

BEFORE THE HEARINGS OFFICER
KLAMATH COUNTY, OREGON

IN THE MATTER OF M.N.P. 4-90 FOR C.E. AND
D.A. SMITH, TO DIVIDE LAND IN THE FORESTRY
RANGE ZONE INTO TWO PARCELS

ORDER

1. NATURE OF THE REQUEST:

The applicant wishes to divide 598 acres in conjunction with permitted forest use, in Poe Valley. In conjunction with this request, the applicant filed a minor land partition which depicts the property as being divided into 132.75 and 466.25 acre parcels.

The request was heard by the Hearings Officer April 6, 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 Karen Burg, Administrative Secretary.

3. LEGAL DESCRIPTION:

The subject property is located in portions of sections 10, 11, 14, & 15, Township 40 south, Range 11 east, W.M.. Generally located south of Schaupp Rd., 1/2 mile west of Harpold Rd..

4. RELEVANT FACTS:

The property is within the Forestry plan designation and has an implementing zone of Forestry Range. The parent parcel is 598 acres in size and is not under Farm Deferral. The property is within the Klamath County Fire District and a response time of 15 minutes is recorded. Applicants and staff photos indicate the property is not timbered and moderately sloped, native grasses

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being the predominant plant 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 applicant states the historic use of the property has been livestock grazing, a permitted use in the Forest Range zone.

The land use in all compass directions is livestock grazing on parcel sizes ranging from 5.80 acres to 471.97 acres in size, within 1/2 mile.

5. FINDINGS:

All evidence submitted as the staff report, exhibits b--, 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 5.8 to 471 acres. These parcels are being utilised in the same manner, existing and proposed, as the project site. The predominant soil series, Capona, Land Capability Classes IV & VI, will generate approximately 600 lbs./acre of feed for livestock grazing. This use, grazing, will be maintained on the parcel. The applicant states there are no 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, 132.75 and 466.25 acres, exceed the minimum lot size. The Hearings Officer finds the property will be utilised consistent with forest use policies as the applicant intends to perpetuate the use of the property for forestry purposes, i. e. grazing.

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 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 application considered and conditioned by the Hearings Officer.

2. that non-forest uses are necessary and accessory to the primary use as a forest operation because: 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: this application is found consistent with Statewide Planning Goal 4 by demonstration of the Staff Report, attached exhibits and testimony received for the record, all of which indicate forestry use will be continued on both parcels.

4. that the division is consistent with the provisions of Section 83.007; Because the area is not included within the Countys "Goal 5" inventory mapping, significant resources are not known to exist on the subject property.

6. ORDER:

Therefore, it is ordered the request of C.E. & D.A. Smith for approval of M.N.P. 4-90 is approved subject to the following conditions:

1. M.J.P. 4-90 must comply with agency conditions and code requirements prior to filing.
2. Parcel 1 must be surveyed to obtain an exact legal description for the newly created parcel and to define the exact acreages involved.

DATED this 24th day of April, 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 25th day
of April A.D. 19 90 at 3:57 o'clock P.M., and duly recorded in Vol. M90
of Deeds on Page 7733

FEE none

Evelyn Biehn
By Pauline M. Mendenhall County Clerk

Return: Commissioners Journal