



# Oregon

Kate Brown, Governor

Department of Land Conservation and Development

635 Capitol Street NE, Suite 150

Salem, Oregon 97301-2540

Phone: 503-373-0050

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[www.oregon.gov/LCD](http://www.oregon.gov/LCD)



## NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

Date: May 06, 2016

Jurisdiction: Linn County

Local file no.: BC16-0002

DLCD file no.: 002-16

The Department of Land Conservation and Development (DLCD) received the attached notice of adopted amendment to a comprehensive plan or land use regulation on 05/04/2016. A copy of the adopted amendment is available for review at the DLCD office in Salem and the local government office.

Notice of the proposed amendment was submitted to DLCD 56 days prior to the first evidentiary hearing.

### Appeal Procedures

Eligibility to appeal this amendment is governed by ORS 197.612, ORS 197.620, and ORS 197.830. Under ORS 197.830(9), a notice of intent to appeal a land use decision to LUBA must be filed no later than 21 days after the date the decision sought to be reviewed became final. If you have questions about the date the decision became final, please contact the jurisdiction that adopted the amendment.

A 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).

If the amendment is not appealed, it will be deemed acknowledged as set forth in ORS 197.625(1)(a). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

### DLCD Contact

If you have questions about this notice, please contact DLCD's Plan Amendment Specialist at 503-934-0017 or [plan.amendments@state.or.us](mailto:plan.amendments@state.or.us)



## NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

FOR DLCD USE

File No.: 002-16 {24285}

Received: 5/4/2016

Local governments are required to send notice of an adopted change to a comprehensive plan or land use regulation **no more than 20 days after the adoption.** (See [OAR 660-018-0040](#)). The rules require that the notice include a completed copy of this form. **This notice form is not for submittal of a completed periodic review task or a plan amendment reviewed in the manner of periodic review.** Use [Form 4](#) for an adopted urban growth boundary including over 50 acres by a city with a population greater than 2,500 within the UGB or an urban growth boundary amendment over 100 acres adopted by a metropolitan service district. Use [Form 5](#) for an adopted urban reserve designation, or amendment to add over 50 acres, by a city with a population greater than 2,500 within the UGB. Use [Form 6](#) with submittal of an adopted periodic review task.

Jurisdiction: LINN COUNTY

Local file no.: **BC16-0002**

Date of adoption: 05/04/2016

Date sent: 5/4/2016

Was Notice of a Proposed Change (Form 1) submitted to DLCD?

Yes: Date (use the date of last revision if a revised Form 1 was submitted):

No

Is the adopted change different from what was described in the Notice of Proposed Change? Yes No

If yes, describe how the adoption differs from the proposal:

NONE

Local contact (name and title): OLIVIA GLANTZ

Phone: 541-967-3816

E-mail: OGLANTZ@CO.LINN.OR.US

Street address: 300 SW 4<sup>TH</sup> ST,

City: ALBANY

Zip: 97321-

### PLEASE COMPLETE ALL OF THE FOLLOWING SECTIONS THAT APPLY

#### **For a change to comprehensive plan text:**

Identify the sections of the plan that were added or amended and which statewide planning goals those sections implement, if any:

#### **For a change to a comprehensive plan map:**

Identify the former and new map designations and the area affected:

Change from F/F	to NR	1.38 acres.	A goal exception was required for this change.
Change from	to	acres.	A goal exception was required for this
change.			
Change from	to	acres.	A goal exception was required for this
change.			
Change from	to	acres.	A goal exception was required for this change.

Location of affected property (T, R, Sec., TL and address):

The subject property is entirely within an urban growth boundary

The subject property is partially within an urban growth boundary

**If the comprehensive plan map change is a UGB amendment** including less than 50 acres and/or by a city with a population less than 2,500 in the urban area, indicate the number of acres of the former rural plan designation, by type, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

**If the comprehensive plan map change is an urban reserve** amendment including less than 50 acres, or establishment or amendment of an urban reserve by a city with a population less than 2,500 in the urban area, indicate the number of acres, by plan designation, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

**For a change to the text of an ordinance or code:**

Identify the sections of the ordinance or code that were added or amended by title and number:

**For a change to a zoning map:**

Identify the former and new base zone designations and the area affected:

Change from F/F	to NR-5	Acres: 1.38
Change from	to	Acres:
Change from	to	Acres:
Change from	to	Acres:

Identify additions to or removal from an overlay zone designation and the area affected:

Overlay zone designation:	Acres added:	Acres removed:
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Location of affected property (T, R, Sec., TL and address): 16S, 03W, SECION 02, TAX LOT

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List affected state or federal agencies, local governments and special districts: LINN COUNTY ASSESSOR, LC GIS, ROAD DEPARTMENT,

Identify supplemental information that is included because it may be useful to inform DLCD or members of the public of the effect of the actual change that has been submitted with this Notice of Adopted Change, if any. If the submittal, including supplementary materials, exceeds 100 pages, include a summary of the amendment briefly describing its purpose and requirements.



LINN COUNTY PLANNING AND BUILDING DEPARTMENT

Robert Wheeldon, Director

Room 114, Linn County Courthouse
PO 100 Box, Albany, Oregon 97321
Phone 541-967-3816, Fax 541-926-2060, www.co.linn.or.us

NOTICE OF ADOPTION

RESOLUTION AND ORDER NO. 2016-122
ORDINANCE NO. 2016-123
PLANNING FILE NO: BC16-0002
APPLICANT Thaddaeus & Rochelle Akins

PROPOSAL

BC16-0002: An application by Thaddaeus & Rochelle Akins for a Comprehensive Plan map amendment and a zoning map amendment on a 1.38-acre portion of a 7.5-acre property split zoned Non-Resource (NR) & Farm/Forest (F/F) and identified on Linn County Assessor maps as T16S, R3W, Section 02, Tax Lot 277. The applicant is proposing to amend the Comprehensive Plan map designation of the 1.38-acres from Farm/Forest to Non-Resource and to amend the zoning map designation from Farm/Forest (F/F) to Non Resource-5 acre minimum (NR-5).

