

BEFORE THE BOARD OF COMMISSIONERS
FOR LINCOLN COUNTY, OREGON
ORDINANCE NO. 356

AN ORDINANCE GRANTING AN EXCEPTION TO OREGON STATEWIDE PLANNING GOAL 3 (AGRICULTURAL LANDS) AND AMENDMENT TO LINCOLN COUNTY COMPREHENSIVE PLAN ON PROPERTY IDENTIFIED AS A PORTION OF TAX LOT 400, LINCOLN COUNTY ASSESSOR'S MAP 7-11-35C, AND AN APPROXIMATELY .04 ACRE OF TAX LOT 5000, LINCOLN COUNTY ASSESSOR'S MAP 7-11-34DA, AND DECLARING AN EMERGENCY.

WHEREAS the Lincoln County Planning Commission, after legal notice, held a public hearing on June 26, 1995, to consider a request by applicant Aimee Garrigus for an exception to Oregon Statewide Planning Goal 3 (Agricultural Lands), an amendment to the Lincoln County Comprehensive Plan from Agricultural Land to Industrial Land, and a Zoning Map change from A-C (Agricultural Conservation) to C-2 (General Commercial) on property identified as a portion of Tax Lot 400, Lincoln County Assessor's Map 7-11-35C, and an approximately .04 acre portion of Tax Lot 5000, Assessor's Map 7-11-34DA; and

WHEREAS the Planning Commission recommended approval of the exception and comprehensive plan requests and approval of the zone change under the provisions of Lincoln County Code (LCC) Section 1.1245 Intent to Rezone; and

WHEREAS after published notice in accordance with law, the Lincoln County Board of Commissioners held a hearing on October 4, 1995, to consider the statewide goal exception in accordance with law. There being no appeal of the Planning Commission's decisions, the Board separately considered the recommendations for comprehensive plan and zoning amendments; and

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

NOW, THEREFORE, IT IS HEREBY ORDAINED AS FOLLOWS:

1. That the Planning Commission's recommendation is adopted; an exception to Statewide Planning Goal 3 (Agricultural Land) is granted and the Comprehensive Plan designation is hereby changed from Agricultural Conservation to Industrial on a portion of Tax Lot 400, Lincoln County Assessor's Map 7-11-35C, and an approximately .04 acre portion of Tax Lot 5000, Assessor's Map 7-11-34DA. The subject property is more particularly identified on the Map in Exhibit "A" which is attached hereto and incorporated herein.

2. That by separate action (Resolution #95-18-9C) adopted this date, the Board shall initiate a Resolution of Intent to Rezone, LCC 1.1245, to authorize a zone change

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

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1 from A-C (Agricultural Conservation) to C-2 (General Commercial) on the subject
2 property, if all conditions are met.

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

5 4. That the Department of Planning and Development amend the official
6 comprehensive plan map in the Lincoln County Clerk's Office.

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

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

12 7. That copies of this ordinance be forwarded to County Surveyor; County
13 Assessor; Department of Planning and Development; County Counsel, and the parties
14 listed on Exhibit "C," attached hereto and incorporated herein.

15 DATED AND APPROVED this 18 day of October, 1995.

16 LINCOLN COUNTY BOARD OF COMMISSIONERS

17 By Jean Cowan
18 Chair

19 By Nancy E. Seaman
20 Commissioner

21 By Don Muddly
22 Commissioner

23 ATTESTED TO:

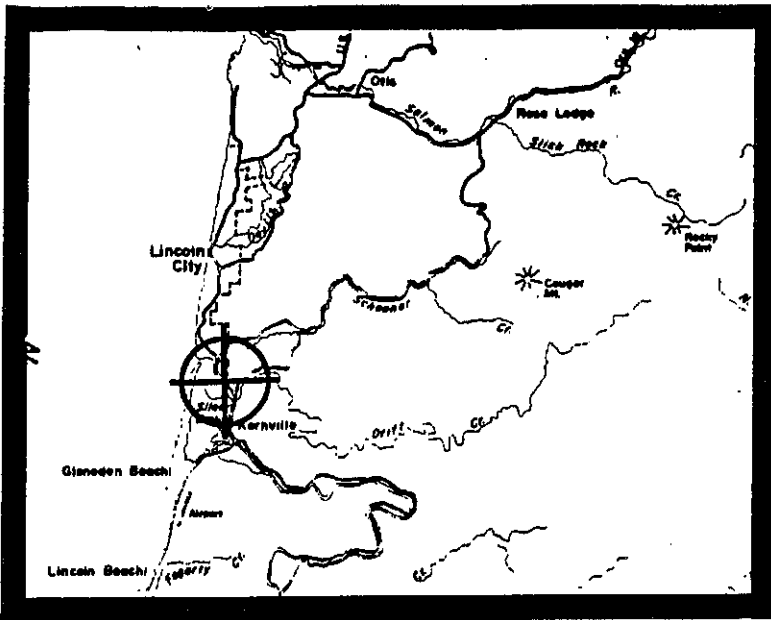
24 Susan Kays
25 SUSAN KAYS
26 Recording Secretary

