

We the undersigned do petition the Klamath County Commissioners that Klamath County through Planning and the L.C.D.C. and with respect to the imminent Comprehensive Land Use Plan to cancel and relocate the Cell-Tech Company at County expense and restrict any future expansion of this company without first making further study of the operation with public hearings for the following reasons:

1. No information was furnished surrounding affected land owners on the new plant in 1983. Three homes closely affected are under 250' and twelve residences lie within a half mile distance of the operation. See Location Map and a copy of the first notice of operation in the local newspaper. (Mar. 11, 1983)
2. No study of the traffic flow with respect to proximity to a hazardous structure namely topography from the Diversion Canal Bridge crossing on Hwy. #39 and an underpass beneath the "C" Canal where a permit of access has been granted. Numerous accidents and fatalities have occurred here in the past years. The facility operated on a 24 hour basis with approximate 7 to 8 employees per 6 hour shift for the algae season from June to October in 1983. (35 employees according to the Herald & News of Aug. 15, 1983 while the article on Mar. 11, 1983 stated "about 15 people will be employed") The traffic flow was at its highest at this period of time on Hwy #39 due to tourist, industrial and agricultural activity.
3. No sound pollution study of the plant was made by the County Planning. This item should be considered as the operation is in a Residential Zone as shown on the Klamath County Maps. Oregon State Law covers the maximum sound allowed in this area for such activities. See ORS 340-35-005 and ORS 340-35-035 Table 8.
4. It is a Light Industrial Operation. By definition from the State of Oregon an activity that is not directly associated with an agriculture operation of the land is deemed to be a commercial or industrial engagement. Examples of this are potato packing and processing, meat packing and processing, animal feed processing and packing, livestock auction yard and grain elevators. Cell-Tech is not engaged in any aquaculture activity as there are no ponds or lagoons on the leased property. They are collecting algae from the irrigation water in the concrete flume by screening, grading and freeze-drying the product in large approximate 15 to 20 gallon containers which are put in cold storage for further processing here or elsewhere. Attached newspaper articles verify the above.
5. Copy of the lease from the U.S.B.R. states they must comply "with all County and State permits dealing with construction activity". This item appears to have been overlooked or ignored by the County Planning.
6. They are outside the Urban Growth Boundary in a residential zone and incorrectly located even for a conditional use permit. They should have been located 2-3 miles North within the Urban Growth Boundary. See the Comprehensive Plan Map.

9862

In addition they should have been located under the "A" Canal on leased or purchased private or government land readily available and where correct zoning would apply. This would have been a much more efficient location as approximately 1100 second feet of water is available here as compared to approximately 200 second feet available under the "C" canal at the existing location. Future expansion is limited as a result. In essence the Comprehensive Land Use Plan drawn up by the Planning Dept. was totally ignored.

7. Expansion of this facility should be addressed and cancelled by moving the operation entirely out of the area at Klamath County expense. An additional structure already has been added to the original structure of 1983. See copy of the original sketch on the Bldg. Permit. Also see a copy of the Herald & News article on Aug. 15, 1983 page 2 which tells of a planned three or four time expansion.

The need for this proposed move was noted as the "Jerry" rigged operation on the exterior was apparent as some of the employees were working under a sun-fly structure on a concrete slab on the Southerly side of the original building during the operation months and miscellaneous unused equipment was scattered to the Northerly side of the building where some is still lying at this date. A large propane tank was in full view of the highway which added to the clutter.

On Page 2, January 19, 1984 of the Herald & News the subject of Landscaping was broached (see copy enclosed) on the Comprehensive Plan for Commercial and Industrial areas and is needed for this type of operation as is now required by fence screening of Auto Wrecking Yards and other similar enterprises. This algae facility is really bursting at the seams and needs study. The owner-operator does not appear to be wholly at fault on this item.

