



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

10/05/2011

TO: Subscribers to Notice of Adopted Plan
or Land Use Regulation Amendments

FROM: Plan Amendment Program Specialist

SUBJECT: City of Lincoln City Plan Amendment
DLCD File Number 009-11

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Thursday, October 20, 2011

This amendment was submitted to DLCD for review prior to adoption with less than the required 45-day notice. Pursuant to ORS 197.830(2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

***NOTE:** The Acknowledgment or Appeal Deadline is based upon the date the decision was mailed by local government. A decision may have been mailed to you on a different date than it was mailed to DLCD. As a result, your appeal deadline may be earlier than the above date specified. NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.

Cc: Debra Martzahn, City of Lincoln City
Angela Lazarean, DLCD Urban Planning Specialist
Matt Spangler, DLCD Regional Representative

<paa> YA



FORM

2

DLCD

Notice of Adoption

This Form 2 must be mailed to DLCD within **5-Working Days after the Final Ordinance is signed** by the public Official Designated by the jurisdiction and all other requirements of ORS 197.615 and OAR 660-018-000

DATE STAMP	☐ In person ☐ electronic ☐ mailed
	DEPT OF
	SEP 30 2011
	LAND USE DIVISION For Office Use Only AND DEVELOPMENT

Jurisdiction: **Lincoln City**Local file number: **CPA/ZC 2011-02**Date of Adoption: **09/12/11**Date Mailed: **09/29/11**Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? ☒ Yes ☐ No Date: 05/20/11☐ Comprehensive Plan Text Amendment☒ Comprehensive Plan Map Amendment☐ Land Use Regulation Amendment☒ Zoning Map Amendment☐ New Land Use Regulation☐ Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

The ordinance changes the comprehensive plan map and zoning map designations for thirty-two (32) tax lots. The project is primarily intended to accurately designate properties that are publicly owned open space or parks. One privately-owned property is proposed for rezoning to a single-family designation; that parcel was subject of a land transaction to provide better connectivity to the City's "Agnes Creek Open Space".

Does the Adoption differ from proposal? Please select one

Yes. In the review process, two additional properties were added. Both are publicly owned; one is owned by the City of Lincoln City, and the other by the U.S. Dept. of Fish and Wildlife. Subsequent DLCD notices to add these two properties (on 07/12/11 and 08/01/11).

Plan Map Changed from: **n/a**to: **n/a**Zone Map Changed from: **n/a**to: **n/a**Location: **various locations city-wide**Acres Involved: **240**Specify Density: Previous: **various**New: **n/a**

Applicable statewide planning goals:

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
☒	☒	☐	☐	☒	☐	☐	☒	☐	☒	☒	☐	☐	☐	☐	☐	☐	☐	☐

Was an Exception Adopted? ☐ YES ☒ NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?

☒ Yes ☐ No

If no, do the statewide planning goals apply?

☐ Yes ☐ No

If no, did Emergency Circumstances require immediate adoption?

☐ Yes ☐ NoDLCD file No. 009-11 (18841) [16782]

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

Lincoln County; State of Oregon, Department of Parks and Recreation; U.S. Dept. of Fish and Wildlife

Local Contact: **Kate Daschel, Assistant Planner**

Phone: (541) 996-1232 Extension:

Address: **PO Box 50**

Fax Number: **541-996-1284**

City: **Lincoln City**

Zip: **97367**

E-mail Address: **kated@lincolncity.org**

ADOPTION SUBMITTAL REQUIREMENTS

This Form 2 must be received by DLCD no later than 5 working days after the ordinance has been signed by the public official designated by the jurisdiction to sign the approved ordinance(s)
per ORS 197.615 and OAR Chapter 660, Division 18

