

05-03-94P01:17 RCVD

BEFORE THE HEARINGS OFFICER
KLAMATH COUNTY, OREGON

IN THE MATTER OF CUP 31-94 AND LP 22-94 FOR
STEVE RAJNUS TO ESTABLISH AN EXISTING FACILITY AS A USE ORDER
NOT IN CONJUNCTION WITH FARM USE AND DIVIDE THE PROPERTY

1. NATURE OF THE REQUEST:

The applicant wishes to establish an existing "agricultural packing and processing" facility as a use not in conjunction with farm use on property at the northwest corner of Yonna Dr. and Hwy 140.

Also considered was the request to partition the parent 144.8 acre property into parcels of 1.3 and 143 acres each.

This request was heard by the Hearings Officer APRIL 29, 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 Michael L. Brant.

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.

3. LOCATION:

The property under consideration is located at the northwest corner of Hwy 140 and Yonna Dr., east of Dairy.

4. RELEVANT FACTS:

Parcels 1 & 2 are within the Agriculture plan designation and have an implementing zone of EFU-CG. The parent property is 144.8 acres in size and is under farm tax deferral. The LCC rating of the agricultural properties is SCS Class II (CALIMUS Soil Series). This series and its characteristics are set out in the SCS publication SOIL SURVEY OF KLAMATH COUNTY.

Land use and lot sizes in the area are similar to that proposed by this application. Fire protection is provided by KCFD #5, 3 miles to the east with a response time of 10 mins.

5. FINDINGS:

All evidence submitted as the staff report, exhibits b- , and offered testimony show that the approval criteria as set out in Code Article 54, and 45 have been satisfied. The Hearings Officer finds this application;

1. Is compatible with farm use because:

The analysis of surrounding properties and their use indicates the size of the proposed parcels and the existing use as an "agricultural packing and processing facility" will remain compatible with the predominant adjacent land uses. There are many existing parcels approximate to the smallest size proposed.

2. The existing use has not and will not 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. Division of the existing agriculturally related facility will not interfere with the on-going use as sufficient lot area and geographic boundaries provide a buffer/setback from agricultural management practices is available.

3. The existing use, an agricultural packing and processing facility, has not altered 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 with many smaller parcels already existing in the area. The division, creating a parcel for an existing agriculturally related use, would not introduce conflicting land uses.

4. Is 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. The Hearings Officer finds this non farm parcel size is suitable for division as it would create a parcel in conformance to the existing use. Partitions creating parcels for non-farm uses are reviewed per the criteria set out in LDC Article 45 and Section 54.070.

The Hearings Officer finds this partition conforms to these criteria as set out below:

1. The parcel created for non farm use will be devoted to agriculturally related services, packing and processing. However, the small parcel is thought not viable for commercial agriculture since it is less than 80 acres.
2. Access to the property is from Hwy 140, a state maintained paved road. Non farm use of this road will not interfere with farm practices.

6. ORDER:

Therefore, it is ordered the request of STEVE RAJNUS for CUP 31-94 and LP 22-94 is approved subject to the following conditions:

1. LP 15-94 shall not be filed until the applicant provides the Planning Department with evidence that the property has been disqualified for valuation at true cash value for farm use and that any additional tax penalty imposed by the County Assessor has been paid.
3. CUP 31-94 will not be effective until LP 22-94 is filed in the office of the County Clerk.
4. LP 22-94 must comply with Code requirements, Oregon Revised Statutes and agency conditions prior to filing.

5. LP 22-94 will expire in one year from the date below unless the map is recorded or an extension of time is filed.

DATED this 29th day of APRIL, 1994

Michael L. Brant
Michael L. Brant, 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 County the 3rd day
of May A.D., 19 94 at 1:17 o'clock P M., and duly recorded in Vol. M94
of Deeds on Page 13931.

Evelyn Biehn - County Clerk

By Debra M. Millender

FEE \$none

Return: Commissioners Journal