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BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR LINCOLN COUNTY, OREGON

Lincoln County Legal Counsel

ORDINANCE # 237

AN ORDINANCE AMENDING LINCOLN COUNTY ZONING MAPS ON PROPERTY IDENTIFIED ON ASSESSORS MAP 8-11-28CB, TAX LOT 100, and MAP 8-11-28BC, TAX LOT 10400, FROM RESIDENTIAL, R-1, to RETAIL COMMERCIAL, C-1, and DECLARING AN EMERGENCY

WHEREAS a zone change was requested from R-1 Residential, to C-1 Retail Commercial, on property located in Lincoln Beach on the west side of US Highway 101, just north of Pacific Palisades Subdivision, identified on the Lincoln County Assessor's Maps 8-11-28CB, tax lot 100, and 8-11-28BC, tax lot 10400, for the purposes of improving marketability of the parcels; and

WHEREAS, on January 27, 1986, the Lincoln County Planning Commission voted to recommend to the board of county commissioners approval of the requested zone change; and

WHEREAS no appeal of the Lincoln County Planning Commission decision has been made within the time provided by law;

Now, therefore, the board hereby ORDAINS as follows:

1. That the findings of the Lincoln County Planning Commission, which incorporated planning staff findings of fact by reference, are hereby adopted and incorporated herein as if fully set forth;

2. That the Lincoln County Planning and Development Department amend the official Lincoln County Zoning maps from R-1, Residential, to C-1, Retail Commercial, on property identified on assessor's maps 8-11-28CB, tax lot 100, and 8-11-28BC, tax lot 10400, in the approximate size of one acre, as set forth on Exhibit A, which is attached hereto and by this reference made a part of this ordinance;

3. That a copy of this ordinance be forwarded to Frederick J. Ronnau, attorney at law, agent for the zone change applicant; the Lincoln County Planning and Development Department; the Lincoln County Assessor; and the Lincoln County Surveyor;

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Lincoln County Legal Counsel
Lincoln County Courthouse
225 W. Olive Street
Newport, OR 97135
Phone: 263-6611 ext 308

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

5 DATED this 26th day of February, 1986.

6 LINCOLN COUNTY BOARD OF COMMISSIONERS

7 Bob Deskins
8 Chairman

9 R. D. Jantzi
10 Commissioner

11 Alberta Bryant
12 Commissioner

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Lincoln County Legal Counsel
Lincoln County Courthouse
225 W. Olive Street
Newport, OR 97365
Phone: 253-6611 ext 308

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Case File: 4-ZC-85
Date Filed: 12-26-85
Hearing Date: 1-27-86

Lincoln County Legal Counsel

LINCOLN COUNTY PLANNING COMMISSION

- I. APPLICANT: Ralph Schwab; Frederick Ronnau, agent.
- II. REQUEST: The applicant is seeking a zone map amendment from Residential (R-1) to Retail Commercial (C-1).
- III. LOCATION: The subject property is located in Lincoln Beach on the west side of US Highway 101, just north of Pacific Palisades Subdivision, and is identified on the Lincoln County Assessor's Maps # 8-11-28BC as tax lot 10,400 and 8-11-28CB, as tax lot 100.
- IV. LOT SIZE: Approximately one acre.
- V. STAFF REPORT:
- A. Report of Facts:
1. Plan Designation: Rural Community Center (R-C)
 2. Zoning: R-1 (Residential)
 3. Topography: The property is generally level.
 4. Surrounding Land Uses: There are a mixture of commercial and residential land uses along Highway 101.
 5. Existing Structures: Improvements on the property consist of a 2-bedroom single family residence and a duplex.
 6. Utilities:
 - a. Sanitary Sewer: K-G1-LB Sanitary District
 - b. Domestic Water: K-G1-LB Water District
 - c. Electricity: Central Lincoln PUD
 7. Development Constraints: None known.

B. Evaluation of the Request:

1. Agency Comments:

- a. Land Conservation and Development Commission; "No state planning goals apply to the request; consequently L.C.D.C. has no objections." (Telephone communique with Gail McEwen on 1-8-86.)