1. This Form 2 must be submitted by local jurisdictions only (not by applicant).
2. When submitting the adopted amendment, please print a completed copy of Form 2 on light green paper if available.
3. Send this Form 2 and one complete paper copy (documents and maps) of the adopted amendment to the address below.
4. Submittal of this Notice of Adoption must include the final signed ordinance(s), all supporting finding(s), exhibit(s) and any other supplementary information (ORS 197.615).
5. Deadline to appeals to LUBA is calculated **twenty-one (21) days** from the receipt (postmark date) by DLCD of the adoption (ORS 197.830 to 197.845).
6. In addition to sending the Form 2 - Notice of Adoption to DLCD, please also remember to notify persons who participated in the local hearing and requested notice of the final decision. (ORS 197.615).
7. Submit **one complete paper copy** via United States Postal Service, Common Carrier or Hand Carried to the DLCD Salem Office and stamped with the incoming date stamp.
8. Please mail the adopted amendment packet to:

**ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540**

9. **Need More Copies?** Please print forms on 8½ -1/2x11 green paper only if available. If you have any questions or would like assistance, please contact your DLCD regional representative or contact the DLCD Salem Office at (503) 373-0050 x238 or e-mail **plan.amendments@state.or.us**.

<http://www.oregon.gov/LCD/forms.shtml>

Updated March 17, 2011

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ORDINANCE NO. 2011-13

AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY COMPREHENSIVE PLAN MAP AND ZONING MAP, AFFECTING THIRTY-ONE PUBLICLY-OWNED PROPERTIES AND ONE PRIVATELY-OWNED PROPERTY; AND AMENDING ORDINANCE NO. 84-01 (AS AMENDED)

THE CITY OF LINCOLN CITY FINDS THAT:

- A. The Planning Commission held a duly-noticed public hearing on amendment of the City's Comprehensive Plan Map and Zoning Map (adopted by Ordinance No. 84-01, as amended) on August 16, 2011 and recommended approval; and
- B. The Oregon Department of Land Conservation and Development was notified of the proposed amendment on May 20, 2011; and
- C. The City Council held a duly-noticed public hearing on amendment of the Comprehensive Plan Map and Zoning Map on August 22, 2011; and
- D. The proposed Comprehensive Plan Map and Zoning Map amendments conform to and are consistent with the City's *Comprehensive Plan* Policies and Statewide Planning Goals for the reasons set forth in Exhibit "A"; and
- E. The proposed Comprehensive Plan Map and Zoning Map amendments are consistent with all applicable provisions of the Zoning Ordinance including, but not limited to, required initiation, processing and noticing requirements.

NOW, THEREFORE, THE CITY OF LINCOLN CITY ORDAINS AS FOLLOWS:

Section 1. The Comprehensive Plan Map of Lincoln City is hereby amended to change the Comprehensive Plan Map designation on the 32 parcels listed in attached Exhibit "B" and depicted on the map in attached Exhibit "C".

Section 2. The Zoning Map of Lincoln City is hereby amended to change the zoning designation on the 32 parcels listed in attached Exhibit "B" and as depicted on the map in attached Exhibit "C".

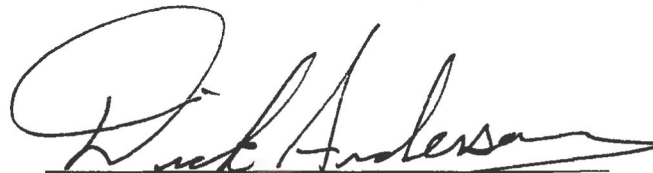
Section 3. This ordinance does not restrict in any way existing zoning ordinance standards related to construction of a single-family dwelling or other residential use of private real property in Lincoln City. In the event this ordinance is interpreted, construed, or applied in such a manner as to give rise to a claim for compensation for a reduction in fair market value of property under ORS 195.310, then to the extent necessary or desired to avoid an obligation to pay compensation under ORS 195.310(5)(a), the city may elect to authorize the use of property without application of this land use regulation as provided in ORS 195.310(5)(b).

Section 4. To the extent possible, this ordinance shall be construed and interpreted in such a way as to give effect to all its provisions.

1 **Section 5.** If any portion of this ordinance is determined invalid by a court of competent jurisdiction,
2 with all appeal rights exhausted or the time for appeal having expired, then the invalid portion shall be
3 deemed severed from this ordinance and the remainder shall continue in full force and effect.

