

10091

Vol. 1898

BEFORE THE BOARD OF COUNTY COMMISSIONERS

In and For the County of Klamath, State of Oregon

IN THE MATTER OF THE
APPLICATION FOR ZONE
CHANGE NO. 75-20 BY
JOHN P. MANNERING

O R D E R

THIS MATTER having come on for hearing upon the application of JOHN P. MANNERING, said change application being numbered Zone Change 75-20, for a change in zone from AF (Agricultural Forestry) to SP-1 (Rural Residential) on the zoning map, and a public hearing having been heard by the Klamath County Planning Commission on November 25, 1975, where from the testimony, reports and information produced at the hearing by the applicant, the Planning Department staff and other persons in attendance, the Planning Commission recommended approval of the application. Following action by the Planning Commission, a public hearing was regularly held on January 6, 1976, before the Board of County Commissioners, where from the testimony, reports and information produced at the hearing that there was not substantial evidence for the action taken by the Planning Commission, and that the application for a change of zone for that certain property described in Exhibit A, attached hereto and by reference made a part hereof, should not be granted, the Board of County Commissioners makes the following findings of fact as required by Ordinance No. 17, the same being the Klamath County Zoning Ordinance and Fasano v. Board of Commissioners, Washington County, 96 Adv Sh 1059, 264 OR 547, 507 P2d 23 (1973):

1. The subject property is approximately 22.03 acres in size with approximately 1,000 feet of highway frontage.
2. The subject property is presently zoned AF (Agricultural Forestry) and the Comprehensive Land Use Plan designation on Area Map No. 5 is Recreational Residential.
3. The applicant is requesting a zone change from AF to SP-1, which will conform with the Comprehensive Land Use Plan designation.
4. Applicant testified that he wishes to split the acreage into three parcels for sale.
5. Applicant testified that about 14 acres of the total acreage were under water.
6. There was no testimony from the applicant or other witnesses before the Planning Commission that there was any public need in the area for property zoned SP-1 (Rural Residential).

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7. There was no testimony before the Planning Commission that the best use of the subject property was for rural residential uses.

8. There was no testimony before the Planning Commission that the need for property zoned SP-1 (Rural Residential) will be best served by changing the designation of the subject property as opposed to other property in the area.

9. From the record before the Planning Commission, applicant did not prove that trends in land development in the area would be consistent with granting applicant's requested change of zone.

10. There was no testimony in the record that drainage would be adequate for the installation of septic tanks.

11. There was no testimony in the record before the Planning Commission to determine whether the subject property was adequate in size and shape to facilitate the uses allowed under an SP-1 zone.

Conclusions of Law:

1. There was no substantial evidence to support the granting of the Zone Change 75-20 by the Klamath County Planning Commission.

2. There was insufficient evidence in the record before the Klamath County Planning Commission to determine whether:

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

b. The property affected by the proposed change of zone is properly related to streets and highways to adequately serve the type of traffic generated by such uses that may be permitted therein;

c. The proposed change of zone will have no adverse effect or only limited adverse effect on any property or the permitted uses thereof within the affected area; or whether

d. The proposed change of zone is in keeping with land uses and improvements, trends in land development, density of land development, and prospective needs for development in the affected area.

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NOW, THEREFORE, IT IS HEREBY ORDERED that the application for a change of zone by JOHN P. MANNERING, requesting a change from AF (Agricultural Forestry) to SP-1 (Rural Residential) on real property described in Exhibit A, attached hereto and by reference made a part hereof, said application being numbered Zone Change 75-20 is hereby denied.

DONE AND DATED THIS 9th day of February 1976.

Ragmond P. Thorne
Chairman

Commissioner

Lloyd Giff
Commissioner

APPROVED AS TO FORM
Boivin and Boivin
Legal Counsel

BY *[Signature]*

EXHIBIT A
LEGAL DESCRIPTION
ZONE CHANGE 75-20

MANNFRING

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A portion of Lot 3 in Section 6, Township 35 So., Range 7 East of the Willamette Base and Meridian, and being more particularly described as follows:

Beginning at the northeast corner of that tract of real property described in Volume 327, page 40, of Deed Records of Klamath County, Oregon, which corner bears south 143.17 feet and west 792.91 feet from the quarter corner common to Section 6, Township 35 So., Range 7 EWM, and Section 31, Township 34 So., Range 7 EWM, said corner also being on the westerly right-of-way boundary of the old Dalles-California Highway; thence north 0° 13' east along said right-of-way boundary 143.2 feet to the north boundary of Lot 3, Section 6, above referred to; thence west along said boundary 423.0 feet, more or less, to the shoreline of Agency Lake (Upper Klamath Lake); thence southerly along said shoreline to the north boundary of that tract of real property described in Volume 327, page 40 of Deed Records of Klamath County, Oregon, as aforesaid; thence east along said north boundary 421.67 feet to the point of beginning, containing 1.4 acres, more or less;

ALSO, Lot 4 and all that portion of the south half of the southeast quarter of the southwest quarter and the south half of the north half of the southeast quarter of the southwest quarter of Section 31, Township 34 So., Range 7 East of the Willamette Meridian, lying west of the westerly right-of-way boundary of the old Dalles-California Highway, containing 22.03 acres, more or less.

STATE OF OREGON; COUNTY OF KLAMATH; ss.

Filed for record at request of KLAMATH COUNTY BOARD OF COMMISSIONERS

this 10th day of FEBRUARY 1976 at 11:46 o'clock AM, and
duly recorded in Vol. M 76, of DEEDS on Page 1898

NO FEE

Wm D. MILNE, County Clerk

By Hazel L. Hargis