

1 WHEREAS the Board determined that approval of the zone change met all the
2 necessary requirements under law;

3 NOW, THEREFORE, IT IS HEREBY ORDAINED AS FOLLOWS:

4 **SECTION 1.**

5 1. That the property located at the SW intersection of Highway 101 and NW Willow
6 Street, further identified as Tax Lots 9100 and 9200, Lincoln County Assessor's Map 8-11-28-
7 BC, is hereby rezoned from C-1 (Retail Commercial) to C-2 (General Commercial) pursuant to
8 Resolution No. 97-10-2 and LCC 1.1245 and subject to the following conditions:

9 A. Use of the property is limited to metal fabrication shop buildings and
10 wholesale sales office.

11 B. The requirements of LCC 1.1245 (3) shall apply to use of the property
12 including the requirement that merchandise and supplies be contained entirely within
13 the buildings.

14 C. Fencing and landscaping of the property shall be continued and maintained
15 by property owners along the adjoining residential areas (excluding the adjacent
16 ODOT right-of-way).

17 D. The applicant's submitted site plan shall be binding upon the property. No
18 other use of the property shall be permitted. In accordance with LCC 1.1245(4), the
19 Director of the Department of Planning and Development will plainly mark on the
20 official zoning map of Lincoln County that this property is "subject to an approved
21 site plan" upon enactment of the ordinance effecting the zone change. LCC
22 1.1245(6). No changes constituting a departure from the site plan or the conditions
23 above may be made except by amendment of the site plan and/or conditions upon
24 recommendation of the Planning Commission and approval by the Board.

25 2. That the findings and conclusions supporting these actions are adopted as set forth in
26 Exhibit "1" from the original proceeding, and are attached hereto and incorporated herein, as
27 supplemented by the finding of the Board that in these continued proceedings, no change has
28 occurred since December 10, 1997, that warrants any changes to those original findings.

Page 2 -- ORDINANCE # 409

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing ordinance to be omitted. New sections are in **boldfaced** type.

1 3. The Department of Planning and Development shall amend the official maps in the
2 Lincoln County Clerk's Office and shall forward a copy of this ordinance to the Department of
3 Land Conservation and Development.

4 4. Copies of this ordinance shall be forwarded to Steven Bacon, 3960 NW Evergreen
5 Avenue, Depoe Bay, OR 97341; Kurt Carstens, applicant's attorney, PO Box 1730, Newport,
6 OR 97365; County Surveyor; County Assessor; County Counsel; and Lincoln County
7 Department of Planning and Development.


8 **SECTION 2.**

9 This Ordinance being necessary for the immediate preservation of the public peace,
10 health and safety, an emergency is declared to exist and this Ordinance shall take effect upon its
11 passage.

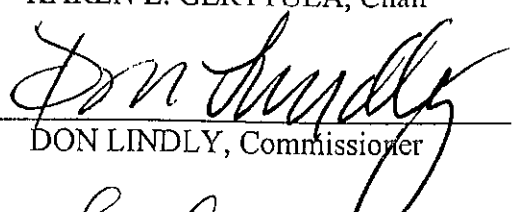
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DATED this 5th day of September, 2001.

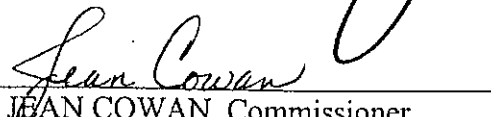
LINCOLN COUNTY BOARD OF COMMISSIONERS



KAREN L. GERTTULA, Chair

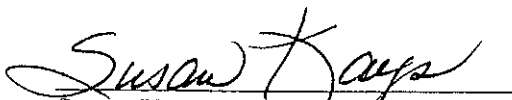


DON LINDLY, Commissioner




JEAN COWAN, Commissioner

ATTESTED TO:



Susan Kays, Recorder

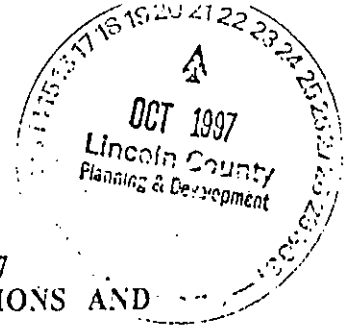
APPROVED AS TO FORM:



Wayne Belmont, County Counsel

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing ordinance to be omitted. New sections are in **boldfaced** type.

