

Commissioners Office

2013-007597

Klamath County, Oregon



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Fee: NO FEE

BEFORE THE KLAMATH COUNTY BOARD OF COMMISSIONERS

IN THE MATTER OF FILE NUMBER CLUP 1-13

FINAL ORDER

WHEREAS, Klamath County, the City of Klamath Falls, and Hathaway Koback Connors LLP, hereafter know as Applicants, requested approval of a Legislative Amendment to the Comprehensive Plan through an amended Urban Growth Management Agreement (UGMA); and

WHEREAS, the request is a legislative amendment and applies to all lands within the unincorporated Urban Growth Boundary area of the City of Klamath Falls; and

WHEREAS, the Klamath County Planning Department provided proper notice prescribed by law for a public hearing held on April 23, 2013 before the Klamath County Planning Commission and Board of County Commissioners; and

WHEREAS, based on testimony entered and consideration of the whole record, including the proposed Findings of Fact identified in the Staff Report, the Klamath County Planning Commission concluded the application was in conformance with Article 49 of the Klamath County Land Development Code and Comprehensive Plan; including Oregon State Statute and Administrative Rules; adopted said Findings of Fact as their own; and, forwarded a positive recommendation of Approval to amend the Urban Growth Management Agreement (UGMA) as referenced in Planning File CLUP 1-13 to the Board of County Commissioners; and

WHEREAS, based on testimony entered and consideration of the whole record, including the Planning Commission adopted Findings of Fact identified in the Staff Report, the Board of County Commissioners APPROVED Planning File CLUP 1-13, adopting amendments to the Urban Growth Management Agreement (UGMA), as described in the Staff Report.

NOW, THEREFORE, THE BOARD OF COMMISSIONERS OF KLAMATH COUNTY ORDERS AS FOLLOWS:

The Klamath County Planning Director shall deliver a final version of the attached amendment to the City of Klamath Falls Urban Growth Management Agreement (UGMA) for Board signature, implementing the amendments to the UGMA and adopting the Staff Report and Findings for application file CLUP 1-13.

City of Klamath Falls and Klamath County Revised Urban Growth Management Agreement

WHEREAS, the City of Klamath Falls, Oregon, hereinafter referred to as the City, and Klamath County, Oregon, hereinafter referred to as the County, are authorized to enter into intergovernmental agreements for the performance of any or all functions that a party to the agreement has the authority to perform; and

WHEREAS, Oregon Revised Statutes Chapters 197.175, 197.190, 197.250, 197.275, and 197.285 and Oregon Administrative Rule 660-03-010 required counties and cities to prepare and adopt comprehensive plans consistent with statewide planning goals, and to enact ordinances or regulations to implement the comprehensive plans; and

WHEREAS, Statewide Planning Goal Number 14 requires that establishment and change of urban growth boundaries shall be a cooperative process between the City and County that surrounds it; and

WHEREAS, the City and County recognize the need for the coordination and cooperation in the management of growth in and around the Klamath Falls Urban Area; and

WHEREAS, this agreement establishes a process for maintaining current and ongoing planning efforts, essential to assure the citizens of the City and County that growth occurs in an orderly and efficient manner; and

WHEREAS, the City and County will notify the Planning Department of the other of all land use applications so that each jurisdiction will have the opportunity to respond; and

NOW, THEREFORE BE IT RESOLVED, that the City and the County do hereby enter into this agreement which shall provide the basis for future intergovernmental planning and regulatory action, and which may be modified as new governmental and procedural modifications warrant.

Section 1: Definitions

Terms contained herein and not defined within this agreement shall be construed as defined within the Comprehensive Plan or Community Development Ordinance for the City.

Standing: To have standing to appeal, persons must have participated either orally or in writing at the Public Hearing, and must at the time of the Comprehensive Plan Amendment, live, own, lease, or have contractual interest in property within 250 feet of the property involved in the Comprehensive Plan Amendment or must have shown that their interests are adversely affected or that they were aggrieved by the final decision.

Urban Area: Those lands which lie within the designated Urban Growth Boundary, either within or without the City.

