



# Oregon

Theodore R. Kulongoski, Governor

## Department of Land Conservation and Development

635 Capitol Street NE, Suite 150

Salem, Oregon 97301-2524

Phone: (503) 373-0050

First Floor/Coastal Fax: (503) 378-6033

Second Floor/Director's Office: (503) 378-5518

Web Address: <http://www.oregon.gov/LCD>

### NOTICE OF ADOPTED AMENDMENT

March 3, 2006



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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: Linn County Plan Amendment  
DLCD File Number 003-05

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Copies of the adopted plan amendment are available for review at DLCD offices in Salem, the applicable field office, and at the local government office.

Appeal Procedures\*

#### **DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: March 15, 2006**

This amendment was submitted to DLCD for review prior to adoption with less than the required 45-day notice. Pursuant to ORS 197.625 (1), 197.830 (2), and 197.830 (9) 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 APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS ADOPTED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAN IT WAS MAILED TO DLCD.**

Cc: Robert Wheeldon, Linn County

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MAR 01 2006

**DLCD NOTICE OF ADOPTION**

This form must be mailed to DLCD within 5 working days after the final decision per ORS 197.610 and OAR Chapter 660, Division 18

LAND CONSERVATION AND DEVELOPMENT

(See reverse side for submittal requirements)

Jurisdiction: Linn County

Local File # BC05-0002

(If no number, use none)

Date of Adoption: February 22, 2006  
(Must be filled in)

Date Mailed February 28, 2006  
(Date mailed or sent to DLCD)

Date the Notice of Proposed Amendment was mailed to DLCD: 11/29/2005

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other: \_\_\_\_\_

(Please Specify Type of Action)

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

Change the Plan Designation of a 40.01-acre property from Forest Conservation and Management to

Farm/Forest. Change the Zoning Map designation from FCM to F/F.

Describe how the adopted amendment differs from the proposed amendment. If it is the same, write "Same." If you did not give notice for the proposed amendment, write "N/A."

Same

Plan Map Changed from: Forest Conservation and Management to Farm/Forest

Zone Map Changed from: FCM to F/F

Location: T12S, R1W, Sec 31; TL 700 Acres Involved: 40.01 acres

Specify Density: Previous: 80 acre min New: 80-acre minimum

Applicable Statewide Planning Goals: 3, 4

Was an Exception adopted? No Yes No X

DLCD File No: 003-05 (14835)

Did the Department of Land Conservation and Development receive a notice of Proposed Amendment **FORTY FIVE (45) days prior to the first evidentiary hearing?** Yes: X No: \_\_\_\_\_

If no, do the Statewide Planning Goals apply? Yes: \_\_\_\_\_ No: \_\_\_\_\_

If no, did the emergency circumstances require immediate adoption? Yes: \_\_\_\_\_ No: \_\_\_\_\_

Affected State or Federal Agencies, Local Governments or Special Districts: DLCD; DOF; DOA

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Local Contact: Robert Wheeldon Area Code + Phone: 541-967-3816, ext. 2075  
Address: Linn County Planning & Building Dept., PO Box 100  
City: Albany, OR Zip Code + 4 97321

### **ADOPTION SUBMITTAL REQUIREMENTS**

this form **must be mailed** to DLCD **within 5 working days after the final decision**  
per ORS 197.610 and OAR Chapter 660, Division 18

1. Send this Form and **TWO (2) Copies** of the Adopted Amendment to:

**ATTENTION: PLAN AMENDMENT SPECIALIST**  
**Department of Land Conservation and Development**  
**635 Capitol St. NE, Ste. 150**  
**Salem, Oregon 97301-2540**

2. Submit **TWO (2) copies** of the adopted material; if copies are bounded, please submit **TWO (2) complete copies** of documents and maps.

3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.

4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.

5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date the Notice of Adoption is sent to DLCD..

6. In addition to sending the Notice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.

7. **Need More Copies?** You can copy this form on to 8 ½ x 11 green paper only; or call the DLCD Office at (503) 373-0050; or Fax your request to (503) 378-5518; or Email your request to [Larry.French@state.or.us](mailto:Larry.French@state.or.us) - ATTENTION: PLAN AMENDMENT SPECIALIST.



## LINN COUNTY PLANNING AND BUILDING DEPARTMENT

Steve Michaels, Director

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Room 114, Linn County Courthouse  
PO 100 Box, Albany, Oregon 97321  
Phone 541-967-3816, 1-800-319-3816  
Fax 541-926-2060 [www.co.linn.or.us](http://www.co.linn.or.us)

### NOTICE OF ADOPTION

**Resolution And Order No. 2006-090**  
**Ordinance No. 2006-091**  
**Planning File No. BC05-0002**  
**Applicant Arthur and Nancy Herring**

#### **Proposal:**

An application by Arthur and Nancy Herring for a Comprehensive Plan (Plan) Map amendment and a Zoning Map amendment. The subject property is 40.01 acres in size and is identified as T12S, R1W, Section 31, Tax Lot 700. The property is located approximately one-quarter mile east of Sodaville, on the north side of Sodaville-Waterloo Drive. The proposed Plan map amendment would change the Plan designation from Forest Resource to Farm/Forest. The proposed zone amendment would change the zoning from Forest Conservation and Management (FCM) to Farm/Forest (F/F).

