

CITY OF LINCOLN CITY

LINCOLN CITY COUNCIL AGENDA

MONDAY JANUARY 27, 2020 6:00 PM

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

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 Cathy Steere, 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](http://www.lincolncity.org) under "Agenda, 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 – December 9, 2019 6:00 PM

**E. COUNCIL DELIBERATIONS**

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

**G. PRESENTATIONS**

**H. PUBLIC HEARING / ORDINANCE**

**I. PUBLIC HEARINGS / PUBLIC COMMENTS**

2. Public Hearing: Comprehensive Plan Amendment and Zone Change (CPA & ZC 2019-04) Sutton Property
3. Public Hearing: Zoning Ordinance Amendment (ZOA 2019-14) Accessory Dwelling Unit Ordinance

4. Public Hearing: Zoning Ordinance Amendment (ZOA 2019-16) to create a new Resort Community Commercial (RCC) Zone

**J. ORDINANCES**

5. ORDINANCE 2020-02 AN ORDINANCE AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 17 (ZONING), CHAPTER 17.12 (ZONING DISTRICTS ESTABLISHED),SECTION 17.12.010 (CLASSIFICATION OF ZONES) ADDING A NEW RESORT COMMUNITY COMMERCIAL ZONING DISTRICT; CREATING NEW CHAPTER: CHAPTER 17.29 (RCC) (RESORT COMMUNITY COMMERCIAL)
6. ORDINANCE 2020-03 AN ORDINANCE AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 17, (ZONING), AMENDING CHAPTER 17.08 (DEFINITIONS); AMENDING CHAPTER 17.80 (PROVISIONS APPLYING TO SPECIAL USES); SECTION 17.80.110 (ACCESSORY DWELLING UNIT STANDARDS) TO REMOVE DISCRETIONARY STANDARDS; AMENDING THE FOLLOWING CHAPTERS TO REFLECT THE REVISION: CHAPTER 17.16 (SINGLE FAMILY RESIDENTIAL (R-1) ZONE); 17.17 (SINGLE FAMILY RESIDENTIAL ROADS END (R-1-RE) ZONE; CHAPTER 17.18 (VACATION RENTAL (VR) ZONE; CHAPTER 17.20 (MULTI-FAMILY RESIDENTIAL (R-M) ZONE; CHAPTER 17.28 (RECREATION COMMERCIAL (RC) ZONE); CHAPTER 17.32 (GENERAL COMMERCIAL (GC) ZONE; CHAPTER 17.34 (NELSCOTT PLAN (NP) DISTRICT); CHAPTER 17.40 (RECREATION RESIDENTIAL (R-R) ZONE; CHAPTER 17.45 (TAFT VILLAGE CORE (TVC) ZONE) AND CHAPTER 17.50 (OCEANLAKE PLAN (OP) DISTRICT; CHAPTER 17.52 (SUPPLEMENTAL REGULATIONS AND EXCEPTIONS).

**K. RESOLUTIONS**

7. RESOLUTION NO. 2020-03 A RESOLUTION OF THE CITY OF LINCOLN CITY ESTABLISHING A STANDARD FORM DEVELOPMENT AGREEMENT IN COMPLIANCE WITH ORDINANCE NO. 2019-30

**L. SPECIAL ORDER OF BUSINESS**

8. Bard Road Sewer Construction Contract Award
9. Economic Development Toolbox for City: Update, Committee, New Tools, Discussion

**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

December 9, 2019, 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](http://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: January 27, 2020

**A. CALL TO ORDER**

*Mayor Anderson called the meeting to order at 6:00 pm.*

**B. ROLL CALL**

Attendee Name	Title	Status	Arrived
Dick Anderson	Mayor	Present	6:00 PM
Judy Casper	Councilor Ward 3	Present	6:00 PM
Diana Hinton	Councilor Ward 1	Present	6:00 PM
Riley Hoagland	Councilor Ward 2	Present	6:00 PM
Diane Kusz	Councilor Ward 2	Excused	
Rick Mark	Councilor Ward 3	Present	6:00 PM
Mitch Parsons	Councilor Ward 1	Present	6:00 PM

**C. PLEDGE OF ALLEGIANCE** - *Mayor Anderson led The Pledge of Allegiance.*

**D. CONSENT AGENDA**

1. Regular Meeting – Minutes of Regular Meeting – October 28, 2013 6:00 PM  
*Removed from consideration due to the wrong year of minutes was attached.*

**E. COUNCIL DELIBERATIONS** - *None*

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

*Jay Roelof, Lincoln City resident - Spoke on proposed bans on polystyrene foam, and reminded Council that January 1 is coming soon and that the City came close to agree to move the ban forward by January 1, 2020.*

*Angie Wright - Expressed concerns with the 24-hour parking restriction and explained that she would like someone to explain the ordinance to her.*

Tim Melton - Spoke on the conditional use permit for the Chance application, and concerns for the homeless. Mayor Anderson reminded all that the Council amended and approved ordinances to free up 365 beds for overnight emergency use, noting that every church has the capability.

**G. PRESENTATIONS**

None

**H. PUBLIC HEARINGS / PUBLIC COMMENTS**

**2. Public Hearing Pursuant to ORS 221.725 / ORS 271.330 On Proposed Disposition of Real Property for Transitional Housing**

Mayor Anderson opened the public hearing, there was no conflicts of interest declared, and no challenges from the public as to the authority. Mr. Appicello presented the staff report. Council and the City Attorney discussed the public comment, including when the residents have an opportunity to provide comment. Mr. Chandler provided a background on this proposed property purchase/agenda item. Mr. Appicello advised that Council might wish to postpone the resolution under number 6.

A member of the public expressed confusion as to when they can speak to ask questions to Helping Hands. Mr. Appicello advised this public hearing is not a land-use hearing, and this public hearing is only for the "proposed" sale of the property. The land use hearing is held at the Planning Commission. Council continued expressing concerns with confusing notices and the purpose of the notice. Mayor Anderson asked Helping Hands representatives to come forward to ask questions. Mr. Appicello continued attempting to explain the project.

Jay Roelof spoke on homeless and that the churches do not want to step up to provide the beds needed as a warming shelter.

David Hahn, Lincoln City, believes it is a conflict for the City to purchase more property, and asked what happens when they [Helping Hands] is no longer in business.

Mayor Anderson said the City will monitor Helping Hands to ensure compliance with the Deed of Trust and conditions in providing transitional housing and attached services. He continued stating that the City will only own the property for a short period and then it transfers to Helping Hands. Mayor Anderson states that the City's priority is housing.

<b>MOTION:</b>	<b>Motion to close the public hearing and the record.</b>
<b>MOVER:</b>	<b>Judy Casper, Councilor Ward 3</b>
<b>SECONDER:</b>	<b>Rick Mark, Councilor Ward 3</b>
<b>AYES:</b>	Anderson, Casper, Hinton, Hoagland, Mark, Parsons
<b>EXCUSED:</b>	Kusz
<b>RESULT:</b>	<b>Passed via Voice Vote</b>

**3. Public Hearing: proposed vacation of a portion of NW 44TH Place**

Mayor Anderson opened the public hearing reading from the script. Mr. Appicello presented the staff report. No public comment received. There was no challenge received as to the participation of Council members. There were no abstentions or disqualifications announced based on conflict of interest or personal bias.

Discussed was the height of the sky-bridge. No comment from the public or public agencies received.

Mayor Anderson notes the wording in the public hearing script is confusing. Mr. Appicello will attempt to re-write the script.

<b>MOTION:</b>	<b>Motion to close the public hearing and the record.</b>
<b>MOVER:</b>	<b>Riley Hoagland, Councilor Ward 2</b>
<b>SECONDER:</b>	<b>Mitch Parsons, Councilor Ward 1</b>
<b>AYES:</b>	Anderson, Casper, Hinton, Hoagland, Mark, Parsons
<b>EXCUSED:</b>	Kusz
<b>RESULT:</b>	<b>Passed via Voice Vote</b>

## I. ORDINANCES

4. ORDINANCE 2019-42 AN ORDINANCE OF THE CITY OF LINCOLN CITY PROVIDING FOR THE VACATION OF A PORTION OF NW 44th PLACE

<b>MOTION:</b>	<b>Motion to approve first reading of Ordinance 2019-42 (Vacating a Portion of NW 44th Place) and move to second reading.</b>
<b>MOVER:</b>	<b>Rick Mark, Councilor Ward 3</b>
<b>SECONDER:</b>	<b>Riley Hoagland, Councilor Ward 2</b>
<b>AYES:</b>	Anderson, Casper, Hinton, Hoagland, Mark, Parsons
<b>EXCUSED:</b>	Kusz
<b>RESULT:</b>	<b>Passed by Roll Call Vote</b>

<b>MOTION:</b>	<b>Motion to approve second reading and adoption of Ordinance 2019-42 (Vacating a Portion of NW 44<sup>th</sup> Place).</b>
<b>MOVER:</b>	<b>Rick Mark, Councilor Ward 3</b>
<b>SECONDER:</b>	<b>Riley Hoagland, Councilor Ward 2</b>
<b>AYES:</b>	Anderson, Casper, Hinton, Hoagland, Mark, Parsons
<b>EXCUSED:</b>	Kusz
<b>RESULT:</b>	<b>Passed by Roll Call Vote</b>

5. ORDINANCE NO. 2019-33: AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 10 (VEHICLES AND TRAFFIC), CHAPTER 10.12 (GENERAL REGULATIONS) SECTION 10.12.040 (STORING MOTOR VEHICLES ON STREETS) TO INCREASE PENALTIES AND STRENGTHEN ENFORCEMENT.

*Mr. Appicello read Ordinance 2019-33 by title, and including revisions. Discussion held as to this ordinance in relation to an abandoned vehicle as opposed to prohibited storage of a vehicle, and the change from Class B violation to Class C. Chief Palmer came forward to answer questions.*

*Discussed was "tagging" of a vehicle, concerns with vehicles belonging to visitors that are here for a week, that the manager has the authority to create spaces for a longer period of time, and concerns with what problem the City is trying to fix. Chief Palmer explained the reason for this change, noting the officers do a good job proactively investigating.*

*Discussed was possible parking lots to be used for overnight use, the City is trying to stop misuse of the right-of-way, and information as to residential parking permits, tagging vehicles, and 72-hour state requirement versus City requirement of 24 hours.*

<b>MOTION:</b>	<b>Motion to approve second reading and adoption of Ordinance 2019-33 (Prohibited Storage of Vehicles) with changes as read.</b>
<b>MOVER:</b>	<b>Riley Hoagland, Councilor Ward 2</b>
<b>SECONDER:</b>	<b>Judy Casper, Councilor Ward 3</b>
<b>AYES:</b>	Anderson, Casper, Hinton, Hoagland
<b>NAYS:</b>	Mark, Parsons
<b>EXCUSED:</b>	Kusz
<b>RESULT:</b>	<b>Passed by Roll Call Vote</b>

## J. RESOLUTIONS

### 6. RESOLUTION 2019-25: DISPOSITION OF CITY REAL PROPERTY TO NON-PROFIT ORGANIZATION FOR PURPOSES OF TRANSITIONAL HOUSING

*Postponed to the January 13, 2020 City Council meeting.*

<b>MOTION:</b>	<b>Motion to postpone consideration of this resolution until the January 13, 2020 City Council meeting.</b>
<b>MOVER:</b>	<b>Riley Hoagland, Councilor Ward 2</b>
<b>SECONDER:</b>	<b>Judy Casper, Councilor Ward 3</b>
<b>AYES:</b>	Anderson, Casper, Hinton, Hoagland, Mark, Parsons
<b>EXCUSED:</b>	Kusz
<b>RESULT:</b>	<b>Passed via Voice Vote</b>

## K. SPECIAL ORDER OF BUSINESS - None

## L. 7:35 PM - RECESS TO EXECUTIVE SESSION UNDER ORS 192.660(2)(E) AND (F)

*Mayor Anderson read the authority for the Executive Session meeting, real property transactions and confidential records - with subject as review of real property acquisition priorities, and estimates the time of 1 hour for the meeting.*

## M. 8:56 PM - RECONVENE TO REGULAR SESSION

## N. CITY MANAGER/CITY ATTORNEY REPORTS

*Mr. Chandler reminded Council of the field trip scheduled for December 10, 2020, that will begin at City Hall and then Council tours various locations on the agenda. A recording device will be used that will be uploaded to the website. The work session advertised inclusion of a tour. They will take no action. Work Session meetings are generally not open for comment from the public. The public may use their own transportation to attend. The meeting will reconvene back and City Hall.*

*Mr. Appicello confirmed that with regard to the LUBA appeal, the City is not appearing.*

## O. ACTIONS, IF ANY, BASED ON WORK SESSION OR EXECUTIVE SESSION

<b>MOTION:</b>	<b>Motion to direct staff to proceed with the counter offer on property number 7, continue with the purchase of property number 1, and eliminate the proposition of purchasing property number 3.</b>
<b>MOVER:</b>	<b>Judy Casper, Councilor Ward 3</b>
<b>SECONDER:</b>	<b>Diana Hinton, Councilor Ward 1</b>
<b>AYES:</b>	Anderson, Casper, Hinton, Hoagland, Mark, Parsons
<b>EXCUSED:</b>	Kusz
<b>RESULT:</b>	<b>Withdrawn</b>
<b>MOTION:</b>	<b>Motion to direct staff to proceed with a counter offer for property number 7.</b>
<b>MOVER:</b>	<b>Judy Casper, Councilor Ward 3</b>
<b>SECONDER:</b>	<b>Rick Mark, Councilor Ward 3</b>
<b>AYES:</b>	Anderson, Casper, Hinton, Hoagland, Mark, Parsons
<b>EXCUSED:</b>	Kusz
<b>RESULT:</b>	<b>Passed by Roll Call Vote</b>
<b>MOTION:</b>	<b>Motion to cancel the negotiations for property number 3.</b>
<b>MOVER:</b>	<b>Rick Mark, Councilor Ward 3</b>
<b>SECONDER:</b>	<b>Riley Hoagland, Councilor Ward 2</b>
<b>AYES:</b>	Anderson, Casper, Hinton, Hoagland, Mark, Parsons
<b>EXCUSED:</b>	Kusz
<b>RESULT:</b>	<b>Passed by Roll Call Vote</b>