BEFORE THE PLANNING COMMISSION
OF
LINCOLN COUNTY, OREGON



Request for Zone Change)
for Steven Bacon)
_____)

Case File No. 2-ZC-PC-97
FINDINGS, CONCLUSIONS AND
FINAL ORDER

Nature of the Application

The application is for a zone change from C-1 (Retail Commercial) to C-2 (General Commercial) under the Rural Community Center Comprehensive Plan designation. The requested zone change is proposed to be accomplished by a Resolution of Intent to Rezone.

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 C-1 (Retail Commercial).
3. The subject property is located at the SW intersection of Highway 101 and NW Willow Street. The property is accessed via a driveway on NW Willow Street.
4. The property is further identified on Lincoln County Assessor's Map #8-11-28 BC as tax lots 9100 and 9200.
5. The subject property is approximately 10,900 square feet and is a relatively flat, and developed commercial site.
6. Surrounding land uses include a mix of residential neighborhoods, commercial businesses, and tourist-related facilities. South of the subject property are an assortment of commercial uses, zoned C-1. East

is Highway 101 and across it are other commercial businesses. To the west and north are residential neighborhoods.

7. A public hearing was held before the Planning Commission on October 13, 1997 in order to consider the applicants' request. All interested parties were given an opportunity to testify.
8. Testimony in support of the request was presented by the applicant's agent, Mr. Kurt Carstens, who explained that the present use of the property is not listed as a use permitted in the C-1 zone, but it has operated in this location since about 1986. The light metal manufacturing is a permitted use in the C-2 zone, and thus the applicant was requesting a zone change under the Resolution of Intent to Rezone..

Mr. Carstens stated that a public need exists for C-2 zoning in north Lincoln County. No C-2 zoned property exists in the Lincoln Beach area which would allow the relocation of the applicant's existing business, Pacific Steel Manufacturing.

Mr. Carstens also discussed the full-time employment offered by the applicant and the public need to retain those jobs for north Lincoln County. The applicant's agent summarized the application as follows:

The applicant's agent emphasized that the requested Resolution of Intent to Rezone would prohibit other uses which would otherwise be allowed in the C-2 zone. The use of the property would be limited to the submitted specific site plan and operational characteristics as proposed.

9. A summary of Mr. Carstens' description of the subject property and proposed use is as follows:

Since 1988 Steve Bacon made improvements to the property, for Pacific Steel Manufacturing, including a three-bay garage used originally for garaging vehicles and now for metal cutting and storage. This garage

was fully permitted in 1991 and received a notice of compliance from the Depoe Bay Rural Fire Chief for use as a metal working shop/garage on 4/15/97. It exceeds fire safety standards because it has sprinklers. In addition, the fire chief has written a letter of support for Pacific Steel Manufacturing continuing at this location which was submitted as Exhibit A to the application.

In recent years, ODOT and Lincoln County worked with Mr. Bacon regarding some loss of his property during the widening of Highway 101. At no time has there been any concern expressed by ODOT, Lincoln County or others about the type of business being conducted on the property. There have been no complaints filed with the Lincoln County Sheriff's Office (Exhibit B to the application) or the planning department regarding the existing use.

Pacific Steel Manufacturing employs six people including a travelling salesman and the owner. Sales are made on a wholesale basis through a travelling salesperson. Customers do not generally visit the company. Pacific Steel sells shelving to 260 locations in a Northwest region which includes Seattle, Anacortes, Yakima, LaPine - Bend, the Oregon Coast and the Willamette Valley. Sales are generally delivered via UPS or with the company's two 1-ton pick up trucks. Supplies are delivered to the site by UPS and from the metal suppliers.

