

**MINUTES OF THE  
LINCOLN COUNTY PLANNING COMMISSION**

MEETING OF FEBRUARY 26, 2018

**Chair Johnson** called the meeting to order at 7:32 pm and asked for roll call.

**OTHER COMMISSIONERS PRESENT**

MARK ESTES  
TERRY BUGGENHAGEN  
JUDITH PELLETIER  
RICHARD CUTLER  
ANDRA BOBBITT  
PHIL SPULNIK

**COMMISSIONERS ABSENT**

RICHARD CUTLER  
BOB PORCH

**STAFF PRESENT:** Director Onno Husing, Senior Planner Hui Rodomsky, Associate Planner Warren Clauss, Permit Specialist Josh Bacher.

**1. CALL TO ORDER**

With Commissioners present, a Quorum has been reached for the February 26, 2018 Planning Commission Meeting.

**2. APPROVAL OF MINUTES**

**Commissioner Buggenhagen** motioned to approve the minutes from September 25, 2017.

**Commissioner Bobbit** seconded.

**Chair Johnson** asked for a vote on the motion; the Planning Commission voted to approve the minutes for September 25, 2017. **Commissioner Spulnik** abstained.

**3. ITEMS FROM THE AUDIENCE**

**Robert Rubin** signed in and stated he was in attendance to discuss the letter of findings from the **Lincoln County Planning Department** dated November 30<sup>th</sup>, 2017, written by Director Husing, regarding Eckman Creek Quarry. **Mr. Rubin** explained he wanted to convince the **Planning Department** and the **Planning Commission** to regulate **Eckman Creek Quarry**. **Mr. Rubin** stated he found many errors in the **Planning Department's** findings, and he requested an opportunity to demonstrate, to the Planning Commission, why he believes they have the authority to regulate **Eckman Creek Quarry**. **Mr. Rubin** requested the Planning Commission hold a hearing to review the evidence. In 1989, he noted, there was an expansion of 21.89 acres and the **Planning Commission** should have been involved at that time.

**Chair Johnson** thanked him for his testimony, noted his commentary was on the record, and that the staff would notify him about what the next steps would be.

**Cindy George** signed in and stated she was in attendance because she previously asked the Planning Commission for help with her dispensary, and the planning commission meeting was cancelled. Legal Counsel, she claimed, cancelled the **Planning Commission**. She noted she had planned to bring her Landlord in and present additional documents to the Planning Commission. She noted this is the first time the **Planning Commission** has met since September. One of the documents she was going to bring in was a Zoning letter issued by Mr. Granger from 1983, and there was supposed to be a one year time limit. **Ms. George** stated that **Legal Counsel** made a sworn statement to the **Land Use Board of Appeals** that she has never appeared before the **Planning Commission** on this matter. She has also submitted a Land Use Compatibility Statement on that property. She reviewed the zoning and the history of the zoning approval, and wanted an explanation why the planning commission meeting was postponed. **Ms. George** stated the **Planning Commission** conducted a vote over the phone, which precluded her from engaging the Planning Commission. In addition, she asserted her Land Use Compatibility Statement should have been heard before the Planning Commission, not the **Land Use Board of Appeals**.

**Chair Johnson** stated that her testimony is in the record, and the Planning Commission will, again, look to the **Staff** to review what needs to be done.

**Ms. George** submitted the letter for the record.

**Chair Johnson** asked for other items from the audience. There were none.

#### **4. PAST ACTIONS REVIEW FOR PLANNING COMMISSION**

NONE

#### **5. UNFINISHED BUSINESS**

NONE

#### **6. ACTION ITEMS**

NONE

#### **7. PUBLIC HEARING**

**7.1 Case File #01-LUPC-ZC-17:** The applicant is requesting a comprehensive plan map amendment from Agricultural Land to Forest Land and a zone change from A-C (Agricultural-Conservation) to T-C (Timber-Conservation) on the subject property which is 63 acres in size.