8. The U.S.B.R. and the Klamath Irrigation District should cancel the existing lease as evidently no consideration was given of possible damage to a 60 year old concrete structure which in case of failure could nullify delivery of irrigation water on the "C" system during the growing season to Klamath County farm operators affected. Therefore it is apparent that water users under the "C" system are involved. This system was constructed and paid for for the express purpose of irrigation and for no other use at its inception and all affected should so judge by vote any changes to this policy. Note: Dist. of copies of this petition furnished to U.S.B.R., Sacramento, Ca. and Klamath Falls, Ore. Klamath Irrigation District Board Chairman.

9. With reference to C.R.S. 197.590-197395 which simply state that any action on government land is not covered by local and state laws of planning.....the County is not consistent in treatment of this case in notifying concerned individuals as they did on the recent Stukel Mountain placement of a TV transmission antennae which also was on government land. As mentioned above the lease further waives this state law. To sum this up it appears local planning equals no control.

10. The question of status has already been indicated above as any land owner adjacent to this operation or under the "C" system.

## Enclosures:

1. Newspaper article March 11, 1983.
2. Location Map.
3. Newspaper article August 15, 1983.
4. See Klamath County Comprehensive Plan Map
5. Copy of Building Permit and Sketch
6. Newspaper article January 19, 1984.
7. Aerial View of Area.
8. County Response
9. Our Response
10. Letter of Transmittal - LCDC

(Mabel Dixon) ----Signatures-----

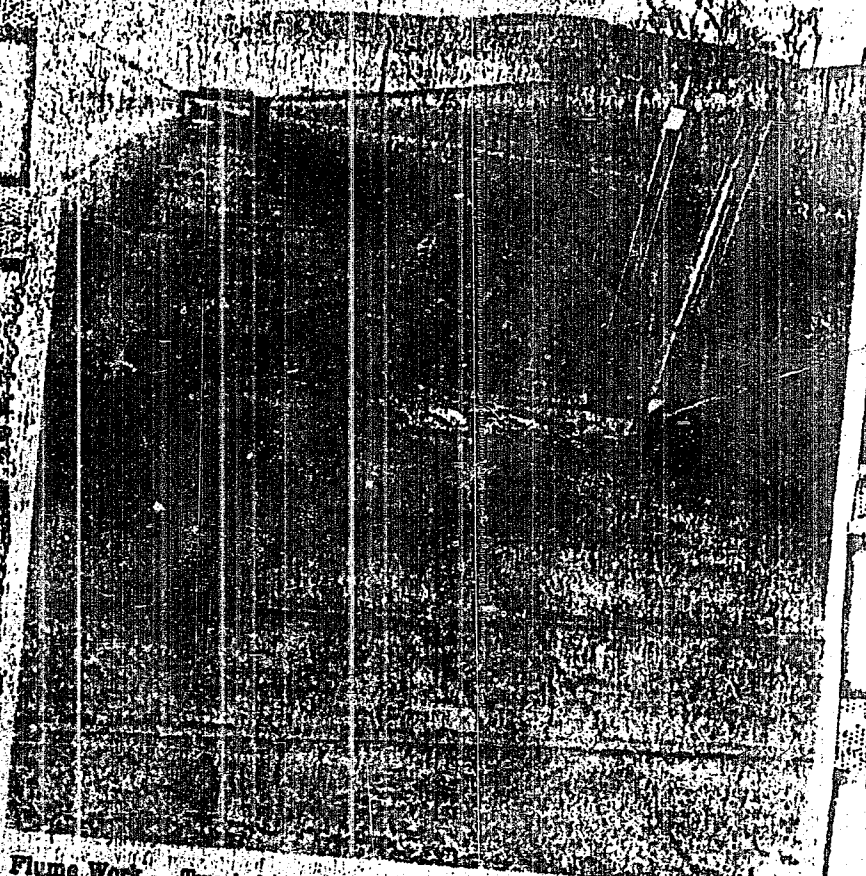
	NAME	ADDRESS	TAX LOT
1.	Mabel D Dixon	9253 Hwy #39	3910-3000-1900
2.	Raymond E. Macy	9136 Hwy 39	
3.	Von E. Summers.	9026 Hwy 39	
4.	Ethel Culever	8633 Hwy 39	
5.	Myrtle L. Blanning	9004 Highway 39, K Falls	
6.	W. E. E. E. E.	9001 Hwy 39 K Falls	
7.	Bert Walden	9601 Hwy 39 K Falls	
8.	W. E. E. E. E.	9606 Hwy 39 K Falls	3909-3600-100
9.	Ernestine Thompson	9606 Hwy 39 K Falls	3909-3600-100
10.	For Whitlatch	Hwy 39 K Falls	3909-2500-1100
11.	Albin Elyne	13220 Homedale K Falls	
12.			
13.	William M. Bond	(Failing 9977 Tingley Lane 9343 Hwy #39)	3909-3300-202
14.			
15.	Jacqueline King	7025 Old Midland Road, Klamath Falls	
16.	Olin A. Rye	5005 Ocean Ave	K Falls Ore
17.			
18.			
19.			
20.			
21.			
22.			

