

1 **BEFORE THE BOARD OF COMMISSIONERS**

2 **FOR LINCOLN COUNTY, OREGON**

3 ORDINANCE # 504

4
5 **An Ordinance Rezoning from C-2 (General Commercial) to C-1 (Retail Commercial)**
6 **property located on the west side of Highway 101 in Lincoln Beach, immediately south of**
7 **3885 N. Highway 101, further identified as Tax Lots 9800, 10000, and 10001, Lincoln**
8 **County Assessor's Map 8-11-28-BC, imposing a condition, and declaring an emergency.**

9
10 WHEREAS, applicant Dan James d.b.a. Northwest Homes requested a zone change from
11 C-2 (General Commercial) to C-1 (Retail Commercial) for his subject property; and

12 WHEREAS, the subject property is located on the west side of Highway 101 in Lincoln
13 Beach, immediately south of 3885 N. Highway 101, further identified as Tax Lots 9800, 10000,
14 and 10001, Lincoln County Assessor's Map 8-11-28-BC; and

15 WHEREAS, on October 9, 1996, through Ordinance # 362, the subject property was
16 previously rezoned from C-1 to C-2 to allow it to be used for manufactured home sales and a
17 display yard, an office building and sign; and

18 WHEREAS, on October 24, 2001, through Ordinance #412, changes were allowed on the
19 subject property to the previously approved site plan; and

20 WHEREAS, the changes referenced in the two whereas clauses immediately above were
21 done through a Resolution of Intent to Rezone, which strictly limits the subject property to the
22 use of the manufactured home sales business, and related uses; and

23 WHEREAS, the Applicant has requested that the subject property be rezoned back to C-1
24 because his manufactured home sales business has proven to be unsuccessful and is no longer in
25 use; and

26 WHEREAS, on September 10, 2018, after legal notice was given in accordance with the
27 law, the Lincoln County Planning Commission held a public hearing on the applicant's request

1 for the zone change. The Planning Commission voted unanimously to recommend approval of
2 the request. On September 24, 2018, the Planning Commission adopted Findings, Conclusions
3 and the Final Order recommending that the request be approved. A copy of the Final Order is
4 attached hereto and incorporated as Exhibit 1. The recommendations of the Planning
5 Commission were not appealed. The Planning Record in this matter is found in Case File #01-
6 ZC-PC-18 and by this reference is incorporated herein as if fully set forth; and

7 WHEREAS, the Planning staff has recommended a condition of approval in its staff
8 report which is not found in the Planning Commission's Final Order. The condition is that: "The
9 applicant shall obtain a Highway Approach Permit from the Oregon Department of
10 Transportation to access Highway 101 for any future development; and

11 WHEREAS, after legal notice was given in accordance with the law, a public hearing
12 was held by the Board of Commissioners on October 31, 2018, to consider whether or not to
13 grant the Applicant's request; and

14 WHEREAS, at the close of the hearing and after deliberations, the Board unanimously
15 approved the recommendation of the Planning Commission to amend the Lincoln County Zoning
16 Map with the above-referenced condition.

17 **NOW, THEREFORE, THE LINCOLN COUNTY BOARD OF COMMISSIONERS**
18 **HEREBY ORDAINS AS FOLLOWS:**

19 **SECTION 1.**

20 1. The Planning Commission's recommendations are adopted, and the Lincoln
21 County Zoning Map is amended to allow a zone change from C-2 (General Commercial) to C-1
22 (Retail Commercial) on a parcel of land located on the west side of Highway 101 in Lincoln
23 Beach, immediately south of 3885 N. Highway 101, further identified as Tax Lots 9800, 10000
24 and 10001, Lincoln County Assessor's Map #8-11-28-BC (Case #01-ZC-PC-18). With this
25 approval is attached the condition that the Applicant shall obtain a Highway Approach Permit
26 from the Oregon Department of Transportation to access Highway 101 for any future
27 development.

28 2. The findings and conclusions supporting these actions are adopted as set forth in
29 Exhibit 1.

30 3. Copies of this Ordinance shall be forwarded to the County Surveyor, County
31 Assessor, County Counsel, and Lincoln County Department of Planning and Development.

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

4 **SECTION 2.**

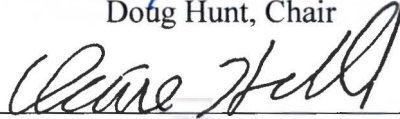
5 In accordance with the Findings supporting this request, and this Ordinance being
6 necessary for the immediate preservation of the public peace, health and safety, an emergency is
7 declared to exist and this Ordinance shall take effect upon its passage.

