

BEFORE THE HEARINGS OFFICER
FOR KLAMATH COUNTY, OREGON

In the Matter of a
REQUEST FOR A
CONDITIONAL USE PERMIT

NO. 45-82

for

KLAMATH COUNTY
PARKS DEPARTMENT

FINDINGS OF FACT, DECISION
AND ORDER

THIS MATTER came on for a hearing before the Klamath County Assistant Hearings Officer, JAMES R. UERLINGS, on December 2, 1982, at 1:30 p.m. in the Commissioners' Hearing Room of the Klamath County Courthouse. This hearing was held pursuant to notice given in conformity with the Klamath County Development Code and related ordinances. The applicant was present at the hearing through its agents, Keith Read, Walt Badorek and Richard Wickline. The Klamath County Planning Department was represented by Jonathan Chudnoff. The Hearings Reporter was Karen Alberto. No one appeared in opposition to the proposed conditional use permit, not was there any written correspondence against it.

The following Exhibits were offered, received and made a part of the record: Exhibits "A" through "N". The Hearing was then closed.

The Hearings Officer, after reviewing the evidence presented, makes the following decision:

* * * * *

FINDINGS, DECISION AND ORDER, Page One.

1 FINDINGS OF FACT:

2 1. Subject property is currently owned by Pacific
3 Power and Light Company. Pacific Power and Light Company will
4 lease the property to Klamath County. Klamath County, in coop-
5 eration with the Klamath Sportsman's Park Association, will be
6 involved in the development of the facility.

7 2. The property contains approximately 305 acres
8 described as Tax Lots 3907-6400, 6600, 8300, 8500, 8510 all
9 lying on the North side of Oregon State Highway 66 in Klamath
10 County, Oregon.

11 3. The Comprehensive Plan designation is Forestry
12 and the land use zone is Forestry 1.

13 4. Public utilities and facilities are water service
14 by well, sanitation by septic system, electricity by Pacific
15 Power and Light, and telephone by Pacific Northwest Bell.

16 5. The applicant desires to establish a participant
17 sports facility to include rifle, muzzle loading and pistol
18 ranges, four-wheel drive vehicle course, motorcycle motorcross
19 course, several archery ranges, a sports car track, a model radio
20 controlled aircraft field, picnic and camping facilities and
21 caretaker facilities.

22 6. The surrounding and/or adjacent zoning is Forest I
23 and EFU. The uses consist of forest and grazing land and also
24 land which is open to hunting and water recreation along the
25 Klamath River which this property will abut. Three mobile homes
26 are located within two (2) miles of the property.

1 6. The physical dimensions of the property are
2 approximately 3/4 mile by 1/2 mile; acreage is 305 acres; the
3 shape is irregular and vegetation is sparse to moderately
4 dense pine trees with some grassy areas. The topography rises
5 from about 3800' above sea level at the river to nearly 4000'
6 at the property's easterly boundary. The general drainage is
7 northwesterly to the Klamath River. The soil classification
8 is IV, and the timber site productivity rating is VI and VII.

9 7. Access to the property is from Oregon State
10 Highway 66.

11 8. There are no fire districts covering this area
12 and the nearest equipment is located in Keno, Oregon, approxi-
13 mately five (5) miles to the East.

14 9. The park would meet an existing crucial need for
15 recreational facilities of several types which are currently
16 not available or available to Klamath County residents on a
17 restricted basis. The park would additionally add to the
18 tourist attraction of Klamath County. The intended sports
19 uses on the property could add substantially to an increase
20 in general noise levels in the area from the vehicular traffic
21 and the vehicular sports participation and from the rifle
22 ranges. However, the applicant intends to design the rifle
23 range in strict compliance with the rules of the National Rifle
24 Association which will include protection and safety to the
25 participants, spectators and surrounding residences and wildlife
26 and will, additionally, take all reasonable steps to reduce the

1 noise levels from these activities. In addition, the rifle
2 range and the vehicular racetracks will be supervised activities
3 and it is planned that the vehicular sports will only be allowed
4 on a special event basis. The applicant conducted several noise
5 level tests on the property and found that the noise levels
6 in several directions were either slight or not audible at all
7 for the planned activities.

