

1 **BEFORE THE BOARD OF COMMISSIONERS**

2 **FOR LINCOLN COUNTY, OREGON**

3 ORDINANCE # 402

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6 **Amending the Comprehensive Plan and Zoning Map on Property Identified as Tax Lot**
7 **300, Lincoln County Assessor's Map 11-9-12; and declaring an emergency.**
8 _____

9 WHEREAS the Lincoln County Planning Commission, after legal notice, held a public
10 hearing on September 11, 2000, to consider a request by Betty Wakefield Liska and Nancy
11 Hiatt to approve a Comprehensive Plan Map amendment from Agricultural Land to Forest
12 Land and a zone change from AC (Agricultural Conservation) to TC (Timber Conservation)
13 for property generally identified as Tax Lot 300, Lincoln County Assessor's Map 11-9-12;
14 Case File Nos. 1-ZC-PC-00 and 1-LUPC-PC-00, and

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

17 WHEREAS the Board of Commissioners, after legal notice, held a public hearing on
18 November 8, 2000, and voted unanimously to approve the decision and recommendations of
19 the Planning Commission;

20 The Lincoln County Board of Commissioners ordains as follows:

21 **SECTION 1.**

22 The Comprehensive Plan designation is hereby changed from Agricultural Land to
23 Forest Land and the zoning is hereby changed from AC (Agricultural Conservation) to TC

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing ordinance to be omitted. New sections are in **boldfaced** type.

1 (Timber Conservation) on property described as Tax Lot 300, Lincoln County Assessor's Map
2 11-9-12, and further identified on the map attached hereto as Exhibit "A."

3 **SECTION 2.**

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

6 **SECTION 3.**

7 Copies of this ordinance be forwarded to applicants Betty Wakefield Liska & Nancy
8 Hiatt, 405 S 31st Street, Philomath, OR 97370 and to Betty Wakefield Liska at PO Box
9 675391, Rancho Santa Fe, CA 92067; County Surveyor; County Assessor; County Counsel;
10 and Department of Planning and Development. *Mailed 11-29-00*

11 **SECTION 4.**

12 The Department of Planning and Development shall amend the official maps in the
13 Lincoln County Clerk's Office and shall forward a copy of this ordinance to the Department of
14 Land Conservation and Development.

15 **SECTION 5.**

16 This Ordinance being necessary for the immediate preservation of the public peace,
17 health and safety, an emergency is declared to exist and this Ordinance shall take effect upon

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NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing ordinance to be omitted. New sections are in **boldfaced** type.

1 its passage.

DATED this 22nd day of November, 2000.

LINCOLN COUNTY BOARD OF COMMISSIONERS



JEAN COWAN, Chair

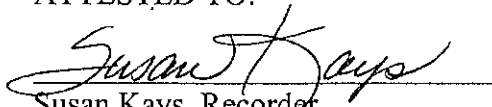


KAREN L. GERTTULA, Commissioner



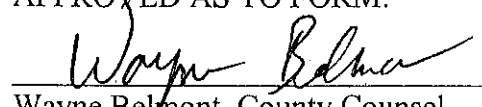
DON LINDLY, Commissioner

ATTESTED TO:



Susan Kays, Recorder

APPROVED AS TO FORM:



Wayne Belmont, County Counsel

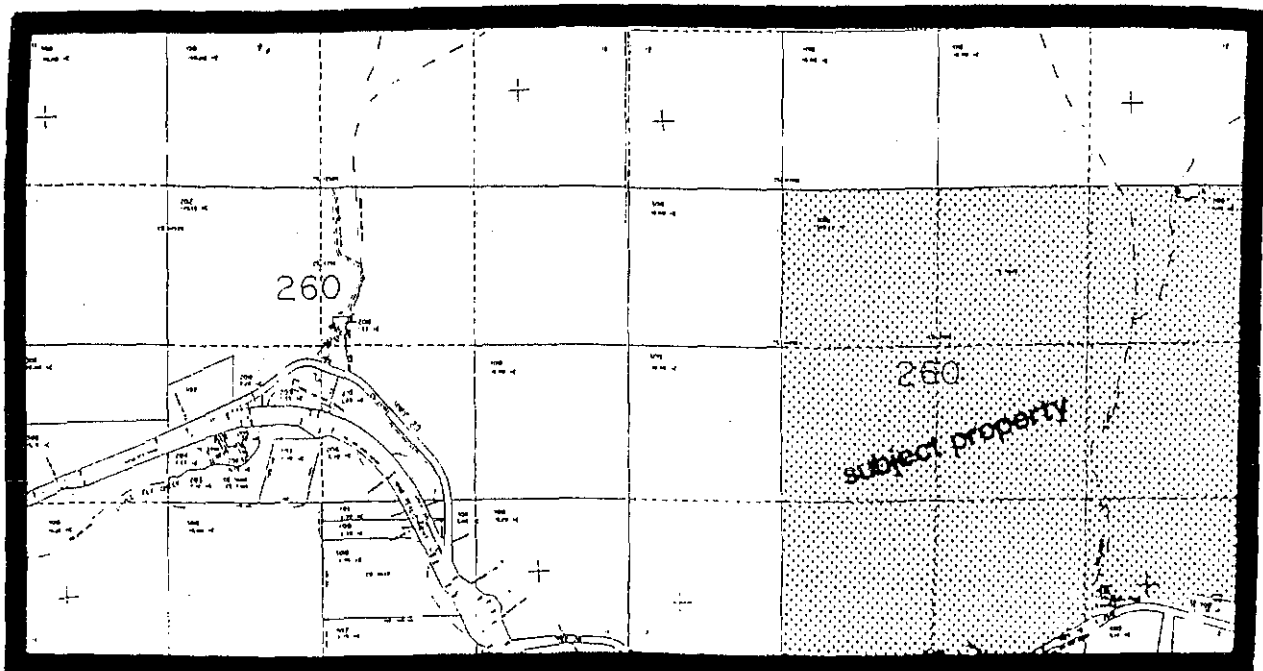
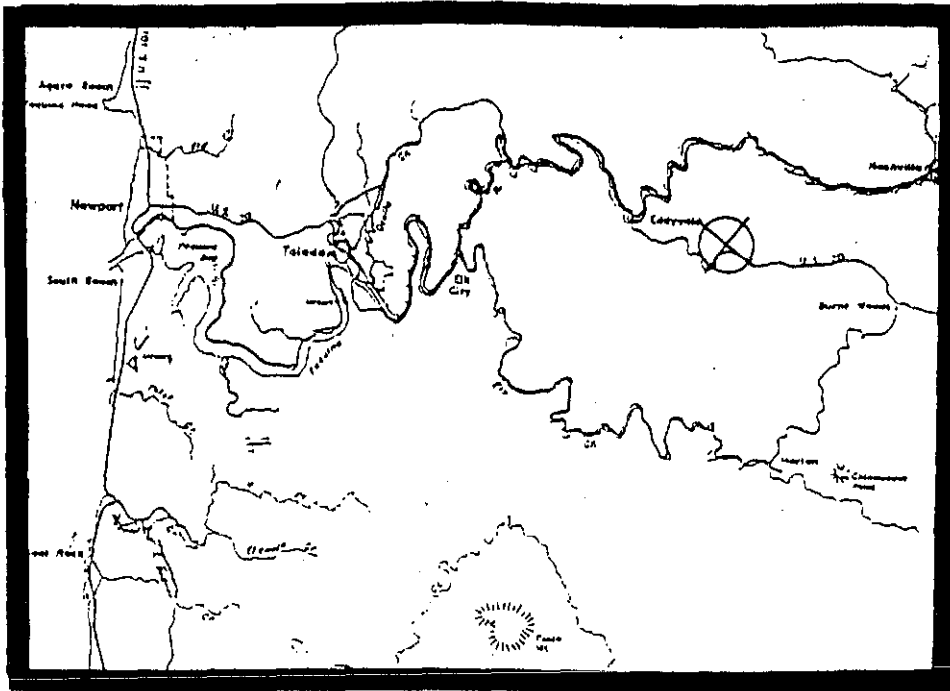
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Applicant. Betty Wakefield Liska

Case File #1-LUPC-PC-00

#1-ZC-PC-00



PARTION PARCEL 2 - BETTY WAKEFIELD LISKA & NANCY K. HIATT

CASE FILE # 12-Par-Adm-00

Description of new partition parcel, Wakefield Property
SECTION 12 AND 13, T11 S, R 9 W, W.M., Lincoln County, Oregon

