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DEC 16 1983

1 BEFORE THE BOARD OF COUNTY COMMISSIONERS

2 FOR THE COUNTY OF LINCOLN

Lincoln County Legal Counsel

3 ORDINANCE # 206

4 AN ORDINANCE AMENDING ORDINANCE # 139, ZONE CHANGE AND LAND USE
5 PLAN CHANGE, for TAX LOTS 3700 and 3400 LINCOLN COUNTY ASSESSOR'S
MAP 11-11-22D and DECLARING AN EMERGENCY

6 WHEREAS, on November 14, 1983, the Lincoln County Planning
7 Commission voted to recommend approval to the Board of Commissioners
8 of a land use plan change from Dispersed Residential to Water
9 Dependent/Water Related and a Zone Change from Rural Residential
10 (RR1-2) to Planned Marine (M-P) on property located 5 miles east
of Newport on the east side of Yaquina Bay Road #515, across from
Yaquina Marina and Restaurant; property is shown on assessor's map
11-11-22D as tax lots 3400 and 3700; and

11 WHEREAS no appeal of the planning commission action was
12 filed with the Board; and

13 WHEREAS the Lincoln County Ordinance requires action by
14 the Board on the recommendation of the planning commission on a
15 zone change and land use plan change;

16 NOW, THEREFORE, the Board FINDS as follows:

17 1. That the applicants are requesting on a parcel of
18 approximately two acres a land use plan change from dispersed res-
idential to water dependent/water related and a zone change from
19 rural residential to planned marine;

20 2. That the county health department has licensed a
RV park for 20 spaces, 13 of which are on the property owned by the
21 applicants on which they are seeking a plan and zone amendment for
22 improvements including water and electrical hook ups and a septic
23 drainfield system;

24 3. That the applicants are maintaining that the county
25 erred in not designating the property on both sides of the county
26 road water dependent/water related because the marina had been in

1 Ordinance # 206

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225 W. Olive Street
Newport, OR 97165
Phone: 253-6611 ext 308

1 business since 1958 and the RV park is an important component of
2 the overall operation;

3 4. That in considering an amendment to the comprehen-
4 sive plan map and zoning map, the county must establish that the
5 amendment be consistent with statewide goals and that the documen-
6 tation exists that the original plan and designation was adopted
7 in error;

8 5. That the property has been inventoried by the county
9 and committed to non-forest, non-agricultural uses and any other
10 applicable statewide goals would be adequately addressed through
11 the county's implementation ordinances;

12 6. That other existing marinas which have RV space
13 rentals including River Bend Moorage on Yaquina Bay, Chinook Bend
14 on the Siletz River, and King's Silver Moorage and Drift Creek
15 Landing on the Alsea River are designated water dependent/water
16 related on the comprehensive plan maps;

17 7. That residences are located on the adjoining pro-
18 perties to the north and the south and related marina activities
19 are located near the subject property on the Bay Road;

20 8. That the water dependent/water related designation
21 is intended to recognize the unique values of certain coastal
22 shoreland areas consistent with the priority of uses set forth in
23 the coastal shorelands policy element. This designation shall ap-
24 ply to shoreland areas which may be suitable for a mixture of wa-
25 ter dependent/water related uses;

26 9. That evidence indicates that subject property is

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1 suitable for and has in fact been operated in a manner consistent
2 with uses permitted in water dependent/water related planned areas.

3 10. That inasmuch as the purpose of zoning is to pro-
4 mote public health, safety, and welfare, there would be a public
5 need for the change being sought once the determination is made
6 that existing zoning was adopted in error;

7 11. That other properties in the area are unavailable
8 because of the existing residential and commercial uses established
9 thereon. Furthermore the applicant's property is presently being
10 used in conjunction with the existing marina operation;

11 NOW, THEREFORE, THE Lincoln County Board of Commissioners
12 ORDAINS as follows:

13 SECTION I: .

14 1. That the findings of fact listed above as well as
15 the findings of fact adopted by the planning commission and pre-
16 sented in the staff report are hereby adopted as a part hereof;

