

1 **BEFORE THE BOARD OF COMMISSIONERS**

2 **FOR LINCOLN COUNTY, OREGON**

3 ORDINANCE #412

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6 **Amending Ordinance #362 to allow changes to the previously approved site plan for**
7 **property identified as Tax Lots 9800, 10000, and 10001, Lincoln County Assessor's Map**
8 **8-11-28-BC, and declaring an emergency.**
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10 WHEREAS by Ordinance #362 adopted on October 9, 1996, property identified as Tax
11 Lots 9800, 10000, and 10001, Lincoln County Assessor's Map 8-11-28-BC, was approved for
12 a zone change under the resolution of intent to rezone provisions in Lincoln County Code
13 (LCC) Section 1.1245 from C-1 (Retail Commercial) to C-2 (General Commercial), Case File
14 #1-ZC-PC-96; and

15 WHEREAS Ordinance #362 contains an approved site plan that is binding upon the
16 property except by amendment of the site plan and/or conditions upon recommendation of the
17 Planning Commission and approval by the Board; and

18 WHEREAS applicant Dan James dba Northwest Homes has requested amendment to
19 the previously approved site plan to allow for a different arrangement and type of manufactured
20 homes for storage and display, including single-wide, double-wide, and park models; and for
21 storage of contractor's materials and equipment used for mobile home set-up which would be
22 screened from adjacent uses with a site-obscuring fence, Case File No. 1-ZC-PC-01; and

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 WHEREAS on August 27, 2001, the Lincoln County Planning Commission held a
2 public hearing in accordance with LCC Section 1.1235 and voted unanimously to recommend
3 approval of the applicant's request, subject to appropriate conditions of approval; and

4 WHEREAS the decision and recommendations of the Planning Commission were not
5 appealed and, therefore, the Board need not hold another public hearing; and

6 WHEREAS the Board finds that the proposed site plan amendment is consistent with
7 the zone change approved by Ordinance #362 and that the Planning Commission's
8 recommendations and conditions of approval are appropriate and should be implemented;

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

10 **SECTION 1.**

11 1. The proposed site plan amendment as shown in Exhibit 1, attached hereto and
12 incorporated herein, is consistent with Ordinance #362 and is approved, subject to the following
13 conditions:

14 A. Consistent with the site plan, the use of the property shall be limited to
15 manufactured home sales and display, including single-wide, double-wide and park
16 models; and storage of contractor's materials and equipment used for mobile home
17 set-up.

18 B. Applicant shall obtain a current Highway Approach Permit from the
19 Oregon Department of Transportation for access from Highway 101.

20 C. Landscaping shall be provided along the front property line and shall
21 include native species of vegetation.

1 D. Applicant shall construct a site-obscuring fence that separates the storage
2 area from the adjacent property to the west by a distance of three (3) feet.

3 E. The applicant's amended site plan shall be binding upon the property. No
4 other use of the property shall be permitted. No changes constituting a departure
5 from the site plan or the conditions above may be made except by amendment of the
6 site plan and/or conditions upon recommendation of the Planning Commission and
7 approval by the Board.

8 2. The Lincoln County Planning Commission's findings and conclusions supporting
9 these actions are adopted as set forth in Exhibit "2" attached hereto and incorporated herein.

10 3. The Department of Planning and Development shall forward a copy of this ordinance
11 to the Department of Land Conservation and Development.

12 4. Copies of this ordinance shall be forwarded to applicant Daniel S. James, PO Box
13 699, Depoe Bay, OR 97341; Eugene P. Perkins, PO Box 926, Depoe Bay, OR 97341; Matt
14 Spangler, Department of Planning and Development; and Wayne Belmont, County Counsel.

15 **SECTION 2.**

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

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DATED this 24th day of October, 2001.

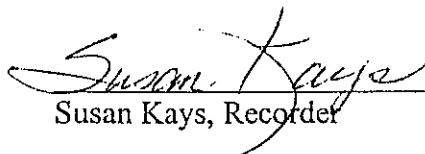
LINCOLN COUNTY BOARD OF COMMISSIONERS


KAREN L. GERTTULA, Chair

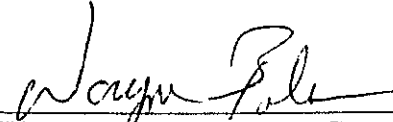
EXCUSED
DON LINDLY, Commissioner


JEAN COWAN, Commissioner

ATTESTED TO:

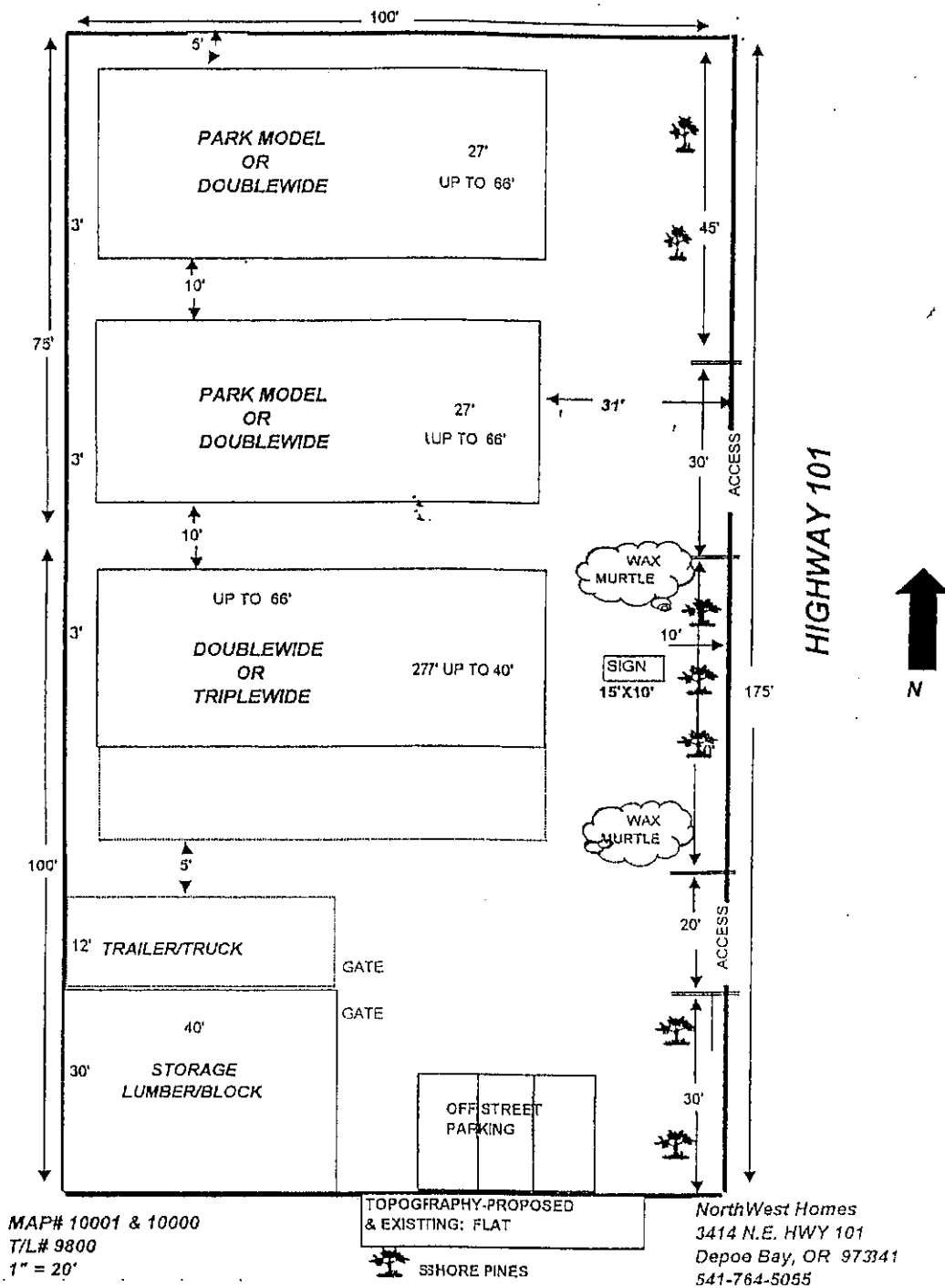

Susan Kays, Recorder

APPROVED AS TO FORM:


Wayne Belmont, County Counsel

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ORDINANCE # 412

EXHIBIT 1
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BEFORE THE PLANNING COMMISSION
OF
LINCOLN COUNTY, OREGON

Request for Site Plan Amendment) Case File #1-ZC-PC-01
Applicant: Dan James d.b.a.) Findings, Conclusions, and
Northwest Homes) Final Order

Nature of the Application

The subject property was previously approved for a zone change from C-1 (Retail Commercial) to C-2 (General Commercial) under Case File #1-ZC-PC-96. The change was approved under a Resolution of Intent to Rezone, to allow a manufactured home sales business to be conducted on the subject property. The Resolution of Intent allowed use of the property only in strict accordance with the approved site plan as adopted by the Lincoln County Board of Commissioners. The applicant is requesting amendments to the previously approved site plan, to allow a different arrangement and type of manufactured homes for storage and display, and to allow for the storage of contractor's materials equipment within a fenced area on the property. Because the previously approved site plan is binding upon the property, and because the applicant is proposing amendments to the site plan, the Planning Commission must review the proposal and make a decision in the form of a recommendation to the Board of Commissioners.

