

1 BEFORE THE BOARD OF COMMISSIONERS

2 FOR LINCOLN COUNTY, OREGON

3 ORDINANCE NO. 283

4
5 AN ORDINANCE AMENDING THE LINCOLN COUNTY ZONING MAP ON PROPERTY
6 IDENTIFIED ON LINCOLN COUNTY ASSESSOR'S MAP 8-11-29-DD, TAX LOT
7 300, OWNED BY JOHN EGNER, D.B.A. SURFRIDER MOTEL AND DECLARING AN
8 EMERGENCY

9 WHEREAS the Lincoln County Planning Commission voted
10 unanimously to recommend approval of zone change from Single
11 Family Residential to Tourist Commercial for property owned by
12 John Egner, d.b.a. Surfrider Motel; and

13 WHEREAS the subject property is located adjacent to the
14 Surfrider Motel and is identified as Tax Lot 300 on Assessor's
15 Map 8-11-29-DD; and

16 WHEREAS the decision and recommendation of the Planning
17 Commission was not appealed and, therefore, the Board need not
18 hold another public hearing;

19 NOW, THEREFORE, IT IS HEREBY ORDAINED AS FOLLOWS;

20 1. That the Planning Commission's decision is upheld and
21 the zoning is hereby changed from Single Family Residential to
22 Tourist Commercial on the property identified as Tax Lot 300,
23 Assessor's Map 8-11-29-DD.

24 2. That the findings and conclusions supporting these
25 changes contained in the public testimony before the Planning
26 Commission and in the staff report are adopted as set forth in
27 Exhibit "A" attached hereto and incorporated herein.

28 3. That copies of this ordinance be forwarded to the
29 applicant, John Egner, 3115 N.W. Highway 101, Depoe Bay, OR
30 97341; Surveyor; Assessor; and Department of Planning and
31 Development; said Planning Department shall amend the official
32 maps in the Lincoln County Clerk's Office.

33 4. That the Lincoln County Department of Planning and
34 Development shall forward a copy of this ordinance to the
35 Department of Land Conservation and Development.

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

5 DATED this 25th day of October, 1989.

6 LINCOLN COUNTY BOARD OF COMMISSIONERS

7 Frank Armstrong
8 FRANK ARMSTRONG, Chairman

9 Andy Zedwick
10 ANDY ZEDWICK, Commissioner

11 Norma McMILLIN
12 NORMA McMILLIN, Commissioners

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Lincoln County Legal Counsel
Lincoln County Courthouse
225 W. Olive Street
Newport, Oregon 97365
Phone: 265-6611, Ext. 308

Acting Chairman Willits introduced the second action item and asked staff if they had any comments on the request.

Matt Spangler explained that the memorandum sent to the planning commissioners explained the history behind the request. The request is for the second phase of the subdivision which includes six lots. The improvement conditions of approval were reviewed and those conditions have been completed and confirmed by staff. Mr. Spangler recommended approval of the request.

Commissioner Galasso made a motion to grant final approval for Oceanside Properties Subdivision, case file #5-S-84.

Commissioner Over seconded the motion.

The vote was taken and passed with Commissioner Miyakawa abstaining.

MOTION TO APPROVE OCEANSIDE PROPERTIES
SUBDIVISION, CASE FILE #5-S-84. #31-84

7. PUBLIC HEARING

7.1 A request by John Egner, d.b.a. Surfrider Motel, for a zone change from R-1 (Single-Family Residential) to C-T (Commercial Tourist) in order to expand existing motel facilities. The subject property is located directly north of the existing Surfrider Motel and Restaurant, which is just north of Fogarty Creek State Park. Two tax lots comprise the subject property and are identified on Lincoln County Assessor's Map #8-11-29DD, as tax lots 200 and 300. Case file #1-PC-ZC-89.

Acting Chairman Willits reviewed the rules for public hearing items, and called for a review of the staff report.

Steve Williams reviewed the location of the subject property with the aid of a large map of the area which includes the zoning, number of residences in the area and the location of two private roads. One of the roads is Robin Lane which accesses the northernmost parcel, #200. The other road is Bluff Lane and it accesses property to the north of lot 200.

Mr. Williams briefly reviewed the most important portions of the staff report as well as topography and vegetation, and existing structures. Tax lot 300 of the subject property includes a portion of the existing 26 unit Surfrider motel building as well as a single family rental unit, a garage and a mobile home which serves as a caretaker's residence. Lot 200 contains a single family dwelling.

The ordinance standards to be reviewed for this request and the findings were read by Mr. Williams.

