



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

12/29/2009

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

FROM: Plan Amendment Program Specialist

SUBJECT: Lincoln County Plan Amendment
DLCD File Number 002-09

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: Monday, January 11, 2010

This amendment was submitted to DLCD for review prior to adoption 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 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 THAT IT WAS MAILED TO DLCD. AS A RESULT, YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.

Cc: Jessica Bondy, Lincoln County
Gloria Gardiner, DLCD Urban Planning Specialist

<paa> N

Notice of Adoption

THIS FORM MUST BE MAILED TO DLCD WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18



Jurisdiction: Lincoln County

Local file number: 2-LUPC-ZC-09

Date of Adoption: 12-15-09

Date Mailed: 12-21-09

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? Yes Date: 7-15-09

Comprehensive Plan Text Amendment

X Comprehensive Plan Map Amendment

Land Use Regulation Amendment

X Zoning Map Amendment

New Land Use Regulation

Other:

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

Comprehensive Plan Map amendment from Farm Land to Forest Land and a zone change from A-C (agricultural conservation) T-C (timber conservation).

Does the Adoption differ from proposal?

No.

Plan Map Changed from: Farm Land

to: Forest Land

Zone Map Changed from: A-C

to: T-C

Location: South Beaver Creek Road

Acres Involved: 30.46

Specify Density: Previous: 1 with CUP

New: same

Applicable statewide planning goals:

- 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19
[] [] [x] [x] [] [] [] [] [] [] [] [] [] [] [] [] [] []

Was an Exception Adopted? [] YES NO X

Did DLCD receive a Notice of Proposed Amendment; Yes...

45-days prior to first evidentiary hearing?

x Yes [] No

If no, do the statewide planning goals apply?

[] Yes [] No

If no, did Emergency Circumstances require immediate adoption?

[] Yes [] No

DLCD file No. _____

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

Local Contact: **Jessica Bondy**

Phone: (541) 265-4192 Extension:

Address: 210 SW 2nd St.

Fax Number: 541-265-6945

City: Newport

Zip: 97365

E-mail Address: jbondy@co.lincoln.or.us

ADOPTION SUBMITTAL REQUIREMENTS

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

1. **Send this Form and TWO Complete Copies (documents and maps) of the Adopted Amendment to:**
ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540
2. Electronic Submittals: At least **one** hard copy must be sent by mail or in person, or by emailing **larry.french@state.or.us**.
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 now access these forms online at **<http://www.lcd.state.or.us/>**. Please print on **8-1/2x11 green paper only**. You may also 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** - **Attention: Plan Amendment Specialist.**

1 **BEFORE THE BOARD OF COMMISSIONERS**

2 **FOR LINCOLN COUNTY, OREGON**

3 ORDINANCE # 462

4 _____
5
6 **Amending the Lincoln County Comprehensive Plan from Farm Land to Forest Land and**
7 **the Lincoln County Zoning Map from A-C (Agricultural Conservation) to T-C (Timber**
8 **Conservation) on property identified as Tax Lot 1000, Lincoln County Assessor's Map**
9 **12-11-29 and Tax Lots 1300 and 1303, Lincoln County Assessor's Map 12-11-28, and**
10 **declaring an emergency.**
11 _____

12 WHEREAS on September 28, 2009, the Lincoln County Planning Commission
13 adopted findings and a final order to recommend approval of a request by applicant David
14 Peterson for a Comprehensive Plan Map amendment from Farm Land to Forest Land and a
15 Zone Change from A-C (Agricultural Conservation) to T-C (Timber Conservation) on property
16 identified as Tax Lot 1000, Lincoln County Assessor's Map 12-11-29 and Tax Lots 1300 and
17 1303, Lincoln County Assessor's Map 12-11-28, File No. 2-LUPC-ZC-09; and

18 WHEREAS after notice in accordance with law, the Lincoln County Board of
19 Commissioners held a public hearing on December 9, 2009, to consider the request; and

20 WHEREAS at the conclusion of that hearing, the Board voted 3-0 to approve the
21 request;

22 NOW, THEREFORE, IT IS HEREBY ORDAINED AS FOLLOWS:

23 **SECTION 1.**

24 1. The Planning Commission's recommendation is adopted, and the Comprehensive
25 Plan Map is amended from Farm Land to Forest Land and the zoning is changed from A-C
26 (Agricultural Conservation) to T-C (Timber Conservation) on property identified as Tax Lot
27 1000, Lincoln County Assessor's Map 12-11-29 and Tax Lots 1300 and 1303, Lincoln County
28 Assessor's Map 12-11-28 located approximately 1 mile south on South Beaver Creek Road, on

1 the east side of the road. The subject property is more particularly identified on the map in
2 Exhibit "A," which is attached hereto and incorporated herein.

3 2. The Board adopts the findings, conclusions and recommendations in the final order
4 of the Planning Commission to support these actions. That final order is adopted as set forth in
5 Exhibit "B" attached hereto and incorporated herein.

6 3. Copies of this ordinance shall be forwarded to County Surveyor; County Assessor;
7 County Counsel, Lincoln County Department of Planning and Development, petitioners'
8 attorney Gary Hamilton, 605 SW Hubert St., Newport OR 97365; and to petitioner David
9 Peterson, 1404 South Beaver Creek Road, Seal Rock, OR 97376.

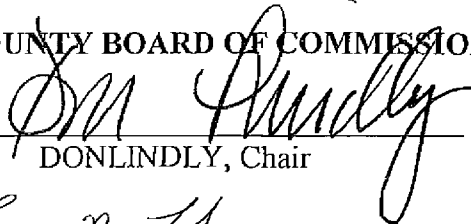
10 4. The Department of Planning and Development shall amend the official maps and
11 shall forward a copy of this ordinance to the Department of Land Conservation and
12 Development.

13 **SECTION 2.**

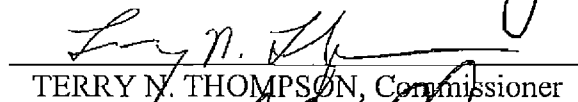
14 This Ordinance being necessary for the immediate preservation of the public peace,
15 health and safety, an emergency is declared to exist and this Ordinance shall take effect upon its
16 passage.

DATED: December 15, 2009.

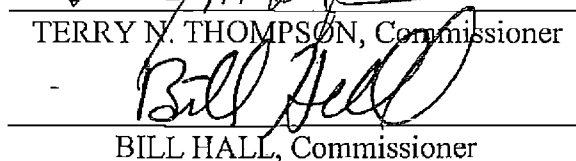
LINCOLN COUNTY BOARD OF COMMISSIONERS



DONLINDLY, Chair



TERRY N. THOMPSON, Commissioner



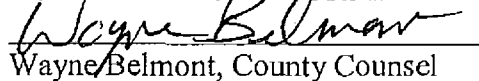
BILL HALL, Commissioner

ATTESTED TO:



Judy Eames, Recorder

APPROVED AS TO FORM:

