

**CITY OF LINCOLN CITY
LINCOLN CITY COUNCIL AGENDA
MONDAY MAY 9, 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 – April 25, 2022, 6:00 PM

E. COUNCIL DELIBERATIONS

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

G. PRESENTATIONS

2. Salmon Drift Creek Watershed Council Presentation
3. Lincoln City Senior Center Presentation
4. Wastewater Plant of the Year Award

H. PUBLIC HEARING / ORDINANCE

I. PUBLIC HEARINGS / PUBLIC COMMENTS

1. ZOA 2022-05 Code Corrections
2. ZOA 2022-06 R1RE Front Setback

J. ORDINANCES

3. ORDINANCE NO. 2022-15 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), 17.24 (PC), 17.28 (RC), 17.29 (RCC), 17.32 (GC), 17.36 (PI), 17.40 (RR), 17.42 (P), 17.46 (NR), 17.52 (SUPPLEMENTARY REGULATIONS), 17.64 (NONCONFORMING SITUATIONS), 17.74 (DESIGN STANDARDS), 17.76 (PROCEDURES), 17.77 (APPLICATIONS), 17.80 (PROVISIONS APPLYING TO SPECIAL USES) and TITLE 16 (SUBDIVISIONS), CHAPTER 16.08 (PROCEDURE) TO MAKE CORRECTIONS.
4. ORDINANCE NO. 2022-20 AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 12. (STREETS, SIDEWALKS AND PUBLIC PLACES), CHAPTER 12.16 PARKS USE REGULATIONS AND EXCLUSIVE USE PERMITS), CHAPTER 12.18 EXCLUSIONS AND CRIMINAL TRESPASS, AND CHAPTER 12.02 CONTROL OF PUBLIC RIGHT-OF-WAY), TO INCREASE PENALTIES FOR USE OF ANY TYPE OF FIREWORK IN CITY PARKS / OPEN SPACE AND TO PROHIBIT ANY TYPE OF FIREWORK ON ALL CITY PROPERTY, CITY STREETS, AND RIGHT-OF-WAY
5. ORDINANCE NO. 2022-22 AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 2 (ADMINISTRATION AND PERSONNEL), AMENDING CHAPTER 2.66 (COMMUNITY SUSTAINABILITY COMMITTEE), REMOVING SUSTAINABILITY COMMITTEE PROVISIONS FROM THE MUNICIPAL CODE
6. 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

K. RESOLUTIONS

L. SPECIAL ORDER OF BUSINESS

- 7. Villages Wetland Delineation and Survey
- 8. SW 63rd and SW Inlet Overlay Construction Award

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

April 25, 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

Mayor Wahlke called the meeting to order at 6:04 PM

B. ROLL CALL

Attendee Name	Title	Status	Arrived
Susan Wahlke	Mayor	Present	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; Lila Bradley, Contract Employee; Richard Appicello, City Attorney; Chief Palmer, Lincoln City Police Department; Lt. Broderick, Lincoln City Police Department; Abigail Edwards, Human Resources Director; Alison Robertson, Economic Development and Urban Renewal Director; Ed Dreistadt, ELC Director; Jeanne Sprague, Parks and Recreation Director; Stephanie Reid, City Engineer; Anne Marie Skinner, Planning and Community Development Director; Kirsten Brodbeck-Kenney, Library Director; Tony LaSoya, I.T. Director; Jamie Young, City Recorder.

C. PLEDGE OF ALLEGIANCE

Mayor Wahlke led The Pledge of Allegiance.

D. CONSENT AGENDA 1, 2, 3, & 5

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

1. Regular Meeting – Minutes of Regular Meeting – April 11, 2022, 6:00 PM

MOTION: City Council - Regular Meeting - Apr 11, 2022, 6:00 PM
MOVER: Elaine Starmer, Councilor Ward I
SECONDER: Mitch Parsons, Councilor Ward 1
RESULT: Passed

2. Economic Development Programs: City Council Loan Committee Members

MOTION: Economic Development Programs: City Council Loan Committee Members
MOVER: Elaine Starmer, Councilor Ward I
SECONDER: Mitch Parsons, Councilor Ward 1
AYES: Wahlke, Starmer, Kasner, Casper, Hoagland, Mark, Parsons
RESULT: Passed

3. Designation of Financial Signature Authority

MOTION: Designation of Financial Signature Authority
MOVER: Elaine Starmer, Councilor Ward I
SECONDER: Mitch Parsons, Councilor Ward 1
AYES: Wahlke, Starmer, Kasner, Casper, Hoagland, Mark, Parsons
RESULT: Passed

5. Adopting Juneteenth Day of Observance

MOTION: Adopting Juneteenth Day of Observance
MOVER: Elaine Starmer, Councilor Ward I
SECONDER: Mitch Parsons, Councilor Ward 1
AYES: Wahlke, Starmer, Kasner, Casper, Hoagland, Mark, Parsons
RESULT: Passed

Councilor Hoagland pulled item four for discussion.

Councilor Hoagland asked Mayor Wahlke if she would be reading item number five. Mayor Wahlke said she would not be reading the entire thing and Councilor Hoagland could read it at the end of the meeting.

4. Intergovernmental Agreement for the Improvement and Operation of D River Park Between The State of Oregon, Oregon Parks, and Recreation Department, and the City of Lincoln City, Oregon

MOTION:	Motion to Approve the Intergovernmental Agreement for the Improvement and Operation of D River Park Between The State of Oregon, Oregon Parks, and Recreation Department, and the City of Lincoln City, Oregon
MOVER:	Riley Hoagland, Councilor Ward 2
SECONDER:	Mitch Parsons, Councilor Ward 1
AYES:	Wahlke, Starmer, Kasner, Casper, Hoagland, Mark, Parsons
RESULT:	Passed via Voice Vote

Councilor Hoagland said it was brought to his attention there is significant damage to the Northwest seawall at the D River Wayside. Councilor Hoagland asked with maintenance and upkeep if we were required to bring it up to a standard. Councilor Hoagland also said that is an area of significant cultural heritage with the Siletz Tribe and would like to make sure that is included. Mr. Appicello said the City is taking the park as is; the State will be responsible for the park and the City will be responsible for the building. Ms. Bradley said there was a Geotech that came out and gave a good report.

E. COUNCIL DELIBERATIONS

NONE

Mayor Wahlke changed the agenda with unanimous consent. The Planning Commission interview (L6) to be before Ordinances J1.

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

Austin Emami, Lincoln City resident, spoke against the ban of fireworks.

Janet Knipe, Roads End Improvement Association, spoke in support of the fireworks ban.

David Jamieson, Lincoln City resident, spoke in support of the fireworks ban.

Public Comment received via email:

Elaine Walsh, Lincoln City resident, encouraged a "yes" vote on ordinance 2022-21.

Ed Forsythe of Sanger, CA, is against the ban of fireworks. Mr. Forsythe's email included notes from Dwight Stockton of Roseburg, Oregon; Kristy Taylor, no location listed; Matt Moorhead of Clovis, CA all against the ban of fireworks.

Gae Linfoot, Lincoln City resident, for the ban of fireworks.

Fran Lonnon, Lincoln City resident, regarding the transitional housing on NE 31st Street.

Brenda Scotton, Lincoln City resident, regarding NW 35th St beach access and removable steel bollards.

Brenda Scotton, Lincoln City resident, regarding NW 35th St beach access and removable steel bollards. This email appears to be a duplicate of the previous.

Mona Martin, Lincoln City resident, supports the ban of fireworks.

Jacob Bustamante of Dallas Oregon is against the ban of fireworks.

Laury Girt, Lincoln City resident, supports ordinance 2022-21.

Annette Guido, Lincoln City resident, supports ordinance 2022-21.

Amber Wishoff, Executive Director of My Sister's Place, regarding Sexual Assault Awareness Month.

Nancy Cable, regarding the location of the new animal shelter.

Patty Kroen, Lincoln City resident, supports the ban of fireworks.

Bill and Judy Flynn, Lincoln City residents, support the ban of fireworks

Shannon Loch supports ordinance 2022-21.

Cindy Thompson & Elaine Walsh, Lincoln City residents, support the ban of fireworks.

Jeanne and David Jordan, Lincoln City residents, support the ban of fireworks.

By Phone:

Elaine Walsh, Lincoln City resident, spoke in favor of banning fireworks.

Jason Trout, TNT Fireworks, spoke against the ban of fireworks.

G. PRESENTATIONS

6. Presentation by Presiding Judge Bachart, Lincoln County Opioid and Fentanyl Issues

Lincoln County Judge Bachart gave a presentation regarding opioid and fentanyl issues. Judge Bachart asked Council to commit one detective position to drug enforcement. Councilor Mark asked if anything could be done about ballot measure 110. Councilor Mark also asked for suggestions from the Police Department on what they might need from Council. Nicole Dickerson spoke regarding her drug use and getting in trouble. Ms. Dickerson said that she was in jail for five months and then entered into the drug court program. Ms. Dickerson said that the drug court program is what saved her.

H. PUBLIC HEARING / ORDINANCE

NONE

I. PUBLIC HEARINGS / PUBLIC COMMENTS

NONE

Council had Mr. Forsythe speak, as he missed his public comment due to technical difficulties. Mr. Forsythe spoke against the ban of fireworks.

J. ORDINANCES

1. ORDINANCE NO. 2022-19 AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 5. (BUSINESS TAXES, LICENSES, AND REGULATIONS), CHAPTER 5.04 (OCCUPATION TAXES), SECTION 5.04.150 (PERMIT FOR TEMPORARY DISPLAY OF MERCHANDISE OUTSIDE), PARAGRAPH B. (SEASONAL PERMITS), TO DISCONTINUE THE ISSUANCE OF SUMMER SEASONAL PERMITS

MOTION: Motion to Approve First Reading of Ordinance 2022-19 Remove Summer Season Outdoor Sales
MOVER: Elaine Starmer, Councilor Ward I
SECONDER: Mitch Parsons, Councilor Ward 1
AYES: Wahlke, Starmer, Kasner, Casper, Hoagland, Mark, Parsons
RESULT: Passed by Roll Call Vote

Councilor Mark asked if any applications have been submitted. Mr. Appicello said that applications submitted within 30 days would be grandfathered in. Councilor Mark asked if this would include Farmers Markets. Mr. Appicello said these are not included. Councilor Starmer asked how long it takes to approve the application. Mr. Appicello was not sure. Councilor Hoagland said that we allow in the wintertime and does not seem equitable.

2.

MOTION: Motion to Approve Second Reading and Adoption of Ordinance 2022-19 Remove Summer Season Outdoor Sales
MOVER: Rick Mark, Councilor Ward 3
SECONDER: Elaine Starmer, Councilor Ward I
AYES: Starmer, Kasner, Casper, Mark, Parsons
NAYS: Wahlke, Hoagland
RESULT: Passed by Roll Call Vote

3. ORDINANCE NO. 2022-20 AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 12. (STREETS, SIDEWALKS AND PUBLIC PLACES), CHAPTER 12.16 PARKS USE REGULATIONS AND EXCLUSIVE USE PERMITS), CHAPTER 12.18 EXCLUSIONS AND CRIMINAL TRESPASS, AND CHAPTER 12.02 CONTROL OF PUBLIC RIGHT-OF-WAY), TO INCREASE PENALTIES FOR USE OF ANY TYPE OF FIREWORK IN CITY PARKS / OPEN SPACE AND TO PROHIBIT ANY TYPE OF FIREWORK ON ALL CITY PROPERTY, CITY STREETS, AND RIGHT-OF-WAY

MOTION: Motion to Approve First Reading of Ordinance 2022-20 Expand Park Fireworks Prohibitions to Other City Property with Changes as Read
MOVER: Sydney Kasner, Councilor Ward 2
SECONDER: Elaine Starmer, Councilor Ward I
AYES: Wahlke, Starmer, Kasner, Casper, Mark
NAYS: Hoagland, Parsons
RESULT: Passed by Roll Call Vote

Councilor Hoagland asked about the fine for the fireworks and if it was greater than the fine for being caught with drugs. Mr. Appicello confirmed.

4. ORDINANCE NO. 2022-21 AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 8. (HEALTH AND SAFETY), ADDING A NEW CHAPTER 8.06 (FIREWORKS), TO PROHIBIT THE SALE AND USE OF FIREWORKS WITHIN THE CITY LIMITS OF THE CITY OF LINCOLN CITY

MOTION:	Motion to Approve First Reading of Ordinance 2022-21 Fireworks Prohibiting Sales and Use in City with a Change to Section 4 to Reflect the Date of July 7th as the Effective Date
MOVER:	Judy Casper, Councilor Ward 3
SECONDER:	Mitch Parsons, Councilor Ward 1
AYES:	Wahlke, Starmer, Kasner, Casper, Hoagland, Mark, Parsons
RESULT:	Passed by Roll Call Vote

Councilor Starmer asked if this ordinance would ban all except exempt fireworks. Mr. Appicello confirmed. Councilor Starmer asked what the Fire Marshall's opinion was on the exempt fireworks. Mr. Appicello said he believes they think they are safe and that is why they are exempt. Mayor Wahlke asked what impact this has on our professional fireworks. Mr. Appicello said they are exempt. Councilor Hoagland asked if that applies to all state-permitted displays. Mr. Appicello confirmed. Councilor Parsons asked about a commercial firework display in Cutler City that has a permit from the State Fire Marshall. Mr. Appicello confirmed the exemption.

5.

MOTION:	Motion to Approve Second Reading and Adoption of Ordinance 2022-21 Fireworks Prohibiting Sales and Use in City with a Change to Section 4 to Reflect the Date of July 7th as the Effective Date
MOVER:	Judy Casper, Councilor Ward 3
SECONDER:	Rick Mark, Councilor Ward 3
AYES:	Starmer, Kasner, Casper, Mark, Parsons
NAYS:	Wahlke, Hoagland
RESULT:	Passed by Roll Call Vote

K. RESOLUTIONS

NONE

L. SPECIAL ORDER OF BUSINESS

6. Planning Commission Interview - Affuso

Council interviewed Ms. Affuso for the Planning Commission.

7.

MOTION:	Motion to Appoint Charlsy Affuso to the Planning Commission
RESULT:	Died Without a Second

8.

MOTION: Motion to Leave Planning Commission Vacancy Open for 30 days.
MOVER: Mitch Parsons, Councilor Ward 1
SECONDER: Elaine Starmer, Councilor Ward 1
AYES: Wahlke, Starmer, Kasner, Casper, Mark, Parsons
NAYS: Hoagland
RESULT: Passed by Voice Vote

9. Outside Agency Requests for Funding 2022-2023

MOTION: Motion to Approve Outside Agency Requests for Funding 2022-2023
MOVER: Judy Casper, Councilor Ward 3
SECONDER: Sydney Kasner, Councilor Ward 2
AYES: Wahlke, Starmer, Kasner, Casper, Hoagland, Mark, Parsons
RESULT: Passed by Roll Call Vote

Councilor Casper said there was over \$500,000 in request with \$50,000 to give. Councilor Casper went over the amount given. Councilor Hoagland asked what the process was for selection and the amount of money given. Councilor Casper said they read the needs, what the money was being used for, the profit statement, and how many people would be served. Councilor Mark said it is never an easy process.

10. Heating, Ventilation, and Air Conditioning (HVAC) Rooftop Unit Replacement Contract

MOTION: Motion to Approve HVAC Rooftop Unit Replacement Contract in the Amount of \$52,833.00 to Stewart Mechanical
MOVER: Riley Hoagland, Councilor Ward 2
SECONDER: Mitch Parsons, Councilor Ward 1
AYES: Wahlke, Starmer, Kasner, Casper, Hoagland, Mark, Parsons
RESULT: Passed by Roll Call Vote

Stephanie Reid, Public Works Director, explained the project. Councilor Hoagland asked how the units would be disposed of and if they were recyclable. Ms. Reid was not certain. Councilor Hoagland asked about having a green approach to disposal in the future.

11. Kirtsis Park Parking Lot Construction Award

MOTION: Motion to Approve Kirtsis Park Parking Lot Construction Award to RK Concrete Construction in the Amount of \$ 436,225.35
MOVER: Rick Mark, Councilor Ward 3
SECONDER: Sydney Kasner, Councilor Ward 2
AYES: Starmer, Kasner, Casper, Hoagland, Mark, Parsons
RECUSED: Wahlke
RESULT: Passed by Roll Call Vote

Mayor Wahlke recused herself due to a conflict. Stephanie Reid explained the project. Councilor Hoagland inquired about the native build requirements. Ms. Skinner gave input on the landscape.

12. Consultant Services Approval

MOTION:	Motion to Approve Consultant Services Approval
MOVER:	Elaine Starmer, Councilor Ward 1
SECONDER:	Sydney Kasner, Councilor Ward 2
AYES:	Wahlke, Starmer, Kasner, Casper, Hoagland, Mark, Parsons
RESULT:	Passed by Roll Call Vote

Stephanie Reid presented the consultant list. Councilor Hoagland asked what the method for rating and ranking was. Ms. Reid said the criteria included their qualifications and experience. Councilor Hoagland asked if DEI (diversity, equity, and inclusion) was included in this selection. Ms. Reid said it was not but they are all rated with the Better Business Bureau and equal opportunity employers.

M. CITY MANAGER/CITY ATTORNEY REPORTS

Ms. Bradley said that a work session would be scheduled for May 4th for Parks and Recreation discussion at 3:30 PM for an hour and a half. Ms. Bradley said a work session would be scheduled for May 25th at 3:30 PM for an hour and a half to discuss fees. Councilor Starmer asked if TRT fees could be addressed. Mayor Wahlke said she would be addressing those.

City Attorney has no comment.

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

NONE

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

Amber Wishoff, Executive Director at My Sister's Place/My Safe Place, spoke about Sexual Assault Awareness Month and a proclamation. Mayor Wahlke read the sexual assault proclamation.

P. ANNOUNCEMENTS OR COMMENTS BY CITY COUNCIL

Councilor Hoagland read the proclamation for Juneteenth. Council previously adopted the proclamation earlier in the meeting. Councilor Hoagland also explained the process of the new BottleDrop process and said it would be a great opportunity to donate to different organizations.

Councilor Mark said he is hoping by adding to the snowball with the firework maybe everyone will follow suit. Councilor Mark said there was a terrific fundraiser for the Siletz Bay Music Festival on Saturday and he also had his first pickleball lesson. Councilor Mark also spoke about his trip to B'nai Brith on Thursday and all of the wonderful things they do for the community.

Councilor Casper thanked the staff person for the succulent plants left for Council. Councilor Casper also explained where Helping Hands is at with the project. Councilor Mark said there was also an inquiry about their loan payment. Councilor Casper said that is being paid. Councilor Casper also brought up e-bikes and whether they will be allowed on the beach.

Councilor Kasner said it is nice to be back in person. Councilor Kasner also asked if the DEI would be included in a work session. Ms. Bradley said she would get that scheduled.

Mayor Wahlke thanked Ms. Bradley and spoke about the LOC conference in Hermiston.

Q. ADJOURNMENT

Mayor Wahlke adjourned the meeting at 8:56 PM

SUSAN WAHLKE, MAYOR

ATTEST:

JAMIE YOUNG, CITY RECORDER

Council Communication

Presentation by Salmon Drift Creek Watershed Council

Meeting Date:	May 9, 2022	Primary Staff Contact:	Jamie Young
Department:	City Council	E-Mail:	JYoung@lincolncity.org
Secondary Dept:		Secondary Contacts:	
Approval:	Lila Bradley	Estimated Time:	15 minutes

The Salmon Drift Creek Watershed Council will give a presentation relating to their activities in general.

City Attorney Note: The Salmon Drift Creek Watershed Council must annually demonstrate satisfactory performance in an annual review before Council to be awarded rent abatement under the terms of their lease. [The same is true of the Cultural Center lease and the Senior Center exclusive use permit].

Per the lease, the annual review will commence each April and must be completed before June 30 of the same year. If the review is negative or a material breach has occurred, the rent obligation is triggered for the subject rental year. In April 2021 the City Council conducted an annual review and abated the rent obligation for the SDCWC from July 1, 2021 through June 30, 2022.

Assuming a satisfactory annual review of the not-for-profit's actions/programs in furtherance of its mission, and documented compliance and maintenance of 501(c)(3) tax status, the rent for July 2022 through June 30, 2023 may be abated by motion. The base rent is currently \$234.42/month (\$2813.04/year).

Council Communication

Lincoln City Senior Center presentation

Meeting Date:	May 9, 2022	Primary Staff Contact:	Jeanne Sprague
Department:	Parks and Recreation	E-Mail:	JSprague@lincolncity.org
Secondary Dept:	City Attorney	Secondary Contacts:	
Approval:	Lila Bradley	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 Senior Center. 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 a private club).

As of July 12, 2021, the LC City Council voted to waive fees for the Senior Center 501c3 use of City facility for FY21-22. Any decision for future fiscal years will be based upon a presentation by the Senior Center 501c3 to City Council, to inform Council of their programs and offerings.

As of July 12, 2021, the LC Parks and Recreation Dept. agreed to the Senior Center request to issue a 5 yr permit from July 1, 2021 to June 30, 2026 with the caveats:

- 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.

Council Options:

- Approve the Waiver of the Fees for the Senior Center During FY2022-2023, or
- Do Not Approve the Waiver of the Fees for the Senior Center During FY2022-2023.
- 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 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: _____ am/pm (including Set-up) **End Time** _____ am/pm (including Clean-up)

FACILITY:

<input type="checkbox"/> POOL NO SLIDE	<input type="checkbox"/> ROCK WALL
<input type="checkbox"/> POOL WITH SLIDE	<input type="checkbox"/> GYMNASIUM FULL COURT
<input type="checkbox"/> LARGE MULTI-PURPOSE ROOM NO KITCHEN	<input type="checkbox"/> GYMNASIUM HALF COURT
<input type="checkbox"/> LARGE MULTI-PURPOSE ROOM WITH KITCHEN	<input type="checkbox"/> WEST WING MEETING ROOMS
<input type="checkbox"/> SMALL CONFERENCE ROOM	<input type="checkbox"/> 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 <input type="checkbox"/> Application Fee Received # _____ <input type="checkbox"/> If Applicable Deposit Received <input type="checkbox"/> Rental Fees \$ _____ Paid <input type="checkbox"/> If Insurance Required, Certificate Received <input type="checkbox"/> Permit Approved <input type="checkbox"/> Completed Permit	Confirm Staff _____ Date: _____ Staff _____ Date: _____ Staff _____ Date: _____ Staff _____ Date: _____ Supervisor _____ Date _____ Staff _____ Date: _____
Notes: _____	

Return form to: Lincoln City Parks & Recreation
 2150 NE Oar Place, Lincoln City, OR 97367
 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.

Council Communication

Wastewater Plant of the Year Award

Meeting Date:	May 9, 2022	Primary Staff Contact:	Stephanie Reid
Department:	Public Works	E-Mail:	SReid@lincolncity.org
Secondary Dept:		Secondary Contacts:	
Approval:	Lila Bradley	Estimated Time:	10 minutes

The West Central Operator Section (WCOS) is a Section of the Pacific Northwest Clean Water Association (PNCWA), a Member Association of the Water Environment Federation (WEF). WCOS is composed of Water and Wastewater Operators and other water environment professionals from the State of Oregon.

This group recognizes Oregon's outstanding operators and treatment plants.

In 2021, Lincoln City was awarded West Central Section Plant of the Year.

Planning Staff Report

ZOA 2022-05 Code Corrections

Meeting Date: May 9, 2022	Primary Staff Contact: AnneMarie Skinner
Department: City Council	E-Mail: ASkinner@lincolncity.org
Secondary Dept:	Secondary Contacts:
Approval:	Estimated Time:

Question:

Should the City Council conduct a public hearing on Zoning Ordinance Amendment ZOA-2022-05 (Code Corrections)?

Staff Recommendation:

Staff recommends the Council conduct the public hearing.

Note: the materials for the public hearing (Ordinance and Findings) are located on this Agenda under Ordinances.

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 amendment is will largely correct errors in Title 17 or provide needed clarification, including but not limited to: replacing "yard" with "setback"; replacing "family" with "unit"; striking cross references to chapters and sections that have been repealed; striking the repealed 17.52.100 that was repealed and replaced with Chapter 17.55 Landscaping Standards; adding language to address approvals (whether by mistake or by design); moving existing definitions from a section to the proper location in Chapter 17.08 Definitions; replacing site plan design review/site plan (which is now obsolete) with development review process (which is the correct terminology); removing obsolete language from 17.40.050 regarding subsurface sewerage disposal systems (this is not related to zoning, addressed in Title 12, and regulated by state regulations not city); added visitor information center, surface parking lots for open space and public trail use to Park zone as allowed uses to accommodate the new visitor information center and parking for city open space and public trail use; corrected processes in Chapter 17.46 to reflect the adopted Chapter 17.76; add clarification to allowed development in Chapter 17.46; replace planning and community development with department to be consistent with references to department throughout Title 17; strike 17.52.260 which was repealed in a previous ordinance and replaced with 17.20.050; remove the word modification from Chapter 17.74 since it's an adjustment not

an adjustment and modification to be consistent with the type of application in Chapter 17.77; change lot line adjustment to property line adjustment; remove the word unit from planned unit development to be consistent with the title in Chapter 17.77; add natural resources development variance to the table of procedure types in Chapter 17.76; add language regarding failure of a property owner to receive notice to be consistent with state language; add the language for a de novo appeal hearing that was previously in Title 17 and inadvertently omitted in the update to Chapter 17.76; increased the notification distance from 250 feet to 500 feet for Type III procedures; add the state-required publishing notice that was inadvertently omitted in the update to Chapter 17.76; corrected the expiration of decision for recording final plats from one year to two years to be consistent with Title 16; added back in the OAR 660-012-0060 reference to the Oregon Transportation Planning Rule that was inadvertently omitted in a previous ordinance update; added state-required language regarding verbatim transcripts; moved the natural resources development variance application to Chapter 17.77 Applications; corrected the administrative review and decision in 17.80.050 to be a Type II procedure; and provided clarification for land use approval process for mobile food units.

The Planning Commission held a public hearing on April 5, 2022, and recommended approval of the amendment.

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. [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 p.m. on _____.

Attachments:

Page 1 from Final Recommendation for ZOA 2022-05 SIGNED (PDF)

LINCOLN CITY PLANNING COMMISSION

IN THE MATTER OF

Amendments to Title 17, Zoning, concerning) Final Recommendation
Code Corrections) 2022-08
)

NATURE OF THE APPLICATION

ZOA 2022-05 AMENDS 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), 17.24 (PC), 17.28 (RC), 17.29 (RCC), 17.32 (GC), 17.36 (PI), 17.40 (RR), 17.42 (P), 17.46 (NR), 17.52 (SUPPLEMENTARY REGULATIONS), 17.64 (NONCONFORMING SITUATIONS), 17.74 (DESIGN STANDARDS), 17.76 (PROCEDURES), 17.77 (APPLICATIONS), 17.80 (PROVISIONS APPLYING TO SPECIAL USES) And TITLE 16 (SUBDIVISIONS), CHAPTER 16.08 (PROCEDURE) TO MAKE CORRECTIONS.

FINAL RECOMMENDATION

Based on the evidence presented at the public hearing on April 5, 2022, including the staff report, the Planning Commission recommends on a 5-0 vote that the City Council approve the draft ordinance (draft ordinance with Exhibit A Findings follows). No written comments were received.

Public testimony was given by Stacey Baird opposing the corrections and asking for a continuance of the public hearing. It was explained to Mr. Baird that the Planning Commission’s decision is a recommendation only and that City Council will hold a public hearing prior to making the final decision. The director encouraged Mr. Baird to visit her in the office or call to answer all of his questions.

APPROVED THIS 19th day of April, 2022.

DocuSigned by:
Kim Blackerby
A051BF00F101462...
Kim Blackerby
Planning Commission Chair

ATTEST:
DocuSigned by:

FF146B6FFAE8476...
Anne Marie Skinner
Planning & Community Development Director

Planning Staff Report

ZOA 2022-06 R1RE Front Setback

Meeting Date:	May 9, 2022	Primary Staff Contact:	AnneMarie Skinner
Department:	City Council	E-Mail:	ASkinner@lincolncity.org
Secondary Dept:		Secondary Contacts:	
Approval:		Estimated Time:	

Question:

Should the City Council conduct a public hearing on Zoning Ordinance Amendment ZOA-2022-06 (Ordinance 2022-23 - R1RE Front Setback)?

Staff Recommendation:

Staff recommends the Council conduct the public hearing.

NOTE: The supporting materials (ordinance and findings) for this agenda item are located on this Agenda under Ordinances.

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 amendment is a citizen-initiated amendment. The staff report is attached.

The Planning Commission held a public hearing on April 5, 2022, and recommended approval of amending the code to add clarification regarding the averaging option (lots within 100 feet on the same side of the street and requiring a survey), but the Planning Commission recommended denial of amending the code to reduce the front setback from 20 feet to 15 feet for cantilevered decks.

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. [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 p.m. on _____.

Attachments:

ZOA 2022-06 Application (PDF)

Combined Comments Packet from Planning Commission (PDF)

ZOA 2022-06 Staff Report City Council (DOCX)

Comments Newhouse Debbie 05_02_2022 (PDF)

Comments Williams 05_02_2022 (PDF)

Page 1 and 2 from ZOA 2022-06 Final Recommendation_Ord_Findings SIGNED (PDF)

AMENDMENT TO THE
 ZONING ORDINANCE TEXT OR MAP
 COMPREHENSIVE PLAN TEXT OR MAP
FOR PLANNING COMMISSION AND CITY COUNCIL APPROVAL

LCMC 17.88.010 Procedure: The zoning ordinance and/or the comprehensive plan map or text may be amended by changing the boundaries of districts or designations or by changing any other provisions thereof, whenever the public necessity and convenience and the general welfare requires such an amendment, by following the procedure of this article.

LCMC 17.88.020 Initiation of amendments: An amendment to the text of the zoning ordinance or to the zoning map and/or to the comprehensive plan map or text may be initiated by:

- A. Motion of the Planning Commission.
- B. Motion of the City Council.
- C. Application filed by an owner of record, a purchaser under a recorded land sale contract, or the holder of an option to purchase property which is the subject of the application for rezoning or comprehensive plan map re-designation.
- D. A Lincoln City resident requesting a change to the text of the comprehensive plan or zoning ordinance document(s).
- E. The Planning and Community Development Director.

THE FOLLOWING ATTACHMENTS SHALL ACCOMPANY THE FILING OF THIS APPLICATION:

- 1. A complete application form and all supporting documents and evidence;
- 2. Proof that the property affected by the application is in the exclusive ownership of the applicant, or that the applicant has the consent of all parties in ownership of the affected property;
- 3. A description of the property affected by the application and, in the case of a quasi-judicial map amendment, a legal description.

FINDINGS OF FACT:

In order for the city council to adopt an ordinance for an amendment to this zoning ordinance, findings must be made, and adopted as a part of said ordinance, that are adequate to support the amendment proposal. The findings must be factual and must be supported by substantial evidence submitted into the record. The burden is on the applicant to submit such evidence, responding to the following (*additional sheets may be attached*):

- 1. It must be found that the amendment complies with and conforms to the comprehensive plan goals, policies, and land use map.

See attached Narrative.

NARRATIVE FOR APPLICATION FOR ZONING ORDINANCE TEXT AMENDMENT

Nature of Application

The applicants are requesting approval of a text amendment to section 17.17.070D in the Lincoln City Municipal Code (“LCMC”).

The current text reads:

The minimum front yard shall be 20 feet. Except that the minimum setbacks from Logan Road need not exceed the average setbacks 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.

The proposed text, if approved, would read:

The minimum front yard shall be 20 feet. Except that the minimum setbacks from Logan Road need not exceed the average setbacks of buildings on all lots within 100 feet of the lot **on the same side of the street on which the proposed building is to be located and** that abut Logan Road. **The 20-foot front yard setback shall not apply to elevated decks that extend from the dwelling wall into the front yard 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 (i.e., supported by only the wall of the structure from which it projects), or supported by posts and beams if the posts and beams meet all building code requirements and the posts are within the minimum 15-foot setback.**

Background

The applicants recently acquired a property located at 6245 NW Logan Road. The lot was improved with a single-family dwelling that was constructed in about 1997, when the property was under the jurisdiction of Lincoln County. The house fronts on to NW Logan Road. As approved and constructed, the house had a raised deck that extended around the house. The western portion of the deck (rear of the house) was wide enough to accommodate chairs, tables, etc. The north, south and east side of the deck was narrow allowing only for walking/standing. We included copies of the elevations from the approved plan set and photographs that depicts the house as it was constructed. Other than the west portion, the deck was cantilevered.

In about 2015, the prior owner replaced and repaired sections of the deck. They removed the entire east (front) side and north side deck electing not to replace them. They removed the eastern portion of the south side deck. The prior owners either repaired or replaced the rear deck and some of the south side deck. The applicants were never told directly the specific reason for removal but understand sections of the deck had water damage and decay associated with the

cantilever design. In any event, because the decks were part of the approved construction and an important aesthetic feature of the house, the applicants restored the decks that had been removed. Subsequently, city employees advised the applicants that the setback standards in the R-1-RE zoning that the city adopted in October 2017, would not allow the decks and because they had been removed for more than two years, the restoration could not be considered a replacement of a non-conforming development. The city cited the applicants for zoning code violations.

In the course of the code compliance case, an issue arose over how to determine the front setback using the averaging text in section 17.17.070.D for lots on Logan Road. The applicants believed, and still believe, that using properties only on the west side of the street, the side where the front yard setback for their house applies, their front raised deck is compliant with the setback. Staff did not necessarily agree with the applicants' interpretation and made calculations using all lots within 100 feet of the applicants' lot on both sides of the street.

The applicants and city staff reached an agreement to resolve the citation and one component of the agreement was to allow the applicants until April 15, 2022, to process an application for a zoning ordinance text amendment. Staff was gracious enough to offer some suggested text that would allow raised decks in the R-1-RE zone to encroach into the 20-foot front yard setback as long as a minimum 15-foot front yard setback is maintained. Staff included a clarification on how the averaging of the front yard setback is to be calculated along NW Logan Road and a provision allowing raised decks supported by posts in addition to cantilevered decks. The proposed amendment does not relate to the side setbacks. However, the agreement also allowed the applicants time to apply for a variance to the side setbacks to allow some or all of the recently restored side deck to remain. The applicants are filing a separate variance application.

Staff (Planning Director and City Attorney) advised that they support the amendment to allow post supported decks. They have no objection to any of the proposed amendments.

Relevant Approval Criteria

Based upon the City's Zoning Ordinance Text Amendment Application and information on the city's website, the applicants believe the criteria for a zoning ordinance text amendment is that the proposed amendment must comply with, and conform to, the comprehensive plan goals, policies, and land use map.

Consistency with Comprehensive Plan:

Land Use Planning. The application is consistent with and conforms to the goals and policies of this element because the application is being made within a framework the city has adopted for making land use decisions of this nature. The applicants are submitting a formal application approved by the city and are addressing the relevant approval criteria within a recognized process. That will ensure that any decision is made considering the criteria and with findings.

Citizen Involvement. The application is consistent with the goals and policies of this element because the recognized process the city has to evaluate and decide the application is a public process, notice of which will be provided consistent with the city's municipal code provisions. That process will ensure public notice and the ability for participation.

Public Services and Utilities. The goals and policies of this element are not directly relevant to the application. The application, if approved, will not negatively impact the cities goals and policies for providing a timely, orderly, and efficient arrangement of public facilities.

Urbanization. The goals and policies of this element are also not directly relevant to the application. The property is already zoned for and developed as an urban use, which is consistent with the zoning map and appropriate for the land. If the proposed amendment is approved, it will have no negative impact on the city's urbanization goals or policies.

Natural Hazard. The proposed amendment will have no negative impact on any goal or policy related to natural hazards. Any development after the amendment will still undergo the review and observations necessary if it is proposed within a natural hazard area. The proposed amendment will not exempt any proposed development from such review.

