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BEFORE THE BOARD OF COMMISSIONERS

FOR LINCOLN COUNTY, OREGON

ORDINANCE # 429

6 Amending the Joint Urban Growth Boundary (UGB) for Lincoln City/Lincoln County to
7 include six parcels totaling one hundred six acres of land in the Lincoln City UGB on
8 property identified as Lincoln County Assessor's Map # 6-11-35, Tax Lots 100 and 200 and
9 Assessor's Map # 6-11-36, Tax Lots 201, 300, 400 and 401. In addition this ordinance
10 enacts a Comprehensive Plan Map Amendment from Forest Land to Urban Residential,
11 and a Zoning Map change from Timber Conservation to Single-Family Residential on four
12 of the six parcels on property identified as Lincoln County Assessor's Map # 6-11-35, Tax
13 Lots 200 and Assessor's Map # 6-11-36, Tax Lots 201, 300, and 400, and declaring an
14 emergency. (Case File #2-LUPC-ZC-03).

16 WHEREAS after published and mailed notice in accordance with law, the Lincoln
17 County Planning Commission held public hearings on November 10, 2003 and December 8,
18 2003 and voted unanimously to recommend approval of a request by Lincoln County for
19 amendment of the Joint Urban Growth Boundary (UGB) for Lincoln City and Lincoln County
20 on six parcels of land totaling approximately one hundred six acres on property identified as Tax
21 Lots 100 and 200, Lincoln County Assessor's Map # 6-11-35, and Tax Lots 201, 300, 400, and
22 401, Assessor's Map # 6-11-36; and

23 WHEREAS the Planning Commission also unanimously voted to recommend amending
24 the Lincoln County Comprehensive Plan Map from Forest Land to Suburban Residential and
25 voted to recommend a Zone Change from T-C (Timber Conservation) to R1 (single-family
26 residential) on four of the six parcels, on property identified as Tax Lot 200, Assessor's Map # 6-
27 11-35 and Tax Lots 201, 300, and 400, Assessor's Map # 6-11-36; and

28 WHEREAS after published notice in accordance with law, the Lincoln County Board of
29 Commissioners held a public hearing on February 4, 2004, to consider the UGB Amendment,
30 Comprehensive Plan Map Amendment and Zoning Map change requests; and

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NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing ordinance to be omitted. New sections are in **boldfaced** type.

1 WHEREAS at the conclusion of that hearing, the Board voted unanimously to approve
2 the requests;

3 NOW, THEREFORE, IT IS HEREBY ORDAINED AS FOLLOWS:

4 **SECTION 1.**

5 1. The Planning Commission's recommendation is adopted. The Joint Urban Growth
6 Boundary for Lincoln City/Lincoln County is hereby amended to include approximately 106
7 acres of land in the Lincoln City Urban Growth Boundary identified as Tax Lots 100 and 200,
8 Lincoln County Assessor's Map # 6-11-35, and Tax Lots 201, 300, 400, and 401, Assessor's
9 Map # 6-11-36; the Lincoln County Comprehensive Plan Map is hereby amended from Forest
10 Land to Suburban Residential and the Lincoln County Zoning Map is changed from T-C
11 (Timber Conservation) to R-1 (single-family residential) on property identified as Tax Lot 200,
12 Assessor's Map # 6-11-35 and Tax Lots 201, 300, and 400, Assessor's Map # 6-11-36.

13 2. The findings and conclusions supporting these actions are adopted as set forth in
14 Exhibit "A" attached hereto and incorporated herein.

15 3. Copies of this ordinance shall be forwarded to County Surveyor; County Assessor;
16 County Counsel; and the Lincoln County Department of Planning and Development (which shall
17 forward a copy to the City of Lincoln City).

18 4. The Department of Planning and Development shall amend the official maps and
19 shall forward a copy of this ordinance to the Department of Land Conservation and
20 Development.

21 **SECTION 2.**

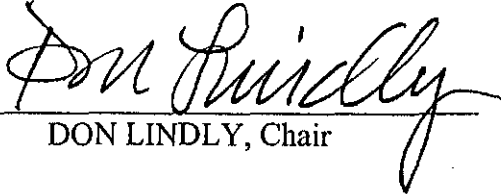
22 This Ordinance being necessary for the immediate preservation of the public peace,
23 health and safety, an emergency is declared to exist and this Ordinance shall take effect upon its
24 passage.

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DATED this 11th day of February, 2004.