*Discussion held with regard to the resolution and the funds for purchase of the property. Questioned was the purpose of the motion and if was to protect the money. Also discussed was the need for a motion to encumber the money until January 13, 2020. Mr. Chandler states if the Council has no need to make additional purchases at this meeting, then the funds should be there for the meeting on January 13, 2020. Mayor Anderson advised the motion is not necessary and confusing, and he will be voting "no". Ms. Bridges offered that one option might be to pass it conditional on passing the resolution on January 13, 2020.*

*Motion amended to read:*

*"Motion to direct staff to continue to proceed with the purchase of property number 1 as determined by the passage of the resolution on January 13, 2020.*

*Councilor Parsons confirmed that the purpose of the motion is that Council is earmarking funds for the purchase of property 1.*

<b>MOTION:</b>	<b>Motion to direct staff to continue to proceed with the purchase of property number 1 as determined by the passage of the resolution on January 13, 2020.</b>
<b>MOVER:</b>	<b>Judy Casper, Councilor Ward 3</b>
<b>SECONDER:</b>	<b>Diana Hinton, Councilor Ward 1</b>
<b>AYES:</b>	Casper, Hinton, Hoagland, Mark, Parsons
<b>NAYS:</b>	Anderson
<b>EXCUSED:</b>	Kusz
<b>RESULT:</b>	<b>Passed by Roll Call Vote</b>

**P. ADDITIONAL COMMENTS FROM CITIZENS PRESENT ON NON-AGENDA ITEMS**

*None*

**Q. ANNOUNCEMENTS OR COMMENTS BY CITY COUNCIL**

*Councilor Casper announced the upcoming merger of Oregon Cascade West Council of Governments (CWCoG) and Community Services Consortium (CSC).*

*Councilor Parsons announced a new youth theater group (Lincoln City Playhouse for Youth) in town, which is "A Charlie Brown Christmas" at the Lincoln City Cultural Center, Friday and Saturday at 7:00 pm.*

*Councilor Hoagland notes the need for trail maintenance, and a budget line item may be needed. The trails are not up to standard and notes the property behind BiMart. He also spoke on Jay Roelof's comment on polystyrene, noting that he wants to see a single use plastic and styrofoam ban specifically that needs to be dealt with. Mayor Anderson notes that it is difficult to move things forward, noting that it takes time, and the City has priorities.*

*Councilor Casper added that the City has a Sustainability Committee that should be coming forward with ideas for the City to look at.*

*Councilor Hoagland read the Celebrate Winter Solstice at the Driftwood Public Library, Friday December 20 at 6:30 pm.*

*Councilor Mark mentioned that he supports the Sustainability Committee, and that on December 20 "Chance" is holding an Open House.*

*Mayor Anderson reminded Council of the Work Session tomorrow am.*

**R. ADJOURNMENT**

*Mayor Anderson adjourned the meeting at 9:16 pm.*

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**DICK ANDERSON, MAYOR**

**ATTEST:**

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**CATHY STEERE, MMC  
CITY RECORDER**



**PLANNING COMMISSION STAFF REPORT**  
**MEETING DATE: January 27, 2020**

**Report prepared by AnneMarie Skinner, Planning & Community Development Director**

**PH: Comprehensive Plan and Zone Change (CPA & ZC 2019-04) Sutton Property**

**PROJECT INFORMATION**

**See attached staff report**

**BACKGROUND**

**See attached staff report**

**AUTHORIZATION**

**See attached staff report**

**ANALYSIS**

**See attached staff report**

**STAFF RECOMMENDATION**

Hold the public hearing, close the public hearing, and deliberate.

Options:

1. Motion and second to deny, based upon the evidence and applicable criteria, the requested comprehensive plan map and zoning map change for 2126 NE Quay Place from Multiple Family (R-M) to General Commercial (GC) with a directive to staff to prepare the final order for the next City Council meeting; or
2. Motion and second to approve, based upon the evidence and applicable criteria, the requested comprehensive plan map and zoning map change for 2126 NE Quay Place from Multiple Family (R-M) to General Commercial (GC) with the directive to staff to prepare the final order for approval at the next City Council meeting.

City Council Staff Report CPA ZC 2019-04 (PDF)  
 CPA & ZC 2019-04 Application Package (PDF)  
 CPA & ZC 2019-04 Zoning Map (PDF)  
 CPA & ZC 2019-04 Aerial Map (PDF)  
 CPA ZC 2091-04 Recommendation signed (PDF)

# Staff Report

## City Council Hearing on January 27, 2020

### Case File CPA/ZC 2019-04

**Date:** January 16, 2020

**Case File:** CPA/ZC 2019-04 Sutton Comprehensive Plan Amendment and Zone Change

**Applicant:** John Sutton  
PO Box 787  
Neskowin, OR 97149  
503-801-1299  
[jmikelsutton@gmail.com](mailto:jmikelsutton@gmail.com)

**Applicant's Representative:** None

**Property Owner:** Katherine Sutton  
PO Box 787  
Neskowin, OR 97149  
503-801-1299  
[jmikelsutton@gmail.com](mailto:jmikelsutton@gmail.com)

**Situs Address:** 2126 NE Place

**Location:** East side of NE Quay Place, approximately 230 feet north of the NE Quay Place/NE 21<sup>st</sup> Street intersection

**Tax Map and Lot:** 07-11-11-BC-01100

**Comprehensive Plan Designation:** High Density Residential District (R-M)

**Zoning District:** Multiple-Family Residential (R-M) Zone

**Site Size:** 6,970 square feet

**Proposal:** Comprehensive plan map amendment from R-M to G-C and zone change from Multiple-Family Residential (R-M) Zone to General Commercial (GC) Zone



<b>Proposed Comprehensive Plan Designation:</b>	General-Commercial District (G-C)
<b>Proposed Zone:</b>	General Commercial (GC) Zone
<b>Surrounding Land Uses and Zones:</b>	North: Lincoln City Church of Christ; RM South: Residential; RM East: Residential; RM West: Lincoln Community Center; P
<b>Public Notice:</b>	The Planning and Community Development Department mailed notice to the owners of all properties within 250 feet of the site on November 26, 2019. The <i>News Guard</i> published the public hearing notice on December 4, 2019.
<b>Authority:</b>	Section 17.88.050.B of Lincoln City Municipal Code (LCMC) Title 17 states: At the conclusion of the public hearing, the council may enact an ordinance granting the comprehensive plan and zoning map or textual amendment, or may be motion deny the granting of the amendment.
<b>Applicable Substantive Criteria:</b>	The amendment must be in conformance with the Oregon Statewide Planning Goals, the Lincoln City Comprehensive Plan, and the applicable provisions of LCMC Title 17.

## **BACKGROUND**

The application for the requested comprehensive plan map amendment and zoning change was received on October 21, 2019 and deemed complete on November 4, 2019. The letter notifying the applicant of the completeness determination was mailed on November 5, 2019. Notice of the public hearing was mailed to property owners within 250 feet of the site on November 26, 2019. Notice of the public hearing was published in *The News Guard* on December 4, 2019.

The site contains an existing structure and mature landscaping. Records from the Lincoln County Assessor's Office indicate the structure was built in 1962. The applicant states the site was previously owned by an attorney named William A. Pewsey, who constructed the building to be his law office in 1962. The applicant further states that "he used this building as his law office until his death and his estate was dismantled on February 22, 2018." The applicant provided a commercial improvement appraisal card from the Lincoln County Assessor with the following statement: "Based on current records and this appraisal card dated /2/87, this property has been appraised as commercial improvement on residential land since 2/2/87." Under the site's current zoning of RM, office use is not permitted outright or conditionally. However, the use as a law office began prior to the RM zoning designation; once the property was zoned RM, the office use was allowed to continue as a non-conforming use.

Pursuant to LCMC Section 17.64.030, a lawful nonconforming use of land may continue as long as it remains otherwise lawful, provided the nonconforming use does not cease for any reason for a period of more than six months. Use of the site as a law office ceased more than six months prior to the date of the application (specifically, February 22, 2018); therefore, the nonconforming status has ceased. The site may be used as one of the permitted or conditional uses in the RM zone, but to use the site as an office or other commercial use, a successful zone change is required.

The Planning Commission held a public hearing on the matter on December 17, 2019. At the close of the public hearing, after deliberations, the Planning Commission voted to recommend denial of the request with a 4 to 2 vote in favor of denial. The recommendation for denial was based upon the following factors:

1. A comprehensive plan and zoning map amendment must be consistent and compatible with other unamended portions of the comprehensive plan per the Lincoln City Comprehensive Plan. The subject property is currently Multiple-Family Residential. The sites immediately adjacent to and surrounding the subject property to the north, south, and east are all Multiple-Family Residential. Placement of one site zoned General Commercial in the midst of surrounding properties zoned Multiple-Family Residential is not consistent or compatible with the surrounding Multiple-Family Residentially-zoned properties.
2. Adjacent residential uses to the north, south, and east of the site. Rezoning the site to GC zoning disturbs the existing residential nature of the adjacent residences and violates the purpose of the RM zone which is “to provide an environment suitable for higher density urban residential uses, and community services.” The zone change request is not consistent with the purpose statement of the RM zone, of which the surrounding properties are zoned.

The two commissioners who voted in opposition of the recommendation for denial based their vote upon the fact that the general surrounding area is a mixed-use area with a church farther north and the community center across the street to the west, concluding that the proposal is consistent with the mixed-use surroundings.

### ANALYSIS

The city’s comprehensive plan provides for major and minor revisions. Major revisions are changes to the comprehensive plan and zoning map that have widespread and significant impact upon the immediate area of the change; such as quantitative changes, producing large volumes of traffic; a qualitative change in the character of the land use itself, such as conversion of residential to commercial land use; or a spatial change that affects large areas or many different ownerships. Staff considers this a major revision since the requested change from multiple-family residential to general commercial zoning that would produce a qualitative change in the character of the land use itself. The proposed amendment must conform to the Statewide Planning Goals and be consistent and compatible with other unamended portions of the comprehensive plan.

The city council needs to be aware that the application’s statements regarding intended uses are not binding, unless a development agreement is approved by city council. Accordingly, if rezoned, the owner may use the property for any use the GC zone permits. The City’s Comprehensive Plan for General-Commercial District (G-C) states it is provided to accommodate a wide range of retail commercial uses which attract shoppers from the community or the large market area. The Zoning Ordinance in Section 17.32.010 states that the general commercial zone is provided to accommodate a wide range of retail commercial uses including those which attract shoppers from a community or larger market area, as well as convenience service/retail uses and single-family residential dwelling units. Retail commercial uses are those that sell services and/or products to the ultimate consumer. In the GC zone, the following are given as examples of those uses that meet the intent of the zone:

- A. Convenience service/retail use;
- B. Eating and drinking establishments, excluding drive-in restaurants;
- C. Carpet, rug, fabric and interior decorating shops including reupholstering, making of draperies and other similar articles which are conducted as part of, and secondary to, a retail sales operation;
- D. Sporting goods stores;
- E. Motels and resorts;

- F. Building supply stores;
- G. Public facilities;
- H. Garden supplies and nursery;
- I. Community meeting buildings, fraternal or social organizations;
- J. Automotive parts and accessories;
- K. Printing;
- L. Carpenter, plumbing, cabinet, upholstering and sheet metal shops, if conducted wholly within an enclosed building;
- M. Appliance sales and service;
- N. Single-family dwellings and duplexes, if developed under the standards in the R-1 zone;
- O. Mini-warehouses, if existing on or if site plan approval was applied for before June 9, 2008;
- P. Time-share units;
- Q. Bed and breakfast accommodations;
- R. Professional and business offices;
- S. Art gallery and studio;
- T. Physical therapy;
- U. Equipment rental establishments;
- V. Physical fitness center;
- W. Manufactured homes when developed in accordance...;
- X. Veterinary clinics;
- Y. Community gardens and market gardens not larger than 12,500 square feet, in accordance...;
- Z. Mixed-use development;
- AA. Essential emergency communications and warning facilities;
- BB. Retail marijuana facilities, subject to the provisions of LCMC 17.80.130;
- CC. Indoor theaters;
- DD. Transportation uses, defined in Chapter 17.08 LCMC;
- EE. Tiny house developments, subject to the provisions of...;
- FF. Four-flat dwellings, subject to the provisions of....

Vacation rental dwellings are also allowed as a permitted use in the GC zone, subject to the provisions of LCMC 17.80.050.

## **A. Lincoln City Comprehensive Plan Goals**

### **1. Land Use Planning Goal**

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

The City Council established a land use policy framework and implementing ordinance through adoption of a comprehensive plan and zoning ordinance, respectively. The Land Conservation and Development Commission acknowledged the City of Lincoln City’s Comprehensive Plan and implementing land development regulations (including Zoning Title 17) as complying with the Statewide Planning Goals. Review of these amendments in accordance with the Lincoln City Comprehensive Plan and the applicable zoning ordinance provisions, including the provisions of Chapter 17.88, establishes conformance with this goal.

The Comprehensive Plan Land Use Planning element identifies zoning as the most common method of land use regulation and control. The Comprehensive Plan states that zoning is the most common method of land use regulation and control. It is generally guided by the comprehensive plan. Essentially, zoning is a means of

ensuring that the land uses of an area are properly situated in relation to one another. The proposed amendment must conform to the Statewide Planning Goals and be consistent and compatible with other unamended portions of the comprehensive plan.

The request is to change 6,970 square feet of property currently zoned as the Multiple-Family Residential zone to the General Commercial zone. The proposed map amendment and zone introduces a new zone to the immediately adjacent sites as they are all zoned Multiple-Family Residential. The request, therefore, represents an intrusion into the existing residential area that is not consistent with the unamended portion of the Comprehensive Plan. Accordingly, the amendment is not consistent with the City's land use planning goal.