Urban Growth Boundary: The line drawn around the Urban Area which separates rural from urbanizable land for a period of 20 years from the date of acknowledgement or the most recent amendment of the Klamath Falls Urban Growth Boundary:

Urbanizable Land: Urbanizable lands are those lands within the Urban Growth Boundary which are identified; and (1) determined to be necessary and suitable for future urban area; (2) can be served by public facilities and services; (3) are needed for the expansion of an urban area.

Section 2: Intent of Agreement

1. The City and the County do hereby agree to establish a procedure for the implementation of the Urban Growth Boundary through use of land use regulation procedures within the Urban Growth Area. The 1984 Klamath Comprehensive Plan Land Use Map, as adopted by the Klamath County Board of Commissioners on February 16, 1984 shall be the plan map the unincorporated area within the Urban Growth Boundary. The 1981 City of Klamath Falls Comprehensive Plan Land Use Map, as adopted by the City Council for the City of Klamath Falls on April 20, 1981, shall be the plan map for the incorporated area within the Urban Growth Boundary.
2. The provisions of this agreement, as amended, shall establish the procedure for review and action on comprehensive plan amendments, implementing ordinances, land use action, public improvement projects and other related matters.
3. The adopted Urban Growth Boundary shall define the geographical limits of urbanization.
4. The City and County shall encourage urbanization to occur in an orderly and efficient manner, resulting in a compact, balanced urban area meeting long-term social and economic needs of the residents of the urban area regardless of political boundaries. Urbanization within the Urban Growth Area shall be controlled in accordance with Section 9 herein.
5. The very nature of planning requires continual refinement of various elements of the planning process. This includes the preparation of implementing ordinances, e.g., the County's Land Development Code, the City's Community Development Ordinance and this Urban Growth Management Agreement. As the comprehensive plans are implemented, the City and County will work together in a coordinated effort to achieve the goals of these implementing ordinances.

Section 3: Term of This Agreement

This agreement becomes effective as of the date that the last party signed the Agreement. This agreement shall be reviewed and may be amended, at the time established for review of the City or County Comprehensive Plan or at any other time by the request of either party after public hearing by the City and County.

Any modifications in this agreement shall be consistent with the City and County Comprehensive Plans.

Section 4: Annexations

The City may annex land after having received a request for annexation when affirmative findings are made in relation to the following:

1. The land is contiguous with the city limits and within the Urban Growth Boundary.
2. The development of the property is compatible with the rational and logical extension of utilities and roads to the surrounding area.
3. The City is capable of providing and maintaining its full range of urban services to the property without negatively impacting the City's ability to adequately serve all areas within the existing City limits.
4. The proposal is in compliance with the comprehensive plans of the City and the County.

Requests for annexation to the City for areas outside the Urban Growth Boundary shall be considered as a request for an amendment to the Urban Growth Boundary and shall be subject to the approval of the City and County as an amendment pursuant to Section 8 herein.

Requests for annexation shall be handled in conformance with the provisions of Oregon Revised Statutes Chapter 222.

Section 5: Urban Services

The City of Klamath Falls, Klamath County, South Suburban Sanitary District, Klamath County Drainage Service District, Klamath County Fire District No. 1 and the Stewart-Lennox Fire Protection District are hereby recognized as the preferred ultimate providers of urban services within the Urban Growth Area. To this end the following shall prevail:

1. Extension of water and/or sewer services shall be permitted when they are consistent with the policies and proposals of the comprehensive plan and with any adopted

functional plans for water and/or sewer which are consistent with the comprehensive plan.

2. Provision of urban services shall occur beyond the Urban Growth Boundary only after a determination by affected agencies that a "danger to public health" as defined by Oregon Revised Statutes Chapter 413.705 (5) exists. The service thus authorized shall serve the area in which the danger exists.
3. The City and the County shall coordinate the preparation and maintenance of utility extension plans. These plans shall provide a basis for the extension of services within the Urban Growth Area.
4. Approved of on-site sewage disposal permits shall be in conformance with the County Health Departments requirements. From August 1, 1981, until such time as the City's Comprehensive Plan and Community Development Ordinance are acknowledged, the City and County shall both sign off on on-site sewage disposal permits for areas inside the Urban Growth Boundary. After both County and City Comprehensive Plans have received acknowledgement, permit approvals inside the Urban Growth Boundary and outside City limits, will be the responsibility of the County.

