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BEFORE THE BOARD OF COMMISSIONERS

FOR LINCOLN COUNTY, OREGON

ORDINANCE NO. 287

AN ORDINANCE AMENDING LINCOLN COUNTY'S ZONING MAP ON PROPERTY IDENTIFIED AS TAX LOTS 100, 101, AND 201, ASSESSOR'S MAP NO. 8-11-16-DB FROM R-1 TO R-1 PD (PLANNED DEVELOPMENT OVERLAY ZONE) AND DECLARING AN EMERGENCY

WHEREAS the Lincoln County Planning Commission, after legal notice and a public hearing, voted 6 to 1 to recommend approval of a zone change from R-1 to R-1 PD (Planned Development Overlay Zone) for 5.83 acres located between Old Highway 101 and the beach, immediately north of Gleneden Beach State Park, further identified as Tax Lots 100, 101, and 201, Assessor's Map No. 8-11-16-DB; and

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

NOW, THEREFORE, IT IS HEREBY ORDAINED AS FOLLOWS:

1. That the Planning Commission's decision is upheld and the zoning is hereby changed from R-1 to R-1 PD on the property identified as Tax Lots 100, 101, and 201, Assessor's Map No. 8-11-16-DB, subject to the conditions attached hereto in Exhibit "A" and incorporated herein.

2. That the findings and conclusions supporting these changes as adopted by the Planning Commission are hereby adopted by the Board of Commissioners as set forth in Exhibit "B" attached hereto and incorporated herein.

3. That copies of this ordinance be forwarded to the applicant, David L. Oringdulph, Century 21 Properties, P. O. Box 1408, Tualatin, OR 97062; Surveyor, Assessor; and Department of Planning and Development; said Planning Department shall amend the official maps in the Lincoln County Clerk's Office.

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

5. That this ordinance, being necessary for the immediate preservation of the public peace, health, and safety, an

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1 of 2--ORDINANCE NO. 287

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emergency is declared to exist and this ordinance takes effect upon its adoption.

DATED this 7th day of March, 1990.

LINCOLN COUNTY BOARD OF COMMISSIONERS

Andy Zedwick
ANDY ZEDWICK, Chair

Norma McMillin
NORMA McMILLIN, Commissioner

Frank Armstrong
FRANK ARMSTRONG, Commissioner

ATTESTED TO:

Jennie Kampf
JENNIE KAMPF
Recording Secretary

Lincoln County Legal Counsel
Lincoln County Courthouse
223 W. Olive Street
Newport, Oregon 97165
Phone: 263-6611, Ext. 508

EXHIBIT "A"

CONDITIONS OF APPROVAL:

1. Approval is based upon the submitted plan. Development of the site shall be in substantial conformance with the approved plan. Any substantial change shall be submitted for review as an amendment to the approved plan.
2. That the applicant comply with recommendations set forth in the submitted Preliminary Site Reconnaissance geotechnical report regarding construction of the multistory condominium structure.
3. That the applicant submit a site specific geotechnical report which defines an appropriate oceanfront setback for the multistory condominium structure.
4. The applicant shall submit to the Planning Division certifications from the water and sanitary districts that water and sewer service is available and installed according to specification of the district and in substantial conformance with the approved plan.
5. The applicant shall provide fire hydrants in accordance with the requirements of the Depoe Bay Rural Fire Protection District.
6. The applicant shall design and provide stormwater and roadside drainage in accordance with accepted engineering practices. The drainage system shall be designed so as to minimize the potential for increased erosion on adjoining properties.
7. The applicant shall submit as-builts of the proposed road which certify that the road has been constructed as approved. The as-built shall be stamped by an engineer licensed in the State of Oregon.
8. The applicant shall obtain a road approach permit from the County Road Department for access onto Old Highway 101 and comply with the conditions of that permit in full.
9. If the planned development is submitted for approval in phases, each phase must be able to qualify in all respects to the applicable requirements of approval of the tentative plan. No phase can be occupied prior to completion of the requirements of that phase.

EXHIBIT "B"

BEFORE THE PLANNING COMMISSION

OF

LINCOLN COUNTY, OREGON

Request for a Zone Map)

#1-PD-89

Amendment)

FINDINGS, CONCLUSIONS

AND ORDER

8 Nature of the Application

9 The application is to permit the siting of a 42 unit planned
10 development in an R-1 zone. This action requires enactment of an ordinance to
11 effect a zone change from R-1 to R-1 PD (Planned Development Overlay Zone).