Board Action: Resolution and Order No. 2016-122

The Board of Commissioners (Board) adopted Resolution and Order No. 2016-122 ordering that the Linn County Comprehensive Plan Map be prepared for the amendment to designate the subject 1.38 acre portion of a 7.5 acre property Non Resource and that the Linn County Zoning Map be prepared for amendment to designate the subject 1.38-acre portion of a 7.5 acre property as Non-Resource Five Acre Minimum (NR-5); and directing County staff to prepare an ordinance and findings for adoption.

Board Action: Ordinance No. 2016-123

The Board adopted Ordinance No. 2016-123 to: (1) Amend the Comprehensive Plan Map; (2) Amend the Zoning Map; and (2) adopt decision findings to designate the 1.38 acre portion of a 7.5 acre property Non Resource on the Comprehensive Plan Map and Non-Resource Five Acre Minimum (NR-5) on the zoning map.

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. 2016-122 & Ordinance No. 2016-123 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 ordinance is available in the office of the Linn County Clerk. A fee to cover copying costs will be charged.

Robert Wheeldon signature
Robert Wheeldon
Director

5/4/16
Date

c: Linn County Assessor, Linn County GIS, Linn County Road Department, Oregon Department of Land, Conservation and Development, County Attorney

BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR LINN COUNTY

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

ORDINANCE NO. 2016-123  
(Amending Code)  
(Planning & Building Department)  
(BC16-0002)

**WHEREAS**, The Board of County Commissioners for Linn County (Board) conducted a duly advertised public hearing on April 27, 2016 for the purpose of considering the matter of proposed amendments to the *Comprehensive Plan* map and zoning map to change the Plan map and zoning map designations of a 1.38-acre portion of a 7.5 acre property identified in Linn County Assessor records as Tax Lot 277 on map T16S, R3W, Section 02;

**WHEREAS**, The proposed amendments will change the Plan map designation of the subject property from Farm/Forest to Non-Resource, and change the zoning map designation from Farm/Forest to Non-Resource – Five-acre minimum (NR-5);

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

**WHEREAS**, The findings in support of this ordinance are attached to Resolution and Order No. 2016-122 and entitled Exhibit 1, (BC16-0002 Decision Criteria, Findings and Conclusions); and, now, therefore, be it

*Ordained by the Linn County Board of Commissioners, That:*

**Section 1. Map Amendment.** LCC 900.900, *Comprehensive Plan* map, be amended to designate the 1.38-acre portion of a 7.5 acre property identified on Linn County Assessor maps as T16S, R3W, Section 02, Tax Lot 277, Linn County, Oregon, and as identified herein in Exhibit 1, as Non Resource on the Linn County *Comprehensive Plan* map.

**Section 2. Map Amendment.** Appendix 1, Zoning map, following LCC Chapter 920 [see LCC 920.010(B)] be amended to designate the 1.38-acre portion of the 7.5 acre property identified on Linn County Assessor maps as T16S, R3W, Section 02, Tax Lot 277, Linn County, Oregon, and as identified herein in Exhibit 1, as Non-Resource – Five-acre minimum (NR-5) on the Linn County zoning map.

**Section 3. 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.

**Section 4. 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 5. Effective date.** To protect the health, safety, and welfare of the citizens of Linn County, this ordinance shall take effect following adoption.

**Section 6. Codification.** Following adoption, this ordinance shall be codified pursuant to LCC Chapter 120.

Public reading held April 27, 2016.  
Adopted and passed May 4<sup>th</sup>, 2016.  
The effective date of this Ordinance shall be May 4<sup>th</sup>, 2016.

BOARD OF COUNTY COMMISSIONERS FOR LINN COUNTY

Signed May 4, 2016

Steve Druckenmiller,  
Linn County Clerk  
Recording Secretary

By \_\_\_\_\_



Roger Nyquist, Chairman

**ABSENT**

John K. Lindsey, Vice-Chairman



William C. Tucker, Commissioner

Voting  
For Against



\_\_\_\_\_

X \_\_\_\_\_

APPROVED AS TO CONTENT:



Robert Wheeldon  
Linn County Planning and Building Director


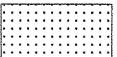
APPROVED AS TO FORM:



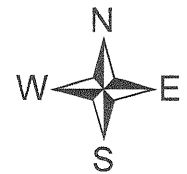
Attorney  
Linn County Legal Counsel

# Linn County Planning & Building Department



-  PIN16S03W02 00277
-  Taxlots
-  Zoning
-  Farm Forest to Non Resource  
Farm/Forest to Non Resource  
Five Acre Minimum

BC16-0002  
16S03W02 00277  
AKINS THADDAEUS J & ROCHELLE R  
7.5 acres



1 inch = 500 feet

Exhibit 1

**BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR LINN COUNTY OREGON**

IN THE MATTER OF AMENDMENTS TO)  
THE COMPREHENSIVE PLAN MAP,     )  
AND THE ZONING MAP                     )

RESOLUTION & ORDER NO. 2016-122  
Planning and Building Department  
(BC16-0002)  
(Findings and Conclusions)

**WHEREAS**, The Board of County Commissioners for Linn County (Board) conducted a duly advertised public hearing on April 27, 2016 for the purpose of considering the matter of proposed amendments to the *Comprehensive Plan* map and zoning map to change the Plan map and zoning map designations of a 1.38-acre portion of a 7.5 acre property identified in Linn County Assessor records as Tax Lot 277 on map T16S, R3W, Section 02;

**WHEREAS**, The proposed amendments would change the Plan map designation of the subject property from Farm/Forest to Non Resource, and change the zoning map designation from Farm/Forest to Non-Resource – Five-acre minimum (NR-5);

**WHEREAS**, The proposed amendments had been previously considered by the Linn County Planning Commission at a duly advertised meeting on April 12, 2016, and who voted 6-0 to recommend the Board approve the proposed amendments;

**WHEREAS**, The Board, after considering all testimony and evidence submitted, adopted a motion by unanimous consent to direct staff to prepare a resolution, ordinance, and findings for adoption of the proposed amendments; and

**WHEREAS**, The findings in support of the proposed *Comprehensive Plan* map amendment and zoning map amendment are attached hereto as Exhibit 1 (BC16-0002 Decision Criteria, Findings and Conclusion); 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 (BC16-0002 Decision Criteria, Findings and Conclusions); and


**RESOLVED**, That the Board of Commissioners for Linn County approve the proposed *Plan* map and zoning map amendments affecting the subject 1.38-acre portion of the 7.5 acre property, as identified in Exhibit 2 (Tax Lot 277 on map T16S, R3W, Section 02); and



**ORDERED**, That the Linn County *Comprehensive Plan* map and the Linn County Zoning map be prepared by county staff for amendment to designate the 1.38-acre portion of a 7.5 acre property, as shown in Exhibit 2, as Non-Resource on the *Comprehensive Plan* map and as Non-Resource – Five-acre acre minimum (NR-5) on the zoning map.