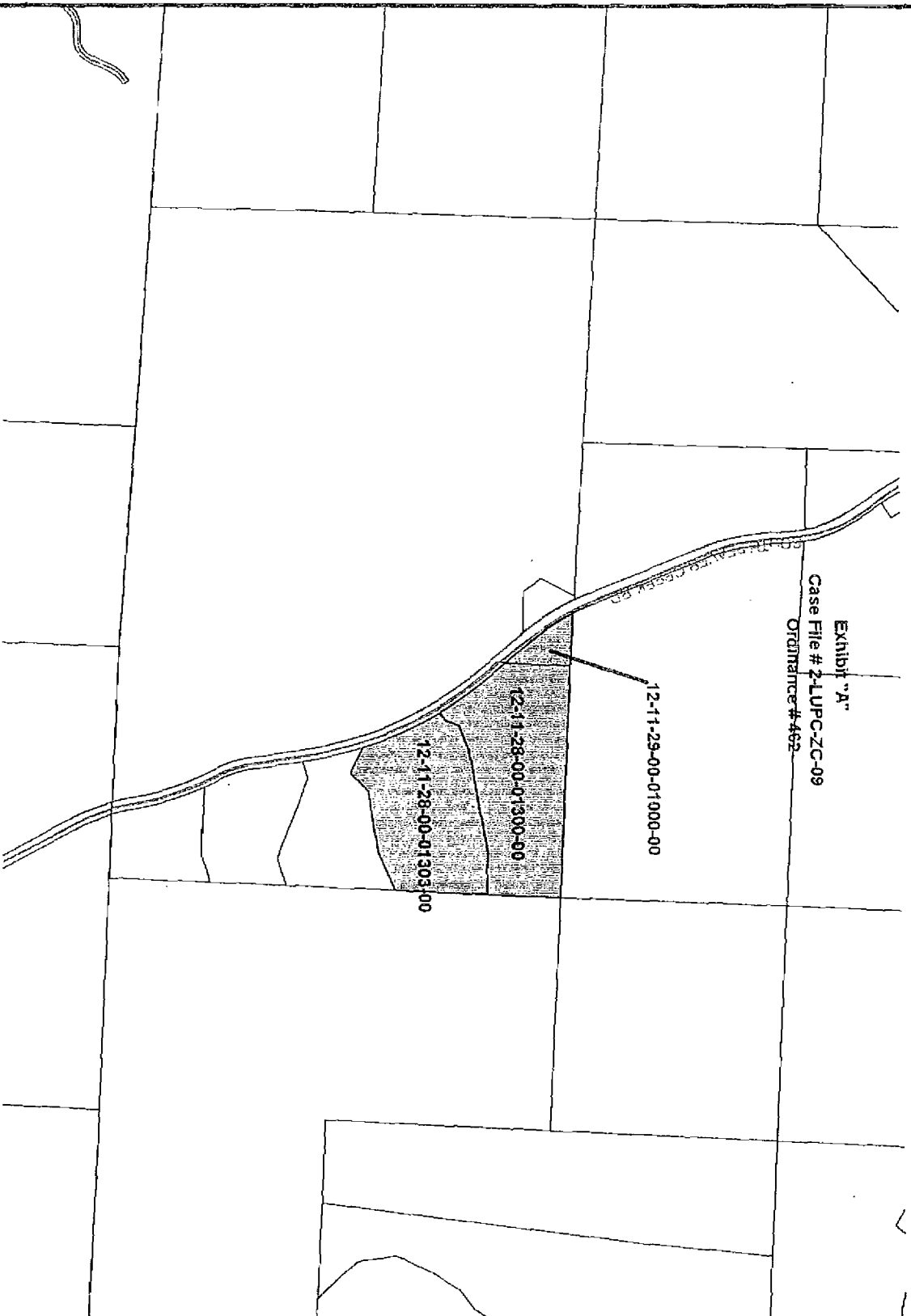


Wayne Belmont, County Counsel

Lincoln County Geographic Info System

- County
- Shore2
- Shore1
- Taxlot
- City
- Twp01

Exhibit "A"
Case File # 2-LUPC-ZC-09
Ordinance # 462



Lincoln County government use only. Use for any other purpose is entirely at the risk of the user. This product is for informational purposes and may not have been prepared for, or be suitable for legal, engineering, or surveying purposes. Users of this information should review or consult the primary data and information sources to ascertain the usability of the information.

1 in. = 883 ft.



12/15/2009

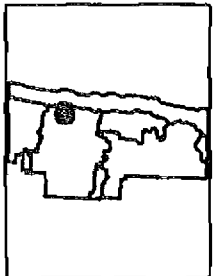


Exhibit "B"
Ordinance # 462

BEFORE THE PLANNING COMMISSION

OF

LINCOLN COUNTY, OREGON

Comprehensive Plan Map)	Case File #2-LUPC-ZC-09
Designation and Zone Change)	
Applicant: David Peterson)	Findings, Conclusions, and Final Order

Nature of the Application

The Applicant is requesting a Comprehensive Plan Map Amendment from Farm Land to Forest Land and a Zone Change from A-C (Agricultural Conservation) to T-C (Timber Conservation).

Relevant Facts

The following is a summary of the facts and testimony found to be relevant to this decision:

1. **Lot Size:** Combined, the subject property is comprised of 30.46 acres.
2. **Property Location:** The subject property is located approximately one mile south on South Beaver Creek Road and is on the east side of the road. It is further identified on Lincoln County Assessor's Map #12-11-29 as tax lot 1000 and Map #12-11-28 as tax lots 1300 and 1303.
3. **Zoning Designation:** AC (Agricultural Conservation).
4. **Plan Designation:** Agricultural Land
5. **Surrounding Land Use:** The predominant pattern of land use following South Beaver Creek Road is dispersed residential development, pastureland, forestlands, and jurisdictional wetlands.
6. **Topography & Vegetation:** The subject property contains varying topography ranging from fairly level to steeper slopes and is covered in native vegetation.
7. **Existing Structures:** Tax lot 1000 is vacant. Tax lots 1300 and 1303 each contain a residence.

8. **Utilities:** The following utilities are proposed to serve the subject property:
 - a. Water: On-site.
 - b. Sewer: On-site sewage disposal system.
 - c. Electricity: Central Lincoln P.U.D.
9. **Development Constraints:** Environmental Bulletin 81 shows the general area contains landslide topography. A north-south running fault line traverses an area east of the property. No other constraints were identified.
10. **Soils:** According to mapping prepared by the Natural Resources Conservation Service, the subject property is comprised of the following soils units:
 - a. 55E Templeton-Fendall silt loams, 5 to 35 percent slopes. This map unit is on broad tops of hilly uplands. The native vegetation is mainly western hemlock, Sitka spruce, Douglas- fir, red alder, salal, salmonberry, thimbleberry, red huckleberry, evergreen huckleberry and western swordfern. This unit is used mainly for timber production. It also is used for wildlife habitat and as a source of water. This unit is suited to the production of western hemlock, Douglas-fir and Sitka spruce. Its land capability class rating is VI, which is well suited for forest production.
 - b. 18G Fendall-Templeton silt loams, 35 to 60 percent slopes. This map unit is on the side slopes of hilly uplands. The native vegetation is mainly western hemlock, Sitka spruce, Douglas-fir, red alder, salal, salmonberry, thimbleberry, red huckleberry, evergreen huckleberry, and western swordfern. This unit is used mainly for timber production. It also is used for wildlife habitat and as a source of water. This unit is suited to the production of western hemlock, Douglas-fir and Sitka spruce. Its land capability class rating is VI, which is well suited for forest production.
 - c. The Department of Revenue Site Class Rating System (for forest productivity) ranks the property similarly. According to the Department of Revenue System, this property consists of the second and third highest site class for timber productivity with a rating of Site Classes 2 and 3. This means that the property is capable of producing between 154-184 cubic feet of wood fiber per acre per year. On a scale from Site Class 1-5, 1 produces the highest cubic feet of wood fiber per acre per year and 5 produces the lowest.
11. Class VI soils do not meet the statutory definition of agricultural soils.
12. A public hearing was held on August 24, 2009 before the Lincoln County Planning Commission. All interested parties were given an opportunity to testify.
13. The applicant presented testimony on behalf of the request. The applicant summarized the history of the property's use and desire of Forest Land Comprehensive Plan Map designation and a Zone Change from A-C to T-C.
14. No opposition testimony was entered into the record.

