

91-020

BEFORE THE BOARD OF COMMISSIONERS  
FOR LINCOLN COUNTY, OREGON  
ORDINANCE NO. 343

AN ORDINANCE AMENDING LINCOLN COUNTY COMPREHENSIVE PLAN AND ZONING MAP ON PROPERTY IDENTIFIED AS TAX LOTS 301 AND 304, LINCOLN COUNTY ASSESSOR'S MAP 10-10-11, AND DECLARING AN EMERGENCY

WHEREAS the Lincoln County Planning Commission, after legal notice, held a public hearing on June 27, 1994, to consider a request by applicant Steve Nibler to approve a Comprehensive Plan amendment from Agricultural Land to Forest Land and a Zone Change from AC-40, Agricultural Conservation, to T-C, Timber Conservation, for property identified as Tax Lots 301 and 304, Lincoln County Assessor's Map 10-10-11; and

WHEREAS the Planning Commission voted 9-1 to recommend approval of the request to the Board of Commissioners; 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 Agricultural Land to Forest Land and the zoning is hereby changed from AC-40 to T-C on property described as Tax Lots 301 and 304, Lincoln County Assessor's Map No. 10-10-11. 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.

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.

Lincoln County Legal Counsel  
Lincoln County Courthouse  
225 W. Olive Street  
Newport, Oregon 97365  
Phone: 265-4108

6. That copies of this ordinance be forwarded to petitioner Steve Nibler, 1929 Logsdan Road, Siletz, OR 97380; County Surveyor; County Assessor; County Counsel; and Jay Sennewald, Department of Planning and Development.

8-18-94

DATED AND APPROVED this 17th day of August, 1994.

LINCOLN COUNTY BOARD OF COMMISSIONERS

By [Signature]  
Chair

By [Signature]  
Commissioner

By JEAN COWAN - EXCUSED  
Commissioner

ATTESTED TO:

APPROVED AS TO FORM:

[Signature]  
SUSAN KAYS  
Recording Secretary

[Signature]  
WAYNE BELMONT  
County Counsel

PLANNING/ordin.cpzc

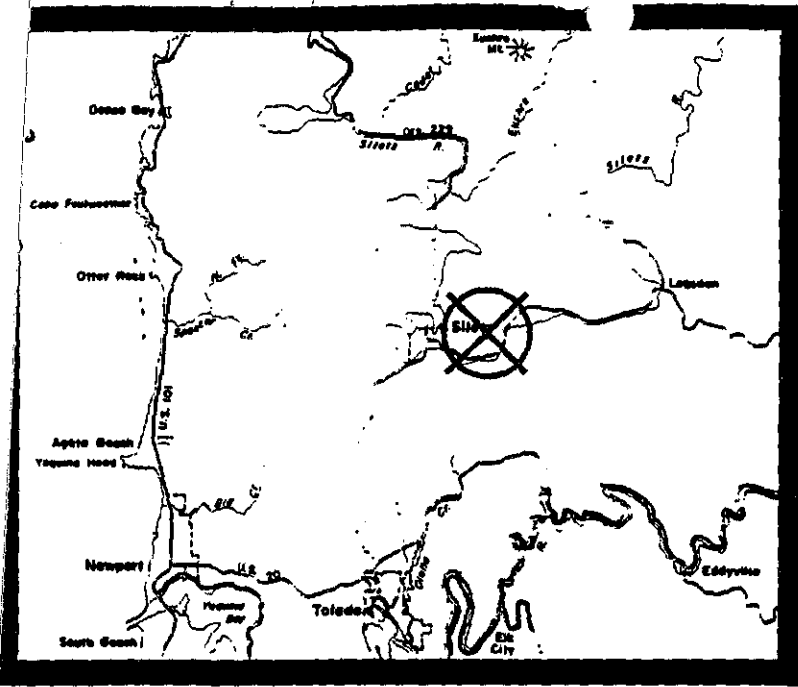
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# LOCATION MAP



