

BEFORE THE KLAMATH COUNTY BOARD OF  
COMMISSIONERS

77826

KLAMATH COUNTY, OREGON Vol 1487

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1  
2 IN THE MATTER OF ACTION TAKEN BY  
3 THE BOARD OF COMMISSIONERS TO )  
4 COMPLY WITH CIVIL CASE NO. 82- )  
5 6259KF-PA, AMENDED JUDGEMENT )  
6 U.S. DISTRICT COURT, REPLAN AND )  
7 REZONE OF SUBJECT PROPERTY )

O R D E R

8 I. NATURE OF APPLICATION

9 A public hearing was held on this matter on July 14, 1987,  
10 pursuant to notice given in conformity with Ordinances No. 44 and  
11 45, the Comprehensive Plan for Klamath County. This hearing was  
12 held before the Board of Commissioners and Planning Commission.  
13 The nature of the action was in response to the above titled  
14 Federal case (see Exhibit "A"). Exhibit "B" is a map of the area.

15 II. NAMES OF THOSE INVOLVED

16 The Board of Commissioners in attendance were: Chairman,  
17 James Rogers, Roger Hamilton, and Ted Lindow. The Planning  
18 Commission members present were: James Liston, Steve Sherman,  
19 Paul Zech, John Monfore, and John Kite. The Planning Department  
20 was represented by Roy Huberd, Director. County Counsel, Mike  
21 Spencer, was also present. The recording secretary was Karen Burg.  
22 Testimony in favor was presented by Mr. John Schoonover. There  
23 was no testimony in opposition.

24 III. LEGAL DESCRIPTION

25 The property is located in Sections 9, 10, and 19, Township  
26 25S, Range 8EWM, in the northern portion of Klamath County.

27 Legal Descriptions:

28 Unnumbered: NW1/4 of NE1/4, NE1/4 of NE1/4 of NW1/4, NE1/2  
29 ///

1 of NW1/4 of NE1/4 of NW1/4, E1/2 of SE1/4 of NE1/4 of NW1/4,  
2 N1/2 of SW1/4 of NE1/4, SE1/4 of SW1/4 of NE1/4, Section 19,  
3 T25S, R8E, W.M.

4 No. 1-77: SW1/4 of SW1/4, NW1/4 of SW1/4, SW1/4 of NW1/4,  
5 W1/2 of NW1/4 of NW1/4, SW1/4 of SE1/4 of NW1/4, Section 19,  
6 T25S, R8E, W.M.

7 No. 2-72: SW1/4 of SW1/4, Section 10, T25S, R8E, W.M.

8 No. 3-72: NE1/4 of SW1/4, Section 10, T25S, R8E, W.M.

9 No. 5-72: NW1/4 of SW1/4, Section 10, T25S, R8E, W.M.

10 No. 6-72: N1/2 of NW1/4, Section 9, T25S, R8E, W.M.

11 No. 11-72: W1/2 of NE1/4 of NW1/4, and E1/2 of NW1/4 of NE1/4,  
12 Section 9, T25S, R8E, W.M.

13 No. 12-72: E1/2 of NE1/4, NW1/4, W1/2 of NW1/4, NE1/4,  
14 Section 9, T25S, R8E, W.M.

15 No. 13-72: NE1/4, NE1/4, Section 9, T25S, R8E, W.M.

16 IV. RELEVANT FACTS

17 These properties (before this action) were planned and  
18 zoned Forestry.

19 The non-resource lands document (part of the Comprehensive  
20 Plan, Ord. 44) states, on page 3, "only legally created and  
21 recognized lots or parcels have been included in this inventory."  
22

23 The lots and parcel maps have been signed by the Chairman of  
24 the Board of Commissioners. The total number of lots or parcels  
25 created are 32 five-acre lots in Section 9, 24 five-acre lots in  
26 Section 10, and 48 five-acre lots in Section 19. This being  
27 done, due to the decision of Judge Panner, in the above refer-  
28 enced case.

1 Since these are now legal lots or parcels, they can now  
2 be planned and zoned for the proper use, residential.

3 The topography is generally flat to rolling, with standing  
4 timber.

5 The timber site class for the property in Section 9 is VI.

6 The timber site class for the property in Section 10 is VI.

7 The timber site class for the property in Section 19 is VI.

8 The total acreage is 420, including property in all three  
9 sections. Section 9 totals 160 acres, Section 10 totals 120  
10 acres and Section 19 totals 140 acres.

11 There are a few structures and mobile homes on this  
12 property.

13 Roads exist on the ground in each section, however the Board  
14 of Commissioners do not guarantee legal access to any of these  
15 parcels or lots.

16 State Highway 58 runs between the unnumbered and the 1-77  
17 areas in Section 19.

18 The property in Sections 9 and 10 are generally served by  
19 U.S. Forest Service roads off of State Highways 58 and 97.