Acting Chairman Willits called for any conflict of interest or ex-parte contact in this case.

Commissioners Over, Imes and Finden stated that they know the applicants personally, but none have discussed the request with them. There were no objections from the audience and the hearing continued.

Commissioner Adler wondered if the planning commission was to be concerned about the nature of the expansion, as much as the zone change request.

Matt Spangler responded that the request is not for a specific improvement, the request is for a zone change only.

Commissioner Adler responded that since the planning commission would not review the specific application for improvement, they would not know that this request relates to.

Commissioner Finden added that if this request was approved, any future improvements would be allowed as outright uses.

Matt Spangler explained that if the future improvements were to the existing motel operation they would be allowed as part of an outright use in the C-T zone.

Acting Chairman Willits called for the proponents testimony.

John Egner explained that he is the owner of the Surfrider Motel & Restaurant and originally attempted to build a larger garage to store wood, add a small workshop, and laundry room. The garage would be 70' X 35' and would contain a personal garage. The subject property, which was purchased by the Egners 12 years ago, was originally zoned C T, has since been rezoned to R-1. Recently Mr. Egner purchased lot 200. Mr. Egner stated that he does not intend to expand his motel operation presently, but purchased the additional property for future expansion. The addition of a new, larger laundry room would be helpful, as the existing laundry room is too small and is located next to the kitchen.

Commissioner Finden asked about the location of a fence.

John Egner explained that a fence does exist halfway between lots 300 and 400.

Commissioner Adler asked if the applicant needed a C-T designation in order to build a garage.

Matt Spangler explained that a garage is considered an accessory to the motel operation and would require the C-T zoning. Other zoning categories which permit motels are: R 4, C 1 and C 2.

Commissioner Finden referred to the earlier increase figures in motel business as submitted by the applicant to demonstrate his need finding, and wondered about it's relationship with the request.

Acting Chairman Willits explained that the applicant is required to address the ordinance standards section requirements in his request. The applicant was attempting to address the public need aspect as part of his zone change request.

Commissioner Webb pointed out that the applicant must meet ordinance standard 1 and any one of the additional standards.

Mr. Webb stated that the applicant is contending that there has been a substantial change in the area, the motel business has grown and that there was an error made when the zoning of the area was changed from C 2 to R 1.

John Egner stated that when he originally purchased the property it was zoned C 2.

Commissioner Ines explained that the zoning of the property was changed when the entire county was rezoned

Commissioner Over added that when the zoning was changed, the decisions were legitimate, however, the coast has changed since that time.

Commissioner Miyakawa asked the applicant if the zone change was for both lots 200 and 300.

John Egner confirmed that his request includes both lots and in the future he would like to construct an additional 20 units onto his motel. The current request is important as they need a new laundry room and a place to store wood. The current laundry room would be used as a storage and additional freezer area.

Commissioner Miyakawa asked how the applicant would access the additional 20 units.

John Egner explained that the access would be through his property to the south by the existing motel and would not use the private access road.

Acting Chairman Willits called for testimony from the opponents.

Tom Cunningham, owner of lot 900 to the northeast of the subject property, read a letter he sent to the planning staff. Mr. Cunningham's objections were based on the fact that the private easement road, Robin Lane, which is maintained by the residents of the area, has been impacted by the people who use the dwelling on lot 200 as a daily rental. The house has a sign which reads Annex II.

Mr. Cunningham cited a previous denial of a building permit application for an additional mini kitchen in his home. The denial of the application made Mr. Cunningham realize that the county's building permit regulations insure that his neighborhood would be kept residential and no apartments would be allowed.

Commissioner Miller asked Mr. Cunningham to be more specific about the degrading of his neighborhood.

Tom Cunningham described the amount of traffic on the private road and the conduct of those renting the dwellings on a daily basis.

Leonard Harrington, owner of tax lot 600, stated he feels that the property is not being used the way it should be used, as it is a residential zone being used as commercial property.

Mr. Harrington described the impact of the daily rental houses on the private road, his property and the neighborhood. Mr. Harrington also stated that the houses are located in a residential area but are being used for commercial purposes. The property was zoned as residential in 1961 and Mr. Harrington was never notified of any change in zoning since that time.

Commissioner Finden asked Mr. Harrington if he had spoken with the applicant or the county about the traffic problems caused by the daily rentals.

Leonard Harrington responded that he had not spoken to anyone about the problem.

Commissioner Miller stated that he did not have sufficient information to deny the request based upon the fact that Mr. Harrington has stated that the daily rentals impacted the neighborhood.

Leonard Harrington felt that his complaints were legitimate.

