

1                                   **BEFORE THE BOARD OF COMMISSIONERS**  
2                                   **FOR LINCOLN COUNTY, OREGON**

3                                   ORDINANCE # 497

4 \_\_\_\_\_  
5  
6 **Amending the Lincoln County Comprehensive Plan granting an exception under Statewide**  
7 **Planning Goal 2 (Land Use Planning) (committed lands exception) to Statewide Planning**  
8 **Goal 16 (Estuarine Resources) to allow a cut and fill within Siletz Bay Management Unit 5 of**  
9 **the Lincoln County Estuary Management Plan for a boat ramp extension project. This**  
10 **project is located on Millport Slough Lane off U.S. Highway 101 within the Siletz Bay**  
11 **National Wildlife Refuge; (Case File #03-TA-17); and declaring an emergency.**  
12 \_\_\_\_\_

13           WHEREAS on June 12, 2017 the Lincoln County Planning Commission held a public  
14 hearing to consider the request from the US Fish and Wildlife Service (USFWS) for a  
15 Comprehensive Plan Amendment to approve an exception, under Statewide Planning Goal 2 (Land  
16 Use Planning) (committed lands exception), to Statewide Planning Goal 16 (Estuarine Resources).  
17 The purpose of the exception is to allow USFWS to construct a boat ramp extension to the existing  
18 ramp entering Millport Slough on the Siletz Bay, within a tidal estuary and within the Siletz  
19 National Wildlife Refuge. The Bay is a tidal estuary protected under Statewide Planning Goal 16  
20 and is located within the Lincoln County Estuary Management Plan within Siletz Bay Management  
21 Unit No. 5, a natural management unit.

22           As proposed for this project, cuts and fills are not permitted outright and require taking an  
23 exception to the statewide planning goals. An exception to the statewide planning goals constitutes  
24 an amendment of the county's comprehensive plan and as is implemented by Oregon Revised  
25 Statutes (ORS 197.732(1)(b) and Statewide Planning Goal 2: Part 11(c) Exception Requirements;  
26 Oregon Administrative Rules OAR Chapter 660 Section 004 and OAR Chapter 660 Section 15,

1 and by Lincoln County Code (LCC) Section 1.0190 (Plan Designations-Estuarine Management  
2 Units), LCC 1.1367 Marine Waterway (M-W) Zone and the Lincoln County Estuary Management  
3 Plan: Siletz Management Unit No. 5 (Natural).

4 WHEREAS at the conclusion of the hearing the Planning Commission voted unanimously  
5 to recommend that the Board adopt the amendment and goal exception. On June 22, 2017 the  
6 Planning Commission adopted findings, conclusions and final order making that recommendation;  
7 and

8 WHEREAS after published and mailed notice in accordance with law, the Lincoln County  
9 Board of Commissioners held a public hearing on August 9, 2017 to consider the request; and

10 WHEREAS at the conclusion of that hearing, the Board voted unanimously to approve the  
11 request;

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

13 **SECTION 1.**

14 1. The Planning Commission’s recommendation is adopted, and the Comprehensive Plan  
15 Map is amended by granting an exception under Statewide Planning Goal 2 (Land Use Planning)  
16 (committed lands exception) to Statewide Planning Goal 16 (Estuarine Resources) to allow cuts  
17 and fills within an estuary designated as a natural management unit for the USFWS boat ramp  
18 project off the Millport Slough access road. (Case File #03-TA-17).

19 2. The findings and conclusions supporting this plan amendment and goal exception are  
20 adopted as set forth in Exhibit “A” attached hereto and incorporated herein.

1           3. Copies of this Ordinance shall be forwarded to County Surveyor; County Assessor;  
2 County Counsel; Hui Rodomsky, Lincoln County Planner; Onno Husing, Lincoln County Planning  
3 Department Director; and Kelly Moroney, USFWS, applicant.

4           4. The Department of Planning and Development shall forward a copy of this Ordinance to  
5 the Oregon Department of Land Conservation and Development.


6           **SECTION 2.**

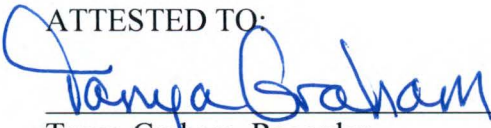
7           This Ordinance being necessary for the immediate preservation of the public peace, health  
8 and safety, an emergency is declared to exist and this Ordinance shall take effect upon its passage.