8 10. The site is adequate in size and shape to house
9 the various activities proposed by the applicant. The proposed
10 activity will fit in with the surrounding neighborhood as long
11 as the conditions which are proposed further on in this Order
12 are complied with.

13 11. The proposed activities will possibly create ad-
14 verse effects of noise, dust, fire hazards and litter, all of
15 which may be reduced or eliminated through the conditions that
16 are proposed through this Order and the enforcement of those
17 conditions.

18 12. The following conditions are found to be necessary
19 in order to protect the general health, safety and welfare.
20 However, where the applicant, in its Exhibit "M", has proposed
21 more stringent conditions, those conditions shall be followed.
22 Additionally, the applicant may follow its proposed time table
23 in Exhibit "M" in complying with these conditions. Where no
24 time table for a particular condition is proposed in Exhibit "M",
25 the applicant must comply with the condition within six (6)
26 months from the start of the project:

FINDINGS, DECISION AND ORDER, Page Four.

1 A. That the applicant construct a main road
2 system through the park to the County specifications as per
3 development plans to accomodate heavy vehicles. Gates and
4 cattle guards should be installed on these roads where appro-
5 priate. The County shall survey and establish park boundaries.
6 The applicant shall construct a 6' high chain link or appro-
7 priate fencing along the southerly, easterly, and a portion
8 of the north side of the park.

9 B. The applicant shall place and maintain sign
10 posts along the project boundary. These posts are to be spaced
11 so that they can be seen one from the other (intervisible, not
12 to exceed 300' apart).

13 C. The applicant shall construct a caretaker
14 site to include water, sewage and electrical hookup which meet
15 County Code.

16 D. The applicant shall require a caretaker on
17 the property to reside there on a twenty four (24) hour basis.

18 E. The applicant at all participants' sports
19 activities, where participants and/or spectators anticipated
20 to be on the property exceed a number of 100, shall cause indivi-
21 duals trained as emergency medical technicians to be available
22 on the site, and if an assembly of more than 1000 persons
23 is anticipated, they shall cause to have at least one first
24 aid station manned by two (2) individuals trained as emergency
25 medical technicians available. In addition, should this assembly
26 exceed 2500, there shall be at least one (1) ambulance or rescue

1 vehicle in attendance at all times. In addition, it is recom-
2 ended that the applicant, in conjunction with the State Highway
3 Department, study the possibility of placing a traffic control
4 devise on the cross walk next to the Keno Store to protect
5 children and other pedestrians.

6 F. Fire breaks shall be placed around the perimeter
7 of the property.

8 G. The applicant shall establish a system for
9 checkin and checkout of participant's sports facility users and
10 shall insure that one or more persons are supervising, and not
11 participating in, each sports' use including, but not limited
12 to, motorcross, four-wheel drive activities, sports car track
13 users, rifle, pistol or muzzle loader range users.

14 H. There shall be tree planting in a 300' buffer
15 strip along the Highway in order to provide more effective
16 screening both visually and from noise and dust problems.

17 I. The applicant shall buffer the drainage
18 from four-wheel drive and motorcross activities to lessen the
19 chances of silt ending up in the drainage from the property and
20 eventually into the reservoir.

21 J. The park shall be open to participants'
22 sports only from one (1) hour after sunrise to one (1) hour
23 before sunset, seven (7) days per week.

24 K. The applicant shall prevent all motor vehicle
25 activity at all times along the shore line of Klamath River.

26 L. The applicant shall take steps to mark the

1 old Applegate Trail which passes through the proposed park.

2 M. The applicant shall take steps to restrict
3 human activity along the shore line area of the Klamath River
4 from February through May of each and every year.

5 N. The applicant shall take steps in order to
6 adequately landscape the property for aesthetic purposes in-
7 cluding shrubbery, deciduous trees and grass, especially in
8 the picnicing and camping areas.

9 O. Throughout the park, the applicant shall
10 establish restroom facilities with running water and regular
11 flush toilets.

12 P. The applicant shall install an irrigation
13 system in order to provide adequate water to the shrubbery,
14 trees and grass and to water down the race track area in order
15 to prevent, as much as possible, dust in the area.