Housing. The proposed amendment will not negatively impact the city's goal of providing or ability to provide housing. Housing developments otherwise approvable under the code will remain approvable with the minor amendment to the front setback standard in the R-1-RE zone. Thus, it is consistent with this element of the comprehensive plan.

Economy. The proposed amendment will not impact the city's goals and policies of its economy element. The amendment, if approved, will not negatively affect the city's desire to create a diversified economy incorporating tourism.

Aesthetics. The proposed amendment is consistent with this element of the comprehensive plan. Allowing raised encroachments such as decks, can, in many cases, achieve architectural detail that the city endorses in other code provisions. For example, LCMC 17.16.100 and LCMC 17.17.100 require at least two design features on the front of houses to create a better visual feel. The applicants believe their house is a good example. It was originally constructed with decks that are around the perimeter. The decks added a layer of depth to the design. On the front of the house, comparing the photographs before the original decks were removed and after makes this point. After the decks were removed the front façade had a monolithic look with no detail. A deck will add character and break that façade up.

Transportation. The goals and policies of this element are not directly relevant to the application. The proposed amendment, if approved, will not negatively impact the goal of providing safe and convenient rapid transportation to facilitate the movement of people.

Energy. The goals and policies of this element are not directly relevant to the application. The proposed amendment, if approved, will not negatively impact the goal of conserving energy.

Overall Environmental. The goals and policies of this element are not directly relevant to the application. The proposed amendment, if approved, will not negatively impact the goal of achieving a balance of the need to provide housing and services and the need to protect the environment.

Shoreland, Beaches, Dunes, Estuaries, & Ocean Resources. The goals and policies of this element are not directly relevant to the application. The proposed amendment, if approved, will not negatively impact any goals or policies related to protecting the resources listed because it applies to residential uses allowed in residential zones that are appropriate for such development.

Consistency with Statewide Planning Goals:

The subject property is within the UGB and city boundaries. Thus, the elements of the city's acknowledged comprehensive plan apply to this application and are more detailed than the statewide goals. The applicants do not believe the statewide goals are relevant approval criteria in this application.

Additional Support for Application

The requested amendment would create more consistency between the front yard setback provisions in the R-1 zone and the R-1-RE zone. As the code reads now, in the R-1 zone, the front yard setback is five feet of a single-story structure and 7.5 feet for a two-story structure, except when there is a garage opening facing the street. In that case, the front yard setback for the portion of the structure where the garage/carport opening is located is 20 feet. However, within those 20 feet, raised encroachments like decks are allowed. Lincoln City Municipal Code, section 17.16.070 (note 3).

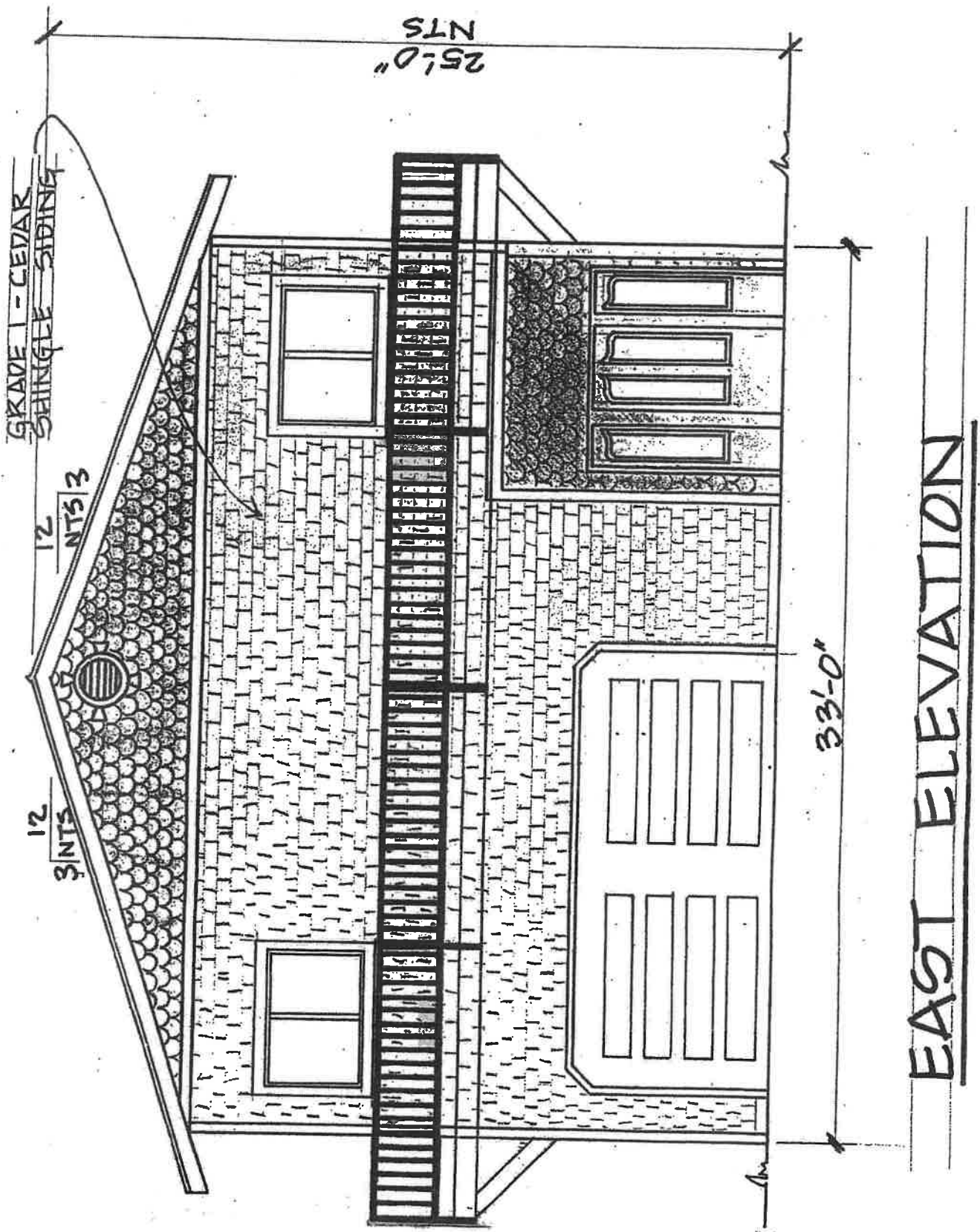
The applicants can think of no to have such vastly different front setback provision for essentially the same zone. There does not appear to be any rational reason to treat owners of properties in one discrete area of the R-1 zone so differently. The proposed amendment retains a reasonable front setback. In fact, the setback in the R-1-RE zone would still exceed the front setback in the R-1 zone in some instances. For portions of a structure in the R-1-RE zone that are not in front of a garage or carport, the base setback will remain 20 feet rather than 7.5; the only change will be that raised decks within the first five feet closest to the structure will be permitted.

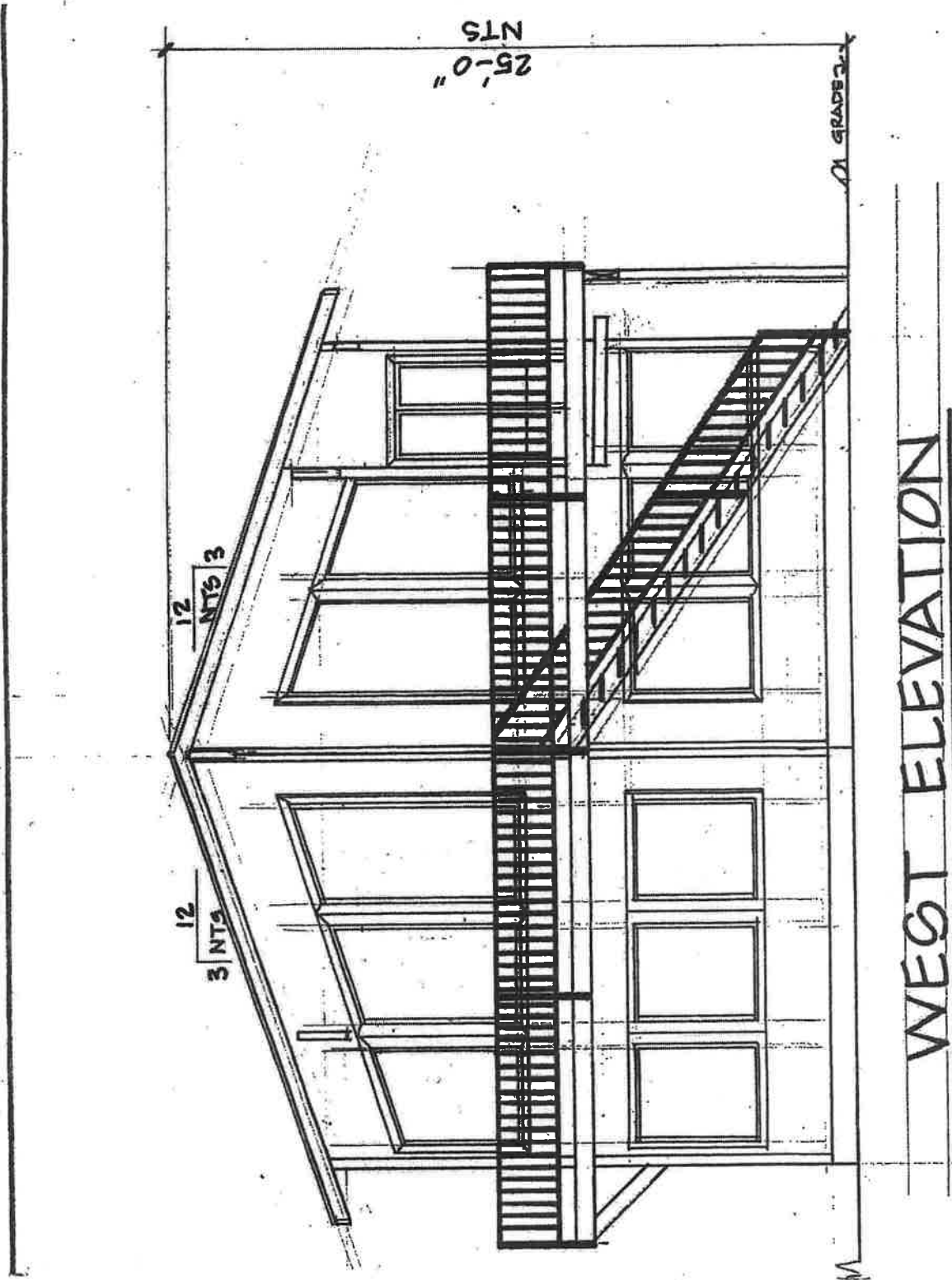
As the applicants noted above, the allowance of raised decks in that first five feet of the setback is consistent with other requirements in the R-1 zone. In both LCMC 17.17.100 and 17.16.100, the city mandates that single-family structures incorporate at least two design features to provide visual relief along the front of the house. While raised decks are not specifically listed, they

offer another option to accomplish the same desired objective. Comparing the photographs of the subject house as originally constructed with the decks and then later photographs after the removal illustrate that point.

Related Application

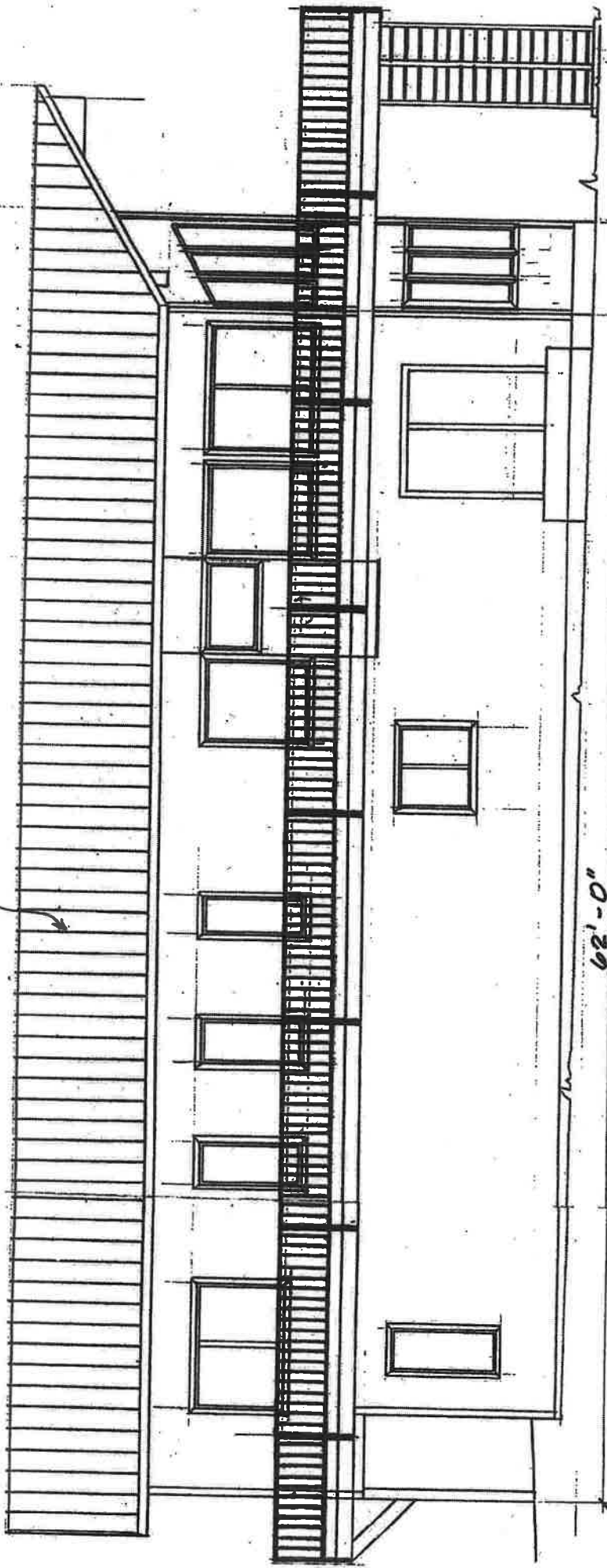
This application addresses only the front setback and the deck the applicants desire to retain in that location. The applicants understand that for the north and south side decks, they must apply for a variance and are doing so in a separate application.





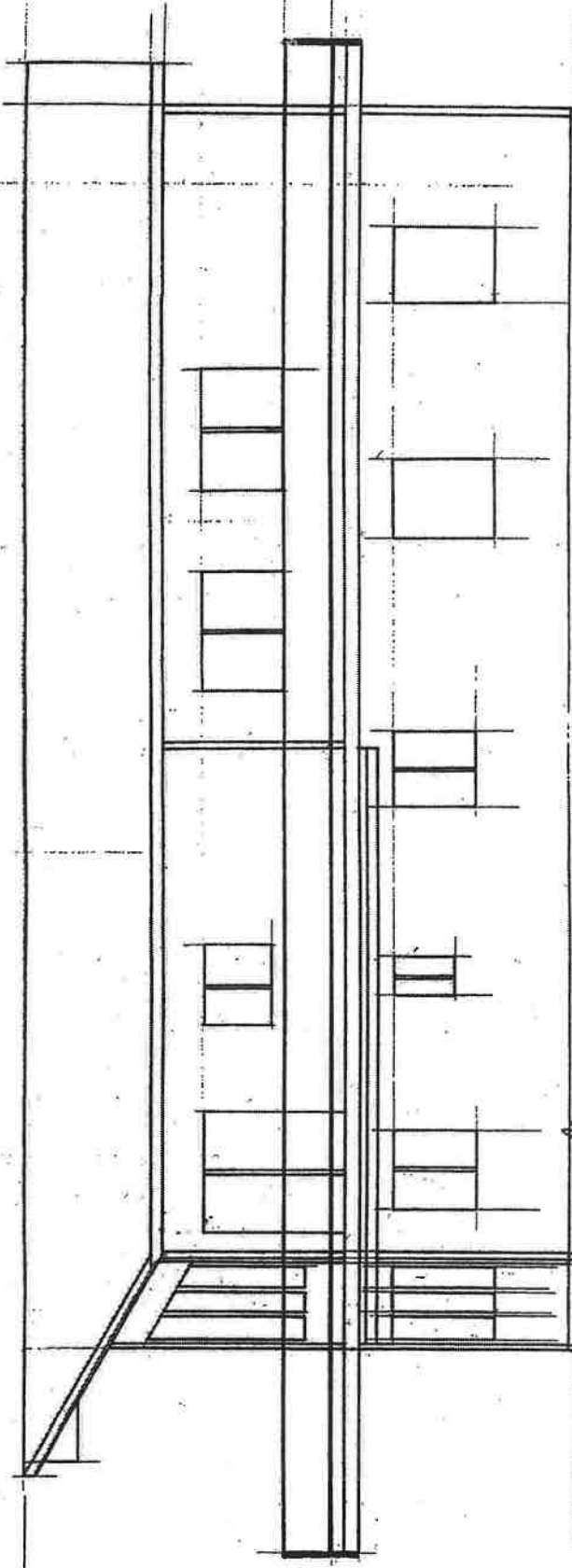
WEST ELEVATION

TAYLOR METAL-STANDING SEAM ROOF



62'-0"

NORTH ELEVATION



SOUTH ELEVATION

IST
Industrial Systems Technology, Inc.
 P.O. Box 12-97 LINCOLN CITY, OR. 97367
 (503) 395-2242

VISTA CONSTRUCTION

TITLE: **KENNEDY RESIDENCE**
 6245 LOGAN RD., STS. OR.
 DATE: 11-10-96
 DRAWN BY: LBS
 CHECKED BY: DATE: APPROVED BY: DATE: SHEET NO. 0

096-5500-A1

Google Maps 6245 NE Logan Rd

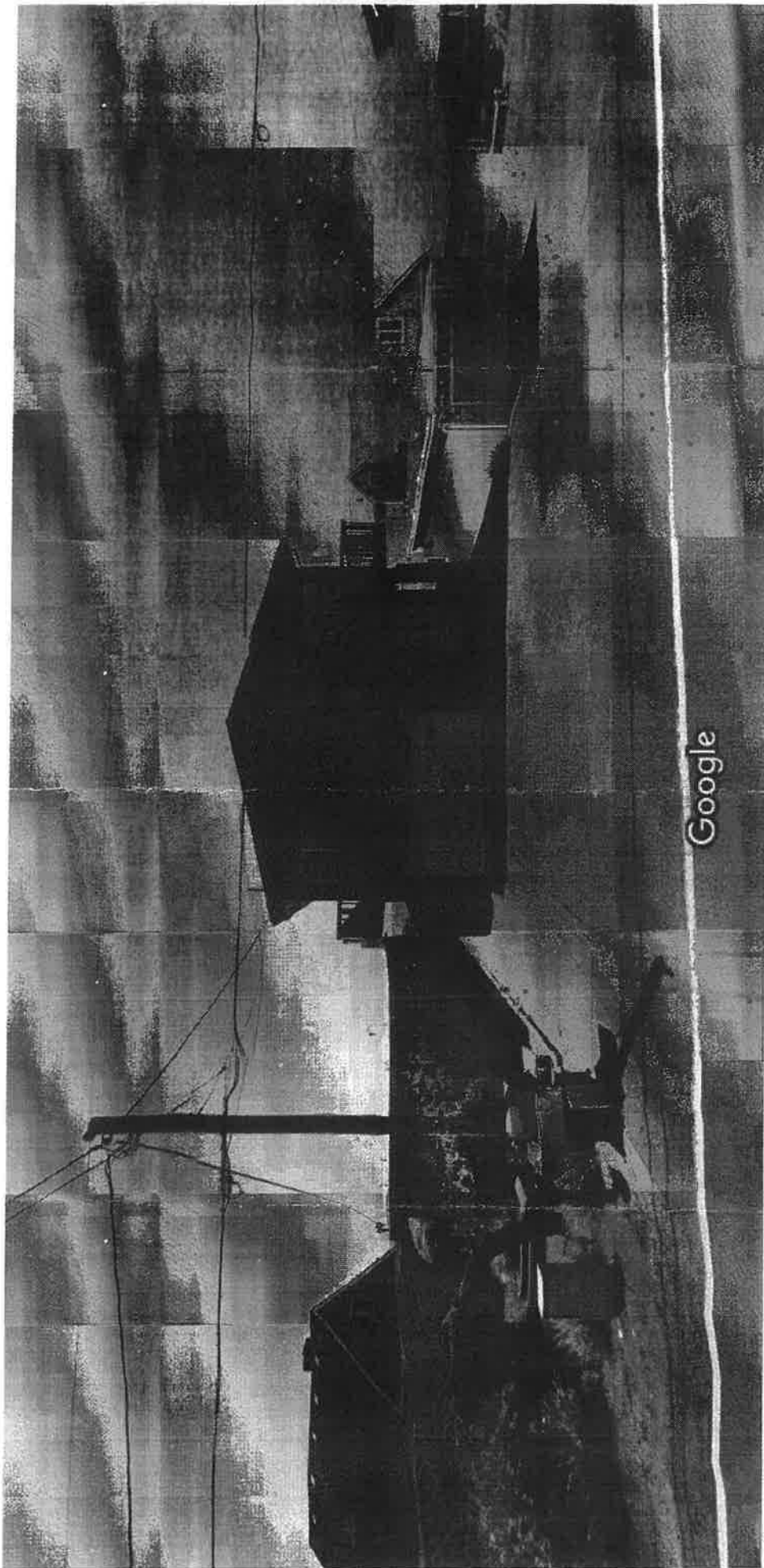


Image capture: Jul 2012 © 2021 Google

Lincoln City, Oregon



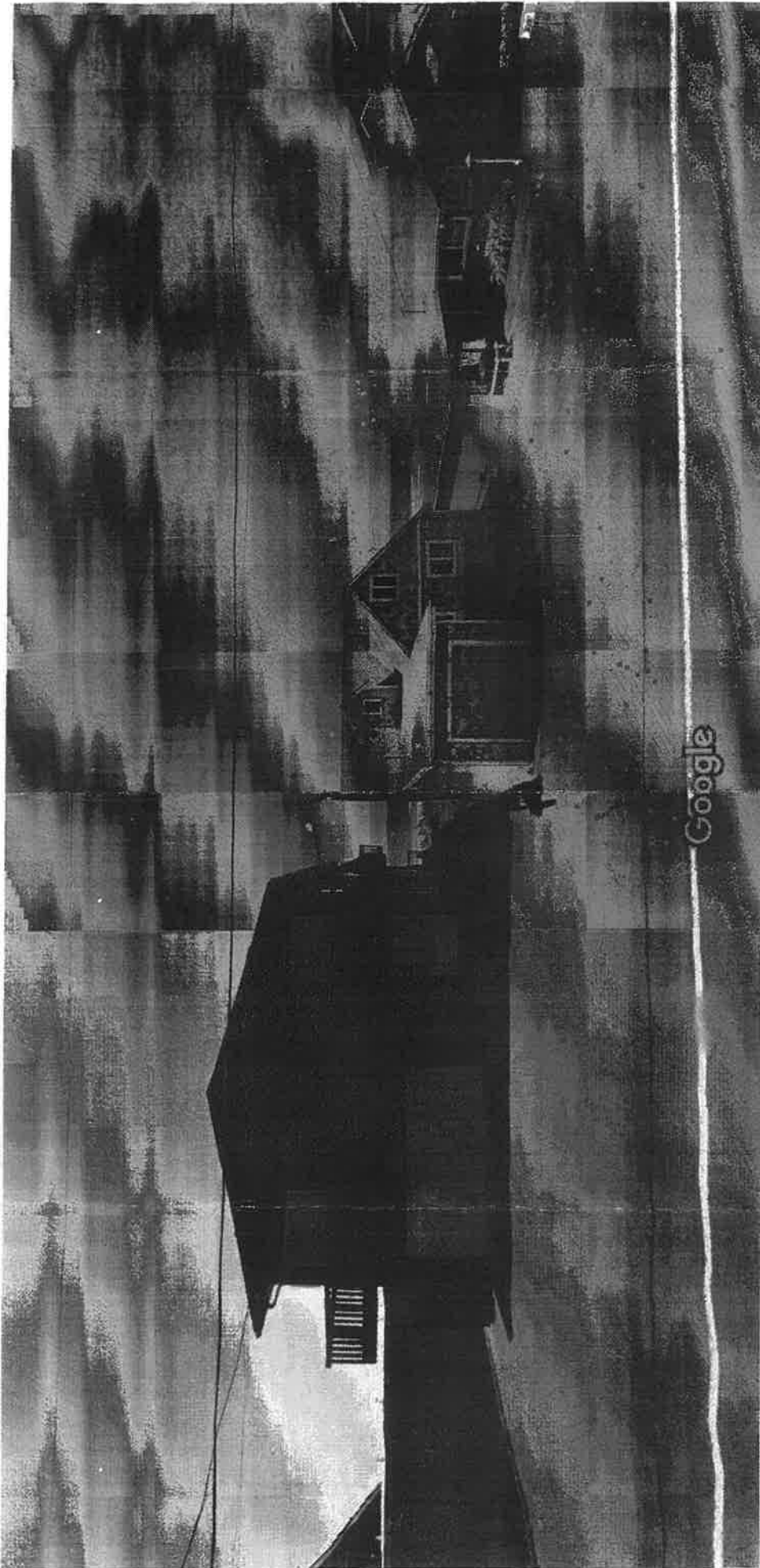
Street View

The Thun



I.2.a

6248 NE Logan Rd



Google

Image capture: Jul 2012 © 2021 Google

Lincoln City, Oregon



Street View

The
Thun

Exhibit B-1

RECORDING REQUESTED BY:



9755 SW Barnes Road, Ste 105
Portland, OR 97225

AFTER RECORDING RETURN TO:

Order No.: 902001360-KH
Jay B. Weston and Helen Weston, as tenants by the entirety
6245 NW Logan Road
Lincoln City, OR 97367

SEND TAX STATEMENTS TO:


Jay B. Weston and Helen Weston
6245 NW Logan Road
Lincoln City, OR 97367

APN: R352288
Map: 06 11 34 AD 01600
6245 NW Logan Road, Lincoln City, OR 97367

Lincoln County, Oregon	2020-08854
08/28/2020 03:04:02 PM	Cnt=1 Pgs=4 Stn=20
DOC-WD	\$108.00
\$20.00 \$11.00 \$10.00 \$60.00 \$7.00	

I, Dana W. Jenkins, County Clerk, do hereby certify that the within instrument was recorded in the Lincoln County Book of Records on the above date and time. WITNESS my hand and seal of said office affixed.

Dana W. Jenkins
Dana W. Jenkins, Lincoln County Clerk



SPACE ABOVE THIS LINE FOR RECORDER'S USE

STATUTORY WARRANTY DEED

William R. Davis and Rosemari J. Davis, as tenants by the entirety, Grantor, conveys and warrants to Jay B. Weston and Helen Weston, as tenants by the entirety, Grantee, the following described real property, free and clear of encumbrances except as specifically set forth below, situated in the County of Lincoln, State of Oregon:

Lot 49, FIRST ADDITION TO ROADS END, County of Lincoln and State of Oregon, according to the official plat thereof recorded April 7, 1932 in Plat Book 7, page 49, Plat Records.

THE TRUE AND ACTUAL CONSIDERATION FOR THIS CONVEYANCE IS ONE MILLION AND NO/100 DOLLARS (\$1,000,000.00). (See ORS 93.030).

Subject to:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

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, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. 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, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

WTD 194880

STATUTORY WARRANTY DEED
(continued)

IN WITNESS WHEREOF, the undersigned have executed this document on the date(s) set forth below.

Dated: 8/25/2020

William R. Davis
William R. Davis

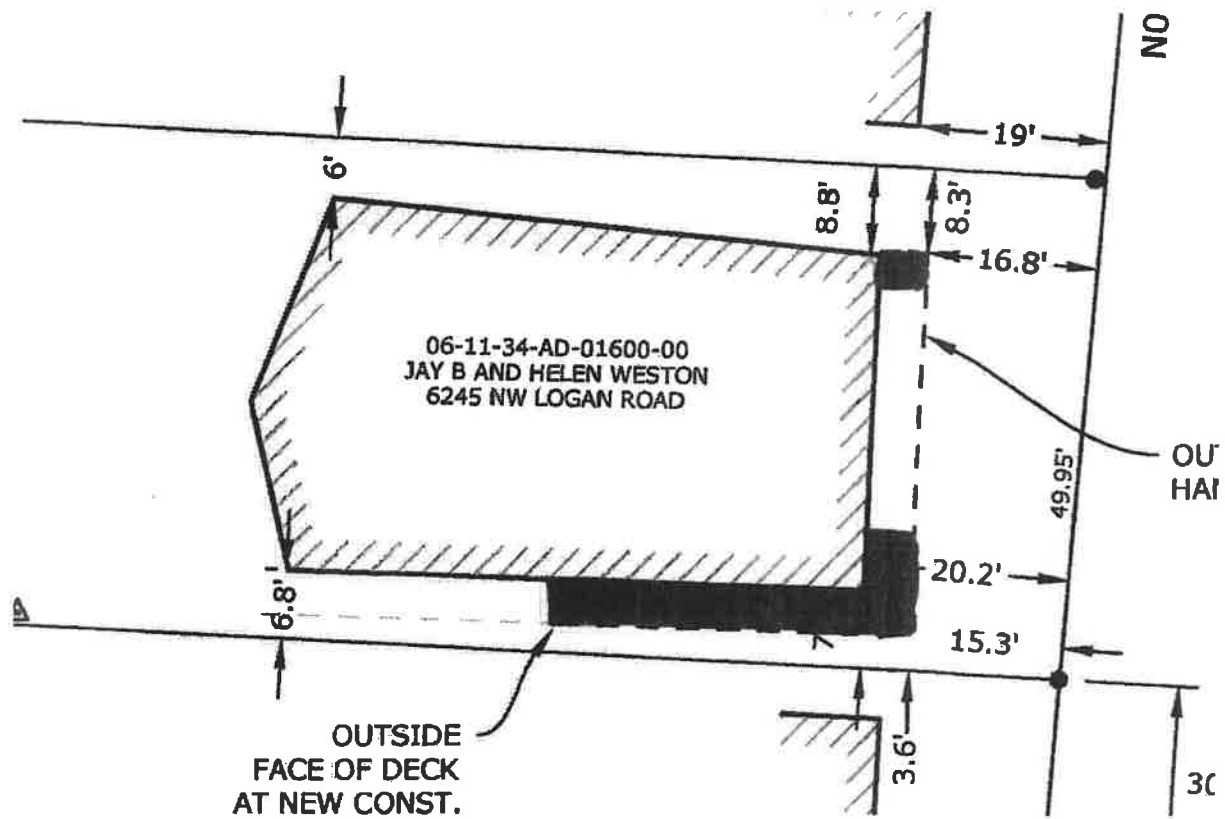
Rosemari J. Davis
Rosemari J. Davis

State of OR
County of YAMHILL

This instrument was acknowledged before me on 25 August 2020 by William R. Davis and Rosemari J. Davis.

[Signature]
Notary Public - State of Oregon
My Commission Expires: 11-21-23





From: [Michael Alleman](#)
To: [Anne Marie Skinner](#)
Subject: Roads End zoning proposal
Date: Sunday, March 27, 2022 7:57:53 AM

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

Anne Marie,

Please postpone the meeting and give our Roads End residents an opportunity to discuss and voice opinion on the proposed zoning changes.

Michael & Bronwyn Alleman, permanent residents.

Sent from [Outlook](#)

From: [Michael Alleman](#)
To: [Anne Marie Skinner](#)
Subject: Roads End zoning proposal
Date: Sunday, March 27, 2022 7:57:53 AM

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

Anne Marie,

Please postpone the meeting and give our Roads End residents an opportunity to discuss and voice opinion on the proposed zoning changes.

Michael & Bronwyn Alleman, permanent residents.

Sent from [Outlook](#)

From: [Laurel](#)
To: [Anne Marie Skinner](#)
Cc: [Nicholas King](#)
Subject: Roads End Proposed Zoning Change
Date: Saturday, March 26, 2022 7:07:56 PM

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

Dear Anne, it has come to my attention that a proposed zoning change is being considered to decrease the decks/building setbacks for the Roads End area. I am a Roads End resident at 6820 NE Neptune Drive and am against this proposal. I formally request that the residents be allowed to provide their input before this is voted or passed as a revision. Please work with REIA to schedule a date to meet with the residents to review this proposal, take our feedback, then make an informed decision based upon that feedback.

Please postpone the hearing scheduled for April 5 until after you meet with the residents. Do not go forward with this hearing until you get the tax paying residents input on this very important change that will affect our neighborhood where we live. Our VRD saturation rate is 28%, I do not need the tourists hanging over my back yard because I suddenly have a deck jutting up to my property line.

I would also like it recorded that Laurel Begnoche, resident, is against this proposal.

Warm regards,
Laurel Begnoche
Roads End resident

Sent from my iPad

From: [Michael Alleman](#)
To: [Anne Marie Skinner](#)
Subject: Roads End zoning proposal
Date: Sunday, March 27, 2022 7:57:53 AM

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

Anne Marie,

Please postpone the meeting and give our Roads End residents an opportunity to discuss and voice opinion on the proposed zoning changes.

Michael & Bronwyn Alleman, permanent residents.

Sent from [Outlook](#)

From: [Laurel](#)
To: [Anne Marie Skinner](#)
Cc: [Nicholas King](#)
Subject: Roads End Proposed Zoning Change
Date: Saturday, March 26, 2022 7:07:56 PM

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

Dear Anne, it has come to my attention that a proposed zoning change is being considered to decrease the decks/building setbacks for the Roads End area. I am a Roads End resident at [REDACTED] and am against this proposal. I formally request that the residents be allowed to provide their input before this is voted or passed as a revision. Please work with REIA to schedule a date to meet with the residents to review this proposal, take our feedback, then make an informed decision based upon that feedback.

Please postpone the hearing scheduled for April 5 until after you meet with the residents. Do not go forward with this hearing until you get the tax paying residents input on this very important change that will affect our neighborhood where we live. Our VRD saturation rate is 28%, I do not need the tourists hanging over my back yard because I suddenly have a deck jutting up to my property line.

I would also like it recorded that Laurel Begnoche, resident, is against this proposal.

Warm regards,
Laurel Begnoche
Roads End resident

Sent from my iPad

From: [Margaret Harvey](#)
To: [Anne Marie Skinner](#)
Subject: Rezoning Roads Roads
Date: Saturday, March 26, 2022 2:10:21 PM

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


Dear Ms. Skinner,

I am writing you in regards to the upcoming Planning Commission hearing on April 5th.

As a resident for over 20 years in Roads End it is very disconcerting that a proposal to rezone Roads End without input from its property owners is overstepping the Lincoln City Council bounds.

I am therefore requesting postponement of April 5th meeting and scheduling a meeting with the Roads End neighborhood to explain and discuss proposed zoning changes.

Thank-you,
Margaret Harvey


Sent from my iPhone

From: [David Hulme](#)
To: [Susan Wahlke](#); [Elaine Starmer](#); [Mitch Parsons](#); [Anne Marie Skinner](#)
Cc: [catherine Wetterling](#); [Alan Hulme](#)
Subject: Zoning Change Request on April 5th; ZOA 2022-06 R-1-RE Front Setback
Date: Monday, March 28, 2022 12:22:03 PM

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

Dear City Leadership & Planning Team,

On Tuesday, April 5th the City of Lincoln City Council will consider a request to change the zoning code (ZOA 2022-06) R-1-RE for Roads End.

The Roads End community worked with the City Council to establish this zoning code during the transition of the Roads End annex to the City.

The Roads End community needs to meet with the City Council to discuss why this code needs to be changed for two property owners, one that has owned the property for approximately one year ([REDACTED]). Is this even a "reasonable" request for the property?