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 site is zoned C-2 (General Commercial).
3. The subject property is located in Lincoln Beach immediately north of 3845 N Highway 101, which is on the west side of the highway and south of Willow Street. The property is identified on Lincoln County Assessor's Map #8-11-21BC as tax lots 9800, 10000 and 10001.
4. The subject property is approximately 17,000 square feet in size and is level.
5. The subject property is currently vacant.

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6. The surrounding area contains a mix of residential neighborhoods and commercial businesses. Adjacent to the south is a residence on property zoned C-1, with an assortment of commercial uses and single-family dwellings beyond. To the west are residential uses on lots zoned C-1, with a residential neighborhood and R-1 zoning beyond. North is a dwelling and a vacant lot zoned C-1. A metal fabrication shop zoned C-2 is located on the corner of Willow Street and Highway 101. To the east and across the highway are other commercial uses including the Sentry market and video store as well as vacant commercially zoned parcels and residential uses.
7. On August 12, 1996 the Planning Commission voted to recommend approval of a zone change request by James Wampler Trust, from C-1 to C-2 under the resolution of intent provision of the Lincoln County Code (LCC) Section 1.1245. After consideration of the Planning Commission's recommendation at a public hearing, the Board of Commissioners adopted Resolution of Intent No. 96-4-9A and Ordinance #362, effectively changing the zone to C-2.
8. The applicant is requesting amendments to the previously approved site plan, which is binding under Resolution of Intent 96-4-9A. The proposed amendment would allow a different arrangement and type of manufactured homes for storage and display, and provide for the storage of contractor's materials and equipment.
9. The staff report is by reference incorporated into the record herein.
10. A public hearing was held before the Lincoln County Planning Commission on Monday, August 27, 2001 to consider the applicant's request. All interested parties were given an opportunity to testify.
11. The applicant presented testimony in support of the request, explaining that the proposed manufactured homes sales would be in conjunction with the existing Northwest Homes sales lot further south and across Highway 101, because the business is growing and additional room is needed. The applicant stated his intention to sell a variety of used manufactured homes from the property, including single-wide, double-wide, and park models. There would be no on-site office or full-time employees. The homes would be shown by appointment only, so the use would generate minimal activity. The applicant also explained that the southwest corner of the property was proposed to accommodate a storage area for materials and equipment used for mobile home set-up. The proposed storage area would be screened from adjacent uses with a site-obscuring fence.
12. Written application materials state that there is a public need for affordable housing, and that the proposal will help to satisfy that need.

13. Testimony was also provided by an adjacent property owner, who voiced concern that use of the southwest portion of the property as a storage area could cause damage to his fence, which is located on the common boundary between the two properties. He asked that a buffer be required between the storage area and his fence.
14. In rebuttal to the opposing testimony, the applicant agreed to provide a 3-foot buffer between the storage area and the adjacent property to the west. The buffer would be defined by a site-obscuring fence 3 feet from the fence on the adjacent lot to the west.

Relevant Criteria

1. Lincoln County Development Code

a. Lincoln County Code, Section 1.1235, Quasi-Judicial Amendments:

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:

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

b. Lincoln County Code, Section 1.1245 Intent to Rezone; Purpose and Procedure:

It is the purpose and intent of this Section to provide additional procedures for small tract zone map amendments to insure the public interest is considered as certain developments occur. These provisions may be invoked at any time during zone change hearings and appeal process.

(1) **Resolution of Intent to Rezone:**

If, after consideration of the findings and recommendations of the Planning Commission, the Board determines that the public interest will be best served by this rezoning or any portion thereof, the Board may indicate its approval in concept of the rezoning by the adoption of 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.

(2) **Resolution of Intent Binding:**

The adoption of this resolution of Intent to Rezone by the governing body shall make this a binding commitment on the County.

(3) **Site Development and Operation:**

Other than for residential development, property proposed to be developed under a resolution of intent to rezone shall be managed to insure compliance with the following conditions:

- (a) That storage of merchandise and supplies shall be contained entirely within a building;
- (b) That the proposed use continuously meet State D.E.Q. standards for air and water quality and noise emissions;
- (c) That vehicle parking and maneuvering areas be hard surfaced and maintained dust free;
- (d) That on-site drainage be designated to protect adjoining properties and public rights-of-way from increased storm runoff; and
- (e) Any other conditions that the Board feels necessary to protect the public interest.

