

COPY

1 **BEFORE THE BOARD OF COMMISSIONERS**

2 **FOR LINCOLN COUNTY, OREGON**

3 ORDINANCE # 436

4
5
6 **Amending the Lincoln County Comprehensive Plan from Farm Land to Forest Land and**
7 **the Lincoln County Zoning Map from AC (Agricultural Conservation) to TC (Timber**
8 **Conservation) on property identified as Tax Lots 901 and 907, Lincoln County Assessor's**
9 **Map 10-10-10, and declaring an emergency.**
10

11 WHEREAS on November 22, 2004, the Lincoln County Planning Commission voted 8
12 to 0 to recommend approval of a request by applicants Ron and Geneva Anderson for a
13 Comprehensive Plan Map amendment from Farm Land to Forest Land and a Zone Change from
14 AC (Agricultural Conservation) to TC (Timber Conservation) on property identified as Tax
15 Lots 901 and 907, Lincoln County Assessor's Map 10-10-10, File No. 3-LUPC-ZC-04; and

16 WHEREAS after published notice in accordance with law, the Lincoln County Board of
17 Commissioners held a public hearing on February 9, 2005, to consider the request; and

18 WHEREAS at the conclusion of that hearing, the Board voted 3-0 to approve the
19 request;

20 NOW, THEREFORE, IT IS HEREBY ORDAINED AS FOLLOWS:

21 **SECTION 1.**

22 1. The Planning Commission's recommendation is adopted, and the Comprehensive
23 Plan Map is amended from Farm Land to Forest Land and the zoning is changed from AC
24 (Agricultural Conservation) to TC (Timber Conservation) on property identified as Tax Lots
25 901 and 907, Lincoln County Assessor's Map 10-10-10 located approximately 2 miles east of
26 Siletz along the north side of Logsden Road. The subject property is more particularly
27 identified on the map in Exhibit "A," which is attached hereto and incorporated herein.

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

3 3. Copies of this ordinance shall be forwarded to County Surveyor; County Assessor;
4 County Counsel, Lincoln County Department of Planning and Development, petitioners'
5 attorney, Kurt Carstens, Attention Gary Hamilton, PO Box 1730, Newport OR 97365; and to
6 petitioners Ronald and Geneva Anderson, 518 Hamer Road, Siletz OR 97380.

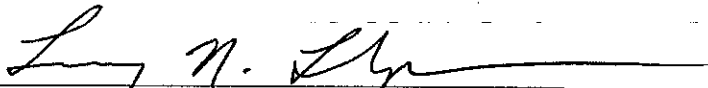
7 4. The Department of Planning and Development shall amend the official maps and
8 shall forward a copy of this ordinance to the Department of Land Conservation and
9 Development.

10 **SECTION 2.**

11 This Ordinance being necessary for the immediate preservation of the public peace,
12 health and safety, an emergency is declared to exist and this Ordinance shall take effect upon its
13 passage.

DATED: February 16, 2005.

