

Official Record

Recording requested By  
LINCOLN COUNTY CLERK

Lincoln County - NV  
Leslie Boucher - Recorder

Fee: Page 1 of 14  
RPTT. Recorded By: AE  
Book- 244 Page- 0747



APN \_\_\_\_\_

APN \_\_\_\_\_

APN \_\_\_\_\_

Ordinance # 2008-07 Lincoln Highlands Development Agreement  
Title of Document

Affirmation Statement

I, the undersigned hereby affirm that the attached document, including any exhibits, hereby submitted for recording **does not contain** the social security number of any person or persons. (Per NRS 239B.030)

\_\_\_\_\_ I, the undersigned hereby affirm that the attached document, including any exhibits, hereby submitted for recording **does contain** the social security number of a person or persons as required by law: \_\_\_\_\_  
(State specific law)

[Signature] \_\_\_\_\_  
Signature Title  
County Clerk

\_\_\_\_\_  
Signature

9-25-08  
Date

**Grantees address and mail tax statement:**  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



**Summary:** An ordinance to approve a development agreement and conceptual plan for the Lincoln Highlands Planned Community in the Toquop Planning Area.

BILL NO. 2008-\_\_

ORDINANCE NO. 2008-07

AN ORDINANCE APPROVING A DEVELOPMENT AGREEMENT AND CONCEPTUAL PLAN FOR A PLANNED COMMUNITY BY THE LINCOLN HIGHLANDS DEVELOPMENT CORPORATION KNOWN AS LINCOLN HIGHLANDS IN THE TOQUOP PLANNING AREA. THE PROPOSAL IS FOR UP TO 21,272 UNITS ON 5,318 ACRES FOR A VARIETY OF LAND USES INCLUDING; RESIDENTIAL, COMMERCIAL, INDUSTRIAL AND OPEN SPACES/PARKS AND RELATED PUBLIC FACILITIES AS AUTHORIZED UNDER NRS CH. 278A AND THE LINCOLN COUNTY CODE TITLE 14, AND OTHER MATTERS PROPERLY RELATED THERETO

**WHEREAS**, the legislature has enacted NRS CH. 278A for encouraging planned unit developments in cities and counties to allow for an efficient and effective use of lands in meeting demands of development and protecting natural or cultural features of an area,

**WHEREAS**, the applicant, the Lincoln Highlands Development Corporation gained approval of a Master Plan Amendment from "Public" to "Planned Unit Development" on December 3<sup>rd</sup>, 2007. The applicant is asking for concurrent approval of their Conceptual Plan with this development agreement which may include a variety of land uses and densities prescribed in Title 14 of the county code and for the cost sharing and reimbursement for overall public improvements and infrastructure necessary to develop the project,

**WHEREAS**, The Lincoln County Master Plan requires new development to provide for a net fiscal benefit to Lincoln County,

**WHEREAS**, future discretionary approvals by Lincoln County will be necessary for the applicant to implement this project,



**WHEREAS**, Lincoln County finds it necessary to further the public health, safety, morals and general welfare in an era of increasing urbanization and of growing demand for housing of all types and design within the Toquop Township Planning Area;

**WHEREAS**, the purpose of this development agreement for the applicant is to ensure that the current regulations in Title 14 of the Lincoln County Code (at the effective date of this agreement) will remain in force for the term of this agreement and that the proposed development agreement does not constitute an amendment to Title 14 of the Lincoln County Code,

**WHEREAS**, the purpose of this development agreement for the County is to ensure that necessary public facilities, services, staffing and equipment are conveniently located in the Toquop Township Planning Area and provided by all developers either through direct financial contribution in each agreement or through reimbursement by subsequent applicants to initial developers,

**WHEREAS**, this request for the "Lincoln Highlands Planned Unit Development" shall take effect and be in force from and after its passage and the publication thereof by title only, together with the names of the county commissioners voting for or against its passage, in a newspaper published in and having a general circulation in Lincoln County, Nevada, at least once every week, for a period of 35 days.