I personally do not respect, therefore do not trust the property owners of [REDACTED]. Less than a year ago, the owner trespassed on my property, [REDACTED], with posted signs of "Private Property" and "No Trespassing". He removed the sign and drove a backhoe on my property tearing up the lawn and potentially damaging city water lines and drainage pipes from the weight of the vehicle. Also, he used the backhoe to create beach access without any authorization. The State, City and Police were not able to rectify the damage to my property or the beach. The Police could not do anything, they told me I had to invest time and resources into a civil claim ... decided to invest in a fence instead, less costly than legal pursuit and certain it would work. The owner of [REDACTED] never, ever, contacted me through written or verbal communication. Now he wants to change code that took the community and city many hours of time to meet and establish the current zoning.

I suggest that the City Council postpone the meeting on Tuesday, April 5th until after the City Council meets with the Roads End community and explain, ask questions and discuss what the impact is to the current zoning and why it is even necessary to make this change.

Thank you for hearing my concerns and anxiously await your comments and direction.

Best regards, David T Hulme, [REDACTED].

From: [David Jamieson](#)
To: [Anne Marie Skinner](#)
Cc: [Mitch Parsons](#); [Elaine Starmer](#)
Subject: Proposed Zoning Changes in Roads End
Date: Sunday, March 27, 2022 10:44:53 AM

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

Director Skinner,

Per the potential zoning changes in Roads End, I have two requests:

1. Please postpone the Planning Commission hearing scheduled for April 5th, 2022, until a neighborhood meeting has been held to discuss the zoning changes and their impact as is stated goal in the city's Comprehensive Plan from October 1998 (page 17, Citizen Involvement) encouraging citizen involvement in Land Use planning/decisions.
2. Please work with the Roads End Improvement Association (REIA) leadership to set up a time for a neighborhood meeting to explain these changes in more depth and receive feedback from the residents who will be impacted by these changes.

As it stands today, I am opposed to:

- **ZOA 2022-06** to amend the Lincoln City Municipal Code Section 17.17.070.D to modify the front-setback requirements in the R-1-RE zone to allow elevated decks within the front setback.
- **ZOA 2022-07** that modifies the street side-setback requirement in R-1-RE zone to a minimum of 10 feet from the current 20-foot minimum/averaging requirement.

Both of these changes stand to alter the character of the Roads End area substantially. After annexation, the city worked closely with Roads End to establish the R1-RE zoning. That zoning allowed the Roads End area to continue with its long established structure height, placement on the lot, and other characteristics unique to the area. Please do not change this.

VAR 2022-03 for [REDACTED] - my understanding is this homeowner made a choice to build non-compliant decks without a permit then requested a zoning change to make them legal. This behavior is repugnant. The non-compliant additions must be removed. Rewarding lawless behavior encourages more of it.

Thank you,

David Jamieson
 [REDACTED] Lincoln City, OR. 97367

From: [Russell Karow](#)
To: [Anne Marie Skinner](#)
Subject: Postpone Apr 5 planning commission discussion of Roads End Changes
Date: Saturday, March 26, 2022 5:08:55 PM

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

Director Skinner - like many other homeowners in Roads End, we would like more information and a neighborhood conversation prior to the zoning changes for the Roads End area being considered. It is unclear to us why the changes are needed for the entire area. From what we understand, the proposed changes could change the look of the community. Please consider a delay to allow for greater communication and input. Russ and Marla Karow - homeowners in Roads End and Lincoln City community supporters since 2000

From: [Janet Knipe](#)
To: [Anne Marie Skinner](#)
Cc: [Susan Wahlke](#); [Mitch Parsons](#); [Elaine Starmer](#); [Sydney Kasner](#); [Riley Hoagland](#); [Judy Casper](#); [Rick Mark](#)
Subject: Request for postponement of public hearings ZOA 2022-06 and ZOA 2022 - 07
Date: Saturday, March 26, 2022 3:31:35 PM

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

March 26, 2022

TO: Director Anne Marie Skinner, Planning and Community Development Department

RE: Request for Public Hearing ZOA 2022-06 and ZOA 2022-07 Postponement

The Roads End Improvement Association (REIA) is formally requesting a postponement of the April 5, 2022 Planning Commission public hearing and the May 9, 2022 City Council public hearing for ZOA 2022-06 and ZOA 2022-07 because there has not been sufficient consideration of the impact of these changes on the citizens living in Roads End. The city has not met Comprehensive Plan Goal 1 – public involvement. REIA is already hearing from neighborhood residents who are outraged that this kind of a major change in the zoning code would occur without significant input from the neighborhood in the form of community meetings that are separate from the public hearing itself.

As stated in the 1998 *Lincoln City Comprehensive Plan*:

CONCLUSION: Lincoln City recognizes that citizen involvement is necessary in making wise and legitimate land use decisions.

Goal - Citizens Involvement Develop a Citizen Involvement Program (CIP) which ensures the continued participation of citizens in the land use planning process.

There have been no community meetings on these proposed code changes. In fact, there was only a brief mention in passing of the proposed amendments in your presentation to the REIA membership meeting on March 12, 2022. It was clearly a missed opportunity to introduce these amendments, explain the proposed changes, and solicit community input.

Citizen Involvement Policies

1. Lincoln City shall develop multimedia informational programs on the planning process and procedure, such as television and radio talk shows, newsletter, slide and discussion panels.

Time could have been allotted for a complete presentation and discussion on ZOA 2022-06 and ZOA 2022-07 at the March 12, 2022 REIA meeting, but no materials were presented and no discussion was generated. Instead, REIA has had to take responsibility for quickly researching these changes and alerting our neighbors.

2. Lincoln City shall assure that a reasonable effort is made to encourage the opportunity for citizens to attend public meetings.

Beginning in 2013, REIA and the Lincoln City Planning Department worked together collaboratively for more than a year on the creation of a special zone for Roads End, R-1-RE. During that time there were multiple neighborhood meetings in which Roads End residents participated. For these current proposed changes, there has not been one public meeting.

4. Lincoln City shall strive to establish a better liaison with other community groups and senior citizens.

With REIA's invitations to address our Policy Committee in November 2021, and at the March 12, 2022 general membership meeting, we have operated in good faith to establish an effective,

collaborative working relationship with the City Planning Department. It is deeply troubling that the proposed changes were not brought forward to us for formal community input.

As stated in the *Purpose 17.17.010*, the R-1-RE code is:

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

We believe the proposed code changes run counter to this stated *Purpose* and thus warrants the involvement of REIA as a city-recognized neighborhood association. Therefore, as stated, on behalf of the Roads End neighborhood, REIA is formally requesting:

- 1) A postponement of both the April 5 and May 9, 2022 public hearings until such time that as there is meaningful community involvement; and
- 2) Meetings with neighborhood residents be held as soon as possible.

Thank you for your consideration.

Respectfully,

REIA Board of Directors

Cc: Mayor Wahlke; Councilor Parsons; Councilor Starmer; Councilor Kasner; Councilor Hoagland; Councilor Casper; Councilor Mark

--

Janet Knipe

From: [kim.kolbow](#)
To: [Anne Marie Skinner](#)
Cc: [Elaine Starmer](#)
Subject: ZOA 2022-06 & 07 Zoning code amendment (opposition)
Date: Monday, March 28, 2022 2:46:35 PM

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

I want to go on record and voice my opposition to both the citizen and city initiated zoning amendment discussions (ZOA 2022-06 and ZOA 2022-07) for several Roads End properties located on Logan Road.

Zoning rules and regulations are based on a cities comprehensive plan and are designed to:

- Protect the value and enjoyment of properties by allowing a property its most appropriate land use given its location and surrounding land uses AND minimize potential negative impacts.

The property located @ approximately 62nd & Logan Road is attempting to circumvent our zoning laws due to their own failure to perform due diligence in several key areas by:

- 1) Not educating themselves and/or ignoring multiple zoning ordinances that were in place PRIOR to closing on their home.
- 2) Not pulling the proper permits and/or ignoring the cities permit process prior to beginning construction on the new deck they've already added.

I firmly believe that providing a variance and/or an amendment to the existing zoning regulations in Roads End for these properties will have a negative impact on our Roads End community, undermines the cities intent and opens our community up to a plethora of additional requests for variances based on the poor decisions of certain homeowners. Bad behavior should not be rewarded.

I respectfully request that you deny these requests.

Sincerely,
Kim Kolbow (Roads End Full-time resident)

Sent from my iPad

From: [Patti Kroen](#)
To: [Anne Marie Skinner](#)
Cc: [Susan Wahlke](#)
Subject: Zoning amendments
Date: Saturday, March 26, 2022 12:41:17 PM

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

Greetings Anne Marie,

As you know, Roads End has an active neighborhood association that has been in existence since the mid-1970s (getting ready to celebrate 50 years!). The association has been very involved in the improvement of the neighborhood well before the city annexed the area. After annexation, many neighbors participated with city officials in crafting a collaborative code for zoning in Roads End that did what the city promised they would do (preserve the unique character of the neighborhood after annexation).

Now, I learn that a citizen and the city have both applied to have the zoning rules regarding setbacks for Roads End changed. While it appears clear that the resident is acting as an individual for his own personal benefit, it is unclear what the city is trying to accomplish with this change. I was a little surprised that the city proposal was not a discussion point from you with the REIA membership during your recent presentation on Saturday. Such a change would represent back-pedaling by the city to change rules that were developed over a long period of time and agreed to in good faith by all parties. I think at the very least, such a proposal deserves a full vetting to the neighborhood and not simply a one-off public hearing before the Planning Commission and City Council. For this reason, I am respectfully requesting a postponement of the hearings until the neighborhood has a chance to discuss these changes with you and can understand why the city now feels this change is necessary.

Thanks for your consideration, Patti Kroen

--

Do not mistake activity for achievement. John Wooden

From: [Ryan Lafrenz](#)
To: [Anne Marie Skinner](#)
Cc: [Margaret Lafrenz](#); [Chris Lafrenz](#); [Jessica Anderson](#); [Andy Lafrenz](#); [Lauren Tsai](#); [Megan Filly](#); [Adam Filly](#); [Katie Lafrenz](#); [Rasool Rahmanian](#)
Subject: URGENT - Planning Commission Meeting Re: Roads End Zoning Changes
Date: Monday, March 28, 2022 10:56:25 AM
Attachments: [6245 NW Logan - overhead view.png](#)

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

Anne Marie -

It has recently come to my family's attention that the Lincoln City Planning Commission (and at a later date, the Town Council) will be meeting to discuss proposed zoning ordinance changes within the Roads End area. For full transparency, my mother (Margaret Lafrenz) owns the property at [REDACTED].

Our immediate concern is that the Town did NOT consult with the neighborhood or its inhabitants prior to moving forward with scheduling official meetings (i.e., the requirement of public involvement has not been met).

Beyond that, our concerns are many and perhaps most acute as the northern neighbor of the subject property at [REDACTED]. If a property owner is able to build structures and / or decks closer to or up until the property lines, residents would have significant privacy, access and safety concerns that are inconsistent with the Roads End neighborhood. Furthermore, a more "built" environment with the aforementioned privacy / safety concerns may result in a negative impact to property values as well - view corridors would be obstructed for neighboring houses and the general public who wish to enjoy this beautiful neighborhood and its beaches. To get a better understanding of how little room there is between properties, please see the attached image.

I urge you to postpone any meetings discussing the proposed zoning changes and first meet with the Roads End (and beyond) community. I know our opinions are shared by many who have not been able to attend meetings or write letters / emails (or are simply unaware because of the lack of public involvement thus far).

Thank you for your continued service and support of our communities.

Best regards,

Ryan

PS - I have cc'd all of Margaret's children and their spouses, as we all want what is best and most sustainable for the Roads End community.



Sold: \$1,000,000 (4 beds, 3 baths, 3,354 Square Feet)

From: [Charlotte Lehto](#)
To: [Anne Marie Skinner](#)
Cc: [Jayne Robinson](#)
Subject: Roads Ends Zone Change
Date: Sunday, March 27, 2022 3:40:42 PM

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

Hello Anne Marie,

My name is Charlotte Lehto and I am a long-time resident of Lincoln City and Roads End. I understand there has been a formal request to the City to change the zoning in Roads End, revising the property setbacks. This change will result in the ability of a property owner to build closer to the property line and/or add a deck which comes closer to the legal property line, thereby impinging on neighbors.

We in Roads End have worked very hard to build and maintain the character and integrity of our neighborhood, the result of which is no structure over-crowding and property values which have not been affected by hap-hazard construction.

I understand the City Planning Commission is scheduled to hold a hearing on this matter April 5, 2022. I also understand the Planning Commission **did not** consult with the neighborhood prior to moving forward with this meeting. This means that Comprehensive Plan Goal 1 - which is public involvement - has not been met by the Commission.

As a Roads End resident, I request that the Planning Commission schedule a meeting with the neighborhood to explain and discuss the proposed zoning change. It is the Commissions' obligation to schedule this meeting, and we in Roads End wish to add our voices to this very important decision which affects our neighborhood.

Sincerely,

Charlotte R. Lehto
Christopher N. Jackson
[REDACTED]
Lincoln City, OR. 97367

From: [Shannon Loch](#)
To: [Anne Marie Skinner](#)
Subject: Proposed Changes to R-1-RE Zone and April 5th Hearing
Date: Monday, March 28, 2022 9:48:43 AM

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

Dear Anne Marie,

I am writing in regard to the proposed ordinance changes to Roads End, which are scheduled for a hearing at the Planning Commission meeting on April 5, 2022. I was surprised to learn about this thru the neighborhood grapevine, rather than from the City. Now there isn't enough time for a proper review of the request by the Roads End community.


I was one of many citizens who participated in creating the R-1-RE. The zone was crafted to preserve the scale of development to match the existing neighborhood. Set backs and building heights are centerpieces of this zone. Roads End was never intended to mimic Lincoln City's zoning codes for set backs and heights. That shouldn't change now.

We worked for over a year with a broad coalition of residents to craft the R-1-RE zone to capture the character of the neighborhood and promote those characteristics as the last lots are built up. Any proposed changes should come under thoughtful consideration with all stakeholders at the table, and not rushed without proper public participation.

I respectfully ask that you postpone the hearing on April 5, 2022, and schedule a time to meet with the Roads End community to explain what is being proposed.

Sincerely,

Shannon Loch


POB 996
Neotsu, Oregon
97364

From: [Victoria M](#)
To: [Anne Marie Skinner](#)
Subject: Roads End zoning proposals
Date: Saturday, March 26, 2022 9:11:08 PM

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

Hello Anne Marie, We are writing to comment on the requests to make changes to Roads End zoning that you described in the last REIA meeting. Neither proposal merits changes to the zoning. It is unfortunate that one of the proposals is a result of city mistakes. The other proposal for changing the zoning for a deck should not be allowed. A deck is a building boundary line. It's an obstruction not a setback.

Thank you,

Victoria McOmie
Robert Crouch
[REDACTED]
Lincoln City, OR 97367

From: [Mergentime](#)
To: [Anne Marie Skinner](#)
Subject: Proposed Code Changes in Roads End
Date: Sunday, March 27, 2022 10:27:55 AM

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

To: Anne Marie Skinner, Planning Director, Lincoln City
From: Ken & Eileen Mergentimne, full-time Roads End residents

Dear Ms Skinner,

When you did your presentation to Roads End residents at a recent Roads End Improvement Association (REIA) meeting on March 12, you made mention (in passing), of some code changes that would be considered for Roads End (R-1-RE), but provided no detail.

Now I find that these code change proposals are being considered now, at your next meeting, and without proper input from Roads End residents. I understand the desire to get codes in line with City and State codes, but it must be considered in full daylight with local citizen input.

Please slow this process down so that it can move through the proper channels that had already been agreed on in the Lincoln City Comprehensive plan. I'd like to ensure that changes to the building codes also help to retain and maintain the historic and traditional nature of the Roads End neighborhood.

Please postpone the upcoming April 5 and May 9th meetings until Roads End residents have a chance to fully reflect on any proposed building code changes.

Sincerely,
Ken & Eileen Mergentime

From: [Debbie Newhouse](#)
To: [Anne Marie Skinner](#)
Subject: Roads End Zoning
Date: Saturday, March 26, 2022 12:05:26 PM

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

Please do not change zoning before you have spoken to the residents and their representatives.
This community has worked hard to retain it's personality and sense of community with existing zoning.
Please be considerate of this community's
charm.

Kind regards,

Debbie Newhouse


Roads End-Lincoln City

From: dtgnewhousefamily@gmail.com
To: [Anne Marie Skinner](#)
Subject: Roads end zoning changes
Date: Saturday, March 26, 2022 12:03:58 PM

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

Before you change zoning in Roads End, please talk with the community and their representatives.

We bought our second home here because of the character of the community. Changes in zoning laws will change this character.

Regards

Terry Newhouse

[REDACTED]

Sent from my iPhone

From: [Ann and Jay Painter](#)
To: [Anne Marie Skinner](#)
Subject: Roads End zoning change!
Date: Saturday, March 26, 2022 12:03:46 PM

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

Dear Ms Skinner,

As a property owner for over 40 years I am concerned about the hearing you have scheduled without holding meetings with the Roads End Neighborhood Association! This change affects the character of our community and I am opposed to the change!

But, most of all I am requesting that you postpone the hearing until you have met the legal and community requirements of holding a meeting with the Association.

Sincerely,

Ann Painter



From: [Jayne Robinson](#)
To: [Anne Marie Skinner](#)
Subject: Planning Commission April 5 hearing
Date: Saturday, March 26, 2022 3:24:48 PM

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

I am writing to ask you to please postpone this hearing so you can meet with Roads End neighborhood residents to explain and discuss this proposed zoning change. Thank you.

Jayne Robinson

From: [Lynn Thompson](#)
To: [Anne Marie Skinner](#); [Planning](#); [Susan Wahlke](#); [Elaine Starmer](#); [Mitch Parsons](#)
Subject: Zoning Code Amendments and Variance Application
Date: Saturday, March 26, 2022 9:25:50 AM

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

Dear City Planning Director Skinner, Mayor Wahlke, and City Councilors Parsons and Starmer;

I am writing regarding proposed Zoning Code Amendments 2022-06 and 2022-07 and Variance Application 2022-03. My husband and I are relatively new residents of Lincoln City having purchased a home here less than three years ago. Before purchasing, we drove around Lincoln City looking at the different neighborhoods and chose to purchase in Roads End in significant part because of the open feel of the area. Other areas of Lincoln City felt closed-in and of higher density. Changing the zoning setback regulations would negatively impact Roads End.

Secondly, I have concerns that granting the variance for 6245 NW Logan Road would set a negative precedent while denying it creates an educational opportunity. The circumstances surrounding VAR 2022-01 are quite different and based on the circumstances, I am in favor of granting that variance.

Sincerely,

Lynn Thompson

From: [Linda Thorson](#)
To: [Anne Marie Skinner](#)
Subject: Re: Notice of Application Administrative Adjustment AA2021-01
Date: Sunday, March 27, 2022 8:01:00 PM

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

Director Skinner

I am responding to your recent mailings regarding upcoming public hearings on Zoning Code Amendments ZOA2022-06 and 07.

My wife and I reside at 6626 NE Logan Rd and are well aware of zoning code issues with the property adjacent to us (south of our property and bordered by 66 Avenue NE). Both of the new houses south of us are involved with setback issues, and it would appear from recent notices of code change proposals for the entire Roads End area, that the proposed changes would resolve the current setback violations for these properties. Code changes would also remedy code violations for another property at 6245 NW Logan Rd.

It appears from a recent Zoom meeting regarding the Griswold properties that both the owner/contractor and The City Planning Dept. did not fully understand and properly execute well defined codes regarding setbacks and both parties signed off and approved of the construction.

I believe that the probability of such egregious errors by both the owner and the City Planners being repeated are remote at best and as such should not constitute a valid reason to change property set back codes for Roads End.

To treat this event as anything more than a one off error by two parties (that should be resolved by the owner and the city without code changes) would be a mistake.

We concur with the REIA position that neighborhood meetings with your involvement should be held so that RE residents can better understand the implications of proposed changes. We also concur with REIA that the current building codes for Roads End have produced a very desirable neighborhood that should be maintained.

Thanks,
Bruce and Linda Thorson

Sent from my iPhone

On Jan 23, 2022, at 7:47 PM, Anne Marie Skinner <askinner@lincolncity.org> wrote:

Thank you. I will add your comments to the file.

<image001.png>

Anne Marie Skinner
DIRECTOR

City of Lincoln City | Planning & Community Development
801 SW Hwy 101 | PO Box 50 | Lincoln City, OR
P: 541.996.1228
E: askinner@LincolnCity.org | W: LincolnCity.org

From: Bruce & Linda Thorson <thorson@bmi.net>

Sent: Friday, January 21, 2022 5:48 PM

To: Planning <Planning@lincolncity.org>

Subject: Notice of Application Administrative Adjustment AA2021-01

Please see attached response.

From: [A](#)
To: [Anne Marie Skinner](#)
Cc: [Susan Wahlke](#)
Subject: ZOA 2022-06 and ZOA 2022-07
Date: Monday, March 28, 2022 11:52:38 AM

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

Good morning Anne Marie,

We support the REIA request for postponements of the April 5, 2022 Planning Commission hearing and the May 9, 2022 City Council public hearing for ZOA 2022-07. More public involvement is needed to assure resident input of the proposed changes are heard and included in this proposal.

We, and many other Roads End residents, were very involved in 2013 discussions with city officials and the Planning Department, as we worked together in creating a special zone for Roads End, R-1-RE. All parties agreed that in light of the unique scenic characteristics of the Roads End area, that a special zone would be created and different from the city's R-1-A zone.

The R-1-RE zone was designed to retain the traditional setting and enhance the scenic qualities of building structures within Roads End. We wanted to prevent beachfront properties from forming structures which form monolithic barriers to the view of those homes further up from the beach front. Thus, setbacks and building height were created to support this intent. This zoning plan was adopted by the City Council and there was never an intent for the R-1-A and the R-1-RE to be the same.

In closing Anne Marie, we want to say that in our past discussions with you as a city official, we have often found you to be responsive to Roads End resident concerns, deliberative in your process, and supportive of citizen input.

We ask that you support REIA's proposed request for postponement, in order to engage more public input from Roads End residents. Such actions both recognize and support the City's Comprehensive Plan to "involve citizens in making wise and legitimate land use decisions."

Respectfully,

Cindy Thompson
Elaine Walsh

From: [williams](#)
To: [Anne Marie Skinner](#)
Subject: April 5th Planning Commission Meeting
Date: Sunday, March 27, 2022 5:53:24 PM

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

Anne Marie Skinner,
Planning Director

Ms. Skinner

I am sure that you have already been contacted by numerous Roads End residents like myself regarding the proposed zoning changes. We do demand that we get our face-to-face report out prior to this subject meeting where we get an opportunity to voice our opinion on these matters. Lincoln City is not Salem or Portland, but a small community that deserves the respect of this committee in letting us provide our opinions and input into something that affects us all in so many ways too numerous to list, but may surprise you if you were to give us our due with a meeting.

When I moved here in 2012, I was informed that the Lincoln City annexation of Roads End would ensure that among other benefits it would ensure a uniform building code which the resident would assist in preparing, which I did participate in developing. What currently exists was what we all bought into with height of structures and easement distances to ensure a reliable real estate development that would protect our investment and ambiance of a coastal community.

When we agreed on the current code, we accepted that current grandfathered violations would be tolerated as long as the buildings existed, but new structures on these lots would be brought into conformity

One item you may not be as sensitive to is this acceptance of annexation came with a property tax increase of 175% of what it was when I closed on my property. We have all paid for what your committee wishes to ignore, so please

The companies developing these last vacant lots are pushing the limits of good neighborhood development. More square feet more money for them, but the results being ugly boxes.

We want to be heard and our wishes either accepted or be given a reason why they will not be included.

Richard D. Williams



Lincoln City, OR 97367

From: [Margaret Harvey](#)
To: [Anne Marie Skinner](#)
Subject: Rezoning Roads Roads
Date: Saturday, March 26, 2022 2:10:21 PM

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


Dear Ms. Skinner,

I am writing you in regards to the upcoming Planning Commission hearing on April 5th.

As a resident for over 20 years in Roads End it is very disconcerting that a proposal to rezone Roads End without input from its property owners is overstepping the Lincoln City Council bounds.

I am therefore requesting postponement of April 5th meeting and scheduling a meeting with the Roads End neighborhood to explain and discuss proposed zoning changes.

Thank-you,
Margaret Harvey


Sent from my iPhone

From: [David Hulme](#)
To: [Susan Wahlke](#); [Elaine Starmer](#); [Mitch Parsons](#); [Anne Marie Skinner](#)
Cc: [catherine Wetterling](#); [Alan Hulme](#)
Subject: Zoning Change Request on April 5th; ZOA 2022-06 R-1-RE Front Setback
Date: Monday, March 28, 2022 12:22:03 PM

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

Dear City Leadership & Planning Team,

On Tuesday, April 5th the City of Lincoln City Council will consider a request to change the zoning code (ZOA 2022-06) R-1-RE for Roads End.

The Roads End community worked with the City Council to establish this zoning code during the transition of the Roads End annex to the City.

The Roads End community needs to meet with the City Council to discuss why this code needs to be changed for two property owners, one that has owned the property for approximately one year ([REDACTED]). Is this even a "reasonable" request for the property?

I personally do not respect, therefore do not trust the property owners of [REDACTED] Road. Less than a year ago, the owner trespassed on my property, [REDACTED], with posted signs of "Private Property" and "No Trespassing". He removed the sign and drove a backhoe on my property tearing up the lawn and potentially damaging city water lines and drainage pipes from the weight of the vehicle. Also, he used the backhoe to create beach access without any authorization. The State, City and Police were not able to rectify the damage to my property or the beach. The Police could not do anything, they told me I had to invest time and resources into a civil claim ... decided to invest in a fence instead, less costly than legal pursuit and certain it would work. The owner of [REDACTED] never, ever, contacted me through written or verbal communication. Now he wants to change code that took the community and city many hours of time to meet and establish the current zoning.

I suggest that the City Council postpone the meeting on Tuesday, April 5th until after the City Council meets with the Roads End community and explain, ask questions and discuss what the impact is to the current zoning and why it is even necessary to make this change.

Thank you for hearing my concerns and anxiously await your comments and direction.

Best regards, David T Hulme, [REDACTED]

From: [David Jamieson](#)
To: [Anne Marie Skinner](#)
Cc: [Mitch Parsons](#); [Elaine Starmer](#)
Subject: Proposed Zoning Changes in Roads End
Date: Sunday, March 27, 2022 10:44:53 AM

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

Director Skinner,

Per the potential zoning changes in Roads End, I have two requests:

1. Please postpone the Planning Commission hearing scheduled for April 5th, 2022, until a neighborhood meeting has been held to discuss the zoning changes and their impact as is stated goal in the city's Comprehensive Plan from October 1998 (page 17, Citizen Involvement) encouraging citizen involvement in Land Use planning/decisions.
2. Please work with the Roads End Improvement Association (REIA) leadership to set up a time for a neighborhood meeting to explain these changes in more depth and receive feedback from the residents who will be impacted by these changes.

As it stands today, I am opposed to:

- **ZOA 2022-06** to amend the Lincoln City Municipal Code Section 17.17.070.D to modify the front-setback requirements in the R-1-RE zone to allow elevated decks within the front setback.
- **ZOA 2022-07** that modifies the street side-setback requirement in R-1-RE zone to a minimum of 10 feet from the current 20-foot minimum/averaging requirement.

Both of these changes stand to alter the character of the Roads End area substantially. After annexation, the city worked closely with Roads End to establish the R1-RE zoning. That zoning allowed the Roads End area to continue with its long established structure height, placement on the lot, and other characteristics unique to the area. Please do not change this.

VAR 2022-03 for [REDACTED] - my understanding is this homeowner made a choice to build non-compliant decks without a permit then requested a zoning change to make them legal. This behavior is repugnant. The non-compliant additions must be removed. Rewarding lawless behavior encourages more of it.

Thank you,

David Jamieson
[REDACTED] Lincoln City, OR. 97367

From: [Russell Karow](#)
To: [Anne Marie Skinner](#)
Subject: Postpone Apr 5 planning commission discussion of Roads End Changes
Date: Saturday, March 26, 2022 5:08:55 PM

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

Director Skinner - like many other homeowners in Roads End, we would like more information and a neighborhood conversation prior to the zoning changes for the Roads End area being considered. It is unclear to us why the changes are needed for the entire area. From what we understand, the proposed changes could change the look of the community. Please consider a delay to allow for greater communication and input. Russ and Marla Karow - homeowners in Roads End and Lincoln City community supporters since 2000

From: [Janet Knipe](#)
To: [Anne Marie Skinner](#)
Cc: [Susan Wahlke](#); [Mitch Parsons](#); [Elaine Starmer](#); [Sydney Kasner](#); [Riley Hoagland](#); [Judy Casper](#); [Rick Mark](#)
Subject: Request for postponement of public hearings ZOA 2022-06 and ZOA 2022 - 07
Date: Saturday, March 26, 2022 3:31:35 PM

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

March 26, 2022

TO: Director Anne Marie Skinner, Planning and Community Development Department

RE: Request for Public Hearing ZOA 2022-06 and ZOA 2022-07 Postponement

The Roads End Improvement Association (REIA) is formally requesting a postponement of the April 5, 2022 Planning Commission public hearing and the May 9, 2022 City Council public hearing for ZOA 2022-06 and ZOA 2022-07 because there has not been sufficient consideration of the impact of these changes on the citizens living in Roads End. The city has not met Comprehensive Plan Goal 1 – public involvement. REIA is already hearing from neighborhood residents who are outraged that this kind of a major change in the zoning code would occur without significant input from the neighborhood in the form of community meetings that are separate from the public hearing itself.

As stated in the 1998 *Lincoln City Comprehensive Plan*:

CONCLUSION: Lincoln City recognizes that citizen involvement is necessary in making wise and legitimate land use decisions.

Goal - Citizens Involvement Develop a Citizen Involvement Program (CIP) which ensures the continued participation of citizens in the land use planning process.

There have been no community meetings on these proposed code changes. In fact, there was only a brief mention in passing of the proposed amendments in your presentation to the REIA membership meeting on March 12, 2022. It was clearly a missed opportunity to introduce these amendments, explain the proposed changes, and solicit community input.

Citizen Involvement Policies

1. Lincoln City shall develop multimedia informational programs on the planning process and procedure, such as television and radio talk shows, newsletter, slide and discussion panels.

Time could have been allotted for a complete presentation and discussion on ZOA 2022-06 and ZOA 2022-07 at the March 12, 2022 REIA meeting, but no materials were presented and no discussion was generated. Instead, REIA has had to take responsibility for quickly researching these changes and alerting our neighbors.

2. Lincoln City shall assure that a reasonable effort is made to encourage the opportunity for citizens to attend public meetings.

Beginning in 2013, REIA and the Lincoln City Planning Department worked together collaboratively for more than a year on the creation of a special zone for Roads End, R-1-RE. During that time there were multiple neighborhood meetings in which Roads End residents participated. For these current proposed changes, there has not been one public meeting.

4. Lincoln City shall strive to establish a better liaison with other community groups and senior citizens.

With REIA's invitations to address our Policy Committee in November 2021, and at the March 12, 2022 general membership meeting, we have operated in good faith to establish an effective,

collaborative working relationship with the City Planning Department. It is deeply troubling that the proposed changes were not brought forward to us for formal community input.

As stated in the *Purpose 17.17.010*, the R-1-RE code is:

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

We believe the proposed code changes run counter to this stated *Purpose* and thus warrants the involvement of REIA as a city-recognized neighborhood association. Therefore, as stated, on behalf of the Roads End neighborhood, REIA is formally requesting:

- 1) A postponement of both the April 5 and May 9, 2022 public hearings until such time that as there is meaningful community involvement; and
- 2) Meetings with neighborhood residents be held as soon as possible.

Thank you for your consideration.

Respectfully,

REIA Board of Directors

Cc: Mayor Wahlke; Councilor Parsons; Councilor Starmer; Councilor Kasner; Councilor Hoagland; Councilor Casper; Councilor Mark

--

Janet Knipe

From: [kim.kolbow](#)
To: [Anne Marie Skinner](#)
Cc: [Elaine Starmer](#)
Subject: ZOA 2022-06 & 07 Zoning code amendment (opposition)
Date: Monday, March 28, 2022 2:46:35 PM

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

I want to go on record and voice my opposition to both the citizen and city initiated zoning amendment discussions (ZOA 2022-06 and ZOA 2022-07) for several Roads End properties located on Logan Road.

Zoning rules and regulations are based on a cities comprehensive plan and are designed to:

- Protect the value and enjoyment of properties by allowing a property its most appropriate land use given its location and surrounding land uses AND minimize potential negative impacts.

The property located @ approximately 62nd & Logan Road is attempting to circumvent our zoning laws due to their own failure to perform due diligence in several key areas by:

- 1) Not educating themselves and/or ignoring multiple zoning ordinances that were in place PRIOR to closing on their home.
- 2) Not pulling the proper permits and/or ignoring the cities permit process prior to beginning construction on the new deck they've already added.

I firmly believe that providing a variance and/or an amendment to the existing zoning regulations in Roads End for these properties will have a negative impact on our Roads End community, undermines the cities intent and opens our community up to a plethora of additional requests for variances based on the poor decisions of certain homeowners. Bad behavior should not be rewarded.

I respectfully request that you deny these requests.

Sincerely,
Kim Kolbow (Roads End Full-time resident)

Sent from my iPad

From: [Patti Kroen](#)
To: [Anne Marie Skinner](#)
Cc: [Susan Wahlke](#)
Subject: Zoning amendments
Date: Saturday, March 26, 2022 12:41:17 PM

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

Greetings Anne Marie,

As you know, Roads End has an active neighborhood association that has been in existence since the mid-1970s (getting ready to celebrate 50 years!). The association has been very involved in the improvement of the neighborhood well before the city annexed the area. After annexation, many neighbors participated with city officials in crafting a collaborative code for zoning in Roads End that did what the city promised they would do (preserve the unique character of the neighborhood after annexation).

Now, I learn that a citizen and the city have both applied to have the zoning rules regarding setbacks for Roads End changed. While it appears clear that the resident is acting as an individual for his own personal benefit, it is unclear what the city is trying to accomplish with this change. I was a little surprised that the city proposal was not a discussion point from you with the REIA membership during your recent presentation on Saturday. Such a change would represent back-pedaling by the city to change rules that were developed over a long period of time and agreed to in good faith by all parties. I think at the very least, such a proposal deserves a full vetting to the neighborhood and not simply a one-off public hearing before the Planning Commission and City Council. For this reason, I am respectfully requesting a postponement of the hearings until the neighborhood has a chance to discuss these changes with you and can understand why the city now feels this change is necessary.

Thanks for your consideration, Patti Kroen

--

Do not mistake activity for achievement. John Wooden

From: [Ryan Lafrenz](#)
To: [Anne Marie Skinner](#)
Cc: [Margaret Lafrenz](#); [Chris Lafrenz](#); [Jessica Anderson](#); [Andy Lafrenz](#); [Lauren Tsai](#); [Megan Filly](#); [Adam Filly](#); [Katie Lafrenz](#); [Rasool Rahmanian](#)
Subject: URGENT - Planning Commission Meeting Re: Roads End Zoning Changes
Date: Monday, March 28, 2022 10:56:25 AM
Attachments: [6245 NW Logan - overhead view.png](#)

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

Anne Marie -

It has recently come to my family's attention that the Lincoln City Planning Commission (and at a later date, the Town Council) will be meeting to discuss proposed zoning ordinance changes within the Roads End area. For full transparency, my mother (Margaret Lafrenz) owns the property at [REDACTED]

Our immediate concern is that the Town did NOT consult with the neighborhood or its inhabitants prior to moving forward with scheduling official meetings (i.e., the requirement of public involvement has not been met).