LINCOLN COUNTY BOARD OF COMMISSIONERS


DON LINDLY, Chair


TERRY N. THOMPSON, Commissioner


JEAN COWAN, Commissioner

ATTESTED TO:


Zola Sherwood, Recorder

APPROVED AS TO FORM:


Wayne Belmont, County Counsel

BEFORE THE PLANNING COMMISSION
OF
LINCOLN COUNTY, OREGON

Urban Growth Boundary Map) Case File #2-LUPC-ZC-03
Amendment and Zone Change;) Findings, Conclusions, and Final Order
Applicant: Lincoln County
(At the Request of Lincoln City)

Nature of the Application

The request is an amendment to the joint Lincoln City/ Lincoln County urban growth boundary (UGB) for the purpose of including approximately 106 acres of land in the City UGB. Currently, 2 of the six parcels involved in the application are located within the city limits of Lincoln City and carry a zone designation of R1-7.5 (single-family residential). The four remaining parcels require a Lincoln County comprehensive plan map amendment from Forest Land to Suburban Residential and a zone change from T-C (Timber Conservation) to R-1 (single-family residential). The purpose of the proposed amendment is to correct a mapping error and ensure consistency of the UGB between jurisdictions.

Relevant Facts

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

1. Combined, the subject property consists of approximately 106 acres.
2. The subject property is located at the north end of Lincoln County, west of Highway 101 and is identified on Lincoln County Assessor's Map #6-11-35 as tax lot 100 and 200 and Map #6-11-36 as tax lot 201, 300, 400 and 401.
3. Parcels located within the City of Lincoln City are zoned R1-7.5; parcels within Lincoln County are currently zoned T-C (Timber Conservation).
4. Parcels within the City of Lincoln City carry a plan designation of residential

and those within Lincoln County have a plan designation of Forest Land.

5. North of the subject property is land owned by the YWCA, and land managed by the USFS. West is vacant land, south and east are rural homesites, and following Highway 101 are commercial, recreational and tourist related facilities.
6. Considering the large acreage, the subject property contains varying topography ranging from fairly level to steeper slopes. The property is vegetated in native coastal species. Lots with homesites would be residentially landscaped. Areas of the property around Rowdy Creek and its tributaries contain jurisdictional wetlands and portions of these areas are inventoried in the Lincoln County Comprehensive Plan as major marsh.
7. Two of the six parcels contain single-family dwellings (map #6-11-25, tax lot 200 and map #6-11-36, tax lot 400).
8. Mapping of the Lincoln City Natural Resources Overlay Zone identifies the following features associated with Rowdy Creek: a) 50' riparian area, significant riparian reach, significant wildlife habitat, and significant wetlands. The Lincoln County Comprehensive Plan identifies areas of Rowdy Creek as inventoried major marsh (Site #29), and Environmental Bulletin 81 indicates areas in the vicinity of Rowdy Creek contain a high groundwater table. Bulletin 81 also shows that areas of the property contain landslide topography. No other constraints were identified.
9. This action does not involve a development proposal.
10. No comments were received from the Department of Land Conservation and Development.
11. A public hearing was held on November 10, 2003 before the Lincoln County Planning Commission. All interested parties were given an opportunity to testify.
12. Staff presented a summary of the requested amendment to the Lincoln County Planning Commission. Staff's report is by reference incorporated into the record herein.
13. The City of Lincoln City notified Lincoln County of a mapping discrepancy in the location of the joint Lincoln County/Lincoln City Urban Growth Boundary in the vicinity of Clancy Road, west of Highway 101 at the north end of the County. The City of Lincoln City's adopted urban growth boundary follows the section line of Township 6 Range 11 Sections 35 and 36. A copy of the Lincoln City ordinance (#84-01) and map adopted on

January 23rd, 1984, implementing the location of the UGB and City Land Use Plan designations. Lincoln County maps show the UGB located to the south. As a result, the City requested Lincoln County correct this mapping error.

14. Criteria for establishing the UGB under Goal 14 were originally assessed at the time the boundary was established. At the same time, the Land Conservation and Development Commission would also have had to acknowledge the location of the boundary. Clearly, the County intended on adopting the same boundary as required under Goal 14. Evidence of this is found in sections of the Lincoln County Comprehensive Plan adopted in June of 1980 and later acknowledged by LCDC (see attached map: source "Exceptions Paper"; Lincoln City I-C). This map shows the boundary coincident with the City UGB.
15. Two of the properties are already located within city limits (Map #6-11-35, tax lot 100 and Map #6-11-36, tax lot 401) and carry a city zone designation of R1-7.5 (residential). The four remaining properties carry a plan designation of Forest Land and are zoned T-C (Timber Conservation). For this reason, the proposal includes a comprehensive plan map amendment from Forest Land to Suburban Residential and a zone change from T-C to R-1. Zone designations would be amended if the properties were annexed into the City. Comments from the City indicate the properties would likely carry a designation of R1-7.5.
16. Procedurally, the county is required to conduct a quasi-judicial hearing and conclude that the proposed change is in accord with the Comprehensive Plan goals and policies or the Statewide Planning Goals; and in this instance, that the zoning previously adopted was in error. Stated previously, LCDC originally concluded the location of the UGB was consistent with applicable goals by acknowledgement of the City Comprehensive Plan, and as a part of this action, DLCD has not raised any objections to the proposal. The appropriate comprehensive plan designation for lands within the UGB is Suburban Residential with an accompanying zone change to R-1 (residential).
17. One letter from a nearby property owner was entered into the record.
18. No oral testimony was entered into the record.