Commissioner Over stated that Mr. Harrington's complaints dealt with the commercial use of a home in a residential zone.

Commissioner Adler asked about the zoning of tax lot 100 and was informed by staff that it is also zoned as R-1.

When Mr. Adler asked if there was ever a request for C-T zoning on the land, staff informed him that there had been a request some time ago for the land to be zoned C-T.

Commissioner Webb asked about the zoning history on lots 200, 300, 500 and 600 and was informed by staff that those lots were zoned C-T prior to the rezone which was done in 1980.

Commissioner Miyakawa asked the reason for the change in zone.

Matt Spangler explained that the zone changes on these properties was part of an overall rezoning of the entire county.

Commissioner Miyakawa felt that it might be a value judgement to attempt to determine if the property was originally zoned in error.

Acting Chairman Willits called for additional opposing testimony.

Lois Scheesley, owner of tax lot 800, explained that she has recently retired and has lived on tax lot 800 for the past two months. Ms. Scheesley has been disturbed by the additional traffic created by the operation of Annex II. Ms. Scheesley is opposed to the request and does not feel that there has been a change in the area to warrant the request. Ms. Scheesley feels that the neighbors have a right to the quiet and solitude. Ms. Scheesley felt that the entire neighborhood would be hurt if the zone change were granted.

Commissioner Adler asked if the only access to the annex II house is along the private easement road.

Lois Scheesley responded that it is the only access.

Bonnie Aspen, a former resident of N.W. Bluff Drive, stated that the neighborhood is a residential neighborhood where the residents have upgraded their homes and do not want any additional commercial enterprise in their neighborhood. While the coast has become more complex, there should not be any change in this neighborhood. There is other property that could be commercially developed in the county.

Commissioner Miller referred to the annex II daily rental, and asked if the use of the private road to access this rental were eliminated, would the request destroy the residential character of the neighborhood.

Bonnie Aspen responded that it would destroy the residential character of the neighborhood, as the property fronts on the private access road and joins permanent residences in the area. The traffic pattern of the area would change. With future motel expansion, the neighborhood would change even more.

Commissioner Miller felt that the motel would not disturb the residential area.

Bonnie Aspen felt that if there were a buffer zone between the C-T and the residential zoning it would help the situation. The C-T zoning does not allow the neighborhood any protection.

Commissioner Finden stated that it is possible that when the land was purchased by the applicant it was zoned C-T.

Bonnie Aspen added that the use of the area has not been in keeping with the R-1 zone.

Commissioner Adler explained that due to the nature of the coast, there are many C-T zones located adjacent to R-1 zones. A rezone from residential to C-T does not obliterate an R-1 use.

Bonnie Aspen added that the operation of the annex II house has changed the character of the neighborhood.

Acting Chairman Willits called for additional opposing testimony.

Jeff Ouderkirk, a local attorney, introduced himself as representative of Mr. and Mrs. John Comena, owners of lot 1000. Mr. Ouderkirk reviewed the ordinance standards for approval of the zone change request. Exhibit #3, a drawing of the subject and surrounding properties of the area, was submitted into the record. The exhibit included drawings of structures on the properties as well as owners of the surrounding lots.

The ownership history of the properties from 1960 to the present date was also submitted into the record.

Photos of the area looking north from lot 400 were submitted into the record.

Photos of the area looking south from lots 1000, and 1100 were also submitted into the record.

Mr. Ouderkirk read the language of the Rural Community Center from the comp plan. "The permanent commitment to residential land use, and commercial and industrial activity is limited to those which are existing or compatible to the surrounding activity are primary." The intent was to limit the commercial activities in the rural community center areas to what was in existence at the time the comp plan was drawn up. Also, Mr. Ouderkirk, emphasized a general commitment to residential land use. The various ordinances from the code which relate to the C-T zoning were referred to by their section numbers.

Mr. Ouderkirk's testimony referred to an earlier case which was a request for approval of a subdivision called Fishing Rock. The proposed site was tax lot 100, just a short distance to the north of the subject property.

The daily rental of the dwelling on lot 300 which is a commercial use located in a residential zone was mentioned by Mr. Ouderkirk. A mobile home is also located on lot 300. During the earlier rezoning process the overall intent was to cutback on commercial uses on the coastal zone. The R-1 zoning placed on the area conformed to uses as they existed. The impact of the daily rentals is significant for the neighborhood. The title records submitted into the record detail the right-of-way of the private easement road, which serves the daily rental on tax lot 200. The other private easement road to the north, Bluff Lane, was also detailed in the title records.

