

91-020

BEFORE THE BOARD OF COMMISSIONERS

FOR LINCOLN COUNTY, OREGON

ORDINANCE NO. 329

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AN ORDINANCE AMENDING LINCOLN COUNTY ZONING MAP ON PROPERTY IDENTIFIED AS TAX LOTS 10100 AND 10200, LINCOLN COUNTY ASSESSOR'S MAP 8-11-28-BC, AND DECLARING AN EMERGENCY

WHEREAS the Lincoln County Planning Commission, after legal notice, held a public hearing on November 8, 1993, which was continued to November 22, 1993, to consider a request by applicant Louis W. Brodsky to approve a zone change from R-1 (Single-Family Residential) to C-1 (Retail Commercial) under the Rural Community Center Comprehensive Plan designation for property identified as Tax Lots 10100 and 10200, Lincoln County Assessor's Map 8-11-28-BC; and

WHEREAS the Planning Commission voted unanimously to recommend approval of the request to the Board of Commissioners; 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 recommendation is adopted and the zoning is hereby changed from R-1 (Single-Family Residential) to C-1 (Retail Commercial) under the Rural Community Center Comprehensive Plan designation for property identified as Tax Lots 10100 and 10200, Lincoln County Assessor's Map 8-11-28-BC. The subject property is more particularly identified on the Map in Exhibit "A" which is attached hereto and incorporated herein.

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

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

4. That the Lincoln County Department of Planning and Development 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 emergency is declared to exist and this ordinance takes effect upon its adoption.

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Lincoln County Legal Counsel
Lincoln County Courthouse
228 W. Olive Street
Newport, Oregon 97365
Phone: 265-4108

6. That copies of this ordinance be forwarded to Petitioner Louis Brodsky, P. O. Box 478, Depoe Bay, OR 97341; County Surveyor; County Assessor; County Counsel; and Department of Planning and Development.

DATED AND APPROVED this 19th day of January, 1994.

LINCOLN COUNTY BOARD OF COMMISSIONERS

By Don Mudry
Chair

By Sean Cowan
Commissioner

By Nancy Leonard
Commissioner

ATTESTED TO:

Susan Kays
SUSAN KAYS
Recording Secretary

APPROVED AS TO FORM:

Wayne Belmont
WAYNE BELMONT
County Counsel

PLANNING/ordin.zc

Lincoln County Legal Counsel
Lincoln County Courthouse
225 W. Olive Street
Newport, Oregon 97365
Phone: 265-4108

