

CITY OF LINCOLN CITY

LINCOLN CITY COUNCIL AGENDA

MONDAY JUNE 13, 2022, 6:00 PM

6:00 PM - The Lincoln City Council will hold a Regular Meeting in the Council Chambers, 801 SW Highway 101 - 3rd Floor, Lincoln City, OR 97367.

Public comments can be submitted to publiccomment@lincolncity.org, by attending the City Council meeting, or by telephone.

Public comments submitted by email to publiccomment@lincolncity.org will be entered into the official record, distributed to the governing body, and summarized; however, due to personal privacy issues they are not generally published in the online Agenda packet. ****PUBLIC COMMENT VIA EMAIL WILL ONLY BE RECOGNIZED UPON RECEIPT OF AN EMAIL SENT TO publiccomment@lincolncity.org****

Citizens requesting to give public comment via telephone must email publiccomment@lincolncity.org no later than noon on the meeting day. The request must include the person's name, the subject the person wishes to address, and the phone number the person intends to use for the meeting. Instructions will be sent to the person requesting prior to the meeting. Persons who will give public comment via telephone will need to leave the microphone muted until the public comment portion of the meeting.

The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired, for a hearing-impaired device, or for other accommodations for persons with disabilities, should be made at least 48 hours in advance of the meeting to the City Recorder, 541-996-1203.

The Lincoln City Council reserves the right to add or delete items as needed, change the order of the agenda, and discuss any other business deemed necessary at the time of the meeting.

All information for this meeting is available at www.lincolncity.org under "Government" then select "Public Meeting, Agendas, Packets & Video". This meeting will be televised live on Channel 4. For additional rebroadcast times, please consult the Channel 4 guide on the hour. If you wish to speak on an agenda or non-agenda item, please sign up on the sheet near the entrance door to the Council Chambers. You will be called to speak during the "Public Comment" section. Comments or testimony on agenda items listed under "public hearing/public comment" will be taken at that time.

A. CALL TO ORDER

B. ROLL CALL

C. PLEDGE OF ALLEGIANCE

D. CONSENT AGENDA

1. Regular Meeting – Minutes of Regular Meeting – May 23, 2022 6:00 PM
2. Regular Meeting – Minutes of Work Session – May 25, 2022 3:30 PM
3. Regular Meeting – Minutes of Work Session – June 1, 2022 4:00 PM

E. COUNCIL DELIBERATIONS

4. ORDINANCE NO. 2022-23 AN ORDINANCE AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 17, (ZONING), AMENDING CHAPTER 17.17 (SINGLE-FAMILY RESIDENTIAL, ROADS END), SECTION 17.17.070 (LOT REQUIREMENTS), PARAGRAPH D, TO REVISE THE LANGUAGE FOR THE FRONT SETBACK

F. COMMENTS FROM CITIZENS PRESENT ON AGENDA/NON-AGENDA ITEMS

Article I, Section 8, of the Oregon Constitution provides; No law shall be passed restraining the free expression of opinion, or restricting the right to speak, write, or print freely on any subject whatever; but every person shall be responsible for the abuse of this right. Be advised: Comments by citizens under this Public Comments Section of the Agenda or under Public Hearings are solely the opinions and statements of the speakers and are not statements by the City of Lincoln City and do not represent the opinions of the City of Lincoln City, its officers and employees.

G. PRESENTATIONS

5. Lincoln City Senior Center Presentation

H. PUBLIC HEARING / ORDINANCE

I. PUBLIC HEARINGS / PUBLIC COMMENTS

1. APP 2022-01 Appeal of VAR 2022-01 street side setback variance
2. CPA ZC 2022-02 Nesika Park Comprehensive Plan Map Amendment and Zone Change
3. CPA ZC 2022-03 Park in Taft comprehensive plan map amendment and zone change
4. CPA ZC 2022-04 Taft Open Space Comprehensive Plan Map Amendment and Zone Change
5. CPA ZC 2022-05 Palisades Open Space Comprehensive Plan Map Amendment and Zone Change
6. CPA ZC 2022-06 Wildwoods Open Space Comprehensive Plan Map Amendment and Zone Change
7. ZOA 2022-08 Housing

J. ORDINANCES

8. ORDINANCE NO. 2022-25 AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 17 (ZONING), CHAPTERS 17.04 (GENERAL PROVISIONS), 17.08 (DEFINITIONS), 17.16 (R-1), 17.17 (R-1-RE), 17.18 (VR), 17.20 (RM), 17.24 (PC), 17.28 (RC), 17.29 (RCC), 17.32 (GC), 17.34 (NP), 17.36 (PI), 17.40 (RR), 17.42 (P), 17.43 (OS), 17.45 (TVC), 17.50 (OP), 17.52 (SUPPLEMENTARY REGULATIONS), 17.55 LANDSCAPING STANDARDS, 17.56 (OFF-STREET PARKING AND LOADING), 17.64 (NONCONFORMING SITUATIONS), 17.74 (DESIGN STANDARDS), 17.77 (APPLICATIONS), 17.80 (PROVISIONS APPLYING TO SPECIAL USES) TO INCORPORATE STATE-MANDATED LEGISLATION PERTAINING TO HOUSING, EMERGENCY SHELTERS, HOTEL/MOTEL CONVERSIONS, CHILD CARE, MANUFACTURED DWELLINGS, AND TO REMOVE OTHER IMPEDIMENTS TO DEVELOPMENT AND REDEVELOPMENT.
9. ORDINANCE NO. 2022-24 AN ORDINANCE AMENDING THE LINCOLN CITY COMPREHENSIVE PLAN MAP TO CHANGE THE COMPREHENSIVE PLAN MAP DESIGNATION FROM HIGH DENSITY RESIDENTIAL TO PARK DISTRICT AND AMENDING THE LINCOLN CITY ZONING MAP TO CHANGE THE ZONING MAP DESIGNATION FROM R-M (MULTIPLE-UNIT RESIDENTIAL) TO PARK (P) ZONE FOR THE CITY-OWNED NESIKA PARK PROPERTY IDENTIFIED AS TAX LOT 07-11-15-DA-00200-00 [CPA 2022-02/ ZC 2022-02]
10. ORDINANCE NO. 2022-26 AN ORDINANCE AMENDING THE LINCOLN CITY COMPREHENSIVE PLAN MAP TO CHANGE THE COMPREHENSIVE PLAN MAP DESIGNATION FROM MEDIUM DENSITY RESIDENTIAL AND SINGLE-FAMILY RESIDENTIAL TO PARK DISTRICT AND AMENDING THE LINCOLN CITY ZONING MAP TO CHANGE THE ZONING MAP DESIGNATION FROM R-1-7.5 (RESIDENTIAL) TO PARK (P) ZONE FOR THE CITY-OWNED TAFT PARK PROPERTY (APPROXIMATELY 6.71 ACRES) IDENTIFIED AS TAX LOTS: 07-11-27-DD-03500, 07-11-27-DD-04500, 07-11-27-DD-04600, and 07-11-27-DD-04700 [CPA 2022-03/ ZC 2022-03]
11. ORDINANCE NO. 2022-28 AN ORDINANCE AMENDING THE LINCOLN CITY COMPREHENSIVE PLAN MAP TO CHANGE THE COMPREHENSIVE PLAN MAP DESIGNATION FROM GENERAL COMMERCIAL TO OPEN SPACE DISTRICT AND AMENDING THE LINCOLN CITY ZONING MAP TO CHANGE THE ZONING MAP DESIGNATION FROM GENERAL COMMERCIAL (GC) TO OPEN SPACE (OS) ZONE FOR THE CITY-OWNED TAFT OPEN SPACE PROPERTY IDENTIFIED AS TAX LOT 07-11-27-DD-04900-00 [CPA 2022-04/ZC 2022-04]
12. ORDINANCE NO. 2022-29 AN ORDINANCE AMENDING THE LINCOLN CITY COMPREHENSIVE PLAN MAP TO CHANGE THE COMPREHENSIVE PLAN MAP DESIGNATION FROM MEDIUM DENSITY RESIDENTIAL DISTRICT TO OPEN SPACE DISTRICT AND AMENDING THE LINCOLN CITY ZONING MAP TO CHANGE THE ZONING MAP DESIGNATION FROM SINGLE FAMILY RESIDENTIAL (R-1-7.5) ZONE TO OPEN SPACE (OS) ZONE FOR THE CITY-OWNED PALISADES OPEN SPACE PROPERTY IDENTIFIED AS TAX LOTS 06-11-35-CA-00100-00 AND 06-11-35-CD-00100-00 [CPA 2022-05/ZC 2022-05]
13. ORDINANCE NO. 2022-30 AN ORDINANCE AMENDING THE LINCOLN CITY COMPREHENSIVE PLAN MAP TO CHANGE THE COMPREHENSIVE PLAN MAP DESIGNATION FROM UNDESIGNATED TO OPEN SPACE DISTRICT AND AMENDING THE LINCOLN CITY ZONING MAP TO CHANGE THE ZONING MAP DESIGNATION FROM UNDESIGNATED TO OPEN SPACE (OS) ZONE FOR THE CITY-OWNED WILDWOODS OPEN SPACE PROPERTY IDENTIFIED AS TAX LOT 07-11-11-BA-00404-00 [CPA 2022-06/ZC 2022-06]

K. RESOLUTIONS

L. SPECIAL ORDER OF BUSINESS

14. Planning Commission Interview - Williams
15. Community Center Gym Roof Project

- M. CITY MANAGER/CITY ATTORNEY REPORTS**
- N. ACTIONS, IF ANY, BASED ON WORK SESSION OR EXECUTIVE SESSION**
- O. ADDITIONAL COMMENTS FROM CITIZENS PRESENT ON NON-AGENDA ITEMS**
- P. ANNOUNCEMENTS OR COMMENTS BY CITY COUNCIL**
- Q. ADJOURNMENT**

CITY OF LINCOLN CITY

CITY COUNCIL MINUTES OF MEETING

May 23, 2022, 6:00 PM

The final minutes for this meeting are supplemented by an electronic recording of the meeting, which may be viewed online at www.lincolncity.org under the tab "Agendas, Packets and Videos". The staff reports, resolutions, ordinances, and other documents related to this meeting are also available at the same location. This meeting is rebroadcast on Cable Channel 4. (See Channel 4 guide on the hour at <http://www2.lincolncity.org/program-guide/>).

APPROVED BY CITY COUNCIL

DATE:

A. CALL TO ORDER

Councilor President Casper called the meeting to order at 6:00 PM.

B. ROLL CALL

Attendee Name	Title	Status	Arrived
Susan Wahlke	Mayor	Absent	6:00 PM
Elaine Starmer	Councilor Ward 1	Present	6:00 PM
Sydney Kasner	Councilor Ward 2	Present	6:00 PM
Judy Casper	Councilor Ward 3	Present	6:00 PM
Riley Hoagland	Councilor Ward 2	Present	6:00 PM
Rick Mark	Councilor Ward 3	Present	6:00 PM
Mitch Parsons	Councilor Ward 1	Present	6:00 PM

Staff Present: Daphnee Legarza, City Manager; Richard Appicello, City Attorney; Lt. Broderick, Lincoln City Police Department; Alison Robertson, Economic Development and Urban Renewal Director; Anne Marie Skinner, Planning and Community Development Director; Tony LaSoya, I.T. Director; Jamie Young, City Recorder.

C. PLEDGE OF ALLEGIANCE

Council President Casper led The Pledge of Allegiance.

D. CONSENT AGENDA WITH CORRECTIONS

RESULT: PASSED [UNANIMOUS]
MOVER: Rick Mark, Councilor Ward 3
SECONDER: Mitch Parsons, Councilor Ward 1
AYES: Starmer, Kasner, Casper, Hoagland, Mark, Parsons
ABSENT: Wahlke

1. Regular Meeting – Minutes of Work Session – May 4, 2022, 3:30 PM

MOTION: City Council - Work Session - May 4, 2022, 3:30 PM
MOVER: Rick Mark, Councilor Ward 3
SECONDER: Mitch Parsons, Councilor Ward 1
RESULT: Passed

2. Regular Meeting – Minutes of Regular Meeting – May 9, 2022, 6:00 PM

MOTION: City Council - Regular Meeting - May 9, 2022, 6:00 PM
MOVER: Rick Mark, Councilor Ward 3
SECONDER: Mitch Parsons, Councilor Ward 1
RESULT: Passed

Councilor Mark referred to page 9 of the agenda packet and asked for a heading to be added to ordinance 2022-22.

E. COUNCIL DELIBERATIONS

3. ORDINANCE NO. 2022-23 AN ORDINANCE AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 17, (ZONING), AMENDING CHAPTER 17.17 (SINGLE-FAMILY RESIDENTIAL, ROADS END), SECTION 17.17.070 (LOT REQUIREMENTS), PARAGRAPH D, TO REVISE THE LANGUAGE FOR THE FRONT SETBACK

MOTION: Motion to Approve First Reading of Ordinance 2022-23, ZOA 2022-06 R-1-RE
MOVER: Riley Hoagland, Councilor Ward 2
SECONDER: Sydney Kasner, Councilor Ward 2
AYES: Kasner, Casper, Hoagland, Mark
NAYS: Starmer, Parsons
ABSENT: Wahlke
RESULT: Passed by Roll Call Vote

Councilor Starmer said she spoke with the Oregon Government of Ethics and she may have a potential conflict of interest.

Council had a discussion regarding ordinance 2022-23. Without a unanimous vote, the second reading will happen at the July 13th meeting.

F. COMMENTS FROM CITIZENS PRESENT ON AGENDA/NON-AGENDA ITEMS

Robin Smith of Portland, Oregon, and Kathy Kowtko of the Newport Housing Authority spoke regarding the affordable Wecoma housing located at NE 29th Street and Highway 101 primarily for Senior Citizens. Ms. Smith spoke regarding the cost of the sidewalk and bike lane needed and asked for the City's assistance. Councilor Hoagland asked how they are making sure it's primarily seniors, the utilities, and the parking.

Ken Mergentime of Roads End spoke against changing the zoning with ordinance 2022-23.

G. PRESENTATIONS

NONE

H. PUBLIC HEARING / ORDINANCE

NONE

I. PUBLIC HEARINGS / PUBLIC COMMENTS

1. Public Hearing Property Tax Abatement

MOTION:	Motion to Close Public Hearing and the Record Property Tax Abatement
MOVER:	Rick Mark, Councilor Ward 3
SECONDER:	Sydney Kasner, Councilor Ward 2
AYES:	Starmer, Kasner, Casper, Hoagland, Mark, Parsons
ABSENT:	Wahlke
RESULT:	Passed via Voice Vote

Council President Casper opened the public hearing at 6:29 PM.

J. ORDINANCES

2. ORDINANCE NO. 2022-27 AN ORDINANCE AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 3 (REVENUE AND FINANCE), ADDING A NEW CHAPTER 3.18 (NONPROFIT CORPORATION LOW INCOME HOUSING TAX EXEMPTION PROGRAM), TO ESTABLISH A PROGRAM FOR PROPERTY TAX EXEMPTION FOR LOW INCOME HOUSING PROVIDERS PURSUANT TO STATE LAW.

MOTION:	Motion to Approve First Reading of Ordinance 2022-27 Property Tax Abatement
MOVER:	Riley Hoagland, Councilor Ward 2
SECONDER:	Elaine Starmer, Councilor Ward 1
AYES:	Starmer, Kasner, Casper, Hoagland, Mark, Parsons
ABSENT:	Wahlke
RESULT:	Passed via Voice Vote

3.

MOTION:	Motion to Approve Second Reading and Adoption of Ordinance 2022-27 Property Tax Abatement
MOVER:	Elaine Starmer, Councilor Ward 1
SECONDER:	Sydney Kasner, Councilor Ward 2
AYES:	Starmer, Kasner, Casper, Hoagland, Mark, Parsons
ABSENT:	Wahlke
RESULT:	Passed by Roll Call Vote

K. RESOLUTIONS

4. RESOLUTION NO. 2022-16 A RESOLUTION OF THE CITY OF LINCOLN CITY IMPLEMENTING LCMC 13.08.095 REGARDING DEFERRAL OF SYSTEM DEVELOPMENT CHARGES; APPROVING AN APPLICATION BY HELPING HANDS RE-ENTRY OUTREACH CENTER FOR THE DEFERRAL OF PAYMENT OF SYSTEM DEVELOPMENT CHARGES FOR DEVELOPMENT OF THE TRANSITIONAL HOUSING FACILITY AND USES DESCRIBED IN CONDITIONAL USE APPROVAL 2019-04 (DECEMBER 17, 2019) ON REAL PROPERTY IDENTIFIED AS 3454 NE HIGHWAY 101 AND 2201 NE 34TH STREET, LINCOLN CITY, OREGON.

MOTION:	Motion to Approve Resolution 2022-16 SDC Deferral for Helping Hands
MOVER:	Rick Mark, Councilor Ward 3
SECONDER:	Mitch Parsons, Councilor Ward 1
AYES:	Starmer, Kasner, Casper, Hoagland, Mark, Parsons
ABSENT:	Wahlke
RESULT:	Passed by Roll Call Vote

Councilor Mark asked if this was a deferral and not forgiven. Mr. Appicello confirmed it is a deferral. Council President Casper said that when Helping Hands went into the building they had to change the size of the meter, increasing the fees.

L. SPECIAL ORDER OF BUSINESS

None

M. CITY MANAGER/CITY ATTORNEY REPORTS

Ms. Legarza said the Urban Renewal/Economic Development was awarded a \$500,000 grant over the next two years from EPA's FY 22 Brownfields Revolving Loan Fund to assist with brownfield site clean-up. Ms. Legarza also mentioned there are two upcoming work sessions on May 25th and June 1st both at 3:30 PM.

No City Attorney updates.

N. ACTIONS, IF ANY, BASED ON WORK SESSION OR EXECUTIVE SESSION

Mr. Appicello said there is a property owner that has lowered a previous offer. Mr. Appicello said we could schedule an executive session on June 1st. Councilor Mark asked for an executive session and a comparison of value.

O. ADDITIONAL COMMENTS FROM CITIZENS PRESENT ON NON-AGENDA ITEMS

None

P. ANNOUNCEMENTS OR COMMENTS BY CITY COUNCIL

5.

MOTION:	Motion to Schedule a Work Session to Discuss the D River Project
MOVER:	Elaine Starmer, Councilor Ward 1
SECONDER:	Mitch Parsons, Councilor Ward 1
AYES:	Starmer, Kasner, Casper, Hoagland, Mark, Parsons
ABSENT:	Wahlke
RESULT:	Passed by Voice Vote

Councilor Starmer made a motion for a work session regarding the D River project and listed the reasons.

Councilor Mark asked Lt. Broderick about a stop sign in his neighborhood. Ms. Skinner advised him to contact the Public Works Department.

Councilor Hoagland asked who the City does banking and investments with and said that we need to make sure we have diversity, inclusion, and equity. Councilor Mark said he believes Ms. Bridges sent an answer to that previously.

Council President Casper spoke about the ribbon cutting, 10 AM on May 31st at 51st Street/Taft Park.

Councilor Hoagland and Councilor Casper spoke regarding the LOC Small Cities Meeting where they learn about Toledo being the first in the nation to turn wastewater into energy.

Q. ADJOURNMENT

Council President Casper adjourned the meeting at 6:48 PM.

JUDY CASPER, COUNCIL PRESIDENT

ATTEST:

JAMIE YOUNG, CITY RECORDER

CITY OF LINCOLN CITY

CITY COUNCIL MINUTES OF WORK SESSION MEETING

May 25, 2022, 3:30 PM

The final minutes for this meeting are supplemented by an electronic recording of the meeting, which may be viewed online at www.lincolncity.org under the tab "Agendas, Packets and Videos". The staff reports, resolutions, ordinances, and other documents related to this meeting are also available at the same location. This meeting is rebroadcast on Cable Channel 4. (See Channel 4 guide on the hour at <http://www2.lincolncity.org/program-guide/>).

APPROVED BY CITY COUNCIL

DATE:

1. **CALL TO ORDER**

Council President Casper called the meeting to order at 3:32 PM.

Attendee Name	Title	Status	Arrived
Susan Wahlke	Mayor	Absent	3:30 PM
Elaine Starmer	Councilor Ward 1	Present	3:30 PM
Sydney Kasner	Councilor Ward 2	Present	3:30 PM
Judy Casper	Councilor Ward 3	Present	3:30 PM
Riley Hoagland	Councilor Ward 2	Present	3:30 PM
Rick Mark	Councilor Ward 3	Present	3:30 PM
Mitch Parsons	Councilor Ward 1	Present	3:30 PM

Staff Present: Daphnee Legarza, City Manager; Richard Appicello, Stephanie Reid, City Engineer; Anne Marie Skinner, Planning and Community Development Director; Jamie Young, City Recorder.

2. **DISCUSSION ITEMS**

Council President added "Miscellaneous" as item three.

A. Public Works Fees

Stephanie Reid, Public Works Director, gave a presentation regarding Public Works fees. Council and Staff had a discussion regarding increasing fees. Councilor Starmer asked where the hourly rates and time came from for the fee increase. Ms. Reid said she could look and see what other Cities are charging. Councilor Starmer asked if we are being too generous. Ms. Reid said that is possible and it

can be adjusted next year. Ms. Reid said she would have Casey track for a month and see where it comes out for the public hearing. Council and Staff discussed the options of increasing fees. Ms. Reid gave a presentation regarding deferred improvement agreements and the sidewalks for the Head to Bay trail. Ms. Reid said what is being proposed is a LID with a contribution amount from the City. Ms. Reid said that there are about 250-280 properties per LID project. Ms. Reid said the cost would be \$30-\$50 per month. Ms. Legarza explained the waiver. Councilor Hoagland asked if there could be an overlay with the 22 districts. Ms. Reid said she could do both the overlay and the project cost. Ms. Reid said they are currently doing the next phase of the Head to Bay trail from Port to Regatta. Ms. Reid said there are about 230 properties with an estimated \$600,000. Ms. Reid said there could be a LID formed. Council and Staff discussed different options in lieu of the DIA.

Councilor Mark left at 3:55 PM and returned at 4:56 PM.

3. MISCELLANEOUS

Councilor Casper spoke about the June 1, 2022 agenda topic of VRDs. Councilor Casper also said we need a meeting about the sustainability committee and the possibility of adding a Council member to each committee. Council President Casper inquired about the City-owned properties acquired from the County. Mr. Appicello said he would send an email to the County.

4. ADJOURNMENT

Council President Casper adjourned the meeting at 5:18 PM.

SUSAN WAHLKE, MAYOR

ATTEST:

JAMIE YOUNG, CITY RECORDER

CITY OF LINCOLN CITY

CITY COUNCIL MINUTES OF WORK SESSION MEETING

June 1, 2022, 4:00 PM

The final minutes for this meeting are supplemented by an electronic recording of the meeting, which may be viewed online at www.lincolncity.org under the tab "Agendas, Packets and Videos". The staff reports, resolutions, ordinances, and other documents related to this meeting are also available at the same location. This meeting is rebroadcast on Cable Channel 4. (See Channel 4 guide on the hour at <http://www2.lincolncity.org/program-guide/>).

APPROVED BY CITY COUNCIL

DATE:

1. CALL TO ORDER

Attendee Name	Title	Status	Arrived
Susan Wahlke	Mayor	Absent	4:00 PM
Elaine Starmer	Councilor Ward 1	Present	4:00 PM
Sydney Kasner	Councilor Ward 2	Present	4:00 PM
Judy Casper	Councilor Ward 3	Present	4:00 PM
Riley Hoagland	Councilor Ward 2	Present	4:00 PM
Rick Mark	Councilor Ward 3	Present	4:00 PM
Mitch Parsons	Councilor Ward 1	Present	4:00 PM

Staff Present: Daphnee Legarza, City Manager; Richard Appicello, City Attorney; Chief Palmer, Police Chief; Alison Robertson, Economic Development and Urban Renewal Director; Anne Marie Skinner, Planning and Community Development Director; Debbie Bridges, Finance Director; Jamie Young, City Recorder.

2. DISCUSSION ITEMS

A. VRD/Planning Fees

Anne Marie Skinner, Planning & Community Development Director, lead the discussion regarding the VRD (vacation rental dwelling) licenses. Mr. Appicello explained the enforcement portion of the vacation rental fees. Councilor Mark inquired about the VRD staff. Ms. Skinner said there is one employee assigned to VRDs and explained the duties. Councilor Starmer would like to broaden the look at fees in other jurisdictions. Ms. Skinner explained the rules of parking for VRDs. Ms. Skinner said that she would get with staff to find out about the amount of time spent on VRD renewals. Councilor Hoagland asked how the items are verified on the renewals from a desk. Ms. Skinner said the landscape is checked monthly by staff. The Council discussed the services received for the fees

paid. Ms. Skinner is going to work with Mr. Appicello to get the actual law regarding fees charged and return to Council. Ms. Skinner asked if the penalty could be stricter. Mr. Appicello said yes and that is why they imposed a minimum.

Ms. Skinner review the rules and said that she needs to have more teeth for revoking licenses. Councilor Kasner asked if they could go straight to fines rather than warnings. Ms. Skinner said they could. Councilor Starmer as if we are covering the cost of the VRDs. Ms. Starmer named the items that we were covering and stated we are not covering the cost to be proactive. Ms. Skinner asked for assistance in the overnight occupancy. Councilor Starmer said it needs to be a maximum occupancy for the entire stay rather than overnight. Mr. Appicello said we need the Fire Marshall set a standard for occupancy. Councilor Starmer said that Lincoln County reduced its occupancy. Ms. Skinner said that she would talk to Brandon and will also check Bend's occupancy requirements. Ms. Skinner said she would like to have the register submitted with the renewal application. Councilor Starmer asked if on-site management can be a requirement of accessory use. Ms. Skinner said that is possible. Councilor Starmer asked if a motion can be made at the meeting. Ms. Skinner said she would add that to the other motions. Councilor Starmer asked about providing an incentive for long-term rentals. Councilor Starmer asked about not issuing licenses until the City resolves its housing crisis. Mr. Appicello said it would be easier to reduce the cap. Ms. Skinner will take a look at numbers for a cap. Mr. Appicello will take a look at the two years remaining on the seven-year vacation rental rule for existing VRDs in the R1-RE zone.

There was a discussion regarding the trash issues at the VRDs. Councilor Starmer asked how accurate is the TRT reporting. Ms. Bridges was not sure of a percentage. Ms. Skinner said she would break down the time for renewals for two staff members including postage and monthly inspections. Ms. Skinner will also tighten up the revocation procedure, look at additional proactive enforcement of trash on Mondays and Tuesdays, add the drive-by inspections as criteria for renewals, no more than two verified violations, look into Hood River's ordinances, look at occupancy limits (speaking with Brandon and the Fire Chief), eliminate accessory use, change the garbage frequency and can limit, look at changing the two-years remaining in the r1-RE zone, and take a look at VRDs in a residential zone.

Councilor Hoagland exited the meeting at 4:33 PM.

3. MISCELLANEOUS ITEMS

Councilor Casper asked about E-bikes on the beach. Council President Casper spoke about volunteer interest and asked if there were areas of interest to make sure the Council was spread out. Councilor Kasner asked about the VR zone.

4. ADJOURNMENT

Council President Casper adjourned the meeting at 5:58 pm.

SUSAN WAHLKE, MAYOR

ATTEST:

JAMIE YOUNG, CITY RECORDER

Council Communication

Ordinance 2022-23 - ZOA 2022-06 -R-1-RE Front Setback

Meeting Date:	June 13, 2022	Primary Staff Contact:	Richard Appicello
Department:	City Attorney	E-Mail:	RAppicello@lincolncity.org
Secondary Dept:	Planning Commission	Secondary Contacts:	AnneMarie Skinner
Approval:	Richard Appicello	Estimated Time:	10 minutes

Question: Should the City Council conduct and approve Second Reading and adopt Ordinance 2022-23?

ORDINANCE NO. 2022-23

AN ORDINANCE AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 17, (ZONING), AMENDING CHAPTER 17.17 (SINGLE-FAMILY RESIDENTIAL, ROADS END), SECTION 17.17.070 (LOT REQUIREMENTS), PARAGRAPH D, TO REVISE THE LANGUAGE FOR THE FRONT SETBACK

Staff Recommendation:

Staff recommends Council conduct and approve Second Reading and adopt Ordinance 2022-23.

Authority:

City of Lincoln City Charter, Chapter IX. Section 9.2(1) provides that an ordinance may be enacted at a single meeting of the Council by unanimous vote of all Council members voting when a quorum is present upon being read by title only. Adoption of an ordinance after second reading requires the express concurrence of a majority of the members present. Ordinances may be read by title only, after compliance with Charter procedures. A non-emergency ordinance takes effect on the thirtieth (30th) day after its adoption or on a later day the ordinance prescribes. An ordinance adopted to meet an emergency may take effect as soon as it is adopted or on some other date specified in the ordinance.

Background:

First Reading was approved on May 23, 2022. As the First Reading vote was 4-2, Second Reading had to be delayed to a subsequent Council meeting. The record is closed and the hearing is closed.

Staff will read one change in the ordinance; the word "not" is missing in the last line of paragraph D and has been added by staff:

Permitted encroaching decks may be either cantilevered or supported by posts and beams if the posts and beams meet all building and fire code requirements, and the posts and beams are not within the minimum 15-foot setback.

Council Options:

1. Conduct and approve Second Reading and adopt the ordinance.
2. Continue Second Reading to June 27, 2022.
3. Do not proceed with proposed ordinance.

Potential Motions:

City Attorney: [Conduct Second Reading of Ordinance by Title only]

ORDINANCE NO. 2022-23

AN ORDINANCE AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 17, (ZONING), AMENDING CHAPTER 17.17 (SINGLE-FAMILY RESIDENTIAL, ROADS END), SECTION 17.17.070 (LOT REQUIREMENTS), PARAGRAPH D, TO REVISE THE LANGUAGE FOR THE FRONT SETBACK

Council:

Motion to approve Second Reading and adopt Ordinance 2022-23.

Attachments:

Ordinance 2022-23 5-27-22 (DOCX)

Findings for Ordinance 2022-23 (DOC)

ORDINANCE NO. 2022-23

**AN ORDINANCE AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 17, (ZONING),
AMENDING CHAPTER 17.17 (SINGLE-FAMILY RESIDENTIAL, ROADS END), SECTION
17.17.070 (LOT REQUIREMENTS), PARAGRAPH D, TO REVISE THE LANGUAGE FOR THE
FRONT SETBACK**

*Annotated to show deletions and additions to the code sections being modified. Deletions are **~~lined through~~** and additions are **bold underlined**.*

The City Council finds:

- A. The amendments to the Lincoln City Municipal Code are in conformance with the Statewide Planning Goals and Lincoln City Comprehensive Plan goals as addressed in attached Exhibit "A"; and
- B. The amendments are in conformance with the Zoning Ordinance, including, but not limited to, required initiation, processing and noticing requirements; and
- C. The City duly notified the Oregon Department of Land Conservation and Development pursuant to ORS 197.610, of its consideration of the proposed amendment(s) on March 2, 2022; City staff determined that the amendment does not remove uses from any zone and accordingly did not require a city-wide mailing under ORS 227.186(4); and
- D. The Planning Commission, on April 5, 2022, held a public hearing and considered the amendments contained within this ordinance. On April 5, 2022, the Planning Commission voted to transmit the amendments to the City Council with a recommendation that the ordinance be adopted, with changes removing some of the requested relief from the 20 foot setback; and
- E. The City Council conducted the public hearing on May 9, 2022, closed the hearing, closed the record, and deliberated on the proposed amendments on May 9, 2022. The matter was continued to May 23, 2022, for consideration of the full Council following a tie vote; and
- F. All persons were given an opportunity to provide written and/or oral testimony on the proposed ordinance amendments.

THE CITY OF LINCOLN CITY ORDAINS AS FOLLOWS:

SECTION 1. Chapter 17.17 (*Single-Family Residential, Roads End (R-1-RE Zone)*), Section 17.17.070 (*Lot requirements*), Paragraph D, is hereby amended to read as follows:

1
2 D. The minimum front ~~yard-setback~~ shall be 20 feet. Except that the minimum setbacks
3 from Logan Road need not exceed the average setback of buildings on all lots within 100
4 feet of the lot on the same side of the street which the proposed building is to be
5 located and that abut Logan Road. The applicant shall retain the services of an
6 Oregon-licensed land surveyor to prepare and submit a survey, at the applicant's
7 sole cost and expense, when averaging is proposed to be used to determine the
8 setback. The 20-foot front setback shall not apply to elevated decks that extend
9 from the dwelling wall into the front setback provided that the lowest point of the
10 elevated deck structure is a minimum of seven feet above grade and a minimum
11 15-foot setback is maintained. Permitted encroaching decks may be either
12 cantilevered or supported by posts and beams if the posts and beams meet all
13 building and fire code requirements, and the posts and beams are not within the
14 minimum 15-foot setback.
15

16 **SECTION 2. Findings Adopted.** The findings contained in the Whereas Clauses of this
17 ordinance, together with the Findings set forth in Exhibit A, as well as the competent substantial
18 evidence in the whole record of this legislative proceeding are incorporated into this section by
19 reference as if fully set forth herein, and are adopted in support of this legislative action.
20

21 **SECTION 3. Severability.** The sections, subsections, paragraphs and clauses of this ordinance
22 are severable. The invalidity of one section, subsection, paragraph, or clause shall not affect the
23 validity of the remaining sections, subsections, paragraphs and clauses.
24

25 **SECTION 4. Ordinance Effective Date.** Pursuant to Chapter IX, Section 9.3, this ordinance
26 takes effect 30 days after the date of its adoption.
27

28 **SECTION 5. Codification.** Provisions of this Ordinance shall be incorporated in the City of
29 Lincoln City Municipal Code and the word "ordinance" may be changed to "code", "article",
30 "section", "chapter" or another word, and the sections of this Ordinance may be renumbered, or
31 re-lettered, provided that any Whereas clauses and boilerplate provisions (i.e. Sections 2-5) need
32 not be codified and the City Recorder is authorized to correct any cross-references and any
33 typographical errors.
34

35 The foregoing ordinance was distinctly read by title only in accordance with Chapter IX, Section
36 9.2 of the City of Lincoln City Charter on the 23rd day of May, 2022 (First Reading) and on the
37 13th day of June, 2022 (Second Reading).
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39
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42

1 PASSED AND ADOPTED by the City Council of the City of Lincoln City this 13th day of June,
2 2022.

3
4
5
6 _____
7 SUSAN WAHLKE, MAYOR

8 ATTEST:

9
10 _____
11 JAMIE YOUNG, CITY RECORDER

12
13 APPROVED AS TO FORM:

14
15 _____
16 RICHARD APPICELLO, CITY ATTORNEY
17
18

ORDINANCE 2022-23 EXHIBIT A – FINDINGS

Procedural Posture:

The above-referenced privately-initiated proposed ordinance was properly noticed pursuant to ORS 197.610. The ordinance proposes an amendment to front setback provisions in Chapter 17.17 Single-Family Residential, Roads End (R-1-RE). Accordingly all property owners in R-1-RE were mailed notice of the public hearings before the Planning Commission and Council on March 15, 2022. Notice to DLCD was made on March 2, 2022. Notices for the public hearings before Council and the Planning Commission were also published in the local newspaper on March 22, 2022, and March 29, 2022.

The substance of the proposed amendment, with changes as recommended by staff before Council on May 23, 2022 is as follows:

SECTION 1. Chapter 17.17 (*Single-Family Residential, Roads End (R-1-RE Zone)*, Section 17.17.070 (*Lot requirements*), Paragraph D, is hereby amended to read as follows:

D. The minimum front ~~yard-setback~~ shall be 20 feet. Except that the minimum setbacks from Logan Road need not exceed the average setback of buildings on all lots within 100 feet of the lot on the same side of the street which the proposed building is to be located and that abut Logan Road. **The applicant shall retain the services of an Oregon-licensed land surveyor to prepare and submit a survey, at the applicant's sole cost and expense, when averaging is proposed to be used to determine the setback. The 20-foot front setback shall not apply to elevated decks that extend from the dwelling wall into the front setback provided that the lowest point of the elevated deck structure is a minimum of seven feet above grade and a minimum 15-foot setback is maintained. Permitted encroaching decks may be either cantilevered or supported by posts and beams if the posts and beams meet all building and fire code requirements, and the posts and beams are not within the minimum 15-foot setback.**

In sum, Ordinance 2022-23 provides clarification to the averaging option for the front setback requirement in the R-1-RE zone by specifying that the averaging applies to buildings on the same side of the street as the subject property and the amendment adds a requirement for a survey of the setback distances (at the sole expense of the applicant), if the average option is chosen. The ordinance also adds an allowance to encroach into the 20 foot front setback up to five feet with an elevated deck (at least 7 feet above grade). The deck may be cantilevered or supported by posts, subject to compliance with building and fire codes.

The Planning Commission recommended approval of the clarification of the averaging provisions but did not recommend the reduction to 15 feet for elevated decks. The Commission cited aesthetics and public participation as reasons for the negative portion of the recommendation. Notwithstanding the Commission's recommendation, the City Council finds and determines that the aesthetics and public participation goals are not violated by the proposed amendment as more particularly described herein.

The findings in support of the application as contained in the applicant's submittal and supplemental materials, the Planning Commission staff report, and the City Council staff report, together with other correspondence from staff, are hereby incorporated herein by this reference.

Rejection of certain comments by opponents:

At both the Planning Commission and Council hearings, written and oral comments were received from opponents, specifically in opposition to the applicant's requested 5-foot setback reduction for elevated decks. The comments reflect some confusion and perhaps disinformation regarding the scope of the proposed amendment (one characterized the change as building up to the property line). Specific allegations concerning compliance with Goals and Plan Policies will be addressed below; however, two general allegations are summarily addressed here.

First, several individuals alleged wrongdoing on the part of the private applicants for this text amendment. The gist of the comments was that the requested text amendment must be denied and the applicant's punished because the applicants had violated the code, among other things. Staff notified the Council and Commission that there exists no code provision disqualifying applicants who have previously violated the code from submitting a text amendment. At best, such testimony is irrelevant; at worst, such testimony is prejudicial. The Planning Commission recommendation included a finding that expressly rejected such testimony:

The Planning Commission expressly rejects as a basis for this recommendation the inappropriate personal attacks on the applicant made by several citizens providing public comment.

The City Council concurs with the Planning Commission. A private applicant for a text amendment to the Lincoln City Municipal Code is entitled to a full and fair hearing on the legislative proposal. No provision of the code disqualifies such applications. The Council does not use legislative text amendment processes to punish individuals who have violated the Code. Code enforcement processes exist to achieve compliance and have been appropriately utilized. The Council finds and determines that such personal attacks and requests to punish the applicants are irrelevant and prejudicial and are expressly rejected as contrary to due process.

Second, several individuals alleged or implied that there is a contract between the City of Lincoln City and Roads End residents and groups. The gist of the comments are that the Council cannot change or modify the R-1-RE zoning and that the Council promised that the zoning would remain different. Staff notified the Council that enacting legislation (including an amendment) is an exercise of the City's police power and is expressly authorized by the City Charter, Oregon Statutes, Administrative Rules, the Comprehensive Plan and Municipal Code. Moreover, the Council may not "contract away the police power", which would improperly binding future City Councils.

It is undisputed that the annexation of Roads End was contentious, and resulted in litigation. It is undisputed that the City agreed to delay rezoning by five years and that there was a great deal of public participation in the rezoning effort. It is also clear, that that effort does not become a contract or promise to never change the zoning. This amendment was privately- initiated as authorized by the Code. In fact, examination of the codified municipal code shows the City has already amended the R-1-RE zone, five times since 2017: Ordinances 2019-21; 2019-24; 2020-03; 2020-13, & 2020-14. The Council finds and determines that the City's exercise of the police power in amending the R-1-RE is not burdened by any contract not to amend the R-1-RE with Roads End residents or organizations.

Applicable Criteria:

LCMC 17.77.130 provides, (emphasis added):

17.77.130 Text amendment.

A. Purpose. The text amendment process shall be used for legislative amendments to LCMC Title 16, this title, or the comprehensive plan. Such amendments are necessary to reflect changing community conditions, needs, and desires, to fulfill regional obligations, and to address changes in state law.

B. Procedure. Text amendments are subject to the Type IV procedure, as described in LCMC 17.76.060. However, the director is authorized to make typographical, grammatical and cross-referencing corrections as needed without initiating the text amendment process.

C. Submittal Requirements. Type IV application submittal requirements are set forth in LCMC 17.76.060.

D. Approval Criteria. In order to approve a text amendment, the review authority shall make findings of fact, based on evidence provided, that the following criteria are satisfied:

1. The text amendment is consistent with relevant goals and policies of the comprehensive plan and any applicable adopted master plans; and

2. The text amendment is consistent with relevant provisions of the statewide planning goals, the Oregon Administrative Rules, and state statutes.

E. Appeal of a Decision. Refer to LCMC 17.76.180.

F. Expiration of a Decision. Text amendments are not subject to expiration.

G. Extension of a Decision. Text amendments are not subject to extension. (Ord. 2020-15 § 2)

Staff analysis of Statewide Planning Goals and Comprehensive Plan provisions:

A. Statewide Planning Goals

(1) Goal 1: Citizen Involvement

"To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process."

The City's Code implements the requirements of Oregon Statutes, the Administrative Rules, and the Comprehensive Plan as it relates to citizen involvement. Text amendments under LCMC 17.77.130 are processed as Type IV proceedings under LCMC 17.76.060. Accordingly, all documents relating to the proposal (amendment) were made available for public review and/or purchase, and were posted on the city's website. Staff was available to interpret and explain the technical information. The local newspaper published hearing notices in accordance with notice requirements. Notices of the public hearings were mailed to all property owners in the R-1-RE zone and neighborhood associations on March 15, 2022. The planning commission and city council each held a public hearing at which citizens were invited to participate in person, in writing and if necessary by telephone. Citizens participated in writing and in person before the Planning Commission on April 5, 2022 and before Council on May 9, 2022. Written comments were accepted while the record was open. Therefore, the amendment is consistent with Goal 1. The findings under Lincoln City Comprehensive Planning Goal 2 (citizen involvement goal) are incorporated herein by this reference.

(2) Goal 2: Land Use Planning

"To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions."

The City Council of Lincoln City adopted the Lincoln City Comprehensive Plan and its implementation measure, the Lincoln City Zoning Ordinance, after public hearing and has reviewed them on a periodic cycle to take into account changing public policies and circumstances. Citizens and affected governmental units had opportunities for review and comment during preparation, review, and revisions of the plan and implementing ordinances. The City Council considered the proposed amendments to the Lincoln City Zoning Ordinance in accordance with the process and based on the criteria provided in the Municipal Code. Therefore, the amendment is consistent with Goal 2.

(3) Goal 3: Agricultural Lands

"To preserve and maintain agricultural lands."

The area affected by the proposed zoning ordinance amendment is located within the city's urban growth boundary. The city is currently designated and zoned for urban development. There is no agricultural land in Lincoln City. The amendment does not affect agricultural lands. Goal 3 is not applicable.

(4) Goal 4: Forest Lands

"To conserve forest lands by maintaining the forest land base and to protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture."

The area affected by the proposed zoning ordinance amendment is within the city's urban growth boundary. The affected area does not include any designated forest lands; therefore, Goal 4 is not applicable.

(5) Goal 5: Natural Resources, Scenic and Historic Areas, and Open Spaces

"To protect natural resources and conserve scenic and historic areas and open spaces."

The amendment only affects areas intended for urban development. The amendment by itself does not permit development in any areas of protected natural resources, scenic or historic areas, or open spaces. The amendment is consistent with Goal 5.

(6) Goal 6: Air, Water and Land Resources Quality

"To maintain and improve the quality of the air, water and land resources of the state."

The amendment will not adversely affect the quality of the air or water. The amendment by itself does not permit development that might affect water or air quality. The existing

ordinances and plan requirements relating to water and air quality will continue to apply to all properties that might be affected. Therefore, the amendment is consistent with Goal 6.

(7) Goal 7: Areas Subject to Natural Disasters and Hazards

"To protect people and property from natural hazards."

The amendment by itself does not allow development within any natural hazard area. The existing ordinances and plan requirements relating to natural hazards will continue to apply to all properties that might be affected by natural hazards. Therefore, the amendment is consistent with Goal 7.

(8) Goal 8: Recreational Needs

"To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities, including destination resorts."

The proposed ordinance amendment does not relate to recreation as that term is used in this goal and does not adversely affect the provision of or ability to site recreational areas in the city. The amendment is consistent with Goal 8.

(9) Goal 9: Economic Development

"To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens."

The proposed ordinance amendment does not relate to economic development and does not adversely affect opportunities for a variety of economic activities. The amendment is consistent with Goal 9 or is not applicable.

(10) Goal 10: Housing

"To provide for the housing needs of citizens of the state."

The amendment does not relate to providing housing and does not adversely impact provisions for opportunities to provide housing. Goal 10 is not applicable.

(11) Goal 11: Public Facilities and Services

"To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development."

The amendment does not relate directly to public facilities and services. Goal 11 is not applicable.

(12) Goal 12: Transportation

"To provide and encourage a safe, convenient and economic transportation system."

The amendment does not relate directly to the development of the city's transportation system. Goal 12 is not applicable.

(13) Goal 13: Energy Conservation

"To conserve energy."

The amendment does not relate directly to energy conservation. Goal 13 is not applicable.

(14) Goal 14: Urbanization

"To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities."

The amendment does not directly relate or pertain to the urbanization of Lincoln City. Accordingly, Goal 14 is met or is not applicable.

(15) Goal 15: Willamette River Greenway

"To protect, conserve, enhance and maintain the natural, scenic, historical, agricultural, economic and recreational qualities of lands along the Willamette River as the Willamette River Greenway."

The affected area is not located within the Willamette River Greenway; therefore, Goal 15 is not applicable.

(16) Goal 16: Estuarine Resources

"To recognize and protect the unique environmental, economic, and social values of each estuary and associated wetlands; and to protect, maintain, where appropriate develop, and where appropriate restore the long-term environmental, economic, and social values, diversity and benefits of Oregon's estuaries."

The amendment on its own does not allow development in areas adjacent to the city's designated estuarine resource (i.e., Siletz Bay). All development in such areas is already

controlled by existing ordinances and comprehensive plan standards. The amendment, therefore, is consistent with Goal 16.

(17) Goal 17: Coastal Shorelands

"To conserve, protect, where appropriate, develop and where appropriate restore the resources and benefits of all coastal shorelands, recognizing their value for protection and maintenance of water quality, fish and wildlife habitat, water-dependent uses, economic resources and recreation and aesthetics. The management of these shoreland areas shall be compatible with the characteristics of the adjacent coastal waters; and to reduce the hazard to human life and property, and the adverse effects upon water quality and fish and wildlife habitat, resulting from the use and enjoyment of Oregon's coastal shorelands."

The city's coastal shorelands include all land west of Highway 101, land within 500 feet of the ordinary high-water elevation of Devils Lake and Spring Lake, and land within 1,000 feet of the shoreline mean higher-high-water elevation of Schooner Creek, Drift Creek, and Siletz Bay estuaries. All development in such areas is controlled by existing ordinances and comprehensive plan standards. The amendment, therefore, is consistent with Goal 17.

(18) Goal 18: Beaches and Dunes

"To conserve, protect, where appropriate develop, and where appropriate restore the resources and benefits of coastal beach and dune areas; and to reduce the hazard to human life and property from natural or man-induced actions associated with these areas."

Lincoln City has a large amount of coastal beach. Inventory maps show active dunes and deflation plains on the Salishan spit, but not within Lincoln City, with the possible exception of a few isolated spots in Cutler City. For Roads End, inventory maps show older, stabilized dunes. The amendment does not, by itself, allow any development in or near beach and dune areas. All development in such areas is controlled by existing ordinances and comprehensive plan standards. The amendment is consistent with Goal 18.

(19) Goal 19: Ocean Resources

"To conserve marine resources and ecological functions for the purpose of providing long-term ecological, economic, and social value and benefits to future generations."

The amendment does not, on its own, affect an ocean resources. Therefore, the amendment is consistent with Goal 19.

B. Comprehensive Plan Goals

(1) Planning Goal

"To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions."

The City Council of Lincoln City adopted the Lincoln City Comprehensive Plan and its implementation measure, the Lincoln City Zoning Ordinance, after public hearing and has reviewed it on a periodic cycle to take into account changing public policies and circumstances. The city provided opportunities for review and comment by citizens and affected governmental units during preparation, review, and revision. Review of the proposed amendment was in accordance with the Lincoln City Comprehensive Plan and the applicable zoning ordinance provisions. Accordingly, the amendment is in conformance with this goal.

Opponents assert that this goal is violated because it does not promote the general welfare. Opponents cite the number of comments opposed to the amendment as proof that the amendment is not for the general welfare. Closer examination of the comments reveals many requests for more information and several mischaracterizations of the proposal. The Council finds and determines that the general welfare is not determined merely by counting opponents; it is a determination by the governing body that the legislative proposal has a valid public purpose and that it is not contrary to adopted policies and laws. The Council finds and determines that the modest adjustment to the R-1-RE front setback will facilitate development of elevated decks in the zone, adding a desirable architectural feature to the zone and bringing the zone closer to allowances for such features previously permitted under county zoning.

(2) Citizen Involvement Goal

"Develop a Citizen Involvement Program which ensures the continued participation of citizens in the land use planning process."

The findings of compliance under Statewide Planning Goal 1 (citizen involvement) are incorporated herein by this reference. The City has developed a citizen involvement program. With the adoption of Measure 56, text amendment proposals impacting the text of the R-1-RE are sent to all owners with R-1-RE zoning. Notice was also sent to official associations. In addition, the existing public hearing process, conducted in accordance with the Code, provides notice and an opportunity to be heard to the public. Meetings are noticed through publication in the local newspaper, website agendas and materials, and written notice. Finally review of the amendment by the Planning Commission (a citizen board) and separately by the City Council (elected citizen representatives) affords an opportunity for written and oral comments to be submitted

by interested parties and groups. Compliance with statutory and code established public processes established conformance with this goal.

Opponents, including the Roads End Improvement Association, argue Goal 1 is violated because this "major code change" did not have community meetings separate and apart from the public hearings before Council and the Planning Commission. In other correspondence REIA admits "this goal is technically met." Council finds and determines that the amendment is not a "major change" to the R-1-RE zoning; the change includes clarification of a measurement (100 foot averaging) and a text amendment to authorize a five foot encroachment into the front setback for elevated decks. These changes do not require community meetings separate and apart from the required public hearing. Such community meetings are not required; in the past extensive community participation occurred in the development of a new zoning chapter; small changes do not warrant such process. Notwithstanding this complaint, REIA identifies in the record that the Planning Director attended a REIA Saturday meeting, and covered the proposed amendment in her presentation.

(3) Public Services and Utilities Goal

"To Plan and develop a timely, orderly, and efficient arrangement of public facilities and services, which complement the area and serve as a framework for urban and rural development."

The proposed amendment does not directly relate to public services and utilities. Accordingly, this goal is not applicable.

(4) Urbanization Goal

"To promote an orderly and efficient transition of land uses from rural to urban."

The amendment does not relate directly to urbanization, so this goal is not applicable.

(5) Natural Hazard Goal

"The City shall control development in hazardous areas to protect life and property from natural disasters and hazards."

The amendment on its own does not allow development in hazardous areas. Development in such areas is controlled by existing comprehensive plan and zoning ordinance standards, as well as building code requirements. The amendment is consistent with this goal.

(6) Housing Goal

"To provide for the housing needs of all citizens."

The amendment does not relate to housing and does not adversely impact provisions for opportunities to provide housing. This goal is not applicable.

Opponents argue this amendment violates the Housing Goal "to protect residential areas from incompatible development." The allowance for a 5 foot encroachment into the 20 foot front setback for a deck above seven feet is not incompatible development; it is compatible residential development; the modest lessening of the front setback facilitates some use of the front setback area for an aesthetic feature. The Council finds and determines that the reference policy on incompatible development concerns encroachment of commercial uses (like VRDs) into residential areas, not minor adjustments to front setbacks to permit elevated decks on residences. The Council extensively used this incompatible development policy to justify its treatment of vacation rentals as accessory uses in residential zones in Ordinances 2014-21, 22, & 23. The proposed use of the policy to quash a privately initiated amendment processed by a property owner is inappropriate.

Opponents extensively rely on the purpose statement of the R-1-RE:

To retain and maintain the historic and traditional nature of the Roads End neighborhood, to promote and encourage a suitable environment for family living and to protect and stabilize the residential characteristics of the area."

While the purpose statement reflects protection and stabilization of residential areas from encroachment by commercial development, the Council finds and determines that it does not mean that legislative efforts to make the District more inclusionary (by reducing certain impediments to development) are incompatible with the purpose. While the modest amendment proposed in this amendment only lessens a small impediment to development, (only authorizing elevated decks), such efforts are part of larger efforts to re-evaluate land use restrictions to facilitate inclusion.

(7) Economy Goal

"To support the tourist industry and achieve a degree of diversity in the community, which will allow a balanced economy that will, in turn, support an adequate level of services for all members of the area."

The amendment does not relate to economic development or the tourist industry. This goal is not applicable.

(8) Aesthetic Goal

"To develop a livable and pleasing city which enhances man's activities while protecting the exceptional aesthetic quality of the area."

The amendment does not relate directly to aesthetics. This goal is either not applicable or is met. The aesthetics of Roads End development can be enhanced with such architectural features, such as the proposed modest allowance for an elevated deck.

Opponents argue that the aesthetics goal in the comprehensive plan is not met. The amendment would authorize elevated decks which would extend five feet into the 20 foot front setback. REIA argues this amendment is an "egregious trespass in the aesthetics of the historic neighborhood in Roads End." REIA and others also argue the amendment will create encroachments that could affect the privacy of neighbors and bring greater density in Roads End. The Council finds and determines that this is a modest amendment to the front setback and it is not contrary to the aesthetic goal; in addition, the proposed amendment will not adversely impact privacy (as the allowance for decks concerns the front (street side) setback not the interior side yard. Further while elevated decks do not change density, increased density is a goal in any inclusive zoning district. The Council's recent zoning amendment to allow duplexes in R-1-RE demonstrates that objective. The Council finds and determines that while elevated decks are not on the list of architectural features, [LCMC 17.17.100], a modest allowance for elevated decks, as presented here, does further the aesthetics goals by adding character to the façade of the building. REIA's objections are not well founded; the argument that the requested allowance for an elevated deck is not consistent with the "maintain the historical" purpose of the R-1-RE ignores that the deck to be rebuilt on the private applicant's property existed between 1997 and 2015, as it was permitted "historically" under County regulations. The Council expressly finds and determines that the purpose statement of the R-1-RE is not a command to leave the zone unamended, but rather recognition that the area developed extensively under County zoning and that nonconformity with City residential zones is recognized. This amendment is consistent with recognizing the County's historical allowances for such elevated decks. To the extent the Planning Commission based its denial on violation of the aesthetics goal, the Council expressly rejects that finding of the Planning Commission.

(9) Transportation Goal

"To provide a safe, convenient and rapid transportation network to facilitate the movement of goods and people."

The amendment does not directly relate to transportation. This goal is not applicable.

(10) Energy Goal

"To conserve energy."

The amendment does not pertain to energy conservation, so this goal is not applicable.

(11) Overall Environmental Goal

"To achieve a balance between the need to provide housing and services and the need to protect and enhance the natural environment of the city."

By itself, the amendment does not allow development in sensitive natural resource areas. The existing ordinances and plan requirements relating to protection the natural environment will continue to apply to all properties with natural resource areas. This amendment will contribute to this goal.

Opponents argue that the overall environmental goal is violated by this amendment which would authorize elevated decks which would extend five feet into the existing 20 foot front setback. REIA argues such decks do not enhance the Roads End community. The Council finds and determines that the Overall Environmental Goals concerns the "natural environment". The amendment concerns elevated decks in the 20 foot front setback area and does not impact the natural environment. The policy concerns balance; this modest amendment to facilitate elevated decks does not disrupt the balance already achieved under existing regulations.

(12) Shoreland, Beaches, Dunes, Estuary and Ocean Resources Goal

"To conserve, to protect, to enhance the coastal resources of the city."

The amendment on its own does not allow development in areas adjacent to the city's designated estuarine resource (i.e. Siletz Bay), in the city's coastal shorelands, beach and dune areas, or in ocean resource areas. The existing ordinances and comprehensive plan standards apply to any areas impacted by this amendment, thereby protecting these resources. The amendment is consistent with this goal.

Council Communication

Lincoln City Senior Center Presentation

Meeting Date:	June 13, 2022	Primary Staff Contact:	Jeanne Sprague
Department:	Parks and Recreation	E-Mail:	JSprague@lincolncity.org
Secondary Dept:	City Attorney	Secondary Contacts:	
Approval:		Estimated Time:	15 min

Question:

Should the City Council approve the waiver of the fees for the Senior Center during FY2022-2023.

Staff Recommendation:

Staff recommends the Council listen to presentation and makes a decision about waiving fees for the City space utilized by the Senior Center per permitted hours.

Authority:

Article XI, Section 9 of the Oregon Constitution prohibits a county or city from raising money for or loaning its credit to or in aid of any company, corporation or association. Local governments are generally permitted to make a donation to a not-for-profit entity - 501(c)(3) organization – this is generally occurs as part of the local budget process.

Background:

City facilities are first reserved for City run programs. However, when city facilities are not being used they can be rented. In 2014, the City updated City Parks and Recreation regulations. The regulations allow for exclusive use permits for rental of city facilities. The permit process is nondiscriminatory and available to for-profit and not-for-profit groups for a fee.

The City administers the permit process for rental of indoor and outdoor public spaces on a non-discriminatory basis, that is, we do not discriminate in permitting decisions based upon characteristics like race, sex, national origin, age, gender identity, or physical disability.

Since the regulations were established in 2014, the Parks and Recreation Department has worked to bring groups into compliance, so that now, any entities wanting exclusive use of a public facility must obtain exclusive use permits, with requisite permit protections, indemnities, insurances and payment of fees and charges (as established by Council resolution).

It is contrary to the Oregon Constitution for government to simply give city funds or resources to individuals or corporations. There are certain exceptions, one of which is the donation of public funds or resources to other governmental entities or to not-for-profit entities. Except for disposition of public property following findings and processes identified in state law (e.g. Helping Hands conveyance), donations of public funds or resources to a not-for-profit entity is generally discussed and budgeted during the annual local budget process.

As of July 12, 2021, the LC City Council desires to annually discuss, budget for, and possibly donate the cost of the City room facilities at the Community Center utilized by the not-for-profit "Lincoln City Senior Center Incorporated." This tie to the budget process generally guarantees that a not-for-profit such as the Senior Center is maintaining its non-profit status, operating in the public interest, and is providing actual services to the community (that is, it is not simply functioning as a private club).

On July 12, 2021, the City Council voted to waive fees for the Senior Center 501(c)(3) use of City facility for fiscal year 21-22. Any decision for future fiscal years will be based upon a presentation by the Senior Center 501(c)(3) to City Council, to inform Council of their programs and offerings.

In July 2021, the LC Parks and Recreation Dept. agreed to the Senior Center request to issue a 5 year permit from July 1, 2021 to June 30, 2026, with the following express conditions:

- Subject to payment or waiver of fees by City Council on an annual basis,
- Subject to annual agreement to exclusive hours of use,
- Yearly insurance must also be provided.

On May 9, 2022, the Lincoln City Senior Center President and Secretary presented to City Council. The presentation did not specifically address programs and activities provided by the not-for-profit in relation to the hours requested to be reserved. The City Council asked the Senior Center to return at another Council meeting, to present more information, including their programs and community offerings. Staff met with the Senior Center President and Secretary to express the need to address programming for the space and times requested. The annual report filed with the State of Oregon for

for the 501(c)(3) organizations states that the organization provides “a community focal point where seniors may gather for recreation, services, learning and activities.”

Council Options:

- Approve the Waiver of the Fees for the Senior Center During FY2022-2023.
- Do Not Approve the Waiver of the Fees for the Senior Center During FY2022-2023.
- Approve some Waiver of Fees for specific hours (e.g. when activities, learning or educational programming is offered).
- Continue the matter and request more information.

Financial Impact

LC Parks and Recreation has Council-approved rentals fees for Parks and Recreation facilities, including the Community Center. See attached Facility Exclusive Use Permit Application for rental rates of the Community Center facilities.

For FY 21-22, LC City Council waived the Senior Center permit rental fees totaling \$168,896.00 for both the use of the Small Meeting Room (50 hrs/week: M-F 8a-4p, Sat 10a-4p, Sun 12-4p) and West Wing Meeting Rooms with kitchen (98 hrs/week: Mon-Sun, 7a-9p). The Senior Center is requesting the same permit hours for FY22-23.

Potential Motions:

- Motion to Approve the Waiver of the Fees for the Senior Center requested hours during FY2022-2023, or
- Motion to Not Approve the Waiver of the Fees for the Senior Center during FY2022-2023
- Motion to Approve the Waiver of the Fees for FY2022-2023, for the following requested Senior Center hours, _____ and deny waiver of fees for _____.
- Motion to continue to _____ and request additional information on the following:_____.

Attachments:

Facility Exclusive Use Permit Application (PDF)



Application Process for Exclusive Use of Recreational Facilities City of Lincoln City

COMMUNITY CENTER PERMIT APPLICATION

Phone: (541) 994-2131

2150 NE Oar Place, Lincoln City, OR 97367

Please note: reservations are made on a first come, first serve basis. A permit will be issued for exclusive use of the requested recreation facility only after the entire process is complete. To guarantee your exclusive use, please submit your completed forms with all attachments and payment as early as possible. The City recommends you apply 30 days before you wish to have the exclusive use of a City facility. The City of Lincoln City cannot guarantee applications made less than 14 days before the requested usage. Only complete applications will be accepted.

Process:

1. Complete Permit Application.
2. Read and initial the Agreements and Conditions Page.
3. The Director may require that insurance be obtained for a permit. If your permit requires insurance, attach proof of Insurance naming the City of Lincoln City as an additional insured in the amount of \$1.5 million, for the dates/period of use. The insurance proof must clearly indicate that the City of Lincoln City is an "additional insured" on the policy. The designation "certificate holder" is not acceptable.
4. Calculate fees.
5. Return completed application with all required attachments and payment to the Lincoln City Community Center. Payment may be made by check (payable to Lincoln City Parks & Recreation) or by credit card.
6. Applications are considered by the Parks & Recreation Director, Park Supervisor, and Recreation Supervisor. The LCP&R Staff have the right to impose reasonable conditions on an exclusive use permit.
7. If the application is approved, a permit is prepared and you are notified. Conditions on the approval will be listed on the Exclusive Use Permit. If the application is denied, you will receive a written explanation for the denial.
8. If you wish to file an appeal of a denial of an exclusive use permit, you will need to file a written notice of appeal with the City Recorder. Your appeal will be heard before the City Council of the City of Lincoln City in accordance with the guidelines set out in Chapter 1.26 (Uniform Administrative Appeals) of the Lincoln City Municipal Code.

Thank you for your interest in and application for exclusive use of Lincoln City Parks & Recreation facilities. If you have any questions, please call 541-994-2131 option 1.