Resolved this 4<sup>th</sup>, day of May, 2016.

BOARD OF COUNTY COMMISSIONERS  
FOR LINN COUNTY



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Roger Nyquist, Chairman

**ABSENT**

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John K. Lindsey, Vice-Chairman



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William C. Tucker, Commissioner

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APPROVED AS TO CONTENT:



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Robert Wheeldon  
Director, Linn County Planning and Building

APPROVED AS TO FORM:



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Attorney  
Linn County Legal Counsel

Exhibit 1

Resolution and Order No. 2016-122

Planning File BC16-0002  
Thaddaeus & Rochelle Akins  
Residential Plan Amendment and Zone Map Amendment  
Decision Criteria, Findings and Conclusions

I. PROJECT SUMMARY AND ANALYSIS

An application by Thaddaeus & Rochelle Akins for a *Comprehensive Plan* map amendment and a zoning map amendment on a 1.38-acre portion of a 7.5-acre property split zoned Non-Resource (NR) & Farm/Forest (F/F) and identified on Linn County Assessor maps as T16S, R3W, Section 02, Tax Lot 277. The application is to amend the *Comprehensive Plan* map designation of the 1.38-acres from Farm/Forest to Non-Resource and to amend the zoning map designation from Farm/Forest (F/F) to Non Resource-5 acre minimum (NR-5). The property is located north of Mt. Tom Drive, about 900 feet east of its intersection with Wildwood Estates Loop, and about eight miles east of Harrisburg. LCC 921.822(A), 921.874(A), and 905.960 and the Oregon Statewide Planning Goals contain applicable decision criteria.

II. DECISION CRITERIA AND FINDINGS:

LCC 921.822(A), 921.874(A), and 905.960 and the Oregon Statewide Planning Goals contain applicable decision criteria.

**LCC 921.822(A):** When a Zoning Map or Land Development Code text amendment is necessary due to a proposed *Comprehensive Plan* amendment, only findings and conclusions responding to the *Comprehensive Plan* amendment criteria for decision are necessary to amend the Zoning Map or Code text.

**FACTS:** The applicant is proposing both a zoning map amendment and a *Comprehensive Plan* map amendment.

The Board finds that the application satisfies this 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*.

**FACTS:** The Linn County *Comprehensive Plan* allows for the designation of land as Non-Resource. The *Comprehensive Plan* describes these lands that are not subject to Statewide Planning Goal 3 or 4, where the land is neither suitable for farm or forest use based on a set of decision criteria. The Board finds that applying the Non-Resource comprehensive plan map designation to a portion of the property and applying a Non-Resource-5 acre minimum (NR-5) zoning district to the 1.38 acres is consistent with the *Comprehensive Plan*. Through an analysis of the property a determination was made that the applicant's property can be designated non-resource land and the *Comprehensive Plan* map and zoning map amendment should be amended.

The Board finds that the application satisfies this 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.

**FACTS:** The adjacent property sizes range between four and ten acres to the west of the subject property. The Rural Residential exception area to the west is heavily parceled and developed with single family dwellings. The properties to the east range from five to 167-acres. The areas east and south of the property are zoned Farm/Forest and are planted in trees. There are seven home sites on various lots to the east and south of the subject property.

In 2012, the Board approved the 6.18-acres for a *Comprehensive Plan* map and Zoning Map amendment to Non-Resource (BC12-0002).

The Non-Resource *Plan* designation and NR-5 zoning designation for the 1.38-acre portion of the 7.50 acre property will allow the applicants to building a single family dwelling. The size of the existing parcel would not allow for a division of the parcel. The NR-5 zoning designation allows one dwelling per parcel.

The Board finds that the application satisfies this criterion.

**FACTS:** *The previous change to the NR designation extended, by one additional dwelling, the fairly extensive existing neighborhood of dwellings on 5-10 acres in size to the west of the subject property. The current application is to increase the NR zoning designation by 1.38-acres. The 7.50-acre property is not large enough to create an additional parcel of land. Since the use type is the same as the predominant neighborhood use and the current proposal will not increase the number of dwellings, the proposal will not adversely impact the overall land use pattern in the area.*

The subject property is currently zoned Non-Resource (NR-5) and Farm/Forest (F/F), and is authorized pursuant to Linn County Code 929.920(B)(1), to construct a single family dwelling within the NR-5 portion of the subject property. A report prepared by Ronald, Derrick, a Oregon Licensed Geotechnical Engineer stated his recommendation is to move the building pad location up-slope from the previous location, which would be within the Farm/Forest (F/F) zoning district. The F/F zoning district does not allow for single family dwellings, which would prohibit the applicant from placing the dwelling in the location recommended by the geotechnical engineer.

*Although this is unproductive land as defined and described in the soil survey, it is not intermingled within a farm or forest unit. It is on the far, residential western edge of forest land further uphill and not near any agricultural lands. The application will not block any access to woodlots uphill to the east. Therefore, the site is not necessary to support farm or forest practices.*

*The site is isolated from any nearby farm units by the large rural residential lot pattern to the west. That area is characterized by homes on 5-10 acre tracts rather than farming. The site is isolated from better timber production uphill to the east by being on the far downhill edge bordering residential lots.*

*The privately owned woodlot to the east will not adversely be affected by the additional 1.38-acre amendment. The Akins property is located on the extreme*

western edge of the woodlot and does not pose any barriers to accessing the property. There is also a large buffer area that has previously been described that eliminates the chance of an adverse effect on existing forest uses.

The report by Jackson & Prochnau (Exhibit #A) and retired OSU Extension Field Crops Agent, Mark Mellbye (Exhibit #A) describes in detail how unsuited this extreme western edge is for farm or forest resource use.