Mr. Ouderkirk stated that the zone change request is separate from the appropriateness of the residences that are used as daily rentals. The usage of these daily rentals causes problems in the neighborhood. The zone change would allow other uses in the neighborhood which could have a negative impact. Denial of the zone change would result in the applicant not being able to build a garage, which is going to be used as an accessory building to a commercial use on an R-1 property. An accessory to a commercial use in an R-1 zone would not be allowed even with a conditional use permit, as the zoning must be changed to C-T to allow the accessory to the commercial use.

Mr. Ouderkirk was not able to locate a mobile home placement permit for the mobile on tax lot 300.

The opponents request that the zone change not occur as there has not been sufficient evidence presented by the proponents to indicate that there is a public need for the expansion of the motel operations. The increased and projected income figures for the motel does not demonstrate an increased public need, as those figures could be from either the restaurant or motel operations. The expansion of a commercial operation into residential area which is designated as a rural community center is strongly opposed by the residents of the area.

The title records submitted by Mr. Ouderkirk reflect the fact that tax lot 200 was purchased by the applicants on March 15, 1989. The motel, which is partially located on tax lot 300, was purchased in May of 1976. The applicants claim that there was an error made in zoning, however, the zoning was placed on the property four years later, in 1980, during the county-wide rezoning.

Mr. Ouderkirk referred to another exhibit which he submitted into the record entitled the Intent to Rezone Purpose and Procedure, which provides additional procedures for small tract zone map amendments. In the event that the planning commission approved the request, this exhibit would ensure that public interest is considered at certain levels of development and would require a resolution of intent to rezone. Submittal of site plans and surveys could be performed and an actual plan of development would be submitted to the planning commission, so commissioners would know what is going to be placed on the property. If the developer failed to comply with the items in this resolution, they could be denied.

Mr. Ouderkirk emphasized that the planning commission does not have sufficient facts to approve the zone change request and if the request was approved it is possible that a structure 35' in height could be located 10' from the boundary line on the subject property, which would have a significant impact upon the adjacent property owners.

With regard to the allowance of rental of single family residences, Mr. Ouderkirk, stated that it is possible for all the surrounding homes to be purchased and rented out on a daily basis.

Mr. Ouderkirk closed his testimony by emphasizing the fact that there has not been sufficient evidence regarding any error made in the zoning, nor has there been any demonstration of public need and the applicant has not carried his burden of proof for this request, therefore, it should be denied.

Commissioner Adler asked Mr. Ouderkirk if he has an alternative proposal.

Mr. Ouderkirk responded that he did not have an alternative proposal, but is suggesting that if a zone change were granted, even though there are not sufficient evidence to do so, a resolution of intent to rezone could be passed, and the following items could be required: a site development of operation, D.E.Q. standards, vehicle parking specifications, drainage specifications, and a site plan for development. These items could all be reviewed by the planning commission.

Commissioner Galasso asked about the encroachment of the existing motel onto tax lot 300.

Matt Spangler explained that the permit for this portion of the motel was issued in 1984 and the staff misinterpreted the application and the encroachment was not discovered, as it was not clear where the property line existed.

Commissioner Galasso stated that the property has been used as commercial since 1984.

Commissioner Adler stated that the rural community centers were determined largely by the preexistence of commercial enterprises. The reason for the heavy emphasis on residential is the outcome of negotiations with LCDC.

Matt Spangler noted for the record that a letter of opposition was received from Mr. and Mrs. Gomena the points of that letter were covered in Mr. Ouderkirk's testimony.

Acting Chairman Willits called for proponents rebuttal.

John Egner stated that he could solve the traffic problem. With the construction of the proposed garage, the smaller existing garage could be removed to create an area of private parking for annex II. The new parking area would allow renters to walk to the annex. Also a gate could be placed across the end of the access road, which would eliminate the use of the private access road by the renters. Mr. Egner emphasized the desire to get along with his neighbors. Renters who use the annex are good clientele and do not cause problems for him. The 4th of July holiday usually causes additional traffic at any residence. There are many other daily rentals in Lincoln County.

Commissioner Galasso asked if the applicant would release the easement to Robin Lane.

John Egner stated that he would put up a fence across the road, forcing incoming traffic to the annex to enter from the southern motel location. Mr. Egner added that he would have to keep the easement, due to the existence of a septic pump which serves the annex.

Commissioner Galasso asked about the garage on the northern portion of lot 200 and if it would be utilized.

John Egner responded that it would not be utilized and that renters staying at annex II would use the parking area created by the removal of the existing garage.