COMMUNITY CENTER PERMIT APPLICATION			
Main Contact:		Phone:	
Company(if applicable):		Non-Profit EIN:	
Address:		City/State/Zip:	
Email:		Fax:	
Event Description:			
Event Date(s):		Type: ☐ One Time ☐ Ongoing	
Day: ☐ Su ☐ Mo ☐ Tu ☐ W ☐ Th ☐ Fr ☐ Sa		Repeats: ☐ Monthly ☐ Weekly ☐ Daily	
Start time:		End Time	
am/pm (including Set-up)		am/pm (including Clean-up)	
FACILITY: ☐ POOL NO SLIDE ☐ POOL WITH SLIDE ☐ LARGE MULTI-PURPOSE ROOM NO KITCHEN ☐ LARGE MULTI-PURPOSE ROOM WITH KITCHEN ☐ SMALL CONFERENCE ROOM		☐ ROCK WALL ☐ GYMNASIUM FULL COURT ☐ GYMNASIUM HALF COURT ☐ WEST WING MEETING ROOMS ☐ WEST WING MEETING ROOMS WITH KITCHEN	
Attendance: _____ (Event insurance will be required for all permits with more than 50 participants.)			
A \$10 non-refundable application fee is due at time of application. Please Note: Reservations should be made a minimum of 14 days in advance and are approved upon confirmation and after: • A completed Permit Application has been submitted and payment has been made. • When using the kitchen, a Cleaning Deposit must be paid to approve the booking. • Event insurance is required for all pool rentals and permits with more than 50 participants.			
Applicant Signature: _____		Date: _____	
FOR STAFF USE ONLY			
Date Submitted: _____		Permit Number #: _____ Expires: _____	
Permit process		Confirm	
☐ Application Fee Received # _____		Staff _____ Date: _____	
☐ If Applicable Deposit Received		Staff _____ Date: _____	
☐ Rental Fees \$ _____ Paid		Staff _____ Date: _____	
☐ If Insurance Required, Certificate Received		Staff _____ Date: _____	
☐ Permit Approved		Supervisor _____ Date _____	
☐ Completed Permit		Staff _____ Date: _____	
Notes: _____			

Contact: Cheryl Knight Email: cknight@lincolncity.org Phone: (541) 994-2131

FACILITY	NON-PROFIT PER HOUR/DAY	PRIVATE PER HOUR	COMMERCIAL PER HOUR
Multi-purpose room (approx. 2,500 sq. ft.)	\$19	\$24	\$37
Multi-purpose room with kitchen (no oven or range)	\$26	\$33	\$50
Small meeting room (340 sq. ft.)	\$14	\$20	\$29
Basketball Gym Full Court	\$54/\$260 Day	\$62/\$289 Day	\$91/\$347 Day
Basketball Gym Half Court	\$27	\$31	\$45.50
Basketball Gym Floor Covering Use	\$200	\$200	\$200
West Wing meeting rooms	\$19	\$24	\$37
West Wing meeting rooms with kitchen	\$26	\$33	\$50

	REGULAR RATE PER HOUR	RESIDENT DISCOUNT PER HOUR
Rock Wall	\$46	\$38

POOL: Event insurance is required for all rentals	PER HOUR	ADD THE SLIDE PER HOUR
1-25 swimmers	\$84	\$40
26-50 swimmers	\$107	\$40
51-78 swimmers	\$130	\$40

ADDITIONAL FEES	RATE
Rentals out of regular business hours	\$35/hour
Refundable deposit for rentals with more than 50 participants.	\$50
Refundable deposit for Kitchen rentals	\$55

Rentals are subject to a two-hour minimum.

- To receive a full refund, cancellations must be received at least 14 days prior to your booking.
- Set-up and clean-up must take place during your paid rental time.
 - Extra fees will be charged for late stays, early entries, damage, and/or failure to clean-up.
 - A check list will be provided for the close of rentals.
 - Extra time is rounded up in 15 minute increments and will be charged to the renter.
- Event Insurance is required for all pool rentals and for all permits with 50 or more participants.
 - Certificates must name the City of Lincoln City as additional insured for \$1.5 million and must also name the date, time and location of the event for which the insurance is valid. The designation of the City of Lincoln City as the “certificate holder” will not be accepted unless it is also clearly indicated elsewhere on the certificate that the City is an additional insured.
 - Certificates that do not meet this requirement will not be accepted as proof of liability for an event.

AGREEMENTS AND CONDITIONS - Please sign and return this page.

1. Applicant, its agents, and employees shall comply with all applicable federal, state, county, and municipal laws while engaged in the above activity.
2. Applicant, its agents, and employees agree to abide by the established regulations relating to facility use, and agree to keep the facility in a clean and orderly condition.
3. Applicant, its agents, and employees agree to obtain any and all other required permits or authorizations from the City or other agencies before the activity takes place.
4. Applicant will comply with any conditions imposed by the City on the Exclusive Use Permit.
5. Applicant agrees to display, or have readily available, the Exclusive Use Permit issued by the City while the authorized activity is taking place.
6. Applicant agrees to clean up all garbage, refuse, and other debris resulting from applicant's use of the designated facility. You must carry out garbage exceeding capacity of available trash cans.
7. Applicant is responsible for any damages to the facility caused by Applicant's use. Applicant acknowledges and accepts they will be billed for time and materials if the facility is not left in the condition in which it was found.
8. The applicant agrees to hold harmless, indemnify, and defend the City of Lincoln City, its officers, agents, and employees from any and all liability, actions, claims, losses, damages, or other costs including attorney fees and witness costs (at both trial and appeal level, whether or not a trial or appeal ever takes place) that may be asserted by any person or entity arising from, during, or in connection with the Applicant's activities, except liability arising out of the sole negligence of the City and its employees. Such indemnification shall also cover claims brought against City under state or federal workers' compensation laws. If any aspect of this indemnity shall be found to be illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of this indemnification.
9. It is understood that the organization, group, or individual is adequately insured for the nature and duration of the activity to be undertaken, and that proof of insurance will be provided to the Parks & Recreation Department, when required.
10. Any and all structural changes to City buildings or City property by applicant shall be approved in advance by the City Manager.
11. Any personal property of Applicant kept in or at the facility is at Applicant's own risk. The City of Lincoln City accepts no responsibility for the security of Applicant's personal property.
12. This permit may be revoked at any time, upon notice to applicant, its agent, or employees, for noncompliance with the terms or conditions of this permit or for the preservation of the public peace, health, safety, or general welfare.
13. The City is not able to provide assistance in moving tables and chairs to accommodate your event. If you choose to move tables or your guest(s) choose to move tables, they do so at their own risk.
14. Do not drive on or park vehicles on park grounds except in designated parking areas.
15. Remove and dispose of any signs (e.g. directional) used for your event, including any materials used to secure signs.
16. Permits are not transferable unless written consent is given by the City Manager or their designee. Facilities cannot be "loaned out" to other organizations during the times you have reserved them. The Group/Organization named on the permit is the only one authorized for use during the permit period. If you are sharing the facility with another organization, both names need to be on the permit.
17. There will not be refunds for cancellations within 14 days of the date of your permit.

Please sign and return this page.

By my initials, I declare that
I understand the terms listed above: _____



City of Lincoln City

Phone: (541) 994-2131
2150 NE Oar Place, Lincoln City, OR 97367

IMPORTANT INFORMATION REGARDING CERTIFICATES OF LIABILITY (INSURANCE) FOR EVENTS HELD IN/ON CITY OF LINCOLN CITY PROPERTY

If your Exclusive Use Permit states that insurance is required, please obtain insurance as detailed below.

Certificates must name the City of Lincoln City as an “additional insured; for \$1.5 million and \$2 million and must also name the date, time and location of the event for which the insurance is valid.” The designation of the City of Lincoln City as the “certificate holder” will not be accepted unless it is also clearly indicated elsewhere on the certificate that the City is an additional insured.

The designation of the City of Lincoln City as an addition insured and information regarding time and location must be clearly stated somewhere on the certificate. If the City is being named as the “certificate holder,” please also be sure that the phrase “certificate holder is named as additional insured,” appears on the certificate.

Certificates that do not meet this requirement will not be accepted as proof of liability for an event.

If you have any questions about this requirement, please contact Lincoln City Parks & Recreation Executive Assistant Cheryl Knight 541-996-1224 or cknight@lincolncity.org.

Planning Staff Report

APP 2022-01 Appeal of VAR 2022-01

Meeting Date:	June 13, 2022	Primary Staff Contact:	AnneMarie Skinner
Department:	Planning Commission	E-Mail:	ASkinner@lincolncity.org
Secondary Dept:		Secondary Contacts:	
Approval:		Estimated Time:	

Question:

Should the City Council conduct a public hearing on APP 2022-01, an appeal request of the Planning Commission's decision denying the street side setback variance requested in VAR 2022-01?

Staff Recommendation:

Staff recommends the Council conduct the public hearing.

Authority:

Legal authority for appeals of Planning Commission decisions is as follows:

17.76.050 Type III procedure.

- A. General Description. Type III procedures apply to quasi-judicial permits and applications. Decisions on quasi-judicial permits and applications are made by either the planning commission or the city council, and require substantial exercise of discretion and judgment in applying approval criteria. Type III procedures require public notice and one or more public hearings.
- B. When Applicable. Table 17.76.020-1 identifies Type III applications. Applications not listed on Table 17.76.020-1 may be identified as Type III by the director based on the general description in this section.
- C. Pre-application Conference. A pre-application conference is not required prior to application submittal of a Type III application, but is strongly encouraged.
- D. Application Requirements. Type III applications shall:
 - 1. Be submitted on application forms provided by the department and shall include all information, exhibits, plans, reports, and signatures requested on the application forms.
- E. Notice of Public Hearing.
 - 1. After a Type III application has been accepted as complete, the department shall mail a written notice of public hearing to the applicant and applicant's representative; owner of record of the subject property; property owners of record within 250 feet of the perimeter property line of the property or properties subject to the application; any neighborhood or community organization recognized by the governing body; and Oregon Department of Land

Conservation and Development at the discretion of the applicant.

2. The notice shall include a brief description of the request; applicable criteria; street address; date, time, and location of hearing; statement that failure of an issue to be raised in a hearing by person or letter precludes appeal; name and number of department staff member to contact; statement that a copy of the application is available for inspection; statement that the staff report is available for inspection; and a general explanation of the procedure for submitting testimony and conduct of hearing.
- F. Public notices shall be mailed at least 20 days prior to the first public hearing.
- G. Decision Authority. Table 17.76.020-1 identifies the decision authority for a plan map amendment and zone change as the City Council, followed by a recommendation from Planning Commission.
- H. The public hearing is conducted in accordance with procedures in LCMC 17.76.160.
- I. Notice of Decision. Following the decision, a final order shall be prepared by the department.
- J. Appeal. The final decision of the City Council to approve or deny a Type III application may be appealed to the Land Use Board of Appeals (LUBA).

Background:

See the Staff Report for APP 2022-01.

Council Options

- * Hold the required public hearing scheduled for this evening and review all the evidence in the record. If the hearing is closed and the record is closed, deliberate on the proposed request.
- * Continue the public hearing to the _____ City Council meeting.

Possible Motions

- * Motion to approve APP 2022-01 and overturn the Planning Commission's denial of VAR 2022-01. Staff is directed to prepare a Final Order approving the appeal request in APP 2022-01.
- * Motion to deny APP 2022-01 and uphold the Planning Commission's decision denying VAR 2022-01. Staff is directed to prepare a Final Order denying the appeal request in APP 2022-01.

Attachments:

APP 2022-01 Application for WEBSITE_Redacted (PDF)

APP 2022-01 Exh A from Applicant (PDF)

APP 2022-01 Exh B from Applicant (PDF)

APP 2022-01 Exh C from Applicant (PDF)

APP 2022-01 Exh D from Applicant (PDF)

APP 2022-01 Narrative from Applicant (PDF)

APP 2022-01 STAFF REPORT Griswold variance appeal (DOCX)

APP 2022-01 Comments McGough 6.2.2022_Redacted (PDF)
APP 2022-01 Comments Regen 6.6.2022_Redacted (PDF)

Appeal Application

APPELLANT INFORMATION:

NAME: 3G'S CONSTRUCTION, INC.

ADDRESS:

PHONE:

E-MAIL:

CASE INFORMATION OF REQUESTED APPEAL:

CASE FILE NUMBER: VAR 2022-01

DECISION BEING APPEALED: F.O. 2022-04

REVIEW AUTHORITY THAT MADE THE DECISION: LINCOLN CITY PLANNING COMMISSION

DATE OF THE DECISION: APRIL 19, 2022

DOCUMENTATION THAT THE APPELLANT WAS A PARTY TO THE INITIAL PROCEEDINGS: APPELLANT IS THE APPLICANT IN THE INITIAL PROCEEDINGS

DETAILED STATEMENT ON THE BASIS OF THE APPEAL, INCLUDING WHICH APPROVAL CRITERIA, DEVELOPMENT STANDARDS, OR CONDITIONS OF APPROVAL WERE ALLEGEDLY IMPROPERLY EVALUATED OR APPLIED TO THE DECISION: *(attach additional sheets as necessary to include the applicable criteria, development standards, or conditions of approval that were allegedly improperly evaluated)* SEE ATTACHED NARRATIVE

The required appeal application fee must accompany this application.

I hereby declare under penalty of perjury under the laws of the State of Oregon that the foregoing information is true, complete, and accurate.

SIGNATURE:

Appellant

5/4/22

Date



EXHIBIT A FROM APPLICANT

**Narrative in Support of Roger Griswold's
Request for a Variance from the Street Side setback Requirement**

This narrative provides evidence and argument in support of a variance from the street side setback requirement for the completed house located at 6604 NE Logan Road in the Roads End neighborhood. Each of the criteria for a variance as found in LCMC 17.77.140 are set out in **bold** below, followed by a discussion of each.

1. Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity and result from lot size or shape legally existing prior to the date of the ordinance codified in this chapter, topography, or other circumstances over which the property owner has no control.

The extraordinary circumstance here is the fact that with a street side setback of 10 feet, the newly-constructed house on the property does not meet the street side setback requirement. LCMC 17.17.070.F. says:

The minimum street side yard shall be 20 feet, except that it may be one foot less for each two feet of front yard setback over the minimum, but not to less than 10 feet.

The situation came about as a result of a cascade of mistakes on the part of the city. Before purchasing the property, on November 17th, I called and talked to James White in the planning department in a 13 minute phone call. Among the matters I spoke with him about, we specifically talked about setbacks. At that time he told me that the street side setback was 10 feet. I spoke with him again when I was developing the house plans for this lot and the adjacent one on Dec 1st during a 4 minute and 50 second call, and at that time he reaffirmed the 10-foot setback. I had a third conversation with him as I was finalizing the plans. In these calls I asked specifically about setbacks, lot coverage, deck heights, and if there was anything I needed to know in regard to building in Lincoln City and by the ocean and on these lots. I have not built anything here before and was unfamiliar with local codes and anything that may be specific to where I'm planning to build. I was given information about high wind areas, using stainless steel and aluminum because of the salt air. Except for the misinformation about the street side setback he was very helpful and informative. I had no reason to believe he was not providing accurate information.

When I completed the building plans I applied for a building permit. Among the reviews that the city performed on the building plans was a review by the planning department. As a part of the planning department review the reviewer, David Mattison, checked the setbacks, including the street side setback. The plans showed clearly that the proposed setback was 10 feet. The reviewer approved the plans as I submitted them with the 10-foot setback.

After all the reviews were completed, the city issued a building permit and I began construction. One of the first steps in building a house is to put in the forms into which the

concrete for the foundations and footings will be poured. When the forms were in place, as required I called the city for an inspection. One of the primary purposes of this inspection is to ensure that the house is being placed properly on the lot in accordance with the approved plans and that the required setbacks are met. The planning department's inspector, David Mattison, approved everything and the forms passed inspection. I then went ahead and poured the footings and built the house. At the point where there was only touch up painting and the like left to complete I was ready for a final inspection. At this point, Anne Marie Skinner called me and told me I had a problem because the house was built too close to the street side property line. This was a shock to me as I had asked specifically about setbacks, had passed the building plans review (including setbacks), and had passed the field inspection (also including setbacks). As a consequence I have a completed house that is not allowed to be occupied, and I am asking for a variance.



The completed house, view looking northeast from Logan Road. NE 66th Street to the right.

At this point it is important to understand how much of variance I am seeking. As shown above, LCMC 17.17.070.F. allows the street side yard to be reduced by as much as 10 feet if the actual front setback is greater than what is required. Another code provision makes the required front setback for properties fronting on Logan Road equal to the average setback of buildings on all lots within 100 feet of the lot on which the proposed building is to be located and that abut Logan Road. According to the Planning & Community Development Director, this average is 12.77 feet. So the required front setback is 12.77 feet.

The front face of my house is set back 34 feet from the front property line. But the front deck sets back at about 25 feet, and the stairs to the front door entrance are set back 20 feet. Using the stairs' setback of 20 feet, the house is set back 7.23 feet more than is required. Because LCMC 17.17.070.F. allows the street side setback to be reduced by one foot for each two feet of front yard setback over the minimum, the actual required street side setback is 16.38 feet ($20 - [7.23/2]$). So the actual variance I am seeking is 6.38 feet.

As a side note, it is important to understand that this is not a case of claiming that because of the city's repeated mistakes, the city is estopped from applying the ordinance's setback requirement. Instead, this is a case where, yes, the setback requirement applies, but because of the extraordinary circumstance resulting from the city's mistakes – the completed house that does not fully meet the setback requirements – the ordinance's variance provisions allow me the necessary relief.

2. The variance is necessary for the preservation of a property right of the property owner which is substantially the same as owners of other property in the same zone or vicinity possess.

The property right involved here is the right to build and occupy a detached dwelling on the property. The property is zoned R-1-RE and in this zone a detached dwelling is an outright permitted use. This right to build and occupy a house is shared in common with all other properties in the R-1-RE zone. In this case, the house has been built but cannot be occupied because the final inspection revealed that it does not meet the setback requirement. The variance is needed so that the house may be occupied.

3. The variance should not be materially detrimental to the purposes of this title, or to property in the zone or vicinity in which the property is located, or otherwise conflict with the objectives of any city planning policy.

LCMC 17.04.020 sets out the purposes of Title 17. In relevant part, the purposes include promoting sound development, protecting and enhancing real property values, avoiding development that is detrimental to the stability and livability of the city, and safeguarding and enhancing the appearance of the city through effective land use, architectural design, and site planning. This variance is not detrimental to any of these purposes. The house, as built and as shown in the photo, is attractively designed and is a positive addition to the appearance of the city.

Reducing the street side setback by 6.38 feet, to 10 feet, does not materially affect any of the property in the zone or vicinity. In terms of views, it still leaves, next to NE 66th Street's 50-foot right-of-way, a 10-foot setback for views to the west from houses up hill to the east. This setback of 10 feet is greater than what is required in any other zone in Lincoln City. In every other single-family residential zone in Lincoln City the required street side setback is five feet for a one-story dwelling and 7.5 feet for more than one story. This includes the R-1-5 zone, R-1-7.5 zone, the R-1-10 zone, the RR zone, the VR zone, the NCR zone, and, for single-unit dwellings, the NBMU zone. In the RM zone, to the extent

single-unit residences are allowed, the required street side setback is the same: five feet and 7.5 feet. In the OPD zone, there is no street side setback requirement, except for oceanfront dwellings, where the required setback is 10 feet – exactly what is sought here. In the TVC zone, there is no setback requirement at all, except that there is a 10-foot maximum setback.

The 20-foot street side setback requirement in the R-1-RE zone did not originate in Lincoln City. It is a hold-over from the old Lincoln County R-1A zone that was in effect in Roads End at the time of its annexation into the city. There is nothing unique about the street side situation in Roads End, other than this legacy standard, compared to the rest of the city, and the rest of the city has seen fit to apply the 5/7.5-foot standard without ill effect. And even in Roads End, the street side setback, under certain circumstances as described above, is allowed to be reduced to 10 feet, which is exactly what is being sought here.

4. The variance requested is the minimum variance which would alleviate the hardship.

The hardship in this case is the inability to provide the required 16.38-foot -minimum setback from the side (south) property line to the side of the existing house. The house was built with a ten-foot setback in accordance with the approved plans and inspections. The alternative is to remove over six feet of the completed house, which would be extremely costly and which would destroy the habitability of the remaining structure. The minimum necessary to alleviate this hardship is varying the street-side setback from 16.38 feet to 10 feet. The house has been built and completed and is ready for an occupancy permit. The variance requested is exactly what is required – no more and no less – to allow the house to be occupied in accordance with the approved plans.

Thank you, commissioners. My name is Roger. I've lived in Salem for the last 24 years. I've built our home on Logan Road over the last year, often having my son and daughter helping with cleanup or whatever they could.

They've been eager and are very excited to be able to use the home if I'm granted this variance. It's been a big job, and I've learned a lot.

I've been going to Roads End State Park for many years and have always taken guests there when they come and visit. To have the opportunity to be a part of that community and to find a lot that I could build on in that community has been a dream come true.

At the outset I'd like to reserve two minutes for rebuttal. And please if you any of you have any questions or concerns, please stop me and ask. I would love to be able to answer anything you might be wondering about, and I'm told I can't do that when you're deliberating.

I want to address a couple of things that I think the staff report got wrong.

Criteria 1. Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity and result from lot size or shape legally existing prior to the date of the ordinance codified in this title, topography, OR other circumstances over which the applicant has no control;

In the staff report it states the applicant has not provided evidence to support the existence of an exceptional or extraordinary circumstance that applies to the site. [There are several exceptional or extraordinary circumstances in play here. One is the fact that the planning staff and building staff all reviewed and approved my plans, issued permits, signed off on inspections all missing the setback error. Second, I have a completed](#)

home that was approved as meeting all code requirements, but now I'm in a quagmire of not being able to live in a house I have a certificate of occupancy for.

I took in all the information I could from the city's website and staff. And certainly 1 of those items was missed. From my years of building, I've learned staff know things and understand things I don't necessarily know about a certain area or city. Such as materials that should be used or the future plan of a site which is why we are the only section of sidewalk and curb on Logan Road.

That is not something easily understood by reading the code. That is why I rely on professional city staff that have a full time job of knowing and implementing these codes. And I did not find anyone in city staff who was unfriendly or unhelpful. They all answered all my questions, and offered help in any way possible. But now I cannot get a final occupancy because of the setback error that was not my fault.

As I said in my narrative, I have a home that is completely built and although I am able to possess a Certificate of Occupancy, I cannot occupy the home without consequence. I feel that the permit sign off's by staff, subsequent site inspections and approvals by staff, improper as they were, qualifies as an extraordinary circumstance. It certainly is for me. This has been a very stressful time for me. I could hardly breathe when Ms Skinner notified me about this circumstance back in January.

The very extraordinary circumstance that exists is that we have a completed home that cannot be occupied. This does not apply to others in the vicinity. Our family's home was fully constructed before anyone became aware of this issue and it cannot be lived in. That is unique. Is

there another home in Roads End that has this circumstance? It seems exceptional.

I know that a neighbor couldn't rebuild their deck because of setbacks. I understand The Roads End Improvement Association is concerned about this becoming "commonplace with new developments". I understand that.

I'm not trying to break any rules, or trying to disregard the effort put into making the neighborhood cohesive. I'm not negatively impacting the neighborhood as a whole. I'm asking for 6.38' And I've even added to the neighborhood by adding a paved parking area for access to the beach. I've added sidewalks, and curbs. I've built a nice looking home.

Over a year ago, I spoke with James White in planning, I spoke with the building department, I spoke with the public works department, and all before I even purchased the lots, then once again I spoke with planning and building and public works while developing and having plans reviewed, and again as I was finalizing the plans. I have not built anything in Lincoln City before and was unfamiliar with local codes and anything that may be specific to where I was planning to build. I did look at the website and the codes and rules, I simply missed this one thing. I don't have an office person or someone who takes calls. I am small builder and do all of these responsibilities myself.

I was given information about high wind areas, using stainless steel and aluminum because of the salt air. My plans were under review for about 6 weeks. I was advised we needed Occupational Tax Permits to work in

Lincoln City, so we got those. And Ultimately the plans were approved as drawn and we constructed the homes.

There were many notations on my plans. As I mentioned, I was required to install curbs for the street and expand 66th, and construct a 6' sidewalk along Logan Road, so there was no confusion about where I was building.

So we went on to build according to the plans submitted and approved, had our required inspections that were approved and the house was complete in early January.

What is extraordinary is that no one noticed or made anyone aware my home was not meeting the side street setback for a whole year.

In the staff report, staff have noted that I didn't provide evidence meeting Criteria #1. However, I believe I have provided substantial evidence to show that this is an exceptional or extraordinary circumstance. I have provided my written narrative, I have testified before you, and I have submitted all of the building plans that have the multiple reviews, notes, and sign off's by the Planning and Building staff on the review and approval of my home in the current location, which all show this is both exceptional and was not in my control.

I find the criteria of 1 and 2 somewhat vague. As Commissioner Smith expressed on May 18th, 2021 during a planning meeting that he had concern that there is a lack of definition in some of the requirements on criteria one and two.

Staff are mis-interpreting Criteria #1 in the response. It does not solely require that the exceptional or extraordinary circumstances apply to the property. . . and result from lot size or shape.

The “or” in this Criteria, allows Staff and you to consider “other circumstances over which the applicant has no control.” This is a catch all provision for those property owners who did not cause the situation they are now seeking relief from and don’t have unique property elements from size, shape, or topography. This last section of Criteria #1 is directly applicable to my situation and one which I qualify for and clearly meet.

Next I want to address criterion 2.

Criteria 2. The variance is necessary for the preservation of a property right of the applicant which is substantially the same as owners of other property in the same zone or vicinity possess;

In my narrative I said the property right to be preserved is the right to occupy my house. The staff report interpreted this to mean occupancy under the building code. But that is not what I am referring to. I’m talking about being able to occupy, to use, my house under the municipal code. The preservation of the property right would be to occupy the fully built dwelling without incurring any fine. I’ve been granted a certificate of Occupancy by the City of Lincoln City. But under LCMC 17.04.030 – which is about compliance with zoning requirements – construction and use of a house that does not meet setbacks is a violation of the municipal code. Under LCMC 17.84.020 – Enforcement – it is a class B violation, and each day of the violation is a separate offense. Under LCMC 1.16.070 a class B violation is subject to a \$1,000 fine. So even though I have a C of O I still have a violation of the code and a potential \$1,000/day fine. That's what keeps me from being able to occupy the house.

The other property owners enjoy the right to live in their homes without continuously violating an ordinance.

Mr Apicello gave the example on May 18, 2021 in a public hearing of “needing a variance to be able to build a home on your lot when everyone else is able to build. I need a variance to have a right like they have.”

So that is what I’m seeking, a variance to be able to build, keep and live in a home that many others have done in this same zone, 4 of which do not meet their side street setback and two that don’t meet their front street setback as noted in the staff finding for criteria number 3. Further the staff found “Having one more house not meeting a required setback in amongst the 6 houses in the vicinity that also don’t meet a required setback will not be materially detrimental to the vicinity.” And I’m asking for a mere 6.38’

I was very diligent in trying to comply with the code. Before I prepared plans, before I even purchased the lot, I asked the responsible city staff specifically about the setbacks after my own research. Based on what they told me and what I knew, I prepared plans that to the best of my knowledge complied with the setback requirements. I then submitted those plans for review by the responsible city staff and they approved the plans.

Based on that approval I put in the forms for the footings, and had responsible city staff come to the site to check the setbacks in the field, and they approved the setbacks. Only then did I build the house. I’ve invested hundreds of thousands of dollars in it. I did this in good faith. I wasn’t trying to get away with anything. I was trying to comply.

But I’ve ended up with a house that doesn't meet one of the standards, and now I’m not allowed to use it.

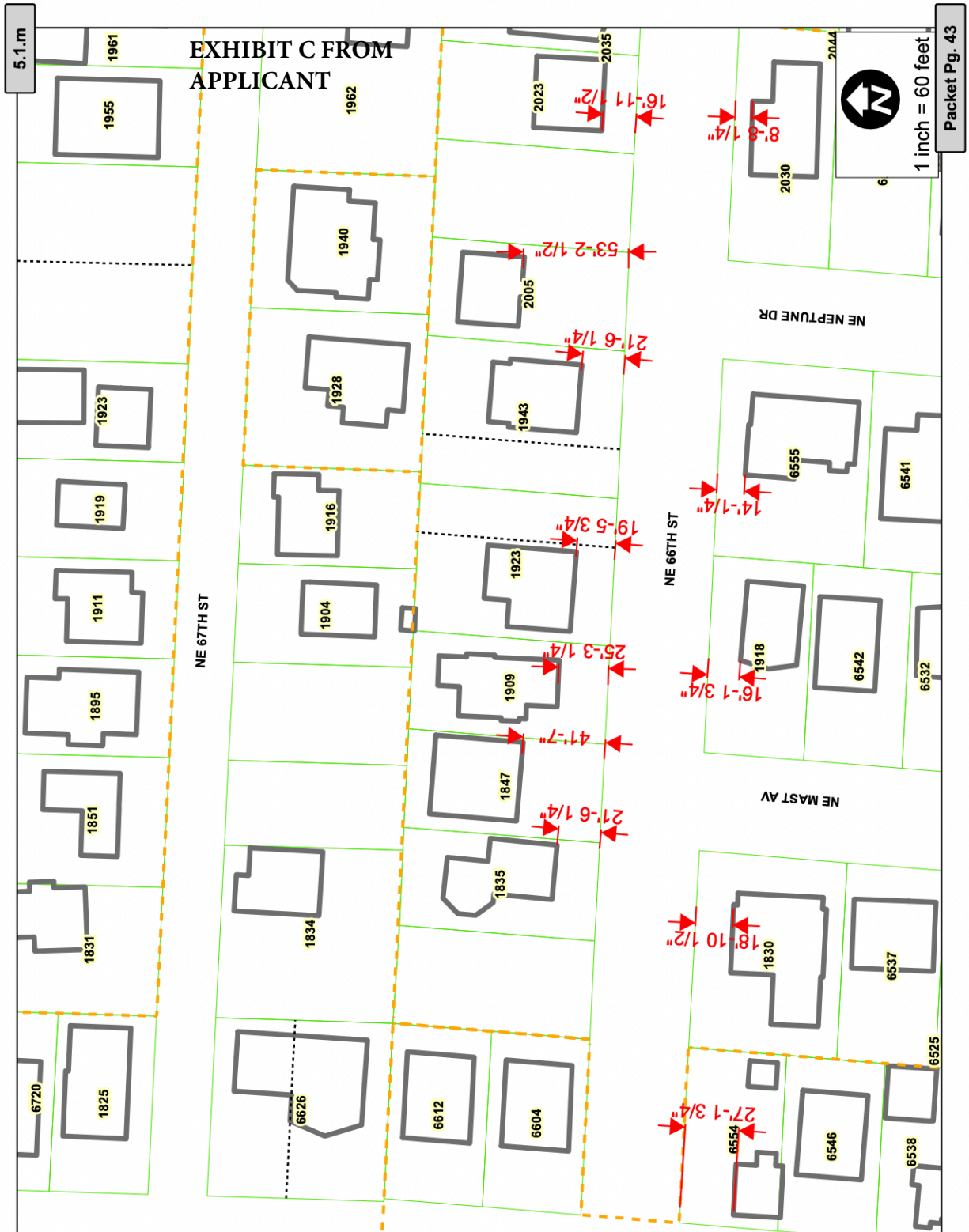
I even have a C of O, but I still can't use the house. I don't mention the city staff's mistakes to say that the setback standard shouldn't apply but to demonstrate that I've tried my very best to be diligent. I've sought to do what's right in every way possible. I've used aluminum and stainless steel everywhere outside because I was informed that's how it's done here with the salt air. I've talked with some of the neighbors and exchanged numbers so they could let me know if anything needs attention if I wasn't on site.

I have generally gotten along with my neighbors. The neighbor to the north even let us borrow power and water on occasion. Another neighbor who owns a surf shop asked for some wood pieces that I gave him. I believe this is a part of being a builder, making sure people have access to me and then taking care of their concern. It's part of the diligence I've tried to bring to building this home.

I'm not saying the city standard doesn't apply, but that I need relief from the standard via this variance process, a process that was designed to address exactly this kind of situation.

It's not a small matter for me at all. I'm not a big builder by any means. I'm not sure how it's been measured that I'm in some top tier of developers. I'm a home builder. I do not have any employees. I've borrowed the money to build this home, and these are the only 2 homes I've built this year. Mine and the one next to it. And now a finished home sits vacant and cannot be occupied.

I respectfully request you approve my variance application.



Address	Tax lot	Approximate Street Side Setback
7614 NE Neptune Ave	06-11-27-DA-03400-00	18.2
7556 NE Logan Rd	06-11-27-DA-02000-00	23.4
1815 NE 74th	06-11-27-DD-02100-00	17.6
7346 NW Logan Rd	06-11-27-DD-10502-00	4.4
7248 NE 73rd	06-11-27-DD-10401-00	14.56
1819 NE 72nd	06-11-27-DD-09100-00	2.25
1816 NE 72nd st	06-11-27-DD-08900-00	15.4
7106 NW Logan Rd	06-11-27-DD-07400-00	26.2
7036 NE Logan Rd	06-11-27-DD-07300-00	14.2
7010 NE 70th	06-11-34-AA-04400-00	10.9
6938 NE Logan Rd	06-11-34-AA-04300-00	10.2
6910 NE Logan Rd	06-11-34-AA-04100-00	1.8
6806 NE 68th	06-11-34-AA-03700-00	2
6780 NE Logan Rd	06-11-34-AA-03601-00	14
1825 NE 67th St	06-11-34-AA-03500-00	12.8
6626 NE 67th	06-11-34-AA-03400-00	11.4
6554 NE Logan Rd	06-11-34-AA-03100-00	27
1815 NE 64th	06-11-34-AD-05100-00	6.7
1812 NE 64th	06-11-34-AD-05000-00	14
6104 NE Logan Rd	06-11-34-AD-03300-00	8
1835 NE 58th	06-11-34-DA-09100-00	28.5
1834 NE 58th	06-11-34-DA-06404-00	20.3
1850 NE 56th	06-11-34-DA-07500-00	23.1
5310 NE Neptune Ln	06-11-35-CC-00501-00	31.2
5276 NW 53rd	06-11-34-DD-04407-00	20.9
5230 NW 53rd	06-11-34-DD-04424-00	45.1
1819 NW 52nd	06-11-34-DD-04424-00	38.6
1795 NW 52nd	06-11-34-DD-04417-00	17.4
1794 NW 52nd	06-11-34-DD-04418-00	14.3
5020 NW Lee Ave	06-11-34-DD-05300-00	12.5
1785 NW 50th St	06-11-34-DD-05200-00	14.3
1707 NW 50th	06-11-34-DD-03400-00	17.4
5018 NW Jetty Ave	06-11-34-DD-03300-00	15.6
2055 NW 50th	06-11-35-CC-02300-00	12.7
2220 NW 50th St	07-11-02-BB-06000-00	32.5
5120 NW Bell Ct	06-11-35-CC-05900-00	28.6
1897 NW 51st	06-11-34-DD-06214-00	32
1867 NW 51st	06-11-34-DD-06209-00	22.8
1859 NW 51st	06-11-34-DD-06204-00	15.9
5233 NE 53rd Ct	06-11-35-CC-04800-00	20.4
5321 NE Port Ln	06-11-35-CC-04000-00	19.6
6148 NE Mast Ave	06-11-35-BC-14900-00	22.9
1910 NE 63rd	06-11-35-BC-06700-00	24.1
6344 NE Mast Ave	06-11-35-BC-03500-00	10.7
1929 NE 63rd	06-11-35-BC-03400-00	14
6415 NE Mast Ave	06-11-35-BC-15900-00	19.6

**EXHIBIT D FROM
APPLICANT**

1918 NE 66th	06-11-35-BB-08500-00	17.8
6555 NE Neptune Ave	06-11-35-BB-08600-00	14.6
2030 NE 66th	06-11-35-BB-09600-00	9
2105 NE 64th	06-11-35-BC-09600-00	17.4
6330 NE Port Dr	06-11-35-BC-11700-00	17.1
1962 NE 67th	06-11-35-BB-05500-00	5.9
1961 NE 67th	06-11-35-BB-05300-00	3.11
1980 NE 68th	06-11-35-BB-03900-00	3.1
1947 NE 68th	06-11-35-BB-03800-00	20.2
6851 NE Neptune	06-11-35-BB-02300-00	4.4
1935 NE 69th	06-11-35-BB-02000-00	0
7015 NE Neptune Dr	06-11-27-DD-06300-00	0
1950 NE 72nd	06-11-27-DD-08100-00	10.25
7287 ne Netpune Ave	06-11-27-DD-09900-00	14.7
7421 NE Neptune Ave	06-11-27-DD-01700-00	5.6

**Narrative in Support of Roger Griswold's Appeal
From the Decision of the Planning Commission in Case VAR 2022-01**

This narrative provides evidence and argument in support of my appeal from the decision of the Planning Commission denying my request for a variance from the street side setback requirement for the completed house located at 6604 NE Logan Road in the Roads End neighborhood. The Planning Commission concluded that my application did not meet three of the four variance criteria. As I show below, the Planning Commission was mistaken in reaching this conclusion. In fact the Planning Commission went against the Planning & Community Development Director's professional finding that in truth my application met each of the criteria for a variance as found in LCMC 17.77.140.

At the outset, I should make clear that I am not saying that the street side setback requirement does not apply. I am saying that because of special circumstances I should be allowed a variance – some relief from the standard. This is what variances are for. As the Lincoln City Municipal Code says, a variance is a decision by the review authority to lessen or otherwise modify the requirements of the zoning code. The variance provisions in the code are there in recognition of the fact that there are cases where unusual circumstances make the application of standard regulations inappropriate or unfair.

In the paragraphs below I have set out the three applicable variance criteria in bold. This is followed by the Planning Commission's conclusions in italics. Then I show how the Planning Commission erred.

Criterion 1: Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity and result from lot size or shape legally existing prior to the date of the ordinance codified in this chapter, topography, or other circumstances over which the property owner has no control

Planning Commission Conclusion: *The applicant did not provide any evidence showing that exceptional or extraordinary circumstances apply to the property. The applicant's contention that the staff error is the exceptional or extraordinary circumstance does not meet the criterion since it doesn't apply to the property, staff error is not an exceptional or extraordinary circumstance, and the applicant does have control over this particular circumstance. It is the responsibility of the applicant to read the code and ascertain for themselves the requirements. In this case, the applicant was responsible to read LCMC 17.17.070 and see that the minimum required street side setback is 20 feet (except that it may be one foot less for each two feet of front setback over the minimum but not to less than 10 feet), not the 10 feet that the applicant used.*

This conclusion is wrong, is based on a false understanding of my application, and completely ignores the central point of my application, which is the extraordinary circumstance is the existence of a completed house that does not meet the street side yard setback. I said it this at the very beginning of my original narrative (attached as exhibit A):

The extraordinary circumstance here is the fact that with a street side setback of 10 feet, the newly-constructed house on the property does not meet the street side setback requirement.

I did also state that the staff errors were an extraordinary circumstance, not something that has ever occurred before causing a fully built home to be found out of compliance. But I always tried to make clear that the completed house, sited in good faith, was the fundamental extraordinary circumstance. The quote immediately above demonstrates this, as does the following quote, from my testimony at the Planning Commission hearing (attached as exhibit B):

The very extraordinary circumstance that exists is that we have a completed home that cannot be occupied. This does not apply to others in the vicinity. Our family's home was fully constructed before anyone became aware of this issue and it cannot be lived in. That is unique. Is there another home in Roads End that has this circumstance? It seems exceptional.

One of the principal reasons I have mentioned the staff errors during this variance process is to demonstrate that my error, building my house with an improper setback, was made in good faith. I'm not a cowboy builder who rides into town, builds whatever he wants regardless of the rules, and then asks for forgiveness for violations. This was the first home I've built outside of the greater Salem/Independence area in my whole career. I tried hard to comply with city requirements. When the house was finished and I was ready to get the Certificate of Occupancy from the Building Department, I learned of the setback problem. As you can imagine, I was shocked. I had a house that I had spent more than eight months working on, and had spent hundreds of thousands of dollars on, that under the municipal code I am not allowed to use. That seems pretty obviously exceptional and extraordinary.

The Planning Commission completely ignored my contention that the completed house that I can't use is an extraordinary circumstance. The Planning Commission failed to address at all the evidence I provided in this regard, and failed to explain why the evidence I provided in this regard does not demonstrate the existence of an extraordinary circumstance. In the original staff report, the Planning & Community Development Director, also focused on the staff error issue, but after the hearing at the Planning Commission changed her finding to say that the completed house that can't lawfully be

occupied is in fact an extraordinary circumstance. The Planning Commission's decision fails to say why they disagree with the professional staff.

Criterion 2: The variance is necessary for the preservation of a property right of the property owner which is substantially the same as owners of other property in the same zone or vicinity possess.

Planning Commission conclusion: *The applicant did not provide any evidence that a property right is being lost if the variance is not granted. The property is in a residential zone, and the construction of detached dwellings is permitted. The applicant obtained a building permit and constructed a detached dwelling. The fact that the applicant did not place the dwelling in accordance with the minimum street side setback requirement is not loss of a property right. The applicant did not provide any evidence showing that violating the minimum required street side setback is a property right.*

Again the Planning Commission has a false understanding of my claim and completely ignores the evidence I provided. The property right I said is at issue here is the right to occupy a completed dwelling. I never suggested that violating the setback is a right. Here is what I did say in my original variance application:

The property right involved here is the right to build and occupy a detached dwelling on the property. The property is zoned R-1-RE and in this zone a detached dwelling is an outright permitted use. This right to build and occupy a house is shared in common with all other properties in the R-1-RE zone. In this case, the house has been built but cannot be occupied because the final inspection revealed that it does not meet the setback requirement. The variance is needed so that the house may be occupied.

Staff originally thought I was referring to "occupancy" under the building code and said that this was not a property right. At the Planning Commission hearing I was able to correct this misunderstanding. Here is what I said at the hearing:

In my narrative I said the property right to be preserved is the right to occupy my house. The staff report interpreted this to mean occupancy under the building code. But that is not what I am referring to. I'm talking about being able to occupy, to use, my house under the municipal code. The preservation of the property right would be to occupy the fully built dwelling without incurring any fine. I've been granted a certificate of Occupancy by the City of Lincoln City. But under LCMC 17.04.030 – which is about compliance with zoning requirements – construction and use of a house that does not meet setbacks is a violation of the municipal code. Under LCMC 17.84.020 – Enforcement – it is a class B violation, and each day of the

violation is a separate offense. Under LCMC 1.16.070 a class B violation is subject to a \$1,000 fine. So even though I have a C of O I still have a violation of the code and a potential \$1,000/day fine. That's what keeps me from being able to occupy the house.

With this explanation Planning staff changed their understanding of my application, agreed that there is a right to occupy a dwelling under the municipal code, and found that I had met this criterion.

But the Planning Commission chose to disregard the evidence I provided as well as to disregard staff's recommendation. They did not explain why they did this, did not cite any evidence in the record regarding their own conclusions, and instead decided to say that certain things were not property rights despite the fact that I never asserted that they were. I never said that not placing a dwelling in accordance with the minimum street side setback requirement is a property right. I never said that violating the minimum required street side setback is a property right. I did say that occupying a completed dwelling is a property right. But without any explanation the Planning Commission ignored that, ignored the recommendation of the Planning & Community Development director, and made a decision that had nothing to do with my application.

Criterion 3: The variance should not be materially detrimental to the purposes of this title, or to property in the zone or vicinity in which the property is located, or otherwise conflict with the objectives of any city planning policy.

Planning Commission conclusion: *The variance is detrimental to the neighborhood and the unique characteristics of Roads End. The variance would have negative impacts on the neighborhood.*

In this case the Planning Commission's statement is completely conclusory. They make no mention of how my proposed variance might be detrimental to the neighborhood or what negative impacts to the neighborhood there might be. Why and how the Planning Commission reached these conclusions is a complete mystery. They mention nothing that is detrimental about my house and where it is sited. They mention no negative impacts about my house and where it is sited. They mention no evidence that they might have relied on. They mention no reason for discounting my evidence.

Some of those who testified in opposition to my variance application mentioned the work that had gone into creating the R-1-RE zone. No doubt there were substantial efforts that went into it. Regarding the street side setback requirement, this was nothing new as it was just a holdover from Lincoln County's R-1-A zone. The implication was that allowing my house to continue to exist with its non-conforming 10-foot street side setback would somehow be a blow to the application of the R-1-RE zoning requirements.

But non-conformities are a way of life in Roads End. For example, look to NE 66th Street, where my house is located. The Planning & Community Development Director entered a map into evidence in the hearing that demonstrates clearly the extent of setback non-conformities (attached as exhibit C). It shows the twelve houses on NE 66th Street (not counting mine). As shown on the map, of these twelve, six do meet the required setback from NE 66th Street (four regarding the street side setback and two regarding the front setback). The non-conformities range from several inches to several feet. In addition, measurement of the map shows that some (at least four) of the twelve are non-conforming regarding setbacks from interior lot lines.

As a further and telling example of the widespread non-conformities in Roads End, the Planning & Community Development Director entered into evidence in the hearing a list of Roads End properties showing what their street side setbacks are (this is the setback at issue in my case) (the list is attached as exhibit D). Of the 61 properties listed, 43 (70.5 percent) are non-conforming in that their street side setbacks are smaller than the required 20 feet. As a final example, the majority of lots in Roads End are non-conforming because they are smaller than the required 6,000 square foot minimum lot size.

I bring all this up to show that my proposed street side setback is not at all unusual. The resulting non-conformity cannot be detrimental to the neighborhood when non-conformities are the norm. Importantly, in the original staff report, the Planning & Community Development Director reached the same conclusion, saying, "Having one more house not meeting a required setback amongst the 6 houses in the vicinity that also don't meet a required setback will not be materially detrimental to the vicinity."

Conclusion

I have demonstrated here that the Planning Commission's decision on my variance application completely lacks factual support and fails to address the key issues in this matter. The Planning Commission did not address my contentions and evidence. Their decision does not reflect the reality of my situation, my variance application, and the evidence before them. The decision should be reversed.

Attachments

- Exhibit A – Narrative from variance application
- Exhibit B – Roger Griswold's testimony from the Planning Commission hearing
- Exhibit C – Map showing setbacks along NE 66th Street
- Exhibit D – List of street side setbacks in Roads End

Appeal

Staff Report for City Council Public Hearing on June 13, 2022

Case File APP 2022-01

Date:	June 2, 2022
Case File:	APP 2022-01 Appeal of Denial of VAR 2022-01
Appellant:	3 G's Construction, Inc. Salem, OR
Situs Address:	6604 NE Logan Rd
Location:	Northeast corner of the NE Logan Rd/NE 66 th St intersection
Tax Map and Lot:	06-11-34-AA-03200-00
Comprehensive Plan Designation:	Single-Family Residential District (R-5)
Zoning District:	Single-Family Residential, Roads End (R-1-RE) Zone
Site Size:	0.10 acre
Proposal:	Vary the allowed street side setback from 16.38 feet to 10 feet
Surrounding Land Uses and Zones:	North: Residential; R-1-RE South: Residential; R-1-RE East: Residential; R-1-RE West: Residential; R-1-RE
Authority:	Lincoln City Municipal Code (LCMC) 17.76.050.G states that Table 17.76.020-1 identifies the decision authority for each Type III application. Table 17.76.020-1 of LCMC Chapter 17.76 identifies the appeal of a Planning Commission decision as a Type III application with the decision authority given to the City Council.
Procedure:	The application was received on May 5, 2022. The application was deemed complete on May 5, 2022. On May 23, 2022, pursuant to LCMC 17.76.050.E, the Planning and Community Development Department mailed a notice of public hearing to property owners within 250 feet of the subject property. The <i>News Guard</i> published the public hearing notice on May 31, 2022.



Applicable	LCMC Chapter 17.17 Single-Family Residential, Roads End (R-1-RE) Zone
Substantive	LCMC 17.76.050 Type III Procedures
Criteria:	LCMC 17.77.030 Appeal
	LCMC 17.77.140 Variance

BACKGROUND

The subject property (site) is addressed as 6604 NE Logan Rd and contains a newly-constructed detached dwelling. The application for a structural (building) permit for the new construction was submitted on March 10, 2021. The review of the site plan by the former senior planner, David Mattison, took place on March 25, 2021, with subsequent approval. Public Works and Building staff completed their reviews and the permit was issued on April 28, 2021.

With the issued permit, the applicant proceeded to site preparation. This included clearing and grading, as well as setting the footings for the pouring of the foundation. The applicant requested the required setback inspection, which was subsequently performed on May 17, 2021, by David Mattison. David Mattison approved the setback inspection. Both the site plan and the setback inspection approved by David Mattison showed a street side setback of 10 feet, rather than the required 16.38 feet.

A citizen complaint was filed in January 2022 regarding a possible street side setback encroachment. The complaint was verified and a code violation case was created on January 20, 2022. A courtesy notice was issued to the property owner of the site requesting that, no later than January 30, 2022, one of three actions take place: remove all setback encroachments; apply for a zoning code text amendment to LCMC 17.17.070; or apply for a variance for the street side setback. The applicant chose to apply for a variance and subsequently submitted the required application and fee. The variance request was set up as file number VAR 2022-01.

Lincoln City Municipal Code (LCMC) 17.76.050.G states that Table 17.76.020-1 identifies the decision authority for each Type III application. Table 17.76.020-1 of LCMC Chapter 17.76 identifies a variance as a Type III application with the decision authority given to the Planning Commission. The required public hearing with the Planning Commission was held on March 15, 2022. Deliberations and the decision to deny the variance request was made on April 5, 2022. The written final order was adopted on April 19, 2022. The notice of the decision was mailed to the parties with standing with an appeal period ending on May 5, 2022, at 5:00 PM. The complete record of VAR 2022-01 is on file in the Planning and Community Development Department and is available for review, paper copies at reasonable cost, or electronic copies at no cost upon request.

The appellant, Roger Griswold with 3 G's Construction, Inc., submitted an appeal request on May 5, 2022, at 11:06 AM. This is an appeal from a decision of the Planning Commission denying the requested variance for a 6.38-foot street side setback encroachment. The City Council will conduct a *de novo* hearing on the matter. Since it is a *de novo* hearing, the issue is not whether the Planning Commission made a correct decision, but whether the applicant's proposal meets the applicable ordinance requirements.

COMMENTS

No comments were received for APP 2022-01.

ANALYSIS

17.08 Definitions

"Setback" means the minimum or maximum distance required between a specified object and another point. Typically, a setback refers to the minimum or maximum distance from a building or structure to a specified property line. "Street side setback" means the required distance from the street side property line and a specified object.

*17.17.070 Lot requirements.**Lot requirements shall be as follows:*

- D. The minimum front yard shall be 20 feet. Except that the minimum setbacks from Logan Road need not exceed the average setback of buildings on all lots within 100 feet of the lot on which the proposed building is to be located and that abut Logan Road.*

Finding: The average setback of buildings on all lots within 100 feet of the site and that abut Logan Rd calculates to 12.77 feet. Accordingly, the minimum front setback for the site is 12.77 feet. All portions of the structure, including porches, stairs, decks, and balconies that are over 30 inches from the ground, must meet the minimum 12.77-foot-front setback requirement. In this case, the front of the main wall of the house is set back 34.4 feet from the front property line, and the upper stairs and deck that are over 30 inches from the ground are set back 20 feet from the front property line. The front setback requirement is not only met, but is exceeded by 7.32 feet.

- F. The minimum street side yard shall be 20 feet, except that it may be one foot less for each two feet of front yard setback over the minimum, but not to less than 10 feet.*

Finding: Using the averaging option, the front setback for the site is 12.77 feet. The front of the main wall of the house is set back 34.4 feet from the front property line. However, the upper stairs and deck on the front of the house that are over 30 inches from the ground are only set back 20 feet from the front property line. Accordingly, the provided front setback is 7.32 feet over the minimum of that which is required (required 12.77 feet, provided 20 feet – 20-12.77 = 7.32). That number of 7.32 is then divided by 2, which equals 3.62.

3.62 is then subtracted from the minimum street side setback of 20 feet to give the required street side setback for this site at 16.38 feet. The provided street side setback is 10 feet, which means that the house encroaches 6.38 feet into the required street side setback.

17.77.140 Variance

C. Approval Criteria. To approve a variance, the planning commission shall make findings of fact, based on evidence provided, that all of the following circumstances exist:

- 1. Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity and result from lot size or shape legally existing prior to the date of the ordinance codified in this title, topography, or other circumstances over which the applicant has no control;*

Finding: This criterion requires evidence of an exceptional or extraordinary circumstance that applies to this site, which does not apply to other properties in the vicinity, over which the applicant has no control. The applicant feels this criterion is met with the extraordinary circumstance being the city's inaccurate review and approval of the site plan showing the 10-foot street side setback, followed by the city's inaccurate passing of the setback inspection, both over which the applicant has no control. The applicant's contention that the staff error is the exceptional or extraordinary circumstance does not meet the criterion since it doesn't apply to the property, staff error is not an exceptional or extraordinary circumstance, and the applicant does have control over this particular circumstance. It is the responsibility of the applicant to read the code and ascertain for themselves the requirements. In this case, the applicant was responsible to read LCMC 17.17.070 and see that the minimum required street side setback is 20 feet (except that it may be one foot less for each two feet of front setback over the minimum but not to less than 10 feet), not the 10 feet that the applicant used.

2. *The variance is necessary for the preservation of a property right of the applicant which is substantially the same as owners of other property in the same zone or vicinity possess;*

Finding: The submitted materials did not provide any evidence that a property right is being lost if the variance request is not approved. A detached dwelling is an allowed use in the R-1-RE zone, per LCMC Chapter 17.17. The required building permit was obtained, and a detached dwelling was constructed. The fact that the detached dwelling was not placed in accordance with the required street side setback is not loss of a property right. No evidence was provided in the submitted materials showing that violating that required street side setback is a property right.

3. *The variance should not be materially detrimental to the purposes of this title, or to property in the zone or vicinity in which the property is located, or otherwise conflict with the objectives of any city planning policy;*

Finding: The site is in the R-1-RE zone. The site is surrounded on all sides by properties also in the R-1-RE zone. Surrounding properties either already contain detached dwellings or are planned for the future construction of detached dwellings. The existing dwelling on the southeast corner of the NE Logan Rd/NE 66th St exceeds the required 20-foot street side setback at approximately 27'-1 ¾". However, houses at 1830 NE 66th St, 1918 NE 66th St, 6555 NE Neptune Dr, and 2030 NE 66th St do not meet the required 20-foot street side setback at 18'-10 ½", 16'-1 ¾", 14'-1/4", and 8'-8 ¼", respectively. Having one more house not meeting a required setback in amongst the houses in the vicinity that also don't meet a required setback will not be materially detrimental to the vicinity.

4. *The variance requested is the minimum variance which would alleviate the hardship.*

Finding: The claimed hardship is a house constructed in the required street side setback. With the upper stairs and deck being set back 20 feet from the front property line, and using the averaging option for the front setback requirement, the required street side setback is 16.38 feet. With removal of the upper stairs and deck, though, the front of the house is 34.4 feet from the front property line. The increase in the provided front setback decreases the required street side setback to 10 feet.

34.4' provided minus 12.77' required = 21.63' overage

The amount of overage of provided front setback (21.63') is divided by 2, which equals 10.8'. 10.8' is then subtracted from the street side setback of 20 feet to give the required street side setback for this site of 9.2 feet, or 10 feet since the street side setback cannot be less than 10 feet. Accordingly, with removal of the upper stairs and deck there would be no street side setback encroachment and no need for a variance, which means that the requested 6.38-foot variance is not the minimum required to alleviate the hardship.

From: [REDACTED]
To: [Planning](#)
Subject: Application 2022-01 City Council
Date: Saturday, June 4, 2022 12:39:16 PM

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Members of the City Council,

My family and I would like to ask that you deny Application 2022-01. Roger Griswold, who is the owner of 3G's construction company, has been in business since 1979. As a contractor, before building, it is the contractor's responsibility to research and comply with the land use and building zoning codes. Mr. Griswold must not have done this. Our family looked into buying the property in question and were easily able to find the zoning and building codes. We realized that the lot was smaller than the adjacent one and that the dwelling would have to be smaller to comply with code. The structure encroaches 6.6 feet into the setback on 66th street. This is a huge zoning violation, and the application should **not** be approved.

Thank you for your time.

Therese Mcgough
[REDACTED]

Lincoln City, OR 97367

From: [Vickie Regen](#)
To: [Planning](#)
Cc: [Vickie Regen](#)
Subject: APP 2022-01 6604 NE Logan Rd
Date: Monday, June 6, 2022 3:51:45 PM

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Hello there,

I am Vickie Regen. My husband (Dennis Regen) and I own a home at [REDACTED].
This property is across the street from our house.

We are for the "approval" of the variance being asked for by the applicant 3G's Construction at 6604 NE Logan Road.

It should be allowed because the City had the opportunity at each inspection phase to alert them if they were into the set back.

This seems to be a City inspection problem not the builders.

Sincerely,

Vickie and Dennis Regen
[REDACTED]

Council Communication

CPA ZC 2022-02 Nesika

Meeting Date: June 13, 2022	Primary Staff Contact: AnneMarie Skinner
Department: City Council	E-Mail: ASkinner@lincolncity.org
Secondary Dept:	Secondary Contacts: Jeanne Sprague
Approval:	Estimated Time:

Question:

Should the City Council conduct a public hearing on CPA & ZC 2022-02, a map amendment and zone change from High-Density Residential District (R-M) and Multiple-Unit Residential (R-M) Zone to Park District and Park (P) Zone?

Staff Recommendation:

Staff recommends the Council conduct the public hearing.

Authority:

Legal authority for map amendments and zone changes is as follows:

17.76.050 Type III procedure.

- A. General Description. Type III procedures apply to quasi-judicial permits and applications. Decisions on quasi-judicial permits and applications are made by either the planning commission or the city council, and require substantial exercise of discretion and judgment in applying approval criteria. Type III procedures require public notice and one or more public hearings.
- B. When Applicable. Table 17.76.020-1 identifies Type III applications. Applications not listed on Table 17.76.020-1 may be identified as Type III by the director based on the general description in this section.
- C. Pre-application Conference. A pre-application conference is not required prior to application submittal of a Type III application, but is strongly encouraged.
- D. Application Requirements. Type III applications shall:
 1. Be submitted on application forms provided by the department and shall include all information, exhibits, plans, reports, and signatures requested on the application forms.
- E. Notice of Public Hearing.

1. After a Type III application has been accepted as complete, the department shall mail a written notice of public hearing to the applicant and applicant's representative; owner of record of the subject property; property owners of record within 250 feet of the perimeter property line of the property or properties subject to the application; any neighborhood or community organization recognized by the governing body; and Oregon Department of Land Conservation and Development at the discretion of the applicant.
 2. The notice shall include a brief description of the request; applicable criteria; street address; date, time, and location of hearing; statement that failure of an issue to be raised in a hearing by a person or letter precludes appeal; name and number of department staff member to contact; statement that a copy of the application is available for inspection; statement that the staff report is available for inspection; and a general explanation of the procedure for submitting testimony and conduct of hearing.
- F. Public notices shall be mailed at least 20 days prior to the first public hearing.
- G. Decision Authority. Table 17.76.020-1 identifies the decision authority for a plan map amendment and zone change as the City Council, followed by a recommendation from Planning Commission.
- H. The public hearing is conducted in accordance with procedures in LCMC 17.76.160.
- I. Notice of Decision. Following the decision, a final order shall be prepared by the department.
- J. Appeal. The final decision of the City Council to approve or deny a Type III application may be appealed to the Land Use Board of Appeals (LUBA).

Background:

See Staff Report for CPA ZC 2022-02

See Draft Ordinance and Findings later on this Agenda.

Council Options:

- Hold the required public hearing scheduled for this evening and review all the evidence in the record. If the hearing is closed and the record is closed, deliberated on the proposed map amendment and zone change.
- Continue the public hearing to the _____ City Council meeting.

Potential Motions:

- Staff is directed to prepare an Ordinance approved the requested map amendment and zone change in CPA 2022-02 and ZC 2022-02 for adoption at a future meeting. [Approve CPA 2022-02 – the requested comprehensive plan map amendment from High Density Residential District to Park District.]
[Approve ZC 2022-02 – the requested zone change from the R-M zone to the P zone.]
- Motion to deny CPA 2022-02 and deny the requested comprehensive plan map amendment from High Density Residential District to Park District. Motion to deny ZC 2022-02 and deny the requested zone change from the R-M zone to the P zone. Staff is directed to prepare a Final Order denying the requested map amendment and zone change in CPA 2022-02 and ZC 2022-02 for adoption at a future meeting.

Attachments:

CPA ZC 2022-02 Staff Report City Council (DOCX)
Nesika Park Map (PDF)

Comprehensive Plan Map Amendment Zone Change Staff Report for City Council Public Hearing Case File CPA ZC 2022-02 Nesika

Date:	June 3, 2022
Case File:	CPA ZC 2022-02 Nesika
Property Owner:	City of Lincoln City PO Box 50 Lincoln City, OR 97367
Situs Address:	Unaddressed
Location:	East side of SE Keel Ave, approximately 430 feet south of SE 3 rd St
Tax Map and Lot:	07-11-15-DA-00200-00
Comprehensive Plan Designation:	High-Density Residential District (R-M)
Zoning District:	Multiple-Unit Residential (R-M) Zone
Site Size:	Approximately 13,953 square feet
Proposal:	Comprehensive Plan Map Amendment from High-Density Residential District to Park District and Zone Change from Multiple-Unit Residential (R-M) Zone to Park (P) Zone
Surrounding Land Uses and Zones:	North: Undeveloped, apartment complex; R-M South: Undeveloped; R-M East: Nesika Park; PC West: SE Keel Ave, then houses; Right-of-way, R-M
Authority:	Lincoln City Municipal Code (LCMC) 17.76.050.G states that Table 17.76.020-1 identifies the decision authority for each Type III application. Table 17.76.020-1 of LCMC Chapter 17.76 identifies a comprehensive plan amendment and a zone change as a Type III application with the decision authority given to the City Council after a recommendation from the Planning Commission.
Procedure:	The Planning and Community Development Department mailed notice to the owners of all properties within 250 feet of the site on March 30, 2022. The <i>News Guard</i> published the public hearing notice on April 5, 2022.



Applicable Oregon Statewide Planning Goals
Substantive Lincoln City Comprehensive Plan
Criteria: LCMC 17.77.050 and 17.77.150

BACKGROUND

The subject property (site) is unaddressed and is developed as part of Nesika Park. Immediately adjacent to the north of the site is an undeveloped tax lot. To the northwest is a developed apartment complex. The tax lots to the south of the site are all undeveloped. The west boundary of the site is SE Keel Ave, and to the west of SE Keel Ave is a mix of houses and undeveloped lots. To the east of the site is Nesika Park. To the southeast is Lincoln City's police department facility.

The site does not contain any natural resources overlays, nor is it in the flood hazard area. The site does not contain any bluff erosion hazards. The site does contain a designated natural trail, which has been developed as part of Nesika Park. The site itself does not contain any aesthetic resources, but the larger tax lot of Nesika Park is designated as an aesthetic resource in its entirety. The site is served by SE Keel Ave, which is a public street.

The use of the site is Nesika Park, with the developed natural trail, and this zone change will align the use and the zone.

The Planning Commission held a public hearing on this matter on April 19, 2022, after which the public hearing and the record closed. The Planning Commission recommended approval of the request, with adoption of the Final Recommendation on May 3, 2022.

COMMENTS

No comments were received.

ANALYSIS

A. Lincoln City Comprehensive Plan

1. Land Use Planning Goal

"To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions."

The City Council established a land use policy framework and implementing ordinance through adoption of a comprehensive plan and zoning ordinance, respectively. The Land Conservation and Development Commission acknowledged the City of Lincoln City's Comprehensive Plan and implementing land development regulations, including LCMC Title 17 Zoning, as complying with the Oregon Statewide Planning Goals. Review of the proposed amendment in accordance with the Lincoln City Comprehensive Plan and the applicable zoning ordinance provisions, including the provisions of LCMC Chapter 17.77, establishes conformance with this goal.

The Comprehensive Plan Land Use Planning element identifies zoning as the most common method of land use regulation and control. The plan states:

"Essentially, zoning is a means of ensuring that the land uses of an area are properly situated in relation to one another. It provides adequate amounts of space for each type of development."

The proposed map amendment and zone change would convert the site from the Multiple-Unit Residential zone to the P zone. The site is developed and in use as a park, and the large area adjacent to the site is in use

as the same park. The proposal will align the zone with the existing development and use. Staff finds the proposal is consistent with Goal 1.

2. Citizen Involvement Goal

“Develop a Citizen Involvement Program which ensures the continued participation of citizens in the land use planning process.”

The Comprehensive Plan’s Citizen Involvement Program goal is to “develop a Citizen Involvement Program which ensures the continued participation of citizens in the land use planning process.” The City has developed a Citizen Involvement Program through Resolution 94-33. The public hearing process for the proposed map amendment and zone change included mailed and published notice to the public and property owners, and review of the proposal by the Planning Commission and the City Council, consistent with the Plan, Goal, and Resolution.

Among the policies under the City’s Citizen Involvement Program goal is one that states: “Lincoln City shall assure that a reasonable effort is made to encourage the opportunity for citizens to attend public meetings.” The Planning Commission and City Council meetings are publicized widely with hearing notices mailed to property owners in the affected area, published in *The News Guard*, and posted on the City’s website. The City holds public hearings in the evening to encourage public attendance. Moreover, for those unable to attend in person, the meetings are televised live, streamed live over the internet, and rebroadcast on cable television. Video of meetings and the packet materials are also available on the City’s website for review, free of charge. These aforementioned items in their totality constitute a more than reasonable effort to encourage citizens to attend public meetings and meet Goal 2.

3. Public Services and Utilities Goal

“To plan and develop a timely, orderly, and efficient arrangement of public facility and services which compliment [sic] the area and serve as a framework for urban and rural development.”