2. Ordinance Considerations (section 1.1235 of the County Land Use Code):

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 the following:

- a. That the change is in accord with the Comprehensive Plan goals and policies or the Statewide Planning Goals.

Rezoning the property from Residential to Commercial does not require a land use plan map amendment, because the Rural Community Center plan designation allows both zone classifications. The change would not conflict with any Comprehensive Plan goal or policy or with any of the statewide planning goals.

- b. That there has been a substantial change in the character of the area since zoning was adopted and which warrants changing the zone; or
- c. That zoning previously adopted for the area was in error; or
- d. That there is a public need for the change being sought.

The applicant is basing the zone change request on the premise that zoning on the two lots was adopted in error. Originally the property was zoned Commercial, as were other lots on the west side of the highway. This commercial zoning (C-1 and C-T) extended north of the applicant's property 800 feet and south of it over 1,200 feet. In 1980, when the County was rezoned as part of the comprehensive planning process, the applicant's two lots and all of the other lots north and south of it were rezoned to Residential (R-1).

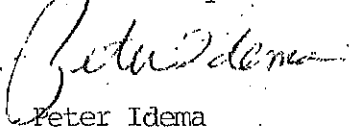
In November 1981 the County held "second chance" hearings to provide an opportunity for persons dissatisfied with the zoning of their property to request changes through a legislative review process. Staff reviewed the Planning Commission tapes and minutes of these meetings. Two persons north of the applicant's property requested rezones back to Retail Commercial, in one case because a commercial

use was established on tax lots 8300, 8400, and 9700, Assessor's Map #8-11-28BC, and in a second case, because the property owner wanted to develop a commercial business on tax lots 9100, 9200, and 9300, Assessor's Map #8-11-28BC. Staff stated that this area was rezoned to Residential because the tax lots were generally small (50' X 100'), which would make them difficult to develop commercial uses on. However, when it was pointed out that the tax lots were, for the most part, consolidated into larger tracts and there was adequate highway right-of-way to eventually provide a turning lane, the decision was made to rezone this area back to Retail Commercial. There was, however, no discussion why five lots were left in Residential Zoning.

In comparing these lots with the lots that were put back into C-1 zoning, only one difference was noted. These five lots are adjacent to a platted subdivision, while the other lots are separated by a public road. However, staff was unable to find on the Planning Commission tapes any discussion regarding this. What's more, there are other commercial zones abutting residentially zoned lots, so this factor should not be the sole determinant. Except for the public road, the lots zoned R-1 are similar to the commercially zoned property in regards to types of land uses (mostly vacant or residential), ingress and egress, available services, and so forth.

- C. Conclusions: The Planning Commission needs to decide whether the County erred in not rezoning the applicant's property Retail Commercial when it rezoned the other lots to the north and south, considering information provided above and through public testimony. A motion to either approve or deny the request should include reasons supporting the decision.

Submitted by:



Peter Idema
Senior Planner

PI:sk

NOTICE

OF PUBLIC HEARING AFFECTING THIS AREA

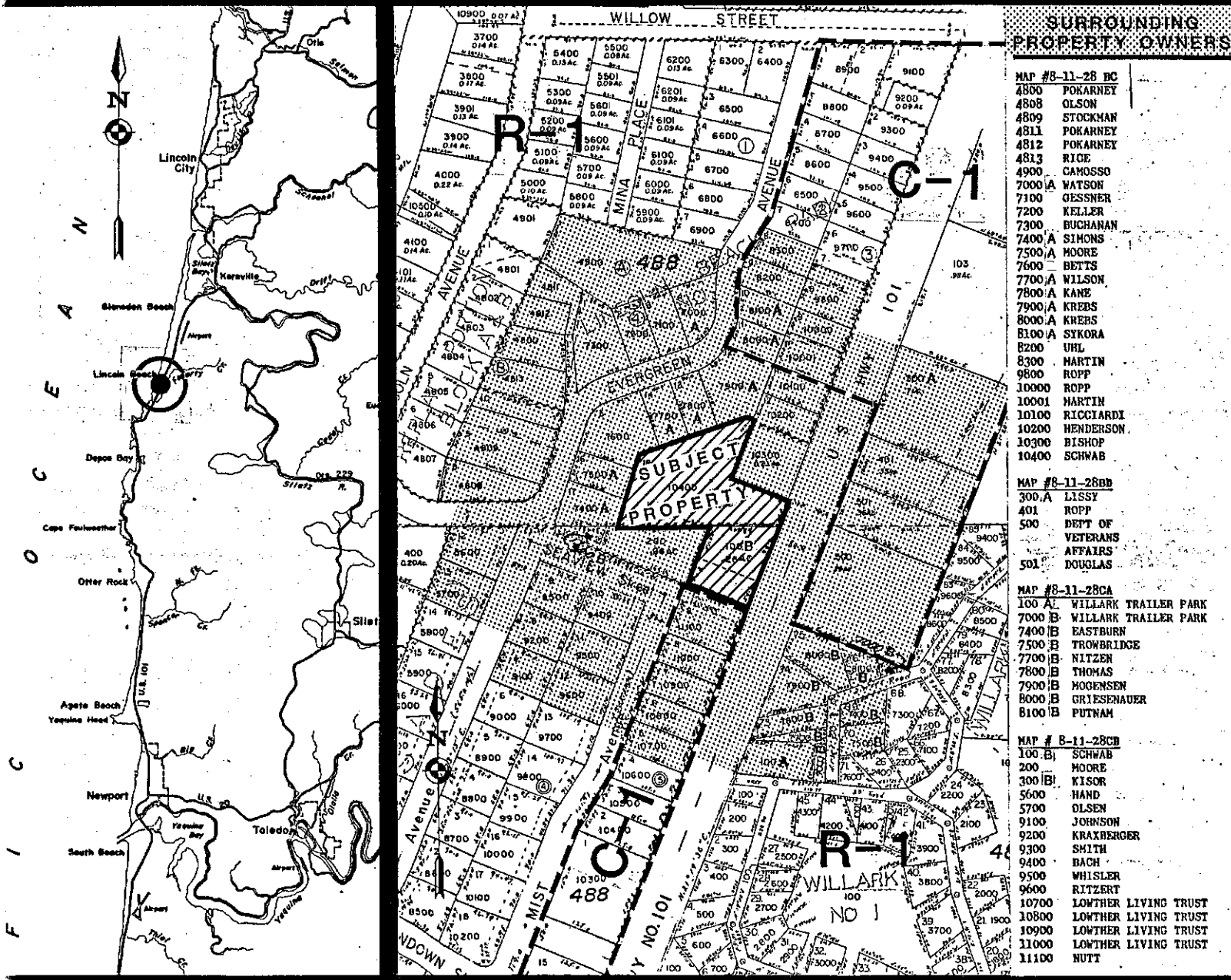
EXHIBIT "A"

APPLICANT: Ralph Schwab

REQUEST: Zone Change from R1 to Commercial

LOCATION: West side of Highway 101 in Lincoln Beach, north of Pacific Palisades Subdivision, on property identified on the Lincoln County Assessor's Map #8-11-28CB, as tax lot 100.

TIME/PLACE OF HEARING: Monday, January 27, 1986, at 7:30 p.m., Public Service Building Conference Room, 210 SW 2nd, Newport, OR. Any person having an interest in this matter may attend and be heard, or they may submit testimony in writing to be entered into the record.






DEPARTMENT OF PLANNING
AND DEVELOPMENT

Public Service Building
210 S.W. Second Street
Newport, Oregon 97365

(503) 265-6811

Building Division Ext. 251	On-Site Waste Mgmt. Ext. 253
Code Enforcement Ext. 292	Planning Division Ext. 292

M E M O R A N D U M

DATE: February 11, 1986
TO: Board of County Commissioners
FROM: Oscar Granger, Secretary
Lincoln County Planning Commission 
SUBJECT: Ralph Schwab - Zone Change (4-ZC-85)

On January 27, 1986, the Lincoln County Planning Commission voted to recommend approval to the Board of County Commissioners a Zone Change from Residential (R1) to Retail Commercial (C-1) on property located in Lincoln Beach on the west side of U.S. Hwy 101 and identified on Lincoln County Assessor's Map 8-11-28CB as tax lot 100.

