

FILED

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ALBERTA M. BRYANT
County Clerk

By: *Edna Harrington*
Deputy

ORDINANCE NO. 48

AN ORDINANCE AMENDING
THE ZONING ORDINANCE
OF LINCOLN COUNTY, OREGON

WHEREAS, it has been recommended that Lincoln County's Zoning Ordinance be amended to make clear the present legal requirements and facts that must be proved by an applicant and the findings that must be made when the Planning Commission and the Board of Commissioners are considering a zone change;

WHEREAS, the Planning Commission of Lincoln County has held hearing as required by law, made findings of fact and recommended a form of amendment to the Lincoln County's Zoning Ordinance,

WHEREAS, this Board of Commissioners has held a hearing on the proposed amendment after giving proper public notice, at which time testimony and evidence was heard and received,

WHEREAS, this Board has adopted the findings and conclusions of the Lincoln County Planning Commission,

NOW, THEREFORE, THE BOARD OF COMMISSIONERS OF LINCOLN COUNTY, OREGON ORDAIN AS FOLLOWS:

That the text of the Lincoln County Zoning Ordinance No. 34 be amended in the following particulars:

- A. Delete Sections 9.020 (3) and 10.050 (3)
- B. Add Sections 9.020 (3), (4), and (5) as follows:

3. "In considering an amendment of a zoning map proposed by a property owner, the Planning Commission and Board of Commissioners:

- a. Shall act in a quasi-judicial role,
- b. Shall presume that the zoning ordinance and the Land Use Plan are valid, and
- c. Shall make findings of fact as follows:
 - 1. Whether the change is in accord with the Land Use Plan for the area, and
 - 2. Whether there has either been a substantial change in the character of the area since Zoning was adopted which warrants a change of zone or the zoning adopted for the area was in error.

4. The requestor of an amendment to a zoning map:

- a. Shall bear the burden of proof that the change can be made,
- b. Must prove that the change is in accord with the Land Use Plan for the area,
- c. Must prove either that the zoning adopted for the area was in error (that an error had been made on the zoning map for the area), or that there had been a substantial change in the character of the area since zoning was adopted. To prove that the change in character of the area warrants a change in the zone, the requestor must prove (1) that there is a public need for a change of the kind in question, and (2) that the need will best be served by a change of zone on the particular piece of property in question as compared with other available property.

5. In considering an amendment to a zoning map initiated by the Planning Commission (for an area containing more than three ownerships), the Planning Commission and Board of Commissioners

- a. Shall act in a legislative role,
- b. Shall presume that the Land Use Plan is valid, and
- c. Shall make findings of fact as follows (1) Whether the zoning of the area was in error and/or (2) whether the change appropriately guides the urbanization for the general community to accomplish the goals of the Land Use Plan."

C. Renumber Sections 9.020(4) and (5) to 9.020(6) and (7).

PASSED AND ADOPTED this 23rd day of November, 1976.

Albert R. Strand
Chairman

Andy Zedwick (absent)

Jack W. Powell
Commissioner