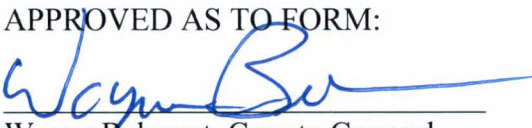
DATED this 30th day of August, 2017.

LINCOLN COUNTY BOARD OF COMMISSIONERS

  
TERRY N. THOMPSON, Chair

BILL HALL, Commissioner  
  
DOUG HUNT, Commissioner

ATTESTED TO:  
  
Tanya Graham, Recorder

APPROVED AS TO FORM:  
  
Wayne Belmont, County Counsel

# EXHIBIT "A"

U.S. Fish & Wildlife Service; Case File #03-TA-17

BEFORE THE PLANNING COMMISSION

OF

LINCOLN COUNTY, OREGON

Exception to Statewide Planning Goal 16;  
Comprehensive Plan Amendment

) Case File #03-TA-17  
) Findings, Conclusions and  
) Final Order

## Nature of the Application

US Fish and Wildlife Service (USFWS) is proposing to construct a car-top boat ramp extension to the existing ramp entering the Millport Slough portion of Siletz Bay, a tidal estuary protected under Oregon Statewide Planning Goal 16 (Estuarine Resources). The Lincoln County Estuary Management Plan places the boat ramp within Siletz Bay Management Unit No. 5, a natural management unit. Permitted uses within a natural management unit are limited to protect sensitive natural resources; cut and fill is not permitted. Because the car top boat ramp extension project will involve some cut and fill, an exception to Goal 16 is required. By definition, a goal exception is an amendment to the comprehensive plan. Therefore, USFWS submitted the application for a plan amendment in order to request approval of the goal exception. Detailed findings in support of the plan amendment and goal exception are provided in documents accompanying the application.

## Relevant Facts

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

1. The Siletz Bay National Wildlife Refuge (NWR) car-top boat ramp is located on Millport Slough Lane between the intersection of Highway 101 and Immonen Road and Highway 101 and OR 229 (milepoint 120).
2. The Lincoln County Estuary Management Plan places Millport Slough and the Siletz Bay NWR parking area and boat ramp within Siletz May Management Unit No. 5, a natural management unit (M-W, Marine Waterway).
3. In 2016, the USFWS worked with a diverse group of eleven local partners including conservation organizations and recreational sportsman's groups to implement Phase I of the Multi-benefit for recreation and habitat restoration. Phase I of the project included developing a new entrance sign, parking lot, visitor kiosk, boat ramp trail, restroom, walking trail, and seven acre tidal restoration at this location. The car-top boat launch extension under consideration is Phase II of the overall project.
4. The USFWS has consulted with all known agencies that have jurisdiction, interest or

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oversight in the area including Oregon Department of Transportation, Army Corps of Engineers, National Oceanic and Atmospheric Administration Fisheries, Oregon Department of State Lands, Oregon Department of Fish and Wildlife, Wetlands Conservancy, Mid-Coast Watersheds Council, Lincoln County Planning Department.

5. All application materials and staff report are by reference incorporated into the record. A general description and purpose of the project is as follows:

The proposed Siletz Bay NWR car top boat ramp extension design takes into account the impacts to critical fish habitat by incorporating fish habitat restoration elements into the design, including native riparian and wetland plant materials and incorporating large woody debris and root wads rather than traditional bank stabilization methods to refresh depleted habitat structure in the estuary for fish escape cover and natural tidal processes. To address public safety related to water entry and exit, the USFWS has retained bio-engineering experts to re-design an eco-friendly access ramp to extend the existing car top boat ramp trail. The new design provides for improved public safety by extending access to the ramp for people who are mobility impaired and includes environmental considerations that minimize impacts to wetlands. The gradually graded and graveled ramp will allow visitors to carry a non-motorized watercraft (canoe, kayak, paddleboard, etc.) and paddling gear to the ramp to launch at or before high tide. This ramp is not designed for, nor will it provide, a launch option for motorized boats that are towed by a vehicle.