4 **Section 6.** This ordinance shall take effect thirty (30) days from the date of its adoption.

5 **PASSED AND ADOPTED** by the City Council of the City of Lincoln City this 12th day of
6 September 2011.

7 
8
9 DICK ANDERSON, MAYOR

10 ATTEST:

11 
12 CATHY STEERE, CITY RECORDER
13

14
15 Attachments:

16 Exhibit A: Findings Related to Goals
17 Exhibit B: List of Subject Properties
18 Exhibit C: Map of Subject Properties
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EXHIBIT A

**FINDINGS RELATING TO CONFORMITY WITH
THE STATEWIDE PLANNING GOALS AND
THE LINCOLN CITY COMPREHENSIVE PLAN**

CPA & ZC 201102 – PARK AND OPEN SPACE REZONING

CPA and ZC 2011-02 represent comprehensive plan amendments and zone changes to change the land use and zoning designation to either Park (P) or Open Space (OS) on thirty-one parcels of publicly-owned land. One additional parcel, which is residential and privately-owned, is proposed to be rezoned Single-Family Residential (R-1-5). The project is initiated by the City of Lincoln City.

A. Statewide Planning Goals.

Pertinent sections of the Statewide Planning Goals are addressed below.

Goal 1. Citizen Involvement

Goal 1 is “To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.”

The City has developed a *Citizen Involvement Program*. In addition, the public hearing process, with notice to the public and adjacent property owners and review of the application by the Planning Commission (a citizen board) establishes conformance with this goal.

Goal 2. Land Use Planning

Goal 2 is “To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.

The *Comprehensive Plan* and *Zoning Ordinance* provide the process and framework for land use planning. The plan language relating to minor revisions to the *Comprehensive Plan* and *Zoning Map* have been incorporated into Chapter 17.88 of the *Zoning Ordinance*. Review of the application in accordance with Chapter 17.88 and the plan amendment procedures outlined in the Plan establishes conformance with this goal.

Goal 5. Natural Resource, Scenic and Historic Areas, and Open Spaces

Goal 5 is “To protect natural resources and conserve scenic and historic areas and open spaces.”

The proposed comprehensive plan amendment and rezoning will set aside lands for open space purposes, which is directly in accordance with the goal. It will ensure that the City has open space in the future, protect the scenic and natural resources of the open space parcels, promote healthy and visually attractive environments in harmony with the landscape character.

Goal 8. Recreational Needs

Goal 8 is “To satisfy the recreational needs of the citizens of the state and visitors and where appropriate to provide for the siting of necessary recreational facilities including destination resorts.”

1 The open space parcels will serve the recreational needs of Lincoln City by providing areas for hiking,
2 biking, bird watching, picnicking, nature walks, and other similar uses. The properties proposed for
3 rezoning to Park are already developed and function as city or state parks.

4 5 Goal 10. Housing

6
7 Goal 10 is "To provide for the housing needs of citizens of the state."

8
9 The proposed comprehensive plan amendment and zone change would result in the conversion of almost
10 240 acres of residentially zoned land (mostly R-1-7.5) to Open Space (OS) or Park (P). One of the
11 parcels is proposed for rezoning to a single-family residential zone (R-1-5) from its current designations
12 of R-1-10 and Open Space. (This is the Gardner family property, which was the subject of a land trade to
13 provide better connectivity in the Agnes Creek corridor.)

14
15 This much property could accommodate several hundred dwelling units if it were fully developable.
16 However, a large portion of the proposed open space parcels consists of wetlands, most of which are
17 considered "significant" and which therefore are essentially undevelopable. Others consist of steep
18 slopes that are prohibitively expensive to serve with necessary infrastructure such as roads and water and
19 sewer lines. Nevertheless it is apparent that the proposed rezoning will remove a substantial amount of
20 land from the current amount of land that nominally is available for residential development.