#### **Board Action: Resolution and Order No. 2006-090**

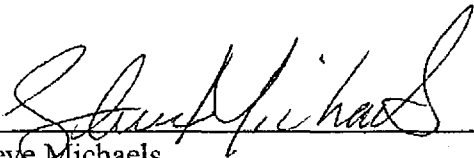
On February 22, 2006 the Linn County Board Of Commissioners voted unanimously to approve *Resolution and Order No. 2006-090* to: (1) Approve the Findings and Conclusions supporting the Board decision; (2) Order that the *Linn County Comprehensive Plan* map be prepared for amendment to designate thereon the 40.01 acres identified as Tax Lot 700 on Assessor map T12S, R1W, Section 31, Linn County, Oregon as "Farm/Forest;" and (3) Order that the Linn County Zoning map be prepared for amendment to designate thereon the 40.01 acres identified as Tax Lot 700 on Assessor map T12S, R1W, Section 31, Linn County, Oregon as "Farm/Forest (F/F)."

#### **Board Action: Ordinance No. 2006-091**

On February 22, 2006 the Linn County Board of Commissioners voted unanimously to approve *Ordinance No. 2005-091* to: (1) Ordain that Appendix 1, *Comprehensive Plan* map, following LCC Chapter 919 [see LCC 900.101(B)] be amended to designate the 40.01 acres identified as Tax Lot 700 on Assessor map T12S, R1W, Section 31, Linn County, Oregon as "Non-Resource;" and (2) Ordain that Appendix 1, Zoning map, following LCC Chapter 920 [see LCC 920.010(B)] be amended to designate the 40.01 acres identified as Tax Lot 700 on Assessor map T12S, R1W, Section 31, Linn County, Oregon as "Farm/Forest (F/F)."

If you wish to appeal this decision, an appeal must be filed with the Land Use Board of Appeals (LUBA) within 21 days from the date this notice is mailed. Appeals to LUBA must be filed in accordance with ORS 197.830. If you have any questions about this process, contact LUBA in Salem at (503) 373-1265.

Resolution and Order No. 2006-090 and Ordinance No. 2006-091 may be reviewed at the office of the Linn County Clerk, Room 205, Linn County Courthouse. That office is open from 8:30 a.m. to 5:00 p.m., Monday through Friday, except legal holidays. A copy of the resolution and the ordinance is available in the office of the Linn County Clerk. A fee to cover copying costs will be charged.

  
\_\_\_\_\_  
Steve Michaels  
Director

2/28/06  
\_\_\_\_\_  
Date

cc: Joel Kalberer; Sean O'Hara; Mark Wilson, Lebanon Fire Marshall; DLCD; Gene Walton, ODOT; Linn County EHP; Linn County Road Department

FILED

FEB 22 2006

STEVE DRUCHEMILLER, CLERK  
*[Signature]*  
Clerk

BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR LINN COUNTY OREGON

IN THE MATTER OF AMENDING THE )  
LINN COUNTY *COMPREHENSIVE* )  
*PLAN* MAP AND THE LINN COUNTY )  
ZONING MAP )

RESOLUTION &  
ORDER NO. 2006-090  
(Planning and Building Department BC05-0002)  
(Findings and Conclusions)

WHEREAS, The Board of County Commissioners for Linn County (Board) conducted a duly advertised public meeting on January 25, 2006, for the purpose of considering the matter of a proposed *Comprehensive Plan* map amendment and proposed zoning map amendment that would amend the *Comprehensive Plan* map designation and zoning map designation on property identified as Tax Lot 700 on Assessor map T12S, R1W, Section 31;

WHEREAS, The proposed *Comprehensive Plan* map amendment and proposed zoning map amendment had been previously considered by the Linn County Planning Commission at a duly advertised meeting on January 10, 2006 and who voted 5-2 to recommend approval to the Board;

WHEREAS, The Board, after considering all testimony and evidence submitted, reached a consensus to recommend that the proposed *Comprehensive Plan* map amendment and proposed zoning map amendment be adopted; and

WHEREAS, The findings in support of the proposed *Comprehensive Plan* map amendment and zoning map amendment are attached hereto as Exhibit 1 (BC05-0002 Decision Criteria, Findings and Conclusions); and now, therefore, be it

*RESOLVED*, That the Board of County Commissioners for Linn County approve the Findings and Conclusions as set forth in Exhibit 1 (BC05-0002 Decision Criteria, Findings and Conclusions); and

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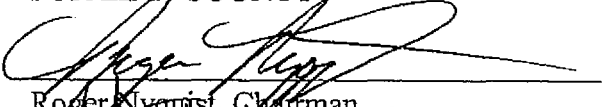
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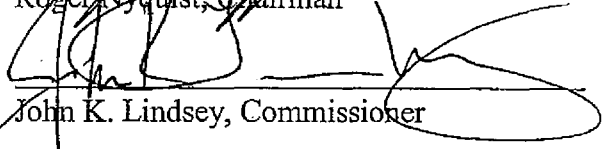
ORDERED, That the *Linn County Comprehensive Plan* map be prepared by county staff for amendment to designate thereon the 40.01 acres identified as Tax Lot 700 on Assessor map T12S, R1W, Section 31, Linn County, Oregon, as "Farm/Forest."