LINCOLN COUNTY BOARD OF COMMISSIONERS


TERRY N. THOMPSON, Chair


Excused
DON LINDLY, Commissioner


BILL HALL, Commissioner

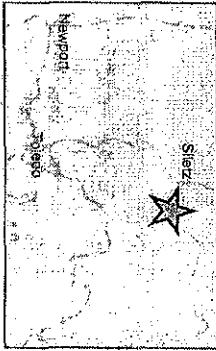
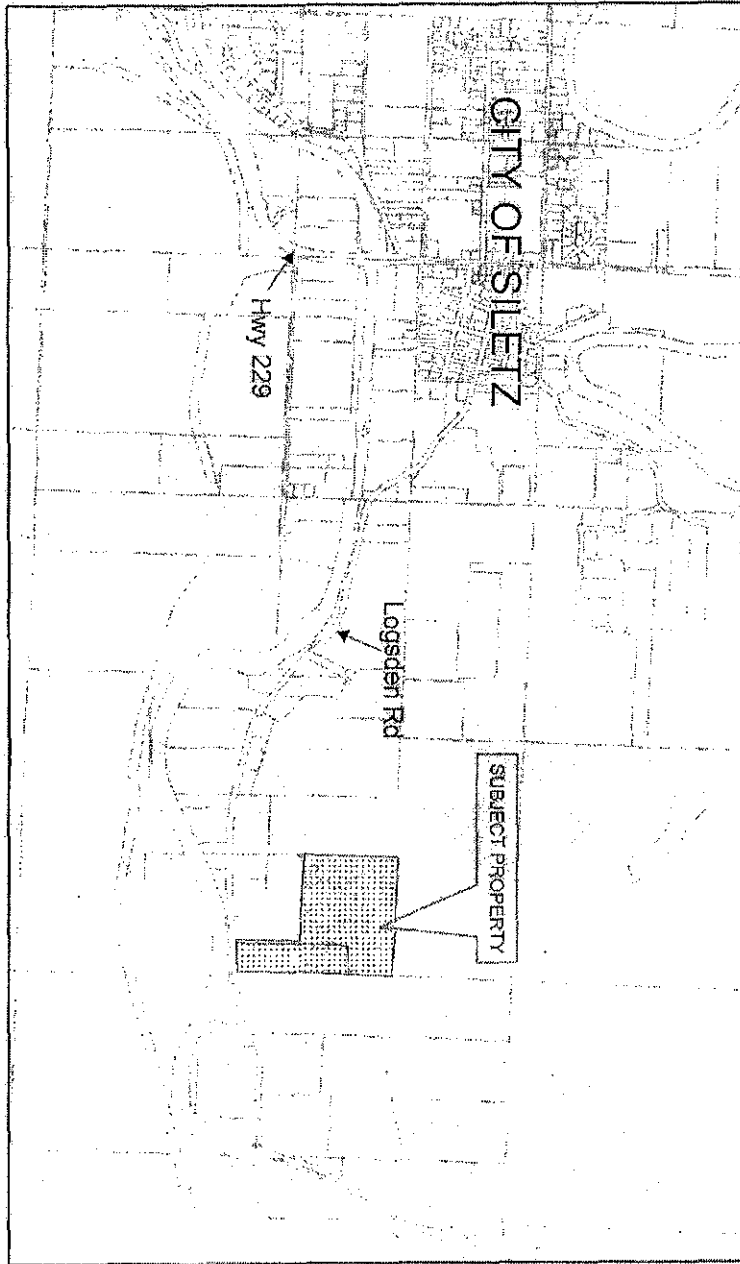
ATTESTED TO:


Liz Sample, Recorder

APPROVED AS TO FORM:


Wayne Belmont, County Counsel

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.



Applicant: Ronald and Geneva Andersen
(Agent: Kurt Carstens)
Map and Tax lot: 10-10-10 / 901, 907



BEFORE THE PLANNING COMMISSION

OF

LINCOLN COUNTY, OREGON

Comprehensive plan map) Case File #3-LUPC-ZC-04
designation and zone change)
Applicant: Ron and Geneva)
Anderson) Findings, Conclusions, and Final Order

Nature of the Application

The applicant is requesting a comprehensive plan map amendment from Farm Land to Forest Land and a zone change from A-C (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 subject property is approximately 36 acres in size.
2. The subject property is located approximately 2 miles east of Siletz along the north side of Loogsdan Road, and is further identified on Lincoln county Assessor's Map #10-10-10 as tax lots 901 and 907.
3. The subject property is currently zoned AC (Agricultural Conservation).
4. The subject property carries a plan designation of Agricultural Land.
5. The predominant pattern of land use following Logsdan Road is dispersed rural residential development. Other uses include pasture and forest land, a shake mill, a parking area used by the Confederated Tribes of Siletz, and a Christmas tree farm.
6. The subject property is relatively level unmanaged pasture, which then rises into steeper forested hillsides. More than half of the property has previously been logged and reforested. A portion of the level pasture consists of a wetland.

area that has standing water present for a significant amount of time during the year.

