

BEFORE THE BOARD OF COUNTY COMMISSIONERS
In and For the County of Klamath, State of Oregon

IN THE MATTER OF THE)
APPLICATION FOR CHANGE)
OF ZONE NO. 77-16, BY)
John A. Kalita, Jr.)

O R D E R

This matter having come on for hearing upon the application of John A. Kalita, Jr., for a zone change from AF (Agricultural Forestry) to SP-1 (Rural Residential) on real property described as that portion of the N 1/2 N 1/2 of Section 31, Township 34, Range 7 and lying westerly of Highway 62 and easterly of the Old Dalles-California Highway exception that portion within the Cemetery. Public hearings on the application were heard by the Klamath County Planning Commission on July 19, 1977, August 9, 1977 and August 23, 1977. The August 23, 1977, was for decision only and where from the testimony, reports and information produced at the hearings by the applicant, members of the Planning Department staff and other persons in attendance, the Planning Commission recommended to the Board of Commissioners that the Board of Commissioners take Comprehensive Land Use Plan and zone change 77-16, for John Kalita, Jr., for final determination based on the fact that the situation is a matter of County Policy which should be set by the Board of Commissioners. Following action by the Planning Commission, a public hearing before the Board of County Commissioners was regularly held on October 3, 1977, where from the testimony, it appeared that the record below was accurate and complete and it appeared from the testimony, reports and information produced at the hearing below

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1 that the application for a change in zone for real property described
2 as that portion of the N 1/2 N 1/2, of Section 31, Township 34,
3 Range 7, lying westerly of Highway 62 and easterly of the Old Dalles-
4 California Highway, excepting that portion within the Cemetery,
5 should be granted.

6 The Board of County Commissioners makes the following find-
7 ings of fact and conclusions of law as required by Ordinance No. 17,
8 the Klamath County Zoning Ordinance.

9 FINDINGS OF FACT:

10 1. On July 19, 1977, before the Planning Commission, test-
11 imony by the Planning staff indicated subject site was located in a
12 portion of Section 31, Township 34, Range 7 and generally located
13 between State Highways 427 and 62 and approximately 1/4 mile north-
14 east of Agency Lake, Klamath County, Oregon.

15 2. Testimony before the Planning Commission indicated the
16 subject site as being 36 acres in size, with acreage being split up
17 into 5 lots with the smallest being 4.8 acres in size and the largest
18 being 10.7 acres in size.

19 3. Testimony by applicant on July 19, 1977, before the
20 Planning Commission indicated that the 36 acres had been purchased
21 in July of 1972, at which time there was no Comprehensive Land Use
22 Plan and no Zoning Ordinances.

23 4. On July 19, 1977, the record before the Planning
24 Commission indicated the soils for this particular area were Class
25 IV soils and that the lobert loam soils were not exceptionally
26 good for producing cash crops, unless under high level management.

27 5. On August 9, 1977, before the Planning Commission
28 it was pointed out that the subject property is located adjacent

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1 to a paved road, which is Highway 427 and can carry the type of
2 traffic that would be generated by the proposed use.

3 6. Before the Planning Commission on August 9, 1977, the
4 record below indicated to the Board of Commissioners that the
5 applicant submitted a septic tank feasibility report from DEQ for
6 Lot 3 and that the subject lot was adequate for septic tank systems.

7 7. The record below before the Planning Commission on
8 August 9, 1977, indicated to the Board of Commissioners that there
9 was a need for this particular site in that, information from several
10 realtors indicated that there is a continuing demand for such
11 property and that this type of site, if sold in the market price
12 range wise, that this site could easily be sold.

13 8. The applicant being John Kalita, Jr., also pointed out
14 before the Planning Commission on August 9, 1977, that there is a
15 demand for such property, especially for recreational property that
16 has trees and some pasture and open space.

17 9. The applicant stated that in support of the subject of
18 need, that there have also been five parties involved who have pur-
19 chased these parcels under good faith, to utilize such site for
20 recreational use and for building sites.

21 10. In support of need for this particular zone change for
22 John Kalita, Jr., he stated of the five people who have purchased
23 their parcels, three of the people wish to move on immediately.

24 11. Mr. Kalita, Jr., stated that each of the five owners
25 who have bought a lot, have separate tax statements for each and
26 that there was no proposal for further breaking down of the subject
27 parcels.

28 12. In order to provide policy direction for the guidance

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1 of land use decisions, it is the articulated policy of the Board
2 of County Commissioners that in reviewing land use decisions:

3 No comprehensive land use plan change, zone change, condition-
4 al use permit or variance shall be denied solely on the basis that
5 the use of the property was changed on or after December 7, 1972,
6 and before December 7, 1973, without complying with Klamath County
7 Zoning Ordinance, Ordinance No. 17, so long as failure to comply
8 with the Ordinance does not appear to be a willful attempt to
9 subvert the Ordinance, and that the decision would otherwise comply
10 with criteria for approval.

11 CONCLUSIONS OF LAW:

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

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

19 3. The proposed change of zone will have no adverse effect
20 or only limited adverse effect on any property or the permitted
21 uses thereof within the affected area.

22 4. That the proposed change of zone is in keeping with land
23 uses and improvements, trends in land development, density of land
24 development, and prospective needs for development in the affected
25 area.

26 5. That the proposed change of zone is in keeping with any
27 land use plans duly adopted and does, in effect, represent the
28 highest, best and most appropriate use of the land affected.

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1 NOW THEREFORE, IT IS HEREBY ORDERED that the application of
2 John Kalita, Jr., for a change on the Comprehensive Land Use Plan
3 map, from Agricultural to Residential Recreation and on real
4 property described as that portion of the N 1/2 N 1/2 of Section 31,
5 Township 34, Range 7, lying westerly of Highway 62 and easterly
6 of the Old Dalles-California Highway, excepting that portions with-
7 in the Cemetery should be granted after filing an approved Plat
8 of the proposed site.

9 DONE AND DATED THIS 29th day of November
10 19 77.

12 Board of Commissioners

14 By:

15 Chairman

16 *Lee Luoma*
17 Commissioner

18 *Hayd L. Wayne*
19 Commissioner

21 APPROVED AS TO FORM

22 *Bradford Aspell*
23 Bolvin, Bolvin & Aspell
24 County Legal Counsel

STATE OF OREGON; COUNTY OF KLAMATH; ss.

I hereby certify that the within instrument was received and filed for record on the 30th day of
November A.D., 1977 at 2:19 o'clock P.M., and duly recorded in Vol. M77
of Deeds on Page 23219.

FEE None

WM. D. MILNE, County Clerk

By *Hayd L. Wayne* Deputy