

BEFORE THE HEARINGS OFFICER, KLAMATH COUNTY

IN THE MATTER OF CUP 12-94 AND LP 9-94 FOR
ALARCON TO ESTABLISH AN EXISTING HOME AS A USE
NOT IN CONJUNCTION WITH FARM USE
AND DIVIDE THE PROPERTY

ORDER

1. NATURE OF THE REQUEST:

The applicant wishes to establish an existing residence as a use not in conjunction with farm use on property two miles east of Hwy 140 on the South Poe Valley Rd..

Also considered was the request to partition the parent 253 acre property into parcels of 9.0, 105 and 139 acres each.

This request was heard by the Hearings Officer MARCH 4, 1994 pursuant to Ordinances 44 and 45. The request was reviewed for conformity with Land Development Code Article 54 and with O.R.S. 215.243.

2. NAMES OF THOSE WHO PARTICIPATED:

The Hearings Officer in review of this application was Neal G. Buchanan.

The applicant appeared and offered testimony in support of the application.

The Planning Department was represented by Kim Lundahl, Senior Planner. The recording secretary was Karen Burg, Administrative Secretary. Testimony in opposition was entered by Con Cahill, Shiria Kirsch, Gary Volght and Taylor High.

3. LOCATION:

The property under consideration is located two miles east of the intersection of Hwy 140 and South Poe Valley Rd.. And is described as Parcel 1, MNP 34-84.

4. RELEVANT FACTS:

Parcels 1 & 2 are within the Agriculture plan designation and have an implementing zone of EFU-CG. Parcel 3 is zoned/planned Non Resource. The parent property is 253 acres in size and is under farm tax deferral. The LCC rating

of the agricultural properties is SCS Class III (CALIMUS Soil Series).

This series and its characteristics are set out in the SCS publication SOIL SURVEY OF KLAMATH COUNTY, SOUTHERN PART. Land use and lot sizes in the area are similar to that proposed by this application. Residential land use and similar lot sizes are also found within one mile of this project. Fire protection is provided by the KCFD #1, 7 miles away with a response time of 10 mins.

5. FINDINGS:

All evidence submitted as the staff report, exhibits b-e, and offered testimony show that the approval criteria as set out in Code Article 54, 56 and 45 HAS NOT been satisfied. The Hearings Officer finds this application;

1. Is NOT compatible with farm use because:

The analysis of surrounding properties and their use indicates the size of the proposed parcels and the proposed use as large lot rural-residential is not compatible with the predominant adjacent land uses. There are NOT existing parcels approximate to the smallest size proposed, 10 acres.

2. Could interfere seriously with accepted farming practices on adjacent lands devoted to farm use because:

The surrounding parcels are found to be developed to commercial farm use. The proposed non-farm residence could interfere with the on-going use as sufficient lot area and geographic boundaries provide a buffer/setback from agricultural management practices is not available.

3. Would alter the stability of the overall land use pattern of the area because:

The overall land use of part of this area is found to be commercial farming. The change in use of the existing structure would introduce conflicting land use.

4. Is NOT situated upon generally unsuitable land for the production of farm crops and livestock, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location, and size of the tract because:

The proposed non farm parcel is substantially smaller than the 80 acre size required by HB 3661 and are therefore thought not appropriate for commercial farm use. HOWEVER, the Hearings Officer finds this non farm parcel size unsuitable for division as it would create a parcel not in conformance with existing/surrounding parcel size.

AS CONFORMANCE WITH THE REQUIRED CRITERIA IS NOT DEMONSTRATED, CUP 12-94 IS DENIED.

THE APPLICANT ACKNOWLEDGED DENIAL AT THE HEARING AND REQUESTED LP 9-94 BE CONSIDERED AN AGRICULTURAL PARTITION.

The Hearings Officer finds a partition of the parent 253 acre property into parcels of 105 and 148 acres conforms with the criteria set out in LDC Sec. 54.070 and ORS 215.243 as follows:

1. The parcels as proposed do conform to the typical size of existing commercial farm units surrounding the property. The land use in all compass directions is found to be similar in nature to the use of the subject property, grazing and field crop production. The proposed parcel sizes are consistent with the area and continued use as agricultural parcels.
2. The parcels are of sufficient size to support the existing or potential commercial farm production. Surrounding farm units range in size from 80 to 360 acres in size.

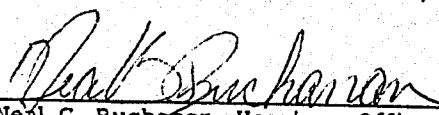
The Hearings Officer finds this partition is furtherance of ORS 215.243 since it will continue the agricultural use of all parcels and will not result in any "urbanization" of this area.

6. ORDER:

Therefore, it is ordered the request of ALARCON for LP 9-94 is approved subject to the following conditions:

1. LP 9-94 must comply with Code requirements, Oregon Revised Statutes and agency conditions prior to filing.
2. LP 9-94 will expire in one year from the date below unless the map is recorded or an extension of time is filed.

DATED this day of MARCH, 1994


 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.

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Klamath the 11th day
 of March A.D., 19 94 at 10:06 o'clock A.M., and duly recorded in Vol. M94
 of Deeds on Page 7554.

FEE none

Return: Commissioners Journal

Evelyn Biehn County Clerk

By 