15. All application materials and staff's report are by reference incorporated into the record herein.

Applicable Criteria:

a. Lincoln County Development Code, Section 1.1235, Quasi-Judicial Amendments:

A quasi-judicial amendment to the Comprehensive Plan and Zoning Maps may be authorized provided that the proposal satisfies all applicable requirements of this Chapter and also provided that the applicant, in a quasi-judicial hearing, demonstrates that:

- 1) The change is in accord with the Comprehensive Plan goals and policies or the Statewide Planning Goals; and
- 2) There has been a substantial change in the character of the area since zoning was adopted and which warrants changing the zone; or
- 3) The zoning previously adopted for the area was in error; or
- 4) There is a public need for the change being sought.

b. Oregon Statewide Planning Goal 3, Agricultural Lands: The definition of agricultural land in Goal 3 reads as follows: "...in western Oregon is land of predominantly Class I, II, III, and IV soils as defined in the Soil Capability Classification System of the United States Soil Conservation Service and other lands which are suitable for farm use taking into consideration soil fertility, suitability for grazing, climatic conditions, existing and future availability of water for farm irrigation purposes, existing land use patterns, technological and energy inputs required, or accepted farming practices. Lands in other classes which are necessary to permit farm practices to be undertaken on adjacent or nearby lands, shall be included as agricultural land in any event".

c. Oregon Statewide Planning Goal 4, Forest Lands: Goal 4 (Forest Lands) provides for the following: "... Where a (plan is not acknowledged or) a plan amendment involving forest lands is proposed, forest land shall include lands which are suitable for commercial forest uses including adjacent or nearby lands which are necessary to permit forest operations or practices and other forested lands that maintain soil, air, water and fish and wildlife resources." "...Uses which may be allowed subject to standards set forth in this goal and administrative rule are: (1) uses related to and in support of forest operations; (2) uses to conserve soil, water and air quality, and to provide for fish and wildlife resources, agriculture and recreational opportunities appropriate in a forest environment; (3) locationally dependent uses; (4) dwellings authorized by law.

d. Lincoln County Comprehensive Plan:

- (1) **Forest Lands (Section 1.0005(4)):** Approximately 87 percent of the total land area of Lincoln County is forest land. Of this 550,000 acres, roughly 80 percent is in either industrial or public ownership. The primary use of the majority of these forest lands is commercial wood fiber production. Secondary uses include wildlife production, outdoor

recreation, domestic watersheds and livestock grazing. Existing ownership patterns, historical use trends, and past and current management practices for private non-industrial forest lands indicates that parcels of 40 to 50 acres comprise the large majority of ownerships and that parcels in this size range are compatible with the conservation of forest lands for forest uses. *[Note: state law requires an 80 acre minimum lot size for new parcels in the TC zone.]*

(2) Agricultural Lands (Section 1.0005(5)): The analysis considers available sources of data on farms in Lincoln County including the 1979 Census of Agriculture, the S.C.S. Farm Plans, and the Farm Deferral Information. Comparisons are made of all these sources and they are found to be representative samples of agriculture and commercial agriculture in the County. These sources indicate that different size parcels may be appropriate for different types of activities. Average acreages of commercial farm uses were as follows: crops, 28 acres; pasture, 55 acres; wooded pastures, 34 acres; farm wood lots, 41 acres; overall average, 81 acres. The diversity of these averages preclude a county-wide minimum lot size. The two step approach is suggested using the above information as a guideline and more detailed information applied to the guideline area which is mapped and determined in the study. Use of a Commercial Viability Rating System is proposed as a system to provide for the continuation of the commercial agriculture if the person is able to have similar types and averages of activities as 75 percent of the surrounding farms on Farm Deferral within the guideline area. This result is obtained when a minimum rating of 36 points is achieved. *[Note: state law requires an 80 acre minimum lot size for new parcels in the AC zone.]*

e. Lincoln County Comprehensive Plan Designations:

(1) Forest Lands (Section 1.0190(1)): Forest lands represent nearly 90 percent of Lincoln County, and are its major resource. These are mainly held in large ownership patterns and covered by commercial stands of Douglas Fir, true fir, hemlock, cedar, and spruce. Uses such as raising and harvesting of the forest crop and existing recreation facilities are primary. Secondary uses such as new recreation facilities, public and private utilities, and dwellings may be included by county review.

(2) Agricultural Lands (Section 1.0190(2)): Agricultural lands represent nearly 2 percent of the lands in Lincoln County. These ownerships lie along the river and creek valleys and are mainly used for grazing and small gardens with some commercial agriculture. The primary use of these properties is intended to be agriculture to maintain their current resource value. Uses such as agriculture, forestry, dwellings necessary for farm use and existing public recreation facilities are primary. Secondary uses such as farm help residences, quarrying, new recreation facilities, and similar uses may be included by county review.

f. Lincoln County Code:

(1) A-C (Agricultural Conservation) Zone: LCC Section 1.1373- See "Appendix A".

(2) T-C (Timber Conservation) Zone: LCC Section 1.1375- See "Appendix B".

Findings

The Commission Finds:

- 1) The Goal 3 definition for agricultural land specifies that agricultural land be of predominantly Class I-IV soils as defined in the soils rating system used by the US Natural Resource Conservation Service. Evidence submitted by the applicant indicates that there are no Class I-IV soils. Therefore, the property consists of 100% forest class soils (Classes VI and VII) and is managed predominantly for forest uses.
- 2) Given the predominant soils classification, historical and on-going forest management use of the property, timber site class ratings and productivity, limited area and use of the property for agricultural purposes, topography and other factors of record, the subject property does not meet the Statewide Planning Goal definition of agricultural land.
- 3) The subject property has been and is predominantly managed for forest uses. Given the size of the subject property and its' past and current management practices for forest uses, the predominant character of the subject property is consistent with the forest land designation of the comprehensive plan.
- 4) Based on soils information, past and current management practices, topography, and other factors of record, the subject property was designated agricultural land and zoned A-C in error.

Conclusions

1. Substantial evidence in the record demonstrates that the proposed Comprehensive Plan Map Amendment is in accordance with the Comprehensive Goals and Policies and Statewide Planning Goals.
2. Substantial evidence in the record demonstrates the zoning previously adopted for the area was in error and therefore, the subject property meets the requirements for a plan change from Farm Land to Forest Land and a corresponding Zone Change from A-C to T-C.

Order

~~It is ORDERED~~ by the Lincoln County Planning Commission that the requested land use actions in Case File #2-LUPC-ZC-09 be APPROVED. This approval will serve as a recommendation to the Lincoln County Board of Commissioners.

This ORDER was presented to and approved by the Lincoln County Planning Commission on Sept 22, 2009.