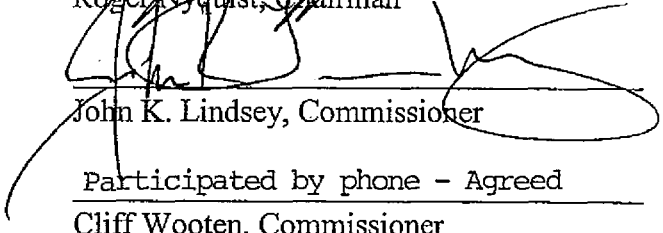
ORDERED, That the Linn County Zoning map be prepared by county staff for amendment to designate thereon the 40.04 acres identified as Tax Lot 700 on Assessor map T12S, R1W, Section 31, Linn County, Oregon, as "Farm/Forest (F/F)."

Resolved this 22<sup>nd</sup>, day of February, 2006.

BOARD OF COUNTY COMMISSIONERS  
FOR LINN COUNTY

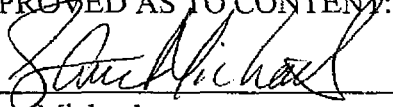
  
\_\_\_\_\_  
Roger Nyquist, Chairman

  
\_\_\_\_\_  
John K. Lindsey, Commissioner

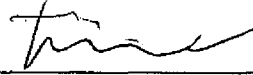
  
\_\_\_\_\_  
Participated by phone - Agreed  
Cliff Wooten, Commissioner

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APPROVED AS TO CONTENT:

  
\_\_\_\_\_  
Steve Michaels  
Linn County Planning and Building Director

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Thomas N. Corr  
Linn County Legal Counsel

## Exhibit 1

### Decision Criteria, Findings, and Conclusions

RE: BC05-0002; an application by Arthur and Nancy Herring for a Comprehensive Plan (Plan) Map amendment and a Zoning Map amendment. The subject property is 40.01 acres in size and is identified as T12S, R1W, Section 31, tax lot 700. The property is located approximately one-quarter mile east of Sodaville, on the north side of Sodaville-Waterloo Drive. The proposed Plan map amendment would change the Plan designation from Forest Resource to Farm/Forest. The proposed zone amendment would change the zoning from Forest Conservation and Management (FCM) to Farm/Forest (F/F). The applicable decision criteria for the proposed Plan and Zoning Map amendments are identified in *Linn County Code (LCC) 921.874*.

#### I. INTRODUCTION

##### A. Proposal Summary

The property owners, Arthur and Nancy Herring, are represented in this application by Joel Kalberer. The applicants request a Plan map amendment to change the *Comprehensive Plan (Plan)* designation of their 40.01-acre property from Forest Resource to Farm/Forest. The zoning designation would change from Forest Conservation and Management (FCM) to Farm/Forest (F/F).

The Forest Resource and Farm/Forest *Plan* designations are both resource land designations. The Forest Resource lands designation is applied to large-tract commercial forest lands to maintain their forest resource orientation and capacity. Farm/Forest lands are smaller resource tracts suitable for mixed farm and forest use, typically located in the Cascade foothills between the EFU lands in the valley and the FCM lands to the east. Both FCM and F/F lands have an 80 acre minimum for the creation of new parcels.

##### B. Planning Commission Hearing and Recommendation

The Planning Commission (Commission) held a public hearing on this matter at 7:00 p.m. on January 10, 2006. Testimony was presented in favor of the application by Joel Kalberer. No testimony was presented in opposition. New written testimony was entered into the record.

After considering all the written and oral testimony presented at the hearing the Commission voted 6-0 to adopt a motion recommending that the Board of Commissioners (Board) approve the proposed Plan and Zone amendments. Voting in favor of the motion were Commissioners Furtwangler, Koos, McKinney, Tucker, VanAgmael and Walsh.

Exhibit 1  
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**C. Land Use Process and Decision Criteria**

The Plan map and Zoning map amendment applications were reviewed concurrently. The Board held a public hearing on this matter at 10:30 a.m. on January 25, 2006 and made a decision after the close of the hearing.

The decision criteria for a Plan map amendment are identified in *Linn County Code (LCC) 921.874*. Pursuant to *LCC 921.822*, when a Zoning Map amendment is necessary due to a proposed Comprehensive Plan amendment, only findings and conclusions responding to the Plan amendment decision criteria are necessary to amend the Zoning Map.

As specified in the criteria in *LCC 921.874*, the proposal must be consistent with the statewide planning goals and with the applicable sections of the *Comprehensive Plan*. The *Plan* policies for Forest Resource lands are in *LCC 905.220*. The *Plan* policies for Farm/Forest lands are in *LCC 905.330*. A change in zoning to a mixed Farm/Forest zone must also comply with *Oregon Administrative Rules (OAR) 660-006-0057*. Copies of Goal 3 (Agricultural Land), Goal 4 (Forest Land), *OAR 660-006-0057* and the applicable Plan elements are included in the record.

**C. Location and Surrounding Land Uses**

The property is identified on Linn County Assessor maps as T12S, R1W, Section 31, Tax Lot 700, and is located approximately one-quarter mile east of Sodaville, on the north side of Sodaville-Waterloo Drive. The property is undeveloped. A zoning map and aerial photo showing the property and the surrounding area are included in the record.

The property immediately to the west of the subject property, tax lot 800, is commercial timber land in the FCM zone. The properties west of tax lot 800 are in the city limit of Sodaville and are residential. The property to the north of the subject property is zoned Farm/Forest and appears to be in forest use. The properties along the eastern boundary of the subject property, as well as those farther east, are zoned Rural Residential (RR-5 and RR-2.5). The properties to the south are zoned Farm/Forest.

