

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR THE COUNTY OF LINCOLN

RECEIVED
AUG 19 1981

Ordinance # 160

Lincoln County Legal Counsel

AN ORDINANCE AMENDING ORDINANCE #152, THE COMPREHENSIVE PLAN AND ZONE MAP FOR LINCOLN COUNTY; AMENDING ORDINANCE #141, THE LINCOLN COUNTY ESTUARY MANAGEMENT PLAN; AND DECLARING AN EMERGENCY.

WHEREAS, Robert Steenkolk applied to the Lincoln County Planning Commission for a Land Use Plan Change from "Agriculture" to "Water Dependent" and a Zone Change from "Agricultural Conservation" (AC-40) to "Planned Marine" (M-P) for property located between County Road 533 and the Yaquina River in Section 28, T11S, R10W W.M., and identified on Assessor's Map 11-10-28 as tax lot 201, and

WHEREAS, Robert Steenkolk applied to the Lincoln County Planning Commission for an amendment to the Lincoln County Estuary Management Plan to extend the boundary of Management Unit 32 to include that portion of the Yaquina River between the current upriver boundary of Unit 32 and the upstream extent of tax lot 201, Assessor's Map 11-10-28, and

WHEREAS, the Planning Commission conducted a public hearing on these requests on July 27, 1981, and their recommendation was to approve the requests, and

WHEREAS, no appeal has been filed with the Board regarding the Planning Commission decision, and

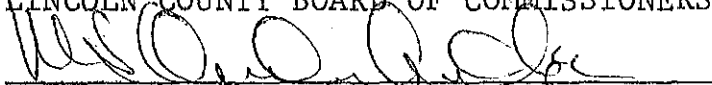
WHEREAS, the Lincoln County Board of Commissioners affirms the decision and the findings of the Lincoln County Planning Commission,

THE LINCOLN COUNTY BOARD OF COMMISSIONERS ORDAINS:

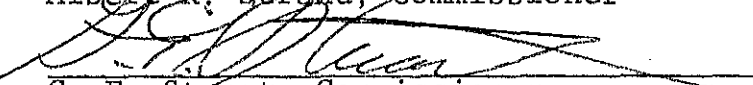
1. That the Land Use Plan designation of tax lot 201, Assessor's Map 11-10-28 be changed from "Agriculture" to "Water Dependent."
2. That the zoning of tax lot 201 on Assessor's Map 11-10-28 be changed from "Agricultural Conservation" to "Planned Marine."
3. That the Lincoln County Estuary Management Plan be amended to extend the boundary of Management Unit 32 to include that portion of the Yaquina River from the current upriver boundary of Management Unit 32 to the upstream extent of tax lot 201, Assessor's Map 11-10-28.
4. That this ordinance being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this ordinance takes effect upon its adoption.

DATED this 19th day of August, 1981.

LINCOLN COUNTY BOARD OF COMMISSIONERS


W. S. Ouderkirk, Chairman


Albert R. Strand, Commissioner


G. E. Stuart, Commissioner

Three foot shoulders would be allowed. Also to minimize ground disturbance.

OPEN TO PUBLIC TESTIMONY

No testimony given.

HEARING CLOSED

Miller queried if 28' width in ordinance was generally too wide and whether it should be amended to reflect the trend in applications for narrower paved surfaces. Spulnik responded that only the cul-de-sac roads are involved in this request: 6-10 houses with no through traffic. Miller suggested amendment to reduce width for cul-de-sacs, to make it equitable for everyone applying. Stricklin said that MLP's do have allowances for variable standards, 24' - 28' width. Only subdivision ordinances require 28' throughout. Phillips offered that analysis of the area attempting to meet requests of the L.C.D.C. concerns, among others, produced features designed to minimize structures, roadways, paved surfaces, run-off amounts generated, the width of roadways was requested to be narrower than standard for cul-de-sacs. They would not bear same amount of traffic as main roads. Also to control erosion and run-off from rainfall. Over expressed concern for changing. Discussion on 24' width.

Motion by Spulnik to grant final approval to Otter Village, Phase II, with variance request of 24-foot paved surface on the cul-de-sac streets also approved. Second by Imes. Approved unanimously.

MOTION TO GRANT FINAL APPROVAL
OTTER VILLAGE, PHASE II,
Case File 1-PD-79
#81-133

6. PUBLIC HEARING -

6.1 Land Use Plan Change request, Robert Steenkolk, from Agricultural Conservation to Planned Marine on property located past Mill Creek Bridge on Left side of Elk City Highway, identified on Lincoln County Assessor's Map 11-10-28, tax lot 201; Case File 4-LUPC-81.