## 2. Citizen Involvement Goal

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

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

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

## 3. Public Services and Utilities Goal

*"To plan and develop a timely, orderly, and efficient arrangement of public facility and services which compliment the area and serve as a framework for urban and rural development."*

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

- a. Pacific Power provides electric power;
- b. The City of Lincoln City provides water service;
- c. The City of Lincoln City provides sanitary sewer service;
- d. Access is from NE Quay Place, a local street that does not have bike paths and has intermittent sidewalk on the east side of the street; access to NE Quay Place is from either NE 21<sup>st</sup> Street or NE 22<sup>nd</sup> Street with neither containing bike paths, intermittent sidewalk on NE 21<sup>st</sup> Street and continuous sidewalk on NE 22<sup>nd</sup> Street to the point of NE Quay Place.
- e. Streetlights are provided from the City of Lincoln City and Pacific Power.

Existing services and utilities generally satisfy Goal 3; however, there is an identified deficiency in pedestrian and bike facilities on NE Quay Place, NE 21<sup>st</sup> Street, and NE 22<sup>nd</sup> Street – not supportive of commercial uses.

#### **4. Urbanization Goal**

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

The area affected by the proposed map amendment and zone change is within the urban growth boundary and the City limits and has already developed as urban. The proposed rezoning will not change the current urban development and may allow for increased intensity of use. Goal 4 is satisfied.

#### **5. Natural Hazard Goal**

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

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

#### **6. Housing Goal**

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

The applicant states:

“The map amendments will not affect the availability of adequate numbers of needed housing units at price ranges and rent of all commencement with the local areas. The amendment to the comprehensive plan map and zoning map to apply a General Commercial (GC) zoning designation will have no adverse effects on the housing goal. Since this will not be removing any housing inventory as it has never been a house.”

The proposed rezoning would convert approximately 6,970 square feet of development land from multiple-family residential zoning to general commercial zoning. The proposed GC zone permits single-family dwellings and duplexes, manufactured homes, tiny house developments, and four-flat dwellings, as well as mixed use and accessory dwelling units. Multifamily dwellings are allowed with conditional use permit approval.

Based on the lot area required per unit in the R-1-5 zone, the property could support one single-family detached dwelling and an accessory dwelling unit. It could also support one manufactured home or a tiny home development. Following the proposed rezoning, the site would continue to be available for a single-family detached dwelling and accessory dwelling unit, a manufactured home, or a tiny home development. Additionally, approval of the zone change also affords the property of being able to provide a mixed use (commercial on the ground floor and residential above or beside). Multi-family units could be provided as part of a conditional use if a site plan could be developed that would accommodate the required parking, landscaping, and common area requirement for multi-family units.

The City conducted an Economic Opportunities Analysis and Housing Needs Analysis, dated April 2017, prepared by Cogan Owens Greene, FCS Group, and Fregonese Associates. An analysis of the existing housing and tenancy found the current housing mix consists primarily of single-family detached homes, with 61 percent of the total housing stock. Multi-family housing accounts for 19 percent of the housing inventory. Townhomes/plexes and mobile homes each account for 10 percent of the housing inventory. Among

permanent residents, owner-occupied housing is concentrated in the single-family detached and mobile home categories.

The resulting baseline housing forecast for the City identifies the need for 948 net new dwellings for permanent residents over the next 20 years. If we assume the current level of seasonal housing (second homes and short-term rentals) and vacant inventory remain at current levels (36 percent of total inventory), there would be additional demand for approximately 536 housing units. The combination of housing for permanent residents and seasonal housing is expected to require 1,484 dwellings over the next 20 years.

The study showed the buildable land inventory for residential uses in the City includes approximately 1,124.5 acres on 1,702 tax lots. Nearly 93 percent of the residential land supply, or 1,041 acres, is dedicated to single-family homes. The remaining 83.5 acres is designated for multi-family development. Buildable residential lands are well-distributed among various lot sizes. It is noted that, at the time of the study, the subject site's existing structure was being utilized as a professional law office, not as a single dwelling. The study states that the estimated demand for residential lands in the City ranges from 206 to 249 acres. With a vacant residential land supply of 1,124 acres, the City has a surplus of approximately 876 acres of buildable residential lands. With the City's surplus of 876 acres of buildable residential acres, coupled with the GC zone's permitted residential uses, staff finds the proposal is consistent with Goal 6.

## 7. Economy Goal

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

The applicant states the following:

"The zoning of the property as General Commercial (GC) will have a positive affect [sic] on the economy goal. The zone change would provide amenities and resources available to both residents and businesses with services and rentable space which will have a positive effect on the Lincoln City economy."

The City conducted an Economic Opportunities Analysis and Housing Needs Analysis, dated April 2017, prepared by Cogan Owens Greene, FCS Group, and Fregonese Associates. The economic development objectives include encouraging local businesses that provide family-wage jobs to locate in Lincoln City; supporting the growth of existing businesses and entrepreneurs; and supporting the success of businesses that provide for the day-to-day needs of Lincoln City residents. The analysis provides a list of recommended target uses that include "home-based businesses and small office buildings that can accommodate growing small businesses, such as civil engineering, environmental consulting, legal and accounting professionals." The previous use of the existing structure as a law office could continue once again with approval of the request, which would provide a space for a small business in keeping with the Goal 7. Staff finds the proposal is consistent with Goal 7.

## 8. Aesthetic Goal

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

The site is fully developed with mature landscaping and an existing structure constructed in 1962. No changes to the site, the landscaping, or the exterior of the building are proposed as part of this application. Staff finds this goal is not applicable to this application.

## 9. Transportation Goal

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

The site is accessible by NE Quay Place, which is a local public street. NE 21<sup>st</sup> Street is to the south of the site, and is a local public street. Both are paved. NE 21<sup>st</sup> Street connects with Highway 101, which is a principal arterial. Bike paths do not exist on the streets, and sidewalk placement is intermittent. Staff finds this goal is satisfied for vehicular traffic, but not for pedestrian and bicycle traffic.

## 10. Energy Goal

*“To conserve energy.”*

No new construction is proposed. No additions or remodeling are proposed. The existing building will remain in its current status. This goal is not applicable to this application.

## 11. Overall Environmental Goal

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

The lot is already developed. The city’s inventory of natural resources, including wetlands, riparian areas, fish and wildlife habitat, and aesthetic and scenic areas show none are on the subject site. This goal is not applicable to this application.

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

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

The subject site does not have shoreland, beaches, dunes, estuary, or ocean as it is on the east side of Highway 101. This goal is not applicable to this application.

## **B. Statewide Planning Goals**

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

The application for amending the comprehensive plan map and changing the zoning is available at no cost on the City’s website and also available for public review and purchase at the counter. Staff is available to explain the proposal and technical information. The City publishes hearing notices in the local newspaper in accordance with notice requirements and mails notices to impacted property owners pursuant to Measure 56. The findings concerning the Comprehensive Plan Citizen Involvement are incorporated herein by this reference. Staff made its report on the land use proposals available on the City’s website in advance of the meeting. The request is consistent with Goal 1.

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

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

The proposed rezoning is not consistent with the planning process and policy framework; specifically, the proposed amendment does not further compliance with existing policies to stabilize and protect existing residential neighborhoods from incompatible uses. The findings concerning the planning goal for the Comprehensive plan are incorporated herein by this reference. The proposal is not consistent with Goal 2.

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

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

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

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

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

The area affected by the proposed rezoning does not include any areas zoned Open Space, designated as Scenic Historic Areas, or identified in the Natural Resources Overlay Zone; therefore, Goal 5 is not applicable.

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

Current building and public works standards for new development require protection of these resources. No new construction, additions, or new development are proposed as part of this application; therefore, Goal 6 is not applicable.

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

City maps show no identified hazards in the area of the proposed rezoning. The findings concerning the Comprehensive Plan’s Natural Hazard Element are incorporated herein by this reference. The proposal is consistent with Goal 7.

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

The general commercial zone permits certain recreational uses, such as eating and drinking establishments. The application is consistent with Goal 8.

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

The proposed rezoning allows for economic uses, including professional offices, retail, and mixed-use development. The findings concerning the Comprehensive Plan’s Economy Goal are incorporated herein by this reference. The proposed rezoning is consistent with Goal 9.

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

Current multiple-family residential zoning would allow a maximum of one detached dwelling on the subject property, an accessory dwelling unit, or one manufactured home. A change of zoning to the GC zone would allow the same number of units currently allowed, but additionally allows for a tiny house development or mixed use that could accommodate both commercial and residential, as well as multi-family dwellings by conditional use. The findings that address the City’s housing goal are incorporated herein by this reference. Staff considers the proposal consistent with Goal 10.

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

Utilities and services are available to this property. The findings concerning the city’s Public Services and Utilities goal are incorporated herein by this reference. The proposed rezoning is consistent with Goal 11.

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

The site is accessible by NE Quay Place, a local public street. NE 21<sup>st</sup> Street is to the south of the site, and is a public street. Both are paved. NE 21<sup>st</sup> Street directly connects with NW Highway 101, which is a principal arterial. The proposed use, therefore, is consistent with the City’s Comprehensive Plan and Transportation Plan as it has access to two local streets and close connection with a principal arterial. Bike paths do not exist on the streets, and sidewalk placement is intermittent. The findings concerning the City’s Transportation goal are incorporated herein by this reference. The proposed comprehensive plan map amendment and zone change is consistent with Goal 12 for vehicular traffic, but not for pedestrian and bicycle traffic.

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

The site is fully developed with an existing building. No new development or construction is proposed. Goal 13 is not applicable to this application.

**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 proposed rezoning is an up-zoning to a more intense district of a property already built for urban use. The findings concerning the Comprehensive Plan's Land Use goal, Housing goal and Urbanization goal are incorporated herein by this reference. The proposed rezoning is consistent with Goal 14.

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

The proposed rezoning does not affect any areas within the Willamette River Greenway; therefore, Goal 15 is not applicable.

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

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

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

The City’s coastal shorelands are not impacted by the rezone of this already-developed site. The findings concerning the Comprehensive Plan’s Shoreland, Beaches, Dunes, Estuary & Ocean Resources Element are incorporated herein by this reference. Goal 17 is not applicable.

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

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

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

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

### **General Commercial (GC) zone criteria**

Section 17.32.020 lists the type of uses permitted within the zone, which are included at the beginning of the analysis. Any new use must be on the list of permitted uses or must receive a permit for one of the conditional

uses, which requires approval of the Planning Commission. Conditional uses for this zone include the following list from Section 17.32.040.

- A. A use listed as a permitted use in this zone, with drive-in service facilities;
- B. Places of worship;
- C. Indoor commercial recreation establishments;
- D. Passenger terminals;
- E. Public utility;
- F. Utility substation;
- G. Outdoor commercial recreational establishments;
- H. Automobile and trailer sales;
- I. Light fabrication establishments;
- J. Recreational vehicle parks;
- K. Multifamily dwellings;
- L. Motor vehicle repair facility;
- M. Tire shops;
- N. Kennels;
- O. Aggregate sales and storage;
- P. Manufactured dwelling sales and service;
- Q. Mortuary;
- R. Wireless communications facilities;
- S. Emergency shelters.

Any new development on the site or re-development of the site must meet the requirements of the GC zone and other regulations referenced by the zone, including among others, those pertaining to landscaping, signs, parking, and site plan/design standards.

The GC zone does not have a minimum lot size. The subject site contain 6,970 square feet. The GC zone has no requirements for lot width or depth. The GC zone has no minimum setbacks, unless abutting or across the street from a parcel in a residential zone. In such cases, the front yard shall be the front yard of the contiguous residential zone. In this case, the subject site is across the street from a parcel in the Park zone, so the front yard setback is not applicable.

There are no street, side, or rear yard minimum setbacks in the GC zone, excepting abutting or across the street form a parcel in a residential zone. In this case, the subject site abuts a residential zone to the north, south, and east which gives a minimum side and rear setback of 10 feet (since the building height does not appear to exceed 15 feet). The south side of the building does not appear to be 10 feet from the south property line; therefore, approval of this request would create a nonconformity in the side setback.

Building height maximum is 45 feet. It appears from the street view that the building is less than 45 feet tall.

### **RECOMMENDATION**

Staff recommends that the City Council hold a public hearing on the proposed comprehensive plan map amendment to General-Commercial District (G-C) and zone change to General Commercial (GC) Zone, close the public hearing, deliberate, and either approve or deny the request based upon compliance with the Comprehensive Plan, Statewide Planning Goals, and submitted evidence.