**D. Zoning and Development Background**

The property is undeveloped and is primarily forested with mixed open areas. The property was zoned Timber-Commercial (T-C) between March 22, 1972 and September 2, 1980. Upon adoption of the Comprehensive Plan on September 2, 1980, the zone was changed to FCM.

## II. ENVIRONMENTAL FACTORS

- A. **Topography** – The property is fairly level over the southern 15 acres near the road and is hilly to steep in the remaining areas. The property drains to the south. Topography is shown on the contour map included in the record.
- B. **Natural and/or Geologic Hazards** – The majority of the property is within a potential geologic hazard (mass movement) area as identified in the *Environmental Geology of Western Linn County, Oregon*. The property is not within the identified 100-year floodplain, as indicated by the Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps. The potential geologic hazard area is shown on the Hazard Map included in the record.
- C. **Soil Types** – The soils on the property were determined using the Department’s Soil Analysis Report program. The program uses the County’s Geographic Information System (GIS) database. The soils data in the GIS database are from the Soil Conservation Service (SCS) (Now NRCS) *Soil Survey of Linn County Area, Oregon, July, 1987*.

According to the soil analysis, the agricultural suitability rating of the property is 86 percent SCS Class IV and Class VI soil. The property is not defined under state rules as “high-value farmland.” Approximately 52 percent of the property has a low forest productivity rating of 50 cubic feet per acre per year or below. The remaining 48 percent of the property has moderate to good forest productivity of above 100 cubic feet per acre per year. The soils mapping and analysis is included in the record.

- D. **Wildlife Habitat** – The property is within the boundary of “Peripheral Habitat” areas of the county. However, because there are at least 50 existing dwellings within section 31, the area is considered impacted by development and habitat protection measures in the Plan do not apply. The property does not include big game, riparian or sensitive fish habitat as identified in the County’s Wildlife Habitat Inventory.
- E. **Wetlands** – No wetlands are identified within the proposal area in the National Wetlands Inventory (NWI) wetlands maps.
- F. **Vegetation** – The property is primarily forested with interspersed open areas.

## III. PUBLIC FACILITIES AND SERVICES

- A. **Fire** -- The property is located within the Lebanon Rural Fire Protection District.
- B. **Police** -- The Linn County Sheriff’s Department serves the area.

- C. **School** – The property is within the Lebanon Community School District, the Linn Benton Lincoln Education Service District and the Linn Benton Community College District.
- D. **Other Districts** – The property is within the Linn Soil and Water Conservation District.
- E. **Sewage Disposal** -- The subject property is not developed and has not undergone a septic site evaluation.
- F. **Water Supply** – The subject property is undeveloped and does not contain a well. The applicant has not indicated the presence of water rights on the property.
- G. **Access** – The property has frontage and an existing driveway access onto Sodaville-Waterloo Drive but is not developed with internal roadways.

**V. FINDINGS AND CONCLUSIONS**

**A. Application Summary**

The proposed Plan map amendment is to change the Plan designation of the subject 40.01-acre property from Forest Resource to Farm/Forest. This action would include a concurrent Zoning Map amendment to change the zoning designation of the property from Forest Conservation and Management (FCM) to Farm/Forest (F/F). The application and written testimony is included in the record.

**B. Decision criteria for *Plan* map amendments**

The following decision criteria for Plan and Zoning Map amendments identified in *Linn County Code (LCC) 921.874(A)* must be satisfied to approve this proposal.

1. **Criterion:** *LCC 921.874(A)(1): The amendment is consistent with and does not alter the intent of applicable section(s) of the Comprehensive Plan;*

**Findings:**

The Board finds that this amendment is consistent with the applicable sections of the comprehensive plan. The criteria listed below are criteria required under the comprehensive plan prior to granting the amendment. In meeting the criteria, the amendment demonstrates that it meets the applicable sections of the comprehensive plan.

The Board finds that the proposed amendment is consistent with the intent and purpose statement of the proposed F/F zoning district as described in the

comprehensive plan. The proposed F/F zoning district's stated purpose (and comprehensive plan's purpose) is listed in *LCC 905.300* as:

1. To identify land suitable for timber production that is generally not held in commercial ownership.
2. To recognize areas where either farm or forest uses are suitable given the soil quality and topography; and
3. To maintain resource uses by placing certain regulating on land uses.

The land identified for this F/F zoning area is land not held in commercial ownership. The record shows that because of the property's relatively small size and location, the prior commercial timber owner divested ownership of the property from its timber holdings. The property adjacent to the subject property is generally not held in commercial ownership. Most properties have a rural residential designation. Others have a F/F designation. Properties further upslope of the subject property are held for commercial timber operations because those properties are both large enough and productive enough to allow viable commercial operations. This property does not meet the needs of commercial timber ownership.

This property size and location make it more suitable for Farm/Forest zoning. Under LLC 905.300(E), the mixed use Farm/Forest zone is characterized by smaller parcel sizes and more residential development. At this location, small 5-acre residential properties abut the subject property. Further down Sodaville-Waterloo Drive are even more densely packed residential developments. The subject property is smaller than most commercially-held forest properties further upslope or in the general area. The subject property is more consistent with the Farm/Forest parcels located nearby. Thus, the size and location of this property is suitable for Farm/Forest zoning.

