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BOARD OF COUNTY COMMISSIONERS

In and For the County of Klamath, State of Oregon

IN THE MATTER OF THE
APPLICATION FOR ZONE
CHANGE NO. 74-38 BY
JOHN AND VERDA OVERTON

O R D E R

This matter having come on for hearing upon the application of John and Verda Overton for a zone change, said zone application being numbered Zone Change 74-38 and said application having been heretofore recommended from AF (Agriculture Forestry) zone to SP-1 (Rural Residential - 1 Acre) zone by the Klamath County Planning Commission, a description of the real property referred to in said application being marked Exhibit A, attached hereto and by reference made a part hereof, and a public hearing on said application having been regularly held on July 15, 1974, before the Board of Commissioners, and it appearing to said Board of Commissioners from the testimony, reports, and information produced at said hearing by the applicant, the Planning Commission and the Planning Department that the application should be granted, the Board of Commissioners makes the following findings of fact:

1. The 11-acre parcel which is the subject of this zone change is part of a 34-acre parcel owned by the applicants, located on the north and east sides of the Malin Cemetery.
2. The applicants wish to sell the 11-acre parcel which contains 6 or 7 acres of agricultural land. The balance is a rocky outcrop upon which a house is proposed to be built.
3. The City of Malin has approved the request for a land use plan and zone change.
4. There is a private, established by use for eighteen years, unrecorded access road running through the Overton property to the north providing access to an adjoining property owner. This road does not directly serve the 11-acre parcel.

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5. The adjoining property owner to the north has no objection to the zone change and will permit use of the access by others, and will maintain it.

6. The area surrounding the property is generally agricultural land.

7. The 34-acre parcel is broken up by roads and ditches. The applicants do not have the machinery they would need to farm the area. They have tried to lease or hire people to work the land but report this was unprofitable.

8. The A (Agriculture) zone permits uses proposed by the applicant.

Based upon the above findings of fact, the Board reaches the following conclusions of law:

1. The applicant has provided insufficient information showing that there is a public need for the SP-1 (Rural Residential - 1 Acre) zone; and

2. The applicant has provided specific information showing that there is a public need for a zone change from AF (Agriculture Forestry) to A (Agriculture), and further showing that the applicant's property is best suited to meet said public need; and

3. The property affected by the change of zone from AF to A is adequate in size and shape to facilitate those uses normally allowed in conjunction with such zoning; and

4. The property affected by the change of zone from AF to A is properly related to streets and highways, and specifically the present system of roads in the area, to serve the type of traffic generated by such uses that may be permitted; and

5. The change of zone from AF to A will have no adverse effect on any property or the permitted uses thereof within a seven hundred (700) foot radius excluding highways and rights-of-way, as was evidenced by the lack of adverse testimony from adjacent property owners; and

6. The change of zone from AF to A is in keeping with any


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land use plans duly adopted and does, in effect, represent the highest, best and most appropriate use of the land affected; and

7. The application, if approved from AF to A zone, is consistent with the Klamath County adopted Comprehensive Land Use Plan maps and text.

NOW, THEREFORE, IT IS HEREBY ORDERED that the application of John and Verda Overton for a zone change from AF (Agriculture Forestry) to SP-1 (Rural Residential - 1 Acre), a particular description of the real property referred to in said application being marked Exhibit A, attached hereto and by reference made a part hereof, said zone change application being numbered 74-38 is denied because the more restrictive A (Agriculture) zone will meet the applicant's requirements, and those of the public, but that said Zone Change 74-38 is approved from the AF (Agriculture Forestry) zone to A (Agriculture) zone.

DONE AND DATED THIS 11th day of September 1974.


Chairman of the Board


County Commissioner

Approved as to form

County Commissioner


Harry D. Boivin, Legal Counsel

12123

EXHIBIT A
LEGAL DESCRIPTION
ZONE CHANGE 74-38

Approximately 11 acres located adjacent to the Malin Cemetery Road
and more particularly described as the northwesterly portion north
of the high canal of the

SW1/4 SW1/4 of Section 10, Township 41 South, Range
12 East of the Willamette Meridian, less portions
described in deeds recorded in Volume 49, page 171,
Volume 64, page 205, and Volume 174 page 427 of the
Deed Records of Klamath County, Oregon; and
Beginning at a point 627 feet East 154 feet North
of the Southeast corner of the one acre tract hereto-
fore conveyed by the Lakeside Company to Zdruxeni
Farmaru Marlin, by deed dated September 6, 1911, and
recorded at Page 63, of Vol. 35 of the Record of Deeds
of Klamath County, Oregon; thence North 264 feet; thence
West 165 feet; thence South parallel to the East line
of this tract 264 feet, more or less to the Malin
Irrigation District Canal; thence Easterly along said
mentioned canal 165 feet, more or less to the place of
beginning, containing one acre, more or less.

STATE OF OREGON; COUNTY OF KLAMATH; ss.
Board of County Commissioners
Filed for record at request of _____
this 12 day of Sept A. D., 1974 at 9:31 o'clock a. M., and duly recorded in
Vol. 174, of deeds, no fee on Page 12120.
By W. D. MILLER, County Clerk Deputy