

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

**BEFORE THE BOARD OF COMMISSIONERS
FOR LINCOLN COUNTY, OREGON
ORDINANCE NO. 317**

**AN ORDINANCE AMENDING LINCOLN COUNTY COMPREHENSIVE PLAN
AND ZONING MAP ON PROPERTY IDENTIFIED AS A PORTION OF TAX
LOT 101, LINCOLN COUNTY ASSESSOR'S MAP 10-09-33-D, AND
DECLARING AN EMERGENCY.**

WHEREAS the Lincoln County Planning Commission, after legal notice, held a public hearing on August 9, 1993, to consider a request to approve a Comprehensive Plan amendment from Forest Land to Agricultural Land and a Zone Change from T-C, Timber Conservation, to AC-40, Agricultural Conservation, for property owned by David T. Conner in Case File No. 3-LUPC-ZC-93; and

WHEREAS the Planning Commission unanimously voted to recommend approval of the request to the Board of Commissioners; and

WHEREAS the subject property is generally identified as the northerly portion of Tax Lot 101, Lincoln County Assessor's Map 10-09-33-D; and

WHEREAS the decision and recommendation of the Planning Commission was not appealed and, therefore, the Board need not hold another public hearing;

NOW, THEREFORE, IT IS HEREBY ORDAINED AS FOLLOWS:

1. That the Planning Commission's decision is upheld and the Comprehensive Plan designation is hereby changed from Forest Land to Agricultural Land and the zoning is hereby changed from T-C, Timber Conservation, to AC-40, Agricultural Conservation, on property described as:

Property located at milepost 21 on Highway 20, between the railroad right of way and the Yaquina River, more particularly identified as the northerly portion of Tax Lot 101, Lincoln County Assessor's Map 10-09-33-D.

The subject property is more particularly identified on the Map in Exhibit "A" which is attached hereto and incorporated herein.

2. That the findings and conclusions supporting these actions are adopted as set forth in Exhibit "B" attached hereto and incorporated herein.

3. That the Department of Planning and Development amend the official maps in the Lincoln County Clerk's Office.

///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

4. That the Lincoln County Department of Planning and Development forward a copy of this ordinance to the Department of Land Conservation and Development.

5. That this ordinance, being necessary for the immediate preservation of the public peace, health, and safety, an emergency is declared to exist and this ordinance takes effect upon its adoption.

6. That copies of this ordinance be forwarded to David Conner, 2475 Mossy Loop NE, Toledo, OR 97391; County Surveyor; County Assessor; County Counsel; and Department of Planning and Development.

DATED AND APPROVED this 29th day of September, 1993.

LINCOLN COUNTY BOARD OF COMMISSIONERS

By Nancy E Leonard
NANCY E. LEONARD, Chair

By Jean Cowan
JEAN COWAN, Commissioner

By Don Lindly
DON LINDLY, Commissioner

ATTESTED TO:
Susan Kays
SUSAN KAYS
Recording Secretary

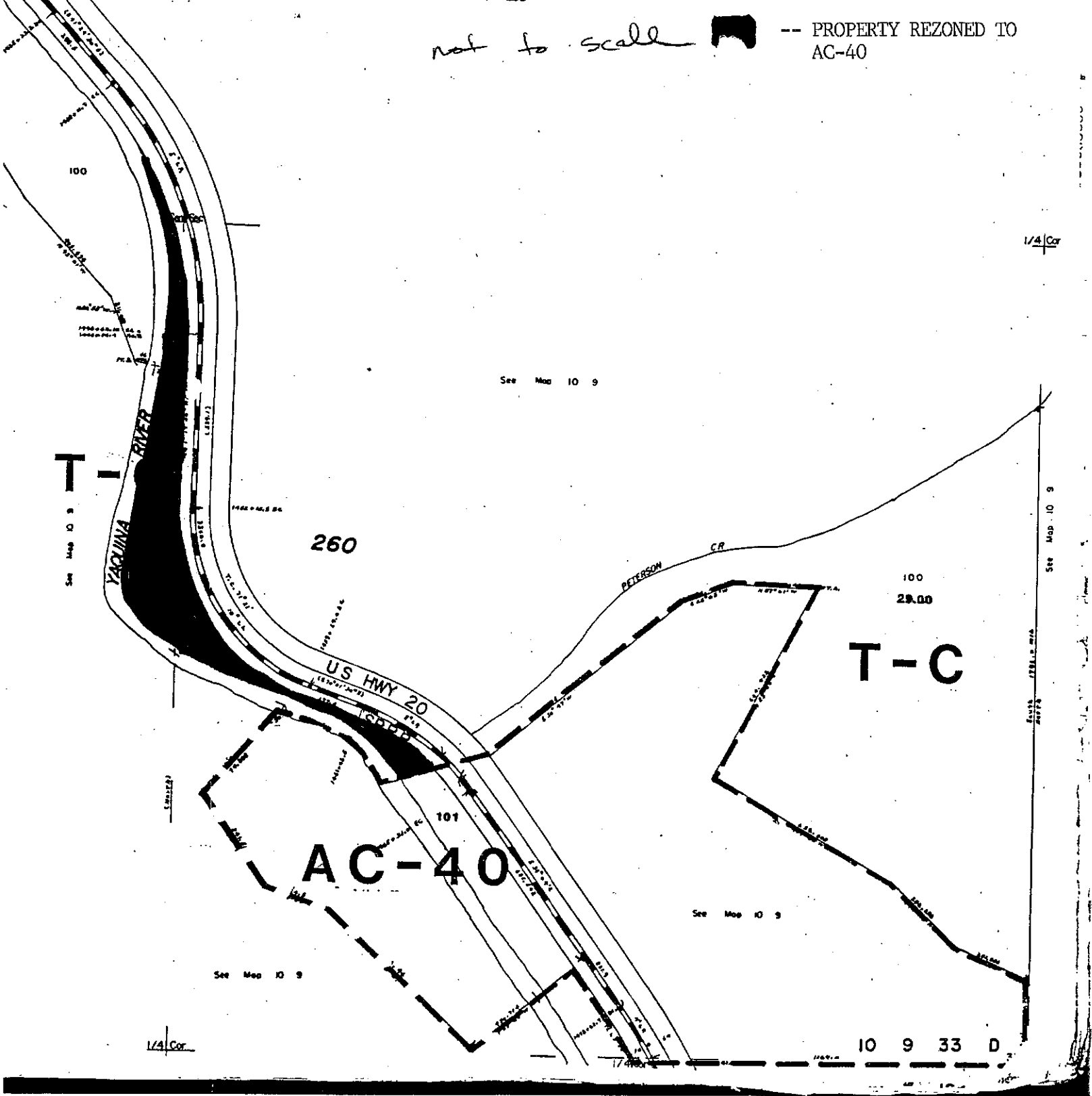
APPROVED AS TO FORM:
Wayne Belmont
WAYNE BELMONT
County Counsel