Mr. Egner added that he has a cancelled check as payment for his mobile home placement permit, verifying that the placement permit does exist.

Acting Chairman Willits closed the public hearing and asked the commissioners for their feelings on the request.

Commissioner Miller asked when the property was zoned commercial and when it was changed to residential.

Matt Spangler explained that the zoning was changed during the county wide rezoning in 1980.

Commissioner Imes added that several lots in the area have been changed back to commercial since the county wide zoning in 1980.

Commissioner Adler asked about the ownership of the two lots during the period of rezone.

Matt Spangler explained that lot 300 was owned by the applicants at that time, but not tax lot 200.

Commissioner Over remembered making zoning changes and dealing with the complaints of the residents who did not receive individual notification.

Acting Chairman Willits stated that he has a problem with motel units being built to within 10' of the north property line on lot 200. Mr. Willits stated that he does not have a problem with lot 300. The applicant stated that he does not need to use tax lot 200 for his garage. The use of tax lot 200 would be extending a commercial zoning into a residential block. Perhaps a modification could be made, allowing only lot 300 the rezone.

Commissioner Miyakawa agreed with Mr. Willits suggestion.

Acting Chairman Willits asked if the applicant would have to revise his application.

Matt Spangler responded that the suggested modification would be within the discretion of the planning commission.

Commissioner Over asked when daily rental began in annex II.

John Egner responded that it has been rented on a daily basis since April of 1989.

Commissioner Adler stated that he would like to see a vegetative buffer placed along the north line of lot 300 and also of 200, if it will remain as a daily rental.

Acting Chairman Willits asked Mr. Spangler about the ordinance interpretation of the daily rental useage of the dwelling on tax lot 200.

Matt Spangler explained that this is the first knowledge he has had of the daily rental of the property. The dwelling is being used as part of the motel operation, which is different from other short term daily rental activity in the county. The County code does not regulate the term of occupancy of a single family dwelling. Some city ordinances do regulate the term of occupancy, others do not. While daily rentals are not code violations, rentals as part of motel operations are a different matter, and should be looked into.

Commissioner Finden asked if there have been any complaints received by the planning department regarding this property.

Steve Williams added that a written complaint was received from Mr. Gomena, who sent his letter prior to receiving notice of this hearing.

Commissioner Galasso stated that the applicant has committed to fencing off the road which would provide some protection for the surrounding neighbors. Lot 300 is built and committed. Vacation of the easement would also provide some protection for the neighbors.

Acting Chairman Willits stated that he has a problem accepting an illegal use as a grounds for a zone change request, however, the county's position has not been clarified on this situation. If the property was in a different ownership, and not rented out as part of the motel, it would be allowed.

Commissioner Adler asked if the ordinance standards have been met.

Commissioner Webb responded that ordinance standard one has been satisfied and it appears that there is a public need, due to the information provided. With regard to number three, common knowledge of the planning commission of the developments along the coast seem to indicate that the condition has been met. Mr. Webb questioned condition two, substantial change, but felt that condition number four, public need, had also been met.

Commissioner Miyakawa stated that he did not agree that a public need had been demonstrated.

Commissioner Over felt that the owner wished to upgrade his facilities to serve the public.

Commissioner Imes stated that he can understand the feelings of the homeowners in the area, however, the whole area is commercial and is moving more towards commercial and other lots in the area have been changed to commercial. Mr. Imes referred to the amount of C-T zoning which is reflected in the amount of orange colored tax lots on the map prepared by staff.

Commissioner Imes continued explaining that due to the proximity of the subject property to an operating commercial enterprise, a zone change to commercial is to be expected.

Commissioner Miller asked staff if tax lots 200, 500 and 600 were zoned commercial previously and he was informed that they were.

Mr. Miller asked staff when the motel, which encroaches onto lot 300, was built and he was informed that it was built in 1984.

Commissioner Miyakawa explained that he is understanding of the concerns of the neighbors, and lot 200 encroaches more into a residential area, than does tax lot 300. Also lot 200 involves the useage of the private easement road. It is reasonable for the applicant to want to build his garage on tax lot 300. Mr. Miyakawa is in favor of the suggested zone change modification, allowing the change for lot 300 only.

Commissioner Adler agreed with Mr. Miyakawa and felt that the ordinance standard number 3 had been met. Mr. Adler felt that lot 200 was not zoned in error, due to its private road access.

Commissioner Over stated that she is in agreement with Messrs. Miyakawa and Adler.

Commissioner Miller added to Mr. Adlers previous comment by noting that lot 300 borders on Highway 101, and there are not too many residences being built along Highway 101.