Either farm or forest uses are suitable on this property given its location and topography. LCC 905.300(E) identifies the foothills of Linn County as the primary location of Farm/Forest zoning. As already mentioned above, the subject property is situated along the foothills of Linn County. Under LCC 905.300(B), typical land uses in the Farm/Forest area include farming, livestock grazing and small-scale timber operations. The property is located in the foothills of Linn County. The aerial map of this property, submitted as Exhibit 1, shows a mixture of timber and open space. The topography on the property shows level portions of the property near Sodaville-Waterloo Drive (at the valley floor) and steeper as the property line moves up the foothill. Other properties near the subject property that lie along Sodaville-Waterloo Drive predominately employ farming and livestock grazing. Properties further away from the valley floor utilize more timber production. This property's particular dimensions make it suitable for both farming and timber production.

The Board finds that the proposed zoning change is consistent with and does not alter the intent of the applicable sections of the comprehensive plan. The Comprehensive Plan encourages the use of Farm/Forest lands for resource purposes. Permitted uses in the Farm/Forest areas include timber production, agriculture and live stock grazing. Provisions of wildlife habitat consistent with Statewide Planning Goals 3 and 4 are another role of the Farm/Forest lands. The Farm/forest land is designated in a manner that enhances natural resources and the productive capacity of the land. LCC 905.300 et seq. ensures that resource uses are protected on the property. Farm/Forest zoning are important to maintaining water and air quality as well as wildlife habitat. (LCC 905.320(A) and (B))

The proposed change does not seek to alter the text of the Farm/Forest zoning designation. Instead, it seeks to alter the comprehensive plan map to better apply the intent of the zoning designations in the comprehensive plan. The property's current zoning designation does not properly meet the goals of comprehensive plan because the property is not well suited for commercial timber production. Instead, it is better suited for Farm/Forest uses and the applicable comprehensive plan sections for Farm/Forest properties.

**Conclusion:**

The proposed zoning designation is more consistent with the comprehensive plan than the current zoning designation because the property is not suited for large-scale commercial timber production and better suited for Farm/Forest uses. The Board finds that the criterion in *LCC 921.874(A)(1)* and the applicable sections of the Comprehensive Plan are satisfied.

2. **Criterion:** *LCC 921.874(A)(2) The amendment will be compatible with adjacent uses and will not adversely impact the overall land use pattern in the area;*

**Findings:**

The Board finds that the proposed amendment will not result in a development pattern that will have an adverse impact on the overall land use pattern in the area. The proposed F/F zone will be similar to the previous zone designation (FCM) in that it continues to protect forest uses, water, wildlife habitat and the natural resources on the property. Thus the proposed F/F zone will be compatible with the adjacent FCM zoned property.

The new zoning will be more compatible with the RR-5 and F/F zoned property nearby. These properties utilize many farm uses. The proposed zone change will allow farm uses on portions of the subject property including livestock grazing and farming that are similar to these adjacent properties.

The Board finds that the proposed F/F zone will be compatible with the adjacent F/F and RR zoned property.

**Conclusion:**

Because the new zoning is more consistent with the zoning in the area than the current zoning, the new zoning will have no adverse impact on the overall land use pattern in the area. The Board finds that the criterion in *LCC 921.874(A)(2)* is satisfied.

3. **Criterion:** *LCC 921.874(A)(3) The amendment, if within an adopted urban growth boundary, is in substantial conformity with the Comprehensive Plan and implementing ordinances of an affected city;*

**Findings:**

The property is not within an adopted urban growth boundary.

**Conclusion:**

Because the property is not within the urban growth boundary, this criterion does not apply. The Board finds that the criterion in *LCC 921.874(A)(3)* is satisfied.

4. **Criterion:** *LCC 921.874(A)(4) The amendment will not have a significant adverse impact on a sensitive fish or wildlife habitat;*

**Findings:**

The Board finds that the land uses allowed will not significantly impact sensitive fish or wildlife habitat. There is no sensitive fish or sensitive wildlife habitat on the property. The land uses allowed by the rezoning do not allow intensive development of the property.

Most land uses under the F/F zone are designated to protecting forest uses and protecting fish and wildlife habitat. Other than outright permitted uses, conditional uses on the property are not allowed if they significantly impact sensitive fish and wildlife habitat. The stated purpose of the F/F zone under §928.320(B) is to ensure protection of fish and wildlife habitat within farm and forested areas. The rezoning to F/F will help ensure such protect and avoid any adverse impact to these resources.

The proposed map amendment will not have an adverse impact on sensitive fish and wildlife habitat because the proposed F/F zoning protects such habitat. The property does not contain any sensitive riparian, fish or wildlife habitat identified in the *Linn County Comprehensive Plan Wildlife Habitat*

Exhibit 1  
Page 7 of 14

*Inventory.* The property lies within a peripheral big game habitat area. Because there are at least 50 existing dwellings within section 31, the area is considered impacted by development and habitat protection measures in the Plan do not apply.

**Conclusion:**

The Board finds that the criterion in *LCC 921.874(A)(4)* is satisfied.

5. **Criterion:** *LCC 921.874(A)(5) The amendment will not have a significant adverse impact upon the provision of public facilities including police and fire protection, sanitary facilities and storm drainage facilities;*

**Findings:**

The proposed Plan map and zone map change will not result in any more intense uses impacted public facilities on the property than previously allowed in the FCM zone. Enclosed at Exhibit 2 of the application is a letter from the Lebanon Rural Fire Department indicating that the zone change will not have a significant adverse impact upon fire protection facilities. Enclosed at Exhibit 3 of the application is a letter from the Linn County Sheriff's Department indicating that the zone change will not have a significant adverse impact upon police protection in the area. There are no public sanitary facilities or storm drainage facilities nearby to be impacted.

