

BEFORE THE HEARINGS OFFICER
KLAMATH COUNTY, OREGONIN THE MATTER OF M.J.P. 49-89 FOR DAVID AND
ROBIN KING, TO DIVIDE LAND IN THE FORESTRY
RANGE ZONE INTO TWO PARCELS

ORDER

1. NATURE OF THE REQUEST:

The applicant wishes to divide 138 acres in conjunction with forest use north of Malin. In conjunction with this request, the applicant filed a major land partition which depicts the property as being divided into 58 and 80 acre parcels.

The request was heard by the Hearings Officer February 23, 1990 pursuant to Ordinances 44 and 45. The request was reviewed for conformance with Land Development Code section 51.021 E.

2. NAMES OF THOSE WHO PARTICIPATED:

The Hearings Officer in review of this application was Richard C. Whitlock. The applicant appeared and offered testimony in support of his applications. The Planning Department was represented by Kim Lundahl, Senior Planner. The recording secretary was Leanne Mitchell, Administrative Secretary.

3. LEGAL DESCRIPTION:

The subject property is located in sec. 27, Township 40 south, Range 12 east, W.M.. Generally located 5 miles north of Malin, adjacent to the Malin Dump.

4. RELEVANT FACTS:

The property is within the Forestry plan designation and has an implementing zone of Forestry Range. The property is 138 acres in size and is under Farm Deferral. The property is within the Malin Fire District. Applicants and staff photos indicate the property is not timbered and moderately sloped, juniper being the predominant species. Applicants Exhibit "b" is attached in

clarification of this order. The Hearings Officer finds the factual information set out in the Staff Report and attached Exhibits accurately reflects the property status.

The property is within a Goal 5 resource area "low to medium density deer winter range" and comments from the Oregon Dept. of Fish and Wildlife have been solicited as required by the Code and incorporated as conditions of this Order.

5. FINDINGS:

All evidence submitted as the staff report, exhibits b-h, and offered testimony show that the approval criteria as set out in the code has been satisfied. The Hearings Officer finds this application conforms with the criteria set out in L.D.C. section 51.021 E as follows:

- A. The proposed division is compatible with other lands zoned Forestry Range in the area, because: the predominant forest use in the area is grazing; all land that adjoins the subject property is devoted to similar land use and parcel sizes range from 40 to 80 acres; These parcels are being utilized in the same manner, existing and proposed, as the project site; The predominant soil series, Lorella and Capona will generate approximately 600 lbs./acre of feed for livestock grazing; Grazing use will be maintained on the parcel; There are no known recreational uses on this property.
- B. The proposed division is consistent with the Forest use policies as provided in the Klamath County Comprehensive Plan, because: The proposal will perpetuate forest values found in the area as the acknowledged plan/zone minimum lot size of 40 acres is sufficient to maintain forestry uses 1-7 as defined within Goal 4 of the Statewide Planning Goals; The minimum lot sizes of the proposed parcels, 58 and 80 acres, exceed the minimum lot size; The Hearings Officer finds the property will be utilized consistent with forest

use policies as the applicant intends to perpetuate the use of the property for forestry purposes, i. e. grazing, and to maintain a wintering ground for a cow/calf herd in conjunction with his nearby feedlot operation.

C. The project will not materially alter the stability of the overall land use pattern of the area nor substantially add to the demand for increased roads or other public facilities and services, because: In that the proposed and current use is consistent with Goal 4, the proposed division is consistent with the intent of the Plan and will perpetuate the forest uses and will have no impact on the stability of the area; The Hearings Officer finds applicants' exhibit "b" sets out three examples of similar use/development in the immediate area; The impact on public services resultant from this partition are found to be of no significance.

D. The proposed division provides for resultant parcels of sufficient size to ensure:

1. that forest uses will be the primary use on such lands; because the applicant has demonstrated and the Hearings Officer finds the current use of the land is "Forestry Use" as defined by Goal 4 of the Statewide Planning program. These uses will not be modified or compromised by the granting of this application with the conditions placed by the Hearings Officer.

2. that non-forest uses are necessary and accessory to the primary use as a forest operation; Non-forest uses are not a consideration of this application and the Hearings Officer finds this criteria does not apply.

3. that forest practices will not be adversely impacted: Because the proposed grazing uses are found consistent with Statewide Planning Goal 4, this criteria has been met.

4. that the division is consistent with the provisions of Section 83.007; Because the area covered by the application is inventoried as a

"Significant Resource Area" comment was solicited from the Oregon Dept. of Fish and Wildlife. In letter dated 1-9-90 the Department indicates they are not opposed to the application as presented if certain criteria and conditions are met. Those criteria and conditions are accepted by the Hearings Officer and included in this Order as Conditions of Approval.

6. ORDER:

Therefore, it is ordered the request of David and Robin King for approval of M.J.P. 49-89 is approved subject to the following conditions:

1. M.J.P. 49-89 must comply with agency conditions and code requirements prior to filing.
2. Applicants must comply with all conditions set out by the O.D.F.W. in their letter dated 1-9-90 as follows:
 - a. Only two parcels of 80 and 58 acres will be created.
 - b. Location of any dwellings shall occur only in the southwest corner of the northern 80 acre parcel and in the central part of the southern 58 acre parcel.
 - c. No other dwellings may be constructed elsewhere on either parcel.
 - d. The remaining portions of each parcel will be maintained under a Forestry/forestry Range condition.
 - e. No further partitioning or division for human occupancy will be done without consideration and review by the Oregon Dept. of Fish and Wildlife
 - f. Dogs will not be allowed to run loose on either parcel.

5082

DATED this 6th day of March, 1990

Richard C. Whitlock

Richard C. Whitlock, Hearings Officer

NOTICE OF APPEAL RIGHTS

You are hereby notified that this decision may be appealed to the Klamath County Board of Commissioners by filing with the Planning Department a Notice of Appeal as set out in Section 33.004 of the Code, together with the required fee within ten days of the date of mailing of this decision.

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Klamath County the 20th day
of March A.D., 19 90 at 10:32 o'clock A.M., and duly recorded in Vol. M90,
of Deeds on Page 5078.

FEE none

Evelyn Biehn County Clerk

By Pauline Mullins

Return: Commissioners Journal