Acting Chairman Willits agreed with Mr. Miller.

Commissioner Galasso is also in agreement with the other commissioners.

Commissioner Miller agreed that lot 300 was adopted in error.

Commissioner Webb stated that he agrees with not approving the zone change for lot 200, however, it will probably continue to be operated as a daily rental. The neighbors will depend upon the applicant's cooperation with cutting off the private road access to lot 200 and using the existing southerly motel access. If lot 200 were changed to commercial, the applicant could sell the lot and a commercial structure could be placed up to within 10' of the property line.

Commissioner Imes is in agreement with Mr. Webb.

Commissioner Finden stated that he is also in agreement with the other commissioners.

Commissioner Miyakawa asked about the disallowment of the private easement.

Acting Chairman Willits stated that it cannot be made a condition of approval, but is dependent upon the goodwill of the applicant.

Matt Spangler added that since tax lot 200 will not be allowed a zone change, it is not possible to place a condition upon that lot.

Commissioner Adler suggested requiring access be provided through tax lot 300 to tax lot 200.

Matt Spangler explained that this could only be done with a resolution of an intent to rezone.

Acting Chairman Willits asked what would happen if lot 200 were sold and access was required through lot 300. Problems would be created.

Commissioner Finden pointed out that the applicant is both a motel owner and an individual. As an individual, the applicant has the same rights as any other property owner.

Commissioner Webb added that conditions could not be imposed on the application.

Commissioner Adler made a motion to approve a zone change request from R-1 to C-T for tax lot 300, as the application satisfies the ordinance requirement numbers one and three, however, since tax lot 200 was correctly zoned, it will not be included in the zone change approval. Staff is directed to prepare revised findings and conclusions supporting this motion for adoption at the next meeting.

Commissioner Over seconded the motion.

The vote was taken and passed unanimously.

MOTION TO APPROVE A ZONE CHANGE REQUEST
FROM R-1 TO C-T FOR TAX LOT 300 ONLY IN
CASE FILE #1-ZC-PC-89. #32-89

8. PLANNING COMMISSION CONCERNS

8.1 Review of standards for Bed and Breakfast Inns, case file #1-TA-89.

After a brief recess, Acting Chairman Willits introduced the bed and breakfast standards memo and asked for staff comments.

Jessica Bondy explained that this bed and breakfast inn topic is intended to take the form of a workshop review of the present ordinance standards. Local operators of bed and breakfast inns within the county have appeared before the Board of County Commissioners requesting a review of the current code provisions in order to allow a proposed increase to a maximum of five bedrooms for bed and breakfast inns within the county.

Commissioner Over complimented Jessica Bondy on a well written memorandum on the subject.

Jessica Bondy asked the commissioners to turn to page four of the memo, and look at the three review standard finding requirements

Commissioner Over stated that she is in favor of the staff review of the bed and breakfast applications on an individual basis.

LINCOLN COUNTY PLANNING DEPARTMENT

- I. APPLICANT: John Egner (Surfrider Motel)
- II. REQUEST: The applicant is requesting a zone change from R-1 (Single-family Residential) to C-T (Commercial Tourist) in order to expand existing motel facilities.
- III. LOCATION: The subject property is located directly north of the existing Surfrider Motel and Restaurant, which is just north of Fogarty Creek State Park. Two tax lots comprise the subject property and are identified on Lincoln County Assessor's Map 8-11-29DD as tax lots 200 and 300.
- IV. LOT SIZE: 2.03 acres.
- V. STAFF REPORT:
 - A. Report of Facts:
 - 1. Plan Designation: RC (Rural Community Center)
 - 2. Zone Designation: R-1 (Single-family Residential).
 - 3. Surrounding Land Use: Immediately south of the subject property are additional motel units and a restaurant. Further southward is Fogarty Beach State Park. To the north and east are existing single-family dwellings.
 - 4. Topography and Vegetation: The tax lots comprising the subject property are adjacent oceanfront lots. Terrain is mostly level except for a gradual slope west of the existing motel buildings, and a vertical bluff of about 30 feet in height which drops off to the beach. Vegetation consists of low lying coastal scrub adjacent to the bluff, grass lawn and interspersed pine trees.
 - 5. Existing Structures: The southern lot contains a portion of the 26-unit motel building, a rental home, a garage, and a mobile home used as the manager's residence. The northern lot contains a two-story, single-family dwelling.
 - 6. Utilities: The following utilities serve the subject property:
 - a. Sewer: Gleneden Beach Sanitary District.
 - b. Water: Kern-GB-LB Water District.
 - c. Electricity: Pacific Power and Light.
 - 7. Development Constraints: The Environmental Hazard Inventory of Lincoln County (RNKR Associates, 1978) identifies the site as experiencing slight (less than 2.8 inches/year) erosion rates. As per Section 1.925(3)(a), building setbacks from the shoreline on property identified as having slight recession rates shall be one foot of setback for every one foot of bluff height.