Parcels within a one-half mile radius of the subject property (Map 1 of the application, Exhibit A), which shows there are a number of relatively small properties ranging in size from 4.33 acres to 100+ acres within a few hundred feet of the subject property. Most of these small properties are zoned Rural Residential-5 (RR-5). A portion of the subject property is currently zoned NR-5, and is authorized pursuant to Linn County Code 9929.920(B)(1), to construct a single family dwelling. The NR designation would only allow the already authorized dwelling and would be consistent with the RR-5 zoned properties. The Board finds that the proposal is compatible with adjacent uses and will not adversely impact the overall land use pattern.

The Board finds that the application satisfies this 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.

**FACTS:** The property is not located within a city's adopted urban growth boundary.

The Board finds that the application satisfies this criterion.

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

**FACTS:** The property is located within a peripheral big game habitat area. However the map section (Section 2) is developed with more than 32 dwellings, and is classified as "impacted" for purposes of siting a dwelling in a big game habitat area. Therefore, the dwelling siting standards within a big game habitat area are not applicable for future development on this property pursuant to LCC 903.510(B)(4). There are no sensitive fish or riparian habitats on the property. The proposal will not increase the amount of dwellings allowed, since the 7.50-acre property could not be divided.

The Board finds that the application satisfies this 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.

**FACTS:** Portions of this property have been evaluated by the Linn County Environmental Health Program (EHP) for suitability for sewage disposal systems. There is one site approval located on the 6.12-acre portion of the property currently zoned NR-5. EHP submitted comments indicating they had no objection to the proposal.

The property is located within the Harrisburg Rural Fire Protection District. The Linn County Sheriff's Department provides police protection for the property. The Sheriff's Department was provided notice of the applicant's proposal, but no comments have been received.

No drainage from a property is permitted to negatively impact a down slope property. The re-zoning of the property, by itself, will have no impact on drainage. However, future residential development would have to comply with building regulations regarding storm drainage. Storm drainage issues are addressed during the building plan and construction phase of development of a property.

The Board finds that the application satisfies this criterion.

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

**FACTS:** An existing paved, county road, Mount Tom Drive, is identified in the Linn County Transportation Plan as a local road. The subject property has access to Mount Tom Drive by way of an easement. The easement to the single family dwelling was approved pursuant to PD12-0250. Prior to issuance of a building permit for a single family dwelling, the applicant shall comply with condition of PD12-0250 for an access/driveway permit with the Linn County Road Department.

The Board finds that the application satisfies this 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 effect on land uses permitted through the amendment.

**FACTS:** No part of the property is located within an identified flood hazard area. No water quantity or quality information has been provided.

The entire property is identified in the Environmental Geology of Western Linn County, Oregon as being an area subject to mass movement topography. A report by Branch Engineering, Inc. (BEI) dated October 6, 2016 was submitted into the record. The report recommended the relocation of the building site to the area currently zoned Farm/Forest and proposed to be rezoned to Non-Resource.

The Board finds that the application satisfies this 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.

**FACTS:** Since the applicant is proposing an amendment to the Non-Resource *Comprehensive Plan* map designation, a goal exception is not required.

The Board finds that the application satisfies this criterion.

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

**GOAL 1:** The application is categorized as a Type III B application. Pursuant to Linn County Code (LCC) 935.135 staff provided legal notice of the proposal to all Property owners within 1,000 feet of the boundaries of the subject property. The legal notice was published 20 days prior to the date of the first public hearing in a newspaper of general circulation. The Planning Commission will conduct a public hearing on April 12, 2016 and the Board of Commissioners will conduct a public hearing on April 27, 2016. The public will have the opportunity to comment in writing or at either public hearing. Goal 1 is satisfied.

**Goal 2:** Linn County's Comprehensive Plan and implementing ordinances have been acknowledged by the State of Oregon Land Conservation and Development Commission. The application complies with the County's requirements for a Type III B land use action. The Non-Resource Plan designation and Zoning designations were adopted and acknowledged in 2004. Since the application states the subject property is neither farm nor forest land, and is Non-Resource land, an exception to Goal 3 and Goal 4 are not required. Goal 2 is satisfied.

**Goal 3:** As previously stated, the application indicates the property is not agricultural lands as defined in Goal 3. A letter from *retired OSU Extension Field Crops Agent, Mark Mellbye* has been submitted into the record, which states the soils are very shallow and not suitable for commercial crop production or pasture use. There are restrictive conditions that result in lack of moisture and restrictive rooting depth. Since the application states the subject property is Non-Resource lands, pursuant to LCC 905.920(A), an exception to Goal 3 is not required. Goal 3 is satisfied.

**Goal 4:** As previously stated, the record indicates the property is not forestlands as defined in Goal 4. A letter from *William Roach, Jackson and Prochnau, Inc* was submitted into the record, which states shallow soils have restricted tree growth; the soil type has a low production rating and is within a transition zone in the foothills. The report states that based on the thin soil and exposure that render the property moderately productive and is unsuitable for commercial use. Since the application states the subject property is Non-Resource lands, pursuant to LCC 905.920(A), an exception to Goal 4 is not required. Goal 4 is satisfied.

**Goal 5:** The subject property does not contain any identified open spaces, scenic or historic area or natural resources as mapped by Linn County. It does not contain any mapped wetlands, significant riparian habitat, significant big game habitat or significant wildlife habitat. Goal 5 is satisfied.

**Goal 6:** The subject property doesn't contain any streams or waterbodies, is not a significant producer of trees or other vegetation, and doesn't increase the number of home sites, it is not significant to maintain air, water or land resource quality. Goal 6 is satisfied.

**Goal 7:** The entire property is located within an area of geologic hazards. The record includes report prepared by Ronald, Derrick, a Oregon Licensed Geotechnical Engineer stated his recommendation is to move the building pad

location up-slope from the previous location, which would be within the portion of the property zoned Farm/Forest (F/F) and proposed to be rezoned to Non-Resource. The F/F zoning district does not allow for single family dwellings, which would prohibit the applicant from placing the dwelling in the location recommended by the geotechnical engineer, unless the Non-Resource zoning is applied to the property. The construction of a single family dwelling shall follow guidelines of the geotechnical engineer. Goal 7 is satisfied.