Public services and utilities are already in place in the area of the proposed map amendment and zone change. Available public services and utilities are as follows:

- a. Pacific Power provides electric power;
- b. The City of Lincoln City provides water service;
- c. The City of Lincoln City provides sanitary sewer service;
- d. Various providers provide land line and cellular telephone service;
- e. Access is from SE Keel Ave, which is a public street.

Existing services and utilities generally satisfy Goal 3.

4. Urbanization Goal

“To promote an orderly and efficient transition of land uses from rural to urban.”

The area affected by the proposed map amendment and zone change is within the urban growth boundary and the City limits and is already developed as urban. The proposed amendment and zone change will not change the already-existing urban development or prevent more urban development, so is consistent with this goal.

5. Natural Hazard Goal

“The City shall control development in hazardous areas to protect life and property from natural disasters and hazards.”

The City’s maps show no identified natural hazards on the site. The proposal is consistent with Goal 5.

6. Housing Goal

“To provide for the housing needs of all citizens.”

While the rezone will remove the site from a residential zone and change it to a park zone, the public park will provide recreational opportunity for residents of nearby residential uses within walking distance. While not provide housing per se, the park does provide opportunity for housing’s accessory use of recreation that is not otherwise provided on housing sites. The site is developed and in use as a public park and is adjacent to an aesthetic resource, which makes redevelopment of the site into residential use problematic. Staff finds the proposal to be consistent with Goal 6.

7. Economy Goal

“To support the tourist industry and achieve a degree of diversity in the community which will allow a balanced economy that will, in turn, support an adequate level of services for all members of the area.”

The Comprehensive Plan states that the City’s primary industry is tourism and concludes that tourism will continue to function as the City’s basic industry. The request to change from residential to park zone supports the site’s developed use as a public park, which is available for use by tourists. Staff finds this goal is either not applicable to the request or is met.

8. Aesthetic Goal

“To develop a livable and pleasing city which enhances man’s activities while protecting the exceptional aesthetic quality of the area.”

The site is developed as Nesika Park and immediately adjacent to the larger area of Nesika Park, which larger area is a designated aesthetic resource. The development of the park has retained the natural setting, including the mature trees and vegetation, thus preserving the aesthetic resource. Even though the site itself is not designated with aesthetic resources, designating the site with the park zone to be consistent with its use as a park will help ensure the preservation of the adjacent aesthetic resource and act as a buffer between the aesthetic resource and SE Keel Ave. The request is consistent with the Aesthetic Goal.

9. Transportation Goal

“To provide a safe, convenient and rapid transportation network to facilitate the movement of goods and people.”

The site is accessed by SE Keel Ave, which is a local public street. This goal is satisfied.

10. Energy Goal

“To conserve energy.”

The site is developed and in use as a natural park. No new construction is proposed. Should new construction ever occur, such new construction must meet all energy and building codes. The site is within walking distance of nearby residential dwellings, as well as hotels and motels, which decreases the use of automobiles to access the park and thereby conserves energy. The goal, therefore, is satisfied.

11. Overall Environmental Goal

“To achieve a balance between the need to provide housing and services and the need to protect and enhance the natural environment of the city.”

The city’s inventory of natural resources, including wetlands, riparian areas, fish and wildlife habitat, and aesthetic and scenic areas show none are on this lot. However, the site is immediately adjacent to a large area of aesthetic resources. Preservation of the site for use as a park will assist in the preservation of the adjacent aesthetic resource and will provide a buffer between SE Keel Ave and the designated aesthetic resource. This goal is satisfied.

12. Shoreland, Beaches, Dunes, Estuary, and Ocean Resources Goal

“To conserve, protect, and enhance the coastal resources of the city.”

The site does not contain any shoreland, beaches, dunes estuaries, or ocean resources and is more than a mile from the Pacific Ocean. Rezoning of the site will not have any impact on the city’s coastal resources; therefore, the proposed request is consistent with this goal or this goal is not applicable.

B. Statewide Planning Goals

Goal 1 – “Citizen Involvement” “To develop a citizen involvement program that ensures the opportunity for citizens to be involved in all phases of the planning process.”

The application for amending the comprehensive plan map and changing the zoning was available at no cost on the City’s website and also available for public review and purchase at the counter. Staff was available to explain the proposal and technical information. The City published hearing notices in the local newspaper in accordance with notice requirements and mailed notices to impacted property owners. The findings concerning the Comprehensive Plan Citizen Involvement are incorporated herein by this reference. Staff made its report on the land use proposals available on the City’s website in advance of the meeting. The request is consistent with Goal 1.

Goal 2 – “Land Use Planning” “To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.”

The City Council adopted the Lincoln City Comprehensive Plan and its implementation measure, the Lincoln City Zoning Ordinance, after public hearings and has reviewed them on a periodic cycle to take into account changing public policies and circumstances. Citizens and affected governmental units had opportunities for review and comment during preparation, review, and revision of the plan and implementing ordinances. Review of this proposed rezoning in accordance with the Lincoln City Comprehensive Plan and the applicable zoning ordinance provisions establishes conformance with this goal.

The proposed rezoning is integrated and consistent with the planning process and policy framework; specifically, the request furthers compliance with existing policies to stabilize and protect the existing mixed-use neighborhood (Nesika Park, undeveloped land, and residential uses) from incompatible uses. Findings

concerning the Planning goal for the Lincoln City Comprehensive Plan are incorporated herein by this reference. The request is consistent with Goal 2.

Goal 3 – “Agricultural Lands” “To preserve and maintain agricultural lands.”

The area affected by the proposed rezoning is within the City’s Urban Growth Boundary. The area is currently designated and zoned for urban development and will remain as such, any rezoning notwithstanding. The rezoning will not affect agricultural lands; therefore, Goal 3 is not applicable.

Goal 4 – “Forest Lands” “To conserve forest lands by maintaining the forest land base and to protect the state’s forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.”

The area affected by the proposed rezoning is within the City’s Urban Growth Boundary and currently zoned and developed for urban development. The affected area does not contain any designated forest lands; therefore, Goal 4 is not applicable.

Goal 5 – “Open Spaces, Scenic and Historic Areas and Natural Resources” “To protect natural resources and conserve scenic and historic areas and open spaces.”

The proposed rezoning will change the site to the Park zone to be consistent with its use and to assist in the preservation of the adjacent aesthetic resource. The site does not contain any structures, nor is the site listed on the National Register of Historic Places. The findings concerning the Lincoln City Comprehensive Plan’s Overall Environmental goal, as well as the Shoreland, Beaches, Dunes, Estuary and Ocean Resources goal, are incorporated herein by this reference. The proposal is consistent with Goal 5.

Goal 6 – “Air, Water and Land Resources Quality” “To maintain and improve the quality of the air, water and land resources of the state.”

Current building and public works standards for new development require protection of these resources. Accordingly, when a building permit application is submitted for new construction on the site, the plans will be reviewed for compliance with requirements for maintaining the quality of the air, water, and land resources of the state. City standards for discharges regulate solid waste, thermal, noise, atmospheric or water pollutants, contaminants or products therefrom. The findings concerning the Lincoln City Comprehensive Plan’s overall Environmental goal are incorporated herein by this reference. The proposed request is consistent with Goal 6.

Goal 7 – “Areas Subject to Natural Disasters and Hazards” “To protect people and property from natural hazards.”

City maps show no identified hazards on the site. The findings concerning the Lincoln City Comprehensive Plan Natural Hazard goal are incorporated herein by this reference. The proposal is consistent with Goal 7.

Goal 8 – “Recreational Needs” “To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities, including destination resorts.”

The site is developed and in use as Nesika Park. The zone change will align the use and the zone. Nesika Park is a public park available for residents of and visitors to Lincoln City. The proposal is consistent with Goal 8.

Goal 9 – “Economic Development” “To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon’s citizens.”

The area affected by the proposed rezoning is within the City’s Urban Growth Boundary and currently in use as a public park. The affected area does not contain any economic development lands. The proposed rezoning is consistent with Goal 9.

Goal 10 – “Housing” “To provide for the housing needs of citizens of the state.”

While the rezone will remove the site from a residential zone and change it to a park zone, the public park will provide recreational opportunity for residents of nearby residential uses within walking distance. The site is developed and in use as a public park and is adjacent to an aesthetic resource, which makes redevelopment of the site into residential use problematic. Staff finds the request is consistent with Goal 10.

Goal 11 – “Public Facilities and Services” “To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.”

Utilities and services are available at the site. The findings concerning the City’s Public Services and Utilities goal are incorporated herein by this reference. The request is consistent with Goal 11.

Goal 12 – “Transportation” “To provide and encourage a safe, convenient and economic transportation system.”

The site is accessed by SE Keel Ave, which is a local public street. The request is consistent with Goal 12.

Goal 13 – “Energy Conservation” “To conserve energy.”

The site is developed and in use as a natural park. No new construction is proposed. Should new construction ever occur, such new construction must meet all energy and building codes. The site is within walking distance of nearby residential dwellings, as well as hotels and motels, which decreases the use of automobiles to access the park and thereby conserves energy. The goal, therefore, is satisfied.

Goal 14 – “Urbanization” “To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.”

The area affected by the proposed map amendment and zone change is within the urban growth boundary and the City limits and is already developed as urban. The proposed amendment and zone change will not change the already-existing urban development or prevent more urban development, so is consistent with this goal.

The proposed amendment and zone change are consistent with Goal 14.

Goal 15 – “Willamette Greenway” “To protect, conserve, enhance and maintain the natural, scenic, historical, agricultural, economic and recreational qualities of lands along the Willamette River as the Willamette River Greenway.”

The site is not located within the Willamette River Greenway, nor in proximity to the Willamette River Greenway and thus the proposed amendment and zone change will have no impact to the Willamette Greenway. Accordingly, Goal 15 is not applicable.

Goal 16 – “Estuarine Resources” “To recognize and protect the unique environmental, economic, and social values of each estuary and associated wetlands; and to protect, maintain, where appropriate develop, and

where appropriate restore the long-term environmental, economic, and social values, diversity and benefits of Oregon's estuaries."

The proposal does not affect any areas adjacent to the Siletz Bay estuary; therefore, Goal 16 is not applicable.

Goal 17 – "Coastal Shorelands" "To conserve, protect, where appropriate, develop and where appropriate restore the resources and benefits of all coastal shorelands, recognizing their value for protection and maintenance of water quality, fish and wildlife habitat, water-dependent uses, economic resources and recreation and aesthetics. The management of these shoreland areas shall be compatible with the characteristics of the adjacent coastal waters; and to reduce the hazard to human life and property, and the adverse effects upon water quality and fish and wildlife habitat, resulting from the use and enjoyment of Oregon's coastal shorelands."

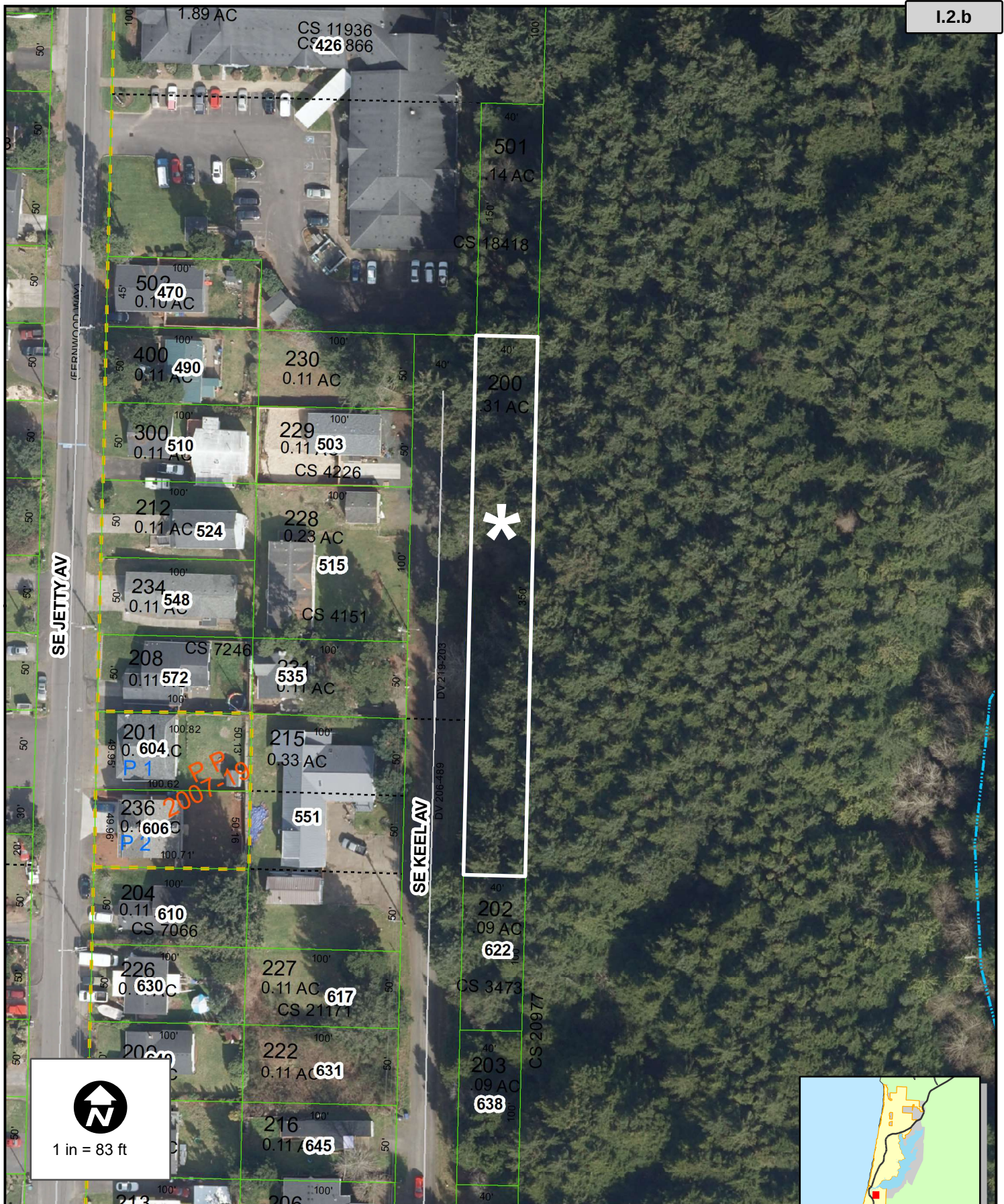
The City's coastal shorelands are not impacted by the proposed request since the site does not contain any coastal shorelands, nor is the site in proximity to any coastal shorelands. The findings concerning the City's Shoreland, Beaches, Dunes, Estuary and Ocean Resources goal are incorporated herein by this reference. Goal 17 is met or not applicable.

Goal 18 – "Beaches and Dunes" "To conserve, protect, where appropriate develop, and where appropriate restore the resources and benefits of coastal beach and dune areas; and To reduce the hazard to human life and property from natural or man-induced actions associated with these areas."

The proposed rezoning does not affect any areas located within a beach or active dune area. The findings concerning the City's Shoreland, Beaches, Dunes, Estuary and Ocean Resources goal are incorporated herein by this reference. Goal 18 is met or not applicable.

Goal 19 – "Ocean Resources" "To conserve marine resources and ecological functions for the purpose of providing long-term ecological, economic, and social value and benefits to future generations."

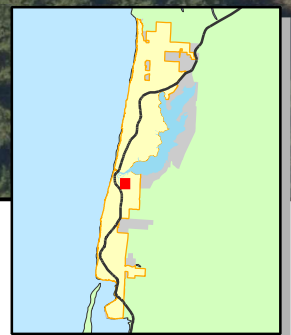
Since the area of the proposed amendment and zone change is on the dry land area of the City, the proposal will not affect the near shore, ocean, and continental shelf. The findings concerning the City's Shoreland, Beaches, Dunes, Estuary and Ocean Resources goal are incorporated herein by this reference. Goal 19 is met or not applicable.



Vicinity Map

City of Lincoln City government use only. Use for any other purpose is entirely at the risk of the user. This product is for informational purposes and may not have been prepared for, or be suitable for legal, engineering, or surveying purposes. Users of this information should review or consult the primary data and information sources to ascertain the usability of the information.

Date: 3/11/2022



Location

Council Communication

CPA ZC 2022-03 Park in Taft

Meeting Date: June 13, 2022
 Department: City Council
 Secondary Dept:
 Approval:

Primary Staff Contact: AnneMarie Skinner
 E-Mail: ASkinner@lincolncity.org
 Secondary Contacts: Jeanne Sprague
 Estimated Time:

Question:

Should the City Council conduct a public hearing on CPA & ZC 2022-03, a map amendment and zone change from Medium-Density Residential District (R-7.5) and Single-Family Residential (R-1-7.5) Zone to Park District and Park (P) Zone?

Staff Recommendation:

Staff recommends the Council conduct the public hearing.

Authority:

Legal authority for map amendments and zone changes is as follows:

17.76.050 Type III procedure.

- A. General Description. Type III procedures apply to quasi-judicial permits and applications. Decisions on quasi-judicial permits and applications are made by either the planning commission or the city council, and require substantial exercise of discretion and judgment in applying approval criteria. Type III procedures require public notice and one or more public hearings.
- B. When Applicable. Table 17.76.020-1 identifies Type III applications. Applications not listed on Table 17.76.020-1 may be identified as Type III by the director based on the general description in this section.
- C. Pre-application Conference. A pre-application conference is not required prior to application submittal of a Type III application, but is strongly encouraged.
- D. Application Requirements. Type III applications shall:
 - 1. Be submitted on application forms provided by the department and shall include all information, exhibits, plans, reports, and signatures requested on the application forms.
- E. Notice of Public Hearing.

1. After a Type III application has been accepted as complete, the department shall mail a written notice of public hearing to the applicant and applicant's representative; owner of record of the subject property; property owners of record within 250 feet of the perimeter property line of the property or properties subject to the application; any neighborhood or community organization recognized by the governing body; and Oregon Department of Land Conservation and Development at the discretion of the applicant.
 2. The notice shall include a brief description of the request; applicable criteria; street address; date, time, and location of hearing; statement that failure of an issue to be raised in a hearing by a person or letter precludes appeal; name and number of department staff member to contact; statement that a copy of the application is available for inspection; statement that the staff report is available for inspection; and a general explanation of the procedure for submitting testimony and conduct of hearing.
- F. Public notices shall be mailed at least 20 days prior to the first public hearing.
- G. Decision Authority. Table 17.76.020-1 identifies the decision authority for a plan map amendment and zone change as the City Council, followed by a recommendation from Planning Commission.
- H. The public hearing is conducted in accordance with procedures in LCMC 17.76.160.
- I. Notice of Decision. Following the decision, a final order shall be prepared by the department.
- J. Appeal. The final decision of the City Council to approve or deny a Type III application may be appealed to the Land Use Board of Appeals (LUBA).

Background:

See Staff Report for CPA ZC 2022-03

See Draft Ordinance and Findings later on this Agenda.

Council Options:

- Hold the required public hearing scheduled for this evening and review all the evidence in the record. If the hearing is closed and the record is closed, deliberated on the proposed map amendment and zone change.
- Continue the public hearing to the _____ City Council meeting.

Potential Motions:

- Staff is directed to prepare an Ordinance approved the requested map amendment and zone change in CPA 2022-03 and ZC 2022-03 for adoption at a future meeting. [Approve CPA 2022-03 – the requested comprehensive plan map amendment from Medium Density Residential District to Park District.] [Approve ZC 2022-03 – the requested zone change from the R-1-7.5 zone to the P zone.]
- Motion to deny CPA 2022-03 and deny the requested comprehensive plan map amendment from Medium Density Residential District to Park District. Motion to deny ZC 2022-03 and deny the requested zone change from the R-1-7.5 zone to the P zone. Staff is directed to prepare a Final Order denying the requested map amendment and zone change in CPA 2022-03 and ZC 2022-03 for adoption at a future meeting.

Attachments:

CPA ZC 2022-03 Staff Report City Council (DOCX)
Taft Park Map (PDF)

Comprehensive Plan Map Amendment Zone Change Staff Report for City Council Public Hearing Case File CPA ZC 2022-03 Park in Taft

Date:	April 11, 2022
Case File:	CPA ZC 2022-03 Park in Taft
Property Owner:	City of Lincoln City PO Box 50 Lincoln City, OR 97367
Situs Address:	1545 SE 50 th St, unaddressed, 4926 SE Keel Ave, 4936 SE Keel St
Location:	Southeast corner of SE Jetty Ave/SE 47 th St intersection
Tax Map and Lot:	07-11-27-DD-03500, 04500, 04600, and 04700
Comprehensive Plan Designation:	Medium Density Residential District (R-7.5)
Zoning District:	Single-Family Residential (R-1-7.5) Zone
Site Size:	Approximately 6.71 acres
Proposal:	Comprehensive Plan Map Amendment from Medium-Density Residential District to Park Zone and Zone Change from Single-Family Residential (R-1-7.5) Zone to Park (P) Zone
Surrounding Land Uses and Zones:	North: Undeveloped and houses; R-1-7.5 South: Houses; R-1-7.5 East: SE 51 st St, Houses; GC West: Public Parking Lot; R-1-7.5
Authority:	Lincoln City Municipal Code (LCMC) 17.76.050.G states that Table 17.76.020-1 identifies the decision authority for each Type III application. Table 17.76.020-1 of LCMC Chapter 17.76 identifies a comprehensive plan amendment and a zone change as a Type III application with the decision authority given to the City Council after a recommendation from the Planning Commission.
Procedure:	The Planning and Community Development Department mailed notice to the owners of all properties within 250 feet of the site on March 30, 2022. The <i>News Guard</i> published the public hearing notice on April 5, 2022.



Applicable Oregon Statewide Planning Goals
Substantive Lincoln City Comprehensive Plan
Criteria: LCMC 17.77.050 and 17.77.150

BACKGROUND

The subject property (site) comprises four lots as follows: 1545 SE 50th St (07-11-27-DD-03500); unaddressed (07-11-27-DD-04500); 4926 SE Keel Ave (07-11-27-DD-04600); and 4936 SE Keel Ave (07-11-27-DD-04700). The site is bordered by SE 51st St as its east boundary, SE 50th St as its south boundary, SE Keel Ave and SE Jetty Ave as its west boundary, and SE 47th St as its north boundary.

The site contains a small portion of significant wetlands in the northwestern corner. Almost the entire site is in the AE flood hazard zone. The entire site is in the local tsunami evacuation zone.

The development and construction of this new community park in Taft is stated as the #1 goal of the adopted 2016 Lincoln City Parks System Plan, and will address a recreation gap in the southern part of the city. Since 2008, Lincoln City was in talks with the Lincoln County School District to acquire the site, where the former Taft Elementary once stood, to build a community park. Lincoln City built a public parking lot with 61 spaces directly to the west of the park area, in anticipation of the new park. In December 2020, Lincoln City was able to purchase the site.

The park project is a four-phase project that is currently in phase two of the second year of the project.

Phase 1 (FY20-21):

Acquisition of land from Lincoln County School District: \$421,917

Phase I and II Environmental Survey Assessments: \$40,000

Phase 2 (FY21-22):

Exploratory survey: \$33,000

Topographic and boundary survey: \$20,700

Building demolition: \$25,000

Conceptual design: \$25,000

Phase 3 (FY22-23):

Landscape architect for final design: \$150,000

Wetland delineation: \$50,000

Restroom architect: \$25,000

Lighting design: \$25,000

Phase 4 (FY23-24):

Pending funding, break ground on construction.

Includes:

Three multi-use astro-turf fields, covered multi-use court and special event area, outdoor courts, playground, picnic shelters, restrooms, and more.

The Planning Commission held a public hearing on this matter on April 19, 2022, after which the public hearing and the record closed. The Planning Commission recommended approval of the request, with adoption of the Final Recommendation on May 3, 2022.

COMMENTS

No comments were received.

ANALYSIS**A. Lincoln City Comprehensive Plan****1. Land Use Planning Goal**

“To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.”

The City Council established a land use policy framework and implementing ordinance through adoption of a comprehensive plan and zoning ordinance, respectively. The Land Conservation and Development Commission acknowledged the City of Lincoln City’s Comprehensive Plan and implementing land development regulations, including LCMC Title 17 Zoning, as complying with the Oregon Statewide Planning Goals. Review of the proposed amendment in accordance with the Lincoln City Comprehensive Plan and the applicable zoning ordinance provisions, including the provisions of LCMC Chapter 17.77, establishes conformance with this goal.

The Comprehensive Plan Land Use Planning element identifies zoning as the most common method of land use regulation and control. The plan states:

“Essentially, zoning is a means of ensuring that the land uses of an area are properly situated in relation to one another. It provides adequate amounts of space for each type of development.”

The proposed map amendment and zone change would convert the site from the Single-Family Residential zone to the P zone. The site is slated for development and use as a new public community park per the adopted 2016 Lincoln City Parks & Recreation System Plan. The proposal will align the zone with the slated development and use. Staff finds the proposal is consistent with Goal 1.

2. Citizen Involvement Goal

“Develop a Citizen Involvement Program which ensures the continued participation of citizens in the land use planning process.”

The Comprehensive Plan’s Citizen Involvement Program goal is to “develop a Citizen Involvement Program which ensures the continued participation of citizens in the land use planning process.” The City has developed a Citizen Involvement Program through Resolution 94-33. The public hearing process for the proposed map amendment and zone change included mailed and published notice to the public and property owners, and review of the proposal by the Planning Commission and the City Council, consistent with the Plan, Goal, and Resolution.

Among the policies under the City’s Citizen Involvement Program goal is one that states: “Lincoln City shall assure that a reasonable effort is made to encourage the opportunity for citizens to attend public meetings.” The Planning Commission and City Council meetings are publicized widely with hearing notices mailed to property owners in the affected area, published in *The News Guard*, and posted on the City’s website. The City holds public hearings in the evening to encourage public attendance. Moreover, for those unable to attend in person, the meetings are televised live, streamed live over the internet, and rebroadcast on cable television. Video of meetings and the packet materials are also available on the City’s website for review, free of charge. These aforementioned items in their totality constitute a more than reasonable effort to encourage citizens to attend public meetings and meet Goal 2.

3. Public Services and Utilities Goal

“To plan and develop a timely, orderly, and efficient arrangement of public facility and services which compliment [sic] the area and serve as a framework for urban and rural development.”

Public services and utilities are already in place in the area of the proposed map amendment and zone change. Available public services and utilities are as follows:

- a. Pacific Power provides electric power;
- b. The City of Lincoln City provides water service;
- c. The City of Lincoln City provides sanitary sewer service;
- d. Various providers provide land line and cellular telephone service;
- e. Access is from SE Keel Ave, SE Jetty Ave, SE 47th St, SE 50 St, and SE 51st St, all of which are public streets.

Existing services and utilities generally satisfy Goal 3.

4. Urbanization Goal

“To promote an orderly and efficient transition of land uses from rural to urban.”

The area affected by the proposed map amendment and zone change is within the urban growth boundary and the City limits and is already developed as urban. The proposed amendment and zone change will not change the already-existing urban development or prevent more urban development, so is consistent with this goal.

5. Natural Hazard Goal

“The City shall control development in hazardous areas to protect life and property from natural disasters and hazards.”

The City’s maps show the site is largely in the AE flood hazard zone and wholly in the local tsunami evacuation zone. The proposal will remove housing usage from the site, which will keep structures out of the flood hazard zone and eliminate tenants in houses from having to flee in the middle of the night in the event of a tsunami. Parks are largely without structures and are not occupied in the evening hours, thereby helping to protect life and property from natural disasters. The proposal is consistent with Goal 5.

6. Housing Goal

“To provide for the housing needs of all citizens.”

While the rezone will remove the site from a residential zone and change it to a park zone, the public park will provide recreational opportunity for residents of nearby residential uses within walking distance. While not provide housing per se, the park does provide opportunity for housing’s accessory use of recreation that is not otherwise provided on housing sites. Additionally, providing housing in a flood hazard zone and a local tsunami evacuation zone is generally not a good idea. Staff finds the proposal to be consistent with Goal 6.

7. Economy Goal

“To support the tourist industry and achieve a degree of diversity in the community which will allow a balanced economy that will, in turn, support an adequate level of services for all members of the area.”

The Comprehensive Plan states that the City's primary industry is tourism and concludes that tourism will continue to function as the City's basic industry. The request to change from residential to park zone supports the site's proposed use as a public park, which is available for use by tourists. Staff finds this goal is either not applicable to the request or is met.

8. Aesthetic Goal

"To develop a livable and pleasing city which enhances man's activities while protecting the exceptional aesthetic quality of the area."

The site does not contain any aesthetic resources. The site will be developed as a public park following the standards and requirements for a park, as well as the city's landscaping requirements. The request is consistent with the Aesthetic Goal.

9. Transportation Goal

"To provide a safe, convenient and rapid transportation network to facilitate the movement of goods and people."

The site is accessed by SE Keel Ave, SE Jetty Ave, SE 51st St, SE 50th St, and SE 47th St, all of which are local public streets. This goal is satisfied.

10. Energy Goal

"To conserve energy."

The site will be developed and used as a public community park. New construction will be minimal, and must meet all energy codes. The site is within walking distance of nearby residential dwellings, as well as hotels and motels, which decreases the use of automobiles to access the park and thereby conserves energy. The goal, therefore, is satisfied.

11. Overall Environmental Goal

"To achieve a balance between the need to provide housing and services and the need to protect and enhance the natural environment of the city."

The city's inventory of natural resources shows there is a small portion of significant wetland in the northwestern corner but no riparian areas, fish and wildlife habitat, and aesthetic and scenic areas. The significant wetlands will be preserved as part of the park development and used as a viewing amenity. This goal is satisfied.

12. Shoreland, Beaches, Dunes, Estuary, and Ocean Resources Goal

"To conserve, protect, and enhance the coastal resources of the city."

The site does not contain any shoreland, beaches, dunes estuaries, or ocean resources and is more than a mile from the Pacific Ocean. Rezoning of the site will not have any impact on the city's coastal resources; therefore, the proposed request is consistent with this goal or this goal is not applicable.

B. Statewide Planning Goals

Goal 1 – “Citizen Involvement” “To develop a citizen involvement program that ensures the opportunity for citizens to be involved in all phases of the planning process.”

The application for amending the comprehensive plan map and changing the zoning was available at no cost on the City’s website and also available for public review and purchase at the counter. Staff was available to explain the proposal and technical information. The City published hearing notices in the local newspaper in accordance with notice requirements and mailed notices to impacted property owners. The findings concerning the Comprehensive Plan Citizen Involvement are incorporated herein by this reference. Staff made its report on the land use proposals available on the City’s website in advance of the meeting. The request is consistent with Goal 1.

Goal 2 – “Land Use Planning” “To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.”

The City Council adopted the Lincoln City Comprehensive Plan and its implementation measure, the Lincoln City Zoning Ordinance, after public hearings and has reviewed them on a periodic cycle to take into account changing public policies and circumstances. Citizens and affected governmental units had opportunities for review and comment during preparation, review, and revision of the plan and implementing ordinances. Review of this proposed rezoning in accordance with the Lincoln City Comprehensive Plan and the applicable zoning ordinance provisions establishes conformance with this goal.

The proposed map amendment and zone change would convert the site from the Single-Family Residential zone to the P zone. The site is slated for development and use as a new public community park per the adopted 2016 Lincoln City Parks & Recreation System Plan. The proposal will align the zone with the slated development and use. The request is consistent with Goal 2.

Goal 3 – “Agricultural Lands” “To preserve and maintain agricultural lands.”

The area affected by the proposed rezoning is within the City’s Urban Growth Boundary. The area is currently designated and zoned for urban development and will remain as such, any rezoning notwithstanding. The rezoning will not affect agricultural lands; therefore, Goal 3 is not applicable.

Goal 4 – “Forest Lands” “To conserve forest lands by maintaining the forest land base and to protect the state’s forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.”

The area affected by the proposed rezoning is within the City’s Urban Growth Boundary and currently zoned and developed for urban development. The affected area does not contain any designated forest lands; therefore, Goal 4 is not applicable.

Goal 5 – “Open Spaces, Scenic and Historic Areas and Natural Resources” “To protect natural resources and conserve scenic and historic areas and open spaces.”

The proposed rezoning will change the site to the Park zone to be consistent with its proposed use and to assist in the preservation of areas in the city that are designated as scenic and historic areas and open spaces,

which the site is not. The site does not contain any structures, nor is the site listed on the National Register of Historic Places. The findings concerning the Lincoln City Comprehensive Plan's Overall Environmental goal, as well as the Shoreland, Beaches, Dunes, Estuary and Ocean Resources goal, are incorporated herein by this reference. The proposal is consistent with Goal 5.

Goal 6 – “Air, Water and Land Resources Quality” “To maintain and improve the quality of the air, water and land resources of the state.”

Current building and public works standards for new development require protection of these resources. Accordingly, when a building permit application is submitted for new construction on the site, the plans will be reviewed for compliance with requirements for maintaining the quality of the air, water, and land resources of the state. City standards for discharges regulate solid waste, thermal, noise, atmospheric or water pollutants, contaminants or products therefrom. The findings concerning the Lincoln City Comprehensive Plan's overall Environmental goal are incorporated herein by this reference. The proposed request is consistent with Goal 6.

Goal 7 – “Areas Subject to Natural Disasters and Hazards” “To protect people and property from natural hazards.”

The City's maps show the site is largely in the AE flood hazard zone and wholly in the local tsunami evacuation zone. The proposal will removal housing usage from the site, which will keep structures out of the flood hazard zone and eliminate tenants in houses from having to flee in the middle of the night in the event of a tsunami. Parks are largely without structures and are not occupied in the evening hours, thereby helping to protect life and property from natural disasters. The proposal is consistent with Goal 7.

Goal 8 – “Recreational Needs” “To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities, including destination resorts.”

The site is will be developed and used as a public community park. The zone change will align the use and the zone. The new park will be a public park available for residents of and visitors to Lincoln City. The proposal is consistent with Goal 8.

Goal 9 – “Economic Development” “To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.”

The area affected by the proposed rezoning is within the City's Urban Growth Boundary and proposed for use as a public park. The affected area does not contain any economic development lands. The proposed rezoning is consistent with Goal 9.

Goal 10 – “Housing” “To provide for the housing needs of citizens of the state.”

While the rezone will remove the site from a residential zone and change it to a park zone, the public park will provide recreational opportunity for residents of nearby residential uses within walking distance. While not provide housing per se, the park does provide opportunity for housing's accessory use of recreation that is not otherwise provided on housing sites. Additionally, providing housing in a flood hazard zone and a local tsunami evacuation zone is generally not a good idea. Staff finds the request is consistent with Goal 10.

Goal 11 – “Public Facilities and Services” “To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.”

Utilities and services are available at the site. The findings concerning the City's Public Services and Utilities goal are incorporated herein by this reference. The request is consistent with Goal 11.

Goal 12 – “Transportation” “To provide and encourage a safe, convenient and economic transportation system.”

The site is accessed by SE Keel Ave, SE Jetty Ave, SE 51st St, SE 50th St, and SE 49th St, all of which are local public streets. The request is consistent with Goal 12.

Goal 13 – “Energy Conservation” “To conserve energy.”

The site is will be developed and used as a park. Should new construction ever occur, such new construction must meet all energy codes. The site is within walking distance of nearby residential dwellings, as well as hotels and motels, which decreases the use of automobiles to access the park and thereby conserves energy. The goal, therefore, is satisfied.

Goal 14 – “Urbanization” “To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.”

The area affected by the proposed map amendment and zone change is within the urban growth boundary and the City limits and is already developed as urban. The proposed amendment and zone change will not change the already-existing urban development or prevent more urban development, so is consistent with this goal.

The proposed amendment and zone change are consistent with Goal 14.

Goal 15 – “Willamette Greenway” “To protect, conserve, enhance and maintain the natural, scenic, historical, agricultural, economic and recreational qualities of lands along the Willamette River as the Willamette River Greenway.”

The site is not located within the Willamette River Greenway, nor in proximity to the Willamette River Greenway and thus the proposed amendment and zone change will have no impact to the Willamette Greenway. Accordingly, Goal 15 is not applicable.

Goal 16 – “Estuarine Resources” “To recognize and protect the unique environmental, economic, and social values of each estuary and associated wetlands; and to protect, maintain, where appropriate develop, and where appropriate restore the long-term environmental, economic, and social values, diversity and benefits of Oregon's estuaries.”

The proposal does not affect any areas adjacent to the Siletz Bay estuary; therefore, Goal 16 is not applicable.

Goal 17 – “Coastal Shorelands” “To conserve, protect, where appropriate, develop and where appropriate restore the resources and benefits of all coastal shorelands, recognizing their value for protection and maintenance of water quality, fish and wildlife habitat, water-dependent uses, economic resources and recreation and aesthetics. The management of these shoreland areas shall be compatible with the characteristics of the adjacent coastal waters; and to reduce the hazard to human life and property, and the adverse effects upon water quality and fish and wildlife habitat, resulting from the use and enjoyment of Oregon's coastal shorelands.”

The City's coastal shorelands are not impacted by the proposed request since the site does not contain any coastal shorelands, nor is the site in proximity to any coastal shorelands. The findings concerning the City's Shoreland, Beaches, Dunes, Estuary and Ocean Resources goal are incorporated herein by this reference. Goal 17 is met or not applicable.

Goal 18 – “Beaches and Dunes” “To conserve, protect, where appropriate develop, and where appropriate restore the resources and benefits of coastal beach and dune areas; and To reduce the hazard to human life and property from natural or man-induced actions associated with these areas.”

The proposed rezoning does not affect any areas located within a beach or active dune area. The findings concerning the City’s Shoreland, Beaches, Dunes, Estuary and Ocean Resources goal are incorporated herein by this reference. Goal 18 is met or not applicable.

Goal 19 – “Ocean Resources” “To conserve marine resources and ecological functions for the purpose of providing long-term ecological, economic, and social value and benefits to future generations.”

Since the area of the proposed amendment and zone change is on the dry land area of the City, the proposal will not affect the near shore, ocean, and continental shelf. The findings concerning the City’s Shoreland, Beaches, Dunes, Estuary and Ocean Resources goal are incorporated herein by this reference. Goal 19 is met or not applicable.



Lincoln City

Vicinity Map

City of Lincoln City government use only. Use for any other purpose is entirely at the risk of the user. This product is for informational purposes and may not have been prepared for, or be suitable for legal, engineering, or surveying purposes. Users of this information should review or consult the primary data and information sources to ascertain the usability of the information.

Date: 3/11/2022

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Council Communication

CPA ZC 2022-04 Taft Open Space

Meeting Date:	June 13, 2022	Primary Staff Contact:	AnneMarie Skinner
Department:	City Council	E-Mail:	ASkinner@lincolncity.org
Secondary Dept:		Secondary Contacts:	Jeanne Sprague
Approval:		Estimated Time:	

Question:

Should the City Council conduct a public hearing on CPA & ZC 2022-04, a map amendment and zone change from General-Commercial District and General Commercial Zone to Open Space District and Open Space (OS) Zone?

Staff Recommendation:

Staff recommends the Council conduct the public hearing.

Authority:

Legal authority for map amendments and zone changes is as follows:

17.76.050 Type III procedure.

- A. General Description. Type III procedures apply to quasi-judicial permits and applications. Decisions on quasi-judicial permits and applications are made by either the planning commission or the city council, and require substantial exercise of discretion and judgment in applying approval criteria. Type III procedures require public notice and one or more public hearings.
- B. When Applicable. Table 17.76.020-1 identifies Type III applications. Applications not listed on Table 17.76.020-1 may be identified as Type III by the director based on the general description in this section.
- C. Pre-application Conference. A pre-application conference is not required prior to application submittal of a Type III application, but is strongly encouraged.
- D. Application Requirements. Type III applications shall:
 1. Be submitted on application forms provided by the department and shall include all information, exhibits, plans, reports, and signatures requested on the application forms.
- E. Notice of Public Hearing.

1. After a Type III application has been accepted as complete, the department shall mail a written notice of public hearing to the applicant and applicant's representative; owner of record of the subject property; property owners of record within 250 feet of the perimeter property line of the property or properties subject to the application; any neighborhood or community organization recognized by the governing body; and Oregon Department of Land Conservation and Development at the discretion of the applicant.
 2. The notice shall include a brief description of the request; applicable criteria; street address; date, time, and location of hearing; statement that failure of an issue to be raised in a hearing by a person or letter precludes appeal; name and number of department staff member to contact; statement that a copy of the application is available for inspection; statement that the staff report is available for inspection; and a general explanation of the procedure for submitting testimony and conduct of hearing.
- F. Public notices shall be mailed at least 20 days prior to the first public hearing.
- G. Decision Authority. Table 17.76.020-1 identifies the decision authority for a plan map amendment and zone change as the City Council, followed by a recommendation from Planning Commission.
- H. The public hearing is conducted in accordance with procedures in LCMC 17.76.160.
- I. Notice of Decision. Following the decision, a final order shall be prepared by the department.
- J. Appeal. The final decision of the City Council to approve or deny a Type III application may be appealed to the Land Use Board of Appeals (LUBA).

Background:

See Staff Report for CPA ZC 2022-04

See Draft Ordinance and Findings later on this Agenda.

Council Options:

- Hold the required public hearing scheduled for this evening and review all the evidence in the record. If the hearing is closed and the record is closed, deliberated on the proposed map amendment and zone change.
- Continue the public hearing to the _____ City Council meeting.

Potential Motions:

- Staff is directed to prepare an Ordinance approved the requested map amendment and zone change in CPA 2022-04 and ZC 2022-04 for adoption at a future meeting. [Approve CPA 2022-04 – the requested comprehensive plan map amendment from General-Commercial District to Open Space District.] [Approve ZC 2022-04 – the requested zone change from the G-C zone to the OS zone.]
- Motion to deny CPA 2022-04 and deny the requested comprehensive plan map amendment from General-Commercial District to Open Space District. Motion to deny ZC 2022-04 and deny the requested zone change from the G-C zone to the OS zone. Staff is directed to prepare a Final Order denying the requested map amendment and zone change in CPA 2022-04 and ZC 2022-04 for adoption at a future meeting.

Attachments:

CPA ZC 2022-04 Staff Report City Council (DOCX)

Taft Waterfront Parcel Map(PDF)

Taft Open Space Sales Agreement(PDF)

Comprehensive Plan Map Amendment Zone Change Staff Report for City Council Public Hearing Case File CPA ZC 2022-04 Taft Open Space

Date:	June 3, 2022
Case File:	CPA ZC 2022-04 Taft Open Space
Property Owner:	City of Lincoln City PO Box 50 Lincoln City, OR 97367
Situs Address:	Unaddressed
Location:	Northeast corner of SE 52 nd St/SE 51 st St intersection;
Tax Map and Lot:	07-11-27-DD-04900-00
Comprehensive Plan Designation:	General-Commercial District (G-C)
Zoning District:	General Commercial (GC) Zone
Site Size:	Approximately 31,135 square feet
Proposal:	Comprehensive Plan Map Amendment from General-Commercial District to Open Space Zone and Zone Change from General Commercial (GC) Zone to Open Space (OS) Zone
Surrounding Land Uses and Zones:	North: Undeveloped and residential; GC South: Residential; GC East: Schooner Creek West: SE 51 st St, undeveloped park; R-1-7.5
Authority:	Lincoln City Municipal Code (LCMC) 17.76.050.G states that Table 17.76.020-1 identifies the decision authority for each Type III application. Table 17.76.020-1 of LCMC Chapter 17.76 identifies a comprehensive plan amendment and a zone change as a Type III application with the decision authority given to the City Council after a recommendation from the Planning Commission.
Procedure:	The Planning and Community Development Department mailed notice to the owners of all properties within 250 feet of the site on March 30, 2022. The <i>News Guard</i> published the public hearing notice on April 5, 2022.



Applicable Oregon Statewide Planning Goals
Substantive Lincoln City Comprehensive Plan
Criteria: LCMC 17.77.050 and 17.77.150

BACKGROUND

The subject property (site) is unaddressed and identified as Tax Map 07-11-27-DD-04900-00. The site is bordered by Schooner Creek to the east and SE 51st St to the west. To the south is unimproved public right-of-way for SE 52nd St followed by residential use. Residential use is to the north.

Most of the site is in the floodway. The entire site is in the AE flood hazard zone. The site does not contain any designated aesthetic resources or significant natural resources. The site contains portions of both distant and local tsunami evacuation zones. As part of the purchase agreement, the city is bound to use the site solely as an open space zone. Below are excerpts from the AGREEMENT FOR SALE OF REAL PROPERTY:

WHEREAS, Seller desires to create an open space adjacent to Schooner Creek in order to foster educational opportunities and continued access to open space on said creek; and

WHEREAS, Purchaser agrees to use property solely as an open space zone, as described in the City of Lincoln City Open Space Zone Ordinance for the benefit of Seller and the Lincoln City Community.

The Planning Commission held a public hearing on this matter on April 19, 2022, after which the public hearing and the record closed. The Planning Commission recommended approval of the request, with adoption of the Final Recommendation on May 3, 2022.

COMMENTS

No comments were received.

ANALYSIS

A. Lincoln City Comprehensive Plan

1. Land Use Planning Goal

“To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.”

The City Council established a land use policy framework and implementing ordinance through adoption of a comprehensive plan and zoning ordinance, respectively. The Land Conservation and Development Commission acknowledged the City of Lincoln City’s Comprehensive Plan and implementing land development regulations, including LCMC Title 17 Zoning, as complying with the Oregon Statewide Planning Goals. Review of the proposed amendment in accordance with the Lincoln City Comprehensive Plan and the applicable zoning ordinance provisions, including the provisions of LCMC Chapter 17.77, establishes conformance with this goal.

The Comprehensive Plan Land Use Planning element identifies zoning as the most common method of land use regulation and control. The plan states:

“Essentially, zoning is a means of ensuring that the land uses of an area are properly situated in relation to one another. It provides adequate amounts of space for each type of development.”

The proposed map amendment and zone change would convert the site from the General Commercial zone to the Open Space zone to align with the edict in the purchase agreement. The proposal will align the zone with use and zone outlined in the purchase agreement. Staff finds the proposal is consistent with Goal 1.

2. Citizen Involvement Goal

“Develop a Citizen Involvement Program which ensures the continued participation of citizens in the land use planning process.”

The Comprehensive Plan’s Citizen Involvement Program goal is to “develop a Citizen Involvement Program which ensures the continued participation of citizens in the land use planning process.” The City has developed a Citizen Involvement Program through Resolution 94-33. The public hearing process for the proposed map amendment and zone change included mailed and published notice to the public and property owners, and review of the proposal by the Planning Commission and the City Council, consistent with the Plan, Goal, and Resolution.

Among the policies under the City’s Citizen Involvement Program goal is one that states: “Lincoln City shall assure that a reasonable effort is made to encourage the opportunity for citizens to attend public meetings.” The Planning Commission and City Council meetings are publicized widely with hearing notices mailed to property owners in the affected area, published in *The News Guard*, and posted on the City’s website. The City holds public hearings in the evening to encourage public attendance. Moreover, for those unable to attend in person, the meetings are televised live, streamed live over the internet, and rebroadcast on cable television. Video of meetings and the packet materials are also available on the City’s website for review, free of charge. These aforementioned items in their totality constitute a more than reasonable effort to encourage citizens to attend public meetings and meet Goal 2.

3. Public Services and Utilities Goal

“To plan and develop a timely, orderly, and efficient arrangement of public facility and services which compliment [sic] the area and serve as a framework for urban and rural development.”

No development will occur in the Open Space zone. Public facility and services will not be necessary for the site to remain in use as open space. This goal is not applicable.

4. Urbanization Goal

“To promote an orderly and efficient transition of land uses from rural to urban.”

The area affected by the proposed map amendment and zone change is within the urban growth boundary and the City limits and is already developed as urban. The proposed amendment and zone change will not change the already-existing urban development or prevent more urban development, so is consistent with this goal.

5. Natural Hazard Goal

“The City shall control development in hazardous areas to protect life and property from natural disasters and hazards.”

The City’s maps show the site is largely in the AE flood hazard zone and wholly in either the local or distant tsunami evacuation zone. The proposal will eliminate development of structures on the site, which will encourage development of those sites that are outside of the AE flood hazard zone and the local or distant tsunami evacuation zone. The proposal is consistent with Goal 5.

6. Housing Goal

“To provide for the housing needs of all citizens.”

The site is not zoned for residential use in its current General Commercial zone. Additionally, the site is largely in the AE flood hazard zone and wholly in either the local or distant tsunami evacuation zone. Staff finds the proposal to be consistent with Goal 6 or Goal 6 is not applicable.

7. Economy Goal

“To support the tourist industry and achieve a degree of diversity in the community which will allow a balanced economy that will, in turn, support an adequate level of services for all members of the area.”

The Comprehensive Plan states that the City’s primary industry is tourism and concludes that tourism will continue to function as the City’s basic industry. Rezoning the site from a commercial zone to open space precludes development of the site for commercial use. However, a preserved open space that is open to the public is a feature utilized by residents and an added amenity for tourists to increase visitors to the south area of town. Staff finds this goal is either not applicable to the request or is met.

8. Aesthetic Goal

“To develop a livable and pleasing city which enhances man’s activities while protecting the exceptional aesthetic quality of the area.”

The site does not contain any aesthetic resources, but it is adjacent to Schooner Creek and will be preserved as open space. This preservation will help to protect Schooner Creek and provide a pleasing viewing area of the creek to residents and visitors. The request is consistent with the Aesthetic Goal.

9. Transportation Goal

“To provide a safe, convenient and rapid transportation network to facilitate the movement of goods and people.”

The site is accessed by SE 51st St, which is a local public street. This goal is satisfied.

10. Energy Goal

“To conserve energy.”

The site will remain undeveloped as open space. No energy will be expended in development or use. The site is within walking distance of businesses, residential uses, and hotels and motels, which decreases the use of automobiles to utilize the open space and thereby conserves energy. The goal, therefore, is satisfied or not applicable.

11. Overall Environmental Goal

“To achieve a balance between the need to provide housing and services and the need to protect and enhance the natural environment of the city.”

The entire site will be preserved as open space to be able to view Schooner Creek. This goal is satisfied.

12. Shoreland, Beaches, Dunes, Estuary, and Ocean Resources Goal

“To conserve, protect, and enhance the coastal resources of the city.”

The site is immediately adjacent to Schooner Creek. Rezoning of the site from the General Commercial zone to the Open Space zone will ensure that the site and its adjacent natural resources are preserved. The proposed request is consistent with this goal.

B. Statewide Planning Goals

Goal 1 – “Citizen Involvement” “To develop a citizen involvement program that ensures the opportunity for citizens to be involved in all phases of the planning process.”

The application for amending the comprehensive plan map and changing the zoning was available at no cost on the City’s website and also available for public review and purchase at the counter. Staff was available to explain the proposal and technical information. The City published hearing notices in the local newspaper in accordance with notice requirements and mailed notices to impacted property owners. The findings concerning the Comprehensive Plan Citizen Involvement are incorporated herein by this reference. Staff made its report on the land use proposals available on the City’s website in advance of the meeting. The request is consistent with Goal 1.

Goal 2 – “Land Use Planning” “To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.”

The City Council adopted the Lincoln City Comprehensive Plan and its implementation measure, the Lincoln City Zoning Ordinance, after public hearings and has reviewed them on a periodic cycle to take into account changing public policies and circumstances. Citizens and affected governmental units had opportunities for review and comment during preparation, review, and revision of the plan and implementing ordinances. Review of this proposed rezoning in accordance with the Lincoln City Comprehensive Plan and the applicable zoning ordinance provisions establishes conformance with this goal.

Goal 3 – “Agricultural Lands” “To preserve and maintain agricultural lands.”

The area affected by the proposed rezoning is within the City’s Urban Growth Boundary. The area is currently designated and zoned for urban development and will remain as such, any rezoning notwithstanding. The rezoning will not affect agricultural lands; therefore, Goal 3 is not applicable.

Goal 4 – “Forest Lands” “To conserve forest lands by maintaining the forest land base and to protect the state’s forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.”

The area affected by the proposed rezoning is within the City’s Urban Growth Boundary and currently zoned and developed for urban development. The affected area does not contain any designated forest lands; therefore, Goal 4 is not applicable.

Goal 5 – “Open Spaces, Scenic and Historic Areas and Natural Resources” “To protect natural resources and conserve scenic and historic areas and open spaces.”

The proposal will preserve the site as an open space. The proposal is consistent with Goal 5.

Goal 6 – “Air, Water and Land Resources Quality” “To maintain and improve the quality of the air, water and land resources of the state.”

The proposal will preserve the site as an open space, thus preventing development that would harm the air, water, or land resources quality. The proposed request is consistent with Goal 6.

Goal 7 – “Areas Subject to Natural Disasters and Hazards” “To protect people and property from natural hazards.”

The City’s maps show the site is largely in the AE flood hazard zone and wholly in either the local or distant tsunami evacuation zone. The proposal will preserve the site as open space, thus encouraging development elsewhere that is outside of the flood hazard and tsunami evacuation zones. The proposal is consistent with Goal 7.

Goal 8 – “Recreational Needs” “To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities, including destination resorts.”

The site will be preserved as open space for the viewing pleasure of residents and visitors as passive recreation. The proposal is consistent with Goal 8.

Goal 9 – “Economic Development” “To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon’s citizens.”

The area affected by the proposed rezoning is within the City’s Urban Growth Boundary and proposed for use as open space. The Comprehensive Plan states that the City’s primary industry is tourism and concludes that tourism will continue to function as the City’s basic industry. Rezoning the site from a commercial zone to open space precludes development of the site for commercial use. However, a preserved open space that is open to the public is a feature utilized by residents and an added amenity for tourists to increase visitors to the south area of town. Staff finds this goal is either not applicable to the request or is met. The proposed rezoning is consistent with Goal 9.

Goal 10 – “Housing” “To provide for the housing needs of citizens of the state.”

The site is not zoned for residential use in its current General Commercial zone. Additionally, the site is largely in the AE flood hazard zone and wholly in either the local or distant tsunami evacuation zone. Staff finds the request is consistent with Goal 10, or Goal 10 is not applicable.

Goal 11 – “Public Facilities and Services” “To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.”

Utilities and services are available at the site. The request is consistent with Goal 11.

Goal 12 – “Transportation” “To provide and encourage a safe, convenient and economic transportation system.”

The site is accessed by SE 51st St, which is a public local street. The request is consistent with Goal 12.

Goal 13 – “Energy Conservation” “To conserve energy.”

The site will remain undeveloped as open space. No energy will be expended in development or use. The site is within walking distance of businesses, residential uses, and hotels and motels, which decreases the use of

automobiles to utilize the open space and thereby conserves energy. The goal, therefore, is satisfied or not applicable.

Goal 14 – “Urbanization” “To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.”

The area affected by the proposed map amendment and zone change is within the urban growth boundary and the City limits and is already developed as urban. The proposed amendment and zone change will not change the already-existing urban development or prevent more urban development, so is consistent with this goal.

The proposed amendment and zone change are consistent with Goal 14.

Goal 15 – “Willamette Greenway” “To protect, conserve, enhance and maintain the natural, scenic, historical, agricultural, economic and recreational qualities of lands along the Willamette River as the Willamette River Greenway.”

The site is not located within the Willamette River Greenway, nor in proximity to the Willamette River Greenway and thus the proposed amendment and zone change will have no impact to the Willamette Greenway. Accordingly, Goal 15 is not applicable.

Goal 16 – “Estuarine Resources” “To recognize and protect the unique environmental, economic, and social values of each estuary and associated wetlands; and to protect, maintain, where appropriate develop, and where appropriate restore the long-term environmental, economic, and social values, diversity and benefits of Oregon’s estuaries.”

The proposal does not affect any areas adjacent to the Siletz Bay estuary; therefore, Goal 16 is not applicable.

Goal 17 – “Coastal Shorelands” “To conserve, protect, where appropriate, develop and where appropriate restore the resources and benefits of all coastal shorelands, recognizing their value for protection and maintenance of water quality, fish and wildlife habitat, water-dependent uses, economic resources and recreation and aesthetics. The management of these shoreland areas shall be compatible with the characteristics of the adjacent coastal waters; and to reduce the hazard to human life and property, and the adverse effects upon water quality and fish and wildlife habitat, resulting from the use and enjoyment of Oregon’s coastal shorelands.”

The City’s coastal shorelands are not impacted by the proposed request since the site does not contain any coastal shorelands, nor is the site in proximity to any coastal shorelands. The findings concerning the City’s Shoreland, Beaches, Dunes, Estuary and Ocean Resources goal are incorporated herein by this reference. Goal 17 is met or not applicable.

Goal 18 – “Beaches and Dunes” “To conserve, protect, where appropriate develop, and where appropriate restore the resources and benefits of coastal beach and dune areas; and To reduce the hazard to human life and property from natural or man-induced actions associated with these areas.”

The proposed rezoning does not affect any areas located within a beach or active dune area. The findings concerning the City’s Shoreland, Beaches, Dunes, Estuary and Ocean Resources goal are incorporated herein by this reference. Goal 18 is met or not applicable.

Goal 19 – “Ocean Resources” “To conserve marine resources and ecological functions for the purpose of providing long-term ecological, economic, and social value and benefits to future generations.”

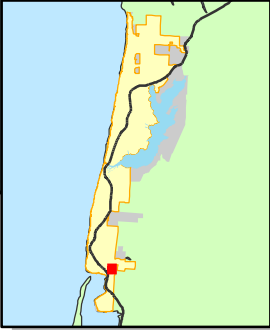
Since the area of the proposed amendment and zone change is on the dry land area of the City, the proposal will not affect the near shore, ocean, and continental shelf. The findings concerning the City’s Shoreland, Beaches, Dunes, Estuary and Ocean Resources goal are incorporated herein by this reference. Goal 19 is met or not applicable.



Vicinity Map

City of Lincoln City government use only. Use for any other purpose is entirely at the risk of the user. This product is for informational purposes and may not have been prepared for, or be suitable for legal, engineering, or surveying purposes. Users of this information should review or consult the primary data and information sources to ascertain the usability of the information.

Date: 3/11/2022



After recording return to: Order Number: 12218  Western Title & Escrow 255 SW Coast Hwy., Suite 100 Newport, OR 97365
Grantee Name(s) City of Lincoln City, Oregon, a Municipal Corporation PO Box 50 Lincoln City, OR 97367
Until a change is requested, all tax statements shall be sent to the following address: Same as Above

STATE OF OREGON } ss.
County of Lincoln

3 Pages

I, Dana W. Jenkins, County Clerk, in and for said county, do hereby certify that the within instrument was received for record, and recorded in the Book of Records of said county at Newport, Oregon. WITNESS my hand and seal of said office affixed.


DANA W. JENKINS, Lincoln County Clerk

Doc : 200809274
Rect: 806217 36.00
08/01/2008 04:05:54pm


Reserved for Recorder's Use

STATUTORY WARRANTY DEED

Lincoln County School District, a Municipal Corporation, Grantor(s) convey and warrant to **City of Lincoln City, Oregon, a Municipal Corporation, Grantee** the following described real property free of encumbrances except as specifically set forth herein:

SEE ATTACHED EXHIBIT "A"

Account No(s): **R177113**

Map/Tax Lot No(s): **07-11-27-DD-4900**

This property is free of encumbrances, EXCEPT: All those items of record, if any, as of the date of this deed, including any real property taxes due, but not yet payable.

The true consideration for this conveyance is **\$225,000.00**. (Here comply with requirements of ORS 93.030.)

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 and 195.305 TO 195.336 AND SECTIONS 5 TO 11 OF CHAPTER 424, OREGON LAWS 2007. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930 AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007.

Executed this 31st day of July, 2008

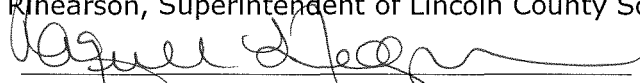
Lincoln County School District, a Municipal Corporation

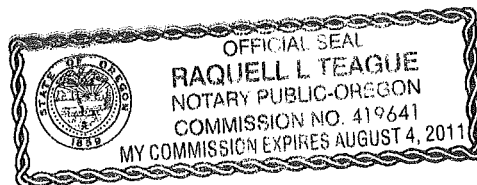


By: Tom Rinearson, Superintendent

State of **Oregon**, County of **Lincoln**) ss.

This instrument was acknowledged before me on this 31st day of July, 2008 by , as Tom Rinearson, Superintendent of Lincoln County School District, a Municipal Corporation


Notary Public for Oregon



The City of Lincoln City hereby accepts the conveyance contained herein.


By: David Hawker, City Manager

EXHIBIT "A"

Beginning at a point that is 951.0 feet South and 269.5 feet West of the 1/16 corner North of the corner to Sections 26-27-34 and 35 Township 7 South, Range 11 West, Willamette Meridian, in Lincoln County, Oregon;

Running thence South 265.8 feet, thence South 15° 56' West 81.6 feet to the Southeast corner of Lot 1 in Block 5 FIRST ADDITION TO TAFT, thence East to the meander line of Schooner Creek, thence Northerly along meander line to a point that is East of the place of beginning, thence West to the place of beginning.

EXCEPTING THEREFROM any portion lying within the county road.

AGREEMENT FOR SALE OF REAL PROPERTY

This Agreement for Sale of Real Property (Agreement) is made and entered into as of the day of Aug 31, 2008, by and between the City of Lincoln City, Oregon, a municipal corporation (hereinafter referred to as Purchaser) and Lincoln County School District (hereinafter referred to as Seller).

WITNESSETH:

WHEREAS, Seller owns certain unimproved land identified as Tax Lot 04900-00, Lincoln County Assessor's Map No. 07-11-27-DD, in the City of Lincoln City, County of Lincoln, State of Oregon, as shown on the Plat Map attached hereto and consisting of approximately .73 acres, hereafter referred to as the "Property"; and

WHEREAS, Seller desires to create an open space adjacent to Schooner Creek in order to foster educational opportunities and continued access to open space on said creek; and

WHEREAS, Purchaser agrees to use property solely as an open space zone, as described in the City of Lincoln City Open Space Zone Ordinance for the benefit of Seller and the Lincoln City Community.

WHEREAS, Seller desires to sell and Purchaser desires to purchase the Property; and

WHEREAS, Purchaser is a city and a unit of local government of the State of Oregon, donations to which are tax deductible; and

WHEREAS, Seller has obtained an appraisal of the Property that concludes that the Property has a fair market value of \$300,000; and Purchaser has obtained an appraisal that concludes that the Property has a fair market value of \$220,000.00

WHEREAS, Seller is willing to sell the Property to the City for the amount of \$225,00.00 and also is willing to apply the purchase amount, \$225,000.00 toward the all-weather sports facility at Taft High School, according to the provisions described in Section 4 of this contract;

NOW, THEREFORE, in consideration of the covenants herein set forth and payments to be made as herein specified, it is mutually agreed by the parties hereto as follows:

1. Consideration. The price for which Seller agrees to sell and convey the property to Purchaser and which the Purchaser agrees to pay to Seller, subject to the terms hereof, is \$225,000.00. The purchase price shall be payable in cash and shall be deposited in escrow at or prior to the close of escrow.

2. Title. The Property is to be conveyed by statutory warranty deed free and clear of all liens and encumbrances except zoning ordinances, building and use restrictions, reservations in patents, and easements of record, herein referred to collectively as "Permitted Encumbrances." If by the closing date the Seller has failed to cause all liens and encumbrances, other than Permitted Encumbrances, to be removed or cured, Purchaser shall have the right either to:

(a) Purchase the Property subject to such "Additional Encumbrances" not removed or cured; or

(b) Terminate this Agreement and be entitled to a return of all money deposited into escrow under this Agreement.

3. Property Included. Seller shall leave on the premises, as part of the Property purchased, any shrubs, plants, and trees.

4. Purchaser Representations. Purchaser makes the following representations:

(a) Purchaser has all requisite authority and power to enter into this Agreement; and

(b) Neither Purchaser's execution of this Agreement nor its taking any of the actions contemplated hereunder will violate any City, County, State, or Federal codes, ordinances, or other regulations.

(c) Purchaser agrees to allow the property to be used only as an open space, as per Lincoln City Zoning Ordinance Section 3.096 Open Space Zone (OS) as it exists at the time of purchase.