Beginning at the CS1/16 corner, Section 12, T 11 S, R 9 W, W.M., Lincoln County, Oregon; **thence** West along the east-west centerline of the Northwest 1/4, Section 12, 1306 feet to the NW1/16 corner of Section 12; **thence** South, along the north-south centerlines of the NW1/4 and the SW1/4 of Section 12, 3875 feet to the west 1/16 on the Section line between Sections 12 and 13; **thence** N89° 59' 43" E, 1287.0 feet to the south 1/4 corner for Section 12; **thence** N89° 20' 02" E, 306.28 feet, more or less to the center of Schoolhouse Creek, said point being described in Lincoln County Deed MF208, page 862, and being West, 140 rods (2310 feet) from the southeast corner of Section 12; **thence** following the center-line of Schoolhouse Creek S46° 20' 51" E, 170.03 feet, and S63 °47' 28" E, 112.83 feet to the north right-of-way of Wakefield Road (formerly U.S. Highway 20); **thence** leaving creek center-line and following said north right-of-way N57° 22'14" E, 457.65 feet; **thence** leaving said right-of-way and running N26° 32' 34" E, 494.74 feet; **thence** S60° 58' 35" E, 89.76 feet; **thence** N29° 01' 25" E, 150.00 feet; **thence** N60° 58' 35" W, 89.76 feet; **thence** N20° 18' 23" W, 3431.26 feet to the Point of Beginning being the CS 1/16 corner of Section 12.

Oct. 31, 2000
Partition Parcel 2 - Betty Wakefield Liska and Nancy K. Hiatt

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BEFORE THE PLANNING COMMISSION

OF

LINCOLN COUNTY, OREGON

Comprehensive Plan Map) Case File #1-LUPC-PC-00
Amendment and Zone Change;) #1-ZC-PC-00
Applicant: Betty and Bruce Liska) Findings, Conclusions, and Final Order

Nature of the Application

The applicant is requesting a comprehensive plan map amendment from Agricultural Land to Forest Land and a zone change from AC (Agricultural Conservation) to TC (Timber Conservation).

Relevant Facts

The following is a summary of the facts and testimony found to be relevant to this decision.

1. The subject property in its entirety is approximately 343.84 acres in size. The area of land, which is the subject of the proposed comprehensive plan map amendment and zone change, is a 174- acre portion of the 343.84- acre parcel. A map identifying the 174-acre parcel is of record. Reference to the subject property herein after means the 174-acre parcel. Tentative partition approval to create the 174-acre parcel has been obtained. The balance of tax lot 300 will stay Agricultural Conservation.
2. The subject property is located 4.7 miles east of Eddyville on Highway 20 and is further identified on Lincoln County Assessor's Map #11-9-12 as tax lot 300.
3. The subject property is zoned AC (Agricultural Conservation).
4. The subject property carries a plan designation of Agricultural Land.

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5. Rural residential homesites are located along Highway 20. Otherwise, the property is surrounded by farm and forest lands.
6. The subject property consists of moderate to steep slopes forested in conifer and hardwood timber, with a small area of bottomlands adjacent to Ogelsby Creek.
7. One single-family dwelling and out-buildings are located on the property as a whole.
8. The following utilities are proposed to serve the subject property:
 - a. Water: On-site well.
 - b. Sewer: On-site sewage disposal system.
 - c. Electricity: Central Lincoln P.U.D.
9. Environmental Bulletin 81 of the Yaquina River Section indicates portions of the subject property contain landslide topography. In addition, Oglesby Creek, which flows through a portion of the property, is identified on the National Wetland Inventory. The applicant is advised that removal-fill activities in jurisdictional wetlands are regulated by the Division of State Lands. No other constraints are identified.
10. According to mapping prepared by the Natural Resources Conservation Service, the subject property (174-acre parcel) is comprised of the following soils units:
 - a. 1E Apt-McDuff silty clay loams, 5 to 30 percent slopes. This map unit is on broad ridgetops and benches in mountainous areas. The native vegetation is mainly Douglas-Fir, western hemlock, red alder, bigleaf maple, vine maple, salal, cascade Oregon grape, and western swordfern. This unit is mainly used for timber production. It also is used for wildlife habitat and as a source of water. This unit is suited to the production of Douglas-Fir. Its land capability class rating is Vle, which is well suited for forest production.
 - b. 1F Apt-McDuff silty clay loams, 30 to 50 percent slopes. This map unit is on side slopes of mountainous areas. The native vegetation is mainly Douglas-Fir, western hemlock, red alder, bigleaf maple, vine maple, salal, cascade Oregon grape, and western swordfern. This unit is mainly used for timber production. It also is used for wildlife habitat and as a source of water. This unit is suited to the production of Douglas-Fir. Its land

