

BEFORE THE HEARINGS OFFICER
KLAMATH COUNTY, OREGONIN THE MATTER OF M.J.P. 5-90 & 6-90
FOR HILTON & SMITH, TO DIVIDE LAND
IN THE FORESTRY ZONE INTO FIVE PARCELS

ORDER

1. NATURE OF THE REQUEST:

61 JUL 19 4 11 PM '90

The applicants wish to divide 400 acres in conjunction with permitted forest use, north of the Greensprings Dr. and east of the Jackson County line. In conjunction with this request, the applicant filed two partition requests indicating one 240 acre property as being divided into three 80 acre properties and a second request dividing 160 acres into two 80 acre properties. The request was heard by the Hearings Officer May 18, 1990 and June 1, 1990 pursuant to Ordinances 44 and 45. The request was reviewed for conformance with Land Development Code section 51.020 H.

2. NAMES OF THOSE WHO PARTICIPATED:

The Hearings Officer in review of this application was Neil D. Smith. No one appeared to offer testimony in support of this application. 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 8, 17 & 18, T 39S R 5E, W.M.. Generally located three miles north of the Greensprings Dr., two miles east of the Jackson County Line.

4. RELEVANT FACTS:

The property is within the Forestry plan designation and has an implementing zone of Forestry. The parent parcels are 240 and 160 acres in size and a portion is under Farm Deferral. The Hearings Officer finds the factual information set out in the Staff Report and attached Exhibits accurately re-

flects 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 forest resource management.

5. FINDINGS:

All evidence submitted as the staff report, exhibits b-j, and offered testimony show that the approval criteria as set out in the code has not been satisfied. The Hearings Officer finds this application does not conform with the criteria set out in L.D.C. section 51.020 H as follows:

A. The proposed parcels are not typical of existing commercial forest enterprises within a two mile radius.

"Although there is one 40 acre parcel in the area, the remaining parcels within a two mile radius range from 120 acres to 2,725 acres. Parcels of 80 acres are definately not typical of existing forest enterprise in the area."

From Department of Forestry letter dated 4-10-90 included as Exhibit "i".

B. The proposed division is not compatible with forest uses in the area and may interfere with forest practices as defined and regulated under O.R.S. 527.610 to 527.730.

"Other than indicating that the parcels will be used for forestry, the applicant does not address 51.020(H)(1)(b). The applicants fail to explain how dividing 400 acres into five parcels is compatible with commercial forest activities occurring on the very large parcels surrounding this property. Also, by dividing 400 acres into five parcels, the applicants will be creating four additional lots needing access to Weyerhaeusers road." From Department of Land Conservation and Development letter dated 4-18-90 included as Exhibit "j".

C. The proposed division is not consistent with the forest use policies as provided in the Klamath County Comprehensive Plan.

"This action is not compatible with forest uses as the burden of supplying and maintaining road access to these parcels would become Weyerhaeuser's. Approval of this request has the potential to interfere with forest practices as the increase in traffic will be four times greater." From Department of Land Conservation and Development letter dated 4-18-90 included as Exhibit "j".

D. The proposed division could materially alter the stability of the overall land use pattern in the area.

"The proposed division will contribute to a change in the overall land use pattern from primarily large industrial and public commercial forest land toward small, private, non-industrial forest ownership. It will also add to the demand for access roads to the newly created parcels." From Department of Forestry letter dated 4-10-90 included as Exhibit "i".

"By allowing this 400 acres to be divided, the applicants will be creating five of the smallest parcels proposed for forest use within the two-mile radius. Approval of this request will materially alter the stability of the overall land use pattern in the area and thus, violate this requirement. From Department of Land Conservation and Development letter dated 4-18-90 included as Exhibit "j".

E. The proposed division does not provide for resultant parcels of sufficient size to ensure:

1. that forest uses will be the primary use on such lands because:
 "Eighty acre parcels in this area are not sufficient size to ensure that forest uses will be the primary use. Parcels of this size could be viewed as potential rural homesites". From Department of Forestry letter dated

4-10-90 included as Exhibit "I".

2. that forest practices regulated under O.R.S. 527.610 to 527.730 may take place in a cost effective manner.

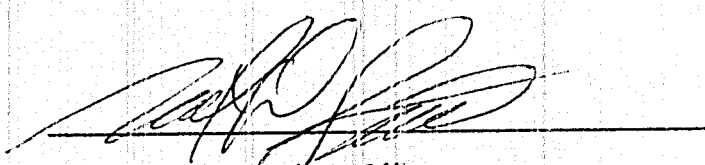
"the smaller parcel size will reduce the cost effectiveness of forest management practices in the parcels in question. As parcel size decreases to this size class, unit costs of most practices such as harvesting, planting, and thinning increase". From Department of Forestry letter dated 4-10-90 included as Exhibit "I".

F. Five year land use management plans, as required by this subsection, were not submitted.

6. ORDER:

Therefore, it is ordered the request of Hilton & Smith for approval of M.J.P. 5-90 and 6-90 is denied.

DATED this 15th day of June, 1990


Neil D. Smith, 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.

MJP 5-90 & 6-90
STATE OF OREGON: COUNTY OF KLAMATH: ss.

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Filed for record at request of Klamath County the 18th day
of June A.D., 19 90 at 11:19 o'clock AM., and duly recorded in Vol. M90
of Deeds on Page 11842.

Evelyn Biehn . County Clerk

FEE none

By Pauline Mendenhall

Return: Commissioners Journal