#3-LUPC-ZC-94

STEVE NIBLER

# SITE MAP

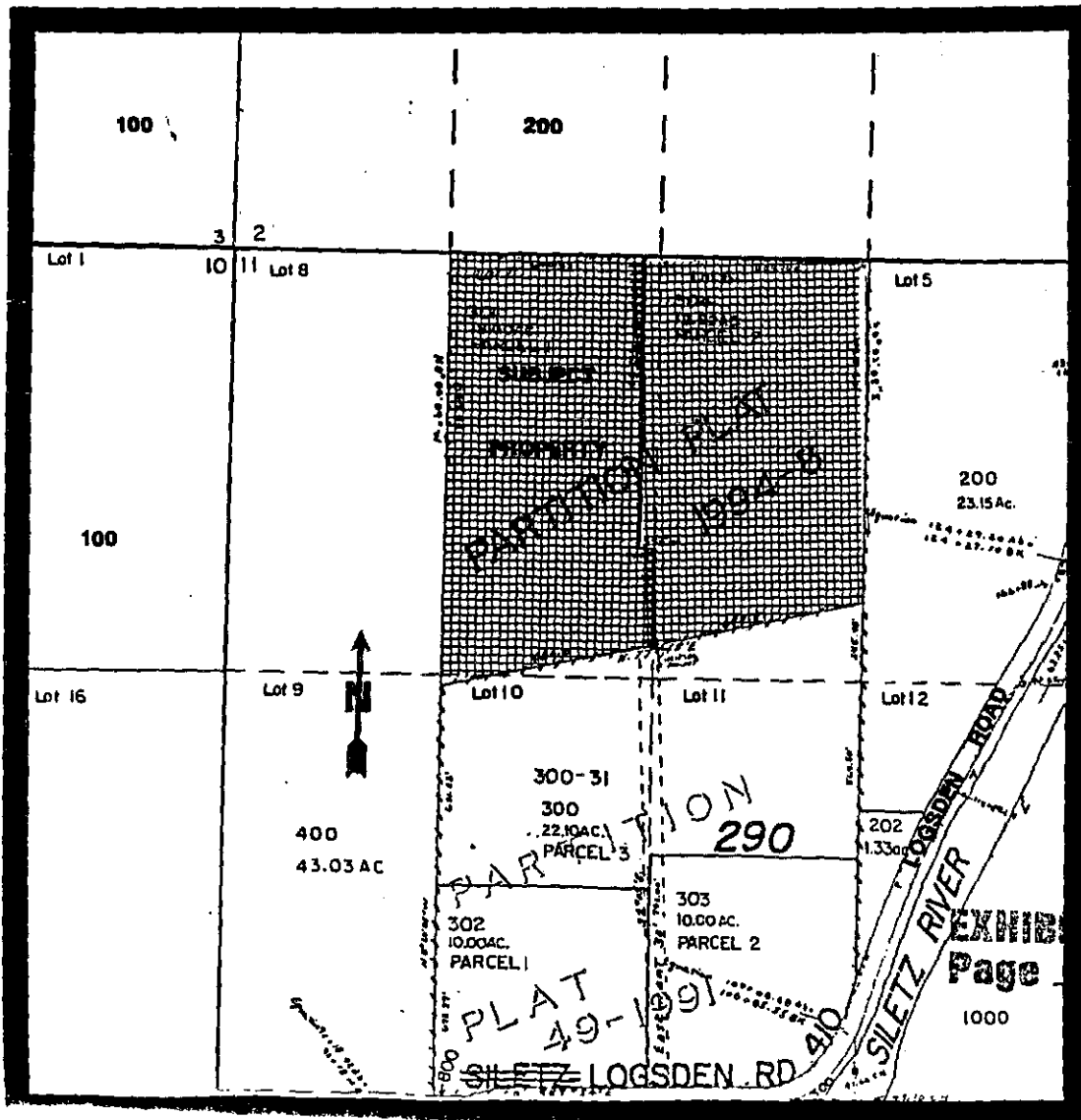


EXHIBIT  
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BEFORE THE PLANNING COMMISSION

OF

LINCOLN COUNTY, OREGON

Request for Comprehensive ) Case File #3-LUPC-ZC-94  
Plan Map Amendment and Zone )  
Change for Steve Nibler ) FINDINGS, CONCLUSIONS  
) AND FINAL ORDER

