

COPY

1                   **BEFORE THE BOARD OF COMMISSIONERS**

2                                   **FOR LINCOLN COUNTY, OREGON**

3   ORDINANCE # 421

4  
5  
6                   **Amending the Lincoln County Zoning Map on property identified as Tax Lots 2500 and**  
7                   **2502, Lincoln County Assessor's Map 12-12-25AA, from C-2 (General Commercial) to**  
8                   **C-T (Tourist Commercial), and declaring an emergency.**  
9

10                   WHEREAS on October 28, 2002, the Lincoln County Planning Commission  
11                   unanimously voted unanimously to recommend approval of a request by applicants Brian  
12                   McEneny and Pat Merrill for a zone change on property identified as Tax Lots 2500 and 2502,  
13                   Lincoln County Assessor's Map 12-12-25AA, from C-2 (General Commercial) (authorized  
14                   under a Resolution of Intent to Rezone) to C-T (Tourist Commercial), File No. 1-ZC-PC-02;  
15                   and

16                   WHEREAS the decision and recommendation of the Planning Commission was not  
17                   appealed and, therefore, no further public hearing is required;

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

19                   **SECTION 1.**

20                   1. The Planning Commission's recommendation is adopted, and the zoning on property  
21                   identified as Tax Lots 2500 and 2502, Lincoln County Assessor's Map 12-12-25AA, is  
22                   changed from C-2 (General Commercial) to C-T (Tourist Commercial). The subject property is  
23                   more particularly identified on the map in Exhibit A, which is attached hereto and incorporated  
24                   herein.

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

27                   3. Copies of this ordinance shall be forwarded to applicants Brian McEneny, PO Box  
28                   125, Seal Rock, OR 97376, and Patricia Merrill, PO Box 1434, Waldport, OR 97394; County

1 Surveyor; County Assessor; County Counsel; and Lincoln County Department of Planning and  
2 Development.

3 4. The Department of Planning and Development shall amend the official maps and  
4 shall forward a copy of this ordinance to the Department of Land Conservation and  
5 Development.

6 SECTION 2.

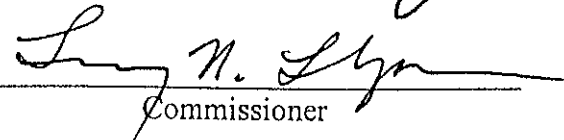
7 This Ordinance being necessary for the immediate preservation of the public peace,  
8 health and safety, an emergency is declared to exist and this Ordinance shall take effect upon its  
9 passage.

DATED this 15th day of January, 2003.

LINCOLN COUNTY BOARD OF COMMISSIONERS

  
Chair

  
Commissioner

  
Commissioner

ATTESTED TO:

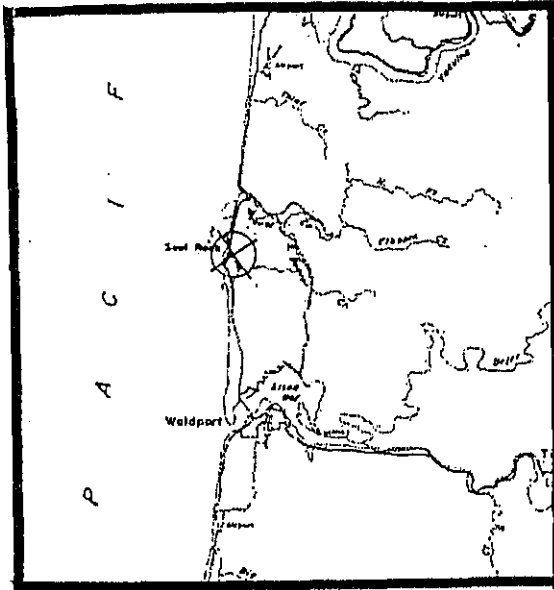
  
Zola Sherwood, Recorder

APPROVED AS TO FORM:

  
Wayne Belmont, County Counsel

APPLICANTS: BRIAN MCENENY; PAT MERRILL

LOCATION MAP

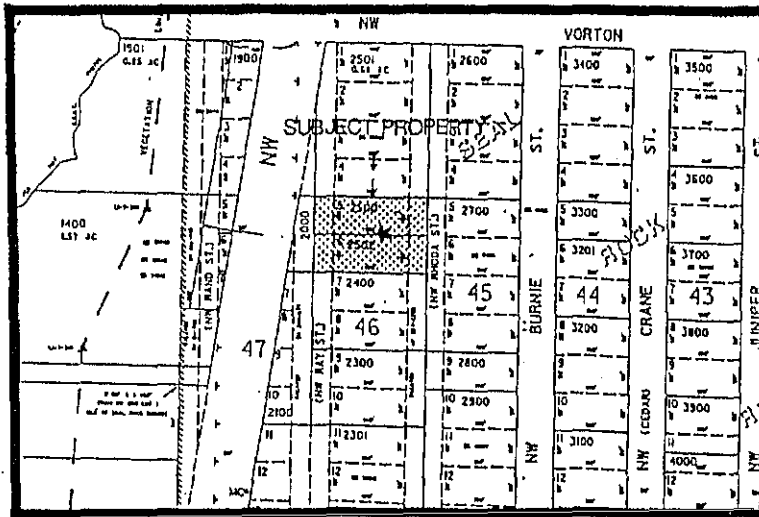


CASE FILE #1-ZC-PC-02



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SUBJECT PROPERTY



BEFORE THE PLANNING COMMISSION

OF

LINCOLN COUNTY, OREGON

Zone Map Amendment            ) Case File #1-ZC-PC-02  
Applicant: Brian McEneny/;    )  
Pat Merrill                        ) Findings, Conclusions, and Final Order

Nature of the Application

The applicant is requesting a zone map amendment from C-2 (authorized under a Resolution of Intent to Rezone) to C-T (tourist commercial).

Relevant Facts

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

1. The subject property is approximately 12,500 square feet in size.
2. The subject property is located at the existing espresso booth and adjacent southerly lot, on the east side of Highway 101 in Seal Rock, and is further identified on Lincoln County Assessor's Map #12-12-25AA as tax lot 2500 and 2502.
3. The subject property is currently zoned C-2 under a Resolution of Intent to Rezone authorized under Case File #1-ZC-84.
4. The subject property carries a plan designation of RC (Rural Community).
5. The subject property is located on the east side of Highway 101 in the rural community of Seal Rock. Seal Rock is comprised of mixed uses including, but not limited to retail commercial, art galleries, a restaurant, antique shops, and residential properties.
6. The subject property is flat and consists of graveled area and mixed native vegetation.

7. The following utilities are proposed to serve the subject property:
  - a. Water: Seal Rock Water District.
  - b. Sewer: On-site sewage disposal system.
  - c. Electricity: Central Lincoln P.U.D.
8. No development constraints are associated with the subject property.
9. A public hearing was held on October 28, 2002 before the Lincoln County Planning Commission. All interested parties were given an opportunity to testify.
10. The applicant presented testimony on behalf of the request. The applicant summarized the history of the property's use and desire to rezone the property to its original designation.
11. No opposition testimony was entered into the record.
12. All application materials and staff's report are by reference incorporated into the record herein.

Relevant Criteria

- a. Lincoln County Development 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 Comprehensive Plan Designation (Section 1.0190(4)) Rural Community: 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.

### Findings

The Commission finds:

1. The Comprehensive Plan designation for the subject property is R-C, rural community center. The C-T zone is included under the R-C plan designation, therefore the proposed change is in accord with the comprehensive plan.
2. The subject property was formerly zoned C-T; however was changed to C-2 under a Resolution of Intent to Rezone. The resolution of intent to rezone was based on a binding site plan, which was for the purpose of establishing a manufactured home sales lot. That particular business operated for just a brief period of time. The applicants are now interested in using the property for uses consistent with the C-T zone, but because future use of the property has been restricted to that which was approved under the resolution, the planning commission finds the property is zoned in error.

### Conclusions:


- 1) Substantial evidence in the record demonstrates that the proposed zone map amendment is in accordance with the Comprehensive Goals and Policies and Statewide Planning Goals.
- 2) Substantial evidence in the record demonstrates that the subject property was zoned in error and therefore meets the requirements for a zone change from C-2 (under Resolution of Intent) to C-T.

Brian McEneny/ Pat Merrill; Case File #1-ZC-PC-02

Order

It is ORDERED by the Lincoln County Planning Commission that Case File #1-ZC-PC-02 be APPROVED. This approval will serve as a recommendation to the Lincoln County Board of Commissioners.

This ORDER was presented to and approved by the Lincoln County Planning Commission on November 25, 2002.



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Sam Galasso, Chair *for*

Lincoln County Planning Commission