5. Seller Representations. Seller makes the following representations:

(a) Seller has full power and authority to enter into this Agreement and, at closing, will have full power and authority to sell, transfer, and convey all right, title, and interest in and to the Property in accord with this Agreement;

(b) Seller is not a "foreign person" and is not otherwise subject to back-up withholding of tax under Section 1445 of the Internal Revenue Code;

(c) Within Seller's knowledge, there is no suit, action, arbitration, or legal, administrative, or other proceeding or inquiry pending or threatened against the Property or pending or threatened against Seller which could affect Seller's title to the Property, affect the value of the Property, or subject an owner of the Property to liability;

(d) Within Seller's knowledge, there are no:

(i) Private rights which will result in the creation of any liens upon the Property securing an obligation to pay money;

(ii) Uncured notices which have been served upon Seller from any governmental agency notifying Seller of any violations of law, ordinance, rule, or regulation which would affect the Property or any portion thereof;

(iii) Actual or impending mechanics liens against the Property or any portion thereof; or

(iv) Notices or other information giving Seller reason to believe that any conditions existing on the Property or in the vicinity of the Property or in ground or surface waters associated with the Property may have a material affect on the value of the Property or subject the owner of the Property to potential liabilities under environmental laws;

(e) There is no lease, license, permit, option, or right of first refusal which affects the Property or any portion thereof which will not be terminated by closing; and

(f) Seller knows of no condition at, on, under, or related to the Property presently or potentially posing a significant hazard to human health or the environment, whether or not in compliance with law, and knows of no production, use, treatment, storage, transportation, or disposal of any hazardous substance on the Property nor any release or threatened release of any hazardous substance, pollutant, or contaminant into, upon, or over the Property or into or upon ground or surface water at the Property. Seller knows of no hazardous substance now or ever being stored on the property in underground tanks, pits, or surface impoundments.

(G) Seller agrees to apply the proceeds of the sale for the construction of the all-weather sports facility at Taft High School

Each of the above representations shall be deemed to have been made as of the close of escrow and shall survive the close of escrow.

If, before the close of escrow, Seller discovers any information or facts that would materially change the foregoing representations, Seller shall immediately give notice to Buyer of those facts and information. If any of the foregoing representations cease to be true before the close of escrow, Seller shall be obligated to remedy the problem before the close of escrow. If the problem is not remedied before close of escrow, Purchaser or Seller may elect to either (a) terminate this Agreement in which case Purchaser shall have no obligation to purchase the Property, or (b) defer the closing date until such problem has been remedied.

5. Closing and Escrow Agent. Upon execution of this Agreement, or as soon thereafter as is reasonably convenient, the parties shall open an escrow with Western Title and Escrow Company. The closing of the sale of the Property by Seller to Purchaser shall take place at the offices of Western Title and Escrow Company, 2015 NW 39th Street, Suite 100, Lincoln City, OR 97367 (telephone: (541) 994-8928), on or before _____, 2008 or as soon thereafter as is reasonably possible (hereinafter "Closing Date"). The costs of escrow and closing shall be born equally by Seller and Purchaser. Western Title and Escrow Company shall be the "Escrow Agent" hereunder.

6. Closing Conditions. The obligations of the Purchaser hereunder shall be subject to the following conditions:

(a) If Purchaser elects, at its sole expense, to have a Level 1 Environmental Site Assessment conducted for the Property, the Assessment shall not identify any environmental conditions in connection with the Property that result in the Level 1 Assessment recommending, or Purchaser reasonably concluding it is prudent to conduct, further investigatory work in the form of a Level 2 Environmental Site Assessment;

(b) Seller, within 15 days after the closing, shall give to Purchaser a standard form ALTA owner's title insurance policy in the amount of the purchase price insuring that as of the closing date Purchaser is the Fee Simple owner of the Property subject only to the usual printed exceptions, Permitted Encumbrances, and any Additional Encumbrances waived by Purchaser pursuant to Paragraph 2(a) hereof. The cost of obtaining and delivering the title insurance policy shall be born by Seller. Prior to closing, Seller shall give to Purchaser a title insurance company's report showing its willingness to insure title to the Property;

(c) Seller, as part of the closing, shall execute a statutory warranty deed conveying to Purchaser the land, subject only to Permitted Encumbrances and any Additional Encumbrances waived by Purchaser pursuant to Paragraph 2(a) hereof; and

7. Taxes. Real property taxes for the current tax year, if any, shall be prorated as of the closing date.

8. Possession. Purchaser shall be entitled to possession immediately on closing.

9. Remedies. Time is of the essence of this Agreement. If Seller fails to perform its obligations hereunder for any other reason than the nonfulfillment of the conditions precedent to Seller's obligations, Purchaser shall have the right to either (a) specifically enforce this Agreement or (b) terminate this Agreement, whereupon any amount deposited into escrow hereunder shall be returned to the Purchaser and this Agreement shall terminate and be null and void and Purchaser and Seller shall have no further liability to each other on account hereof. If Purchaser fails to perform its obligations hereunder for any other reason than the nonfulfillment of the conditions precedent to Purchaser's obligations hereunder, Seller shall have the right to either (a) recover Seller's actual damages (but not consequential damages) or (2) terminate this Agreement, whereupon any amount deposited into escrow hereunder shall be returned to the

Purchaser and this Agreement shall terminate and be null and void and Purchaser and Seller shall have no further liability to each other on account hereof.

10. Waiver. Any waiver by either party of a breach of this Agreement shall not be construed as a waiver of any other breach of the same covenant or provision or of any other covenant or provision.

11. Attorney's Fees. In the event that any proceeding or arbitration (including any bankruptcy proceeding) shall be brought to enforce, interpret, or rescind this Agreement, the parties agree the losing party shall pay, in addition to the costs and disbursements provided by statute, additional sums of money as a court or arbitrator at trial or upon appeal may adjudge reasonable for the prevailing party's attorney's fees.

12. Notices. Any notices which may be required or permitted by the terms of this Agreement shall be given in writing and forwarded by regular United States mail to Purchaser at:

City of Lincoln City
c/o City Manager
PO Box 50
Lincoln City, OR 97367

and to Seller at:

Lincoln County School District
459 SW Coast Hwy
Newport, OR 97356

or at such other address or addresses as the parties may hereinafter respectively designate.

13. Execution of Documents. The parties agree to execute all documents required to make this Agreement effective and binding on all parties.

14. Sole Agreement. This Agreement constitutes the sole agreement of the parties and may not be amended, modified, or terminated except by written agreement by all of the parties.

15. Binding Agreement. This Agreement shall inure to the benefit of and shall be binding upon the heirs, personal representatives, and assigns of each of the parties hereto.

16. Venue; Governing Law. The parties agree that venue for resolution of all disputes shall be Lincoln County, Oregon. This Agreement shall be construed according to the laws of the State of Oregon.

17. Counterparts. This Agreement may be executed in several counterparts each of which shall be deemed to be an original, and the counterparts shall together constitute one and

the same agreement, notwithstanding that all of the parties are not signatory to the original or the same counterpart.

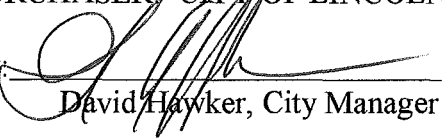
18. Notices Required by Statute. THE PROPERTY DESCRIBED IN THIS INSTRUMENT MAY NOT BE WITHIN A FIRE PROTECTION DISTRICT PROTECTING STRUCTURES. THE PROPERTY IS SUBJECT TO LAND USE LAWS AND REGULATIONS THAT, IN FARM OR FOREST ZONES, MAY NOT AUTHORIZE CONSTRUCTION OR SITING OF A RESIDENCE AND THAT LIMIT LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930, IN ALL ZONES. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO VERIFY THE EXISTENCE OF FIRE PROTECTION FOR STRUCTURES AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007.

19. Brokerage Commissions. Both parties acknowledge that there have been no outside brokers, salespersons, finders, or consultants involved in this transaction. Each party, hereinafter referred to, for purposes of this paragraph, as "Indemnitor," agrees to indemnify and hold harmless the other party (the "Indemnitee") from and against any and all commissions or fees incurred by the Indemnitee to any such persons, and any associated costs, including, without limitation, attorneys' fees, arising out of the actions of the Indemnitor.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first above written.

PURCHASER: CITY OF LINCOLN CITY, OREGON

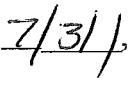
By:


David Hawker, City Manager

Date:  7/29, 2008

SELLER: LINCOLN COUNTY SCHOOL DISTRICT


Tom Rinearson, Superintendent

Date:  7/31, 2008

ORDER #: 12218

MAP: 7-11-27 DD 724900

SCALE: 1" = 100



Council Communication

CPA ZC 2022-05 Palisades Open Space

Meeting Date: June 13, 2022
 Department: City Council
 Secondary Dept:
 Approval:

Primary Staff Contact: AnneMarie Skinner
 E-Mail: ASkinner@lincolncity.org
 Secondary Contacts: Jeanne Sprague
 Estimated Time:

Question:

Should the City Council conduct a public hearing on CPA & ZC 2022-05, a map amendment and zone change from Medium Density Residential District and Single-Family Residential (R-1-7.5) Zone to Open Space District and Open Space (OS) Zone?

Staff Recommendation:

Staff recommends the Council conduct the public hearing.

Authority:

Legal authority for map amendments and zone changes is as follows:

17.76.050 Type III procedure.

- A. General Description. Type III procedures apply to quasi-judicial permits and applications. Decisions on quasi-judicial permits and applications are made by either the planning commission or the city council, and require substantial exercise of discretion and judgment in applying approval criteria. Type III procedures require public notice and one or more public hearings.
- B. When Applicable. Table 17.76.020-1 identifies Type III applications. Applications not listed on Table 17.76.020-1 may be identified as Type III by the director based on the general description in this section.
- C. Pre-application Conference. A pre-application conference is not required prior to application submittal of a Type III application, but is strongly encouraged.
- D. Application Requirements. Type III applications shall:
 1. Be submitted on application forms provided by the department and shall include all information, exhibits, plans, reports, and signatures requested on the application forms.
- E. Notice of Public Hearing.

1. After a Type III application has been accepted as complete, the department shall mail a written notice of public hearing to the applicant and applicant's representative; owner of record of the subject property; property owners of record within 250 feet of the perimeter property line of the property or properties subject to the application; any neighborhood or community organization recognized by the governing body; and Oregon Department of Land Conservation and Development at the discretion of the applicant.
 2. The notice shall include a brief description of the request; applicable criteria; street address; date, time, and location of hearing; statement that failure of an issue to be raised in a hearing by a person or letter precludes appeal; name and number of department staff member to contact; statement that a copy of the application is available for inspection; statement that the staff report is available for inspection; and a general explanation of the procedure for submitting testimony and conduct of hearing.
- F. Public notices shall be mailed at least 20 days prior to the first public hearing.
- G. Decision Authority. Table 17.76.020-1 identifies the decision authority for a plan map amendment and zone change as the City Council, followed by a recommendation from Planning Commission.
- H. The public hearing is conducted in accordance with procedures in LCMC 17.76.160.
- I. Notice of Decision. Following the decision, a final order shall be prepared by the department.
- J. Appeal. The final decision of the City Council to approve or deny a Type III application may be appealed to the Land Use Board of Appeals (LUBA).

Background:

See Staff Report for CPA ZC 2022-05

See Draft Ordinance and Findings later on this Agenda.

Council Options:

- Hold the required public hearing scheduled for this evening and review all the evidence in the record. If the hearing is closed and the record is closed, deliberated on the proposed map amendment and zone change.
- Continue the public hearing to the _____ City Council meeting.

Potential Motions:

- Motion to direct Staff to prepare an Ordinance approving the requested map amendment and zone change in CPA 2022-05 and ZC 2022-05 for adoption at a future meeting. [Approve CPA 2022-05 – the requested comprehensive plan map amendment from Medium Density Residential District to Open Space District.] [Approve ZC 2022-05 – the requested zone change from the R-1-7.5 zone to the OS zone.]
- Motion to deny CPA 2022-05 and deny the requested comprehensive plan map amendment from District to Open Space District. Motion to deny ZC 2022-05 and deny the requested zone change from the R-1-7.5 zone to the OS zone. Staff is directed to prepare a Final Order denying the requested map amendment and zone change in CPA 2022-05 and ZC 2022-05 for adoption at a future meeting.

Attachments:

CPA ZC 2022-05 Staff Report City Council (DOCX)
Palisades Open Space Map (PDF)

Comprehensive Plan Map Amendment Zone Change Staff Report for City Council Public Hearing Case File CPA ZC 2022-05 Palisades Open Space

Date: June 3, 2022

Case File: CPA ZC 2022-05 Palisades Open Space

Property Owner: City of Lincoln City
PO Box 50
Lincoln City, OR 97367

Situs Address: Unaddressed

Location: Between The Villages at Cascade Head to east and Lincoln Palisades to west

Tax Map and Lot: 06-11-35-CA-00100-00 and 06-11-35-CD-00100-00

Comprehensive Plan Designation: Medium-Density Residential District (R-7.5)

Zoning District: Single-Family Residential (R-1-7.5) Zone

Site Size: Approximately 18.64 acres

Proposal: Comprehensive Plan Map Amendment from Medium-Density Residential to Open Space Zone and Zone Change from R-1-7.5 to OS

Surrounding Land Uses and Zones:
North: Undeveloped and residential; R-1-7.5
South: Residential; R-1-7.5
East: The Villages at Cascade Head; R-1-7.5
West: Lincoln Palisades; R-1-7.5

Authority: Lincoln City Municipal Code (LCMC) 17.76.050.G states that Table 17.76.020-1 identifies the decision authority for each Type III application. Table 17.76.020-1 of LCMC Chapter 17.76 identifies a comprehensive plan amendment and a zone change as a Type III application with the decision authority given to the City Council after a recommendation from the Planning Commission.

Procedure: The Planning and Community Development Department mailed notice to the owners of all properties within 250 feet of the site on March 30, 2022. The *News Guard* published the public hearing notice on April 5, 2022.



Applicable Oregon Statewide Planning Goals
Substantive Lincoln City Comprehensive Plan
Criteria: LCMC 17.77.050 and 17.77.150

BACKGROUND

The subject property (site) is unaddressed and identified as Tax Map 06-11-35-CA-00100-00 and 06-11-35-CD-00100-00. The site is bordered by The Villages at Cascade Heads to the east, Lincoln Palisades to the west, undeveloped residential to the north, and Pacific Rim Estates to the south. The site contains significant wetlands running throughout from north to south.

The site was deeded to the city as part of the open space/landscaping requirement for the Lincoln Palisades planned development. Lincoln City Municipal Code requires at least 15% of the gross area of a planned development be dedicated to landscaping. For purposes of computing the area dedicated to landscaping, dedicated open space and protected resource areas are treated as area dedicated to landscaping. Lincoln Palisades deeded the approximately 18-acre site to the city to meet the 15% requirement for all phases of Lincoln Palisades. Accordingly, the site cannot be developed and must be preserved as open space and protected resource area.

The Planning Commission held a public hearing on this matter on April 19, 2022, after which the public hearing and the record closed. The Planning Commission recommended approval of the request, with adoption of the Final Recommendation on May 3, 2022.

COMMENTS

No comments were received.

ANALYSIS

A. Lincoln City Comprehensive Plan

1. Land Use Planning Goal

“To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.”

The City Council established a land use policy framework and implementing ordinance through adoption of a comprehensive plan and zoning ordinance, respectively. The Land Conservation and Development Commission acknowledged the City of Lincoln City’s Comprehensive Plan and implementing land development regulations, including LCMC Title 17 Zoning, as complying with the Oregon Statewide Planning Goals. Review of the proposed amendment in accordance with the Lincoln City Comprehensive Plan and the applicable zoning ordinance provisions, including the provisions of LCMC Chapter 17.77, establishes conformance with this goal.

The Comprehensive Plan Land Use Planning element identifies zoning as the most common method of land use regulation and control. The plan states:

“Essentially, zoning is a means of ensuring that the land uses of an area are properly situated in relation to one another. It provides adequate amounts of space for each type of development.”

The proposed map amendment and zone change would convert the site from the R-1-7.5 zone to the Open Space zone to align with the landscaping requirement for the Lincoln Palisades project. Staff finds the proposal is consistent with Goal 1.

2. Citizen Involvement Goal

“Develop a Citizen Involvement Program which ensures the continued participation of citizens in the land use planning process.”

The Comprehensive Plan’s Citizen Involvement Program goal is to “develop a Citizen Involvement Program which ensures the continued participation of citizens in the land use planning process.” The City has developed a Citizen Involvement Program through Resolution 94-33. The public hearing process for the proposed map amendment and zone change included mailed and published notice to the public and property owners, and review of the proposal by the Planning Commission and the City Council, consistent with the Plan, Goal, and Resolution.

Among the policies under the City’s Citizen Involvement Program goal is one that states: “Lincoln City shall assure that a reasonable effort is made to encourage the opportunity for citizens to attend public meetings.” The Planning Commission and City Council meetings are publicized widely with hearing notices mailed to property owners in the affected area, published in *The News Guard*, and posted on the City’s website. The City holds public hearings in the evening to encourage public attendance. Moreover, for those unable to attend in person, the meetings are televised live, streamed live over the internet, and rebroadcast on cable television. Video of meetings and the packet materials are also available on the City’s website for review, free of charge. These aforementioned items in their totality constitute a more than reasonable effort to encourage citizens to attend public meetings and meet Goal 2.

3. Public Services and Utilities Goal

“To plan and develop a timely, orderly, and efficient arrangement of public facility and services which compliment [sic] the area and serve as a framework for urban and rural development.”

No development will occur in the Open Space zone. Public facility and services will not be necessary for the site to remain in use as open space. This goal is not applicable.

4. Urbanization Goal

“To promote an orderly and efficient transition of land uses from rural to urban.”

The area affected by the proposed map amendment and zone change is within the urban growth boundary and the City limits and is already developed as urban. The proposed amendment and zone change will not change the already-existing urban development or prevent more urban development, so is consistent with this goal.

5. Natural Hazard Goal

“The City shall control development in hazardous areas to protect life and property from natural disasters and hazards.”

The City’s maps show the site does not contain any natural hazards. Goal 5 is not applicable.

6. Housing Goal

“To provide for the housing needs of all citizens.”

The housing needs of the citizens has largely been satisfied through the development of Lincoln Palisades. To develop Lincoln Palisades and meet all of the requirements, including the landscaping requirement, at least 15% of that site had to be dedicated for open space. The site meets that requirement. Changing the zone from

residential to open space will align the zone and the code requirement for open space and continue to keep Lincoln Palisades in compliance with its development requirements while still providing housing to the citizens. Staff finds the proposal to be consistent with Goal 6 or Goal 6 is not applicable.

7. Economy Goal

“To support the tourist industry and achieve a degree of diversity in the community which will allow a balanced economy that will, in turn, support an adequate level of services for all members of the area.”

The Comprehensive Plan states that the City’s primary industry is tourism and concludes that tourism will continue to function as the City’s basic industry. Rezoning the site from a residential zone to open space precludes development of the site for residential use. However, a preserved open space that is open to the public is a feature utilized by residents and an added amenity for tourists to increase visitors to the north area of town. Staff finds this goal is either not applicable to the request or is met.

8. Aesthetic Goal

“To develop a livable and pleasing city which enhances man’s activities while protecting the exceptional aesthetic quality of the area.”

The site does not contain any aesthetic resources, but it does contain significant wetlands and will be preserved as open space. This preservation will help to protect the significant wetlands and provide a pleasing viewing area of the significant wetlands to residents and visitors. The request is consistent with the Aesthetic Goal.

9. Transportation Goal

“To provide a safe, convenient and rapid transportation network to facilitate the movement of goods and people.”

The site is open space and will remain undeveloped. Residents and visitors can access the site via NE 51st Lp and NE 55th Pl, both of which are public local streets. This goal is satisfied.

10. Energy Goal

“To conserve energy.”

The site will remain undeveloped as open space. No energy will be expended in development or use. The site is within walking distance of businesses, residential uses, and hotels and motels, which decreases the use of automobiles to utilize the open space and thereby conserves energy. The goal, therefore, is satisfied or not applicable.

11. Overall Environmental Goal

“To achieve a balance between the need to provide housing and services and the need to protect and enhance the natural environment of the city.”

The entire site will be preserved as open space to meet code requirements for the Lincoln Palisades residential development. This goal is satisfied.

12. Shoreland, Beaches, Dunes, Estuary, and Ocean Resources Goal

“To conserve, protect, and enhance the coastal resources of the city.”

The site does not contain any shoreland, beaches, dunes estuaries, or ocean resources and is more than a mile from the Pacific Ocean. Rezoning of the site will not have any impact on the city’s coastal resources; therefore, the proposed request is consistent with this goal or this goal is not applicable.

B. Statewide Planning Goals

Goal 1 – “Citizen Involvement” “To develop a citizen involvement program that ensures the opportunity for citizens to be involved in all phases of the planning process.”

The application for amending the comprehensive plan map and changing the zoning was available at no cost on the City’s website and also available for public review and purchase at the counter. Staff was available to explain the proposal and technical information. The City published hearing notices in the local newspaper in accordance with notice requirements and mailed notices to impacted property owners. The findings concerning the Comprehensive Plan Citizen Involvement are incorporated herein by this reference. Staff made its report on the land use proposals available on the City’s website in advance of the meeting. The request is consistent with Goal 1.

Goal 2 – “Land Use Planning” “To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.”

The City Council adopted the Lincoln City Comprehensive Plan and its implementation measure, the Lincoln City Zoning Ordinance, after public hearings and has reviewed them on a periodic cycle to take into account changing public policies and circumstances. Citizens and affected governmental units had opportunities for review and comment during preparation, review, and revision of the plan and implementing ordinances. Review of this proposed rezoning in accordance with the Lincoln City Comprehensive Plan and the applicable zoning ordinance provisions establishes conformance with this goal.

Goal 3 – “Agricultural Lands” “To preserve and maintain agricultural lands.”

The area affected by the proposed rezoning is within the City’s Urban Growth Boundary. The area is currently designated and zoned for urban development and will remain as such, any rezoning notwithstanding. The rezoning will not affect agricultural lands; therefore, Goal 3 is not applicable.

Goal 4 – “Forest Lands” “To conserve forest lands by maintaining the forest land base and to protect the state’s forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.”

The area affected by the proposed rezoning is within the City’s Urban Growth Boundary and currently zoned and developed for urban development. The affected area does not contain any designated forest lands; therefore, Goal 4 is not applicable.

Goal 5 – “Open Spaces, Scenic and Historic Areas and Natural Resources” “To protect natural resources and conserve scenic and historic areas and open spaces.”

The proposal will preserve the site as an open space. The proposal is consistent with Goal 5.

Goal 6 – “Air, Water and Land Resources Quality” “To maintain and improve the quality of the air, water and land resources of the state.”

The proposal will preserve the site as an open space, thus preventing development that would harm the air, water, or land resources quality. The proposed request is consistent with Goal 6.

Goal 7 – “Areas Subject to Natural Disasters and Hazards” “To protect people and property from natural hazards.”

The City’s maps show the site is does not contain any natural disaster and hazards areas. The proposal is consistent with Goal 7.

Goal 8 – “Recreational Needs” “To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities, including destination resorts.”

The site will be preserved as open space for the viewing pleasure of residents and visitors as passive recreation. The proposal is consistent with Goal 8.

Goal 9 – “Economic Development” “To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon’s citizens.”

The area affected by the proposed rezoning is within the City’s Urban Growth Boundary and proposed for use as open space. The Comprehensive Plan states that the City’s primary industry is tourism and concludes that tourism will continue to function as the City’s basic industry. Rezoning the site from a residential zone to open space precludes development of the site for residential use. However, a preserved open space that is open to the public is a feature utilized by residents and an added amenity for tourists to increase visitors to the north area of town. Staff finds this goal is either not applicable to the request or is met. The proposed rezoning is consistent with Goal 9.

Goal 10 – “Housing” “To provide for the housing needs of citizens of the state.”

The housing needs of the citizens has largely been satisfied through the development of Lincoln Palisades. To develop Lincoln Palisades and meet all of the requirements, including the landscaping requirement, at least 15% of that site had to be dedicated for open space. The site meets that requirement. Changing the zone from residential to open space will align the zone and the code requirement for open space and continue to keep Lincoln Palisades in compliance with its development requirements while still providing housing to the citizens. Staff finds the request is consistent with Goal 10, or Goal 10 is not applicable.

Goal 11 – “Public Facilities and Services” “To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.”

The site is open space and will remain undeveloped. Utilities and services are available at the site. The request is consistent with Goal 11, or Goal 11 is not applicable.

Goal 12 – “Transportation” “To provide and encourage a safe, convenient and economic transportation system.”

The site is open space and will remain undeveloped. Residents and visitors can access the site via NE 51st Lp and NE 55th Pl, both of which are public local streets. The request is consistent with Goal 12.

Goal 13 – “Energy Conservation” “To conserve energy.”

The site will remain undeveloped as open space. No energy will be expended in development or use. The site is within walking distance of businesses, residential uses, and hotels and motels, which decreases the use of automobiles to utilize the open space and thereby conserves energy. The goal, therefore, is satisfied or not applicable.

Goal 14 – “Urbanization” “To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.”

The area affected by the proposed map amendment and zone change is within the urban growth boundary and the City limits and is already developed as urban. The proposed amendment and zone change will not change the already-existing urban development or prevent more urban development, so is consistent with this goal. The proposed amendment and zone change are consistent with Goal 14.

Goal 15 – “Willamette Greenway” “To protect, conserve, enhance and maintain the natural, scenic, historical, agricultural, economic and recreational qualities of lands along the Willamette River as the Willamette River Greenway.”

The site is not located within the Willamette River Greenway, nor in proximity to the Willamette River Greenway and thus the proposed amendment and zone change will have no impact to the Willamette Greenway. Accordingly, Goal 15 is not applicable.

Goal 16 – “Estuarine Resources” “To recognize and protect the unique environmental, economic, and social values of each estuary and associated wetlands; and to protect, maintain, where appropriate develop, and where appropriate restore the long-term environmental, economic, and social values, diversity and benefits of Oregon’s estuaries.”

The proposal does not affect any areas adjacent to the Siletz Bay estuary; therefore, Goal 16 is not applicable.

Goal 17 – “Coastal Shorelands” “To conserve, protect, where appropriate, develop and where appropriate restore the resources and benefits of all coastal shorelands, recognizing their value for protection and maintenance of water quality, fish and wildlife habitat, water-dependent uses, economic resources and recreation and aesthetics. The management of these shoreland areas shall be compatible with the characteristics of the adjacent coastal waters; and to reduce the hazard to human life and property, and the adverse effects upon water quality and fish and wildlife habitat, resulting from the use and enjoyment of Oregon’s coastal shorelands.”

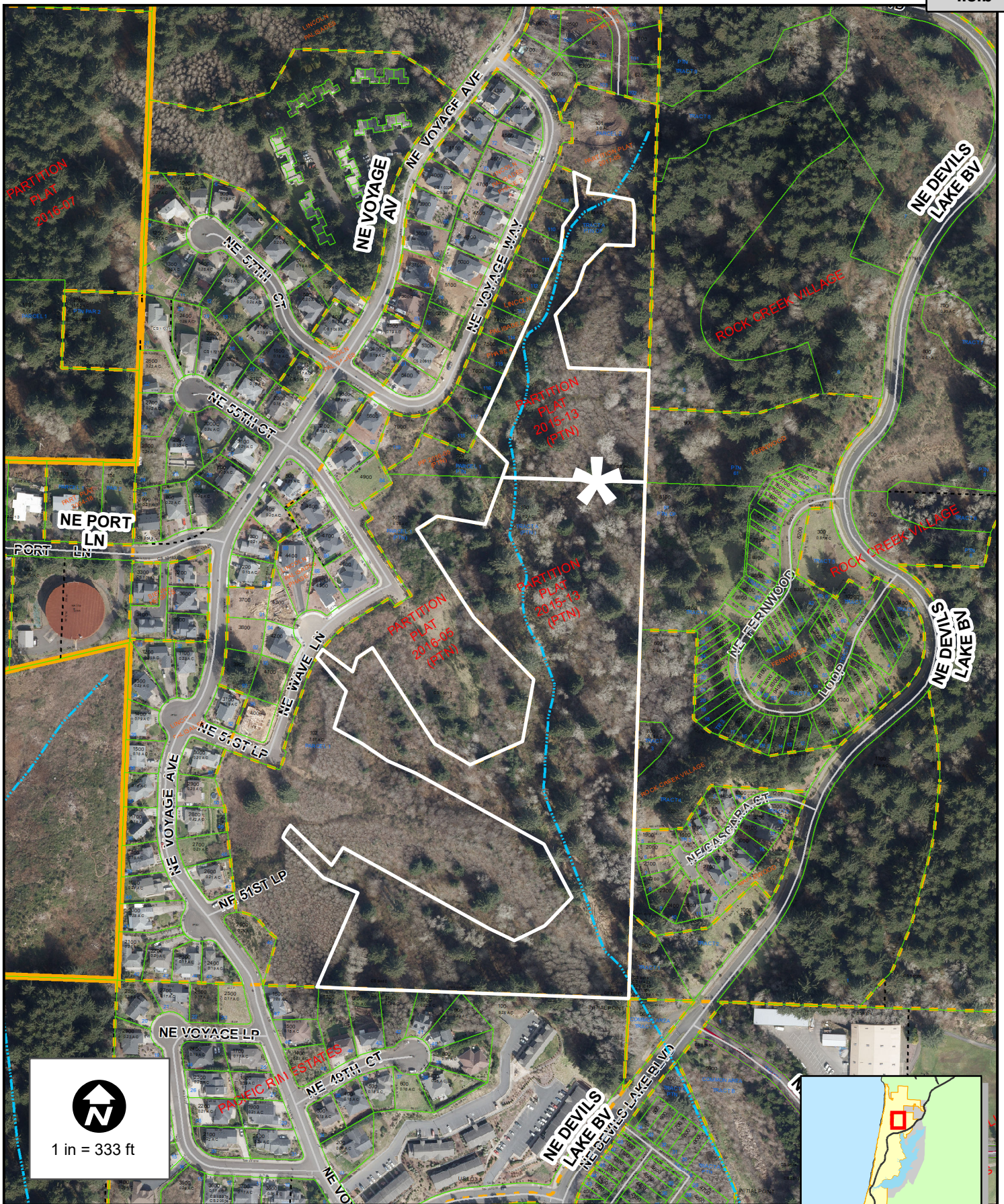
The City’s coastal shorelands are not impacted by the proposed request since the site does not contain any coastal shorelands, nor is the site in proximity to any coastal shorelands. The findings concerning the City’s Shoreland, Beaches, Dunes, Estuary and Ocean Resources goal are incorporated herein by this reference. Goal 17 is met or not applicable.

Goal 18 – “Beaches and Dunes” “To conserve, protect, where appropriate develop, and where appropriate restore the resources and benefits of coastal beach and dune areas; and To reduce the hazard to human life and property from natural or man-induced actions associated with these areas.”

The proposed rezoning does not affect any areas located within a beach or active dune area. The findings concerning the City's Shoreland, Beaches, Dunes, Estuary and Ocean Resources goal are incorporated herein by this reference. Goal 18 is met or not applicable.

Goal 19 – “Ocean Resources” “To conserve marine resources and ecological functions for the purpose of providing long-term ecological, economic, and social value and benefits to future generations.”

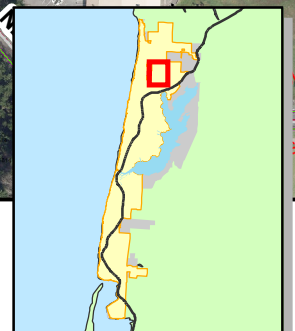
Since the area of the proposed amendment and zone change is on the dry land area of the City, the proposal will not affect the near shore, ocean, and continental shelf. The findings concerning the City's Shoreland, Beaches, Dunes, Estuary and Ocean Resources goal are incorporated herein by this reference. Goal 19 is met or not applicable.



Vicinity Map

City of Lincoln City government use only. Use for any other purpose is entirely at the risk of the user. This product is for informational purposes and may not have been prepared for, or be suitable for legal, engineering, or surveying purposes. Users of this information should review or consult the primary data and information sources to ascertain the usability of the information.

Date: 3/11/2022



Council Communication

CPA ZC 2022-06 Wildwoods Open Space

Meeting Date:	June 13, 2022	Primary Staff Contact:	AnneMarie Skinner
Department:	City Council	E-Mail:	ASkinner@lincolncity.org
Secondary Dept:		Secondary Contacts:	Jeanne Sprague
Approval:		Estimated Time:	

Question:

Should the City Council conduct a public hearing on CPA & ZC 2022-06, a map amendment and zone change to Open Space District and Open Space (OS) Zone?

Staff Recommendation:

Staff recommends the Council conduct the public hearing.

Authority:

Legal authority for map amendments and zone changes is as follows:

17.76.050 Type III procedure.

- A. General Description. Type III procedures apply to quasi-judicial permits and applications. Decisions on quasi-judicial permits and applications are made by either the planning commission or the city council, and require substantial exercise of discretion and judgment in applying approval criteria. Type III procedures require public notice and one or more public hearings.
- B. When Applicable. Table 17.76.020-1 identifies Type III applications. Applications not listed on Table 17.76.020-1 may be identified as Type III by the director based on the general description in this section.
- C. Pre-application Conference. A pre-application conference is not required prior to application submittal of a Type III application, but is strongly encouraged.
- D. Application Requirements. Type III applications shall:
 - 1. Be submitted on application forms provided by the department and shall include all information, exhibits, plans, reports, and signatures requested on the application forms.
- E. Notice of Public Hearing.

1. After a Type III application has been accepted as complete, the department shall mail a written notice of public hearing to the applicant and applicant's representative; owner of record of the subject property; property owners of record within 250 feet of the perimeter property line of the property or properties subject to the application; any neighborhood or community organization recognized by the governing body; and Oregon Department of Land Conservation and Development at the discretion of the applicant.
 2. The notice shall include a brief description of the request; applicable criteria; street address; date, time, and location of hearing; statement that failure of an issue to be raised in a hearing by a person or letter precludes appeal; name and number of department staff member to contact; statement that a copy of the application is available for inspection; statement that the staff report is available for inspection; and a general explanation of the procedure for submitting testimony and conduct of hearing.
- F. Public notices shall be mailed at least 20 days prior to the first public hearing.
- G. Decision Authority. Table 17.76.020-1 identifies the decision authority for a plan map amendment and zone change as the City Council, followed by a recommendation from Planning Commission.
- H. The public hearing is conducted in accordance with procedures in LCMC 17.76.160.
- I. Notice of Decision. Following the decision, a final order shall be prepared by the department.
- J. Appeal. The final decision of the City Council to approve or deny a Type III application may be appealed to the Land Use Board of Appeals (LUBA).

Background:

See Staff Report for CPA ZC 2022-06

See Draft Ordinance and Findings later on this Agenda.

Council Options:

- Hold the required public hearing scheduled for this evening and review all the evidence in the record. If the hearing is closed and the record is closed, deliberated on the proposed map amendment and zone change.
- Continue the public hearing to the _____ City Council meeting.

Potential Motions:

- Motion to direct Staff to prepare an Ordinance approving the requested map amendment and zone change in CPA 2022-06 and ZC 2022-06 for adoption at a future meeting. [Approve CPA 2022-06 – the requested comprehensive plan map amendment to Open Space District.] [Approve ZC 2022-06 – the requested zone change to the OS zone.]
- Motion to deny CPA 2022-06 and deny the requested comprehensive plan map amendment to Open Space District. Motion to deny ZC 2022-06 and deny the requested zone change from to the OS zone. Staff is directed to prepare a Final Order denying the requested map amendment and zone change in CPA 2022-06 and ZC 2022-06 for adoption at a future meeting.

Attachments:

CPA ZC 2022-06 Staff Report City Council (DOCX)
Wildwoods Map (PDF)

Comprehensive Plan Map Amendment Zone Change Staff Report for City Council Public Hearing Case File CPA ZC 2022-06 Friends of Wildwoods Open Space

Date: June 3, 2022

Case File: CPA ZC 2022-06 Friends of Wildwoods Open Space

Property Owner: City of Lincoln City
PO Box 50
Lincoln City, OR 97367

Situs Address: Unaddressed

Location: South of NE Tide Ave, approximately 920 feet west of NE West Devils Lake Blvd

Tax Map and Lot: 07-11-11-BA-00404-00

Comprehensive Plan Designation: Undesignated

Zoning District: Undesignated

Site Size: Approximately 0.08 acre

Proposal: Comprehensive Plan Map Amendment to Open Space Zone and Zone Change to OS

Surrounding Land Uses and Zones: North: Residential; R-M
South: Friends of Wildwoods Open Space; OS
East: Friends of Wildwoods Open Space: OS
West: Residential; R-R

Authority: Lincoln City Municipal Code (LCMC) 17.76.050.G states that Table 17.76.020-1 identifies the decision authority for each Type III application. Table 17.76.020-1 of LCMC Chapter 17.76 identifies a comprehensive plan amendment and a zone change as a Type III application with the decision authority given to the City Council after a recommendation from the Planning Commission.

Procedure: The Planning and Community Development Department mailed notice to the owners of all properties within 250 feet of the site on March 30, 2022. The *News Guard* published the public hearing notice on April 5, 2022.



Applicable Oregon Statewide Planning Goals
Substantive Lincoln City Comprehensive Plan
Criteria: LCMC 17.77.050 and 17.77.150

BACKGROUND

The subject property (site) is unaddressed and identified as Tax Map 07-11-11-BA-00404-00. The site is bordered by an apartment complex to the north, Friends of Wildwoods Open Space to the east and south, and residential development to the west. The site is part of the Friends of Wildwoods Open Space, which is already zoned OS. The site is a long, narrow strip of land (approximately 10 feet by 369 feet) with dimensions that preclude development. Additionally, the site is part of a designated open space area. The amendment will align the use and the zone.

The Planning Commission held a public hearing on this matter on April 19, 2022, after which the public hearing and the record closed. The Planning Commission recommended approval of the request, with adoption of the Final Recommendation on May 3, 2022.

COMMENTS

No comments were received.

ANALYSIS

A. Lincoln City Comprehensive Plan

1. Land Use Planning Goal

“To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.”

The City Council established a land use policy framework and implementing ordinance through adoption of a comprehensive plan and zoning ordinance, respectively. The Land Conservation and Development Commission acknowledged the City of Lincoln City’s Comprehensive Plan and implementing land development regulations, including LCMC Title 17 Zoning, as complying with the Oregon Statewide Planning Goals. Review of the proposed amendment in accordance with the Lincoln City Comprehensive Plan and the applicable zoning ordinance provisions, including the provisions of LCMC Chapter 17.77, establishes conformance with this goal.

The Comprehensive Plan Land Use Planning element identifies zoning as the most common method of land use regulation and control. The plan states:

“Essentially, zoning is a means of ensuring that the land uses of an area are properly situated in relation to one another. It provides adequate amounts of space for each type of development.”

The proposed map amendment and zone change would designate the site with the OS zone to align with its use as part of the Friends of Wildwoods Open Space. Staff finds the proposal is consistent with Goal 1.

2. Citizen Involvement Goal

“Develop a Citizen Involvement Program which ensures the continued participation of citizens in the land use planning process.”

The Comprehensive Plan’s Citizen Involvement Program goal is to “develop a Citizen Involvement Program which ensures the continued participation of citizens in the land use planning process.” The City has

developed a Citizen Involvement Program through Resolution 94-33. The public hearing process for the proposed map amendment and zone change included mailed and published notice to the public and property owners, and review of the proposal by the Planning Commission and the City Council, consistent with the Plan, Goal, and Resolution.

Among the policies under the City's Citizen Involvement Program goal is one that states: "Lincoln City shall assure that a reasonable effort is made to encourage the opportunity for citizens to attend public meetings." The Planning Commission and City Council meetings are publicized widely with hearing notices mailed to property owners in the affected area, published in *The News Guard*, and posted on the City's website. The City holds public hearings in the evening to encourage public attendance. Moreover, for those unable to attend in person, the meetings are televised live, streamed live over the internet, and rebroadcast on cable television. Video of meetings and the packet materials are also available on the City's website for review, free of charge. These aforementioned items in their totality constitute a more than reasonable effort to encourage citizens to attend public meetings and meet Goal 2.

3. Public Services and Utilities Goal

"To plan and develop a timely, orderly, and efficient arrangement of public facility and services which compliment [sic] the area and serve as a framework for urban and rural development."

No development will occur in the Open Space zone. Public facility and services will not be necessary for the site to remain in use as open space. This goal is not applicable.

4. Urbanization Goal

"To promote an orderly and efficient transition of land uses from rural to urban."

The area affected by the proposed map amendment and zone change is within the urban growth boundary and the City limits and is already developed as urban. The proposed amendment and zone change will not change the already-existing urban development or prevent more urban development, so is consistent with this goal.

5. Natural Hazard Goal

"The City shall control development in hazardous areas to protect life and property from natural disasters and hazards."

The City's maps show the site does not contain any natural hazards. Goal 5 is not applicable.

6. Housing Goal

"To provide for the housing needs of all citizens."

The site is in use as designated open space. Designated open space is precluded from development. Goal 6 is not applicable.

7. Economy Goal

"To support the tourist industry and achieve a degree of diversity in the community which will allow a balanced economy that will, in turn, support an adequate level of services for all members of the area."

The Comprehensive Plan states that the City's primary industry is tourism and concludes that tourism will continue to function as the City's basic industry. Friends of Wildwoods Open Space is open to the public and is a feature utilized by tourists. Staff finds this goal is either not applicable to the request or is met.

8. Aesthetic Goal

"To develop a livable and pleasing city which enhances man's activities while protecting the exceptional aesthetic quality of the area."

The site does not contain any aesthetic resources, but it is preserved and used as open space. The proposal will align the zone with the use. This will preserve the area in its natural state with the native vegetation, which serves to preserve the aesthetic quality of the area. The request is consistent with the Aesthetic Goal.

9. Transportation Goal

"To provide a safe, convenient and rapid transportation network to facilitate the movement of goods and people."

The site is open space and will remain undeveloped. Residents and visitors can access the site via NE Tide Ave or NE West Devils Lake Blvd. This goal is satisfied.

10. Energy Goal

"To conserve energy."

The site will remain undeveloped as open space. No energy will be expended in development or use. The goal, therefore, is satisfied or not applicable.

11. Overall Environmental Goal

"To achieve a balance between the need to provide housing and services and the need to protect and enhance the natural environment of the city."

The entire site will be preserved as open space in its natural state. This goal is satisfied.

12. Shoreland, Beaches, Dunes, Estuary, and Ocean Resources Goal

"To conserve, protect, and enhance the coastal resources of the city."

The site does not contain any shoreland, beaches, dunes estuaries, or ocean resources and is more than a mile from the Pacific Ocean. Rezoning of the site will not have any impact on the city's coastal resources; therefore, the proposed request is consistent with this goal or this goal is not applicable.

B. Statewide Planning Goals

Goal 1 – "Citizen Involvement" "To develop a citizen involvement program that ensures the opportunity for citizens to be involved in all phases of the planning process."

The application for amending the comprehensive plan map and changing the zoning was available at no cost on the City's website and also available for public review and purchase at the counter. Staff was available to explain the proposal and technical information. The City published hearing notices in the local newspaper in

accordance with notice requirements and mailed notices to impacted property owners. The findings concerning the Comprehensive Plan Citizen Involvement are incorporated herein by this reference. Staff made its report on the land use proposals available on the City's website in advance of the meeting. The request is consistent with Goal 1.

Goal 2 – “Land Use Planning” “To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.”

The City Council adopted the Lincoln City Comprehensive Plan and its implementation measure, the Lincoln City Zoning Ordinance, after public hearings and has reviewed them on a periodic cycle to take into account changing public policies and circumstances. Citizens and affected governmental units had opportunities for review and comment during preparation, review, and revision of the plan and implementing ordinances. Review of this proposed rezoning in accordance with the Lincoln City Comprehensive Plan and the applicable zoning ordinance provisions establishes conformance with this goal.

Goal 3 – “Agricultural Lands” “To preserve and maintain agricultural lands.”

The area affected by the proposed rezoning is within the City's Urban Growth Boundary. The area is currently designated and zoned for urban development and will remain as such, any rezoning notwithstanding. The rezoning will not affect agricultural lands; therefore, Goal 3 is not applicable.

Goal 4 – “Forest Lands” “To conserve forest lands by maintaining the forest land base and to protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.”

The area affected by the proposed rezoning is within the City's Urban Growth Boundary and currently zoned and developed for urban development. The affected area does not contain any designated forest lands; therefore, Goal 4 is not applicable.

Goal 5 – “Open Spaces, Scenic and Historic Areas and Natural Resources” “To protect natural resources and conserve scenic and historic areas and open spaces.”

The proposal will preserve the site as open space. The proposal is consistent with Goal 5.

Goal 6 – “Air, Water and Land Resources Quality” “To maintain and improve the quality of the air, water and land resources of the state.”

The proposal will preserve the site as open space, thus preventing development that would harm the air, water, or land resources quality. The proposed request is consistent with Goal 6.

Goal 7 – “Areas Subject to Natural Disasters and Hazards” “To protect people and property from natural hazards.”

The City's maps show the site is does not contain any natural disaster and hazards areas. The proposal is consistent with Goal 7.

Goal 8 – “Recreational Needs” “To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities, including destination resorts.”

The site will be preserved as open space for the viewing pleasure of residents and visitors as passive recreation. The proposal is consistent with Goal 8.

Goal 9 – “Economic Development” “To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon’s citizens.”

The area affected by the proposed rezoning is within the City’s Urban Growth Boundary and proposed for use as open space. The Comprehensive Plan states that the City’s primary industry is tourism and concludes that tourism will continue to function as the City’s basic industry. A preserved open space that is open to the public is a feature utilized by residents and an added amenity for tourists to increase visitors to this area of town. Staff finds this goal is either not applicable to the request or is met. The proposed rezoning is consistent with Goal 9.

Goal 10 – “Housing” “To provide for the housing needs of citizens of the state.”

The site is in use as designated open space. Designated open space is precluded from development. Goal 10 is not applicable.

Goal 11 – “Public Facilities and Services” “To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.”

The site is open space and will remain undeveloped. Utilities and services are available at the site. The request is consistent with Goal 11, or Goal 11 is not applicable.

Goal 12 – “Transportation” “To provide and encourage a safe, convenient and economic transportation system.”

The site is open space and will remain undeveloped. Residents and visitors can access the site via NE Tide Ave or NE West Devils Lake Blvd, both of which are public streets. The request is consistent with Goal 12.

Goal 13 – “Energy Conservation” “To conserve energy.”

The site will remain undeveloped as open space. No energy will be expended in development or use. The site is within walking distance of businesses, residential uses, and hotels and motels, which decreases the use of automobiles to utilize the open space and thereby conserves energy. The goal, therefore, is satisfied or not applicable.

Goal 14 – “Urbanization” “To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.”

The area affected by the proposed map amendment and zone change is within the urban growth boundary and the City limits and is already developed as urban. The proposed amendment and zone change will not change the already-existing urban development or prevent more urban development, so is consistent with this goal. The proposed amendment and zone change are consistent with Goal 14.

Goal 15 – “Willamette Greenway” “To protect, conserve, enhance and maintain the natural, scenic, historical, agricultural, economic and recreational qualities of lands along the Willamette River as the Willamette River Greenway.”

The site is not located within the Willamette River Greenway, nor in proximity to the Willamette River Greenway and thus the proposed amendment and zone change will have no impact to the Willamette Greenway. Accordingly, Goal 15 is not applicable.

Goal 16 – “Estuarine Resources” “To recognize and protect the unique environmental, economic, and social values of each estuary and associated wetlands; and to protect, maintain, where appropriate develop, and where appropriate restore the long-term environmental, economic, and social values, diversity and benefits of Oregon’s estuaries.”

The proposal does not affect any areas adjacent to the Siletz Bay estuary; therefore, Goal 16 is not applicable.

Goal 17 – “Coastal Shorelands” “To conserve, protect, where appropriate, develop and where appropriate restore the resources and benefits of all coastal shorelands, recognizing their value for protection and maintenance of water quality, fish and wildlife habitat, water-dependent uses, economic resources and recreation and aesthetics. The management of these shoreland areas shall be compatible with the characteristics of the adjacent coastal waters; and to reduce the hazard to human life and property, and the adverse effects upon water quality and fish and wildlife habitat, resulting from the use and enjoyment of Oregon’s coastal shorelands.”

The City’s coastal shorelands are not impacted by the proposed request since the site does not contain any coastal shorelands, nor is the site in proximity to any coastal shorelands. The findings concerning the City’s Shoreland, Beaches, Dunes, Estuary and Ocean Resources goal are incorporated herein by this reference. Goal 17 is met or not applicable.

Goal 18 – “Beaches and Dunes” “To conserve, protect, where appropriate develop, and where appropriate restore the resources and benefits of coastal beach and dune areas; and To reduce the hazard to human life and property from natural or man-induced actions associated with these areas.”

The proposed rezoning does not affect any areas located within a beach or active dune area. The findings concerning the City’s Shoreland, Beaches, Dunes, Estuary and Ocean Resources goal are incorporated herein by this reference. Goal 18 is met or not applicable.

Goal 19 – “Ocean Resources” “To conserve marine resources and ecological functions for the purpose of providing long-term ecological, economic, and social value and benefits to future generations.”

Since the area of the proposed amendment and zone change is on the dry land area of the City, the proposal will not affect the near shore, ocean, and continental shelf. The findings concerning the City’s Shoreland, Beaches, Dunes, Estuary and Ocean Resources goal are incorporated herein by this reference. Goal 19 is met or not applicable.



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Council Communication

ZOA 2022-08 - Code changes to facilitate Housing

Meeting Date:	June 13, 2022	Primary Staff Contact:	AnneMarie Skinner
Department:	City Council	E-Mail:	ASkinner@lincolncity.org
Secondary Dept:		Secondary Contacts:	
Approval:	AnneMarie Skinner	Estimated Time:	

Question:

Should the City Council conduct a public hearing on Zoning Ordinance Amendment ZOA 2022-08 (Housing)?

Staff Recommendation:

Staff recommends the City Council conduct the public hearing.

Authority:

Legal authority for text amendments is as follows:

17.76.060 Type IV (Legislative).

- A. General Description. Type IV procedures apply to “legislative” matters. Legislative decisions are made by the City Council and involve the adoption or amendment of policy by ordinance. Legislative decisions may also apply to applications involving a geographic area containing many properties. Type IV procedures require general public notice and a public hearing.
- B. When Applicable. Table 17.76.020-1 identifies Type IV applications. Applications not listed on Table 17.76.020-1 may be identified as Type IV by the director based on the general description in this section.
- C. Pre-application Conference. Pre-application conferences are not required for Type IV applications.
- D. Application Requirements.
 - 1. Application forms. Legislative applications must be made on forms provided by the department.
 - 2. Submittal Information. The application shall contain all of the following information:
 - a. The information requested on the application form;
 - b. A map and/or plan addressing the appropriate criteria and standards in sufficient detail for review and decision (as applicable); and

- c. The required fee as adopted by City Council resolution, except when the City initiates request.
- E. Mailed Notice of Public Hearing. The notification procedure for Type IV requests must conform to state land use laws (ORS 227.175) and as follows:
 - 1. In accordance with procedures required by the Oregon Department of Land Conservation and Development (DLCD), the department shall notify DLCD of legislative amendments at least 35 days before the first public hearing at which public testimony or new evidence will be received.
 - 2. At least 20 days, but not more than 40 days, before the date of the first public hearing, a notice shall be prepared in conformance with ORS 227.175 and mailed to:
 - a. Each owner whose property would be directly affected by the proposal (e.g., rezoning or a change from one comprehensive plan land use designation to another), see ORS 227.186 for instructions;
 - b. Any affected governmental agency;
 - c. Any person who requests notice in writing; and
 - d. For a zone change affecting a manufactured home or mobile home park, all mailing addresses within the park, in accordance with ORS 227.175.
 - 3. For each mailing of notice, the department shall prepare an affidavit of mailing.
- F. Published Notice of Public Hearing. Notice of the public hearings for Type IV applications shall be published two times in a newspaper of general circulation in the city, at least 10 days but not more than 21 days before the first scheduled public hearing on the proposal.
- G. Public Hearing Procedure. The Planning Commission shall conduct the public hearing on Type IV applications in accordance with the procedures set forth in subsection 17.76.160. In addition to the public hearing held by the Planning Commission, the City Council shall also conduct a public hearing on Type IV applications.
- H. Recommendation Authority.
 - 1. Following receipt of testimony and deliberation at the public hearing held before the Planning Commission, the Planning Commission shall provide a recommendation to the City Council for all Type IV applications. The Planning Commission shall recommend that the City Council approve or deny the proposed amendments, with or without changes. The Planning Commission's recommendation shall be issued as a Final Recommendation, and shall include findings supporting the recommendation, based on public testimony and the application's success or failure to satisfy the applicable criteria.

2. Decision Authority. Upon receiving the Planning Commission's Final Recommendation, the City Council shall hold a public hearing on the Type IV application.

I. Notice of Decision.

1. Not more than seven days after the date the City Council approves a Type IV application, the director shall mail a notice of decision to persons of record who appeared orally or in writing before either the Planning Commission or the City Council.
2. The director shall also notify DLCD of the decision within the timeframe and method prescribed by DLCD.
3. The City Council's decision is final for purposes of appeal on the date the notice is mailed.

- J. Appeal. The final decision of the City Council to approve or deny a Type IV application may be appealed to the Land Use Board of Appeals (LUBA) only when such appeal is authorized under applicable state law.

Background:

The document containing the proposed ordinance amendment Ordinance 2022-25 is contained in this packet under "Ordinances" later on this Agenda.

In 2020 and 2021, the Oregon Legislature adopted several bills that impact housing and child care facilities, among other things. This ordinance amendment incorporates the state requirements into the zoning code for transparency and to ensure that staff and the public know that the city is following state requirements.

The code has been updated to reflect HB 4064 – Manufactured Housing – generally restricting local governments from prohibiting the siting of, or imposing unique placement standards on a manufactured dwelling or prefabricated structure inside and outside of a manufactured dwelling park. The code has been updated to reflect emergency sheltering provisions in HB 2006 and HB 4051. The code has been updated to reflect requirements in HB 2008 to allow affordable housing provided by religious nonprofit corporations. The code has been updated to allow affordable housing as required by SB 8. The code has been updated to reflect requirements in HB 3261 for motel and hotel conversions to affordable housing. The code has been updated to reflect requirements for child care centers and family child care homes from HB 3109.

At the request of City Council, the code has also been updated to remove impediments to development of and redevelopment of existing developed sites to the extent that is practicable and reasonable.

Planning Commission held a public hearing for ZOA 2022-08 on May 3, 2022, and recommended approval to City Council of the proposed ordinance amendments.

City Council Options:

- Hold the required public hearing scheduled for this evening and review all the evidence in the record. If the hearing is closed and the record is closed, deliberate on the proposed amendment and make a recommendation to City Council. [Action is taken under "Ordinances" later on the Agenda.]
- Continue the public hearing until the _____ City Council meeting.
- Close the public hearing but leave the record open until 5:00 PM on _____.

Council Communication

Ordinance 2022-25 for ZOA 2022-08 Housing

Meeting Date:	June 13, 2022	Primary Staff Contact:	Richard Appicello
Department:	City Attorney	E-Mail:	RAppicello@lincolncity.org
Secondary Dept:	Planning Commission	Secondary Contacts:	AnneMarie Skinner
Approval:	Richard Appicello	Estimated Time:	5 minutes

Question: Should the City Council conduct and approve First and Second Reading of Ordinance 2022-25 (ZOA 2022-08)?

ORDINANCE NO. 2022-25

AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 17 (ZONING), CHAPTERS 17.04 (GENERAL PROVISIONS), 17.08 (DEFINITIONS), 17.16 (R-1), 17.17 (R-1-RE), 17.18 (VR), 17.20 (RM), 17.24 (PC), 17.28 (RC), 17.29 (RCC), 17.32 (GC), 17.34 (NP), 17.36 (PI), 17.40 (RR), 17.42 (P), 17.43 (OS), 17.45 (TVC), 17.50 (OP), 17.52 (SUPPLEMENTARY REGULATIONS), 17.55 LANDSCAPING STANDARDS), 17.56 (OFF-STREET PARKING AND LOADING), 17.64 (NONCONFORMING SITUATIONS), 17.74 (DESIGN STANDARDS), 17.77 (APPLICATIONS), 17.80 (PROVISIONS APPLYING TO SPECIAL USES) TO INCORPORATE STATE-MANDATED LEGISLATION PERTAINING TO HOUSING, EMERGENCY SHELTERS, HOTEL/MOTEL CONVERSIONS, CHILD CARE, MANUFACTURED DWELLINGS, AND TO REMOVE OTHER IMPEDIMENTS TO DEVELOPMENT AND REDEVELOPMENT.

Staff Recommendation:

Staff recommends Council conduct and approve First Reading and conduct and approve Second Reading and adopt Ordinance 2022-25.

Authority:

City of Lincoln City Charter, Chapter IX. Section 9.2(1) provides that an ordinance may be enacted at a single meeting of the Council by unanimous vote of all Council members voting when a quorum is present upon being read by title only. Adoption of an ordinance after second reading requires the express concurrence of a majority of the members present. Ordinances may be read by title only, after compliance with Charter procedures. A non-emergency ordinance takes effect on the thirtieth (30th) day after its adoption or on a later day the ordinance prescribes. An ordinance adopted to meet an emergency may take effect as soon as it is adopted or on some other date specified in the ordinance.

Background:

This ordinance is subject to a public hearing on June 13, 2022. If changes are proposed based on public hearing testimony, changes will need to be read or the matter continued to a subsequent meeting to make changes.

This ordinance makes various amendments to address impediments to housing. Some of these changes are dictated by legislation.

Council Options:

1. Conduct and approve First Reading. If unanimous, Conduct and approve Second Reading and adopt the ordinance.
2. Continue First Reading to June 27, 2022.
3. Do not proceed with proposed ordinance.

Potential Motions:

City Attorney: [Conduct First Reading of Ordinance by Title only]

ORDINANCE NO. 2022-25

AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 17 (ZONING), CHAPTERS 17.04 (GENERAL PROVISIONS), 17.08 (DEFINITIONS), 17.16 (R-1), 17.17 (R-1-RE), 17.18 (VR), 17.20 (RM), 17.24 (PC), 17.28 (RC), 17.29 (RCC), 17.32 (GC), 17.34 (NP), 17.36 (PI), 17.40 (RR), 17.42 (P), 17.43 (OS), 17.45 (TVC), 17.50 (OP), 17.52 (SUPPLEMENTARY REGULATIONS), 17.55 LANDSCAPING STANDARDS), 17.56 (OFF-STREET PARKING AND LOADING), 17.64 (NONCONFORMING SITUATIONS), 17.74 (DESIGN STANDARDS), 17.77 (APPLICATIONS), 17.80 (PROVISIONS APPLYING TO SPECIAL USES) TO INCORPORATE STATE-MANDATED LEGISLATION PERTAINING TO HOUSING, EMERGENCY SHELTERS, HOTEL/MOTEL CONVERSIONS, CHILD CARE, MANUFACTURED DWELLINGS, AND TO REMOVE OTHER IMPEDIMENTS TO DEVELOPMENT AND REDEVELOPMENT.

Council:

Motion to approve First Reading of Ordinance 2022-25.

City Attorney: [Conduct Second Reading of Ordinance by Title only]

Council:

Motion to approve Second Reading and adopt Ordinance 2022-25.

Attachments:

Findings ZOA 2022-08 (DOC)

Ordinance 2022-25 final 6-7-22 430 (DOC)

EXHIBIT A – FINDINGS

Findings for Ordinance 2022-25

The above-referenced proposed ordinance was properly noticed pursuant to ORS 197.610. The ordinance will incorporate state-mandated legislation pertaining to housing, affordable housing, emergency shelters, hotel/motel conversions, child care, and manufactured dwellings, as well as removing impediments and obstructions to development and redevelopment.

No zoning changes are being made, and no land uses are being removed, so a city-wide notice was not required. However, in an abundance of caution a Measure 56 city-wide mailing was mailed on April 12, 2022. Notice of the public hearings was published in the local newspaper on April 19, 2022, and again on April 26, 2022. Notice to DLCD was made on March 28, 2022.

No written or oral comments or testimony were received.

- A. Statewide Planning Goals
 - (1) Goal 1: Citizen Involvement

"To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process."

All documents relating to the proposal (amendment) were made available for public review and/or purchase, and were posted on the city's website. Staff was available to interpret and explain the technical information. The local newspaper published hearing notices in accordance with notice requirements. The planning commission and city council each held a public hearing at which citizens were invited to participate. Therefore, the amendment is consistent with Goal 1.

- (2) Goal 2: Land Use Planning

"To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions."

The City Council of Lincoln City adopted the Lincoln City Comprehensive Plan and its implementation measure, the Lincoln City Zoning Ordinance, after public hearing and has reviewed them on a periodic cycle to take into account changing public policies and circumstances. Citizens and affected governmental units had opportunities for review and comment during preparation, review, and revisions of the plan and implementing ordinances. The City Council considered the proposed amendments to the Lincoln City

Zoning Ordinance in accordance with the process and based on the criteria provided in the Municipal Code. Therefore, the amendment is consistent with Goal 2.

(3) Goal 3: Agricultural Lands

"To preserve and maintain agricultural lands."

The area affected by the proposed zoning ordinance amendment is located within the city's urban growth boundary. The city is currently designated and zoned for urban development. There is no agricultural land in Lincoln City. The amendment does not affect agricultural lands. Goal 3 is not applicable.

(4) Goal 4: Forest Lands

"To conserve forest lands by maintaining the forest land base and to protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture."

The area affected by the proposed zoning ordinance amendment is within the city's urban growth boundary. The affected area does not include any designated forest lands; therefore, Goal 4 is not applicable.

(5) Goal 5: Natural Resources, Scenic and Historic Areas, and Open Spaces

"To protect natural resources and conserve scenic and historic areas and open spaces."

The amendment only affects areas intended for urban development. The amendment by itself does not permit development in any areas of protected natural resources, scenic or historic areas, or open spaces. The amendment is consistent with Goal 5.

(6) Goal 6: Air, Water and Land Resources Quality

"To maintain and improve the quality of the air, water and land resources of the state."

The amendment will not adversely affect the quality of the air or water. The amendment by itself does not permit development that might affect water or air quality. The existing ordinances and plan requirements relating to water and air quality will continue to apply to all properties that might be affected. Therefore, the amendment is consistent with Goal 6.

(7) Goal 7: Areas Subject to Natural Disasters and Hazards

"To protect people and property from natural hazards."

The amendment by itself does not allow development within any natural hazard area. The existing ordinances and plan requirements relating to natural hazards will continue to apply to all properties that might be affected by natural hazards. Therefore, the amendment is consistent with Goal 7.

(8) Goal 8: Recreational Needs

"To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities, including destination resorts."

The proposed ordinance amendment does not relate to recreation as that term is used in this goal and does not adversely affect the provision of or ability to site recreational areas in the city. The amendment is consistent with Goal 8.

(9) Goal 9: Economic Development

"To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens."

The proposed ordinance amendment does not directly relate to economic development and does not adversely affect opportunities for a variety of economic activities. The amendment does remove impediments and obstructions to redevelopment by reducing design standard requirements, parking requirements, landscaping requirements, and requirements for increasing conformity in certain nonconforming elements for redevelopment. The objective of reducing these requirements is to encourage redevelopment of vacant and/or blighted buildings. The amendment is consistent with Goal 9.

(10) Goal 10: Housing

"To provide for the housing needs of citizens of the state."

The amendment specifically relates to housing by incorporating state-mandated legislation requiring allowances for affordable housing, manufactured homes, family day care homes, emergency shelters, and conversions of hotels and motels to affordable housing. The amendment also decreases design standard requirements for multi-unit residential developments to encourage construction of such developments. The amendment is consistent with Goal 10.

(11) Goal 11: Public Facilities and Services

"To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development."

The amendment does not relate directly to public facilities and services. Goal 11 is not applicable.

(12) Goal 12: Transportation

"To provide and encourage a safe, convenient and economic transportation system."

The amendment does not relate directly to the development of the city's transportation system. Goal 12 is not applicable.

(13) Goal 13: Energy Conservation

"To conserve energy."

The amendment does not relate directly to energy conservation. Goal 13 is not applicable.

(14) Goal 14: Urbanization

"To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities."

The amendment does not directly relate or pertain to the urbanization of Lincoln City. Accordingly, Goal 14 is met or is not applicable.

(15) Goal 15: Willamette River Greenway

"To protect, conserve, enhance and maintain the natural, scenic, historical, agricultural, economic and recreational qualities of lands along the Willamette River as the Willamette River Greenway."

The affected area is not located within the Willamette River Greenway; therefore, Goal 15 is not applicable.

(16) Goal 16: Estuarine Resources

"To recognize and protect the unique environmental, economic, and social values of each estuary and associated wetlands; and to protect, maintain, where appropriate develop, and where appropriate restore the long-term environmental, economic, and social values, diversity and benefits of Oregon's estuaries."