Cris Torp, Chair
Lincoln County Planning Commission

"Appendix A"

1.1375 Timber Conservation Zone T-C

In a T-C zone the following regulations shall apply:

(1) Uses Permitted Outright:

The following uses and their accessory uses are permitted outright, subject to applicable siting criteria, other applicable provisions of this section, and applicable provisions of LCC 1.1401 to 1.1499, 1.1501 to 1.1599, and 1901-1.1999:

(a) Forest operations or forest practices including, but not limited to, reforestation of forest land, road construction and maintenance, harvesting of a forest tree species, application of chemicals, and disposal of slash.

(b) Temporary on-site structures which are auxiliary to and used during the term of a particular forest operation. As used in this paragraph, "auxiliary" means a use or alteration of a structure or land which provides help or is directly associated with the conduct of a particular forest practice. An "auxiliary structure" is located on-site, temporary in nature, and is not designed to remain for the forest's entire growth cycle from planting to harvesting. An auxiliary use is removed when a particular forest practice has concluded.

(c) Physical alterations to the land auxiliary to forest practices, including but not limited to, those made for purposes of exploration, mining, commercial gravel extraction and processing, landfills, dams, reservoirs, road construction or recreational facilities.

(d) Uses to conserve soil, air and water quality and to provide for wildlife and fisheries resources.

(e) Farm use as defined in ORS 215.203.

(f) Local distribution lines, such as electric, telephone and natural gas, and accessory equipment, such as electric distribution transformers, poles, meter cabinets, terminal boxes, pedestals, or equipment which provides service hookups, including water service hookups.

(g) Temporary portable facility for the primary processing of forest products. The facility shall not be placed on a permanent foundation and shall be removed at the conclusion of the forest operation requiring its use.

(h) Temporary forest labor camps limited to the duration of the forest operation requiring the use.

(i) Exploration for, and production of, geothermal, gas, oil, and other associated hydrocarbons; including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the well head as defined in ORS chapters 517 and 520.

(j) Caretaker residences for public parks and fish hatcheries.

(k) Private hunting and fishing operations without any accommodations.

(L) Exploration for mineral and aggregate resources as defined in ORS chapter 517.

(m) Towers and fire stations for forest fire protection.

(n) Widening of roads within existing rights-of-way in conformance with the transportation element of acknowledged comprehensive plans, including public road and highway projects as described in ORS 215.213(1)(L) through (o) and ORS 215.283(1)(k) through (n).

- (o) Water intake facilities, canals and distribution lines for farm irrigation and ponds.
- (p) Uninhabitable structures accessory to fish and wildlife enhancement.
- (q) Alteration, restoration or replacement of a lawfully established dwelling that:
 - (A) Has intact interior walls and roof structure;
 - (B) Has indoor plumbing consisting of a kitchen sink, toilet, and bathing facilities connected to a sanitary waste disposal system;
 - (C) Has interior wiring or interior lights;
 - (D) Has a heating system; and
 - (E) In the case of replacement, is removed, demolished or converted to a permitted nonresidential use within 90 days of completion of the replacement dwelling.

(2) Conditional Uses Permitted:

The following uses may be permitted subject to provisions of subsection (3) of this section and applicable provisions of LCC 1.1401 to 1.1499, 1.1501 to 1.1599, 1.1601 to 1.1699, and 1.1901 to 1.1999:

- (a) Permanent facility for the primary processing of forest products.
- (b) Permanent logging equipment repair and storage.
- (c) Log scaling and weigh stations.
- (d) Disposal site for solid waste approved by the governing body of a city or county or both and for which the Department of Environmental Quality has granted a permit under ORS 459.245, together with equipment, facilities or buildings necessary for its operation.
- (e) Parks and campgrounds.
- (f) Mining and processing of oil, gas, or other subsurface resources, as defined in ORS chapter 520, and not otherwise permitted under paragraph (i) of subsection (1) of this section, such as compressors, separators and storage serving multiple wells, and mining and processing of aggregate and mineral resources as defined in ORS chapter 517.
- (g) Television, microwave and radio communication facilities and transmission towers.
- (h) Fire stations for rural fire protection.
- (i) Utility facilities for the purpose of generating power. A power generation facility shall not preclude more than 10 acres from use as a commercial forest operation unless an exception is taken pursuant to OAR 660, Division 4;
- (j) Aids to navigation and aviation.
- (k) Water intake facilities, related treatment facilities, pumping stations, and distribution lines.
- (L) Reservoirs and water impoundments.
- ~~(m) Firearms training facility.~~
- (n) Cemeteries.
- (o) Private seasonal accommodations for fee hunting operation, subject to subsections (3), (6) and (7) of this section and the following requirements:
 - (A) Accommodations are limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code.
 - (B) Only minor incidental and accessory retail sales are permitted.
 - (C) Accommodations are occupied temporarily for the purpose of hunting during game bird and big game hunting seasons authorized by the Oregon Fish and Wildlife Commission.

(p) New electric transmission lines with right-of-way widths of up to 100 feet as specified in ORS 772.210. New distribution lines, such as gas, oil and geothermal, with rights-of-way 50 feet wide or less in width.

(q) Temporary asphalt and concrete batch plants as accessory uses to specific highway projects.

(r) Home occupations.

(s) Medical hardship dwelling.

(t) Expansion of existing airports.

(u) Public road and highway projects as described in ORS 215.213(2)(p) through (r) and ORS 215.283(2)(p) through (r).

(v) Private accommodations for fishing occupied on a temporary basis, subject to subsections (3), (6) and (7) of this section, and the following requirements:

(A) Accommodations limited to no more than 15 guest rooms, as that term is defined in the Oregon Structural Specialty Code;

(B) Only minor incidental and accessory retail sales are permitted;

(C) Accommodations occupied temporarily for the purpose of fishing during fishing seasons authorized by the Oregon Fish and Wildlife Commission; and

(D) Accommodations must be located within 1/4 mile of fish bearing Class I waters.

(w) Forest management research and experimentation facilities as defined by ORS 526.215 or where accessory to forest operations.

(x) One single-family dwelling on a tract meeting the following qualifications:

(A) The lot or parcel on which the dwelling is to be sited was lawfully created and was acquired by the present owner prior to January 1, 1985, or by devise or intestate succession from a person who acquired the lot or parcel prior to January 1, 1985. As used in this subparagraph, "owner" includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent or grandchild of the owner, or a business entity owned by any one or combination of these family members.

(B) The tract upon which the dwelling is to be sited does not include another dwelling.

(C) The tract is composed of soils not capable of producing 5,000 cubic feet per year of commercial tree species.

(D) The tract is located within 1,500 feet of a maintained public road as defined in ORS 368.001 that is either paved or surfaced with rock, but not including United States Forest Service and Bureau of Land Management roads.

~~(E) If the tract on which the dwelling is to be sited consists of more than one lot or parcel, all lots and parcels within the tract shall be consolidated into a single lot or parcel.~~

(y) Non-forest dwelling, subject to the provisions of subsections (5), (6) and (7) of this section.

(z) One single family dwelling on a tract of 160 or more contiguous acres and located on a lawfully created lot or parcel or at least 200 acres in one ownership that are not contiguous but are within Lincoln County, Lane County, Benton County, Polk County or Tillamook County and are zoned for forest use. A deed restriction shall be filed pursuant to paragraphs (h) through (k) of subsection (6) of this section for all parcels that are used to meet the acreage requirements of this subsection.