Portions of the property also have been identified in the comprehensive plan inventory as containing significant wildlife habitat (site #19). This habitat includes offshore rocks and sea stacks, along with cliff-top turn and splash-zone vegetation, and coastal turf and salt marsh flora on low, rocky headlands. As per Section 1.1381(5)(b)(c), development proposed adjacent to significant wildlife habitat shall be located no closer than fifty (50) feet from the habitat area.

B. Evaluation of the Request:

1. Agency Comments:

- a. Kernville-Gleneden Beach Water District: "The proposal will have negligible impact. The applicant should coordinate with Depoe Bay Rural Fire Protection District to determine water requirements for fire flow needs." Harold C. Haight, Kernville-Gleneden Beach Water District.
- b. Depoe Bay Rural fire Protection District: "The proposed zone change will have very little impact on our agency". Irvin McLain, Depoe Bay RFPD.
- c. Gleneden Sanitary District: "The proposal will have no impact upon this agency" Harold C. Haight, Gleneden Sanitary District.
- d. Oregon State Highway Division: "The applicant's road access permit will need to be updated upon expansion of facilities". Lou Moorehead, State Highway Division.

2. Ordinance Standards (Section 1.1235): A Quasi-judicial amendment to the Zoning Map 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:

- (1). That the change is in accord with the Comprehensive Plan goals and policies or the Statewide Planning Goals; and
- (2). That there has been a substantial change in the character of the area since zoning was adopted and which warrants changing the zone; or
- (3). That zoning previously adopted for the area was in error; or
- (4). That there is a public need for the change being sought.

C. Findings:

1. The applicant is requesting a zone change from R-1 (Single-family Residential) to C-T (Tourist-Commercial) in order to expand existing motel facilities.

2. The comprehensive plan designation for the subject property is identified as R-C (Rural Community Center).
 3. Both the C-T and R-1 zones are included within the R-C comprehensive plan designation, therefore the change is in conformance with the Comprehensive Plan goals and policies and the Statewide Planning Goals.
 4. The subject property consists of two adjacent, oceanfront lots, 1.5 and 0.53 acres in size.
 5. Topography is mostly level except for a gradual west-facing slope west of the existing buildings, and a vertical bluff of about 30 feet in height dropping down to the beach.
 6. The southernmost lot (1.5 acres) currently contains part of the existing motel building, a rental home, a garage, and manager's residence.
 7. The northern lot (.53 acres) currently contains one single family dwelling.
 8. Property immediately south of the subject property is zoned C-T, and includes part of the the existing Surfrider Motel and Restaurant.
 9. Property immediately north of the subject property is zoned R-1. Four lots are adjacent to the northern boundary of the subject property, and of these, 2 contain single-family dwellings.
 10. The subject property previously was zoned C-T. The applicant contends that an error was made in the present zoning when it was changed to R-1.
 11. The applicant has provided income figures for Surfrider Motel demonstrating an increased need for motel lodging. These income figures are as follows: 1986- \$473,985, 1988- \$589,778 and a projected income of over \$600,00 for 1989.
- D. Conclusion: If the Planning Commission determines that the proposed zone change meets the ordinance standards (Section 1.1235) it can make a motion to approve the request, articulating findings and conclusions relied upon in the decision. Planning Commission approval will serve as a recommendation to the Lincoln County Board of Commissioners to approve the request via adoption of an ordinance.

If the Planning Commission finds that the request does not satisfy the ordinance criteria, it should make a motion to deny the request, again identifying findings and conclusions relied upon in that decision.

Staff recommends that, in either event, the motion direct staff to prepare findings, conclusions, and a final order for the chairmen's signature's. This order would be presented at the next meeting of the Planning Commission.

Submitted by,

Steve Williams

Steve Williams
Associate Planner

SW/sb

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BEFORE THE PLANNING COMMISSION

OF

LINCOLN COUNTY, OREGON

Request for Zone Change)
)
)
)
)

#1-PC-ZC-89
FINDINGS, CONCLUSION
AND ORDER

Nature of the Application

The application is for a zone change from R-1 (Single-Family Residential) to C-T (Commercial-Tourist).

