

BEFORE THE BOARD OF COMMISSIONERS

4-1389

KLAMATH COUNTY, OREGON Vol. 112 Page 137

1 IN THE MATTER OF A PETITION FOR)
A CONDITIONAL USE PERMIT TO) Conditional Use Permit 66-34
2 NON-FARM USE FOR TUPPER ESTATE) Findings & Decision
(ELECTRICAL SUBSTATION FOR FARM))
3

4 This matter came on for a hearing before the Klamath County
5 Board of Commissioners on December 17, 1964, in the Klamath County
6 Commissioner's Hearing Room. The hearing was held pursuant to
7 notice given in conformity with the Land Development Code and
8 related ordinances. The applicant and Planning Department Staff
9 were present as well as legal counsel.

10 The Board of Commissioners, after reviewing the evidence,
11 exhibits, and testimony presented, make the following findings
12 of fact:

13 FINDINGS OF FACT:

14 1. The subject property is owned by Tupper Estate. The
15 applicants requested a Conditional Use Permit to allow a non-farm
16 use parcel on approximately 2 acres in the EFU-CG (Exclusive Farm
17 Use-Cropland/Grazing) zone.

18 2. The property is generally located approximately 1/2 mile
19 east of the Town of Beatty and on the south side of State Highway
20 140. The legal description of the property is a portion of
21 Section 13, Township 36, Range 12, Being Tax Lot 5900.

22 3. The plan designation is Agricultural, with the zoning
23 being EFU-CG (Exclusive Farm Use-Cropland/Grazing). Adjacent
24 zoning and/or surrounding zoning is a mixture of EFU-CG and FR.

25 4. Adjacent lot sizes range in size from 4) acres to 12.5
26 acres, with applicants' lot being 2 acres in size. The lot that
27 is being split is actually split off from remaining ownership by
28 State Highway 140.

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5. The property consists of 12.5 acres, triangular in shape, consisting of native grass and juniper and cottonwood for vegetation, with topography having a slight slope toward highway.

6. Access to the property will be via State Highway 140, Klamath Falls/Lakeview Highway.

7. No adverse comments have been received by any surrounding property owners.

8. The size of the parcel makes it impossible to farm or otherwise use in an agriculturally productive manner. The property apparently has never been used for any agricultural production. Site has an electrical substation located there which is owned by Pacific Power and Light.

9. By allowing partition, PPL will be able to purchase Parcel 1. This will assure continued electric service in the Beatty community.

KLAMATH COUNTY DEVELOPMENT CODE CRITERIA:

1. Klamath County Land Development Code, Section 44.003 sets forth the criteria for consideration in the application of a Conditional Use Permit.

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

B. That the location, size, design and operating characteristics of the proposed use are in conformance with the Klamath County Comprehensive Plan.

C. That the location, size, design and operating characteristics of the proposed development will be compatible with, and will not adversely affect the livability or appropriate development of abutting properties in the surrounding neighborhood.

1 Consideration shall be given to the harmony in scale, bulk, cover-
 2 age and density; to the availability of civic facilities and
 3 utilities; to harmful effects, if any, upon desirable neighborhood
 4 character; to the generation of traffic and the capacity of
 5 surrounding streets and to other relevant impact of the development.

6 2. Klamath County Land Development Code, Section 51.017,
 7 sets forth the criteria for non-farm use:

8 A. Use not in conjunction with farm use may be
 9 established subject to a Conditional Use Permit and a finding
 10 that each such dwelling:

11 i. Is compatible with farm use as defined in
 12 this Code and consistent with the agricultural land use policy
 13 adopted by the legislative assembly in ORS 215.243;

14 ii. Does not interfere seriously with accepted
 15 farming practices on adjacent lands devoted to farm use;

16 iii. Does not materially alter the stability of
 17 the overall land use pattern of the area;

18 iv. Is situated upon generally unsuitable land
 19 for the production of farm crops and livestock, considering the
 20 terrain, adverse soil or land conditions, drainage and flooding,
 21 vegetation, location and size of the tract; and

22 v. Complies with such other conditions as the
 23 Board of County Commissioners or its designate considers necessary.