(3) Limitations on Conditional Uses:

The Planning Director or Commission shall determine whether a use other than a dwelling authorized by subsection (2) of this section meets the following requirements. These requirements are designed to make the use compatible with forest operations and agriculture, and to conserve values found on forest lands:

(a) The proposed use will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands;

(b) The proposed use will not significantly increase fire hazard, significantly increase fire suppression costs, or significantly increase risks to fire suppression personnel; and

(c) A written statement recorded with the deed or written contract with the county or its equivalent is obtained from the land owner which recognizes the rights of adjacent and nearby land owners to conduct forest operations consistent with the Forest Practices Act and paragraphs (e), (l), (r), (s) and (v) of subsection (2) of this section.

(4) Lot Size Standards:

(a) The minimum lot size shall be 80 acres.

(b) Land divisions creating parcels less than 80 acres in size may be approved:

(A) For uses which have been authorized in accordance with paragraphs (a) through (n) of subsection (2) of this section. Such parcels shall be the minimum size necessary to accommodate the authorized use.

(B) To allow the establishment of a parcel for an existing dwelling, subject to the following requirements:

(i) The parcel established shall be not larger than five acres, except as necessary to recognize physical factors such as roads or streams, in which case the parcel shall be no larger than 10 acres;

(ii) The dwelling was lawfully established prior to June 1, 1995;

(iii) The remaining parcel, not containing the dwelling, is 80 acres or more in size or is consolidated with another parcel, and together the parcels are 80 acres or more in size;

(iv) The remaining parcel, not containing the dwelling, is not entitled to a dwelling; and

(v) The applicant landowner agrees to record in the deed records of the county a restriction applicable to the remaining parcel not containing the dwelling which prohibits the placement of any new dwellings on the parcel, and is irrevocable unless a statement is signed by the director indicating that the comprehensive plan or land use regulations applicable to the property have been changed in such a manner that the parcel is no longer subject to statewide planning goals pertaining to forest land; and

(vi) The applicant landowner agrees to record in the deed records of the county a statement declaring that the landowner will not in the future complain about accepted farming or forest practices on nearby lands devoted to farm or forest use..

(C) To allow the division of a lot or parcel if:

(i) At least two dwellings lawfully existed on the lot or parcel prior to November 4, 1993;

(ii) Each dwelling currently complies with the criteria for a replacement dwelling under LCC 1.1375(1)(q);

(iii) None of the dwellings was approved under a statute, administrative rule or land use regulation as defined in ORS 197.015 that required removal of the dwelling or

that prohibited subsequent division of the lot or parcel;

(iv) At least one dwelling is located on each lot or parcel created;

(v) Not more than one of the lots or parcels created is less than two acres or greater than five acres in size; and

(vi) The landowner of a lot or parcel created under this subparagraph provides evidence that a restriction prohibiting the landowner and the landowner's successors in interest from further dividing the lot or parcel has been recorded in the county deed records. A restriction imposed under this subparagraph shall be irrevocable unless a statement of release is signed by the director indicating that the land use regulations applicable to the subject lot or parcel have been changed so that the lot or parcel is no longer subject to statewide planning goals protecting forestland or unless the land division is subsequently authorized by law or by a change in a statewide planning goal for land zoned for forest use.

(c) The director shall maintain a record of parcels that do not qualify for the siting of a new dwelling under the restrictions imposed by subparagraph (v) of subparagraph (B) of paragraph (b) of this subsection and of parcels that do not qualify for division under the restrictions imposed under subparagraph (vi) of subparagraph (C) of this subsection. The record shall be readily available to the public for inspection.

(5) Non-Forest Dwellings:

(a) Tracts Not Abutting a Public Road or Perennial Stream and Tracts of Less Than 60 Acres Which Abut a Perennial Stream:

A non-forest dwelling to be sited on a tract which does not abut a road or perennial stream, or which abuts a perennial stream and is less than 60 acres in size, shall meet the following qualifications:

(A) All or part of at least 11 other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the subject tract; and

(B) At least three dwellings existed on January 1, 1993, anywhere on the other lots or parcels described in subparagraph (A) of this paragraph.

(b) Tracts of Less Than 60 Acres Which Abut a Public Road:

A non-forest dwelling to be sited on a tract which is less than 60 acres in size and which abuts a road that existed on January 1, 1993, shall meet the following qualifications:

(A) All or part of 11 other lots or parcels that existed on January 1, 1993, are within either a 160 acre square centered on the subject tract or a 160 acre rectangle 1/4 mile wide and one mile long, centered on the subject tract and, to the maximum extent possible, aligned with the road; and

(B) At least three other dwellings existed on January 1, 1993, on the other lots or parcels described in subparagraph (A) of this paragraph.

(c) Tracts of 60 Acres or Greater Which Abut a Public Road or Perennial Stream:

A non-forest dwelling to be sited on tract which is 60 acres or greater in size and which abuts a road or perennial stream shall meet the following qualifications:

(A) All or part of 11 other lots or parcels that existed on January 1, 1993, are within a 160 acre rectangle 1/4 mile wide and one mile long centered on the subject tract and, to the maximum extent possible, aligned with the road or stream;

(B) At least three other dwellings existed on January 1, 1993, on the other lots or parcels described in subparagraph (A) of this paragraph. At least one of the three dwellings shall be on the same side of road or stream as the subject tract, and shall be either within the

160 acre rectangle or within 1/4 mile of the edge of the subject tract but not outside the length of the 160 acre rectangle; and

(C) If a road crosses the subject tract, at least one of the three required dwellings shall be on the same side of the road as the proposed dwelling.

(d) Lots or parcels within urban growth boundaries shall not be counted toward satisfying the qualification requirements for any dwelling permitted under this subsection.

(e) No dwelling may be permitted under this subsection on any tract which includes a dwelling.

(f) If the lot or parcel upon which a dwelling permitted under this subsection is to be sited is part of a tract, no additional dwellings may be permitted on any other lot or parcel within the tract. Deed restrictions shall be established pursuant to and in accordance with subsection (6) of this section.

(g) All dwellings permitted under this subsection shall be located on a lawfully created lot or parcel.

(6) General Requirements for All Dwellings:

In addition to the other applicable requirements of this chapter and this section, all dwellings authorized in the T-C zone shall be subject to the following conditions:

(a) The director shall notify the county assessor of any decision to approve a dwelling in the T-C zone.

(b) Approval of a dwelling requires the owner of the tract to plant a sufficient number of trees on the tract to demonstrate that the tract is reasonably expected to meet Department of Forestry stocking requirements at the time specified in Department of Forestry administrative rules.

(c) The planning department shall notify the county assessor of the above condition at the time the dwelling is approved.

(d) The property owner shall submit a stocking survey report to the county assessor and the assessor shall verify that the minimum stocking requirements have been met by the time required by Department of Forestry Rules. The assessor shall inform the Department of Forestry in cases where the property owner has not submitted a stocking survey report or where the survey report indicates that minimum stocking requirements have not been met.

(e) Upon notification by the assessor the Department of Forestry shall determine whether the tract meets minimum stocking requirements of the Forest Practices Act. If the department determines that the tract does not meet those requirements, the department shall notify the owner and the assessor that the land is not being managed as forest land. The assessor shall then remove the forest land designation pursuant to ORS 321.359 and impose the additional tax pursuant to ORS 321.372.