# Klamath Falls

9864

Friday, March 11, 1983 — No. 13,106 — 62 pages, 3 sections — Klamath Falls, Oreg.

Encl A-1



**Flume Work** — Two holes that will be used to divert water from the now empty C Canal flume near Henley to an algae harvesting plant are being readied by Mitch Leach.

Algae will be harvested and marketed in capsule form as a high energy food supplement by Cell-Tech, Inc., beginning this summer.

9865

Encl #2

Location Map

171

600

1100

800

No. 1 ORAIN

(Note: Subject 1300-A)

Increased Traffic Hazard Area

CANAL

ST. HWY

HWY 39

1200

900

1000

2495

1300A

Excessivity Hazard Area

Approx 1320'

Approx 2640'

ST RIVER DIVERSION

CHANNEL

Location of Area

Area 75 AC

25 30 36 31 739

739

Leroy Schell works at moving a freeze dry tank for K.C. Laboratories at Southtowne Center.

# Algae Harvest Continues

By DAVE CHRISTY  
HAN Natural  
Resources Editor

Algae harvest continues following a seizure of algae products from one firm by the Food and Drug Administration.

FDA seized products from K.C. Laboratories on Aug. 3, contending they were unsafe food additives. Various avenues of appeal are open to the firm and it still is going.

K.C. Laboratories is removing the algae produced in Upper Klamath Lake from the water at the head of the Link River, mainly producing various medical compounds. The firm has been removing the algae for several years.

Cell Tech, a separate firm, started removing algae from water in the Canal near Henley this summer. The algae is freeze dried and put into capsules for sale as a food supplement.

K.C. plans to harvest about a million

pounds of the blue green *Aphanizomenon flos aqua* this year, said Victor Kollman, owner of the firm, in an interview before the seizure. He declined to comment on matters following the seizure, on legal advice. They harvested about 150,000 pounds last year.

This year they are using more automated equipment to separate the algae from the water, as well as the hand crews used in previous years.

Kollman said earlier that he plans to construct a 900 - square - foot building at the site to house the machinery when harvest finishes this year.

Another firm with Kollman, the Anthony Giscomini family and Earl Miller is it, holds the lease to remove the algae and K.C. pays a royalty to that firm, Kollman explained.

Expansion of the business is proceeding about on schedule. Kollman has been freezing the algae at Klamath Cold Storage and then shipping it to

California to be freeze dried.

He purchased some used freeze dryers. They are being moved into a building at Southtowne Center and installed, with the first one set to go into operation in about a month.

Southtowne is constructing additional space next to the K.C. office that Kollman expects eventually to use for storage.

Since the freeze dryers have far more capacity than is needed for the algae, Kollman has worked out an arrangement with another lab to make freeze dried natural vitamins.

In addition, he said he plans to freeze dry materials for a cake mix using algae.

Research facilities from New Mexico and processing facilities from San Diego, Calif., were moved to Klamath Falls, but part of the sales facilities remains in California.

Kollman and others involved with algae plan to go to India in November

to discuss shipping production of compounds for leprosy treatment, earlier interview.

Dried algae would be used in drums and the leprosy would remove the compounds themselves. For reasons led to the dried algae rather than the fresh.