24 3. Klamath County Land Development Code, Section 51.018,
 25 also sets forth that all proposed partitionings of land for farm
 26 use permitted by said Section meet the following criteria:

27 A. The parcel shall be designed to use the least
 28 amount of agricultural land consistent with the needs of the

1 proposed use. Wherever possible, land unsuited for crops or
2 livestock shall be used.

3 B. The parcel and the access to it shall be designed
4 so as not to interfere with accepted farm practices on surrounding
5 land.

6 SLAYMAH COUNTY LAND DEVELOPMENT CODE FINDINGS AND
7 CONCLUSIONS:

8 1. The proposed use is compatible with farm use as
9 defined in this Code and consistent with the agricultural land
10 use policy adopted by the legislative assembly in ORS 215.243.
11 Since it does not use agriculturally productive land, it does not
12 have any effect on surrounding agricultural uses.

13 2. The proposed use does not interfere seriously with
14 accepted farming practices on adjacent land devoted to farm use
15 since it does not use agriculturally productive land and is to
16 be used solely for a non-farm dwelling and not for any other use
17 which would affect accepted farming practices.

18 3. The proposed use does not initially alter the stability
19 of the overall land use pattern of the area since, again, it does
20 not use agriculturally productive land, and access to the property
21 will not interrupt any overall land use pattern.

22 4. The proposed use is situated upon generally unsuitable
23 land for the production of farm crops and livestock, considering
24 the terrain, adverse soil, poor land conditions, drainage and
25 flooding, vegetation and location and size of the tract. This is
26 especially true considering the size of the parcel and the prior
27 use history of the property for agricultural purposes.

28 5. The proposed use complies with such other conditions

1 necessary which are here, except that the applicant follow the
2 partition map as filed.

3 6. The parcel and the access to it have been designed
4 so as to not interfere with accepted farming practices on the
5 surrounding land.

6 7. The location, design and site plan of the proposed
7 development will provide for a convenient and functional living
8 environment and will be as attractive as the nature of the use
9 and its location in this setting warrant.

10 8. The use is conditionally permitted in the zone in
11 which it is proposed to be located.

12 9. The location, design and operating characteristics
13 of the proposed use are in conformance with the Klamath County
14 Comprehensive Plan.

15 10. The location, size, design and operating characteristics
16 of the proposed development will be compatible with, and will
17 not adversely affect the livability or appropriate development
18 of the abutting properties and the surrounding neighborhood.

19 CONCLUSIONS OF LAW AND DECISION:

20 1. This request for a Conditional Use Permit on the
21 subject property meets all applicable Klamath County development
22 Code criteria and policies governing such.

23 2. This request for a Conditional Use Permit is consistent
24 with, and complies with all the applicable State-wide planning
25 goals and review criteria as submitted by the Board of Commissioners.

26 3. The following condition is deemed necessary to protect
27 the health, safety and welfare of the citizens of Klamath County:

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CONDITION:

a. That the applicant follow the partition map as submitted.

THEREFORE, it is hereby ordered that the request for a Conditional Use Permit on the subject property herein described is hereby granted, subject to the condition as set forth above.

dated this 3rd day of January, 1984.

CLATSOP COUNTY BOARD OF COMMISSIONERS

Boyd Hamilton
Boyd Hamilton, Chairman

Carroll E. Gilbert
Carroll E. Gilbert, Commissioner

Neil Kuonen
Neil Kuonen, Commissioner

APPROVED AS TO FORM:

By Robert D. Bolvin
Robert D. Bolvin

STATE OF OREGON,
County of Clatsop
Filed for record at request of

on this 4th day of January A.D. 19 85
at 1:55 P. M. and duly
recorded in Vol. 185 of Deeds
Page 127
EVELYN BEER, County Clerk
By [Signature] Deputy
Fee None

Return: Commissioners Journal