**Conclusion:**

The evidence shows that the zone change will not have a significant adverse impact upon public facilities. The Board finds that the application satisfies the criterion in *LCC 921.874(A)(5)*.

6. **Criterion:** *LCC 921.874(A)(6) The amendment will not have a significant adverse impact upon the transportation facilities;*

**Findings:**

Sodaville-Waterloo Drive is the only transportation facility in the area. The information submitted in the hearing shows that Sodaville-Waterloo Drive has sufficient capacity through the planning horizon. Further, the zone change from FCM to F/F will not result in any more intense traffic uses on the property than previously allowed.

**Conclusion:**

The zone change will not have a significant adverse impact upon the transportation facilities because the zone change will not result in any more

Exhibit 1  
Page 8 of 14

intense traffic uses than previously allowed. The Board finds that the application satisfies the criterion in *LCC 921.874(A)(6)*.

7. **Criterion:** *LCC 921.874(A)(7) The presence of any development limitations including geologic hazards, flood hazards or water quality or quantity will not have a significant adverse affect on land uses permitted through the amendment;*

**Findings:**

The Board finds that there are no conditions on the property that will significantly affect development allowed under the F/F zoning designation. There are no known geological hazards, flood hazards, or water quality hazards on the property. Further, none are identified by the Comprehensive Plan. Because the F/F zoning is aimed at protecting farm and forest uses, the topographical features, soil and natural features of the subject property will not adversely affect the land uses permitted through the amendment and vice-versa. The topographical features, soil, and natural features of the property make it suitable for the new zoning designation.

**Conclusion:**

The natural features on the property will not have a significant adverse effect on the limited land uses permitted in the F/F zone. The Board finds that the application satisfies the criterion in *LCC 921.874(A)(7)*.

8. **Criterion:** *LCC 921.874(A)(8) An exception to the statewide planning goals is not required. If required, then findings have been prepared to meet the exception criteria; and*

**Findings:**

No exception to the statewide planning goals is required. The rezoning does not change the inventory of any natural resources or forest resources identified by Goal 5. The current zoning ensures protection of sensitive fish and wildlife habitat on the property. The current zoning ensures that the property remains a timber resource property. There is no identified sensitive fish and wildlife habitat on the property. There are no other identified Goal 5 natural resources on the property affected by the zone change.

**Conclusion:**

No exception to the statewide planning goals is required for this application because the natural resource inventory does not change as a result of the zone change. The Board finds that the application satisfies the criterion in *LCC 921.874(A)(8)*.



9. **Criterion:** *LCC 921.874(A)(9) The amendment is consistent with the statewide planning goals.*

**Findings:**

The Board finds that the Plan and zone amendments are consistent with the statewide planning goals. There are five relevant goals to consider in this zoning request: Goals 1, 3, 4, 5, and 12.

Goal 1: Citizen Involvement

Statewide Planning Goal 1 mandates citizen involvement with the planning process. LCC Chapter 901 enforces this planning goal. Pursuant to LCC Chapter 921, public notices of the application are sent to nearby properties and to DLCD. A public meeting is scheduled to review the application. The citizen-based Planning Commission initially reviews this application. A separate public meeting is set before the Board of Commissioners. Citizens are invited to present both written findings and oral evidence at the scheduled public meetings. Citizens are provided rights to appeal any final decision regarding the application. This application for comprehensive plan amendment, in meeting these procedures, is consistent with Goal 1.

Goal 3: Agricultural Land

The amendment is consistent with statewide planning Goal 3. OAR Chapter 660, Division 15 contains the administrative rules that enforce Goal 3. OAR 660-015-0000(3) requires that agricultural lands shall be preserved and maintained for farm use, consistent with existing and future needs for agricultural products, forest and open space and with the state's agricultural land use policy expressed in ORS 215.243 and 215.700.

The current zoning designation is Forest Conservation and Management. Farm use is a permitted use under the current zoning. (LCC 928.910(B)(5)) The requested zoning does not change the ability to farm the property. Instead, it expands the ancillary farm uses allowed on the property. The Linn County Code regarding Farm/Forest land is consistent with Goal 3 in that it limits non-farm uses to allow maximum agricultural capacity and preserves and maintains the farm uses. The proposed zoning designation is designed to meet the requirements of Goal 3, therefore application of the F/F zoning to the property is consistent with Goal 3.

Goal 4: Forest Land

1. Analysis under both Goal 3 and Goal 4 pursuant to OAR 660-006-0057

The Board finds that the amendment is consistent with statewide planning Goal 4. *OAR Chapter 660, Division 6* contains the administrative rules that enforce Goal 4. *OAR 660-006-0057* provides that “any rezoning or plan map amendment of lands from an acknowledged zone or plan designation to an agriculture/forest zone requires a demonstration that each being zoned or replanned contains such a mixture of agriculture and forest uses that neither Goal 3 nor 4 can be applied alone.”

Here, the subject property is within a mix of agriculture and forest uses that neither Goal 3 nor 4 can be applied alone. A review of the aerial map of the property in Exhibit 1 shows that the property is a mixture of forest and open space. A topographical view shows that the bottom portion of the property near the roadway is relatively level while the upper portion is more forested and on a slope. Further, an aerial map of the surrounding areas shows predominately farm (grass seed, livestock, orchard) uses near the portion of the subject property near the valley floor versus predominately forest (commercial timber) uses for the portion of the subject property further up the hillside. Consequently the subject property does not cleanly fit under either forest or agricultural zoning, it belongs in both.

