

1 **BEFORE THE BOARD OF COMMISSIONERS**

2 **FOR LINCOLN COUNTY, OREGON**

3 **ORDINANCE # 431**

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5
6 **Granting an exception to Oregon Statewide Planning Goal 14 (Urbanization); and**
7 **Amending the Lincoln County Comprehensive Plan Map and Lincoln County Zoning**
8 **Map to implement changes to certain properties for Periodic Review Task 5, the Lincoln**
9 **County Periodic Review Work Program as modified April 8, 2003, Department of Land**
10 **Conservation and Development Order 001458; and declaring an emergency.**
11

12 WHEREAS periodic review of the Lincoln County Comprehensive Plan, Task 5 for the
13 Lincoln County Work Program as modified April 8, 2003, Department of Land Conservation
14 and Development Order 001458, requires evaluation of rural, unincorporated communities in
15 relation to Statewide Planning Goal 14 (Urbanization) as implemented by the Oregon Land
16 Conservation and Development Commission (LCDC) through adoption of Administrative
17 Rules establishing planning standards for those unincorporated communities. Those rules are
18 found in OAR Chapter 660, Division 22, Unincorporated Communities; and

19 WHEREAS the Lincoln County Planning Commission has completed its review of the
20 task and has made recommendations to the Lincoln County Board of Commissioners, which
21 include an amended Comprehensive Plan Inventory, several substantive code changes, an
22 exception to Statewide Planning Goal # 14 for the Otter Rock and Lincoln Beach-Gleneden
23 Beach Areas, and Comprehensive Plan and Zoning Amendments for a number of properties;
24 and

25 WHEREAS the Lincoln County Board of Commissioners received and reviewed the
26 recommendations of the Planning Commission, held a public hearing on the proposed changes,
27 and is now prepared to implement these recommendations;
28

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

2 **SECTION 1.**

3 The Planning Commission's recommendations are adopted, and an exception to
4 Oregon Statewide Planning Goal 14 (Urbanization) is hereby granted for the Unincorporated
5 Communities of Otter Rock and Lincoln-Gleneden Beach as depicted in and supported by the
6 Goal 14 Exceptions Document attached hereto and incorporated herein as Exhibit "A".

7 **SECTION 2.**

8 The following amendments to the Lincoln County Comprehensive Plan Map are
9 hereby adopted:

- 10 ❖ The Kernville Rural Community Center boundary is amended to include the
11 following properties: Lincoln County Assessor's Map # 8-11-2-CC, Tax Lots
12 500, 700, 800, 801, 900; Lincoln County Assessor's Map # 8-11-11-BA, Tax
13 Lots 500, 601.
- 14 ❖ The Tidewater Rural Community Center boundary is amended to include the
15 following property: Lincoln County Assessor's Map # 13-10-27-CA, Tax Lot
16 800.
- 17 ❖ The following properties' Comprehensive Plan Map designations are changed
18 from Rural Service Center to General Commercial: Lincoln County Assessor's
19 Map # 11-8-23, Tax Lot 704; Lincoln County Assessor's Map # 9-9-33, Tax
20 Lot 901; and Lincoln County Assessor's Map # 6-10-30, Tax Lot 800.
- 21 ❖ The following properties' Comprehensive Plan Map designations are changed
22 from Rural Service Center to Agricultural: Lincoln County Assessor's Map #
23 10-8-36-D, Tax Lots 102, 500, 601, 602.
- 24 ❖ The following properties' Comprehensive Plan Map designations are changed
25 from Rural Service Center to Forest: Lincoln County Assessor's Map # 10-8-
26 36-D, Tax Lots 200, 300, 400 and that portion of Tax Lot 100 west of Logsdan
27 Road.
- 28

1 **SECTION 3.**

2 The following amendments to the Lincoln County Zoning Map are hereby adopted:

- 3 ❖ The following properties are rezoned From R-1 (Residential) to P-F (Public
4 Facilities): Lincoln County Assessor's Map # 11-9-9A, Tax Lots 200, 600;
5 Lincoln County Assessor's Map # 6-10-32-AB, Tax Lot 200.
- 6 ❖ The following properties are rezoned From R-1 (Residential) to C-1 (Retail
7 Commercial): Lincoln County Assessor's Map # 14-12-11-CA, Tax Lots 6100,
8 8000; Lincoln County Assessor's Map # 6-10-34-C, Tax Lot 1500.
- 9 ❖ The following properties are rezoned from R-1 (Residential) to C-T (Tourist
10 Commercial): Lincoln County Assessor's Map # 14-12-23-CD, Tax Lots 1201,
11 3000, 3100; Lincoln County Assessor's Map 14-12-11-CD Tax Lots 1600,
12 2100.
- 13 ❖ The following properties are rezoned from A-C (Agricultural Conservation) T-
14 C (Timber Conservation): Lincoln County Assessor's Map # 10-8-36-D, Tax
15 Lots 200, 300, 400 and that portion of Tax Lot 100 west of Logsdan Road.

