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BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR LINCOLN COUNTY, OREGON

ORDINANCE # 244

Lincoln County Legal Counsel

AN ORDINANCE PROVIDING FOR COMPREHENSIVE PLAN CHANGE FROM FOREST LAND TO DISPERSED RESIDENTIAL, A ZONING MAP CHANGE FROM TIMBER CONSERVATION (TC) TO RURAL RESIDENTIAL (RR-5), TAKING AN EXCEPTION TO STATE LAND USE GOAL 4 (FOREST LAND), ON PROPERTY IDENTIFIED ON ASSESSOR'S MAP 10-10-32, TAX LOTS 200, 300, and 301 ("SUBJECT PROPERTY") and DECLARING AN EMERGENCY.

WHEREAS, on Monday, March 10, 1986, the Lincoln County Planning Commission denied the request by Robert and Vonda Carter, Marilyn Gillham and Daniel Marvin for a comprehensive plan change from Forestland to Dispersed Residential, and a zone change from Timber Conservation (TC) to Rural Residential (RR-5) on property located north of the Olalla Valley Golf Course on the west side of Upper Olalla Road, and identified on Lincoln County Assessor's Map 10-10-32 as tax lots 200, 300, and 301. The requested comprehensive plan change requires taking an exception to Goal 4 (Forest Land) of the statewide planning goals. Said denial was appealed to the board of commissioners by applicant on March 25, 1986; and

WHEREAS, after notice as required by law, a public hearing was held at 10:30 a.m. April 30, 1986 wherein the board heard testimony, arguments, and reviewed the record; and

WHEREAS the parties stipulated to an extension of time to May 7, 1986 at 10:30 a.m. for the adoption of findings of fact and conclusions, and to render a written decision in this matter;

Now, therefore, the board hereby ORDAINS as follows:

1. That the planning commission decision is hereby reversed and the comprehensive plan is hereby changed from Forestland to Dispersed Residential; the zone maps are hereby changed from Timber Conservation (TC) to Rural Residential (RR-5) taking an exception to Goal 4 of the statewide planning goals, on assessor's map 10-10-32, tax lots 200, 300, and 301;

2. That the findings of fact and conclusions (Exhibit "A") are hereby adopted and incorporated herein as if fully set forth;

3. That copies of this ordinance with Exhibit "A" be forwarded to the applicants, the surveyor, the assessor, and to the planning and development department which shall amend the official zoning maps in the clerk's office;

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1 4. That this ordinance being necessary for the immedi-
2 ate preservation of the public peace, health, and safety, an emer-
3 gency is declared to exist and this ordinance takes effect upon its
4 adoption.

5 DATED this 7th day of May, 1986.

6 LINCOLN COUNTY BOARD OF COMMISSIONERS

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8 Chairman

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6. Under the previous zoning and comprehensive plan the property was zoned and planned for five acre parcels.

7. In 1980 Lincoln County held hearings on land use changes in the county. On June 25, 1980 the Carters appeared before the Lincoln County Board of Commissioners and requested that their property be zoned RR-5. This would be the continuation of the zoning which had previously been in force on the property. The Board of Commissioners on that date approved the RR-5 designation on the Carter property. The minutes of the Board of Commissioners for that date reflect that the Commission was meeting "for the final decisions on land use planning in a county comprehensive plan and the final reading of the ordinances needed on the matter".

8. At the meeting on June 25, 1980 the Board of Commissioners repealed the prior land use plans and enacted a new comprehensive plan and zoning ordinance in which the Carter/Gillham/Marvin property was planned dispersed residential and zoned RR-5.

9. Mr. and Mrs. Carter and Mrs. Gillham relied on this action of the county commissioners and spent approximately \$1,890.00 on surveys and preliminary subdivision design. The survey and design work was begun in the sum of 1980 just after the county commission zoned the property RR-5.

10. The survey performed by Charles Denison, a registered professional land surveyor, revealed boundary problems with property owned by Georgia Pacific Corporation (Rex Timber Company). It took approximately one year for the Carters to

resolve the problems with Georgia Pacific. To resolve the problem the Carters and Mrs. Gillham purchased the disputed area from Georgia Pacific for \$2,000.00 to allow them to proceed with their plans to subdivide the property. The deed was received by the Carters and Mrs. Gillham in December of 1981.

11. The county published notice of legislative land use hearings in newspapers of general circulation, but never personally notified Mr. and Mrs. Carter or Mrs. Gillham that further hearings would be held or that the hearings held in 1982 were to consider a zone and plan change to their property as well as other similar properties. They were not aware their property had been rezoned timber conservation until they came to Newport from their home in Redmond, Oregon to discuss a tentative subdivision approval with the county planning department in the summer of 1983.

12. When the county held hearings on certain portions of the comprehensive plan and zoning ordinances in September of 1982 only certain properties were considered for zone and plan changes. This is evidenced by the minutes of the county commission for September 13, and 14, 1982, and September 22, 1982.

13. The house which exists on tax lot 301 was built in approximately 1952. This is the house in which Mr. Marvin resides.