Proposed on the 4<sup>th</sup> day August 2008

Proposed by Commissioner ~~Hornbeck~~ Poulsen

Passed on the 15<sup>th</sup> day of September, 2008

Vote: Ayes: \_\_\_\_\_

Wade C. Poulsen  
William V. Hoff  
Ronda Hornbeck  
Paul Mathias

Nays: none

Abstain: none

Absent: George T. Rowe

BOARD OF COUNTY COMMISSIONERS  
LINCOLN COUNTY

ATTEST:

Ronda Hornbeck  
Ronda Hornbeck, Chairperson

[Signature]  
Lincoln County Clerk

This ordinance shall be in force and effect on the 29<sup>th</sup> day of October, 2008

**THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF LINCOLN DO  
HEREBY ORDAIN A DEVELOPMENT AGREEMENT AND CONCEPTUAL PLAN  
WITH CONDITIONS BETWEEN LINCOLN COUNTY AND THE LINCOLN  
HIGHLANDS DEVELOPMENT CORPORATION FOR THE LINCOLN HIGHLANDS  
PLANNED COMMUNITY.**



**CONDITIONS OF APPROVAL**

**Applicant: Lincoln Highlands Development Corporation  
Olympia Group- C&O Holdings**

**Assessor Parcel Number(s): Parcels A & H**

00825101, 00826103, 00826101,  
00826104, 00826102

Planning Commission Date: May 6th, 2008  
Board of Commissioners Introduction Date: August 4<sup>th</sup>, 2008  
Board of Commissioners Hearing Date: September 15<sup>th</sup>, 2008

Master Plan Designation: PUD- Planned Unit Development  
Zoning District: A5- Large Scale Agriculture

Request: Conceptual Development Plan 07-102  
Development Agreement 07-102

**This document is to be notarized and recorded with the Lincoln County  
Recorders Office within the timeframe listed in this document.**

**CONDITIONS:**

**The following conditions have been placed in this request to ensure the applicant  
will meet all necessary standards in place.**

**A. Within 120 days of approval by the Board of County Commissioners the  
applicant or future owners shall:**

1. Submit a revised Fiscal Impact Report per Title 14.
2. Submit findings for section 14-4-1 G 4 of the Lincoln County Code in a format suitable to the planning director.
3. Record conditions of approval with the Lincoln County Recorder in a format specified by the Lincoln County Recorder.

**B. Prior to submission of any future applications on parcels A or H the applicant  
or future owners shall:**

1. Submit a detailed slope analysis map for the subject area which delineates slopes at 0-5%, 5-15%, 15-35% and areas over 35 percent slopes. A table shall be included that indicates the acreage in each classification and the percentage of each class representing the ratio to overall acreage of the subject parcels. This map shall



include the identification of any sensitive ridgelines and other unique topographical features, drainage facility sites or washes indicated in the approved drainage study.

2. Submit a conservation plan (per Title 14) in coordination with the slope analysis map and the parks trails and open space plan for approval.

**C. With submission of any tentative map for any portion of parcels A and H the applicant or future applicants/owners shall:**

1. Submit for review by the county a detailed geotechnical study meeting county standards which includes a representative sampling and analysis from Parcels A and H. This submittal will only be required after the approval of the HCP.
2. Submit a cumulative table for tracking the approved land uses and districts by acreages and a percent of gross area that will be provided throughout all proposed phases. This information shall be coordinated with a revision to the fiscal impact study indicating proposed lands uses over the life of the project.
3. Submit for any applicable special use permit or variance request with each Tentative Map for any listed discretionary use within the planned community and not approved with the Development Agreement.
4. Submit parks, trails and open space plan (per Title 14) and for Parcels A and H,
5. Submit a revised conceptual land use plan for Parcels A and H (per Title 14).
6. Submit a master utility plan for all dry and wet utilities to address the build out of entire project. Any propane gas system shall be designed for construction for use in a future natural gas distribution system including any easements or dedicated sites for sub stations.