**Goal 8:** The property is not planned for any recreational site by Linn County. The property is not adjacent to any existing or planned public recreational site. Goal 8 is satisfied.

**Goal 9:** This goal does not specifically apply to individual land use application. Goal 9 is satisfied.

**Goal 10:** The proposal will have no effect on housing inventory. Goal 10 is satisfied.

**Goal 11:** The proposal is within the Harrisburg Rural Fire Protection District and the Linn County Sherriff protection area. The property will be served by a private well and septic system. There are no public storm water or public sewer or water services. Goal 11 is satisfied.

**Goal 12:** The proposal will not impact the transportation infrastructure, since there will not be an increase in the number of homes permitted. Goal 12 is satisfied.

**Goal 13:** The proposal would not have a significant impact on energy resources. Goal 13 is satisfied.

**Goal 14:** Since the application states the subject property is neither farm nor forest land and is Non-Resource lands Goal 14 is not applicable. Goal 14 is satisfied.

**Goal 15:** The subject property is approximately 20 miles from the Willamette River, therefore Goal 15 is not applicable. Goal 15 is satisfied.

**Goal 16 – 19:** Goal 16 through 19 are not applicable in Linn County.

**LCC 905.960(J)(1): The land is not predominantly SCS class I, II, III and IV soils.**

**FACTS:** In the Linn County Land Development Code, predominantly means (a) more than 50% when comparing two variables, or (b) the greatest quantity if more than two variables are compared.

Information in the National Resources Conservation Service (NRCS), formerly the Soil Conservation Service (SCS), publication Soil Survey of Linn County Area, Oregon, July, 1987, indicates the property contains approximately one hundred percent of soil identified as SCS Class VI.

The Board finds that the application satisfies this criterion.

**LCC 905.960(J)(2):** The land is not intermingled with or adjacent to SCS Class I-IV land within the same farm unit.

**FACTS:** The subject property is a single unit of land, not part of a larger farm unit, and is owned by Thaddaeus & Rochelle Akins. SCS Class III and IV soils are mapped on properties south of the subject property but the properties are not adjacent to the subject property and are not in farm use. SCS Class III and IV soils are also mapped on the adjacent property to the northeast of the subject property. The property to the northeast is not in farm use or in the same ownership as the subject property. The record includes a letter from *retired OSU Extension Field Crops Agent, Mark Mellbye, which states the soils are very shallow and not suitable for commercial crop production or pasture use. There are restrictive conditions on the subject property that result in a lack of moisture and restrictive rooting depth. Based on Mr. Mellbye findings he concludes it is not suitability for farm uses.*

The Board finds that the application satisfies this criterion.

**LCC 905.960(J)(3):** The land is not suitable for farm use taking into consideration;

- (a) Soil fertility;
- (b) Suitability for grazing;
- (c) Climatic conditions;
- (d) Existing and future availability of water for farm irrigation purposes;
- (e) Existing land use patterns;
- (f) Technological and energy inputs required; or
- (g) Accepted farming practices.

**FACTS:** Linn County has five-foot interval contour information for the subject property that shows steep slopes over much of the property. About eight percent of the property is identified as SCS Class III and IV soils. The remaining 92 percent is SCS Class VI and VII soils. A letter from *retired OSU Extension Field Crops Agent, Mark Mellbye have been submitted in to the record, which states the soils are very shallow and not suitable for commercial crop production or pasture use. There are restrictive conditions on the subject property that result in a lack of moisture and restrictive rooting depth. Based on Mr. Mellbye findings he concludes it is not suitability for farm uses.*

The Board finds that the application satisfies this criterion.

**LCC 905.960(J)(4):** The land is not necessary to permit farm practices to be undertaken on adjacent or nearby agricultural lands.

**FACTS:** Information has been previously identified regarding the surrounding land use pattern and agricultural activity. Much of the area is devoted to rural home sites with land to the east identified as forest land.

The Board finds that the application satisfies this criterion.

**LCC 905.960(J)(5):** The land is not suitable for commercial forest uses including adjacent or nearby lands which are necessary to permit forest operations or practices on commercial forest lands or other forested lands that maintain soil, air, water and fish and wildlife resources.



**FACTS:** The NRCS publication for Linn County provides soils information for the 1.38 acres that indicates the property can produce an average of 45 cubic feet/acre/year of wood fiber. A letter from retired OSU Extension Field Crops Agent, Mark Mellbye has been submitted into the record, which states the soils are very shallow and not suitable for commercial crop production or pasture use. Also, a letter from William Roach of Jackson & Prochnau Forest Resources was submitted into the record. The letter details a site visit to the property. He noted that there was not one acceptable tree to measure on the subject property or on the adjacent property.

According to the Linn County Assessor's office the subject property was in forest deferral prior to 2011. The NRCS soils survey for Linn County indicates the subject 1.38-acre portion of the property can produce 45 cubic feet/acre/year of wood fiber.

According to the record, case law has established parameters for productivity rating for commercial forestry. Land less than 20 cubic feet per acre per year (cf/ac/yr) may be unsuitable for commercial forest use unless the subject property has factors to compensate for the low productivity. The middle range of productivity (40-80 cu/ac/yr) is unlikely to be unsuitable for commercial forest use. There would need to be factors on the subject property to diminish the productivity.

The record contains testimony that the NRCS productivity rating of 45 cubic feet/acre/ year of wood fiber is not accurate. The record includes testimony that the portion of the subject property should not be required to use the methodology of "Land Use Planning Notes, Number 3, April 1998, updated for clarity April 2010" published by the Oregon Department of Forestry.

Testimony in the record included details about the subject property which contains several factors that are specific to this area. The record includes testimony that a report produced by Jackson & Prochnau states the soil depth is approximately 6" or less. The shallow soils have restricted tree growth. Evidence of this can be viewed by the timber which is small for their age and are showing mechanical defect. The trees on the site are indicative of shallow soils; the root systems are large in circumference searching for nutrients and unable to penetrate the bedrock.

Testimony was provided that the 45 cubic feet/acre/year is far less on the subject property. The Board may find that based on the testimony and evidence provided into the record that the 1.38-acre portion of the subject property has satisfied this criterion.

The Board finds that the application satisfies this criterion.