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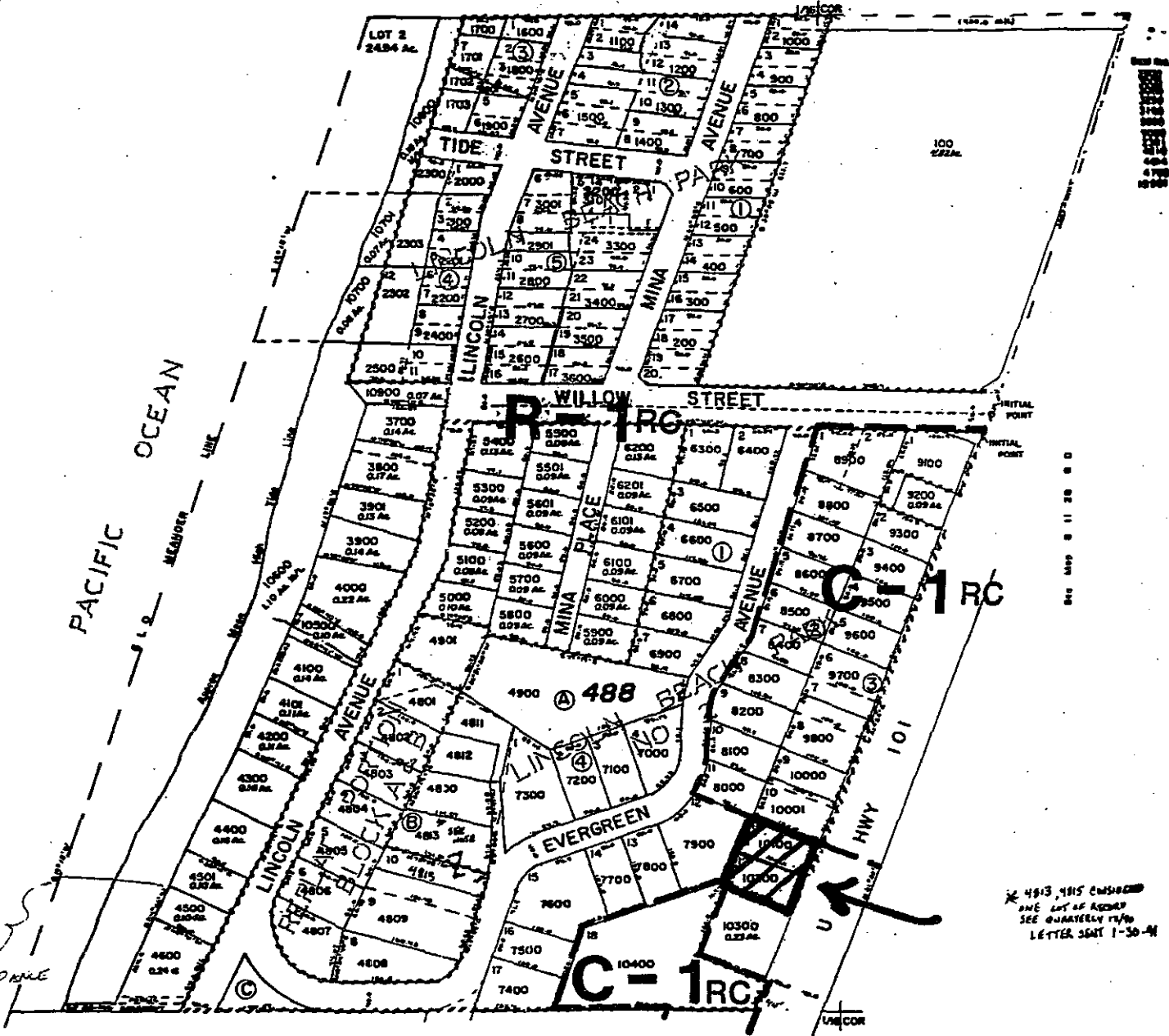
SW1/4 NW1/4 SECTION 28 T8S R11W WM
LINCOLN COUNTY

ASSESSORS OFFICE USE ONLY

8 11 28 BC

LINCOLN BEACH PARK
LINCOLN BEACH PARK NO. 2
REPLAT PTN OF BLOCK A & BLOCK B
OF LINCOLN BEACH PARK NO. 2

See Map 8-11-28 BA



GEOTECH
REQ'D
SEE CORRESPONDENCE

* 4843, 4815 COUNTR
ONE LOT AS REQ'D
SEE QUARTERLY 1970
LETTER 5647 1-30-71

See Map 8 11 28 C B

EXHIBIT "A"

BEFORE THE PLANNING COMMISSION

OF

LINCOLN COUNTY, OREGON

Request for Zone Change)	Case File #1-ZC-PC-93
)	
for Louis Brodsky)	FINDINGS, CONCLUSIONS
)	AND FINAL ORDER

Nature of the Application

The application is for a zone change from R-1 (Single-Family Residential) to C-1 (Retail Commercial) under the Rural Community Center Comprehensive Plan designation.

Relevant Facts

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

1. The Comprehensive Plan designation for the subject property is Rural Community Center.
2. The subject property is zoned R-1 (Single-Family Residential).
3. The subject property is located on the west side of Highway 101 in Lincoln Beach between Sundown and Willow Streets. The property is further identified on Lincoln County Assessor's Map #8-11-28BC as tax lots 10100 and 10200.
4. The subject property consists of two 50 foot by 96 foot lots which are level.
5. One single-family dwelling stands on each tax lot.
6. Adjacent to the north property line are two undeveloped lots zoned C-1, with a mixture of commercial and residential uses beyond. Across Highway 101 to the east are commercial and

1 residential uses. To the west are residential uses in the
2 Lincoln Park Subdivision. Adjacent to the south is a residence
3 on property also zoned R-1, with commercial zoning and a
4 mixture of uses beyond.