16
17 **SECTION 4.**

18 The Lincoln County Department of Planning and Development shall amend the official
19 county planning and zoning maps to reflect the foregoing amendments.

20
21 **SECTION 5.**

22 Copies of this ordinance shall be forwarded to the County Surveyor; County Assessor;
23 and County Counsel. A copy shall also be forwarded to the Department of Planning and
24 Development for delivery to the Oregon Department of Land Conservation and Development
25 along with other implementing enactments for Periodic Review Task 5.

1 SECTION 6.

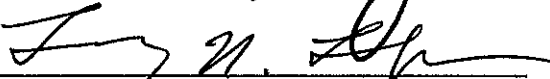
2 This Ordinance being necessary for the immediate preservation of the public peace,
3 health and safety, an emergency is declared to exist and this Ordinance shall take effect upon
4 its passage.

DATED this 21st day of July, 2004.

LINCOLN COUNTY BOARD OF COMMISSIONERS



Don Lindly, Chair



Terry N. Thompson, Commissioner



Jean Cowan, Commissioner

ATTESTED TO:



Janet Diaz, Recorder

APPROVED AS TO FORM:



Wayne Belmont, County Counsel

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Exhibit "A"

GOAL 14 EXCEPTION

**Unincorporated Communities of
Otter Rock and Lincoln-Gleneden Beach**

LINCOLN COUNTY COMPREHENSIVE PLAN

Prepared by
Lincoln County Department of Planning and Development

APPLICABLE CRITERIA

ORS 197.732, Statewide Planning Goal 2, Part II, Exceptions and OAR 660, Division 4, Interpretation of Goal 2 Exception Process authorize this exception. Specifically, this exception is adopted in accordance with ORS 197.732 (1)(b), Goal 2, Part II (b) and OAR 660-04-0028, Exception Requirements for Lands Irrevocably Committed to Other Uses. The area subject to this committed exception includes physically developed lands as provided for in OAR 660-04-0028 (5).

OTTER ROCK

I. General Characteristics of the Exception Area and Adjacent Lands [OAR 660-04-028 (2)]

A. Characteristics of the Exception Area

1. History of Development

The community of Otter Rock, approximately 5 miles north of the City of Newport, is situated between Highway 101 and the ocean on the south side of Cape Foulweather. The community encompasses an area of approximately 302 acres. In 1904, Willard Jones acquired the area of Otter Rock, which was then a part of an Indian allotment. After purchasing the land, Jones filed the first subdivision of the area, the plat of Otter Rock. Prominent Lincoln County resident Benjamin F. Jones acquired the Otter Rock plat along with additional adjoining land three years later in 1907. Soon thereafter, B. F. Jones filed the plat of the Jones and Nehrbas First Addition to Otter Rock, resulting in the subdivision of most of the remaining area of present day Otter Rock. In 1908 Jones built a cottage in Otter Rock, which still exists today. With Jones' promotion, the Otter Rock area, with its scenic, sheltered beach, quickly became a popular destination for tourists for camping, beachcombing, swimming and surfing. Several sets of vacation cottages were developed in the area, along with the Horning Hotel, which was owned by Benjamin Jones' brother in law, Thomas Hart Horning. The Horning Hotel was destroyed by fire in 1927, but many of the beach cottages built in the 1920s and 1930s are still standing today. The original plats filed by Willard and B.F. Jones comprise most of the developed area of the present day Otter Rock community.

The remaining portion of the community, including the land subject to this exception, is located on the former estate of Thomas Henry Banfield, a noted Portland industrialist and civic leader. In 1934, Banfield acquired a sizable acreage immediately north of the platted area of Otter Rock, where he built a home. Mr. Banfield died in 1950, and the home was

C. Relationship Between the Exception Area and Adjacent Lands

The exception area is located within and is a part of the Otter Rock rural community, which is delimited by a comprehensive plan designation boundary, established in 1980, and complying with the provisions of OAR 660-22-0020 (5). Although development within the balance of the community is generally beyond rural levels, the exception area, in contrast, has developed at a significantly higher intensity of commercial use. The exception area is identified as a single property, tax lot 9000, on assessor's map 09-11-32.