16 Q. The applicant shall pave the main access road
17 which will run through the property to County standards.

18 R. The applicant shall take steps to establish
19 access to the reservoir for fire suppression throughout the
20 park.

21 S. The applicant shall establish rules for use
22 of the park to prevent visitors to the park from interfering
23 and from harming wildlife which may be present in the park.

24 T. Each facility in the park shall conform to
25 any national organizational regulations governing such type
26 of sports activity.

1 U. The applicant shall follow the general plot
2 plan as submitted.

3 V. During the use of the vehicular sports area,
4 the applicant shall have a water tanker truck available in order
5 to water down the track and general area in addition to the
6 underground water system.

7 W. The applicant shall insure that all vehicles
8 using the vehicular track areas use properly working mufflers.

9 X. The applicant shall employ sufficient indivi-
10 duals in order to insure that litter control is maintained with-
11 in the park and on the adjacent roads and properties.

12 Y. The applicant shall submit its final plot
13 plan to the Hearings Officer for additional approval prior to
14 the starting of the project.

15 12. The applicant has performed a study of areas
16 within a twenty (20) mile radius of Klamath Falls and has
17 determined that this site is the only one which has the ability
18 to serve all the participant sports facilities and the number
19 of participants and spectators anticipated to use the facility.
20 It has met all the applicant's criteria and is the only site
21 available. Soil classifications would only allow marginal use
22 of the land and the applicant does intend to so some planting
23 of trees on the parkland. The proposed activity will not
24 interfere with forest use as the planned use is an open space
25 use.

26 13. This project is a well-planned effort. The

1 biological study concluded that a well-developed use of the
2 facility, including planning for wildlife, would enhance the
3 wildlife use of the facility and increase wildlife population
4 rather than hamper it.

5 KLAMATH COUNTY DEVELOPMENT CODE CRITERIA:

6 1. Klamath County Development Code Section 44.003
7 sets forth the general criteria for consideration in the
8 application for a conditional use permit:

9 A. That the use is conditionally permitted in
10 the zone in which it is proposed.

11 B. That the location, size, design and operating
12 characteristics of the proposed uses is in conformance with
13 the Klamath County Comprehensive Plan.

14 C. That the location, size, design and operating
15 characteristics of the proposed development will be compatible
16 with, and will not adversely effect, the livability or appro-
17 priate development of abutting properties in the surrounding
18 neighborhood. Consideration shall be given to the harmony in
19 scale, bulk, coverage and density; to the availability of
20 civic facilities, and utilities; to harmful effects, if any,
21 upon desirable neighborhood character; to the generation of
22 traffic and the capacity of surrounding streets and to other
23 relevant impact of the development.

24 D. That the location, size and site planning
25 of the proposed development will provide a convenient and
26 functional living, working, shopping, or civic environment, and

1 will be as attractive as the nature of the use and its location
2 in this setting warrant.

3 2. The Klamath County Code Section 44.001 sets forth
4 the general purpose of Article 44, Conditional Use Permit, as
5 follows: The purpose of the Conditional Use Permit is to provide
6 a mechanism whereby uses which may be suitable only in certain
7 locations or only if designed or operated in a particular manner
8 may be allowed within the basic zone designation.

9 3. ORS 197.175 requires all zoning and related ordi-
10 nances adopted by the County be in conformance with the State-
11 wide Planning Goals.

12 4. Section 51.021 in Klamath County Development
13 Code provides, in Section C 1 and 2, for the development of
14 civic use types and participant sports use types. These
15 sections as broadly construed would include all the activities
16 proposed by the applicant on a conditional use permit basis
17 in a Forestry 1 zone.

18 KLAMATH COUNTY DEVELOPMENT CODE FINDINGS AND CONCLUSIONS:

19 1. The proposed use has a location, size, design
20 and operating characteristics which are in conformance with the
21 Klamath County Comprehensive Plan.

22 2. The location, size, design and operating charact-
23 eristics of the proposed development will be compatible with,
24 and will not adversely effect the livability, or the appropriate
25 development of abutting properties and the surrounding neigh-
26 borhood.

