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BEFORE THE BOARD OF COMMISSIONERS
FOR LINCOLN COUNTY, OREGON
ORDINANCE NO. 328

AN ORDINANCE GRANTING AN EXCEPTION TO OREGON STATEWIDE PLANNING GOAL 3 AND AMENDING LINCOLN COUNTY COMPREHENSIVE PLAN AND ZONING MAP ON PROPERTY IDENTIFIED AS A PORTION OF TAX LOT 1900, LINCOLN COUNTY ASSESSOR'S MAP 10-10-1, AND DECLARING AN EMERGENCY

WHEREAS the Lincoln County Planning Commission, after legal notice, held a public hearing on October 25, 1993, to consider a request by applicant Ron Anderson Custom Homes for an exception to Oregon Statewide Planning Goal 3 (Agricultural Lands), an amendment to the Lincoln County Comprehensive Plan from Agricultural to Dispersed Residential, and a Zoning Map amendment from AC-10, Agricultural Conservation, to RR-5, Rural Residential; all on property identified as a portion of Tax Lot 1900, Lincoln County Assessor's Map 10-10-1; and

WHEREAS the Planning Commission voted 4-3 to recommend approval of the request to the Board of Commissioners; and

WHEREAS after published notice in accordance with law, the Lincoln County Board of Commissioners held a hearing on the 12th day of January, 1994, to consider the statewide goal exception and the comprehensive plan and zoning amendments; and

WHEREAS at the conclusion of that hearing, the Board voted to approve the request as submitted;

NOW, THEREFORE, IT IS HEREBY ORDAINED AS FOLLOWS:

1. That the Planning Commission's recommendation is adopted and an exception to Statewide Planning Goal 3 (Agricultural Lands) is granted, the Comprehensive Plan designation is hereby changed from Agricultural to Dispersed Residential, and the zoning is hereby changed from AC-10 to RR-5 on property described as that portion of Tax Lot 1900 north of the Siletz River, Lincoln County Assessor's Map No. 10-10-1. 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.

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

4 6. That copies of this ordinance be forwarded to Jeff Waarvick, Attorney
5 for Applicant, P. O. Box 1144, Newport, Oregon 97365; County Surveyor; County
6 Assessor; County Counsel; and Department of Planning and Development.

7 DATED AND APPROVED this 19th day of January, 1994.

8 **LINCOLN COUNTY BOARD OF COMMISSIONERS**

9 By Don Rudy
10 Chair

11 By Sean Cowan
12 Commissioner

13 By Nancy Leonard
14 Commissioner

15 **ATTESTED TO:**

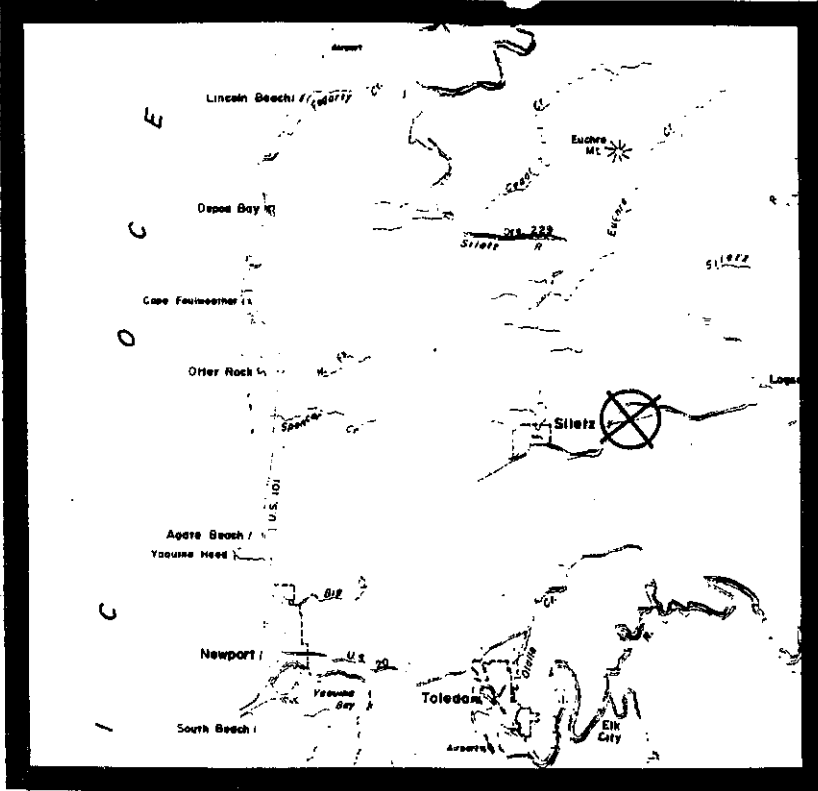
16 Susan Kays
17 **SUSAN KAYS**
18 Recording Secretary