(4) Site Plan:

The Board may require under a resolution of intent to rezone a site plan which shall be binding upon the property. Upon approval of the Board, property having an approved site plan under these provisions shall be plainly marked as "subject to approved site plan" on the official zoning map of Lincoln County. Any approved site plan may be amended or a variance therefrom obtained, or the property may be released from the restrictions of such site plan by resolution of the Board on recommendation from the Planning Commission after a public hearing as set forth in LCC 1.1250. No other changes shall be made constituting a departure from the approved site plan except by amendment or variance as herein provided unless the property has been released from the site plan.

(5) Site Plan Composition:

Where a site plan is required pursuant to this Section, it shall include:

- (a) Location of existing property boundaries, existing and proposed buildings, structures, accesses, off-street parking and loading spaces and landscaping;
- (b) Topography, existing and proposed;
- (c) Mechanical roof facilities if subject property is so oriented as to become part of the view from adjacent properties; and
- (d) Architectural perspective, layout and all elevations drawn without exaggeration, except where noted including locations, area and design of signs and all landscaping.

(6) Change of Zone:

The fulfillment of all conditions, stipulations and limitations contained in the resolution of intent to rezone on the part of the applicant, shall be required prior to the governing body effecting the ordinance change. Upon completion of compliance action by the applicant, the Board shall enact the ordinance changing the zone.

(7) Resolution of Intent Void upon Failure to Comply:

The failure of the applicant to substantially meet any or all conditions, stipulations or limitations contained in a resolution of intent to rezone,

including the time limit placed in the resolution, shall render said resolution null and void, unless an extension is granted by the Board upon recommendation of the Planning Commission.

c. Lincoln County Code, Section 1.0190 (4) Rural Community Centers: 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 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. Multifamily 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.

a. Lincoln County Code Section 1.1362 General Commercial Zone C-2:

In a C-2 zone the following regulations shall apply:

(1) Uses Permitted Outright:

The following uses and their accessory uses are permitted subject to the applicable provisions of LCC 1.1401 to 1.1499, 1.1501 to 1.1599, and 1.1901 to 1.1999:

- (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.
- (l) 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.

- (m) Plumbing, heating, electrical, or paint contractors' storage, repair, or sales shop.
- (n) Processing, packing, or storage of food or beverage, excluding those products involving distillation, fermentation, rendering of fats or oils or slaughtering.
- (o) Tire sales, repair, retreading, or vulcanizing.
- (p) Truck terminal, freight depot.
- (q) Upholstery shop.
- (r) Warehouse or storage area.
- (s) Wholesale establishment.

(2) Conditional Uses Permitted:

The following uses and their accessory uses may be permitted subject to the applicable provisions of LCC 1.1401 to 1.1499, 1.1501 to 1.1599, 1.1601 to 1.1699, and 1.1901 to 1.1999:

- (a) A use permitted as a conditional use in the C-1 zone.
- (b) Animal hospital.
- (c) Heliport.
- (d) Pilings, piers, docks, and similar in-water structures.
- (e) 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.

Findings

The Commission finds:

1. The subject property is currently zoned C-2 but bound by the site plan adopted under Resolution of Intent No. 96-4-9A. The applicant is proposing a site plan similar to that approved under Resolution of Intent No. 96-4-9A.
2. The applicant has proposed an amendment to the site plan that includes the sale of a variety of used manufactured homes, and a storage area for contractor's materials. This use is permitted in the C-2 Zone.
3. The lot adjacent to the southwest portion of the subject property, although zoned C-1, is devoted to residential use and is fenced.

4. The applicant has expressed a willingness to construct a fence separating the proposed storage area from the adjacent property by a distance of 3 feet, to serve as a buffer between the two uses.
5. The Planning Commission may recommend to the Lincoln County Board of Commissioners that the approved site plan be amended by resolution.

Conclusions

The record and findings support the conclusion that:

- 1) The proposed site plan amendment is consistent with the zone change approval of Case File #1-ZC-PC-96.
- 2) With appropriate conditions of approval, the amended site plan will insure that the public interest is protected.

Order

It is ORDERED by the Lincoln County Planning Commission that Case File #1-ZC-PC-01 be APPROVED subject to the following conditions:

- 1) The applicant shall obtain a current Highway Approach Permit from the Oregon Department of Transportation for access from Highway 101.
- 2) Landscaping shall be provided along the front property line and shall include native species of vegetation.
- 3) The applicant shall construct a site-obscuring fence that separates the storage area from the adjacent property to the west by a distance of 3 feet.

This ORDER was presented to and approved by the Lincoln County Planning Commission on September 10, 2001, and serves as a recommendation to the Lincoln County Board of Commissioners.



Sam Galasso, Chair
Lincoln County Planning Commission