

BOARD OF COUNTY COMMISSIONERS

In and For the County of Klamath, State of Oregon

IN THE MATTER OF THE
APPLICATION FOR ZONE
CHANGE NO. 75-10 BY
ROBERT M. PERLA

O R D E R

THIS MATTER having come for hearing upon the application of Robert M. Perla, said change application being numbered Zone Change 75-10, for a change in zone from AF (Agricultural Forestry) zone to RD 10,000 (Residential Single Family) and SP-11 (Marina) on that portion of land to be utilized for a marina, a public hearing having been heard by the Klamath County Planning Commission on January 25, 1977 and continued to February 22, 1977, for a Decision Only, 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 before the Board of County Commissioners was regularly held on March 11, 1977, where from the testimony, reports and information produced at the hearing that the application for a change of zone for that certain property described as Government Lots 3, 4, 5, 6, 11, 12, 13 and 14, Section 18, Township 35 South, Range 7 East of the Willamette Meridian, Klamath County, Oregon, that application for a zone change for Robert Perla be ordered for a new hearing on April 20, 1977, in order to hear additional testimony from the citizens of Chiloquin, Oregon.

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,

1 9. There is no testimony as to the potential pressures
2 the change would have upon public facilities, including the recrea-
3 tion facilities in Henzel Park, and schools in the area.

4 10. There is no testimony as to the effects the change in
5 land use and zone designations of the subject property would have
6 upon adjacent properties, other than for Tract 1113, Oregon Shores
7 Unit 2.

8 11. The record discloses no testimony concerning the
9 effects of the change in Land Use Plan or zone designations may have
10 upon the quality of water in Agency Lake or upon subsurface waters
11 particularly:

12 A. The potential pollution due to drainage of subject
13 property and Tract 1113.

14 B. The potential pollution due to use of individual
15 septic systems under urban density conditions.

16 12. The record indicates no testimony as to the proposed
17 zone change is necessary for adequate development of traffic
18 patterns for Tract 1113.

19 13. The record reveals no testimony that the proposed
20 zone change is necessary to provide for adequate drainage from
21 Tract 1113.

22 14. The record discloses no testimony as to the aesthetic
23 effects of the proposed zone change upon the surrounding area and
24 the public in general.

25 15. The Fasano decision requires that the applicant for a
26 change prove:

27 A. There is a public need for the change.

28 B. The public need is met best by the proposed change.

1 C. Density of Development

2 D. Natural resources of the county and prospective
3 needs for development thereof.

4 E. Public need for healthful, safe, aesthetic sur-
5 roundings and conditions.

6 28. The record reveals no testimony relative to the
7 Statewide Goals and Guidelines, particularly the Agricultural Goal.

8 29. The record indicates no testimony that there is no
9 other property available or that if there is other property available
10 that the subject property would best serve the public need.

11 30. The record indicates no testimony that the public
12 need will be best served by the change in zone of the subject
13 property as compared with other property.

14 31. Testimony indicated by Mr. Steven Pfeiffer from the
15 Planning Department, that there were other subdivisions in the area
16 within a 15 mile radius, that there were other lots available from
17 these subdivisions which were also not completely developed as far
18 as improvements from a building standpoint.

19 32. The record indicates no testimony as to why it is
20 necessary to introduce the proposed zone into an area not previously
21 contemplated and why the property owners there should bear the
22 burden of departure.

23 Based upon the above findings of fact, the following con-
24 clusions of law are made:

25 1. The proposed change in zone is a drastic change, from
26 Agricultural Forestry to RD 10,000 and SP-11.

27 2. The subject property, with the proposed zone change,
28 is not completely related to streets and highways in a proper,