The amendment on its own does not allow development in areas adjacent to the city's designated estuarine resource (i.e., Siletz Bay). All development in such areas is already controlled by existing ordinances and comprehensive plan standards. The amendment, therefore, is consistent with Goal 16.

(17) Goal 17: Coastal Shorelands

"To conserve, protect, where appropriate, develop and where appropriate restore the resources and benefits of all coastal shorelands, recognizing their value for protection and maintenance of water quality, fish and wildlife habitat, water-dependent uses, economic resources and recreation and aesthetics. The management of these shoreland areas shall be compatible with the characteristics of the adjacent coastal waters; and to reduce the hazard to human life and property, and the adverse effects upon water quality and fish and wildlife habitat, resulting from the use and enjoyment of Oregon's coastal shorelands."

The city's coastal shorelands include all land west of Highway 101, land within 500 feet of the ordinary high-water elevation of Devils Lake and Spring Lake, and land within 1,000 feet of the shoreline mean higher-high-water elevation of Schooner Creek, Drift Creek, and Siletz Bay estuaries. All development in such areas is controlled by existing ordinances and comprehensive plan standards. The amendment, therefore, is consistent with Goal 17.

(18) Goal 18: Beaches and Dunes

"To conserve, protect, where appropriate develop, and where appropriate restore the resources and benefits of coastal beach and dune areas; and to reduce the hazard to human life and property from natural or man-induced actions associated with these areas."

Lincoln City has a large amount of coastal beach. Inventory maps show active dunes and deflation plains on the Salishan spit, but not within Lincoln City, with the possible exception of a few isolated spots in Cutler City. For Roads End, inventory maps show older, stabilized dunes. The amendment does not, by itself, allow any development in or near beach and dune areas. All development in such areas is controlled by existing ordinances and comprehensive plan standards. The amendment is consistent with Goal 18.

(19) Goal 19: Ocean Resources

"To conserve marine resources and ecological functions for the purpose of providing long-term ecological, economic, and social value and benefits to future generations."

The amendment does not, on its own, affect an ocean resources. Therefore, the amendment is consistent with Goal 19.

B. Comprehensive Plan Goals

(1) Planning Goal

"To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions."

The City Council of Lincoln City adopted the Lincoln City Comprehensive Plan and its implementation measure, the Lincoln City Zoning Ordinance, after public hearing and has reviewed it on a periodic cycle to take into account changing public policies and circumstances. The city provided opportunities for review and comment by citizens and affected governmental units during preparation, review, and revision. Review of the proposed amendment was in accordance with the Lincoln City Comprehensive Plan and the applicable zoning ordinance provisions. Accordingly, the amendment is in conformance with this goal.

(2) Citizen Involvement Goal

"Develop a Citizen Involvement Program which ensures the continued participation of citizens in the land use planning process."

The City has developed a citizen involvement program. In addition, the public hearing process, with notice to the public through publication in the local newspaper and review of the amendment by the Planning Commission (a citizen board) and the City Council (elected citizen representatives) establishes conformance with this goal.

(3) Public Services and Utilities Goal

"To Plan and develop a timely, orderly, and efficient arrangement of public facilities and services, which complement the area and serve as a framework for urban and rural development."

The proposed amendment does not directly relate to public services and utilities. Accordingly, this goal is not applicable.

(4) Urbanization Goal

"To promote an orderly and efficient transition of land uses from rural to urban."

The amendment does not relate directly to urbanization, so this goal is not applicable.

(5) Natural Hazard Goal

"The City shall control development in hazardous areas to protect life and property from natural disasters and hazards."

The amendment on its own does not allow development in hazardous areas. Development in such areas is controlled by existing comprehensive plan and zoning ordinance standards, as well as building code requirements. The amendment is consistent with this goal.

(6) Housing Goal

"To provide for the housing needs of all citizens."

The amendment specifically relates to housing by incorporating state-mandated legislation requiring allowances for affordable housing, manufactured homes, family day care homes, emergency shelters, and conversions of hotels and motels to affordable housing. The amendment also decreases design standard requirements for multi-unit residential developments to encourage construction of such developments. The amendment is consistent with this goal.

(7) Economy Goal

"To support the tourist industry and achieve a degree of diversity in the community, which will allow a balanced economy that will, in turn, support an adequate level of services for all members of the area."

The proposed ordinance amendment does not directly relate to economic development and does not adversely affect opportunities for a variety of economic activities. The amendment does remove impediments and obstructions to redevelopment by reducing design standard requirements, parking requirements, landscaping requirements, and requirements for increasing conformity in certain nonconforming elements for redevelopment. The objective of reducing these requirements is to encourage redevelopment of vacant and/or blighted buildings for active, new businesses. The amendment is consistent with this goal.

(8) Aesthetic Goal

"To develop a livable and pleasing city which enhances man's activities while protecting the exceptional aesthetic quality of the area."

The amendment does not specifically relate to aesthetics. However, by reducing some of the requirements for redevelopment, the goal is to encourage the rehabilitation of

vacant and/or blighted buildings and sites that would have otherwise continued to sit vacant. This goal is met or is not applicable.

(9) Transportation Goal

"To provide a safe, convenient and rapid transportation network to facilitate the movement of goods and people."

The amendment does not directly relate to transportation. This goal is not applicable.

(10) Energy Goal

"To conserve energy."

The amendment does not pertain to energy conservation, so this goal is not applicable.

(11) Overall Environmental Goal

"To achieve a balance between the need to provide housing and services and the need to protect and enhance the natural environment of the city."

By itself, the amendment does not allow development in sensitive natural resource areas. The existing ordinances and plan requirements relating to protection the natural environment will continue to apply to all properties with natural resource areas. This amendment will contribute to this goal.

(12) Shoreland, Beaches, Dunes, Estuary and Ocean Resources Goal

"To conserve, to protect, to enhance the coastal resources of the city."

The amendment on its own does not allow development in areas adjacent to the city's designated estuarine resource (i.e. Siletz Bay), in the city's coastal shorelands, beach and dune areas, or in ocean resource areas. The existing ordinances and comprehensive plan standards apply to any areas impacted by this amendment, thereby protecting these resources. The amendment is consistent with this goal.

ORDINANCE NO. 2022-25

AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 17 (ZONING), CHAPTERS 17.04 (GENERAL PROVISIONS), 17.08 (DEFINITIONS), 17.16 (R-1), 17.17 (R-1-RE), 17.18 (VR), 17.20 (RM), 17.24 (PC), 17.28 (RC), 17.29 (RCC), 17.32 (GC), 17.34 (NP), 17.36 (PI), 17.40 (RR), 17.42 (P), 17.43 (OS), 17.45 (TVC), 17.50 (OP), 17.52 (SUPPLEMENTARY REGULATIONS), 17.55 LANDSCAPING STANDARDS), 17.56 (OFF-STREET PARKING AND LOADING), 17.64 (NONCONFORMING SITUATIONS), 17.74 (DESIGN STANDARDS), 17.77 (APPLICATIONS), 17.80 (PROVISIONS APPLYING TO SPECIAL USES) TO INCORPORATE STATE-MANDATED LEGISLATION PERTAINING TO HOUSING, EMERGENCY SHELTERS, HOTEL/MOTEL CONVERSIONS, CHILD CARE, MANUFACTURED DWELLINGS, AND TO REMOVE OTHER IMPEDIMENTS TO DEVELOPMENT AND REDEVELOPMENT.

Annotated to show deletions and additions to the code sections being modified. Deletions are bold ~~lined through~~ and additions are **bold underlined**.

WHEREAS, Chapter 2, Section 2.1 and 2.2., of the City of Lincoln City Charter provides:

2.1 Powers of the City

The city has all powers which the constitutions, statutes and common law of the United States and of this state expressly or impliedly grant or allow municipalities as fully as though this charter specifically enumerated each of those powers.

2.2 Construction of Charter

In this charter no mention of a particular power shall be construed to be exclusive or to restrict the scope of the powers which the city would have if the particular power were not mentioned. The charter shall be liberally construed to the end that the city may have all powers necessary or convenient for the conduct of its municipal affairs, including all powers that cities may assume pursuant to state laws and to the municipal home rule provisions of the state Constitution; and

WHEREAS, the above referenced grant of power has been interpreted as affording all legislative powers home rule constitutional provisions reserved to Oregon Cities. *City of Beaverton v. International Ass'n of Firefighters, Local 1660, Beaverton Shop*, 20 Or. App. 293; 531 P 2d 730, 734 (1975); *LaGrande/Astoria v. PERB*, 281 Or 137, 142 (1978), *aff'd on reh'g* 284 Or 173 (1978); and

WHEREAS, the amendments to the Lincoln City Municipal Code are in conformance with the Statewide Planning Goals and Lincoln City Comprehensive Plan goals as addressed in attached Exhibit "A"; and

1 **WHEREAS**, the proposed amendments are in conformance with the Zoning Ordinance,
2 including, but not limited to, required initiation, processing and noticing requirements;
3 and
4

5 **WHEREAS**, on March 28, 2022, the City duly notified the Oregon Department of Land
6 Conservation and Development pursuant to ORS 197.610, of its consideration of the
7 proposed amendment(s); and
8

9 **WHEREAS**, City staff has determined the proposed amendment does not require
10 individual notice to property owners under Measure 56; however, in an abundance of
11 caution a ORS 227.186(4) notice was sent to property owners on April 12, 2022; and
12

13 **WHEREAS**, notice of the public hearings before the Planning Commission and Council
14 were published in the local newspaper on April 19, 2022, and again on April 26, 2022.
15

16 **WHEREAS**, on May 3, 2022, the Planning Commission held a public hearing and
17 considered the amendments contained within this ordinance. On May 17, 2022, the
18 Planning Commission voted to transmit the amendments to the City Council with a
19 recommendation that the ordinance be adopted; and
20

21 **WHEREAS**, the City Council held a public hearing on June 13, 2022. On June 13, 2022,
22 Council closed the record and deliberated on the proposed amendments. All persons
23 were given an opportunity to provide written and/or oral testimony on the proposed
24 ordinance. After deliberation, Council provided direction that an ordinance be returned
25 for required readings.
26

27 **THE CITY OF LINCOLN CITY ORDAINS AS FOLLOWS:**
28

29 **SECTION 1.** Chapter 17.04 (*General Provisions*), Section 17.04.030 (*Compliance*) is hereby
30 amended, as follows:
31

32 **17.04.030 Compliance.**
33

34 Except as provided in Chapter 17.64 LCMC, no building or other structure shall be
35 constructed, improved, altered, enlarged or moved, nor shall any use or
36 occupancy of premises within the city be changed, nor shall any condition of or
37 upon real property be caused or maintained, after the effective date of the
38 ordinance codified in this title, except in conformity with conditions prescribed
39 for each of the ~~several~~ zones established hereunder.
40

41 It is unlawful for any person to erect, construct, establish, move into, alter,
42 enlarge, use, or cause to be used, any building, structure, improvement or use of
43 premises located in any zone described in this title contrary to the provisions of
44 this title. Where this title imposes greater restrictions than those imposed or

required by other rules or regulations or ordinances, the provisions of this title shall control.

A building, structure, or land shall not be used or occupied, and a change in the existing character, land use, or building occupancy classification of a building or structure or portion therefore, or land, shall not be made, until a certificate of occupancy has been issued for such change in character, use, or occupancy classification. A certificate of occupancy shall not be issued until the site complies with all applicable municipal and state ordinances, codes, regulations, and standards as evidenced by approvals from the building official, director, city engineer, and fire marshal.

The issuance or granting of any City permit or license, or the review or approval of any application, shall not be construed to be a permit or license for, or an approval of, any violation of any of the provisions of this title. Permits, licenses, or approvals (whether by mistake or by design) purporting to waive or cancel the mandatory provisions of this title shall not be valid. Participants in local land use proceedings must ascertain for themselves, from the local code, what they must do to protect their rights. Estoppel cannot arise from an action of a city official who purports to waive the provisions of a mandatory ordinance or otherwise exceeds their authority. The issuance of a permit or license, or the approval of an application, based on documents, plans, and other data shall not prevent the director from requiring correction of errors in the documents, plans, and other data.

SECTION 2. Chapter 17.08 (*General Provisions*), Section 17.08.010 (*Definitions*) is hereby amended, with the following revised definitions to be deleted, inserted into, or amending, the existing alphabetical list of definitions, as follows:

17.08.010 Definitions.

"Accessory dwelling unit" means an interior, attached or detached residential structure that is used in conjunction with or that is accessory to a **detached or an attached** single-~~family~~ **unit** dwelling and that includes permanent interior provisions for living, sleeping, eating, cooking, and sanitation.

"Affordable housing" means housing in which each unit on the property is made available to own or rent to households with incomes of 80 percent or less of the area median income as determined by the Oregon Housing Stability Council based on information from the United States Department of Housing and Urban Development, or the average of all units on the property is made available to own or rent to households with incomes of 60 percent or less of the area median income. In either or both cases,

1 affordability is enforceable by an affordable housing covenant, included as
 2 described in ORS 456.270 to 456.295, for a duration of no less than 30 years.
 3 See LCMC 17.80.200.

4
 5 "Child care center" means a child care facility, other than a family child care
 6 home, that is certified under ORS 329A.280(3).

7
 8 "Conversion" means changing the lawful use of a property from use as a
 9 hotel or motel to use as an emergency shelter; from use as a hotel or motel
 10 that was converted to an emergency shelter to then use as affordable
 11 housing; or from use as a hotel or motel to use as affordable housing and
 12 including an alteration to a building that changes the number of units but
 13 does not expand the building footprint. Per 2021 House Bill 3261,
 14 conversion as defined herein is not a land use decision as defined in ORS
 15 197.015. See LCMC 17.80.190.

16
 17 ~~"Day care center" means an establishment receiving compensation for~~
 18 ~~providing care, supervision, and protection of six or more children at any~~
 19 ~~one time during any part of the 24-hour day.~~

20
 21 ~~"Day care home" means a home occupation taking place in a dwelling unit~~
 22 ~~in which care is provided to no more than five children at any one time, by a~~
 23 ~~resident of the dwelling unit, during a part of the 24-hour day, with~~
 24 ~~compensation.~~

25
 26 ~~"Emergency shelter" means a facility consisting of dwelling units, dormitories~~
 27 ~~and/or yurts which provides necessary counseling services for 50 or fewer~~
 28 ~~homeless persons for a period not to exceed 180 days per person and which~~
 29 ~~includes associated cooking and sanitation facilities necessary to~~
 30 ~~accommodate the maximum occupancy of the facility. a building that~~
 31 ~~provides shelter on a temporary basis for individuals and families who lack~~
 32 ~~permanent housing.~~

33
 34 "Family child care home" means a child care facility in a dwelling that is
 35 caring for not more than 16 children and is certified under ORS 329A.280(2)
 36 or is registered under ORS 329A.330.

37
 38 ~~"Temporary occupant" means any person that occupies any room or rooms for~~
 39 ~~habitation for a continuous period not exceeding 30 days. This excludes any~~
 40 ~~person who pays for lodging on a monthly basis. This also excludes occupants~~
 41 ~~of emergency shelters.~~

SECTION 3. Chapter 17.16 (*Single Family Residential (R-1) Zone*), is hereby amended to change the name of the Chapter as follows:

Chapter 17.16
SINGLE-FAMILY UNIT RESIDENTIAL (R-1) ZONE

SECTION 4. Chapter 17.16 (*Single Family Residential (R-1) Zone*), Section 17.16.020 (*Permitted Uses*), Paragraph A, (*Residential*), Numbered Paragraph 5, is hereby amended, as follows:

5. Manufactured homes; ~~when developed in accordance with the standards set forth in LCMC 17.52.250;~~

SECTION 5. Chapter 17.16 (*Single Family Residential (R-1) Zone*), Section 17.16.030 (*Accessory Uses*), is hereby amended to add a new paragraph G., as follows:

G. Family child care home.

SECTION 6. Chapter 17.16 (*Single Family Residential (R-1) Zone*), Section 17.16.040 (*Conditional Uses*), Paragraph B, is hereby amended, as follows:

B. Public or private schools (kindergarten through 12th grade, educational institutions, nursery schools and **child care centers** ~~day care centers~~);

SECTION 7. Chapter 17.16 (*Single Family Residential (R-1) Zone*), Section 17.16.100 (*Other required conditions*), is hereby amended, as follows:

17.16.100 Other required conditions.

All single-unit dwellings (site-built, modular and manufactured homes) to be constructed or located in an R-1 zone are encouraged to use at least two of the following design features ~~to provide visual relief along on~~ the front of the dwelling:

- A. Dormers;
- B. Gables;
- C. Recessed entries;
- D. Covered porch entries;
- E. Cupolas;
- F. Pillars or posts;
- G. Bay or bow windows;
- H. Eaves (minimum six-inch projection);
- I. Off-sets on building face or roof (minimum 16 inches).

SECTION 8. Chapter 17.17 (*Single Family Residential, Roads End (R-1-RE) Zone*), is hereby amended to change the name of the Chapter as follows:

Chapter 17.17

SINGLE-UNIT-FAMILY RESIDENTIAL, ROADS END (R-1-RE) ZONE

SECTION 9. Chapter 17.17 (*Single Family Residential, Roads End (R-1-RE) Zone*), Section 17.17.020 (*Permitted Uses*), Paragraph A, (*Residential*), Numbered Paragraph 2, is hereby amended, as follows:

2. Manufactured homes; ~~built to meet the standards in LCMC 17.52.250;~~

SECTION 10. Chapter 17.17 (*Single Family Residential, Roads End (R-1-RE) Zone*), Section 17.17.100 (*Other Required Conditions*), is hereby amended, as follows:

All single-~~family-unit~~ dwellings (site-built, modular and manufactured homes) to be constructed or located ~~in an R-1 zone in residential zones shall be~~ **encouraged to** use at least two of the following design features on the front of the dwelling:

- A. Dormers;
- B. Gables;
- C. Recessed entries;
- D. Covered porch entries;
- E. Cupolas;
- F. Pillars or posts;
- G. Bay or bow windows;
- H. Eaves (minimum six-inch projection);
- I. Offsets on building face or roof (minimum 16 inches).

SECTION 11. Chapter 17.17 (*Single Family Residential, Roads End (R-1-RE) Zone*), Section 17.17.030 (*Accessory uses*), is hereby amended to add a new paragraph G., as follows:

G. Family child care home.

SECTION 12. Chapter 17.18 (*Vacation Rental (VR) Zone*), Section 17.18.020 (*Permitted uses*), Paragraph E, is hereby amended, as follows:

~~Manufactured homes; when developed in accordance with the standards set forth in LCMC 17.52.250;~~

SECTION 13. Chapter 17.18 (*Vacation Rental (VR) Zone*), Section 17.18.020 (*Permitted uses*), is hereby amended to add a new paragraph L., as follows:

L. Residential homes.

SECTION 14. Chapter 17.18 (*Vacation Rental (VR) Zone*), Section 17.18.030 (*Accessory Uses*), is hereby amended to add a new paragraph E., as follows:

E. Family child care home.

SECTION 15. Chapter 17.18 (*Vacation Rental (VR) Zone*), Section 17.18.040 (*Conditional Uses*), Paragraph B, is hereby amended, as follows:

B. Public or private schools (kindergarten through twelfth grade, educational institutions, nursery schools and **child care centers** ~~day care centers~~);

SECTION 16. Chapter 17.18 (*Vacation Rental (VR) Zone*), Section 17.18.100 (*Other required conditions*), is hereby amended, as follows:

All single-~~family-unit~~ dwellings (site-built, modular and manufactured homes) to be constructed or located ~~in residential zones in the VR zone~~ shall use at least two of the following design features **on the front of the dwelling: to provide visual relief along the front of the home:**

- A. Dormers;
- B. Gables;
- C. Recessed entries;
- D. Covered porch entries;
- E. Cupolas;
- F. Pillars or posts;
- G. Bay or bow windows;
- H. Eaves (minimum six-inch projection);
- I. Off-sets on building face or roof (minimum 16 inches).

SECTION 17. Chapter 17.20 (*Multiple-Unit Residential (R-M) Zone*, Section 17.20.020 (*Permitted uses*), Paragraph C, is hereby amended, as follows:

C. Detached single-~~family-unit~~ dwelling ~~unit~~, including manufactured **home dwelling**, if located on a lawfully created lot with an area of 10,000 square feet or less that existed on September 9, 2020, and if developed under the standards set forth for single-~~family-unit~~ dwellings ~~units~~ within the R-1 zone;

SECTION 18. Chapter 17.20 (*Multiple-Unit Residential (R-M) Zone*, Section 17.20.020 (*Permitted uses*), Paragraph D, is hereby amended, as follows:

D. Detached single-~~family-unit~~ dwelling ~~unit~~, including manufactured **home dwelling**, if existing on or if a building permit was applied for before September

9, 2020, and remains valid, and if developed under the standards set forth for single-~~family-unit~~ dwellings ~~s units~~ within the R-1 zone;

SECTION 19. Chapter 17.20 (*Multiple-Unit Residential (R-M) Zone, Section 17.20.030 (Accessory uses)*), is hereby amended to add a new paragraph H, as follows:

H. Family child care home.

SECTION 20. Chapter 17.20 (*Multiple-Unit Residential (R-M) Zone, Section 17.20.040 (Conditional Uses)*), is hereby amended to add a new paragraph J, as follows:

J. Child care centers.

SECTION 21. Chapter 17.20 (*Multiple-Unit Residential (R-M) Zone, Section 17.20.050 (Development Standards)*), is hereby amended, as follows:

17.20.050 Development standards.

			Attached single-unit dwellings, residential facilities, and residential homes	Attached single-unit dwellings developments ⁵	Duplexes	Multi-unit dwellings	Conditional uses
1.	Min. lot width		25	None	25 feet	25 feet	Not applicable
2.	Min. lot area (square feet)		2,500	None	2,500	2,500	None
3.	Min. density		None	15 dwelling units per net acre ^{2,3}	None	15 dwelling units per net acre ^{2,3}	Not applicable
4.	Max. building height (see also LCMC 17.52.190 and 17.52.200)						
	a.	Primary buildings	35 feet	35 feet	35 feet	40 feet	35 feet
	b.	Accessory buildings,	25 feet	25 feet	25 feet	25 feet	25 feet

			Attached single-unit dwellings, residential facilities, and residential homes	Attached single-unit dwellings developments ⁵	Duplexes	Multi-unit dwellings	Conditional uses
		structures, uses					
5.	Min. building setbacks (except garage/carport entrances) ⁴						
	a.	Front porch	5 feet	5 feet	5 feet	0 feet	5 feet
	b.	Front wall	10 feet	10 feet	10 feet	0 feet	10 feet
	c.	Side interior	5 feet, but 0 feet for attached walls	5 feet, except 0 feet for attached walls	5 feet	5 feet	10 feet
	d.	Side street	10 5 feet	10 5 feet	10 5 feet	0 feet	10 feet
	e.	Rear	10 feet	10 feet	10 feet	15 feet	15 feet
6.	Min. setbacks for garage/carport entrances (attached or detached)						
	a.	Front-loaded access	10 feet behind front street-facing wall of dwelling <u>Must not project beyond front street-facing wall</u>	10 feet behind front street-facing wall of dwelling <u>Must not project beyond front street-facing wall of</u>	10 feet behind front street-facing wall of dwelling <u>Must not project beyond</u>	Not permitted	Not permitted

			Attached single-unit dwellings, residential facilities, and residential homes	Attached single-unit dwellings developments ⁵	Duplexes	Multi-unit dwellings	Conditional uses
			<u>of dwelling</u>	<u>dwelling</u>	<u>front street-facing wall of dwelling</u>		
	b.	Side-loaded access	Must not project beyond side street-facing wall of dwelling	Must not project beyond side street-facing wall of dwelling	Must not project beyond side street-facing wall of dwelling	Must not project beyond side street-facing wall of primary building	Not permitted
	c.	Rear-loaded access	3-foot minimum from rear property line	3-foot minimum from rear property line	3-foot minimum from rear property line	3-foot minimum from rear property line	3-foot minimum from rear property line
7.	Max. building coverage		35 45%	45%	45%	65%	45%
8.	Common-area Usable open space		None required	Required¹ <u>None required</u>	None required	Required ¹	None required
9.	Vehicle storage space		None required	Required⁵	None required	None required	None required

¹A minimum of **250 75** square feet of **usable open space common-area** per dwelling unit must be installed as follows:

- i. **Common-area Usable open space** must be designed for passive or active recreational use and may include usable floor area in the development's recreation building or club house. **Common-area Usable open space** must be located outside of required setbacks and required parking

1 areas. ~~The common area requirement is allowed to~~
 2 ~~count toward the minimum landscape percentage~~
 3 ~~requirement in Chapter 17.55 LCMC.~~

4
 5 ii. Private decks, balconies, or patios for individual
 6 units may count towards the usable open space square
 7 footage provided the deck, balcony, or patio is at least
 8 48 square feet in area with a minimum depth of 5 feet.
 9 ~~Common area must be available, accessible, and free for~~
 10 ~~use by occupants and their guests without leaving the~~
 11 ~~development.~~

12
 13 iii. Other than private decks, balconies, or patios for
 14 individual units, Common area usable open space must
 15 be connected to primary building entrances ~~(in the case of~~
 16 ~~multi-unit dwellings)~~ by an on-site ADA-accessible
 17 walkway. ~~that is at least five feet wide.~~ The square
 18 footage area of on-site ADA-accessible walkways can
 19 count towards the minimum usable open space common
 20 ~~area~~ square footage requirement if they provide at least
 21 one connection to each other, ~~connection to other~~
 22 ~~common areas, or connection~~ to public right-of-way, or
 23 to the development's parking area, for the
 24 development.

25
 26 iv. Usable open space that is not a private deck,
 27 balcony, or patio for an individual unit is allowed to
 28 count towards the minimum landscape percentage
 29 requirement in Chapter 17.55 LCMC provided the space
 30 meets the landscaping requirements in Chapter 17.55
 31 LCMC.

32
 33 v. Usable open space that is not a private deck, balcony,
 34 or patio for an individual unit ~~All required common~~
 35 ~~areas~~ must include at least one amenity for users such as
 36 including seating, trash/recycling bins, dog waste stations,
 37 or play equipment – all of which must coordinate with and
 38 complement the development. ~~If a common area has~~
 39 ~~direct connection to an ADA-accessible walkway, then~~
 40 ~~that connection and ADA-accessible walkway can count~~
 41 ~~as the amenity for that particular common area.~~
 42 ~~Common areas provided over and above the minimum~~
 43 ~~requirement do not need to provide any amenities.~~
 44

²Where the minimum density calculation results in a fraction that is 0.50 or above, the fraction is rounded up to the next whole number. Where a minimum density calculation results in a fraction that is less than 0.50, the fraction is rounded down to the preceding whole number.

³Example: 50,000 gross square feet less 1,200 square feet for significant wetlands and right-of-way dedication equals 48,800 net square feet. 48,800 divided by 43,560 = 1.12 acres x 15 = 16.8 or 17 dwelling units minimum density.

⁴Refer to LCMC 17.52.160(B) for ~~exceptions to~~ setback requirements for accessory buildings.

~~⁵Vehicle storage space for boats, campers, RVs, etc. shall be provided at the rate of one 10-foot by 20-foot space in size for every four dwelling units. Adequate maneuvering room shall be provided. The perimeter of the vehicle storage space, excepting the entrance to such, shall be blocked from sight with a six-foot-high sight-obscuring fence, hedge, or wall that complies with clear-vision area requirements of LCMC 17.52.060, and, if a hedge, complies with LCMC 17.55.080, Living landscaping as screening.~~

SECTION 22. Chapter 17.24 (*Professional Campus (PC) Zone*), Section 17.24.020 (*Uses Permitted*), is hereby amended to add a new paragraph K as follows:

K. Child care centers.

SECTION 23. Chapter 17.24 (*Professional Campus (PC) Zone*), Section 17.24.020 (*Uses Permitted*), is hereby amended to add a new paragraph L as follows:

L. Affordable housing (see definition in Chapter 17.08 LCMC)

SECTION 24. Chapter 17.28 (*Recreation-Commercial (RC) Zone*), Section 17.28.020 (*Uses Permitted*), is hereby amended, as follows:

In an RC zone, the following are given as examples of those uses which meet the intent of this zone:

- A. Motels and resorts;
- B. Eating or drinking establishments;
- C. Gift shops;
- D. Convention centers;
- E. ~~Detached s~~**Single-family unit** dwellings and duplexes, if developed under the standards set forth ~~for single-family dwellings~~ within the R-1 zone;
- F. Time-share units, when developed under the standards of LCMC 17.28.050;
- G. Bed and breakfast accommodations;

H. Attached single-~~family-unit~~ dwellings **or attached single-unit dwellings developments**, when developed in accordance with the standards specified in **LCMC 17.20.050; 17.52.260**

I. Manufactured homes; when developed in accordance with the standards specified in LCMC 17.52.250;

J. Essential emergency communications, early warning and associated emergency facilities;

K. Community gardens and market gardens not larger than 12,500 square feet, in accordance with the standards of LCMC 17.80.080;

L. Mixed-use development;

M. Transportation uses, defined in Chapter 17.08 LCMC;

N. Tiny house developments, subject to the provisions of LCMC 17.80.040 (C);

O. Four-flat dwellings, subject to the provisions of LCMC 17.80.140;

P. Mobile food units and mobile food pods, subject to the provisions of LCMC 17.80.170.

Q. Child care centers

R. Conversion (see definition in Chapter 17.08 LCMC)

S. Affordable housing (see definition in Chapter 17.08 LCMC)

T. Residential homes

SECTION 25. Chapter 17.28 (*Recreation-Commercial (RC) Zone*), Section 17.28.030 (*Accessory Uses*), is hereby amended to add a new paragraph D, as follows:

D. Family child care home

SECTION 26. Chapter 17.28 (*Recreation-Commercial (RC) Zone*), Section 17.28.100 (*Other Required Conditions*), Paragraph B., is hereby amended, as follows:

B. Design Features. All single-~~unit family-units~~ (site-built, modular and manufactured homes) to be constructed or located in the **RC zone** ~~shall utilize~~ **are encouraged to use** at least two of the following design features ~~to provide~~ **visual relief** along the front of the **dwelling home**:

1. Dormers;
2. Gables;
3. Recessed entries;
4. Covered porch entries;
5. Cupolas;
6. Pillars or posts;
7. Bay or bow windows;
8. Eaves (minimum six-inch projection);
9. Offsets on building face or roof (minimum 16 inches).

SECTION 27. Chapter 17.29 (*Resort Community Commercial (RCC) Zone*), Section 17.29.020 (*Uses Permitted*), is hereby amended, as follows:

A statutory development agreement will select from the uses permitted in the RCC district listed below. The developer and city may agree to any of the following uses:

A. Public and Institutional Uses.

1. Amphitheater.
2. Convention center.
3. Cultural and historical facilities and exhibits.
4. Educational institutions and research facilities.
5. Essential emergency communications, early warning and associated facilities.
6. Government administrative/office.
7. Information kiosks.
8. Observation towers.
9. Outdoor and indoor recreation facilities.
10. Public parking lots.
11. Transportation uses, defined in Chapter 17.08 LCMC.
12. Utility substation.

13. Conversion (see definition in Chapter 17.08 LCMC).

14. Affordable housing (see definition in Chapter 17.08 LCMC)

B. Nonresidential Ground Floor with Residential Above.

1. Animal sales and services: grooming and retail.
2. Art galleries.
3. Art studios.
4. Artisan workshop.
5. Bars, tap rooms and taverns.
6. Business and personal services, such as barber shops, beauty shops, tailors, laundries, printing, and locksmiths.
7. ~~Child care/day nursery.~~ **Child care center/family child care home/residential home.**
8. Cultural and historical facilities and exhibits.
9. Eating and drinking establishments, including sidewalk cafes.
10. Educational institutions and research facilities.
11. Financial institutions.
12. Gift shops.
13. Government administrative office.
14. Health and fitness club.
15. Hotels, motels, resorts.

16. Laundromats and dry cleaners.
17. Medical facilities such as clinics, outpatient services, health care facilities, etc.
18. Miniature golf.
19. Offices.
20. Outdoor and indoor recreation facilities.
21. Parking lots, public or private.
22. Rental center.
23. Repair and maintenance of permitted retail products.
24. Retail sales/convenience service establishments.
25. Retail sales and rental of outdoor recreation equipment.
26. Spa facilities.
27. Sporting goods store, without outdoor storage.
28. Theaters, indoor.
29. Trade and skilled services.

C. Residential use is authorized when located above the above listed nonresidential uses. Nonresidential use must always be located on the ground floor. Residential use includes apartment use, which may include individual condominium ownership or long-term rentals; short-term rentals and time share of such dwelling units is not authorized.

D. Manufacturing.

1. Art studios.
2. Artisan workshop.
3. Distillery.

E. Commercial Attraction.

1. Art galleries.
2. Brewery.
3. Commercial amphitheater venue.
4. Commercial amusement establishment (indoor and outdoor).
5. Event center.
6. Golf driving range.
7. Gun range, indoor.
8. Miniature golf.
9. Special events.
10. Winery.

F. General Commercial.

1. Animal sales and services: grooming and retail.

2. Bars, tap rooms, and taverns.
3. Business and personal services, such as barber shops, beauty shops, tailors, laundries, printing, and locksmiths.
4. **Child care/day nursery. Child care center.**
5. Eating and drinking establishments, including sidewalk cafes.
6. Financial institutions.
7. Gift shops.
8. Health and fitness club.
9. Hotels, motels, resorts.
10. Laundromats and dry cleaners.
11. Medical facilities such as clinics, outpatient services, health care facilities, etc.
12. Offices.
13. Parking lots, public or private.
14. Rental center.
15. Repair and maintenance of permitted retail products.
16. Retail sales/convenience service establishments.
17. Retail sales and rental of outdoor recreation equipment.
18. Spa facilities.
19. Sporting goods store, without outdoor storage.
20. Trade and skilled services.

SECTION 28. Chapter 17.32 (*General Commercial (GC) Zone*), Section 17.32.020 (*Uses Permitted*), is hereby amended, as follows:

In a GC zone, the following are given as examples of those uses that meet the intent of this zone:

- A. Convenience service/retail use;
- B. Eating and drinking establishments, excluding drive-in restaurants;
- C. Carpet, rug, fabric and interior decorating shops including reupholstering, making of draperies and other similar articles which are conducted as part of, and secondary to, a retail sales operation;
- D. Sporting goods stores;
- E. Motels and resorts;
- F. Building supply stores;
- G. Public facilities;
- H. Garden supplies and nursery;
- I. Community meeting buildings, fraternal or social organizations;
- J. Automotive parts and accessories;
- K. Printing;
- L. Carpenter, plumbing, cabinet, upholstery and sheet metal shops, if conducted wholly within an enclosed building;
- M. Appliance sales and service;

N. Single-family dwellings and duplexes, if developed under the standards in the R-1 zone;

O. Detached s Single-family-unit dwellings and duplexes, if developed under the standards **set forth within the R-1 zone; in the R-1 zone;**

P. Mini-warehouses, if existing on or if **development review approval site-plan approval** was applied for before June 9, 2008. Mini-warehouses in existence on or applied for before June 9, 2008, may be expanded within the boundaries of the lot or lots they occupied as of that date, subject to the standards applicable as of the date of application for expansion; (Code Publishing: *corrects omitted test in 2022-15*)

Q. Time-share units, when developed under the standards of LCMC 17.28.050;

R. Bed and breakfast accommodations;

S. Professional and business offices;

T. Art gallery and studio;

U. Physical therapy;

V. Equipment rental establishments;

W. Physical fitness center;

X. Manufactured homes when developed in accordance with the standards specified in LCMC 17.28.100 (C) and 17.52.250;

Y. Manufactured homes, if developed under the standards set forth within the R-1 zone. -when developed in accordance with the standards specified in LCMC 17.28.100(C) and 17.52.250;

Z. Veterinary clinics;

AA. Community gardens and market gardens not larger than 12,500 square feet, in accordance with the standards of LCMC 17.80.080;

BB. Mixed-use development;

CC. Essential emergency communications, early warning and associated emergency facilities;

DD. Retail marijuana facilities, subject to the provisions of LCMC 17.80.130;

EE. Indoor theaters;

FF. Transportation uses, defined in Chapter 17.08 LCMC;

GG. Tiny house developments, subject to the provisions of LCMC 17.80.040 (C);

HH. Four-flat dwellings, subject to the provisions of LCMC 17.80.140;

II. Places of worship, and accessory uses set forth in LCMC 17.80.160 (B);

JJ. Mobile food units and mobile food pods, subject to the provisions of LCMC 17.80.170.

KK. Attached single-unit dwellings or attached single-unit dwellings developments, when developed in accordance with the applicable standards specified in LCMC 17.20.050.

LL. Child care centers.

MM. Conversion (see definition in Chapter 17.08 LCMC)

NN. Affordable housing (see definition in Chapter 17.08 LCMC)

OO. Residential homes

SECTION 29. Chapter 17.32 (*General Commercial (GC) Zone*), Section 17.32.030 (*Accessory Uses*), is hereby amended to add a new Paragraph D., as follows:

D. Family child care homes.

SECTION 30. Chapter 17.34 (*Nelscott Plan (NP) District*), Section 17.34.030 (*Permitted Uses*), Table 17.34.030-1 (*Land Uses Allowed in Nelscott*), is hereby amended, as follows:

Table 17.34.030-1 identifies the land uses allowed in the each of the three Nelscott subdistricts. Uses permitted are identified with "P"; those that are allowed subject to conditional use permit approval are identified with "C"; prohibited uses are identified with "N."

Table 17.34.030-1 – Land Uses Allowed in Nelscott

Uses	Subdistrict		
	Business District	Cottage Residential	Beachside Mixed Use
Use Categories			
Residential Categories			
Single-unit dwelling	P	P	P
Attached single-unit dwelling	P	N	P
Duplex	P	P	P
Accessory dwelling unit, subject to the provisions of LCMC 17.80.110	P	P	P
Multi-unit dwellings	P	N	P
Mixed use – dwelling(s) above or abutting a ground floor commercial use – dwelling(s) below a ground floor commercial use fronting on Highway 101	P N	N N	P P
Manufactured homes, subject to the provisions of LCMC 17.52.250		P	
<u>Conversions (see definition in Chapter 17.08 LCMC)</u>	<u>P</u>	<u>N</u>	<u>P</u>
<u>Affordable housing (see definition in Chapter 17.08 LCMC)</u>	<u>P</u>	<u>P</u>	<u>P</u>
Commercial Categories			
Drive-up/drive-in/drive-through (drive-up windows, ATMs, similar uses/facilities)	P N	N N	N N

Table 17.34.030-1 – Land Uses Allowed in Nelscott

Uses	Subdistrict		
	Business District	Cottage Residential	Beachside Mixed Use
– lawfully existing as of June 1, 2008 – new or expanded use			
Walk-up windows, ATMs, similar uses/facilities	P	N	P
Bed and breakfast inn, subject to the provisions of LCMC 17.80.060	P	P	P
Educational services, not a school (e.g., tutoring or similar services)	P	P	P
Entertainment, major event	P	N	P
Overnight accommodations, except bed and breakfast inns	P	N	P
Offices	P	N	P
Outdoor recreation, commercial	C	N	C
Surface parking lot, except for public facilities and parking as an accessory use	C	C	C
Vehicle servicing or vehicle repair	N	N	N
Retail sales and service, excluding drive-up	P	N	P
Retail sales and service, greater than 60,000 square feet	N	N	N
Retail marijuana facility, subject to the provisions of LCMC 17.80.130	P	N	N
Self-service storage	N	N	N
Vacation rental dwelling, subject to LCMC 17.80.050 and to the license requirements of Chapter 5.14 LCMC	P	N	P
Mobile food units and mobile food pods, subject to the provisions of LCMC 17.80.170	P	N	P
Industrial Categories			
Industrial service, excluding drive-up			
– fully enclosed (e.g., office)	C	N	N
– not enclosed	N	N	N
Manufacturing and production in conjunction with an allowed commercial use	C N	N N	N N

Table 17.34.030-1 – Land Uses Allowed in Nelscott

Uses	Subdistrict		
Use Categories	Business District	Cottage Residential	Beachside Mixed Use
– fully enclosed – not enclosed			
Warehouse and freight movement	N	N	N
Waste-related, except as accessory to a primary permitted use	N	N	N
Wholesale sales – fully enclosed – not enclosed	C N	N N	N N
Institutional Categories			
Basic utilities	P	P	P
Colleges	C	N	N
Government use	P	C	C
<u>Child care centers, family child care homes, or residential homes Day care, adult or child day care; does not include family day care (16 or fewer children) under ORS 657A.440</u>	<u>PC</u>	<u>PC</u>	<u>PC</u>
Nursing home, assisted living facility, hospital, rest home, sanitarium, and similar uses	C	N	N
Parks and open space – pedestrian amenities – parks and recreation facilities – other open space	P P P	P P P	P P P
Places of worship ¹	C	C	C
Schools	C	C	C
Other Categories			
Accessory structures (with a permitted use)	P	P	P
Community gardens and market gardens not larger than 12,500 square feet, in accordance with the standards of LCMC 17.80.080	P	P	P
Animals and gardens, subject to the provisions of	P	P	P

Table 17.34.030-1 – Land Uses Allowed in Nelscott

Uses	Subdistrict		
Use Categories	Business District	Cottage Residential	Beachside Mixed Use
LCMC 17.80.080			
Radio and television transmitter towers	C	C	C
Wireless communications facilities	N	N	N
Essential emergency communications, early warning and associated emergency facilities	P	P	P
Transportation uses	P	P	P

1. Together with accessory uses as specified in LCMC 17.80.160.

SECTION 31. Chapter 17.34 (*Nelscott Plan (NP) District*), Section 17.34.040 (*Development Standards*), Table 17.34.040-1 (*Development Standards*), is hereby amended, as follows:

Table 17.34.040-1 – Development Standards

Standard	Business District	Cottage Residential	Beachside Mixed Use
Minimum Lot Area* (square feet) *Development must conform to lot width, depth, yard setback and coverage standards – Detached single-family unit dwelling – Attached single-family unit – Other structures	3,750 sq. ft. 3,750 sq. ft. 3,750 sq. ft.	3,750 sq. ft. Not applicable 3,750 sq. ft.	3,750 sq. ft. 3,750 sq. ft. 3,750 sq. ft.
Maximum Dwelling Unit Density			
– Single-unit dwelling and duplex	One dwelling unit per 3,750 sq. ft.	One dwelling unit per 3,750 sq. ft.	One dwelling unit per 3,750 sq. ft.
– Multi-unit dwelling ¹	Subject to Chapter 17.20 LCMC	Not applicable	Subject to Chapter 17.20 LCMC

Table 17.34.040-1 – Development Standards

Standard	Business District	Cottage Residential	Beachside Mixed Use
Minimum Lot Width	50 ft.	35 ft.	50 ft.
Minimum Lot Depth	50 ft.	50 ft.	50 ft.
Maximum Building Height	45 ft.	35 ft.	35 ft.
Maximum Building Coverage	90%	35% ²	80%
Minimum Setbacks			
Front, street, side, and rear property lines, except garage or carport entrances	0 ft., except as required for utility easements; single-unit dwellings (detached or attached) subject to NCR standards	5 ft. for one-story dwellings, 7.5 ft. for more than one-story dwellings, except that the interior side setback for the attached side of attached single-unit dwellings is 0 ft.	10 ft.; single-unit dwellings (detached or attached) subject to NCR standards
Garage/carport entrance setback from front and street property lines	20 ft.	20 ft.	20 ft.
Building setback from alley or walkway	5 ft.	5 ft.	Not applicable

1. Multi-~~unit~~**family** dwellings must meet the **design** standards of LCMC **17.74.130. 17.20.100.**
2. For lawfully created, pre-existing lots between 3,000 and 4,000 square feet, the maximum building coverage is 40 percent. For lawfully created, pre-existing lots smaller than 3,000 square feet, the maximum building coverage is 50 percent.

SECTION 32. Chapter 17.36 (*Planned Industrial (PI) Zone*), Section 17.36.020 (*Uses Permitted*), is hereby amended to add a new Paragraph L, as follows:

L. Child care centers

SECTION 33. Chapter 17.36 (*Planned Industrial (PI) Zone*), Section 17.36.020 (*Uses Permitted*), is hereby amended to add a new Paragraph M, as follows:

M. Affordable housing (see definition in Chapter 17.08 LCMC)

SECTION 34. Chapter 17.40 (*Recreation Residential (R-R) Zone*), is hereby amended as follows:

17.40.010 Purpose.

The recreation-residential zoning district is intended to establish sites for a wide range of residential activities from weekend and seasonal residents to year-round residents in **attached or detached single-unit dwellings, single-family homes,** manufactured homes, and recreational vehicles sited on individual lots.

17.40.020 Permitted uses.

In an R-R zone, the following uses are permitted:

- ~~A. Single-unit dwelling;~~
- ~~B. Manufactured home, subject to the provisions of LCMC 17.52.250;~~
- ~~C. Cottage housing developments, subject to the provisions of LCMC 17.80.120;~~
- ~~D. Recreational vehicle;~~
- ~~E. Essential emergency communications, early warning and associated emergency facilities;~~
- ~~F. Community gardens and market gardens not larger than 12,500 square feet, in accordance with the standards of LCMC 17.80.080;~~
- ~~G. Transportation uses, defined in Chapter 17.08 LCMC.~~
- ~~H. A. Attached single-unit dwellings;~~
- ~~I. B. Attached single-unit dwellings developments, subject to the provisions of LCMC 17.20.050;~~
- ~~J. C. Community gardens and market gardens not larger than 12,500 square feet, in accordance with the standards of LCMC 17.80.080;~~
- ~~K. D. Cottage housing developments, subject to the provisions of LCMC 17.80.120;~~
- ~~L. E. Detached single-unit dwellings;~~
- ~~M. F. Duplexes;~~
- ~~N. G. Essential emergency communications, early warning, and associated emergency facilities;~~

~~Q. H. Four flat dwellings, subject to the provisions of LCMC 17.80.~~

~~P. I. Manufactured homes;~~

~~Q. J. Recreational vehicles;~~

~~R. K. Residential homes;~~

~~S. L. Tiny house developments, subject to the provisions of LCMC 17.80.~~

~~T. M. Transportation uses, defined in Chapter 17.08 LCMC.~~

17.40.030 Accessory uses.

The following accessory uses are permitted:

A. Accessory dwelling units, subject to the provisions of LCMC 17.80.110;

~~A. Gardens and animals, subject to the provisions of LCMC 17.80.080;~~

~~B. Accessory dwelling units, subject to the provisions of LCMC 17.80.110;~~

B. Family child care homes;

C. Gardens and animals, subject to the provisions of LCMC 17.80.080;

~~C. Vacation rental dwelling, provided it is not rented for more than 30 nights in any calendar year, and subject to LCMC 17.80.050 and to the license requirements of Chapter 5.14 LCMC;~~

D. Other accessory uses and accessory buildings and structures customarily appurtenant to a permitted use.

E. Vacation rental dwellings, provided they are not rented for more than 30 nights in any calendar year, and subject to LCMC 17.80.050 and to the license requirements of Chapter 5.14 LCMC.

17.40.040 Conditional uses permitted.

In an R-R zone, the following conditional uses may be permitted:

A. A conditional use listed in the R-1 zone (see LCMC 17.16.040).

17.40.050 Restrictions

No development shall occur **in the R-R zone** unless all city services (sewer and water) are available to serve such development.

~~17.40.060 Standards.~~

~~In an R-R zone, the following standards shall apply:~~

~~A. Front Setback. The minimum front setback shall be 10 feet.~~

~~B. Side and Street Side Setback. The minimum side and street side setback shall be five feet for single-story structures. The minimum side and street side setback shall be seven and one-half feet for structures greater than one story in height.~~

~~C. Rear Setback. The minimum rear setback shall be five feet.~~

~~D. The clear vision area requirement of LCMC 17.52.060 and 17.52.070 shall be applicable to all corner lots.~~

~~E. Lot Area. The minimum lot area shall be at least 5,000 square feet per dwelling unit. The minimum width at the building line shall be 50 feet, and the minimum average lot depth shall be 70 feet.~~

~~F. Off-street parking and loading shall be provided in accordance with Chapter 17.56 LCMC.~~

~~G. Height Restrictions. Maximum height of a structure shall be 35 feet.~~

~~H. Repealed by Ord. 2020-13.~~

17.40.060 Lot requirements.

<u>Minimum Lot Area</u>	<u>Minimum Lot Width</u>	<u>Minimum Lot Depth</u>	<u>Minimum Front Setback⁽¹⁾</u>	<u>Minimum Side Setback</u>	<u>Minimum Street Side Setback⁽¹⁾</u>	<u>Minimum Rear Setback</u>
<u>2,400 sq. ft.</u>	<u>40'</u>	<u>62.5'</u>	<u>5'</u>	<u>5' or 0' for common wall of attached single-unit dwellings</u>	<u>5'</u>	<u>5'</u>

The front and street side setbacks shall be increased to a minimum of 20 feet in front of a garage/carport and/or driveway entrance to a garage/carport. The increase in setback shall not apply to portions of the dwelling that are below or to the side of the garage/carport or driveway entrance. The increase in setback shall not apply to any portion of the dwelling above the garage/carport that is cantilevered (i.e., supported only by the wall of the structure from which it projects), provided the lowest point of the cantilever is a minimum of seven feet above grade.

17.40.070 Landscaping.

Landscaping shall be provided in accordance with Chapter 17.55 LCMC.

17.40.080 Signs.

Signs shall be allowed subject to the provisions of Chapters 9.34 and 17.72 LCMC.

17.40.090 Off-street parking and loading.

Off-street parking and loading shall be provided in accordance with Chapter 17.56 LCMC.

17.40.100 Other required conditions.

- A. Recreational vehicles sited on individual lots shall be placed on a concrete or asphaltic concrete pad or maintained crushed rock surface that has a minimum compacted depth of four inches of one and one-half inches to zero inches covered with minimum compacted depth of two inches of three-fourths inch to zero inches.**

SECTION 35. Chapter 17.42 (*Park (P) Zone*), Section 17.42.020 (*Permitted uses*), Paragraph I, is hereby amended to amend, as follows:

- I. Such other uses as the ~~planning and community development~~ director determines to be in accordance with the primary purposes of the park zone;

SECTION 36. Chapter 17.42 (*Park (P) Zone*), Section 17.42.050 (*Development Standards*) Paragraph A. (*Setback requirements*), is hereby amended as follows:

- A. Setback requirements. Setback requirements will be those set forth in LCMC 17.32.040 unless the ~~planning and community development~~ director makes a finding that imposing said setback requirements will negatively impact the surrounding property owners.

SECTION 37. Chapter 17.43 (*Open Space (OS) Zone*), Section 17.43.020 (*Permitted Uses*), Paragraph C., is hereby amended as follows:

- C. Educational activities and ecological research projects only if the ~~planning and community~~ director finds the use to be in accordance with the primary purposes of the open space zone.

SECTION 38. Chapter 17.43 (*Open Space (OS) Zone*), Section 17.43.020 (*Permitted Uses*), Paragraph G., is hereby amended as follows:

G. Such other uses as the ~~parks~~ director determines to be in accordance with the primary purpose of the open space zone.

SECTION 39. Chapter 17.43 (*Open Space (OS) Zone*), Section 17.43.040 (*Development Standards*), Paragraph A. (*Setback Requirements*), is hereby amended as follows:

A. Setback Requirements. Setback requirements will be those set forth in LCMC 17.16.070 unless the ~~planning and community development~~ director determines that imposing said setback requirements will negatively impact the resource value.

SECTION 40. Chapter 17.45 (*Taft Village Core (TVC) Zone*), Section 17.45.020 (*Permitted Uses*), Table 17.45.020-1 (*Land Uses Allowed in TVC*), is hereby amended as follows:

17.45.020 Permitted uses.

Table 17.45.020-1 identifies the land uses allowed in TVC. Uses permitted are identified with "P"; those that are allowed subject to conditional use permit approval are identified with "C"; prohibited uses are identified with "N."

Table 17.45.020-1 – Land Uses Allowed in TVC

Uses	Status of Use
A. Administrative and Professional Offices	
Commercial establishments where the administrative, clerical and managerial functions of a business or industry are conducted or where members of a profession conduct their practice. Examples include accounting, medicine, physical therapy, veterinary with no kennels, engineering, real estate.	P
B. Automotive Related Uses	
Commercial establishments which provide parts, repair and service for motor vehicles:	
1. Auto parts/supplies sales – No installations	P
2. Auto parts/supplies sales – With installations	N
3. Car washes	N
4. Fuel/service stations	N
5. Vehicle (car, RV and truck) sales/leasing	N

Table 17.45.020-1 – Land Uses Allowed in TVC

Uses	Status of Use
C. Boarding and Lodging Facilities¹	
Commercial establishments which provide boarding and lodging facilities:	
1. Bed and breakfast accommodations	P
2. Condominiums with 10 units or less and with nightly rentals ²	C
3. Hotels/motels with 10 units or less	P
4. Recreational vehicle parks	N
5. Time-share units	C
6. Vacation rental dwelling, subject to the provisions of LCMC 17.80.050 and to the license requirements of Chapter 5.14 LCMC	P
D. Eating/Drinking Establishments	
Commercial establishments which serve prepared food or beverages for consumption on or off the premises:	
1. Night clubs/bars/lounges/micro-brew pubs	P
2. Restaurants – without drive-throughs (including cafes, coffee shops, family restaurants, etc.)	P
3. Restaurants – with drive-throughs	N
4. Restaurants – with walk-up windows (with or without seating)	P
5. Sidewalk cafes	C
6. Wine tasting	P
7. Mobile food units and mobile food pods, subject to the provisions of LCMC 17.80.170	P
E. Entertainment/Recreation Establishments	
Commercial establishments which provide participant/spectator amusement, entertainment or sport, primarily for financial gain. Examples include auditoriums, theaters, museums. Game arcades are limited to five games/machines when located as an auxiliary use in an otherwise permitted use.	
1. Auditoriums, convention centers, movie theaters, museums	C
2. Miscellaneous indoor establishments (i.e., pool halls, billiard parlors, game arcades)	C
3. Miscellaneous outdoor establishments (i.e., amphitheater, swimming/aquatics facility)	C

Table 17.45.020-1 – Land Uses Allowed in TVC

Uses	Status of Use
F. Financial	
Commercial establishments that engage in monetary transactions not directly related to the sale of a product/service. Examples include: banks, savings and loan, etc.	
1. Financial land use, with no ATMs	P
2. Financial land use, with interior ATMs	P
3. Financial land use, with exterior ATMs	C
4. Interior ATMs, as an accessory to another permitted or conditionally permitted use	C
5. Exterior ATMs, as an accessory to another permitted or conditionally permitted use	N
G. Mixed Use	
Developments that contain office/retail/service establishments and residential uses, either within the same structure or on the same parcel.	P
H. Personal Service	
Commercial establishments which provide services of a personal nature. Examples include: barber/beauty/nail shops, tailor shops, dance school/karate studio, dry cleaners/laundromat, health/athletic clubs, travel agent, therapeutic massage.	P
I. Residential	
1. Single-unit dwellings, subject to the provisions of Chapter 17.16 LCMC	P
2. Attached single-unit dwellings, subject to the provisions of Chapter 17.16 LCMC	P
3. Duplexes, subject to the provisions of Chapter 17.16 LCMC	P
4. Multi-unit dwellings, subject to the provisions of Chapters 17.20 and 17.74 LCMC	P
5. Accessory dwelling units, subject to the provisions of LCMC 17.80.110	P
6. Manufactured homes, subject to the provisions of LCMC 17.52.250	P
7. Four-flat dwellings, subject to the provisions of LCMC 17.80.140	P
8. Affordable housing (see definition in Chapter 17.08 LCMC)	P
J. Retail Commercial	
Commercial establishments which sell merchandise generally needed/desired by the residents, employees and visitors of/to the community. Examples include: packaged food, liquor, grocery, drugs, video rental, general merchandise, gift shops, sporting goods, building materials, garden supplies/nurseries, antiques/secondhand stores, convenience	P

Table 17.45.020-1 – Land Uses Allowed in TVC

Uses	Status of Use
stores, but exclude mini-warehouses.	
Retail marijuana facility, if located within 100 feet of the right-of-way of Highway 101, and subject to the provisions of LCMC 17.80.130.	P
K. Service Commercial	
Commercial establishments which provide business, repair and miscellaneous services. Examples include: printing/publishing, laboratories, catering, interior design, miscellaneous repairs (indoor only).	P
L. Other Uses	
1. Ambulance service	C
2. Art gallery and studio	P
3. Places of worship ³	C
4. Clubs, lodges, meeting halls	C
5. Home occupations	P
6. Handicraft-type industries with on-site sales (i.e., crafts, saddles)	P
7. Parks/playgrounds/community gardens	C
8. Police/fire facilities	C
9. Public facilities/public parking lots	P
10. Public/private schools, business/trade schools, in accordance with LCMC 17.80.010	C
11. Public utility or utility substation	C
12. Essential emergency communications, early warning and associated emergency facilities	P
13. Community gardens and market gardens not larger than 12,500 square feet, subject to the provisions of LCMC 17.80.080	P
14. Animals and gardens, accessory to a permitted use and subject to the provisions of LCMC 17.80.080	P
15. Transportation uses	P
16. Docks, subject to the provisions of LCMC 17.44.040	C
<u>17. Child care centers</u>	<u>P</u>

Table 17.45.020-1 – Land Uses Allowed in TVC

Uses	Status of Use
18. Family child care homes	<u>P</u>
19. Residential homes	<u>P</u>
20. Conversions (see definition in Chapter 17.08 LCMC)	<u>P</u>

1 1 A cap of 212 units in boarding and lodging facilities are permitted in the TVC
2 zone, not including bed and breakfast accommodations and other boarding
3 and lodging facilities with 10 units or less.

5 2 A minimum of 50 percent of the ground-level gross floor area of new
6 hotels/motels and condominiums with nightly rentals shall be comprised of
7 eating/drinking establishments, entertainment/recreation establishments, or
8 retail commercial uses.

10 3 Together with accessory uses as specified in LCMC 17.80.160.

12 **SECTION 41.** Chapter 17.45 (*Taft Village Core (TVC) Zone*), Section 17.45.050 (*Site*
13 *Development Standards*), Paragraph I, (*Sidewalk Cafes*), Paragraph 3 (*Limitations and*
14 *Requirements*) paragraph h, is hereby amended as follows:

16 h. The area in which the sidewalk café is authorized is identified in a manner, as
17 approved by the **planning** director, which will clearly separate and delineate it
18 from the areas of the sidewalk that will remain open to pedestrian traffic.

20 **SECTION 42.** Chapter 17.50 (*Oceanlake Plan (OP) District*), Section 17.50.030 (*Permitted*
21 *Uses*), Table 17.50.030-1 (*Land Uses Allowed in Oceanlake*), is hereby amended as follows:

23 Table 17.50.030-1 identifies the land uses allowed in OP. Uses permitted are identified
24 with "P"; those that are allowed subject to conditional use permit approval are identified
25 with "C"; prohibited uses are identified with "N."

Table 17.50.030-1 – Land Uses Allowed in Oceanlake

Uses	Status of Use		
Use Categories	Main Street Area	Interior Area	Oceanfront Area
Residential Categories			

Table 17.50.030-1 – Land Uses Allowed in Oceanlake

Uses Use Categories	Status of Use		
	Main Street Area	Interior Area	Oceanfront Area
Household Living			
All residential uses allowed, if:			
Lawfully existing as of July 25, 2007	P	P	P
New dwelling(s) – ground floor	N	P	P
Dwelling(s) above a ground floor commercial use	P	P	P
Four-flat dwellings, subject to the provisions of LCMC 17.80.140	P	P	P
Manufactured homes, subject to the provisions of LCMC 17.52.250			P
Affordable housing (see definition in Chapter 17.08 LCMC)	<u>P</u>	<u>P</u>	<u>P</u>
Commercial Categories			
Drive-up/drive-in/drive-through (drive-up windows, kiosks, ATMs, similar uses/facilities)			
Lawfully existing as of July 25, 2007	P	N	N
New or expanded use	N	N	N
Bed and breakfast accommodations, subject to the provisions of LCMC 17.80.060	P	P	P
Educational services, not a school (e.g., tutoring or similar services)	P	P	P
Entertainment, major event	C	C	C
Overnight accommodations, except bed and breakfast inns	C	C	P
Offices	P	P	P
Outdoor recreation, commercial	C	C	C
Surface parking lot, except for public facilities and parking as an accessory use	N	C	N
Vehicle servicing or vehicle repair	N	N	N
Retail sales and service, excluding drive-up	P	P	P
Retail marijuana facility, subject to the provisions of LCMC	P	N	N

Table 17.50.030-1 – Land Uses Allowed in Oceanlake

Uses	Status of Use		
Use Categories	Main Street Area	Interior Area	Oceanfront Area
17.80.130			
Self-service storage	N	N	N
Vacation rental dwelling, subject to the provisions of LCMC 17.80.050 and to the license requirements of Chapter 5.14 LCMC	P	P	P
Mobile food units and mobile food unit pods, subject to the provisions of LCMC 17.80.170	P	P	P
Industrial Categories			
Industrial service, excluding drive-up			
Fully enclosed (e.g., office)	C	C	N
Not enclosed	N	N	N
Manufacturing and production in conjunction with an allowed commercial use			
Fully enclosed	C	C	C
Not enclosed	N	N	N
Warehouse and freight movement	N	N	N
Waste-related, except as accessory to a primary permitted use	N	N	N
Wholesale sales			
Fully enclosed	C	C	N
Not enclosed	N	N	N
Institutional Categories			
Basic utilities	P	P	P
Colleges	C	N	N
Community service, including government use (public or nonprofit)	P	C	C
Day care, adult or child day care; does not include family day care (16 or fewer children) under ORS 657A.440	CP	P	CP

Table 17.50.030-1 – Land Uses Allowed in Oceanlake

Uses Use Categories	Status of Use		
	Main Street Area	Interior Area	Oceanfront Area
Parks and open space			
Pedestrian amenities	P	P	P
Parks and recreation facilities	P	P	P
Other open space	P	P	P
Places of worship ¹			
Lawfully existing as of July 25, 2007	P	P	P
New	C	C	C
Schools	C	C	C
Other Categories			
Accessory structures (with a permitted use)	P	P	P
<u>Conversions (see definition in Chapter 17.08 LCMC)</u>	<u>P</u>	<u>P</u>	<u>P</u>
Radio and television transmitter or tower	C	C	C
Wireless communications facilities	N	N	N
Essential emergency communications, early warning and associated emergency facilities	P	P	P
Community gardens and market gardens not larger than 12,500 square feet, subject to the provisions of LCMC 17.80.080	P	P	P
Animals and gardens, subject to the provisions of LCMC 17.80.080	P	P	P
Accessory dwelling units, subject to the provisions of LCMC 17.80.110	P	P	P
Transportation uses	P	P	P

SECTION 43. Chapter 17.52 (*Supplementary Regulations and Exceptions*), Section 17.52.060 (*clear vision requirement*), Paragraph B, numbered paragraph 4, is hereby amended as follows:

4. Notwithstanding the definitions set forth above, the minimum clear-vision area (clear-vision triangle) may be modified by the city engineer, with the concurrence

of the **planning** director, upon written finding that more or less sight distance is necessary (i.e., due to traffic speeds or roadway alignment).

SECTION 44. Chapter 17.52 (*Supplementary Regulations and Exceptions*), Section 17.52.060 (*clear vision requirement*), Paragraph D, numbered paragraph 2, is hereby amended as follows:

2. Topographical features (e.g., inclines, retaining walls) existing as of May 28, 2014, or, for newer development, as determined by the city engineer and **planning** director as necessary or unavoidable.

SECTION 45. Chapter 17.52 (*Supplementary Regulations and Exceptions*), Section 17.52.120 (*Utilities*), is hereby amended as follows:

~~**A. In the single-family residential (R-1) zone, and the multiple-unit residential (R-M) zone, when city services are not available or when only partial services are available, the minimum parcel size shall be five acres; except, however, any existing lots of record less than five acres in area which do not front on a public sewer line but which will be connected to a public water line may be developed with a single-family dwelling utilizing an approved subsurface sewerage disposal system, provided a deferred improvement agreement is executed and recorded by the owner of record consenting to the establishment of a local improvement district to participate in future public sewer system extensions and connections.**~~

AB. In all zones, all electrical, telephone and cable television utility service installations or connections made as part of new construction of a building or structure shall be placed underground in accordance with city standards.

SECTION 46. Chapter 17.52 (*Supplementary Regulations and Exceptions*), Section 17.52.190 (*building height limitations*), Paragraph C, numbered paragraph 3, subparagraph, a. item iv. is hereby amended as follows:

iv. If there has been grading on the proposed building site, without a grading permit, the **planning and community development** director, in consultation with the city engineer, will determine the existing grade.