Spangler clarified staff report request: Change of plan for the land involved and change of plan for adjacent waterway area. Spangler gave review of staff report. Error made in plan and zone assigned to land area. Important issue is request for change in Estuary Management Designation for waterway adjacent to the land. Request precipitated by Corps of Engineer permit request by applicant for dredge and fill activities not permitted by current Estuary Management designation adjacent to property. With current designation County could not approve project desired. Actual dredge and fill activity is not the main object of this hearing; details would be handled by usual processing of application to the County Planning Department. Need to focus on criteria involved in zone change request. Exhibit "A", Staff Map of Area, and Exhibit "B", Classification System.

Need to determine if area meets criteria for Conservation Management Unit designation or whether it meets that for Development Management Unit designation. Currently designated Conservation. Quoted paragraphs from Conservation and Development demonstrating qualification of designation for each. Adler asked for description of adjacent estuary area. Spangler stated that applicant's property is unusual in that it is one of the few parcels actually having water access which is developable in that area. Had been used previously by the County for gravel stockpile. Spangler continued report. Commission needs to determine most suitable designation: conservation or development. Need for zone change/plan change aptly presented by applicant's report. Adler asked how to judge consistency with Oregon Estuary Plan. Spangler replied overall classification based on most intensive level of development that can occur in that estuary. Yaquina Bay is designated Deep Draft Development Estuary which gives a wide latitude of definition.

HEARING OPEN TO THE PUBLIC

Proponent

Evan Boone, attorney for applicant. In 1979, land zoned Marine-Industrial. Comprehensive Plan Zoning changed that to AC-40. Not appropriate for AC-40 (Agricultural Conservation) use. Presented applicant's request for proposed change of zoning and land use. This will be the first change in Estuary Plan for the County.

Robert Steenkolk, applicant. Described current boatbuilding activity. One of the few deep-water sections in the area; not in mud flats. Only place suitable for boat conversion work because of deep water. Economic consideration. In 1979 launched boats by crane. Miller questioned need for extensive questioning of applicant by his agent. Adler concurred, saying that case was technically rather straightforward and asked that testimony be addressed to need; unless the testimony given was to be used for another case with the State and was needed to support that case. Planning Commission concerned with determining staff error and change of designation; applicant's presentation adequately addresses the need for the operation itself.

Adler reiterated need to present only the material needed to make a decision.

Tom Curry, Marine Surveyor. (verbatim record at staff's request)

Boone: Tom Curry is a Marine Surveyor. Do you want to explain what that is?

Curry: Well it works with fishermen, marine consultant and also some sales, and very involved with shipbuilders and shipwrights. Also with boats that have disasters inside and at sea; with plans and evaluating them.

Boone: Okay. The ultimate question here, I feel: is there an economic business need for this type of business in this type of an area?

Curry: Well, there is a great shortage of dock space for re-conversion work and finishing boats out after they have been built in the area. Right now, there isn't any place to go, even with, ah; interesting fact right now Sunset Terminals, which is normally available is, there's absolutely no where to tie up there where there's a proper dock to work on. It's all full of boats being fitted out and re-converted right now. We have a boat right now that's recently had a disaster that we're working on on a very small dock off of Port Dock 7 still. Which DavAndco's got some work on now. It's kind of a real questionable thing whether we're going to find a place to really work on that boat. There's been jobs right along that we're short of dock space and it's been a continuing problem. There's just not a lot of dock space to work on both . . . reconversion. You can't do this kind of work on a port dock and they just couldn't work well. There's no way to get heavy equipment out on the type of docks we have.

(End of verbatim testimony.)

Sally Rose, planning consultant for applicant. Related conversation with Dale Snow (Fish & Wildlife) by telephone on 6/22/81. Said it was an appropriate use for the area. No impact on fisheries in the area. No objection for any reason.

Boone entered Exhibits "C" Photographs in Newport News-Times 6/10/81 and "D-1-11" Proponents Photographs of Subject Property and Surrounding Area. Adler asked if applications was to be entered into the record. Boone responded affirmatively: Exhibit "E" Application of Robert Steenkolk Before Lincoln County Planning Commission."

Opponent Testimony - None.

HEARING CLOSED

Adler asked if staff error applied to land area but not to estuary management area. Spangler replied the same circumstances for changing the plan: either error or change in circumstances. From the two categories, have to come to finding of error; i.e. if more closely fits development category than current conservation category then considered a finding of error. Adler asked if better to split the land and estuary decisions, using error for land change and making a full explanation for estuary change. Spangler said there was a need to make more detailed findings on the estuary. Good to split the motion, but error is still the base finding. Stricklin read the Plan Policy relating to the subject (p.28, a. & b.). Overall finding would be error.

Spangler stated that for land portion, finding of error could be based on the previous change granted for Marine-Industrial in 1979 and character and uses are established on subject property for this use. (Comp. Plan rezoned it in 1980 to AC-40. This was an error in designation. Files for previous change: 4-LUPC-78, 11-ZC-78.) Can use 1979 findings to support this approval.