**Chair Johnson** read the hearing procedures and asked for the Staff Report.

#### **STAFF REPORT**

**Associate Planner Warren Clauss** presented the Staff Report and introduced himself. He listed the criteria for a Zone Change and stated the Applicant only needed to meet one of the criteria. The applicant is applying for a zone change on the grounds the previous (existing) zoning was done in error. **Planner Clauss** shared that it was the staff's view that the proposed zone change would be compatible with the surrounding uses.

A brief exchange ensued between the **Planning Commission** and **Planner Clauss** regarding the presence of structures on the property, the current zoning, and the soils at the subject property.

**Chair Johnson** asked for questions for **Planner Clauss**. There were none.

#### **PUBLIC TESTIMONY**

**Chair Johnson** asked for the Applicant.

**Kurt Carstens** signed in and introduced the **Trustee Steve Davenport**.

**Chair Johnson** asked **Mr. Davenport** if his parents or grandparents have lived there for a while, and **Mr. Davenport** replied in the affirmative.

**Kurt Carstens** talked about the map exhibits and referred to Highway 229 and Ojalla Road. He elaborated the property was a beautiful forest area that was owned by an elderly man that became disabled. The relatives had to cut the timber to pay taxes and the State. He goes on to speak about the surrounding areas and zoning, and that some forest has been replanted. He explained the status of the structures and how the property was divided into fourths. There are restrictions on such divisions in forest property. One parcel was put into a block so that there could be a house built. They are replacing the old house with a nice one, and he does not anticipate it will ever be used for agricultural purposes. A template test was mentioned, and one part is to determine how many lots, houses, and parcels have been there since 1993. Most of these houses have been there since before 1993 except the new one. **Mr. Carstens** concluded by urging the **Planning Commission** to reach a conclusion that the subject property is, indeed, in reality, Forest land, and then he asked for questions.

**Chair Johnson** noted that a lot of the agricultural land in that area is actually being used for timber production.

**Mr. Carstens** replied yes and that he has been trying to inventory what types of agricultural uses there are in the area. He listed various animals and potentially two Quonset type huts, and stated that the subject property has never been used for agricultural purposes. He referred to **Planner Clauss'** earlier statement that the criteria we are relying on is error, and he has summarized the facts and identified the Applicant's intent on the latter part of the report. He went on to review the soils. He shared that **Director Husing** asked for more information after the original application in a letter of incompleteness. **Mr. Carstens** submitted that extra info, and the core of the conditional use application, demonstrates that history of all the houses up there.

**Chair Johnson** asked for any questions.

A brief question and answer period ensued between **Chair Johnson**, **Associate Planner Clauss**, **Mr. Davenport**, and **Mr. Karstens** regarding the zone change criteria.

**Chair Johnson** asked for questions for Applicant, testimony in support of the application, testimony against the application. There were none.

**Chair Johnson** requested to keep the record open, and **Mr. Karstens** declined to do so.

**Chair Johnson** asked to waive the final oral or written arguments, and **Mr. Karstens** agreed.

**Chair Johnson** closed the hearing at 8:21 pm.

**Commissioner Buggenhagen** motioned to recommend the case file to the **Board of Commissioners**, and **Commissioner Pelletier** seconded.

**Chair Johnson** noted that it was moved and seconded.

**Commissioner Bobbitt** noted that it was zoned in error

**Director Husing** noted that Staff would work with the **Applicant** to create the findings, if approved.

A vote was taken by **The Planning Commission** to approve **Case File #01-LUPC-ZC-17**, and it was unanimous to pass onto the **Lincoln County Board of Commissioners** for their approval.

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**7.2 Case File #02-LUPC-ZC-17:** The applicant is requesting a comprehensive plan map amendment from Forest Land to Agricultural Land and a zone change from T-C (Timber-Conservation) to A-C (Agricultural Conservation) on the subject property which is 142.85 acres in size.