APPROVED AS TO FORM:

Wayne Belmont
WAYNE BELMONT
County Counsel

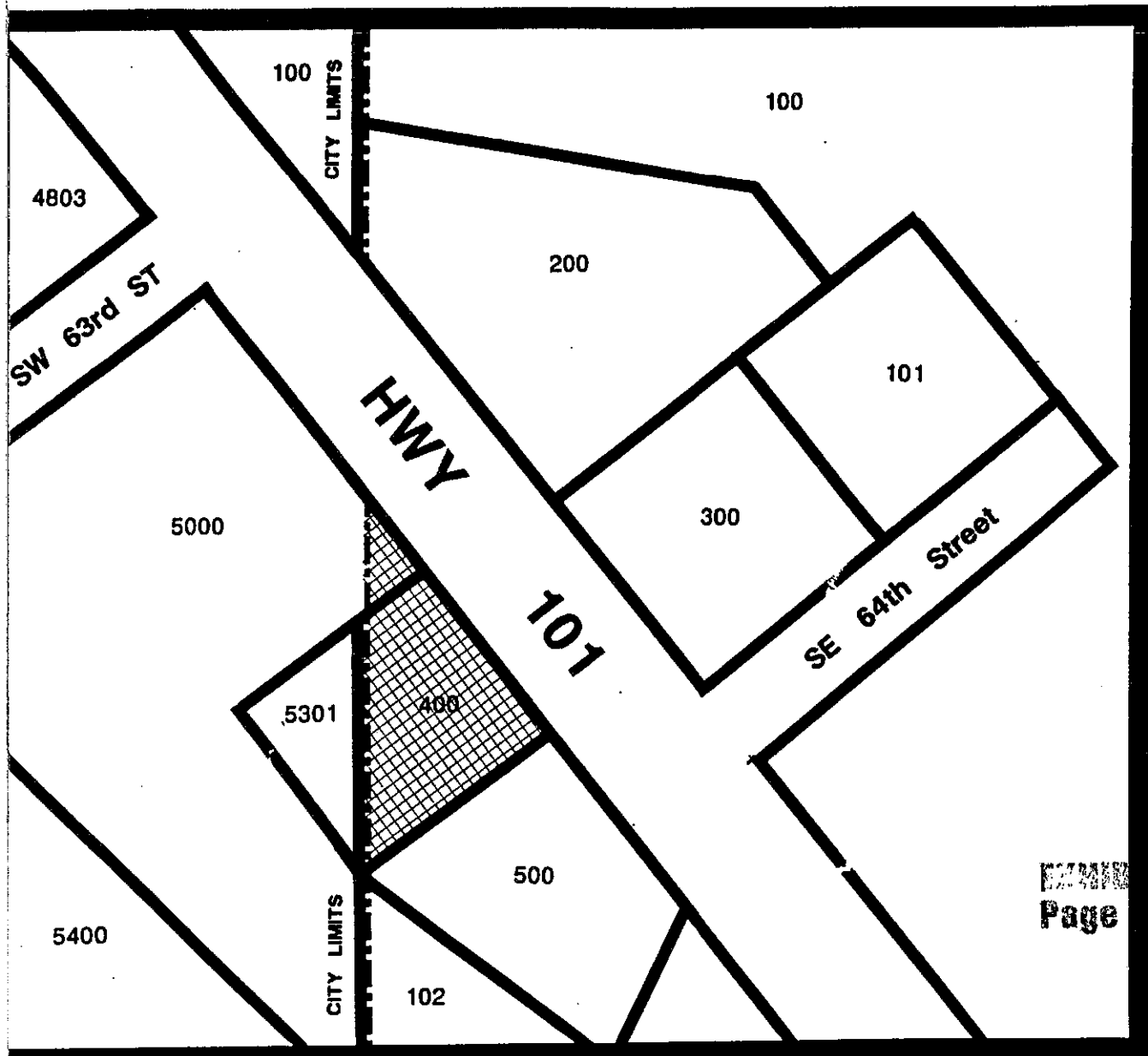
PLANNING/ordin.goal.ex.