12 Relevant Facts

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

15 1. The applicant is seeking approval for a 42 unit planned development to
16 be named The Gleneden Surf Club. This action requires enactment of an
17 ordinance to effect a zone change from R-1 to R-1 PD (Planned
18 Development Overlay Zone).

19 2. The comprehensive plan designation is R-C (Rural Community Center).

20 3. Comprehensive Plan policy Section 1.0101(3) (Beaches and Dunes)
21 indicates that beachfront protective structures may be permitted only
22 where development existed on January 1, 1977, unless an exception to
23 Goal 18, implementation requirement 5, has been approved.

24 4. The subject property is located between old Highway 101 and the beach,
25 immediately north of Gleneden Beach State Park and is identified on

26 Lincoln County Assessor's Map #8-11-16DB as tax lots 100, 101, and 201.

- 1 5. The subject property consists of 5.83 acres.
- 2 6. Surrounding land uses include commercial/light industrial development
3 such as Gleneden Brick and Tile, Salishack Tavern, and Kernville-
4 Gleneden-Lincoln Beach Water and Sanitary District offices following
5 old Highway 101. To the south is the Gleneden Beach State Park; to the
6 north, the parcel is bordered by a privately owned, undeveloped parcel
7 of 5.20 acres. North of this is a residential area with
8 single-family homes. To the west is the ocean and the lot fronts old
9 Highway 101. The area is a rural community district with full urban
10 level services.
- 11 7. The site is located on an ancient wave cut terrace with a near vertical
12 bluff down to the beach along the west. It is rectangular in shape
13 with the long dimension in the east/west direction. The property
14 slopes very gradually from east to west with natural drainage features
15 running in a southwest to northwest direction across the site and onto
16 adjoining property north. The property is heavily vegetated; shore
17 pine and salal predominate on the western border, and mixed conifers,
18 alder, salal, and low shrubs predominate on the remainder of the
19 parcel.
- 20 8. The land is vacant except for the remains of an old motel foundation.
- 21 9. There are four identified development constraints which are described
22 as follows: The lower beach berm of the parcel lies within a V8 flood
23 zone (Community-panel #410129-0075B), however no development is
24 proposed in this area. A narrow strip coincident with the coastal
25 recession rate lies within the coastal shorelands overlay zone, but
26 again, no development is proposed within this area. Thirdly, the

1 Bullentin 81 Environmental Hazards Map of the Siletz River Section
2 indicates the presence of a high groundwater table in the area.
3 Lastly, the Environmental Hazards Inventory of Lincoln County
4 (R.N.K.R. Associates, 1978) indicates the property is subject to
5 moderate (2.8-11.3 inches/year) erosion rates. The applicant submitted
6 a preliminary geotechnical report prepared by a registered engineering
7 geologist which is incorporated into the record by reference herein.

8 10. The proposed use of the property is to establish a 42 unit planned
9 development consisting of 27 bungalow units and 15 condominium units
10 in a three story oceanfront structure. An office building and
11 association building are also proposed for the site. The applicant
12 seeks a modification to the required 30 foot building height limitation
13 for the multi-story condominium to permit a maximum height of 33 feet.
14 Coinciding with this request, the applicant seeks a modification to the
15 south sideyard setback of 4 feet to allow a setback of seven feet and
16 the north property boundary setback is to meet standard requirements,
17 measuring 11 feet.

18 11. In the R-1 zone, lots served by public water and sewer require 6000
19 square feet per dwelling unit. The total area of the property is
20 5.83 acres. Total square footage equals 253.950 divided by 42 units
21 equals 6005 square feet per dwelling unit. A density of 42 units meets
22 county standards.

23 12. The development will be accessed via old Highway 101. The plan shows a
24 total of 101 parking spaces, 45 of which are carport spaces, or 2.4
25 spaces per unit.

26 13. Full urban level services are proposed for the development. Water will

- 1 be furnished by Kernville-Gleneden Beach-Lincoln Beach Water District.
2 Sewer will be provided by Gleneden Beach Sanitary District.
3 Fire protection will be provided by Depoe Bay Rural Fire Protection
4 District and electricity served by Pacific, Power, and Light. The
5 applicant submitted a preliminary utility report prepared by a
6 registered professional engineer which describes the design and
7 installation specifications for water, sewer, storm sewer, and mentions
8 fire protection and electric power provisions. That report is
9 incorporated into the record by reference herein.
- 10 14. All units will be individually owned. Common areas are jointly owned
11 by all tenants. It is mandatory that each unit be included in a rental
12 pool program a percentage of each month.
- 13 15. The applicant will secure utility easements across State Park property
14 to the south for water and sewer lines.
- 15 16. The plan shows beach access will be provided with an engineered
16 stairway by a path along the north property line and via state park
17 property to the south.
- 18 17. The preliminary plan shows recreation facilities to include
19 volleyball, tennis, and basketball courts, swimming pool with
20 whirlpool, and an 18 hole putting green.
- 21 18. The development will be carried out in two phases. Phase one includes
22 development of all road and utility improvements, office and association
23 buildings, all landscaping and recreational facilities, the 15 unit
24 condominium structure, and 5 bungalows with carports. Phase II shows
25 completion of the remaining 22 bungalow units.
- 26 19. Information not otherwise specified in the above is contained in the

1 staff report which is by reference incorporated into the record herein.