Attached is a copy of the minutes of the January 27th Planning Commission hearing pertaining to this action. Because no appeals have been filed, a public hearing is not necessary. If the Board concurs with the action of the Planning Commission, an Ordinance directing the proposed changes must be prepared for the Board's signature.

After approval by the Board, copy of Order must be sent to applicant, County Assessor's Office and the Planning Division.

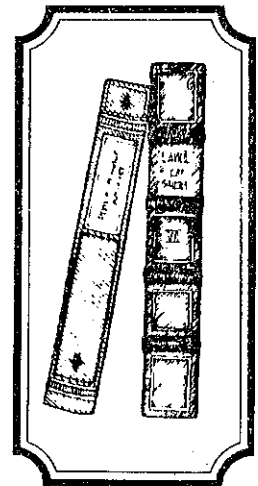
Thank you.

cc: Legal Counsel

org/pi/mw

KULLA & RONNAU, P.C.
Attorneys At Law

NR



JAMES T. KULLA
FREDERICK J. RONNAU
DENNIS J. WINE*
* Oregon & Washington Bars

January 29, 1986

Mr. Peter Idema
Senior Planner
Lincoln County Planning Dept.
210 S. W. Second Street
Newport, Oregon 97365

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RE: Schwab Zone Change

Lincoln County Legal Counsel

Dear Peter:

This letter confirms our telephone conversation of January 29, 1986, wherein you stated you would forward to the Lincoln County Board of Commissioners a request for a Zone Change for the Schwab parcels upon expiration of the fifteen (15) day appeal period.

Upon receipt by the Board of County Commissioners, an ordinance will be adopted changing the zone of the property and requesting that notation be made upon the official zoning maps of Lincoln County.

There is nothing I can find in the County Code that would require a second, de novo, notice hearing before the Board of County Commissioners in the County Code. In addition to failing to comply with ORS 215.422 the procedure would make absolutely no sense in a quasi judicial framework.

If there is an appeal filed, please notify this office immediately.

Very truly yours,

Frederick J. Ronnau
Attorney at Law

FJR:1b

cc: Ralph Schwab
Nancy Craven, Lincoln County Legal Counsel ✓



DEPARTMENT OF PLANNING
AND DEVELOPMENT

Public Service Building
210 S.W. Second Street
Newport, Oregon 97365

(503) 266-6611

Building Division
Ext. 251

On-Site Waste Mgmt.
Ext. 253

Code Enforcement
Ext. 292

Planning Division
Ext. 292

LINCOLN COUNTY PLANNING COMMISSION
Monday, January 27, 1986, 7:30 pm
Public Service Building Conference Room
210 SW 2nd St., Newport, OR 97365

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Lincoln County Legal Counsel

AGENDA

1. CALL TO ORDER - Roll Call.
2. APPROVAL OF MINUTES - 10-28-85 and 12-9-85.
3. ITEMS FROM THE AUDIENCE.
4. PAST ACTION REVIEW FOR PLANNING COMMISSION.
5. UNFINISHED BUSINESS.
6. ACTION ITEMS.
 - 6.1 Time extension request for Makai III, by Don McMillan, case file #3-PD-82.
7. PUBLIC HEARING.
 - 7.1 Zone change request for Ralph Schwab, case file #4-ZC-85.
8. PLANNING COMMISSION CONCERNS
9. ADJOURNMENT.

MINUTES
LINCOLN COUNTY PLANNING COMMISSION

December 9, 1985

Salishan Lodge - Christmas Banquet

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Lincoln County Legal Counsel

1. CALL TO ORDER - Roll call.

The following Planning Commission members and their spouses/guests were present:

Sam and Mrs. Galasso
David and Mrs. Gray
Neil and Mrs. Imes
Larry and Izetta Over

Jim and Mrs. Webb
Phil and Mrs. Spulnik
Ernie and Mrs. Seaton

Oscar and Mrs. Granger attended as well as Commissioners Alberta Bryant and Bob Deskins.