Cell Tech is using a method than K.C. Lab and process the algae.

Water is pumped on 1,800 gallons per minute fractions of the canal over a moving round backwashed off the tank. From the tank, the screens where more was explained Daryl Kollman the business with his said FDA hasn't contacted.

The wet algae is scraped off the screens returned to the canal.





K.C. Laboratories at Southtowne Center.

## Continues

Daryl Kollman of Cell Tech examines algae.

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man and others involved with plan to go to India in November

to discuss shipping algae there for production of compounds used in leprosy treatment, he said in the earlier interview.

Dried algae would be sent to India in drums and the lepers, after training, would remove the compounds from the algae themselves. Foreign trade regulations led to the decision to ship the algae rather than the extracts.

Cell Tech is using a slightly different method than K.C. Labs did to remove and process the algae.

Water is pumped out of the canal at 1,800 gallons per minute, only a small fraction of the canal capacity, and over a moving round screen. Algae is backwashed off the screen and into a tank. From the tank, it runs onto other screens where more water is removed, explained Daryl Kollman, who runs the business with his wife Maria. He said FDA hasn't contacted him.

The wet algae at Cell Tech is scraped off the screens and the water returned to the canal.

Algae is taken to another room and spread on a moving screen where 90-degree blowing air removes most of the moisture.

The algae is taken off the screens and taken to a refrigeration room. Algae is placed on shelves heated to 60 degrees while the room is cooled to -20 degrees.

The combination of heat and cold acts to freeze-dry the algae. When the algae only has 6 percent moisture left, it is sent to Los Angeles to be put into capsules.

Capsules are sold directly to the consumer through the company's distributors. The algae goes all over the world, he said, including Japan, Hong Kong and China.

Upper Klamath Lake has a couple of thing going for it in terms of the algae business, he said. There is a lot of algae and the lake isn't polluted. Moses Lake, Wash., has a lot of algae, but it's polluted. He doesn't know of another lake with a good supply of

algae that isn't polluted.

He isn't concerned about running out, since the lake has 10,000 dry tons of algae in it at any one time, he said.

Algae is somewhere between a plant and animal, he said, with chlorophyll like a plant but thin cell walls like an animal. Algae is high in protein and has the necessary amino acids to allow the body to utilize it, according to Kollman.

The operation now has 35 people at work producing 300 dry pounds every 24 hours. He wants to increase production to 500 pounds per shift. If sales go as expected, he will expand three or four times in the next year.

He would like to get the rest of the processing operation to Klamath Falls from California, eventually expanding to a year-round operation.

In addition to the capsules, he plans to start producing other items from the algae such as protein and amino acid concentrates.