<b>OFFICE USE ONLY</b> Date Filed: _____ Amount/Fee: _____ Receipt No: _____ Received By: _____ 30 Days: _____ Deemed Incomplete: _____ Deemed Complete: _____ 120 Day Deadline: _____	 <b>RECEIVED</b> <b>LAND USE</b> <b>APPLICATION</b>	<b>OFFICE USE ONLY</b> Stamp Date Received <b>RECEIVED</b> OCT 21 2019 <b>RECEIVED</b> OCT 21 2019 File No: _____ <b>PLANNING</b>
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**APPLICATION TYPE**

<input type="checkbox"/> ANNEXATION	<input type="checkbox"/> LOT LINE ADJUSTMENT	<input type="checkbox"/> SITE PLAN REVIEW
<input type="checkbox"/> APPEAL OF PLANNING COMMISSION DECISION	<input type="checkbox"/> MINOR PARTITION	<input type="checkbox"/> SUBDIVISION
<input type="checkbox"/> APPEAL OF PLANNING DEPARTMENT DECISION	<input type="checkbox"/> NATURAL RESOURCE DEVELOPMENT REVIEW	<input type="checkbox"/> URBAN GROWTH BOUNDARY AMENDMENT
<input checked="" type="checkbox"/> COMPREHENSIVE PLAN & ZONING MAP AMENDMENT	<input type="checkbox"/> NATURAL RESOURCE DEVELOPMENT VARIANCE	<input type="checkbox"/> VACATION
<input type="checkbox"/> COMPREHENSIVE PLAN &/OR ZONING ORDINANCE TEXT AMENDMENT	<input type="checkbox"/> PLANNED UNIT DEVELOPMENT PRELIMINARY MASTER PLAN	<input type="checkbox"/> VARIANCE
<input type="checkbox"/> CONDITIONAL USE PERMIT	<input type="checkbox"/> PLANNED UNIT DEVELOPMENT FINAL MASTER PLAN	<input type="checkbox"/> OTHER _____

**RECEIVED**  
OCT 21 2019  
**PLANNING**

**NAME OF APPLICANT:** JOHN SUTTON  
**MAILING ADDRESS:** BOX 787  
**CITY:** NESKOWIN **STATE:** OR **ZIP:** 97149  
**DAYTIME PHONE:** 503 801 1299 **Signature:** John Sutton  
**EMAIL (OPTIONAL):** jmikelsutton@gmail.com

**OWNER OF RECORD (if other than applicant)**  
**NAME:** KATHERINE SUTTON  
**MAILING ADDRESS:** BOX 787  
**CITY:** NESKOWIN **STATE:** OR **ZIP:** 97149  
**DAYTIME PHONE:** 503-801-1299 **Signature:** Kathie Sutton  
**EMAIL (OPTIONAL):** jmikelsutton@gmail.com

**APPLICANT AND/OR OWNER'S INTEREST IN PROPERTY SUBJECT TO REQUEST:**

- AGENT,  FEE OWNER,  CONTRACT PURCHASER,  OPTION HOLDER,  LESSEE,  OTHER

**PROJECT LOCATION:**

**PROJECT ADDRESS:** 2126 NE QUAY LINCOLN CITY, OR 97367  
**ASSESSOR'S MAP NO.:** 07111BCD110000 **TAX LOT(S):** 1100  
**AREA:** 0.16 (acres) **SQ. FT.:** 6969.6 **ZONING:** 211 COMMERCIAL IMPROVEMENT RESIDENTIAL ZONE

**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.

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**Nature of the Request**

The applicant is seeking approval of a Comprehensive Plan Map and Zoning Map change for the property referred to as Map 07111BC0110000 Tax Lot 001100/4 Block 1. Site address 2126 NE Quay Place., Lincoln City, Oregon 97367 from residential, Multiple Family (R-M) to General Commercial (GC). See exhibit #1.

**Site Information**

**Applicant Owner:** Katherine L. Sutton  
PO Box 787  
Neskowin, Oregon 97149

**Applicants Representative:**  
John M. Sutton  
PO Box 787  
Neskowin, Oregon 97149

**Maps and Tax Lot:** Map 07-111-BC-0110000 0.16 of one acre.

**Location:** 2126 NE Quay Place  
Lincoln City, Ore 97367

**Current Comprehensive**

**Plan Designation:** The applicants' property, which is referenced as Map 07-111-BC Lot 0110000/4 has a comprehensive plan map designation of High-Density Residential RM.

**Current Zoning**

**Designation:** Residential, Multiple family (RM)

**Proposed Comprehensive**

**Plan Designation:** General Commercial (GC)

**Proposed Zoning**

**Designation:** General Commercial (GC)

**Uses and Zoning:** The property to the South Scientology Church is zoned RM. To the East Multiple Residential (RM) To the West is the Community Center and Parking zoned (P) and Commercial. North is zoned Multiple Residential (RM) and General Commercial.

#### **Background**

**Information:** The subject site was previously owned by the Attorney William A. Pewsey. He built the building to be his Law Office in 1962. He used this building as his Law Office until his death and his estate was dismantled on February 22<sup>nd</sup>, 2018. See Attachment #2.

**Land use Inventory:** The City of Lincoln City has land needs inventory and analysis that can help guide it in reviewing zoning questions and in determining the City's needs for certain types of zoning classifications within the City. However, in this instance that land study is not particularly helpful. The study focuses on net buildable vacant land. In this instance, the parcel we seek to rezone from Residential, Multiple Family (R-M) to General Commercial (GC) is already developed with the building that was formerly the Law Office of Attorney William A. Pewsey and was assessed as 211-Commercial Improvement in Residential Zone (CMSC). The subject site is a well-established Commercial entity dating to 1962 with 52 years of serving the community as a business site.

#### **Land Use**

**Compatibility:** The subject site is surrounded by Commercial on the North and West sides.

**Traffic:** Since the building will not be enlarged, it is anticipated that there will be no significant traffic impact from this zoning change. Parking has historically been directly in front of the building or across the street in the public parking area.

#### **Criteria and Proposed Findings**

##### **1. Lincoln City Comprehensive Plan Use Planning Section**

The Lincoln City Comprehensive Plan describes the procedures for amendments to the Comprehensive Plan Map and Zoning Map. The plan provides that "the proposed amendments must conform with the statewide planning goals and be consistent and compatible with other unamended portions of the comprehensive plan". The amendments proposed herein conform with the statewide planning goals and are consistent with other portions of the comprehensive plan. The statewide planning goals are specifically addressed as follows:

#### A. Statewide Planning Goals

Goal 1-“Citizen Involvement – The Lincoln City Comprehensive Plan and Lincoln City Zoning Ordinance were adopted after offering many opportunities for public involvement in the drafting and formulation of the policies and requirements relevant to a comprehensive plan map or zone change. Thus, the public has already been offered significant opportunity for involvement and review of relevant standards related to this proposal. In addition, the public will have the opportunity to participate at the Planning Commission and City Council levels regarding the consideration of this proposal. All material submitted in support of this application is available for public review at the Planning Department counter. Planning staff aids and is available to interpret and explain technical information. Copies of these materials are available at reasonable cost. The City of Lincoln City has also developed a Citizens Involvement Program and has implemented policies to assure citizens the opportunity of involvement in all phases of the planning process. Therefore, the proposed map amendments are consistent with Goal 1.

Goal 2- “Land Use Planning” – The City of Lincoln City has adopted a land use planning process and policy framework in the form of the zoning ordinance and comprehensive plan, which provide the basis for all decisions and actions related to the use of land and to ensure an adequate factual base for such decisions and actions. The City has adopted a land use planning policy in the comprehensive plan. The land use planning policy sets forth the relevant criteria for the consideration of zoning map and comprehensive map amendments. The land use plans, and implementation ordinances were adopted by the governing body after public hearing and have been reviewed and revised as needed to consider the change in public policies and circumstances. The proposed map amendments are consistent with Goal 2.

Goal 3- “Agricultural Lands” – The area affected by the proposed map amendments is located within the Urban Growth Boundary of the City of Lincoln City. Accordingly, the area is currently designated for urban development and will continue to remain as such. No agricultural lands will be affected by the amendments. Goal 3 is not applicable.

Goal 4- “Forest Lands” – The site of the proposed amendments is located within the Urban Growth Boundary of the City of Lincoln City. The are zoned for urban development. The site does not contain any designated forest lands. Goal 4 is not applicable.

Goal 5- “Open Spaces, Scenic and Historic Areas and Natural Resources”- The site is located within the City’s Urban Growth Boundary. There are no designated open spaces, cultural, historic or natural areas located within the area affected by these amendments. The site is developed with a building that is commercial in nature and was formerly used By William A. Pewsey as a law office for over 5 decades. In reviewing the natural resources overlay zone maps of the City of Lincoln City, there are no designated resource areas on this site. The proposed amendments are consistent with Goal -5.

Goal 6- “Air, Water and Land Resource Quality” – The proposed comprehensive plan map and zoning map amendments will not significantly increase the waste and process discharges already being generated within the vicinity of the affected area. The property is already developed with a commercial type building par with available parking at this time. The amendments are consistent with Goal -6.

Goal 7 – “Areas Subject to Natural Disasters and Hazards” – This subject site does not appear to be affected by any natural disaster or hazard designations. Therefore, the amendments are consistent with Goal 7.

Goal 8 – “Recreational Needs” – The proposed comprehensive plan and map zoning map amendments are consistent with the historical use of the property and will not have any impact on recreational areas of opportunities. The parcel for which rezoning is sought is currently developed as a commercial type building. Therefore, the proposed amendments are consistent with Goal 8.

Goal 9 – “Economic development” – The zoning of the property as General Commercial (GC) will have a positive effect on Goal 9, Economic Development. The property is already committed to a commercial type use and the remodeling of the building and removal of the oil tank environmental hazard will further economic development. The property has had many inquiries for rental as an office in the commercial sector especially from the Health Care division of human services.

**Goal 10 – “Housing”** – The site and building as it sits today is not useable for single or multiple family purposes due to building code requirements. The building was constructed as a commercial office structure and does not have the required specifications to meet building code for these uses. A retro fit to accommodate these requirements would add at minimum an additional 150,000 dollars to a structure that is not best suited for this conversion. The highest best use of this property is as a commercial use. Changing its zone and use to permanent General Commercial (GC) will not have an adverse effect on the Housing Goal as this was never housing.

**Goal 11- “Public Facilities and Services”** – The existing City of Lincoln City water and sewer infrastructure and treatment facilities serving the subject property have adequate capacities to serve the zoning classification and land use development patterns allowed under these map amendments. Accordingly, the map amendments are consistent with Goal 11.

**Goal 12 – “Transportation”** – The proposed map amendments are consistent with the City of Lincoln City Transportation Master Plan. The proposed map amendments will allow the continuation of the existing use at this site. The proposal will be consistent with a safe, convenient and economic transportation system that is currently in place. The map amendments are consistent with Goal 12

**Goal 13 -” Energy Conservation”** – The land use patterns, and development allowed in association with the proposed comprehensive plan map and zoning map amendments serve to continue the use of the subject property similarly to the manner in which it has been utilized for over fifty years. However, the building has been altered to remove a DEQ hazard oil tank heat source and has been replaced with in room efficient cadet heat on demand control. Secondly, the light fixtures have been replaced with energy efficient natural light sources using no electricity as well as fixtures integrating low wattage superior Halogen performance which have a positive impact for energy conservation. Therefore, the amendments are consistent with Goal 13.

**Goal 14 – “Urbanization”** – The property is located within the City of Lincoln City’s Urban Growth Boundary and suitable for urban development. The proposed amendments are consistent with Goal 14.

**Goal 15 – “Willamette River Greenway”**- The subject site is not located within the Willamette River Greenway. Goal 15 is not applicable.

Goal 16 – “Estuarine Resources” – The subject site is not located within or adjacent to a designated resource. Goal 16 is not applicable.

Goal 17 – “Coastal Shoreland” – The subject site is not located within or adjacent to a coastal shoreland. Goal 17 is not applicable.

Goal 18 – “Beaches and Dunes” – The site is not located within a designated beach or active dune area. Goal 18 is not applicable.

Goal 19 – “Ocean Resources” – The proposed map amendments will not affect the territorial sea or the nearshore ocean and continental shelf. Goal 19 is not applicable.

## 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 assure an adequate factual base for such decisions and actions.”*

The Comprehensive Plan of Lincoln City is the document which guides land use decisions in the City of Lincoln City. The plan establishes goals and policies which establish a general framework to guide implementing land use regulations such as zoning regulations. The zoning provides in the Lincoln City Code relating to amendments is consistent with the provisions of the Comprehensive Plan relating to minor revisions of the Comprehensive Plan Map and Zoning Map. Review of the application for Comprehensive Plan and Zoning Map amendments are in accordance with Chapter 17.88 AMENDMENTS of the Lincoln City Code and the plan amendment procedures specified in the Comprehensive Plan will establish conformance with this goal and policy.

### 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 Citizens Involvement Program and has an active Committee for Citizen Involvement. The City plans and Policies under review herein were adopted after offering ample opportunity for citizen involvement. This application has been available for review and examination at the Planning Department. The public hearing process with notice to the public and property owners, and review of the application by the Planning Commission and the City Council further establishes conformance with this goal.

### 3. Public Services and Utilities Goal.

*"To plan and develop and timely, orderly, and efficient arrangement of public facility and services which compliment the area and serve as a framework for urban and rural development."*

The property is currently being served by public services and utilities as follows:

- A. The City is currently being served by electric power through Pacific Power.
- B. The property is currently receiving water service from the City of Lincoln City.
- C. The property is currently receiving sanitary service from the City of Lincoln City
- D. The property take access from NE Quay.
- E. The property is currently served by street lighting from the City of Lincoln City and Pacific Power.

Services are currently available and on site. This goal is satisfied.

### 4. Urbanization Goal

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

The area affected by the proposed map amendments is all within the urban growth boundary of the City of Lincoln City. Development of this existing urban land conforms with this goal.

### 5. Natural Hazard Goal

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

The subject site is not located with an identified flood or other natural hazard area, insuring conformance with this goal.

### 6. Housing Goal

*"To Provide for the housing needs of all citizens."*

The map amendments will not affect the availability of adequate numbers of needed housing units at price ranges and rent of all commencement with the local areas. The amendment to the comprehensive plan map and zoning map to apply a General Commercial (GC) zoning designation will have no adverse effects on the housing goal. Since this will not be removing any housing inventory as it has never been a house.

#### 7. Economy Goal

*"To 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. "*

The zoning of the property as General Commercial (GC) will have a positive affect on the economy goal. The zone change would provide amenities and resources available to both residents and businesses with services and rentable space which will have a positive effect on the Lincoln City economy.

#### 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 applicants plan is to clean, modernize and reinstall a better heat source in the old building and revamp the landscape which will improve the aesthetics of the area around the subject site. Thus, the proposed map amendments are consistent with the aesthetic goal of the City of Lincoln City,

#### 9. Transportation Goal

*"To provide a safe, convenient transportation to facilitate the movement of people."*

The proposed amendments allow for the access to the subject site to accommodate its clients with off street parking and to utilize the vast public parking located directly across the street. The proposal does not result in any significant transportation impacts on the existing transportation system. Therefore, this goal is satisfied.

#### 10. Energy Goal

*"To conserve energy."*

The proposed amendments simply allow the continued existing use of the subject property. The proposed amendments and updates to the building, fixtures and heat source will have a positive effect on the environment, especially DEQ and will likely have the effect of conserving energy. Therefore. This goal is satisfied.