Representing the Budget Committee were Phil and Mrs. Smith

2. PUBLIC MEETING.

Following the dinner, Chairman Spulnik announced the opening of the public meeting in order that new Planning Commission officers could be elected. A unanimous ballot was cast for Jim Webb for Chairman. A unanimous ballot was cast for Sam Galasso for Vice Chairman.

Chairman Spulnik then closed his year in office by thanking the Commission members and staff for their support and work during the year. The Commission then unanimously thanked the Chairman for a job well done.

The public meeting was subsequently closed and the banquet adjourned about 9:30 p.m.

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M I N U T E S

Lincoln County Legal Counsel

LINCOLN COUNTY PLANNING COMMISSION

January 27, 1986

1. CALL TO ORDER - Roll Call.

The meeting was called to order by Chairman Jim Webb.
Commission members present were:

Paul Smud
Dietmar Goebel
Inez Palmer
Phil Spulnik
Ernest Seaton

Neil Imes
Izetta Over
Jim Webb
Roger Pattison
Robert Wiens

Staff members present were: Oscar Granger, Peter Idema, Kevin Harrison and Sue Kays.

2. APPROVAL OF MINUTES - October 28, 1985 and December 9, 1985.

Commissioner Imes moved to approve meeting minutes for both the October 28, 1985 and the December 9, 1985 meetings. His motion was seconded and unanimously approved.

MOTION TO APPROVE MEETING MINUTES
OF OCTOBER 28, 1985 AND DECEMBER 9,
1985. #1-86

3. ITEMS FROM THE AUDIENCE.

No items from the audience.

4. PAST ACTION REVIEW FOR PLANNING COMMISSION

No past action review for Planning Commission.

5. UNFINISHED BUSINESS.

No unfinished business.

6. ACTION ITEMS

6.1 A time extension request for Makai III Subdivision, by Don McMillan, case file #3-PD-82.

Oscar Granger began by explaining that this is the third request received from McMillan for Makai III Subdivision. His reasons are the same as they have been previously, mainly the poor economy which has caused delays in meeting requirements for approval. Mr. McMillan's request is for an additional one year time extension.

Commissioner Spulnik moved to approve the request for a one year time extension on Makai III Subdivision.

Commissioner Over seconded the motion.

The vote was taken and passed unanimously.

MOTION TO GRANT A ONE YEAR TIME EXTENSION FOR MAKAI
III SUBDIVISION. #2-86.

7. PUBLIC HEARING

7.1 Zone change request for Ralph Schwab, case file #4-ZC-85

After Chairman Webb relayed the rules of conduct and procedure at public hearings, Peter Idema reviewed the staff report for this case.

Commissioner Over asked about the zoning of the area to the south of the subject property and was informed that it was zoned commercial, and some of the area was in the Tourist Commercial, and the area immediately to the south is zoned Retail Commercial, while the property on the other side of Seaview Street is zoned Tourist Commercial.

Chairman Webb asked for the applicant or his representative to state their case.

Fred Ronnau introduced himself as the attorney representing Ralph Schwab in this case. Mr. Ronnau continued by explaining that Ralph Schwab is not a resident of Lincoln County, but does own property in Depoe Bay. Mr. Schwab has this property listed for sale and has recently discovered that his land is not zoned commercial. This property is not selling and Mr. Schwab feels that the current zoning may be a hinderance for a prospective buyer.

LINCOLN COUNTY PLANNING COMMISSION MEETING, 1-27-86
PAGE THREE

Mr. Ronnau explained that he has personally researched all of the records of the Board of County Commissioners and can verify what Peter Idema reported. However, the story goes back in time even earlier than previously thought. At this point Mr. Ronnau passed out copies of the historical background of this case, which he compiled after consulting the property records and long time local residents of the area. One of these residents, Merv Ropp, was previously successful in obtaining an administrative zone change directly from the County Planning Department staff.

