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BEFORE THE BOARD OF COMMISSIONERS  
FOR LINCOLN COUNTY, OREGON  
ORDINANCE NO. 334

AN ORDINANCE REMOVING PROPERTY FROM THE CITY OF NEWPORT'S URBAN GROWTH BOUNDARY, GRANTING AN EXCEPTION TO OREGON STATEWIDE PLANNING GOAL 4 (FOREST LANDS) AND AMENDING THE LINCOLN COUNTY COMPREHENSIVE PLAN AND ZONING MAP ON PROPERTY IDENTIFIED AS TAX LOTS 201, 203, 206 AND 207 AND A PORTION OF TAX LOTS 200 AND 202, LINCOLN COUNTY ASSESSOR'S MAP NO. 11-11-20, AND DECLARING AN EMERGENCY

WHEREAS the Lincoln County Planning Commission, after legal notice, held a public hearing on February 28, 1994, to consider a request by applicants Jack and Lily Stocker, et al., to remove property from the City of Newport's Urban Growth Boundary, to grant an exception to Oregon Statewide Planning Goal 4 (Forest Lands), and to amend the Lincoln County Comprehensive Plan from Industrial Land to Dispersed Residential and the Zoning Map from I-P (Planned Industrial) to RR1-2 (Rural Residential); all on property identified as Tax Lots 201, 203, 206 and 207 and a portion of Tax Lots 200 and 202, Lincoln County Assessor's Map 11-11-20; and

WHEREAS the Planning Commission voted unanimously to recommend approval of the requests to the Board of Commissioners; and

WHEREAS after published notice in accordance with law, the Lincoln County Board of Commissioners held a hearing on the 27th day of April, 1994, to consider the requests; and

WHEREAS at the conclusion of that hearing, the Board voted to approve the requests as submitted;

NOW, THEREFORE, IT IS HEREBY ORDAINED AS FOLLOWS:

1. That the Planning Commission's recommendation is adopted and the request for removal from the City of Newport's Urban Growth Boundary is approved, an exception to Statewide Planning Goal 4 (Forest Lands) is granted, the Comprehensive Plan designation is hereby changed from Industrial Land to Dispersed Residential, and the zoning is hereby changed from I-P to RR1-2 on property described as Tax Lots 201, 203, 206 and 207, and portions of Tax Lots 200 and 202, Lincoln County Assessor's Map 11-11-20, more particularly identified in Exhibit 1, which is attached hereto and incorporated herein.

2. That the findings and conclusions supporting these actions are adopted as set forth in Exhibit "2" attached hereto and incorporated herein.

3. That the Department of Planning and Development amend the official maps in the Lincoln County Clerk's Office.

1--ORDINANCE NO. 334

1  
2 4. That the Lincoln County Department of Planning and Development  
3 forward a copy of this ordinance to the Department of Land Conservation and  
4 Development.

5 5. That this ordinance, being necessary for the immediate preservation of  
6 the public peace, health, and safety, an emergency is declared to exist and this  
7 ordinance takes effect upon its adoption.

8 6. That copies of this ordinance be forwarded to Kurt Carstens, Attorney  
9 for Applicants, P. O. Box 1730, Newport, Oregon 97365; County Surveyor;  
10 County Assessor; County Counsel; Department of Planning and Development; and  
11 County Counsel.

