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BEFORE THE BOARD OF COUNTY COMMISSIONERS

Book 8

FOR COLUMBIA COUNTY, OREGON

In the Matter of Amending)
Section 604.5 of the Columbia) ORDINANCE NO. 93-3
County Zoning Ordinance)

The Board of County Commissioners for Columbia County, Oregon ordains as follows:

SECTION 1. TITLE.

This ordinance shall be known as Ordinance No. 93-3.

SECTION 2. AUTHORITY.

This ordinance is adopted under the authority of ORS 203.035, 215.050 and 215.223.

SECTION 3. PURPOSE.

The purpose of this ordinance is to require fifty (50) feet of frontage on a public right-of-way for parcels created in the Rural Residential (RR-5) Zone on or after June 4, 1991. Parcels created in the RR-5 Zone before June 4, 1991 may have 50 feet of frontage on non-exclusive easements instead. The ordinance also specifies how the Columbia County Road Improvement Design Standards apply to such roads and easements.

SECTION 4. AMENDMENT.

Section 604.5 of the Columbia County Zoning Ordinance is amended to read as shown in the attached Exhibit "A" which is incorporated herein by this reference.

SECTION 5. FINDINGS.

Findings of fact and conclusions of law in support of this amendment are attached hereto, labeled Exhibit "B" and incorporated herein by this reference.

SECTION 6. SEVERABILITY.

If any provision of this ordinance, including Exhibits "A" and "B", are for any reason held invalid or unconstitutional by any court of competent jurisdiction, such provision shall be deemed a separate, distinct and independent provision and such holding shall not affect the remaining portions thereof.

SECTION 7. EMERGENCY CLAUSE.

This ordinance being immediately necessary to maintain the public health, safety and welfare, an emergency is declared to exist and this ordinance shall take effect immediately upon its adoption.

REGULARLY PASSED AND ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS FOR COLUMBIA COUNTY, OREGON THIS 14th DAY OF APRIL, 1993.

Approved as to form

By: John L. King
Office of County Counsel

Attest:

By: Jane Seunhalgh
Recording Secretary

First Reading: 4-14-93

Second Reading: 4-14-93

Effective Date: 4-14-93

BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

By: Michael J. J. J.
Chairman

By: B. B. B.
Commissioner

By: James A. A.
Commissioner

EXHIBIT "A"

604.5 Lots or parcels shall conform to the following requirements before a building permit may be issued for construction on the property:

A. All lots or parcels legally recorded on or after June 4, 1991 shall have a minimum of fifty (50) feet of usable frontage on a public right-of-way. All such public rights-of-way shall be improved in accordance with the requirements of the Columbia County Uniform Road Improvement Design Standards. In lieu of such improvements, the owner or developer of the lot or parcel may secure a surety bond, or place cash in escrow or trust, to insure that the improvement will be completed according to the procedure outlined in Section 801 of the Columbia County Subdivision and Partitioning Ordinance.

B. All lots or parcels legally recorded before June 4, 1991 shall have a minimum of fifty (50) feet of usable frontage on a public right-of-way or private non-exclusive easement. One-half of the public right-of-way or private non-exclusive easement adjacent to the lot or parcel shall be improved in accordance with the requirements of the Columbia County Uniform Road Improvement Design Standards. In lieu of such improvements, the owner or developer of the lot or parcel may secure a surety bond, or place cash in escrow or trust, to insure that the improvements will be completed according to the procedure outlined in Section 801 of the Columbia County Subdivision and Partitioning Ordinance. However, in the sole discretion of the Board, in lieu of the improvements or cash or surety bond to secure such improvements, the Board may require the owner or developer of the lot or parcel to put up cash in an amount equivalent to the cost of such improvements dedicated toward the improvement of the entire road rather than the portion adjacent to the lot or parcel.

COLUMBIA COUNTY BOARD OF COMMISSIONERS
Staff Report
Zoning Ordinance Text Amendment

FILE NUMBER: TA 2-93

APPLICANT: Columbia County Department of Land Development Services
County Courthouse, St. Helens, OR 97051

REQUEST: To amend Section 604.5 of the Columbia County Zoning Ordinance, regarding parcels in the RR-5 zone having usable frontage on a public right-of-way.

BACKGROUND:

This text amendment grew out of an opinion of June 4, 1991 from County Counsel to the Department of Land Development Services, that a non-exclusive easement was not a "public right-of-way" under Section 604.5 of the Zoning Ordinance. This opinion has led to the denial or delay of several building permits by the Department, when a lot or parcel had frontage on an easement rather than a public or county road.