SECTION 47. Chapter 17.52 (*Supplementary Regulations and Exceptions*), Section 17.52.160 (Required setbacks - Exceptions), is hereby amended as follows:

17.52.160 Required setbacks – Exceptions.

A. Architectural Features. Architectural features such as cornices, eaves, canopies, sunshades, gutters, chimneys, flues, awnings, and bay windows ~~not more than four feet wide or high~~ may project up to 18 inches into a required setback area.

B. Accessory Structures. A required side or rear setback may be reduced to three feet for an accessory structure, provided the structure is detached from other structures by five feet or more and does not exceed a height of one story nor an area of 200 square feet.

C. Fences. Fences, ~~which may be located~~ within required setback areas up to ~~and on~~ the property line, may not exceed ~~six seven feet in height three and one-half feet from the grade of the street centerline in the required front setback area, and shall not exceed six feet in other setback areas~~ nor conflict with requirements of a clear vision area as provided in LCMC 17.52.060 or the clear vision areas of adjacent private driveways.

D. Retaining Walls. Retaining walls may be constructed in required setback areas, subject to the following limitations:

1. One or more retaining walls, none of which individually exceeds ~~six~~ **four** feet in height, may be used, in front or street side setback areas, provided each successive wall is set back or stepped from the next lowest wall at least one foot for each one foot of height for that wall;
2. Within ~~interior~~ side and rear ~~building~~ setbacks ~~areas that are not adjacent to a street or right-of-way, the height of a retaining wall exposed toward the interior of the property may be allowed that is may be constructed~~ up to eight feet in height. ~~Those exposed toward the exterior of the property shall be limited as in subsection (D)(1) of this section.~~
3. All building code and structural permitting requirements shall be met prior to construction of any retaining wall.

E. Disabled Access Facilities. Disabled access facilities may be constructed in required setback areas as additions to existing buildings if ~~exclusive of railings~~ **they do not exceed the height of the building's ground floor and they** do not conflict with the clear vision requirements of LCMC 17.52.060. For purposes of this section disabled access facilities include ramps, sidewalks, curbing and

entrances constructed for the purpose of making a building accessible to a disabled person. Disabled access facilities must be constructed in accordance with any applicable requirements of the building code in effect at the time of their construction. Disabled access facilities constructed as additions to a nonconforming structure shall not be considered an alteration or extension of the nonconforming structure.

F. Bridges. Unenclosed and uncovered pedestrian or vehicular bridges for access to a dwelling may be constructed in a required setback area. **Such bridges may not have a slope up from the adjacent roadway exceeding the maximum allowed for driveways.**

G. Porches, Decks, and Stairs. Unenclosed and uncovered porches, decks, and stairs may be constructed in a required setback area, provided no part of the porch, deck, or stairs is more than 30 inches above the ground or otherwise requires a building permit.

SECTION 48. Chapter 17.52 (*Supplementary Regulations and Exceptions*), Section 17.52.170 (*Solid waste, garbage, trash, recycling, and composting receptacle storage areas*), is hereby amended as follows:

17.52.170 Solid waste, garbage, trash, recycling, and composting receptacle storage areas

All solid waste, garbage, trash, recycling, and composting receptacles shall be located within a building or within an enclosure ~~that is at least 20 feet or more from any pedestrian space~~ which screens the receptacle from the view of ~~neighboring adjacent~~ property, ~~pedestrian space, and or~~ from right-of-way, except those receptacles associated with a detached single-unit dwelling, attached single-unit dwelling, duplex, or manufactured home dwelling.

SECTION 49. Chapter 17.52 (*Supplementary Regulations and Exceptions*), Section 17.52.180 (*Placement and screening of mechanical equipment*), is hereby amended as follows:

17.52.180 Placement and screening of mechanical equipment.

A. Any heating, air conditioning, or other mechanical equipment installed on or near a building to be used to serve the building or a function performed therein, and any propane tanks, shall be screened from the ground level view from adjacent ~~property properties, pedestrian spaces, and from public~~ right-of-way, **except those associated with a detached single-unit dwelling, attached single-unit dwelling, duplex, or manufactured home, and shall not be located within 20 feet of pedestrian space.**

B. Rooftop mechanical units shall not ~~be visible from any public right-of-way and shall not~~ exceed the allowable building height.

C. Ground-mounted mechanical units shall be limited to the sides or rears of buildings and screened from view from adjacent property and from right-of-way. ~~properties and from public right-of-way.~~

D. Standpipes, meters, vaults, and similar equipment shall not be placed on a front elevation unless there is no other option. ~~when other alternative locations exist.~~

SECTION 50. Chapter 17.52 (*Supplementary Regulations and Exceptions*), Section 17.52.230 (*Public infrastructure improvement requirements*), is hereby amended as follows:

17.52.230 Public infrastructure improvement requirements.

A. Infrastructure, Easement, and Improvement Requirements. The issuance of a structural permit for ~~the addition, alteration, or repair, within any 12-month period, exceeding 50 percent of the assessed value of an existing building or structure, or for~~ a new building or structure in connection with any permitted or conditional use within any zone as described in this title, or in connection with ~~of~~ a development review approval for development for which development review is required under LCMC 17.77.070, or the review of any project for which development review is required under LCMC 17.77.070 but does not involve the issuance of a structural permit, shall be subject to Public Works Design Standards, Lincoln City Transportation System Plan, LCMC Title 12, and LCMC Title 13, incorporated herein by this reference. Preliminary plans shall be submitted as part of the development review process, with final plans submitted as part of the structural permit process. If development review is not required, the plans shall be submitted for review as part of the structural permit or site development permit process. ~~the following requirements:~~

~~1. The applicant shall submit, as part of a structural permit application, a site plan drawn to scale showing the nature, size, and location of:~~

- ~~a. Proposed buildings and improvements;~~
- ~~b. Proposed access and off-street parking;~~
- ~~c. Proposed private and public utility lines, facilities, and easements;~~
- ~~d. Proposed curbs, gutters, pavement, and sidewalks and related easements;~~
- ~~e. Proposed storm water detention, treatment, and drainage features, facilities, and easements;~~
- ~~f. Existing private and public utility lines, facilities, and easements;~~

~~g. Existing storm water detention, treatment, and drainage features, facilities, and easements;~~
~~h. Existing lot lines; and~~

2. Except as otherwise provided in subsections (B) and (C) of this section, the applicant shall agree to:

a. Install curbs and gutters along adjacent streets not having curbs and gutters, and also pave the roadways from the curbs to 12 feet beyond centerline of unpaved or partially unpaved streets contiguous to the property proposed for development, in accordance with applicable standards of this title, street design standards in the city's transportation system plan, public works/engineering standards, and LCMC Title 16 (Subdivisions). If existing rights-of-way for streets contiguous to the property are not adequate in width to meet the standards of this title and LCMC Title 16 (Subdivisions), the applicant shall dedicate right-of-way to the city sufficient to allow streets that are adequate in width; and

b. Dedicate to the city utility easements five feet in width along rear lot lines, or along front lot lines, as required by the city; and

c. Dedicate easements for drainage purposes, and provide storm water detention, treatment, and drainage features and facilities, as approved by the city engineer, in order to accommodate expected runoffs as determined by a registered professional engineer licensed in Oregon, according to generally accepted drainage accommodation principles; and

d. Install sidewalks in accordance with street design standards in the city's transportation system plan and public works/engineering standards along boundaries contiguous with streets, within existing right-of-way if adequate in width; and, if existing easements are not adequate in width, to deed easements to the city sufficient to allow sidewalks of required width;

Exceptions: In lieu of the sidewalks required by subsection (A)(2)(d) of this section, the applicant shall agree as follows:

i. For properties in a commercial zone east of Highway 101 that abut the D River, to install sidewalks five feet in width adjacent to the river, and to deed easements to the city sufficient to allow the city to add additional width to the riverfront sidewalks so that they can be a total of 10 feet in width;

ii. [Reserved];

iii. [Reserved]; and

e. Install and connect to the city systems water and sewer lines and appurtenances that conform to adopted city standards; and

f. Place underground all existing electrical, telephone, and cable television utility service installations or connections between any building or structure and the utility distribution system, in accord with city standards, in addition to meeting the requirements of LCMC 17.52.120; and

g. Develop the site and construct all buildings and improvements in strict conformity to the tendered site plan; and

h. Provide any of the following transit-related improvements, if development includes or is adjacent to existing or planned transit stops shown in the city transportation system plan or an adopted plan prepared by a transit provider, as determined by the city engineer or community development director:

i. Reasonably direct pedestrian connections between the transit stop and building entrances of the site. For the purpose of this section, "reasonably direct" means a route that does not deviate unnecessarily from a straight line or a route that does not involve a significant amount of out-of-direction travel for users;

ii. An easement or dedication for a passenger shelter or bench, if such an improvement is in an adopted plan; and

i. Maintain the sidewalk, landscape strip, and curb adjacent to the property to standards in LCMC Title 12, Streets, Sidewalks, and Public Places.

In lieu of a required improvement, the city ~~engineer~~ **manager or a designated representative** may accept a deferred improvement agreement, fee-in-lieu agreement, or other cost-allocation agreement, in a form approved by the ~~city engineer~~ **city manager or designate**, for installation of curbs, gutters, sidewalks, street paving, water and sewer lines and appurtenances, and storm water detention, treatment, and drainage features and facilities, if the city ~~engineer~~ **manager or designate** determines that a delay is appropriate. ~~prior to the commencement of construction of these improvements.~~ The cost to the developer shall equal the cost of installation, including engineering and design, as determined by the city engineer, based on the applicable city standards in effect at the time of application. The applicant shall pay the fee or sign an alternative agreement prior to approval of the final plat or issuance of a building (structural) or

development permit. ~~Property owners~~ Applicants who pay a fee in lieu of constructing a required specific improvement shall not be responsible for any future additional costs associated with that same improvement. The city shall use all such fees for construction, repair, or maintenance of the public infrastructure improvements of the type identified above and located within the city which provide a benefit to the subject property; and

~~3. The city manager or a designated representative finds that the building site is not subject to natural hazards such as flooding, falling rock, landslides, or mass movement, and that the building site is capable of accommodating the proposed structure without danger to users of the site or to the citizens of the city; and~~

4. If no street is contiguous to the property from which safe and convenient access and egress can be obtained for pedestrians and vehicular traffic, the applicant shall agree, if required by the city ~~engineer manager or a designated representative~~, to dedicate a street right-of-way and to construct improvements to adopted city standards as provided in subsection (A)(2)(a) of this section.

~~5. As to applications for development review approval, if the site consists of more than one lot any lot does not conform to the minimum access or lot requirements for the zone in which the lot is located, the owner shall agree that, prior to issuance of a structural permit, or commencement of development if a structural permit is not required, the owner will either:~~

~~a. Provide to the city a covenant that the lots comprising the site, unless subsequently partitioned or subdivided, will be treated as a single lot for all purposes of the municipal code and this title and that the lots comprising the site will not be sold separately; or~~

~~b. Reconfigure the lots comprising the site, in accord with the applicable legal procedures, so that all lots comprising the site will conform to the minimum lot and access requirements for the zone in which the lots are located.~~

B. Limitations on Infrastructure Requirements. If the applicant asserts that it cannot legally be required, as a condition of structural permit, site development permit, or development review approval, to provide easements or improvements at the level otherwise required by this section, then:

1. The structural permit, site development permit, or development review application shall include a rough proportionality report, prepared by a qualified civil or traffic engineer, as appropriate, showing:

a. The estimated extent, on a quantitative basis, to which the improvements will be used by persons served by the ~~building or~~ development, whether the development use is for safety or for convenience;

b. The estimated level, on a quantitative basis, of improvements needed to meet the estimated extent of use by persons served by the ~~building or~~ development;

c. The estimated impact, on a quantitative basis, of the ~~building or~~ development on the public infrastructure system of which the improvements will be a part;

d. The estimated level, on a quantitative basis, of improvements needed to mitigate the estimated impact on the public infrastructure system; and

2. The applicant shall, instead, be required to provide easements and improvements that are roughly proportional to what is needed for the safety or convenience of persons served by the ~~building, structure, or~~ development, plus those additional easements and improvements that are roughly proportional to what is needed to mitigate the impact of the ~~building, structure, or~~ development on the public infrastructure system of which the improvements will be a part, if the impacts are not fully mitigated by the easements and improvements needed for the safety or convenience of persons served by the ~~building, structure, or~~ development.

C. Easements and Improvements Deferred from Land Divisions. If a prior land division approval under LCMC Title 16 affecting the ~~building, structure, or~~ development site has deferred, until submission of a structural permit, site development permit, or development review application, the definition of the level of easements or public infrastructure improvements required to be provided in relation to the land division, based on an assertion that the level of easements or improvements required cannot be defined until actual development is proposed for the divided land, then the applicant owner shall provide with the application a report as described in subsection (B) of this section and, as a condition of application approval, shall be required to dedicate easements and provide public infrastructure improvements required under LCMC Title 16, to the extent the easements and improvements meet the standards set out in subsection (B)(2) of this section.

D. Appeals.

1. Any person aggrieved by that person's inability to obtain a ~~building structural permit or site development permit~~ pursuant to this section or by the decision of any administrative officer or agency based upon or made in the

course of the administration or enforcement of this section may appeal as a Type III procedure pursuant to LCMC 17.76.050.

2. Notwithstanding subsection (D)(1) of this section, decisions of the city manager, public works director, city engineer, **director**, or designated representative in the enforcement of deferred improvement agreements entered into under subsection (A)(2) of this section shall not be subject to appeal.

~~E. Limitations to Issuance of Certificate of Occupancy. No certificate of occupancy shall be approved for issuance by the director or by the city engineer until the applicant has fulfilled all requirements of, and has executed the agreements required by, this section, and shall not be approved for issuance by the director or city engineer if there is any variance from the approved development review.~~

~~F. Applicability. This section, except for subsection (C) of this section and proceedings under this section related thereto, shall not apply to structural permit applications for building on land subdivided pursuant to a final subdivision plat approved or subdivision exemption granted by the planning commission and/or city council after November 1, 1989.~~

SECTION 51. Chapter 17.52 (*Supplementary Regulations and Exceptions*), Section 17.52.250 (*Standards for manufactured homes*), is hereby amended as follows:

~~17.52.250—Standards for manufactured homes.~~

~~All manufactured homes shall:~~

~~A. Enclose a floor area of not less than 600 square feet;~~

~~B. Have a backfill style foundation or skirting of pressure-treated wood, masonry, or continuous concrete footing wall construction, complying with the minimum set-up standards of the adopted State Administrative Rules for Manufactured Dwellings, Chapter 918;~~

~~C. Have a roof with nominal pitch of three feet in height for each 12 feet of width;~~

~~D. Be certified by the manufacturer to have exterior thermal envelopes meeting the performance standards specified in state law for single-family dwellings constructed under the State Building Code;~~

~~E. Not have bare metal siding or roofing; and~~

~~F. Not be sited adjacent to any structure listed on the Register of Historic Landmarks and Districts.~~

SECTION 52. Chapter 17.55. (*Landscaping Standards*), Section 17.55.020 (*Applicability*), is hereby amended as follows:

17.55.020 Applicability.

The standards of this chapter shall apply to:

A. All Type II and Type III procedures.

B. New construction.

~~C. Previously developed sites whenever improved by 50 percent or more of the assessed value of the existing improvements.~~

SECTION 53. Chapter 17.55. (*Landscaping Standards*), Section 17.55.030 (*Landscaping requirements for detached single-unit dwellings, attached single-unit dwellings, manufactured dwellings, and duplexes*), Paragraph B. is hereby amended as follows:

B. Landscaping Requirements. Landscaping is required on all disturbed portions of the site not covered by buildings, structures, or impervious surfaces. Existing plants and trees that are healthy and noninvasive count towards the minimum requirements listed below, provided they will be protected during development adequately enough to ensure future preservation.

1. At a minimum, the site shall contain the following spaced and/or grouped according to best planting practices and aesthetics:

a. One tree per 150 feet of total lot perimeter; and

b. One shrub per 30 feet of total lot perimeter; and

c. **The remainder of the site that is not covered by buildings, structures, or impervious surfaces shall be covered with living or nonliving ground cover as outlined in subsection (C) of this section and LCMC 17.55.050.**
~~Sufficient number of living ground cover plants spaced to cover 10 percent of the gross area of the site within three years of planting.~~

SECTION 54. Chapter 17.55. (*Landscaping Standards*), Section 17.55.040 (*Landscaping requirements for all development other than detached single-unit dwellings, attached single-unit dwellings, manufactured dwellings, and duplexes*), is hereby amended as follows:

A. Landscaping is required on all portions of the site not covered by buildings, structures, or impervious surfaces.

~~B. Fifteen percent of the total gross area of the site shall be landscaped with live vegetation according to the standards contained within this chapter.~~

Existing plants and trees that are healthy and noninvasive count towards the **~~15 percent live vegetation tree and shrub~~** requirement **below**, provided they will be protected during development adequately enough to ensure future preservation.

1. At a minimum, the site shall contain **the following spaced and/or grouped according to best planting practices and aesthetics: three distinct and separate landscape areas, containing an overall total of the following spaced and/or grouped according to best planting practices and aesthetics:**

- a. One tree per **20 100** feet of total lot perimeter; and
- b. One shrub per **10 30** feet of total lot perimeter; and
- c. **The remainder of the site that is not covered by buildings, structures, or impervious surfaces shall be covered with living or nonliving ground cover as outlined in subsection (C) of this section and LCMC 17.55.050.** Living ground cover.

2. If islands are required in parking areas, each island must contain at least one tree, sized appropriately for the area of the island. The remainder of the island must be covered with shrubs and/or living or nonliving ground cover, subject to the standards set out in subsection (C) of this section and LCMC 17.55.050. Islands count towards ~~both~~ the parking landscaping requirement, **and the 15-percent landscaping requirement.**

C. Ground Cover and Mulch.

- 1. Ground cover used as mulch between plantings shall be placed at a minimum two- to three-inch-thick layer to ensure effective erosion control and to avoid leaching of excessive nutrients.
- 2. Acceptable mulch materials are straw, well-aged compost and leaves, wood mulch or bark dust, or wood nuggets that are a minimum diameter of one inch. Mulching with manure that has not been composted or aged is prohibited.
- 3. Nonliving ground cover materials such as noncompacted pea gravel, river rock, pumice, stones, boulders, bark dust, **and cedar chips, or similar,** are acceptable **nonliving** ground cover.
- 4. Standards for living ground cover are those set out in LCMC 17.55.050.

SECTION 55. Chapter 17.55. (*Landscaping Standards*), Section 17.55.050 (*Selection, preparation, and installation for all landscaping*), is hereby amended as follows:

A. Selection of Materials.

- 1. ~~Invasive and noxious plants~~ **Noxious vegetation** as defined in LCMC 8.12.010 or by the Oregon Department of Agriculture **are is prohibited. Noxious weeds as defined in LCMC 8.10.020 are prohibited.**
- 2. ~~Hydro-seeding is prohibited.~~
- 2. All selections must be healthy and disease-free at the time of planting.
- 3. Sizes of Plantings.

- a. Deciduous trees must be a minimum of ~~one and~~ one-half caliper inches at the time of planting.
- b. Conifer trees must be a minimum of ~~five~~ four feet in height at the time of planting.
- c. Ground cover plants must be at least four-inch pot size.
- d. Shrubs must be at least ~~one three~~-gallon size at the time of planting, ~~unless three-gallon sizes are not available for purchase at the time of planting for the particular shrub selected. In those instances, one or two-gallon size is allowed.~~
- e. Plantings at their mature height shall not be higher than five feet if they would block the view of any shoreline of the Pacific Ocean, Siletz Bay or Devils Lake.
- f. All plantings must be one, or a combination of, the following: native to the Pacific Northwest; selected from the City of Lincoln City Guide to Landscape Selections; or suitable for the site conditions as certified by a written and signed statement from a landscape architect licensed in the state of Oregon, a licensed landscape contractor, or a landscape nursery person.

B. Preparation.

1. ~~All newly landscaped areas~~ The entire site must be cleared of ~~invasive and noxious plants~~ noxious vegetation as defined in LCMC 8.12.010 and by the Oregon Department of Agriculture, as well as noxious weeds as defined in LCMC 8.10.020, prior to installation of ~~new~~ landscaping.
2. ~~All newly landscaped areas~~ The entire site must be cleared of weeds, as well as dead, dying, or diseased vegetation prior to installation of ~~new~~ landscaping.

C. Installation.

1. Plant materials must be installed to current nursery industry standards.
2. Plant materials must be properly supported to ensure survival. Support devices such as guy wires or stakes must not interfere with vehicular or pedestrian movement.
3. All landscaping shall be installed prior to final inspection by the department or: issuance of a certificate of occupancy or:
 - a. Agreement to Delay Installation. If all landscaping has not been satisfactorily completed prior to the final inspection by the department requesting issuance of a certificate of occupancy and the director determines that a delay in completion of the landscaping is appropriate because there has not been a reasonable amount of time for the completion of the landscaping or for other reasons, then the director may require, as a condition of ~~such issuance or~~ use of the site, a landscaping agreement

signed by the owner, in a form satisfactory to the director. A landscaping agreement shall:

- i. Identify all landscaping to be completed and establish a time period, not to exceed 120 days, within which the owner shall complete the landscaping;
- ii. If the identified landscaping is not completed within the established time period, then this shall be considered a Class B violation with a fine of up to \$1,000 per day for each day the identified landscaping remains incomplete.

SECTION 56. Chapter 17.56. (*Off-Street Parking and Loading*), Section 17.56.010 (*Applicability*), is hereby amended as follows:

17.56.010 Applicability.

~~The standards of this chapter shall apply to: The requirements of this chapter are applicable for all zoning districts, unless specifically stated otherwise, and shall be adhered to when:~~

A. All Type II and Type III procedures:

B. New construction.

~~A. A new building is hereafter erected; or~~

~~B. An existing building is enlarged to the extent that the cost of construction exceeds 50 percent of the improvement value of the building as shown on the Lincoln County Property Report from the Lincoln County assessor's office or to the extent that the building's capacity is increased by more than 50 percent in terms of units listed in LCMC 17.56.050; or~~

~~C. The occupancy classification of an existing building, or any portion thereof, is changed and the building enlarged; parking spaces shall be provided in proportion to the increase only, provided the increase is less than 50 percent of the existing building area. If the increase exceeds 50 percent, parking shall be provided for the entire structure in accordance with the requirements of this chapter. If the structure in which the change of use is to occur is not enlarged, no additional parking shall be required.~~

SECTION 57. Chapter 17.56. (*Off-Street Parking and Loading*), Section 17.56.030 (*Number of off-street parking spaces required*), is hereby amended as follows:

A. The number of off-street parking spaces required shall be as set forth in Table 17.56.030-1.

Table 17.56.030-1 – Number of Spaces Required

Use	Requirement
A. Residential:	
1. Detached single-unit, attached single-unit, and duplex a. 1,000 square feet or less per unit b. Over 1,000 square feet per unit	1 space per dwelling unit 2 spaces per dwelling unit
2. Multi-unit dwelling containing three or more dwelling units	1.5 spaces per dwelling unit for those units with two or more bedrooms and 1 space per dwelling unit for one bedroom or studio units 1 space per dwelling unit
3. Rooming or boarding houses; residential hotel	1 space for each accommodation plus 1 additional space per 2 employees
4. Mobile home park	1.5 spaces per dwelling
5. Congregate care facility	1 space per 4 accommodations plus 1 additional space per employee
6. Bed and breakfast accommodation	1 space per accommodation plus the required spaces per dwelling unit
7. Elderly housing units	1 space per dwelling unit plus 1 additional space per employee
B. Commercial-Residential:	
1. Recreational vehicle park	1 space per recreational vehicle space plus 1 additional space per employee
2. Hotel or motel	1 space per guest room or suite plus 1 additional space for each employee
3. Club, lodge	Spaces to meet the combined requirements of the uses conducted, such as hotel, restaurant, auditorium, etc.
C. Institutions:	
1. Welfare or correctional institution, convalescent hospital, nursing home, rest home, sanitarium or similar institution	1 space per 4 beds for residents, patients or inmates plus 1 for each employee
2. Hospital	1 space per 2 beds plus 1 space for each employee

Use	Requirement
D. Places of Public Assembly:	
1. Place of worship, auditorium, gymnasium, community center or other place of public assembly	1 space per 4 seats or 8 feet of bench length in the main auditorium or, if no permanent seats are provided, 1 space per 80 sq. ft. of floor area of the main auditorium
2. Library, reading room, museum, art gallery	1 space per 400 sq. ft. plus 1 space for each employee
3. Preschool nursery, day nursery or kindergarten	1 space per teacher, adult supervisor or employee
4. Elementary or junior high school and equivalent private or parochial school	1 space per classroom and special instruction area or the requirement for a place of public assembly, whichever is the greater, plus 1 space per nonteaching and administrative employee
5. High school	8 spaces per classroom and special instruction area, or the requirement for a place of public assembly, whichever is the greater
6. College, university, institution of higher learning and equivalent parochial school	1 space for each 5 seats in total number of classrooms
E. Commercial Amusement:	
1. Amusement park	1 space for 1,000 sq. ft. of patron serving area, plus 1 space for each employee
2. Billiard and pool halls	1 space for each table plus 1 space for each employee
3. Bowling alley	5 spaces for each alley plus 1 space for each employee
4. Dance hall	1 space for each 50 sq. ft. of patron area, plus 1 space for each employee
5. Golf course (9- and 18-hole)	5 spaces per hole, plus 1 space per employee at maximum shift plus 75 percent of the spaces otherwise required for any accessory uses (e.g., bar, restaurant, etc.)
6. Golf driving range	1 space for each 10 linear feet of driving

Use	Requirement
	line
7. Miniature golf	1-1/2 spaces per hole
8. Indoor arena or theater	1 space for each 4 seats or 8 feet of bench length
9. Moorage (boat)	1 space for each 2-boat berth plus 1 space for each employee
10. Skating rink	1 space for each 50 sq. ft. of floor or rink area plus 1 space for each employee
11. Stadium	1 space for each 8 seats or 16 feet of bench length
12. Swimming pool	1 space for each 100 sq. ft. of pool area plus 1 space for each employee
13. Tennis and racquet court	4 spaces for each court
F. Commercial:	
1. Store, supermarket, and department store	1 space for each 400 sq. ft. of gross floor area plus 1 space for each employee
2. Retail store handling bulky merchandise such as automobiles, furniture and large appliances	1 space for each 600 sq. ft. of gross floor area plus 1 space for each employee
3. Service or repair shop	1 space per 800 sq. ft. of gross floor area plus 1 space for each employee
4. Bank or office (except medical and dental)	1 space for each 400 sq. ft. of floor area plus 1 space for each employee
5. Medical and dental clinic	1 space per 200 sq. ft. of floor area plus 1 space for each employee
6. Restaurant, tavern or bar	1 space for each 3 seats provided for customers plus 1 space for each employee
7. Mortuary	1 space for each 4 chapel seats plus 1 space for each employee
G. Industrial:	
1. Manufacturing uses	1 space for each 2 employees on maximum shift
2. Storage warehouse, trucking freight terminals	1 space for each 5,000 sq. ft. for first 20,000 sq. ft. plus 1 additional space for each 50,000 sq. ft.

Use	Requirement
3. Wholesale establishment	1 space per employee plus 1 space per 700 sq. ft. of patron serving area

B. Exceptions to the Number of Off-Street Parking Spaces Required. One or more exceptions may apply to a development.

1. There are no off-street parking requirements for commercial uses, commercial buildings, or the commercial portion of mixed use buildings located within the boundaries of any of the pearls (Wecoma, Oceanlake, DeLake, Taft, Nelscott, Cutler City), said boundaries as identified on the city's adopted zoning map.

2. The number of off-street parking spaces may be reduced by 10 percent of the off-street parking requirement for every five bicycle parking spaces provided over and above the standard requirement for bicycle parking spaces. **The number of off-street parking spaces may be reduced by 20 percent of the off-street parking requirement for every 10 bicycle parking spaces provided over and above the standard requirement for bicycle parking spaces.**

3. The number of off-street parking spaces may be reduced by 10 percent of the off-street parking requirement by preserving at least two mature and healthy trees. **The number of off-street parking spaces may be reduced by 20 percent of the off-street parking requirement by preserving at least four mature and healthy trees.** To receive this credit, a licensed Oregon arborist must certify the trees to be preserved are healthy, and the grading plan must show enough protection and lack of disturbance around the roots (again, as certified by a licensed Oregon arborist) that the trees will be protected and preserved throughout construction and thereafter.

4. Projects that are providing affordable housing as defined in LCMC Chapter 17.08 may reduce the parking requirement by up to 20 percent.

C. Uses Not Listed in Table 17.56.030-1. Uses not specifically listed in Table 17.56.030-1 shall furnish off-street parking as required by the director. In determining the off-street parking requirements for unlisted uses, the director shall use Table 17.56.030-1 as a general guide, and shall determine the minimum number of off-street parking spaces required to avoid undue interference with the use of public right-of-way.

SECTION 58. Chapter 17.56. (*Off-Street Parking and Loading*), Section 17.56.080 (*Development standards for off-street parking and loading areas for all uses other than detached single-unit dwellings, attached single-unit dwellings, and duplexes*), Paragraph C. (*Redevelopment*) is hereby amended as follows:

~~C. Redevelopment. Site design shall incorporate the conversion of existing parking areas located in front of buildings to pedestrian spaces as properties redevelop.~~

SECTION 59. Chapter 17.56. (*Off-Street Parking and Loading*), Section 17.56.080 (*Development standards for off-street parking and loading areas for all uses other than detached single-unit dwellings, attached single-unit dwellings, and duplexes*), Paragraph A. (*Location*), numbered paragraph 4., Paragraph E. (*Maximum Impervious Surface*), and numbered paragraph E.1., Paragraph I. (*Screening*), and Paragraph N. (*RV, Motorhome, and Bus Parking*) are hereby amended as follows:

A. Location.

4. Parking and loading spaces must be at least ~~10~~ **4** feet from public right-of-way, and the space between the public right-of-way and the parking and loading spaces must be landscaped according to the standards in Chapter 17.55 LCMC.

E. Maximum Impervious Surface. **For development other than mixed-use or multi-unit residential, all** All parking spaces, parking areas, and loading spaces in excess of the minimum required amount shall be surfaced with pervious materials as approved by the city engineer.

1. Except that, since commercial uses and commercial buildings in the business districts (pearls) do not have an off-street parking space requirement, if off-street parking is provided anyway as part of the development, the number of spaces provided in excess of what would have been required for the same use if it was not located in a business district (pearls), shall be surfaced with pervious materials as approved by the city engineer.

~~I. Screening. Any off-street parking area providing five or more parking spaces shall be screened from view by a screening hedge or a six-foot-tall, sight-obscuring fence on each side that adjoins property situated in the R-1-5, R-1-7.5, R-1-10, R-1-RE, R-M, R-R, or NCR zones or the premises of any school. Screening hedges are subject to the provisions of Chapter 17.55 LCMC.~~

N. RV, Motorhome, and Bus Parking. **Commercial or mixed-use developments (wholly residential developments do not have this requirement)** ~~Developments~~ with 50 or more required off-street parking spaces shall provide the following minimum number of off-street parking spaces sized and designated for the parking of RVs, motorhomes, and buses:

Number Required Total Parking Spaces

Number Required Total Parking Spaces

1	50 – 75
2	76 – 100
3	101 – 200

One RV, motorhome, bus space for each additional 100 spaces or a fraction thereof.

Each RV/motorhome/bus space shall be not less than 10 feet wide and 30 feet long.

SECTION 60. Chapter 17.64 (*Nonconforming Situations*), Section 17.64.010, (*General provisions*), Paragraph D., is hereby amended, as follows:

D. Restoration **or Replacement** of a Damaged **or Destroyed** Lawful, Nonconforming Structure or Use. A lawful, nonconforming structure or use that has been damaged **or destroyed** may be restored **or replaced** to its former height and footprint, as approved through a Type II procedure as set forth in LCMC 17.76.040, with the application process outlined in LCMC 17.77.116. **All the following criteria shall also be met.**

1. The damage or destruction was not intentionally caused by the property owner;

2. The restoration or replacement does not increase the degree of nonconformity or add new nonconformity;

3. The restored or replaced structure does not encroach on adjacent properties;

SECTION 61. Chapter 17.64 (*Nonconforming Situations*), Section 17.64.040, (*General provisions*), Paragraph E., is hereby amended, as follows:

E. Time Limit on Restoration **or Replacement** of Lawful Nonconformity. The owner of a damaged lawful, nonconforming use or structure shall apply for a **building structural** permit for restoration **or replacement** no later than **24 18** months from the date of the damage, **destruction, or demolition (whichever is the latest).** **Structural permit applications submitted for restoration or replacement of a damaged or destroyed (including demolition of dangerous buildings) within 18 months of the date of damage, destruction, or demolition do not have to comply with design standards of Chapter 17.74 LCMC.** After **24 18** months following the date of damage, **destruction, or demolition, (whichever is the latest)** the **use or structure building** will be **subject to all current zoning regulations for the district zone** in which the land and **buildings structures** are located.

1 **SECTION 62.** Chapter 17.64 (*Nonconforming Situations*), Section 17.64.050,
 2 (*Nonconforming lots of record*), is hereby amended to read as follows:

3
 4 **~~17.64.050~~17.64.040 Nonconforming lots of record.**

5 ~~If a lot or the aggregate of contiguous lots as recorded in the office of the~~
 6 ~~county clerk has an area or dimension that does not meet the lot size~~
 7 ~~requirements of the zone in which the property is located, such lot or lots~~
 8 **Nonconforming lots of record** may be occupied by a use or uses permitted in
 9 the zone, subject to the other requirements of the zone.; ~~provided, such lots in~~
 10 ~~residential zones shall be limited to a single-family dwelling and such lots in~~
 11 ~~the R-R zone shall be limited to a single-family dwelling or a recreational~~
 12 ~~vehicle.~~

13
 14 **SECTION 63.** Chapter 17.64 (*Nonconforming Situations*), Section 17.64.060, (*Violation-*
 15 *Enforcement*), is hereby amended to read as follows:

16
 17 **~~17.64.060~~ 17.64.050 Violation – Enforcement.**

18
 19 Any modification of a nonconforming use, site or structure that according to this
 20 chapter requires city approval shall not be initiated before such approval is
 21 obtained. Failure to obtain an approval required by this chapter is a violation
 22 punishable as a Class B violation under Chapter 1.16 LCMC, with each day the
 23 property is used in violation of this section considered a separate violation.
 24 Notice provisions of LCMC 17.84.020 (B) shall not apply in any enforcement of
 25 violation of this chapter, and the city may at its option proceed to file a complaint
 26 or take other remedial action as provided in Chapter 17.84 LCMC without prior
 27 notice of violation to the property owner or any opportunity to correct.
 28

SECTION 64. Chapter 17.74 (*Design Standards*), Section 17.74.020 (*Applicability*), Paragraph A., (*Zoning Districts*) is hereby amended as follows:

17.74.020 Applicability

A. Zoning Districts. The provisions of this chapter apply to the multiple-unit residential (R-M), recreation commercial (RC), general commercial (GC), Nelscott plan district (NP), Taft Village core (TVC), and Oceanlake plan district (OP) zones. **as follows:**

~~1. Article I, General Provisions.~~

~~2. Article II, Design Regulations for Mixed Uses and Uses Other Than Residential.~~

~~3. Article III, Design Regulations for Multi-Unit Structures and Developments.~~

SECTION 65. Chapter 17.74 (*Design Standards*), Section 17.74.030 (*Exceptions and nonconformances*), is hereby amended, as follows:

17.40.030 Exceptions ~~and nonconformances~~

A. Routine Repairs and Maintenance. Routine repairs and maintenance are exempt from these standards.

B. Additions or Expansion. Additions to or expansions of an existing building or structure are exempt from standards contained in this chapter. **~~that are specific to building design, provided the addition or expansion is less than 800 square feet of gross floor area. If the addition or expansion consists of 801 square feet or more of gross floor area, then the standards contained in this chapter that are specific to building design shall apply to the addition or expansion. Existing nonconforming portions of the building shall come into conformity as provided in Chapter 17.64 LCMC. As part of the addition or expansion, and regardless of size, all other portions of the site (landscaping, off-street parking and loading, supplementary regulations and exceptions, and nonconformances, etc.) must comply with respective code requirements as applicable.~~**

C. Residential Dwellings ~~Exception~~. Detached single-unit dwellings, attached single-unit dwellings, **attached single-unit dwellings developments**, duplexes, and manufactured **homes dwellings** in any zone are exempt from all requirements of this chapter.

~~D. Nonconformances. See Chapter 17.64 LCMC for application of these standards in nonconforming situations.~~

SECTION 66. Chapter 17.74 (*Design Standards*), Section 17.74.040 (*Standards versus guidelines*), is hereby amended, as follows:

17.74.040 Standards versus guidelines.

A. The sections that follow provide intent statements, followed by standards and guidelines. Most standards contain approval criteria that are objective; however, some criteria require the review authority to apply discretion. Where discretion is involved, the review authority must use the guidelines in evaluating a proposal. The following further explains the relationship between intent statements, standards, and guidelines.

1. Intent statements are not utilized as applicable approval criteria for evaluating the application for approval or denial. However, intent statements are utilized when considering approval or denial of requests for adjustments ~~or modifications~~ as the applicant must demonstrate how the requested adjustment ~~or modification~~ and proposed alternative conform to the intent statements.

2. Standards use the words "shall" or "must" and are mandatory. A request for an adjustment ~~or modification~~ is required if the standard cannot be met.

3. Guidelines use the words "should," "may," "preferred," "encouraged," and "discouraged," and are advisory only. Guidelines supplement the standards and provide examples of acceptable or unacceptable design.

a. Graphics used in this chapter do not prescribe a particular design, but serve as examples of acceptable or unacceptable design solutions.

4. Standards and guidelines both serve as approval criteria, but the review authority has much greater latitude in applying guidelines. Where a guideline conflicts with a standard, the standard prevails.

5. In the case of a requested adjustment ~~or modification~~ to a standard, the submitted application and associated materials must demonstrate how the adjustment ~~or modification~~ results in equal or greater conformity to the intent of the code and other applicable standards and guidelines.

6. Nullification of one standard or guideline by a court of competent jurisdiction does not cause any other standard or guideline to be nullified (severability).

~~**B. Burden of Proof. The submitted application and associated materials must demonstrate how the proposal meets all the applicable standards contained in this chapter and other applicable city regulations. Through adjustment requests, the application and associated materials must also**~~

~~provide evidence of why a standard is not relevant given the context of the site and proposed use.~~

~~C. Adjustments. Adjustments to the standards in this chapter are not variances. The review authority may approve requests for adjustments to or modifications of the standards in this chapter provided the applicant demonstrates the following:~~

~~1. The character types and guiding principles, as contained in LCMC 17.74.050, and the intent statement(s) under the standard to be adjusted can be better met through the proposed alternative design solution; or~~

~~2. Necessary characteristics of the allowed use present practical difficulties in meeting a standard. In such cases, the submitted materials must provide alternative features to meet the intent of the standard, along with an explanation of how the alternative features meet the intent of the standard being adjusted.~~

SECTION 67. Chapter 17.74 (*Design Standards*), Section 17.74.100 (*Building Design*), Paragraph E. (*Roof Form*) numbered paragraph 2 (*Pitched Roofs*) is hereby amended, as follows:

2. Pitched Roofs. Roofs must be gabled or hipped. Sloped roofs ~~should~~ **must** have a minimum pitch of at least ~~3:12. 6:12.~~

SECTION 68. Chapter 17.74 (*Design Standards*), Section 17.74.100 (*Building Design*), Paragraph F. (*Building Articulation*) numbered paragraph 4 (*Blank Wall Treatments*) is hereby amended, as follows:

~~4. Blank Wall Treatments. In pearls, walls longer than 30 feet that face public right-of-way or pedestrian space must incorporate two or more of the following:~~

- ~~a. Vegetation, such as trees, shrubs, and ground cover adjacent to and covering at least 50 percent of the wall surface. Such vegetation must be selected from the City of Lincoln City Guide to Landscape Selections or recommended as being suitable for the local climate by a licensed arborist, or registered landscape architect, who is licensed in the state of Oregon;~~
- ~~b. Artwork, such as bas-relief sculpture, original art displays, or trellis structures covering at least 50 percent of the wall surface;~~
- ~~c. Seating area with special paving and seasonal plantings; and/or~~
- ~~d. Masonry materials with architectural detailing, reveals, pilasters or other means of rustication techniques.~~

SECTION 69 Chapter 17.74 (*Design Standards*), Section 17.74.100 (*Building Design*), Paragraph H., (*Windows/Transparency*) is hereby amended, as follows:

H. Windows/Transparency.

1. Ground Floor Windows.

a. Consistent with a desired storefront character, and to avoid blank walls, each individual wall plane must contain partial transparency in the form of windows, windowed doors, or transom windows.

b. The required percentage of ground floor transparency in the individual wall plane ~~must~~ **should** be placed in the area of that wall plane that is between 30 and 80 inches above the sidewalk grade.

c. Ground-floor elevation windows ~~should~~ **must** be framed by piers or pilasters at their sides; awnings, canopies, or trim/hoods at their top; and kick plates or bulkheads at their base.

d. Decorative detailing and ornamentation around windows is encouraged, but is not required.

2. Upper Floor Windows. Upper-floor window orientation must be vertical or have a width that is no greater than the width of the ground-floor window immediately below it. Upper-floor windows should follow the vertical lines of the lower-level piers and the horizontal definition of spandrels and any cornices.

~~**3. Transparency for Non-Street-Facing Elevations. The transparency standard must be met for any non-street-facing elevation that faces a pedestrian space or that contains a primary entrance.**~~

3. Projecting Windows, Display Cases. For durability and aesthetic reasons, projecting windows and display cases must be integral to the building design and contain trim or other detailing consistent with the overall composition of the building.

4. ATMs and Service Windows. ATMs and service windows must be visible from the public right-of-way for security and have a canopy, awning, or other weather protection shelter.

5. Prohibited Windows. Highly tinted, opaque, or mirrored glass (except stained-glass windows) do not meet the intent of this section and are prohibited.

Figure 17.74.100-9. Examples of windows.



Large display windows along ground floor. Upper floor windows that follow the vertical lines of the lower level.

SECTION 70. Chapter 17.74 (*Design Standards*), Section 17.74.100 (*Building Design*), Paragraph I., (*Pedestrian Shelters and Weather Protection*), numbered paragraph 1, is hereby amended, as follows:

1. Required pedestrian shelters must extend at least five feet over the pedestrian area, with a minimum clearance of **12 8** feet between the shelter and sidewalk surface.

SECTION 71. Chapter 17.74 (*Design Standards*), Article III (Design Regulations for Multi-Unit Structures and Developments) is hereby amended to change the Title as follows:

Article III. Design Regulations for Multi-Unit **Residential** Structures ~~and Developments~~

SECTION 72. Chapter 17.74 (*Design Standards*), Section 17.74.130 (*Building Design*), Paragraph B, (*Building Stepback*), numbered paragraph 1. (*Upper Floor Stepback*), is hereby amended, as follows:

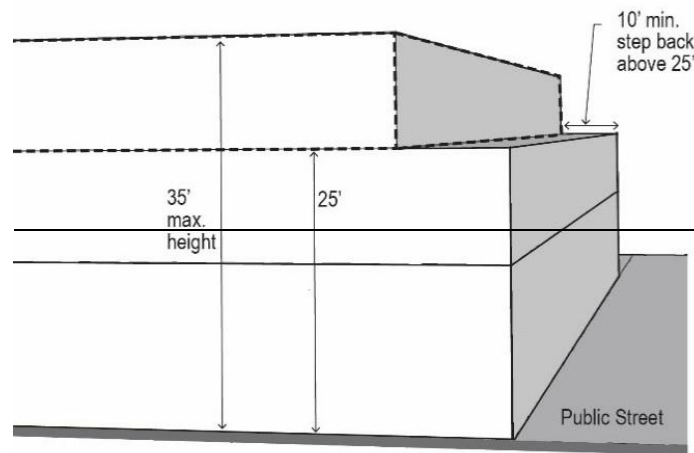
~~B. Building Stepback.~~

~~1. Upper Floor Stepback. The upper elevations of building facades facing a public right-of-way or pedestrian space must step back above 25 feet or above the second story, whichever is the lesser height (Figure 17.74.130-1). The following options are acceptable to meet this standard:~~

~~a. The top floor must step back at least 10 feet; or~~

b. ~~Progressive stepbacks of several upper floors must total at least 10 feet.~~

Figure 17.74.130-1. Building stepback.



SECTION 73. Chapter 17.74 (*Design Standards*), Section 17.74.130 (*Building Design*), Paragraph C, (*Building Form*), is hereby amended, as follows:

C. ~~B.~~ Building Form. All buildings must incorporate elements to preclude blank building elevations facing a public right-of-way ~~or pedestrian space~~ (Figure 17.74.130-2). Along the façade of the structure, such features must occur at a minimum of every ~~100~~ **30** lineal feet, with each floor containing at least ~~one~~ **two** of the following features:

1. Roof line offset of at least two feet from the top surface of one roof to the top surface of the other;
2. An offset on the building face of at least eight inches from one exterior wall to the other;
3. A section of the facade, at least four feet in width, that is either recessed or bumped out by at least one foot deep from the front wall plane;
4. A recessed building entry at least two feet deep, as measured horizontally from the face of the main building facade, and at least four feet wide;
5. A balcony at least four feet deep and eight feet wide, that is accessible from at least one interior room;
6. A covered porch at least two feet deep (measured horizontally from the face of the main facade) and at least four feet wide;
7. Recess with a minimum depth of four feet; or
8. Extension projecting a minimum of two feet and running horizontally a minimum of four feet.

1

Figure 17.74.130-2. Building form.

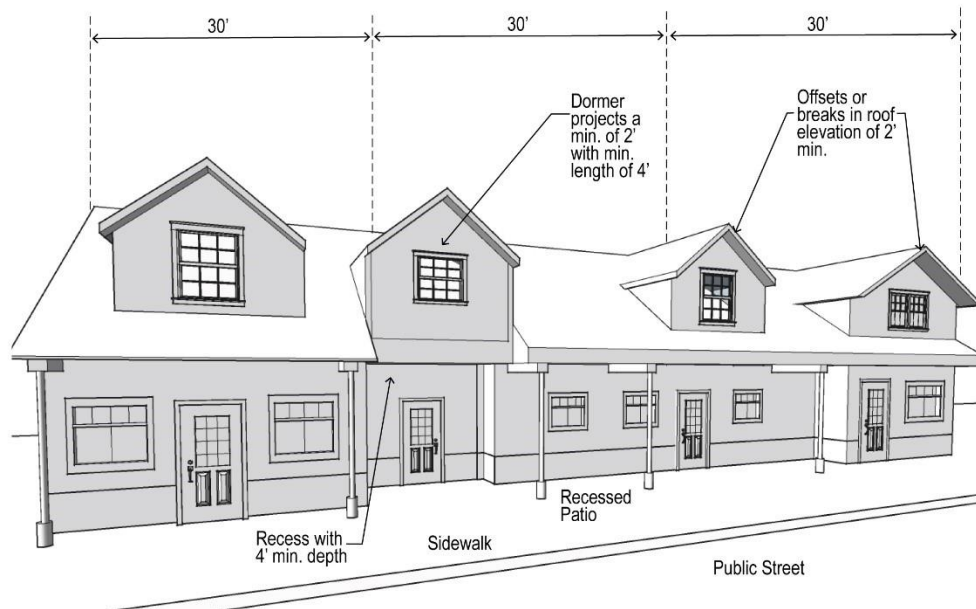
2
3

Figure 17.74.130-3. Examples of building form.



Recessed entries and balconies, and covered porches.



Roof line and building face offsets, and recessed balconies.

SECTION 74. Chapter 17.74 (*Design Standards*), Section 17.74.130 (*Building Design*), Paragraph D, (*Roof Form*), is hereby amended, as follows:

D. C. Roof Form.

1. Sloped roofs are the preferred form for buildings, and flat roofs should be avoided.

2. Sloped roofs must have a pitch between 3:12 and 12:12. Mono-pitch (shed roofs) must have a pitch of at least 2:12.

3. Dual-pitched or hipped "mansard" and A-frame roof forms are not permitted.

4. Sloped roofs are the preferred roof form for buildings with a front facade width 50 feet or greater.
1. ~~Sloped roofs are required for buildings with a front facade width less than 50 feet.~~
2. ~~Sloped roofs are the preferred roof form for buildings with a front facade width 50 feet or greater. Flat roofs should be avoided.~~
3. ~~Sloped roofs must have a pitch between 6:12 and 12:12. Mono-pitch (shed) roofs must have a pitch of at least 4:12 (Figure 17.74.130-4).~~
4. ~~In instances where sloped roofs are not practicable and a flat roof is the only option, the flat roof must have projecting cornices to create a prominent edge when viewed against the sky. Cornices must be made of a different material and color than the predominate siding of the building, except that brick siding may include matching brick cornices.~~
5. ~~Dual-pitched or hipped "mansard" and A-frame roof forms are not permitted.~~

Figure 17.74.130-4. Roof form

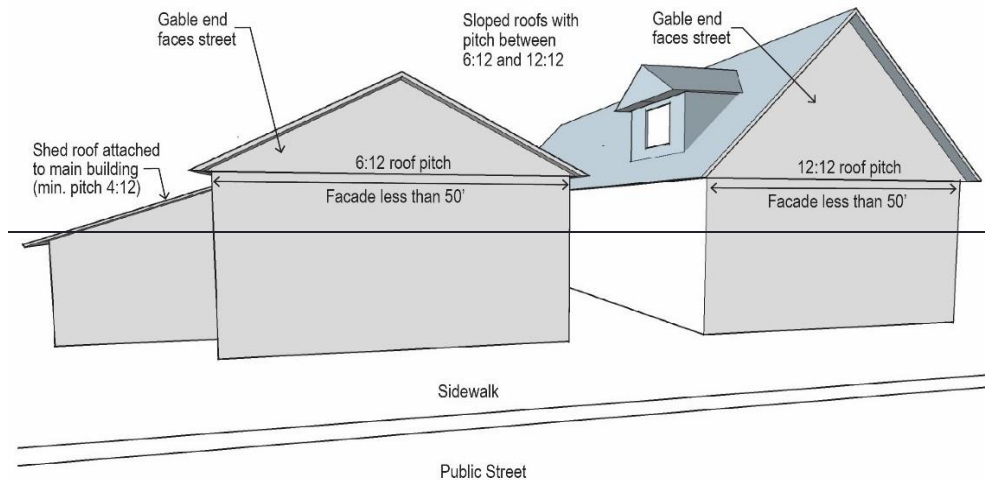


Figure 17.74.130-5. Examples of roof form.



Street-facing gables.



Pitched roof with attached shed roof.

SECTION 75. Chapter 17.74 (*Design Standards*), Section 17.74.130 (*Building Design*), Paragraph E, (*Building Entrances*), Paragraph F, (*Building Windows*), Paragraph G, (*Building Materials*), Paragraph H, (*Building Colors*) and Paragraph I (*Garage Requirements*) are hereby renumbered to Paragraphs D, E, F, G and H respectively.

SECTION 76. Chapter 17.77 (*Applications*), Section 17.77.070 (*Development Review*), is hereby amended, as follows:

17.77.070 Development review.

A. **Purpose.** The purpose of development review is to establish a coordinated process to ensure that new development is in compliance with the requirements of this title. ~~prior to the submittal of structural permit applications, or in instances where structural permit applications are not necessary prior to the commencement of any development. The development review application shall demonstrate that the proposed development will comply with all of the applicable requirements of this title, and that the arrangement of all buildings, structures, access points, parking and loading facilities, landscaping, exterior lighting, and storm water facilities will avoid traffic congestion and will provide for pedestrian and vehicular safety and welfare.~~

1. Development review does not replace, or excuse applicants, property owners, or developers from obtaining, any other permits or approvals required by this title, by the Lincoln City Municipal Code, or by any other local, state, or federal law or authority applicable to the proposed development, including but not limited to sign, tree removal, structural, demolition, grading and erosion control, conditional use, planned development, and/or land division permits.

B. Applicability. Except as exempted in subsection (C) of this section, development review approval is required: ~~before any structural permit is issued authorizing development~~

~~and before any outdoor storage area or parking lot development commences in the R-M, PC, RC, GC, PI, M-W, P, OS, TVC, NP, and OP zones, and before any nonresidential structural permit is issued authorizing development and before any nonresidential outdoor storage area or parking lot development commences in any other zone.~~

1. Before application for or issuance of any nonresidential structural permit, mixed-use structural permit, or any multi-unit residential structural permit on undeveloped sites in the R-M, PC, RC, GC, PI, MW, P, OS, TVC, NP, and OP zones

2. Prior to commencement of redeveloping existing parking lots or developing new parking lots in any zone.

C. Exemptions. The ~~following activities, development and construction projects listed below~~ are exempt from development review:

1. Detached single-unit dwellings, attached single-unit dwellings, attached single-unit dwellings developments, recreational vehicles, manufactured homes, and duplexes;
2. Routine repairs and maintenance;
3. Interior remodeling of an existing building or structure; ~~(also called tenant improvements) or building alterations required to meet ADA or Oregon Residential Specialty Code or Oregon Structural Specialty Code requirements as applicable;~~
4. Temporary structures associated with temporary uses;
5. Accessory structures ~~that don't require a structural permit;~~
6. Construction, alteration, or maintenance of public infrastructure including streets, traffic control devices, drainage ways, sanitary and storm sewers, storm water quality facilities, water lines, electrical power or gas distribution lines, or telephone or television cable systems;
7. Type I procedures; applications;
8. Exterior remodeling ~~of a structure where no portion of the remodeled area is visible to public right-of-way;~~ or
9. Expansions of an existing structure. Development meeting all of the following criteria:
 - a. ~~The development proposes no new structures that require a structural permit; and~~
 - b. ~~The development involves either no expansion of an existing structure or expansion of an existing structure by 800 square feet or less in total; and~~
 - c. ~~The development does not change existing on-site traffic circulation patterns; and~~
 - d. ~~The development adds less than three additional parking spaces.~~

10. Restoration or replacement of a damaged, destroyed, demolished or substantially damaged lawful, nonconforming structure or use (see LCMC 17.64.010).

D. Procedure. Development review applications are subject to the Type II procedure as described in LCMC 17.76.040, unless any of the following circumstances apply:

1. The applicant chooses to submit as a Type III procedure; or
2. A Type III application is necessary to approve one or more of the uses proposed in the development, in which case the development review application shall be processed concurrently with the Type III application as a Type III procedure.

E. Submittal Requirements. Type II application submittal requirements are set forth in LCMC 17.76.040 and more specific submittal requirements are provided on application forms and checklists as authorized in LCMC 17.76.110.

F. Concurrent Applications for Adjustments. Requests for adjustments to standards required in Chapter 17.74 LCMC ~~shall should~~ be processed concurrently with the development review application, **but may be processed with the structure or site development permit application.**

G. Approval Criteria. To approve an application for development review, the review authority must find that the development, as described in the submitted application, either complies with all of the requirements of this title or will comply with all of the requirements of this title subject to conditions that shall ensure compliance with all of the requirements of this title.

H. Conditions of Approval. Pursuant to LCMC 17.76.120, the review authority may impose conditions on the approval of a development review application to ensure compliance with the requirements of this title.

I. Appeal of a Decision. Refer to LCMC 17.76.180.

J. Expiration of a Decision. Refer to LCMC 17.76.140.

K. Extension of a Decision. Refer to LCMC 17.76.150

SECTION 77. Chapter 17.77 (*Applications*), Section 17.77.140 (*Variance*), is hereby amended, as follows:

17.77.140 Variance.

A. Procedure. Variance applications are subject to the Type III procedure, as described in LCMC 17.76.050.

B. Submittal Requirements. Type III application submittal requirements are set forth in LCMC 17.76.050 and more specific submittal requirements are provided on application forms and checklists as authorized in LCMC 17.76.110.

C. Approval Criteria. To approve a variance, the planning commission shall make findings of fact, based on evidence provided, that all of the following circumstances exist:

1. Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity and result from **at least one of the following (city official or city staff error is not an exceptional or extraordinary circumstance):**

a. lot size or shape legally existing prior to the date of the ordinance codified in this chapter; **or**

b. topography; **or**

c. ~~or~~ other circumstances **specifically pertaining to the property** over which the property owner has no control;

2. The variance is necessary for the preservation of a property right of the property owner which is substantially the same as owners of other property in the same zone or vicinity possess;

3. The variance should not be materially detrimental to the purposes of this title, or to **any** property in the ~~zone or vicinity~~ **of in which** the **subject** property ~~is located~~, or otherwise conflict with the **goals or policies of the comprehensive plan; objectives of any city planning policy;**

4. The variance requested is the minimum variance which would **mitigate the exceptional or extraordinary circumstance.** ~~alleviate the hardship.~~

D. Appeal of a Decision. Refer to LCMC 17.76.180.

E. Expiration of a Decision. Refer to LCMC 17.76.140.

F. Extension of a Decision. Refer to LCMC 17.76.150

SECTION 78. Chapter 17.80 (*Provisions Applying to Special Uses*), Section 17.80.050 (*Vacation rental dwelling use criteria*), Paragraph B, (*Vacation Rental Dwelling Standards*), Numbered Paragraph 3, (*Parking*), lettered paragraph a. is hereby amended, as follows:

- a. The ~~planning and community development~~ director has the discretion to require such changes as are necessary to conform the dwelling to available approved parking and shall inspect the dwelling as necessary to confirm the

occupancy has been so conformed prior to approving the use in any allowed zone. An example is changing a bedroom to another use.

SECTION 79. Chapter 17.80 (*Provisions Applying to Special Uses*), Section 17.80.090 (*Small wind energy systems*), Paragraph D, (*Roof Mounted Systems*), Numbered Paragraph 3, (*Engineering Report*), is hereby amended, as follows:

3. Engineering Report. Before any roof-mounted system is mounted the property owner must submit a report prepared by an Oregon licensed professional engineer attesting to the fact that the structure to which the system will be mounted is or will be sufficiently strong to support the system and to withstand the wind, vibratory, and other loads to which it would be subjected as a result of mounting the system on it. This report is subject to approval by the **building official planning and community development director** prior to the mounting of the system.

SECTION 80. Chapter 17.80 (*Provisions Applying to Special Uses*), Section 17.80.120 (*Cottage housing developments*), is hereby amended, as follows:

17.80.120 Cottage housing developments.

A. Purpose. A cottage housing development is a small cluster of dwelling units appropriately sized for smaller households and available as an alternative to the development of typical detached single-unit dwellings, family homes. Cottage housing is intended to address the changing composition of households, and the need for smaller, more diverse, and often, more affordable housing choices. ~~Providing for a variety of housing types also encourages innovation and diversity in housing design and site development, while ensuring compatibility with surrounding single-family residential development.~~

~~B. Definitions. The following definitions apply to this section:~~

~~C. Applicable Zones. Cottage housing developments are allowed only in the single-unit residential (R-1), recreation residential (R-R), and multiple-unit residential (R-M) zones.~~

~~D. B. Ownership.~~ Cottage housing developments may be sited on one commonly owned parcel with individual cottages owned in a condominium, cooperative, or similar arrangement, or cottages may be on individual lots with shared amenities and facilities owned in common.

~~E. C.~~ Development Review Required. Cottage housing developments require approval through the development review process of LCMC 17.77.070.

F. D. Standards. Cottage housing developments are subject to the following standards:

~~1. Density. Cottages may be built at up to twice the density allowed by the underlying zoning for detached single-family houses.~~

~~1. 2.~~ Number of Cottages. A cottage housing development is composed of at least one ~~one or two~~ cottage clusters, with a ~~each~~ cluster containing four to 12 dwelling units.

~~3. Proximity to Other Cottage Housing Developments. No part of a cottage housing development may be within 500 feet of another cottage housing development.~~

~~2. 4.~~ Cottage Design. The cottages in a cottage housing development are subject to the following standards:

a. Maximum Floor Area. The gross floor area of each cottage shall not exceed 1,250 square feet with an overall maximum average gross floor area of 1,000 square feet per unit for the development. ~~At least 25 percent of the cottages in each cluster shall have a gross floor area less than 1,000 square feet.~~

b. Maximum Footprint. The footprint of each cottage shall not exceed ~~800~~ 1,000 square feet, or ~~1,400~~ 1,200 square feet including an attached garage.

c. Maximum Height. The height of each cottage shall not exceed 25 feet.

d. Setbacks. The setbacks from adjacent property lines along the perimeter of the cottage housing development shall be the same as required by the underlying zone. The minimum distance between all structures, including accessory structures, shall be in accordance with building code requirements.

~~e. Private Open Space. Each cottage may have private open space for the exclusive use of the cottage residents. Private open space does not count towards the required common open space.~~

~~e. f.~~ Orientation of Cottages. Cottages shall be clustered around ~~the~~ common open space. Each cottage shall have a primary entrance and covered porch oriented to ~~the~~ common open space. ~~All cottages shall be within 50 feet walking distance from the common open space, measured from the facade of the cottage to the nearest delineation of the common~~

open space. The design of the common open space shall not use unusual areas or projections to meet this requirement. Lots in a cottage housing development are not required to abut a public street.

~~g. Public Street Facing Facades. Cottages abutting a public street shall have an entrance and a porch, bay window, or other architectural enhancement oriented to the public street. Garage or carport entrances may not face a public street.~~

~~h. Porches. Each cottage shall have a covered open porch that shall be oriented toward the common open space and that shall be at least six feet in depth measured perpendicular to the abutting building facade and at least 60 square feet in area.~~

~~i. Fire Access. No part of any structure shall be more than 150 feet, as measured by the shortest clear path on the ground, from fire department vehicle access.~~

~~j. Energy Efficiency. Each cottage shall meet or exceed the energy code provisions of the Oregon Residential Specialty Code.~~

~~3. 5. Community Buildings.~~ Cottage housing developments may include community buildings that provide space for accessory uses such as community meeting rooms, exercise rooms, day care, or community eating areas. They shall have a footprint of no more than 800 square feet and may not exceed one story in height. Their design, including the roof lines, shall be similar to and compatible with that of the cottages within the cottage housing development.

~~4. 6. Common Open Space. All cottage housing developments must provide 100 square feet of common open space per unit. Each cottage cluster shall have common open space in order to provide a sense of openness and community of residents. Common open space is subject to the following standards:~~

~~a. Each cottage cluster shall contain at least 2,000 square feet of common open space regardless of the number of cottages in the cluster, and not less than 400 square feet of common open space per cottage.~~

~~b. Each cottage cluster's common open space shall be in a single, contiguous, usable piece.~~

~~c. Each cottage cluster's common open space shall abut at least 50 percent of the cluster's cottages.~~

d. Cottages shall abut each cottage cluster's common open space on at least two sides of the open space.

e. Parking areas, required setback areas, private open space, and driveways do not qualify as common open space.

5. 7. Off-street Parking. Off-street parking shall comply with Chapter 17.56 LCMC, excepting the minimum number of off-street parking spaces. Parking for a cottage housing development is subject to the following standards:

a. Minimum Number of Off-street Parking Spaces. Cottage housing developments require a minimum of one off-street parking space per unit, which may be provided through a combination of individual garages/carports, common off-street parking areas, or garages/carports. shall have at least one parking space for each cottage with a gross floor area of 700 feet or less, one and one-half parking spaces for each cottage with a gross floor area of 701 to 1,000 square feet (with the total number required rounded up to the nearest whole number), and two parking spaces for each cottage with a gross floor area over 1,000 square feet.

b. Guest Parking. Cottage housing developments shall have at least one-half additional guest parking spaces for each cottage in the development, rounded up to the nearest whole number. These spaces shall be clearly identified as being reserved for guests.

c. Reduction in Number of Required Parking Spaces. The required number of parking spaces may be reduced by the number of on-street parking spaces on public streets adjacent to and immediately abutting the cottage housing development.

d. Clustering. Parking areas may be arranged in clusters limited to no more than five contiguous spaces.

e. Access. Parking areas shall be accessed only by a private driveway or public alley. No parking space may access a public or private street directly. No parking space may be between a public street and cottages abutting the public street.

f. Design. The design of garages and carports, including the roof lines, windows, and trim, shall be similar to and compatible with that of the cottages within the cottage housing development.

g. Screening. Landscaping or architectural screening at least three feet tall shall separate parking areas from the common area and

~~public streets. Solid board fencing shall not be allowed as an architectural screen.~~

~~8. Walkways. A system of interior walkways shall connect each cottage to the common area, parking areas, any community buildings, and sidewalks abutting any public streets bordering the cottage housing development. Interior walkways shall be at least five feet in width.~~

~~6.9.~~ Interior Fences. Fences on the interior of the cottage housing development shall not exceed three feet in height and shall not consist of solid board fencing.