**D. Miscellaneous Conditions**

1. Conceptual Development Plan 07-102 shall be null and void if a development agreement is not entered into between Lincoln County and the applicant or its successors or assigns.
2. Development projects in the H-1 or H-2 district will require a site plan review to address any applicable development standards, potential impacts related to the density or intensity of the use on adjacent uses.
3. Private wells and septic systems will not be permitted in the Lincoln Highlands PUD except in Rural Estates "RE" districts and only on a case by case basis to utilize septic systems and if lots cannot practicably be served by a community sewer system.
4. Any allowable costs for reimbursement by the county (per an approved Development Agreement) through impact fees or residential construction tax or land exchanges will be tracked by the applicant/developer and provided to the county in a format

acceptable to the county and based on the timing intervals prescribed in the DA or on a quarterly basis.

5. The DS&DG document, Exhibit C of the submitted Development Agreement is not being recommended for approval at this time. The applicant has submitted a modified standards document instead of the DS&DG which staff has reviewed and approved. The applicant may submit design standards to the County in the future for review.
6. Adhere to the standards and policies developed under the Lincoln County Toquop Transportation and Drainage Studies. Any transfer of densities proposed through tentative maps where land use intensity, densities or land use locations have shifted substantial from the findings and original assumptions of these studies will require a major modification by the applicant of both the adopted studies and the conceptual development plan.
7. Adhere to specifications, locations and standards developed by Lincoln County Water District, or another purveyor, for any water supply, wastewater or re-use delivery lines.
8. Coordinate open space parks and trail plans with policies to be developed by Lincoln County regarding access to adjacent public lands.
9. PUD Interim zoning as listed in the definitions section of the agreement will reference the "Rural Estates" (RE) zoning category of Title 14 for the purposes of determining allowable and special uses prior to final hard zoning of the land.
10. Staff recommendations on open issues in development agreement:

Section 6.07 shall be amended prior to final adoption of the development agreement in include the following language "

"County and Developer acknowledge that, in accordance with NRS Chapter 278.4983, County may enact a "Residential Construction Tax" ("RCT") upon the privilege of constructing apartment houses and residential dwelling units. County acknowledges and agrees that Developer's contribution, in accordance with this Agreement, provides developed park area for use by the public, which may be valued at equal to or greater than the amount of the RCT revenue the Planned Community would generate and, therefore, exempts Developer from any RCT enacted by County up to the value of public park provided by developer."



0132673

Book 244  
Page 754

09/25/2008  
Page 8 of 14



# LINCOLN COUNTY CLERK

*Lisa C. Lloyd*  
Lincoln County Clerk

*P.O. Box 90 Pioche, Nevada 89043*  
*(775) 962-5390 Fax (775) 962-5180*  
*Email – llloyd@lincolnrnv.com*

*Teresa Seevers*  
Deputy Clerk

August 7, 2008

Barbara Bailey  
Lincoln County Record

VIA EMAIL

Barbara:

Please publish this one time in the 8-14 issue.

## NOTICE OF FILING OF PROPOSED LINCOLN COUNTY ORDINANCE

NOTICE IS HEREBY GIVEN that an ordinance entitled: "AN ORDINANCE APPROVING A DEVELOPMENT AGREEMENT FOR A PLANNED COMMUNITY BY THE LINCOLN HIGHLANDS DEVELOPMENT CORPORATION KNOWN AS LINCOLN HIGHLANDS IN THE TOQUOP PLANNING AREA. THE PROPOSAL IS FOR UP TO 17,549 UNITS (3.3 UNITS PER ACRE) ON 5, 318 ACRES FOR A VARIETY OF LAND USES INCLUDING: RESIDENTIAL, COMMERCIAL, INDUSTRIAL AND OPEN SPACES/PARKS AND RELATED PUBLIC FACILITIES AS AUTHORIZED UNDER NRS CH. 278A AND THE LINCOLN COUNTY CODE TITLE 14, AND OTHER MATTERS PROPERLY RELATED THERETO", was proposed on August 4, 2008 by Commissioner Poulsen and filed with the Lincoln County Clerk for public inspection. A public hearing will be held on this proposed ordinance on September 15, 2008, at the hour of 1:00 p.m., or as soon thereafter as the matter may be heard. The hearing will be held in the chambers of the Lincoln County Commission, Lincoln County Courthouse in Pioche, Nevada. The public is invited to attend and offer input.