(f) The applicant shall provide evidence to the governing body that the domestic water supply is from a source authorized in accordance with the Water Resources Department's administrative rules for the appropriation of ground water or surface water and not from a Class II stream as defined in the Forest Practices Rules, OAR chapter 629. For purposes of this subsection, evidence of a domestic water supply means:

(A) Verification from a water purveyor that the use described in the application will be served by the purveyor under the purveyor's rights to appropriate water;

(B) A water use permit issued by the Water Resources Department for the use described in the application; or

(C) Verification from the Water Resources Department that a water use permit is not required for the use described in the application. If the proposed water supply is from a well and is exempt from permitting requirements under ORS 537.545, the applicant shall submit the well constructor's report to the county upon completion of the well.

(g) If road access to the dwelling is by a road owned and maintained by a private party or by the Oregon Department of Forestry, the United States Bureau of Land Management, or the United States Forest Service, then the applicant shall provide proof of a long-term road access use permit or agreement. The road use permit may require the applicant to agree to accept responsibility for road maintenance.

(h) For dwellings which are approved on a tract consisting of more than one lot or parcel, the applicant shall provide copies of covenants and restrictions which:

(A) Are set forth on a form prescribed by the division and recorded in the deed records of the county;

(B) Prohibit the location of any additional dwellings on any lot or parcel which is a part of the tract; and

(C) Are irrevocable, unless a statement of release is signed by the director and the Director of the Department of Land Conservation and Development.

(i) Enforcement of the covenants and restrictions required by this section may be undertaken by the Department of Land Conservation and Development or by Lincoln County.

(j) Failure to follow the covenants and restrictions requirements of this section shall not affect the validity of the transfer of property or the legal remedies available to the buyers of property which is subject to the covenants and restrictions.

(k) The director shall maintain a copy of the covenants and restrictions filed in the county deed records pursuant to this section and a map or other record depicting tracts which do not qualify for the siting of a dwelling under the covenants and restrictions. This map or other record shall be available to the public in the division office.

(7) Siting and Fire Protection Standards for Dwellings:

The following siting fire protection standards shall apply to all new dwellings:

(a) Dwellings and structures shall be sited on the subject lot or parcel so that:

(A) They have the least impact on nearby or adjoining forest lands;

(B) The siting ensures that adverse impacts on forest operations and accepted farming practices on the tract will be minimized;

(C) The amount of forest land used to site access roads, service corridors, the dwelling and structures is minimized; and

~~(D) The risks associated with wildfire are minimized. The division or commission may impose conditions on any dwelling approval which are deemed necessary to ensure conformance with the standards contained in this paragraph, including, but not limited to, requiring increased setbacks from adjoining properties, siting on that portion of a property least suitable for growing trees, or clustering near existing dwellings or roads.~~

(b) Dwellings shall have fire retardant roofs conforming to the requirements of Section R 221.4.2.1 of the State of Oregon One and Two Family Dwelling Specialty Code, 1993 Edition.

(c) Dwellings shall be sited on slopes of 40 percent or less.

(d) A primary fire break no less than 30 feet wide shall be provided and maintained. The primary firebreak may include a lawn, ornamental shrubbery or individual or groups of

trees separated by a distance equal to the diameter of the crowns adjacent to each other, or 15 feet, whichever is greater. All trees shall be pruned to at least eight feet in height. Dead fuels shall be removed.

(e) A secondary firebreak cleared of all dead fuels shall be provided and maintained. The size of the secondary firebreak shall be:

- (A) On slopes of less than 10 percent, 50 feet beyond the primary firebreak.
- (B) On slopes of 11 to 25 percent, 75 feet beyond the primary firebreak.
- (C) On slopes of 26 to 40 percent, 100 feet beyond the primary firebreak.
- (D) On slopes greater than 40 percent, 150 feet beyond the primary firebreak.
- (f) All chimneys shall be equipped with a spark arrester.

(g) If a dwelling is to be located on a parcel that is not within a fire protection district, the applicant shall provide evidence that the applicant has asked to be included in the nearest such district.

(h) If a dwelling is to be located on a lot or parcel that is not within a fire protection district, either:

(A) The applicant shall provide evidence that residential fire protection is provided to the property by contract and that such contracted service is comparable to that generally provided by fire protection districts in the rural areas of the county; or

(B) On site fire protection means are provided. Such means shall consist of:

(i) Fire sprinkling system or systems;

(ii) On-site water storage and pumping equipment. Such a water supply shall consist of a swimming pool, pond, lake or similar body of water and at all times contains at least 4,000 gallons or a stream with a minimum flow of one CFS. Road access shall be provided to within 15 feet of the water's edge for fire fighting equipment and shall provide a turnaround for fire fighting equipment; or

(iii) Other methods which provide at least a comparable level of protection to that contained in subparagraphs (i) and (ii) of this subparagraph, and which are reasonable given site conditions.

(8) Fire Safety Design Standards for Roads:

The following standards apply to all roads and driveways which access uses permitted under subsection (1) of this section or approved under subsection (2) of this section, except for private roads accessing only commercial forest uses:

(a) Width: Access roads serving three or fewer dwellings shall have a 12 foot improved width and a 20 foot horizontal clearance. Access roads serving more than three dwellings shall have a 16 foot improved width and a 20 foot horizontal clearance.

(b) Construction: Access roads must be improved with an all weather surface. Roads, bridges and culverts shall be designed and maintained to support a minimum gross vehicle weight (GVW) of 50,000 pounds. If bridges or culverts are involved in the construction of a road or driveway, written verification of compliance with the 50,000 pound GVW standard shall be provided by a professional engineer, registered in Oregon.

(c) Vertical Clearance: Access roads shall have an unobstructed vertical clearance of not less than 13.5 feet.

(d) Turnarounds: Dead end roads over 150 feet in length shall provide a turnaround adequate for emergency vehicles.

(e) Turnouts: Access roads greater than 400 feet in length shall have turnouts at a maximum spacing of one-half the length of the access road or 400 feet, whichever is less.

Turnouts shall be required more frequently where visibility is limited. Turnouts shall be an all weather surface at least 10 feet wide and 40 feet long.

(f) Road Grade: Road grades shall not exceed 12 percent, except that a maximum of 15 percent may be permitted on pitches less than 200 feet long. Variations from these standards may be granted by the fire service having responsibility for the area when topographic conditions make these standards impractical and where the local fire protection district states that their fire fighting equipment can negotiate the proposed road grades.

(g) The applicant shall provide an as-built certification stamped by a licensed professional engineer registered in the State of Oregon verifying that road safety design standards set forth in this section have been met.

(9) Dimensional Standards:

(a) The front yard shall be a minimum of 20 feet.

(b) Each side yard shall be a minimum of five feet, or one foot for each three feet of building height, whichever is greater.

(c) The rear yard shall be a minimum of 10 feet, except for that on a corner lot the rear yard shall be a minimum of either five feet, or one foot for each three feet of building height, whichever is greater.

(d) No structure shall be located closer than 30 feet from the right of way of any state highway, and no structure shall be located closer than 30 feet from the right of way of any arterial or collector street which has a right of way width of less than 60 feet.

(e) No dwelling or residential accessory structure shall exceed a height of 30 feet.