Match line

7

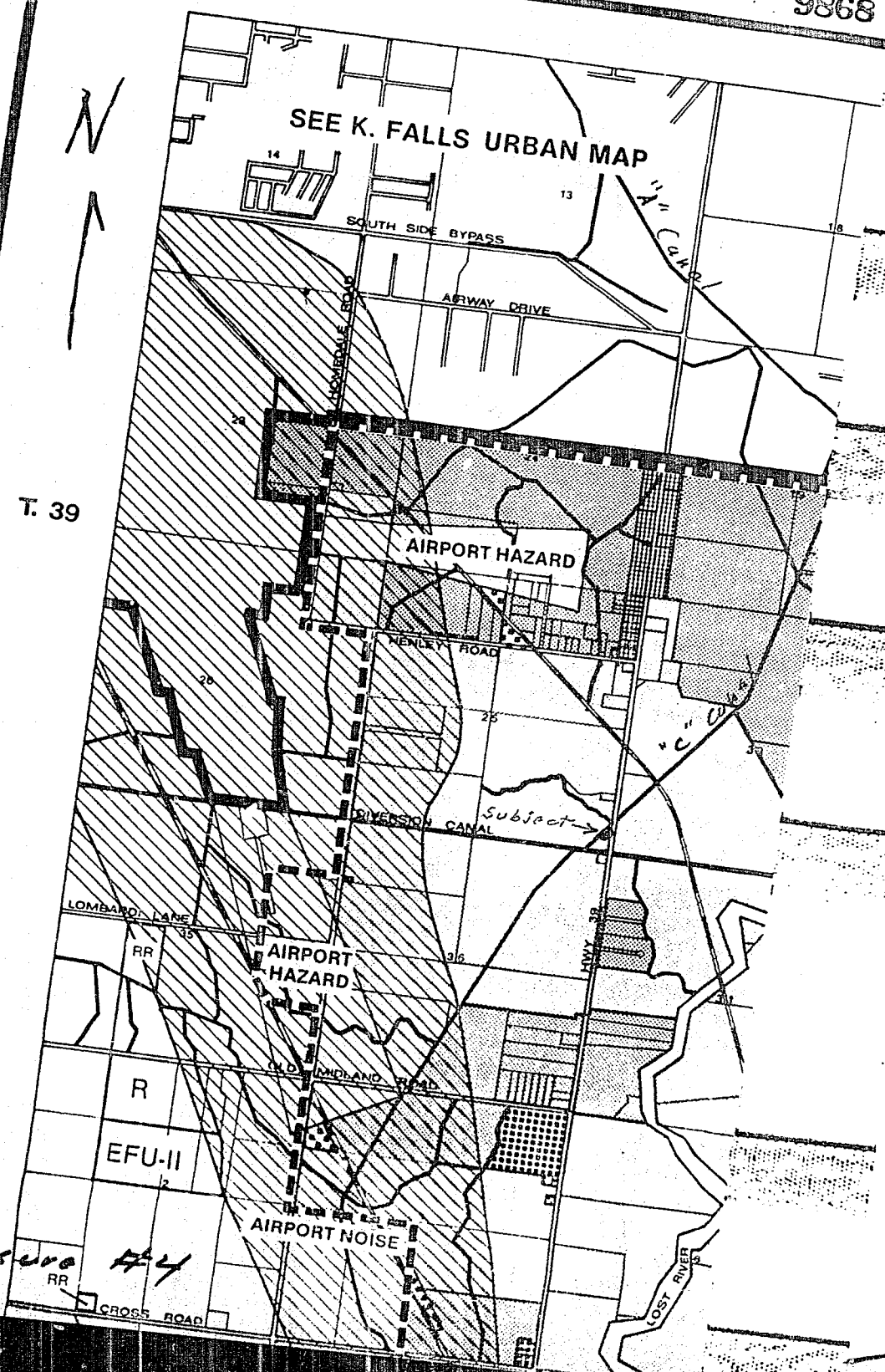
9868

Encl #4

N  
↑

SEE K. FALLS URBAN MAP

T. 39



Enclosure #4



3909 - 2500 - 1300-A

APPLICATION AND BUILDING PERMIT ( )  
MOBILE HOME PLACEMENT PERMIT ( )

1-9869

Encl #5

**Klamath County Building Department**

COURTHOUSE — 503/882-2501 — KLAMATH FALLS, OREGON 97601

M.H. ( ) BUILDING ( ) MECH ( ) PLUMB ( ) ELEC ( )

Application Date

Permit No.

Owner Cell Tech Inc Mail Address 9320 Hwy 39 Phone 503-884-9344  
 Contractor (Prime) Brosterhaus Const. Co Phone  License  Architect or Engineer R.E Meyer Consultants  
 Job Address Hwy 39 South - ON The West - Just under the flume

SITE LEGAL DESCR.	T. <u>39</u>	R. <u>9</u>	S. <u>25</u>	Tax Lot <u>1300</u>	Lot No. <u></u>	Block No. <u></u>	Subdivision Name <u></u>	Deed Record M. <u></u> P. <u></u>
LOT SIZE	County Road Name <u></u>				Public Road <u></u>	Easement <u></u>	Planning Dept. <u>J. Chisoff 2/28/83</u>	
Zone <u>R</u>	Flood Hazard Yes ( ) No ( )				Req. Parking Sp. <u></u>	Special Conditions <u></u>		
Min. Building Setbacks								
Front <u>25</u>	Frontside <u></u>	Side <u>5</u>	Rear <u>25</u>					

**AFFIDAVIT OF COMPLETION**

The undersigned personally, in a representative capacity for

Permit holder agrees to notify the Klamath County Building Department to perform all inspections required in the State of Oregon Structural Specialty Code and Fire and Life Safety Code, prior to covering of work, or covering of any required corrections.

