $\frac{1}{2}$  NW $\frac{1}{4}$  NW $\frac{1}{4}$  and NW $\frac{1}{4}$  SW $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 15; and Lots 1, 10, 11 of Section 16; all in Township 35 South, Range 7 East of the Willamette Meridian, Klamath County, Oregon.

EXCEPT a portion of Sections 15 and 16, Township 35 South, Range 7 East of the Willamette Meridian, Klamath County, Oregon, more particularly described as follows:

Beginning at the quarter corner common to Sections 9, 10, 15 and 16, Township 35 South, Range 7 East of the Willamette Meridian, Klamath County, Oregon; thence South 4° West 1820.20 feet, more or less, to an iron pin on the South line of Lot 11 of said Section 16 which is the true point of beginning; thence West along said line a distance of 687.20 feet, more or less, to an iron pin on the East bank of the Williamson River; thence Northerly along said East bank a distance of 136.80 feet, more or less to an iron pin; thence East parallel to said South line of Lot 11 a distance of 904 feet, more or less, to an iron pin on the West line of a private roadway; thence South along West lot line a distance of 138.40 feet, more or less, to an iron pin on the South line of said Lot 11; thence West along said South line a distance of 176.80 feet, more or less, to the true point of beginning. See Exhibit "A" attached hereto and by this reference incorporated herein.

EXHIBIT A

85.050 - BED AND BREAKFAST STANDARDS

Bed and Breakfast operations may be allowed subject to a conditional use permit (Article 44) if the following criteria are satisfied in addition to those of Section 44.030:

- A. Minimal outward modification of the structure or grounds may be made only if such changes are compatible with the character of the area or neighborhood and the intent of the zoning district in which it is located.
- B. One off-street parking space shall be provided for each guest room. The front yard shall not be used for off-street parking for guests unless the parking area is screened and landscaped pursuant to Articles 64 and 65.
- C. Those facilities providing service to more than 6 guests are not considered "license exempt" under state law and must comply with state hotel/motel restaurant licensing procedures administered by the Health Department. The issuance of such licenses shall not be considered as conferring nonconforming status to the use which would either allow alteration of the facility or otherwise compel rezoning of the property for commercial use.
- D. 1 on-premise sign may be approved provided that such sign is not more than 6 square feet in size.
- E. Room rentals to guests shall not exceed 14 consecutive days.
- F. The bed and breakfast facility must be accessory to and contained within the single-family dwelling occupied by the owner (not a manager) or within accessory dwelling units or structures which lawfully exists.
- G. The bed and breakfast facility shall not begin operation until the Health Department has inspected and approved the facility.

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Klamath County the 21st day of March A.D. 19 96 at 10:54 o'clock A.M., and duly recorded in Vol. M96 of Deeds on Page 7691.

FEE No Fee Commissioners Journal  
 By Bernetha G. Letsch County Clerk

**EXHIBIT B**