12 DATED AND APPROVED this 4th day of May, 1994.

13 LINCOLN COUNTY BOARD OF COMMISSIONERS

14 By *Don Kuydy*  
15 Chair

16 By *Sean Cowan*  
17 Commissioner

18 By *Nancy E Leonard*  
19 Commissioner

20 ATTESTED TO:

21 *Susan Kays*  
22 SUSAN KAYS  
23 Recording Secretary

24 APPROVED AS TO FORM:

25 *Wayne Belmont*  
26 WAYNE BELMONT  
27 County Counsel

28 PLANNING/ordin.ugb.goal

Commencing at the Southeast corner of the Northwest one-quarter of the Northeast one-quarter of Section 20, T 11 S, R 11 W, Willamette Meridian, Lincoln County, Oregon, said point being the True Point of Beginning of the following described tract: thence North 0 deg. 19' 30" East, along the East Boundary of said NW 1/4 of NE 1/4, 183.3 feet, more or less, to the Southeast corner of that tract of land conveyed from W. C. and Grace Cline to Jack and Lilly Stocker recorded in Book 214, Page 134, Lincoln County Deed Records; thence continuing along said East boundary 300.00 feet to the Northeast corner of said Stocker Tract; thence N 88 deg. 54' W, along the North boundary of said Stocker Tract, 640.70 feet to a point 300 feet from the Northwest corner of said Stocker Tract; thence S 1 deg. 06' W, 304.33 feet to the centerline of a private road described in aforementioned Deed Book 214, page 134; thence N 88 deg. 03' W, 342.79 feet to the westerly right-of-way of the old Spruce Production Railroad; thence southerly along said westerly right-of-way 200.00 feet, more or less, to the south boundary of said NW 1/4 of NE 1/4; thence N 89 deg. 07' 30" East 910.2 feet, more or less, to the True Point of Beginning.

1 BEFORE THE PLANNING COMMISSION

2 OF

3 LINCOLN COUNTY, OREGON

4 Applicant; Stocker etal ) Findings, Conclusions and  
Agent; Kurt Carstens, ) Final Order  
5 ) Case File #5-LUPC-ZC-93

6 **NATURE OF THE APPLICATION**

7 The applicants are requesting a comprehensive plan map amendment  
8 to remove properties from the City of Newport Urban Growth  
9 Boundary. The application also involves a comprehensive plan  
10 designation change from Industrial Land to Dispersed Residential,  
11 a zone change from I-P (Planned Industrial) to RR1-2 (Rural  
12 Residential), and an exception to Statewide Planning Goal 4  
13 (Forest Lands).

14 **RELEVANT FACTS**

15 The following is a summary of the facts and testimony found to be  
16 relevant to this decision.

- 17 1. The comprehensive plan designation is Industrial Land/Urban  
18 Growth Boundary (UGB).
- 19 2. The subject property carries a zone designation of Planned  
20 Industrial.
- 21 3. The subject property is located immediately north of Mike  
22 Miller Park in South Beach, east of Highway 101 and is  
23 further identified on Lincoln County Assessor's Map #11-11-20  
24 as tax lots 200, 201, 202, 203, 206 and 207, except for the  
25 west, approximately one-third of tax lot 202 and north 1050  
26 feet of tax lot 200. Total size is approximately 8.6 acres.

- 1 4. The subject property is bordered on the north and east by  
2 forest lands, south by Mike Miller Park, and west by  
3 industrial and residential uses.
- 4 5. The subject property consists of varying topography ranging  
5 from fairly level to steeper slopes and is covered in trees,  
6 and native shrubs and grasses. Homesites are residentially  
7 landscaped.
- 8 6. The portion of tax lot 200 included within the subject  
9 properties contains one dwelling, tax lot 201 contains one  
10 dwelling, tax lot 202 included within the subject properties  
11 contains one dwelling, tax lot 203 contains one dwelling and  
12 a garage, and tax lot 206 contains one dwelling and two  
13 outbuildings.
- 14 7. The following utilities are proposed to serve the subject  
15 property:
- 16 A. Sewer: On-site septic system.  
17 B. Water: Seal Rock Water District.  
18 C. Electricity: Central Lincoln P.U.D.
- 19 8. No development constraints were inventoried at the subject  
20 property.
- 21 9. According to mapping prepared by the Soil Conservation  
22 Service, the subject property is comprised predominantly of  
23 Class VIe soils described as Netarts Fine Sand.
- 24 10. No comments were received from affected agencies.

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1 application. All interested parties were given an  
2 opportunity to testify.

