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BEFORE THE BOARD OF COMMISSIONERS

FOR LINCOLN COUNTY, OREGON

ORDINANCE NO. 309

AN ORDINANCE AMENDING THE LINCOLN COUNTY ZONING MAP ON
PROPERTY IDENTIFIED ON LINCOLN COUNTY ASSESSOR'S MAP
13-10-28-DA, TAX LOT 100, OWNED BY LEE AND HELEN WELTNER

WHEREAS the Lincoln County Planning Commission voted unanimously to recommend approval of a zone change from R-1 (Single Family Residential) to C-T (Tourist Commercial) for property owned by Lee and Helen Weltner; and

WHEREAS the subject property is identified on Lincoln County Assessor's Map 13-10-28-DA as Tax Lot 100; 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 Single Family Residential to Tourist Commercial on property identified as Tax Lot 100, Lincoln County Assessor's Map 13-10-28-DA.

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

3. That copies of this ordinance be forwarded to applicants Lee and Helen Weltner, 10076 Alsea Highway, Waldport, OR 97394; County Surveyor; County Assessor; and Department of Planning and Development.

4. That the Department of Planning and Development shall amend the official maps in the Lincoln County Clerk's Office.

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

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1 F. Surrounding uses include residentially developed
2 parcels concentrated along the Alsea River, and
3 predominantly forest-land on the upland side of Highway 34.

4 G. According to the applicant, the post office was
5 open until 1985 or 1986, and the store was in business
6 until 1978. The service station is still operating
7 today.

8 H. The property was originally zoned R-2 in 1974, then
9 changed to R-1 in 1980. The applicant has testified
10 that these zoning designations were adopted in error
11 because of the commercial uses existing on the
12 property.

13 I. The applicant also testified that there is a public
14 need for the proposed zone change because approximately
15 400 residents live in the area year-round and currently
16 have no nearby store for groceries or general supplies.

17 J. Because the store has been out of business for more
18 than one year, it would not be able to reopen under the
19 current R-1 zoning.

20 K. The proposed C-T zone allows service stations and
21 grocery stores as uses permitted outright.

22 Relevant Criteria

23 A. Lincoln County Land Use Code.

24 1. Requirements for a Zone Change: As per Section
25 1.1235, a quasi-judicial amendment to the zoning
26 map may be authorized provided that the proposal

1 satisfies all applicable requirements of this
2 chapter and also provided that the applicant, in
3 a quasi-judicial hearing demonstrates the
4 following:

- 5 a. That the change is in accordance with the
6 Comprehensive Plan goals and policies and
7 the Statewide Planning Goals; and
8 b. That there has been a substantial change in
9 the character of the area since zoning was
10 adopted and which warrants changing the
11 zone; or
12 c. That zoning previously adopted for the area
13 was in error; or
14 d. That there is a public need for the change
15 being sought.

16 B. Lincoln County Comprehensive Plan Designation,
17 Rural Community Center:

18 Section 1.0190 of the Lincoln County Code describes
19 the Rural Community Center as existing service
20 communities where small lots have been platted,
21 commercial services have developed and community
22 facilities are located. These are areas where
23 utility systems may be present or would be
24 appropriate in the future to solve identified
25 problems. These factors indicate a need for a
26 certain level of residential growth to accomplish

1 and pay for needed improvements. Uses such as
2 residential, existing public recreation facilities,
3 commercial and industrial activities limited to
4 those which are existing or compatible to the
5 surrounding activities are primary. Multi-family
6 areas may be permitted where access is directly
7 onto a collector road, and where community sewerage
8 is available. Commercial areas may be permitted
9 where arterial access is available and a frontage
10 road or potential for access to residential areas
11 is available without crossing a highway. Secondary
12 uses such as new public recreation facilities,
13 public utilities, government uses, and similar uses
14 may be included by County review. (ORD 183)

15 Findings:

16 A. The Commission finds:

- 17 1. Because of its history of commercial use, the
18 subject property was incorrectly zoned R-2 in 1974,
19 and subsequently zoned in error in 1980 when the
20 R-1 zone was assigned.
- 21 2. A public need exists for a grocery store to serve
22 the Tidewater area. The proposed rezoning to allow
23 the reopening of the Tidewater Store will help
24 serve this public need.
- 25 3. The Comprehensive Plan allows the C-1 zone within
26 areas that are designated as Rural Community

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Center, specifying that commercial areas may be permitted where arterial access is available and a frontage road or potential for access to residential areas is available without crossing a highway. The subject property meets these requirements.

Conclusion

The record and the findings support the conclusion that:

1. The zone change will be in accordance with the Comprehensive Plan goals and policies and the Statewide Planning Goals.
2. The subject property was zoned in error.
3. There is a public need for the change being sought.

ORDER:

It is hereby ORDERED by the Planning Commission of Lincoln County that the requested zone change from R-1 to C-T, case file #2-ZC-PC-92 be recommended to the Lincoln County Board of Commissioners for approval. Because the zoning was adopted in error, the Planning Commission

1 recommends that the Board waive the application fee and
2 refund this fee to the applicant.

3 This ORDER was presented to and approved by the Planning
4 Commission on November 23, 1992.

5 
6 George Miller, Chairman
7 Lincoln County Planning Commission

8 ATTEST:
9 Ayes:
10 Noes:
11 Absent:
12 Abstain:

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