7. The subject property contains a pole barn.
8. The following utilities are proposed to serve the subject property:
 - a. Water: On-site water.
 - b. Sewer: On-site sewage disposal system.
 - c. Electricity: Central Lincoln P.U.D.
9. The southwestern portion of the subject property contains jurisdictional wetlands as shown on the National Wetlands Inventory. The applicant has been advised to consult with the Division of State Lands regarding removal-fill activities associated with wetlands. No other constraints were identified.
10. The subject property contains soils which are in the majority (predominately) composed of Class VI soils as identified in the NRCS OR638 Soil Survey of Lincoln County Area, Oregon. More specifically, the subject property is comprised of the following soils units:
 - a. 56G VI Tolovana-Reedsport complex, 35 to 60% slopes.
 - b. 56E VI Tolovana-Reedsport complex, 3 to 35% slopes.
 - c. 11B III Chitwood silt loam, 0 to 7% slopes.
 - d. 54A II Siletz silt loam, 0 to 3 slopes.
 - e. 17A III Euchre silt loam, 0 to 3 slopes.
11. Class VI soils do not meet the statutory definition of agricultural soils.
12. A public hearing was held on November 22, 2004 before the Lincoln County Planning Commission. All interested parties were given an opportunity to testify.
13. The applicant presented testimony on behalf of the request. The applicant summarized the history of the property's use and desire of Forest Land comprehensive plan map designation and a zone change from AC to TC.
14. No opposition testimony was entered into the record.
15. All application materials and staff's report are by reference incorporated into the record herein.

2. Applicable Criteria:

- a. **Lincoln County 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 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 1005(4):** Approximately 87 percent of the total land area of Lincoln County is forest land. Of this 550,000 acres, roughly 80 percent is in either industrial or public ownership. The primary use of the majority of these forest lands is commercial wood fiber production. Secondary uses include wildlife production, outdoor recreation, domestic

watersheds and livestock grazing. Existing ownership patterns, historical use trends, and past and current management practices for private non-industrial forest lands indicates that parcels of 40 to 50 acres comprise the large majority of ownerships and that parcels in this size range are compatible with the conservation of forest lands for forest uses.

- (2) **Agricultural Lands (Section 1005(5))**: Average acreages of commercial farm uses were as follows: crops, 28 acres; pasture 55 acres; wooded pastures, 34 acres; farm wood lots 41 acres; overall average, 81 acres. The diversity of these averages preclude a county-wide minimum lot size. The two step approach is suggested using the above information as a guideline and more detailed information applied to the guideline area which is mapped and determined in the study.

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 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. At least 60% of the subject property soils are class VI soils. Class VI soils do not meet the statutory definition of Agricultural Land under Goal 3, but do meet provisions for designation under Statewide Planning Goal 4, Forest Lands.
2. Most of the remaining soils on the property are Class III soils and they are better utilized for forest purposes:

EXHIBIT

Page 4 of 5

4

1. 11B Class III-Chitwood silt loam is a deep poorly drained soil that is predominantly used for timber production, wildlife habitat, pasture, and home site development.
2. 17A Class III-Euchre silt loam is a deep poorly drained soil that is predominantly used for pasture, wildlife habitat, wood lots and for home site development in a few areas.
3. A significant portion of the unmanaged level pasture of the subject property is subjected to varying degrees of wetness throughout the year. Any agricultural benefits that the soils may generate are lost to seasonal flooding.
4. More than half of the property is covered in various types and ages of trees.
5. The subject property is predominantly forest land and was zoned AC in error. The predominant amount of forest soils and the historical logging practices associated with the subject property, as well as the fact that adjacent property is currently zone TC, all point to the AC designation as an erroneous designation. The property is more correctly Forest Land.

Conclusions:

- 1) Substantial evidence in the record demonstrates that the proposed comprehensive plan map amendment is in accordance with the Comprehensive Goals and Policies and Statewide Planning Goals.
- 2) Substantial evidence in the record demonstrates the zoning previously adopted for the area was in error and therefore, the subject property meets the requirements for a plan change from Farm Land to Forest Land and a corresponding zone change from AC to TC

Order

It is ORDERED by the Lincoln County Planning Commission that the requested land use actions in Case File #3-LUPC-ZC-04 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 December 13, 2004


Roger Grady, Chair

Lincoln County Planning Commission