BEFORE THE BOARD OF COMMISSIONERS FOR JOSEPHINE COUNTY
STATE OF OREGON

IN THE MATTER OF PROVIDING POLICY DIRECTION TO THE PLANNING DIRECTOR REGARDING THE COUNTY PRACTICE FOR PROCESSING PRE-APPLICATION REVIEWS IN RESPONSE TO AMENDMENTS TO OREGON REVISED STATUTES AT 215.427 FOR COMPLETING APPLICATIONS WITHIN 180 DAYS	}	**ORDER NO. 2009-008**

WHEREAS, it has come to the attention of the Board of Commissioners that the 2007 Oregon Legislature adopted significant amendments to the Oregon Revised Statutes at ORS 215.427 relating to the completing and processing of land use applications within certain time limits; and

WHEREAS, the county's pre-application review process as set forth in Article 21 of the Josephine County Rural Land Development Code (RLDC) was adopted in 1994 before the aforementioned amendments to ORS 215.427 became effective; and

WHEREAS, Section 10.080 of the RLDC specifies that mandatory amendments to the Oregon Revised Statutes shall govern land use applications and procedures within Josephine County upon the date they become effective; and

WHEREAS, there appears to be a possible conflict between the county's current practice for pre-application review services and the statute's description of when applications are first submitted for the purpose of initiating the 180 day time limit for completing applications (thereby creating the potential for voiding of applications); and

WHEREAS, it is incumbent for the county to modify its current pre-application practices so that pre-application reviews are assured continued consistency with the requirements of ORS 215.427; and

WHEREAS, it is good public service for all land use applicants to be well informed about application requirements and procedures, potential development issues and possible review complications before investing in costly application fees and professional development services associated with full applications; and

WHEREAS, it is the Board's desire to protect the service objectives as originally conceived and implemented per Article 21 of the RLDC, which is to provide maximum information to land use applicants without placing applicants or the county in premature jeopardy regarding the 180 day time limit for completing applications as now specified in ORS 215.427; and

WHEREAS, after review of the foregoing matters with county counsel and the county planning director, the Board finds that it is both prudent and expedient to resolve possible conflict between the county's pre-application process and the requirements of ORS 215.427, while at the same time protecting and promoting helpful customer service in view of especially complex land use rules and procedures, and while also providing direction to the planning director about how to provide the best possible information to applicants in advance of actual land use applications; now therefore:

IT IS HEREBY ORDERED AS FOLLOWS:

1. The Board finds it is the design of Article 21 of the RLDC to provide pre-application planning consultation services to the citizens of Josephine County before the submission of land use applications associated with full fees, and to do so without initiating the time deadlines specified in ORS 215.427. The Board further finds that pre-application materials do not constitute the original submission of applications as described in ORS 215.427. The language contained in Section 21.010 (Purpose of Pre-Application Review) of the RLDC demonstrates this review is intended to ". . . take place prior to formal filing of all applications."

2. A request for pre-application review shall not be considered a land use application but shall be viewed as a request for information and advice regarding possible future applications.

3. The specification of possible criteria and/or standards for the review of future land use applications within pre-application reviews are tentative and shall not survive subsequent changes in law as specified in Section (3)(a) of ORS 215.427. Protection against changes in applicable standards and criteria shall accrue only at such future time when applications and full application fees are first submitted and then judged complete within 180 days from the date of that submission.

4. Notwithstanding item 3. just above, it is understood that the pre-application review process not only obtains information and requirements from county departments but also from other local jurisdictions, special districts and many state agencies and programs. Considering that this information comes from diverse authorities, over a period of time, there are likely to be changes which affect the reliability of pre-application information. As a result, the Board after discussions with staff, other land use participants and stakeholders in the land use process, and after opportunity for public

comment, finds that pre-application responses shall be valid for twelve months from the date of response. After one year the pre-application response shall expire and new pre-application review and fee shall be required.

5. Because a request for pre-application review shall not be considered a land use application, the county shall be under no obligation to notify the requesting persons or organizations in writing within 30 days of receipt of the request identifying the exact information that might be missing or required for a full application.

6. This Order is intended to adjust the planning director's interpretation and practice regarding the administration of pre-application reviews so that such practices conform to the present requirements of Article 21 of the RLDC and the requirements of ORS 215.427. This purpose of this Order is to interpret the existing provisions of Article 21 and it shall not be construed as amending any provision of Article 21.

DONE and DATED this 15th day of April, 2009.

JOSEPHINE COUNTY
BOARD OF COMMISSIONERS

Dwight F. Ellis, Chair

Sandi Cassanelli, Vice Chair

Dave Toler, Commissioner