Permit holder covenants and agrees to hold Klamath County harmless from any and all claims, actions, suits, or proceedings together with attorney fees rising out of any enforcement duties of Klamath County Building Department if required inspections or noted corrections have not been completed.

Permit holder agrees not to permit occupancy of the structure until final inspection has been made and approval has been noted.

I, Ray L. Kellman, hereby certify the following:

1. The structure subject to Building Permit No.  has been built according to all applicable building codes in force and effect of the improvement for construction.
2. Any and all corrections called for during the stages of inspection of construction have been completed and brought into compliance with the minimum standards and specifications of the applicable building code, mechanical code, electrical code, and plumbing code.
3. That I have personally inspected the file of the Klamath County Building Department on file and warrant and certify that no deficiencies remain.

SIGNATURE

WITNESS

Structures to be built this permit Occupancy

Type Constr.

Sq. Ft.

Bedrooms

Stories

**VALUATION OF WORK**

Mechanical Contractor

License No. 

Electrical Contractor

License No. 

Plumbing Contractor

License No. 

Other

**SEWER**

CURB CUT

STREET CUT

MOBILE HOME PLACEMENT FEE

PLAN CHECK FEE (Non refundable)

**PERMIT FEES**

BUILDING

MECHANICAL

PLUMBING

ELECTRICAL

SURCHARGE (State)

TOTAL AMOUNT

When properly validated (in this space) this is your permit

PERMIT VALIDATION

Ck.

M.O.

Cash

Authorized Signature — Date

**CALL:**

882-2501 to schedule all required inspections. All construction shall comply with State and County codes and regulations.

**IMPORTANT:**

All commercial and industrial buildings require a certificate of occupancy before being occupied.

(See Details on Reverse Side)

# Divisions Surface Again Over Code Suggestions

By MARTIN FORBES  
H&N Staff Writer

Once again, philosophical divisions were apparent between most members of the Klamath County Planning Commission and two of the three county commissioners.

During discussion on revisions to the Klamath County Land Development Code Wednesday evening, the Planning Commission on several occasions voted not to go along with suggestions on the code made by the Klamath County Planning Department staff only to be overridden by Commissioners Roger Hamilton and Zon Gerbert.

For example, new language was proposed for the code covering time limits on conditional-use permits.

After lengthy debate, Gordon DeArmond, member of the Planning Commission, made a motion to accept all proposals in this particular

section of the code except the new CUP language, "which I wish to reject in its entirety."

The Planning Commission supported DeArmond's motion 6-2.

However, commissioners voted 2-1 to include the CUP language, which says in part: "A CUP shall be void after two years if no substantial development has taken place. However, the review authority may extend the two-year period at the hearing on the initial application or a later date upon the request of the applicant and a showing of good cause therefor."

Considerable discussion also was given to a new section in the code on panhandle or flag lots; DeArmond was against the new language. Hamilton and Gerbert favored it.

One of the more important discussions focused on subdivisions within the urban growth boundary. Roy Huberd, county planning director, indicated that the state Land Conservation and Development Commission was "not comfortable with allowing sub-surface sewage within the urban growth boundary" for subdivisions.

"Well, that leaves us with a big problem," noted Steve Miller of the Planning Commission.

"I know that," Huberd responded.

Another discussion was generated during discussion on a definition for farm units — a definition compiled in response to an order to comply from LCDC.

The definition that finally was approved 2-1 by commissioners reads that "a single farm unit may consist of any number of tax lots (including tax lots separated only by a road or highway), which are managed jointly as a single farm unit in a given area."