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Relevant Criteria

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4 The Lincoln County Code provides the following standards for a planned development
5 zone map amendment (Section 1.1380):

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1) A PD zone may be established in combination with any zone other than a
T-C zone.

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2) A PD zone may contain only a planned development which has been
approved in accordance with the provisions of this chapter.

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3) Requirements pertaining to area, density, yards or similar dimensional
standards shall be guided by the standards of the zone in which the
development is proposed.

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4) No building shall exceed a height which is greater than 45 feet without
voter approval. Such height increases may be approved by the Planning
Commission provided that the proposed height is not detrimental,
incompatible or otherwise undesirable with respect to existing or
future surrounding area development, and provided that one of the
following situations can be found to exist:

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(A) That the height increase can be justified on the basis of unique lot
characteristics, topographical conditions, or other natural features; or

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(B) That the height increase can be justified on the basis of amenities provided
or concessions made by the developer for which some bonus incentive is
warranted.

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5. A planned development shall have a minimum of 5 continuous acres
exclusive of street right-of-way.

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6. There are special physical conditions or objectives of the development

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- 1 which warrant a departure from the standard ordinance requirements.
- 2 7. The proposed development will not be inconsistent with the
3 comprehensive plan provisions or zoning objectives of the area.
- 4 8. The area at least 250' from the outside boundary of the lot upon which
5 the development is proposed, is or can be planned to be in substantial
6 harmony with the proposal.
- 7 9. The plan can be completed within a reasonable period of time.
- 8 10. Any proposed commercial or industrial development can be justified
9 economically.
- 10 11. The streets are adequate to support the anticipated traffic and the
11 development will not overload the streets outside the planned area.
- 12 12. Proposed utility and drainage facilities are adequate for the
13 population densities and type of development proposed and will not
14 create a drainage or pollution problem outside the planned area.

15 Findings:

16 A. The Commission finds:

- 17 1. Maximum building height in the R-1 zone is 30 feet. The applicant has
18 demonstrated that in order to attain maximum allowed density while at the
19 same time taking full advantage of limited oceanfront property, the
20 proposed 33 foot building height is necessary and desirable to
21 accommodate 15 condominium units. The site further lends itself to
22 condominium development due to the location of natural drainage features
23 which cut through the property and limit buildable area. Furthermore,
24 the building will be located just north of state park property where
25 future development will be minimal. Thus, the proposed height increase
26 is not detrimental, incompatible, or otherwise undesirable with respect

1 to existing or future surrounding area development and can be justified
2 on the basis of unique lot characteristics, topographical conditions, and
3 natural features.

4 2. The code requires that sideyard setbacks equal one foot for every three
5 feet of building height. Using this formula, the multi-story structure
6 should have a setback of eleven feet. The applicant proposed a setback
7 of seven feet. A request for a modification to the south sideyard
8 setback was found to be acceptable because of the narrowness of the
9 parcel, limited oceanfront property, and proximity to state park property
10 where intensive development is unlikely. In addition, the objective of
11 the development is to create a planned development community harmonious
12 with the surrounding environment while at the same time meeting density
13 requirements of the underlying zone. Thus, the applicant has demonstrated
14 that there are special conditions and objectives of the development which
15 warrant a departure from the standard ordinance requirements.

16 3. The Rural Community Center plan designation recognizes as primary
17 existing residential, public recreational, commercial, or industrial uses,
18 or those new uses which are compatible with the surrounding area. The
19 primary purpose of the R-1 zone is to provide for urban level density,
20 single-family residential development. The subject property and most of
21 the surrounding area is zoned R-1, single-family residential. The State
22 Park to the south is zoned P-F, public facilities. In effect, these zones
23 recognize existing patterns of development. The proposed beachfront
24 condominium falls within the definition of multi-family dwelling which is
25 permitted where access is directly onto a collector road and where
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1 community sewerage is available. The Planned Development Overlay Zone
2 allows an applicant to include any uses permitted outright or
3 conditionally in any zone, with few exceptions. In the R-1 zone where
4 urban level services are provided, development to planned urban densities
5 as proposed by the applicant are permitted. Thus, the Commission finds
6 that the proposed development will not be inconsistent with the
7 comprehensive plan provisions or zoning objectives of the area.