Section 6: Special Districts

Before the County shall create any special districts for the provision of urban services, the County shall first determine the ability of a preferred provider to provide such services. Said provider shall submit to the County an analysis of its abilities to provide the service desired. The County shall review such an analysis and shall incorporate its findings into the decision as to whether or not to create a new district. No district shall be formed unless it is found by the County that the service desired cannot be feasibly provided by any preferred provider.

Section 7: Public Works Construction Standards

The County and City shall cooperatively develop construction and physical development standards related to the public works projects in order to assure that an adequate transition may be made from a semi-rural to an urban environment and from County and City jurisdiction.

Roads shall be compatible with City street alignments and extensions. Prior to annexation of any property to the City, the City and County shall meet to discuss jointly the current status and future responsibilities of any roads within or adjacent to such property.

Section 8: Amendments to the Urban Growth Boundary

1. Purpose

The purpose of a revision to the Urban Growth Boundary (UGB) is to provide for flexibility for individuals within the planning process and in response to individual land use changes as a result of changing public needs, and the rate of development and in order to carry out the statewide planning goals.

2. Review Process – Individual Request – (Quasi-judicial)

This UGB revision process is a review procedure which shall result in a decision by the City Council and the Board of County Commissioners on a proposed UGB revision submitted by an individual property owner.

A. An application for a revision of the UGB may be initiated by the owner or group of owners of the subject property or their authorized representative.

(1) An application to revise the UGB shall be submitted to both the County and City Planning Departments and shall be made on a form provided by the respective Departments.

(2) The application form and all additional required information shall be accompanied by a filing fee. Such fee shall be on amount agreed upon from time-to time by the City and County and adopted by resolution by each governing body. This non-refundable fee shall be to defray the costs of the review procedure. The City and County may, by resolution, establish a method of allocations of the fees between them.

B. The County shall process the application and conduct public hearings in accordance with all applicable provisions of Chapter 20 and Chapter 30 of the County Land Development Code (LDC). The City shall process the application and conduct public hearings in accordance with all applicable provisions of Chapter 10 to 14 of the City Community Development Ordinance (CDO).

Once the application is deemed complete by the County Planning Department pursuant to LDC 30.020, and deemed complete by the City Planning Department pursuant to CDO 10.525, the County and City shall forward the applications to the Director of the Department of Land Conservation and Development pursuant to ORS 197.610.

C. The County Planning Department will schedule a joint public hearing before its Planning Commission and Board of Commissioners pursuant to the review and public hearing procedures of Chapters 20 and 30 of the County's Land Development Code and ORS 197.763. After the close of the public hearing, the County Planning Commission will render a decision and make a recommendation to the Board. The Planning Commission may either approve the application, approve it with conditions,

or deny the application. The Board will then render a decision having considered the Planning Commission's recommendation.

- D. The City Planning Department will schedule a joint public hearing before its Planning Commission and City Council pursuant to the review and public hearing procedures of 11.400 of the City's Community Development Ordinance and ORS 197.763. After the close of the public hearing, the City Planning Commission will render a decision and make a recommendation to the City Council. The Planning Commission may either approve the application, approve it with conditions, or deny the application. The City Council will then render a decision having considered the Planning Commission's recommendation.
- E. Each governing body shall either approve, approve with conditions or deny the application for a revision of the UGB.
 - (1) Denial – If either one of the governing bodies votes to deny the request, the application is denied.
 - (2) Approval – To approve an application for a revision of the UGB, both bodies are required to vote to approve the application.
 - (3) If the request for a revision is approved, both the planning departments shall revise the Urban Growth Boundary on their Comprehensive Plan maps and issue a copy of the revised map to other jurisdictions and other appropriate agencies.
- F. Any Quasi-judicial decision made by either the City Council or by the County Board of Commissioners may be appealed to State Land Use Board of Appeals, as provided by Oregon Revised Statutes.
- G. An appeal will be filed with the jurisdiction which decision is in opposition to the appellant. Said jurisdiction shall have the responsibility of meeting all statutory requirements of said appeal.

