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UMATILLA COUNTY RECORDS

THE BOARD OF COMMISSIONERS OF UMATILLA COUNTY

STATE OF OREGON

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LAND CONSERVATION AND DEVELOPMENT

In the Matter of Co-Adopting)
 City of Ukiah Ordinance No.) ORDINANCE NO. 2005-14
 2005-06-07, Amending City of)
 Ukiah Comprehensive Plan)
 and Urban Growth Boundary)

WHEREAS the City of Ukiah and Umatilla County previously have entered into a Joint Management Agreement applying to lands within the City Urban Growth Area, and pursuant to the agreement, amendments to the City of Ukiah Comprehensive Plan and implementing ordinances for application to the Urban Growth Area, are referred to Umatilla County for adoption;

WHEREAS on July 5, 2005, the Ukiah City Council adopted Ordinance No. 2005-06-07, to amend the Comprehensive Land Use Plan, to amend the Urban Growth Boundary to include 2.73 acres of the parcel known at Umatilla County Tax Lot 5S31-14BC-100;

WHEREAS, at its August 25, 2005 meeting, the Umatilla County Planning Commission reviewed the ordinance and recommended that the Board of Commissioners co-adopt the ordinance;

WHEREAS the Board of Commissions held a public hearing on September 6, 2005, to consider the co-adoption of the ordinance;

WHEREAS at its meeting of September 6, 2005, the Board of Commissioners voted unanimously to co-adopt the ordinance;

NOW, THEREFORE the Board of Commissioners of Umatilla County ordains the co-adoption by Umatilla County, Oregon, of the City of Ukiah Ordinance No. 2005-06-07, amending City of Ukiah Comprehensive Plan and the Urban Growth Boundary, a copy of which is attached to this document and incorporated by this reference.

DATED this 6th day of September, 2004. ?

UMATILLA COUNTY BOARD OF COMMISSIONERS

Emile M. Holeman
 Emile M. Holeman, Chair



William S. Hansell

William S. Hansell, Commissioner

Dennis D. Doherty

Dennis D. Doherty, Commissioner



ATTEST:

OFFICE OF COUNTY RECORDS

Jeanne Hemphill

Records Officer



CITY OF UKIAH

ORDINANCE NO. 2005-06-07

AN ORDINANCE ADOPTING AN AMENDMENT TO THE COMPREHENSIVE PLAN

WHEREAS, the City of Ukiah has a request by Lowell Van Dorn to amend the Urban Growth Boundary to include an additional 2.73 acres at 5S3114-100; and

WHEREAS, the City of Ukiah held a duly noticed and advertised public hearing on the matter on June 7, 2005; and

WHEREAS, the public meeting was held and comments received and action taken.

I. Project Description and General Findings of Fact.

- A. This proposal will amend the City of Ukiah's (City) Urban Growth Boundary to include 2.73 acres of 5S 31 14 BC-100. This proposal will amend the Comprehensive Plan of the City to recognize the property as urban land. In order for the Urban Growth Boundary (UGB) to be amended, Umatilla County (County) must also adopt the same UGB. The subject property may be annexed to the City subsequent to the successful passage of the UGB amendment by both the City and County.
- B. The subject property is a portion of tax lot 5S 31 14BC-100, an existing 8.20-acre parcel. The current UGB traverses through tax lot 100 from north to south bisecting it an eastern portion of approximately 5.47 acres located inside the Urban Growth Boundary and a western portion of approximately 2.73 acres located outside the Urban Growth Boundary. It is the western portion of this parcel that is the purpose of this amendment.
- C. The City and County's Comprehensive Plans and implementing ordinances have been acknowledged by the Land Conservation and Development Commission to be in compliance with the statewide planning goals pursuant to applicable law.
- D. Research conducted by the City indicates that records are available from state or local sources to describe why the subject property was not included in the original UGB along with the majority of tax lot 5S 31 14BC-100. State and local planning personal speculate that the original UGB was drawn to promote a straight north-south line at this location and that there was no

deliberate choice made by City decision makers to exclude the subject property for other reasons.