The applicant estimates that there are approximately 20 vehicle trips per day to and from the subject site. Since the property is the first driveway on Willow Street and abutting an arterial, there is very little traffic impact to the surrounding area.

All the metal work is done within an enclosed building. As a result, there is very little noise from the metal-working activity. There are no vibration impacts. Lights do not shine off the property. The company's policy to work within buildings and shield the neighbor's from the commercial activity has resulted in no complaints being registered about the on-going business.

The commercial property is fenced from the adjacent residential use and landscaped with shrubs, excluding the ODOT right-of-way. Metal manufacturing work and storage of materials occur within the subject buildings. As a result, the surrounding area is visually buffered from the subject site's activities.

10. There was one letter in support of the request from Claud and Regina Miller, owners of neighboring tax lot 8600.
11. There was no testimony in opposition to the applicant's request.

Relevant Criteria:

RURAL COMMUNITY PLAN DESIGNATION: Section 1.0190(4):

"Rural Community Centers are existing service communities where small lots have been platted, commercial services have developed and community facilities are located. These are areas where utility systems may be present or would be appropriate in the future to solve identified problems. These factors indicate a need for a certain problems. These factors indicate a need for a certain level of residential growth to accomplish and pay for needed improvements. Uses such as residential, existing public recreation facilities, commercial and industrial activities limited to those which are existing or compatible to the surrounding activities are primary. Multi-family areas may be permitted where access is directly onto a collector road, and where community sewerage is available. 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. Secondary uses such as new public recreation facilities, public utilities, government uses, and similar uses may be included by County review."

Retail Commercial Zone C-1 zone (LCC Section 1.1361) List of uses permitted outright and conditionally include:

"Uses Permitted Outright:

- a. A use permitted outright in the R-4 zone.
- b. Retail store or shop such as food store, drug store, apparel store, hardware store, furniture store, or similar establishment.
- c. Repair shop for the type of good offered for sale in those retail trade establishments permitted in a C-1 zone provided, all repair and storage shall occur entirely within an enclosed building.
- d. Personal or business service establishment such as barber or beauty shop, laundry or dry cleaning establishment, tailor shop, or similar establishment.
- e. Clinic.
- f. Financial institution.

- g. Club, lodge, or fraternal organization.
- h. Hotel.
- i. Indoor commercial amusement or recreation establishment such as bowling alley, theater, or pool hall.
- j. Mortuary.
- k. Newspaper office, print shop.
- l. Office.
- m. Private museum, art gallery, or similar facility.
- n. Restaurant, bar, or tavern.
- o. Beachfront protective structures.

Conditional Uses Permitted:

- a. A use permitted as a conditional use in the R-4 zone.
- b. Recreational vehicle park.
- c. Outdoor commercial amusement or recreation establishment such as miniature golf course or drive-in theater, but not including uses such as race track or automobile speedway.
- d. A use permitted outright or a conditional use permitted in the C-1 zone with drive-in service facilities such as an automobile service station or a drive-in restaurant.
- e. Signs, advertising.
- f. Heliport.
- g. Pilings, piers, docks, and similar in water structures.
- h. Mini-storage."

(3) Standards:

"Except as provided in this subsection and in LCC 1.1401 to 1.1499, 1.1501 to 1.1599, 1.1601 to 1.1699, and 1.1901 to 1.1999 the standards which apply in the C-1 zone shall apply.

(a) All yards abutting a lot in a residential zone shall be a minimum of 20 feet.

(b) Outdoor storage abutting or facing a street or highway or a lot in a residential zone shall be screened with a sight-obscuring fence."