21
22 However, the 2005 buildable lands inventory excluded these lands since they were considered committed
23 to non-residential uses as parks and open space. Even with these exclusions the buildable lands inventory
24 showed that Lincoln City had a supply of buildable residential lands adequate for the 20-year planning
25 horizon.

26 27 Goal 11. Public Facilities and Service

28
29 Goal 11 is "To plan and develop a timely, orderly and efficient arrangement of public facilities and
30 services to serve as a framework for urban and rural development".

31
32 The proposed open space and parks parcels are located within the areas currently served through existing
33 water and sewer infrastructure. The proposed rezoning may ultimately result in a need to extend utility
34 services into new areas sooner than would have been the case had these lands remained in the developable
35 inventory. In this regard, however, it is important to note that such extensions would be into areas (i.e.
36 the Urban Growth Area) into which they are expected to be extended at some time anyway. The only
37 difference is that this might occur somewhat earlier than it otherwise would. Moreover, as pointed out
38 above the parcels proposed for rezoning are committed to open space and park uses and consist in large
39 part of significant wetlands and steep slopes that would not be developed in any event.

40 41 **B. Comprehensive Plan.**

42
43 Pertinent sections of the *Comprehensive Plan* are addressed below.

44 45 Land Use Planning Goal

46
47 "To establish a land use planning process and policy framework as a basis for all decisions and actions
48 related to use of land and to assure an adequate factual base for such decisions and actions."
49

1 The *Zoning Ordinance* provides the process and framework for land use planning. The language relating
2 to amendments to the *Comprehensive Plan* have been incorporated into Chapter 17.88 of the *Zoning*
3 *Ordinance*.
4
5 Citizen Involvement Goal
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7 “Develop a Citizen Involvement Program which ensures the continued participation of citizens in the land
8 use planning process”
9
10 In addition to the City’s public hearing process, the overall Parks Plan that included the open space
11 acquisition program was reviewed by the Parks Board, Open Space Committee, Planning Commission
12 and City Council. This proposed rezoning project was reviewed and endorsed by the Parks Board.
13
14 Public Services and Utilities Goal
15
16 “To plan and develop a timely, orderly and efficient arrangement of public facility and services which
17 complement the area and serve as a framework for urban and rural development.”
18
19 As described above, the proposed open space and parks parcels are located within the areas currently
20 served through existing water and sewer infrastructure and the proposed rezoning may ultimately result is
21 a need to extend utility services into new areas sooner than would have been the case had these lands
22 remained in the developable inventory, but into areas (i.e. the Urban Growth Area) into which they are
23 expected to be extended at some time anyway.
24
25 Housing Goal
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27 “To provide for the housing needs of all citizens.”
28
29 The conversion of the proposed open space parcels from developable residential lands to park or open
30 space will still leave a more than adequate supply of developable residentially-zoned lands within the
31 City’s UGB.
32
33 Economy Goal
34
35 “To support the tourist industry and achieve a degree of diversity in the community which will allow a
36 balanced economy that will, in turn, support an adequate level of services for all members of the area.”
37
38 The proposed rezoning includes approximately four acres of land zoned Professional Campus (PC) and
39 one acre zoned General Commercial (GC). The PC-zoned land is proposed to be zoned Open Space. A
40 large portion of that parcel consists of significant wetlands and would be unsuitable for development
41 under the Professional Campus designation. The GC-zoned land is the city-owned Dorchester Park,
42 which is already developed with tennis courts and other park amenities.