Relevant Criteria

- a. Lincoln County Development Code, Section 1.1235, Quasi-Judicial Amendments: A quasi-judicial amendment to the Comprehensive Plan

and Zoning Maps may be authorized provided that the proposal satisfies all applicable requirements of this Chapter and also provided that the applicant, in a quasi-judicial hearing, demonstrates that:

- 1) The change is in accord with the Comprehensive Plan goals and policies or the Statewide Planning Goals; and
- 2) There has been a substantial change in the character of the area since zoning was adopted and which warrants changing the zone; or
- 3) The zoning previously adopted for the area was in error; or
- 4) There is a public need for the change being sought.

b. Lincoln County Comprehensive Plan Goals and Policies:

The following Lincoln County Comprehensive Plan Goals and Policies are pertinent to this proposal:

1. Land Use Planning Goals (Section 1.0010)

- (a) To identify activities, issues and problems of land use.
- (b) To ensure that all growth is orderly and efficient
- (c) To establish a land use planning process and policy framework as a basis for all decisions and actions related to the use of land, and to assure an adequate factual basis for such decisions and actions.

2. Urbanization Policies (Section 1.0030).

These policies state that Lincoln County shall work with citizens and cities of Lincoln County in the establishment, maintenance and amendment of urban growth boundaries. Establishment and change of the boundaries shall be based upon consideration of the following factors:

- (a) Demonstrated need to accommodate long-range urban population growth requirements consistent with LCDC goals;
- (b) Need for housing, employment opportunities, and livability;
- (c) Orderly and economic provision for public facilities and services;
- (d) Maximum efficiency of land uses within and on the fringe of the existing urban area;
- (e) Environmental, energy, economic and social consequences;
- (f) Retention of agricultural land as defined, with Class VI the lowest priority; and
- (g) Compatibility of the proposed urban uses with nearby agricultural activities.

3. Economic Goals (Section 1.0130)

- (a) To establish an economic planning process in the county.
- (b) To support and encourage the expansion of existing industrial and commercial activities in appropriate locations.
- (c) To support and encourage the creation of new industrial and commercial activities in appropriate locations.
- (d) To recognize the environmental and developmental constraints in expansion of industrial, commercial, and residential activities.
- (e) To improve the average wage in the county

(f) To improve the quality of employment opportunities in Lincoln County.

4. Transportation Goals (Section 1.0140)

(a) To plan for a safe, convenient and economic transportation system.

(b) To provide an efficient and aesthetically pleasing system of public roads.

(c) To develop a transportation system which enhances the County's economy.

(d) To encourage energy conserving transportation modes.

(e) To conserve energy in transportation.

5. Suburban Residential(Section 1.0190(6)): Building and facilities must be in place at the time of adoption of this plan or be inside of an established Urban Growth Boundary to acquire this designation. If a small residential lot lies along an improved road between two lots with buildings it is also considered committed. Water must be available either by individual or community system. These represent the minimum; if more facilities are present then the area is further justified as built and committed. Primary uses are single-family residential, multifamily residential where urban facilities and services are available, and existing public recreation facilities. Secondary uses such as community facilities, new public recreation facilities, government uses and similar uses may be included by County review.

6. Residential (R-1) Zone (Section 1.1310):

In an R-1 zone, the following regulations shall apply:

(1) Uses Permitted Out: The following uses and their accessory uses are permitted subject to the applicable provisions of LCC 1.1401 to 1.1499, 1.1501 to 1.1599 and 1.1901 to 1.1999: (a) A one-family dwelling unit excluding single-wide mobile homes; (b) Duplex on a corner lot each unit fronting on a separate street; (c) A recreational vehicle or other approved temporary housing to be used for dwelling purposes during the construction of a single-family residential dwelling unit for which a building permit has been issued. The use shall not exceed a period of one year; (d) Farm and forest use: Livestock and primary processing or forest products are prohibited; (e) Beach front protective structures.