19 **APPROVED AS TO FORM:**

20 Wayne Belmont
21 **WAYNE BELMONT**
22 County Counsel

23 PLANNING/ordin.anderson

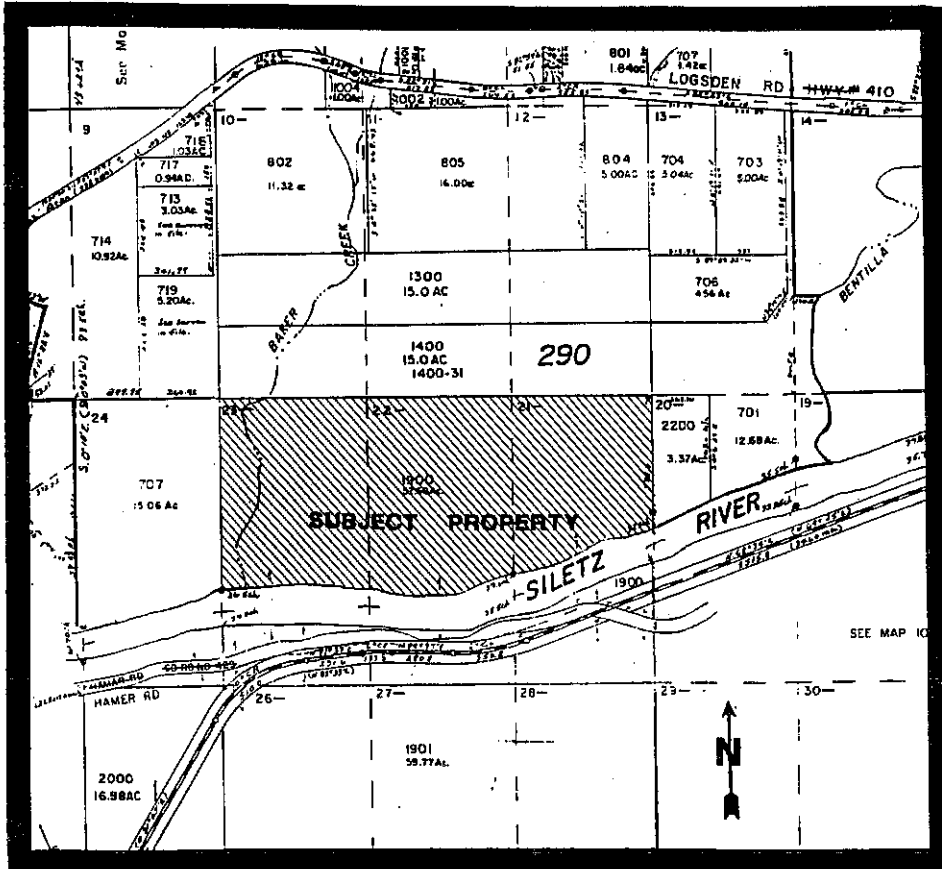
LOCATION MAP



#4-LUPC-ZC-93

**RON ANDERSON
CUSTOM HOMES, INC.**

SITE MAP



SUBJECT PROPERTY IS IDENTIFIED ON ASSESSOR'S MAP #10-10-1 AS THAT
PORTION OF TAX LOT 1900 WHICH IS NORTH OF THE SILETZ RIVER.

BEFORE THE LINCOLN COUNTY PLANNING COMMISSION

IN THE MATTER OF) NO. 4-LUPC-ZC-93
RON ANDERSON CUSTOM HOMES, INC.) FINDINGS OF FACT,
) CONCLUSIONS AND
) RECOMMENDATIONS

This matter came before the Lincoln County Planning Commission on October 25, 1993, on the request by applicant for a zone change from AC-10, Agricultural Conservation, to RR-5, Rural Residential, and a Comprehensive Plan Map Amendment from Agricultural to Dispersed Residential, and a request for an exception to Oregon Statewide Planning Goal 3, Agricultural Lands.

Based upon the record produced at the hearing, the Lincoln County Planning Commission hereby adopts the following findings:

1. The location of the applicant's property is located approximately 3.5 miles East of Siletz, Oregon along the North side of the Siletz River and is identified on Lincoln County Assessor's Map 10-10-1 as Tax Lot 1900. The property subject to this request is that part of said Tax Lot 1900 lying North of the North bank of the Siletz River and consists of approximately 37.12 acres.