Beyond that, our concerns are many and perhaps most acute as the northern neighbor of the subject property at [REDACTED] If a property owner is able to build structures and / or decks closer to or up until the property lines, residents would have significant privacy, access and safety concerns that are inconsistent with the Roads End neighborhood. Furthermore, a more "built" environment with the aforementioned privacy / safety concerns may result in a negative impact to property values as well - view corridors would be obstructed for neighboring houses and the general public who wish to enjoy this beautiful neighborhood and its beaches. To get a better understanding of how little room there is between properties, please see the attached image.

I urge you to postpone any meetings discussing the proposed zoning changes and first meet with the Roads End (and beyond) community. I know our opinions are shared by many who have not been able to attend meetings or write letters / emails (or are simply unaware because of the lack of public involvement thus far).

Thank you for your continued service and support of our communities.

Best regards,

Ryan

PS - I have cc'd all of Margaret's children and their spouses, as we all want what is best and most sustainable for the Roads End community.



Sold: \$1,000,000 (4 beds, 3 baths, 3,354 Square Feet)

From: [Charlotte Lehto](#)
To: [Anne Marie Skinner](#)
Cc: [Jayne Robinson](#)
Subject: Roads Ends Zone Change
Date: Sunday, March 27, 2022 3:40:42 PM

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

Hello Anne Marie,

My name is Charlotte Lehto and I am a long-time resident of Lincoln City and Roads End. I understand there has been a formal request to the City to change the zoning in Roads End, revising the property setbacks. This change will result in the ability of a property owner to build closer to the property line and/or add a deck which comes closer to the legal property line, thereby impinging on neighbors.

We in Roads End have worked very hard to build and maintain the character and integrity of our neighborhood, the result of which is no structure over-crowding and property values which have not been affected by hap-hazard construction.

I understand the City Planning Commission is scheduled to hold a hearing on this matter April 5, 2022. I also understand the Planning Commission **did not** consult with the neighborhood prior to moving forward with this meeting. This means that Comprehensive Plan Goal 1 - which is public involvement - has not been met by the Commission.

As a Roads End resident, I request that the Planning Commission schedule a meeting with the neighborhood to explain and discuss the proposed zoning change. It is the Commissions' obligation to schedule this meeting, and we in Roads End wish to add our voices to this very important decision which affects our neighborhood.

Sincerely,

Charlotte R. Lehto
Christopher N. Jackson
[REDACTED]
Lincoln City, OR. 97367

From: [Shannon Loch](#)
To: [Anne Marie Skinner](#)
Subject: Proposed Changes to R-1-RE Zone and April 5th Hearing
Date: Monday, March 28, 2022 9:48:43 AM

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

Dear Anne Marie,

I am writing in regard to the proposed ordinance changes to Roads End, which are scheduled for a hearing at the Planning Commission meeting on April 5, 2022. I was surprised to learn about this thru the neighborhood grapevine, rather than from the City. Now there isn't enough time for a proper review of the request by the Roads End community.

I was one of many citizens who participated in creating the R-1-RE. The zone was crafted to preserve the scale of development to match the existing neighborhood. Set backs and building heights are centerpieces of this zone. Roads End was never intended to mimic Lincoln City's zoning codes for set backs and heights. That shouldn't change now.

We worked for over a year with a broad coalition of residents to craft the R-1-RE zone to capture the character of the neighborhood and promote those characteristics as the last lots are built up. Any proposed changes should come under thoughtful consideration with all stakeholders at the table, and not rushed without proper public participation.

I respectfully ask that you postpone the hearing on April 5, 2022, and schedule a time to meet with the Roads End community to explain what is being proposed.

Sincerely,

Shannon Loch



Neotsu, Oregon
97364

From: [Victoria M](#)
To: [Anne Marie Skinner](#)
Subject: Roads End zoning proposals
Date: Saturday, March 26, 2022 9:11:08 PM

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

Hello Anne Marie, We are writing to comment on the requests to make changes to Roads End zoning that you described in the last REIA meeting. Neither proposal merits changes to the zoning. It is unfortunate that one of the proposals is a result of city mistakes. The other proposal for changing the zoning for a deck should not be allowed. A deck is a building boundary line. It's an obstruction not a setback.

Thank you,

Victoria McOmie
Robert Crouch
[REDACTED]
Lincoln City, OR 97367

From: [Mergentime](#)
To: [Anne Marie Skinner](#)
Subject: Proposed Code Changes in Roads End
Date: Sunday, March 27, 2022 10:27:55 AM

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

To: Anne Marie Skinner, Planning Director, Lincoln City
From: Ken & Eileen Mergentimne, full-time Roads End residents

Dear Ms Skinner,

When you did your presentation to Roads End residents at a recent Roads End Improvement Association (REIA) meeting on March 12, you made mention (in passing), of some code changes that would be considered for Roads End (R-1-RE), but provided no detail.

Now I find that these code change proposals are being considered now, at your next meeting, and without proper input from Roads End residents. I understand the desire to get codes in line with City and State codes, but it must be considered in full daylight with local citizen input.

Please slow this process down so that it can move through the proper channels that had already been agreed on in the Lincoln City Comprehensive plan. I'd like to ensure that changes to the building codes also help to retain and maintain the historic and traditional nature of the Roads End neighborhood.

Please postpone the upcoming April 5 and May 9th meetings until Roads End residents have a chance to fully reflect on any proposed building code changes.

Sincerely,
Ken & Eileen Mergentime

From: [Debbie Newhouse](#)
To: [Anne Marie Skinner](#)
Subject: Roads End Zoning
Date: Saturday, March 26, 2022 12:05:26 PM

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

Please do not change zoning before you have spoken to the residents and their representatives.
This community has worked hard to retain it's personality and sense of community with existing zoning.
Please be considerate of this community's
charm.

Kind regards,
Debbie Newhouse
[REDACTED]
Roads End-Lincoln City

From: dtgnewhousefamily@gmail.com
To: [Anne Marie Skinner](#)
Subject: Roads end zoning changes
Date: Saturday, March 26, 2022 12:03:58 PM

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

Before you change zoning in Roads End, please talk with the community and their representatives.

We bought our second home here because of the character of the community. Changes in zoning laws will change this character.

Regards

Terry Newhouse

[REDACTED]

Sent from my iPhone

From: [Ann and Jay Painter](#)
To: [Anne Marie Skinner](#)
Subject: Roads End zoning change!
Date: Saturday, March 26, 2022 12:03:46 PM

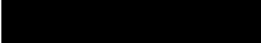
CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Dear Ms Skinner,

As a property owner for over 40 years I am concerned about the hearing you have scheduled without holding meetings with the Roads End Neighborhood Association! This change affects the character of our community and I am opposed to the change!

But, most of all I am requesting that you postpone the hearing until you have met the legal and community requirements of holding a meeting with the Association.

Sincerely,

Ann Painter


From: [Frederick Ulrich](#)
To: [Anne Marie Skinner](#)
Cc: [Brandon Zipser](#)
Subject: RE: ZOA 2022-06 request for comments
Date: Wednesday, March 2, 2022 10:21:48 AM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)

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

Anne Marie,

I believe this proposed amendment, arising from the unique circumstances at [REDACTED], overreaches creating a potential safety hazard.

The setback encroachment that previously existed can be seen in the Google Maps ground view of this property. The image is identified by Google as having been captured in July, 2012.



The encroaching deck on the east side of the structure, the parking side, is of a cantilever design.

The proposed amendment would allow posts to support a deck like this in the direct area where vehicle impact might occur, compromising the integrity of the deck, and the safety of persons and property located on the deck.

I oppose allowing posts to support a deck in the vicinity of areas intended for vehicle use. Only cantilevered designs should be permitted in these areas.

Alternately, the 2019 OFC Section 312 offers language to mitigate the potential safety hazard of unprotected deck posts within the setback encroachment zone:

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you know the content is safe.

Hello,

Attached is an application that has been received for a citizen-initiated zoning code text amendment. Please email me any comments no later than March 11, 2022, for consideration in the staff report.

If you do not have any comments, it is not necessary to reply to this email. The assumption is that no reply to the email is equivalent to having no comments.

Thank you,
Anne Marie Skinner



Anne Marie Skinner
DIRECTOR

City of Lincoln City | Planning & Community Development
801 SW Hwy 101 | PO Box 50 | Lincoln City, OR
P: 541.996.1228
E: askinner@LincolnCity.org | W: LincolnCity.org

From: [Jayne Robinson](#)
To: [Anne Marie Skinner](#)
Subject: Planning Commission April 5 hearing
Date: Saturday, March 26, 2022 3:24:48 PM

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

I am writing to ask you to please postpone this hearing so you can meet with Roads End neighborhood residents to explain and discuss this proposed zoning change. Thank you.

Jayne Robinson

From: [Lynn Thompson](#)
To: [Anne Marie Skinner](#); [Planning](#); [Susan Wahlke](#); [Elaine Starmer](#); [Mitch Parsons](#)
Subject: Zoning Code Amendments and Variance Application
Date: Saturday, March 26, 2022 9:25:50 AM

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

Dear City Planning Director Skinner, Mayor Wahlke, and City Councilors Parsons and Starmer;

I am writing regarding proposed Zoning Code Amendments 2022-06 and 2022-07 and Variance Application 2022-03. My husband and I are relatively new residents of Lincoln City having purchased a home here less than three years ago. Before purchasing, we drove around Lincoln City looking at the different neighborhoods and chose to purchase in Roads End in significant part because of the open feel of the area. Other areas of Lincoln City felt closed-in and of higher density. Changing the zoning setback regulations would negatively impact Roads End.

Secondly, I have concerns that granting the variance for [REDACTED] would set a negative precedent while denying it creates an educational opportunity. The circumstances surrounding VAR 2022-01 are quite different and based on the circumstances, I am in favor of granting that variance.

Sincerely,

Lynn Thompson

From: [Linda Thorson](#)
To: [Anne Marie Skinner](#)
Subject: Re: Notice of Application Administrative Adjustment AA2021-01
Date: Sunday, March 27, 2022 8:01:00 PM

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

Director Skinner

I am responding to your recent mailings regarding upcoming public hearings on Zoning Code Amendments ZOA2022-06 and 07.

My wife and I reside at [REDACTED] and are well aware of zoning code issues with the property adjacent to us (south of our property and bordered by 66 Avenue NE). Both of the new houses south of us are involved with setback issues, and it would appear from recent notices of code change proposals for the entire Roads End area, that the proposed changes would resolve the current setback violations for these properties. Code changes would also remedy code violations for another property at [REDACTED].

It appears from a recent Zoom meeting regarding the Griswold properties that both the owner/contractor and The City Planning Dept. did not fully understand and properly execute well defined codes regarding setbacks and both parties signed off and approved of the construction.

I believe that the probability of such egregious errors by both the owner and the City Planners being repeated are remote at best and as such should not constitute a valid reason to change property set back codes for Roads End.

To treat this event as anything more than a one off error by two parties (that should be resolved by the owner and the city without code changes) would be a mistake.

We concur with the REIA position that neighborhood meetings with your involvement should be held so that RE residents can better understand the implications of proposed changes. We also concur with REIA that the current building codes for Roads End have produced a very desirable neighborhood that should be maintained.

Thanks,
Bruce and Linda Thorson

Sent from my iPhone

On Jan 23, 2022, at 7:47 PM, Anne Marie Skinner <askinner@lincolncity.org> wrote:

Thank you. I will add your comments to the file.

<image001.png>

Anne Marie Skinner
DIRECTOR

City of Lincoln City | Planning & Community Development
801 SW Hwy 101 | PO Box 50 | Lincoln City, OR
P: 541.996.1228
E: askinner@LincolnCity.org | W: LincolnCity.org

From: Bruce & Linda Thorson <thorson@bmi.net>

Sent: Friday, January 21, 2022 5:48 PM

To: Planning <Planning@lincolncity.org>

Subject: Notice of Application Administrative Adjustment AA2021-01

Please see attached response.

From: [A](#)
To: [Anne Marie Skinner](#)
Cc: [Susan Wahlke](#)
Subject: ZOA 2022-06 and ZOA 2022-07
Date: Monday, March 28, 2022 11:52:38 AM

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

Good morning Anne Marie,

We support the REIA request for postponements of the April 5, 2022 Planning Commission hearing and the May 9, 2022 City Council public hearing for ZOA 2022-07. More public involvement is needed to assure resident input of the proposed changes are heard and included in this proposal.

We, and many other Roads End residents, were very involved in 2013 discussions with city officials and the Planning Department, as we worked together in creating a special zone for Roads End, R-1-RE. All parties agreed that in light of the unique scenic characteristics of the Roads End area, that a special zone would be created and different from the city's R-1-A zone.

The R-1-RE zone was designed to retain the traditional setting and enhance the scenic qualities of building structures within Roads End. We wanted to prevent beachfront properties from forming structures which form monolithic barriers to the view of those homes further up from the beach front. Thus, setbacks and building height were created to support this intent. This zoning plan was adopted by the City Council and there was never an intent for the R-1-A and the R-1-RE to be the same.

In closing Anne Marie, we want to say that in our past discussions with you as a city official, we have often found you to be responsive to Roads End resident concerns, deliberative in your process, and supportive of citizen input.

We ask that you support REIA's proposed request for postponement, in order to engage more public input from Roads End residents. Such actions both recognize and support the City's Comprehensive Plan to "involve citizens in making wise and legitimate land use decisions."

Respectfully,

Cindy Thompson
Elaine Walsh

From: [williams](#)
To: [Anne Marie Skinner](#)
Subject: April 5th Planning Commission Meeting
Date: Sunday, March 27, 2022 5:53:24 PM

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

Anne Marie Skinner,
Planning Director

Ms. Skinner

I am sure that you have already been contacted by numerous Roads End residents like myself regarding the proposed zoning changes. We do demand that we get our face-to-face report out prior to this subject meeting where we get an opportunity to voice our opinion on these matters. Lincoln City is not Salem or Portland, but a small community that deserves the respect of this committee in letting us provide our opinions and input into something that affects us all in so many ways too numerous to list, but may surprise you if you were to give us our due with a meeting.

When I moved here in 2012, I was informed that the Lincoln City annexation of Roads End would ensure that among other benefits it would ensure a uniform building code which the resident would assist in preparing, which I did participate in developing. What currently exists was what we all bought into with height of structures and easement distances to ensure a reliable real estate development that would protect our investment and ambiance of a coastal community.

When we agreed on the current code, we accepted that current grandfathered violations would be tolerated as long as the buildings existed, but new structures on these lots would be brought into conformity

One item you may not be as sensitive to is this acceptance of annexation came with a property tax increase of 175% of what it was when I closed on my property. We have all paid for what your committee wishes to ignore, so please

The companies developing these last vacant lots are pushing the limits of good neighborhood development. More square feet more money for them, but the results being ugly boxes.

We want to be heard and our wishes either accepted or be given a reason why they will not be included.

Richard D. Williams



Lincoln City, OR 97367

From: debbieanewhouse@gmail.com
To: [Anne Marie Skinner](#)
Subject: Text Amendment Roads End
Date: Wednesday, March 30, 2022 7:14:14 PM

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

Hello again,

Please do not override agreements that took 2 years to help preserve the Roads End area with Lincoln City. Perhaps this individual should consider a neighborhood that already allows the property setbacks they desire. We purchased in Roads End because of the current regulations that preserve privacy and restrictions that prevent high density with decks or buildings. Please do not allow 1 exception to open the door for additional changes that are not desired by most. We love Roads End, please do not take it's charm away, so it just becomes another overcrowded beach community.

Kind regards,
Debbie Newhouse
[REDACTED]
Lincoln City OR 97367

From: [Gae Linfoot](#)
To: [Anne Marie Skinner](#)
Subject: ZOA 2022-06 6245 NW Logan Road
Date: Thursday, March 31, 2022 12:42:05 PM

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

Director Skinner:

I urge you to not allow an exception to the zoning changes in Roads End to accommodate the builder of this property. The property in question was built by professionals who knew the code requirements and proceeded anyway. Too many times we have allowed laws and codes to be violated and then excused people from the consequences of their choices. In doing so we weaken our laws and we send a strong message to people, especially our children, that you do not have to obey the law. We have come to the point where people look first at what they can get away with rather than choosing to be in compliance. I myself am planning a construction change, and many have told me I could use a lesser quality of materials, as I probably will not get caught, and if you do, I could get an exception. I won't even consider that path, that is not the world I want to live in. It is not a surprise that people have decided they can get away with petty crime, and small violations because often codes and laws are not enforced, or the consequences are well worth taking the risk of being caught. What kind of community are we creating, we have raised children to disregard the regulations and take/do what they want, they know they do not have to take our codes seriously. The implications of taking this attitude has serious long term implications. I encourage you to take a stand for Lincoln City Code enforcement and let people know that our laws cannot be ignored.

Thank you for your attention to this matter.

--

Gae Linfoot

Lincoln City End Human Trafficking Team
A mission of Chapel by the Sea Presbyterian Church
Ambassador with Shared Hope International

Ph: [REDACTED]

From: [David Jamieson](#)
To: [Anne Marie Skinner](#)
Subject: Roads End, Opposition to ZOA 2202-06
Date: Monday, April 4, 2022 11:36:36 AM

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

Director Skinner,

I am strongly opposed to application ZOA 2202-06, initiated by the property owner at 6245 NW Logan Road. It asks for a text amendment to LCMC 17.17.070D, to “modify the front setback requirements in the R-1-RE zone to allow elevated decks within the front setback under certain circumstances.”

LCMC 17.88.010 Procedure states that text amendments may happen “whenever the public necessity and convenience and the general welfare requires such an amendment.” There has been no compelling need expressed or demonstrated by the neighborhood that these changes are necessary, desired, or essential. Only one part-time property owner, who has owned his property in the neighborhood for less than two years, wants this change.

The property owner built decks in violation of R1-RE zoning. This was a willful disregard for the zoning rules. This should not be rewarded by granting a variance/exception.

Thank you for your consideration.

David Jamieson



From: [Lafrenz, Andrew](#)
To: [Anne Marie Skinner](#)
Subject: Proposed Variance by 6245 NW Logan Road
Date: Friday, April 1, 2022 7:55:19 PM

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

Dear Director Anne Marie Skinner,

I am writing on behalf of the Roads End Community regarding the zoning ordinance changes proposed by the [REDACTED].

My family has owned the next-door property at 6 [REDACTED] for 35 years. Our main concern is how the proposed variance would affect our property and the surrounding community. As you can see by the arial views, their house already takes up most of their lot and is significantly larger than the surrounding homes. The majority of the homes on this stretch of Roads End were built 50 years ago or more and blend in with the beautiful Oregon shoreline while also allowing homes on the East side of the road to have valuable unobstructed views. In relation to our property, their house sits much higher and therefore looms over the homes on either side. By building an additional deck on the north side, they would be only approximately 15 feet from our bedrooms. They would also be at a higher elevation and therefore looking down into our second story bedrooms. This would be a significant intrusion of privacy.

Although this is not directly related to the zoning issue at hand, it is important to bring up other issues related to this homeowner. In the short period that this property owner has had this property, there have been countless disturbances to the neighbors, city, county and state related to this property. They have damaged neighboring properties with heavy equipment without permission to pass through neighboring lots. They have built what we believe are unpermitted stairs to the beach. They have been cited by the Oregon State Parks Department for driving a dump truck on the beach without a permit. They have caused extensive erosion and damage to the ocean shoreline. All of this within just a couple years of owning the property. The property owner has made no attempt to integrate into the local community or respect local or state regulations. The Roads End community kindly asks you to not grant this unnecessary zoning variance.

Thank you,
Andrew Lafrenz

Andrew Lafrenz, PhD, MPH

[REDACTED]

To: Planning Director, Planning Commission, City Council

RE: ZOA 2022-06

4 April 2022

First, a correction: LCMC 17.88.010 was repealed so it is inappropriate to reference it here. The correct code is 17.76 – Procedures. However, it is worth noting that the referenced text states that a zoning ordinance may be amended “...whenever the public necessity and convenience and the general welfare requires such an amendment...”. There is no public necessity (aside from one individual homeowner) for this amendment, nor is it required for the general welfare.

To the applicant who stated “the applicants can think of no (reason) to have such vastly different front setback provisions for essentially the same zone. There does not appear to be any rational reason to treat owners of properties in one discrete area of the R-1 zone so differently”.

Perhaps if you talked to your neighbors before re-arranging the beachside landscaping or the city before illegally building your deck without a permit, you would understand the reasoning behind the zoning code for Roads End and why it is different than the R-1 zone. Your application states that the requested amendment would create more consistency in the R-1 and the R-1-RE zone – precisely what the city promised would not happen when Roads End was annexed and something your neighbors in Roads End fought long and hard to prevent. In fact, your application repeats this consistency issue as a positive point. It is not.

The zoning codes for Roads End are found in LCMC 17.17. LCMC 17.17.010 states as its purpose: “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.”

The zoning codes for the R-1-RE neighborhood were developed by the residents and the city after what can only be described as a hostile annexation of Roads End, which the residents fought quite vigorously. The city ultimately threatened to cut off Roads End’s water supply to force the residents into submission. The city agreed to refrain from imposing the R-1 zoning on the residents and instead allowed for a collaborative process whereby the residents and the city developed the R-1-RE codes to protect the unique and historic nature of the area as promised by the city.

This proposal does not simply affect the applicant’s property but impacts the entire neighborhood of Roads End. Much like a George Seurat painting, a single dot looks like nothing more than a single dot, however when you step back, you see how it is a part of a much larger view, integrated with every surrounding dot to complete the painting. This is not just about the applicant’s property. This is about the entire neighborhood.

This proposal if approved would, over time, fundamentally change the character and neighborhood of Roads End for no greater purpose than to satisfy one owner. Changes to zoning driven by a single owner ignore the ‘rest of the painting.’ The application provides a map and photos of the applicant’s property to suggest how it would be improved by the requested change. But the applicant does not provide a map and photos of the entire neighborhood that would be impacted by this change. Thus, the changes appear to affect only a tiny dot - benign and localized. However, if you step back and view that dot in the context of its surroundings, you see that is certainly not the case. The entire painting of Roads End would be negatively impacted. And the city would be reneging on their promise stated in the purpose section of the R-1-RE zoning code to ‘...retain and maintain the historic and traditional nature of the Roads End neighborhood.’

I urge the Planning Commission and City Council to deny this application.

Respectfully,

Patti Kroen

Post Office Box 360 Lincoln City, OR

From: [Rob Allen](#)
To: [Anne Marie Skinner](#)
Subject: ZOA 2022-06
Date: Wednesday, March 30, 2022 7:21:53 PM

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

Hello,

My name is Rob Allen and live at [REDACTED]. I over look Roads End and I would like to say, “nay” to the proposal.

Unfortunately this sets a precedence that these types of exceptions can occur. The boundary policies are in place for a reason and I would rather not see this or other exceptions like this allowed. These types of exceptions could eventually affect my property value.

Regards,
Rob

Sent from my iPhone

From: [Terry R Newhouse \(personal\)](#)
To: [Anne Marie Skinner](#)
Subject: VAR 2022-03 and ZOA 2022-06
Date: Saturday, April 2, 2022 8:20:39 AM

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

Dear Planning Commission,

We purchased our vacation home in Roads End because of the unique character of this area.

I object to this text amendment allowing decks to be build closer to the road. If this one case is allowed, it will open up for future cases to use this case as a precedent. Soon, many decks will be close to the road destroying the look and feel of the neighborhood. The neighborhood already is very closely built. This text amendment will only reduce the privacy for all. This amendment may be a good amenity for this person to eventually rent out their property, but we already have too many property rentals in the area. Please do not advance this text amendment.

We have elected the committed to work on our behalf to keep the character of our neighborhood. Please continue to work closely with this committee for the benefit of all residences of Roads End.

Regards,
Terry Newhouse

██████████ ██████████ ██████████

Lincoln City, OR

████████████████████

April 2, 2022

Dear Lincoln City Planning Commission, and Ann Marie Skinner, Planning Director

As Homeowners in Road End over the past 45 years, we are writing in opposition to ZOA 2022-6. We were part of the original homeowners committee, after annexation, who for 2 years worked with the Lincoln City Planning Department and City Council, to craft the Roads End Zoning Code RE-1-RE. After much discussion and collaboration, this zoning Code was adopted by the Lincoln City Council in 2017.

Due to the unique character and geography of Roads End, it was agreed by all that Roads End would have a special zoning code to retain the traditional features of the neighborhood. This RE-1-RE code was intended to be different from the R-1-A Residential Code. VAR 2022-03 attempts through a variance, to modify the RE code through a text amendment designed for one person's need.

This variance would allow for a homeowner to build add-ons, i.e. decks, to the house's exterior into the current setbacks, thereby allowing encroachments into neighboring homes and their privacy. No one wishes to have a deck from a neighboring house close enough to view through their second floor deck into their windows.

Text amendments are allowable to the municipal code under certain situations. "Public necessity and convenience and general welfare." LCMC 17.88.010 Procedure. This text amendment is only one person's desire to put non-conforming second story decks around the sides and entrance to his house. We believe that such non-conformance, does not serve public necessity or general welfare.

We request that you do not approve this text amendment which we believe sets a precedence by eroding the current R-1-RE protections for homes built or remodeled in Roads End.

It is our hope that, in your important role as our local City planners, you understand and appreciate the historical context of prior code decisions in your ongoing deliberations and decisions.

Respectfully,

Cindy Thompson and Elaine Walsh

Roads End



Sold: \$1,000,000 (4 beds, 3 baths, 3,354 Square Feet)



Sold: \$1,000,000 (4 beds, 3 baths, 3,354 Square Feet)

From: [Janet Knipe](#)
To: [Anne Marie Skinner](#)
Cc: [Susan Wahlke](#); [Elaine Starmer](#); [Mitch Parsons](#); [Sydney Kasner](#); [Rick Mark](#); [Riley Hoagland](#); [Judy Casper](#)
Subject: Application ZOA 2022-06
Date: Monday, April 4, 2022 4:38:42 PM
Attachments: [REDACTED]
[front view.png](#)
[REIAZoningRecommendations-FinalwithBoardapproval061815.doc](#)

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

TO: Director Skinner, Lincoln City Planning and Community Development Department; Members of the Lincoln City Planning Commission; Members of the City Council

FR: Janet Knipe, President, Roads End Improvement Association

RE: Application ZOA 2022-06

The Roads End Improvement Association (REIA) is strongly opposed to application ZOA 2022-06, initiated by the property owner at [REDACTED]. It asks for a text amendment to LCMC 17.17.070D, to “modify the front setback requirements in the R-1-RE zone to allow elevated decks within the front setback under certain circumstances.” In order to make sure local officials are familiar with REIA, its goals, and role, this letter sets context for our position.

Background on REIA:

REIA was formed in 1974, incorporated in November 1975 for 501(c)3 status and in March 1982 for 501(c)4 status, and recognized by Lincoln City as the official neighborhood association for Roads End in Resolution No. 2014-20 on August 11, 2014.

REIA Purpose (from our bylaws):

1. To improve the services and viability for the residents and property owners of the area historically known as Roads End.
2. To monitor the actions and activities of contractors, builders, and land users in the area and if the resulting land use and buildings are not in accordance with current City, County, and State building codes, to urge and advocate that government officials take appropriate action.
3. To petition for such community services as may be beneficial for the health, safety and protection, comfort, and welfare of all residents, property owners. and visitors to the area.
4. To keep all members of the Corporation and interested residents informed of the activities of the Corporation through general meetings, newsletters, website, email. press releases, radio announcements or other available means.
5. To monitor City, County, and State regulatory bodies and to urge and advocate that their ordinances, zoning laws, and regulations are compatible with the environmental character of the Roads End area.

Members/Governance:

REIA currently has 211 members, as well as 132 others in the neighborhood who receive regular updates from us and are considering membership. We reach a total of 343 individuals monthly in a neighborhood with approximately 750 homes. There is a 7-member Board of Directors elected by the membership.

Activities:

REIA has monthly membership meetings with guest speakers who are invited because their purview is relevant to Roads End. Over the last year, guests have included Mayor Susan Wahlke, Councilors Mitch Parsons and Elaine Starmer (Ward 1), Interim City Manager Lila Bradley, Public Works Director Stephanie Reid, Planning Director Anne Marie Skinner, LCPD Officer Randy Weaver, Parks and Recreation Director Jeanne Sprague and Emergency Preparedness Coordinator Ken Murphy, just to name a few. Other pertinent REIA activities include three beach and neighborhood clean-ups per year. In summary, the association identifies issues of importance to the neighborhood and works with the city staff to maintain the safety and livability of the neighborhood.

LCMC 17.17.10 Purpose

REIA is primarily, but not solely, opposed to the applicant's justification that "the requested amendment would create more consistency between the front yard setback provision in the R-1 zone and the R-1-RE zone. "... Further, "There does not appear to be any rational reason to treat owners of properties in one discrete area of the R-1 zone so differently."

This viewpoint is inherently false in its assumption that the Lincoln City R-1 zone and the Roads End R-1-RE zone are the same or even similar.

The difference in treatment was officially recognized by the Lincoln City City Council and staff nine years ago at the annexation of Roads End into Lincoln City. In their formal annexation agreement with Roads End, city officials stated that they would not force changes to existing county zoning code in Roads End for five years, except if residents of Roads End initiated the process.

In fact, it was REIA that initiated the process of re-zoning, following considerable community meetings and work with the Lincoln City Planning Director and other pertinent Planning Department staff. From the start it was expected, and understood by city staff and Council, that Roads End was unique and different from the city R-1 zone. As stated in the Purpose 17.17.010, the R-1-RE code is: "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 stabilize the residential characteristics of the area."

This zoning plan was submitted to the Lincoln City City Council and accepted by them in October 2017. Thus, there was never an intent to require or make the R-1 and R-1-RE zones consistent with each other.

LCMC 17.88.010 Procedure states that text amendments may happen "*whenever the public necessity and convenience and the general welfare requires such an amendment.*" There has been no compelling need expressed or demonstrated by the neighborhood that these changes are necessary, desired, or essential. Only one part-time property owner, who has owned his property in the neighborhood for less than two years, wants this change. Although referenced on the ZOA 2022-06 application, we recognize that LCMC 17.88.010 has since been deleted and replaced by 17.76, however, we feel the stated language is relevant in this case and should be considered.

Comprehensive Plan Goal- Citizen Involvement:

REIA recognizes that with a citizen-initiated text amendment, there is no requirement for public meetings and therefore this goal is technically met. However, REIA would like to raise the question to the Planning Commission and the City Council about whether this language needs to be reviewed. It seems inconsistent with the overall language and intent of the importance of public input stated for this goal. Currently, any citizen can initiate a change that will affect the whole neighborhood without the neighborhood being given the opportunity to be educated about the proposed change and have a dialogue with city staff before the public hearing process. If a city-initiated change requires consistency with this goal, a citizen-initiated amendment should as well.

Comprehensive Plan Goal – Aesthetics

REIA believes that the conditions of this goal have not been met. Approval of ZOA 2022-06 would allow for decks which extend into setbacks and thereby positioned closer to roadways on any new builds or remodels in Roads End, not just for the current applicant. This would create

encroachments that could affect the privacy of neighbors and bring greater density in Roads End. This is a 3,345 square foot, 4-bedroom property that already has a very large footprint in relation to the surrounding houses. The deck was removed by the previous owners many years ago and the timeframe to replace it has exceeded the two-year maximum. The deck in question was rebuilt without permits and does not “add character” to the home, rather, it conflicts with current zoning and the aesthetic established in LCMS 17.17.10 Purpose.

Conclusion

Approval of ZOA 2022-06 sets a dangerous precedent that again runs counter to the stated purpose of 17.17.10 and changes the look and aesthetics of the neighborhood for one property. The neighborhood has not changed, nor has anyone expressed a desire that would warrant this change. It makes permanent—and we believe deleterious--alterations to the zoning code that are unnecessary and ushers in a change for all properties that the neighborhood did not request and does not want. We believe this to be a self-serving request that has no public benefit and urge the Planning Commission and the City Council to deny this request.

Thank you for your consideration.