[1994 o.347 §4; 2000 o.397 §3; 2001 o.408 §1; 2001 o.416 §3]

"Appendix B"

1.1373 Agricultural Conservation Zone A-C

In an A-C zone, the following regulations shall apply:

(1) Uses Permitted Outright:

The following uses and their accessory uses are permitted subject to the applicable provisions of LCC 1.1401 to 1.1499, 1.1501 to 1.1599 and 1.1901 to 1.1999:

- (a) Farm use as defined in ORS 215.203.
- (b) Other buildings customarily provided in conjunction with farm use.
- (c) Propagation and harvesting of a forest product.
- (d) Creation, restoration and enhancement of wetlands.
- (e) A winery as defined in ORS 215.452.
- (f) Operations for the exploration of geothermal resources as defined by ORS 522.005, oil and gas as defined by ORS 520.005, or minerals as defined by ORS 517.750.
- (g) Climbing and passing lanes within a highway right of way existing as of July 1, 1987.
- (h) Reconstruction or modification of public roads and highways, not including the addition of travel lanes, where no removal or displacement of structures would occur, and no new land parcels would be created.
- (i) Temporary public road and highway detours that will be abandoned and restored to original condition when no longer needed.
- (j) Minor betterment of existing public roads and highway related facilities, such as maintenance yards, weigh stations and rest areas within right of way existing as of July 1, 1987, and contiguous public-owned property utilized to support the operation and maintenance of public roads and highways.
- (k) Alteration, restoration or replacement of a lawfully established dwelling that:
 - (A) Has intact interior walls and roof structure;
 - (B) Has indoor plumbing consisting of a kitchen sink, toilet, and bathing facilities connected to a sanitary waste disposal system;
 - (C) Has interior wiring or interior lights;
 - (D) Has a heating system; and
 - (E) In the case of replacement, is removed, demolished or converted to a permitted nonresidential use within 90 days of completion of the replacement dwelling.
 - (L) Fire service facilities providing rural fire protection services.

(2) Conditional Uses Permitted:

The following uses and their accessory uses may be permitted subject to the applicable provisions of LCC 1.1401 to 1.1499, 1.1501 to 1.1599, 1.1601 to 1.1699, and 1.1901 to 1.1999:

- (a) One single family dwelling customarily provided in conjunction with farm use, subject to subsection (3) of this section.
- (b) One single family dwelling not provided in conjunction with farm use, subject to subsection (5) of this section.
- (c) One single family dwelling on a tract of record, meeting the following qualifications:

(A) The lot or parcel on which the dwelling is to be sited was lawfully created and was acquired by the present owner prior to January 1, 1985, or by devise or intestate succession from a person who acquired the lot or parcel prior to January 1, 1985.

(B) The tract upon which the dwelling is to be sited does not include another a dwelling.

(C) The lot or parcel upon which the dwelling is to be sited is not on high value farmland.

(D) If the tract on which the dwelling is to be sited consists of more than one lot or parcel, all lots and parcels within the tract shall be consolidated into a single lot or parcel.

(E) The director shall notify the county assessor of any decision to permit a dwelling under this subsection.

(F) As used in subparagraph (A) of this paragraph, "owner" includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent or grandchild of the owner, or a business entity owned by any one or combination of these family members.

(d) A farm help dwelling.

(e) A medical hardship dwelling.

(f) Primary processing of forest products.

(g) Public or private schools, including all buildings essential to the operation of a school, except that no such use may be authorized within three miles of an urban growth boundary, unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 4, and further that no such use may be authorized on high value farmland.

(h) Churches and cemeteries in conjunction with churches, except that no such use may be authorized within three miles of an urban growth boundary, unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 4, and further that no such use may be authorized on high value farmland.

(i) Utility facilities necessary for public service, excluding commercial utility facilities for the purpose of generating power for public use by sale and transmission towers over 200 feet in height. A facility is necessary if it must be situated in an A-C zone in order for the service to be provided.

(j) A replacement dwelling to be used in conjunction with farm use if the existing dwelling has been listed in a county inventory as historic property and is listed on the National Register of Historic Places.

(k) Processing, as defined by ORS 517.750, of aggregate into asphalt or Portland cement, except that asphalt production shall not be permitted within two miles of a producing vineyard of 40 acres or more which is planted as of the date that the application for asphalt production is filed.

(L) Farm stands.

(m) Facility for the processing of farm crops.

(3) Additional Conditional Uses Permitted that are Subject to OAR 660-33-130(5):

The following uses and their accessory uses may be permitted subject to the provisions of subsection (6) of this section and the applicable provisions of LCC 1.1401 to 1.1499, 1.1501 to 1.1599, 1.1601 to 1.1699, and 1.1901 to 1.1999:

(a) Propagation, cultivation, maintenance, and harvesting of aquatic species.

- (b) Residential home as defined in ORS 197.675 in an existing dwelling.
- (c) Commercial activities in conjunction with farm use.
- (d) Home occupation.
- (e) Dog kennels, except that such uses are prohibited on high value farmland.
- (f) Operations for the production of geothermal resources as defined in ORS 522.005, and oil and gas as defined in ORS 520.005.
- (g) Operations conducted for the mining, crushing or stockpiling of mineral, aggregate and other subsurface resources subject to ORS 215.298.
- (h) Personal use airports and heliports, including associated hangars and maintenance and service facilities.
- (i) Private parks, playgrounds, hunting and fishing preserves and campgrounds, except that such uses are prohibited on high value farmland.
- (j) Parks and playgrounds
- (k) Community centers owned by a governmental agency or nonprofit community organization and operated primarily by and for residents of the local rural community.
- (L) Golf courses, except that such uses are prohibited on high value farmland.
- (m) Transmission towers over 200 feet in height.
- (n) Commercial utility facilities for the purpose of generating power for public use by sale. A power generation facility shall not preclude more than 12 acres of high value farmland or 20 acres of other land from commercial farm use unless an exception is approved pursuant to OAR chapter 660, division 4.
- (o) A site for the disposal of solid waste approved by a city or county governing body and for which a permit has been granted by the Department of Environmental Quality under ORS 459.245, including the equipment, facilities, and buildings necessary for its operation, except that such uses are prohibited on high value farmland.
- (p) Construction of additional passing and travel lanes requiring the acquisition of right of way, but not resulting in the creation of new land parcels.
- (q) Reconstruction or modification of public roads and highways involving the removal or displacement of structures, but not resulting in the creation of new land parcels.
- (r) Improvement of public roads and highway related facilities such as maintenance yards, weigh stations, and rest areas, where additional property or right of way is required, but not resulting in the creation of new land parcels.
- (s) Propagation, cultivation, maintenance and harvesting of aquatic or insect species.
- (t) Operations for the extraction and bottling of water.

(4) Requirements for Dwellings Customarily Provided in Conjunction with Farm Use:

- (a) On land not identified as high-value farmland, a dwelling may be considered customarily provided in conjunction with farm use if:
 - (A) The parcel on which the dwelling will be located is at least 160 acres;
 - (B) The subject tract is currently employed for farm use, as defined in ORS 215.203;
 - (C) The dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land, such as planting, harvesting, marketing or caring for livestock, at a commercial scale; and
 - (D) There is no other dwelling on the subject tract.
- (b) On land not identified as high-value farmland, a dwelling may be considered customarily provided in conjunction with farm use if:

(A) The subject tract is currently employed for the farm use, as defined in ORS 215.203, that produced in the last two years, or three of the last five years, gross annual income of at least \$22,500. In determining the gross income required by this subparagraph, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract;

(B) There is no other dwelling on the subject tract; and

(C) The dwelling will be occupied by a person or persons who produced the commodities which generated the grossed income described in subparagraph (A) of this paragraph.