2. The current planned designation is Agricultural and the zone designation is AC-10, Agricultural Conservation.

3. To the East of the subject property is a 3.37 acre parcel with a single family dwelling. To the North is a vacant 15 acre parcel and to the West another vacant 15 acre parcel. The Siletz River forms the Southern boundary of the subject property. The general land use pattern of the area consists of small scale farms interspersed with rural residences between the road and the river with sparsely developed forest lands extending into the upland regions. With regard to the 15 acre parcel to the West, two non-farm 7 1/2 acre parcels have been approved. Of the 29 tax lots within 1,000 feet of the subject property, only one is more than 20 acres in size. 19 lots are 5 acres or less in size. 20 of the 29 tax lots within 1,000 feet are improved. Within one-quarter mile of the subject property are approximately

16 existing dwellings.

4. None of the adjacent land to the East, West or North is used for commercial farming. The area directly to the South consists of industrial forest land and is separated from the exception area by the Siletz River.

5. Any residential development on the property would rely on on-site subsurface sewage disposal systems and on-site water sources. Electrical service would be provided by Consumers Power, Inc. and telephone service by U.S. West.

6. Adjacent uses are residential in nature rather than agricultural.

7. The predominant soils on the subject property are Logsdan Silt Loam, Hebo Silty Clay Loam, and Euchre Silt Loam. Less than half of the soil consists of Logsdan Silt Loam. The Logsdan Silt Loam soil is rated as Site Class 2C. However, because of the riparian area along the river, which is also a flood zone, less than 25 percent of the usable land on the subject parcel consists of Logsdan Silt Loam. The majority of the soil which is not located in the riparian area or the flood zone is the Hebo soil which is rated as Site Class 4W which has very severe limitations due to wetness. The remaining soil, Euchre Silt Loam, has a capability rating of 3W which has severe limitations due to wetness.

8. Farm uses on the exception area is limited because of its proximity to the river, low soil fertility, and the cool moist summers.

9. A horticultural consultant, Martin Thingvold, testified on behalf of the applicant. Martin Thingvold holds Bachelor of Science and Master of Agriculture degrees and was a County Agricultural Agent for the Oregon State University Extension Service for 25 years. He also teaches agriculture courses at Linn-Benton Community College. Mr. Thingvold's report and testimony supports the finding that neither the exception area nor the land adjacent to it is suited for agriculture. There is no commercial farming on adjacent lands. The fragmented ownerships and existence of small parcels would not be suited for commercial agriculture and the proximity of residences and

residential zones would inhibit the use of pesticides. Any intensive cattle operation would be impracticable because of the location of neighbors and the intendant noise and smell would raise conflicts. Of the land not located within the riparian area along the Siletz River, a significant portion of the exception area is saturated with water much of the year. The remaining portion of the Logsdan Silt Loam soil area along the Siletz River not taken up by the riparian area (which is covered by trees) would not be suitable as an agricultural parcel. It would be an irregularly shaped parcel approximately 150 feet wide by 1,900 feet long. Such a long thin parcel would be very difficult to economically manage for agriculture. Weeds such as blackberries, tansy ragwort, and salmonberries would constantly encroach upon the long thin narrow strip. Much of the Logsdan Silt Loam area is covered by stumps and debris which would cost \$1,000 per acre to convert to agricultural use. Because of the presence of wildlife, this area would also have to be fenced, which would be prohibitively expensive. The irregularly shaped parcels are not suitable for such crops as berries and it is not warm enough for such crops as tomatoes or sweet corn. This limits the crop choices to pasture and hay. In order to obtain a hay crop it would take an exceptionally dry year. Even if a hay crop was grown, the lack of hay production on nearby lands or even in the Siletz area has caused those who could hay for a living not to come to the Siletz area. In the past, services could be traded for half a hay crop. Now those services are not even available. Given the sporadic chance of the success for a hay crop, buying hay cutting and baling equipment would not be practical. The adjacent land owner to the West has attempted to grow hay and has treated his soil with tons of lime and other fertilizer. Even with this intensive application of fertilizer, the neighboring property has not been able to produce a commercial hay crop either because of rain or because of the lack of agricultural equipment in the area to harvest a crop. Although there is one commercial berry growing outfit in the Siletz area (Gibson Farms) this operation consists of 93 acre of predominately Class 2 soils with large rectangular fields which

facilitate economies of scale including the cultivation, pesticide application, harvest, fencing and crop protection. Furthermore, given the proximity of the Siletz River, intensive pesticide application is not recommended. In terms of labor supply and proximity to markets, neither of these items is amply provided for either on the exception area or on the adjacent lands. Neither the exception area nor the adjacent lands will provide the kind of economies of scale necessary in order to afford farm use of the exception area. Furthermore, the availability of water from the Siletz River during the growing season is very questionable and therefore the river could not be depended upon as a source of water for irrigation.