Respectfully,

Janet Knipe, President

Roads End Improvement Association

--

Janet Knipe

- ▶ Items with this symbol retain County R-1-A zoning.
- Items with this symbol retain County R-1-A zoning with some additions

Section A: BUILDING - ZONING

Item		REIA Zoning Recommendations	County Zoning	City Zoning
• A1	Building Height	30 feet, 24 feet oceanfront including FEMA requirement.	30 feet	35 feet
A2	Measuring Height of Buildings	Pre-existing pre-disturbed grade (which is difficult to determine). No fill. Measured at the footprint of the house.	Average of finished grade. Can be fill.	Pre-existing, pre-disturbed grade (which is difficult to determine). No fill.
▶ A3	Building Coverage	30%	30%	35% (more allowed for pre-existing lots less than 4,000 sq ft)
▶ A4	Front Yard	20 feet	20 feet	5 feet for single story/ 7.5 feet for multi-story; 20 feet for garage/carport
A5	Interior Side Yard	10 ft away from other houses 7.5 ft for single-story 10 ft for multi-story	Minimum 5 feet or 1 foot for each 3 feet of building height, whichever is greater	10 ft away from other houses 5 ft for single story 7.5 ft for multi-story
• A6	Street Side Yard	Minimum 20 feet; may be decreased by 1 foot for each additional 2 feet of front yard setback (calculated continuously/fractionally) but not less than 10 feet	Minimum 20 feet; may be decreased by 1 foot for each additional 2 feet of front yard setback (but not less than 10 feet)	Same as above
A7	Rear Yard	10 ft away from other houses 7.5 ft for single-story 10 ft for multi-story	10 feet except on corners (for corners, minimum 5 feet or 1 foot for each 3 feet of building height, whichever is greater)	Same as above
▶ A8	Special Setbacks	30 foot setback from State Hwy r-o-w. 30 foot setback from collector or arterial with r-o-w less than 60 feet.	30 foot setback from State Hwy r-o-w. 30 foot setback from collector or arterial with r-o-w less than 60 feet.	Not applicable
▶ A9	Setbacks on Collector Streets (Logan Rd)	Doesn't apply to Logan Rd. Allows averaging of adjacent property.	Doesn't apply to Logan Rd. Allows averaging of adjacent property.	Doesn't average existing homes on either side – but would like to be able to (such as Logan RD)
A10	Decks and Setbacks	Does not allow decks to intrude into the setbacks if they are more than 30 inches off the ground.	Can intrude into required setback up to 1/3 of the setback, if unroofed.	Does not allow decks to intrude into the setbacks if they are more than 30 inches off the ground.
• A11	Minimum Lot Area	6,000 sq ft for single-family No Planned Unit Developments that would include housing incompatible with single-family R-1 zone	6,000 sq ft for single-family	<ul style="list-style-type: none"> • R-1-5: 5000 sq ft for single-family; 8000 for duplex • R-1-7.5: 7500 sq ft for single-family; 8000 for duplex

A12	Minimum Lot Width and Depth	50ft minimum width and 70ft min depth	Depth to Width ratio not to exceed 2.5 to 1. Example: 40ft wide x 150ft deep (3.75 to 1) would be too narrow	Simply 50ft minimum width and 70ft min depth R-1-5 Note: R-1-5 gives more flexibility
▶ A13	Utility Restrictions (services to property)	5-acre minimum lot size if no city service agreement	5-acre minimum lot size if no city service agreement	5-acre minimum lot size if services unavailable
A14	Exterior Lighting	Source of light shielded and cast downward; cannot cast glare onto street or other property. Surf lights turned off at 10:00pm	No restrictions.	Can't cast glare onto street or other property.
A15	Driveways	20 ft max width if impervious Can have gravel if adjacent to private street or if adjacent to road already gravel	No restriction that would affect Roads End	20 ft max width if impervious Can have gravel if adjacent to private street or if adjacent to road already gravel
A16	Parking	Requires 2 off street (9 x 20 or compact space of 8 x 16)	Requires one (8 x 20)	Requires 2 off street (9 x 20 or compact space of 8 x 16)
A17	Fencing	3.5 ft height – on street side within setback; 6 ft on other sides with no permit needed	No info	3.5 ft height – on street within setback; 6 ft on other sides with no permit needed

Section B: ALLOWED/PERMITTED USES

Item	REIA Zoning Recommendations	County Zoning	City Zoning R-1-5
● B1	Single Family Zone	Existing single-family zone Home constructed to Residential standards only: no more than 5 bedrooms; no more than 16 occupants	Existing single-family zone
▶ B2	Duplexes	No	Yes on 8,000 sf min. lots
● B3	Manufactured Homes	Multi-wide, 1000sf minimum floor area, 3/12 roof pitch, no unpainted metal; energy efficient or "Super Good Cents," on a permanent foundation Single-wides not allowed, no mobile homes	Multi-wide, 1000sf minimum floor area, 3/12 roof pitch, no unpainted metal; energy efficient or "Super Good Cents." Single-wides not allowed
B4	Accessory Dwelling Units	No (County definition would not be considered Accessory Dwelling Unit in City)	OK but no kitchens allowed Cannot exceed zone lot coverage of 30% <ul style="list-style-type: none"> • OK = 750 sq ft or less than 50% of other main building: can be part of main house, apt over garage, or small structure • Cannot exceed lot zone coverage of 35% • Prop Owner has to live in main house • No VRDs allowed • Limited by lot coverage

B5	Cottage Housing Developments	No	Not Applicable	Yes (see LCMC 17.80.080)
▶ B6	Community Gardens and Market Gardens	No	No	Yes; max 12,500 sf; subject to standards
▶ B7	Public Parks, Playgrounds; Delete: see C12			
▶ B8	Bed and Breakfast Inn	No	No	Yes, subject to standards
▶ B9	Temporary Unit During Home Construction	Yes, RV for 1 year	Yes, RV for 1 year	Yes, mobile home for 6 months
B10	Residential Home (i.e. adult foster home)	<u>Yes (required by State)</u>	Not Specified	Yes
▶ B11	Emergency Communications and Warning System	Conditional Use	Conditional Use	Yes
B12	Accessory Uses	Yes; guest homes and vacation rentals subject to standards	Yes, hardship dwelling Guest homes and vacation rentals not addressed.	Yes; guest homes and vacation rentals subject to standards
B13	Farm and forest use; livestock and forest processing prohibited	No	Yes	No
▶ B14	Beach Front protective structures	Yes, subject to approval from Oregon Parks and Recreation Dept.	Yes, subject to approval from Oregon Parks and Recreation Dept.	Yes, subject to approval from Oregon Parks and Recreation Dept.
● B15	One single family dwelling	Yes, of no more than 5 bedrooms; no more than 16 occupants.	Yes	Duplexes allowed
B16	Gardens and animals	Yes, Accessory Use (as City regulations)	Not addressed	Yes, accessory use

Section C: CONDITIONAL USES

Item	REIA Zoning Recommendations	County Zoning	City Zoning R-1-5
C1	Cemetery	No	Yes
C2	Church, non-profit religious or philanthropic use	No	Yes, Places of worship
C3	Community center	No	Yes, community meeting buildings, fraternal and social organizations, and recreation centers
C4	Day nursery, nursery school – kindergarten, day care center or similar facility	No	Yes
C5	Public or private schools	No	Yes, K-12, educational institutions
▶ C6	Government structure or use	Yes	Yes
C7	Home Occupation	Yes, accessory use	Yes

C8	Hospital, nursing home, retirement home or similar facility	No	Yes	Yes, see many ordinances listed in city code
C9	Golf Course and ancillary uses; excluding driving range and miniature golf or similar facility	No	Yes	Yes, public or private golf courses, but not driving ranges or miniature courses operated as a business.
C10	Mobile Home Park	No	Yes	Yes
C11	Private, non-commercial recreation club (i.e. archery; swim and tennis)	No	Yes	Yes, similar definition
C12	Public park, playground, pool or similar recreational facilities	Yes to small park or playground No to pool or other similar facility	Yes	Yes
► C13	Public or private utility facility	Yes (we now have Pump Station)	Yes	Yes
C14	Radio or television transmitter tower	No	Yes	Yes, but not wireless communications facilities
C15	Utility substations	Yes (pump station)	?	Yes, but not wireless communications facilities
C16	Temporary real estate office	No	Yes	Yes
C17	Recreational vehicle park	No	Yes	Yes, Mobile Home Parks
C18	Keeping of livestock	No	Yes	?
C19	Transfer stations	No	Yes	No
C20	Excavating, filling, dredging or drainage of wetlands	As subject to City's Natural Resource Overlay Zone and applicable State and Federal law.		

Additional Notes

Streets and Lighting: 2011 Siegal Report (Lincoln City report regarding proposed Roads End annexation) suggested "Special code provisions regarding streets and lighting may be desirable. Presently Roads End streets are not built to city standards: they include a combination of pavement and gravel surfaces. They mostly lack storm sewers and sidewalks. Note: The City does not intend to require updates, and the city police department has indicated no concerns about a lack of street lighting. Zoning and public works standards for Roads End could acknowledge existing conditions and further protect the "night sky" by not requiring street lights, and by requiring new homes, dwelling expansions, and remodels to "hood and shield" outdoor lighting."

Roads End Improvement Association



Code Text Amendment

Staff Report for Planning Commission Public Hearing

Case File ZOA 2022-06

Date:	April 7, 2022
Case File:	ZOA 2022-06 R1RE Front Setback
Applicant:	Jay and Helen Weston PO Box 362 Eagle Creek, OR 97022
Property Owner:	Not applicable
Situs Address:	Not applicable
Location:	Not applicable
Tax Map and Lot:	Not applicable
Comprehensive Plan Designation:	Not applicable
Zoning District:	Not applicable
Site Size:	Not applicable
Proposal:	Amend Lincoln City Municipal Code (LCMC 17.17.070.F to clarify averaging and decrease the minimum front setback requirement from 20 feet to 15 feet for decks
Surrounding Land Uses and Zones:	Not applicable
Authority:	LCMC 17.76.050.G states that Table 17.76.020-1 identifies the decision authority for each application. Table 17.76.020-1 of LCMC Chapter 17.76 identifies a text amendment as a Type IV application with the decision authority given to the City Council. Per LCMC 17.77.130.A, text amendments are subject to the Type IV procedure, as described in LCMC 17.76.060.
Procedure:	The Planning and Community Development Department mailed notice to the owners of all properties in the R-1-RE zone on within 250 feet of the site on March 15, 2022. The <i>News Guard</i> published the public hearing notice on March 22, 2022 and March 29, 2022.



Applicable Substantive Criteria:	Relevant goals and policies of the Lincoln City Comprehensive Plan Relevant statewide planning goals
---	---

BACKGROUND

The applicants, Jay and Helen Weston, submitted a request for a code text amendment on February 25, 2022. The applicants are requesting approval of a text amendment to the front setback requirements in the R-1-RE zone, specifically LCMC 17.17.070.D. The current text reads:

The minimum front yard shall be 20 feet. Except that the minimum setbacks from Logan Road need not exceed the average setbacks 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.

The applicants are proposing the following text:

The minimum front yard shall be 20 feet. Except that the minimum setbacks from Logan Road need not exceed the average setbacks of buildings on all lots within 100 feet of the lot on the same side of the street on which the proposed building is to be located and that abut Logan Road. The 20-foot front yard setback shall not apply to elevated decks that extend from the dwelling wall into the front yard 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 (i.e., supported by only the wall of the structure from which it projects), or supported by posts and beams if the posts and beams meet all building code requirements and the posts are within the minimum 15-foot setback.

The Planning Commission held a public hearing on April 5, 2022. Public testimony was received expressing opposition to the proposed setback decrease for decks. No testimony was given regarding the provision to add language regarding measuring on the same side of the street. The Planning Commission voted to recommend to City Council that the language regarding “the same side of the street” be approved, along with the additional requirement of a survey by a licensed surveyor, but voted to recommend denial of the decrease from 20 feet to 15 feet for cantilevered decks.

COMMENTS

Public agency comments were received from North Lincoln Fire & Rescue District #1. No other public agencies provided comments.

Citizen comments were received from Michael and Bronwyn Alleman, Margaret Harvey, David Hulme, David Jamieson, Russell Karow, REIA Board of Directors, Kim Kolbow, Patti Kroen, Ryan Lafrenz, Laurel Begnoche, Charlotte Lehto, Shannon Loch, Victoria McOmie, Ken and Eileen Mergentime, Terry Newhouse, Debbie Newhouse, Ann Painter, Jayne Robinson, Cindy Thompson, Lynn Thompson, Bruce and Linda Thorson, Elaine Walsh, Richard Williams, Gae Linfoot, Andrew Lafrenz, and Rob Allen.

Copies of all comments are included in the public hearing packet.

ANALYSIS

- 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. Property owners in the R-1-RE zone were mailed the required notice of public hearings. 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 amendment 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 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 as that term is used in this goal and does not adversely affect the provision or ability to site economic activities in the city. The amendment is consistent with Goal 9.

(10) Goal 10: Housing

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

The amendment does not directly relate or pertain to the housing needs of Lincoln City, except that the clarification and reduction in a minimum requirement may encourage new development. Accordingly, Goal 10 is met.

(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, except that the clarification and reduction in a minimum requirement may encourage new development. 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 that includes 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). This goal is met.

(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 directly relate or pertain to the housing needs of Lincoln City citizens. However, this amendment is intended to address and remedy code provisions for minimum requirements that are in need of clarity. By improving the clarity and reducing the minimum requirement, the city hopes to encourage new development for housing in the city. This amendment is, therefore, 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 amendment does not relate or pertain to the economic needs of Lincoln City citizens. 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 directly relate to aesthetics. However, the applicants’ narrative provides the following:

“The proposed amendment is consistent with this element of the comprehensive plan. Allowing raised encroachments such as decks, can, in many cases, achieve architectural detail that the city endorses in other code provisions.”

The narrative also notes that decks add a layer of depth to the design, add character, and break up the façade. Accordingly, the requested amendment to reduce the minimum setback for decks provides greater opportunity for deck construction, which in turn provides greater opportunity for the aforementioned architectural detail and addition of character to the structure. This goal is met.

(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.

From: [Public Comment](#)
To: [Anne Marie Skinner](#)
Subject: FW: ZOA 2022-06
Date: Monday, May 2, 2022 6:31:41 AM

-----Original Message-----

From: Sent: Sunday, May 1, 2022 8:26 AM
To: Public Comment <publiccomment@lincolncity.org>
Subject: ZOA 2022-06

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

Please do not allow this exception as stated earlier by me, we want the Roads End Neighborhood to thrive and be a community not just a bunch of vacation rentals with over development problems.

When Lincoln City took Roads End it was agreed upon from what I understand that Lincoln City would continue to support the desires of the community.

The neighborhood has several lots that are already very close to one another, we do not need to put people closer. By allowing this change I would suspect we will have neighbors and visitors in more conflict because of their closer proximity to each other, people need space.

Please do not allow ZOA 2022-06 to be approved.

Thank you,
Debbie Newhouse

From: [Public Comment](#)
To: [Anne Marie Skinner](#)
Subject: FW: public comment on ZOA 2022-06
Date: Monday, May 2, 2022 6:31:51 AM

From:
Sent: Sunday, May 1, 2022 2:44 PM
To: Public Comment <publiccomment@lincolncity.org>
Subject: public comment on ZOA 2022-06

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

Ladies and Gentlemen

When Roads End was annexed by Lincoln City, we residents were asked to provide input to the building code that would be specifically for Roads End, which we did. At that time, we considered the 20-foot easement from the road and felt that leaving it as it was currently, that gap was in the best interest of the residence and future builds. The 20-foot easement would allow for future albeit unknown sidewalks, curbs, and gutters; which could consume a depth of 5 to 7 feet depending on the specific location of that 20-foot easement and accommodation for pedestrians.

Additionally, as you may be aware the typical automobile is approximately 20 long and when parked outside the garage door, they almost exceed the setback, which was the basis for 20-feet. So, the setback was for parking and safety, and by encroaching on that easement, you will be reducing the safety aspect of parking in a driveway which in many cases is already an issue with some VRD guests.

A good example to consider for parking is the Chevrolet ¾ ton pickup truck with extended bed which is 19.6 feet long and the crew cab model with a regular bed is longer is 20 feet plus. Since most residence do not use their garage for parking their vehicle(s) that 20-foot easement is critical, and must be maintained for parking and future needs.

If you allow exceptions as a general rule for incursion into the easement, how will you manage these requests? Why just 5 feet, why not 5.5 feet? Standard lumber is 8 feet, so if you were adding as deck 8 feet would be the most economical. You have to consider how would a deck be added to an existing structure at the second-floor level; would it be cantilevered, or would it require vertical columns installed in the easement area? What must the minimum ground clearance be for a cantilevered deck, if one is installed? U-Haul 12-foot box trucks, popular for relocations and local deliveries are 11 to 12 feet high and in a shortened driveway that could be a problem, so ground clearance must be considered.

There are already issues with the properties on the west side of Logan road that impact the residence on the east side because if a sidewalk is ever built on Logan road it will have to build on the property of the people on east side; and is that fair?

If you give an inch on the first request, the next requestor will want just a little bit more, so please leave the current code in place.

Richard D. Williams

LINCOLN CITY PLANNING COMMISSION

IN THE MATTER OF

Amendment to Chapter 17.17, R-1-RE, concerning) Final Recommendation
Minimum front setback requirement) 2022-09

NATURE OF THE APPLICATION

ZOA 2022-06 AMENDS 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

FINAL RECOMMENDATION

Based on the evidence presented at the public hearing on April 5, 2022, including the staff report, the written comments, and the public testimony, the Planning Commission recommends on a 5-0 vote that the City Council approve a portion of the attached draft ordinance and reject a portion of the attached draft ordinance (draft ordinance with Exhibit A Findings follows).

The applicant's request was to amend Section 17.17.070 to specify that the 100-foot averaging option refers to buildings on the same side of the street as the subject property and to reduce the minimum front setback for cantilevered decks from 20 feet to 15 feet. All written comments and public testimony received, excepting the applicant's testimony, were opposed to the 5-foot front setback reduction for decks. The public did not comment on the clarification regarding the averaging option. The public's comments were against the allowance for reduction of the front yard setback for elevated decks.

The Planning Commission felt that the five foot reduction portion of the request was not in keeping with the historic character of Roads End, thus not meeting the aesthetic goal in the Lincoln City Comprehensive Plan. Additionally, the Planning Commission felt that the goal for citizen involvement was not met because neighborhood meetings were not held. 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.

APPROVED THIS 19th day of April, 2022.


DocuSigned by:

Kim Blackerby

20251BF00F101462...
Kim Blackerby

Planning Commission Chair

ATTEST:

DocuSigned By:

FE146B6FEAE8476

Anne Marie Skinner
Planning & Community Development Director

Council Communication

Ordinance 2022-15 - ZOA 2022-05 -Corrections

Meeting Date: May 9, 2022	Primary Staff Contact: Richard Appicello
Department: City Attorney	E-Mail: RAppicello@lincolncity.org
Secondary Dept: Planning Commission	Secondary Contacts: AnneMarie Skinner
Approval:	Estimated Time: 5 minutes

Question: Should the City Council conduct and approve First and Second Reading of Ordinance 2022-15?

ORDINANCE NO. 2022-15

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), 17.24 (PC), 17.28 (RC), 17.29 (RCC), 17.32 (GC), 17.36 (PI), 17.40 (RR), 17.46 (NR), 17.52 (SUPPLEMENTARY REGULATIONS), 17.64 (NONCONFORMING SITUATIONS), 17.74 (DESIGN STANDARDS), 17.76 (PROCEDURES), 17.77 (APPLICATIONS), 17.80 (PROVISIONS APPLYING TO SPECIAL USES) and 16.08 (PROCEDURE) TO MAKE CORRECTIONS.

Staff Recommendation:

Staff recommends Council conduct and approve First Reading and conduct and approve Second Reading and adopt Ordinance 2022-15.

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 May 9, 2022. If changes are proposed based on public hearing testimony, changes will need to be read or the matter can be continued to a subsequent meeting to make changes.

This ordinance makes various corrections to the Code caused by needed cross-references, omissions and by prior ordinances containing instructions to Code publishing. In some instances, Code Publishing has asked that the City set forth text changes rather than describe changes in ordinance text. In other instances staff has re-worded language for clarity.

Council Options:

1. Conduct and approve First Reading. In unanimous, Conduct and approve Second Reading and adopt the ordinance.
2. Continue First Reading to May 23, 2022.
3. Do not proceed with proposed ordinance.

Potential Motions:

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

ORDINANCE NO. 2022-15

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), 17.24 (PC), 17.28 (RC), 17.29 (RCC), 17.32 (GC), 17.36 (PI), 17.40 (RR), 17.46 (NR), 17.52 (SUPPLEMENTARY REGULATIONS), 17.64 (NONCONFORMING SITUATIONS), 17.74 (DESIGN STANDARDS), 17.76 (PROCEDURES), 17.77 (APPLICATIONS), 17.80 (PROVISIONS APPLYING TO SPECIAL USES) and 16.08 (PROCEDURE) TO MAKE CORRECTIONS.

Council:

Motion to approve First Reading of Ordinance 2022-15.

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

Council:

Motion to approve Second Reading and adopt Ordinance 2022-15.

Attachments:

Findings for City Council ZOA 2022-05 (DOC)
Ordinance 2022-15 5-4-22 (DOC)

EXHIBIT A – FINDINGS

Findings for Ordinance 2022-15

The above-referenced proposed ordinance was properly noticed pursuant to ORS 197.610. The ordinance is primarily housekeeping to correct code errors, no zoning changes were made to properties, and no land uses were removed, so a city-wide notice was not required. Notice to DLCD was made on February 3, 2022.

Ordinance 2022-15 makes corrections to the code.

No written comments were received. Only one individual testified in opposition at the Planning Commission public hearing indicating that the proposed amendment was making significant changes, rather than corrections.

- 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 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 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.

(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 does not relate to housing and does not adversely impact provisions for opportunities to provide housing. This goal 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 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 to aesthetics. This goal 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. 2022-15

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), 17.24 (PC), 17.28 (RC), 17.29 (RCC), 17.32 (GC), 17.36 (PI), 17.40 (RR), 17.42 (P), 17.46 (NR), 17.52 (SUPPLEMENTARY REGULATIONS), 17.64 (NONCONFORMING SITUATIONS), 17.74 (DESIGN STANDARDS), 17.76 (PROCEDURES), 17.77 (APPLICATIONS), 17.80 (PROVISIONS APPLYING TO SPECIAL USES) and TITLE 16 (SUBDIVISIONS), CHAPTER 16.08 (PROCEDURE) TO MAKE CORRECTIONS.

*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

WHEREAS, the proposed amendments are in conformance with the Zoning Ordinance, including, but not limited to, required initiation, processing and noticing requirements; and

WHEREAS, on February 3, 2022, 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); and

WHEREAS, City staff has determined the proposed amendment does not require individual notice to property owners under Measure 56, accordingly no ORS 227.186(4) notice was sent to property owners; and

WHEREAS, the Planning Commission hearing initially scheduled for March 15, 2022 was continued to April 5, 2022. On April 5, 2022, the Planning Commission held a public hearing and considered the amendments contained within this ordinance. On April 19, 2022, the Planning Commission voted to transmit the amendments to the City Council with a recommendation that the ordinance be adopted; and

WHEREAS, the City Council held a public hearing on May 9, 2022. On May 9, 2022, Council closed the record and deliberated on the proposed amendments. All persons were given an opportunity to provide written and/or oral testimony on the proposed ordinance. After deliberation, Council provided direction that an ordinance be returned for required readings.

THE CITY OF LINCOLN CITY ORDAINS AS FOLLOWS:

SECTION 1. Chapter 17.04 (*General Provisions*), Section 17.04.030 (*Compliance*) is hereby amended, as follows:

17.04.030 Compliance.

Except as provided in Chapter 17.64 LCMC, no building or other structure shall be constructed, improved, altered, enlarged or moved, nor shall any use or occupancy of premises within the city be changed, nor shall any condition of or upon real property be caused or maintained, after the effective date of the ordinance codified in this title, except in conformity with conditions prescribed for each of the several zones established hereunder.

It is unlawful for any person to erect, construct, establish, move into, alter, enlarge, use, or cause to be used, any building, structure, improvement or use of premises located in any zone described in this title contrary to the provisions of 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.

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 inserted into, or amending, the existing alphabetical list of definitions, as follows:

17.08.010 Definitions.

“Buildable area” means the area of a property outside of the natural resource overlay zone and all required setback areas.

“Building height” means see LCMC Sections 17.52.190 and 17.52.200. means the vertical distance from the average of the finished ground level at the center of all walls of the building to the highest point of the roof, exclusive of chimneys. (The City Charter of Lincoln City, Oregon, Section 5a(b), January 19, 1971.)

“City” means the city of Lincoln City, Oregon.

“Common open space” means an area improved for active or passive recreational uses or gardening that all property owners in a development own and maintain in common through a homeowners’ association, condominium association, or similar mechanism.

“Cottage” means a detached single-unit dwelling that is part of a cottage housing development and that contains 1,000 square feet or less of gross floor area.

“Cottage cluster” means a group of four to 12 cottages, arranged around a common open space.

“Cottage housing development” means cottage clusters developed under a single land development plan, or as a part of another land development plan.

“Four-flat dwelling” means a structure designed to resemble a single-unit dwelling, but that contains four individual dwelling units and appears to have no more than two (with at least one of the two entrances located in the front of the structure) exterior entrances opening onto a common hallway(s) providing access to the four individual units within the structure.

“Goal 17 planning area” means all lands west of Highway 101, all lands within 500 feet of the ordinary high water mark of Devils Lake or Spring Lake, and all lands within 1,000 feet of the mean higher high water elevation of the Schooner Creek, Drift Creek, and Siletz Bay estuaries.

Grade, Ground Level. “Ground level grade” means the average of the finished ground level at the center of all walls of a building. Where the walls are parallel to and within five feet of a sidewalk, the ground level shall be measured at the sidewalk.

“Gross floor area” means the area within the exterior walls, but excluding any space where the floor to ceiling height is less than six feet.

“Hotel” means a facility offering ~~transient~~ lodging accommodations for compensation **for temporary occupants and which may or may not include additional facilities and services, such as restaurants, meeting rooms, entertainment, personal services, and recreational facilities., ~~and where no cooking facilities are provided in any lodging rooms or suites.~~**

“Impervious surface/area” means any surface that does not allow for the infiltration of water directly into the underlying earth. Types of impervious surfaces include rooftops and eaves, asphalt and concrete parking lots other than those surfaced with pervious materials, driveways, roads, sidewalks and pedestrian plazas, and standing water. Note: Uncovered, slatted decks are considered pervious. Gravel surfaces are considered pervious unless they cover impervious surfaces. ~~or are compacted.~~

“Mini warehouse” See Self-storage facility.

“Mobile food pod” means more than one singular mobile food unit located on the same lot or parcel.

“Mobile food unit” means a wheeled mobile unit that meets state, county, and Department of Motor Vehicles requirements for licensing, registration, and operation as a unit utilized to provide commercial food preparation and serving to the general public. Food may be prepared or processed on the unit, and said prepared or processed food is sold and dispensed to the ultimate consumer from the unit.

“Multi-unit dwelling” means a structure containing three or more dwelling units, where the land underneath the structure is not divided into separate lots or parcels.

“Native riparian vegetation” means plants historically found in wet and streamside areas of the Pacific Northwest. “Flora of the Pacific Northwest” (1973) by Hitchcock and Cronquist is a primary reference for native plant determinations.

“Natural resource overlay zone” means the overlay zone comprising the land that is shown as significant natural resources on the adopted significant natural resources maps in the comprehensive plan.

“Ordinary high water mark” means a line delineating the highest water level that has been maintained for a sufficient period of time to leave evidence upon the landscape, such as a clean, natural line impressed upon the bank, shelving, changes in the character of the soil, change from predominantly aquatic to predominantly terrestrial vegetation, or the presence of organic litter or debris.

“Planned unit-development” means a development in which the applicable subdivision and zoning restrictions apply to the development as a whole rather than to each individual lot. ~~Under this procedure, detailed project plans must be approved by the planning commission.~~

“Planning Commission” means the city of Lincoln City Planning Commission.

“Qualified professional” means an individual who has proven expertise and experience in a given natural resource field.

“Responsible party” means the property owner and any party acting on behalf of or for the benefit of the property owner including construction contractors and subcontractors.

“Riparian area” means the area adjacent to a river, lake, or stream, consisting of the area of transition from an aquatic ecosystem to a terrestrial ecosystem.

“Riparian area, significant” means a riparian area that is shown as significant on the adopted significant natural resources maps in the comprehensive plan.

“Significant natural resource” means wetlands, riparian areas, and wildlife areas shown on the adopted significant natural resources maps in the comprehensive plan.

“Stream” means a channel such as a river or creek that carries flowing surface water, including perennial streams and intermitten streams with defined channels, and excluding artificial irrigation and drainage channels.
“Self-storage facility” means a building or group of buildings containing separate, individual, and private storage spaces of varying sizes available for lease or rent for varying periods of time; mini-warehouse.

“Tiny house” means a standalone dwelling with a floor area of 400 square feet or less, excluding lofts. “Tiny house” does not mean a trailer, residential trailer, or a recreational vehicle.

“Tiny house development” means a site designed to contain at least three tiny houses and designed and operated under a single land development plan, or as part of another land development plan such as a planned development or a cottage cluster development.

“Undeveloped Lot(s) or Parcel(s). A lot or parcel is undeveloped unless: (1) lawful business operations are conducted on the lot in good faith; and (2) the lot either contains development that has been approved through **development site-plan** review pursuant to city code or contains development that would not have been required to go through **development site-plan**-review if **development site-plan** review, or its equivalent, had existed at the time the development occurred.

“Usable open space” means an area in a multi-unit residential development that is improved for active or passive recreational use and/or relaxation for the use of tenants or their guests.

“Visitor Information Center” means an establishment primarily engaged in marketing and distributing information on community resources and facilities to businesses and leisure travelers through a range of activities, including but not limited to assisting organizations in locating meeting and convention sites; providing maps and travel information on area attractions, events, indoor and outdoor recreational opportunities, lodging accommodations, restaurants, and available group tours of local historical, recreational, and cultural attractions.

“Water area” means the area between the banks of a lake, pond, river, perennial or fish-bearing intermittent stream, excluding artificial farm ponds.

“Water-dependent use” means a use or activity which can be carried out only on, in, or adjacent to water areas because the use requires access to the water body for waterborne transportation, recreation, or energy production, or as a source of water.

“Wetland” means an area that is inundated or saturated by surface water or groundwater at a frequency and duration to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

“Wetland, significant” means a wetland shown on the adopted significant resources maps in the comprehensive plan.

“Wildlife area” means an area upon which wildlife depend in order to meet their requirements for food, water, shelter, and reproduction. Examples include wildlife migration corridors, big game winter range, and nesting and roosting sites.

“Wildlife area, significant” means a wildlife area shown on the adopted significant natural resources maps in the comprehensive plan. Where a significant wildlife area includes a significant riparian area, the extent of the significant wildlife area is the same as the extent of the significant riparian area.

SECTION 3. Chapter 17.16 (*Single **Family Unit** Residential (R-1) Zone*), Section 17.16.020 (*Permitted Uses*), Paragraph A, (Residential), Numbered Paragraph 2, is hereby amended, as follows:

2. Attached single-family unit dwellings; if attached to no more than one other single-family dwelling;

SECTION 4. Chapter 17.16 (*Single **Family Unit** Residential (R-1) Zone*), Section 17.16.020 (*Permitted Uses*), Paragraph A, (Residential), Numbered Paragraph 9, is hereby amended, as follows:

9 Attached single-unit dwellings developments, subject to the provisions of LCMC 17.20.050;

SECTION 5. Chapter 17.16 (*Single **Family Unit** Residential (R-1) Zone*), Section 17.16.070 (*Lot Requirements*), is hereby amended, as follows:

17.16.070 Lot requirements.

The map designations R-1-5, R-1-7.5 and R-1-10 create separate single-unit family residential zoning classifications as though separately listed in LCMC 17.12.010. Lot requirements for the zoning classifications designated on the zoning map shall be as follows:

REQUIRED MINIMUMS								
Zone	Lot Area	Lot Width	Lot Depth	Front <u>Setback Yard</u> ⁽³⁾	Side <u>Setback Yard</u>	Street Side <u>Setback Yard</u> ⁽³⁾	Rear <u>Setback Yard</u>	Maximum <u>Lot Building Coverage</u> ⁽⁵⁾
R-1-5	5,000 sq. ft.;	50' detached; 35' attached	70'	5 ^{'(1)} 7-1/2 ^{'(2)}	5 ^{'(1)} 7-1/2 ^{'(2)} or 0' for common wall of attached dwellings	5 ^{'(1)} 7-1/2 ^{'(2)}	5 ^{'(1)} 7-1/2 ^{'(2)}	35% ⁽⁴⁾
R-1-7.5	7,500 sq. ft.;	70' detached; 35' attached	80'	same as above				35% ⁽⁴⁾
R-1-10	10,000 sq. ft.	80'	80'	same as above				35% ⁽⁴⁾

- (1) For one-story structures.
- (2) For structures more than one story.
- (3) The front and street side **setbacks yards** 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. On corner lots, the clear-vision area requirement of LCMC 17.52.060 and 17.52.070 shall apply.
- (4) For existing lots between 3,000 sq. ft. and 4,000 sq. ft., maximum **lot building coverage** shall be 40 percent. For existing lots less than 3,000 sq. ft., maximum **lot building coverage** shall be 50 percent.
- (5) **See definition of Building Coverage in Chapter 17.08 LCMC. Includes accessory buildings (garages and outbuildings).**

SECTION 6. Chapter 17.16 (*Single **Family Unit** 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 family dwellings (site-built, modular and manufactured homes) to be constructed or located in ~~residential zones shall an R-1- zone are~~ **encouraged to** use at least two of the following design features to provide visual relief along the front of the dwelling 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 7. Chapter 17.17 (*Single **Unit Family** Residential, Roads End (R-1-RE) Zone*), Section 17.17.050 (*Restrictions*), Paragraph C, is hereby amended, as follows:

C. Fencing may not exceed three and one-half feet in height in a required front setback area yard or required street side setback area side yard, or more than six feet in any other required setback area; yard;

SECTION 8. Chapter 17.17 (*Single **Unit Family** Residential, Roads End (R-1-RE) Zone*), Section 17.17.070 (*Lot requirements*), is hereby amended, as follows:

17.17.070 Lot requirements.

Lot requirements shall be 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 which the proposed building is to be located and that abut Logan Road.
- E. The minimum interior side yard setback shall be seven and one-half feet for single-story buildings and 10 feet for buildings with more than one story.
- F. The minimum street side yard setback 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.

G. On corner lots, the clear-vision area requirement of LCMC 17.52.060 and 17.52.070 shall apply.

H. The minimum rear **yard setback** shall be seven and one-half feet for single-story buildings and 10 feet for buildings with more than one story. In no case shall the distance between residential structures on the same lot or on adjacent lots be less than 10 feet.

SECTION 9. Chapter 17.18 (*Vacation Rental (VR) Zone*), Section 17.18.020 (*Permitted uses*), Paragraph B, is hereby amended, as follows:

B. Attached single-unit dwellings or attached single-unit dwellings developments ~~Attached single-family dwellings~~ when developed in accordance with the **attached single-unit dwellings or attached single-unit dwellings developments** standards, **respectively**, specified in LCMC ~~17.52.260; 17.20.050;~~

SECTION 10. Chapter 17.18 (*Vacation Rental (VR) Zone*), Section 17.18.070 (*Lot/yard other requirements*), is hereby amended, as follows:

17.18.070 Lot/yard setback other requirements.

The minimum requirements for the VR district shall be as follows:

REQUIRED MINIMUMS								
Zone	Lot Area	Lot Width	Lot Depth	Front Setback Yard ⁽³⁾	Side Setback Yard	Street Side Setback Yard ⁽³⁾	Rear Setback Yard	Maximum Building Lot Coverage ⁽⁵⁾
VR	5,000 sq. ft.;	50' detached; 35' attached	70'	5 ^{'(1)} 7-1/2 ^{'(2)}	5 ^{'(1)} 7-1/2 ^{'(2)} or 0' for common wall of attached dwellings	5 ^{'(1)} 7-1/2 ^{'(2)}	5 ^{'(1)} 7-1/2 ^{'(2)}	35% ⁽⁴⁾

- (1) For one-story structures.
- (2) For structures more than one story.
- (3) The front and street side **setbacks yards** 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. On corner lots, the clear-vision area requirement of LCMC 17.52.060 shall apply.

(4) For existing lots between 3,000 sq. ft. and 4,000 sq. ft. maximum **building lot** coverage shall be 40 percent. For existing lots less than 3,000 sq. ft., maximum **building lot** coverage shall be 50 percent.

(5) **See definition of Building Coverage in Chapter 17.08 LCMC. Includes accessory buildings (garages and outbuildings).**

SECTION 11. Chapter 17.24 (*Professional Campus (PC) Zone*), Section 17.24.050 (*Setback requirements*), is hereby amended, as follows:

17.24.050 Setback requirements.

A. Front **Setback Yard**. The minimum front **setback yard** shall be 20 feet.

B. Side, **Street Side**, and Rear **Setback Yard**. The minimum side and rear **setback yard** shall be at least five feet., ~~except that t~~The street side **setback yard** shall be a minimum of 15 feet. The side, **street side**, and rear **setbacks yards** shall be increased by one-half foot for each foot by which the building height exceeds 15 feet.

C. For **special additional** setback requirements, see Chapter 17.52 LCMC, Supplementary Regulations and Exceptions.

SECTION 12. Chapter 17.24 (*Professional Campus (PC) Zone*), Section 17.24.090 (*Other required conditions*), is hereby amended, as follows:

~~**A. Landscaping. Landscaping shall be provided in accordance with LCMC 17.52.100.**~~

~~**A. B.-Restrictions.**~~ No development shall occur in the PC zone unless all city services (sewer and water) are available to serve such development.

SECTION 13. Chapter 17.28 (*Recreation-Commercial (RC) Zone*), Section 17.28.020 (*Permitted uses*), Paragraph H, is hereby amended, as follows:

~~**H. Attached single-unit dwellings or attached single-unit dwellings developments Attached single-family dwellings**~~ when developed in accordance with the **attached single-unit dwellings or attached single-unit dwellings developments** standards, **respectively**, specified in LCMC ~~**17.52.260; 17.20.050;**~~

SECTION 14. Chapter 17.28 (*Recreation-Commercial (RC) Zone*), Section 17.28.050 (*Setback requirements*), Paragraphs A and B, are hereby amended, as follows:

A. Front **Setback Yards**. The minimum front **setback yard** shall be five feet.

B. Side, **Street Side**, and Rear **Setback Yard**. The minimum side and rear **yard setback** shall be at least five feet., ~~except that the~~ The street side **yard setback** shall be a minimum of five feet. The side, **street side**, and rear **setbacks yard** shall be increased by one-half foot for each foot by which the building height exceeds 15 feet.

C. For special setback requirements, see Chapter 17.52 LCMC, Supplementary Regulations and Exceptions.

SECTION 15. Chapter 17.29 (*Resort Community Commercial (RCC) Zone*), Section 17.29.040 (*Standards applicable to all uses in the RCC district.*), Paragraph C and Paragraph E, are hereby amended, as follows:

C. Front **setback yard**. The required front **setback yard** shall be negotiable.

E. Landscaping shall generally comply with LCMC ~~17.52.100~~ **17.55**, except that landscaping requirements may be varied when agreed to in the development agreement.