Describing the types of structures and geography of the area, Mr. Ronnau continued emphasizing that the area was always zoned commercial. In the process of rezoning, around 1979-81, this whole area was proposed as residential zoning, yet the only area which ended up residential were the lots in this area. Mr. Schwab was out of the state at the time and was unaware of this.

According to Mr. Ronnau, who researched the records of the Board of Commissioners, all in this general area who requested a rezoning back to commercial were granted that rezoning.

Mr. Ronnau feels this property should be zoned commercial, as it is not saleable as a residential property.

One of the concerns addressed by Mr. Ronnau was the proximity of residential uses behind the subject property. When there is a public access on the back side of a commercial strip, it is utilized. If there is a property owner who feels that rezoning to commercial would affect them in a negative manner, Mr. Ronnau proposed that there be a 20' buffer strip, and protection of the vegetation, or whatever to make sure that these lots are protected.

Chairman Webb called for additional testimony from proponents.

Ray Richard resident of tax lot 9600 requested clarification of the request and commercial zones.

Oscar Granger informed him that the C-T zone is a less intensive tourist commercial zone, which is geared for highway commercial activities, and intensive uses such as large department stores which would not be allowed in a C-T zone, where large stores would be in a C-1 zone.

Peter Idema read a letter from Roy Douglas who resides across Highway 101. Mr. Douglas's letter was in favor the this request.

Chairman Webb asked for the opponents testimony.

Mr. Myron Moore of tax lot 200, which abuts the subject property, approached to speak in opposition of this request. Mr. Moore also submitted a letter from another neighbor, John Whisler, who is also in opposition. Mr. Moore stated that he has owned his property since 1941 and claimed that some of the Schwab buildings are placed on his property line. Previously, a roof of one of the Schwab buildings blew off in a storm and destroyed one of Mr. Moore's mobile homes. Recently, Mr. Moore has retired and placed a new double-wide trailer on his property and plans to reside on the property for the rest of his life, and he is concerned about the possibility of a future commercial enterprise on the Schwab property.

At this point, Chairman Webb, requested that the list of outright uses in the C-1 zoning be read aloud. The list revealed that there would be no heavy industrial uses allowed, mainly retail-related residential types of uses only would be allowed. Conditional uses permitted would require administrative review by the Planning Department.

Commissioner Over pointed out that any conditional uses would require notification of the surrounding property owners, who would be given a chance to appeal, if they desired to do so.

Neil Ines brought up the subject of setback requirements and it was revealed that all yards abutting a lot in a residential zone shall be a minimum of 10 feet, and no structure shall be located any closer than 30 feet from the right-of-way of any state street, nor 30 feet from the right-of-way of any collector or arterial street. No building shall exceed a height of 35' feet. Any outdoor storage shall be screened with a sight obscuring fence.

Mr. Moore mentioned that he was not notified previously of a zone change.

Peter Idema explained that when zoning was first adopted in 1974, the zoning of that property was C-1, Retail Commercial. In 1980 the zoning was Residential, R-1. In 1981 the County held hearings, which did not deal with specific lots, but those hearings were for anyone in the County who were requesting a zone change on their property. Therefore, there were no individual notifications sent out to property owners.

Commissioner Smud asked what the Moore property was zoned in 1974, and after some discussion, it was determined that the property was zoned commercial, as was the surrounding property.

Peter Idema read the letter of opposition from John Whisler which was delivered by Mr. Moore.

Commissioner Over brought up the subject of a proposed highway turn lane, which was mentioned in the Smythe case considered last year by the Planning Commission.

Peter Idema responded that it was his understanding that the turn lane was included in the State Highway Department's six year improvements plan

Chairman Webb asked Fred Ronnau for any rebuttal.

In response **Mr. Ronnau** stated that the most important point is the fact that all of the property in this area was zoned commercial at one time. So when the current residents first moved into the area, the land was zoned commercial. He feels that commercial uses would not conflict with the existing development, and would probably cause less intensive use than some other residential uses in that area.