5 7. A public hearing was held before the Planning Commission on
6 November 22, 1993, to consider the applicant's request. All
7 interested parties were given an opportunity to testify.

8 8. Testimony in support of the request was presented by the
9 applicant, who believed that the property was zoned R-1 in
10 error, for the following reasons:

11 a. The majority of properties in the vicinity of the subject
12 property which have highway frontage are zoned C-1.

13 b. Highway 101 is not a desirable location for residential uses
14 due to factors which include traffic and noise.

15 c. The R-1 zone designation is inconsistent with the pattern of
16 commercial development and zoning on Highway 101 in the
17 vicinity of the subject property.

18 9. There was no testimony in opposition to the applicant's
19 request.

20 **Relevant Criteria:**

21 1. Rural Community Comprehensive Plan Designation (Section
22 1.0190): Rural Community Centers are described in the
23 Comprehensive Plan as:

24 Existing service communities where small lots have been
25 platted, commercial services have developed and community
26 facilities are located. These are areas where utility systems

1 may be present or would be appropriate in the future to solve
2 identified problems. these factors indicate a need for a
3 certain level of residential growth to accomplish and pay for
4 needed improvements. Uses such as residential, existing public
5 recreation facilities, commercial and industrial activities
6 limited to those which are existing or compatible to the
7 surrounding activities are primary. Multi-family areas may be
8 permitted where access is directly onto a collector road, and
9 where community sewerage is available. Commercial areas may be
10 permitted where arterial access is available and a frontage
11 road or potential for access to residential areas is
12 available without crossing a highway. Secondary uses such as
13 public recreation facilities, public utilities, government
14 uses, and similar uses may be included by County review.

15 2. Lincoln County Land Use Code, Section 1.1235, Quasi Judicial
16 Amendments: A Quasi-judicial amendment to the Zoning Map may be
17 authorized provided that the proposal satisfies all applicable
18 requirements of this chapter and also provided that the
19 applicant, in a quasi-judicial hearing, demonstrates the
20 following:

- 21 a. That the change is in accord with the Comprehensive Plan
22 goals and policies and the Statewide Planning Goals; and
23 b. That there has been a substantial change in the character of
24 the area since zoning was adopted and which warrants
25 changing the zone; or

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1 c. That zoning previously adopted for the area was in error;

2 or

3 d. That there is a public need of the change being sought.

4 **Findings:**

5 The Commission finds:

- 6 1. The vast majority of lots in the vicinity of the subject property
7 which front Highway 101 are zoned C-1.
- 8 2. Residential uses are generally less compatible with highway noise
9 and traffic than commercial uses are.
- 10 3. The subject property has arterial access and access to residential
11 areas without crossing Highway 101.
- 12 4. Commercial zoning of the subject property would be consistent with
13 the existing pattern of development, and reduce the amount of
14 "spot zoning" which was originally adopted.
- 15 5. The R-1 zone designation of the subject property is most likely
16 the result of a mapping error, due to it's proximity to Highway
17 101 and commercial zoning to the north, south and east.

18 **Conclusion:**

19 The record and the findings support the conclusion that:

- 20 1. The zone change will be in accordance with the Comprehensive
21 Plan goals and policies and the Statewide Planning Goals.
- 22 2. The subject property was zoned R-1 in error, and thereby
23 meets the requirements for a zone change.

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1 ORDER:

2 It is hereby ORDERED by the Planning Commission of Lincoln County
3 that Case File #1-ZC-PC-93 be and is hereby APPROVED. This
4 approval will serve as a recommendation to the Lincoln County
5 Board of Commissioners.

6 This ORDER was presented to and approved by the Planning
7 Commission on December 13, 1993.

8
9 
10 Richard Townsend, Chairperson
11 Lincoln County Planning Commission