SECTION 16. Chapter 17.29 (*Resort Community Commercial (RCC) Zone*), Section 17.29.080 (*Specific authorization for phased commercial development.*), is hereby amended, as follows:

17.29.080 Specific authorization for phased commercial development.
Notwithstanding any other provision of this title, a statutory development agreement implementing the RCC zone may authorize the use of a multi-phase commercial preliminary master plan. The multi-phase commercial preliminary master plan may include multiple discrete phases identified in an associated timetable of development and consistent with the time limitations established in the negotiated statutory development agreement. Multi-phase commercial preliminary and final master plans are approved through the **development review process.** ~~site plan design review process.~~

SECTION 17. Chapter 17.32 (*General Commercial (GC) Zone*), Section 17.32.020 (*Uses permitted*), Paragraph O, is hereby amended, as follows:

O. Mini-warehouses, if existing on or if **development review approval site plan approval**

SECTION 18. Chapter 17.32 (*General Commercial (GC) Zone*), Section 17.32.050 (*Setback requirements*), is hereby amended, as follows:

17.32.050 Setback requirements.

A. Front **Setback. Yard.** None, except when the front **property line yard** is abutting or across the street from a **property parcel** in a residential zone and

then the front **setback yard** shall be ~~that the front yard~~ required in the contiguous residential zone. However, the provisions of LCMC 17.52.060 and 17.52.070 shall apply.

B. Side, Street Side and Rear **Setback. Yard**. None, except when the side, street side or rear **property line yard** is abutting or across the street from a **property parcel** in a residential zone, and then the side, street side or rear **setback yard** shall be a minimum of 10 feet. The required side, street side or rear **setback yard** shall be increased by one-half foot for each foot by which the building height exceeds 15 feet. However, the provisions of LCMC 17.52.060 and 17.52.070 shall apply.

SECTION 19. Chapter 17.32 (*General Commercial (GC) Zone*), Section 17.32.110 (*Other required conditions*), Paragraph B, (*Outdoor Sales Displays*) is hereby amended, as follows:

B. Outdoor Sales Displays. Outdoor sales displays are allowed, but shall not be located in any **setback area yard**, landscaped area, or off-street parking or loading area which is required by this title.

SECTION 20. Chapter 17.36 (*Planned Industrial (PI) Zone*), Section 17.36.040 (*Setback requirements*), Paragraphs A and B, are hereby amended, as follows:

- A. Front **Setback Yard**. The minimum front **setback yard** shall be five feet.
- B. Side, Street Side and Rear **Setback. Yard**. The minimum side, street side and rear **setback yard** shall be at least five feet. The side and rear yard shall be increased by one-half foot for each foot by which the building height exceeds 15 feet.
- C. For **special additional** setback requirements, see Chapter 17.52 LCMC, Supplementary Regulations and Exceptions.

SECTION 21. Chapter 17.36 (*Planned Industrial (PI) Zone*), Section 17.36.080 (*Other required conditions*), is hereby amended, as follows:

17.36.080 Other required conditions.

B. All operations, activities and storage may be maintained outside a building in a side or rear **setback yard**; provided, that such storage is separated from all **rights-of-way public streets** and other property by a sight-obscuring fence, wall or vegetative hedge at least six feet in height.

SECTION 22. Chapter 17.40 (*Recreation Residential (R-R) Zone*), Section 17.40.020 (*Permitted uses*), is hereby amended, as follows:

- A. Single-**unit family**-dwelling;
- B. Manufactured home, **subject to the provisions of LCMC 17.52.250;**

SECTION 23. Chapter 17.40 (*Recreation Residential (R-R) Zone*), Section 17.4.050 (*Restrictions*), is hereby amended, as follows:

No development shall occur unless all city services (**sewer and water**) are available **to serve such development.** ~~however, existing lots of record, which do not front on a public sewer line but which will be connected to a public water line, may be developed 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.~~

SECTION 24. Chapter 17.40 (*Recreation Residential (R-R) Zone*), Section 17.40.060 (*Standards*), is hereby amended, as follows:

In an R-R zone, the following standards shall apply:

- A. Front **Setback. The minimum front setback shall be 10 feet.** ~~Yard. There shall be a front yard having a minimum depth of 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.** ~~Yard. There shall be side yards having a minimum width of five feet. For structures greater than one story in height, there shall be side yards of seven and one-half feet.~~
- C. Rear **Setback. The minimum rear setback shall be five feet.** ~~Yard. There shall be a rear yard with a minimum depth of five feet.~~

I. Landscaping shall be provided in accordance with Chapter 17.55 LCMC.

J. Recreational vehicles shall be placed on a concrete or asphaltic concrete pad or a maintained crushed rock surface (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.

K. Manufactured homes and recreational vehicles sited on individual lots shall comply with the following requirements:

- 1. All manufactured homes shall be skirted or placed on foundations.**
- 2. The manufactured home shall be provided with gutters and down spouts to direct surface water into storm drains or as approved by the planning director or designee.**
- 3. If the manufactured home is removed from its foundation, the owner of the property shall agree in writing to remove the foundation and all additions to the manufactured home and to permanently disconnect and secure all utilities. This agreement authorizes the jurisdiction to perform the**

~~work and place a lien against the property for the cost of the work in the event the owner fails to accomplish the work within 30 days from the date the manufactured home is removed from its foundation. This condition shall not apply in the event that the manufactured home is replaced on the original foundation, or the original foundation as modified, by another approved manufactured home within 90 days of the removal of the original manufactured home.~~

~~4. Landscaping shall be provided in accordance with Chapter 17.55 LCMC.~~

~~5. Manufactured homes and recreational vehicles shall be placed on concrete or asphaltic concrete pad or maintained crushed rock surface (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 25. Chapter 17.42 (*Park (P) Zone*), Section 17.42.020 (*Permitted uses*), is hereby amended to amend Paragraph H and add a new Paragraph N as follows:

H. Public parking and/or surface parking lots for park, open space, and/or public trail use;

N. Visitor Information Center.

SECTION 26. Chapter 17.46 (*Natural Resource Overlay (NR) Zone*), Section 17.46.010 (*Purpose*), is hereby amended as follows:

The purpose of the natural resources overlay zone **(NR)** is to conserve, protect, where appropriate develop, and where appropriate restore the resources and benefits of ~~coastal shorelands,~~ natural resources, ~~and scenic areas,~~ recognizing their value for protection and maintenance of water quality, fish and wildlife habitat, water-dependent uses, economic resources, recreation, and aesthetics.

SECTION 27. Chapter 17.46 (*Natural Resource Overlay (NR) Zone*), Section 17.46.020 (*Definitions*) is hereby deleted as follows:

~~“Buildable area” means the area of a lot or parcel exclusive of all applicable setbacks or areas within restrictive overlay zones.~~

~~“Goal 17 planning area” means all lands west of the Oregon Coast Highway (Highway 101), all lands within 500 feet of the ordinary high water mark of Devils Lake or Spring Lake, and all lands within 1,000 feet of the mean higher high water elevation of the Schooner Creek, Drift Creek, and Siletz Bay estuaries.~~

~~“Native riparian vegetation” means plants historically found in wet and streamside areas of the Pacific Northwest. “Flora of the Pacific Northwest” (1973) by Hitchcock and Cronquist is a primary reference for native plant determinations.~~

~~“Ordinary high water mark” means a line delineating the highest water level that has been maintained for a sufficient period of time to leave evidence upon the landscape, such as a clear, natural line impressed upon the bank, shelving, changes in the character of the soil, change from predominantly aquatic to predominantly terrestrial vegetation, or the presence of organic litter or debris.~~

~~“Qualified professional” means an individual who has proven expertise and experience in a given natural resource field. A qualified professional conducting a wetland delineation must have the delineation approved by the Oregon Division of State Lands.~~

~~“Responsible party” means the property owner and any party acting on behalf of or for the benefit of the property owner including construction contractors and subcontractors.~~

~~“Riparian areas” means the area adjacent to a river, lake, or stream, consisting of the area of transition from an aquatic ecosystem to a terrestrial ecosystem.~~

~~“Riparian area, significant” means a riparian area that is shown as significant on the significant natural resources maps in the comprehensive plan.~~

~~“Significant natural resource” means wetlands, riparian areas, and wildlife areas within the urban growth boundary and shown on the significant natural resources maps in the comprehensive plan.~~

~~“Stream” means a channel such as a river or creek that carries flowing surface water, including perennial streams and intermittent streams with defined channels, and excluding artificial irrigation and drainage channels.~~

~~“Water area” means the area between the banks of a lake, pond, river, perennial or fish-bearing intermittent stream, excluding artificial farm ponds.~~

~~“Water dependent use” means a use or activity which can be carried out only on, in, or adjacent to water areas because the use requires access to the water body for waterborne transportation, recreation, or energy production, or as a source of water.~~

~~“Water-oriented use” means a use whose attraction to the public is enhanced by a view of or access to coastal waters.~~

~~“Water-related use” means a use which is not a water-dependent use, but which provides goods or services that are directly associated with a water-dependent use or waterway use, and which if not located adjacent to water, would result in a loss of quality in the goods or services offered, affecting a significant proportion of the public.~~

~~“Wetland” means an area that is inundated or saturated by surface water or groundwater at a frequency and duration to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands are mapped in the city’s local Wetland Inventory (January 12, 1996).~~

~~“Wetland, significant” means a wetland shown on the significant resources maps in the comprehensive plan.~~

~~“Wildlife area” means an area upon which wildlife depend in order to meet their requirements for food, water, shelter, and reproduction. Examples include wildlife migration corridors, big game winter range, and nesting and roosting sites.~~

~~“Wildlife area, significant” means a wildlife area shown on the significant natural resources maps in the comprehensive plan. Where a significant wildlife area includes a significant riparian area, the extent of the significant wildlife area is the same as the extent of the significant riparian area.~~

SECTION 28. Chapter 17.46 (*Natural Resource Overlay (NR) Zone*), Section 17.46.030 (*Application*), is hereby amended as follows:

- ~~A. The natural resource overlay zone consists of the land identified in the city comprehensive plan as “significant natural resource areas,” including significant riparian areas, significant wetlands, and significant wildlife areas.~~
- B. A.** These provisions of Chapter 17.46 LCMC are to be applied in conjunction with the provisions of the underlying zone. Where the provisions of the natural resource NR overlay zone conflict with those of the underlying zone, the more restrictive provisions must be applied.
- C. B.**-Limitation on Extent of Significant Riparian Areas. The significant riparian area extends a certain distance upland from the ordinary high water mark and includes everything within the area between the ordinary high water mark and the upper edge of the significant riparian area, to a maximum distance of 50 feet. If the area of transition extends less than 50 feet from the ordinary high water mark, then the significant riparian area will be less than 50 feet in width. The significant riparian area may be more than 50 feet if the significant riparian area is

adjacent to a significant wetland **or wetland**, in which case the maximum 50-foot distance is to be measured from the upland edge of the wetland **or significant wetland**. If it is necessary, for purposes of an application, to determine the extent of a significant riparian area, the property owner is responsible for having a qualified professional conduct a delineation to determine the **riparian area or** significant riparian area boundaries.

SECTION 29. Chapter 17.46 (*Natural Resource Overlay (NR) Zone*), Section 17.46.040 (*Uses allowed*), is hereby amended to amend Paragraph B as follows:

B. In the Natural Resource Overlay Zone. All development is excluded from the natural resource overlay zone, with the following exceptions:

1. ~~Structures and uses Development~~ for which **a natural resources development variance has been obtained through the provisions of LCMC 17.77.112. the natural resource exclusion has been reduced through the provisions of LCMC 17.46.060.**

2. Development that will occur on a portion or portions of the property that are in the natural resource overlay zone but that do not contain any wetlands, riparian areas, or wildlife areas, as proven in a current (within six months of submitting a natural resources development review application) delineation report as follows:

a. Within six months prior to submitting a natural resources development review application, the entire site must be studied and included in a delineation report prepared by a qualified professional. All wetlands, riparian areas, and wildlife areas on the property must be identified in the report with locations and boundaries mapped. The delineation report must be submitted to Oregon Department of State Lands, and a valid concurrence from Oregon Department of State Lands must accompany the natural resources development review application.

b. The qualified professional shall recommend a buffer as part of the delineation report and compliance with the buffer shall be required as part of the natural resources development review.

2.3. The following uses are allowed outright:

a. Uses not involving a structure and which do not impede **native riparian** vegetation growth, result in removal of **native riparian** vegetation, alter hydrology, introduce sediment, lead to erosion, or involve ground disturbance or impervious surfaces.

b. Mowing of lawns existing on the effective date of the ordinance codified in this chapter (but not expansion of lawns into significant natural resources), and other cutting necessary for hazard prevention.

c. Pedestrian footbridge, provided installation and maintenance do not disturb the natural resource function and do not involve removal of riparian vegetation, require development below the ordinary high water mark, or result in sedimentation or erosion.

d. Riparian restoration activities limited to the planting of native riparian vegetation and the removal of non-native understory species. Removal of non-native understory species must be accompanied by replanting with native riparian vegetation or maintenance of remaining vegetation such that bare soil is not exposed and non-native species are not allowed to establish themselves.

e. Trimming and pruning of ~~willows and similar~~ vegetation in a way that does not reduce the survivability or root strength of the vegetation.

3. 4. The following uses are allowed subject to compliance with the following activity standards. Failure to comply with the activity standards may result in fines and mandatory mitigation requirements.

a. Activity Standards.

i. For in-water work the responsible party must follow the Oregon Department of Fish and Wildlife guidelines for in-water work.

ii. The responsible party may not remove native vegetation except for that in the space occupied by the use.

iii. Within six months of vegetation removal, the responsible party must replant areas from which vegetation is removed with native vegetation at densities at least equaling those of the removed vegetation, unless vegetation would not allow the use to function.

iv. The responsible party must keep sediment from entering the water area.

v. The responsible party must obtain all required federal and state permits (e.g., U.S. Army Corps of Engineers permit, Oregon Water Resources Department permit, Division of State Lands fill/removal permit).

b. Uses.

i. Replacement drainage facilities, utility facilities, domestic and irrigation water pumps, and minor facilities authorized by the Oregon Water Resources Department (such as stream gauges).

ii. Vegetation removal for maintenance of existing bridges, roads, clear-vision areas as described in LCMC [17.52.060](#), drainage facilities, domestic or irrigation pumps, utility facilities, and facilities approved

by the Oregon Water Resources Department; provided, that trees are not trimmed in a manner that causes them to die (unless complete removal of the tree is necessary to avoid imminent hazard to the use).

iii. Replacement of a stream crossing (bridge or culvert) or expansion of an existing land transportation facility within an existing right-of-way, provided all applicable Oregon Department of Fish and Wildlife fish passage guidelines are followed.

iv. Dock or moorage.

v. Water-dependent uses, where permitted in the underlying zone.

SECTION 30. Chapter 17.46 (*Natural Resource Overlay (NR) Zone*), Section 17.46.050 (*Natural resources development review*) is hereby amended, as follows:

17.46.050 Natural resources development review.

A. A property owner must apply for a natural resources development (~~NRD~~) review prior to the commencement of any development on property within the natural resource NR overlay zone. ~~For purposes of this section, "development" means any construction, alteration of landforms, or removal of vegetation.~~ If the NR natural resource overlay zone applies to a portion of a parcel, an NRD a natural resources development review is required only for that portion of a development located inside the natural resource NR overlay zone. If the natural resource overlay zone applies to a portion of a parcel and no development is proposed within the natural resource overlay zone, then a natural resources development review is not required. No development may take place until the director completes the NRD review and authorizes the development. No development within the natural resource overlay zone may occur until the natural resources development review has been approved.

~~B. The director will review all reports submitted, including but not limited to delineations and environmental reviews, to determine if the development complies with the requirements of this chapter. Within 10 days of the filing of the reports, the director must prepare a written statement with findings authorizing, denying, or conditionally approving the development. Findings must be consistent with the provisions of this chapter, the comprehensive plan and statewide planning goals.~~

~~C. The written statement of the director must be published in the next available edition of the newspaper. Notices of the action must be mailed to all property owners within 250 feet of the exterior boundary of the property where the development is to take place. Required notices must be mailed by regular first class mail and must be postmarked no later than the date of publication in the newspaper. The director also must mail a notice of the action to the following public agencies, as appropriate: the Oregon Department of Fish and Wildlife, Oregon Division of State Lands, Oregon~~

~~Department of Land Conservation and Development, U.S. Fish and Wildlife Service, Environmental Protection Agency, and U.S. Army Corps of Engineers.~~

~~D. All permit applications for development on parcels located within or adjacent to the NR overlay zone must identify the location of each significant natural resource area on the site plan. The director must review all development permit applications to verify compliance with the requirements of the NR overlay zone. Development permit applications not in compliance with the requirements of the NR overlay zone must be denied.~~

~~E. Emergency Waivers. The director may waive the NRD review if he or she determines that there is an immediate threat to life or property. Emergency waivers must be conditioned on the property owner applying for NRD review for all work performed under the emergency authorization within five days of issuance of the waiver. Emergency waivers must be further conditioned on the property owner, if the application for NRD review is not approved, restoring the site to its original condition within 30 days of final action on the NRD review. Waivers must be in writing and a record of waivers must be kept on file at the department.~~

SECTION 31. Chapter 17.46 (*Natural Resource Overlay (NR) Zone*), Section 17.46.060 (*Natural resources development variance*), is hereby amended, as follows:

- A.** A natural resources development variance must be granted per the provisions of LCMC 17.77.112 Chapter 17.68 LCMC for all permitted uses not specified in LCMC 17.46.040, prior to any development occurring within the natural resource overlay zone. ~~The planning commission must determine that the variance request meets all the following criteria in addition to those found in LCMC 17.68.020:~~
- ~~1. Strict adherence to the natural resource overlay zone standards would effectively preclude a use of the lot or parcel that reasonably could be expected to occur in the zone, and the the property owner would be precluded a substantial property right enjoyed by the majority of the landowners in the vicinity; and~~
 - ~~2. The variance requested, of the possible variances necessary to create a buildable area outside of the natural resource overlay zone, has the least impact to the natural resource functions; and~~
 - ~~3. The proposed development, including actions to mitigate impacts to natural resource functions, can be accommodated without substantial negative impact to the applicable natural resource functions.~~
- B.** ~~Development Guidelines. Variances for proposed development within the natural resource overlay zone will be considered only when the following development guidelines are met:~~

- ~~1. The yard setback opposite the natural resource area may be reduced by up to one-half of the standard setback, but not to less than three feet.~~
- ~~2. The allowed reduction must be the minimum necessary to site the proposed use. At most, exclusions may be reduced to create a buildable area of no more than 1,750 square feet.~~

SECTION 32. Chapter 17.46 (*Natural Resource Overlay (NR) Zone*), Section 17.46.090 (*Claims of map error*), is hereby deleted, as follows:

~~A responsible party may request to be excused from compliance with the requirements of this chapter if the proposed development area was mapped as a significant natural resource in error. If the request is approved, then the significant natural resources map will be amended to remove the proposed development area from the map. In the case of wetlands, the claim of map error must be confirmed by the Oregon Division of State Lands.~~

SECTION 33. Chapter 17.46 (*Natural Resource Overlay (NR) Zone*), Section 17.46.100 (*Plan amendment option (ESEE)*), is hereby amended, as follows:

17.46.100 Plan amendment option (ESEE).

Any owner of property on which development otherwise would be limited by the natural resource overlay zone may apply for a **quasi-judicial Type III** comprehensive plan **map** amendment. The amendment must be based on a specific development proposal. The effect of the amendment would be to remove the **mapped** natural resource overlay zone from all or a portion of the property. The applicant must demonstrate that an amendment is justified by completing an environmental, social, economic, and energy (ESEE) consequences analysis in accordance with Oregon Department of Land Conservation and Development administrative rules (OAR 660-23-040). If the application is approved, then the ESEE analysis will be incorporated by reference into the city comprehensive plan and the significant natural resources map will be amended to remove the significant natural resource **and the natural resource** overlay zone from the **map and** inventory. If the application is approved, the city at its discretion may impose conditions on any resulting development approval in order to ensure that the development is consistent with the ESEE analysis. The ESEE analysis must comply with the following requirements:

- A. The ESEE analysis must demonstrate that the adverse economic consequences of not allowing the conflicting use are sufficient to justify the loss, or partial loss, of the resource.
- B. The ESEE analysis must demonstrate why the use cannot be located on buildable land outside of the significant natural resource and that no other sites within the city can meet the specific needs of the proposed use.

C. For resources located within the Goal 17 planning area, in addition to the above requirements, the ESEE analysis also must address the Goal 2 exception process as set out in OAR Chapter 660, Division 004.

SECTION 34. Chapter 17.52 (*Supplementary Regulations and Exceptions*), Section 17.52.100 (*Landscaping*), is hereby deleted, as follows:

Chapter 17.52

SUPPLEMENTARY REGULATIONS AND EXCEPTIONS

Sections:

17.52.100 ~~**Landscaping—*Repealed.***~~

~~**17.52.100—Landscaping.**~~

~~**A. Purpose.** Landscaping is important to the community for its aesthetic value and environmental benefits, such as controlling erosion and functioning as part of the natural hydrologic cycle. By requiring landscaping for all new development and substantial improvements, the aim of this section is to maximize both benefits. Landscaping for each new development shall satisfy the following requirements.~~

~~**B. Applicability.** Landscaping requirements in this section apply to:~~

- ~~1. Newly developed lots.~~
- ~~2. Previously developed lots whenever improved by 50 percent or more of the assessed value of the existing improvements.~~

~~**C. Landscape Plan.** A landscape plan shall be submitted with any building permit for new construction, as applicable under this section.~~

~~1. Single-Family Residences and Duplexes.~~

~~a. Preliminary Landscape Plan.~~ The plan shall be drawn to scale and shall include the location of buildings, impervious surfaces, and pervious surfaces. Approved plans shall indicate the amount of minimum planted area required.

~~b. Final Landscape Plan.~~ Prior to a request for final inspection, a final landscape/site plan shall be submitted and shall indicate the following:

- ~~i. The location and number of proposed plantings. Materials in the plan shall not be installed until the plan has been approved.~~
- ~~ii. The degree and direction of finished slopes of all landscape areas. Degree of slope shall be measured and indicated by category as per subsection (F)(1)(a) of this section.~~

~~2. Uses other than single-family homes and duplexes.~~

~~a. Landscape plan shall be submitted with the site plan and shall be drawn to scale and shall include the location of buildings, impervious surfaces, and pervious surfaces. Plans must indicate the location, species, and number of proposed plantings and how the landscaped area will be irrigated.~~

~~b. Landscaping shall be located in at least three separate and distinct areas of the lot, one of which must be located in the front and another in one of the side areas. In all developments, the areas between buildings on the lot must be landscaped.~~

~~c. Materials in the plan shall not be installed until the plan has been approved.~~

~~D. Impervious Surface Limits. The following limits on impervious surface apply to all lots:~~

~~1. Single-Family Dwellings and Duplexes. Maximum coverage of a lot in impervious surfaces shall be limited to a percentage of the lot, according to zone, as listed in the table below.~~

R-1*	R-M	NCR	R-R	OPD I-M	OPD OF	NBMU	NBD
55%	55%	55%	65%	75%	80%	90%	90%

~~*R-1 standards applicable in G-C, R-C, and TVC zones.~~

~~Exemptions and adjustments:~~

~~a. Flag lot access ways (i.e., the “flagpole”) shall not be included in the calculation for determining impervious surface limits.~~

~~b. Recorded, legal access easements shall not be included in the calculation for determining impervious surface limits.~~

~~c. Eco-roofs, installed or inspected and approved by a certified professional, shall not be included in the calculation for determining impervious surface limits.~~

~~d. For existing lots between 3,000 square feet and 4,000 square feet, maximum impervious surfaces shall be an additional five percent above the limit listed in the table above.~~

~~e. For existing lots less than 3,000 square feet, maximum impervious surfaces is an additional 15 percent above the limit listed in the table above or 100 percent, whichever is less.~~

~~2. All Development Other Than Single-Family Dwellings and Duplexes. Impervious surface shall be limited in accordance with Chapter 17.56 LCMC, Off-Street Parking and Loading Regulations, and subsection (E) of this section, and the applicable zoning designation.~~

~~E. Planted Area – Minimum Requirements. For the purposes of this chapter, a planted area is any area designed to accommodate live vegetation. It includes the non-living ground cover that is distributed amongst and between the plants for erosion control, soil fertility, and beautification.~~

~~1. Single-Family Dwellings and Duplexes.~~

~~a. At a minimum, planted area shall be a percentage of single-family and duplex lots based on zone, as listed in the table below.~~

R-1*	R-M	NCR	R-R	OPD I-M	OPD OF	NBMU	NBD
							

20%	20%	20%	15%	10%	10%	10%	10%
-----	-----	-----	-----	-----	-----	-----	-----

~~*R-1 standards applicable in G-C, R-C, and TVC zones.~~

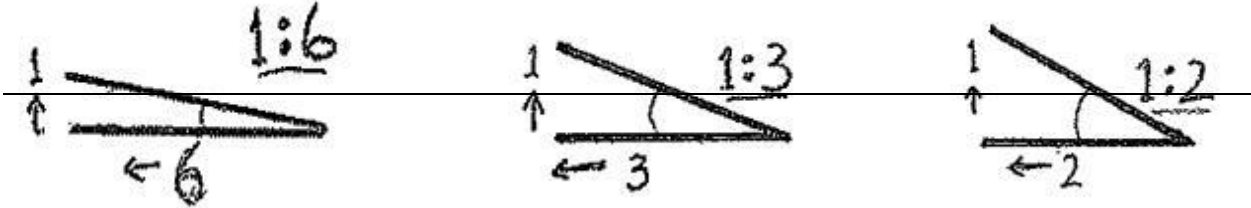
~~b. A minimum of 25 percent of the front yard shall consist of one or more planted areas, which shall count towards total required planted area for the lot.~~

~~2. All Development Other Than Single-Family Dwellings and Duplexes. Except as modified by other sections of the zoning ordinance, a minimum of 15 percent of the total lot area shall be landscaped with plants and groundcover, as described in this section.~~

~~F. Groundcover Required. All exposed ground, such as soils, clay, sand, etc., shall be landscaped with groundcover, either living or non-living, as described in the following:~~

~~1. Living Groundcover. Living groundcover must be evenly distributed throughout areas required by subsection (F)(1)(a) of this section.~~

~~a. Coverage of Living Groundcover. The slope of the planted area shall determine the required coverage of living groundcover. For the purposes of this section, slope is the ratio of vertical distance to horizontal distance on a surface. For example, a slope of one vertical foot (rise) over two horizontal feet equals a 1:2 ratio, as shown in the illustration below at right.~~



~~The minimum coverage of living groundcover shall be determined based on the maximum slope of an individual planted area in the following categories:~~

~~Category 1: For gradual slopes of 0 up to and including 1:6, living groundcover shall cover a minimum of 25% of the required planted area.~~

~~Category 2: For slopes greater than 1:6 up to and including 1:3, groundcover shall cover a minimum of 50% of the required planted area.~~

~~Category 3: For slopes greater than 1:3~~

up to and including 1:2,
groundcover shall cover a
minimum of 75% of the
required planted area.

**Category 4: Steep slopes greater than 1:2
shall meet requirements set
out in Chapter 12.08 LCMC,
Grading and Erosion Control.**

~~b. Groundcover Size. Groundcover plants shall be sized and spaced so that they grow together to cover the minimum required area in subsection (E)(1)(a) of this section within three years of planting. Until new plants have grown to cover the required area, bare ground between plants shall be protected from erosion with non-living groundcover, as specified in subsection (F)(2) of this section. Wattle, bio-bags, or similar methods approved by the city engineer shall be used in conjunction with organic, non-living groundcover to prevent erosion on slopes greater than 1:6.~~

~~2. Non-Living Groundcover. Depth of mulch shall be the minimum necessary (i.e., a two- to three-inch-thick layer) to ensure effective erosion control and to avoid leaching of excessive nutrients. Mulch between plantings shall consist of any of the following materials:~~

- ~~a. Organic materials. Examples include wood mulch and wood nuggets that are a minimum diameter of one inch, straw, and well-aged compost and leaves.

 - ~~i. Mulch shall be weed-free.~~
 - ~~ii. Mulching with manure that has not been composted or aged is prohibited.~~~~
- ~~b. Non-organic materials, such as loose (not compacted) small river gravel, river rock, and pumice.~~

G. Additional Required Vegetation.

~~1. Single-Family Dwellings and Duplexes. For single-family dwellings and duplexes, one plant unit must be planted and maintained for every 500 square feet of required planted area. One plant unit equals 10 points in any combination according to the values listed below:~~

- ~~10 points: one large tree (over 20 feet in height at maturity)~~
- ~~5 points: one small tree (20 feet in height or less when mature)~~
- ~~2 points: one native species or drought-tolerant shrub~~
- ~~1 point: one native species or drought-~~

tolerant perennial

Exception: If the percentage of living groundcover in a planted area is 100 percent, additional vegetation requirements may be reduced by 50 percent.

2. All Development Other Than Single-Family Dwellings and Duplexes. All areas to be landscaped and buffered shall be planted with a minimum of the following:

- a. One large tree or two small trees per 20 feet of lot perimeter; and**
- b. One deciduous or evergreen shrub per five feet of lot perimeter.**
- c. Plantings 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.**

H. Standards for Plant Materials.

1. Size.

- a. Large trees shall be a minimum of one-inch caliper or six feet in height at time of planting.**
- b. Small trees shall be a minimum of one-gallon size or two years old at time of planting.**
- c. Shrubs shall be a minimum of one-gallon size when planted.**
- d. Perennials shall be a minimum of four-inch pot size.**

2. Species and Practices.

- a. Use of native and drought-tolerant species is advised generally, and required in subsection (G)(1) of this section for shrubs and perennials.**
- b. Invasive and noxious plants as defined in LCMC 8.12.010 or by the Oregon Department of Agriculture are prohibited.**
- c. For all development other than single-family dwellings and duplexes, plant materials shall achieve balance between low-lying and vertical shrubs and trees.**
- d. High fertilizer hydro-seeding is prohibited.**

3. Condition. All selections must be healthy and disease-free.

I. Additional Pervious Surface. For areas of a lot not covered with impervious surfaces or required planted areas, any of the following is permitted:

- 1. Pervious off-street parking surfaces.**
- 2. Pervious hardscape features, i.e., patios, decks, sidewalks and pathways, etc.**
- 3. Non-organic groundcover (e.g., rock) with or without vegetation.**
- 4. Organic groundcover with vegetation as per subsection (F) of this section (i.e., additional planted areas).**

J. Generally.

~~1. Time of Installation. All required landscaping shall be installed prior to issuance of a certificate of occupancy or, in relation to development for which a certificate of occupancy is not required, prior to commencement of use.~~

~~a. Agreement to Delay Installation. If all required landscaping has not been satisfactorily completed prior to application for issuance of a certificate of occupancy or prior to a proposed commencement of use, and if 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, 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. Provide that if the owner does not complete the identified landscaping within the established time period, then the city may complete the landscaping and recover the full cost and expense of completion from the owner;~~
- ~~iii. Require the owner to hold harmless, defend, and indemnify the city and its mayor and council members, officers, boards, commissioners, and employees from claims of any nature arising or resulting from the performance of any acts required to be done by the owner under the agreement.~~

~~b. Financial Security Required for Delayed Installation. An owner entering into a landscaping agreement under this subsection shall file with the city, as a condition to city acceptance of the agreement, financial security to assure the full and faithful performance of the agreement by the owner. The financial security shall be in an amount equal to 110 percent of the owner's estimated cost to complete the landscaping, as approved by the director, which amount shall be subject to reduction from time to time in the sole discretion of the director as satisfactory installation of the landscaping is completed. The financial security required under this subsection shall be in a form approved by the director and may be one or more of the following:~~

- ~~i. A surety bond executed by a surety company authorized to transact business in the state of Oregon;~~
- ~~ii. Cash; or~~
- ~~iii. An irrevocable standby letter of credit or similar financial security instrument.~~

~~2. Maintenance. The owner of a lot is responsible for continuous maintenance of the landscaping required by this chapter, including~~

~~necessary irrigation, weeding, pruning and, if necessary, replacing, in a substantially similar manner as originally approved. The lot owner is responsible for keeping the required planted areas free from weeds and litter. Failure to maintain the landscaping in accordance with this chapter shall be considered a Class B violation.~~

~~3. Landscaping shall be in conformance with the general visibility requirements set out in LCMC 17.52.260.~~

~~4. Any constructed earth berms shall be between three feet and four feet in height, and topped with ground cover and shrubbery.~~

~~5. Uses within a development that might provide objectionable views, such as garbage and trash collection stations, and laundry areas in multifamily developments, shall be landscaped with screen plantings, or landscaped masonry wall or fencing.~~

~~6. Drainage pipes and appurtenances located on an ocean front parcel shall be secured and screened with landscaping to the extent feasible, and the discharge shall be placed to limit erosion.~~

SECTION 35. Chapter 17.52 (*Supplementary Regulations and Exceptions*), Section 17.52.190 (*building height limitations*), Paragraph C, is hereby amended as follow:

3. For the purposes of this subsection, "approved grade" means:
 - a. The existing grade, meaning one of the following:
 - i. The ground level before any human disturbance as shown by survey or other reliable evidence; or
 - ii. The ground level shown on the city's ~~2018 2009~~-LIDAR data (which is available from the ~~planning and community development department~~); or

SECTION 36. Chapter 17.52 (*Supplementary Regulations and Exceptions*), Section 17.52.220 (*Tree Protection and Removal*), Paragraph C, (*Definitions*), is hereby amended to amend the definition of "Development" as follows:

"Development" means grading, excavation, fill, or construction on a site requiring **development review, site plan review**

SECTION 37. Chapter 17.52 (*Supplementary Regulations and Exceptions*), Section 17.52.220 (*Tree Protection and Removal*), Paragraph F, Numbered paragraph 2, Paragraph a. subparagraph vi, subparagraph (A) is hereby amended as follows:

(A) The city has approved a **site plan, development review**, subdivision, planned **unit** development or building permit; and

SECTION 38. Chapter 17.52 (*Supplementary Regulations and Exceptions*), Section 17.52.220, (*Tree Protection and Removal*), Paragraph F, Numbered paragraph 3, (Review Process) is hereby amended as follows:

3. If part of a project that requires subdivision review, **development site plan** review, or a conditional use permit, the permit for tree removal shall be processed as part of development or conditional use permit review. Other tree removal applications shall be reviewed by the director of planning and community development, who may require an erosion control plan to determine conformance with Chapter 12.08 LCMC, Grading and Erosion Control, and rules issued by the public works department.

SECTION 39. Chapter 17.52 (*Supplementary Regulations and Exceptions*), Section 17.52.220 (*Tree Protection and Removal*), Paragraph G, (*Replacement of Trees lawfully removed*), Numbered paragraph 1, (*Applicability*) is hereby amended as follows:

1. Applicability. The standards of this section apply to trees removed with a permit required by subsection (F) of this section that are more than 100 feet from a building subject to **site plan development** review, or conditional use approval, or that are removed to allow development of parking in excess of the amount of required parking, or that are removed for purposes other than compliance with a governmental requirement. If the tree being removed is dead, dying, diseased or dangerous to life or property, replacement is encouraged, but not required, unless the tree is a protected tree, in which case replacement is required.

SECTION 40. Chapter 17.52 (*Supplementary Regulations and Exceptions*), Section 17.52.220 (*Tree Protection and Removal*), Paragraph I, (*Tree protection and Replacement Plan Required*), Numbered paragraph 1, (*Applicability*) is hereby amended as follows:

1. Applicability. Requirements of this subsection apply to any lot, parcel or combination of lots or parcels for which an application for a subdivision, **site plan development** review, planned unit development or conditional use is filed if the proposed project will involve tree removal.