Dated this 7<sup>th</sup> day of August 2008.

LISA C. LLOYD  
LINCOLN COUNTY CLERK

Thank you, Barbara.





**BLT Lincoln County Land LLC.**  
Excellence in Master Plan Development

## Memo for the Record

**To:** John Lovelady, Ken Dixon, Clint Wertz and The  
Lincoln County Board of County Commissioners

**From:** BLT Lincoln County Land, LLC.

**Re:** Comments on the Lincoln Highlands Development Agreement and PUD Scheduled for  
Board action on 9-15-08

On August 4, 2008, BLT Lincoln County Land LLC (BLT) submitted to the Board of County Commissioners comments for the Record regarding the introduction of an Ordinance for the adoption of the Lincoln Highlands Development Agreement specifically requesting sufficient time to review and provide comment. As stated in the Memo for Record submitted to the Board, BLT did not have an objection to the Introduction of the Ordinance approving the Lincoln Highlands PUD and Development Agreement on the basis there would be sufficient time for review and comment. The Public Record of the hearing to introduce the Ordinance specifically required the Lincoln Highlands Development Agreement to be in final form one week prior to the hearing set for September 15, 2007. This requirement was not met in that BLT was in communication with Lincoln County Staff and did not receive a final version until September 10, 2008.

BLT is contractually obligated to certain Development obligations through the newly adopted Eagle Falls Development Agreement ordinance, particularly as it relates to the Public Facilities being provided in support of the LCLA properties. BLT has real and substantial financial interest in all other property being developed in the LCLA and should be afforded the opportunity to review and comment accordingly.

BLT has not had sufficient time to review the Lincoln Highlands Agreement and request the Board continue the item to afford BLT this opportunity

Respectfully,

**Mark D. Teepen**

Owners Representative/Development Consultant  
BLT Lincoln County Land LLC

Cc: Tim DeRosa  
Brent Ramenofsky

## Memo for the Record

**Date:** September 15, 2008

**To:** John Lovelady, Ken Dixon, Clint Wertz and The  
Lincoln County Board of County Commissioners

**From:** BLT Lincoln County Land, LLC.

**Re:** Preliminary Comments on the Lincoln Highlands Development Agreement and PUD  
Scheduled for Board action on 9-15-08

On September 12, 2008, BLT Lincoln County Land LLC (BLT) submitted to the Board of County Commissioners comments for the Record regarding the referenced hearing and action item to adopt the Ordinance Approving the Lincoln Highlands Development Agreement requesting a continuance (attached) on the basis that BLT has not had sufficient time to review and comment on the proposed Development Agreement. In addition to the request for a continuance, and without sufficient time to complete a detailed review, BLT offers the following preliminary and generalized comments:

- 1. Public Facilities** - The County appears to have thrown out any and all obligations previously agreed to with respect to the Developers requirements to construct any public facilities needed to provide services to the Planned Community and/or the LCLA property as a whole. The Developer is only obligated to pay its "fair share" but not to construct these facilities which include any fire and sheriff facilities as well as its prior agreement to construct the Satellite Government Center. This is contrary to any negotiations BLT has been engaged in with the Lincoln County Staff as both agreements were being reviewed concurrently. The emphasis has always been on concerns of protecting the County's interest if one or the other of the two developers proceeds ahead of the other. **The proposed Lincoln Highlands Agreement does not appear to provide any means by which the County will gain the needed facilities if the Lincoln Highlands development proceeds with development ahead of all other developers.**
- 2. Initial Service Provisions** - There is no discussion of cost share for the initial provision of services. The cost to staff these facilities was imposed on the Eagle Falls Development Agreement but is not addressed in the proposed Lincoln Highlands Agreement nor is it included in the "Facilities Cap" which is the basis for the Developer to pay its "fair share". Again, this was a requirement that was discussed with Lincoln County staff for both developers during the negotiations process and was stated would be required of all developers.
- 3. Interim Funding** - Again, Lincoln County staff made very clear representations that all Developers would participate in providing funding for County staff positions needed to support the development of the LCLA properties. To that end BLT agreed to provide for the funding of a consultant to develop the County's staffing plan needs and on that basis agreed to interim funding. This was specifically negotiated on the basis that this would



