

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

In the Matter of an Amendment to)
the Columbia County Subdivision)
and Partitioning Ordinance Relating) ORDINANCE NO. 97-1
to Survey Requirements in Resource)
Zones)

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

SECTION 1. TITLE.

This ordinance shall be known as Ordinance No. 97-1.

SECTION 2. AUTHORITY.

This ordinance is adopted under the authority of ORS 92.044, 203.035 and 215.050.

SECTION 3. PURPOSE.

The purpose of this ordinance is to amend survey requirements for partitions within resource zones. Partitions of parcels between 20 and 40 acres may be allowed without the filing of a survey, if the property is located in a resource zone. Partitions of property where the parcels to be created are greater than 40 acres are not required to be surveyed.

SECTION 4. FINDINGS.

1. ORS 92.044 allows counties greater flexibility in survey requirements for large parcels. Columbia County has received testimony to the effect that the existing survey requirements are more onerous on rural parcels, because they must be tied to geodesic monumentation which may not be available in many rural areas.
2. The need for survey and monumentation is greater on smaller parcels and in areas where there is more intensive development. The smaller the parcel, the more likely the concern for property lines which show the buildable areas accurately.
3. The Board of County Commissioners adopts findings 1 through 3 of the Planning Department Staff Report, a copy of which is attached hereto as Attachment "A" and incorporated herein by this reference.
4. The Board of County Commissioners finds that the proposed amendments are consistent with the provisions of the acknowledged comprehensive plan.

SECTION 5. AMENDMENTS.

The Columbia County Subdivision and Partitioning Ordinance is amended as follows. Items in

bold are to be added. There are no deletions.

1. Section 511 C.:

The survey and plat of the partition shall be made by a registered professional land surveyor. **Unless the Planning Director provides otherwise, created parcels that are 20 acres or greater, but less than 40 acres, need not be surveyed or monumented if zoned Primary Forest, Forest Agriculture or Primary Agriculture. Similarly zoned parcels that are 40 acres or greater need not be surveyed or monumented.**

2. Section 610 C.:

The survey and plat of the partition shall be made by a registered professional land surveyor. **Unless the Planning Director provides otherwise, created parcels that are 20 acres or greater, but less than 40 acres, need not be surveyed or monumented if zoned Primary Forest, Forest Agriculture or Primary Agriculture. Similarly zoned parcels that are 40 acres or greater need not be surveyed or monumented.**

SECTION 7. SEVERABILITY.

If any provision of this ordinance is 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 8. 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 on January 29, 1997.

REGULARLY PASSED AND ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS FOR COLUMBIA COUNTY, OREGON THIS 29th DAY OF January, 1997.

Approved as to form:

By: Ann Cocoran Brigg

Office of County Counsel

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Attest:

By: Jan A. Sunkalgh
Recording Secretary

BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

By: John R. Peterson
Chair

By: [Signature]
Commissioner

By: Joel K. Garbar
Commissioner

First Reading: 1/29/97
Second Reading: 1/29/97
Effective Date: 1/29/97

ATTACHMENT "A"

COLUMBIA COUNTY PLANNING COMMISSION
STAFF REPORT

Text Amendment

October 22, 1996

FILE NUMBER: TA 5-96

APPLICANT: Columbia County Land Development Services
County Courthouse
St. Helens, Oregon 97051

REQUEST: To amend Sections 511C and 610C of the Columbia County Subdivision and Partitioning Ordinance to exempt survey requirements for major and minor partition plats involving certain parcels in the County's resource zones.

BACKGROUND:

Applicant wishes to amend the text of the Columbia County Subdivision and Partitioning Ordinance (CCSPO) to waive survey requirements for major and minor partition plats for created parcels that are at least 20 acres and zoned Primary Forest (Pf-76), Forest Agriculture (FA-19), or Primary Agriculture (PA-38). Applicability of this provision will be at the discretion of the Planning Director for created parcels that are at least 20 acres, but less than 40 acres; however, surveys shall be automatically waived for created parcels 40 acres or greater.

The County's Subdivision and Partitioning Ordinance currently requires surveys for all newly created parcels (or lots), regardless of zoning or resulting acreages. The land owner's only alternative is to obtain a variance to this standard from the Planning Commission, a time-consuming and arduous process.

The proposed amendments are consistent with Oregon Revised Statute (ORS) 92.060(6), which reads, in part:

"Unless the governing body provides for otherwise, any parcels created that are greater than 10 acres need not be surveyed or monumented."

In that the law applies only to "parcels," the product of partitions, proposal does not include changes to survey requirements for subdivisions (CCSPO 404): a county may not adopt ordinances that are less restrictive than state statute.

Due to the large size of most parcels in the County's farm and forest zones (20 to 80 acres, or greater), the number of existing survey monuments in those areas is typically far less than that of more densely populated areas. As a result, the rural land owner routinely pays more for a property survey than does his suburban or rural residential contemporary. If approved, the proposed amendments would provide needed flexibility to the County's partitioning ordinances by giving the resource land owner the opportunity to divide his property without incurring the expense of a costly survey.

Although the above statute applies to parcels greater than 10 acres, the applicant believes that limiting the proposed changes to parcels that are at least 20 acres is more conducive local farm and forest land ownership patterns.

FINDINGS:

Applicant wishes to amend the text of the Columbia County Subdivision and Partitioning Ordinance as follows: (additions are in bold, there are no deletions):

Add to Section 511, "Information on Final Plat," of Article V, "Major Land Partitioning," as follows:

- C. The survey and plat of the partition shall be made by a registered professional land surveyor. **Unless the Planning Director provides for otherwise, created parcels that are 20 acres or greater, but less than 40 acres, need not be surveyed or monumented if zoned Primary Forest, Forest Agriculture, or Primary Agriculture. Similarly zoned parcels that are 40 acres or greater need not be surveyed or monumented.**

Add to Section 610, "Information on Final Plat," of Article VI, "Minor Partitioning," as follows:

- C. The survey and plat of the partition shall be made by a registered professional land surveyor. **Unless the Planning Director provides for otherwise, created parcels that are 20 acres or greater, but less than 40 acres, need not be**

surveyed or monumented if zoned Primary Forest, Forest Agriculture, or Primary Agriculture. Similarly zoned parcels that are 40 acres or greater need not be surveyed or monumented.

The following sections of the Columbia County Zoning Ordinance are pertinent to this request:

"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: Section 102 of the County Subdivision and Partitioning Ordinance reads, in part: "This ordinance is supplemental to the provisions of the Columbia County Zoning Ordinance. . . ." The proposed amendments to the Subdivision and Partitioning Ordinance were initiated at the request of the Columbia County Board of Commissioners.

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: Hearing notices were published twice, one week apart, in the St. Helens Chronicle and Scappoose Spotlight newspapers. The last of these notices was published more than 10 days prior to the Planning Commission hearing of November 18, 1996. Notice to individual property owners was not required by the Board of Commissioners and was not done.

"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 was included in the "Notice of Public Hearing" published twice in the Chronicle and Spotlight newspapers.

COMMENTS:

No comments have been received as of the date of this staff report (October 22, 1996).

CONCLUSION AND RECOMMENDATION:

Based upon the above findings, staff recommends approval of the proposed legislative amendments to the text of the Columbia County Subdivision and Partitioning Ordinance.