Nona Hagelstein, another Planning Commission member, worried that such a definition may lead to future problems in parceling land. She favored language in the original definition suggested by Planning Department staff that read, in part, "a single farm unit may consist of any number of contiguous tax lots ..."

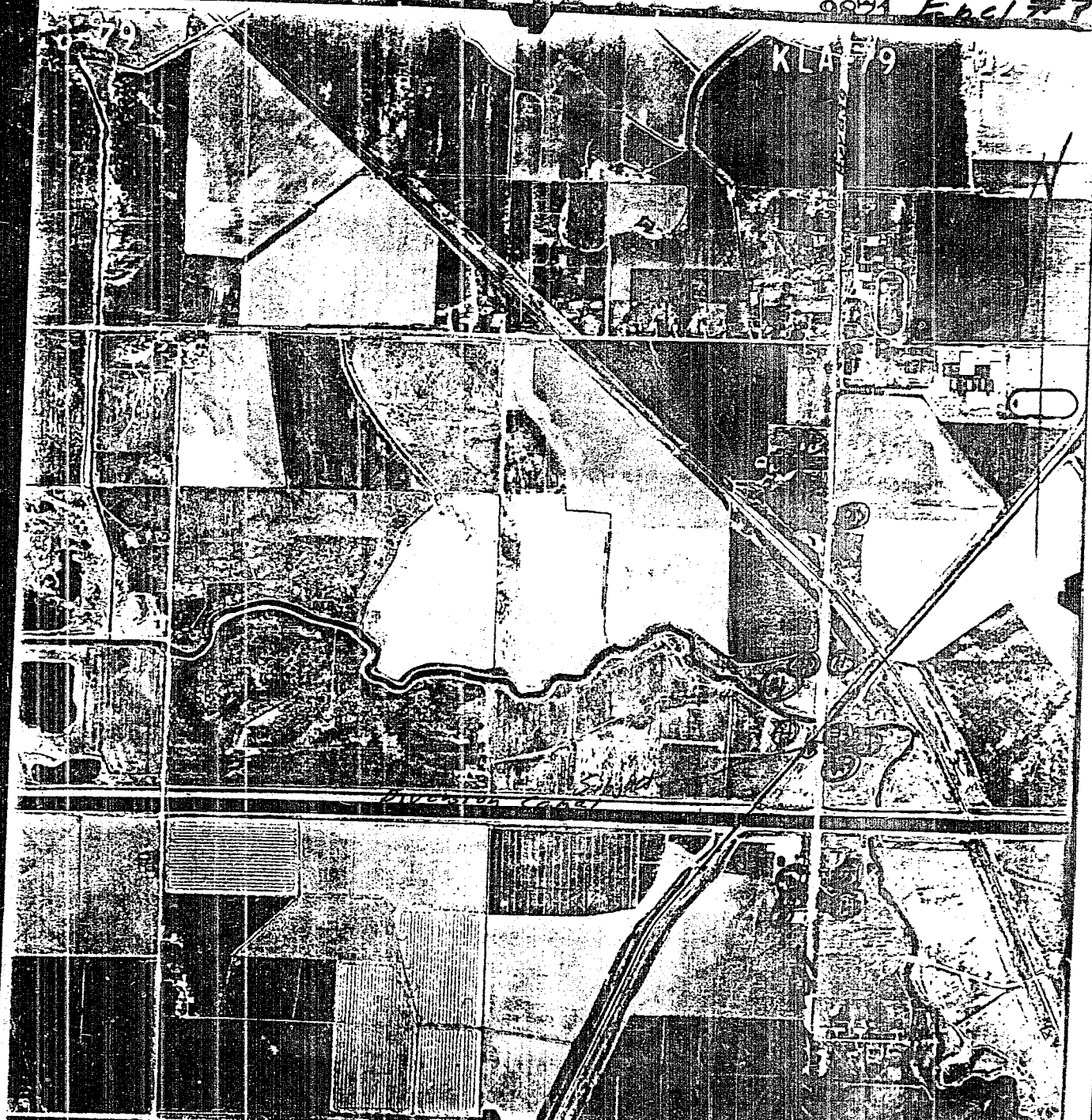
Planner Jonathan Chudnoff pointed out that a code definition on families had to be changed because "under the present definition in use, foster homes are illegal in the county."

