

BEFORE THE HEARINGS OFFICER OF KLAMATH COUNTY, OREGON

In the matter of the request )  
 of GEORGE ROBINSON )

MAJOR PARTITION  
NO. MJP 41-90

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 This matter came before Neil D. Smith, Hearings officer for Klamath County, Oregon on 11 January 1991 in the County Commissioners' Hearing Room in Klamath Falls Oregon. The Klamath County Planning Department was represented by Mr. Kim Lundahl the recording secretary was Ms. Karen Berg. The Klamath County Planning Department files pertaining to this tract and appeals regarding La Wanda Hills #2 tract # 1149 and all exhibits and other contents therein and those introduced this date are incorporated by this reference into this matter.

The Hearing was held pursuant to notice given in conformity with the Klamath County Land Development Code and related Statutes and Ordinances. MR. GEORGE ROBINSON, the applicant for the above referenced partition, was present and testified. Mr. Robinson's information was received and found to be in favor of the permit.

The report prepared by staff was read and the contents thereof were received in evidence and examined by the hearings officer along with those provided by those who spoke in opposition. Based upon the evaluation of the testimony and consideration of the evidence received, the Hearings Officer makes the following FINDINGS OF FACT AND CONCLUSIONS.

FINDINGS OF FACT :

1. The Applicant is requesting a Major Partition of a 25.68 acre tract into three lots of 6.7, 5.9 and 13.1 acres in the La Wanda Hills #2 Subdivision

2. The property is located Southwest of the South termination of Grace Drive, La Wanda Hills #2 subdivision, Klamath County, Oregon; legally described as "Lot 8, Block 6, La Wanda Hills No.2; T.A. 3908-23B-1600.

3. Mr. George Robinson expressed the belief that exhibit I, which contained a copy of page 4 of the Commissioners opinion dated 26 January 1978, wherein at #6 lines 10-12

"We as the Board of County Commissioners  
 find the question of further dividing  
 for the proposed subdivisions was not  
 addressed."

was applicable to his present application. That is error when that text is read in context within the entire order. The issue addressed in that order was whether or not to allow the partition of the original 165 acre tract then known as

4. The above referenced Order in its entirety should become part of this record and marked as exhibit T.

5. The Order above referenced sets the condition of this piece of property and is not modifiable without a substantial change of circumstances not within the contemplation of the Commissioners at the time of its making.

6. In context therefore the Order is controlling in this application, that is, page 4, lines 18-25 are controlling here.

"NOW, THEREFORE, IT IS HEREBY ORDERED that tract 1149, La Wanda Hills #2, to be subdivided from 1 - lot of approximately 165 acres to 8 - lots with a minimum parcel size being 20 acres in size and generally located approximately to the west of the existing La Wanda Hills Subdivision and approximately 400 feet north of Highway 140 and more particularly described as Township 39s, Range 8, Section 14 and 23 of Klamath County, Oregon is hereby approved." (emphases added)

7. The testimony of those who appeared in opposition to this application was considered and was found to be remarkably similar to the arguments presented in 1977, those arguments are now as persuasive as they were when originally presented.

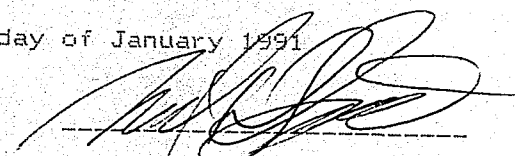
#### CONCLUSION

There is no basis for changing the present configuration of the area as presently being used. The potential for long term damage to the existing properties is great.

#### ORDER

NOW THEREFORE, IT IS ORDERED, based upon the findings and conclusion herein the application for a Major Partition is denied.

DATED this 11th day of January 1991

  
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Neil D. Smith, Hearings Officer

KLAMATH COUNTY LAND DEVELOPMENT CODE SECTION 24.007 PROVIDES:

" An Order of the Hearings Officer shall be final unless appealed within ten (10) days of its mailing by a party having standing in accordance with the procedures set forth in Chapter 3, Article 33 of this Code"

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Klamath County the 15th day  
of Jan A.D., 19 91 at 11:31 o'clock AM., and duly recorded in Vol. M91,  
of Deeds on Page 976.

Evelyn Biehn - County Clerk

FEE none

By Pauline Mulendore

Return: Commissioners Journal