- E. Bisecting properties into multiple plan designations can be problematic because it leads to confusion and management challenges because different portions of a single property can receive different treatment. In this case, tax lot 5S 31 14 BC-100 could end up being governed by two distinct authorities if the eastern portion were to be annexed.
- F. Tax lot 5S 31 14BC-100 is currently included in the County F-1 zoning district, which is a qualifying exclusive farm use zone. The F-1 zoning district offers non-farm related uses, such as non-farm dwellings as conditional uses subject to County Planning Commission review. The subject property will retain the F-1 zoning district until it is annexed by the City and placed in a City plan and zoning designation. Annexation, as well as, City plan and zone designations are separate instruments and may be reviewed subsequent to the successful passage of the Urban Growth Boundary amendment.
- G. According to the Soil Survey of Umatilla County Area, Oregon produced by the United States Department of Agriculture, Soil Conservation Service (now Natural Resources Conservation Service) the subject property is comprised of Bridge Creek Silt Loam (12C), which has an agricultural capability class IVe and is suitable for rangeland livestock grazing but is not well suited to pasture, hay production or other types of cultivated agriculture. Other soil types present in and around the City include a companion Bridge Creek Silt Loam (12E) that has the same basic features as 12C but is characterized by a more severe degree of slope and has an agricultural capability class VIe. Potamus Gravelly Loam (71A) and Silvies-Winom complex (90A), which are suited for pasture and hay production and have an agricultural capacity class IVc and Vw., respectively.
- H. Despain Street accesses the subject property. The City finds and concludes that Despain Street is capable of accommodating residential levels of traffic. Water and sewer infrastructure are present on the eastern portion of 5S 31 14BC-100 and are available to the property. The City has adequate sewer and water capacity to serve the property.
- I. The subject property is not in a designated flood plain area as identified by FEMA flood plain maps. Consultation with the National Wetland Inventory maps show that no potential jurisdictional wetlands are present.
- J. This proposal must be treated as a quasi-judicial plan amendment because it includes a limited and specific number of properties and property owners (1), it is bound to result in a decision, and it applies facts to established criteria.

II. **Applicable Laws**

- A. Oregon Revised Statutes:
ORS 197.298 sets forth a prioritization of land for bringing into an Urban Growth Boundary.
- B. Statewide Planning Goal 14 (*Urbanization*):
Goal 14 enumerates seven (7) Factors that must be considered when revision an urban growth boundary. Factors 1 and 2 are generally referred to as the "need factors." Factors 3 thru 7 are generally referred to as the "locational" factors.
- C. Oregon Administrative Rule, Chapter 660, Division 4
OAR 660-004-0010(1)(c)(B) implements Statewide Planning Goal 2 (*Land Use Planning*) and includes several criteria that are similar and complementary to the seven factors of Goal 14.
- D. City of Ukiah-Umatilla County Urban Growth Management Agreement
City Ordinance 01-11 jointly adopted May 2, 2002 provides procedures for amending the UGB.
- E. City of Ukiah Comprehensive Plan and Community Development Ordinance
City's Comprehensive Plan provides for notices and public hearings for amendments to the Comprehensive Plan.

III. **Conclusions of Law.**

- A. ORS 197.298
- (1) **In addition to any requirements established by rule addressing urbanization, land may not be included in an urban growth boundary except under the following priorities:**
- (a) **First priority is land that is designated urban reserve land under ORS 195.145, rule or metropolitan service district action plan.**

Finding:

No urban reserve exists. Therefore, land described under paragraph (a) is inadequate to accommodate the amount of land needed.

- (b) **If land under paragraph (a) of this subsection is inadequate to accommodate the amount of land needed, second priority is land adjacent to an Urban Growth Boundary that is identified in an acknowledged Comprehensive Plan as an exception area or non-resource lands. Second priority may include resource land that is**

completely surrounded by exception areas unless such resource land is high-value farmland as described in ORS 215.710.

Finding:

No acknowledged exception areas or non-resource lands exist next to the city's UGB. Therefore, land described under paragraph (b) is inadequate to accommodate the amount of land needed.