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1-LUPC-ZC-95

AIMEE GARRIGUS



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**BEFORE THE PLANNING COMMISSION
OF
LINCOLN COUNTY OREGON**

Request for Zone Change and Comprehensive Plan Amendment by Aimee Garrigus	Case File #1-LUPC-ZC-95 Findings, Conclusion and Recommendation
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Nature of Application and Hearing

This matter came before the Lincoln County Planning Commission on June 26, 1995. The applicant requested:

- (1) A comprehensive plan and map amendment, from Agricultural Conservation A-C to Industrial;
- (2) A zoning map amendment from Agricultural Conservation A-C to General Commercial C-2; and
- (3) A Goal 2 exception to Goal 3.

Summary of Evidence Presented by the Applicant:

This application concerns slightly more than half of Tax Lot 400, Lincoln County Assessor's Map No. 7-11-35C, located in Lincoln County. The Applicant, Aimee Garrigus owns all of Tax Lot 400. The city limits of Lincoln City and the Lincoln City Urban Growth Boundary divide Tax Lot 400 into two irregular shaped pieces. The Lincoln City portion, zoned General Commercial, is a triangle of approximately 0.20 acres. The Lincoln County portion (which shall now be called the "Property"), zoned Agricultural Conservation, consists of approximately 0.23 acres, and is an irregular 4 sided shape.

The property is vacant and covered with shrubs and grasses. A small area (approximately 0.025 acres or 1,089 square feet) in the Southwest corner of the

portion of the Property in the County is a wetland. On the portion of the lot in the City, the wetland area is approximately 0.065 acres or 2,831 square feet. The wetland is bounded on the west by the paved storage area for the lumber yard.

The Property is immediately adjacent to Highway 101 and is surrounded by nonfarm uses. A lumber yard and its storage area is the adjacent use on two sides to the North and West. Highway 101 runs from along the eastern side, and directly across Highway 101 is "Streetcar Village" a commercial strip development with small shops. Consequently commercial uses and zoning are on three sides of the Property. There is a single family residence on a half-acre lot (Tax Lot 500) on the fourth side to the South. The property further South and West beyond the residential lot and the lumber storage area is a wetland area zoned for agricultural use.

The applicant owns the property to the North and West and rents it to the commercial lumber yard. Currently there are no viable agricultural uses for the property because of the small lot size, its irregular shape, and the wetlands on the western edge. The surrounding non agricultural development prevents the Property from being combined with other land for an agricultural use.

The applicant proposes to expand the existing lumber storage area onto the lot. This will not create any conflicts with any resource uses because none are adjacent and because the lumber storage use is not inconsistent with resource uses.

This peculiar situation of a small lot surrounded by non-agricultural uses, but zoned one half for agricultural uses, and half for non-agricultural uses arose when the local governments of Lincoln City and Lincoln County drew the City-County boundary along the Section line, and by mistake divided a small lot in single ownership into two pieces divided by the City-County boundary.

Criteria and Findings:

Zoning Ordinance

LINCOLN COUNTY ZONING ORDINANCE § 1.1235 states that a quasi-judicial amendment to the comprehensive plan and zoning maps may be authorized, provided that the proposal satisfies all applicable requirements of the zoning ordinance and also provided that the applicant, in a quasi judicial hearing, demonstrates that the change is in accord with the Comprehensive Plan goals and policies or the Statewide Planning Goals and:

- (1) *** or
- (2) *That zoning previously adopted for the area was in error; or*
- (3) ***

Finding: The agricultural zoning designation for the property was a clerical mapping error. The decision to divide Tax Lot 400 in half, leaving the one half of the small lot outside the urban growth boundary, surrounded by development, and zoned for agricultural use made no sense when it was done and makes no sense now. Since it divides a small parcel in one ownership, and renders much of it totally useless, it must have been done and acknowledged in error.

Comprehensive Plan Goals and Policies.

An amendment of the Lincoln County Comprehensive Plan (LCCP) to redesignate the Property as Industrial requires application of the LCCP agricultural lands policies. The LCCP sets out the county's agricultural lands policies at § 1.0075. Policies (4)-(7), which deal with residences, do not apply to this application and are not discussed further. Policies (9)-(10) state definitions and do not require any response. Policies (1)-(3) and (8) are discussed below:

(1) *Lincoln County shall designate, preserve and maintain agricultural land for farm use consistent with existing and future needs for agricultural products, forest and open space.*

Finding: Because of its small size, and the surrounding commercial and residential uses the Property cannot be put to farm use. There is no reason to preserve it in its present, nonproductive state.

(2) *Lincoln County shall convert agricultural land to urbanizable land [etc.].*

Finding: This criterion does not apply. The proposal does not require the conversion of agricultural land to urbanizable land.