The Linn County Comprehensive Plan recognizes the potential for properties carrying dual forest and agricultural uses. Thus, the county created the Farm/Forest zone. The proposed amendment will meet the intent and purpose statement of the Farm/Forest zoning district. The proposed F/F zoning district’s stated purpose (and comprehensive plan’s purpose) is to (LCC 905.300):

1. Identify land suitable for timber production that is generally not held in commercial ownership.
2. Recognize areas where either farm or forest uses are suitable given the soil quality and topography; and
3. Maintain resource uses by placing certain regulating on land uses.

The land identified for this F/F zoning area is land not held in commercial ownership. The record shows that, because of the property’s relatively small size and location, the prior commercial timber owner divested ownership of the property from its timber holdings. The property adjacent to the subject property is generally not held in commercial ownership. Most properties have a rural residential designation. Other properties have a F/F designation. Properties further upslope of the subject property are held for commercial timber operations because those properties are both large enough and productive enough to allow viable commercial operations. The facts show that this property does not meet the needs of commercial timber ownership.

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The property size and location make it more suitable for Farm/Forest (F/F) zoning. Under LCC 905.300(E), the mixed use F/F zone is characterized by smaller parcel sizes and more residential development. At this location, small 5-acre residential properties abut the subject property. Further down Sodaville-Waterloo Drive are even more densely packed residential developments. The subject property is smaller than most commercially-held forest properties further upslope or in the general area. Thus, the size and location of this property is suitable for Farm/Forest zoning.

Either farm or forest uses are suitable on this property given its soil and topography. Under LCC 905.300(B), typical land uses in the Farm/Forest area include farming, livestock grazing and small-scale timber operations. The aerial map of this property, submitted as Exhibit 1, shows a mixture of timber and open space. The topography on the property is that it is relatively flat on the portions near Sodaville-Waterloo Drive (at the valley floor) and steeper as the property line moves up the foothill. Other properties near the subject property that lie along Sodaville-Waterloo Drive predominately employ farming and livestock grazing. Properties further away from the valley floor utilize more timber production. This property's particular dimensions make it suitable for both farming and timber production.

The topography of the property is suited for Farm/Forest zoning. LCC 905.300(E) identifies the foothills of Linn County as the primary location of Farm/Forest zoning. As already mentioned above, the subject property is situated along the foothills of Linn County.

The Board concludes that the property contains such a mixture of agricultural and farm uses that neither Goal 3 nor Goal 4 can be applied alone.

2. The proposed F/F zone meets the requirements of Goal 3.

The Board finds that the proposed zoning change is consistent with and does not alter the intent of the applicable sections of the comprehensive plan. The Comprehensive Plan encourages the use of Farm/Forest lands for resource purposes. Permitted uses in the Farm/Forest areas include timber production, agriculture and live stock grazing. LCC 905.300 et seq. regarding Farm/Forest uses ensures that resource uses are protected on the property. Development or uses that are inconsistent with the farm and forest resources are prohibited in the F/F zone.

Provisions of wildlife habitat consistent with Statewide Planning Goals 3 and 4 are another role of the Farm/Forest lands. The Farm/forest land is designated in a manner that enhances natural resources and the productive capacity of the land.

The current FCM zoning on the property protects Forest Land as provided under Goal 4 of the statewide planning goals. According to LCC §928.605, the ordinance that controls the County's Farm/Forest zoning rules, "The Board has established the Farm/Forest Zoning district in accordance to Goals 3 and 4 and OAR Chapter 660, Division 6, and 33." LCC §928.600 states that the purpose of the F/F zone is to ensure protection of forest uses. The change to the F/F zone will not affect Goal 4 because it continues to protect Forest Land.

Farm/Forest zoning are important to maintaining water and air quality as well as wildlife habitat. LCC 905.320(A) and (B). The proposed change does not seek to alter the text of the Farm/Forest zoning designation. Instead, it seeks to alter the comprehensive plan map to better apply the intent of the applicable sections of the comprehensive plan. The properties current zoning designation does not properly meet the goals of comprehensive plan because the property is not well suited for commercial timber production. Instead, it is better suited for Farm/Forest uses and the applicable comprehensive plan sections for Farm/Forest properties.

The proposed zoning designation is designed to meet the requirements of Goal 4, therefore application of the F/F zoning to the property meets Goal 4. The Board finds that the proposed Plan and zone change is consistent with Statewide Planning Goal 4.

#### Goal 5: Natural Resources

The rezoning does not change the inventory of any natural resources or forest resources identified by Goal 5. The current zoning ensures protection of sensitive fish and wildlife habitat on the property. There is no identified sensitive fish and wildlife habitat on the property. There are no other identified Goal 5 natural resources on the property. The Board finds that the proposal is consistent with Statewide Planning Goal 5.