- (c) If land under paragraphs (a) and (b) of this subsection is inadequate to accommodate the amount of land needed, third priority is land designated as marginal land pursuant to ORS 197.247 (1991 Edition).**

Finding:

Only two counties, Lane County and Washington County, elected to identify marginal lands under the opportunity provided under ORS 197.247 (1991 Edition). The subject property is not located in a county that has identified marginal lands. Therefore, no marginal lands are present and land described under paragraph (c) is inadequate to accommodate the amount of land needed.

- (d) If land under paragraphs (a) to (c) of this subsection is inadequate to accommodate the amount of land needed, fourth priority is land designated in an acknowledged comprehensive plan for agriculture or forestry or both.**

Finding:

All of the land surrounding the City is included in a County F-1 Zoning District, which is an agricultural designation and considered a qualifying exclusive farm use zone. Therefore, land under paragraph (d) of this subsection is adequate to accommodate the amount of land needed.

- 2. Higher priority shall be given to land of lower capability as measured by the capability classification system or by cubic foot site class, which ever is appropriate for the current use.**

Finding:

The Soil Survey of Umatilla County Area, Oregon demonstrates that no high-value farmland as defined by ORS 215.710 is present any where near the City. Furthermore, no prime, unique, or Class I, Class II or Class III soils are present in any amount.

The subject property is comprised of Bridge Creek Silt Loam (12C), which has an agricultural capability Class IVe. A Class IV soil is not viewed as having a high productivity for agriculture. In fact, outside of eastern Oregon soils with an

agricultural capability less than IV (ie V, VI, VII & VIII) are not considered agricultural soils for the purposes of Statewide Planning Goal 3 and OAR Chapter 660, Division 33.

Other soil types present in and around the City include a companion Bridge Creek Silt Loam (12E) that has the same basic features as 12C but is characterized by a more severe degree of slope and has an agricultural capability class VIe. Potamus Gravelly Loam (71A) and Silvie-Winom complex (90A), which are suited for pasture and hay production and have an agricultural capacity class IVc and Vw., respectively.

In this particular case the soils on the property are among the higher agricultural capability class in the area. This, however, is somewhat misleading because although the Bridge Creek Silt Loam has an agricultural capability class IVe, it is viewed as a rangeland soil while other near by soils with a slightly lower agricultural capability class are actually suitable for more high yielding pursuits such as pasture and hay production. So, although soils the subject property have a higher agricultural capability class in actual practice they are less productive than other nearby areas.

3. Land of lower priority under subsection (1) of this section may be included in an urban growth boundary if land of higher priority is found to be inadequate to accommodate the amount of land estimated in subsection (1) of this section for one or more of the following reasons:

(a) Specific types of identified land needs cannot be reasonably accommodated on higher priority lands

Finding:

As described in the response to subsection (2), there is no productive farmland near the City. Furthermore, soil on the property is actually among the lower quality soils in the area for agricultural production even though they have one of the higher agricultural capability class designations.

Even if this were not so, the subject property is not located at any other area and no lands of higher priority under the hierarchy provided by ORS 197.298 can be used to reconcile the fact that the City's original UGB excluded a small, two-acre +/- portion of 5S 31 14BC-100 for the apparent purpose of creating a straight north-south line and without any other deliberate reasoning.

The City finds that ORS 197.298 has been satisfied. It is not necessary to respond to the remaining provisions of ORS 197.298(3).

B. Statewide Planning Goal 14 (*Urbanization*)

Factor 1: Demonstrated need to accommodate long-range urban population growth requirements consistent with LCDC goals;

Finding:

Inclusion of the subject property within the City's Urban Growth Boundary is not based on acknowledged population growth requirements. Instead the City expressly finds that bi-secting properties into multiple plan designations can be problematic because it leads to confusion and management challenges due to different portions of a single property receiving different treatment. The City also expressly finds that it is in the public interest to avoid placing a single property into multiple plan classifications, particularly when such a combination could lead to multi-jurisdictional issues on a single parcel. In this case, 5S 31 14BC-100 is governed by two distinct authorities. Competing governance on a single parcel is not good public policy and when abating the multiple zoning and jurisdictional issues means conversion of less than 2-acres from rural land to urbanized land it is not a matter deserving a high level of scrutiny. The level of reasonable scrutiny naturally increases as the size of conversion necessary for a remedy increases.

