

1 BEFORE THE LAND USE BOARD OF APPEALS
2 OF THE STATE OF OREGON
3

4 TED NEWSOME,)
5)
6 Petitioner,)
7)
8 vs.)
9)
10 CLACKAMAS COUNTY,)
11)
12 Respondent.)
13

LUBA No. 93-095
FINAL OPINION
AND ORDER

14
15 Appeal from Clackamas County.

16
17 Richard T. Ligon, Wilsonville, filed the petition for
18 review and argued on behalf of petitioner. With him on the
19 brief was Woodard & Ligon.

20
21 Michael E. Judd, Chief Assistant County Counsel, Oregon
22 City, filed the response brief and argued on behalf of
23 respondent.

24
25 KELLINGTON, Chief Referee; HOLSTUN, Referee; SHERTON,
26 Referee, participated in the decision.

27
28 AFFIRMED 08/04/94
29

30 You are entitled to judicial review of this Order.
31 Judicial review is governed by the provisions of ORS
32 197.850.

1 Opinion by Kellington.

2 **NATURE OF THE DECISION**

3 Petitioner appeals an order of the county hearings
4 officer denying an application to partition the subject
5 fifteen-acre parcel zoned Transitional Timber (TT-20) into
6 three, five-acre parcels.

7 **ASSIGNMENT OF ERROR**

8 The hearings officer denied the subject application on
9 the basis of Clackamas County Zoning and Development
10 Ordinance (ZDO) 403.05, which establishes standards
11 applicable to a proposed division of forest land. Because
12 the challenged decision is one to deny proposed development,
13 we must sustain the county's decision if there are adequate
14 findings, supported by substantial evidence in the record,
15 determining that one applicable standard is not met. Garre
16 v. Clackamas County, 18 Or LUBA 877, aff'd 102 Or App 123
17 (1990). ZDO 403.05(A)(4) requires a determination that the
18 subject land is generally unsuitable for the production of
19 farm or forest products, considering various factors.¹

20 Petitioner challenges the county findings determining
21 the subject property is generally suitable for forest use.
22 Petitioner contends these findings are erroneous because

¹ZDO 403.05(A)(4) provides:

"[The parcel is] situated upon generally unsuitable land for the production of farm or forest products considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract."

1 they state the subject parcel is relatively small and steep
2 and contains thick brush and vegetation, but then conclude
3 that because the soils on the subject parcel are site class
4 III, and because it is possible to combine the subject
5 property with property to the south, the subject parcel is
6 not generally unsuitable for forest use. As we understand
7 it, petitioner disagrees with the conclusions drawn from the
8 findings. Petitioner argues the findings, described above,
9 show the parcel is generally unsuitable for forest use.

10 The county's findings are adequate to support its
11 conclusion that the subject land is generally suitable for
12 forest use. Those findings are supported by substantial
13 evidence in the whole record.

14 Furthermore, in addition to determining the subject
15 parcel is generally suitable for forest use, the challenged
16 decision determines the subject parcel is generally suitable
17 for farm use. Petitioner challenges neither the findings
18 concerning the subject property's suitability for farm use,
19 nor the evidentiary support for those findings.
20 Accordingly, the county's determination that the subject
21 parcel is generally suitable for farm use provides a
22 separate basis for affirming the challenged decision.

23 The assignment of error is denied.

24 The county's decision is affirmed.