II. Committed Exception Factors [OAR 660-04-0028(6)]

A. Existing Adjacent Uses

As described above, uses immediately adjacent to the exception area are residential and commercial uses within the unincorporated community of Otter Rock. These adjacent uses are committed exception lands planned and zoned in accordance with the requirements of OAR 660, Division 22

B. Existing Public Facilities and Services

Urban level public facilities are currently provided within the exception area by two different private entities. The Johnson Creek Water Service Company provides community water service to the Inn at Otter Crest and the Sea Crest residential planned development. The company utilizes a surface water right on Johnson Creek as its source of raw water.

Sanitary sewer service is currently provided to the Inn at Otter Crest and to the Sea Crest development, by a private entity, H2O & S, Inc. The company operates a sewage treatment plant and an ocean outfall pursuant to a Department of Environmental Quality permit.

Transportation facilities serving the community include Otter Crest Loop, which is owned and maintained by ODOT, and provides primary access from Highway 101. Private roads serving the Inn at Otter Crest and Sea Crest provide neighborhood access.

The Depoe Bay Rural Fire Protection District provides fire protection. The district maintains a station within the community, on Otter Crest Loop.

years, these same natural features have continued to draw vacationers as well as an established population of permanent residents. Two predominant geographic features have historically defined the community. Highway 101 (and before it, the railroad) established the eastern and southern boundary of the community. To the north, development of the community was limited by the rugged topography and ocean bluffs of Cape Foulweather.

F. Physical Development According to OAR 660-040-025

The lands within the exception area have been determined to be physically developed to the extent that they are no longer available for uses allowed by Goal 14 (i.e. rural level uses). This determination is based on the size and intensity of the current structures and uses on the property, which are significantly in excess of the allowances provided for in OAR 660, Division 22.

III. Summary of Findings

In arriving at its conclusion in the matter of a committed exception to Goal 14 for the Inn at Otter Crest, Lincoln County relies upon the findings of fact and statement of reasons set forth in the preceding analysis of the requirements for committed exceptions. These findings and statements of reasons are summarized as follows:

- A. Development of the Otter Rock community began in the early years of the 20th century with the platting of Otter Rock and the Jones and Nerhbas First Addition to Otter Rock. At this time, the area developed with numerous cottages and homes, along with a hotel and other commercial uses.
- B. Commercial development first occurred on the subject property in the early 1950s with the development of the Banfield estate as a resort property. This property was redeveloped in the early 1970s to its current use as the Inn at Otter Crest resort, which is currently the largest commercial facility in the Otter Rock community.
- C. The exception area is currently within an area designated "Rural Community" in the Lincoln County Comprehensive Plan, a designation assigned to unincorporated communities with established development patterns exceeding rural levels. Current zoning (C-T) of the subject property provides for the maintenance and continuation of existing uses on the site, without regard to size or intensity limitations otherwise imposed by Goal 14.
- D. The current commercial development on the subject property consists of the Inn at Otter Crest, which includes 144 condominium units and

recreational amenities, along with extensive single-family and condominium residential development, all sited on a 580 acre tract on the south shore of Siletz Bay. Later, in the 1970s, additional commercial development in the form of a small shopping complex was added, along with an additional phase of single-family residential development (Salishan Hills).

The Lincoln Beach area, immediately to the south of Gleneden Beach, began developing with residential uses in the 1940s, with the filing of the plats of Westwinds, Tranquil Valley and Belle Mere. Additional residential development continued through the 1950s and 1960s, with the development of Coronado Shores (1962). Commercial services also developed early in the Lincoln Beach area, including the Lincoln Beach Market (circa 1940) and the Surfrider resort complex (1963).

Today, the Lincoln-Gleneden Beach community is a fully functioning unincorporated community, with a sizable permanent population, as well as numerous vacation and second homes. Commercial services catering to both visitors and residents are well established, along with public uses, including a post office, a fire station, two churches, a community center, two state parks, and a state airport.

2. Residential Uses

Residential development in Lincoln-Gleneden Beach covers an area of approximately 950 acres or 63% of the total land area of the community. This consists predominantly of single-family residential development concentrated within the historically platted areas of Lincoln Beach and Gleneden Beach west of Highway 101. Residential development also includes higher density multi-family development including Cavalier condominiums, Sea Ridge condominiums, and the Trend West membership resort in Gleneden Beach. This land area also includes the residential portions of Salishan. In all, there are 2157 dwelling units currently existing within the community. In addition, there are 671 existing, undeveloped lots within the residential area of the community

The historically platted areas of the community are comprised mostly of lots of 3,000 to 6,000 square feet in size; current residential zoning standards provide for a 6,000 square foot minimum lot size. Based on this standard, there is potential for the creation of approximately 840 additional lots/parcels within the community boundary. Currently, average density of platted lots is just under three lots/parcels per acre; full development of remaining residential lands with division potential would result in an average density of just fewer than four lots/parcels per acre.

