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Vol. 74 Page 9830

BOARD OF COUNTY COMMISSIONERS
In and For the County of Klamath, State of Oregon

IN THE MATTER OF THE
APPLICATION FOR ZONE
CORRECTION NUMBER 74-28 BY
LEWIS AND NONA HAGELSTEIN

O R D E R

This matter having come on for hearing upon the application of Lewis and Nona Hagelstein for a zone correction, said correction application being numbered Zone Correction 74-28 and said application having been heretofore recommended from F (Forestry) zone to AF (Agriculture Forestry) zone by the Klamath County Planning Commission, because of a mapping error, a description of the real property referred to in said application being marked Exhibit "A", attached hereto and by reference made a part hereof, and a public hearing on said application having been regularly held on May 21, 1974 and continued until June 24, 1974 before the Board of Commissioners, and it appearing to said Board of Commissioners from the testimony, reports, and information produced at said hearing by the applicant, interested parties, the Planning Commission and Planning Department, that the application should be granted, the Board of Commissioners makes the following findings of fact:

1. In pursuance to a request from applicants dated August 22, 1973, the Klamath County Planning Commission initiated this zone correction under Klamath County Ordinance No. 17, Article 11, Section 11.007 on behalf of the applicants.
2. The Klamath County Zoning Ordinance No. 17 was adopted on December 7, 1972 by vote of the people, after referral to them and

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after the adoption of the Klamath County Comprehensive Land Use Plan text and associated maps by the Klamath County Planning Commission on August 1, 1972 pursuant to Oregon Revised Statutes, Chapter 215.

3. On December 7, 1972, and prior thereto, the applicant owned all the property marked Exhibit "A" attached hereto, being 3244 acres.

4. Prior to, and as of December 7, 1972, the property described in Exhibit "A" was being used as a cattle ranch. In addition to raising of cattle, crops and timber were also produced on portions of the land.

5. The property is fairly variable in nature, consisting of meadow (grazing land), young stands of ponderosa pine with some stands containing a light mixture of Douglas fir and white fir, brush fields resulting from burns, and some juniper areas.

6. The land involved has an average or slightly below average timber-producing capability.

7. Grazing and timber production are compatible uses of the land involved and proper management of the timber improves forage production of the land for grazing purposes.

8. Past timber sales from the premises do not justify the use of the land involved solely for the production of timber.

9. No detailed research was conducted of the land use patterns for the area involved prior to the adoption of zoning for Klamath County on December 7, 1972.

10. A mapping error was made on the applicant's land during the initial land use study.

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Based upon the above findings of fact, the Board reaches the following conclusions of law:

1. Pursuant to Section 11.007 of Ordinance Number 17 of Klamath County, the Klamath County Planning Commission acted properly in initiating this action on behalf of Lewis and Nona Hagelstein, and that no other considerations, save the correction of a mapping error, are relevant in this matter; and

2. The primary use of the land in question on December 7, 1972 was as a cattle ranch. The grazing of cattle was an essential element of this ranching operation. The raising of crops and timber were associated secondary uses; and

3. Only through an error or mistake the land had not been properly zoned for the intended use on the zoning maps which, together with the Zoning Ordinance text, were referred to the people and adopted on December 7, 1972; and

4. The property affected by the zone correction is adequate in size, being 3244 acres more or less, and shape to facilitate those uses normally allowed in conjunction with AF zoning; and

5. The property affected by the proposed zone correction is properly related to county roads, streets, and highways to adequately serve the type of traffic generated by such uses that may be permitted therein; and

6. The proposed zone correction will have no adverse effect on any property or the permitted uses thereof within a seven hundred (700) foot radius excluding highways and rights-of-way, as was indicated by the absence of adverse testimony from adjacent property owners; and

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7. The proposed zone correction is in keeping with any land use plans duly adopted and does, in effect, represent the highest, best and most appropriate use of the land affected; and

8. The application is consistent with the Klamath County adopted Comprehensive Land Use Plan maps and text.

NOW, THEREFORE, IT IS HEREBY ORDERED that the application of Lewis and Nona Hagelstein for a zone correction from F (Forestry) zone to AF (Agriculture Forestry) zone, a particular description of the real property referred to in said application being marked Exhibit "A", attached hereto and by reference made a part hereof, said zone correction application being Zone Correction 74-28 is hereby approved to correct a mapping error.

DONE AND DATED THIS 30th day of July 1974.

Bruce Williams
Chairman of the Board

R. A. Pyle
County Commissioner

Approved as to form

Harry D. Boivin
Harry D. Boivin, Legal Counsel

County Commissioner

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July 30, 1974

I am reasonably sure that there will be an appeal on this zone change application no matter how it is decided.

I have talked to interested parties about this matter and in a conversation with County Counsel, he advised me that under the Fasano decision I should have revealed such conversations early in the hearing. That because of the strong possibility of an appeal, he advised me I should disqualify myself from voting.

Although my conversations were only for the purpose of getting information, if legally they could affect an appeal, I believe in fairness, I should refrain from voting.

I wish this statement to be made a part of the record in this zone change.

Lois Galt

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EXHIBIT "A"
LEGAL DESCRIPTION
ZONE CORRECTION 74-28

In Township 37 South, Range 8 East of the Willamette Meridian
Section 24: Lots 1 and 5

In Township 37 South, Range 9 East of the Willamette Meridian
Section 18: W 1/2 SE 1/4, SE 1/4 SW 1/4, SE 1/4 SE 1/4, and all
that portion of Lots 3 and the NE 1/4 SW 1/4 lying
South and East of the Southerly right of way line of the
old Dalles-California Highway right of way.

