

BEFORE THE KLAMATH COUNTY LAND PARTITION REVIEW BOARD

In the matter of Minor)	
Partition 46-89 for)	Findings, Conclusions
Leo and Pamela Olsen)	and Order
and David and Pauline Davis)	

I. Nature of the Application

This matter came before the Klamath County Land Partition Review Board on referral from the Board of County Commissioners who reviewed the application following a previous decision of the Land Partition Review Board. The applicants request the division of a 2.31 acre parcel into to equal sized parcels. The property in question is zoned Rural - one acre minimum lot size (R-1), and is located in section 18, township 39 south, range 10 east, and more particularly described as Klamath County tax lot 3910-01800-1800.

II. Relevant Criteria

The standards and criteria relevant to this application are found in the Klamath County Land Development Code, particularly Section 45.003 dealing with review criteria for major and minor land partitions.

III. Public Hearing

A properly noticed public hearing was held on March 21, 1990. Land Partition Review Board on this date consisted of Steve Oulman representing the Planning Department, Earl Kessler representing the Public Works Department, and Doug Everett representing the Planning Commission. At the hearing the Planning Department file was made part of the record. The following persons appeared at the hearing and offered testimony:

1. Pamela Olsen	Applicant
2. Jim Howland	Area property owner
3. Tom Harris	Area property owner
4. Don Thurston	Oregon State Highway Division

IV. Findings

The Land Partition Review Board, after consideration of the evidence in the record and testimony heard at the hearing makes the following findings:

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1. The proposed partition is located in an area that has developed in recent years as a rural subdivision without the benefit of being reviewed as such by the county. An easement serves the subject parcel and others in the immediate area. The road is not a public road, nor is it maintained through a formal road district. A approach permit exists for the intersection with Oregon Highway 39, but is under the names of several individuals; none of the individuals have responsibility for maintaining the road or ensuring that safety considerations at the Highway 39 intersection are addressed.
2. The proposed land partition would conflict with established access within or adjacent to the partition and thus does not satisfy the requirement of LDC Section 45.003(F). Testimony received from the Oregon Highway Division indicated that a significant problem exists with a road approach permit from Oregon Highway 39 and additional parcelization or development in the area will not help the situation, and may in fact aggravate efforts to ensure safe traffic flow on Highway 39.
3. Approval of the proposed land partition at this time does not further sound land use planning because of concerns with the impact upon existing and planned street facilities in the area, and thus does not satisfy the requirement of LDC Section 45.003(G). The Land Partition Review Board finds that approval of the partition at this time would not further the intention of the State Highway Division to resolve issues surrounding access to and from Highway 39. Additional housing development in the area that may occur as a result of this land partition would increase traffic and may require the installation of traffic control on Highway 39. The Land Partition Review Board finds that without a single individual or entity responsible for installation of traffic control measures on Highway 39, the potential for additional traffic resulting from this partition makes the proposal unwise at this time.
4. The issue of proper sanitation for the proposed parcels has not been adequately addressed by the applicant and therefore the requirement of LDC Section 45.003(K) has not been satisfied. Two area property owners expressed concerns about the impact that greater residential density might have on septic systems in the area. Information on soils contained in the record indicates that the Fordney Loamy Fine soils found on the subject property have severe constraints for septic systems because the soil is a poor filter. The applicant did not present evidence that the proposed parcels had been evaluated for septic suitability, and because of concerns expressed about the impact on the area's water wells this criteria is not satisfied.
5. Three area property owners expressed concerns about the impact of additional residential development on water wells. Evidence suggests that the aquifer may be at or approaching its capacity, and that additional residential development resulting from this

partition may aggravate the situation. The applicant did not provide evidence demonstrating that adequate water was available for the development or that additional dwellings would not impact the aquifer, and therefore the criteria of LDC Section 45.003(K) is not satisfied.

V. Conclusion and Order

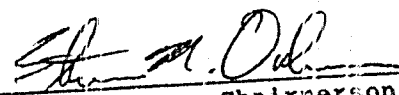
The Land Partition Review Board finds and concludes that the area of the proposed partition has unresolved problems relating to road access and traffic, septic system suitability, and the availability of domestic water. The Land Partition Review Board finds and concludes that the applicant has not met the burden of proof that relevant standards and criteria of the Land Development Code have been satisfied, and therefore orders that the application for Minor Partition 46-89 be DENIED.

VI. Appeal Rights

This order may be appealed to the Klamath County Board of Commissioners pursuant to Article 33 of the Land Development Code. Any person seeking to appeal must do so by filing an appeal with the Planning Department not more than 10 days following the mailing of this order.

Dated this 28 day of March, 1990


For the Land Partition Review Board:


Steve Gulman, Chairperson

STATE OF OREGON, ss.
County of Klamath

Filed for record at request of:

Approved as to form:


Michael Spencer, County Counsel

Klamath County
on this 29th day of March A.D., 19 90
at 11:07 o'clock AM and duly recorded
in Vol. M90 of Deeds Page 5702
Evelyn Biehn County Clerk
By Gaudin Mullender Deputy.

Fee, none

Return: Commissioners Journal