The subject property includes approximately 2.73 acres. The City finds that adding an additional two-acres to the Urban Growth Boundary does not result in any meaningful increase in the inventory of buildable residential land because, it is unlikely that the property will be developed into more than a site for a single-family dwelling and, second, if the subject property were to develop at an urban level its size, configuration, topography and the likely presence of a dwelling and associated outbuildings constrain its potential for residential densities at even modest urban levels.

In conclusion, the City finds that promoting the public interest of avoiding multiple plan designations and possibility of governance of a single parcel is sufficient to respond to this criteria, particularly when the conversion of approximately two acres will not increase the City's inventory of buildable residential lands.

The City finds that Factor 1 has been satisfied.

Factor 2: Need for housing, employment opportunities and livability:

Finding:

Inclusion of the property within the City's Urban Growth Boundary is not based on acknowledged need for housing and employment. The City expressly finds that bi-secting properties into multiple plan designations can be problematic because it leads to confusion and management challenges due to different portions of a single property receiving different treatment. The City also expressly finds that it is in the public interest to avoid placing a single property in multiple plan classifications, particularly when such a combination could lead to multi-jurisdictional issues on a single parcel. See response to Factor 1 for a discussion on this point.

The City's determination that serving the public interest is sufficient to reconcile that inclusion of the subject property in the UGB is not necessary to accommodate anticipated population forecasts. Furthermore, adding the subject property will not detract from the city's housing and employment efforts because it does not have a development potential capable of resulting in any surplus of buildable land in any category.

The City also finds that avoiding multiple planning classifications on a single property results in better local planning because it is less cumbersome and easier to understand. Providing a simpler, more efficient, more easily understood local planning program is a community asset that promotes livability.

The City finds that Factor 2 has been satisfied.

Factor 3: Orderly and economic provision for public facilities and services:

Finding:

Despain Street accesses the property. The city finds and concludes that the existing street is capable of accommodating residential levels of traffic. Water and sewer infrastructure are present on the eastern portion of 5S 31 14BC-100 and are available to the subject property. The city has adequate sewer and water capacity to serve the property. Therefore, public facilities and services are available in an orderly and economic fashion.

The City finds that Factor 3 has been satisfied.

Factor 4: Maximum efficiency of land uses within and on the fringe of the existing urban area:

Finding:

As stated above, the property is a minority portion of an eight-acre parcel, almost all of which is located inside the current UGB. Public services and facilities are nearby and available. The City finds that expanding into the subject property is a logical extension of city services and development and represents a maximum efficiency of land uses because expanding in other areas would not allow the existence of multiple plan classifications on a single property to be abated.

The City finds that Factor 4 has been satisfied.

Factor 5: Environmental, energy, social and economic consequences:

Finding:

No negative environmental consequences would result from including the subject property in the Urban Growth Boundary. The property is not in a flood plain and no potential jurisdictional wetlands exist on the site. No other inventoried Goal 5 resources are present.

No negative energy consequences would result from including the subject property in the Urban Growth Boundary. The subject property may be efficiently and conveniently served by City services. The City road system may be efficiently and conveniently extended to provide circulation within the subject property. Development of the subject property will not result in an inefficient use of power or unnecessary fuel consumption.

No negative social consequences would result from including the subject property in the Urban Growth Boundary. Avoiding multiple planning classifications on a single property results in a better local planning because it is less cumbersome and easier to understand. Providing a simpler, more efficient, more easily understood local planning program is a community asset that promotes livability.

No negative economic consequences would result from including the subject property in the Urban Growth Boundary. Adding the subject property will not detract from the city's housing and employment efforts because it does not have a development potential capable of resulting in any real surplus of buildable land in any category.

The City finds that Factor 5 has been satisfied.