SAVING AND EXCEPTING THEREFROM the following described parcels:

(1) All that portion of the above described property lying in
First Addition to Algoma.

(2) Beginning at a point North 56° 30' West 525 feet from the
Northeast corner of Lot 4 Section 18, Township 37 South, Range 9
East of the Willamette Meridian; thence South 23° 30' East 321.5
feet; thence North 89° 30' West 385 feet; thence North 7° 45' West
175 feet; thence North 79° 30' East 107 feet; thence North 60° 30'
East 200 feet to place of beginning.

(3) A tract of land situated in Lot 3 Section 18, Township 37
South, Range 9 East of the Willamette Meridian, more particularly
described as follows: Beginning at the iron pipe marking the North-
easterly corner of Lot 41 of First Addition to Algoma, said point
being on the Southeasterly right of way line of the Old Dalles-
California Highway; thence South 4° 44' East along the Easterly line
of Lots 41 and 40 First Addition to Algoma, a distance of 224.2 feet
to the Southwest corner of that tract of land described in Deed
Volume 247 at page 347, Klamath County Deed Records; thence following
the Southerly line of that tract of land described in said Deed Volume
North 79° 30' East a distance of 119.45 feet and North 60° 30' East
a distance of 200.0 feet; thence South 89° 04' 30" East a distance
of 304.7 feet; thence North 39° 30' 30" East a distance of 47.4 feet;
thence North 57° 31' 30" West to the Southeasterly right of
way line of the Old Dalles-California Highway; thence South-
westerly along said right of way line to the point of beginning.

(4) A portion of the NW 1/4 SE 1/4 Section 18, Township 37
South, Range 9 East of the Willamette Meridian, more particularly
described as follows:

Commencing at a point on the North line of the NW 1/4 SE 1/4 of
said Section 18 which is 240 feet Easterly from the Northwest
corner thereof; thence South at right angles to said line a
distance of 150 feet; thence East parallel with said North line
120 feet; thence North at right angles a distance of 150 feet to
said North line; thence West along said North line 120 feet to
the place of beginning.

(5) That portion of the SE 1/4 NW 1/4 and SW 1/4 NE 1/4 of
Section 18, Township 37 South, Range 9 East of the Willamette
Meridian, described as follows: Beginning at a point on the
Easterly right of way line of the Dalles-California Highway as now
constructed which lies 341 feet West and 1071 feet South of the
Northeast corner of the SE 1/4 NW 1/4 of Section 18, Township 37
South, Range 9 East of the Willamette Meridian, and running thence
East to the East line of the SW 1/4 NE 1/4 of said Section 18;

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LEGAL DESCRIPTION

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thence South along the 40 line to a point on the East-West quarter line; thence West along the East-West quarter line to its intersection with the Easterly right of way line of the Dalles-California Highway; thence Northerly following the Easterly right of way line of the Dalles-California Highway to the point of beginning.

(6) A tract of land in Lot 3 Section 18, Township 37 South, Range 9 East of the Willamette Meridian, more particularly described as follows: Beginning at the Northwest corner of Lot 41 of First Addition to Algoma; thence South 5° 22' East along the West line of said Lot 41 a distance of 267.7 feet to a point; thence South 84° 38' West 162.7 feet to a point; thence North 32° 46' East 162.7 feet, more or less, to the Southerly boundary of the Dalles California Highway; thence North 57° 14' East along the Southerly boundary of said highway a distance of 267.7 feet to the point of beginning.

Section 19: Lots 2 and 3, SE 1/4 NW 1/4, NE 1/4 SW 1/4, South half of Lot 1, NE 1/4 NW 1/4, NE 1/4, N 1/2 SE 1/4, SE 1/4 SE 1/4.

Section 20: SW 1/4 NE 1/4, NW 1/4, S 1/2.

Section 21: SW 1/4 SW 1/4.

Section 28: W 1/2 NW 1/4, SW 1/4, SW 1/4 SE 1/4.

Section 29: All

Section 30: SW 1/4 NE 1/4, SE 1/4, E 1/2 NE 1/4.

Section 31: NE 1/4 NE 1/4.

Section 32: N 1/2, NE 1/4 SW 1/4, N 1/2 SE 1/4.

Section 33: NW 1/4, N 1/2 SW 1/4.

ALSO SAVING AND EXCEPTING from the above described property the following described parcels:

A strip of land 15 feet wide through the SW 1/4 SE 1/4 of Section 18, Township 37 South, Range 9 East of the Willamette Meridian, conveyed by Fred Dingler to Algoma Lumber Company by deed dated May 14, 1912, recorded May 24, 1912, Deed Volume 36 at page 12, Records of Klamath County, Oregon.

A strip of land 20 feet wide across Lot 3 of Section 18, Township 37 South, Range 9 East of the Willamette Meridian, conveyed by John Hagelstein et ux., to Algoma Lumber Company by deed dated December 12, 1911, recorded January 6, 1913, Deed Volume 33 at page 452, Records of Klamath County, Oregon.

A strip of land 20 feet wide across E 1/2 SW 1/4 Section 18, Township 37 South, Range 9 East of the Willamette Meridian, conveyed by John Hagelstein to Algoma Lumber Company by deed dated December 16, 1911, recorded January 6, 1911, Deed Volume 33, page 454, Records of Klamath County, Oregon.

STATE OF OREGON; COUNTY OF KLAMATH: ss.

Filed for record at request of _____ Klamath County Board of Commissioners

this 31st day of JULY A. D., 1974 at 8:43 o'clock A. M., and duly recorded in Vol. M. 71 of DEEDS on Page 2330

WM. D. MILNE, County Clerk

Deputy

NO FEE