10. The exception area is not suited for forestry.

11. The exception area had been owned by a timber company, but the property had been sold and the timber rights retained by the timber company. The timber company recently logged the land. Although the land was logged, the logs consisted mainly of spruce, some of which were 250 years old. The land is generally too wet to grow douglas fir. Alder and spruce would grow, but productivity data is not available for marginal forest sites such as the exception area. Alder and spruce forests are not commercially established for several reasons. Alder plantations are hard to establish and collecting alder seed and growing the seedlings in a tree nursery is difficult. Planting alder seedlings and getting them to grow on forest sites at this time has a low success rate. Furthermore, on this exception area, reforestation is mandatory after harvest. Trees have to be established within a year of harvest or competing brush species would take over the forest site and reduce productivity below commercial levels. Furthermore, an alder forest is at harvest age only one-sixth as productive as a conifer stand.

12. Although spruce stands could be grown, the land is very wet and establishing a plantation would be difficult. Even if a plantation were established, the Spruce Tip Weevil is now present in all the commercial range of sitka spruce in Western Oregon. The damage it does to young spruce trees makes in unsuitable for commercial timber production at this time.

13. None of the land surrounding the subject property on the North side of the Siletz River is used for commercial forestry purposes. It would therefore be difficult to aerial spray the area to eliminate competing brush because of the large number of residences surrounding the exception area and because of the scattered standing trees left after the logging.

14. Other problems that would interfere with commercial forest management are the high water table that would limit equipment use on the property most of the year. Construction of forest use roads would be expensive because of the soil wetness increasing the amount of crushed rock that would have to be used to construct all weather forest use roads. The equipment used to harvest trees and prepare the site for reforestation would be limited by the wet soft soil and the risk of the equipment getting stuck. Trees that did grow in the wet areas would be shallow rooted and subject to wind throw.

15. There is a portion of Logsdon Silt Loam soil along the Siletz River approximately 10.9 acres in size. However, all but 6.5 acres would be in a restricted management zone within 100 feet of the Siletz River. Such a zone is off limits to almost all forest management. This narrow strip of land, approximately 150 feet wide and 1,900 feet long would be very difficult to manage for forestry for the reason that it is very narrow, the "edge effect" is detrimental to the growth of merchantable timber in that the standing timber along the river tends to shade and otherwise over tower the seedlings and younger trees retarding their growth. Furthermore, the soil on the North side of the strip of Logsdon Silt Loam, not being suited for timber, would also contribute to retarding the growth of merchantable timber in that brush would grow and over tower the seedlings, at least initially. It would be a constant battle to fight the brush along the 1,900 foot strip. Because of the shade and the adjacent timber, the long narrow strip would not dry out and therefore remain wetter, thus encouraging the growth of brush. Furthermore, generally speaking, the economies of scale that would be present with a larger piece of land are not present on a long narrow strip. The economies of scale that would otherwise

involve the large scale planning, brush control, pre-commercial thinning and logging would not be present on such a small narrow strip.

16. The Siletz River presents an effective natural barrier between resource lands and a dispersed residential area containing minimum five acre lots.

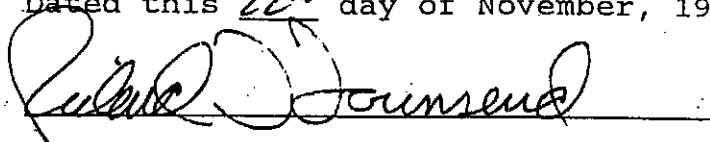
FROM THE ABOVE FINDINGS OF FACT, THE PLANNING COMMISSION ADOPTS THE FOLLOWING CONCLUSIONS:

Based upon the foregoing characteristics of the exception area, the characteristics of the adjacent lands, and the relationship between the exception area and the lands adjacent to it, all taking into account the existing adjacent uses, the parcel size and ownership patterns of the exception area and the adjacent lands, the neighborhood and regional characteristics, natural features or other impediments separating the exception area from adjacent resource lands, and information on structures, roads and utility facilities, it is hereby concluded that the exception area is irrevocably committed to non-resource uses because existing adjacent uses and other factors make those uses impracticable and the exception area was originally zoned in error.

BASED UPON THESE FINDINGS AND CONCLUSIONS, IT IS HEREBY RECOMMENDED THAT:

1. The exception to Oregon Statewide Planning Goal 3 be adopted, approved and allowed.
2. The Lincoln County Comprehensive Plan Map be amended, with regard to the exception area, from Agriculture to Dispersed Residential.
3. The zoning on the exception area be changed from AC-10, Agricultural Conservation, to RR-5, Rural Residential.

Dated this 22nd day of November, 1993.



Robert D. Townsend