~~7.10.~~ Existing Structures. On a lot or parcel to be used for a cottage housing development, an existing detached single-family-unit dwelling that may be nonconforming with respect to the requirements of this section may remain, but the extent of its nonconformity may not be increased. Such dwellings shall count towards the number of cottages allowed in the cottage housing development.

~~8.11.~~ Exemptions. Cottage housing developments are exempt from the following standards:

~~a. The requirement of LCMC 16.08.050 that a subdivision with land area greater than two acres or 10 lots must be processed as a planned unit development.~~

~~a. b. The minimum lot sizes, minimum lot depths, minimum lot widths, and maximum building coverage. of LCMC 16.12.220.~~

~~b. c. The standards of LCMC 17.16.070 (R-1 zone) for minimum lot width, maximum lot building coverage, minimum lot area (but not the applicable underlying maximum density, as modified by subsection (F)(1) of this section), and setback requirements (except on the outer perimeter of the cottage housing development), which outer perimeter setbacks shall be those as required by the underlying zone. Notwithstanding the exception for maximum lot coverage above, if the coverage standard for the underlying district is exceeded, the cottage cluster project shall utilize innovative design techniques (e.g., bioswales and pervious concrete) to retain storm water on site and provide for water quality treatment before discharge. Such storm water treatment methods are subject to approval of the city engineer.~~

~~c. d.~~ The standards of **Chapter 17.56 LCMC pertaining to the number of required off-street parking spaces. LCMC 17.16.090 (R-1 zone) relating to off-street parking and loading.**

~~e. The standards of LCMC 17.40.060 (R-R zone) for setback requirements (except on the perimeter of the cottage housing development), minimum lot area (but not the applicable underlying maximum density, as modified by subsection (F)(1) of this section), and off-street parking and loading.~~

~~f. The number of required parking spaces of LCMC 17.56.030.~~

~~9. 12.~~ Vacation Rental. No cottage in a cottage housing development may be used as a vacation rental dwelling.

~~10. 13.~~ Sewer Connection. Each cottage in a cottage housing development must be connected to the city sewer system. No cottage in a cottage housing development may use a septic system.

~~E. G.~~ Conflicts. In the event of a conflict between this section and other sections of LCMC Title 16 or this title, this section shall control.

SECTION 81. Chapter 17.80 (*Provisions Applying to Special Uses*), Section 17.80.150 (*Four-flat dwellings*), Paragraph A (*Standards*) is hereby amended, as follows:

17.80.150 Four-flat dwellings.

A. Standards. Four-flat dwellings are subject to the following standards:

1. Minimum Lot Size. ~~A four-flat dwelling may be located on a lot of at least 10,000 square feet. There is no minimum lot size requirement for a four-flat dwelling.~~

2. Parking. Each four-flat dwelling must have a minimum of **four** off-street parking spaces, **and they must be located on the same tax lot as the four-flat dwelling.**

3. Setbacks. Each four-flat dwelling must meet the single-unit dwelling setback requirements of the zone in which it is located.

4. Building Coverage. Each four-flat dwelling must meet the maximum building **lot** coverage requirements of the zone in which it is located.

5. Vacation Rentals. Four-flat dwellings shall not be used as vacation rentals in any zone.

6. Height Requirement. Four-flat dwellings must comply with the height requirement of the zone in which they are located.

7. Development review per LCMC 17.77.070 is not required for four-flat dwellings.

SECTION 82. Chapter 17.80 (*Provisions Applying to Special Uses*), is hereby amended to add a new Section 17.80.190 (*Conversions*), to read as follows:

17.80.190 Conversions.

A. Except as provided in this section and notwithstanding any statewide land use planning goals or land use regulations, the city shall unconditionally allow the conversion of the lawful use of a property:

- 1. From use as a hotel or motel to use as an emergency shelter.**
- 2. From use as a hotel or motel that was converted to an emergency shelter to then use as affordable housing.**
- 3. From use as a hotel or motel to use as affordable housing.**

B. This section applies to areas:

- 1. Not designated on the comprehensive plan map as specifically for heavy industrial uses;**
- 2. Not within an area designated for a statewide land use planning goal relating to natural disasters or hazards, including flood plains or mapped environmental health hazards, unless the converted use complies with regulations directly related to the disaster or hazards;**
- 3. With adequate transportation access to commercial and medical services; and**
- 4. Containing lawfully-existing hotels or motels.**

C. The converted use shall comply with:

- 1. Applicable building codes; and**
- 2. Occupancy limits.**

SECTION 83. Chapter 17.80 (*Provisions Applying to Special Uses*), is hereby amended to add a new Section 17.80.200 (*Affordable Housing*), to read as follows:

17.80.200 Affordable Housing

A. Affordable housing shall be allowed, and shall not require a zone change or conditional use permit for affordable housing on property if:

- 1. The property upon which the housing sits is owned by a public body, as defined in ORS 174.109; or**
- 2. The property upon which the housing sits is owned by a nonprofit corporation that is organized as a religious corporation; or**
- 3. The property is zoned for commercial uses; or**
- 4. The property is zoned for to allow places of worship; or**
- 5. The property is public lands.**

B. The provision for allowing affordable housing in the Planned Industrial (PI) Zone only applies if:

- 1. The property is publicly-owned property;**
- 2. The property is adjacent to lands zoned for residential uses or schools; and**
- 3. The property is not specifically designated for heavy industrial uses.**

C. The provision for allowing affordable housing does not apply:

- 1. On properties that cannot be adequately served by water, sewer, storm water drainage, or streets, or will not be adequately served at the time that development on the property is complete; or**
- 2. The property contains a slope of 25 percent or greater; or**
- 3. The property is within a 100-year floodplain; or**
- 4. The property is constrained by land use regulations based on statewide land use planning goals relating to:**
 - a. Natural disasters and hazards; or**
 - b. Natural resources, including air, water, land or natural areas, but not including open spaces or historic resources**

D. Additionally, notwithstanding any statewide land use planning goal or land use regulation, with respect to a property owned by a nonprofit corporation organized as a religious corporation, the city:

1. May not apply any standards of conditions of approval under ORS 197.307(4) to the development of affordable housing or unless those conditions are related to health, safety, habitability, and infrastructure.

2. Shall approve an application for the use of property to allow the development of affordable housing on the property notwithstanding the uses allowed by the zoning of the property, if the lot or parcel is zoned for uses other than for industrial uses or contiguous to property zoned to allow or used for residential uses. The city shall not require that the property be rezoned for residential uses or comply with any conditions except those related to health, safety, habitability, and infrastructure.

SECTION 84. Chapter 17.80 (*Provisions Applying to Special Uses*), is hereby amended to add a new Section 17.80.220 (*Emergency Shelters*), to read as follows:

17.80.220 Emergency Shelters

A. an application for the development or use of land for an emergency shelter as defined in Chapter 17.08 LCMC, shall be approved on any property, notwithstanding ORS Chapter 195, 197, 197A, 215, or 227, or any statewide plan, rule of the Land Conservation and Development Commission or local land use regulation, zoning ordinance, regional framework plan, function plan, or comprehensive plan, if the emergency shelter:

- 1. Includes sleeping and restroom facilities for clients;**
- 2. Will comply with applicable building codes;**
- 3. Will not result in the development of a new building that is sited within an area designated under a statewide planning goal relating to natural disasters and hazards, including flood plains or mapped environmental health hazards, unless the development complies with regulations directly related to the hazard;**
- 4. Has adequate transportation access to commercial and medical services; and**
- 5. Will not pose any unreasonable risk to public health or safety.**

B. The emergency shelter must be operated by:

- 1. A local government as defined in ORS 174.116;**
- 2. An organization with at least two years' experience operating an emergency shelter using best practices that is:**

a. A local housing authority as defined in ORS 456.375; or

b. A religious corporation as defined in ORS 65.001; or
c. A public benefit corporation, as defined in ORS 65.001,
whose charitable purposes includes the support of
unsheltered individuals, that has been recognized as exempt
from income tax under section 501(a) of the Internal Revenue
Code on or before January 1, 2018; or

3. A nonprofit corporation or a nonprofit corporation partnering
with any other entity described in this subsection.

C. An emergency shelter approved under this section may provide onsite for
its clients and at no cost to the clients:

1. Showering or bathing;
2. Storage for personal property;
3. Laundry facilities;
4. Service of food prepared either on the site or off the site;
5. Recreation areas for children and pets;
6. Case management services for housing, financial, vocational,
education, or physical or behavioral health care services; or
7. Any other services incidental to shelter.

D. An emergency shelter approved under this section may include youth
shelters, winter or warming shelters, day shelters and family violence
shelters as defined in ORS 409.290.

E. An emergency shelter approved under this section may also provide
additional services not described in subsections © and (D) of this section to
individuals who are transitioning form unsheltered homeless status. An
organization providing services under this subsection may charge a fee of
no more than \$300 per month per client and only to clients who are
financially able to pay the fee and who request the services.

F. The approval of an emergency shelter under this section is not a land use
decision and is subject to review only under ORS 34.010 to 34.100.

G. Application must be made prior to July 1, 2023, and approval is void
unless the shelter is operating within two years following the approval.

SECTION 85. Findings Adopted.

The findings contained in the Whereas Clauses of this Ordinance, and Exhibit A, as well as the competent substantial evidence in the whole record of this legislative proceeding

are incorporated into this section by reference as if fully set forth herein, and are adopted in support of this legislative action.

SECTION 86. Severability.

The sections, subsections, paragraphs and clauses of this ordinance are severable. The invalidity of one section, subsection, paragraph, or clause shall not affect the validity of the remaining sections, subsections, paragraphs and clauses.

SECTION 87. Ordinance Effective Date.

This ordinance shall be effective in thirty days as provided by Chapter IX, Section 9.3 of the City Charter.

SECTION 88. Codification.

Provisions of this Ordinance shall be incorporated in the City of Lincoln City Municipal Code and the word "ordinance" may be changed to "code", "article", "section", "chapter" or another word, and the sections of this Ordinance may be renumbered, or re-lettered, provided that any Whereas clauses and boilerplate provisions (i.e. Sections 85-88) need not be codified and the City Recorder is authorized to correct any cross-references and any typographical errors. The City Attorney is specifically authorized to work with Code Publishing to correct all cross-references to the procedures chapters impacted by this amendment regardless of where they occur in the municipal code.

The foregoing ordinance was distinctly read by title only in accordance with Chapter IX, Section 9.2 of the City of Lincoln City Charter on the 13th day of June 2022 (First Reading) and on the 13th day of June, 2022 (Second Reading).

PASSED AND ADOPTED by the City Council of the City of Lincoln City this 13th day of June, 2022.

SUSAN WAHLKE, MAYOR

ATTEST:

JAMIE YOUNG CITY RECORDER

APPROVED AS TO FORM:

RICHARD APPICELLO, CITY ATTORNEY

Council Communication

Ordinance 2022-24 (CPA ZC 2022-02) Nesika Map and Zone Change

Meeting Date: June 13, 2022	Primary Staff Contact: Richard Appicello
Department: City Attorney	E-Mail: RAppicello@lincolncity.org
Secondary Dept: Planning Department	Secondary Contacts: AnneMarie Skinner
Approval:	Estimated Time: 5 minutes

Question(s):

Should the City Council conduct and approve First and Second Reading and adopt Ordinance 2022-24 entitled:

ORDINANCE NO. 2022-24

AN ORDINANCE AMENDING THE LINCOLN CITY COMPREHENSIVE PLAN MAP TO CHANGE THE COMPREHENSIVE PLAN MAP DESIGNATION FROM HIGH DENSITY RESIDENTIAL TO PARK DISTRICT AND AMENDING THE LINCOLN CITY ZONING MAP TO CHANGE THE ZONING MAP DESIGNATION FROM R-M (MULTIPLE-UNIT RESIDENTIAL) TO PARK (P) ZONE FOR THE CITY-OWNED NESIKA PARK PROPERTY IDENTIFIED AS TAX LOT 07-11-15-DA-00200-00 [CPA 2022-02/ ZC 2022-02]

Staff Recommendation:

Staff recommends Council conduct First Reading of Ordinance 2022-24 and, *if unanimous*, Conduct and approve Second Reading and adopt the ordinance. Any changes must be read.

Authority:

City of Lincoln City Charter, Chapter IX. Section 9.2(1) provides that an ordinance may be enacted at a single meeting of the Council by unanimous vote of all Council members voting when a quorum is present upon being read by title only. Adoption of an ordinance after second reading requires the express concurrence of a majority of the members present. Ordinances may be read by title only, after compliance with Charter procedures. A non-emergency ordinance takes effect on the thirtieth (30th) day after its adoption or on a later day the ordinance prescribes. An ordinance adopted to meet an emergency may take effect as soon as it is adopted or on some other date specified in the ordinance.

Background:

See Public Hearing Staff Report for CPA 2022-02/ ZC 2022-02 on this Agenda.

Council Options:

1. Conduct and approve First Reading. Read changes, if any. Conduct and Approve Second Reading and Adopt the Ordinance.
2. Conduct and approve First Reading. Read changes, if any. Continue Second Reading to June 27, 2022, [or]
3. Continue First Reading to June 27, 2022.

Potential Motions:

City Attorney: [Conduct First Reading of Ordinance by Title only]

ORDINANCE NO. 2022-24

AN ORDINANCE AMENDING THE LINCOLN CITY COMPREHENSIVE PLAN MAP TO CHANGE THE COMPREHENSIVE PLAN MAP DESIGNATION FROM HIGH DENSITY RESIDENTIAL TO PARK DISTRICT AND AMENDING THE LINCOLN CITY ZONING MAP TO CHANGE THE ZONING MAP DESIGNATION FROM R-M (MULTIPLE-UNIT RESIDENTIAL) TO PARK (P) ZONE FOR THE CITY-OWNED NESIKA PARK PROPERTY IDENTIFIED AS TAX LOT 07-11-15-DA-00200-00 [CPA 2022-02/ ZC 2022-02]

Council:

Motion to approve First Reading of Ordinance 2022-24.

If unanimous: City Attorney conducts Second Reading

City Attorney: [Conduct Second Reading of Ordinance by Title only]

Council:

1. Motion to approve Second Reading and adopt Ordinance 2022-24.

[or]

2. Motion to set Second Reading for June 27, 2022.

Attachments:

Findings for Ordinance 2022-24 Nesika (DOCX)

Ordinance 2022-24 (CPA ZC 2022-02) corrected(DOCX)

EXHIBIT A – FINDINGS

Findings for Ordinance 2022-24 (Nesika Park)

The above-referenced proposed ordinance was properly noticed pursuant to ORS 197.610. Notice was published in the local newspaper on April 5, 2022. Notice was mailed to property owners within 250 feet of the site on March 30, 2022.

Ordinance 2022-24 (CPA/ZC 2022-02) amends the comprehensive plan map designation of the subject City Nesika Park site from High-Density Residential District to the Park District and changes the zoning from Multiple-Unit Residential (R-M) Zone to Park (P) Zone.

The findings set forth in the Planning Staff Report for the June 13, 2022, Council meeting are specifically incorporated herein by this reference.

Tax Map and Lot: 07-11-15-DA-00200-00

ANALYSIS

A. Lincoln City Comprehensive Plan

1. Land Use Planning Goal

"To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions."

The City Council established a land use policy framework and implementing ordinance through adoption of a comprehensive plan and zoning ordinance, respectively. The Land Conservation and Development Commission acknowledged the City of Lincoln City's Comprehensive Plan and implementing land development regulations, including LCMC Title 17 Zoning, as complying with the Oregon Statewide Planning Goals. Review of the proposed amendment in accordance with the Lincoln City Comprehensive Plan and the applicable zoning ordinance provisions, including the provisions of LCMC Chapter 17.77, establishes conformance with this goal.

The Comprehensive Plan Land Use Planning element identifies zoning as the most common method of land use regulation and control. The plan states:

"Essentially, zoning is a means of ensuring that the land uses of an area are properly situated in relation to one another. It provides adequate amounts of space for each type of development."

The proposed map amendment and zone change would convert the site from the Multiple-Unit Residential zone to the P zone. The site is developed and in use as a park, and the large area

adjacent to the site is in use as the same park. The proposal will align the zone with the existing development and use. Staff finds the proposal is consistent with Goal 1.

2. Citizen Involvement Goal

"Develop a Citizen Involvement Program which ensures the continued participation of citizens in the land use planning process."

The Comprehensive Plan's Citizen Involvement Program goal is to "develop a Citizen Involvement Program which ensures the continued participation of citizens in the land use planning process." The City has developed a Citizen Involvement Program through Resolution 94-33. The public hearing process for the proposed map amendment and zone change included mailed and published notice to the public and property owners, and review of the proposal by the Planning Commission and the City Council, consistent with the Plan, Goal, and Resolution.

Among the policies under the City's Citizen Involvement Program goal is one that states: "Lincoln City shall assure that a reasonable effort is made to encourage the opportunity for citizens to attend public meetings." The Planning Commission and City Council meetings are publicized widely with hearing notices mailed to property owners in the affected area, published in *The News Guard*, and posted on the City's website. The City holds public hearings in the evening to encourage public attendance. Moreover, for those unable to attend in person, the meetings are televised live, streamed live over the internet, and rebroadcast on cable television. Video of meetings and the packet materials are also available on the City's website for review, free of charge. These aforementioned items in their totality constitute a more than reasonable effort to encourage citizens to attend public meetings and meet Goal 2.

3. Public Services and Utilities Goal

"To plan and develop a timely, orderly, and efficient arrangement of public facility and services which compliment [sic] the area and serve as a framework for urban and rural development."

Public services and utilities are already in place in the area of the proposed map amendment and zone change.

Available public services and utilities are as follows:

- a. Pacific Power provides electric power;
- b. The City of Lincoln City provides water service;
- c. The City of Lincoln City provides sanitary sewer service;
- d. Various providers provide land line and cellular telephone service;
- e. Access is from SE Keel Ave, which is a public street.

Existing services and utilities generally satisfy Goal 3.

4. Urbanization Goal

"To promote an orderly and efficient transition of land uses from rural to urban."

The area affected by the proposed map amendment and zone change is within the urban growth boundary and the City limits and is already developed as urban. The proposed amendment and zone change will not change the already-existing urban development or prevent more urban development, so is consistent with this goal.

5. Natural Hazard Goal

"The City shall control development in hazardous areas to protect life and property from natural disasters and hazards."

The City's maps show no identified natural hazards on the site. The proposal is consistent with Goal 5.

6. Housing Goal

"To provide for the housing needs of all citizens."

While the rezone will remove the site from a residential zone and change it to a park zone, the public park will provide recreational opportunity for residents of nearby residential uses within walking distance. While not provide housing per se, the park does provide opportunity for housing's accessory use of recreation that is not otherwise provided on housing sites. The site is developed and in use as a public park and is adjacent to an aesthetic resource, which makes redevelopment of the site into residential use problematic. Staff finds the proposal to be consistent with Goal 6.

7. Economy Goal

"To support the tourist industry and achieve a degree of diversity in the community which will allow a balanced economy that will, in turn, support an adequate level of services for all members of the area."

The Comprehensive Plan states that the City's primary industry is tourism and concludes that tourism will continue to function as the City's basic industry. The request to change from residential to park zone supports the site's developed use as a public park, which is available for use by tourists. Staff finds this goal is either not applicable to the request or is met.

8. Aesthetic Goal

"To develop a livable and pleasing city which enhances man's activities while protecting the exceptional aesthetic quality of the area."

The site is developed as Nesika Park and immediately adjacent to the larger area of Nesika Park, which larger area is a designated aesthetic resource. The development of the park has retained the

natural setting, including the mature trees and vegetation, thus preserving the aesthetic resource. Even though the site itself is not designated with aesthetic resources, designating the site with the park zone to be consistent with its use as a park will help ensure the preservation of the adjacent aesthetic resource and act as a buffer between the aesthetic resource and SE Keel Ave. The request is consistent with the Aesthetic Goal.

9. Transportation Goal

"To provide a safe, convenient and rapid transportation network to facilitate the movement of goods and people."

The site is accessed by SE Keel Ave, which is a local public street. This goal is satisfied.

10. Energy Goal

"To conserve energy."

The site is developed and in use as a natural park. No new construction is proposed. Should new construction ever occur, such new construction must meet all energy and building codes. The site is within walking distance of nearby residential dwellings, as well as hotels and motels, which decreases the use of automobiles to access the park and thereby conserves energy. The goal, therefore, is satisfied.

11. Overall Environmental Goal

"To achieve a balance between the need to provide housing and services and the need to protect and enhance the natural environment of the city."

The city's inventory of natural resources, including wetlands, riparian areas, fish and wildlife habitat, and aesthetic and scenic areas show none are on this lot. However, the site is immediately adjacent to a large area of aesthetic resources. Preservation of the site for use as a park will assist in the preservation of the adjacent aesthetic resource and will provide a buffer between SE Keel Ave and the designated aesthetic resource. This goal is satisfied.

12. Shoreland, Beaches, Dunes, Estuary, and Ocean Resources Goal

"To conserve, protect, and enhance the coastal resources of the city."

The site does not contain any shoreland, beaches, dunes estuaries, or ocean resources and is more than a mile from the Pacific Ocean. Rezoning of the site will not have any impact on the city's coastal resources; therefore, the proposed request is consistent with this goal or this goal is not applicable.

B. Statewide Planning Goals

Goal 1 – “Citizen Involvement” “To develop a citizen involvement program that ensures the opportunity for citizens to be involved in all phases of the planning process.”

The application for amending the comprehensive plan map and changing the zoning was available at no cost on the City’s website and also available for public review and purchase at the counter. Staff was available to explain the proposal and technical information. The City published hearing notices in the local newspaper in accordance with notice requirements and mailed notices to impacted property owners. The findings concerning the Comprehensive Plan Citizen Involvement are incorporated herein by this reference. Staff made its report on the land use proposals available on the City’s website in advance of the meeting. The request is consistent with Goal 1.

Goal 2 – “Land Use Planning” “To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.”

The City Council adopted the Lincoln City Comprehensive Plan and its implementation measure, the Lincoln City Zoning Ordinance, after public hearings and has reviewed them on a periodic cycle to take into account changing public policies and circumstances. Citizens and affected governmental units had opportunities for review and comment during preparation, review, and revision of the plan and implementing ordinances. Review of this proposed rezoning in accordance with the Lincoln City Comprehensive Plan and the applicable zoning ordinance provisions establishes conformance with this goal.

The proposed rezoning is integrated and consistent with the planning process and policy framework; specifically, the request furthers compliance with existing policies to stabilize and protect the existing mixed-use neighborhood (Nesika Park, undeveloped land, and residential uses) from incompatible uses. Findings concerning the Planning goal for the Lincoln City Comprehensive Plan are incorporated herein by this reference. The request is consistent with Goal 2.

Goal 3 – “Agricultural Lands” “To preserve and maintain agricultural lands.”

The area affected by the proposed rezoning is within the City’s Urban Growth Boundary. The area is currently designated and zoned for urban development and will remain as such, any rezoning notwithstanding. The rezoning will not affect agricultural lands; therefore, Goal 3 is not applicable.

Goal 4 – “Forest Lands” “To conserve forest lands by maintaining the forest land base and to protect the state’s forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.”

The area affected by the proposed rezoning is within the City’s Urban Growth Boundary and currently zoned and developed for urban development. The affected area does not contain any designated forest lands; therefore, Goal 4 is not applicable.

Goal 5 – “Open Spaces, Scenic and Historic Areas and Natural Resources” “To protect natural resources and conserve scenic and historic areas and open spaces.”

The proposed rezoning will change the site to the Park zone to be consistent with its use and to assist in the preservation of the adjacent aesthetic resource. The site does not contain any structures, nor is the site listed on the National Register of Historic Places. The findings concerning the Lincoln City Comprehensive Plan’s Overall Environmental goal, as well as the Shoreland, Beaches, Dunes, Estuary and Ocean Resources goal, are incorporated herein by this reference. The proposal is consistent with Goal 5.

Goal 6 – “Air, Water and Land Resources Quality” “To maintain and improve the quality of the air, water and land resources of the state.”

Current building and public works standards for new development require protection of these resources. Accordingly, when a building permit application is submitted for new construction on the site, the plans will be reviewed for compliance with requirements for maintaining the quality of the air, water, and land resources of the state. City standards for discharges regulate solid waste, thermal, noise, atmospheric or water pollutants, contaminants or products therefrom. The findings concerning the Lincoln City Comprehensive Plan’s overall Environmental goal are incorporated herein by this reference. The proposed request is consistent with Goal 6.

Goal 7 – “Areas Subject to Natural Disasters and Hazards” “To protect people and property from natural hazards.”

City maps show no identified hazards on the site. The findings concerning the Lincoln City Comprehensive Plan Natural Hazard goal are incorporated herein by this reference. The proposal is consistent with Goal 7.

Goal 8 – “Recreational Needs” “To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities, including destination resorts.”

The site is developed and in use as Nesika Park. The zone change will align the use and the zone. Nesika Park is a public park available for residents of and visitors to Lincoln City. The proposal is consistent with Goal 8.

Goal 9 – “Economic Development” “To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon’s citizens.” The area affected by the proposed rezoning is within the City’s Urban Growth Boundary and currently in use as a public park. The affected area does not contain any economic development lands. The proposed rezoning is consistent with Goal 9.

Goal 10 – “Housing” “To provide for the housing needs of citizens of the state.”

While the rezone will remove the site from a residential zone and change it to a park zone, the public park will provide recreational opportunity for residents of nearby residential uses within walking distance. The site is developed and in use as a public park and is adjacent to an aesthetic resource, which makes redevelopment of the site into residential use problematic. Staff finds the request is consistent with Goal 10.

Goal 11 – “Public Facilities and Services” “To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.”

Utilities and services are available at the site. The findings concerning the City’s Public Services and Utilities goal are incorporated herein by this reference. The request is consistent with Goal 11.

Goal 12 – “Transportation” “To provide and encourage a safe, convenient and economic transportation system.”

The site is accessed by SE Keel Ave, which is a local public street. The request is consistent with Goal 12.

Goal 13 – “Energy Conservation” “To conserve energy.”

The site is developed and in use as a natural park. No new construction is proposed. Should new construction ever occur, such new construction must meet all energy and building codes. The site is within walking distance of nearby residential dwellings, as well as hotels and motels, which decreases the use of automobiles to access the park and thereby conserves energy. The goal, therefore, is satisfied.

Goal 14 – “Urbanization” “To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.”

The area affected by the proposed map amendment and zone change is within the urban growth boundary and the City limits and is already developed as urban. The proposed amendment and zone change will not change the already-existing urban development or prevent more urban development, so is consistent with this goal. The proposed amendment and zone change are consistent with Goal 14.

Goal 15 – “Willamette Greenway” “To protect, conserve, enhance and maintain the natural, scenic, historical, agricultural, economic and recreational qualities of lands along the Willamette River as the Willamette River Greenway.” The site is not located within the Willamette River Greenway, nor in proximity to the Willamette River Greenway and thus the proposed amendment and zone change will have no impact to the Willamette Greenway. Accordingly, Goal 15 is not applicable.

Goal 16 – “Estuarine Resources” “To recognize and protect the unique environmental, economic, and social values of each estuary and associated wetlands; and to protect, maintain, where appropriate develop, and where appropriate restore the long-term environmental, economic, and social values, diversity and benefits of Oregon’s estuaries.”

The proposal does not affect any areas adjacent to the Siletz Bay estuary; therefore, Goal 16 is not applicable.

Goal 17 – “Coastal Shorelands” “To conserve, protect, where appropriate, develop and where appropriate restore the resources and benefits of all coastal shorelands, recognizing their value for protection and maintenance of water quality, fish and wildlife habitat, water-dependent uses, economic resources and recreation and aesthetics. The management of these shoreland areas shall be compatible with the characteristics of the adjacent coastal waters; and to reduce the hazard to human life and property, and the adverse effects upon water quality and fish and wildlife habitat, resulting from the use and enjoyment of Oregon’s coastal shorelands.”

The City’s coastal shorelands are not impacted by the proposed request since the site does not contain any coastal shorelands, nor is the site in proximity to any coastal shorelands. The findings concerning the City’s Shoreland, Beaches, Dunes, Estuary and Ocean Resources goal are incorporated herein by this reference. Goal 17 is met or not applicable.

Goal 18 – “Beaches and Dunes” “To conserve, protect, where appropriate develop, and where appropriate restore the resources and benefits of coastal beach and dune areas; and To reduce the hazard to human life and property from natural or man-induced actions associated with these areas.”

The proposed rezoning does not affect any areas located within a beach or active dune area. The findings concerning the City’s Shoreland, Beaches, Dunes, Estuary and Ocean Resources goal are incorporated herein by this reference. Goal 18 is met or not applicable.

Goal 19 – “Ocean Resources” “To conserve marine resources and ecological functions for the purpose of providing long-term ecological, economic, and social value and benefits to future generations.”

Since the area of the proposed amendment and zone change is on the dry land area of the City, the proposal will not affect the near shore, ocean, and continental shelf. The findings concerning the City’s Shoreland, Beaches, Dunes, Estuary and Ocean Resources goal are incorporated herein by this reference. Goal 19 is met or not applicable.

ORDINANCE NO. 2022-24

**AN ORDINANCE AMENDING THE LINCOLN CITY COMPREHENSIVE PLAN MAP TO
CHANGE THE COMPREHENSIVE PLAN MAP DESIGNATION FROM HIGH DENSITY
RESIDENTIAL TO PARK DISTRICT AND AMENDING THE LINCOLN CITY ZONING MAP TO
CHANGE THE ZONING MAP DESIGNATION FROM R-M (MULTIPLE-UNIT RESIDENTIAL) TO
PARK (P) ZONE FOR THE CITY-OWNED NESIKA PARK PROPERTY IDENTIFIED AS TAX LOT
07-11-15-DA-00200-00 [CPA 2022-02/ ZC 2022-02]**

*Annotated to show deletions and additions to the code sections being modified. Deletions are **~~lined through~~** and additions are **bold underlined**.*

The City Council finds:

- A. This city-initiated amendment to the Lincoln City Comprehensive Plan is in conformance with the Statewide Planning Goals and Lincoln City Comprehensive Plan goals as addressed in attached Exhibit "A"; and
- B. This amendment is in conformance with the Zoning Ordinance, including, but not limited to, required initiation, processing and noticing requirements; and
- C. The City of Lincoln City duly notified the Oregon Department of Land Conservation and Development pursuant to ORS 197.610 of its consideration of the proposed comprehensive plan and zoning map amendments; Notice was mailed to owners of all properties within 250 feet of the site on March 30, 2022. The News Guard published notice of hearing on April 5 2022; and
- D. The Planning Commission, on April 19, 2022 conducted a public hearing and considered the amendments contained within this ordinance. On May 3, 2022 the Planning Commission voted to transmit the amendments to the City Council with a recommendation that the ordinance be adopted; and
- E. The City Council conducted a public hearing on June 13, 2022, closed the hearing, closed the record and deliberated on the proposed amendments; Council directed that an ordinance be brought back for required readings and adoption.

THE CITY OF LINCOLN CITY ORDAINS AS FOLLOWS:

1 **SECTION 1. Comprehensive Plan Map Amendment.** The City Council hereby amends
2 the Lincoln City Comprehensive Plan Map, Ordinance 84-01, as amended, for Nesika
3 Park, Lincoln County Assessor's Map Tax Lot **07-11-15-DA-00200-00** to change the
4 current High Density Residential designation to Park district.

5
6 **SECTION 2. Zoning District Map Amendment.** The City Council hereby amends the
7 Lincoln City Zoning District Map, Ordinance 84-02, as amended, for Nesika Park, Lincoln
8 County Assessor's Map Tax Lot **07-11-15-DA-00200-00** to change the current R-M
9 (Multiple-unit Residential) to the Parks (P) Zone.

10
11 **SECTION 3. Findings adopted.** Findings contained in the Whereas Clauses of this
12 ordinance, together with the Findings set forth in Exhibit A, as well as the competent
13 substantial evidence in the whole record of this legislative proceeding are incorporated
14 into this section by reference as if fully set forth herein, and are adopted in support of
15 this legislative action.

16
17 **SECTION 4. Severability.** The sections, subsections, paragraphs and clauses of this
18 ordinance are severable. The invalidity of one section, subsection, paragraph, or clause
19 shall not affect the validity of the remaining sections, subsections, paragraphs and
20 clauses.

21
22 **SECTION 5. Ordinance Effective Date.** Pursuant to Chapter IX, Section 9.3, this
23 ordinance takes effect 30 days after the date of its adoption.

24
25 The foregoing ordinance was distinctly read by title only in accordance with Chapter IX,
26 Section 9.2 of the City of Lincoln City Charter on the 13th day of June, 2022 (First
27 Reading) and on the 13th day of June, 2022 (Second Reading).

28
29 PASSED AND ADOPTED by the City Council of the City of Lincoln City this 13th day of
30 June, 2022.

31
32
33 _____
34 SUSAN WAHLKE, MAYOR

35 ATTEST:

36
37 _____
38 JAMIE YOUNG, CITY RECORDER
39
40

1 APPROVED AS TO FORM:

2

3

4 _____
RICHARD APPICELLO, CITY ATTORNEY

Council Communication

Ordinance 2022-26 (CPA ZC 2022-03) Taft Park Map and Zone Change

Meeting Date:	June 13, 2022	Primary Staff Contact:	Richard Appicello
Department:	City Attorney	E-Mail:	RAppicello@lincolncity.org
Secondary Dept:	Planning Department	Secondary Contacts:	AnneMarie Skinner
Approval:	Richard Appicello	Estimated Time:	5 minutes

Question(s):

Should the City Council conduct and approve First and Second Reading and adopt Ordinance 2022-26 entitled:

ORDINANCE NO. 2022-26

AN ORDINANCE AMENDING THE LINCOLN CITY COMPREHENSIVE PLAN MAP TO CHANGE THE COMPREHENSIVE PLAN MAP DESIGNATION FROM MEDIUM DENSITY RESIDENTIAL AND SINGLE-FAMILY RESIDENTIAL TO PARK DISTRICT AND AMENDING THE LINCOLN CITY ZONING MAP TO CHANGE THE ZONING MAP DESIGNATION FROM R-1-7.5 (RESIDENTIAL) TO PARK (P) ZONE FOR THE CITY-OWNED TAFT PARK PROPERTY (APPROXIMATELY 6.71 ACRES) IDENTIFIED AS TAX LOTS: 07-11-27-DD-03500, 07-11-27-DD-04500, 07-11-27-DD-04600, and 07-11-27-DD-04700 [CPA 2022-03/ ZC 2022-03]

Staff Recommendation:

Staff recommends Council conduct First Reading of Ordinance 2022-26 and, *if unanimous*, Conduct and approve Second Reading and adopt the ordinance. Any changes must be read.

Authority:

City of Lincoln City Charter, Chapter IX. Section 9.2(1) provides that an ordinance may be enacted at a single meeting of the Council by unanimous vote of all Council members voting when a quorum is present upon being read by title only. Adoption of an ordinance after second reading requires the express concurrence of a majority of the members present. Ordinances may be read by title only, after compliance with Charter procedures. A non-emergency ordinance takes effect on the thirtieth (30th) day after its adoption or on a later day the ordinance prescribes. An ordinance adopted to meet an emergency may take effect as soon as it is adopted or on some other date specified in the ordinance.

Background:

See Public Hearing Staff Report for CPA 2022-03/ ZC 2022-03 on this Agenda.

Council Options:

1. Conduct and approve First Reading. Read changes, if any. Conduct and Approve Second Reading and Adopt the Ordinance.
2. Conduct and approve First Reading. Read changes, if any. Continue Second Reading to June 27, 2022, [or]
3. Continue First Reading to June 27, 2022.

Potential Motions:

City Attorney: [Conduct First Reading of Ordinance by Title only]

ORDINANCE NO. 2022-26

AN ORDINANCE AMENDING THE LINCOLN CITY COMPREHENSIVE PLAN MAP TO CHANGE THE COMPREHENSIVE PLAN MAP DESIGNATION FROM MEDIUM DENSITY RESIDENTIAL AND SINGLE-FAMILY RESIDENTIAL TO PARK DISTRICT AND AMENDING THE LINCOLN CITY ZONING MAP TO CHANGE THE ZONING MAP DESIGNATION FROM R-1-7.5 (RESIDENTIAL) TO PARK (P) ZONE FOR THE CITY-OWNED TAFT PARK PROPERTY (APPROXIMATELY 6.71 ACRES) IDENTIFIED AS TAX LOTS: 07-11-27-DD-03500, 07-11-27-DD-04500, 07-11-27-DD-04600, and 07-11-27-DD-04700 [CPA 2022-03/ ZC 2022-03]

Council:

Motion to approve First Reading of Ordinance 2022-26.

If unanimous: City Attorney conducts Second Reading

City Attorney: [Conduct Second Reading of Ordinance by Title only]

Council:

1. Motion to approve Second Reading and adopt Ordinance 2022-26.

[or]

2. Motion to set Second Reading for June 27, 2022.

Attachments:

Ordinance 2022-26 Taft Park Findings (DOCX)

Ordinance 2022-26 Taft Park CPA ZC 2022-03 corrected (DOCX)

EXHIBIT A – FINDINGS

Findings for Ordinance 2022-26 (Taft Park)

The above-referenced proposed ordinance was properly noticed pursuant to ORS 197.610. Notice was published in the local newspaper on April 5, 2022. Notice was mailed to property owners within 250 feet of the site on March 30, 2022.

Ordinance 2022-26 (CPA/ZC 2022-03) amends the comprehensive plan map designation of the subject City Taft Park site from Medium-Density Residential District to the Park District and changes the zoning from Single-Family Residential (R-1-7.5) Zone to Park (P) Zone.

The findings set forth in the Planning Staff Report for the June 13, 2022, Council meeting are specifically incorporated herein by this reference.

Tax Map and Lots: 07-11-27-DD-03500, 07-11-27-DD-04500, 07-11-27-DD-04600, and 07-11-27-DD-04700

ANALYSIS

A. Lincoln City Comprehensive Plan

1. Land Use Planning Goal

"To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions."

The City Council established a land use policy framework and implementing ordinance through adoption of a comprehensive plan and zoning ordinance, respectively. The Land Conservation and Development Commission acknowledged the City of Lincoln City's Comprehensive Plan and implementing land development regulations, including LCMC Title 17 Zoning, as complying with the Oregon Statewide Planning Goals. Review of the proposed amendment in accordance with the Lincoln City Comprehensive Plan and the applicable zoning ordinance provisions, including the provisions of LCMC Chapter 17.77, establishes conformance with this goal.

The Comprehensive Plan Land Use Planning element identifies zoning as the most common method of land use regulation and control. The plan states:

"Essentially, zoning is a means of ensuring that the land uses of an area are properly situated in relation to one another. It provides adequate amounts of space for each type of development."

The proposed map amendment and zone change would convert the site from the Single-Family Residential zone to the P zone. The site is slated for development and use as a new public community park per the adopted 2016 Lincoln City Parks & Recreation System Plan. The proposal

will align the zone with the slated development and use. Staff finds the proposal is consistent with Goal 1.

2. Citizen Involvement Goal

"Develop a Citizen Involvement Program which ensures the continued participation of citizens in the land use planning process."

The Comprehensive Plan's Citizen Involvement Program goal is to "develop a Citizen Involvement Program which ensures the continued participation of citizens in the land use planning process." The City has developed a Citizen Involvement Program through Resolution 94-33. The public hearing process for the proposed map amendment and zone change included mailed and published notice to the public and property owners, and review of the proposal by the Planning Commission and the City Council, consistent with the Plan, Goal, and Resolution.

Among the policies under the City's Citizen Involvement Program goal is one that states: "Lincoln City shall assure that a reasonable effort is made to encourage the opportunity for citizens to attend public meetings." The Planning Commission and City Council meetings are publicized widely with hearing notices mailed to property owners in the affected area, published in *The News Guard*, and posted on the City's website. The City holds public hearings in the evening to encourage public attendance. Moreover, for those unable to attend in person, the meetings are televised live, streamed live over the internet, and rebroadcast on cable television. Video of meetings and the packet materials are also available on the City's website for review, free of charge. These aforementioned items in their totality constitute a more than reasonable effort to encourage citizens to attend public meetings and meet Goal 2.

3. Public Services and Utilities Goal

"To plan and develop a timely, orderly, and efficient arrangement of public facility and services which compliment [sic] the area and serve as a framework for urban and rural development."

Public services and utilities are already in place in the area of the proposed map amendment and zone change. Available public services and utilities are as follows:

- a. Pacific Power provides electric power;
- b. The City of Lincoln City provides water service;
- c. The City of Lincoln City provides sanitary sewer service;
- d. Various providers provide land line and cellular telephone service; and
- e. Access is from SE Keel Ave, SE Jetty Ave, SE 47th St, SE 50 St, and SE 51st St, all of which are public streets.

Existing services and utilities generally satisfy Goal 3.

4. Urbanization Goal

"To promote an orderly and efficient transition of land uses from rural to urban."

The area affected by the proposed map amendment and zone change is within the urban growth boundary and the City limits and is already developed as urban. The proposed amendment and zone change will not change the already-existing urban development or prevent more urban development, so is consistent with this goal.

5. Natural Hazard Goal

"The City shall control development in hazardous areas to protect life and property from natural disasters and hazards."

The City's maps show the site is largely in the AE flood hazard zone and wholly in the local tsunami evacuation zone. The proposal will remove housing usage from the site, which will keep structures out of the flood hazard zone and eliminate tenants in houses from having to flee in the middle of the night in the event of a tsunami. Parks are largely without structures and are not occupied in the evening hours, thereby helping to protect life and property from natural disasters. The proposal is consistent with Goal 5.

6. Housing Goal

"To provide for the housing needs of all citizens."

While the rezone will remove the site from a residential zone and change it to a park zone, the public park will provide recreational opportunity for residents of nearby residential uses within walking distance. While not provide housing per se, the park does provide opportunity for housing's accessory use of recreation that is not otherwise provided on housing sites. Additionally, providing housing in a flood hazard zone and a local tsunami evacuation zone is generally not a good idea. Staff finds the proposal to be consistent with Goal 6.

7. Economy Goal

"To support the tourist industry and achieve a degree of diversity in the community which will allow a balanced economy that will, in turn, support an adequate level of services for all members of the area."

The Comprehensive Plan states that the City's primary industry is tourism and concludes that tourism will continue to function as the City's basic industry. The request to change from residential to park zone supports the site's proposed use as a public park, which is available for use by tourists. Staff finds this goal is either not applicable to the request or is met.

8. Aesthetic Goal

"To develop a livable and pleasing city which enhances man's activities while protecting the exceptional aesthetic quality of the area."

The site does not contain any aesthetic resources. The site will be developed as a public park following the standards and requirements for a park, as well as the city's landscaping requirements. The request is consistent with the Aesthetic Goal.

9. Transportation Goal

"To provide a safe, convenient and rapid transportation network to facilitate the movement of goods and people."

The site is accessed by SE Keel Ave, SE Jetty Ave, SE 51st St, SE 50th St, and SE 47th St, all of which are local public streets. This goal is satisfied.

10. Energy Goal

"To conserve energy."

The site will be developed and used as a public community park. New construction will be minimal, and must meet all energy codes. The site is within walking distance of nearby residential dwellings, as well as hotels and motels, which decreases the use of automobiles to access the park and thereby conserves energy. The goal, therefore, is satisfied.

11. Overall Environmental Goal

"To achieve a balance between the need to provide housing and services and the need to protect and enhance the natural environment of the city."

The city's inventory of natural resources shows there is a small portion of significant wetland in the northwestern corner but no riparian areas, fish and wildlife habitat, and aesthetic and scenic areas. The significant wetlands will be preserved as part of the park development and used as a viewing amenity. This goal is satisfied.

12. Shoreland, Beaches, Dunes, Estuary, and Ocean Resources Goal

"To conserve, protect, and enhance the coastal resources of the city."

The site does not contain any shoreland, beaches, dunes estuaries, or ocean resources and is more than a mile from the Pacific Ocean. Rezoning of the site will not have any impact on the city's coastal resources; therefore, the proposed request is consistent with this goal or this goal is not applicable.

B. Statewide Planning Goals

Goal 1 – "Citizen Involvement" "To develop a citizen involvement program that ensures the opportunity for citizens to be involved in all phases of the planning process."

The application for amending the comprehensive plan map and changing the zoning was available at no cost on the City's website and also available for public review and purchase at the counter. Staff was available to explain the proposal and technical information. The City published hearing notices in the local newspaper in accordance with notice requirements and mailed notices to impacted property owners. The findings concerning the Comprehensive Plan Citizen Involvement are incorporated herein by this reference. Staff made its report on the land use proposals available on the City's website in advance of the meeting. The request is consistent with Goal 1.

Goal 2 – “Land Use Planning” “To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.”

The City Council adopted the Lincoln City Comprehensive Plan and its implementation measure, the Lincoln City Zoning Ordinance, after public hearings and has reviewed them on a periodic cycle to take into account changing public policies and circumstances. Citizens and affected governmental units had opportunities for review and comment during preparation, review, and revision of the plan and implementing ordinances. Review of this proposed rezoning in accordance with the Lincoln City Comprehensive Plan and the applicable zoning ordinance provisions establishes conformance with this goal.

The proposed map amendment and zone change would convert the site from the Single-Family Residential zone to the P zone. The site is slated for development and use as a new public community park per the adopted 2016 Lincoln City Parks & Recreation System Plan. The proposal will align the zone with the slated development and use. The request is consistent with Goal 2.

Goal 3 – “Agricultural Lands” “To preserve and maintain agricultural lands.”

The area affected by the proposed rezoning is within the City's Urban Growth Boundary. The area is currently designated and zoned for urban development and will remain as such, any rezoning notwithstanding. The rezoning will not affect agricultural lands; therefore, Goal 3 is not applicable.

Goal 4 – “Forest Lands” “To conserve forest lands by maintaining the forest land base and to protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.”

The area affected by the proposed rezoning is within the City's Urban Growth Boundary and currently zoned and developed for urban development. The affected area does not contain any designated forest lands; therefore, Goal 4 is not applicable.

Goal 5 – “Open Spaces, Scenic and Historic Areas and Natural Resources” “To protect natural resources and conserve scenic and historic areas and open spaces.”

The proposed rezoning will change the site to the Park zone to be consistent with its proposed use and to assist in the preservation of areas in the city that are designated as scenic and historic areas and open spaces, which the site is not. The site does not contain any structures, nor is the site listed on the National Register of Historic Places. The findings concerning the Lincoln City Comprehensive Plan's Overall Environmental goal, as well as the Shoreland, Beaches, Dunes, Estuary and Ocean Resources goal, are incorporated herein by this reference. The proposal is consistent with Goal 5.

Goal 6 – “Air, Water and Land Resources Quality” “To maintain and improve the quality of the air, water and land resources of the state.”

Current building and public works standards for new development require protection of these resources. Accordingly, when a building permit application is submitted for new construction on the site, the plans will be reviewed for compliance with requirements for maintaining the quality of the air, water, and land resources of the state. City standards for discharges regulate solid waste, thermal, noise, atmospheric or water pollutants, contaminants or products therefrom. The findings concerning the Lincoln City Comprehensive Plan's overall Environmental goal are incorporated herein by this reference. The proposed request is consistent with Goal 6.

Goal 7 – “Areas Subject to Natural Disasters and Hazards” “To protect people and property from natural hazards.”

The City's maps show the site is largely in the AE flood hazard zone and wholly in the local tsunami evacuation zone. The proposal will removal housing usage from the site, which will keep structures out of the flood hazard zone and eliminate tenants in houses from having to flee in the middle of the night in the event of a tsunami. Parks are largely without structures and are not occupied in the evening hours, thereby helping to protect life and property from natural disasters. The proposal is consistent with Goal 7.

Goal 8 – “Recreational Needs” “To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities, including destination resorts.”

The site is will be developed and used as a public community park. The zone change will align the use and the zone. The new park will be a public park available for residents of and visitors to Lincoln City. The proposal is consistent with Goal 8.

Goal 9 – “Economic Development” “To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.”

The area affected by the proposed rezoning is within the City's Urban Growth Boundary and proposed for use as a public park. The affected area does not contain any economic development lands. The proposed rezoning is consistent with Goal 9.

Goal 10 – “Housing” “To provide for the housing needs of citizens of the state.”

While the rezone will remove the site from a residential zone and change it to a park zone, the public park will provide recreational opportunity for residents of nearby residential uses within walking distance. While not provide housing per se, the park does provide opportunity for housing's accessory use of recreation that is not otherwise provided on housing sites. Additionally, providing housing in a flood hazard zone and a local tsunami evacuation zone is generally not a good idea. Staff finds the request is consistent with Goal 10.

Goal 11 – “Public Facilities and Services” “To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.”

Utilities and services are available at the site. The findings concerning the City's Public Services and Utilities goal are incorporated herein by this reference. The request is consistent with Goal 11.

Goal 12 – “Transportation” “To provide and encourage a safe, convenient and economic transportation system.”

The site is accessed by SE Keel Ave, SE Jetty Ave, SE 51st St, SE 50th St, and SE 49th St, all of which are local public streets. The request is consistent with Goal 12.

Goal 13 – “Energy Conservation” “To conserve energy.”

The site is will be developed and used as a park. Should new construction ever occur, such new construction must meet all energy codes. The site is within walking distance of nearby residential dwellings, as well as hotels and motels, which decreases the use of automobiles to access the park and thereby conserves energy. The goal, therefore, is satisfied.

Goal 14 – “Urbanization” “To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.”

The area affected by the proposed map amendment and zone change is within the urban growth boundary and the City limits and is already developed as urban. The proposed amendment and zone change will not change the already-existing urban development or prevent more urban development, so is consistent with this goal.

The proposed amendment and zone change are consistent with Goal 14.

Goal 15 – “Willamette Greenway” “To protect, conserve, enhance and maintain the natural, scenic, historical, agricultural, economic and recreational qualities of lands along the Willamette River as the Willamette River Greenway.”

The site is not located within the Willamette River Greenway, nor in proximity to the Willamette River Greenway and thus the proposed amendment and zone change will have no impact to the Willamette Greenway. Accordingly, Goal 15 is not applicable.

Goal 16 – “Estuarine Resources” “To recognize and protect the unique environmental, economic, and social values of each estuary and associated wetlands; and to protect, maintain, where appropriate develop, and where appropriate restore the long-term environmental, economic, and social values, diversity and benefits of Oregon’s estuaries.”

The proposal does not affect any areas adjacent to the Siletz Bay estuary; therefore, Goal 16 is not applicable.

Goal 17 – “Coastal Shorelands” “To conserve, protect, where appropriate, develop and where appropriate restore the resources and benefits of all coastal shorelands, recognizing their value for protection and maintenance of water quality, fish and wildlife habitat, water-dependent uses, economic resources and recreation and aesthetics. The management of these shoreland areas shall be compatible with the characteristics of the adjacent coastal waters; and to reduce the hazard to human life and property, and the adverse effects upon water quality and fish and wildlife habitat, resulting from the use and enjoyment of Oregon’s coastal shorelands.”

The City’s coastal shorelands are not impacted by the proposed request since the site does not contain any coastal shorelands, nor is the site in proximity to any coastal shorelands. The findings concerning the City’s Shoreland, Beaches, Dunes, Estuary and Ocean Resources goal are incorporated herein by this reference. Goal 17 is met or not applicable.

Goal 18 – “Beaches and Dunes” “To conserve, protect, where appropriate develop, and where appropriate restore the resources and benefits of coastal beach and dune areas; and To reduce the hazard to human life and property from natural or man-induced actions associated with these areas.”

The proposed rezoning does not affect any areas located within a beach or active dune area. The findings concerning the City’s Shoreland, Beaches, Dunes, Estuary and Ocean Resources goal are incorporated herein by this reference. Goal 18 is met or not applicable.

Goal 19 – “Ocean Resources” “To conserve marine resources and ecological functions for the purpose of providing long-term ecological, economic, and social value and benefits to future generations.”

Since the area of the proposed amendment and zone change is on the dry land area of the City, the proposal will not affect the near shore, ocean, and continental shelf. The findings concerning the City’s Shoreland, Beaches, Dunes, Estuary and Ocean Resources goal are incorporated herein by this reference. Goal 19 is met or not applicable.

ORDINANCE NO. 2022-26

AN ORDINANCE AMENDING THE LINCOLN CITY COMPREHENSIVE PLAN MAP TO CHANGE THE COMPREHENSIVE PLAN MAP DESIGNATION FROM MEDIUM DENSITY RESIDENTIAL AND SINGLE-FAMILY RESIDENTIAL TO PARK DISTRICT AND AMENDING THE LINCOLN CITY ZONING MAP TO CHANGE THE ZONING MAP DESIGNATION FROM R-1-7.5 (RESIDENTIAL) TO PARK (P) ZONE FOR THE CITY-OWNED TAFT PARK PROPERTY (APPROXIMATELY 6.71 ACRES) IDENTIFIED AS TAX LOTS: 07-11-27-DD-03500, 07-11-27-DD-04500, 07-11-27-DD-04600, and 07-11-27-DD-04700 [CPA 2022-03/ ZC 2022-03]

*Annotated to show deletions and additions to the code sections being modified. Deletions are **~~lined through~~** and additions are **bold underlined**.*

The City Council finds:

- A. This city-initiated amendment to the Lincoln City Comprehensive Plan is in conformance with the Statewide Planning Goals and Lincoln City Comprehensive Plan goals as addressed in attached Exhibit "A"; and
- B. This amendment is in conformance with the Zoning Ordinance, including, but not limited to, required initiation, processing and noticing requirements; and
- C. The City of Lincoln City duly notified the Oregon Department of Land Conservation and Development pursuant to ORS 197.610 of its consideration of the proposed comprehensive plan and zoning map amendments; Notice was mailed to owners of all properties within 250 feet of the site on March 30, 2022. The News Guard published notice of hearing on April 5 2022; and
- D. The Planning Commission, on April 19, 2022 conducted a public hearing and considered the amendments contained within this ordinance. On May 3, 2022 the Planning Commission voted to transmit the amendments to the City Council with a recommendation that the ordinance be adopted; and
- E. The City Council conducted a public hearing on June 13, 2022, closed the hearing, closed the record and deliberated on the proposed amendments; Council directed that an ordinance be brought back for required readings and adoption.

THE CITY OF LINCOLN CITY ORDAINS AS FOLLOWS:

SECTION 1. Comprehensive Plan Map Amendment. The City Council hereby amends the Lincoln City Comprehensive Plan Map, Ordinance 84-01, as amended, for Taft Park, Lincoln County Assessor's Tax Lots: **07-11-27-DD-03500, 07-11-27-DD-04500, 07-11-27-DD-04600,**

1 **and 07-11-27-DD-04700** to change the current Medium Density Residential designation to
2 Park District.

3
4 **SECTION 2. Zoning District Map Amendment.** The City Council hereby amends the Lincoln
5 City Zoning District Map, Ordinance 84-02, as amended, for Taft Park, Lincoln County Assessor's
6 Map Tax Lots: **07-11-27-DD-03500, 07-11-27-DD-04500, 07-11-27-DD-04600, and 07-11-**
7 **27-DD-04700** to change the current R-1-7.5 (Single Family Residential Zone) to the Parks (P)
8 Zone.

9
10 **SECTION 3. Findings adopted.** Findings contained in the Whereas Clauses of this ordinance,
11 together with the Findings set forth in Exhibit A, as well as the competent substantial evidence in
12 the whole record of this legislative proceeding are incorporated into this section by reference as
13 if fully set forth herein, and are adopted in support of this legislative action.

14
15 **SECTION 4. Severability.** The sections, subsections, paragraphs and clauses of this ordinance
16 are severable. The invalidity of one section, subsection, paragraph, or clause shall not affect the
17 validity of the remaining sections, subsections, paragraphs and clauses.

18
19 **SECTION 5. Ordinance Effective Date.** Pursuant to Chapter IX, Section 9.3, this ordinance takes
20 effect 30 days after the date of its adoption.

21
22 The foregoing ordinance was distinctly read by title only in accordance with Chapter IX, Section
23 9.2 of the City of Lincoln City Charter on the 13th day of June, 2022 (First Reading) and on the
24 13th day of June, 2022 (Second Reading).

25
26 PASSED AND ADOPTED by the City Council of the City of Lincoln City this 13th day of June,
27 2022.

28
29
30 _____
SUSAN WAHLKE, MAYOR

31 ATTEST:

32
33 _____
34 JAMIE YOUNG, CITY RECORDER

35
36 APPROVED AS TO FORM:

37 _____
38 RICHARD APPICELLO, CITY ATTORNEY

Council Communication

Ordinance 2022-28 (CPA ZC 2022-04) Taft Open Space Map and Zone Change

Meeting Date: June 13, 2022	Primary Staff Contact: Richard Appicello
Department: City Attorney	E-Mail: RAppicello@lincolncity.org
Secondary Dept: Planning Department	Secondary Contacts: AnneMarie Skinner
Approval:	Estimated Time: 5 minutes

Question(s):

Should the City Council conduct and approve First and Second Reading and adopt Ordinance 2022-28 entitled:

ORDINANCE NO. 2022-28

AN ORDINANCE AMENDING THE LINCOLN CITY COMPREHENSIVE PLAN MAP TO CHANGE THE COMPREHENSIVE PLAN MAP DESIGNATION FROM GENERAL COMMERCIAL TO OPEN SPACE DISTRICT AND AMENDING THE LINCOLN CITY ZONING MAP TO CHANGE THE ZONING MAP DESIGNATION FROM GENERAL COMMERCIAL (GC) TO OPEN SPACE (OS) ZONE FOR THE CITY-OWNED TAFT OPEN SPACE PROPERTY IDENTIFIED AS TAX LOT 07-11-27-DD-04900-00 [CPA 2022-04/ ZC 2022-04]

Staff Recommendation:

Staff recommends Council conduct First Reading of Ordinance 2022-28 and, *if unanimous*, Conduct and approve Second Reading and adopt the ordinance. Any changes must be read.

Authority:

City of Lincoln City Charter, Chapter IX. Section 9.2(1) provides that an ordinance may be enacted at a single meeting of the Council by unanimous vote of all Council members voting when a quorum is present upon being read by title only. Adoption of an ordinance after second reading requires the express concurrence of a majority of the members present. Ordinances may be read by title only, after compliance with Charter procedures. A non-emergency ordinance takes effect on the thirtieth (30th) day after its adoption or on a later day the ordinance prescribes. An ordinance adopted to meet an emergency may take effect as soon as it is adopted or on some other date specified in the ordinance.

Background:

See Public Hearing Staff Report for CPA 2022-04/ZC 2022-04 on this Agenda.

Council Options:

1. Conduct and approve First Reading. Read changes, if any. Conduct and Approve Second Reading and Adopt the Ordinance.
2. Conduct and approve First Reading. Read changes, if any. Continue Second Reading to June 27, 2022, [or]
3. Continue First Reading to June 27, 2022.

Potential Motions:

City Attorney: [Conduct First Reading of Ordinance by Title only]

ORDINANCE NO. 2022-28

AN ORDINANCE AMENDING THE LINCOLN CITY COMPREHENSIVE PLAN MAP TO CHANGE THE COMPREHENSIVE PLAN MAP DESIGNATION FROM GENERAL COMMERCIAL TO OPEN SPACE DISTRICT AND AMENDING THE LINCOLN CITY ZONING MAP TO CHANGE THE ZONING MAP DESIGNATION FROM GENERAL COMMERCIAL (GC) TO OPEN SPACE (OS) ZONE FOR THE CITY-OWNED TAFT OPEN SPACE PROPERTY IDENTIFIED AS TAX LOT 07-11-27-DD-04900-00 [CPA 2022-04/ ZC 2022-04]

Council:

Motion to approve First Reading of Ordinance 2022-28.

If unanimous: City Attorney conducts Second Reading

City Attorney: [Conduct Second Reading of Ordinance by Title only]

Council:

1. Motion to approve Second Reading and adopt Ordinance 2022-28.

[or]

2. Motion to set Second Reading for June 27, 2022.

Attachments:

Ordinance 2022-28 Taft Open Space CPA ZC 2022-04 (DOCX)

Ordinance 2022-28 Taft Open Space Findings CPA ZC 2022-04 (DOCX)

ORDINANCE NO. 2022-28

**AN ORDINANCE AMENDING THE LINCOLN CITY COMPREHENSIVE PLAN MAP TO
CHANGE THE COMPREHENSIVE PLAN MAP DESIGNATION FROM GENERAL COMMERCIAL
TO OPEN SPACE DISTRICT AND AMENDING THE LINCOLN CITY ZONING MAP TO
CHANGE THE ZONING MAP DESIGNATION FROM GENERAL COMMERCIAL (GC) TO OPEN
SPACE (OS) ZONE FOR THE CITY-OWNED TAFT OPEN SPACE PROPERTY IDENTIFIED AS
TAX LOT 07-11-27-DD-04900-00 [CPA 2022-04/ZC 2022-04]**

*Annotated to show deletions and additions to the code sections being modified. Deletions are **~~lined through~~** and additions are **bold underlined**.*

The City Council finds:

- A. This city-initiated amendment to the Lincoln City Comprehensive Plan is in conformance with the Statewide Planning Goals and Lincoln City Comprehensive Plan goals as addressed in attached Exhibit "A"; and
- B. This amendment is in conformance with the Zoning Ordinance, including, but not limited to, required initiation, processing, and noticing requirements; and
- C. The City of Lincoln City duly notified the Oregon Department of Land Conservation and Development pursuant to ORS 197.610 of its consideration of the proposed comprehensive plan and zoning map amendments. Notice was mailed to owners of all properties within 250 feet of the site on March 30, 2022. The News Guard published notice of hearing on April 5, 2022; and
- D. The Planning Commission, on April 19, 2022, conducted a public hearing and considered the amendments contained within this ordinance. On May 3, 2022, the Planning Commission voted to transmit the amendments to the City Council with a recommendation that the ordinance be adopted; and
- E. The City Council conducted a public hearing on June 13, 2022, closed the hearing, closed the record, and deliberated on the proposed amendments. Council directed that an ordinance be brought back for required readings and adoption.

THE CITY OF LINCOLN CITY ORDAINS AS FOLLOWS:

SECTION 1. Comprehensive Plan Map Amendment. The City Council hereby amends the Lincoln City Comprehensive Plan Map, Ordinance 84-01, as amended, for Taft Open Space, Lincoln County Assessor's Tax Lot: **07-11-27-DD-04900-00** to change the current General Commercial District designation to Open Space District designation.

SECTION 2. Zoning District Map Amendment. The City Council hereby amends the Lincoln City Zoning District Map, Ordinance 84-02, as amended, for Taft Open Space, Lincoln County Assessor's Map Tax Lot: **07-11-27-DD-04900-00** to change the current General Commercial (G-C Zone) to the Open Space (O-S) Zone.

SECTION 3. Findings adopted. Findings contained in the Whereas Clauses of this ordinance, together with the Findings set forth in Exhibit A, as well as the competent substantial evidence in the whole record of this legislative proceeding are incorporated into this section by reference as if fully set forth herein, and are adopted in support of this legislative action.

SECTION 4. Severability. The sections, subsections, paragraphs and clauses of this ordinance are severable. The invalidity of one section, subsection, paragraph, or clause shall not affect the validity of the remaining sections, subsections, paragraphs and clauses.

SECTION 5. Ordinance Effective Date. Pursuant to Chapter IX, Section 9.3, this ordinance takes effect 30 days after the date of its adoption.

The foregoing ordinance was distinctly read by title only in accordance with Chapter IX, Section 9.2 of the City of Lincoln City Charter on the 13th day of June, 2022 (First Reading) and on the 13th day of June, 2022 (Second Reading).

PASSED AND ADOPTED by the City Council of the City of Lincoln City this 13th day of June, 2022.

SUSAN WAHLKE, MAYOR

ATTEST:

JAMIE YOUNG, CITY RECORDER

APPROVED AS TO FORM:

RICHARD APPICELLO, CITY ATTORNEY

EXHIBIT A – FINDINGS

Findings for Ordinance 2022-28 (Taft Open Space)

The above-referenced proposed ordinance was properly noticed pursuant to ORS 197.610. Notice was published in the local newspaper on April 5, 2022. Notice was mailed to property owners within 250 feet of the site on March 30, 2022.

Ordinance 2022-28 (CPA/ZC 2022-04) amends the comprehensive plan map designation of the subject City Taft Open Space site from General Commercial to the Open Space District and changes the zoning from General Commercial (G-C) to Open Space (O-S) Zone.