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- capability class rating is V1e, which is well suited for forest production.
- c. 50G Preacher-Bohannon-Slickrock complex, 35-60 percent slopes. This map unit is on side slopes of mountainous areas. The native vegetation is mainly Douglas-Fir, western hemlock, bigleaf maple, red alder, vine maple, salal, cascade Oregongrape, salmonberry, and western swordfern.
 - d. The Department of Revenue Site Class Rating System (for forest productivity) ranks the property similarly. According to the Department of Revenue System, and the State Forestry Department, this property consists of the two highest site classes for timber productivity with ratings of Site Classes 1 and 2. This means that the property is capable of producing between 165-224 cubic feet of wood fiber per acre per year. On a scale from Site Class 1-5, 1 produces the highest cubic feet of wood fiber per acre per year and 5 produces the lowest.

11. A public hearing was held on September 11, 2000 before the Lincoln County Planning Commission. All interested parties were given an opportunity to testify.

12. No comments were received from the Department of Land Conservation and Development.

13. The applicant and her husband presented testimony on behalf of the request. The basis for the applicant's request is that the subject property (the 174-acre parcel) is predominantly forest land and that there has been a substantial change in the character of the area, which warrants the re-zone. The applicant also presented evidence that there is a public need for the zone change and that the property was originally zoned AC in error. The applicant summarized information presented in their application materials. Additional written testimony was entered into the record. Evidence presented by the applicant indicates that the property is predominantly forest land, managed for forest uses, and that soils on the property (the 174-acre parcel) are approximately 99% Class V and V1e forest class soils. The applicant highlighted that the property does not meet the statutory definition under Statewide Planning Goal 3 (Agricultural Lands), but does meet provisions for designation under Statewide Planning Goal 4, Forest Lands.

14. The applicant explained that the forest land designation of the County Comprehensive Plan is more appropriate for the subject property than the agricultural designation and consequently the property should be rezoned to TC. An historical account of forest management practices

conducted on the property was presented. In addition, the property has been assessed under the Western Oregon Small Tract Optional Tax System which lends further weight in showing that the property is productive forest land.

15. Expert testimony was presented by the applicant's consultant forester. The consultant noted that according to the Department of Revenue Site Class Rating System, and the State Forestry Department, this property consists of the two highest site classes for timber productivity with ratings of Site Classes 1 and 2. An historical account of forest management practices conducted on the property was presented.
16. No opposition testimony was entered into the record.
17. All application materials and staff's report are by reference incorporated into the record herein.

Relevant Criteria

- a. Lincoln County Development Code, Section 1.1235, Quasi-Judicial Amendments: A quasi-judicial amendment to the Comprehensive Plan and Zoning Maps may be authorized provided that the proposal satisfies all applicable requirements of this Chapter and also provided that the applicant, in a quasi-judicial hearing, demonstrates that:
 - 1) The change is in accord with the Comprehensive Plan goals and policies or the Statewide Planning Goals; and
 - 2) There has been a substantial change in the character of the area since zoning was adopted and which warrants changing the zone; or
 - 3) The zoning previously adopted for the area was in error; or
 - 4) There is a public need for the change being sought.
- b. Oregon Statewide Planning Goal 3, Agricultural Lands: The definition of agricultural land in Goal 3 reads as follows:..."in western Oregon is land of predominantly Class I, II, III, and IV soils as defined in the Soil Capability Classification System of the United States Soil Conservation Service and other lands which are suitable for farm use taking into consideration soil fertility, suitability for grazing, climatic conditions, existing and future availability of water

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for farm irrigation purposes, existing land use patterns, technological and energy inputs required, or accepted farming practices. Lands in other classes which are necessary to permit farm practices to be undertaken on adjacent or nearby lands, shall be included as agricultural land in any event".