(c) On land not identified as high-value farmland, a dwelling may be considered customarily provided in conjunction with farm use if:

(A) The subject tract is at least as large as the median size of those commercial farm or ranch tracts capable of generating at least \$10,000 in annual gross sales that are located within a study area which includes all tracts wholly or partially within one mile from the perimeter of the subject tract;

(B) The subject tract is capable of producing at least the median level of annual gross sales of county indicator crops as the same commercial farm or ranch tracts used to calculate the tract size in subparagraph (A) of this paragraph;

(C) The subject tract is currently employed for a farm use, as defined in ORS 215.203, at a level capable of producing the annual gross sales required in subparagraph (B) of this paragraph;

(D) The subject lot or parcel on which the dwelling is proposed is not less than 10 acres;

(E) There is no other dwelling on the subject tract; and

(F) If no farm use has been established at the time of application, land use approval shall be subject to a condition that no building permit may be issued prior to the establishment of the farm use required by subparagraph (C) of this paragraph.

(d) In order to identify the commercial farm or ranch tracts to be used in paragraph (c) of this subsection, the gross sales capability of each tract in the study area including the subject tract must be determined, using the gross sales figures provided by the Land Conservation and Development Commission pursuant to OAR 660-33-135(4) as follows:

(A) Identify the study area. This includes all the land in the tracts wholly or partially within one mile of the perimeter of the subject tract;

(B) Determine for each tract in the study area the number of acres in every land classification from the county assessor's data;

(C) Determine the potential earning capability for each tract by multiplying the number of acres in each land class by the gross sales per acre for each land class provided by the LCDC pursuant to OAR 660-33-135(4). Add these to obtain the potential earning capability for each tract.

(D) Identify those tracts capable of grossing at least \$10,000 dollars based on the data generated in subparagraph (C) of this paragraph; and

(E) Determine the median size and median gross sales capability for those tracts capable of generating at least \$10,000 dollars in annual gross sales to use in subparagraphs (A) and (B) of paragraph (c) of this subsection.

(e) On land identified as high-value farmland, a dwelling may be considered customarily provided in conjunction with farm use if:

(A) The subject tract is currently employed for the farm use, as defined in ORS 215.203, that produced at least \$80,000, in 1994 dollars, in gross annual income from the sale of farm products in the last two years or three of the last five years. In determining the gross income required by this subparagraph, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract;

(B) There is no other dwelling on the subject tract; and

(C) The dwelling will be occupied by a person or persons who produced the commodities which generated the gross income described in subparagraph (A) of this paragraph.

(f) A dwelling customarily provided in conjunction with farm use shall be located on a lawfully created lot or parcel.

(5) Requirements for Dwellings Not Provided in Conjunction With Farm Use:

Dwellings not provided in conjunction with farm use may be authorized upon findings that:

(a) The dwelling or activities associated with the dwelling will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on nearby lands devoted to farm or forest use;

(b) The dwelling is situated upon a lot or parcel, or a portion of a lot or parcel, that is generally unsuitable land for the production of farm crops and livestock or merchantable tree species, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract. A lot or parcel shall not be considered unsuitable solely because of size or location if it can reasonably be put to farm or forest use in conjunction with other land. If the parcel is under forest assessment, the dwelling shall be situated upon generally unsuitable land for the production of merchantable tree species recognized by the Forest Practices Rules, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the parcel. A lot or parcel is not "generally unsuitable" simply because it is too small to be farmed profitably by itself. If a lot or parcel can be sold, leased, rented or otherwise managed as part of a commercial farm or ranch, it is not "generally unsuitable." A lot or parcel is presumed to be suitable if it is composed predominantly of Class I-IV soils. Just because a lot or parcel is unsuitable for one farm use does not mean it is not suitable for another farm use. If the parcel is under forest assessment, the area is not "generally unsuitable" simply because it is too small to be managed for forest production profitably by itself. If a lot or parcel under forest assessment can be sold, leased, rented or otherwise managed as a part of a forestry operation, it is not "generally unsuitable." If a lot or parcel is under forest assessment, it is presumed suitable if it is composed predominantly of soils capable of producing 50 cubic feet of wood fiber per acre per year. If a lot or parcel is under forest assessment, to be found compatible and not seriously interfere with forest uses on surrounding land it must not force a significant change in forest practices or significantly increase the cost of those practices on the surrounding land;

(c) The dwelling will not materially alter the stability of the overall land use pattern of the area. In determining whether a proposed nonfarm dwelling will alter the stability of the land use pattern in the area, the director or commission shall consider the cumulative impact of nonfarm dwellings on other lots or parcels in the area similarly situated. If the application involves the creation of a new parcel for the nonfarm dwelling, the director or

commission shall consider whether creation of the parcel will lead to creation of other nonfarm parcels, to the detriment of agriculture in the area; and

(d) The dwelling will be located on a lawfully created lot or parcel.

(6) Requirements for Conditional Uses Subject To OAR 660-33-130(5):

Approval of uses subject to the requirements of this subsection requires findings that such uses:

(a) Will not force a significant change in a accepted farm or forest practices on surrounding lands devoted to farm or forest use; and

(b) Will not significantly increase the cost of accepted farm or forest practices on lands devoted to farm or forest use.

(7) Additional Tax Payment Requirements:

Any conditional use approval for a non-farm use in the A-C zone shall require as a condition that, prior to final permit approval, verification be provided from the Lincoln County Assessor that any additional taxes imposed on the change in use have been paid.

(8) Lot Size Standards:

(a) The minimum lot size shall be 80 acres.

(b) Land divisions creating parcels of less than 80 acres may be permitted for non-farm uses authorized in accordance with subsection (2) or (3) of this section. Such new parcels shall be the minimum size needed to accommodate the authorized use. No new parcels for non-farm uses may be created until after the subject use has been authorized in accordance with subsections (2) or (3) of this section.

(c) New lots or parcels for dwellings not in conjunction with farm use may be permitted only if the dwelling has been authorized in accordance with subsection (2) or (3) of this section and:

(A) The remaining lot or parcel not containing the dwelling meets the minimum 80 acre parcel size of the A-C zone; or

(B) The remaining lot or parcel not containing the dwelling is consolidated with an adjoining lot or parcel which together meet the 80 acre minimum parcel size of the A-C zone.

(d) New parcels created for dwellings not in conjunction with farm use shall be a minimum of two acres.

(9) Dimensional Standards:

(a) The front yard shall be a minimum of 20 feet.

(b) Each side yard shall be a minimum of five feet, or one foot for each three feet of building height, whichever is greater.

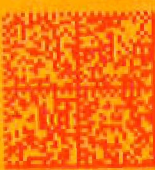
(c) The rear yard shall be a minimum of 10 feet, except that on a corner lot it shall be a minimum of either five feet, or one foot for each three feet of building height, whichever is greater.

(d) No structure shall be located closer than 30 feet from the right of way of any state highway, and no structure shall be located closer than 30 feet from the right of way of any arterial or collector street which has a right of way width of less than 60 feet.

(e) No dwelling or residential accessory structure shall exceed a height of 30 feet.

[1994 o.247 §3; 2000 o.377 §2; 2001 o.416 §2]

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