Peter Idema read two additional letters in opposition from W. G. Wilson of tax lot 7700, and from Marilyn Tompkins of tax lot 300B.

Dietmar Goebel asked about the possible error made by the County in not rezoning the property Retail Commercial, when considering this request.

Peter Idema explained that in order to approve a text amendment it has to be determined that one of three situations exist:

1. There has been a substantial change in the character of the area since zoning was adopted, which warrants a change of the zone.
2. That the zoning which was previously adopted for the area was in error.
3. There is a public need for the change being sought.

In this case, the applicant is arguing that there was an error made in the zoning. In reviewing the tapes, it was the planning commission's determination and staff was in agreement, that the original zoning in that area to R-1 was in error, so the decision was made to rezone that area back to Commercial. However, five of the lots were left Residential.

Commissioner Smud asked why it was determined that the County erred just in the lots fronting on Highway 101, and not all of the surrounding lots.

Peter Idema responded that he was looking at the lots on Highway 101, he didn't investigate the lots behind it.

Commissioner Imes added that the Commission didn't investigate those lots because they were not requested to do so in those earlier meetings.

Commissioner Spulnik reminded the Commission that this would not be the only instance that there might be an error. Due to the volume of paper work, these maps were passed over in the first go around. Unless someone came in and questioned one of the Commission's decisions, nothing was done.

Commissioner Over stated that she felt anything along Highway 101 logically is commercial, but bordering residential areas concerns her, with such a small, 10 foot, setback requirement.

Peter Idema added that Mr. Ronnau offered to place a deed restriction which would require a 20' setback on the property, and this could be made as a condition of the approval.

Chairman Webb mentioned that on the east side of the highway, all of that Commercial zoning is abutting R-1 zoning without any street frontage at all. He had never seen where it is written where there shouldn't be any Commercial against R-1 property without an intervening public road. There has always been an area where there is an abutment and he agreed with Mr. Ronnau that often when a commercial enterprise extends from a major street to a minor street, the minor street becomes a service entrance, and there is more of a neighborhood disruption on that street as opposed to requiring the service to all to come off from one street and be screened from the residents.

Oscar Granger agreed saying that it would be more disruptive, but from the safety standpoint, it is more desirable to have the access off of the secondary street than it to have it off of Highway 101.

Dietmar Goebel added that it is difficult to determine what a future owner might build on the property, and try to get them to comply with any type of a restriction placed on the site. It seems that the best useage for the property which abuts the highway would be commercial. This property has only Highway 101 access, and I feel it is undesirable for residential use.

Commissioner Smud added that if this is a zoning error, the restrictions are not in question, it is whether or not it was miszoned as R-1 and should have stayed C-1. He felt that there was an error. There may be an error on all of those lots, including Mr. Moore's, since at one time it was all C-1.

Commissioner Over stated that the characteristics of the property have changed, as there is more commercial area, there is more building in commercial areas, then there was a few years ago. She was not against this, but concerned about the proximity of the property behind this land.

Inez Palmer stated that she couldn't imagine anyone wanting to build a home along Highway 101 in that area. The only use for this land is Commercial.

Commissioner Seaton agreed with Paul Smud in that the zoning previously adopted for the area was in error.

Commissioner Pattison agreed with Mr. Seaton.

Commissioner Spulnik stated that he would move that the property in question be rezoned C-1 from R-1, due to the following findings of fact:

The zoning previously adopted for the area was in error because of the following reasons:

1. The subject property was zoned C-1 in 1975, and the owner was unaware of the rezone in 1980, when it was rezoned to R-1.
2. The property conforms to adjoining properties that are zoned C-1.
3. The property is best suited for C-1 because of the highway frontage. It is unsuited for the residential zoning because of the highway frontage.

Commissioner Imes seconded the motion.

Commissioner Smud asked if there was a need to include the fact that this is not in conflict with any state or county planning goals?

Peter Idema suggested that the staff report be incorporated as findings of fact.

The vote was taken.

Chairman Webb stated that the motion carried.