- c. Oregon Statewide Planning Goal 4, Forest Lands: Goal 4 (Forest Lands) provides for the following:..." Where a [plan is not acknowledged or) a plan amendment involving forest lands is proposed, forest land shall include lands which are suitable for commercial forest uses including adjacent or nearby lands which are necessary to permit forest operations or practices and other forested lands that maintain soil, air, water and fish and wildlife resources."..."Uses which may be allowed subject to standards set forth in this goal and administrative rule are: (1) uses related to and in support of forest operations; (2) uses to conserve soil, water and air quality, and to provide for fish and wildlife resources, agriculture and recreational opportunities appropriate in a forest environment; (3) locationally dependent uses; (4) dwellings authorized by law.

d. Lincoln County Comprehensive Plan:

- (1) Forest Lands (Section 1.0005(4): see Appendix "A".
- (2) Agricultural Lands (Section 1.0005(5): see Appendix "B". Under this plan provision, please note that the minimum lot size for agricultural lands has changed to 80 acres.

e: Lincoln County Comprehensive Plan Designations:

(1) Forest Lands (Section 1.0190(1): Forest lands represent nearly 90 percent of Lincoln County, and are its major resource. These are mainly held in large ownership patterns and covered by commercial stands of Douglas Fir, true fir, hemlock, cedar, and spruce. Uses such as raising and harvesting of the forest crop and existing recreation facilities are primary. Secondary uses such as new recreation facilities, public and private utilities, and dwellings may be included by county review.

(2) Agricultural Lands (Section 1.0190(2): Agricultural lands represent nearly 2 percent of the lands in Lincoln County. These ownerships lie along the river and creek valleys and are mainly

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used for grazing and small gardens with some commercial agriculture. The primary use of these properties is intended to be agriculture to maintain their current resource value. Uses such as agriculture, forestry, dwellings necessary for farm use and existing public recreation facilities are primary. Secondary uses such as farm help residences, quarrying, new recreation facilities, and similar uses may be included by county review.

Findings

The Commission finds:

- 1) The Goal 3 definition for agricultural land specifies that agricultural land be of predominantly Class I-IV soils as defined in the soils rating system used by the US Natural Resource Conservation Service (formerly the Soil Conservation Service). Evidence submitted by the applicant indicates that 99% of the subject property is comprised of Class V and VI forest class soils. In addition, the Department of Revenue Site Class Rating System ranks the property as Site Classes I and II, which identifies the property as highly productive forest land.
- 2) The subject property has historically been managed for forest uses. In addition, the subject property qualifies for assessment under the Western Oregon Small Tract Optional Tax System, which special assessment is available in instances where property is managed as productive forest land. Based on this and other information of record, the subject property does not meet the Statewide Planning Goal definition of agricultural land.
- 3) Expert testimony from the applicant's consultant forester indicates that the subject property is highly productive forest land and has historically been managed as a viable tree farm. In addition, aerial photographs clearly show that the subject property is overwhelmingly forested. Other factors such as location, topography, climate and soil characteristics add further weight to the evidence that the predominant character of the property is consistent with the forest land designation of the comprehensive plan.
- 4) Evidence in the record and testimony presented at the hearing indicates that the subject property, which was converted to farm land in the early part of the century, has now reverted to forest land. This circumstance in addition to other factors of record indicates that there has been a substantial change in the character of the area, which warrant a zone change.

- 5) Based on soil class information, forest land management practices, topography, and other factors of record, the subject property was designated agricultural land and zoned A-C in error.
- 6) There is a public need for highly productive forest lands and for forest lands managed to protect watersheds and wildlife habitat

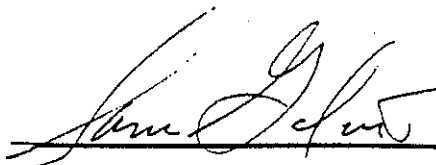
Conclusions:

- 1) Substantial evidence in the record demonstrates that the proposed comprehensive plan map amendment and zone change are in accordance with the Comprehensive Goals and Policies and Statewide Planning Goals.
- 2) Substantial evidence in the record demonstrates that the subject property was zoned in error and therefore meets the requirements for a zone change from AC to TC.
- 3) Substantial evidence in the record demonstrates that there has been a substantial change in the character of the area to warrant a zone change from AC to TC.
- 4) Evidence in the record demonstrates there is a public need for the change being sought.

Order

It is ORDERED by the Lincoln County Planning Commission that Case File #1-LUPC-PC-00 and #1-ZC-PC-00 be APPROVED. This approval will serve as a recommendation to the Lincoln County Board of Commissioners.

This ORDER was presented to and approved by the Lincoln County Planning Commission on September 25, 2000.



Sam Galasso, Chair

Lincoln County Planning Commission

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