General Commercial Zone C-2 zone (LCC Section 1.1362)

List of uses permitted outright and conditionally include:

"Uses Permitted Outright:

- a. A use permitted outright in the C-1 zone.
- b. Automobile truck, or trailer sales, service, storage, rental, or repair.
- c. Boat launching or moorage facility, marine boat charter service.
- d. Boat or marine equipment sales, service, storage, rental, or repair.
- e. Cabinet or similar woodworking shop.
- f. Cold storage or ice processing plant.
- g. Feed or seed store.
- h. Implement, machinery, or heavy equipment sales, service storage, or rental.
- i. Laboratory for experiment or research.
- j. Lumber or building materials sales and storage.
- k. machine, welding, sheet metal, or similar metal working shop.

1. Outdoor commercial amusement or recreation establishment such as miniature golf course or drive-in theater, but not including uses such as race track or automobile speedway."

Quasi-Judicial Amendments (LCC Section 1.1235)

"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 that the change is in accord with the Comprehensive Plan goals and policies or the Statewide Planning Goals and that :

- (1) There has been a substantial change in the character of the area since zoning was adopted and which warrants changing the zone;
- (2) Zoning previously adopted for the area was in error; or
- (3) There is a public need for the change being sought."

Findings:

The Commission finds:

1. The requested zone change is consistent with the Comprehensive Plan and Statewide Planning Goals. There is a public need for the change being sought.
2. The proposed use of the property requires a zone designation of C-2, General Commercial. There is no available land in the Lincoln Beach area which is zoned C-2.
3. The C-2 zone allows some uses which may not be compatible with existing or projected uses in the Lincoln Beach area.
4. The Planning Commission may recommend to the County Board of Commissioners that a zone change be adopted by a "Resolution of Intent to Rezone" said property. This resolution may include any conditions, stipulations or limitations which the Board feels necessary to insure the public interest.
5. A Resolution of Intent to Rezone limits the activities on the property to those identified on the applicant's submitted site plan, and minimizes the

potential for conflict which could result from the establishment of other uses allowed in the C-2 zone.

6. The subject property has arterial access.

Conclusion:

The record and the findings support the conclusion that:

1. The zone change will be in accordance with the Comprehensive Plan's Goals and Policies and the Statewide Planning Goals.
2. The absence of C-2 zoning in the Lincoln Beach area and north Lincoln County creates a public need for the change being sought.
3. The zone change should be adopted under a "Resolution of Intent to Rezone," in accordance with Section 1.1245(1)-(7), Lincoln County Code.
4. There is a need to limit commercial development on the subject property. In this case, the property is to be developed under the Resolution of Intent to Rezone.

ORDER:

It is hereby **ORDERED** by the Planning Commission of Lincoln County that Case File No. 2-ZC-PC-97 be and is hereby **APPROVED**. This approval will serve as a recommendation to the Lincoln County Board of Commissioners that the zone change be accomplished under a Resolution of Intent to Rezone. This approval is subject to the following conditions:

1. The applicant's submitted site plan shall be binding upon the property. No other use of the property shall be permitted. The use of the property shall be limited to that proposed by the applicant and his agent during testimony, and stated for the record. These shall be limited to a metal fabrication shop and wholesale sales office.
2. Storage of merchandise and supplies will be contained entirely within a building.