17 2. That based on an error in the original land use plan
18 and zone designation, the Board approves of the recommendation from
19 the planning commission and hereby directs the Lincoln County
20 Planning and Development Department to amend the land use plan
21 designation from dispersed residential to water dependent/water
22 related and zoning designation from (RR1-2) to Planned Marine
23 (M-P) for tax lots 3400 and 3700, Lincoln County Assessor's Map
24 11-11-22D;

25
26



DEPARTMENT OF PLANNING AND DEVELOPMENT

Public Service Building
210 S.W. Second Street
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Building Division Ext. 251
On-Site Waste Mgmt. Ext. 253
Code Enforcement Ext. 292
Planning Division Ext. 292

Agency Dec 7

November 29, 1983

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TO: Board of County Commissioners

Lincoln County Legal Counsel

FROM: Oscar R. Granger, Secretary
Lincoln County Planning Commission

[Handwritten signature]

RE: Paul & Eileen McFarlin - Zone/Land Use Plan Change

Gentlemen:

On November 14, 1983, the Lincoln County Planning Commission voted to recommend approval to the Board of County Commissioners a Land Use Plan Change from Dispersed Residential to Water Dependent/Water Related and a Zone Change from Rural Residential (RR1-2) to Planned Marine (M-P) on property located 5 miles east of Newport on the east side of Yaquina Bay Road (Co. Rd. #515) across from Yaquina Marina and Restaurant; property is shown on Lincoln County Assessor's Map 11-11-22D as tax lots 3400 and 3700.

Attached is a copy of the minutes of the November 14th Planning Commission hearing pertaining to this action. Because no appeals have been filed, a public hearing is not necessary. If the Board concurs with the action of the Planning Commission, an Ordinance directing the proposed changes must be prepared for the Board's signature.

After approval by the Board, copy of Order must be sent to applicant, County Assessor's Office and the Planning Division.

Thank you.

cc: Legal Counsel

ORG/sg

Date: 11-30 1983
Commr. Stuart [Signature]
Commr. Jantzi [Signature]
Commr. Deskins [Signature]

- Denied []
Forward:
Planning []
Engineer []
Surveyor []
Acctg []
Counsel [x]
Other []
Action Requested _____

Our judgement was that the creation of 3 - 5 acre parcels in that area was generally not in keeping with prevailing norm of larger commercial agricultural parcels in that area.

Smud - Sums up by saying there is problem granting this Special Exception because mainly standard c. has not been met; asks commission where they want to go from here.

Galasso - Motion to deny request by Robert V. Howard for Special Exception to the A-C zone requirements to allow a 3 parcel non-farm land partition on property located immediately north of the City of Siletz on west side of Highway 229; identified as tax lot 1001 on Assessor's Map 10-10-4 based on the conclusions and findings of fact in staff report and in particular item c. of Ordinance Standards not being met.

Imes - Second motion; Motion carried unanimously.

MOTION TO DENY SPECIAL
EXCEPTION
#49-83

6.4 Request by Paul & Eileen McFarlin for a Land-Use Plan Change from Dispersed Residential to Water Dependent/Water Related and a Zone Change from Rural Residential (RRI-2) to Planned Marine (M-P); located 5 miles east of Newport on the east side of Yaquina Bay Road (Co. Rd. #515) across from Yaquina Marina and Restaurant property is shown on Lincoln County Assessor's Map 11-11-22D as tax lots 3400 and 3700.

Idema - Summarized staff report for commission and points out conclusions of staff report for their consideration.

Rich Richmond, Agent for Mr. & Mrs. McFarlin - Said his clients, the McFarlin's agree totally with staff report and he would like to add on their behalf that in deliberation of this matter he would like commission to consider that the marina was established in 1958 and the RV park was an integral part at that time which was prior to any zoning ordinances, so he believes it does show there was an error made in that portion of the Water Dependent/Water Related zoning.

COMMISSION DISCUSSION

Smud -Asks commission if anyone has problem with this change?

Commission agrees unanimously that they have no problem with this change.

Smud - Since Commission is in agreement with request, recognizing Idema's request that there be two amendments on this issue, one would change the plan first and once the plan was changed the zone would be changed.

Nichols - Motion to grant request to change plan designation from Dispersed Residential to Water Dependent/Water Related because of error in original plan designation based on previous testimony in staff's findings-of-fact and conclusions.