14. The ownership of Mr. and Mrs. Carter and Mrs. Gillham consists of two separate tax lots. These lots are grandfathered lots and a building permit could be issued on each lot.

15. The property is located in the Olalla Valley and county road #405, a paved county road borders the property to the east.

16. Property owned by Olalla Valley Golf Course, Inc., borders the property to the south. That parcel is approximately 32 acres in size and is planned dispersed residential and zoned RR-5. Under existing ordinances it could be divided into six home sites. There is currently a mobile home already located on this property.

17. Tax lot 1400 which also adjoins the property to the south is approximately .62 acres in size. It has a mobile home located on it.

18. The Olalla Valley Golf Course is virtually across from the property on the east side of county road #405. The Olalla Valley Golf Course is a nine hole public golf course which has a restaurant. The golf course has existed for a number of years.

19. The Georgia Pacific dam is located past the Carter/Gillham property and is used as a recreation area.

20. The golf course, dam and park are features which attract a large number of people to the area.

21. A commercial center has been established at the junction of Upper Olalla County Road #405 and Highway 20.

22. The property is desirable for rural residential use because it is in close proximity to Toledo and Newport. The city limits of the city of Toledo are virtually across Highway 20 from the access point of Olalla Road onto Highway 20. It is approximately 2.5 to 3 miles by road to reach the business district of Toledo from the Carter/Gillham property. It is approximately 7.5 miles to Newport, the largest town and the county seat of Lincoln County.

23. There are approximately 40 houses which access onto Upper Olalla County Road #405 from its juncture with Highway 20 to the Carter/Gillham property. Since the distance from the junction with Highway 20 to the Carter/Gillham property is approximately 1.7 miles, this is a density of more than two houses for every tenth of a mile accessing onto the Olalla Valley road. In the area between the junction of Highway 20 and the Carter/Gillham property there are approximately 51 lots which are under ten acres in size which access onto the Olalla Valley road. Approximately 44 of these lots are approximately five acres in size or less. In addition, the lots which are ten acres in size or over which would access onto Olalla Valley road totals well over 100 acres. This means there will be

approximately 20 to 30 home sites which may access onto Olalla Valley road between the Carter/Gillham property and Highway 20. This means there are at least 75 possible home sites which would access onto the Olalla Valley Road between Highway 20 and the Carter/Gillham property which is 1.7 miles.

24. The Carter/Gillham/Marvin property is the only parcel of property along the Olalla Valley road not owned by a corporate timber company which is zoned TC. The other properties are zoned dispersed residential or public facilities (golf course). Zoning the subject property RR-5 would provide adequate buffer areas from property which is zoned TC. The owners of adjacent property zoned TC, Publishers Paper Company and Rex Timber Company, did not appear in opposition to the zone change.

25. The close proximity of residences, the golf course and public use areas make it very difficult and impractical to manage the property using accepted timber management techniques. Significant interference with uses existing on nearby parcels would result if the property were used as timber land.

26. Electrical and telephone services are available at the county road which abutts the property.

27. The property is located within the Toledo Rural Fire Protection District, and the Lincoln Health District.

28. There are ridges along the westerly and northerly sides of the property which will serve as buffers from adjoining properties.

29. The Carter/Gillham/Marvin property is suitable for wells and septic systems. Nothing about the division of this parcel to five acre lots will be detrimental to the air, land and water resource quality.

30. The property in question has no significant or unique capacity for large scale recreational use but can provide an appropriate use for residential housing near the recreational areas of the Olalla Valley Golf Course and the Georgia Pacific dam and park.

31. The creation of five acre lots in the Olalla Valley will provide rural residences which are in close proximity to Toledo. The area is suited for five acre lots because of the other residences already existing in the area as well as those which can be built under current zoning.

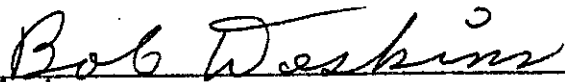
32. The lots created will allow diversity in energy uses such as potential for solar and wind energy.

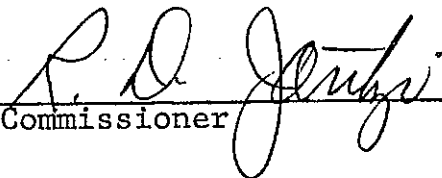
WHEREFORE, the Lincoln County Board of Commissioners, after hearing the testimony and reviewing the record and having made the foregoing findings of fact concludes that an error was made in not retaining the Carter/Gillham/Marvin property with a comprehensive plan designation of dispersed residential and a zone designation of RR-5. The subject property and Olalla Valley are irrevocably committed to non-forest uses and it is not practical to use the subject property for forest purposes.


The Board of Commissioners hereby:

- 1 Finds that an exception to goal 4 on the Carter/Gillham/Marvin property is justified and grants an exception to goal 4.
2. Changes the comprehensive plan designation on the subject property to dispersed residential.
3. Changes the zone designation on the subject property to RR-5.

Dated this 7th day of May, 1986.


Chairman


Commissioner


Commissioner