The findings set forth in the Planning Staff Report for the June 13, 2022, Council meeting are specifically incorporated herein by this reference.

Tax Map and Lot: 07-11-27-DD-04900-00

ANALYSIS

A. Lincoln City Comprehensive Plan

1. Land Use Planning Goal

"To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions."

The City Council established a land use policy framework and implementing ordinance through adoption of a comprehensive plan and zoning ordinance, respectively. The Land Conservation and Development Commission acknowledged the City of Lincoln City's Comprehensive Plan and implementing land development regulations, including LCMC Title 17 Zoning, as complying with the Oregon Statewide Planning Goals. Review of the proposed amendment in accordance with the Lincoln City Comprehensive Plan and the applicable zoning ordinance provisions, including the provisions of LCMC Chapter 17.77, establishes conformance with this goal.

The Comprehensive Plan Land Use Planning element identifies zoning as the most common method of land use regulation and control. The plan states:

"Essentially, zoning is a means of ensuring that the land uses of an area are properly situated in relation to one another. It provides adequate amounts of space for each type of development."

The proposed map amendment and zone change would convert the site from the General Commercial zone to the Open Space zone to align with the edict in the purchase agreement. The

proposal will align the zone with use and zone outlined in the purchase agreement. Staff finds the proposal is consistent with Goal 1.

2. Citizen Involvement Goal

"Develop a Citizen Involvement Program which ensures the continued participation of citizens in the land use planning process."

The Comprehensive Plan's Citizen Involvement Program goal is to "develop a Citizen Involvement Program which ensures the continued participation of citizens in the land use planning process." The City has developed a Citizen Involvement Program through Resolution 94-33. The public hearing process for the proposed map amendment and zone change included mailed and published notice to the public and property owners, and review of the proposal by the Planning Commission and the City Council, consistent with the Plan, Goal, and Resolution.

Among the policies under the City's Citizen Involvement Program goal is one that states: "Lincoln City shall assure that a reasonable effort is made to encourage the opportunity for citizens to attend public meetings." The Planning Commission and City Council meetings are publicized widely with hearing notices mailed to property owners in the affected area, published in *The News Guard*, and posted on the City's website. The City holds public hearings in the evening to encourage public attendance. Moreover, for those unable to attend in person, the meetings are televised live, streamed live over the internet, and rebroadcast on cable television. Video of meetings and the packet materials are also available on the City's website for review, free of charge. These aforementioned items in their totality constitute a more than reasonable effort to encourage citizens to attend public meetings and meet Goal 2.

3. Public Services and Utilities Goal

"To plan and develop a timely, orderly, and efficient arrangement of public facility and services which compliment [sic] the area and serve as a framework for urban and rural development."

No development will occur in the Open Space zone. Public facility and services will not be necessary for the site to remain in use as open space. This goal is not applicable.

4. Urbanization Goal

"To promote an orderly and efficient transition of land uses from rural to urban."

The area affected by the proposed map amendment and zone change is within the urban growth boundary and the City limits and is already developed as urban. The proposed amendment and zone change will not change the already-existing urban development or prevent more urban development, so is consistent with this goal.

5. Natural Hazard Goal

"The City shall control development in hazardous areas to protect life and property from natural disasters and hazards."

The City's maps show the site is largely in the AE flood hazard zone and wholly in either the local or distant tsunami evacuation zone. The proposal will eliminate development of structures on the site, which will encourage development of those sites that are outside of the AE flood hazard zone and the local or distant tsunami evacuation zone. The proposal is consistent with Goal 5.

6. Housing Goal

"To provide for the housing needs of all citizens."

The site is not zoned for residential use in its current General Commercial zone. Additionally, the site is largely in the AE flood hazard zone and wholly in either the local or distant tsunami evacuation zone. Staff finds the proposal to be consistent with Goal 6 or Goal 6 is not applicable.

7. Economy Goal

"To support the tourist industry and achieve a degree of diversity in the community which will allow a balanced economy that will, in turn, support an adequate level of services for all members of the area."

The Comprehensive Plan states that the City's primary industry is tourism and concludes that tourism will continue to function as the City's basic industry. Rezoning the site from a commercial zone to open space precludes development of the site for commercial use. However, a preserved open space that is open to the public is a feature utilized by residents and an added amenity for tourists to increase visitors to the south area of town. Staff finds this goal is either not applicable to the request or is met.

8. Aesthetic Goal

"To develop a livable and pleasing city which enhances man's activities while protecting the exceptional aesthetic quality of the area."

The site does not contain any aesthetic resources, but it is adjacent to Schooner Creek and will be preserved as open space. This preservation will help to protect Schooner Creek and provide a pleasing viewing area of the creek to residents and visitors. The request is consistent with the Aesthetic Goal.

9. Transportation Goal

"To provide a safe, convenient and rapid transportation network to facilitate the movement of goods and people."

The site is accessed by SE 51st St, which is a local public street. This goal is satisfied.

10. Energy Goal

"To conserve energy."

The site will remain undeveloped as open space. No energy will be expended in development or use. The site is within walking distance of businesses, residential uses, and hotels and motels, which decreases the use of automobiles to utilize the open space and thereby conserves energy. The goal, therefore, is satisfied or not applicable.

11. Overall Environmental Goal

"To achieve a balance between the need to provide housing and services and the need to protect and enhance the natural environment of the city."

The entire site will be preserved as open space to be able to view Schooner Creek. This goal is satisfied.

12. Shoreland, Beaches, Dunes, Estuary, and Ocean Resources Goal

"To conserve, protect, and enhance the coastal resources of the city."

The site is immediately adjacent to Schooner Creek. Rezoning of the site from the General Commercial zone to the Open Space zone will ensure that the site and its adjacent natural resources are preserved. The proposed request is consistent with this goal.

B. Statewide Planning Goals

Goal 1 – "Citizen Involvement" "To develop a citizen involvement program that ensures the opportunity for citizens to be involved in all phases of the planning process."

The application for amending the comprehensive plan map and changing the zoning was available at no cost on the City's website and also available for public review and purchase at the counter. Staff was available to explain the proposal and technical information. The City published hearing notices in the local newspaper in accordance with notice requirements and mailed notices to impacted property owners. The findings concerning the Comprehensive Plan Citizen Involvement are incorporated herein by this reference. Staff made its report on the land use proposals available on the City's website in advance of the meeting. The request is consistent with Goal 1.

Goal 2 – "Land Use Planning" "To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions."

The City Council adopted the Lincoln City Comprehensive Plan and its implementation measure, the Lincoln City Zoning Ordinance, after public hearings and has reviewed them on a periodic cycle to take into account changing public policies and circumstances. Citizens and affected governmental units had opportunities for review and comment during preparation, review, and revision of the plan and implementing ordinances. Review of this proposed rezoning in accordance with the Lincoln City Comprehensive Plan and the applicable zoning ordinance provisions establishes conformance with this goal.

Goal 3 – “Agricultural Lands” “To preserve and maintain agricultural lands.”

The area affected by the proposed rezoning is within the City’s Urban Growth Boundary. The area is currently designated and zoned for urban development and will remain as such, any rezoning notwithstanding. The rezoning will not affect agricultural lands; therefore, Goal 3 is not applicable.

Goal 4 – “Forest Lands” “To conserve forest lands by maintaining the forest land base and to protect the state’s forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.”

The area affected by the proposed rezoning is within the City’s Urban Growth Boundary and currently zoned and developed for urban development. The affected area does not contain any designated forest lands; therefore, Goal 4 is not applicable.

Goal 5 – “Open Spaces, Scenic and Historic Areas and Natural Resources” “To protect natural resources and conserve scenic and historic areas and open spaces.”

The proposal will preserve the site as an open space. The proposal is consistent with Goal 5.

Goal 6 – “Air, Water and Land Resources Quality” “To maintain and improve the quality of the air, water and land resources of the state.”

The proposal will preserve the site as an open space, thus preventing development that would harm the air, water, or land resources quality. The proposed request is consistent with Goal 6.

Goal 7 – “Areas Subject to Natural Disasters and Hazards” “To protect people and property from natural hazards.”

The City’s maps show the site is largely in the AE flood hazard zone and wholly in either the local or distant tsunami evacuation zone. The proposal will preserve the site as open space, thus encouraging development elsewhere that is outside of the flood hazard and tsunami evacuation zones. The proposal is consistent with Goal 7.

Goal 8 – “Recreational Needs” “To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities, including destination resorts.”

The site will be preserved as open space for the viewing pleasure of residents and visitors as passive recreation. The proposal is consistent with Goal 8.

Goal 9 – “Economic Development” “To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon’s citizens.”

The area affected by the proposed rezoning is within the City’s Urban Growth Boundary and proposed for use as open space. The Comprehensive Plan states that the City’s primary industry is tourism and concludes that tourism will continue to function as the City’s basic industry. Rezoning the site from a commercial zone to open space precludes development of the site for commercial use. However, a preserved open space that is open to the public is a feature utilized by residents and an added amenity for tourists to increase visitors to the south area of town. Staff finds this goal is either not applicable to the request or is met. The proposed rezoning is consistent with Goal 9.

Goal 10 – “Housing” “To provide for the housing needs of citizens of the state.”

The site is not zoned for residential use in its current General Commercial zone. Additionally, the site is largely in the AE flood hazard zone and wholly in either the local or distant tsunami evacuation zone. Staff finds the request is consistent with Goal 10, or Goal 10 is not applicable.

Goal 11 – “Public Facilities and Services” “To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.”

Utilities and services are available at the site. The request is consistent with Goal 11.

Goal 12 – “Transportation” “To provide and encourage a safe, convenient and economic transportation system.”

The site is accessed by SE 51st St, which is a public local street. The request is consistent with Goal 12.

Goal 13 – “Energy Conservation” “To conserve energy.”

The site will remain undeveloped as open space. No energy will be expended in development or use. The site is within walking distance of businesses, residential uses, and hotels and motels, which decreases the use of automobiles to utilize the open space and thereby conserves energy. The goal, therefore, is satisfied or not applicable.

Goal 14 – “Urbanization” “To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.”

The area affected by the proposed map amendment and zone change is within the urban growth boundary and the City limits and is already developed as urban. The proposed amendment and zone change will not change the already-existing urban development or prevent more urban development, so is consistent with this goal. The proposed amendment and zone change are consistent with Goal 14.

Goal 15 – “Willamette Greenway” “To protect, conserve, enhance and maintain the natural, scenic, historical, agricultural, economic and recreational qualities of lands along the Willamette River as the Willamette River Greenway.”

The site is not located within the Willamette River Greenway, nor in proximity to the Willamette River Greenway and thus the proposed amendment and zone change will have no impact to the Willamette Greenway. Accordingly, Goal 15 is not applicable.

Goal 16 – “Estuarine Resources” “To recognize and protect the unique environmental, economic, and social values of each estuary and associated wetlands; and to protect, maintain, where appropriate develop, and where appropriate restore the long-term environmental, economic, and social values, diversity and benefits of Oregon’s estuaries.”

The proposal does not affect any areas adjacent to the Siletz Bay estuary; therefore, Goal 16 is not applicable.

Goal 17 – “Coastal Shorelands” “To conserve, protect, where appropriate, develop and where appropriate restore the resources and benefits of all coastal shorelands, recognizing their value for protection and maintenance of water quality, fish and wildlife habitat, water-dependent uses, economic resources and recreation and aesthetics. The management of these shoreland areas shall be compatible with the characteristics of the adjacent coastal waters; and to reduce the hazard to human life and property, and the adverse effects upon water quality and fish and wildlife habitat, resulting from the use and enjoyment of Oregon’s coastal shorelands.”

The City’s coastal shorelands are not impacted by the proposed request since the site does not contain any coastal shorelands, nor is the site in proximity to any coastal shorelands. The findings concerning the City’s Shoreland, Beaches, Dunes, Estuary and Ocean Resources goal are incorporated herein by this reference. Goal 17 is met or not applicable.

Goal 18 – “Beaches and Dunes” “To conserve, protect, where appropriate develop, and where appropriate restore the resources and benefits of coastal beach and dune areas; and To reduce the hazard to human life and property from natural or man-induced actions associated with these areas.”

The proposed rezoning does not affect any areas located within a beach or active dune area. The findings concerning the City's Shoreland, Beaches, Dunes, Estuary and Ocean Resources goal are incorporated herein by this reference. Goal 18 is met or not applicable.

Goal 19 – "Ocean Resources" "To conserve marine resources and ecological functions for the purpose of providing long-term ecological, economic, and social value and benefits to future generations."

Since the area of the proposed amendment and zone change is on the dry land area of the City, the proposal will not affect the near shore, ocean, and continental shelf. The findings concerning the City's Shoreland, Beaches, Dunes, Estuary and Ocean Resources goal are incorporated herein by this reference. Goal 19 is met or not applicable.

Council Communication

Ordinance 2022-29 (CPA ZC 2022-05) Palisades Open Space Map and Zone Change

Meeting Date:	June 13, 2022	Primary Staff Contact:	Richard Appicello
Department:	City Attorney	E-Mail:	RAppicello@lincolncity.org
Secondary Dept:	Planning Department	Secondary Contacts:	AnneMarie Skinner
Approval:	Richard Appicello	Estimated Time:	5 minutes

Question(s):

Should the City Council conduct and approve First and Second Reading and adopt Ordinance 2022-29 entitled:

ORDINANCE NO. 2022-29

AN ORDINANCE AMENDING THE LINCOLN CITY COMPREHENSIVE PLAN MAP TO CHANGE THE COMPREHENSIVE PLAN MAP DESIGNATION FROM MEDIUM DENSITY RESIDENTIAL DISTRICT TO OPEN SPACE DISTRICT AND AMENDING THE LINCOLN CITY ZONING MAP TO CHANGE THE ZONING MAP DESIGNATION FROM SINGLE-FAMILY RESIDENTIAL (R-1-7.5) ZONE TO OPEN SPACE (OS) ZONE FOR THE CITY-OWNED PALISADES OPEN SPACE PROPERTY IDENTIFIED AS TAX LOTS 06-11-35-CA-00100-00 AND 06-11-35-CD-00100-00 [CPA 2022-05/ZC 2022-05]

Staff Recommendation:

Staff recommends Council conduct First Reading of Ordinance 2022-29 and, *if unanimous*, Conduct and approve Second Reading and adopt the ordinance. Any changes must be read.

Authority:

City of Lincoln City Charter, Chapter IX. Section 9.2(1) provides that an ordinance may be enacted at a single meeting of the Council by unanimous vote of all Council members voting when a quorum is present upon being read by title only. Adoption of an ordinance after second reading requires the express concurrence of a majority of the members present. Ordinances may be read by title only, after compliance with Charter procedures. A non-emergency ordinance takes effect on the thirtieth (30th) day after its adoption or on a later day the ordinance prescribes. An ordinance adopted to meet an emergency may take effect as soon as it is adopted or on some other date specified in the ordinance.

Background:

See Public Hearing Staff Report for CPA 2022-05/ZC 2022-05 on this Agenda.

Council Options:

1. Conduct and approve First Reading. Read changes, if any. Conduct and Approve Second Reading and Adopt the Ordinance.
2. Conduct and approve First Reading. Read changes, if any. Continue Second Reading to June 27, 2022, [or]
3. Continue First Reading to June 27, 2022.

Potential Motions:

City Attorney: [Conduct First Reading of Ordinance by Title only]

ORDINANCE NO. 2022-29

AN ORDINANCE AMENDING THE LINCOLN CITY COMPREHENSIVE PLAN MAP TO CHANGE THE COMPREHENSIVE PLAN MAP DESIGNATION FROM MEDIUM DENSITY RESIDENTIAL DISTRICT TO OPEN SPACE DISTRICT AND AMENDING THE LINCOLN CITY ZONING MAP TO CHANGE THE ZONING MAP DESIGNATION FROM SINGLE-FAMILY RESIDENTIAL (R-1-7.5) ZONE TO OPEN SPACE (OS) ZONE FOR THE CITY-OWNED PALISADES OPEN SPACE PROPERTY IDENTIFIED AS TAX LOTS 06-11-35-CA-00100-00 AND 06-11-35-CD-00100-00 [CPA 2022-05/ZC 2022-05]

Council:

Motion to approve First Reading of Ordinance 2022-29.

If unanimous: City Attorney conducts Second Reading

City Attorney: [Conduct Second Reading of Ordinance by Title only]

Council:

1. Motion to approve Second Reading and adopt Ordinance 2022-29.

[or]

2. Motion to set Second Reading for June 27, 2022.

Attachments:

Final Ordinance 2022-29 Palisades OS (DOCX)
Final Exhibit A Ordinance 2022-29(DOCX)

ORDINANCE NO. 2022-29

**AN ORDINANCE AMENDING THE LINCOLN CITY COMPREHENSIVE PLAN MAP TO
CHANGE THE COMPREHENSIVE PLAN MAP DESIGNATION FROM MEDIUM DENSITY
RESIDENTIAL DISTRICT TO OPEN SPACE DISTRICT AND AMENDING THE LINCOLN CITY
ZONING MAP TO CHANGE THE ZONING MAP DESIGNATION FROM SINGLE-FAMILY
RESIDENTIAL (R-1-7.5) ZONE TO OPEN SPACE (OS) ZONE FOR THE CITY-OWNED
PALISADES OPEN SPACE PROPERTY IDENTIFIED AS TAX LOTS 06-11-35-CA-00100-00 AND
06-11-35-CD-00100-00 [CPA 2022-05/ZC 2022-05]**

*Annotated to show deletions and additions to the code sections being modified. Deletions are **~~lined through~~** and additions are **bold underlined**.*

The City Council finds:

- A. This city-initiated amendment to the Lincoln City Comprehensive Plan is in conformance with the Statewide Planning Goals and Lincoln City Comprehensive Plan goals as addressed in attached Exhibit "A"; and
- B. This amendment is in conformance with the Zoning Ordinance, including, but not limited to, required initiation, processing, and noticing requirements; and
- C. The City of Lincoln City duly notified the Oregon Department of Land Conservation and Development pursuant to ORS 197.610 of its consideration of the proposed comprehensive plan and zoning map amendments. Notice was mailed to owners of all properties within 250 feet of the site on March 30, 2022. The News Guard published notice of hearing on April 5, 2022; and
- D. The Planning Commission, on April 19, 2022, conducted a public hearing and considered the amendments contained within this ordinance. On May 3, 2022, the Planning Commission voted to transmit the amendments to the City Council with a recommendation that the ordinance be adopted; and
- E. The City Council conducted a public hearing on June 13, 2022, closed the hearing, closed the record, and deliberated on the proposed amendments. Council directed that an ordinance be brought back for required readings and adoption.

THE CITY OF LINCOLN CITY ORDAINS AS FOLLOWS:

SECTION 1. Comprehensive Plan Map Amendment. The City Council hereby amends the Lincoln City Comprehensive Plan Map, Ordinance 84-01, as amended, for Palisades Open Space, Lincoln County Assessor's Tax Lots **06-11-35-CA-00100-00 and 06-11-35-CD-00100-00** to

change the current Medium Density Residential District designation to Open Space District designation.

SECTION 2. Zoning District Map Amendment. The City Council hereby amends the Lincoln City Zoning District Map, Ordinance 84-02, as amended, for Palisades Open Space, Lincoln County Assessor's Map Tax Lots **06-11-35-CA-00100-00 and 06-11-35-CD-00100-00** to change the current Single-Family Residential (R-1-7.5) Zone to the Open Space (O-S) Zone.

SECTION 3. Findings adopted. Findings contained in the Whereas Clauses of this ordinance, together with the Findings set forth in Exhibit A, as well as the competent substantial evidence in the whole record of this legislative proceeding are incorporated into this section by reference as if fully set forth herein, and are adopted in support of this legislative action.

SECTION 4. Severability. The sections, subsections, paragraphs and clauses of this ordinance are severable. The invalidity of one section, subsection, paragraph, or clause shall not affect the validity of the remaining sections, subsections, paragraphs and clauses.

SECTION 5. Ordinance Effective Date. Pursuant to Chapter IX, Section 9.3, this ordinance takes effect 30 days after the date of its adoption.

The foregoing ordinance was distinctly read by title only in accordance with Chapter IX, Section 9.2 of the City of Lincoln City Charter on the 13th day of June, 2022 (First Reading) and on the 13th day of June, 2022 (Second Reading).

PASSED AND ADOPTED by the City Council of the City of Lincoln City this 13th day of June, 2022.

SUSAN WAHLKE, MAYOR

ATTEST:

JAMIE YOUNG, CITY RECORDER

APPROVED AS TO FORM:

RICHARD APPICELLO, CITY ATTORNEY

EXHIBIT A – FINDINGS

Findings for Ordinance 2022-29 (Palisades Open Space)

The above-referenced proposed ordinance was properly noticed pursuant to ORS 197.610. Notice was published in the local newspaper on April 5, 2022. Notice was mailed to property owners within 250 feet of the site on March 30, 2022.

Ordinance 2022-29 (CPA/ZC 2022-05) amends the comprehensive plan map designation of the subject City Palisades Open Space site from Medium Density Residential District to the Open Space District and changes the zoning from Single-Family Residential (R-1-7.5) Zone to Open Space (O-S) Zone.

The findings set forth in the Planning Staff Report for the June 13, 2022, Council meeting are specifically incorporated herein by this reference.

Tax Map and Lots: 06-11-35-CA-00100-00 and 06-11-35-CD-00100-00

ANALYSIS

A. Lincoln City Comprehensive Plan

1. Land Use Planning Goal

"To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions."

The City Council established a land use policy framework and implementing ordinance through adoption of a comprehensive plan and zoning ordinance, respectively. The Land Conservation and Development Commission acknowledged the City of Lincoln City's Comprehensive Plan and implementing land development regulations, including LCMC Title 17 Zoning, as complying with the Oregon Statewide Planning Goals. Review of the proposed amendment in accordance with the Lincoln City Comprehensive Plan and the applicable zoning ordinance provisions, including the provisions of LCMC Chapter 17.77, establishes conformance with this goal.

The Comprehensive Plan Land Use Planning element identifies zoning as the most common method of land use regulation and control. The plan states:

"Essentially, zoning is a means of ensuring that the land uses of an area are properly situated in relation to one another. It provides adequate amounts of space for each type of development."

The proposed map amendment and zone change would convert the site from the R-1-7.5 zone to the Open Space zone to align with the landscaping requirement for the Lincoln Palisades project. Staff finds the proposal is consistent with Goal 1.

2. Citizen Involvement Goal

"Develop a Citizen Involvement Program which ensures the continued participation of citizens in the land use planning process."

The Comprehensive Plan's Citizen Involvement Program goal is to "develop a Citizen Involvement Program which ensures the continued participation of citizens in the land use planning process." The City has developed a Citizen Involvement Program through Resolution 94-33. The public hearing process for the proposed map amendment and zone change included mailed and published notice to the public and property owners, and review of the proposal by the Planning Commission and the City Council, consistent with the Plan, Goal, and Resolution.

Among the policies under the City's Citizen Involvement Program goal is one that states: "Lincoln City shall assure that a reasonable effort is made to encourage the opportunity for citizens to attend public meetings." The Planning Commission and City Council meetings are publicized widely with hearing notices mailed to property owners in the affected area, published in *The News Guard*, and posted on the City's website. The City holds public hearings in the evening to encourage public attendance. Moreover, for those unable to attend in person, the meetings are televised live, streamed live over the internet, and rebroadcast on cable television. Video of meetings and the packet materials are also available on the City's website for review, free of charge. These aforementioned items in their totality constitute a more than reasonable effort to encourage citizens to attend public meetings and meet Goal 2.

3. Public Services and Utilities Goal

"To plan and develop a timely, orderly, and efficient arrangement of public facility and services which compliment [sic] the area and serve as a framework for urban and rural development."

No development will occur in the Open Space zone. Public facility and services will not be necessary for the site to remain in use as open space. This goal is not applicable.

4. Urbanization Goal

"To promote an orderly and efficient transition of land uses from rural to urban."

The area affected by the proposed map amendment and zone change is within the urban growth boundary and the City limits and is already developed as urban. The proposed amendment and zone change will not change the already-existing urban development or prevent more urban development, so is consistent with this goal.

5. Natural Hazard Goal

"The City shall control development in hazardous areas to protect life and property from natural disasters and hazards."

The City's maps show the site does not contain any natural hazards. Goal 5 is not applicable.

6. Housing Goal

"To provide for the housing needs of all citizens."

The housing needs of the citizens has largely been satisfied through the development of Lincoln Palisades. To develop Lincoln Palisades and meet all of the requirements, including the landscaping requirement, at least 15% of that site had to be dedicated for open space. The site meets that requirement. Changing the zone from residential to open space will align the zone and the code requirement for open space and continue to keep Lincoln Palisades in compliance with its development requirements while still providing housing to the citizens. Staff finds the proposal to be consistent with Goal 6 or Goal 6 is not applicable.

7. Economy Goal

"To support the tourist industry and achieve a degree of diversity in the community which will allow a balanced economy that will, in turn, support an adequate level of services for all members of the area."

The Comprehensive Plan states that the City's primary industry is tourism and concludes that tourism will continue to function as the City's basic industry. Rezoning the site from a residential zone to open space precludes development of the site for residential use. However, a preserved open space that is open to the public is a feature utilized by residents and an added amenity for tourists to increase visitors to the north area of town. Staff finds this goal is either not applicable to the request or is met.

8. Aesthetic Goal

"To develop a livable and pleasing city which enhances man's activities while protecting the exceptional aesthetic quality of the area."

The site does not contain any aesthetic resources, but it does contain significant wetlands and will be preserved as open space. This preservation will help to protect the significant wetlands and provide a pleasing viewing area of the significant wetlands to residents and visitors. The request is consistent with the Aesthetic Goal.

9. Transportation Goal

"To provide a safe, convenient and rapid transportation network to facilitate the movement of goods and people."

The site is open space and will remain undeveloped. Residents and visitors can access the site via NE 51st Lp and NE 55th Pl, both of which are public local streets. This goal is satisfied.

10. Energy Goal

"To conserve energy."

The site will remain undeveloped as open space. No energy will be expended in development or use. The site is within walking distance of businesses, residential uses, and hotels and motels, which decreases the use of automobiles to utilize the open space and thereby conserves energy. The goal, therefore, is satisfied or not applicable.

11. Overall Environmental Goal

"To achieve a balance between the need to provide housing and services and the need to protect and enhance the natural environment of the city."

The entire site will be preserved as open space to meet code requirements for the Lincoln Palisades residential development. This goal is satisfied.

12. Shoreland, Beaches, Dunes, Estuary, and Ocean Resources Goal

"To conserve, protect, and enhance the coastal resources of the city."

The site does not contain any shoreland, beaches, dunes estuaries, or ocean resources and is more than a mile from the Pacific Ocean. Rezoning of the site will not have any impact on the city's coastal resources; therefore, the proposed request is consistent with this goal or this goal is not applicable.

B. Statewide Planning Goals

Goal 1 – "Citizen Involvement" "To develop a citizen involvement program that ensures the opportunity for citizens to be involved in all phases of the planning process."

The application for amending the comprehensive plan map and changing the zoning was available at no cost on the City's website and also available for public review and purchase at the counter. Staff was available to explain the proposal and technical information. The City published hearing notices in the local newspaper in accordance with notice requirements and mailed notices to

impacted property owners. The findings concerning the Comprehensive Plan Citizen Involvement are incorporated herein by this reference. Staff made its report on the land use proposals available on the City's website in advance of the meeting. The request is consistent with Goal 1.

Goal 2 – “Land Use Planning” “To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.”

The City Council adopted the Lincoln City Comprehensive Plan and its implementation measure, the Lincoln City Zoning Ordinance, after public hearings and has reviewed them on a periodic cycle to take into account changing public policies and circumstances. Citizens and affected governmental units had opportunities for review and comment during preparation, review, and revision of the plan and implementing ordinances. Review of this proposed rezoning in accordance with the Lincoln City Comprehensive Plan and the applicable zoning ordinance provisions establishes conformance with this goal.

Goal 3 – “Agricultural Lands” “To preserve and maintain agricultural lands.”

The area affected by the proposed rezoning is within the City's Urban Growth Boundary. The area is currently designated and zoned for urban development and will remain as such, any rezoning notwithstanding. The rezoning will not affect agricultural lands; therefore, Goal 3 is not applicable.

Goal 4 – “Forest Lands” “To conserve forest lands by maintaining the forest land base and to protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.”

The area affected by the proposed rezoning is within the City's Urban Growth Boundary and currently zoned and developed for urban development. The affected area does not contain any designated forest lands; therefore, Goal 4 is not applicable.

Goal 5 – “Open Spaces, Scenic and Historic Areas and Natural Resources” “To protect natural resources and conserve scenic and historic areas and open spaces.”

The proposal will preserve the site as an open space. The proposal is consistent with Goal 5.

Goal 6 – “Air, Water and Land Resources Quality” “To maintain and improve the quality of the air, water and land resources of the state.”

The proposal will preserve the site as an open space, thus preventing development that would harm the air, water, or land resources quality. The proposed request is consistent with Goal 6.

Goal 7 – “Areas Subject to Natural Disasters and Hazards” “To protect people and property from natural hazards.”

The City’s maps show the site is does not contain any natural disaster and hazards areas. The proposal is consistent with Goal 7.

Goal 8 – “Recreational Needs” “To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities, including destination resorts.”

The site will be preserved as open space for the viewing pleasure of residents and visitors as passive recreation. The proposal is consistent with Goal 8.

Goal 9 – “Economic Development” “To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon’s citizens.”

The area affected by the proposed rezoning is within the City’s Urban Growth Boundary and proposed for use as open space. The Comprehensive Plan states that the City’s primary industry is tourism and concludes that tourism will continue to function as the City’s basic industry. Rezoning the site from a residential zone to open space precludes development of the site for residential use. However, a preserved open space that is open to the public is a feature utilized by residents and an added amenity for tourists to increase visitors to the north area of town. Staff finds this goal is either not applicable to the request or is met. The proposed rezoning is consistent with Goal 9.

Goal 10 – “Housing” “To provide for the housing needs of citizens of the state.”

The housing needs of the citizens has largely been satisfied through the development of Lincoln Palisades. To develop Lincoln Palisades and meet all of the requirements, including the landscaping requirement, at least 15% of that site had to be dedicated for open space. The site meets that requirement. Changing the zone from residential to open space will align the zone and the code requirement for open space and continue to keep Lincoln Palisades in compliance with its development requirements while still providing housing to the citizens. Staff finds the request is consistent with Goal 10, or Goal 10 is not applicable.

Goal 11 – “Public Facilities and Services” “To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.”

The site is open space and will remain undeveloped. Utilities and services are available at the site. The request is consistent with Goal 11, or Goal 11 is not applicable.

Goal 12 – “Transportation” “To provide and encourage a safe, convenient and economic transportation system.”

The site is open space and will remain undeveloped. Residents and visitors can access the site via NE 51st Lp and NE 55th Pl, both of which are public local streets. The request is consistent with Goal 12.

Goal 13 – “Energy Conservation” “To conserve energy.”

The site will remain undeveloped as open space. No energy will be expended in development or use. The site is within walking distance of businesses, residential uses, and hotels and motels, which decreases the use of automobiles to utilize the open space and thereby conserves energy. The goal, therefore, is satisfied or not applicable.

Goal 14 – “Urbanization” “To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.”

The area affected by the proposed map amendment and zone change is within the urban growth boundary and the City limits and is already developed as urban. The proposed amendment and zone change will not change the already-existing urban development or prevent more urban development, so is consistent with this goal.

The proposed amendment and zone change are consistent with Goal 14.

Goal 15 – “Willamette Greenway” “To protect, conserve, enhance and maintain the natural, scenic, historical, agricultural, economic and recreational qualities of lands along the Willamette River as the Willamette River Greenway.”

The site is not located within the Willamette River Greenway, nor in proximity to the Willamette River Greenway and thus the proposed amendment and zone change will have no impact to the Willamette Greenway. Accordingly, Goal 15 is not applicable.

Goal 16 – “Estuarine Resources” “To recognize and protect the unique environmental, economic, and social values of each estuary and associated wetlands; and to protect, maintain, where appropriate develop, and where appropriate restore the long-term environmental, economic, and social values, diversity and benefits of Oregon’s estuaries.”

The proposal does not affect any areas adjacent to the Siletz Bay estuary; therefore, Goal 16 is not applicable.

Goal 17 – “Coastal Shorelands” “To conserve, protect, where appropriate, develop and where appropriate restore the resources and benefits of all coastal shorelands, recognizing their value for protection and maintenance of water quality, fish and wildlife habitat, water-dependent uses, economic resources and recreation and aesthetics. The management of these shoreland areas shall be compatible with the characteristics of the adjacent coastal waters; and to reduce the hazard to human life and property, and the adverse effects upon water quality and fish and wildlife habitat, resulting from the use and enjoyment of Oregon’s coastal shorelands.”

The City's coastal shorelands are not impacted by the proposed request since the site does not contain any coastal shorelands, nor is the site in proximity to any coastal shorelands. The findings concerning the City's Shoreland, Beaches, Dunes, Estuary and Ocean Resources goal are incorporated herein by this reference. Goal 17 is met or not applicable.

Goal 18 – “Beaches and Dunes” “To conserve, protect, where appropriate develop, and where appropriate restore the resources and benefits of coastal beach and dune areas; and To reduce the hazard to human life and property from natural or man-induced actions associated with these areas.”

The proposed rezoning does not affect any areas located within a beach or active dune area. The findings concerning the City's Shoreland, Beaches, Dunes, Estuary and Ocean Resources goal are incorporated herein by this reference. Goal 18 is met or not applicable.

Goal 19 – “Ocean Resources” “To conserve marine resources and ecological functions for the purpose of providing long-term ecological, economic, and social value and benefits to future generations.”

Since the area of the proposed amendment and zone change is on the dry land area of the City, the proposal will not affect the near shore, ocean, and continental shelf. The findings concerning the City's Shoreland, Beaches, Dunes, Estuary and Ocean Resources goal are incorporated herein by this reference. Goal 19 is met or not applicable.

Council Communication

Ordinance 2022-30 (CPA ZC 2022-06) Wildwoods Open Space Map and Zone Change

Meeting Date:	June 13, 2022	Primary Staff Contact:	Richard Appicello
Department:	City Attorney	E-Mail:	RAppicello@lincolncity.org
Secondary Dept:	Planning Department	Secondary Contacts:	AnneMarie Skinner
Approval:	Richard Appicello	Estimated Time:	5 minutes

Question(s):

Should the City Council conduct and approve First and Second Reading and adopt Ordinance 2022-30 entitled:

ORDINANCE NO. 2022-30

AN ORDINANCE AMENDING THE LINCOLN CITY COMPREHENSIVE PLAN MAP TO CHANGE THE COMPREHENSIVE PLAN MAP DESIGNATION FROM UNDESIGNATED TO OPEN SPACE DISTRICT AND AMENDING THE LINCOLN CITY ZONING MAP TO CHANGE THE ZONING MAP DESIGNATION FROM UNDESIGNATED TO OPEN SPACE (OS) ZONE FOR THE CITY-OWNED WILDWOODS OPEN SPACE PROPERTY IDENTIFIED AS TAX LOT 07-11-11-BA-00404-00 [CPA 2022-06/ZC 2022-06]

Staff Recommendation:

Staff recommends Council conduct First Reading of Ordinance 2022-30 and, *if unanimous*, Conduct and approve Second Reading and adopt the ordinance. Any changes must be read.

Authority:

City of Lincoln City Charter, Chapter IX. Section 9.2(1) provides that an ordinance may be enacted at a single meeting of the Council by unanimous vote of all Council members voting when a quorum is present upon being read by title only. Adoption of an ordinance after second reading requires the express concurrence of a majority of the members present. Ordinances may be read by title only, after compliance with Charter procedures. A non-emergency ordinance takes effect on the thirtieth (30th) day after its adoption or on a later day the ordinance prescribes. An ordinance adopted to meet an emergency may take effect as soon as it is adopted or on some other date specified in the ordinance.

Background:

See Public Hearing Staff Report for CPA 2022-06/ZC 2022-06 on this Agenda.

Council Options:

1. Conduct and approve First Reading. Read changes, if any. Conduct and Approve Second Reading and Adopt the Ordinance.
2. Conduct and approve First Reading. Read changes, if any. Continue Second Reading to June 27, 2022, [or]
3. Continue First Reading to June 27, 2022.

Potential Motions:

City Attorney: [Conduct First Reading of Ordinance by Title only]

ORDINANCE NO. 2022-30

AN ORDINANCE AMENDING THE LINCOLN CITY COMPREHENSIVE PLAN MAP TO CHANGE THE COMPREHENSIVE PLAN MAP DESIGNATION FROM UNDESIGNATED TO OPEN SPACE DISTRICT AND AMENDING THE LINCOLN CITY ZONING MAP TO CHANGE THE ZONING MAP DESIGNATION FROM UNDESIGNATED TO OPEN SPACE (OS) ZONE FOR THE CITY-OWNED WILDWOODS OPEN SPACE PROPERTY IDENTIFIED AS TAX LOT 07-11-11-BA-00404-00 [CPA 2022-06/ZC 2022-06]

Council:

Motion to approve First Reading of Ordinance 2022-30.

If unanimous: City Attorney conducts Second Reading

City Attorney: [Conduct Second Reading of Ordinance by Title only]

Council:

1. Motion to approve Second Reading and adopt Ordinance 2022-30.

[or]

2. Motion to set Second Reading for June 27, 2022.

Attachments:

Final Ordinance 2022-30 Wildwoods OS (DOCX)
Final Exhibit A Ordinance 2022-30(DOCX)

ORDINANCE NO. 2022-30

AN ORDINANCE AMENDING THE LINCOLN CITY COMPREHENSIVE PLAN MAP TO CHANGE THE COMPREHENSIVE PLAN MAP DESIGNATION FROM UNDESIGNATED TO OPEN SPACE DISTRICT AND AMENDING THE LINCOLN CITY ZONING MAP TO CHANGE THE ZONING MAP DESIGNATION FROM UNDESIGNATED TO OPEN SPACE (OS) ZONE FOR THE CITY-OWNED WILDWOODS OPEN SPACE PROPERTY IDENTIFIED AS TAX LOT 07-11-11-BA-00404-00 [CPA 2022-06/ZC 2022-06]

*Annotated to show deletions and additions to the code sections being modified. Deletions are **~~lined through~~** and additions are **bold underlined**.*

The City Council finds:

- A. This city-initiated amendment to the Lincoln City Comprehensive Plan is in conformance with the Statewide Planning Goals and Lincoln City Comprehensive Plan goals as addressed in attached Exhibit "A"; and
- B. This amendment is in conformance with the Zoning Ordinance, including, but not limited to, required initiation, processing, and noticing requirements; and
- C. The City of Lincoln City duly notified the Oregon Department of Land Conservation and Development pursuant to ORS 197.610 of its consideration of the proposed comprehensive plan and zoning map amendments. Notice was mailed to owners of all properties within 250 feet of the site on March 30, 2022. The News Guard published notice of hearing on April 5, 2022; and
- D. The Planning Commission, on April 19, 2022, conducted a public hearing and considered the amendments contained within this ordinance. On May 3, 2022, the Planning Commission voted to transmit the amendments to the City Council with a recommendation that the ordinance be adopted; and
- E. The City Council conducted a public hearing on June 13, 2022, closed the hearing, closed the record, and deliberated on the proposed amendments. Council directed that an ordinance be brought back for required readings and adoption.

THE CITY OF LINCOLN CITY ORDAINS AS FOLLOWS:

SECTION 1. Comprehensive Plan Map Amendment. The City Council hereby amends the Lincoln City Comprehensive Plan Map, Ordinance 84-01, as amended, for Wildwoods Open Space, Lincoln County Assessor's Tax Lot **07-11-11-BA-00404-00** to change the current undesignated land use map designation to Open Space District designation.

SECTION 2. Zoning District Map Amendment. The City Council hereby amends the Lincoln City Zoning District Map, Ordinance 84-02, as amended, for Wildwoods Open Space, Lincoln County Assessor's Map Tax Lot **07-11-11-BA-00404-00** to change the current undesignated Zone to the Open Space (O-S) Zone.

SECTION 3. Findings adopted. Findings contained in the Whereas Clauses of this ordinance, together with the Findings set forth in Exhibit A, as well as the competent substantial evidence in the whole record of this legislative proceeding are incorporated into this section by reference as if fully set forth herein, and are adopted in support of this legislative action.

SECTION 4. Severability. The sections, subsections, paragraphs and clauses of this ordinance are severable. The invalidity of one section, subsection, paragraph, or clause shall not affect the validity of the remaining sections, subsections, paragraphs and clauses.

SECTION 5. Ordinance Effective Date. Pursuant to Chapter IX, Section 9.3, this ordinance takes effect 30 days after the date of its adoption.

The foregoing ordinance was distinctly read by title only in accordance with Chapter IX, Section 9.2 of the City of Lincoln City Charter on the 13th day of June, 2022 (First Reading) and on the 13th day of June, 2022 (Second Reading).

PASSED AND ADOPTED by the City Council of the City of Lincoln City this 13th day of June, 2022.

SUSAN WAHLKE, MAYOR

ATTEST:

JAMIE YOUNG, CITY RECORDER

APPROVED AS TO FORM:

RICHARD APPICELLO, CITY ATTORNEY

EXHIBIT A – FINDINGS

Findings for Ordinance 2022-30 (Wildwoods Open Space)

The above-referenced proposed ordinance was properly noticed pursuant to ORS 197.610. Notice was published in the local newspaper on April 5, 2022. Notice was mailed to property owners within 250 feet of the site on March 30, 2022.

Ordinance 2022-30 (CPA/ZC 2022-06) amends the comprehensive plan map designation of the subject Wildwoods Open Space site from undesignated land use map to the Open Space District and changes the zoning from undesignated zone to Open Space (O-S) Zone.

The findings set forth in the Planning Staff Report for the June 13, 2022, Council meeting are specifically incorporated herein by this reference.

Tax Map and Lot: 07-11-11-BA-00404-00 [CPA 2022-06/ZC 2022-06]

ANALYSIS

A. Lincoln City Comprehensive Plan

1. Land Use Planning Goal

"To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions."

The City Council established a land use policy framework and implementing ordinance through adoption of a comprehensive plan and zoning ordinance, respectively. The Land Conservation and Development Commission acknowledged the City of Lincoln City's Comprehensive Plan and implementing land development regulations, including LCMC Title 17 Zoning, as complying with the Oregon Statewide Planning Goals. Review of the proposed amendment in accordance with the Lincoln City Comprehensive Plan and the applicable zoning ordinance provisions, including the provisions of LCMC Chapter 17.77, establishes conformance with this goal.

The Comprehensive Plan Land Use Planning element identifies zoning as the most common method of land use regulation and control. The plan states:

"Essentially, zoning is a means of ensuring that the land uses of an area are properly situated in relation to one another. It provides adequate amounts of space for each type of development."

The proposed map amendment and zone change would designate the site with the OS zone to align with its use as part of the Friends of Wildwoods Open Space. Staff finds the proposal is consistent with Goal 1.

2. Citizen Involvement Goal

"Develop a Citizen Involvement Program which ensures the continued participation of citizens in the land use planning process."

The Comprehensive Plan's Citizen Involvement Program goal is to "develop a Citizen Involvement Program which ensures the continued participation of citizens in the land use planning process." The City has developed a Citizen Involvement Program through Resolution 94-33. The public hearing process for the proposed map amendment and zone change included mailed and published notice to the public and property owners, and review of the proposal by the Planning Commission and the City Council, consistent with the Plan, Goal, and Resolution.

Among the policies under the City's Citizen Involvement Program goal is one that states: "Lincoln City shall assure that a reasonable effort is made to encourage the opportunity for citizens to attend public meetings." The Planning Commission and City Council meetings are publicized widely with hearing notices mailed to property owners in the affected area, published in *The News Guard*, and posted on the City's website. The City holds public hearings in the evening to encourage public attendance. Moreover, for those unable to attend in person, the meetings are televised live, streamed live over the internet, and rebroadcast on cable television. Video of meetings and the packet materials are also available on the City's website for review, free of charge. These aforementioned items in their totality constitute a more than reasonable effort to encourage citizens to attend public meetings and meet Goal 2.

3. Public Services and Utilities Goal

"To plan and develop a timely, orderly, and efficient arrangement of public facility and services which compliment [sic] the area and serve as a framework for urban and rural development."

No development will occur in the Open Space zone. Public facility and services will not be necessary for the site to remain in use as open space. This goal is not applicable.

4. Urbanization Goal

"To promote an orderly and efficient transition of land uses from rural to urban."

The area affected by the proposed map amendment and zone change is within the urban growth boundary and the City limits and is already developed as urban. The proposed amendment and zone change will not change the already-existing urban development or prevent more urban development, so is consistent with this goal.

5. Natural Hazard Goal

"The City shall control development in hazardous areas to protect life and property from natural disasters and hazards."

The City's maps show the site does not contain any natural hazards. Goal 5 is not applicable.

6. Housing Goal

"To provide for the housing needs of all citizens."

The site is in use as designated open space. Designated open space is precluded from development. Goal 6 is not applicable.

7. Economy Goal

"To support the tourist industry and achieve a degree of diversity in the community which will allow a balanced economy that will, in turn, support an adequate level of services for all members of the area."

The Comprehensive Plan states that the City's primary industry is tourism and concludes that tourism will continue to function as the City's basic industry. Friends of Wildwoods Open Space is open to the public and is a feature utilized by tourists. Staff finds this goal is either not applicable to the request or is met.

8. Aesthetic Goal

"To develop a livable and pleasing city which enhances man's activities while protecting the exceptional aesthetic quality of the area."

The site does not contain any aesthetic resources, but it is preserved and used as open space. The proposal will align the zone with the use. This will preserve the area in its natural state with the native vegetation, which serves to preserve the aesthetic quality of the area. The request is consistent with the Aesthetic Goal.

9. Transportation Goal

"To provide a safe, convenient and rapid transportation network to facilitate the movement of goods and people."

The site is open space and will remain undeveloped. Residents and visitors can access the site via NE Tide Ave or NE West Devils Lake Blvd. This goal is satisfied.

10. Energy Goal

"To conserve energy."

The site will remain undeveloped as open space. No energy will be expended in development or use. The goal, therefore, is satisfied or not applicable.

11. Overall Environmental Goal

"To achieve a balance between the need to provide housing and services and the need to protect and enhance the natural environment of the city."

The entire site will be preserved as open space in its natural state. This goal is satisfied.

12. Shoreland, Beaches, Dunes, Estuary, and Ocean Resources Goal

"To conserve, protect, and enhance the coastal resources of the city."

The site does not contain any shoreland, beaches, dunes estuaries, or ocean resources and is more than a mile from the Pacific Ocean. Rezoning of the site will not have any impact on the city's coastal resources; therefore, the proposed request is consistent with this goal or this goal is not applicable.

B. Statewide Planning Goals

Goal 1 – "Citizen Involvement" "To develop a citizen involvement program that ensures the opportunity for citizens to be involved in all phases of the planning process."

The application for amending the comprehensive plan map and changing the zoning was available at no cost on the City's website and also available for public review and purchase at the counter. Staff was available to explain the proposal and technical information. The City published hearing notices in the local newspaper in accordance with notice requirements and mailed notices to impacted property owners. The findings concerning the Comprehensive Plan Citizen Involvement are incorporated herein by this reference. Staff made its report on the land use proposals available on the City's website in advance of the meeting. The request is consistent with Goal 1.

Goal 2 – "Land Use Planning" "To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions."

The City Council adopted the Lincoln City Comprehensive Plan and its implementation measure, the Lincoln City Zoning Ordinance, after public hearings and has reviewed them on a periodic cycle to take into account changing public policies and circumstances. Citizens and affected governmental units had opportunities for review and comment during preparation, review, and revision of the plan and implementing ordinances. Review of this proposed rezoning in accordance with the Lincoln City Comprehensive Plan and the applicable zoning ordinance provisions establishes conformance with this goal.

Goal 3 – “Agricultural Lands” “To preserve and maintain agricultural lands.”

The area affected by the proposed rezoning is within the City’s Urban Growth Boundary. The area is currently designated and zoned for urban development and will remain as such, any rezoning notwithstanding. The rezoning will not affect agricultural lands; therefore, Goal 3 is not applicable.

Goal 4 – “Forest Lands” “To conserve forest lands by maintaining the forest land base and to protect the state’s forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.”

The area affected by the proposed rezoning is within the City’s Urban Growth Boundary and currently zoned and developed for urban development. The affected area does not contain any designated forest lands; therefore, Goal 4 is not applicable.

Goal 5 – “Open Spaces, Scenic and Historic Areas and Natural Resources” “To protect natural resources and conserve scenic and historic areas and open spaces.”

The proposal will preserve the site as open space. The proposal is consistent with Goal 5.

Goal 6 – “Air, Water and Land Resources Quality” “To maintain and improve the quality of the air, water and land resources of the state.”

The proposal will preserve the site as open space, thus preventing development that would harm the air, water, or land resources quality. The proposed request is consistent with Goal 6.

Goal 7 – “Areas Subject to Natural Disasters and Hazards” “To protect people and property from natural hazards.”

The City’s maps show the site is does not contain any natural disaster and hazards areas. The proposal is consistent with Goal 7.

Goal 8 – “Recreational Needs” “To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities, including destination resorts.”

The site will be preserved as open space for the viewing pleasure of residents and visitors as passive recreation. The proposal is consistent with Goal 8.

Goal 9 – “Economic Development” “To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon’s citizens.”

The area affected by the proposed rezoning is within the City's Urban Growth Boundary and proposed for use as open space. The Comprehensive Plan states that the City's primary industry is tourism and concludes that tourism will continue to function as the City's basic industry. A preserved open space that is open to the public is a feature utilized by residents and an added amenity for tourists to increase visitors to this area of town. Staff finds this goal is either not applicable to the request or is met. The proposed rezoning is consistent with Goal 9.

Goal 10 – "Housing" "To provide for the housing needs of citizens of the state."

The site is in use as designated open space. Designated open space is precluded from development. Goal 10 is not applicable.

Goal 11 – "Public Facilities and Services" "To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development."

The site is open space and will remain undeveloped. Utilities and services are available at the site. The request is consistent with Goal 11, or Goal 11 is not applicable.

Goal 12 – "Transportation" "To provide and encourage a safe, convenient and economic transportation system."

The site is open space and will remain undeveloped. Residents and visitors can access the site via NE Tide Ave or NE West Devils Lake Blvd, both of which are public streets. The request is consistent with Goal 12.

Goal 13 – "Energy Conservation" "To conserve energy."

The site will remain undeveloped as open space. No energy will be expended in development or use. The site is within walking distance of businesses, residential uses, and hotels and motels, which decreases the use of automobiles to utilize the open space and thereby conserves energy. The goal, therefore, is satisfied or not applicable.

Goal 14 – "Urbanization" "To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities."

The area affected by the proposed map amendment and zone change is within the urban growth boundary and the City limits and is already developed as urban. The proposed amendment and zone change will not change the already-existing urban development or prevent more urban development, so is consistent with this goal. The proposed amendment and zone change are consistent with Goal 14.

Goal 15 – “Willamette Greenway” “To protect, conserve, enhance and maintain the natural, scenic, historical, agricultural, economic and recreational qualities of lands along the Willamette River as the Willamette River Greenway.”

The site is not located within the Willamette River Greenway, nor in proximity to the Willamette River Greenway and thus the proposed amendment and zone change will have no impact to the Willamette Greenway. Accordingly, Goal 15 is not applicable.

Goal 16 – “Estuarine Resources” “To recognize and protect the unique environmental, economic, and social values of each estuary and associated wetlands; and to protect, maintain, where appropriate develop, and where appropriate restore the long-term environmental, economic, and social values, diversity and benefits of Oregon’s estuaries.”

The proposal does not affect any areas adjacent to the Siletz Bay estuary; therefore, Goal 16 is not applicable.

Goal 17 – “Coastal Shorelands” “To conserve, protect, where appropriate, develop and where appropriate restore the resources and benefits of all coastal shorelands, recognizing their value for protection and maintenance of water quality, fish and wildlife habitat, water-dependent uses, economic resources and recreation and aesthetics. The management of these shoreland areas shall be compatible with the characteristics of the adjacent coastal waters; and to reduce the hazard to human life and property, and the adverse effects upon water quality and fish and wildlife habitat, resulting from the use and enjoyment of Oregon’s coastal shorelands.”

The City’s coastal shorelands are not impacted by the proposed request since the site does not contain any coastal shorelands, nor is the site in proximity to any coastal shorelands. The findings concerning the City’s Shoreland, Beaches, Dunes, Estuary and Ocean Resources goal are incorporated herein by this reference. Goal 17 is met or not applicable.

Goal 18 – “Beaches and Dunes” “To conserve, protect, where appropriate develop, and where appropriate restore the resources and benefits of coastal beach and dune areas; and To reduce the hazard to human life and property from natural or man-induced actions associated with these areas.”

The proposed rezoning does not affect any areas located within a beach or active dune area. The findings concerning the City’s Shoreland, Beaches, Dunes, Estuary and Ocean Resources goal are incorporated herein by this reference. Goal 18 is met or not applicable.

Goal 19 – “Ocean Resources” “To conserve marine resources and ecological functions for the purpose of providing long-term ecological, economic, and social value and benefits to future generations.”

Since the area of the proposed amendment and zone change is on the dry land area of the City, the proposal will not affect the near shore, ocean, and continental shelf. The findings concerning the

City's Shoreland, Beaches, Dunes, Estuary and Ocean Resources goal are incorporated herein by this reference. Goal 19 is met or not applicable.

Council Communication

Planning Commission Interview-Williams

Meeting Date:	June 13, 2022	Primary Staff Contact:	Jamie Young
Department:	City Council	E-Mail:	JYoung@lincolncity.org
Secondary Dept:		Secondary Contacts:	
Approval:		Estimated Time:	10 minutes

Debra Williams has applied for an appointment for the City Resident position. This position is a 4-year term; The City Resident position is a partial term and a new term beginning immediately and expiring 12/31/26, that will be left vacant by the passing of Ms. Nelson.

Ms. William's application is attached. Also attached, please find the questions that have been used in past Planning Commission interviews with the City Council. A copy of these questions has been sent to the candidate.

There are two other applicants for the Planning Commission, both have been interviewed.

Applicants

MacNeale Smith

Charlsy Affuso

Interview Date

12/13/2021

04/25/2022

Attachments:

Williams, Debra_Planning Commission Application_Redacted.pdf (PDF)

Williams, Debra Ref.pdf (PDF)

Williams, Debra Memo.pdf (PDF)

QUESTIONS FOR PLANNING COMMISSION APPLICANTS.pdf (PDF)



CITY OF LINCOLN CITY

Committee / Board / Commission Application

Please indicate which committee/board/commission you are applying for:

- | | |
|--|--|
| ☐ Arts Committee
☐ *Budget Committee
☐ Community Sustainability Committee | ☐ Parks and Recreation Board
☒ Planning Commission
☐ Library Board |
|--|--|

* If applying for the Budget Committee, you may not serve on any other City board or committee at the same time. Other City committee volunteer positions allow dual representation if it does not present a conflict of interest.

NAME:	Debra Williams	DATE:	5/5/22
HOME ADDRESS:			
MAILING ADDRESS:	same as above		
CITY, STATE, ZIP:	Lincoln City, OR 97367		
E-MAIL ADDRESS:			
HOME PHONE:		CELL PHONE:	

RESIDENCY AND SPECIFIC ELIGIBILITY CRITERIA

Do you reside within the City limits:

☒ Yes Length of Time 14 years

Do you reside within the Urban Growth Boundary?

☒ Yes Length of Time 14 years

Do you reside within the Lincoln County School District North:

☒ Yes ☐ No

Are you a registered voter in Lincoln County?

☒ Yes ☐ No

Are you a Lincoln City business owner or Manager?

☒ Yes ☐ No

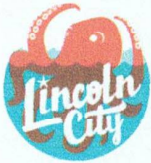
If yes, please indicate which business you own/manage?

Down Reader Retreat @
2618-2624 SW Coast

RECEIVED

MAY 09 2022

CITY OF LINCOLN CITY
LINCOLN CITY OR


QUALIFICATIONS/EXPERIENCE (Additional space is provided on back)

Describe relevant qualifications (i.e. work or volunteer experiences) to include any applicable education and/or training. For example, if you are a hotel owner or operator and applying for the Visitor and Convention Committee; and highlight any skills, interests or hobbies that you believe would bring value to your ability to serve this position:

As a real estate Broker and Principal Broker for the last 37 years I've been involved with land development, construction and remodeling and sales of real estate both in Portland and Lincoln City.

List names of volunteer/work supervisors:

Gerald Aldrich, Taylor & Taylor Realty Co.

Please provide any previous experience with committees, boards or commissions and positions held:

*Lincoln County Board of Realtors, Secretary - 4 years
State Director - 2 years
Faith Baptist - serving meals @ Celebrate Recovery
- Overnight supervision for family Promise residents.*

State the name, title and any relationship you have to a City Council member, Commissioner, board member or city employee:

No current relationships

Explain why you would like to serve on this board, commission, or committee:

To better understand the operation of city government and utilize my expertise in land use development and city planning to better provide housing and services for our local residents.

List the name, phone number, and e-mail address (if possible) of two personal or professional references:

Name: *Erin Briggs, builder*

Phone: [REDACTED]

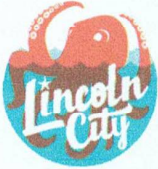
Name: *Rich Briggs, Designer*

Phone: [REDACTED]

My signature affirms that all information contained herein is true and correct to the best of my knowledge, and that I understand that any misstatement of fact, or any misrepresentation of credentials may result in this application being disqualified and is cause for removal from any appointed body. Shaded information will not be released due to personal privacy protection laws.

SIGNATURE

DATE

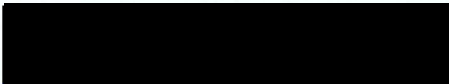


**FAIR CREDIT REPORTING ACT (FCRA) ACKNOWLEDGEMENT AND AUTHORIZATION FOR
BACKGROUND CHECK FOR A VOLUNTEER POSITION WITH A LINCOLN CITY APPOINTED
BODY**

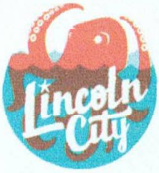
PLEASE READ CAREFULLY BEFORE SIGNING!

I acknowledge receipt of the separate document entitled "DISCLOSURE REGARDING BACKGROUND INVESTIGATION and a SUMMARY OF YOUR RIGHTS UNDER THE FAIR CREDIT REPORTING ACT", and certify that I have read and understand both of those documents. I hereby authorize the obtaining of "consumer reports" and/or "investigative consumer reports" by Lincoln City ("City") at any time after receipt of this authorization and throughout my employment, if applicable.

To this end, I hereby authorize, without reservation, any law enforcement agency, administrator, state or federal agency, institution, school or university (public or private), information service bureau, employer, or insurance company to furnish any and all background information requested by **Pinnacle Investigations, 920 North Argonne Road, Suite 200, Spokane Valley, WA, 99212; Telephone Number 1-800-955-5306; www.pinnacleprof.com** and or "City". I agree that a facsimile ("fax"), electronic or photographic copy of this Authorization shall be as valid as the original.


SIGNATURE

5/5/22
DATE



City Recorder
City of Lincoln City
PO Box 50
Lincoln City, OR 97367

COMMITTEE VOLUNTEER EMERGENCY CONTACT INFORMATION FORM

FULL NAME:	Debra Pauline Williams	
START DATE:		
NAME OF COMMITTEE, BOARD, OR COMMISSION:	Planning Commission	
CITY STAFF REPRESENTATIVE:	Anne Marie Skinner	
HOME ADDRESS:	[REDACTED]	
	Lincoln City, OR 97367	
MAILING ADDRESS:	Same as above	
HOME PHONE:	[REDACTED]	
CELL PHONE:	[REDACTED]	
PERSONAL E-MAIL ADDRESS:	[REDACTED]	

EMERGENCY CONTACT NAME/RELATIONSHIP:	[REDACTED]	
HOME PHONE:	[REDACTED]	
CELL PHONE:	[REDACTED]	

DATE:	5/5/22	
VOLUNTEER SIGNATURE:	[REDACTED]	

ALL PERSONAL INFORMATION WILL BE KEPT STRICTLY CONFIDENTIAL



Human Resources

REFERENCE CHECK- COMMITTEES

Reference regarding: Debra Williams (Planning Commission Board)

Reference: Rich Briggs

Reference taken by; date / time: May 9, 2022

- What is your professional relationship with the applicant?
I designed several projects for Ms Williams
- How long have you known him/her?
Est 15 yrs
- How long have you worked / served with him/her?
- Did you hire or select him/her? If not, would you hire/select him/her given the opportunity to do so?
I would most definitely hire Ms Williams in several capacities
- Do you have personal knowledge of the applicant serving on any boards? If so, please describe. If not, would serving on our Planning Commission be a good match based on your knowledge of the applicant? Would you recommend him/her for the Planning Commission?
I recommend Ms Williams for the Planning Commission
- Does the applicant possess good decision making / reasoning skills?
Yes
- Does the applicant have good communication / interpersonal skills?
Yes
- Is he/she responsible and reliable?
Yes, very responsible and reliable
- What are his/her strongest skills? On time, thinks clearly and very organized. Does he/she possess any special skills?
Debra Williams is responsible, clear thinking, reasonable, and at the same time she has the ability to be creative. Unusual to find all of these qualities in a single individual.
- If applicable, what was his/her reason for leaving the position he/she held when you worked / volunteered together?



Human Resources

- Are there any areas he/she could use help in developing (i.e. written communication, organization)? What do we need to provide to help him/her succeed on the Planning Commission?
- Do you have any other feedback you could provide that would help us make a decision?



MEMORANDUM

To: City of Lincoln City Mayor and Council
From: Abigail Edwards, Human Resources Director
Date: May 17, 2022
Re: Council Volunteer Appointment—Background Report and References

To the Honorable Mayor and City Council:

Human Resources has conducted a background investigation and reference check for a volunteer application for City Appointed Bodies as set forth in the Lincoln City Municipal Code, Section 2.06.015(D).

No adverse information was found for the following applicant, and they have *passed* the background check.

Name: Debra Williams

Position Applied For: Planning Commission

Human Resources was unable to complete all reference checking due to the following:

- One reference has been unresponsive to the request for information;
- One reference provided a response.

Reference responses have been returned to the City Recorder for your review. Thank you.

Respectfully,

Abigail Edwards
HR Director

QUESTIONS FOR PLANNING COMMISSION APPLICANTS

1. Why do you want to serve on the Planning Commission?
2. What are the top 3 planning issues facing Lincoln City?
3. What should the role of the public be in planning decisions?
4. How should the planning commission balance individual owners' interests with community interests?
5. What should be the role of the planning commission in creating a look or image for the city?
6. How should the city balance housing affordability with regulations?
7. What is the role of the planning commission when a person has a really good idea, but the city's regulations prohibit it? Or, a really bad idea and the regulations allow it?

Council Communication

Community Center Gym Roof Project

Meeting Date: June 13, 2022	Primary Staff Contact: Jeanne Sprague
Department: Parks and Recreation	E-Mail: JSprague@lincolncity.org
Secondary Dept: Public Works	Secondary Contacts:
Approval:	Estimated Time: 10 mins

Question:

Should the City Council award the metal roof panel change order for the Contract for the Community Center Reroof to Roof Toppers, Inc.

Staff Recommendation:

Staff recommends the Council award the metal roof panel proposal change order to Roof Toppers, Inc.

Authority:

LCMC 2.05.080. (Exemptions)

B. Change orders or contract amendments reasonably related to the scope of work, up to 25 percent of the contract price.

Background:

On Dec 13, 2021, Council awarded the Best Value Construction Contract for the Community Center Reroof to Roof Toppers at a cost of \$329,000 with a contingency amount of \$32,900 (10%) for a total amount of \$361,900.

On Feb. 14, 2022, Council awarded the soffits change order for the Community Center Reroof to Roof Toppers at a cost of \$63,218.

The City found that the Contractor needs to increase wind loading to 135 MPH for the metal roof panels, per Building Code. Roof Toppers is able to comply with the Code, with additional materials and labor of \$52,000 for a new contract total of \$444,218.

The change order / amendment exceeds the delegation authority to the city manager so it must be approved by the Council acting as the Local contract Review Board. The change order is exempt from competitive bidding under LCMC 2.05.080.B.

Council Options:

Council can award the metal roof panel proposal change order to Roof Toppers.

Financial Impact

The roof project is currently at a cost of \$392,218. Lincoln City is able to cover the \$52,000 for the metal roof replacements from the Facilities Capital fund.

Potential Motions:

Move to award the metal roof panel proposal change order to Roof Toppers, Inc in the amount of \$52,000.