MOTION TO RECOMMEND TO THE BOARD OF COUNTY COMMISSIONERS
APPROVAL OF REQUEST TO REZONE PROPERTY AT MAP # 8-11
-28CB TAX LOT 100 AND MAP #8-11-28BC, TAX LOT 10400,
FROM RESIDENTIAL, R-1, TO RETAIL COMMERCIAL, C-1. #3-86

8. PLANNING COMMISSION CONCERNS

Commissioner Seaton asked for the status of Lost Creek Subdivision.

Oscar Granger explained that this case has gone through bankruptcy, and the Bank of Newport now owns the property. There have been meetings with the Bank of Newport, the State Highway Division, and our office as well as Lincoln County Legal Counsel. Negotiations are still continuing regarding the left turn refuge lane. The County has not resolved the issue or problems yet, the matter is in limbo. The approvals have lapsed, and most likely cannot be reactivated, but this will have to be decided by the Lincoln County Legal Counsel. The County still at odds regarding the left turn lane. The Bank has obtained an independent bid for the left turn lane in the amount of \$70 to 80,000.00. The Bank wants to market the

LINCOLN COUNTY PLANNING COMMISSION MEETING, 1-27-86
PAGE EIGHT

property and Lincoln County will not release anything in the way of permits, or approvals until we have satisfactory compliance with all of the conditions. The County is waiting for the bank. This situation is not getting resolved, but it is not getting any worse.

Commissioner Goebel asked how could the Planning Commission protect against this sort of situation happening in the future. That is where development occurs and building is started without the required restrictions being adhered to.

Oscar Granger responded that the biggest part of the problem was not securing a bond which was adequate, as renewal requests were made. The County had a sufficient bond in 1978 to do the job, then each year as the County continued to renew or review the applicant and grant extensions, there was no upgrading of the bond to keep up with inflation. This is now the first thing the County requires when an extension is requested. Because the improvements were bonded, we had given final approval and were granting extensions to the bonding. The County was extending the developer's ability to make the improvements. The situation finally got to the point where the costs were three times the amount of the bond. The options the County was faced with precluded the work being done by the County Road Department or by the developer. The County released the bond with the idea that if the County was going to foreclose on that letter of credit, it would have been the County which was obligated to provide the additional \$60,000.00 from the road fund to make the improvement. The County did not, and does not, and will not in the future allow itself to get put in that position. The County does not provide for improvements on public roads. They never have.

Commissioner Spulnik added that if the real estate market ever picks up again on the Oregon coast, then there will be some action on this.

Commissioner Over agreed saying that it is good property, but it is just a question of economics now.

Commissioner Smud asked that even though there would not be any building permits issued on the property, could the Bank sell any of those lots to an unsuspecting citizen who would later discover that he can't build upon it.

Oscar Granger responded that the first thing that would have to be done is to clear the desist and refrain order. In order to do that, the County has to agree that it can be lifted, but it is conceivable that it can be lifted. That order was originally placed as a result of the owner, Brenneman, defaulting upon his contract with the P.U.D. The order was filed as part of the real estate disclosure act, and the lifting of this order is tied in to the approval on the subdivision. It is conceivable that once they make up the difference and complete the contract with the P.U.D., then the P.U.D. could have the desist and refrain order raised.

Commissioner Seaton asked if the Bank's representative, Dennis Bartoldus, did not mention earlier that Phase III of Lost Creek was cleared.

Oscar Granger responded that Phase III was cleared. The development was given final approval, but it was bonded, final approval. The extensions which were granted, were not granted on the final approval, but they were granted on getting the work done. It got to the point where the County was granting the extensions without making the incremental raises in the bond to keep up with the inflation.

Commissioner Seaton continued voicing his concern by saying that if the County did not go in and would not want to participate because of the fact that the \$35,000. wasn't enough to install the lane, a lawsuit might be possible.

Oscar Granger responded that he felt that the Bank would not be willing to take the County to court on that issue.

9. ADJOURNMENT

Chairman Webb adjourned the meeting at 8:40 p.m.