#### Goal 12: Transportation

The Board finds that the proposed Plan map and zone map amendments will not significantly affect any transportation facilities under Goal 12. The map amendment will not result in additional traffic not already permitted under the FCM zone. Under the current and proposed zoning, the highest, most-intense use is a park and ride facility. Under both zoning, such a facility is permitted outright. Therefore, the zone change will not create a greater impact to nearby road facilities (Sodaville-Waterloo Dr.) Further, the map amendment will not:

- (a) Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);

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(b) Change standards implementing a functional classification system; or  
(c) As measured at the end of the planning period identified in the adopted transportation system plan:

(A) Allow land uses or levels of development that would result in types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;

(B) Reduce the performance of an existing or planned transportation facility below the minimum acceptable performance standard identified in the TSP or comprehensive plan; or

(C) Worsen the performance of an existing or planned transportation facility that is otherwise projected to perform below the minimum acceptable performance standard identified in the TSP or comprehensive plan.

Therefore, under Goal 12, the new zoning designation is consistent with current and planned transportation facilities and in compliance with the policies of this Statewide Planning Goal.

Other Goals: The Board finds that there are no other statewide planning goals affected by the zone change.

**Conclusion:**

The Board finds that the application satisfies the criterion in *LCC 921.874(A)(9)*.

**VI. Conclusion**

Based on the criteria, facts and findings identified in this exhibit, the Board concludes that the proposed Plan map and Zone map amendments to designate the 40.01-acre property identified in Linn County Assessor maps as T12S, R1W, Section 31, Tax Lot 700 satisfied the applicable decision criteria.

FILED

FEB 22 2006

STEVE DRUCKENMILLER, CLERK  
Clerk

BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR LINN COUNTY

IN THE MATTER OF AN ORDINANCE )  
AMENDING THE LINN COUNTY )  
COMPREHENSIVE PLAN MAP, AND )  
THE LINN COUNTY ZONING MAP )

ORDINANCE NO. 2006-091  
(Amending Code)  
(Planning and Building Department BC05-0002)

WHEREAS, The Linn County Board of Commissioners (Board) advertised notice that it would consider proposed amendments to the Linn County *Comprehensive Plan* map and zoning map on January 25, 2006;

WHEREAS, At 10:30 a.m., on January 25, 2006, the Board conducted a regularly scheduled and duly advertised public hearing, considered the proposed amendments for the *Comprehensive Plan* map and the zoning map;

WHEREAS, The Board having read the proposed ordinance and having received and considered the oral and written public testimony presented prior to and at the hearing; and

WHEREAS, The findings in support of this ordinance are attached to Resolution and Order No. 2006-090 and entitled Exhibit 1, (BC05-0002 Decision Criteria, Findings and Conclusions); and, now, therefore, be it

Ordained by the Linn County Board of Commissioners, That:

**Section 1. Map Amendment.** Appendix 1, *Comprehensive Plan* map, following LCC Chapter 919 [see LCC 900.101(B)] be amended to designate the 40.01 acres identified as Tax Lot 700 on Assessor map T12S, R1W, Section 31, Linn County, Oregon, as "Farm/Forest."

**Section 3. Map Amendment.** Appendix 1, Zoning map, following LCC Chapter 920 [see LCC 920.010(B)] be amended to designate the 40.01 acres identified as Tax Lot 700 on Assessor map T12S, R1W, Section 31, Linn County, Oregon, as "Farm/Forest (F/F)."

**Section 4. Savings clause.** Repeal of a code section or ordinance shall not revive a code section or ordinance in force before or at the time the repealed code section or ordinance took effect. The repeal shall not affect a punishment or penalty incurred before the repeal took effect, nor a suit, prosecution, or proceeding pending at the time of the repeal for an offense committed under the repealed code section or ordinance.

LINN COUNTY, OREGON 2006-04225  
COM-COMC 02/23/2006 09:31:39 AM  
Cnt=1 Str=4 \$0.00



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I, Steve Druckenmiller, County Clerk for Linn County, Oregon, certify that the instrument identified herein was recorded in the Clerk records.

Steve Druckenmiller - County Clerk



**Section 5. Severability.** Invalidity of a section or part of a section of this ordinance shall not affect the validity of the remaining sections or parts of sections.

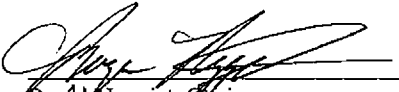
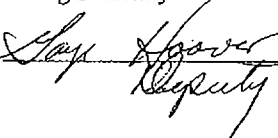

**Section 6. Effective date.** To protect the health, safety, and welfare of the citizens of Linn County, this ordinance shall take effect following adoption.

**Section 7. Codification.** Following adoption, this ordinance shall be codified pursuant to LCC Chapter 120.

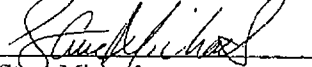
Public reading held ~~February~~ <sup>January</sup> 25, 2006.  
Adopted and passed February 22, 2006.  
The effective date of this Ordinance shall be February 22, 2006.

BOARD OF COUNTY COMMISSIONERS FOR LINN COUNTY

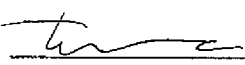
Signed February 22, 2006

		Voting	
		For	Against
Steve Druckenmiller, Linn County Clerk Recording Secretary	 Roger Nyquist, Chairman	<input checked="" type="checkbox"/>	<input type="checkbox"/>
By  Deputy	 John K. Lindsey, Commissioner	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	Participated by Phone - Agreed Cliff Wooten, Commissioner	<input checked="" type="checkbox"/>	<input type="checkbox"/>

APPROVED AS TO CONTENT:

  
Steve Michaels  
Linn County Planning and Building Director

APPROVED AS TO FORM:

  
Thomas N. Corr  
Linn County Legal Counsel