(3) *Lincoln County shall ensure that designated agricultural lands are protected from encroachment of incompatible land use.*

Finding: Since the property is surrounded by nonagricultural uses which separate it from agricultural activities, this requirement is met. There is no likelihood that agricultural activities, such as spraying or raising livestock, would have an adverse impact on the use of the Property as a lumber storage yard.

(8) *Lincoln County shall establish lot sizes appropriate for the continuation of existing commercial agriculture.*

Finding: Lincoln County has established 80 acres as the appropriate lot size. LINCOLN COUNTY ZONING ORDINANCE § 1.373(8). The disparity between that number and 0.23 acres accentuates the oddity of the present zoning of this isolated parcel, which cannot be aggregated with any adjacent parcels and put to agricultural use.

Statewide Planning Goal Exceptions

The proposed rezoning is consistent with the statewide planning goals, which allow for exceptions when existing development make the present zoning inappropriate. Goal 2, Part II provides:

A local government may adopt an exception to a goal when:

** * * **

(b) The land subject to the exception is irrevocably committed to uses not allowed by the applicable goal because existing adjacent uses and other relevant factors make uses allowed by the applicable goal impracticable.

The purpose of Goal 3 is to preserve and maintain agricultural lands. the applicant proposes removing the 0.23 acre Property from the inventory of

agricultural lands. Findings made pursuant to OAR 660-04-028(1) are set forth below:

1) There is no development on the Property. The lot size and irregular shape make agricultural use impractical.

2) The surrounding lots are developed for either commercial or residential uses.

- The lot bordering on the Southeast property line is .5 acres and a residence.
- Immediately east of the subject property is a 0.20 acre parcel in the city which is zoned commercial but has no access except through the subject property.
- The lot on two sides to the North and West of it is 1.7 acres, and it is fully developed with a lumber yard and lumber storage. This lot is in common ownership with the subject property.
- Highway 101 is on the Northeast boundary line of the property. Across 101 to the Northeast is a 0.95 acre lot which is developed for commercial use.
- There is one larger lot to the South but touches the subject property at only a single point and it does not share a common boundary line with the subject property.
- The south corner of the property and the point where it touches the larger lot is part of a wetland and could not practically be used for agricultural purposes.
- Other non-adjacent lots in the area include lots of .8 acres; 0.23 acres; 0.69 acres; and 7.52 acres.

The lots are not in common ownership except as noted above. The existing parcelization is indicated by the site map.

3) The subject property is a vacant lot in the middle of existing development. A large lumber yard building is adjacent. Non-resource development of the property will not encourage non-resource development of other agriculturally zoned property because no other agriculturally zoned lots in the area are so small and similarly surrounded by non-resource uses. Development on this lot would be separated from resource uses by existing development.

4) Public facilities are available to the site except for sanitary sewer. Access to the area is by highway 101

Comprehensive Plan and Zoning Designation

The appropriate Lincoln County Comprehensive Plan ("LCCP") designation for the Property is "Industrial." Section 1.0190(8) (Plan Designations) characterizes Industrial zoning as follows: *"This area is provided to accommodate the more intensive and large scale commercial enterprises and industrial uses. Uses such as implement sales, storage or repairs, lumber or building materials sales and storage, and tire sales and repair are primary. Uses which require special standards such as quarrying pulp mill, gas or petroleum manufacturing, airport, and auto wrecking may be included by County review."*

Finding: The adjacent lumber yard to the north and west is a use that fits in the county's definition of industrial uses and the proposed use and zoning designation by the applicant is a natural infill of development within an existing developed area. The property on 3 sides is in commercial use.

The record and the findings support the following conclusions:

1. The proposed zone change will be in accordance with the County Comprehensive Plan, Goals and Policies and the Statewide Planning Goals;
2. The proposed comprehensive plan amendment will be in accordance with the County Comprehensive Plan, Goals and Policies and the Statewide Planning Goals;
3. The property is irrevocably committed to non-resource use because the adjacent non-resource uses and the small lot size make resource uses impracticable;
4. The original zoning of the property as agricultural land was a mistake inadvertently made and should be corrected.
5. The following conditions are recommended to reduce potential impact on adjacent property.
 - a) The applicant shall be required to submit a site plan for Planning Department approval which establishes set backs and other methods to prevent additional impact on the wetland.
 - b) The applicant's use of the property shall be limited to lumber storage.
 - c) The applicant shall establish a vegetative screen along Highway 101.

Recommendation:

It is hereby ordered by the Planning Commission of Lincoln County that the application for a zone change, comprehensive plan change and exception in case file No. 1-LUPC-ZZ-95 is hereby recommended for approval to the Lincoln County Board of Commissioners subject to the conditions set forth above.

This order was presented to and approved by the Planning Commission on _____ day of _____, 1995.

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