PLANNING/ordin.cpzc

Lincoln County Legal Counsel
Lincoln County Courthouse
225 W. Olive Street
Newport, Oregon 97365
Phone: 265-6611, Ext. 2308

not to scale

PROPERTY REZONED TO AC-40



1 5. The soil unit identified on the subject property is Eilertsen
2 silt loam, 0 to 5 percent slopes. According to the U.S. Soil
3 Conservation Service soil unit descriptions, this unit is well
4 suited to hay and pasture, and has a land capability class of
5 IIc.

6 6. The current zoning base maps designate an AC-40 zone which
7 follows the Yaquina River bottoms and includes the southerly
8 portion of tax lot 101.

9 7. A public hearing was held before the Planning Commission on
10 August 9, 1993, to consider the applicant's request. All
11 interested parties were given an opportunity to testify.

12 8. Testimony in support of the request was presented by the
13 applicant, who believed that the property was zoned T-C in
14 error, for the following reasons:

15 a. The property was historically used as pasture for sheep
16 prior to 1980.

17 b. Highway 20 is designated as a Scenic Highway, which presents
18 constraints to forest uses.

19 c. The property borders the Yaquina River, which is designated
20 as a class I stream. A buffer area of approximately 150
21 feet is required for timber harvest operations adjacent to
22 the river. Most of the subject property lies within this
23 buffer area.

24 ///

25 ///

26 ///

1 9. There was no testimony in opposition to the request.

2 Relevant Criteria:

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

16 2. Lincoln County Land Use Code, Section 1.1235, Quasi Judicial
17 Amendments: A Quasi-judicial amendment to the Zoning Map may be
18 authorized provided that the proposal satisfies all applicable
19 requirements of this chapter and also provided that the
20 applicant, in a quasi-judicial hearing, demonstrates the
21 following:

22 (A) That the change is in accord with the Comprehensive Plan
23 goals and policies and the Statewide Planning Goals; and

24 (B) That there has been a substantial change in the character
25 of the area since zoning was adopted and which warrants
26 changing the zone; or

1 (C) That zoning previously adopted for the area was in error;

2 or

3 (D) That there is a public need of the change being sought.

4 **Findings:**

5 The Commission finds:

6 The subject property is comprised of land which has historically
7 been used for farm use and which meets the state's definition of
8 agricultural land. The proposed amendments would therefore be
9 consistent with the Oregon Statewide Planning Goal. The zoning of
10 the subject property is most likely the result of a mapping error,
11 due to it's historical use, constraints to forest operations, and
12 soils which are well suited to the production of hay and pasture.

13 **Conclusion:**

14 The record and the findings support the conclusion that:

- 15 1. The zone change will be in accordance with the Comprehensive
16 Plan goals and policies and the Statewide Planning Goals.
17 2. The subject property was zoned T-C in error, and thereby
18 meets the requirements for a zone change.

19 **ORDER:**

20 It is hereby ORDERED by the Planning Commission of Lincoln County
21 that Case File #3-LUPC-ZC-93 be and is hereby APPROVED. This

22 ///

23 ///


24 ///

25 ///

26 ///

1 approval will serve as a recommendation to the Lincoln County
2 Board of Commissioners.

3 This ORDER was presented to and approved by the Planning
4 Commission on August 23, 1993.

5 
6 Richard Townsend, Chairperson
7 Lincoln County Planning Commission

8 **ATTEST:**

9 Ayes:
10 Noes:
11 Absent:
12 Abstain: