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BEFORE THE HEARINGS OFFICER KLAMATH COUNTY, OREGON

In the Matter of the Request for a
Conditional Use Permit and Land
Partition by

MIKE KENNEY and MIKE TRAHAN,

Applicants.

CUP 15-97/LP 16-97

ORDER

1. NATURE OF THE REQUEST:

The applicants in Land Partition 16-97 request division of 1596 acres into two parcels of 1516 and 80 acres respectively. The applicants in Conditional Use Permit 15-97 seek to establish the propagation, cultivation, maintenance and harvesting of aquatic species on the 80-acre parcel so created.

2. NAMES OF THOSE WHO PARTICIPATED:

The Hearings Officer in review of this application was Neal G. Buchanan. Both applicants appeared and offered testimony in support of the application. The Planning Department was represented by Kim Lundahl, and the Recording Secretary was Karen Burg. The record was held open for a period of 7 days so as to allow for written input to be submitted by Liskey Farms, Inc., and for the applicants to respond to any such written input submitted.

3. LOCATION:

The property under consideration is located generally north of Lower Lake Road, between Cross Road and Township Roads, Klamath County, Oregon.

4. RELEVANT FACTS:

The property is within the Forestry/Range (FR) designation. Lot sizes in the area are quite varied. However, the 80 acre parcel proposed to be created is within the minimum lot size parameters established by Section 55.250 of the Code.

5. FINDINGS:

All evidence submitted as the Staff Report, Exhibits B through G and offered testimony show that the approval criteria as set out in Code Articles 55.2, 55 and 45 of the Land Development Code have been satisfied.

The Hearings Officer finds that the predominant land use of the property sought to be partitioned is farming, and that thus the criteria, standards and procedures in Article 54 (in addition to Section 45.040) shall apply. In conjunction therewith, the Hearings Officer finds:

A.. This application is consistent with the 80 acre minimum lot size established by Section 55.250 of the Code.

B. The proposed partition complies with policies of the Comprehensive Plan.

C. The proposed partition is in conformance with all standards and criteria of the Code and applicable state statutes.

D. The subject property is physically suitable for the type and proposed density of development and conforms to zone standards.

E. The parcels are located and laid out to properly relate to adjoining or nearby lot or parcel lines, utilities, streets or other existing or planned facilities. The primary area of concern expressed by Rocky D. Liskey of Liskey Farms, Inc. had to do with the natural drainage and the possible impact of the discharge of waters from the proposed operation on adjacent properties. Correspondence in response to the Liskey Farms, Inc. letter (Exhibits F and G respectively) would suggest that the applicant has or will address these concerns.

F. The sewer and water facilities and existing fire protection services are adequate to serve the density of development resulting from the proposed partition. Klamath County Fire District No 1 provides service to the area.

G. The proposed partition has legal access to the property from off of Lower Lake Road.

H. The proposed partition will not conflict with legally established easements or access within or adjacent to the subject property.

I. The proposed partition will not prohibit the extension of dedicated streets or roads.

6. FINDINGS REGARDING CONDITIONAL USE PERMIT:

A. In view of the finding that the predominant use of the parcel is farming, the matter is reviewed under Section 54.030 of the Code. Code Section 54.030(T) provides as a permitted conditional use the propagation, cultivation, maintenance and harvesting of aquatic species.

B. The proposed use will not create conditions or circumstances that are determined to be contrary to the purposes

or intent of the acknowledged comprehensive plan, its policies or land use regulations.

C. The proposed use is in conformance with all standards and criteria of the Code, notably Article 57.

D. The location, size, design and operating characteristics of the proposed use will not force a significant change in, or significantly increase the cost of, accepted farm or forestry practices on nearby agricultural or forest lands.

E. The applicant has agreed to execute a written statement which will be recorded with the deed which recognizes the rights of adjacent and nearby land owners to conduct farm or forest operations consistent with accepted farm practices and the Forest Practices Act, ORS 30.090 and Rules for uses authorized by the Code.

F. The proposed use will not significantly increase fire hazards or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel.

7. ORDER:

Therefore, it is ordered the request of Mike Kenney and Karl Trahan for LP 16-97 and for CUP 15-97 are approved subject to the following conditions:

A. The applicant shall file a restrictive covenant with the County Clerk prohibiting the permit holder and their successors in interest from filing complaint concerning accepted resource management practices that may occur on nearby lands.

B. CUP 15-97 will not be effective until LP 16-97 is filed in the office of the County Clerk, and will expire two years later unless utilized or extended.

C. LP 16-97 must comply with Code requirements, Oregon Revised Statutes and agency conditions prior to filing, and will expire one year from the date below unless filed or extended.

DATED this 14 day of APRIL, 1997.


NEAL G. BUCHANAN, Hearings Officer

11199

NOTICE OF APPEAL RIGHTS

You are hereby notified this application may be appealed to the Klamath County Board of Commissioners by filing with the Klamath County Planning Department a Notice of Appeal as set out in Section 33.004 of the Klamath County Land Development Code, together with the fee required within SEVEN DAYS following the mailing date of this order.

REQUIREMENTS FOR FINAL APPROVALPartition No. LP 16-97/Kenney/Trahan

NOTE: THIS APPLICATION WILL EXPIRE ONE YEAR FROM THE PRELIMINARY APPROVAL DATE IF A TIME EXTENSION APPLICATION IS NOT MADE PRIOR TO THAT DATE.

FINAL PLAT REQUIREMENTS (Per Section 45.110 of the Land Development Code)

- A. Original Drawing - The original drawing of a partition plat shall be made in permanent black India type ink on 7 mil mylar, 18 inches by 24 inches in size with an additional 3 inch binding edge on the left side. The plat shall be of such a scale as required by the County Surveyor. The lettering of the approvals, the affidavit of the surveyor and all other information shall be of such a size or type as will be clearly legible, but no part shall come nearer any edge of the sheet than 1 inch. The original drawing shall be recorded in the County Clerk's office.
- B. Copy - One exact copy of the original plat made in permanent black India type ink or silver halide permanent photocopy on minimum 4 mil mylar, 18 inches by 24 inches in size shall be submitted to the Planning Director along with the original plat.
- C. Information shown on Plat:
 1. The partition number.
 2. The name of the person for whom the partition was made.
 3. Signature Blocks for the following:
 - a. Planning Director;
 - b. County Surveyor;
 - c. County Public Works Director (if applicable);
 - d. County Clerk;
 - e. Owner and contract purchaser of the subject property (if applicable).
 4. All requirements of ORS 92.050, 92.070(1), and ORS 209.250 where applicable.
 5. Street names adjacent to the partition.
 6. Water rights recording number. If a water right is not appurtenant to the property, a statement signed by the owner indicating such shall be shown on the plat.
- D. Supplemental Information to be filed with the Final Plat:
 1. A preliminary title report or partition guarantee issued by a title company in the name of the owner of the land and prepared within 30 days prior to submittal of the final plat showing all parties having any record title interest in the premises and what interest they have.
 2. A completed water rights statement if a water right is appurtenant to the property.

OTHER REQUIREMENTS:

1. Applicant is required to pay all advalorem taxes, any additional taxes, special assessments, fees, interest and penalties prior to partition being recorded.
2. The partition is exempt from surveying requirements.

STATE OF OREGON : COUNTY OF KLAMATH: ss.

Filed for record at request of Klamath County Hearings Officer the 15th day of April A.D., 19 97 at 11:57 o'clock A.M. and duly recorded in Vol. M97 of Deeds on Page 11196.

FEE No Fee

Return: Commissioners Journal

Bernetha G. Letsch, County Clerk
by Kathleen R. 1221