3. Commercial Uses

Approximately 92 acres within the community are devoted to commercial uses. The largest single commercial use is Salishan Lodge, a resort complex with 125 lodging units, two restaurants, banquet and convention facilities, and extensive recreational facilities, including an 18-hole golf course and indoor tennis complex. In total, the lodge complex

developed at significantly higher levels of density, and also includes high intensity commercial uses. The exception area is delimited by a comprehensive plan designation boundary, established in 1980, and complying with the provisions of OAR 660-22-0020 (5).

II. Committed Exception Factors [OAR 660-04-0028(6)]

A. Existing Adjacent Uses

As described above, uses immediately adjacent to the exception area are either resource or rural level exception areas. These adjacent uses are distinct and separated from the exception area by geographical barriers, the nature and types of uses, and by planning and zoning boundaries.

B. Existing Public Facilities and Services

Urban level public facilities are currently provided within the community by several public entities. The Kernville-Gleneden Beach-Lincoln Beach Water District presently provides community water service to the entirety of the community. The district derives its source of supply from Drift Creek, a tributary of Siletz Bay.

The Kernville-Gleneden Beach-Lincoln Beach Sanitary District currently provides sanitary sewer service to the all areas of the community except for Salishan. The district owns and operates a sanitary sewer collection system, and contracts with the City of Depoe Bay for treatment and discharge of effluent at the city's treatment plant. Salishan is provided sanitary sewer service by the Salishan Sanitary District. The district maintains and operates a treatment facility on the resort property.

Transportation facilities serving the community include Highway 101, owned and maintained by ODOT. The portion of Highway 101 through the community includes the Lincoln Beach Parkway, a median divided, controlled access facility. Lincoln County maintains Gleneden Beach Loop (old Highway 101), which provides frontage access to the commercial and residential areas in Gleneden Beach. A network of local public access roads, along with some private roads, provides neighborhood access. Special roads districts or private homeowners associations maintain these facilities.

The Depoe Bay Rural Fire Protection District provides fire protection. The district maintains a station within the community, on Gleneden Beach Loop.

separate the neighborhood from surrounding areas and have historically defined the limits of the developed community. The place names Gleneden Beach and Lincoln Beach have customarily been defined by these boundaries.

E. Natural and Man-made Features

The historic development of the Lincoln-Gleneden Beach community was based primarily on the area's attraction to visitors: the scenic beaches and outstanding natural setting. Over the years, these same natural features have continued to draw visitors as well as an established population of permanent residents. Two predominant geographic features have historically defined the community. To the south, Fogarty Creek and the rocky headlands of Government Point established southern boundary of the community. To the north, the extensive tidelands and wetland features of Siletz Bay limited development of the community.

F. Physical Development According to OAR 660-040-025

The majority of lands within the exception area have been determined to be physically developed to the extent that they are no longer available for uses allowed by Goal 14 (i.e. rural level uses). These include the historically platted residential areas of Gleneden Beach and Lincoln Beach, along with the extensive commercial development present on larger parcels.

III. Summary of Findings

In arriving at its conclusion in the matter of a committed exception to Goal 14, Lincoln County relies upon the findings of fact and statement of reasons set forth in the preceding analysis of the requirements for committed exceptions. These findings and statements of reasons are summarized as follows:

- A. Development of the Lincoln-Gleneden Beach community began in the early years of the 20th century with the platting of Gleneden Beach, Lincoln Beach Park and several other subdivision filings. At this time, the area developed with numerous cottages and homes, along with a number of commercial uses.
- B. These original subdivision plats created urban density lots, predominantly 50 by 100 feet in dimension. Subsequent subdividing in the community throughout the balance of the century was consistent with this size and density pattern. Existing single-family residential development within the

- J. Although additional development opportunities within the community are limited by land supply within the community boundary, additional urban density development in the form of infill is anticipated on the remaining available tracts.

IV. Conclusion

Based on the forgoing findings of fact and statements of reasons, Lincoln County concludes that the existing uses and levels of public facilities and services established in the community of Lincoln-Gleneden Beach, and other relevant factors make uses permitted by Goal 14, namely the limiting of uses and services to rural levels and intensities, impracticable. For this reason, the county further concludes that the area within the community boundary is irrevocably committed to urban level uses not permitted by Goal 14, and is therefore excepted from the requirements of Goal 14 in accordance with Statewide Planning Goal 2, Part II (b).