**Chair Johnson** read the hearing procedures and asked for the Staff Report.

#### **STAFF REPORT**

**Senior Planner Hui Rodomsky** presented the Staff Report. She listed the address and physical characteristics of the property and noted the criteria for this zone change are the same as the last application just heard by the Planning Commission. The Applicant is applying for a zone change based on criteria there was an error in the previous zoning due to soils. **Planner Rodomsky** elaborated about the soils and referred to a colored map on the wall. She noted that in the soils class system, the letters correspond with the percent of slope the ground is over. This area is mostly flat, with As and Bs. She then refer red to the zoning and aerial maps and noted there aren't any homes close by. She indicated the Applicant may address questions about the road position.

A brief question and answer period ensued between the **Planning Commission** and **Senior Planner Rodomsky** regarding trees, farming, advantages to changing the zoning, adding a second dwelling, irregular boundaries, and the slope of the property.

**Chair Johnson** asked for any other questions for **Staff**, then invited the Applicants to testify.

**Applicants Jenai and Don Kessi** signed in and introduced themselves. **Jenai Kessi** stated that they, the Kessi family, have a long history of homesteading in East Lincoln County dating back to the late 1800s, the oldest legal document they could pull up. In 1891 a deed was executed between the Oregon & California Railroad Company and Jonathan January. **Jenai Kessi** detailed the deed history then referred to a stream area on map regarding water rights. He finished by elaborating on the deed history and the irrigation process of the parcel.

A brief question and answer period ensued between the **Planning Commission** and **Don Kessi** regarding the use of the land since the late 1800s.

**Chair Johnson** asked for any additional testimony in favor of this application, and any in opposition. There was none. He asked the applicants if they wished to leave the record open; the applicants said no.

**Chair Johnson** closed the hearing at 8:46 pm.

A brief discussion occurred among the **Planning Commission** regarding the original zoning of the area. **Commissioner Spulnik**, who was involved with the preparation of Lincoln County's comprehensive plan map, explained that the more remote parts of Lincoln County, such as Harlan, places where there was little population, were zoned "broad brush" in those days. In addition, at the time the plan was

developed, the kinds of tools, in particular, mapping support tools such as GIS, were not available. As such, Commissioner Spulnik noted, these kinds of zoning errors, or oversights, happened.

**Commissioner Bobbitt** motioned to recommend to the **Board of Commissioners** that the zoning was in error.

**Commissioner Estes** seconded the motion.

**Chair Johnson** noted that it was moved and seconded. All voted in favor unanimously.

A vote was taken by **The Planning Commission** to approve **Case File #02-LUPC-ZC-17**, and the vote in favor was unanimous to pass onto the B.O.C. for their recommendation.

## **8. PLANNING COMMISSION CONCERNS**

A brief discussion ensued between the **Planning Commission** and **Director Husing** regarding the **Planning Department** assisting **Mr. Rubin**, the possibility of laying out a path and options for a dispensary regarding **Ms. George**, and the roles of the **Planning Department** versus the **Planning Commission** and the **Board of Commissioners**.

**Commissioner Buggenhagen** asked if **Ms. George** retained a lawyer. **Director Husing** replied that the matter is still under litigation and therefore it was not appropriate for him to comment on the matter. **Director Husing**, however, assured the **Planning Commission** that, over time, he endeavored, in both cases, to explain every single path to both **Mr. Rubin** and **Ms. George**.

A brief discussion ensued between the **Planning Commission** and **Director Husing** regarding the process with **Mr. Rubin**, DOGAMI, the letter of findings mailed to **Mr. Rubin**, having **Mr. Rubin** come before the **Planning Commission**, Pankey Quarry, and D.K. Quarries.

**Chair Johnson** directed **Director Husing** to meet with **County Counsel Wayne Belmont** to discuss the possibility of holding a hearing to review the facts of Eckman Creek Quarry and to report back to the **Planning Commission**.

**Chair Johnson** asked if they were done with the case files, and **Senior Planner Rodomsky** replied that the Applicants would draft the findings, then there will be a telephone conference to approve those findings to approve them to be forwarded to the **Board of Commissioners**.

## **9. ADJOURNMENT**

**Chair Johnson** adjourned the meeting at 9:11 pm.

Respectfully Submitted,

Joshua B. Bacher

Lincoln County Permit Specialist