1 3. The proposed use will be in harmony in scale,
2 bulk, coverage and density with the existing uses. No harmful
3 effects will be made upon the desirable neighborhood character.
4 No additional generation of traffic beyond the capacity of the
5 surrounding streets will be created.

6 4. The location, design and site planning of the
7 proposed development will provide for a convenient and func-
8 tional living, working, shopping and civic environment and will
9 be as attractive as the nature of the use and its location in
10 this setting warrant.

11 5. See Findings 1-13 under the Findings of Fact section
12 above.

13 6. The conditions as set forth in #11, A-Y, above
14 under the Findings of Fact section shall be imposed as conditions
15 upon this conditional use permit as they are found to be in the
16 interests of public health, safety and welfare.

17 STATE-WIDE PLANNING GOALS, CRITERIA AND FINDINGS:

18 The granting of this conditional use permit is con-
19 sistent with the goals of L.C.D.C. See Exhibit "AA".

20 CONCLUSIONS OF LAW AND DECISION:


21 1. The request for conditional use permit on the sub-
22 ject property meets all applicable Klamath County Development
23 Code criteria and policies governing such.

24 2. The request for a conditional use permit is con-
25 sistent with, and complies with all the applicable State-wide
26 Planning Goals, Criteria and Statutes.

FINDINGS, DECISION AND ORDER, Page Eleven.

3. Therefore, it is hereby ordered that the request by the applicant for a conditional use permit on the subject property as described above is hereby granted, provided that the applicant follows the conditions as set forth above and further, provided that the applicant submits its final plot plan for approval by the Hearings Officer.

DATED this 14 day of December, 1982.


JAMES R. UERLINGS
Assistant Hearings Officer

COMPREHENSIVE PLAN POLICIES AND STATE
LAND USE GOALS 1 - 14

17932

GOAL NO. 1 - Citizen Involvement

☒ Complies ☐ Does not Comply☐ Complies with conditions☐ Not applicable

Relevant Policies:

1. A hearing on this matter has been set for December 2, 1982. Notice has been sent to neighboring property owners, the Keno Area Committee, concerned public agencies and to the Herald and News.

State Goal Issues:

GOAL NO. 2 - Land Use Planning

☐ Complies ☐ Does not comply☒ Complies with conditions☐ Not applicable

Relevant Policies:

3. Concerned public agencies have been notified and comments solicited.
8. With adequate fencing and fire breaks provided, conflicts with surrounding forest uses would be minimal. There are three dwellings within 2 miles of the park. Two are not within sight, one is directly across the reservoir to the northwest of the park. Noise and dust could create conflicts with these homes.

State Goal Issues:

GOAL NO. 3 - Agricultural Lands

- ☐ Complies ☐ Does not Comply
☐ Complies with conditions
☒ Not applicable

Relevant Policies:

State Goal Issues:

A portion of the property is leased for seasonal grazing. The property as a whole is in SCS Soil Class VII which provides marginal pasture at best. Vegetation on the site appeared sparse. It does not appear that this loss of marginal grazing land would have a significant adverse effect on the county's agricultural base.

GOAL NO. 4 - Forest Lands

- ☐ Complies ☐ Does not Comply
☒ Complies with conditions
☐ Not applicable

Relevant Policies:

(1) (2) Some tree removal and tree planting will occur for fire break and landscaping purposes. The outdoor activities proposed will not interfere with the basic forest resource which would still be available for use if the park ceases operation. Traffic into the park would not pass through adjacent forest lands which will be separated from the park by a fence and fire break.

State Goal Issues:

Goal 4 provides for recreational use in forestry areas.

GOAL NO. 5 - Open Space, Scenic and Historic Areas, and Natural Resources

17934

☐ Complies ☐ Does not Comply☒ Complies with conditions☐ Not applicable

Relevant Policies:

(1-8) The Klamath River, John Boyle Reservoir and surrounding forests and mountains are a scenic resource for travellers on Highway 66, residents and recreational users of the area. The park will retain the area's basic character with no major structures (except a caretaker's residence) planned. A 300' buffer strip will be provided between the park and highway. The park is in an area of early Klamath River fords on the old southern Oregon Wagon Road as indicated by state historical markers near the present bridge and by a county marker across the reservoir (see exhibit D). The park and its related activities would not alter any historical site. The park and the adjacent reservoir are used by waterfowl and other wildlife. The Oregon Fish and Wildlife Dept. (exhibit G) suggests measures which should be followed to minimize impacts on wildlife and their habitats.