#### 11. Overall Environmental Goal

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

The site is currently developed. There are not any designated resource areas on this site. The proposed amendment is consistent with the overall environmental goal.

## 12. Shoreland, Beaches, Dunes, Estuary and Ocean Resource Goal

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

The subject site proposed for map amendment is not located within or adjacent to an estuary or designated coastal shoreland. Similarly, the subject site is not located within or adjacent to a designated beach or active dune area. Therefore, the proposed map amendment is consistent with the goal.

### C. Other Relevant Criteria

1. Lincoln City Code Title 17 Zoning, Chapter 17.88 Amendments, in subsection 17.88 D provides as follows:

Findings of Fact. “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 a part of said ordinance, that are adequate to support the amendment proposal. The findings must be factual and must be substantial evidence submitted into record. It must be found that the amendment complies with and conforms to the comprehensive plan goals, policies, and land use map. It may be further necessary to provide evidence that the proposed amendment is in conformance with statewide land use planning goals and policies when a more specific direction is provided by the goals of the comprehensive plan.”

The proposed map amendments satisfy all applicable statewide planning goals and the Comprehensive Plan provisions of the City of Lincoln City. The map amendments will further the general welfare and convenience of the public, including residents and businesses of Lincoln City. The proposed amendments of the Comprehensive Plan Map and Zoning Map are consistent with the requirements of Chapter 17.88 AMENDMENTS of the Lincoln City Code.

### Conclusion

The proposed amendments of the Comprehensive Plan Map and Zoning Map are consistent with all statewide planning goals and the Lincoln City Comprehensive Plan. The request for map amendments should be approved.

Lincoln County Parcel Information



**Parcel Information**

Parcel #:	R463020
Tax Lot:	071111BC0110000
Site Address:	2126 NE Quay Pl
	Lincoln City OR 97367 - 4239
Owner:	Sutton Katherine L
Owner2:	
Owner Address:	PO Box 787
	Neskowin OR 97149
Twn/Range/Section:	07S / 11W / 11 / NW
Parcel Size:	0.16 Acres (6,887 SqFt)
Plat/Subdivision:	Ocean Lake No. 2
Lot:	4
Block:	1
Census Tract/Block:	950304 / 3038
Waterfront:	

**Assessment Information**

Market Value Land:	\$63,310.00
Market Value Impr:	\$28,200.00
Market Value Total:	\$91,510.00
Assessed Value:	\$80,140.00

**Tax Information**

Levy Code Area:	402
Levy Rate:	16.9098
Tax Year:	2018
Annual Tax:	\$1,355.14

**Legal**

OCEAN LAKE NO. 2, BLOCK 1, LOT 4, DOC201801868

**Land**

Cnty Land Use:	211 - Commercial Improvement in Residential Zone	Land Use Std:	CMSC - Commercial Miscellaneous
Zoning:	R-M - Residential Multi-Family	Neighborhood:	LNM6
Watershed:	Rock Creek-Frontal Pacific Ocean	Recreation:	
School District:	Lincoln County School District	Primary School:	Oceanlake Elementary School, Taft Elementary School
Middle School:	Newport Middle School	High School:	Taft High School

**Improvement**

Year Built:	1982	Fin SqFt:	809	Bedrooms:	
Bsmt Fin SqFt:		Flr 1 SqFt:	809	Bathrooms:	
Bsmt UnFin SqFt:		Flr 2 SqFt:		Attic Fin SqFt:	
Deck SqFt:		Garage SqFt:		Attic Unfin SqFt:	
Carport:		Garage Desc:		Exterior:	
Roof Type:		Foundation:		Porch:	0
Roof Mtl:		AC:		Heat Type:	Forced Air

**Transfer Information**

Rec. Date:	2/23/2018	Sale Price:	\$95,000.00	Doc Num:	1868	Doc Type:	Deed
Owner:	Katherine L Sutton	Grantor:		Title Co:	WESTERN TITLE & ESCROW CO	Lender:	
Orig. Loan Amt:		Loan Type:					

Sentry Dynamics, Inc. and its customers make no representations, warranties or conditions, express or implied, as to the accuracy or completeness of information contained in this report.

## RECORDING REQUESTED BY:



**Western** Title & Escrow

3469 NW Highway 101  
Lincoln City, OR 97367

## AFTER RECORDING RETURN TO:

Order No.: WT0153045-KB  
Katherine L. Sutton  
PO Box 787  
Neskowin, OR 97149

## SEND TAX STATEMENTS TO:

Katherine L. Sutton  
PO Box 787  
Neskowin, OR 97149

APN: R453020  
Map: 07-11-11-BC-01100-00  
2126 NE Quay Place, Lincoln City, OR 97367

Lincoln County, Oregon  
02/23/2018 12:41:31 PM  
DOC-WD  
\$15.00 \$11.00 \$10.00 \$20.00 \$7.00

2018-01868

Cnt=1 Pgs=3 SIn=29

\$63.00

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, Lincoln County Clerk



SPACE ABOVE THIS LINE FOR RECORDER'S USE

## STATUTORY WARRANTY DEED

Linda B. Philpot, Successor Trustee of the Wilmar A. Pewsey Trust Revocable Living Trust, Grantor, conveys and warrants to Katherine L. Sutton, 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 4, Block 1, OCEAN LAKE PLAT NO. 2, City of Lincoln City, Lincoln County, Oregon.

THE TRUE AND ACTUAL CONSIDERATION FOR THIS CONVEYANCE IS NINETY-FIVE THOUSAND AND NO/100 DOLLARS (\$95,000.00). (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.

**STATUTORY WARRANTY DEED**  
(continued)

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

Dated: 2-22-18

Wilmar A. Pewsey Trust Revocable Living Trust

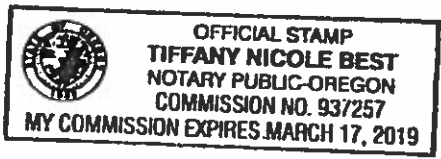
BY: [Signature], SUCCESSOR TRUSTEE  
Linda B. Philpot  
Successor Trustee

State of OREGON  
County of Washburn

This instrument was acknowledged before me on February 22, 2018 by Linda B. Philpot, as Successor Trustee of the Wilmar A. Pewsey Trust Revocable Living Trust.

[Signature]  
Notary Public, State of Oregon

My Commission Expires: 3/17/19



**EXHIBIT "A"**  
Exceptions

**Subject to:**

Regulations, levies, liens, assessments, rights of way and easements of Devils Lake Water Improvement District.

Subject property is either situated within the urban renewal boundaries or within the shared area of the Year 2000 Development Plan, Lincoln City, Oregon, and is subject to the terms and provisions thereof, as outlined by instrument,

Recorded: March 20, 1989

Document No.: Book 202, Page 1261, Lincoln County Records

Amended by instrument,

Recorded: December 8, 1989

Document No.: Book 211, Page 1675, Lincoln County Records

Amended by instrument,

Recorded: September 25, 2014

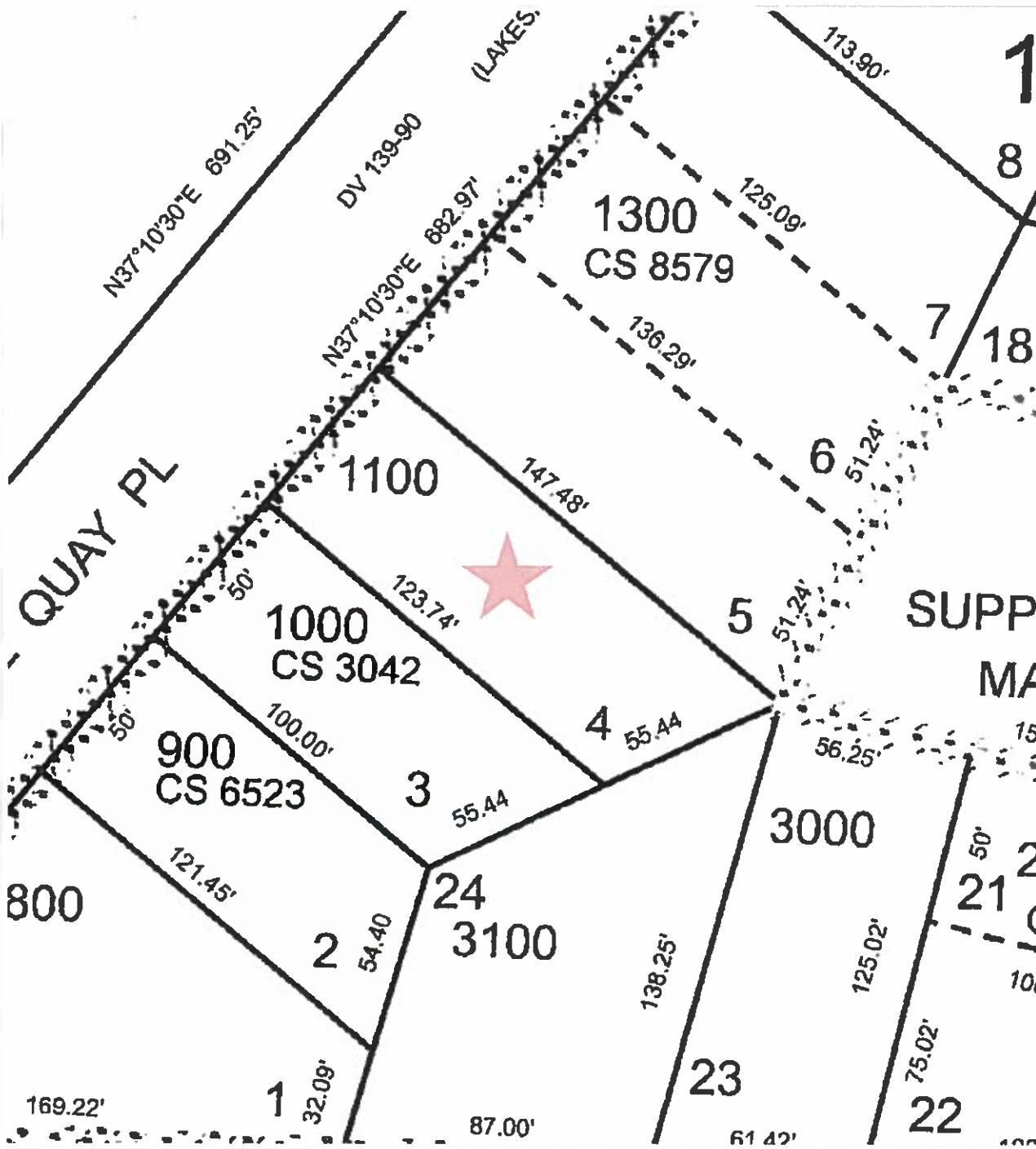
Document No.: 2014-08573, Lincoln County Records

Amended by instrument,

Recorded: April 23, 2015

Document No.: 2015-03700, Lincoln County Records

Assessor Map



Parcel ID: R453020

Site Address: 2126 NE Quay Pl

Sentry Dynamics, Inc. and its customers make no representations, warranties or conditions, express or implied, as to the accuracy or completeness of information contained in this report.