NATURE OF THE APPLICATION

The application is for a Comprehensive Plan Map Amendment from Agricultural Land to Forest Land and a Zone Change from AC-40 (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. The Comprehensive Plan designates the subject property as Agricultural Land.
2. The site is zoned AC-40, Agricultural Conservation.
3. The subject property is located on the north side of Logsdan Road (County Road #410) near milepost 2, and is further identified on Lincoln County Assessor's Map #10-10-~~10~~-11 as tax lots 301 and 304.
4. The subject property is approximately 37 acres in size and consists primarily of moderate to steep south-facing slopes. At the base of the slope is a small pasture area and the applicant's homesite. A portion of the hillside has recently been cleared of timber, with the remainder containing fir trees and other conifers.

- 1 5. The predominant soil unit identified on the subject property  
2 is Tolovana-Reedsport complex, 35 to 60 percent slopes.  
3 This soil unit is on the side slopes of mountainous areas.  
4 According to the U.S. Soil Conservation Service soil unit  
5 descriptions, this unit is well suited for the production of  
6 Douglas fir and Western hemlock. Capability subclass is  
7 VIe.
- 8 6. The current zoning base maps designate an AC-40 zone which  
9 generally follows the Siletz River bottoms and includes all  
10 of the subject property.
- 11 7. A public hearing was held before the Planning Commission on  
12 June 27, 1994, to consider the applicant's request. All  
13 interested parties were given an opportunity to testify.
- 14 8. Written testimony in support of the request was presented by  
15 the applicant, who believed that the property was zoned T-C  
16 in error, for the following reasons:
- 17 a. The property has been historically used for the  
18 production of timber.
  - 19 b. Most of the property consists of soils unsuitable for  
20 farm uses.
  - 21 c. Steep slopes on most of the property would make farm  
22 uses, including conversion to pasture impractical.
- 23 9. There was no testimony in opposition to the request.

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1 **RELEVANT CRITERIA :**

2 1. **Oregon Statewide Planning Goal 4, Forest Lands:** The

3 definition of forest land in Goal 4 reads as follows:

4 "Where a plan amendment involving forest lands is proposed,  
5 forest land shall include lands which are suitable for  
6 commercial forest uses including adjacent or nearby lands  
7 which are necessary to permit forest operations or practices  
8 and other forested lands that maintain soil, air, water and  
9 fish and wildlife resources".

10 2. **Oregon Statewide Planning Goal 3, Agricultural Lands:** The

11 definition of agricultural land in Goal 3 reads as follows:

12 "In western Oregon is land of predominantly Class I, II,  
13 III, and IV soils as defined in the Soil Capability  
14 Classification System of the United States Soil Conservation  
15 Service, and other lands which are suitable for farm use  
16 taking into consideration soil fertility, suitability for  
17 grazing, climatic conditions, existing and future  
18 availability of water for farm irrigation purposes, existing  
19 land use patterns, technological and energy inputs required,  
20 or accepted farming practices. Lands of other classes which  
21 are necessary to permit farm practices to be undertaken on  
22 adjacent or nearby lands, shall be included as agricultural  
23 land in any event."

24 3. **Lincoln County Land Use Code, Section 1.1235, Quasi Judicial**

25 **Amendments:** A Quasi-judicial amendment to the Zoning Map  
26 may be authorized provided that the proposal satisfies all

1 applicable requirements of this chapter and also provided  
2 that the applicant, in a quasi-judicial hearing,  
3 demonstrates the following:

4 (A) That the change is in accord with the Comprehensive Plan  
5 goals and policies and the Statewide Planning Goals;  
6 and

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

10 (C) That zoning previously adopted for the area was in  
11 error; or

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

13 **FINDINGS:**

14 The Commission finds:

- 15 1. The subject property is comprised of land which has  
16 historically been used for forest use and which meets the  
17 state's definition of forest land. The proposed amendments  
18 would therefore be consistent with the Oregon Statewide  
19 Planning Goal.
- 20 2. The subject property does not meet the definition of  
21 agricultural lands as described in Goal 3.
- 22 3. The zoning of the subject property is most likely the result  
23 of a mapping error, due to it's historical use, steep slopes  
24 and constraints to farm uses, and soils which are well  
25 suited to the production of timber.

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