PROPOSED AMENDMENT:

Section 604.5 of the Zoning Ordinance presently requires the following:

"5 All parcels shall have a minimum of 50 foot of usable frontage on a public right-of-way, except a non-exclusive easement to a single parcel to be used for residential purposes may be used for access to a public or county road."

The change recommended by the Planning Commission would replace the above with the following:

"604.5 Lots or parcels shall conform to the following requirements before a building permit may be issued for construction on the property:

- A. All lots or parcels legally recorded on or after June 4, 1991 shall have a minimum of 50 feet of usable frontage on a public right-of-way. All such public rights-of-way shall be improved in accordance with the requirements of the Columbia County Uniform Road Improvement Design Standards. In lieu of such improvements, the owner or developer of the lot or parcel may secure a surety bond, or place cash in escrow or trust, to insure that the improvement will be completed according to the procedure outlined in Section 801 of the Columbia County Subdivision and Partitioning Ordinance.

- B. All lots or parcels legally recorded before June 4, 1991 shall have a minimum of 50 feet of usable frontage on a public right-of-way or private non-exclusive easement. One-half of the public right-of-way or private non-exclusive easement adjacent to the lot or parcel shall be improved in accordance with the requirements of the Columbia County Uniform Road Improvement Design Standards. In lieu of such improvements, the owner or developer of the lot or parcel may secure a surety bond, or place cash in escrow or trust, to insure that the improvements will be completed according to the procedure outlined in Section 801 of the Columbia County Subdivision and Partitioning Ordinance. However, in the sole discretion of the Board, in lieu of the improvements or cash or surety bond to secure such improvements, the Board may require the owner or developer of the lot or parcel to put up cash in an amount equivalent to the cost of such improvements dedicated toward the improvement of the entire road rather than the portion adjacent to the lot or parcel."

FINDINGS:

This request is being processed under Sections 1606 and 1611 of the Zoning Ordinance, as follows:

"1606 Legislative Hearing: Requests to amend the text of the Zoning Ordinance...are legislative hearings. Legislative hearings shall be conducted in accordance with the following procedures:

- .1 A legislative amendment to the Zoning Ordinance Text or Map may be initiated at the request of the Board of Commissioners, a majority of the Commission, or the Director, or any citizen of the County may petition the Commission for such a change."

Finding 1: The amendment was initiated by the Director of the Department of Land Development Services, at the request of County Counsel.

Continuing with Section 1606 of the Zoning Ordinance:

- "2 Notice of a Legislative Hearing shall be published at least twice, 1 week apart in newspapers of general circulation in Columbia County. The last of these notices shall be published no less than 10 calendar days prior to the Legislative Hearing. The mailing of notice to individual property owners is not required but shall be done if ordered by the Board of Commissioners."

Finding 2: Notice was published March 24 and 31, 1993 in the St. Helens Chronicle and Scappoose Spotlight, both of which were more than 10 days prior to April 14, 1993, the date of the Board hearing.

"1611 Notice of Legislative Hearing: The notice of a legislative hearing shall contain the following items:

- .1 Date, time and place of the hearing;
- .2 A description of the area to be rezoned or the changes to the text;
- .3 Copies of the statement for the proposed changes are available in the Planning Department. These proposed changes may be amended at the public hearing;
- .4 Interested parties may appear and be heard;
- .5 Hearings will be held in accordance with the provisions of the Zoning Ordinance."

Finding 3: All of the above were included in the Notice of Public Hearing published twice in the Chronicle and Spotlight newspapers.

COMMENTS:

1. The Scappoose CPAC recommends denial of the proposed ordinance changes. The CPAC also "object[s] to a procedure where County Counsel drafts documents at the request of a petitioner for consideration by any public body. The petitioner and/or his or her representative has the responsibility to prepare and present all elements of a proposal."
[Note: this comment arose from an error by staff in presenting the item to the CPAC. Staff regrets the error and apologizes to Mr. Knight].
2. Von Smith, of the St. Helens CPAC comments, regarding the requirements for road improvements, "This would be "after the fact" and create unnecessary hardships in many cases. Many residential subdivisions have so-called "bottle lots" but the lots themselves are not too far from the main street (usually less than 200')."
3. No other comments have been received from adjacent or nearby property owners or government agencies as of the date of this staff report (April 6, 1993).

CONCLUSION AND RECOMMENDATION:

Based upon the above discussion and findings, the Planning Commission and planning staff recommend approval of the proposed legislative amendment to Section 604.5 of the Columbia County Zoning Ordinance, as printed above.