SECTION 41. Chapter 17.52 (*Supplementary Regulations and Exceptions*), Section 17.52.260 (*Standards for Attached Single Family Dwelling Development*), is hereby deleted, as follows:

~~17.52.260 Standards for attached single-family dwellings development.~~

~~A. There are no minimum lot area or setback standards for individual lots in an attached single-family housing development; provided, that the attached housing development as a whole meets the density, parking, height and landscaping requirements for the underlying zone.~~

~~B. Perimeter Setback Requirements. The front, street side, side and rear yards around the perimeter of an attached single-family housing development are those of the underlying zone.~~

~~C. Land Coverage. The maximum land coverage by buildings and structures for an attached single-family housing development shall not exceed 45 percent of the total land area.~~

~~D. Special yards and distances between buildings shall be provided as follows:~~

~~1. The distance between a principal building and any accessory building shall be a minimum of 10 feet.~~

~~2. An inner court providing access to double row dwelling groups shall be a minimum of 20 feet in width.~~

~~3. The distance between principal buildings shall be at least one-half the sum of the height of both buildings; provided, however, that in no case shall the distance be less than 15 feet. This requirement shall also apply to portions of the same building separated from each other by a court or other open space.~~

~~4. The supplementary regulations and exceptions provisions of this chapter relating to setback requirements may also be applicable.~~

~~E. Maximum Building Height. Maximum building height shall be 35 feet except as provided in LCMC 17.52.200.~~

~~F. Recreation Area. A minimum of 250 square feet of recreation area shall be provided for each living unit. The recreation area may be in one or more locations in the attached single-family housing development. Recreation buildings may be considered as part of these requirements.~~

~~G. Storage Area. Storage space (for boats, campers, etc.) shall be provided at the rate of one 10-foot by 20-foot space in size for every four living units. Adequate maneuvering room shall be provided; storage space shall be fenced with a six-foot-high sight-obscuring fence, hedge or wall.~~

~~H. Restrictions. No development of attached single-family dwellings or attached single-family housing developments may occur unless all city services (sewer and water) are available to serve such development.~~

~~I. Design Features. All attached single-family dwellings shall utilize at least two of the following design features to provide visual relief along the front of the dwelling:~~

- ~~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 inches projection);~~
- ~~9. Off-sets on building face or roof (minimum 16 inches).~~

SECTION 42. Chapter 17.64 (*Nonconforming Situations*), Section 17.64.010, (*General provisions*), is hereby amended, as follows:

D. Restoration of a Damaged Lawful, Nonconforming Structure or Use. A lawful, nonconforming structure or use that has been damaged may be restored 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. ~~its previous extent, if the value of the damage, as determined by the city, is less than 50 percent of the appraised value of the building or structure, as determined by the records of the county assessor for the year preceding destruction.~~

~~E. Restoration of a Substantially Damaged Lawful, Nonconforming Structure or Use. If damaged to an extent of 50 percent or more, as determined through a Type I procedure, a lawful nonconforming structure or use may be restored to its former height and footprint only, as approved by the city. A request to restore a lawful, nonconforming single-unit dwelling or duplex shall be processed as a Type II procedure, as outlined in LCMC 17.76.040. A request to restore a lawful, nonconforming multi-unit dwelling, mixed use structure, or commercial structure or use shall be processed as a Type III procedure, as outlined in LCMC 17.76.050. A decision to approve~~

~~an application to restore a nonconforming structure must include findings of all the following:~~

- ~~1. The damage was not intentionally caused by the property owner;~~
- ~~2. The restoration does not increase the degree of nonconformity or add new nonconformity, and except as specified above, restored structures conform to requirements of this code;~~
- ~~3. Restoration is according to plans approved by the fire marshal, building inspector and floodplain manager, and, if required, in conformance with a geo-technical report;~~
- ~~4. The restored structure or use does not encroach unlawfully on adjacent properties;~~
- ~~5. The restoration complies with reasonable conditions imposed by the city on a building permit in order to mitigate any new or increased adverse impact on adjacent property; and~~
- ~~6. In the case of a multi-unit dwelling, mixed-use structure, or commercial structure, the reconstructed use or structure would not interfere with the intent and purpose of the zone in which it is located.~~

~~F. E.~~ Time Limit on Restoration of Lawful Nonconformity. The owner of a damaged lawful, nonconforming use or structure shall apply for a building permit for restoration no later than 24 months from the date of the damage. After 24 months following the date of damage, the building and use will be subject to current zoning regulations for the zone in which the land and building are located. ~~district in which the land and buildings are located, including residential density standards.~~

~~G. F.~~ Routine Repairs and Maintenance. Routine maintenance and repairs may be performed on structures, buildings, or sites that are nonconforming or that house nonconforming uses. Examples of maintenance and repairs are painting, repairing dry rot, and reroofing. Routine repairs and maintenance do not include expansion of the square foot area of a structure or use, or creation of new units within residential structures. ~~Routine repairs and maintenance performed in any 12-month period may not exceed 50 percent of the assessed value of the existing building, structure or use.~~

SECTION 43. Chapter 17.64 (*Nonconforming Situations*), Section 17.64.040, (*Nonconforming commercial site development*), is hereby deleted, as follows:

~~**17.64.040** — **Nonconforming commercial site development.**
The purpose of this section is to upgrade elements of nonconforming commercial development that affect the appearance of a site and create adverse impact on adjacent sites. The intent is to make commercial~~

~~development closer to conformance with design standards in Chapter 17.74 LCMC but not to require extensive changes that would be impractical or extremely expensive, such as moving, lowering or structurally altering buildings.~~

~~A. Subject to the other provisions of this chapter, when the owner of a use or structure located on a commercially zoned lot that contains nonconforming site development elements converts to a different use, enlarges or structurally alters the use or structure, the owner also shall alter the nonconforming site development elements to conform to standards in Chapter 17.74 LCMC to the maximum extent feasible within a cost not to exceed 25 percent of the cost of the conversion, enlargement, or structural alteration.~~

~~B. The following elements shall be made compliant with the provisions as outlined below, or, as approved by the review authority, as close to compliant as possible within the cost limitation defined in subsection (A) of this section.~~

- ~~1. Pedestrian spaces as set out in LCMC 17.74.080;~~
- ~~2. Materials and colors as set out in LCMC 17.74.100(J);~~
- ~~3. Pedestrian shelters and weather protection as set out in LCMC 17.74.100 (I);~~
- ~~4. Exterior lighting as set out in LCMC 17.52.150; and~~
- ~~5. Windows/transparency as set out in LCMC 17.74.100(H).~~

SECTION 44. Chapter 17.74 (*Design Standards*), Section 17.74.040 (*Standards versus guidelines*), Paragraph B, (*Burden of Proof*) and Paragraph C, (*Adjustments and Modifications*) are hereby amended, as follows:

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 ~~or~~ **modification** 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 ~~and Modifications~~. Adjustments to ~~or modifications of~~ the standards in this chapter are not variances. ~~The procedures and criteria for variances are addressed in Chapter 17.68 LCMC.~~ 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 ~~or modified~~ 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. ~~or modified~~

SECTION 45. Chapter 17.76 (*Procedures*), Section 17.76.020 (*Summary of Procedure Types*), Table 17.76.020-1 table entries, are hereby amended, as follows:

Lot Property line adjustment	Type II	Director
Natural resources development review	Type II	Director
Natural resources development variance	Type III	Planning Commission
Planned unit development		

SECTION 46. Chapter 17.76 (*Procedures*), Section 17.76.040 (*Type II procedure*), Paragraph E, (*Public Notice of Application and Comment Period*), Numbered paragraph 3, is hereby amended, as follows:

3. The failure of a property owner to receive notice does not invalidate the land use action if the notice was sent. An affidavit of mailing of the public notice of receipt of a complete application shall be prepared with the mailing date noted and the list of parties to whom the notice was mailed attached to the affidavit, along with the notice itself.

SECTION 47. Chapter 17.76 (*Procedures*), Section 17.76.040 (*Type II procedure*), Paragraph H, (*Appeal*), Numbered paragraph 4, is hereby amended, as follows:

4. The appeal shall follow the requirements and procedures of LCMC 17.76.180, and shall be a hearing de novo. The appeal shall not be limited to the application materials, evidence and other documentation, and specific issues raised in the review leading up to the Type III decision, but may include other relevant evidence and arguments. The hearing appeal body may allow additional evidence, testimony, or argument concerning any applicable standard, criterion, condition, or issue.

SECTION 48. Chapter 17.76 (*Procedures*), Section 17.76.050 (*Type III procedure*), Paragraph E, (*Notice of Public Hearing*), Numbered paragraph 1, subparagraph c, is hereby amended, as follows:

c. Property owners of record within ~~500~~ **250** feet of the perimeter property line of the property or properties subject to the application, using the most recently provided property tax assessment roll of the Lincoln County assessor’s office as provided to the city to determine property owners of record;

SECTION 49. Chapter 17.76 (*Procedures*), Section 17.76.050 (*Type III procedure*), Paragraph F, is hereby amended, as follows:

F. Public notices for Type III applications shall be mailed a minimum of 20 days prior to the first evidentiary public hearing. **The failure of a property owner to receive notice does not invalidate the land use action if the notice was sent. Notice of the public hearing for Type III applications shall also be published 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.**

SECTION 50. Chapter 17.76 (*Procedures*), Section 17.76.050 (*Type III procedure*), Paragraph J, (*Appeal*), Numbered paragraph 2, is hereby amended, as follows:

2. The appeal shall follow the requirements and procedures of LCMC 17.76.180, **and shall be a hearing de novo. The appeal shall not be limited to the application materials, evidence and other documentation, and specific issues raised in the review leading up to the Type III decision, but may include other relevant evidence and arguments. The hearing appeal body may allow additional evidence, testimony, or argument concerning any applicable standard, criterion, condition, or issue.**

SECTION 51. Chapter 17.76 (*Procedures*), Section 17.76.060 (*Type IV procedure(legislative)*) Paragraph E. (Mailed Notice of Public Hearing), Numbered Paragraph 3, is hereby deleted, as follows:

~~3. For each mailing of notice, the department shall prepare an affidavit of mailing.~~

SECTION 52. Chapter 17.76 (*Procedures*), Section 17.76.140 (*Expiration of Decision*), Paragraph A, Numbered paragraph 4, is hereby amended, as follows:

4. A copy of the recorded final plat has been submitted to the department within **two years one year** of approval of a partition or subdivision or a copy of the recorded survey map has been submitted to the department within **two years one year** of approval of the **property lot** line adjustment.

SECTION 53. Chapter 17.76 (*Procedures*), Section 17.76.160 (*Public hearings*), Paragraph E, (*Compliance with Notice Requirements*) is hereby amended, as follows:

E. Compliance with Notice Requirements. Mailed notice shall be deemed to have been provided upon the date the notice is deposited in the mail. **The failure of a property owner to receive notice does not invalidate the land use action if the**

~~notice was sent. Failure of the addressee to receive such notice shall not invalidate the proceedings if it can be demonstrated by affidavit that such notice was given.~~

SECTION 54. Chapter 17.76 (*Procedures*), Section 17.76.160 (Public hearings), Paragraph M, (*Action by Review Authority Following Public Hearing*) Numbered Paragraph 2, is hereby amended, as follows:

2. Findings in support of any decision shall be made in accordance with the review authority's adopted rules of procedure and with applicable state law.

The findings must be factual and must be supported by substantial evidence submitted into the record.

a. For the city council to adopt an ordinance for an amendment to this title, comprehensive plan document, and/or map, findings must be made and adopted as part of said ordinance that are adequate to support the proposed amendment. The amendment must comply with and conform to the comprehensive plan and comprehensive plan map. For amendments to the comprehensive plan, comprehensive plan map, zoning map, and/or this title, proposals must be consistent with provisions in the Oregon Transportation Planning Rule, OAR 660-012-0060. If statewide planning goals provide a more specific direction than is provided by the city's comprehensive plan, then the findings must provide evidence that the proposed amendment is in conformance with statewide planning goals.

SECTION 55. Chapter 17.76 (*Procedures*), Section 17.76.160 (Public hearings), Paragraph N, (*Record*) Numbered Paragraph 2, is hereby amended, as follows:

2. An interested party may request a verbatim transcript of the recorded proceedings before the review authority on the matter. **Requests for verbatim transcripts shall be accompanied by the fee for a verbatim transcript, as specified in the adopted fee schedule. Requests for transcripts shall be accompanied by a deposit separate from the appeal fee, as specified in the adopted fee schedule. The city shall maintain an accurate record of the costs of the transcript preparation, and any unexpended portion of the deposit or additional amount due shall be refunded to or payable by the interested party.**

SECTION 56. Chapter 17.77 (*Applications*), Section 17.77.005 (*Administrative adjustment*), Paragraph A, (*Scope and Authority*) is hereby amended, as follows:

- A. Scope and Authority. Requests for administrative adjustments are applicable only to required **setbacks yards (setbacks)** and building height in all zoning

districts. An administrative adjustment permits a minor encroachment into a required **setback yard**, or maximum height, not to exceed six inches, in addition to any other relief granted by the applicable code. **Administrative** adjustments may not be requested for any other portion of the code other than the items noted above as being eligible for **an administrative** adjustment.

SECTION 57. Chapter 17.77 (*Applications*) is hereby amended as, as follows, to add Section 17.77.112 (*natural resources development variance*):

17.77.112 Natural Resources Development Variance

A. Procedure. Natural resources development 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 natural resources development variance, the planning commission shall make findings of fact, based on evidence provided, that all of the following circumstances exist:

1. Strict adherence to the natural resource overlay zone standards of Chapter 17.46 LCMC would effectively preclude a use of the property that reasonably could be expected to occur in the zone, and that the property owner would be precluded a property right which is substantially the same as owners of other property in the same zone or vicinity;

2. The proposed development can be accommodated, including actions to mitigate impacts to natural resource functions, without substantial negative impact to the property's significant wetland, significant riparian, and/or significant wildlife habitat areas.

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;

4. The variance requested, of the possible variances necessary to create a buildable area outside of a significant wetland, significant riparian, and/or significant wildlife habitat area, has the least impact to the functions of any significant wetland, significant riparian, and/or significant wildlife habitat areas on the property.

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 58. Chapter 17.77 (*Applications*) is hereby amended as, as follows, to add Section 17.77.116 (*nonconforming – restoration of lawful nonconformity*):

17.77.116 Nonconforming – Restoration of Lawful Nonconformity

A. Procedure. Applications to restore a lawful nonconforming structure or use are subject to the Type II procedure, as described in LCMC 17.76.040.

B. 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.

C. Approval Criteria. To approve a request to restore a lawful nonconforming structure or use, the director shall make findings of fact, based on evidence provided, that all of the following circumstances exist:

- 1. The damage was not intentionally caused by the current property owner;**
- 2. The restoration or does not increase the degree of nonconformity or add new nonconformity;**
- 3. The restoration is according to plans approved by the fire marshal, building official, and floodplain manager, and if required, in conformance with a geotechnical report;**
- 4. The restored structure or use does not encroach unlawfully on adjacent properties;**
- 5. The restoration complies with reasonable conditions imposed by the city on a structural permit to mitigate any new or increased adverse impact on adjacent property; and**
- 6. In the case of a multi-unit dwelling, mixed-use structure, or commercial structure, the reconstructed use or structure would not interfere with the intent and purpose of the zone in which it is located.**

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 59. Chapter 17.80 (*Provisions Applying to Special Uses*), Section 17.80.040 (*Standards for mobile home parks, recreational vehicle parks, and tiny house developments*)red conditions), Paragraph C, (*Tiny House Developments*) is hereby amended, as follows:

C. Tiny House Developments.

1. Definitions. The following definitions apply to this section:

a. "Tiny house" means a standalone dwelling with a floor area of 400 square feet or less, excluding lofts. For purposes of this section, "tiny house" does not mean a trailer or a recreational vehicle.

b. "Tiny house development" means a site designed to contain at least four tiny houses and designed and operated under a single land development plan, or as a part of another land development plan such as a planned unit development or a cottage cluster development.

1.2. Tiny houses are allowed in a tiny house development at a density of one tiny house for each 1,200 square feet of land area.

2.3. Tiny house developments shall not be used as vacation rentals.

3.4. Tiny houses must be separated from each other and from other structures by at least 10 feet, and at the perimeter of the development must comply with the setback requirements of the R-1 zone.

4.5. A tiny house development must provide at least one off-street parking space for each tiny house. Parking spaces may be clustered and need not be located immediately adjacent to the individual tiny houses they serve.

5.6. All tiny houses in a tiny house development must comply with all applicable Oregon building code requirements.

6.7. A tiny house development is subject to **development review in LCMC 17.77.070. the site plan approval process of LCMC 17.52.240.**

SECTION 60. 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 5, (*Landscaping*) Paragraph a, (*Residential Zones and the VR Zone*) and Paragraph b, (*Commercial Zones*) are hereby amended, as follows:

a. Residential Zones **(R-1-5, R-1-7.5, R-1-10, R-1-RE, R-M, R-R)** and the VR Zone. The owner must landscape **all yards** in accordance with the standards of LCMC **17.55.030. 17.52.100.** **Additionally, a A** minimum of 50 percent of the front **setback area yard (the area between the side lot lines, the front lot line, and the front of the dwelling)** must be

landscaped. For oceanfront properties constrained by a need to be set back from the bluff edge due to geological hazards, landscaping may be reduced in order to accommodate required parking.

b. Commercial Zones (~~**NBD, NBMU, TVC, OP-OF, OP-IM, OP-MSH, RC, and GC**~~). The owner shall install and maintain ~~**landscaping to the landscaping as shown in the approved site plan for the commercial use or mixed-use application. If the approval does not include a site plan then the landscaping, at a minimum, must**~~ meet the landscaping standards of LCMC ~~**17.55.030, 17.52.100**~~.

SECTION 61. 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 6, (*Signs*) is hereby amended, as follows:

6. Signs. In ~~**any of the zones, both residential and commercial zones**~~, any sign on the property shall be in compliance with the sign requirements for ~~**the use in**~~ the R-1 zone, as established in LCMC 17.72.060(B).

SECTION 62. Chapter 17.80 (*Provisions Applying to Special Uses*), Section 17.80.050 (*Vacation rental dwelling use criteria*), Paragraph C, (*Application and Review*), Numbered Paragraph 1, (*Application Requirements*), Paragraph c, is hereby amended, as follows:

c. The applicant shall certify that the person identified as the owner on the application does not own other property in the city that is used as a vacation rental dwelling or is approved by the city for vacation rental dwelling use, if the application is for a vacation rental dwelling in a residential ~~**(R-1-5, R-1-7.5, R-1-10, R-1-RE, R-M, R-R)**~~ zone.

SECTION 63. Chapter 17.80 (*Provisions Applying to Special Uses*), Section 17.80.050 (*Vacation rental dwelling use criteria*), Paragraph C, (*Application and Review*), Numbered Paragraph 2, (*Administrative Review and Decision*), is hereby amended, as follows:

2. Type II Procedure. Administrative Review and Decision.

a. The application shall be processed as a Type II procedure, pursuant to LCMC 17.76.040

~~**a. Notice of Receipt of Application. After receipt of a vacation rental dwelling land use approval application, the department shall provide written notice of the application to:**~~

~~**i. Owners of property within 250 feet of the property for which the application is submitted. The list of property owners shall be compiled from the most recent property tax assessment roll. Where 50 percent or more of the number of properties in the area subject to notice are owned by the same person, as defined in this section,**~~

~~the notice area shall be expanded until the number of properties owned by the same person constitutes 20 percent or less of the properties in the notice area.~~

~~ii. Any neighborhood association recognized by the city whose boundaries include the site.~~

~~b. The written notice of the application shall include the following information:~~

~~i. The date, time, and place where comments are due, if a person wishes to have the comments considered during the review process. The due date shall be 14 days after the date of the notice.~~

~~ii. A statement that the criteria governing the land use approval decision are the requirements of subsection (B) of this section.~~

~~iii. The street address or another easily understood geographical reference to the property.~~

~~iv. The street address or another easily understood geographical reference to the property.~~

~~iv. A statement that the land use application and any other file materials are available for review at the department and that copies can be obtained at cost.~~

~~v. The name and phone number of a department contact person.~~

~~c. The planning and community development director shall review an application for VRD in any zone under the applicable standards of subsection (B) of this section and shall issue an administrative decision on the application.~~

~~d. Notice of administrative decision shall be provided as required in LCMC 17.76.020 and mailed at applicant's expense to all owners of property of record as indicated on the most recently available tax assessment roll, located within 250 feet of the exterior boundary of the property for which the application is made. Where 50 percent or more of the number of properties in the area subject to notice are owned by the same person, as defined in this section, the notice area shall be expanded until the number of properties owned by the same person constitutes 20 percent or less of the properties in the notice area. The notice shall contain the information required by LCMC 17.76.020(A) and allow any person opportunity to appeal the decision within 20 days of mailing of the notice. The mailed notice shall state that if tenants or lessees are in possession of the property, the city requests the owner to provide a copy of the notice to each tenant or lessee.~~

b. e. The authorization for VRD land use approval or VRD nonconforming use shall remain valid provided the use is conducted lawfully, under a valid revocable vacation rental dwelling license issued under Chapter 5.14 LCMC, and in compliance with Chapter 3.04 LCMC, Transient Room Tax. If a property owner who has received a VRD land use authorization fails to apply for and receive a VRD license under Chapter 5.14 LCMC within one year of having received the VRD land use authorization, or having received a VRD license under Chapter 5.14 LCMC, fails to renew it within the license grace

period, the city will consider the VRD authorization abandoned and the ~~planning and community development~~ director will declare the authorization void. For a legal nonconforming use in the R-1-RE zone, discontinuance, abandonment, sale or transfer, as specified in subsection (B)(2)(d) of this section, triggers termination of the nonconforming use. The ~~planning and community development~~ director will mail a written notice of the decision to declare the VRD land use authorization null and void or declare the VRD nonconforming use terminated to the property owner. The property owner may appeal the ~~planning and community development~~ director's decision as provided in LCMC 17.76.180.

SECTION 64. Chapter 17.80 (*Provisions Applying to Special Uses*), Section 17.80.050 (*Vacation rental dwelling use criteria*), Paragraph C, (*Application and Review*), Numbered Paragraphs 3 (*Appeal*) and 4 (*Fees*) are hereby amended, as follows:

3. Appeal. The decision of the planning and community development director on an application for vacation rental dwelling land use may be appealed as provided in LCMC 17.76.180. Appeal of the director's decision ~~of the planning and community development director~~ shall be in the form of an evidentiary hearing before the planning commission. The planning commission decision shall be final and is not subject to further appeal.

4. Fees. The city is authorized to adopt fees in an amount established by resolution to recover the actual costs of processing and reviewing an application for vacation rental dwelling land use including fees for appeals of such decisions.

SECTION 65. Chapter 17.80 (*Provisions Applying to Special Uses*), Section 17.80.060 (*Bed and breakfast accommodation standards*), Paragraph E, is hereby amended, as follows:

E. Bed and breakfast accommodations must maintain the landscaping requirements of LCMC 17.55.030. ~~the residential lawn nature of front and side yards.~~

SECTION 66. Chapter 17.80 (*Provisions Applying to Special Uses*), Section 17.80.070 (*Essential emergency communications and warning facilities*), Paragraph B, is hereby amended, as follows:

- B. Essential emergency communications, early warning and associated emergency facilities are not required to comply with the requirements, guidelines, or standards of either LCMC ~~17.77.070~~ **17.52.240** or Chapter 17.74 LCMC, or any other ~~development review site plan~~ or design standards, guidelines, or requirements contained in this code.

SECTION 67. Chapter 17.80 (*Provisions Applying to Special Uses*), Section 17.80.080 (*Animals and gardens*), Paragraph B, (*Gardens*), are hereby amended, as follows:

B. Gardens. Gardens are permitted in all zones as an accessory use to any principal use permitted outright or to a permitted conditional use, in each case subject to the standards of this section.

1. Personal Gardens. Personal gardens are allowed as an accessory use on any lot. Personal gardens may be used to meet part or all of any landscaping requirement set out in this code. Personal gardens may include structures such as cold frames, greenhouses, and hoop houses in any **yard area of the site** other than a required front **yard** or street side **yard setback area** and do not count against the ~~allowed maximum~~ building coverage in any zone, even if the structure requires a building permit. To the extent such structures require a building permit they may not be located closer than three feet to any property line.

2. Community Gardens. Community gardens, including those allowed as a principal use under the regulations of any zone, may include structures such as cold frames, greenhouses, and hoop houses. If the community garden is a use accessory to a principal use involving a building, such structures may be located in any **area of the site yard** other than a required front **yard** or street side **yard setback area** and do not count against the ~~allowed maximum~~ building coverage in any zone, even if the structure requires a building permit. To the extent such structures require a building permit they may not be located closer than three feet to any property line (five feet in a residential zone). Community gardens may include a tool house or other storage building not exceeding 10 feet by 10 feet or 10 feet in height and not located closer than three feet to any property line. No off-street parking spaces are required for a community garden.

3. Market Gardens. Market gardens, including those allowed as a principal use under the regulations of any zone, may include structures such as cold frames, greenhouses, and hoop houses. If the market garden is a use accessory to a principal use involving a building, such structures may be located in any **area of the site yard** other than a required front **yard** or street side **yard setback area** and do not count against the ~~allowed maximum~~ building coverage in any zone,

even if the structure requires a building permit. To the extent such structures require a building permit they may not be located closer than three feet to any property line (five feet in a residential zone). Market gardens may include a tool house or other storage building not exceeding 10 feet by 10 feet or 10 feet in height and not located closer than three feet to any property line. No off-street parking spaces are required for a market garden that is accessory to a principal use that requires parking. If a market garden is a principal use at least one parking space must be provided for the first 5,000 square feet of garden area or portion thereof, and for each 5,000 square feet of garden area beyond the first 5,000 square feet. Market gardens are not subject to the home occupation requirements of LCMC 17.52.010. (E). Operators of market gardens are subject to the occupation tax requirements of Chapter 5.04 LCMC.

SECTION 68. Chapter 17.80 (*Provisions Applying to Special Uses*), Section 17.80.110 (*Accessory dwelling unit standards*), Paragraph B., (*Standards*) paragraphs 5 through 10, are hereby amended, as follows:

~~**5. Occupancy. No one may occupy an accessory dwelling unit until the planning and community development department has issued a certificate of completion for the unit.**~~

~~**6. Design. An accessory dwelling unit shall comply with the following standards:**~~

~~**a. Roofs. Roofs of detached accessory dwelling units shall be the same shape, pitch and material as the main house, and shall include the same type of architectural embellishments, if any (e.g., dormers, gables, and eave trim).**~~

~~**b. Facades. A street-facing facade of the accessory dwelling unit shall include the same exterior of materials and windows and molding shall be of the same size, style, and orientation as the main house.**~~

~~**c. Color. The exterior color of the accessory dwelling unit shall be of the same color as the main house.**~~

~~**5. 7.**~~ Unity of Ownership. An accessory dwelling unit shall not in any way be segregated in ownership from the principal dwelling unit.

~~**6. 8.**~~ Primary Entrance. If the accessory dwelling unit's primary entrance is not the same as that for the principal dwelling unit it shall be less visible from the street view of the principal dwelling unit than the main entrance of the principal dwelling unit. If the accessory dwelling unit is accessed via a stairway, the stairway may not be constructed on the front of the principal dwelling unit.

~~**7. 9.**~~ Vacation Rental. Neither the accessory dwelling unit nor the principal dwelling unit may be used as a vacation rental dwelling.

~~**8. 10.**~~ Sewer Connection. Both the principal dwelling unit and the accessory dwelling unit must be connected to the city sewer system. Neither the accessory dwelling unit nor the principal dwelling unit may use a septic system.

SECTION 69. Chapter 17.80 (*Provisions Applying to Special Uses*), Section 17.80.120 (*Cottage housing developments*), Paragraph B, (*Definitions*), is hereby deleted, as follows:

B. Definitions. The following definitions apply to this section:

- ~~1. "Common open space" means an area improved for recreational use or gardening that all owners in the cottage cluster own and maintain in common through a homeowners' association, condominium association, or similar mechanism.~~
- ~~2. "Cottage" means a detached, single-family dwelling unit that is part of a cottage housing development and that contains 1,250 square feet or less of gross floor area.~~
- ~~3. "Cottage cluster" means a group of four to 12 cottages, arranged around a common open space.~~
- ~~4. "Cottage housing development" means one or two clusters of cottages developed under a single land development plan, or as a part of another land development plan.~~
- ~~5. "Footprint" means the gross floor area of a cottage's ground-level story.~~
- ~~6. "Gross floor area" means the area within the exterior walls, but excluding any space where the floor to ceiling height is less than six feet.~~

SECTION 70. Chapter 17.80 (*Provisions Applying to Special Uses*), Section 17.80.120 (*Cottage housing developments*), Paragraph C, (*Applicable Zoning Districts*), is hereby amended, as follows:

C. Applicable **Zones. Zoning Districts. Cottage housing developments are allowed only in the single-unit residential (R-1), recreation residential (R-R), and multiple-unit residential (R-M) zones. Cottage housing development are allowed only in the single-family residential (R-1), recreation residential (R-R), and multiple-family (R-M) zoning districts.**

SECTION 71. Chapter 17.80 (*Provisions Applying to Special Uses*), Section 17.80.120 (*Cottage housing developments*), Paragraph E, (*Site Plan*), is hereby amended, as follows:

E. Site Plan **Development** Review Required. Cottage housing developments require approval through the **site-plan development** review process of LCMC **17.77.070. 17.52.240.**

SECTION 72. Chapter 17.80 (*Provisions Applying to Special Uses*), Section 17.80.120 (*Cottage housing developments*), Paragraph F, (*Standards*), Numbered paragraph 6, (*Common Open Space*), subparagraph e, is hereby amended, as follows:

e. Parking areas, required **setback areas yards**, private open space, and driveways do not qualify as common open space.

SECTION 73. Chapter 17.80 (*Provisions Applying to Special Uses*), Section 17.80.140 (*Temporary emergency operations uses during declared emergency*), Paragraph B, is hereby amended, as follows:

B. Temporary emergency operations uses are not required to comply with the requirements of **development review in LCMC 17.77.070. 17.52.240 (Site plan review)**.

SECTION 74. Chapter 17.80 (*Provisions Applying to Special Uses*), Section 17.80.150 (*Four-flat dwellings*), Paragraph A and B, are hereby amended, as follows:

A. Definition. A “four-flat dwelling” is a structure designed to resemble a single-family dwelling, containing four individual dwelling units and appearing to have no more than two (one in front) exterior entrances opening onto a common hallway(s) providing access to the four individual units within the structure.

A.B. 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.
2. Parking. Each four-flat dwelling must have a minimum of six off-street parking spaces.
3. Setbacks. Each four-flat dwelling must meet the single-**familyunit** dwelling setback requirements of the zone in which it is located.
4. **Building Lot** 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. **Site-plan Development** review per LCMC **17.52.240 17.77.070** is not required for four-flat dwellings.

SECTION 75. Chapter 17.80 (*Provisions Applying to Special Uses*), Section 17.80.160 (*Accessory uses- Places of worship*), Paragraph A, numbered Paragraph 1, and Paragraph B, numbered Paragraph 1, are hereby amended, as follows:

A. In the general commercial (GC) **zone** district, Nelscott **pPlan** (NP) district (business district and **bB**eachside mixed use), Taft Village Core (TVC), and Oceanlake **pPlan** (OP) district (**mMain sStreet**, interior **MU** and **oO**ceanfront), the following accessory uses, customarily associated with the practices of the religious activity, are allowed:

1. Subject to compliance with ~~site plan development~~ review (~~LCMC 17.52.240 LCMC 17.77.070~~) and availability of adequate public facilities, an approved and constructed place of worship shall be allowed the reasonable use of the subject real property for accessory use activities, including those uses and limitations identified in ORS 227.500 as that section exists on the effective date of the ordinance codified in this section. In addition, temporary sheltering of individuals and families in building and fire code compliant facilities is authorized (temporary use), not to exceed 50 persons, with a minimum of 35 square feet per person required. Strict compliance with Oregon Fire Code TA No. 14-12, adopted herein by this reference and on file in the Lincoln City planning department, is required. The fire district shall be notified when such temporary sheltering use is requested. **Development review is not required for such temporary sheltering use.**

B. In the single-~~family unit~~ residential (R-1) ~~zone district~~, single-~~unit family~~ residential roads-end (R-1-RE) ~~zone district~~, vacation rental (VR) ~~zone district~~, the ~~multiple-unit multifamily~~ residential (R-M) ~~zone district~~, the recreation residential (R-R) ~~zone district~~, and Nelscott ~~p~~Plan (NP) district (cottage residential) the following accessory uses, customarily associated with the practices of the religious activity, are allowed:

1. Subject to compliance with ~~site plan development~~ review (~~LCMC 17.52.240 LCMC 17.77.070~~) and availability of adequate public facilities, an approved and constructed place of worship shall be allowed the reasonable use of the subject real property for accessory use activities, including those uses and limitations identified in ORS 227.500 as that section exists on the effective date of the ordinance codified in this chapter. In addition, temporary sheltering of individuals and families in building and fire code compliant facilities is authorized (temporary use), not to exceed 25 persons, with a minimum of 35 square feet per person required. Strict compliance with Oregon Fire Code TA No. 14-12, adopted herein by this reference and on file in the Lincoln City planning department, is required. The fire district shall be notified when such temporary sheltering use is requested. **Development review is not required for such temporary sheltering use.**

SECTION 76. Chapter 17.80 (*Provisions Applying to Special Uses*), Section 17.80.170 (*Mobile food units and mobile food unit pods*), Paragraph A (*Definitions*), is hereby deleted, as follows:

A. Definitions.

~~“Mobile food pod” is more than one singular mobile food unit located on the same lot or parcel.~~

~~“Mobile food unit” is a wheeled mobile unit that meets state, county, and Department of Motor Vehicles requirements for licensing, registration, and operation as a unit utilized to provide commercial food preparation and~~

~~servicing to the general public. Food may be prepared or processed on the unit, and said prepared or processed food is sold and dispensed to the ultimate consumer from the unit.~~

SECTION 77. Chapter 17.80 (*Provisions Applying to Special Uses*), Section 17.80.170 (*Mobile food units and mobile food unit pods*), Paragraph B (*Standards*) numbered paragraph 11, is hereby amended, as follows:

11. State, County, City Requirements. Applicants must obtain any required state, county, and city licenses and permits including food handling, **Serve Safe**, and annual city mobile food unit license pursuant to Chapter 5.30 LCMC.