PARK AND OPEN SPACE REZONING - 2011 - EXHIBIT B to ORDINANCE 2011-13

	A	B	C	D	E	F	G	H
1	PARCELID	Vicinity Identifier	OwnName	LandApp	ImpApp	Acres	New	Old
2	06-11-26-00-00501-00	N. of Villages @ Cascade Head	CITY OF LINCOLN CITY	\$462,280	\$0	58.6575	OS	R-1-7.5
3	07-11-02-DC-00803-00	Holmes Road boat ramp pk. Lot	CITY OF LINCOLN CITY	\$333,150	\$53,000	0.8822	PARK	R-1-7.5
4	07-11-10-AA-14800-00	Dorchester Tennis Courts	CITY OF LINCOLN CITY	\$391,000	\$127,200	0.9642	PARK	GC
5	07-11-11-BB-04303-00	Mitchell acquisition n. of Kirtsis	CITY OF LINCOLN CITY	\$93,850	\$0	1.8069	OS	RM
6	07-11-11-BC-00100-00	Skateboard park portion only	CITY OF LINCOLN CITY	\$568,000	\$159,000	1.1907	PARK	R-1-7.5
7	07-11-11-BD-00601-00	N. of 22nd, east of W. Devil's Lk Rd.	CITY OF LINCOLN CITY	\$188,270	\$0	4.1000	OS	PC
8	07-11-14-BB-05600-00	Devil's Lake State Park	STATE OF OREGON	\$875,800	\$0	3.0800	PARK	R-1-10
9	07-11-15-AA-01100-00	Devil's Lake State Park	STATE OF OREGON	\$3,691,350	\$530,000	22.2700	PARK	R-1-10
10	07-11-15-AD-00100-00	Devil's Lake State Park	STATE OF OREGON	\$51,010	\$0	5.0000	PARK	R-1-10
11	07-11-15-AD-00400-00	SE 1st Street	CITY OF LINCOLN CITY	\$403,200	\$0	0.7735	OS	RC
12	07-11-15-DC-15500-00	SW 14th (Agnes Creek area)-portion	GARDNER CHESTER R TRUSTEE &	\$258,610	\$0	1.3300	R-1-5	R-1-10, OS
13	07-11-15-DC-15601-00	SW 14th (Agnes Creek area)-portion	CITY OF LINCOLN CITY			0.2400	OS	R-1-10
14	07-11-22-AB-04600-00	SW 14th (Agnes Creek area)	CITY OF LINCOLN CITY	\$19,040	\$0	0.2148	OS	R-1-10
15	07-11-22-AB-05800-00	SW 14th (Agnes Creek area)-portion	CITY OF LINCOLN CITY	\$302,220	\$0	0.2179	OS	R-1-10
16	07-11-22-AC-02200-00	SW Bard Road (Agnes Creek area)	CITY OF LINCOLN CITY	\$28,980	\$0	1.6100	OS	RM
17	07-11-27-A0-00102-00	Spyglass (near Ridge Apts.)	CITY OF LINCOLN CITY	\$411,500	\$0	33.1248	OS	R-1-7.5
18	07-11-27-A0-00103-00	Spyglass (near Ridge Apts.)	CITY OF LINCOLN CITY	\$64,590	\$0	5.9507	OS	R-1-7.5
19	07-11-27-A0-00300-00	Spyglass (near Ridge Apts.)	CITY OF LINCOLN CITY	\$411,380	\$0	32.1797	OS	R-1-7.5
20	07-11-27-A0-00301-00	Spyglass (near Ridge Apts.)	CITY OF LINCOLN CITY	\$50,560	\$0	0.2416	OS	R-1-7.5
21	07-11-27-A0-00306-00	Spyglass (near Ridge Apts.)	CITY OF LINCOLN CITY	\$1,120	\$0	0.4694	OS	R-1-7.5
22	07-11-27-A0-00500-00	Spyglass (near Ridge Apts.)	CITY OF LINCOLN CITY	\$43,130	\$0	0.1142	OS	R-1-7.5
23	07-11-27-AB-00100-00	Spyglass (near Ridge Apts.)	CITY OF LINCOLN CITY	\$1,650	\$0	0.7287	OS	R-1-7.5
24	07-11-27-AB-00502-00	Spyglass (near OCCC)	CITY OF LINCOLN CITY	\$9,040	\$0	3.9376	OS	R-1-7.5
25	07-11-27-AC-00301-00	Spyglass (near OCCC)	CITY OF LINCOLN CITY	\$5,670	\$0	2.4746	OS	R-1-7.5
26	07-11-27-AC-00303-00	Spyglass (near OCCC)	CITY OF LINCOLN CITY	\$1,580	\$0	0.6920	OS	R-1-7.5
27	07-11-34-DA-05400-00	Cutler O.S. (west portion only)	LINCOLN COUNTY	\$303,120	\$0	2.7332	OS	R-1-7.5
28	07-11-34-DC-10700-00	Cutler Kids/Senior Park	CITY OF LINCOLN CITY	\$75,000	\$0	0.1148	PARK	R-1-5
29	07-11-34-DC-10900-00	Cutler Kids/Senior Park	CITY OF LINCOLN CITY	\$76,000	\$0	0.1148	PARK	R-1-5
30	07-11-34-DD-08303-00	Cutler O.S. (portion only)	LINCOLN COUNTY	\$11,530	\$0	21.2924	OS	R-1-7.5
31	07-11-34-DD-08500-00	SW 69th - n. of Winged Sanctuary	CITY OF LINCOLN CITY	\$930	\$0	1.8518	OS	R-1-7.5
32	07-11-34-AD-00100-00	E. of 101, S. of SE 54th Dr. (portion)	U.S. FISH & WILDLIFE	\$1,395,470		24.6000	OS	R-1-7.5
33	07-11-34-AA-04700	E of 101, bisected by SE 54th	U.S. FISH & WILDLIFE	\$577,180	\$0	12.1300	OS	R-1-7.5