Factor 6: Retention of agricultural land as defined, with class I being the highest priority for retention and class VI the lowest priority:

Finding:

The Soil Survey of Umatilla County Area, Oregon demonstrates that no high-value farmland as defined by ORS 215.710 is present anywhere near the City. Furthermore, no prime, unique, or class I, class II or even class III soils are present in any amount.

The subject property is comprised of Bridge Creek Silt Loam (12C), which has an agricultural capability class IVe. A class IV soil is not viewed as having a high productivity for agriculture. In fact, outside of eastern Oregon soils with an agricultural capability less than IV (ie V, VI, VII & VIII) are not considered agricultural soils for the purposes of Statewide Planning Goal 3 and OAR Chapter 660, Division 33.

Although the Bridge Creek Silt Loam has an agricultural capability class IVe, it is viewed as a rangeland soil while other nearby soils with a slightly lower agricultural capability class are actually suitable for more high yielding pursuits such as pasture and hay production. So, although soils the subject property have a higher agricultural capability class in actual practice they are less productive than other nearby areas.

The City finds that Factor 6 has been satisfied.

Factor 7: Compatibility of the proposed urban activities with nearby agricultural activities:

Finding:

Nearby agricultural activities consist of seasonal livestock grazing. The City finds because inclusion of the subject property into the City's UGB does not constitute any meaningful increase to the City's inventory of buildable residential lands approval of this proposal will not create a less compatible situation than currently exists.

The City finds that Factor 7 has been satisfied.

C. OAR 660-004-0010

(1)(c)(B) When a local government changes an established urban growth boundary it shall follow the procedures and requirements set forth in Goal 2 "Land Use Planning", Part II, and Exceptions. An established urban growth boundary is one, which has been acknowledged by the Commission under ORS 197.251. Revised findings and reasons in support of an amendment to an established urban growth boundary shall demonstrate compliance with the seven factors of Goal 14 and demonstrate that the following standards are met:

- (i) Reasons justified why the state policy embodied by the applicable goals should not apply (This factor can be satisfied by compliance with the seven factors of Goal 14.).

Finding:

The City has found that the seven factors of Goal 14 have been satisfied.

The City finds that this provision is satisfied.

- (ii) Areas, which do not require a new exception, cannot reasonably accommodate the use:

Finding:

Areas which do not require a new exception cannot accommodate the use because the subject property is not located at any other area and no lands of higher priority under the hierarchy provided by ORS 197.298 can be used to reconcile the fact that the City's original UGB excluded a small, two-acre +/- portion of 5S 31 14BC-100 for the apparent purpose of creating a straight north-south line and without any other deliberate reasoning.

The City finds that this provision is satisfied.

- (iii) The long-term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site;

Finding:

The City has found that no negative environmental, economic, social and energy (ESEE) consequences would result from uses occurring on the proposed site. See Goal 14, Factor 5 for a detailed discussion on these points. The City further finds that because there are no negative consequences generally there will be no negative long-term consequences regarding environmental, economic, social and energy issues either. Therefore, the ESEE consequences of the use on the proposed property are entirely positive and cannot be more adverse than the same proposal being located at another area.

The city finds that this provision is satisfied.

- (iv) The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts.

Finding:

The future use of the subject property will be a compliment to the existing arrangement of urban development and will be wholly compatible. Detailed location issues can and will be considered during the site design review phase of any proposed development.

The City finds that this provision is satisfied.

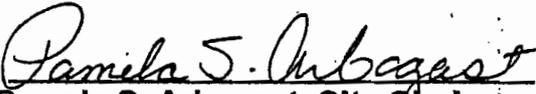
NOW THEREFORE, BE IT HEREBY ORDINANED;

Based on the evidence in the record and the findings of fact and justification included in this document, that all applicable provisions of law have been satisfied. Therefore, the proposal to include the 2.73 acres of parcel 5S 31 14 BC 100 in the Urban Growth Boundary of the City of Ukiah is approved.

Passed this 5th day of July 2005 by unanimous vote.

Signed: 

Clint Barber, Mayor, City of Ukiah

Attest: 

Pamela S. Arbogast, City Clerk