Galasso - Second motion; motion passed unanimously.

MOTION TO GRANT
PLAN CHANGE
#50-83

Nichols - Motion to grant zone change from Rural Residential to Planned Marine because county made error in original designation based on previous testimony and staff's findings-of-fact and conclusions.

Webb - Second motion; motion carried unanimously.

MOTION TO GRANT
ZONE CHANGE
#51-83

7. PLANNING COMMISSION CONCERNS

7.1 Commission discussion on Ed Peterson's letter requesting commission change his position from regular member to alternate member.

Granger - Request would have to go to Board of Commissioners as it is not this boards duty to make a decision like this.

Spulnik - Recommends Granger send second letter to Mr. Peterson explaining his obligation and asking his intensions as we would like him to participate fully but if he feels he can't, he could possibly step down for time being until his time is such that he can devote full time to Monday night Planning Commission.

Over - Feels that in light of his request it should be stated in letter that even alternates are excepted to attend all meetings.

Smud - Says he will first call Mr. Peterson and explain situation and if not able to reach him by Wednesday of this week, then Granger can send letter. Goes on to direct Granger to compose letter to Mr. Peterson stating commission did review his letter and do appreciate his participation, but because of need of having quorum if is a full time commitment and alternate membership would not solve his problem as alternates are expected to attend all meetings.

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- I. APPLICANT: Paul and Eileen McFarlin ^{Lincoln County Legal Counsel} Rich Richmond, Agent.
- II. REQUEST: Applicants are requesting a land use plan change amendment from Dispersed Residential to Water Dependent/Water Related and a zone map amendment from Rural Residential (RR 1-2) to Planned Marine (M-P).
- III. LOT SIZE: Approximately 2 acres are involved in the plan and zone change requests.
- IV. LOCATION: 5 miles east of Newport on the east side of Yaquina Bay Road (Co. Rd. #515) across from Yaquina Marina and Restaurant. The property is identified on Lincoln County Assessor's Map 11-11-22D as tax lots 3400 and 3700.
- V. STAFF REPORT:
- A. Report of Facts:
1. Plan Designation: Dispersed Residential
 2. Zone Designation: Rural Residential (RR1-2)
 3. Topography and Vegetation: A 50' high escarpment separates a narrow bench area from the county road. East of the bench the property has moderate relief and is forested.
 4. Surrounding Land Uses: There are residences on the adjoining properties to the north and south. Yaquina Marina and Restaurant are located across Yaquina Bay Road. Bill's Boat Works and Bayside Machine Shop are located 0.1 mile southwest of the property on the bayside of the road.
 5. Existing Structures: The County Health Department has licensed the R.V. park for 20 spaces, thirteen of which are on the property the applicant is seeking the plan/zone amendments on. Improvements include water and electrical hook-ups and a septic drainfield system.
 6. Utilities:
 - a. Water: On-site well
 - b. Sewage Disposal: On-site septic tank and drainfield system.
 - c. Electricity: Central Lincoln P.U.D.

7. Development Constraints: The Bulletin '81 map of Yaquina River section of Lincoln County shows the subject property as having landslide topography.

B. Evaluation of the Request:

1. Agency Comments:

- a. L.C.D.C.: No comment received

2. Comprehensive Plan Definations:

- a. Dispersed Residential areas are located on marine terraces and valley floors. Residential use densities shall be as necessary for on-site sewage disposal and water supply. Uses such as forestry, farming and rural residential subdivisions, and existing public recreation facilities are primary. Secondary uses such as new recreation facilities, quarrying, sanitary land fills, government uses, and similar uses may be included by county review.

b. Water Dependent/Water Related:

The Water Dependent/Water Related designation is intended to recognize the unique values of certain coastal shoreland areas consistent with the priority of uses set forth in the coastal shorelands policy element. This designation shall apply to shoreland areas which may be suitable for a mixture of water-dependent and water-related uses. Uses which are consistent with the designation of the adjacent coastal water body and are water-dependent or water-related, as defined in the Lincoln County Estuary Management Plan, are primary.