GOAL NO. 6 - Air Water and Land Resource Quality

☐ Complies ☐ Does not Comply☒ Complies with Conditions☐ Not applicable

Relevant Policies:

(1, 7, 8, 9) Some of the activities, in particular four-wheel drive and moto-cross racing, would have a high potential for erosion which could affect the Klamath River and a small creek crossing the property. Providing buffers and restricting vehicle use as recommended by the Fish and Wildlife Dept. (exhibit G) would greatly reduce this potential. Noise would affect the three nearest residences (indicated ~~XXXXXXXXXXXXXXXXXXXX~~ on exhibit B) especially the mobile home directly across the reservoir. While the noise itself could not be eliminated if these uses are approved, a restriction on the days and times for these uses could help reduce any problem.

Page 2
GOAL NO. 7 - Natural Disaster and Hazards Area

17935

☐ Complies ☐ Does Not Comply

☐ Complies with conditions

☒ Not applicable

Relevant Policies:

State Goal Issues:

There are no inventoried hazard areas affecting this park.

GOAL NO. 8 - Recreation Needs

☒ Complies ☐ Does Not Comply

☐ Complies with conditions

☐ Not applicable

Relevant Policies: (1, 2, 3, 7)

In its Comprehensive Plan, Klamath County supports the creation of a "sportsman's park". At the present time there are no facilities open to the general public which offer the archery and firearm ranges and cross-country race courses to be offered by this park. Shooters are usually relegated to using the open country or such "informal" firing ranges as the area northwest of OIT or along DeLap Pit Road. Trespassing, litter, ~~State Goal Issues~~ and safety problems can always arise out of such unsupervised use.

The lack of a moto-cross and four-wheel-drive course has lead to use of public roads on public and private lands with consequent road and resource damage. The creation of a course would channel the use to a controlled area.

GOAL NO. 9 - County Economy

- ☐ Complies ☐ Does not Comply
☐ Complies with conditions
☒ Not applicable

Relevant Policies:

State Goal Issues:

GOAL NO. 10 - Housing

- ☐ Complies ☐ Does not Comply
☐ Complies with conditions
☒ Not applicable

Relevant Policies:

State Goal Issues:

GOAL NO. 11 - Public Facilities and Services

17937

☐ Complies ☐ Does not Comply

☒ Complies with conditions

☐ Not applicable

Relevant Policies:

Electrical and telephone service would be available. The property is not in a fire protection district. Fire fighting equipment is at Keno, about five miles to the east. The necessary fire breaks and water sources should be developed to and in containing any fire on the site.

State Goal Issues:

GOAL NO. 12 - Transportation

☐ Complies ☐ Does not Comply

☒ Complies with conditions

☐ Not applicable

Relevant Policies:

Access if from Oregon Highway 66, where traffic is substantially below its capacity at the present time. To avoid congestion and hazards, access should be limited as shown on the plot plan.

The increase in traffic through Keno could create a problem for area residents - the need for traffic signals should be addressed.

State Goal Issues:

GOAL NO. 13 - Energy Conservation

17938

- ☐ Complies ☐ Does Not Comply
☐ Complies with conditions
☒ Not applicable

Relevant Policies:

State Goal Issues:

GOAL NO. 14 - Urbanization

- ☐ Complies ☐ Does not Comply
☐ Complies with conditions
☒ Not applicable

Relevant Policies:

STATE OF OREGON; COUNTY OF KLAMATH; ss.

Filed for record

this ¹⁵ 15 day of Dec A.D. 19 82 at 3:59 o'clock P M and

duly recorded in Vol. M82, of Deeds on a.c. 17920

State Goal Issues:

Fee None

COMMISSIONERS JOURNAL

EVLYN OEHN, County Clerk

By [Signature]