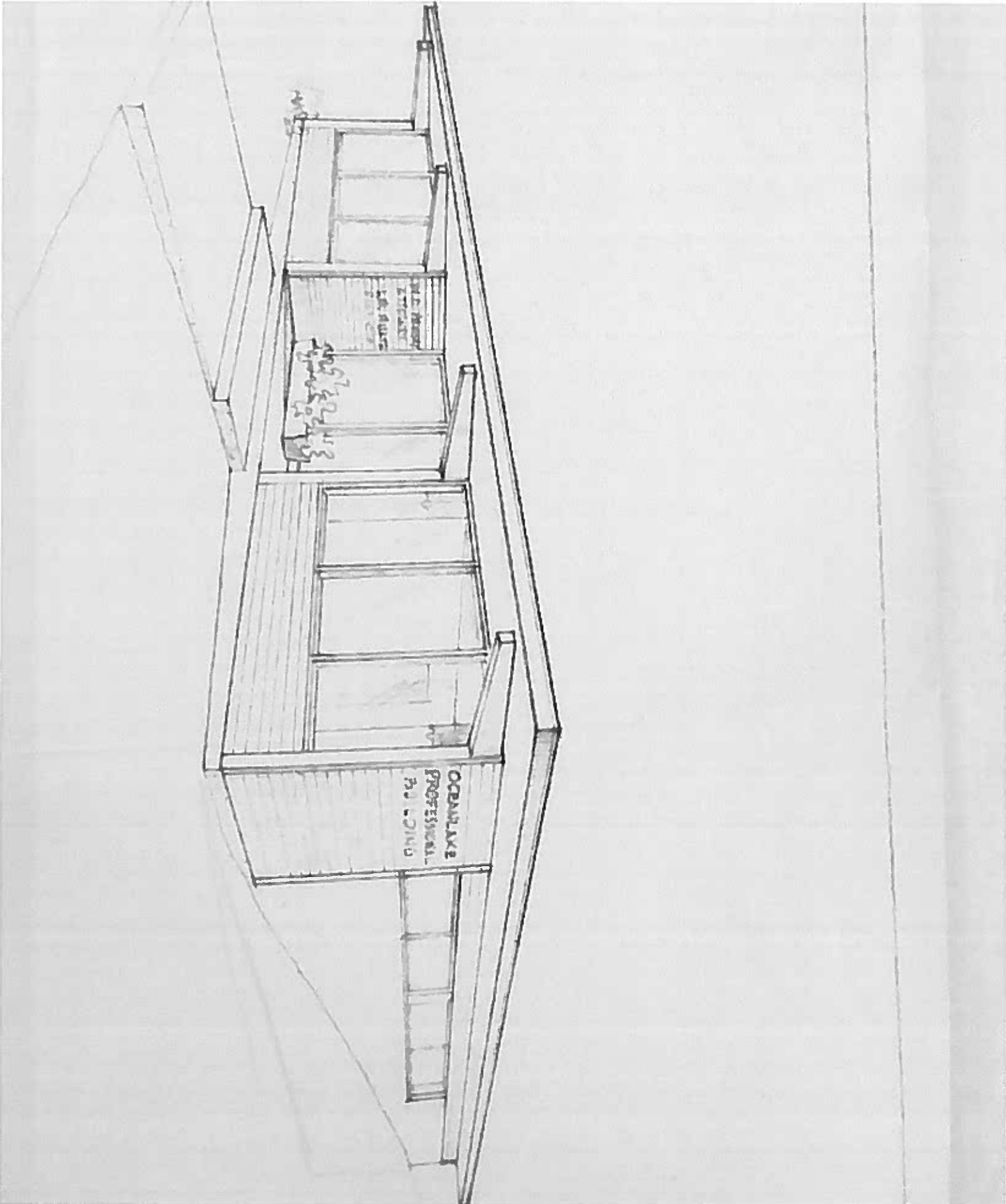
Aerial Map



  
**Western** Title & Escrow

Parcel ID: R453020

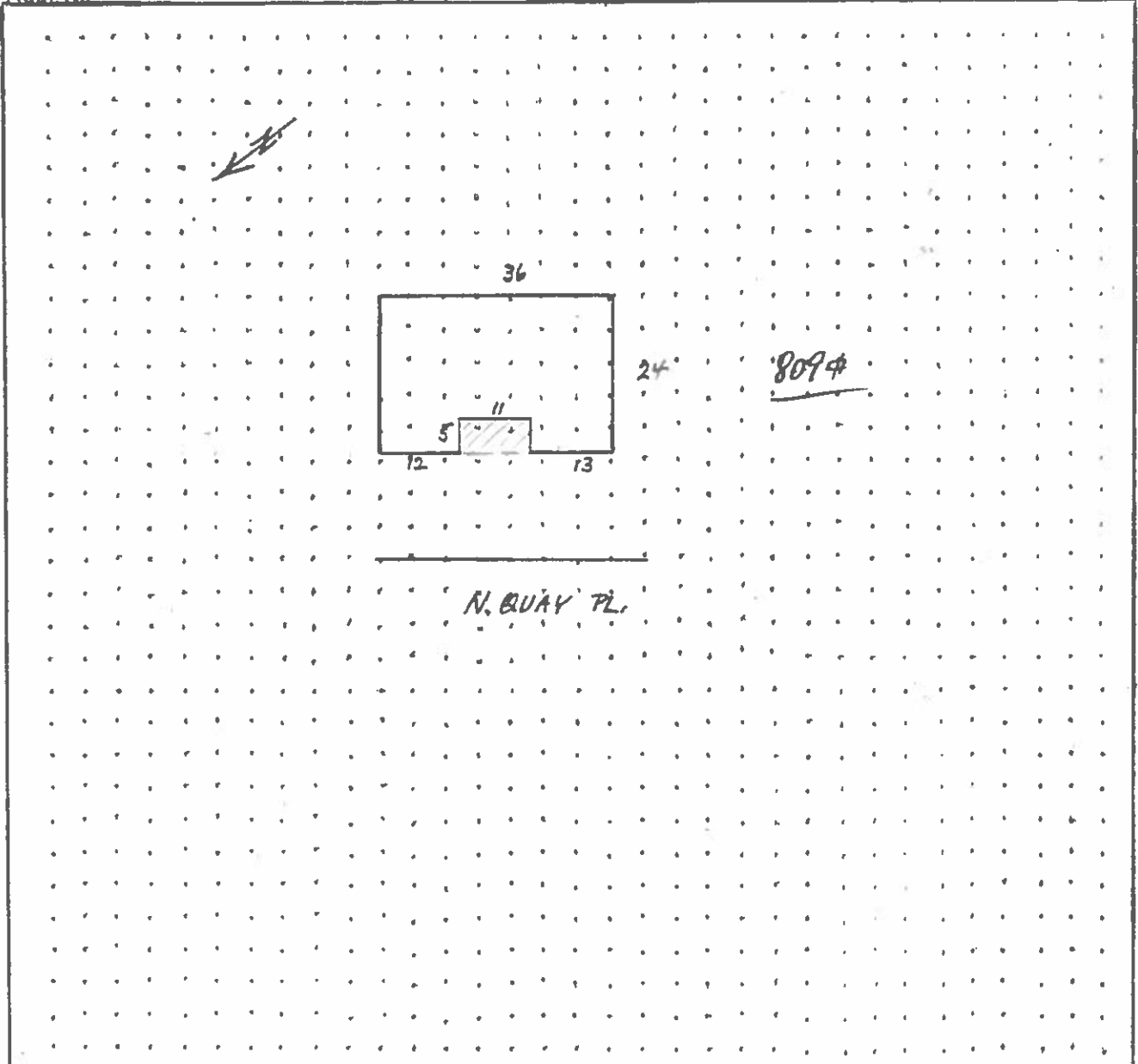
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Acct No 1100

Map No. 7-11-11-BC

Co. I.2.b



Measurement Verified		Remarks:
Date	By	
3-21-72	20	
7-1-76	D.T.	
4-8-81	B.A.	

RECORD OF LAST APPRAISAL ORS 308.234  
 APPR 6.0 DATE 3/2/87 VALUE 21,500  
 RECORD OF ADJUSTMENTS  
 BY DATE ADJ. VALUE  
 BY DATE ADJ. VALUE  
 BY DATE ADJ. VALUE  
 SALES DATA  
 DATE OF SALE VERIFIED: YES NO  
 AMOUNT TERMS  
 ALLOCATION (BY OWNER APPR )  
 LAND P.P. IMP

Commercial Improvement Appraisal card  
 Based on current record and this appraisal card dated 2/2/87. This property has been appraised as commercial improvement on residential land site 2/2/87. Joe Davids.

INTERIOR INSPECTED: YES NO PERSON CONTACTED				PROPERTY CHARACTERISTICS			
NEIGHBORHOOD CHARACTERISTICS				PROPERTY CHARACTERISTICS			
USE	TYPE	TREND	USE	BUILDING	SITE	IMPS	
RETAIL	CENTRAL CORE	DEVELOP.	STORE	GROUP	WATER		
OFFICE	URBAN	STATIC	OFFICE	TYPE	SEWER		
MULTIFAM.	STRIP COM'L	DECLIN.	APT	CLASS	ELEC		
WHOLESALE	SPOT COM'L	TRANS			GAS		
INDUSTRIAL	SHOPPING CNTR						
	SUBURBAN		PROPER	PROPER IMP.	PARKING		
			MARGINAL	OVER-IMP.			
				UNDER-IMP.			

ZONING: HIGHEST AND BEST USE  
 REMARKS:

SUMMARY OF APPROACHES	
COST	INCOME
BUILDING D.R.C. \$ 23,180	BUILDING VALUE \$ 21,230
YARD AND MISC IMP \$	OTHER IMPS \$
TOTAL IMPROVEMENT VALUE \$ 23,180	TOTAL IMPROVEMENT VALUE \$ 21,230
	BUILDING VALUE \$ 20,130
	OTHER IMPS \$
	TOTAL IMPROVEMENT VALUE \$ 20,130

FINAL RECONCILIATION

INCOME APPROACH		BUILDING RESIDUAL	
INCOME SCHEDULE	REPORTED INCOME PER YEAR	ECONOMIC ANNUAL INCOME	OPERATING EXPENSE SCHEDULE
TENANT BUSINESS	400	4800	REPAIRS
			INSURANCE
			HEAT
			LIGHTS
			WATER
			SANITATION
			TELEPHONE
			SUPPLIES
TOTAL ECONOMIC GROSS INCOME \$ 4800		TOTAL (A) \$	

SECTION OF RATES:  
 % RECAP % TAXES %  
 ECONOMIC GROSS INCOME \$ 4800  
 VACANCY 5% = \$ 240  
 EFFECTIVE GROSS INCOME \$ 4560  
 EXPENSES  
 MANAGEMENT 3% = \$ 137  
 CHARGES TO PERS. PROPERTY \$  
 CHARGES TO LAND \$  
 \$ 1827 x 10% = \$ 1827  
 OPERATING EXPENSES (A) \$ 685  
 TOTAL EXPENSES \$ 2649  
 NET INCOME IMPUTABLE TO BUILDING \$ 1911  
 INDICATED BUILDING VALUE  
 NET INCOME \$ 1911 + .09% RATE = \$ 21,230  
 (TRANSFER TO SUMMARY)

MARKET DATA APPROACH		COMPARISON	
UNIT	(TYPE)	GROSS RENT MULTIPLIER	SELECTION OF GRM:

COMPUTATIONS:  
 GROSS INCOME \$ 4800 x GRM = \$ 38,400  
 LESS PERS. PROPERTY VALUE \$  
 LESS LAND VALUE \$ 18,270  
 INDICATED BUILDING VALUE \$ 20,130



COMMERCIAL IMPROVEMENT APPRAISAL

APPL. AREA \_\_\_\_\_

ACCT. NO. 7-11-11-23

T.L. NO. 1108

CODE AREA R 453020

402  
ADT

RECORD OF LAST APPRAISAL ORS 308.234  
APPR 8.0.10 DATE 9/7/93 VALUE 20,890.16

RECORD OF ADJUSTMENTS

BY \_\_\_\_\_ DATE \_\_\_\_\_ ADJ. \_\_\_\_\_ VALUE \_\_\_\_\_  
BY \_\_\_\_\_ DATE \_\_\_\_\_ ADJ. \_\_\_\_\_ VALUE \_\_\_\_\_  
BY \_\_\_\_\_ DATE \_\_\_\_\_ ADJ. \_\_\_\_\_ VALUE \_\_\_\_\_

SALES DATA

DATE OF SALE \_\_\_\_\_ VERIFIED: YES \_\_\_\_\_ NO \_\_\_\_\_  
AMOUNT \_\_\_\_\_ TERMS \_\_\_\_\_  
ALLOCATION (BY: OWNER APPR )

LAND \_\_\_\_\_ P.P. \_\_\_\_\_ IMP \_\_\_\_\_

INTERIOR INSPECTED: YES \_\_\_\_\_ NO \_\_\_\_\_

PERSON CONTACTED OWNER

NEIGHBORHOOD CHARACTERISTICS

PROPERTY CHARACTERISTICS

USE	TYPE	TREND	USE	BUILDING	SITE IMP
RETAIL	CENTRAL CORE	DEVELOP	STORE	GROUP	WATER
OFFICE	URBAN	STATIC	OFFICE	TYPE	SEWER
MULTIFAM	STRIP COM'L	DECLIN	APT	CLASS	ELEC
WHOLESALE	SPOT COM'L	TRANS	INDUSTRIAL	SHOPPING CNTR	GAS
INDUSTRIAL	SHOPPING CNTR		SUBURBAN	PROPER IMP.	
	SUBURBAN			OVER-IMP.	PARKING
				MARGINAL	<u>STREET</u>

ZONING: \_\_\_\_\_

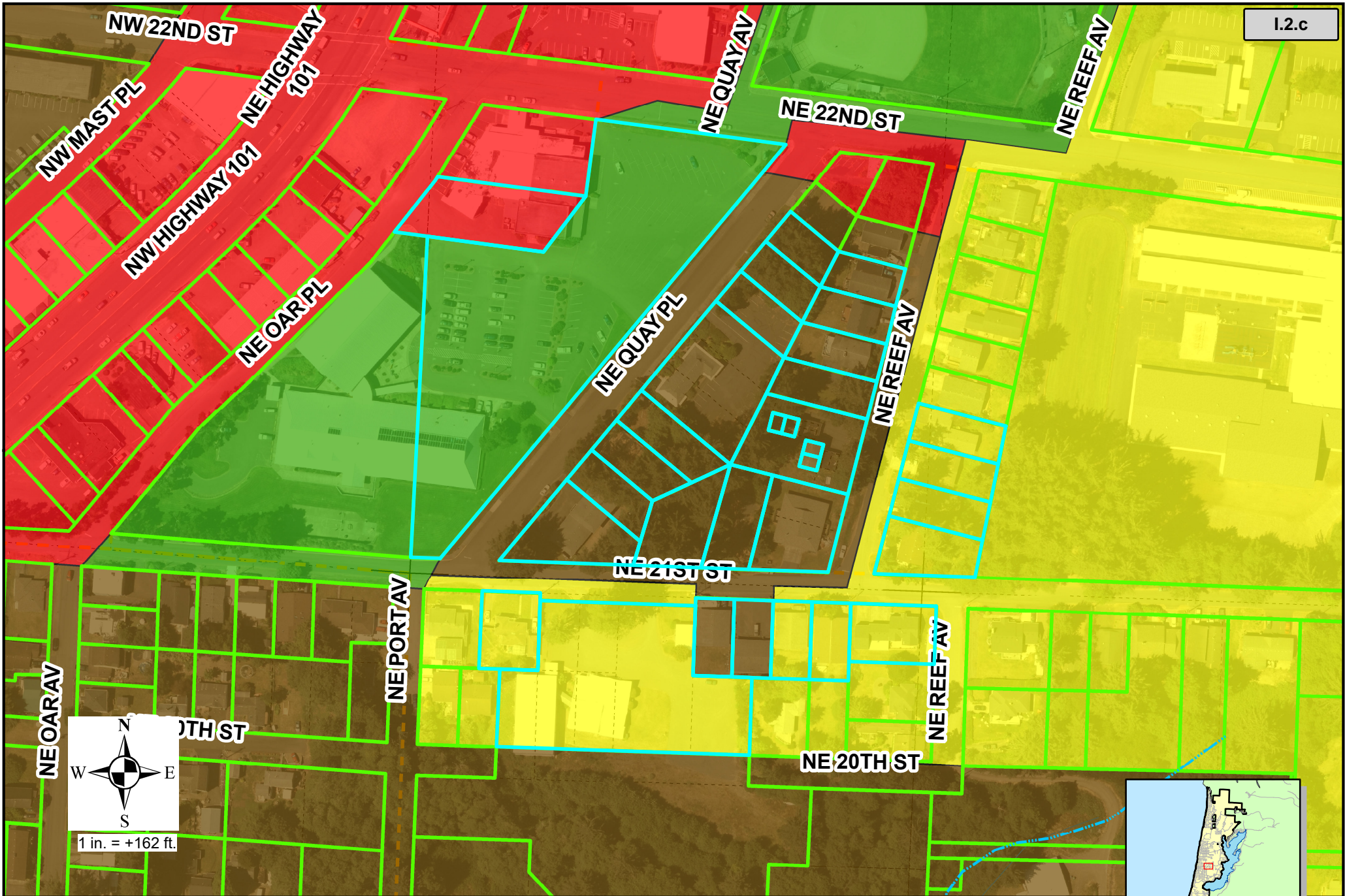
HIGHEST AND BEST USE \_\_\_\_\_

REMARKS: \_\_\_\_\_

SUMMARY OF APPROACHES

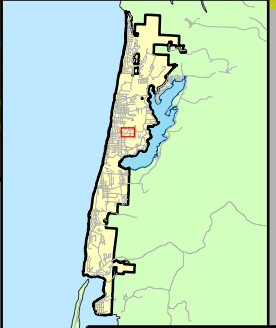
COST		INCOME		MARKET	
BUILDING D.R.C.	\$ <u>20,890</u>	BUILDING VALUE	\$ _____	BUILDING VALUE	\$ _____
YARD AND MISC IMP	\$ _____	OTHER IMPS	\$ _____	OTHER IMPS	\$ _____
TOTAL IMPROVEMENT VALUE	\$ <u>20,890</u>	TOTAL IMPROVEMENT VALUE	\$ _____	TOTAL IMPROVEMENT VALUE	\$ _____