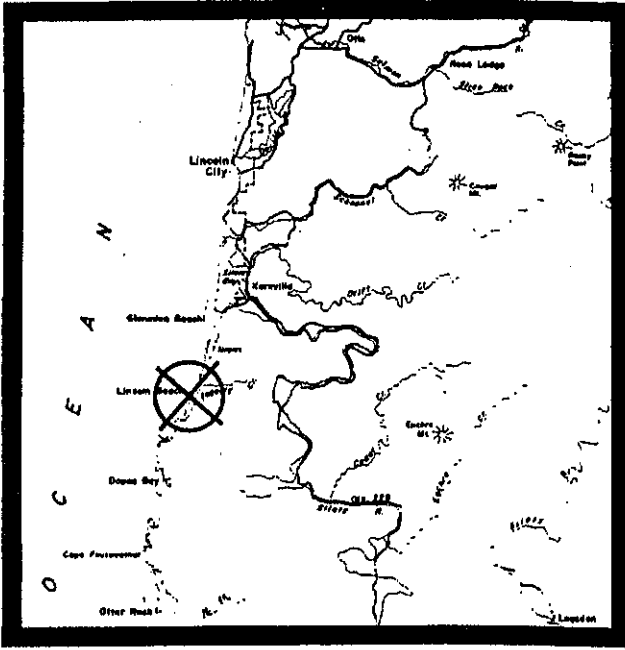
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Ex. 7
p. 7

3. Any other condition that the Board of County Commissioners feels necessary to protect the public interest.

This ORDER was presented to and approved by the Planning Commission on October 27, 1997.

Naomi Wamacks, Chairperson
Lincoln County Planning Commission



#2-ZC-PC-97

STEVEN BACON

SITE MAP

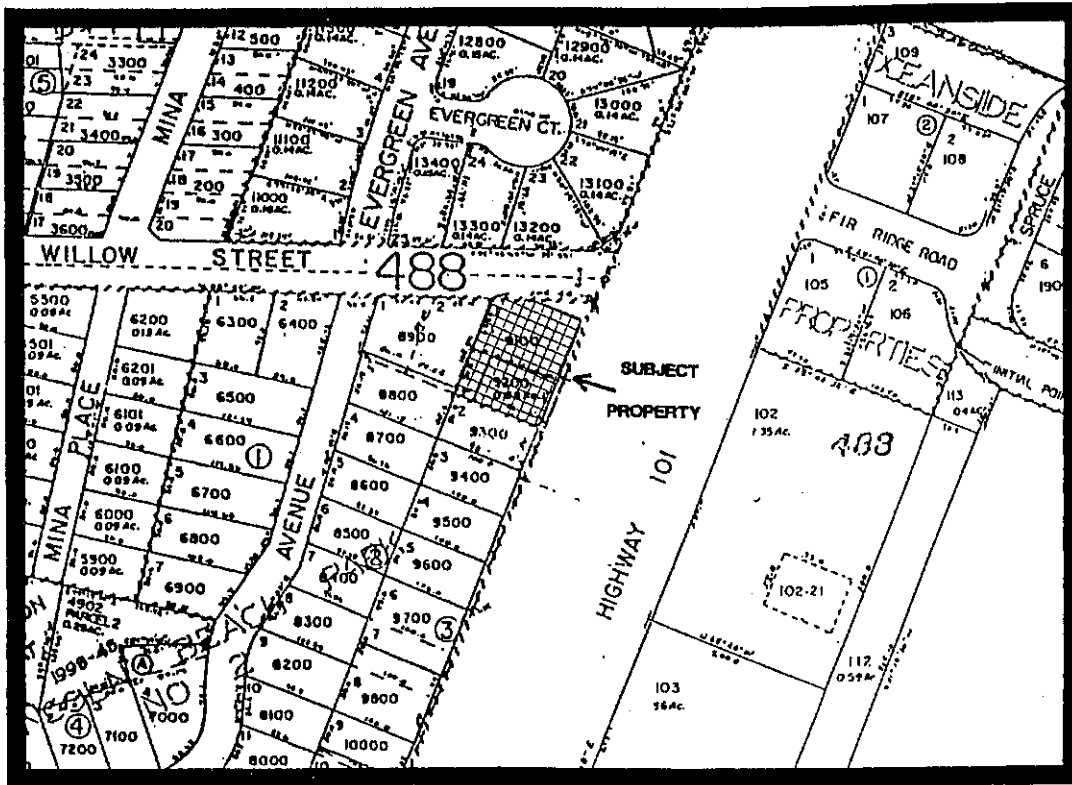


EXHIBIT 2
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