20 Each lot or parcel will be served by individual wells.

21 Each lot or parcel will be served by subsurface sewage  
22 systems (when approved by the County Health Department).

23 Section 19 is located in the Chemult Rural Fire District.

24 Both Sections 9 and 10 are outside of a rural fire district.

25 The subject property is located within the Midstate Electric  
26 service boundary.

27 The subject property is located within the Gilchrist School  
28 District.

Exhibits presented by the Klamath County Planning Department

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1 staff included:

2 A. Agenda

3 B. Amended judgement for Civil Case No. 8206259KF-PA

4 C. Planning Commission hearing minutes, pages 22 and 23,  
5 July 7, 1981

6 D. Document entitled "Order," Board of County Commissioners,  
7 Klamath County, Oregon, dated and signed July 21, 1982,  
8 County Commissioners.

9 V. RELEVANT APPROVAL CRITERIA

10 As discussed under Section IV, once the property had legal  
11 status it was assumed that the logical plan and zone designation  
12 should be Rural Residential (R-5).

13 If these lots would have been legal when the Plan was draft-  
14 ed, the County would have presented the LCDC with Rural Plan and  
15 zone designations.

16 It was also assumed, even though not specifically or clearly  
17 spelled out in the amended judgement of March 24, 1987, that this  
18 was the appropriate action for Klamath County.

19 VI. FINDINGS

20 All testimony and exhibits and discussion presented, and  
21 the amended judgement, Civil Case No. 82-6259KF-PA of March 24,  
22 1987.

23 VII. CONCLUSIONS

24 That the County Planning Commission and Board of Commissioners  
25 had no choice but to comply with the above mentioned judgement.

26 VIII. ORDER

27 Therefore, it is hereby ordered that the subject property  
28 as described under Section III be planned as a Rural (R) designa-

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1 tion and zoned Rural-5 (R-5), subject to the following condition:  
2 A. That the Board of County Commissioners do not guarantee  
3 legal access to any of the lots or parcels.

4 Dated this 29<sup>th</sup> day of July, 1987.

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BOARD OF COUNTY COMMISSIONERS

[Signature]  
Chairman

[Signature]  
Commissioner

[Signature]  
Commissioner

Approved as to form and content:

[Signature]  
Michael Spencer, County Legal Counsel

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U. S. DISTRICT COURT  
DISTRICT OF OREGON  
**FILED**

MAR 26 1987

ROBERT M. CHRIST, CLERK  
BY DEPUTYIN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

JOHN SCHOONOVER,

Plaintiff,

v.

Civil No. 82-6259KF-PA

AMENDED JUDGMENT

NELL KUONEN, ALVIN A. CHEYNE,  
FLOYD L. WYNNE, individually  
and in their official  
capacities, and ROGER HAMILTON  
ZON GERBERT, and JAMES ROGERS,  
in their official capacities,  
and KLAMATH COUNTY, Oregon,

Defendants.

IT IS HEREBY ORDERED AND ADJUDGED that:

Based upon the stipulation of the parties, judgment is  
entered as follows:

1. The claims concerning Plat #1214 are dismissed.
2. The Court shall maintain jurisdiction of the action as to  
claims arising from the nine parcels of land identified in Trial  
Exhibit #1, exclusive of Plat #1214.
3. Plaintiff shall supply to defendants proof of compliance

1 - AMENDED JUDGMENT



1 with the conditions set forth in the Klamath County Board of  
2 Commissioner's minutes from the meeting July 7, 1981.

3 4. Defendants shall approve the nine parcels of land in  
4 accordance with the Klamath County Board of Commissioner's order  
5 dated July 21, 1982, subject only to proof of compliance as  
6 required in paragraph 3.

7 5. The Klamath County Board of Commissioner's order of  
8 July 21, 1982 (Trial Exh. #1) concerning nine land parcels of John  
9 Schoonover was a valid order. The Klamath County Board of  
10 Commissioner's memorandum of July 30, 1982 (Trial Exh. #2) did not  
11 rescind or suspend any part of the Commissioner's order of  
12 July 21, 1982. The failure of the defendants to implement the  
13 July 21, 1982 order denied plaintiff due process of law.

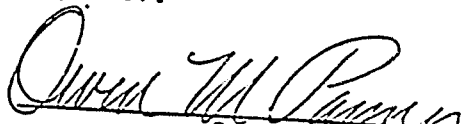
14 6. Defendants shall pay to plaintiff \$45,000.00, plus 5.77%  
15 interest from November 25, 1986.

16 7. Each party is released from any claims by the other of  
17 any nature, except to the extent that the court has retained  
18 jurisdiction of this action.

19 8. Each party shall bear their own attorney's fees and  
20 costs.

21 9. The Court shall retain jurisdiction of this matter, and  
22 will impose attorney's fees and costs, if either party  
23 unreasonably fails to comply with the terms of this Judgment.

24 DATED this 24 day of March, 1987.

25  
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Owen M. Panner  
United States District Judge

T 25S, R 8E

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Ex. B



14121

6-72	11-72	12-72	11-72	13-72
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2508.09

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5-72	3-72
7-72	2508.10

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Ex. B

14122

~~77~~  
~~410~~  
No NUMBER

27-1

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2508.19

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STATE OF OREGON,  
County of Klamath ss.

Filed for record at request of:

Klamath County Planning Dept.  
on this 6th day of August A.D. 1987  
at 10:20 o'clock A M. and duly recorded  
in Vol. 887 of Deeds Page 14113  
Evelyn Biehn, County Clerk  
By PRM Smith

Fee. NONE

Deputy.