3. Amending the Comprehensive Plan Map:

- a. To amend the comprehensive plan or plan map the Planning Commission shall establish that the amendment is consistent with the statewide goals, and;
 - 1) That there has been a substantial change in the character of the area since the plan was adopted which warrants a change; or
 - 2) That documentation exist that the original plan designation for the area was adopted in error.

The property has been inventoried by the county as being committed to non-forest and non-agricultural uses. Any other applicable statewide goals would be adequately addressed through the county's implementation ordinances.

The applicants are maintaining the county erred in not designating their property on both sides of the county road Water Dependent/Water Related because the marina has been in business since 1958 and the R.V. park is an important component of the overall operation of it.

Many of the other existing marinas in the county which have R.V. space rentals, including Riverbend Moorage on Yaquina Bay, Chinook Bend on the Siletz River, and King Silver Moorage and Drift Creek Landing on the Alsea River are designated Water Dependent/Water Related on the comprehensive plan maps.

a. In considering an amendment to a zoning map, the Planning Commission shall make findings-of-fact as follows:

1) Whether the change is in accord with the land use plan for the area.

The applicants are seeking an amendment to the comprehensive plan map to a designation that would permit the rezoning of the subject property to Planned Marine from Dispersed Residential. If it is approved, the zone change request would be in accordance with the plan.

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 zoning adopted for the area was in error;

The applicants are requesting a zone change on their property east of Yaquina Bay road because R.V. parks are not permitted in the RR1-2 zone, making a majority of their R.V. park a non-conforming use. The applicants are maintaining that since the marina has been in existence prior to the time zoning in the area was adopted and the R.V. park has always been an important part of the overall marina operation, the county erred in not zoning the property on both sides of the county road M-P. It should be noted

that a majority of the other marinas in the county having R.V. spaces available for rent are zoned M-P.

- 3) That there is a public need for the change being sought;

In as much as the purpose of zoning is to promote the public health, safety, and welfare, there would be a public need for the change being sought if the Planning Commission determines the existing zoning was adopted in error.

- 4) That other available property within the general area is inadequate to satisfy the public need.

Other properities in the area are unavailable because of the existing residential and commercial uses established on them. Furthermore, the applicants property is presently being used in conjunction with an existing marina operation.

C. Findings-of-Fact:

1. The applicants own Yaquina Marina and Restaurant located on the Yaquina Bay Road 5 miles east of Newport.
2. The applicants have been licensed by the County Health Department for a 20 space R.V. park.
3. The marina, restaurant, and R.V. park have been in operation since 1958.
4. The property the marina, restaurant, and 7 of the R.V. spaces are on is designated on the county comprehensive plan land use maps as Water Dependent/Water Related and on the county zoning maps as Planned Marine.
5. The applicants are requesting a plan map amendment from Dispersed Residential to Water Dependent/Water Related and a zone map amendment from Rural Residential (RR 1-2) to Planned Marine (M-P) on their property east of the Yaquina Bay Road so that the 13 R.V. spaces will be a use conforming to the zone.
6. The applicants are contending that the current plan and zone designations were adopted in error by the county.

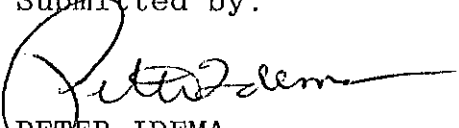
7. There a number of other marinas in the county having R.V. space rentals which are designated on the comprehensive plan and zone maps Water Dependent/Water Related and Planned Marine respectively.

D. Conclusions: Based on the preceding findings-of-fact, the following conclusions are submitted for the Planning Commission to consider:

1. Information has been presented which indicates that the county errored in not designating the subject property Water Dependent/Water Related on the plan land use maps and Planned Marine on the county zoning maps.
2. The plan map amendment being sought is consistent with the state planning goals.
3. The zone map amendment to Planned Marine will be in accord with the land use plan upon the granting of the land use plan amendment to water Dependent/Water Related.
4. A public need exists for the zone change being sought.
5. Other property within the general area is unavailable to satisfy this public need.

Please make separate motions for the plan and zone map amendment requests. A denial of either request will require adoption of new findings and conclusions to support the motion.

Submitted by:


PETER IDEMA
Associate Planner

PI/sg