New language rectifying that situation was accepted without problem.

Landscaping also proved to be an important item for some officials. Proposed minimum planting requirements suggested by planning staff for certain commercial or industrial areas read that "at least one tree and two shrubs shall be required for each 1,000 square feet ..."

0001 Fbcl #7

KLA #9



Encl # 8

9872

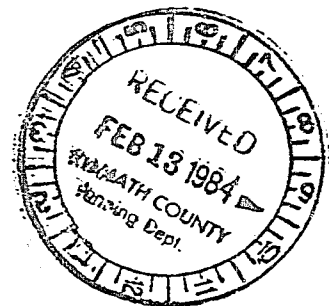
HARRY D. BOIVIN  
ROBERT D. BOIVIN

BOIVIN & BOIVIN, P. C.  
ATTORNEYS AT LAW  
110 NORTH SIXTH STREET  
KLAMATH FALLS, OREGON 97601-6079

TELEPHONE  
AREA CODE 503  
884-8101

MEMORANDUM  
\*\*\*\*\*

TO: Carl Shuck, Planning Department  
FROM: Robert D. Boivin, County Counsel  
RE: Cell Tech, Inc. *RS*  
DATE: February 9, 1984



I have reviewed the material in your file together with the unsigned letter which you forwarded to me, dated January 17, 1983. First of all it appears that some of the problems mentioned in the letter concern matters between the land owner, the U.S. Bureau of Reclamation and the Klamath Irrigation District. Klamath County would have no jurisdiction to enter into any dispute concerning the irrigation canal.

With respect to the use in an "R" Zone, it appears that since an algae is a plant and the ordinance permits cultivation, that the use is a proper one for an "R" Zone.

I cannot comment on the allegations regarding lack of notice to adjacent property owners, however, I believe the record would speak for itself in that respect, as your file would indicate the recipients of notice of the land use action request.

Many of the other matters mentioned in the letter were evidentiary matters which could have been brought to the attention of the hearings officer or planning commission. It might have been relevant evidence at the time, however, it is my conclusion that the County acted properly in granting the applicant a building permit. I hope this answers you questions.

## -----COMMENTS ON MEMORANDUM-----

## Paragraph #1

Wrong. Klamath County should have discussed this with a public hearing.

## Paragraph #2

Wrong. They are not cultivating algae--- they are processing and packing it.

## Paragraph #3

Wrong. There is no record as there was no notice given to adjacent land owners.

## Paragraph #4

Wrong. County did not follow the usual procedure before granting a bldg. permit with a hearing etc.



LETTER OF TRANSMITTAL

Encl #10

9874

May 31, 1984

To Director of --  
Land Conservation and Development Commission  
Salem,  
Oregon

Dear Sir:

Please find enclosed a copy of a local petition to have your organization consider location and operation of a light industrial plant that has been in operation less than a year at a local site without a public hearing to study all the effects and future impacts. Klamath County Land Use Dept. seems to feel that this was not required and their local attorney (See Enclosure) has failed to grasp the problems that residents in this area feel should be addressed.

Any communication necessary concerning this may be sent to William M. Bond, 9343 Hwy 39, Klamath Falls, Oregon 97603 or telephone 882-1170.

*William M. Bond*  
William M. Bond

P.S.

A copy of this record is being recorded in Klamath County under Misc. Records.

Return  
*Wm. M. Bond*  
9343 Hwy 39  
KFO 97603.

STATE OF OREGON: COUNTY OF KLAMATH:ss  
I hereby certify that the within instrument was received and filed for record on the 12th day of June A.D., 1984 at 4:46 o'clock P M, and duly recorded in Vol M84, of Misc. on page 9861.

Fee: \$ 56.00

EVELYN BIEHN, COUNTY CLERK  
by: *[Signature]*, Deputy