8 4. This site was not developed prior to January 1, 1977. Beachfront
9 protective structures may be permitted only where development existed prior
10 to January 1, 1977, unless an exception to Goal 18, implementation 5 has
11 been approved.

12 5. The proposal provides for individual ownership of all units and mandatory
13 inclusion of each unit in a rental pool. The code does not regulate the
14 tenure or occupancy of a dwelling. The purpose of the Planned Development
15 Overlay Zone is to permit appropriate and orderly development of tracts of
16 land sufficiently large to allow comprehensive planning and to provide a
17 degree of flexibility in the application of certain regulations which
18 cannot be obtained through traditional lot-by-lot subdivision. As stated
19 in 3 above, to the south is state park property carrying a zone
20 designation of P-F (public facilities) where on-going tourist traffic
21 occurs daily. Surrounding land use also includes commercial/light
22 industrial development, one undeveloped parcel due north and homesites.
23 These uses are in an area zoned R-1. The parcel north remains vacant and
24 thus has the same opportunities for development as any other property in
25 an R-1 zone. The types and opportunities of activities in the surrounding
26 area are not dissimilar to that which is proposed, thus the area at least

1 250 feet from the outside boundary of the lot upon which the development
2 is proposed, is or can be planned to be in substantial harmony with the
3 proposal.

4 6. The applicant intends on constructing the development in two phases
5 beginning in 1990. The ordinance requires building permits be issued
6 within two years from the date of final approval and substantial completion
7 of the project in five years unless an extension is granted by the
8 Planning Commission.

9 7. No commercial or industrial development is proposed.

10 8. The streets are adequate to support the anticipated traffic and the
11 development will not overload the streets outside the planned area.

12 9. Proposed utility and drainage facilities are adequate for the population
13 densities and type of development proposed and will not create a drainage
14 or pollution problem outside the planned area.

15 Conclusion

16 The record and findings support the conclusion that:

17 1. The proposal meets the requirements set forth in Section 1.1380 of the
18 Lincoln County Code (Planned Development Overlay Zone) for approval to
19 amend the zone map from R-1 to R-1 PD.

20 2. The amendment be granted subject to the following conditions of
21 approval:

22 a. Approval is based upon the submitted plan. Development of the site
23 shall be in substantial conformance with the approved plan. Any
24 substantial change shall be submitted for review as an amendment to
25 the approved plan.
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- 1 b. That the applicant comply with recommendations set forth in the
2 submitted Preliminary Site Reconnaissance geotechnical report
3 regarding construction of the multi-story condominium structure.
- 4 c. That the applicant submit a site specific geotechnical report which
5 defines an appropriate oceanfront setback for the multi-story
6 condominium structure.
- 7 d. The applicant shall submit to the Planning Division certifications
8 from the water and sanitary districts that water and sewer service is
9 available and installed according to specification of the district and
10 in substantial conformance with the approved plan.
- 11 e. The applicant shall provide fire hydrants in accordance with the
12 requirements of the Depoe Bay Rural Fire Protection District.
- 13 f. The applicant shall design and provide stormwater and roadside
14 drainage in accordance with accepted engineering practices. The
15 drainage system shall be designed so as to minimize the potential for
16 increased erosion on adjoining properties.
- 17 g. The applicant shall submit as-builts of the proposed road which
18 certify that the road has been constructed as approved. The as-
19 built shall be stamped by an engineer licensed in the State of Oregon.
- 20 h. The applicant shall obtain a road approach permit from the County
21 Road Department for access onto Old Highway 101 and comply with the
22 conditions of that permit in full.
- 23 i. If the planned development is submitted for approval in phases, each
24 phase must be able to qualify in all respects to the applicable
25 requirements of approval of the tentative plan. No phase can be
26 occupied prior to completion of the requirements of that phase.

1 Order

2 It is ORDERED by the Planning Commission of Lincoln County that the
3 requested proposal in case file #1-PD-89 be recommended to the Lincoln County
4 Board of Commissioner's for approval subject to the specified conditions of
5 approval.

6 This ORDER was presented to and approved by the Planning Commission on January 2,
7 1990.

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Jim Adler, Chairman
LINCOLN COUNTY PLANNING COMMISSION

12 Attest:

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Ayes:

14 Noes:

Absent:

15 Abstain:

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