### **III. CONCLUSION**

Based on the record of the hearing before the Board of County Commissioners for Linn County (Board) and the Decision Findings identified above, the Board finds and concludes that the application to designate the subject 1.38-acre property as Non-Resource Land on the *Linn County Comprehensive Plan* map, and Non-Resource (NR-5) on the Linn County Zoning Map, satisfies the applicable decision criteria. The application and amendments are approved.

Exhibit 1

Resolution and Order No. 2016-122

Planning File BC16-0002  
Thaddaeus & Rochelle Akins  
Residential Plan Amendment and Zone Map Amendment  
Decision Criteria, Findings and Conclusions

I. PROJECT SUMMARY AND ANALYSIS

An application by Thaddaeus & Rochelle Akins for a *Comprehensive Plan* map amendment and a zoning map amendment on a 1.38-acre portion of a 7.5-acre property split zoned Non-Resource (NR) & Farm/Forest (F/F) and identified on Linn County Assessor maps as T16S, R3W, Section 02, Tax Lot 277. The application is to amend the *Comprehensive Plan* map designation of the 1.38-acres from Farm/Forest to Non-Resource and to amend the zoning map designation from Farm/Forest (F/F) to Non Resource-5 acre minimum (NR-5). The property is located north of Mt. Tom Drive, about 900 feet east of its intersection with Wildwood Estates Loop, and about eight miles east of Harrisburg. LCC 921.822(A), 921.874(A), and 905.960 and the Oregon Statewide Planning Goals contain applicable decision criteria.

II. DECISION CRITERIA AND FINDINGS:

LCC 921.822(A), 921.874(A), and 905.960 and the Oregon Statewide Planning Goals contain applicable decision criteria.

**LCC 921.822(A):** When a Zoning Map or Land Development Code text amendment is necessary due to a proposed *Comprehensive Plan* amendment, only findings and conclusions responding to the *Comprehensive Plan* amendment criteria for decision are necessary to amend the Zoning Map or Code text.

**FACTS:** The applicant is proposing both a zoning map amendment and a *Comprehensive Plan* map amendment.

The Board finds that the application satisfies this 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*.

**FACTS:** The Linn County *Comprehensive Plan* allows for the designation of land as Non-Resource. The *Comprehensive Plan* describes these lands that are not subject to Statewide Planning Goal 3 or 4, where the land is neither suitable for farm or forest use based on a set of decision criteria. The Board finds that applying the Non-Resource comprehensive plan map designation to a portion of the property and applying a Non-Resource-5 acre minimum (NR-5) zoning district to the 1.38 acres is consistent with the *Comprehensive Plan*. Through an analysis of the property a determination was made that the applicant's property can be designated non-resource land and the *Comprehensive Plan* map and zoning map amendment should be amended.

The Board finds that the application satisfies this 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.

**FACTS:** The adjacent property sizes range between four and ten acres to the west of the subject property. The Rural Residential exception area to the west is heavily parceled and developed with single family dwellings. The properties to the east range from five to 167-acres. The areas east and south of the property are zoned Farm/Forest and are planted in trees. There are seven home sites on various lots to the east and south of the subject property.

In 2012, the Board approved the 6.18-acres for a *Comprehensive Plan* map and Zoning Map amendment to Non-Resource (BC12-0002).

The Non-Resource *Plan* designation and NR-5 zoning designation for the 1.38-acre portion of the 7.50 acre property will allow the applicants to building a single family dwelling. The size of the existing parcel would not allow for a division of the parcel. The NR-5 zoning designation allows one dwelling per parcel.

The Board finds that the application satisfies this criterion.

**FACTS:** *The previous change to the NR designation extended, by one additional dwelling, the fairly extensive existing neighborhood of dwellings on 5-10 acres in size to the west of the subject property. The current application is to increase the NR zoning designation by 1.38-acres. The 7.50-acre property is not large enough to create an additional parcel of land. Since the use type is the same as the predominant neighborhood use and the current proposal will not increase the number of dwellings, the proposal will not adversely impact the overall land use pattern in the area.*

The subject property is currently zoned Non-Resource (NR-5) and Farm/Forest (F/F), and is authorized pursuant to Linn County Code 929.920(B)(1), to construct a single family dwelling within the NR-5 portion of the subject property. A report prepared by Ronald, Derrick, a Oregon Licensed Geotechnical Engineer stated his recommendation is to move the building pad location up-slope from the previous location, which would be within the Farm/Forest (F/F) zoning district. The F/F zoning district does not allow for single family dwellings, which would prohibit the applicant from placing the dwelling in the location recommended by the geotechnical engineer.

*Although this is unproductive land as defined and described in the soil survey, it is not intermingled within a farm or forest unit. It is on the far, residential western edge of forest land further uphill and not near any agricultural lands. The application will not block any access to woodlots uphill to the east. Therefore, the site is not necessary to support farm or forest practices.*

*The site is isolated from any nearby farm units by the large rural residential lot pattern to the west. That area is characterized by homes on 5-10 acre tracts rather than farming. The site is isolated from better timber production uphill to the east by being on the far downhill edge bordering residential lots.*

*The privately owned woodlot to the east will not adversely be affected by the additional 1.38-acre amendment. The Akins property is located on the extreme*

western edge of the woodlot and does not pose any barriers to accessing the property. There is also a large buffer area that has previously been described that eliminates the chance of an adverse effect on existing forest uses.

The report by Jackson & Prochnau (Exhibit #A) and retired OSU Extension Field Crops Agent, Mark Mellbye (Exhibit #A) describes in detail how unsuited this extreme western edge is for farm or forest resource use.

Parcels within a one-half mile radius of the subject property (Map 1 of the application, Exhibit A), which shows there are a number of relatively small properties ranging in size from 4.33 acres to 100+ acres within a few hundred feet of the subject property. Most of these small properties are zoned Rural Residential-5 (RR-5). A portion of the subject property is currently zoned NR-5, and is authorized pursuant to Linn County Code 9929.920(B)(1), to construct a single family dwelling. The NR designation would only allow the already authorized dwelling and would be consistent with the RR-5 zoned properties. The Board finds that the proposal is compatible with adjacent uses and will not adversely impact the overall land use pattern.

The Board finds that the application satisfies this 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.

**FACTS:** The property is not located within a city's adopted urban growth boundary.

The Board finds that the application satisfies this criterion.