Relevant Facts

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

A. Comprehensive Plan and Zoning Designation

- 1. The comprehensive plan designates the subject property as RC (Rural Community Center).
- 2. The site is zoned R-1, Single Family Residential.

B. The subject property is located directly north of the existing Surfrider Motel and Restaurant, which is just north of Fogarty Creek State Park. Two tax lots comprise the subject property and are identified on Lincoln County Assessor's Map #8-11-29DD as tax lots 200 and 300.

C. Immediately south of the subject property are additional motel units and a restaurant. Further southward is Fogarty Beach State Park. To the

1 north and east are existing single-family dwellings.

2
3 D. The tax lots comprising the subject property are adjacent oceanfront
4 lots. Terrain is mostly level except for a gradual slope west of the
5 existing motel buildings, and a vertical bluff of about 30 feet in
6 height which drops off to the beach. Vegetation consists of low
7 lying coastal scrub adjacent to the bluff, grass lawn and
8 interspersed pine trees.

9 E. The southern lot contains a portion of the 26-unit motel building, a
10 rental home, a garage, and a mobile home used as the manager's
11 residence. The northern lot contains a two-story, single-family
12 dwelling.

13 F. Both the C-T and R-1 zones are included within the R-C comprehensive
14 plan designation, therefore, the change is in conformance with the
15 Comprehensive Plan goals and policies and the Statewide Planning
16 Goals.

17
18 G. The subject property consists of two adjacent, oceanfront lots, 1.5
19 and 0.53 acres in size.

20
21 H. Property immediately south of the subject property is zoned C-T, and
22 includes part of the existing Surfrider Motel and Restaurant.

23 I. Property immediately north of the subject property is zoned R-1.
24 Four lots are adjacent to the northern boundary of the subject
25 property, and of these, 2 contain single-family dwellings.

26

- 1 J. There was testimony from the applicant that the zone change was
2 needed in order to build additional accessory buildings for the motel
3 and for future expansion of motel units.
- 4 K. The applicant contended that because the subject property was
5 previously zoned C-T, that an error was made in the present zoning
6 when it was changed to R-1.
- 7
- 8 L. The applicant provided income figures for Surfrider Motel
9 demonstrating an increased need for motel lodging. These income
10 figures are as follows: 1986- \$473,985, 1988- \$589,778 and a
11 projected income of over \$600,000 for 1989.

12 Relevant Criteria

13 A. Lincoln County Land Use Code

- 14 1. Requirements for a Zone Change: As per Section 1.1235, a
15 quasi-judicial amendment to the zoning map may be authorized
16 provided that the proposal satisfies all applicable requirements
17 of this chapter and also provided that the applicant, in a
18 quasi-judicial hearing demonstrates the following:
- 19 a. That the change is in accord with the Comprehensive Plan
20 goals and policies or the Statewide Planning Goals; and
21 b. That there has been a substantial change in the character
22 of the area since zoning was adopted and which warrants
23 changing the zone; or
24 c. That zoning previously adopted for the area was in error;
25 or
26

1 d. That there is a public need for the change being sought.

2 Findings:

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4 A. The Commission finds:

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6 1. Tax lot 300 was zoned R-1 in error because of its proximity to
7 Highway 101 and because it was previously zoned C-T. Tax lot 200,
8 however, was not zoned R-1 in error because it is more residential in
9 character and is served by a private easement road that also serves
10 an existing single-family residence.

11 2. A zone change will be in accord with the Comprehensive Plan goals and
12 policies or the Statewide Planning Goals; both the R-1 zone and the
13 C-T zone are included within the RC (Rural Community Center) plan
14 designation.

15 Conclusion

16

17 The record and the findings support the conclusion that:

18

19 1. The zone change will be in accordance with the Comprehensive Plan
20 goals and policies or the Statewide Planning Goals.

21

22 2. Tax lot 300 was zoned R-1 in error, and thereby meets the requirements
23 for a zone change.

24

25 Order

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27 It is **ORDERED** by the Planning Commission of Lincoln County that case file
28 #1-PC-ZC-89 be and is hereby **APPROVED**, subject to the following conditions:

29

30 1. The zone change from R-1 (Single-Family Residential) to C-T (Commercial
31 Tourist) will apply only to that portion of the subject property identified
32 on Lincoln County Assessor's Map #8-11-29DD, tax lot 300.

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1 This ORDER was presented to and approved by the Lincoln County Planning
2 Commission on September 25, 1989

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Dietmar Goebel, Chairman
LINCOLN COUNTY PLANNING COMMISSION

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7 Attest:
8 Ayes:
9 Noes:
10 Absent:
11 Abstain:

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