6. Extensive research, documentation and analysis of the need, alternatives and impacts of the project have been provided in documents submitted by USFWS. It is the purpose of this element of the Comprehensive Plan amendment to provide a compilation of relevant factual material from these documents which form the basis for the proposed findings and conclusions.

The findings and conclusions contained herein are based on the information contained in the following documents:

- Siletz Bay National Wildlife Refuge Car-Top Boat Ramp Extension & Fish Habitat Enhancement Project Plan Amendment and Goal Exception Land Use Application- Submitted by USFWS on April 21, 2017.
  - Joint Permit Application- US Army Corps of Engineers/Division of State Lands- Submitted by United States Fish & Wildlife Service, Oregon Coast NWRC April 2017.
7. A public hearing was held on June 12, 2017 before the Lincoln County Planning Commission in consideration of the requested amendment. All interested parties were given an opportunity to testify.
8. Kelly Moroney representing United State Fish and Wildlife Service, presented testimony on behalf of the request and responded to questions raised by the Planning Commission. Mr. Moroney explained that the focus of the application is to improve safety and accessibility for improved public recreational opportunities utilizing the existing footprint

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and infrastructure of the abandoned portion of the old Highway 101. There was discussion concerning the traffic safety and turn lanes to enter the parking facility to access the ramp. Mr. Moroney stated that USFWS had worked with ODOT to secure an easement and permit to develop a traffic safety plan that included traffic signs and re-striping of turn lanes to access the facility. The traffic safety plan, signs, and turn lanes have been implemented and were installed in 2016. There was discussion about the design and maintenance of the boat ramp extension. Mr. Moroney explained that the resource agencies had requested a "non-hardened" design to limit impacts to the sensitive resources of the estuary and that a bio-engineering firm had developed the design to incorporate natural features that will protect the long-term integrity of the structure while providing benefits to wildlife resources. The USFWS has consulted and complied with the requirements of the regulatory resource agencies and has the support of the Oregon Department of Fish and Wildlife. The USACOE has issued a permit for the project (NWP-2016-41-1, June 12, 2017). The OR DSL is waiting for a consistency determination from Lincoln County to finish processing the DSL permit application.

9. No opposition testimony was entered into the record.

10. There were no requests for continuances or for the record to be held open.

## **Relevant Criteria**

### **A. Statewide Land Use Planning Goals**

1. Goal 2: Land Use Planning and Exceptions
2. Goal 8: Recreational Needs
3. Goal 16: Estuarine Resources

### **B. Committed Lands Exception Requirements:**

1. ORS 197.732(1)(b) and Goal Two: Part 11(c): Exception Requirements
2. OAR 660-04-018; Planning and Zoning for Exception Areas
3. OAR 660-04-0020; Goal 2, Part II(c), Exception Requirements
4. OAR 660-04-0022: Reasons Necessary to Justify an Exception Under Goal 2, Part II(c)
5. OAR 660-015-0000(8): Recreational Needs
6. OAR 660-004-0022(8) Goal 16: Other alterations or Uses

### **C. Lincoln County Code:**

1. Lincoln County Code Section 1.0190(12) Plan Designations- Estuarine Management Units
2. Lincoln County Code Section 1.1367 Marine Waterway (M-W) Zone
3. Lincoln County Estuary Management Plan: Siletz Management Unit No. 5 (Natural)

## **Findings and Conclusions**

The Planning Commission finds that the findings and conclusions supporting this action are adopted. The findings and conclusions contained herein are based on the information contained in the following documents:

1. *Siletz Bay National Wildlife Refuge Car-Top Boat Ramp Extension & Fish Habitat Enhancement Project Plan Amendment and Goal Exception Land Use Application- Submitted by U.S. Fish & Wildlife Service, Oregon Coast NWRC, March 2017.*

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2. Joint Permit Application- US Army Corps of Engineers/Division of State Lands- Submitted by U.S. Fish & Wildlife Service, Oregon Coast NWRC, March 2017.

## Order

It is ORDERED by the Lincoln County Planning Commission that Case File #03-TA-17 be APPROVED. This approval serves as a recommendation to the Lincoln County Board of Commissioners.

This ORDER was presented to and approved by the Lincoln County Planning Commission on June 22, 2017.



Dick Johnson, Chair  
Lincoln County Planning Commission