(2) Conditional Use Permitted: The following uses and their accessory uses may be permitted subject to the applicable provisions of LCC 1.1401 to 1.1499, 1.1501 to 1.1599, 1.1601 to 1.1699 and 1.1901 to 1.1999: (a) Cemetery; (b) Church, nonprofit religious or philanthropic use; (c) Community center; (d) Day nursery, nursery school-kindergarten, day care center, or similar facility; (e) Governmental structure or use of land; (f) Home occupation;

(g) Hospital, nursing home, retirement home or similar facility; (h) Golf course and ancillary uses, but excluding golf driving range, miniature golf course or similar facility; (i) Mobile home park; (j) Private, noncommercial recreation club, such as archery, swimming or tennis; (k) Private school; (l) Public park, playground, swimming pool or similar recreation facility; (m) Public or private utility facility; (n) Radio or television transmitter or tower; (o) Temporary real estate office; (p) Excavating, filling, dredging or wetland drainage; (q) Single-wide mobile home; (r) Recreational vehicle park; (s) Keeping of livestock; (t) Pilings, piers, docks, and similar in-water structures; (u) Heliports; (v) Transfer stations; (w) Bed and breakfast inns. (3) Standards: Except as provided in LCC 1.1400 to 1.1499, 1.1501 to 1.1599, 1.1601 to 1.1699, and 1.1901 to 1.1999 the following standards shall apply: (a) Lot Size and Dimensions: The minimum lot size and dimensions shall be as follows: (A) The minimum lot area shall be 6,000 square feet for a single-family dwelling unit and 10,000 square feet for a duplex when a lot is served by both a public or community water supply system and public or community sewage disposal system. (B) The minimum lot area shall be 15,000 square feet per dwelling unit when a lot is served by either a public or community water source, or public or community sewage disposal system. (C) The minimum lot area per dwelling unit shall be 2 acres when a lot is not served by either a public or community sewage disposal or water supply system. (D) The depth to width ratio shall not exceed 2 1/2 to 1 on lots less than 25,000 square feet and 3 1/2 to 1 on lots 25,000 square feet or larger. (E) Within urban growth boundaries where a division will not be to planned urban densities, the minimum lot size shall be 5 acres. A finding that the lot configuration and location of dwellings will not preclude extension of sewer, water or roads for future urbanization will be required prior to approval. Comments from the affected city will be required as part of all applications. (F) Within urban growth boundaries, a division to planned urban densities may be allowed when an agreement for future services is signed by affected city and developer and recorded with the deed. (b) Yards: The minimum yard requirements shall be as follows: (A) The front yard shall be a minimum of 20 feet. (B) Each side yard shall be a minimum of either five feet or one foot for each three feet of building height, whichever requirement is greater. (C) The street side yard shall be a minimum of 20 feet and may be decreased at the rate of one foot per additional two feet of setback from the front lot line, except that such setback shall

not be less than 10 feet. (D) The rear yard shall be a minimum of 10 feet, except that on a corner lot it shall be a minimum of either five feet or one foot for each three feet of building height, whichever requirement is the greater. (c) Special Setbacks: (A) No structure shall be located closer than 30 feet from the right-of-way of any State Highway. No structure shall be located closer than 30 feet from the right-of-way of any collector or arterial street which has a right-of-way width of less than 60 feet. (d) Building Height: No building shall exceed a height of 30 feet. (e) Lot Coverage: Buildings shall not occupy more than 30 percent of the total lot area.

Findings

1. A discrepancy exists in the location of the joint City of Lincoln City/Lincoln County Urban Growth as described in the application materials.
2. Criteria for establishing the UGB under Goal 14 were originally assessed at the time the boundary was established. Concurrently, the Land Conservation and Development Commission acknowledged the location of the city boundary.
3. Lincoln County intended on adopting the same boundary. Evidence of this is found in sections of the Lincoln County Comprehensive Plan, also acknowledged by the Land Conservation and Development Commission.
4. The Department of Land Conservation and Development raised no objections to the proposed mapping correction.
5. The appropriate comprehensive plan designation for the four properties under Lincoln County's jurisdiction is Suburban Residential with a zone designation of R-1 (single-family residential).


Conclusions

1. Evidence in the record demonstrates that the proposed comprehensive plan map amendment and zone change are in accordance with the Comprehensive Goals and Policies and Statewide Planning Goals.
2. Evidence in the record demonstrates that the current location of the Lincoln County Urban Growth Boundary as described in the application materials was established in error.

Order

It is ORDERED by the Lincoln County Planning Commission that Case File #2-LUPC-ZC-03 be APPROVED. This approval serves as a recommendation to the Board of County Commissioners.

This ORDER was presented to and approved by the Lincoln County Planning Commission on December 8, 2003.



Naomi Wamacks, Chair
Lincoln County Planning Commission