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

**FACTS:** The property is located within a peripheral big game habitat area. However the map section (Section 2) is developed with more than 32 dwellings, and is classified as "impacted" for purposes of siting a dwelling in a big game habitat area. Therefore, the dwelling siting standards within a big game habitat area are not applicable for future development on this property pursuant to LCC 903.510(B)(4). There are no sensitive fish or riparian habitats on the property. The proposal will not increase the amount of dwellings allowed, since the 7.50-acre property could not be divided.

The Board finds that the application satisfies this 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.

**FACTS:** Portions of this property have been evaluated by the Linn County Environmental Health Program (EHP) for suitability for sewage disposal systems. There is one site approval located on the 6.12-acre portion of the property currently zoned NR-5. EHP submitted comments indicating they had no objection to the proposal.

The property is located within the Harrisburg Rural Fire Protection District. The Linn County Sheriff's Department provides police protection for the property. The Sheriff's Department was provided notice of the applicant's proposal, but no comments have been received.

No drainage from a property is permitted to negatively impact a down slope property. The re-zoning of the property, by itself, will have no impact on drainage. However, future residential development would have to comply with building regulations regarding storm drainage. Storm drainage issues are addressed during the building plan and construction phase of development of a property.

The Board finds that the application satisfies this criterion.

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

**FACTS:** An existing paved, county road, Mount Tom Drive, is identified in the Linn County Transportation Plan as a local road. The subject property has access to Mount Tom Drive by way of an easement. The easement to the single family dwelling was approved pursuant to PD12-0250. Prior to issuance of a building permit for a single family dwelling, the applicant shall comply with condition of PD12-0250 for an access/driveway permit with the Linn County Road Department.

The Board finds that the application satisfies this 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 effect on land uses permitted through the amendment.

**FACTS:** No part of the property is located within an identified flood hazard area. No water quantity or quality information has been provided.

The entire property is identified in the Environmental Geology of Western Linn County, Oregon as being an area subject to mass movement topography. A report by Branch Engineering, Inc. (BEI) dated October 6, 2016 was submitted into the record. The report recommended the relocation of the building site to the area currently zoned Farm/Forest and proposed to be rezoned to Non-Resource.

The Board finds that the application satisfies this 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.

**FACTS:** Since the applicant is proposing an amendment to the Non-Resource *Comprehensive Plan* map designation, a goal exception is not required.

The Board finds that the application satisfies this criterion.

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

**GOAL 1:** The application is categorized as a Type III B application. Pursuant to Linn County Code (LCC) 935.135 staff provided legal notice of the proposal to all Property owners within 1,000 feet of the boundaries of the subject property. The legal notice was published 20 days prior to the date of the first public hearing in a newspaper of general circulation. The Planning Commission will conduct a public hearing on April 12, 2016 and the Board of Commissioners will conduct a public hearing on April 27, 2016. The public will have the opportunity to comment in writing or at either public hearing. Goal 1 is satisfied.

**Goal 2:** Linn County's Comprehensive Plan and implementing ordinances have been acknowledged by the State of Oregon Land Conservation and Development Commission. The application complies with the County's requirements for a Type III B land use action. The Non-Resource Plan designation and Zoning designations were adopted and acknowledged in 2004. Since the application states the subject property is neither farm nor forest land, and is Non-Resource land, an exception to Goal 3 and Goal 4 are not required. Goal 2 is satisfied.

**Goal 3:** As previously stated, the application indicates the property is not agricultural lands as defined in Goal 3. A letter from *retired OSU Extension Field Crops Agent, Mark Mellbye* has been submitted into the record, which states the soils are very shallow and not suitable for commercial crop production or pasture use. There are restrictive conditions that result in lack of moisture and restrictive rooting depth. Since the application states the subject property is Non-Resource lands, pursuant to LCC 905.920(A), an exception to Goal 3 is not required. Goal 3 is satisfied.

**Goal 4:** As previously stated, the record indicates the property is not forestlands as defined in Goal 4. A letter from *William Roach, Jackson and Prochnau, Inc* was submitted into the record, which states shallow soils have restricted tree growth; the soil type has a low production rating and is within a transition zone in the foothills. The report states that based on the thin soil and exposure that render the property moderately productive and is unsuitable for commercial use. Since the application states the subject property is Non-Resource lands, pursuant to LCC 905.920(A), an exception to Goal 4 is not required. Goal 4 is satisfied.

**Goal 5:** The subject property does not contain any identified open spaces, scenic or historic area or natural resources as mapped by Linn County. It does not contain any mapped wetlands, significant riparian habitat, significant big game habitat or significant wildlife habitat. Goal 5 is satisfied.

**Goal 6:** The subject property doesn't contain any streams or waterbodies, is not a significant producer of trees or other vegetation, and doesn't increase the number of home sites, it is not significant to maintain air, water or land resource quality. Goal 6 is satisfied.

**Goal 7:** The entire property is located within an area of geologic hazards. The record includes report prepared by Ronald, Derrick, a Oregon Licensed Geotechnical Engineer stated his recommendation is to move the building pad

location up-slope from the previous location, which would be within the portion of the property zoned Farm/Forest (F/F) and proposed to be rezoned to Non-Resource. The F/F zoning district does not allow for single family dwellings, which would prohibit the applicant from placing the dwelling in the location recommended by the geotechnical engineer, unless the Non-Resource zoning is applied to the property. The construction of a single family dwelling shall follow guidelines of the geotechnical engineer. Goal 7 is satisfied.

**Goal 8:** The property is not planned for any recreational site by Linn County. The property is not adjacent to any existing or planned public recreational site. Goal 8 is satisfied.

**Goal 9:** This goal does not specifically apply to individual land use application. Goal 9 is satisfied.

**Goal 10:** The proposal will have no effect on housing inventory. Goal 10 is satisfied.

**Goal 11:** The proposal is within the Harrisburg Rural Fire Protection District and the Linn County Sherriff protection area. The property will be served by a private well and septic system. There are no public storm water or public sewer or water services. Goal 11 is satisfied.

**Goal 12:** The proposal will not impact the transportation infrastructure, since there will not be an increase in the number of homes permitted. Goal 12 is satisfied.

