

BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR LINN COUNTY OREGON

IN THE MATTER OF APPLICATIONS )  
FOR A PLAN MAP AMENDMENT ) RESOLUTION & ORDER NO. 2024-207  
AND A ZONE MAP AMENDMENT; AND ) (BC19-0002)  
AMENDING RESOLUTION & ORDER ) (Findings and Conclusions on Remand)  
NO. 2021-397 )

**WHEREAS**, Ronald and Virginia Henthorne (Applicants) filed applications requesting that the Board of County Commissioners for Linn County (Board) approve a Comprehensive Plan (*Plan*) map amendment to amend a *Plan* map designation from Farm/Forest to Non-Resource, and a Zoning map amendment to amend a Zoning map designation from Farm/Forest (F/F) to Non-Resource Five Acre Minimum (NR-5);

**WHEREAS**, Following public review, on September 21, 2021, the Board of County Commissioners for Linn County (Board) adopted Resolution and Order No. 2021-396 and Ordinance No. 2021-397, approving the applications; and

**WHEREAS**, The decision of the Board of County Commissioners in this matter was appealed to the Land Use Board of Appeals (LUBA);

**WHEREAS**, LUBA issued its Final Opinion and Order in LUBA Nos. 2022-003/004 on September 26, 2022 remanding the Board's decision; and

**WHEREAS**, On June 21, 2023, the Applicants, through their representative, submitted a request to initiate remand proceedings based on the remand ordered by LUBA in 2022-003/004; *and*

**WHEREAS**; On August 29, 2023, the Board held a duly noticed hearing on remand to identify the issues on remand, accept testimony regarding the issues on remand, voted to hold the record open for additional written evidence or argument, and continued the hearing to September 12, 2023 for deliberation and decision; and

**WHEREAS**, The Board held the record open for seven days to receive written evidence or argument from any party, an additional seven days for written responses to new evidence or argument, and an additional seven days for the applicant to submit written rebuttal to any written evidence or argument, and at the September 12, 2023 hearing, the Board accepted the submitted testimony, argument, and evidence into the record;

**WHEREAS**, After considering all testimony and evidence previously submitted, the Board reached a consensus that the proposed applications be approved on remand, with conditions as specified herein; and

**WHEREAS**, The findings in support of this decision are attached hereto as *Exhibit 2* (BC19-0002 2023 Remand Decision Criteria, Findings and Conclusions on Remand); and

**WHEREAS**, The Board findings contained in Resolution and Order No. 2019-127 and 2021-396 are reconfirmed, including the application summary and statement of decision criteria, and are adopted herein; and

**WHEREAS**, The findings in support of this decision and addressing the issues on remand identified in LUBA's order, are in addition to previous findings adopted as part of Resolution and Order No. 2019-127 and 2021-396; and now, therefore, be it

**RESOLVED**, That the Board of County Commissioners for Linn County adopt the findings as set forth in *Exhibit 2* (BC19-0002 2023 Remand Decision Criteria, Findings and Conclusions on Remand), and approve the applications for a *Comprehensive Plan* map amendment and Zoning map amendment for property described on Linn County Assessor maps as T14S, R01W, Section 08, Tax Lot 101; and

**ORDERED**, That the *Comprehensive Plan* map amendment and Zoning map amendment applications are approved, subject to the conditions identified below:

1.) If the property is subdivided, use of the property shall be limited to a residential subdivision and its accessory uses. If the property is partitioned, use shall be limited to residential and accessory uses. A maximum of 10 lots and 10 dwellings shall be allowed on the subject property and dwellings must be sited in compliance with LCC 903.510(B)(7) through (10).

2.) The subsequent subdivision or partition application(s) for the subject property shall substantially comply with the Applicant's draft Wildlife Management Plan submitted into the record of this proceeding at LUBA Record 426-427.

3.) Any approval of a residential subdivision or residential partition shall impose at least the following conditions of approval:

a.) Above-ground residential improvements on each lot or parcel (hereinafter "lot" for ease of reference) will be contained within no more than 1-acre of each parcel.

b.) Land uses shall be limited to residential (including residential accessory uses) and wildlife habitat uses. No farming, grazing or commercial forestry shall be allowed outside the one-acre residential footprint of each lot.

c.) Fencing will be wildlife friendly which means that it shall consist of either: post and pole or buck and pole design; electric fencing without the use of barbed wire; or 4-wire fencing with the top and bottom wires consisting of smooth, barbless wire, a minimum of 20-inch clearance between ground level and the bottom wire, the top wire no higher than 42 inches, and a minimum of 12 inches between the top smooth wire and the highest strand of barbed wire. Woven wire 8-foot fencing, without barbed wire, may be used within the 1-acre residential improvement area to protect gardens and pets from wildlife disturbance.

d.) Domestic dogs will be restricted to within electronic fences, kennels or on leash.

e.) The shooting of firearms or discharge of fireworks shall be prohibited.

f.) Operation of landscaping equipment shall be restricted to the period of one (1) hour after sunrise to one (1) hour before sunset.

g.) The use of common trails shall be restricted to the period of one (1) hour after sunrise to one (1) hour before sunset.

h.) Nighttime exterior illumination shall be downward projecting as to not project light or produce glare beyond the 1-acre residential improvement area of the lot or parcel and shall be activated by motion sensor with a shutoff feature when not in use.

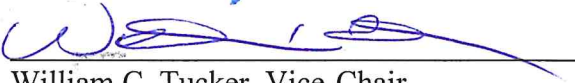
**ORDERED**, That the Linn County *Comprehensive Plan* map be prepared for amendment to designate the subject 108.59-acre parcel, as identified in *Exhibit 1*, as “Non-Resource” land; and

**ORDERED**, That the Linn County Zoning map be prepared to designate the subject 108.59-acre parcel, as identified in *Exhibit 1*, as “Non-Resource Five Acre Minimum (NR-5)” zoned land.

Resolved and Ordered this 17<sup>th</sup>, day of December, 2024.

BOARD OF COUNTY COMMISSIONERS  
FOR LINN COUNTY


  
\_\_\_\_\_  
Roger Nyquist, Chair

  
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William C. Tucker, Vice-Chair


**OPPOSED**

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Sherrie Sprenger, Commissioner

APPROVED AS TO CONTENT:

  
\_\_\_\_\_  
Alyssa Boles, Planning Manager  
Linn County Planning and Building

APPROVED AS TO FORM:

  
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Deputy/County Attorney for Linn County