3 12. The applicants and their representative presented testimony  
4 in support of the application. All documents and evidence  
5 relied upon by the applicant in support of the application  
6 was submitted in accordance with ORS 197.763, and  
7 incorporated into the record by reference herein.

8 13. The City of Newport conducted all necessary hearings  
9 concerning the application and adopted an ordinance amending  
10 the Urban Growth Boundary based on the proposal.

11 14. No correspondence or other testimony was entered into the  
12 record.

13 **RELEVANT CRITERIA**

14 1. **Lincoln County Development Code**

15 A. Ordinance Standards (Section 1.1235): In considering a  
16 quasi-judicial amendment to the Comprehensive Plan map,  
17 the planning commission shall seek to determine the  
18 following:

- 19 1) That the change is in accord with the Comprehensive  
20 Plan goals and policies and the Statewide Planning  
21 goals; and  
22 2) That there has been a substantial change in the  
23 character of the area since zoning was adopted and  
24 which warrants changing the zone; or  
25 3) That the zoning previously adopted for the area was  
26 in error; or

1           4) That there is a public need for the change being  
2           sought.

3       B.. Comprehensive Plan Policies:

4       1) Land Use Planning Policies (Section 1.0015):

5           a) Lincoln County shall maintain a planning process  
6           to coordinate federal agency, state agency,  
7           county, city and special district plans which are  
8           to be consistent with this comprehensive plan.

9           b) If revisions are required as a part of the  
10          overall review and update process, the  
11          comprehensive plan text and/or map shall be  
12          amended by ordinance using the following  
13          procedure:

14               (1) Proposed plan revisions shall then be  
15               presented to the planning commission for a  
16               public hearing, after which a recommendation  
17               shall be made to the Board of County  
18               Commissioners.

19               (2) The Board of County Commissioners may affirm,  
20               deny or table matters or refer matters back  
21               to the Planning Commission for further  
22               action.

23       2) Urbanization Policies (Section 1.0030):

24           a) Lincoln County shall work with citizens and cities  
25           of Lincoln County in the establishment,  
26           maintenance and amendment of urban growth

1 boundaries. Establishment and change of the  
2 boundaries shall be based upon consideration of  
3 the following factors:

- 4 (1) Demonstrated need to accommodate long-range  
5 urban population growth requirements  
6 consistent with L.C.D.C. goals;
- 7 (2) Need for housing, employment opportunities,  
8 and liveability;
- 9 (3) Orderly and economic provision for public  
10 facilities and services;
- 11 (4) Maximum efficiency of land uses within and on  
12 the fringe of the existing urban area;
- 13 (5) Environmental, energy, economic and social  
14 consequences;
- 15 (6) Retention of agricultural land as defined,  
16 with Class VI the lowest priority; and
- 17 (7) Compatibility of the proposed urban uses with  
18 nearby agricultural activities.

19 3) Comprehensive Plan Designations (Section 1.0190):

- 20 a) Forest Lands
- 21 b) Dispersed Residential
- 22 c) Industrial Lands

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1 2. **Statewide Planning Goal 14**: Change of urban growth  
2 boundaries shall be based on consideration of the following  
3 factors:  
4 A. Demonstrated need to accommodate long-range urban  
5 population growth requirements consistent with L.C.D.C.  
6 goals;  
7 B. Need for housing, employment opportunities, and  
8 liveability;  
9 C. Orderly and economic provision for public facilities and  
10 services;  
11 D. Maximum efficiency of land uses within and on a fringe of  
12 the existing urban area;  
13 E. Environmental, energy, economic and social consequences;  
14 F. Retention of agricultural land as defined, with Class I  
15 being the highest priority for retention and Class VI the  
16 lowest priority; and,  
17 G. Compatibility of the proposed urban uses with nearby  
18 agricultural activities.