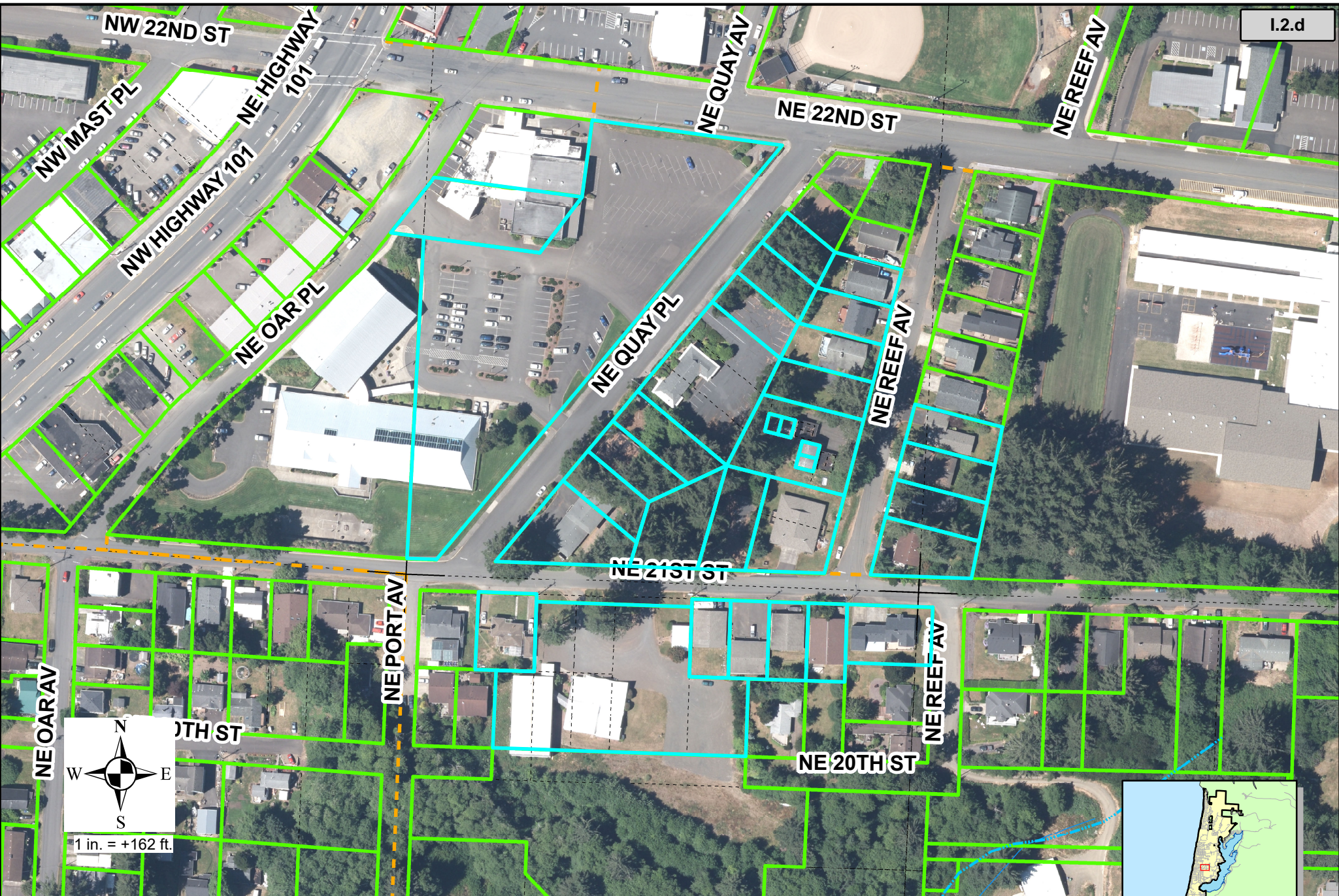
FINAL RECONCILIATION



### Vicinity Map

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

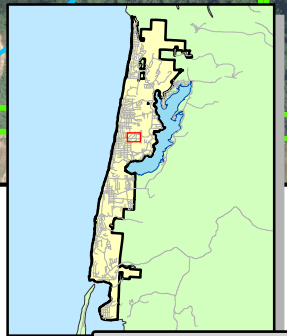




### Vicinity Map



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# LINCOLN CITY PLANNING COMMISSION

## IN THE MATTER OF

Amendments to the Lincoln City Comprehensive )  
Plan Map and Lincoln City Municipal Code )  
relating to CPA & ZC 2019-04 )  
Lincoln County Assessor's Map 07-11-11-BC-01100 )

**Final Recommendation  
No. 2019-11**

## NATURE OF THE APPLICATION

CPA ZC 2019-04 would amend the Lincoln City Comprehensive Plan Map and Lincoln City Zoning Map to re-designate property at 2126 NE Quay Place from Multiple-Family Residential (RM) to General Commercial (GC).

## FINAL RECOMMENDATION

Based on the evidence presented at the public hearing on December 17, 2019, including the staff report, the Planning Commission recommends that the City Council deny the proposed comprehensive plan and zoning map amendments (4-2 vote). The four commissioners (Brainerd, Griffiths, Kroen, Nelson) who voted in favor of the recommendation for denial based their vote upon the following factors:

1. A comprehensive plan and zoning map amendment must be consistent and compatible with other unamended portions of the comprehensive plan per the Lincoln City Comprehensive Plan. The subject property is currently Multiple-Family Residential. The sites immediately adjacent to and surrounding the subject property to the north, south, and east are all Multiple-Family Residential. Placement of one site zoned General Commercial in the midst of surrounding properties zoned Multiple-Family Residential is not consistent or compatible with the surrounding Multiple-Family Residentially-zoned properties.
2. Adjacent residential uses to the north, south, and east of the site. Rezoning the site to GC zoning disturbs the existing residential nature of the adjacent residences and violates the purpose of the RM zone which is "to provide an environment suitable for higher density urban residential uses, and community services." The zone change request is not consistent with the purpose statement of the RM zone, of which the surrounding properties are zoned.

The two commissioners (Schlesinger, Baker) who voted in opposition of the recommendation for denial based their vote upon the following factor:

1. The general surrounding area is a mixed-use area with a church farther north and the community center across the street to the west. This proposal is consistent with the mixed-use surroundings.

APPROVED THIS 7<sup>th</sup> DAY OF JANUARY, 2020.

  
Patti Kroen  
Planning Commission Chair

ATTEST:  
  
Anne Marie Skinner  
Planning & Community Development Director



**PLANNING COMMISSION STAFF REPORT**  
**MEETING DATE: January 27, 2020**

**Report prepared by AnneMarie Skinner, Planning & Community Development Director**

**PH: Zoning Ordinance Amendment (ZOA 2019-14) ADU ordinance**

**PROJECT INFORMATION**

<b>Applicant/Owner</b>	City of Lincoln City PO Box 50 Lincoln City, OR 97267
<b>Map &amp; Lot No.</b>	City-wide ordinance amendment
<b>Comprehensive Plan &amp; Zoning</b>	City-wide ordinance amendment
<b>Surrounding Land Uses And Zoning</b>	City-wide ordinance amendment
<b>Public Notice</b>	Mailed to all property owners in city limits on November 26, 2019. Published in The News Guard on December 4, 2019
<b>Relevant Substantive Criteria</b>	LCMC 17.88.020

**BACKGROUND**

The current ordinance for accessory dwelling units contains inconsistencies with other portions of Title 17 that reference accessory dwelling units. There is also some subjective language regarding design standards that needs to be removed at the request of the Oregon Department of Land Conservation and Development.

The Planning Commission held a public hearing on December 17, 2019, closed the public hearing, and recommended on a 6-0 vote that the City Council approve the draft ordinance. Their Final Recommendation was signed on January 7, 2020.

**AUTHORIZATION**

This amendment was initiated by the Planning and Community Development Director pursuant to LCMC 17.88.020.

**ANALYSIS**

See the draft ordinance in agenda item 2545 – Ordinance 2020-03

**STAFF RECOMMENDATION**

Hold the public hearing, close the public hearing, and deliberate.

*After close of the hearing and record...*

Move to approve ZOA 2019-14 and proceed to the first and second reading of the ordinance.



**PLANNING COMMISSION STAFF REPORT**  
**MEETING DATE: January 27, 2020**

**Report prepared by AnneMarie Skinner, Planning & Community Development Director**

**PH: Zoning Ordinance Amendment ZOA 2019-16 Creating RCC Zone**

**PROJECT INFORMATION**

<b>Applicant/Owner</b>	City of Lincoln City PO Box 50 Lincoln City, OR 97267
<b>Map &amp; Lot No.</b>	City-wide ordinance amendment
<b>Comprehensive Plan &amp; Zoning</b>	City-wide ordinance amendment
<b>Surrounding Land Uses And Zoning</b>	City-wide ordinance amendment
<b>Public Notice</b>	Mailed to all property owners in city limits on November 26, 2019. Published in The News Guard on December 4, 2019
<b>Relevant Substantive Criteria</b>	LCMC 17.88.020

**BACKGROUND**

The new Recreation Resort Mixed Use (RRMU) Future Land Use Map (FLUM) designation was recently adopted by City Council in 2019. The proposed new Resort Community Commercial (RCC) Zone is being created as an option to implement the adopted RRMU FLUM.

The Planning Commission held a public hearing on December 17, 2019 for the ordinance creating the new zone. Based on the evidence presented at the public hearing, including the staff report, the Planning Commission unanimously recommended that City Council approve the draft ordinance. The Commission's Final Recommendation was signed on January 7, 2020.

**AUTHORIZATION**

This amendment was initiated by the Planning and Community Development Director pursuant to LCMC 17.88.020.

**ANALYSIS**

See the draft Ordinance 2020-02 in Agenda Item 2544.

**STAFF RECOMMENDATION**

Hold the public hearing, close the public hearing, and proceed to Agenda Item 2544 for deliberations on the ordinance.

## Council Communication

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### Ordinance 2020-02 Creating RCC Zone

Meeting Date:	January 27, 2020	Primary Staff Contact:	Richard Appicello
Department:	City Attorney	E-Mail:	RAppicello@lincolncity.org
Secondary Dept:	Planning Department	Secondary Contacts:	AnneMarie Skinner
Approval:	Ronald F Chandler	Estimated Time:	15 minutes

---

#### Question(s):

Should the City Council conduct and approve First and Second Reading and adopt Ordinance 2020-02 entitled:

#### ORDINANCE 2020-02

**AN ORDINANCE AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 17 (ZONING), CHAPTER 17.12 (ZONING DISTRICTS ESTABLISHED), SECTION 17.12.010 (CLASSIFICATION OF ZONES), ADDING A NEW RESORT COMMUNITY COMMERCIAL ZONING DISTRICT; CREATING A NEW CHAPTER: CHAPTER 17.29 (RCC) (RESORT COMMUNITY COMMERCIAL)**

#### Staff Recommendation:

Staff recommends Council conduct First Reading of Ordinance 2020-02 and, *if unanimous*, Conduct and approve Second Reading and adopt the Ordinance. Any changes must be read.

#### Authority:

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

## Background:

The Planning and Community Development Director initiated the creation of the Recreation Community Commercial zoning district to implement the Comprehensive Plan Future Land Use Map (FLUM) designation of Resort Recreation Mixed Use (RRMU).

The proposed amendment only creates the Zoning District; the District is not being applied to any particular property at this time. Pursuant to the RRMU FLUM designation, this District may only be implemented with a Statutory Development Agreement.

Staff did make a few changes to the document from what was presented to the Planning Commission. (See Attachment) The attached ordinance reflects these changes. In short, the changes do the following:

- Residential use is prohibited except above commercial uses in the prior draft. Staff suggests the list of uses below residential use not be limited to strictly “commercial” use only. The revision expands the list of uses (beyond just commercial) which can be located below residential uses. [17.29.020]
- Staff is interested in making revisions to the site plan process. As a stopgap, staff has added a revision to the RCC [LCMC 17.29.80] to add authorization to use a phased commercial preliminary master plan with a multi-year timetable. The code does not currently have clear authorization (such as a commercial PUD) for this type of multi-year commercial development. When staff revises the site plan review procedures, this authorization will likely be modified to match.
- Several sections in the Standards [LCMC 17.29.040] portion of the RCC are changed to reflect the fact the standards will be negotiated in the development agreement. If the standard says 45 feet height limit - there is no room for negotiation. Accordingly, the standard now reads that height is negotiable, up to the Charter limit of 45 feet. Height and parking are issues that can be negotiated in the Development Agreement. The Zoning Code sets forth only the authorization and parameters for negotiation, not the results of negotiation.