8 **DATED THIS 31st day of October, 2018.**

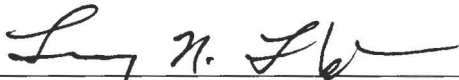
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10 **LINCOLN COUNTY BOARD OF COMMISSIONERS**

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12 _____
13 Doug Hunt, Chair

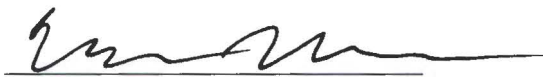
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16 Claire Hall, Commissioner

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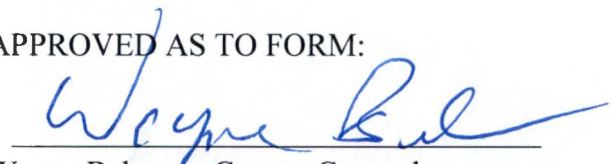
18 _____
19 Terry N. Thompson, Commissioner

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22 ATTESTED TO:

23 

24 _____
25 Casey Miller, Recorder

22 APPROVED AS TO FORM:

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24 _____
25 Wayne Belmont, County Counsel

EXHIBIT 1

BEFORE THE PLANNING COMMISSION
OF
LINCOLN COUNTY, OREGON

Request for a Resolution of Intent to Rezone
Applicant: Dan James d.b.a.
Northwest Homes

) Case File: 01-ZC-PC-18
) Findings, Conclusions and
) 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 Files #01-ZC-PC-96 and #01-ZC-PC-01. 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 approved Resolution of Intent strictly limits the subject property to the use of manufactured home sales business.

The applicant is requesting to revert to the original C-1 zone from the approved change of C-2 zone. The applicant's manufactured home sales business has proven to be unsuccessful at the subject property and is no longer in use. Since the approved Resolution of Intent strictly limits the subject property to the use of manufactured home sales business, the applicant must apply for a zone change to revert to the original C-1 zone in order to establish any other use.

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-2 (General Commercial).
3. The subject property is located in Lincoln Beach immediately north of 3855 N Highway 101 on the west side of the highway and south of Willow Street. The property is identified on Lincoln County Assessor's Map #08-11-28BC as tax lots 9800, 10000 and 10001.
4. The subject property is 0.39 acres or approximately 17, 500 square feet.
5. The subject property is level and has a graveled surface with sparse vegetation.
6. The subject property is vacant with no existing structures.
7. The Lincoln Beach area contains a mix of residential neighborhoods, commercial businesses, and tourist-related facilities.

8. On August 12, 1996, the Planning Commission voted to recommend approval of a zone change request, Case File # 01-ZC-PC-96, by James Wampler Trust from C-1 to C-2 under the resolution of intent provision of the Lincoln County Code 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.
9. On August 27, 2001, the Planning Commission voted to recommend approval of a site plan amendment to the zone change approved in 1996, Case File #01-ZC-PC-01. The Board of Commissioners adopted the amended site plan with Ordinance #412.
10. The applicant is requesting to revert to the original C-1 zone from the approved change of C-2 zone. The applicant's manufactured home sales business has proven to be unsuccessful at the subject property and is no longer in use. Reverting to the original C-1 zone will permit the applicant to establish uses permitted under C-1 zone.
11. The staff report is by reference incorporated into the record herein.
12. A public hearing was held before the Lincoln County Planning Commission on Monday, September 10, 2018. All interested parties were given an opportunity to testify.
13. The applicant presented testimony in support of the request. The basis for the applicant's request is that there has been a substantial change in the character of the area since the Resolution of Intent to Rezone was approved in 1996. The manufactured home sales business authorized by the zone change has proven to be unsuccessful and has not been in use for years.
14. There was no testimony in opposition to the request.

Relevant Criteria

1. Lincoln County Code, Section 1.1235, Quasi-Judicial Amendments
2. Lincoln County Code, Section 1.1245, Intent to Rezone; Purpose and Procedure
3. Lincoln County Code, Section 1.0190(4), Plan Designations, Rural Community Centers
4. Lincoln County Code, Section 1.1361, Retail Commercial Zone C-1

Findings

The Commission finds:

1. The subject property is currently zoned C-2 and is restricted to one allowed use of manufactured home sales.
2. The applicant requests a zone change to revert to the original C-1 zone in order to establish uses permitted in C-1 on the subject property.
3. The Planning Commission may recommend to the Lincoln County Board of Commissioners that the subject property be reverted to the original zone of Retail Commercial C-1.

Conclusions

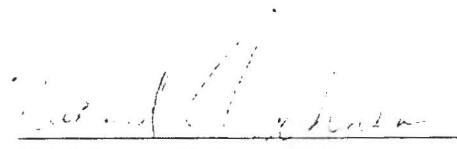
The record and the findings support the conclusion that:

1. Substantial evidence in the record demonstrates that the proposed zone change is in accordance with the Comprehensive Plan Goals and Policies.
2. Substantial evidence in the record demonstrates that there has been a substantial change in the character of the area since the zone of C-2 was adopted in 1996 and therefore meets the requirements for a zone change from C-2 to C-1.

Order

It is ORDERED by the Lincoln County Planning Commission that Case File #01-ZC-PC-18 be APPROVED. This approval will serve as a recommendation to the Lincoln County Board of Commissioners to change the zone designation back to Retail Commercial C-1.

This ORDER was presented to and approved by the Lincoln County Planning Commission on September 24, 2018.



Dick Johnson, Chair
Lincoln County Planning Commission