3. Review Process - City or County Request – (Legislative)

This Urban Growth Boundary (UGB) revision process is a review procedure which shall result in a negotiated legislative policy decision by the City Council and the Board of Commissioners to determine whether the Urban Growth Boundary should be revised.

- A. Initiation by the City Council or the Board of Commissioners – The City Council or the Board of Commissioner may initiate proceedings for a legislative revision of the Urban Growth Boundary (UGB).

- (1) The governing body that initiates the procedure for revision shall first declare by resolution at a public meeting the specific and compelling reasons to hold legislative hearings for a revision to the UGB.
- (2) Within five (5) working days a copy of that resolution shall be sent to the other governing body, the City Planning Department, County Planning Department, and other appropriate agencies and groups in accordance with Goals One (1) and Two (2) of the Statewide Goals and Guidelines.
- (3) Upon receipt of the resolution a public hearing will be scheduled not less than 45 days with both the County Board of Commissioners and the City Council, for a joint session. The forty-five (45) day schedule will allow either jurisdiction the option of sending the request to their respective planning commissioners for their consideration and recommendation.
- (4) Staff reports, any relevant testimony and general discussion will be heard at the joint sessions.
- (5) At the close of testimony, the City and County shall discuss the application in preparation to vote. At the end of discussion, the body that submitted the request shall vote on the matter. Following the completion of this vote, the second body shall vote on the matter. This vote will either approve or deny the request for the revision of the UGB.
 - a. Denial – If either one of the governing bodies votes to deny the request, the application is denied.
 - b. Approval – To approve an application for a revision of the UGB, both bodies are required to vote to approve the application.
 - c. If the request for a revision is approved, both planning departments shall revise the Urban Growth Boundary on their comprehensive plan maps and issue a copy of the revised map to the other jurisdiction and other appropriate agencies.
- (6) Each jurisdiction will be subject to their appropriate rules of procedure for public hearings.
- (7) The chairman of the County Board of Commissioners will be presiding chairman of the hearing the first year; thereafter the chairman will be decided on by a majority vote of the group from which the chairman is to be chosen.
- (8) No chairman will serve more than one consecutive year. Chairman will shift each year from one jurisdiction to another.

4. Review Criteria

Each application for a revision to the Urban Growth Boundary, either Quasi-judicial or legislative, shall include a map and sufficient information to make a decision based on the following factors:

- A. Demonstrated need to accommodate 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 I being the highest priority for retention and Class VI of the County Comprehensive Plan soil classifications the lowest priority;
- G. Compatibility of the proposed urban uses with nearby agricultural activities; and
- H. Compatibility with the policies regarding the UGB specified in the City and County Comprehensive Plans.

Section 9: Land Use Regulatory Procedures

The City and County recognize that those lands inside the Urban Growth Boundary (both incorporated and unincorporated) could ultimately become one jurisdiction or multiple jurisdictions with new special service districts. Until such events occur, land use action in either the City or County may impact directly upon the existence and operation of the other. It is the intent of the City and County, therefore, to administer a mutually beneficial policy relating to land use regulation within said Urban Growth Area.

Each jurisdiction will include the other on their regular mailing list of interested parties. Each will provide seven (7) days notice to the other.

If either the City or County is interested in the proposed land use action, they may participate at the respective public hearing.

There will be no obligation on the part of either jurisdiction to hold separate meetings or public hearings on any of the proposed land use actions, said hearings being optional with the affected jurisdiction.

Approvals

Approved by the Klamath County Board of Commissioners on this

23rd day of April, 2013

Not Present

Dennis Linthicum, Chairman



Jim Bellet, Commissioner



Tom Mallams, Commissioner

Approved by the City of Klamath Falls City Council on this

27th day of June, 2013.



Todd Kellstrom, Mayor, City of Klamath Falls