19 3. **Statewide Planning Goal 2**: When a local government changes  
20 an established urban growth boundary, it shall follow the  
21 procedures and requirements set forth in Goal 2, "Land Use  
22 Planning, Part II, Exceptions." An established urban growth  
23 boundary is one which has been acknowledged by the L.C.D.C.  
24 under ORS 197-251. Revised findings and reasons in support

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1 of an amendment to an established UGB shall demonstrate  
2 compliance with the seven factors of Goal 14 and demonstrate  
3 that the following standards are met:

4 A. The land subject to the exception is physically developed  
5 to the extent that it is no longer available for uses  
6 allowed by the applicable goal;

7 B. The land subject to the exception is irrevocably  
8 committed to uses not allowed by the applicable goal  
9 because existing adjacent uses and other relevant factors  
10 make uses allowed by the applicable goal impracticable.

11 **FINDINGS**

12 The Commission Finds:

13 1. The applicants are requesting a comprehensive plan map  
14 amendment to remove properties from the City of Newport  
15 Urban Growth Boundary (UGB). The application also involves  
16 a comprehensive plan designation change from Industrial Land  
17 to Dispersed Residential, a zone change from I-P (Planned  
18 Industrial) to RR1-2 (Rural Residential), and an exception to  
19 Statewide Planning Goal 4 (Forest Lands).

20 2. The subject properties were included within the City of  
21 Newport's UGB to accommodate future industrial needs,  
22 however, because these properties are already developed or  
23 committed to residential purposes, they cannot fulfill  
24 Newport's need to satisfy future urban population growth.

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- 1 3. Public facilities are generally not extended as far south as  
2 as the subject properties nor will be in the foreseeable  
3 future; that lack of services coupled with existing and  
4 projected uses on surrounding lands as established in the  
5 record, demonstrates that neighboring properties will likely  
6 never be used for residential, industrial, commercial, or  
7 other urban level uses.
- 8 4. The subject properties are residentially developed; if  
9 possible through compliance with applicable local zoning  
10 regulations, additional dwellings may be built. This  
11 potential activity demonstrates minimal environmental,  
12 social, energy, and economic (ESEE) consequences caused by  
13 this application.
- 14 5. There are no nearby agricultural lands and the subject  
15 properties are not defined as high priority agricultural  
16 lands.
- 17 6. Based on documentation contained in the record, the subject  
18 properties are physically developed to the extent that makes  
19 resource uses an impracticable use of these lands.
- 20 7. Because of characteristics of the proposed exception area  
21 involving existing adjacent uses, existing public facilities  
22 and services, parcel size and ownership patterns,  
23 neighborhoods and regional characteristics, natural and  
24 man-made features which separate the proposed exception area

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1 from adjacent resource lands, and other relevant factors,  
2 the subject properties are irrevocably committed to  
3 non-resource uses and resource uses of the subject  
4 properties would be an impracticable use of these lands.

5 8. The City of Newport has completed the review process in  
6 consideration of the application and adopted an ordinance  
7 amending the urban growth boundary to exclude the subject  
8 properties.

9 9. Based on documentation contained in the record, the subject  
10 properties were erroneously included within the City of  
11 Newport's UGB and are not, and never were part of the  
12 urbanizable land base.

13 **CONCLUSION**

14 The record and findings support the conclusion that:

15 1. The request satisfies the criteria for granting an exception  
16 to Statewide Planning Goals 3 and 4 as proposed.

17 2. The request satisfies the criteria for a comprehensive plan  
18 map amendment to exclude the subject properties from the  
19 City of Newport Urban Growth Boundary.

20 3. The request satisfies the criteria for a comprehensive plan  
21 designation change from Industrial Land to Dispersed  
22 Residential and a zone change from I-P (Planned Industrial)  
23 to RR1-2 (Rural Residential).

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1 **ORDER**

2 It is ORDERED by the Lincoln County Planning Commission that the  
3 request under Case File #5-LUPC-ZC-93 is hereby APPROVED. This  
4 ORDER was presented to and approved by the Lincoln County  
5 Planning Commission on Mach 14, 1994.

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Mark McMahon, Chairperson  
Lincoln County Planning Commission