Motion by Over to change the Land Use Plan on property approximately two miles southeast of Toledo lying between the Yaquina River and County Road #533 (at Mill Creek) and identified on Lincoln County Assessor's Map 11-10-28, tax lot 201, from Agricultural Conservation to Planned Marine based on error in designation as Agricultural Conservation after Planning Commission action in 1979 changing the designation from Natural Resource to Marine Industrial; and using those findings adopted to support this change in addition to reasons that the usage at this time and previously has been Planned Marine Development. Second by Imes. Motion approved unanimously.

MOTION TO APPROVE LAND USE PLAN
CHANGE TO PLANNED MARINE, ROBERT
STEENKOLK, CASE FILE 4-LUPC-81
#81-134

6.2 Zone Change request, Robert Steenkolk, from AC-40 to M-P on property located past Mill Creek Bridge on left side of Elk City Highway, identified on Lincoln County Assessor's Map 11-10-28, tax lot 201; Case File 4-ZC-81.

Motion by Miller approve a change on property approximately two miles southeast of Toledo lying between the Yaquina River and County Road #533 (at Mill Creek) and identified on Lincoln County Assessor's Map 11-10-28, tax lot 201, from AC-40 to M-P based on findings accepted in Motion #81-134 approving a Land Use Plan Change. Second by Peterson. Motion approved unanimously.

MOTION TO APPROVE ZONE CHANGE
FROM AC-40 to M-P, ROBERT STEENKOLK
CASE FILE 4-ZC-81
#81-135

6.3 Estuarian Management Plan Amendment to change the boundary of Management Unit #32 to include that portion of the Yaquina River between the current upriver boundary of Unit #32 and the upstream extent of tax lot 201, T11W, R8S, Section 28. (See Case Files 4-LUPC-81, 4-ZC-81.)

Motion by Imes that the boundary of Estuarian Management Unit #32 be amended to include that portion of the Yaquina River between current upriver boundary of Unit #32 and the upstream extent of tax lot 201, T11W, R8S, Section 28, for the following reasons:



LINCOLN COUNTY
PLANNING DEPARTMENT

PUBLIC SERVICE BUILDING
210 S.W. 2nd St.
NEWPORT, OREGON 97365

Land Use Planning

Zoning & Subdivision
Administration

265-6611
ext. 292

Agenda

August 12, 1981

TO: BOARD OF COUNTY COMMISSIONERS
FROM: OSCAR R. GRANGER, Secretary
Lincoln County Planning Commission
RE: Amendment to Ordinance #152 and #141

RECEIVED
AUG 12 1981

Lincoln County Legal Counsel

Gentlemen:

On July 27, 1981, the Lincoln County Planning Commission voted to recommend approval to the Board of County Commissioners of the attached Proposed Amendment to Ordinance #152 and Ordinance #141 of Lincoln County.

Copies of the Proposed Amendment and those Planning Commission minutes pertinent to the Amendment are also enclosed.

Please contact me if I can be of further assistance.

ORG: jem

Enclosures

cc: Nancy Cravens
County Legal Counsel

Lincoln County Legal Counsel
Lincoln County Courthouse, Room 201
225 W. Olive Street
Newport, OR 97365
Phone: 265-5341 ext. 265

1 WHEREAS, the proposed zone change will not alter the
2 character of use contemplated by the Lincoln County Comprehensive
3 Plan and Zoning Map and will allow development in accordance with
4 the county's expressed policy of encouraging planned development
5 and cluster housing, and

6 WHEREAS, the Board is in agreement that this zone change
7 is in the public interest, NOW, THEREFORE, the Board

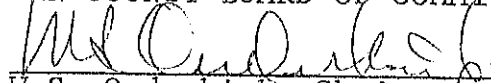
8 HEREBY ORDAINS as follows:

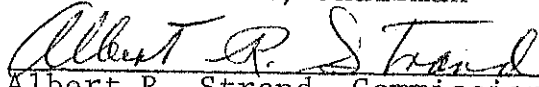
9 SECTION I: That tax lots 300, 400, and 600 as shown on
10 Lincoln County Assessor's Map 9-11-32 (1 Nov. 1981) be rezoned from
11 R-1 to R-1PD.

12 SECTION II: That this ordinance being necessary for the
13 immediate preservation of the public peace, health, and safety,
14 an emergency is declared to exist and this ordinance takes effect
15 upon its adoption.

16 DATED this 12 day of Nov., 1981.

17 LINCOLN COUNTY BOARD OF COMMISSIONERS

18 
19 W.S. Ouder Kirk, Chairman

20 
21 Albert R. Strand, Commissioner

22 
23 G.E. Stuart, Commissioner