SECTION 78. Chapter 17.80 (*Provisions Applying to Special Uses*), Section 17.80.170 (*Mobile food units and mobile food unit pods*), Paragraph D (*Application requirements*), is hereby amended as follows:

~~D. **Land Use Approvals and Licensing.** **Application Requirements.** Land use approval **for mobile food units** must be obtained prior to **the city's issuance of the required mobile food unit license for each mobile food unit. Land use approval is required for each separate address at which an individual mobile food unit desires to operate, with a separate mobile food unit license being issued for each separate address once land use approval has been obtained, all requirements have been met, and all required city fees have been paid. Applying for the city mobile food unit license. The land use application submittal shall include the following:**~~

~~1. **The land use approval process for mobile food units is a Type I procedure as outlined in LCMC 17.76.030.**~~

- ~~1. **Completed application form provided by the department, which includes the applicant's name, mailing address, phone number and signature, as well as the names, addresses, phone numbers, and signatures of all property owners of the subject site;**~~
- ~~2. **Applicable fee for the land use application;**~~
- ~~3. **Site plan containing at least the following:**~~
 - ~~a. **North arrow, scale, and date of drawing;**~~
 - ~~b. **Property boundaries and dimensions;**~~
 - ~~c. **Location of existing structures;**~~
 - ~~d. **Proposed location of mobile food unit with distances from all property lines and all structures;**~~
 - ~~e. **Parking lot layout, drive aisles, access, and pedestrian and vehicular circulation pattern with dimensions;**~~
- ~~4. **Explanations and/or pictures or other evidence of how all fire and life safety, state, and county requirements are being met;**~~

~~5. Explanations and/or pictures or other evidence of how the site will remain free of trash, litter, and food waste.~~

SECTION 79. Chapter 17.80 (*Provisions Applying to Special Uses*), Section 17.80.180 (*Wireless communications facilities*), Paragraph A (*Review Authority Action*) numbered paragraphs 5 through 7 are amended, as follows:

~~**5. Notice.** When mailed notice of a public hearing or an administrative action relating to a wireless communications facility is required by LCMC 17.76.050, such notice shall be sent to the applicant and to owners of record of property on the most recent property tax assessment roll where such property is located within 250 feet from the exterior boundary of the subject property.~~

~~**6. Administrative Approval of Co-Location Requests.** Application. Requests to co-locate by placing antennas or other transmission and reception devices on an existing tower, building, or other structure, shall be processed as a development review request, pursuant to LCMC 17.77.070. ~~If an applicant wishes to co-locate by placing antennas or other transmission and reception devices on an existing tower, building, or other structure, the director may approve the co-location application, or approve it with conditions.~~~~

~~**7. 6.** Planning Commission Action. In addition to the findings required by LCMC 17.77.060 (D), in order to grant approval, or approval with conditions, of a conditional use permit for a wireless communications facility, the planning commission must find, based upon evidence provided by the applicant, that:~~

~~a. For applications proposing the siting of wireless communications facilities through means other than co-location, that higher priority alternatives for providing the specific, proposed wireless service are not feasible.~~

~~b. The proposed facility/tower will not unreasonably interfere with the view from any public park, natural scenic vista, historic building or district, or significant aesthetic resource.~~

~~c. The height and mass of the facility/tower does not exceed that which is essential for its intended use and public safety.~~

~~d. The owner of the wireless communications facility has agreed to permit other persons/providers to attach antennas or other communications apparatus that do not interfere with the primary purpose of the facility.~~

~~e. The proposed facility/tower is not to be constructed in such a manner as to result in needless height or mass.~~

~~f. The finish of the proposed facility/tower will be of a tone or color that minimizes the tower's visual impact.~~

SECTION 80. Chapter 16.08, (*Procedure*), Section 16.08.050 (*Approval authority*), is hereby amended, as follows:

16.08.050 Approval authority.

B. Subdivision plats shall be approved by the planning commission in accordance with these regulations. ~~A subdivision with land area greater than two acres or 10 lots shall be processed as a planned unit development.~~ All partition plats and property line adjustment maps shall be approved by the city staff in accordance with these regulations. The city council delegates its authority to the planning commission, and to the city staff, respectively, to approve or disapprove the subdivision, partition of land and property line adjustments, except for appeals.

SECTION 81. 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 82. 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 83. Ordinance Effective Date.

This ordinance shall be effective in thirty days as provided by Chapter IX, Section 9.3 of the City Charter.

SECTION 84. 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 81-84) 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 9th day of May 2022 (First Reading) and on the 9th day of May, 2022 (Second Reading).

PASSED AND ADOPTED by the City Council of the City of Lincoln City this 9th day of May, 2022.

SUSAN WAHLKE, MAYOR

ATTEST:

JAMIE YOUNG CITY RECORDER

APPROVED AS TO FORM:

RICHARD APPICELLO, CITY ATTORNEY

Council Communication

Ordinance 2022-20 expand Park Fireworks prohibitions to other city property

Meeting Date: May 9, 2022	Primary Staff Contact: Richard Appicello
Department: City Attorney	E-Mail: RAppicello@lincolncity.org
Secondary Dept: Parks and Recreation	Secondary Contacts: Jeanne Sprague
Approval: Lila Bradley	Estimated Time: 5 minutes

Question: Should the City Council conduct and approve Second Reading of Ordinance 2022-20?

ORDINANCE NO. 2022-20

AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 12. (STREETS, SIDEWALKS AND PUBLIC PLACES), CHAPTER 12.16 PARKS USE REGULATIONS AND EXCLUSIVE USE PERMITS), CHAPTER 12.18 EXCLUSIONS AND CRIMINAL TRESPASS, AND CHAPTER 12.02 CONTROL OF PUBLIC RIGHT-OF-WAY), TO INCREASE PENALTIES FOR USE OF ANY TYPE OF FIREWORK IN CITY PARKS / OPEN SPACE AND TO PROHIBIT ANY TYPE OF FIREWORK ON ALL CITY PROPERTY, CITY STREETS, AND RIGHT-OF-WAY

Staff Recommendation:

Staff recommends Council read changes and conduct and approve Second Reading and adopt Ordinance 2022-20.

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:

The first reading was approved on April 25, 2022. Because the vote was not unanimous, second

reading was continued to May 9, 2022. Given fines discussed by Judge Bachart during the April 25, 2022 meeting, staff is recommending a change from a \$500 minimum fine to a \$250 minimum fine. This is still more than the minimum fine statute of \$135.00 that now exists for fireworks in parks.

Council Options:

1. Ordinary Procedure: Conduct and approve Second Reading. Read changes, [e.g. minimum penalty change from \$500 to \$250] if any. [RECOMMENDED ACTION]
2. Continue Second Reading to May 23, 2022.
3. Do not proceed with proposed ordinance.

Potential Motions:

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

ORDINANCE NO. 2022-20

AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 12. (STREETS, SIDEWALKS AND PUBLIC PLACES), CHAPTER 12.16 PARKS USE REGULATIONS AND EXCLUSIVE USE PERMITS), CHAPTER 12.18 EXCLUSIONS AND CRIMINAL TRESPASS, AND CHAPTER 12.02 CONTROL OF PUBLIC RIGHT-OF-WAY), TO INCREASE PENALTIES FOR USE OF ANY TYPE OF FIREWORK IN CITY PARKS / OPEN SPACE AND TO PROHIBIT ANY TYPE OF FIREWORK ON ALL CITY PROPERTY, CITY STREETS, AND RIGHT-OF-WAY

Council:

Motion to approve Second Reading and adopt Ordinance 2022-20.

Attachments:

Ordinance 2022-20 revised Second Reading (DOCX)

ORDINANCE NO. 2022-20

AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 12. (STREETS, SIDEWALKS AND PUBLIC PLACES), CHAPTER 12.16 PARKS USE REGULATIONS AND EXCLUSIVE USE PERMITS), CHAPTER 12.18 EXCLUSIONS AND CRIMINAL TRESPASS, AND CHAPTER 12.02 CONTROL OF PUBLIC RIGHT-OF-WAY), TO INCREASE PENALTIES FOR USE OF ANY TYPE OF FIREWORK IN CITY PARKS / OPEN SPACE AND TO PROHIBIT ANY TYPE OF FIREWORK ON ALL CITY PROPERTY, CITY STREETS, AND RIGHT-OF-WAY

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); *La Grande/Astoria v. PERB*, 281 Or 137, 142 (1978), *aff'd on reh'g* 284 Or 173 (1978); and

WHEREAS, LCMC 12.16.035 prohibits any type of fireworks in City Parks and Open Spaces as follows:

12.16.035 Fireworks and explosives

No person shall ignite or use any type of firework, sparkler, snake, model rocket, rocket motor, other form of explosive, or smoke-producing device or instrument, in any city park or open space. (Ord. 2014-25 § 1); and

1 **WHEREAS**, based on the increased risk of fire caused by legal and illegal fireworks, the
2 disruption of domestic animals, the trauma to veterans, and the nuisance of fireworks generated
3 litter, the City Council desires to expand the existing Park prohibition on any type of fireworks to
4 all City-owned property, all city streets and right-of-way; and
5

6 **WHEREAS**, Council desires to increase penalties associated with Fireworks on City-owned
7 property, parks and right-of-way; and
8

9 **THE CITY OF LINCOLN CITY ORDAINS AS FOLLOWS:**

10
11 **SECTION 1.** Lincoln City Municipal Code Title 12. (*Streets, Sidewalks and Public Places*), Chapter
12 12.16 (*Parks Use Regulations and Exclusive Use Permits*), Section 12.16.035 (*Fireworks and*
13 *explosives*), is amended to read as follows:
14

15 **12.16.035 Fireworks and explosives**

16
17 No person shall ignite or use any type of firework, sparkler, snake, model rocket, rocket
18 motor, other form of explosive, or smoke-producing device or instrument, in any city
19 park or open space. **Firework has the meaning as set forth in ORS 480.111.(7) and**
20 **includes any type of firework, including but not limited to consumer and exempt**
21 **fireworks. Notwithstanding LCMC Chapter 1.16, the minimum fine for a fireworks**
22 **offense under this section shall be \$250.00.**

23 **SECTION 2.** Lincoln City Municipal Code Title 12. (*Streets, Sidewalks and Public Places*), Chapter
24 12.18 (*Exclusions and Criminal Trespass*), Section 12.18.060 (*Rules of Conduct*), to add a new
25 *paragraph K*, is amended to read as follows:
26

27 **K. Fireworks and explosives**

28
29 **No person shall ignite or use any type of firework, sparkler, snake, model rocket,**
30 **rocket motor, other form of explosive, or smoke-producing device or instrument,**
31 **on any City property. Firework has the meaning as set forth in ORS 480.111.(7) and**
32 **includes any type of firework, including but not limited to consumer and exempt**
33 **fireworks. Notwithstanding LCMC Chapter 1.16, the minimum fine for a fireworks**
34 **offense under this section shall be \$250.00.**

35 **SECTION 3.** Lincoln City Municipal Code Title 12. (*Streets, Sidewalks and Public Places*), Chapter
36 12.02 (*Control of Public right-of-way*), is amended to add a new Section 12.02.020 (*Specific*
37 *Prohibitions*) read as follows:
38
39
40

1 **12.16.035 Specific Prohibitions**

2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

A. Fireworks and explosives

No person shall ignite or use any type of firework, sparkler, snake, model rocket, rocket motor, other form of explosive, or smoke-producing device or instrument, on any street or right-of-way located in the City. Firework has the meaning as set forth in ORS 480.111,(7) and includes any type of firework, including but not limited to consumer and exempt fireworks. Notwithstanding LCMC Chapter 1.16, the minimum fine for a fireworks offense under this section shall be \$250.00.

SECTION 4. Findings Adopted.

The findings contained in the Whereas Clauses of this Ordinance, 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 5. 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 6. Ordinance Effective Date.

Pursuant to Chapter IX, Section 9.3, this ordinance takes on the thirtieth (30th) day after its adoption.

SECTION 7. 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 4-7) need not be codified and the City Recorder is authorized to correct any cross-references and any typographical errors.

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 25th day of April, 2022 (First Reading). The Ordinance was again read by title only on the 9th day of May, 2022 (Second Reading) and Council approved Second Reading and adoption of the Ordinance.

1 PASSED AND ADOPTED by the City Council of the City of Lincoln City this 9th day of May, 2022.

2

3

4

SUSAN WAHLKE,
MAYOR

5

6

7

8 ATTEST:

9

10

JAMIE YOUNG, CITY RECORDER

12

13

14

15 APPROVED AS TO FORM:

16

17

RICHARD APPICELLO, CITY ATTORNEY

18

Council Communication

Ordinance 2022-22 Removing Chapter 2.66 sustainability

Meeting Date:	May 9, 2022	Primary Staff Contact:	Richard Appicello
Department:	City Attorney	E-Mail:	RAppicello@lincolncity.org
Secondary Dept:		Secondary Contacts:	
Approval:		Estimated Time:	5 minutes

Question(s):

Should the City Council conduct and approve First and Second Reading of Ordinance 2022-22 entitled:

ORDINANCE NO. 2022-22

AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 2 (ADMINISTRATION AND PERSONNEL), AMENDING CHAPTER 2.66 (COMMUNITY SUSTAINABILITY COMMITTEE), REMOVING SUSTAINABILITY COMMITTEE PROVISIONS FROM THE MUNICIPAL CODE

Staff Recommendation:

Staff recommends Council conduct First Reading of Ordinance 2022-22 and, *if unanimous*, Conduct and approve Second Reading. 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:

This ordinance removes the Sustainability Committee from the municipal code as it is no longer necessary. A reading of Chapter 2.66 shows that the powers and duties of the Sustainability Committee are directly linked to the sustainability plan that was adopted in 2007. Everything in that plan has either been accomplished or has been taken over by the applicable city department. For example, items pertaining to transportation have been incorporated under the

umbrella of the adopted Transportation System Plan, which is under the authority of the public works director in conjunction with the planning and community development director. Sustainability items have been internalized, the City Council proactively develops its own sustainability ordinances as it sees fit (polystyrene ban as an example), and the 2007 plan has been accomplished and/or internalized.

Financial Impact:

The City will realize a cost savings not having to staff the above referenced committee.

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 May 23, 2022 [or]
3. Continue First Reading to May 23, 2022.

Potential Motions:

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

ORDINANCE NO. 2022-22

AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 2 (ADMINISTRATION AND PERSONNEL), AMENDING CHAPTER 2.66 (COMMUNITY SUSTAINABILITY COMMITTEE), REMOVING SUSTAINABILITY COMMITTEE PROVISIONS FROM THE MUNICIPAL CODE

Motion to approve First Reading of Ordinance 2022-22.

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 2022-22.

[or]

2. Motion to set Second Reading for May 23, 2022.

Attachments:

Ordinance 2022-22 sustainability 4-26-22 (DOCX)

ORDINANCE NO. 2022-22

AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 2 (ADMINISTRATION AND PERSONNEL), AMENDING CHAPTER 2.66 (COMMUNITY SUSTAINABILITY COMMITTEE), REMOVING SUSTAINABILITY COMMITTEE PROVISIONS FROM THE MUNICIPAL CODE

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, Lincoln City Municipal Code Title 2 (Administration and Personnel), CHAPTER 2.66 (Community Sustainability Committee) sets forth provisions regarding the composition and duties of the Sustainability Committee; and

WHEREAS, City Administration requested and the City Council concurs that the committee is no longer necessary and Council desires to remove its authorization from the Code;

THE CITY OF LINCOLN CITY ORDAINS AS FOLLOWS:

SECTION 1. Lincoln City Municipal Code Title 2. (*Administration and Personnel*), Chapter 2.66 (*Community Sustainability Committee*), is hereby amended to read as follows:

Chapter 2.66
COMMUNITY SUSTAINABILITY COMMITTEE

Sections:

~~2.66.005 Established – Membership.~~

~~2.66.020 Powers and duties.~~

~~2.66.005 Established – Membership.~~

~~The community sustainability committee is established and shall consist of five voting members including no less than three members who are current residents of the city and up to two members who live outside the city but within the city urban growth boundary. The committee shall also consist of certain nonvoting ex officio members, the planning and community development department director, or designee, serving as the primary staff liaison and secretary of the commission.~~

~~2.66.020 Powers and duties.~~

~~The community sustainability committee shall be advisory only and shall be empowered to study and recommend to the council on the subject of education and promotion of wise and efficient use and conservation of energy and natural resources by the city of Lincoln City and all its citizens and visitors. In doing so, the committee shall recommend to the city council the adoption of ordinances, rules, regulations, policies, implementation strategies and funding related to the community portion of the 2007 Lincoln City Sustainability Plan (adopted by Resolution 2007-29) and supported in Resolutions 2007-30 and 2007-31. Such implementation includes but is not limited to:~~

~~A. Promotion of environmentally, socially, and economically improved alternatives for development, operations, and maintenance in the Lincoln City community at large;~~

~~B. Education and awareness of energy and resource conservation issues;~~

~~C. Green building codes and green power generation;~~

~~D. Recycling, composting, source reduction and solid waste/landfill reduction issues;~~

~~E. Electric and water conservation issues;~~

~~F. Planting of native vegetation, invasive species removal, nonpoint pollution/watershed protection; and~~

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43

~~G. Mass transit, affordable housing and alternative transportation.~~

SECTION 2. Findings Adopted.

The findings contained in the Whereas Clauses of this ordinance, 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 3. 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 4. Ordinance Effective Date.

Pursuant to Chapter IX, Section 9.3, this ordinance takes effect 30 days after the date of its adoption.

SECTION 5. 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 2-5) need not be codified and the City Recorder is authorized to correct any cross-references and any typographical errors.

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 9th day of May, 2022 (First Reading) and on the 9th day of May, 2022 (Second Reading).

PASSED AND ADOPTED by the City Council of the City of Lincoln City this 9th day of May, 2022.

SUSAN WAHLKE, MAYOR

ATTEST:

JAMIE YOUNG, CITY RECORDER

1 APPROVED AS TO FORM:
2
3 _____
4 RICHARD APPICELLO, CITY ATTORNEY

Council Communication

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

Meeting Date:	May 9, 2022	Primary Staff Contact:	Richard Appicello
Department:	City Attorney	E-Mail:	RAppicello@lincolncity.org
Secondary Dept:	Planning Commission	Secondary Contacts:	AnneMarie Skinner
Approval:	Lila Bradley	Estimated Time:	15 minutes

Question: Should the City Council conduct and approve First and Second Reading of 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 First Reading and 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:

This ordinance is subject to a public hearing on May 9, 2022. If changes are proposed based on public hearing testimony, changes will need to be read or the matter can be continued to a subsequent meeting to make changes.

This ordinance was a privately initiated text amendment. The intent of the ordinance is to provide some relief from the 20-foot front setback in the R-1-RE zone for elevated decks above

7 feet (allowing for a five foot reduction in the setback to fifteen feet for elevated decks).

Please note: The R-1-RE already contains a relief provision from the 20 foot front setback in the form of front yard averaging to lots that abut Logan Road - based on lots within 100 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.

Staff initially recommended removal of the averaging provision in favor of the five foot reduction allowance for elevated decks. If the averaging provision stays, staff recommends clarification that the lots on the same side of the street within 100 feet be examined with the additional language to require the applicant to pay for a survey when averaging is requested.

Applicant's Proposed Language:

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 **the same side of the street** which the proposed building is to be located and that abut Logan Road. **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 (i.e., supported by only the wall of the structure from which it projects), or supported by posts and beams if the posts and beams meet all building code requirements and the posts are within the minimum 15-foot setback.**

Staff's recommended language after Planning Commission:

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 their 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 within the minimum 15-foot setback.**

Planning Commission recommended Language:

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 prepare and submit a survey, at their sole cost and expense, when averaging is proposed to be used to determine the setback.**

Staff's recommended language prior to Planning Commission- (Note: this language actually trades the averaging relief from the 20 foot setback for the elevated deck relief):

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 which the proposed building is to be located and that abut Logan Road.~~ **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 code requirements and the posts and beams are within the minimum 15-foot setback.**

Staff's current recommended language (keeping averaging and the 5 foot reduction) is included in the draft ordinance. Other options will need to be read.

Council Options:

1. Conduct and approve First Reading. In unanimous, Conduct and approve Second Reading and adopt the ordinance.
2. Continue First Reading to May 23, 2022.
3. Do not proceed with proposed ordinance.

Potential Motions:

City Attorney: [Conduct First 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 First Reading of Ordinance 2022-23.

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

Council:

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

Attachments:

Ordinance 2022-23 zoa 2202-06 for 5-09-22 (DOCX)

Ex A 2022-23 ZOA 2022-06 Findings (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 the 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 and provided direction to staff to return with an Ordinance for adoption; 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
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37

Applicant’s Proposed Language:

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 the same side of the street which the proposed building is to be located and that abut Logan Road. 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 (i.e., supported by only the wall of the structure from which it projects), or supported by posts and beams if the posts and beams meet all building code requirements and the posts are within the minimum 15-foot setback.

Staff’s recommended language after Planning Commission:

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 within the minimum 15-foot setback.

Planning Commission recommended Language:

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

1 sole cost and expense, when averaging is proposed to be used to determine the
2 setback.

3
4 **SECTION 2. Findings Adopted.** The findings contained in the Whereas Clauses of this
5 ordinance, together with the Findings set forth in Exhibit A, as well as the competent substantial
6 evidence in the whole record of this legislative proceeding are incorporated into this section by
7 reference as if fully set forth herein, and are adopted in support of this legislative action.

8
9 **SECTION 3. Severability.** The sections, subsections, paragraphs and clauses of this ordinance
10 are severable. The invalidity of one section, subsection, paragraph, or clause shall not affect the
11 validity of the remaining sections, subsections, paragraphs and clauses.

12
13 **SECTION 4. Ordinance Effective Date.** Pursuant to Chapter IX, Section 9.3, this ordinance
14 takes effect 30 days after the date of its adoption.

15
16 **SECTION 5. Codification.** Provisions of this Ordinance shall be incorporated in the City of
17 Lincoln City Municipal Code and the word "ordinance" may be changed to "code", "article",
18 "section", "chapter" or another word, and the sections of this Ordinance may be renumbered, or
19 re-lettered, provided that any Whereas clauses and boilerplate provisions (i.e. Sections 2-5) need
20 not be codified and the City Recorder is authorized to correct any cross-references and any
21 typographical errors.

22
23 The foregoing ordinance was distinctly read by title only in accordance with Chapter IX, Section
24 9.2 of the City of Lincoln City Charter on the 9th day of May, 2022 (First Reading) and on the 9th
25 day of May, 2022 (Second Reading).

26
27 PASSED AND ADOPTED by the City Council of the City of Lincoln City this 9th day of May,
28 2022.

29
30
31
32

SUSAN WAHLKE, MAYOR

33
34 ATTEST:

35
36 _____
37 JAMIE YOUNG, CITY RECORDER

38
39 APPROVED AS TO FORM:

40
41 _____
42 RICHARD APPICELLO, CITY ATTORNEY

43

1

EXHIBIT A – FINDINGS

Findings for Ordinance 2022-??

The above-referenced proposed ordinance was properly noticed pursuant to ORS 197.610. The ordinance proposes an amendment to Chapter 17.17 Single-Family Residential, Roads End (R-1-RE), so all property owners in R-1-RE were mailed notice of the public hearings on March 15, 2022. Notice to DLCD was made on March 2, 2022. Notice of the public hearings was published in the local newspaper on March 22, 2022, and March 29, 2022.

Ordinance 2022-?? 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 adding a requirement for a survey of the setback distances if the average option is chosen.

Written comments were received expressing opposition to the applicant's requested 5-foot setback reduction for decks. Individuals also testified in opposition to the 5-foot setback reduction for decks at the Planning Commission public hearing.

- 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. Notice of the public hearings was 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. 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 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.

(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 does not relate to housing and does not adversely impact provisions for opportunities to provide housing. This goal 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 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 to aesthetics. This goal 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.

Council Communication

Villages Wetland Delineation and Survey

Meeting Date:	May 9, 2022	Primary Staff Contact:	Stephanie Reid
Department:	Public Works	E-Mail:	SReid@lincolncity.org
Secondary Dept:		Secondary Contacts:	
Approval:	Lila Bradley	Estimated Time:	10 minutes

Question:

Should the City Council direct Staff to enter into a contract with PBS Environmental and Engineering, Inc. for Wetland Delineation and Survey in the amount of \$95,000.00?

Staff Recommendation:

City Council direct Staff to enter into a contract with PBS Environmental and Engineering, Inc. for Wetland Delineation and Survey in the amount of \$95,000.00.

Authority:

279B.070 Intermediate procurements. (1) A contracting agency may award a procurement of goods or services that exceeds \$10,000 but does not exceed \$150,000 in accordance with intermediate procurement procedures. A contract awarded under this section may be amended to exceed \$150,000 only in accordance with rules adopted under ORS 279A.065.

(2) A contracting agency may not artificially divide or fragment a procurement so as to constitute an intermediate procurement under this section.

(3) When conducting an intermediate procurement, a contracting agency shall seek at least three informally solicited competitive price quotes or competitive proposals from prospective contractors. The contracting agency shall keep a written record of the sources of the quotes or proposals received. If three quotes or proposals are not reasonably available, fewer will suffice, but the contracting agency shall make a written record of the effort the contracting agency makes to obtain the quotes or proposals.

(4) If a contracting agency awards a contract, the contracting agency shall award the contract to the offeror whose quote or proposal will best serve the interests of the contracting agency, taking into account price as well as considerations including, but not limited to, experience, expertise, product functionality, suitability for a particular purpose and contractor responsibility under ORS 279B.110. [2003 c.794 §54; 2013 c.66 §2]

Personal Services Contracts LCMC 2.05.090

1. The selection procedures described in this section may be waived by the City Manger at his or her discretion, under the following circumstances:

- (1) an emergency exists that could not have been reasonably foreseen and requires such prompt execution of a contract to remedy the situation that there is not sufficient time to implement section procedures; or
- (2) selection is from an approved list of qualified service providers with similar qualifications and placement on the list selection is determined based upon a qualification process conducted at least every three years; or
- (3) the work is follow-on work and a change in contractor would clearly result in increased costs or increased time.

Background:

LCMC 2.05.070 Procurement of Public Good and Services. On April 25, 2022 City Council approved selected qualified consulting firms in several categories; per ORS 279B.070. For the environmental services category and surveying, PBS was among the firms selected.

The Wetland Delineation and Survey is necessary to implement three motions passed by Council on October 25, 2021. The motions were:

- Motion to initiate map amendment to RRMU designation on city property in the Villages to refine the designation
- Motion to initiate map amendment to Villages to add 35 acres of open space designated lands, and refine the placement of such lands, per Ordinance 2019-40
- Motion to initiate map amendments to intersperse Park designated lands among open space designated lands, where appropriate

Council Options:

Approve the contract award to PBS Environmental and Engineering, Inc.

Do not approve the contract award to PBS Environmental and Engineering, Inc.

Financial Impact

Fund 262-000 (Villages at Sitka Wood) has \$30,000.00 in Contracted Services. Fund 262-000 has \$91,514 in contingency.

Potential Motions:

Move to approve the contract award to PBS Environmental and Engineering, Inc. for Wetland Delineation and Survey in the amount of \$95,000.00 using funds in 262-000 (Villages at Sitka Wood).

Move to approve the contract award to PBS Environmental and Engineering, Inc. for Wetland Delineation and Survey in the amount of \$95,000.00 using \$30,000.00 in the 262-000 (Villages at Sitka Wood) fund and \$65,000 from the contingency fund.

Move to not award the contract.

Attachments:

Proposed Scope of Work

Attachments:

LincolnCity-TheVillages-PBS-Scope (PDF)

Request For Proposal Villages Wetland Delineation & Survey

SCOPE OF WORK April 28, 2022

PROJECT UNDERSTANDING

The City owns property that is approximately 300-acres in size and is known as “The Villages at Cascade Head” the area is zoned Single Family Residential (R1-7.5). The City is in the process of completing a series of studies in anticipation of development of this land. The goal of these studies is to establish baseline conditions within the parcels to assist in accurately planning future development uses.

PBS proposes to provide Natural Resources assessment and Land Surveying services to assist the city in planning potential development of the project area. This work will involve identification and mapping of sensitive areas such as wetland, waterways, and steep slopes, suggest potential buffers based on existing Best Available Science (BAS) to protect identified sensitive areas. It is our understanding that the City intends to rezone these areas as Open Space or Parks.

ASSUMPTIONS

1. Wetlands will be delineated using the routine wetland delineation method prescribed by the US Army Corps of Engineers (USACE) and Oregon Department of State Lands (DSL).
2. Wetland maps will be generated from data collected in the field.
3. The report will not contain all the information required to apply for wetland boundary verification. Data will be saved if the City desires creation of reports that meet DSL requirements for boundary verification.
4. Wetland functional assessments will be qualitative in nature based on observed conditions in the field and the accepted tenants of wetland science. Full Oregon Wetland Assessment Protocols (ORWAP) will not be completed for each wetland.
5. Ordinary High-Water Marks/Lines (OHWM/L) will be determined using existing guidance from the USACE and DSL.
6. Presumed fish usage will be calculated using existing online databases and will not include sampling for fish presence.
7. All meetings will be held virtually

SCOPE OF SERVICES

TASK 1: Wetlands and Waters Delineation Fieldwork

Utilizing the U.S. Army Corps of Engineers (USACE) and Oregon Department of State Lands (DSL) methodologies, the Consultant will identify and delineate wetland boundaries within the project area. In addition to the wetland areas, Ordinary High-Water Marks/Lines (OHWM/L) of all surface waters will be identified and recorded. Wetland sample plots will be established to record soil, vegetation, and hydrology data for each identified wetland. Wetland boundaries and

OHWL locations will be recorded in the field with a Garmin geo7x handheld GPS unit. Following post processing of data this unit will achieve sub-meter accuracy. Photographs with positional information for each wetland will be recorded.

TASK 2: Project Area Mapping

Various maps that will be produced to allow City planning staff with information that will inform development related decisions. These will include:

1. Georeferenced high-resolution aerial photograph - a georeferenced aerial photo of the entire site will be generated using a Mavic Air 2 Pro drone. The high-resolution photo will allow for identification of sight lines, vegetation types and prove useful in future planning efforts or public information campaigns.
2. Steep slope maps – Consultant will utilize USGS 3DEP base files to generate topographic maps that identify steep slopes. The 3DEP files are a generated from multiple series of LIDAR data and this exercise will generate polygons where development is not feasible due to slope constraints.
3. Wetlands and buffers – Consultant will use location data collected in the field to generate polygons for wetland and buffers. Buffer widths will be based on best available science that would protect anticipated functions for individual wetlands.
4. Streams and riparian buffers - Consultant will use location data collected in the field to generate OHWM locations for streams and appropriate buffers. Buffer widths will be based on recent guidance documents published by the Washington Department of Fish and Wildlife (WDFW). These documents represent the current best available science for managing riparian ecosystems.
5. Soil Maps – Soil maps with identified erodible and hydric soils will be produced using NRCS soil shape files.

TASK 3: Assessment Report

The assessment report will serve as the deliverable that details the methods and results of the field work and mapping exercises. The report will summarize the results of wetland delineation and include maps and detailed information on the overall quality and functions of each delineated wetlands. Stream information will include general size, geomorphic position and characteristics and anticipated fish usage. Lastly, the report will contain a discussion of developable land within the project area and propose location(s) that could be developed as parklands.

Tasks 1, 2 and 3 Deliverables

1. Project Area Mapping - Digital files of wetlands, streams, and steep slopes

2. Draft Wetland and Waters Assessment Report in Digital format (PDF)
3. Final Wetland and Waters Assessment Report in Digital format (PDF)

TASK 4: Boundary Exhibit Preparation

A boundary exhibit will be prepared for the City of Lincoln City's property described in Deed Document No, 2013-05262 that is north of the plat of Rock Creek Village. The boundary lines will be compiled using the existing survey of the property prepared in 1980 and filed under Survey No. 9292 in the Lincoln County Survey Records and the plat of Rock Creek Village. PBS field crews will establish control points on site on a state plane horizontal datum to tie a sufficient number of property corners to control the placement of the boundary exhibit in CAD to create a base drawing. The wetland and slope buffers described above will be added to the base drawing to be used as a guide for the creation of legal descriptions.

TASK 5: Legal Descriptions And Exhibits

PBS will meet with the City to review the boundary exhibit drawing/base map to discuss and mark up the map the with desired locations for the legal descriptions and exhibits. There are 10 existing tax lots within the boundary described above and it is the assumption of this proposal that 15 legal description and exhibits will be prepared.

Task 4 and 5 Deliverables

1. 24" X 36" Boundary exhibit drawings in CAD and PDF format.
2. Fifteen (15) 8 ½" X 11" legal descriptions in WORD and PDF format.

EXCLUSIONS

1. Preparation of boundary line adjustments
2. Preparation of deed Documents

FEE

Task 1- Wetland and Waters Fieldwork - \$26,000
 Task 2 – Data handling / Project Map Generation - \$8,000
 Task 3- Wetland and Waters Assessment Report –\$13,000
 Task 4- Boundary Exhibit Preparation - \$30,000
 Task 5 – Legal Descriptions and Exhibits - \$18,000
 Total Fee = \$95,000

Council Communication

SW 63rd and SW Inlet Overlay Construction Award

Meeting Date:	May 9, 2022	Primary Staff Contact:	Stephanie Reid
Department:	Public Works	E-Mail:	SReid@lincolncity.org
Secondary Dept:		Secondary Contacts:	
Approval:	Lila Bradley	Estimated Time:	5 minutes

Question:

Should the City Council Award a construction contract to Road & Driveway Co. for the SW 63rd & SW Inlet Overlay project?

Staff Recommendation:

Staff recommends the construction contract be awarded to Road & Driveway Co.

Authority:

LCMC 2.05.060 (Public Improvement contracts shall be awarded by competitive bid or as provided by the Public Contracting Code or these rules)

Background:

Public Works designed this project in house. This street section was high on the overlay priority list. The project will overlay SW 63rd Street, and SW Inlet Avenue from SW 63rd to SW 69th.

Project Description

The project roadway preparation & paving, with the installation of a fabric layer to increase pavement strength & longevity. The project will improve one of two primary access roads into the Cutler City neighborhood.

Bids

Public Works Department advertised the project for bid on April 11 & April 12, 2022. The City Public Works Department opened bids for the project on April 28, 2022. One bid was received:

Bidder	Bid Amount
Road & Driveway Co.	\$205,895.27

The lowest responsive and responsible bidder was Road & Driveway Co. in the amount of \$205,895.27.

Financial Impact:

This project will be funded out of Streets Capital Fund- Street Overlay Projects (211-000-6210009). The amount remaining in the overlay budget is \$400,000.00.

The following table shows design costs incurred in FY2021-22, and the estimated cost to construct and complete the project in FY2021-22.

Item	Project Cost in FY2016-21	Estimated Cost to Complete FY2021-22
Survey & CAD Services	In House	
Design	In House	
Bid Advertisement (2021)	\$304.92	\$200.00
Bureau of Labor and Industries		\$250.00
Construction Bid		\$205,895.27
Art (1/2 of one percent of the construction bid)		\$1,029.48
Construction Contingency		\$20,589.53
Total	\$304.92	\$227,964.28

Council Options:

The Council may approve the construction award.

The Council may not approve the construction award.

Potential Motions:

Move to award the construction contract to Road & Driveway Co. in the amount of \$205,895.27 with a construction contingency of \$20,589.53 (10 percent of bid amount) for a total amount of \$226,484.80

Attachments:

Bid Tab

Attachments:

Bid Tab (PDF)

SW 63rd & SW Inlet Overlay		Engineer's Estimate				Road & Driveway Co.	
	ITEMS	QUANTITY	UNIT	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL
	Sidewalk Bid Items						
1	Mobilization & General Conditions	1	LS	\$35,000.00	\$35,000.00	\$17,075.00	\$17,075.00
2	Temporary Work Zone Traffic Control, CComplete	1	LS	\$8,000.00	\$8,000.00	\$11,707.79	\$11,707.79
3	Local Notice & Roadway Preparation	1	LS	\$5,000.00	\$5,000.00	\$9,929.92	\$9,929.92
4	Roadway Grinding & Paving Preparation	5,750	SF	\$1.50	\$8,625.00	\$2.27	\$13,052.50
5	2" Overlay, Level II HMAC	1,035	TN	\$175.00	\$181,125.00	\$110.64	\$114,512.40
6	Roadway Fabric Underlayment	79,600	SF	\$1.50	\$119,400.00	\$0.36	\$28,656.00
7	Manhole Rim Adjustment - Minor	12	EA	\$400.00	\$4,800.00	\$255.53	\$3,066.36
8	Cleanout Adjustment	1	EA	\$200.00	\$200.00	\$223.10	\$223.10
9	Expose existing sanitary cleanout & adjust cover	1	EA	\$300.00	\$300.00	\$560.60	\$560.60
10	Water Valve Adjustment	10	EA	\$250.00	\$2,500.00	\$107.65	\$1,076.50
11	4" Reflective Paint Stripe, Dashed Yellow, 10' sections	900	LF	\$1.50	\$1,350.00	\$0.72	\$648.00
12	4" Reflective Paint Stripe, White,	2,810	LF	\$1.25	\$3,512.50	\$0.72	\$2,023.20
13	1' - Thermoplastic Stop Bar Restoration	50	LF	\$10.00	\$500.00	\$13.50	\$675.00
14	Speed Bump striping restoration, 1' wide, white thermoplastic, complete	1	LS	\$1,200.00	\$1,200.00	\$1,940.80	\$1,940.80
15	Asphalt Berm	70	LF	\$25.00	\$1,750.00	\$5.25	\$367.50
16	3/4"-0" or 1"-0" Crushed Shoulder rock & Gravel Driveway transition	10	CY	\$100.00	\$1,000.00	\$38.06	\$380.60
	TOTAL				\$374,262.50		\$205,895.27