**BLT Lincoln County Land LLC.**  
Excellence in Master Plan Development

be required of both developers currently negotiating Development Agreements with the County.

BLT has negotiated in good faith with the County and to that end will certainly fulfill all obligations set forth within the Eagle Falls Development Agreement. However, in the event the County approves the proposed Lincoln Highlands Development Agreement, BLT will agreeably submit for an Amendment to the Eagle Falls Development Agreement accordingly.

As previously stated, BLT has incurred substantial and real financial obligations with respect to the approved Eagle Falls Agreement on the basis that the same financial obligations would be applied uniformly to all developers within the LCLA. Accordingly, BLT will exercise its rights as defined therein and to the extent permitted by law to remedy any and all damages that may result now or in the future from any disparity created and not remedied by Lincoln County resulting from the adoption of this ordinance and any other ordinance approving a Development Agreement for development within the LCLA that is deemed to cause BLT an unbalanced financial hardship due to the direct and implicit representations made by Lincoln County Staff.

Respectfully,

**Mark D. Teepen**

Owners Representative/Development Consultant  
BLT Lincoln County Land LLC

Cc: Tim DeRosa  
Brent Ramenofsky  
John Kozich

**Land Development Consultants Inc.**

Excellence in Master Plan Development

**Memo for the Record**

**To:** John Lovelady, Ken Dixon, Clint Wertz and The  
Lincoln County Board of County Commissioners

**From:** BLT Lincoln County Land, LLC.

**Re:** Comments on the Lincoln Highlands Development Agreement and PUD Scheduled for  
Board action on 8-4-08

BLT Lincoln County Land LLC (BLT) has no objection to the introduction of an Ordinance for the adoption of the Lincoln Highlands Development Agreement and Approval of the Lincoln Highlands PUD, so long as the Public Hearing is continued to a second hearing in order that BLT has sufficient time to review the proposed Development Agreement between Lincoln County and Lincoln Highlands. In the event the action taken at today's hearing does not afford BLT this opportunity, BLT requests the introduction of the Ordinance be CONTINUED until we have had sufficient time to review and provide comment.

BLT provided written comments to the Board for consideration at the June 3<sup>rd</sup> workshop and until BLT has seen the revised Agreement and Conditions of Approval, any response or revision to the Lincoln Highland Development Agreement addressing the written comments cannot be confirmed.

In addition, Lincoln Highlands went on Record at least twice at the Public Hearings for the Eagle Falls Development Agreement stating they would re-write the Public Facilities Section of the Lincoln Highlands Agreement using the same language as was approved for Eagle Falls. This is a substantial change from anything BLT has reviewed. Now that BLT is contractually obligated to certain Development requirements through the newly adopted Eagle Falls Development Agreement ordinance, particularly as it relates to the Public Facilities being provided in support of the LCLA properties, BLT has real and substantial financial interest in all other property being developed in the LCLA and should be afforded the opportunity to review and comment accordingly.

BLT requests the Board condition any approval given that BLT Lincoln County Land LLC have an opportunity to review and provide the Board with comments to be considered prior to final approval of the ordinance to adopt the Lincoln Highlands Development Agreement.

Respectfully,

**Mark D. Teepen**

Owners Representative/Development Consultant  
BLT Lincoln County Land LLC

Cc: Tim DeRosa  
Brent Ramenofsky





0132673

Book: 244  
Page: 760

09/25/2008  
Page 14 of 14

Thanks, Raymond.

Lisa C. Lloyd  
Lincoln County Clerk

COPY