Exhibit B

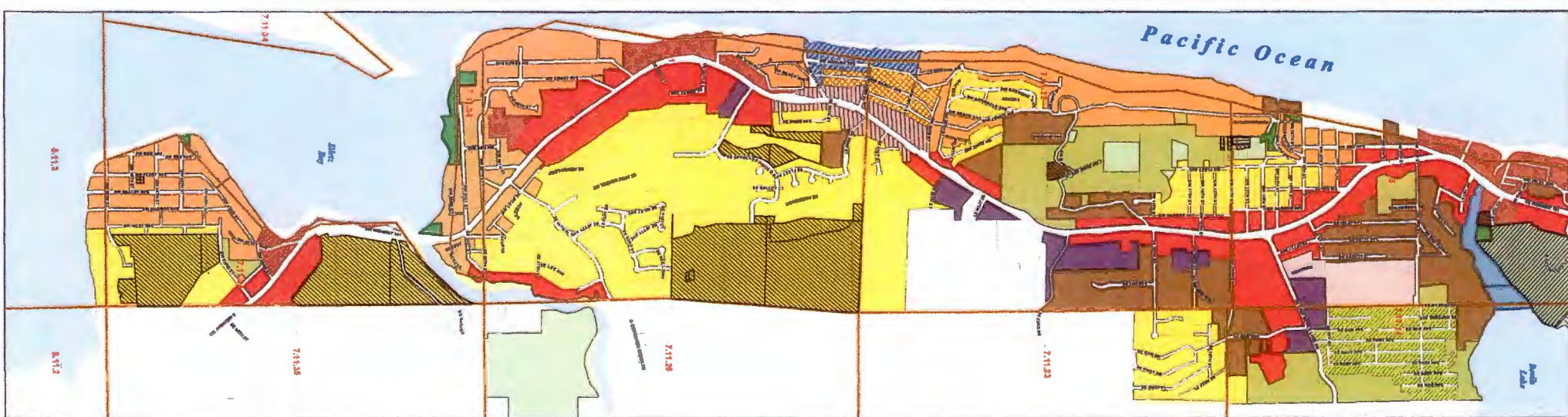
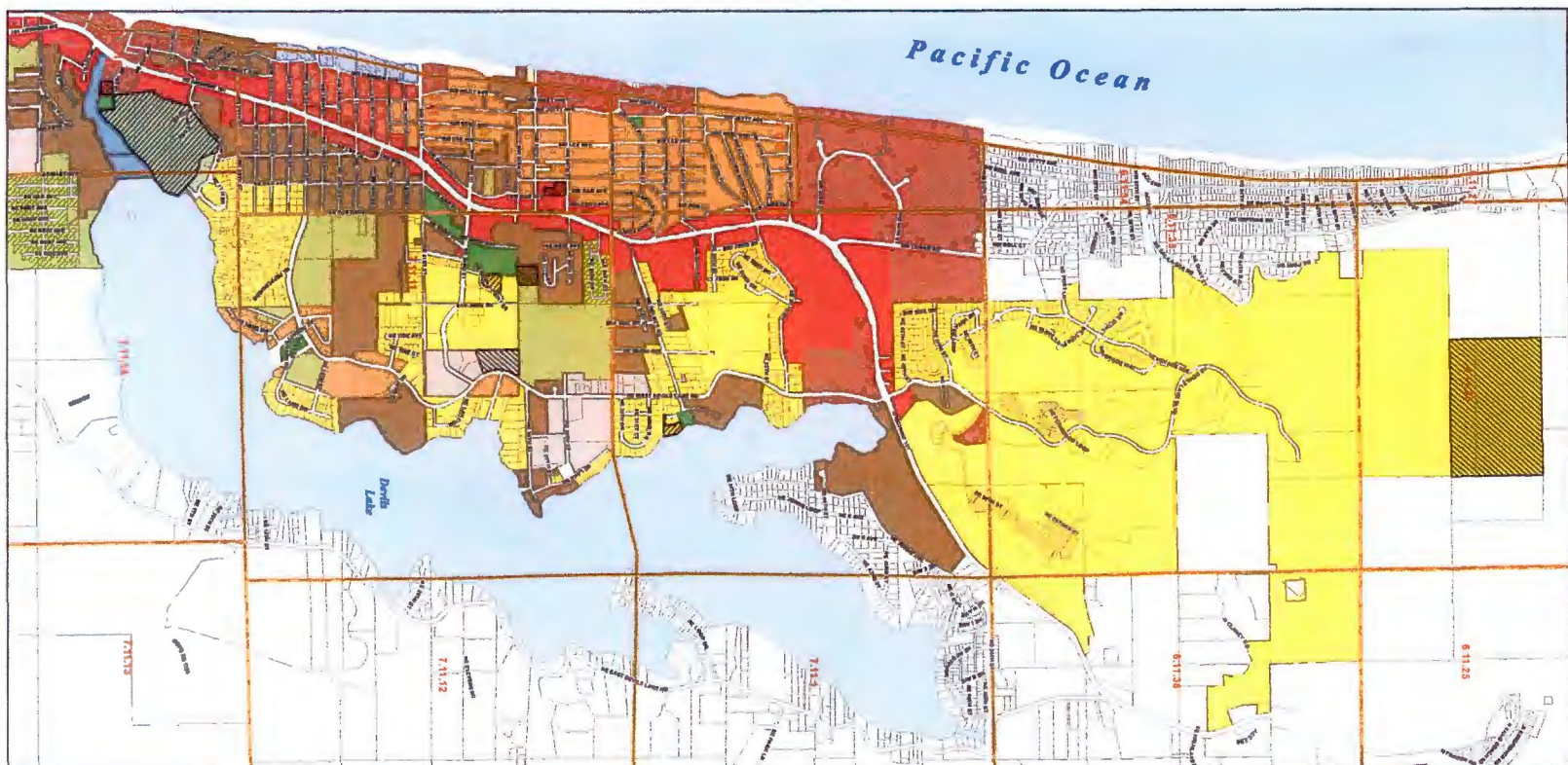
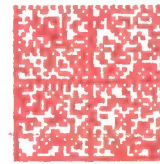


Exhibit C

COMMUNITY DEVELOPMENT
IN CITY

OR 97367



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0006554478 SEP 29 2011
MAILED FROM ZIP CODE 97367

\$ 02.28⁰

DEPT OF

SEP 30 2011

LAND CONSERVATION
AND DEVELOPMENT

ATTN: Plan Amendment Specialist
Dept. of Land Conservation/Develop.
635 Capitol Street NE, Suite 150
Salem, OR 97301-2540