**Goal 13:** The proposal would not have a significant impact on energy resources. Goal 13 is satisfied.

**Goal 14:** Since the application states the subject property is neither farm nor forest land and is Non-Resource lands Goal 14 is not applicable. Goal 14 is satisfied.

**Goal 15:** The subject property is approximately 20 miles from the Willamette River, therefore Goal 15 is not applicable. Goal 15 is satisfied.

**Goal 16 – 19:** Goal 16 through 19 are not applicable in Linn County.

**LCC 905.960(J)(1): The land is not predominantly SCS class I, II, III and IV soils.**

**FACTS:** In the Linn County Land Development Code, predominantly means (a) more than 50% when comparing two variables, or (b) the greatest quantity if more than two variables are compared.

Information in the National Resources Conservation Service (NRCS), formerly the Soil Conservation Service (SCS), publication Soil Survey of Linn County Area, Oregon, July, 1987, indicates the property contains approximately one hundred percent of soil identified as SCS Class VI.

The Board finds that the application satisfies this criterion.

**LCC 905.960(J)(2):** The land is not intermingled with or adjacent to SCS Class I-IV land within the same farm unit.

**FACTS:** The subject property is a single unit of land, not part of a larger farm unit, and is owned by Thaddaeus & Rochelle Akins. SCS Class III and IV soils are mapped on properties south of the subject property but the properties are not adjacent to the subject property and are not in farm use. SCS Class III and IV soils are also mapped on the adjacent property to the northeast of the subject property. The property to the northeast is not in farm use or in the same ownership as the subject property. The record includes a letter from *retired OSU Extension Field Crops Agent, Mark Mellbye, which states the soils are very shallow and not suitable for commercial crop production or pasture use. There are restrictive conditions on the subject property that result in a lack of moisture and restrictive rooting depth. Based on Mr. Mellbye findings he concludes it is not suitability for farm uses.*

The Board finds that the application satisfies this criterion.

**LCC 905.960(J)(3):** The land is not suitable for farm use taking into consideration;

- (a) Soil fertility;
- (b) Suitability for grazing;
- (c) Climatic conditions;
- (d) Existing and future availability of water for farm irrigation purposes;
- (e) Existing land use patterns;
- (f) Technological and energy inputs required; or
- (g) Accepted farming practices.

**FACTS:** Linn County has five-foot interval contour information for the subject property that shows steep slopes over much of the property. About eight percent of the property is identified as SCS Class III and IV soils. The remaining 92 percent is SCS Class VI and VII soils. A letter from *retired OSU Extension Field Crops Agent, Mark Mellbye have been submitted in to the record, which states the soils are very shallow and not suitable for commercial crop production or pasture use. There are restrictive conditions on the subject property that result in a lack of moisture and restrictive rooting depth. Based on Mr. Mellbye findings he concludes it is not suitability for farm uses.*

The Board finds that the application satisfies this criterion.

**LCC 905.960(J)(4):** The land is not necessary to permit farm practices to be undertaken on adjacent or nearby agricultural lands.

**FACTS:** Information has been previously identified regarding the surrounding land use pattern and agricultural activity. Much of the area is devoted to rural home sites with land to the east identified as forest land.

The Board finds that the application satisfies this criterion.

**LCC 905.960(J)(5):** The land is not suitable for commercial forest uses including adjacent or nearby lands which are necessary to permit forest operations or practices on commercial forest lands or other forested lands that maintain soil, air, water and fish and wildlife resources.



**FACTS:** The NRCS publication for Linn County provides soils information for the 1.38 acres that indicates the property can produce an average of 45 cubic feet/acre/year of wood fiber. A letter from *retired OSU Extension Field Crops Agent, Mark Mellbye* has been submitted into the record, which states the soils are very shallow and not suitable for commercial crop production or pasture use. Also, a letter from William Roach of Jackson & Prochnau Forest Resources was submitted into the record. The letter details a site visit to the property. He noted that there was not one acceptable tree to measure on the subject property or on the adjacent property.

According to the Linn County Assessor's office the subject property was in forest deferral prior to 2011. The NRCS soils survey for Linn County indicates the subject 1.38-acre portion of the property can produce 45 cubic feet/acre/year of wood fiber.

According to the record, case law has established parameters for productivity rating for commercial forestry. Land less than 20 cubic feet per acre per year (cf/ac/yr) may be unsuitable for commercial forest use unless the subject property has factors to compensate for the low productivity. The middle range of productivity (40-80 cu/ac/yr) is unlikely to be unsuitable for commercial forest use. There would need to be factors on the subject property to diminish the productivity.

The record contains testimony that the NRCS productivity rating of 45 cubic feet/acre/year of wood fiber is not accurate. The record includes testimony that the portion of the subject property should not be required to use the methodology of "Land Use Planning Notes, Number 3, April 1998, updated for clarity April 2010" published by the Oregon Department of Forestry.

Testimony in the record included details about the subject property which contains several factors that are specific to this area. The record includes testimony that a report produced by Jackson & Prochnau states the soil depth is approximately 6" or less. The shallow soils have restricted tree growth. Evidence of this can be viewed by the timber which is small for their age and are showing mechanical defect. The trees on the site are indicative of shallow soils; the root systems are large in circumference searching for nutrients and unable to penetrate the bedrock.

Testimony was provided that the 45 cubic feet/acre/year is far less on the subject property. The Board may find that based on the testimony and evidence provided into the record that the 1.38-acre portion of the subject property has satisfied this criterion.

The Board finds that the application satisfies this criterion.





### **III. CONCLUSION**

Based on the record of the hearing before the Board of County Commissioners for Linn County (Board) and the Decision Findings identified above, the Board finds and concludes that the application to designate the subject 1.38-acre property as Non-Resource Land on the *Linn County Comprehensive Plan* map, and Non-Resource (NR-5) on the Linn County Zoning Map, satisfies the applicable decision criteria. The application and amendments are approved.

# Linn County Planning & Building Department



1 inch = 500 feet

-  PIN16S03W02 00277
-  Taxlots
-  Zoning
-  Farm Forest to Non Resource  
Farm/Forest to Non Resource  
Five Acre Minimum

BC16-0002  
16S03W02 00277  
AKINS THADDAEUS J & ROCHELLE R  
7.5 acres



Exhibit 2