## 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 February 10, 2020 [or]

3. Continue First Reading to February 10, 2020.

4. Do not proceed with proposed ordinance.

**Potential Motions:**

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

**ORDINANCE 2020-02**

**AN ORDINANCE AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 17 (ZONING), CHAPTER 17.12 (ZONING DISTRICTS ESTABLISHED), SECTION 17.12.010 (CLASSIFICATION OF ZONES), ADDING A NEW RESORT COMMUNITY COMMERCIAL ZONING DISTRICT; CREATING A NEW CHAPTER: CHAPTER 17.29 (RCC) (RESORT COMMUNITY COMMERCIAL)**

*Council:*

1. Motion to approve First Reading of Ordinance 2020-02.

*If unanimous: conduct Second Reading*

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

*Council:*

1. Motion to approve Second Reading and adopt Ordinance 2020-02.

**[or]**

2. Motion to set Second Reading for February 10, 2020.

**Attachments:**

Attachment showing changes made (DOCX)

Ordinance 2020-02 1-20-20 (DOCX)

FINAL 2020-02 Findings Ext. A 1.20.20 (DOCX)

This attachment shows changes in the ordinance from the draft presented to the Planning commission.

Changes are shown in **red text** or **red strikethrough text**.

**17.29.020 Uses permitted.**

**A Statutory Development Agreement will select from the uses permitted in the RCC District listed below. The Developer and City may agree to any of the following uses:**

**A. Public and Institutional Uses.**

- (i) Amphitheater.**
- (ii) Convention Center.**
- (iii) Cultural and historical facilities and exhibits.**
- (iv) Educational **Institutions** and research facilities.**
- (v) Essential emergency communications, early warning and associated facilities.**
- (vi) Government administrative/office.**
- (vii) Information Kiosks.**
- (viii) Observation Towers.**
- (ix) Outdoor and indoor recreation facilities.**
- (x) Public parking lots.**
- (xi) Transportation uses, defined in Chapter 17.08 LCMC;**
- (xii) Utility substation**

**B. **Non-Residential Commercial** ground floor with residential above.**

- (i) Animal sales and services: grooming and retail.**
- (ii) Art galleries.**
- (iii) Art studios,**
- (iv) Artisan workshop.**
- (v) Bars **Tap rooms** and Taverns.**
- (vi) Business and personal services, such as barber shops, beauty shops, tailors, laundries, printing, and locksmiths.**
- (vii) Child care/day nursery.**
- (vii) **Cultural and historical facilities and exhibits.****
- (viii) **Eating and drinking establishments, including sidewalk cafes****
- (ix) **Educational Institutions** and research facilities.**

- (x) Financial institutions.
- (ix) Gift shops
- (x) Government administrative office
- (xi) Health and fitness club.
- (xii) Hotels, motels, resorts
- (xiii) Laundromats and dry cleaners
- (xiv) Medical facilities such as clinics, outpatient services, health care facilities, etc.
- (xv) Minature Golf
- (xvi) Offices
- (xvii) Outdoor and indoor recreation facilities
- (xviii) Parking lots, public or private
- (xviii) Rental Center
- (xix) Repair and maintenance of permitted retail products.
- (xx) Retail sales / convenience service establishments.
- (xxi) Retail sales & rental of outdoor recreation equipment.
- (xxii) Spa facilities
- (xxiii) Sporting goods store, without outdoor storage.
- (xxiv) Theaters, indoor
- (xxv) Trade and Skilled services

**C. Residential use is authorized when located above the above listed non-residential uses. Non-residential use must always be located on the ground floor. Residential use includes apartment use, which may include individual condominium ownership or long term rentals; short term rentals and time share of such dwelling units is not authorized.**

\* \* \*

**17.29.040 Standards Applicable to all uses in the RCC District. Each of the following standards and special conditions may be subject to negotiation in the Statutory Development Agreement within the parameters specified below.**

- A. The maximum building height shall be negotiable in the Development Agreement, up to 45 feet, which is the maximum permitted by the Lincoln City Charter. ~~The 45-foot limit~~ Maximum Building height applies only to space used for human habitation. "Height" 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.

- B. ~~The minimum lot size is negotiable. No minimum or maximum lot or parcel sizes, widths, or depths.~~
- C. ~~Front yard. The required front yard setback shall be negotiable. No minimum or maximum front yard setback, excepting parking areas which shall be set back a minimum of 10 feet from the property line with the 10-foot width containing living and non-living landscaping as a means of buffering and screening the parking area.~~
- D. ~~Side, Rear, Street Side, and Interior Setbacks. The required side, rear street side and interior setbacks shall be negotiable. No minimum or maximum side, rear, or street side setbacks unless adjacent to or across the street from a residential zone, in which case the side, rear, or street side minimum setback shall be that in the adjacent residential zone.~~
- E. ~~Landscaping shall generally comply with LCMC 17.52.100, except that landscaping requirements may be varied when agreed to in the Development agreement.~~
- F. All development in the RCC contributes to maintenance of Open Space, through financial assessment provisions in the Statutory Development Agreement, with said Open Space to be maintained as identified in the Statutory Development Agreement. The Development Agreement will specify the Open Space property for which the development shares maintenance responsibility.
- G. The maximum lot coverage, including all impervious surfaces, shall not exceed 90 percent unless so negotiated in the Statutory Development Agreement
- H. There is no minimum or maximum floor to area ratio, provided the maximum lot coverage does not exceed 90 percent unless so negotiated in the Statutory Development Agreement.
- I. Outdoor storage of goods and materials as an independent use not in conjunction with another use is prohibited.
- J. ~~There is no maximum residential density.~~
- K. Outdoor displays of goods and materials for retail establishments are permitted on private property in front of the retail establishments, provided such displays do not block safe ingress and egress from all entrances and exits including

those specifically for emergency use. Such displays shall not block safe pedestrian or vehicular circulation areas, block required parking areas, emergency accessways or interfere with landscape areas such that those areas will be prone to damage, or otherwise create a hazard. In addition, outdoor display of goods and materials shall be properly and safely stored inside during nonbusiness hours. Moreover, outdoor displays shall not encroach in public rights-of-way, including but not limited to streets, alleys or sidewalks, without express written permission of the city council as reflected in an executed temporary license, release and hold harmless agreement. License agreements shall require safe, sturdy and secure outdoor displays and may be subject to an annual fee determined by resolution of the city council.

\* \* \*

#### 17.29.060 Parking.

Off-street parking shall be provided in accordance with Chapter 17.56 LCMC, unless modified through an approved Statutory Development Agreement. Temporary overflow parking may be authorized if negotiated in the Development Agreement. Temporary overflow parking in conjunction with community events, special events, events of citywide interest, or sporting events, is allowed on an unpaved parking area on a parcel of at least one-half acre in size, provide such parking does not occur within the Natural Hazard Overlay Zone or Open Space Zone. If a fee is charged for parking, it shall not be considered a commercial parking lot for purposes of zoning compliance. There is no minimum or maximum distance requirement for temporary overflow parking from the site of the event.

\* \* \*

#### 17.29.80 Specific Authorization for Phased Commercial Development.

Notwithstanding any other provision of Title 17, 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 site plan design review process. The creation of discrete parcels for conveyance shall comply with subdivision or partition requirements of Title 16.

1  
2  
3 **ORDINANCE 2020-02**  
4

5 **AN ORDINANCE AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 17 (ZONING),**  
6 **CHAPTER 17.12 (ZONING DISTRICTS ESTABLISHED), SECTION 17.12.010 (CLASSIFICATION**  
7 **OF ZONES), ADDING A NEW RESORT COMMUNITY COMMERCIAL ZONING DISTRICT;**  
8 **CREATING A NEW CHAPTER: CHAPTER 17.29 (RCC) (RESORT COMMUNITY COMMERCIAL)**  
9

10  
11 *Annotated to show deletions and additions to the code sections being modified. Deletions are **bold***  
12 *~~lined through~~ and additions are **bold underlined**.*  
13

14 **The City Council finds:**

- 15 A. The amendments to the Lincoln City Municipal Code are in conformance with the  
16 Statewide Planning Goals and Lincoln City Comprehensive Plan goals as addressed in  
17 attached Exhibit "A".  
18
- 19 B. The amendments are in conformance with the Zoning Ordinance, including, but not  
20 limited to, required initiation, processing and noticing requirements.
- 21 C. On November 12, 2019, the City duly notified the Oregon Department of Land  
22 Conservation and Development pursuant to ORS 197.610 of its consideration of the  
23 proposed amendment(s); staff determined that the proposed amendments to add a new  
24 optional Resort Community Commercial Zoning District to the Zoning Code to  
25 implement the adopted Recreation Resort Mixed Use FLUM designation does not rezone  
26 any existing property or require rezoning any property and therefore an ORS 227.186(4)  
27 notice is not required.  
28
- 29 D. The Planning Commission, on December 17, 2019 conducted a public hearing and  
30 considered the amendments contained within this ordinance. On December 17, 2019,  
31 the Planning Commission voted to transmit the amendments to the City Council with a  
32 recommendation that the ordinance be adopted, subject to certain changes.
- 33 E. The City Council conducted a public hearing on January 27, 2020, closed the hearing,  
34 closed the record and deliberated on the proposed amendments, providing direction to  
35 staff to return with the Ordinance for required readings and adoption.  
36
- 37 F. All persons were given an opportunity to provide written and/or oral testimony on the  
38 proposed ordinance amendments.  
39

1 **THE CITY OF LINCOLN CITY ORDAINS AS FOLLOWS:**

2 **SECTION 1.** Lincoln City Municipal Code Title 17(*Zoning*), Chapter 17.12 (*Zoning Districts*  
3 *Established*), Section 17.12.010 (*Classification of zones*), is amended by adding a new Resort  
4 Community Commercial (RCC) zoning district to the list of zones:

5 **17.12.010 Classification of zones.**

6 .....

7 A. For the purpose of this title, the following zones are hereby established in the city.

<u><b>Zone Description</b></u>	<u><b>Abbreviated Description</b></u>
Residential, Single-family	R-1
Residential, Roads End	R-1-RE
Vacation Rental	VR
Recreation-Residential	R-R
Residential, Multifamily	RM
Professional Campus	PC
Recreation Commercial	RC
General Commercial	GC
Nelscott Plan District	NP
Oceanlake Plan District	OP
Taft Village Core	TVC
Planned Industrial	PI
Marine-Waterway	MW
Natural Resource Overlay	NR
Park	P
Open Space	OS

8  
9 **Resort Community Commercial    RCC**

10  
11 **SECTION 2.** The Lincoln City Municipal Code Title 17(*Zoning*), is hereby amended to add a new  
12 Chapter 17.29, [*Resort Community Commercial District (RCC)*] to read as follows:

13  
14 **Chapter 17.29 Resort Community Commercial**

15  
16 **17.29.010. Purpose.**

17

1        **The Resort Community Commercial (RCC) District is intended to implement**  
 2        **the Recreation Resort Mixed Use (RRMU) Future Land Use Map (FLUM)**  
 3        **designation. The District is an optional implementing district and may only**  
 4        **be implemented with a negotiated ORS Chapter 94 Development**  
 5        **Agreement (hereinafter “Statutory Development Agreement”). The District**  
 6        **provides a commercial attraction core and employment center**  
 7        **complemented by other general commercial uses and vertical mixed use.**  
 8        **The District is supported by surrounding high, medium and low density**  
 9        **residential development, preferably with a RRMS FLUM designation.**

10  
 11        **17.29.020 Uses permitted.**

12  
 13        **A Statutory Development Agreement will select from the uses permitted in the RCC**  
 14        **District listed below. The Developer and City may agree to any of the following**  
 15        **uses:**

16  
 17        **A. Public and Institutional Uses.**

18        **(i) Amphitheater.**

19        **(ii) Convention Center.**

20        **(iii) Cultural and historical facilities and exhibits.**

21        **(iv) Educational institutions and research facilities.**

22        **(v) Essential emergency communications, early warning and**  
 23        **associated facilities.**

24        **(vi) Government administrative/office.**

25        **(vii) Information kiosks.**

26        **(viii) Observation towers.**

27        **(ix) Outdoor and indoor recreation facilities.**

28        **(x) Public parking lots.**

29        **(xi) Transportation uses, defined in Chapter 17.08 LCMC.**

30        **(xii) Utility substation.**

31  
 32        **B. Non-Residential ground floor with residential above.**

33        **(i) Animal sales and services: grooming and retail.**

34        **(ii) Art galleries.**

35        **(iii) Art studios.**

36        **(iv) Artisan workshop.**

37        **(v) Bars, tap rooms and taverns.**

38        **(vi) Business and personal services, such as barber shops, beauty**  
 39        **shops, tailors, laundries, printing, and locksmiths.**

40        **(vii) Child care/day nursery.**

41        **(viii) Cultural and historical facilities and exhibits.**

42        **(ix) Eating and drinking establishments, including sidewalk cafes.**

43        **(x) Educational institutions and research facilities.**

44        **(xi) Financial institutions.**

- 1                    **(xii) Gift shops.**  
 2                    **(xiii) Government administrative office.**  
 3                    **(xiv) Health and fitness club.**  
 4                    **(xv) Hotels, motels, resorts.**  
 5                    **(xvi) Laundromats and dry cleaners.**  
 6                    **(xvii) Medical facilities such as clinics, outpatient services, health**  
 7                    **care facilities, etc.**  
 8                    **(xviii) Miniature golf.**  
 9                    **(xix) Offices.**  
 10                   **(xx) Outdoor and indoor recreation facilities.**  
 11                   **(xxi) Parking lots, public or private.**  
 12                   **(xxii) Rental Center.**  
 13                   **(xxiii) Repair and maintenance of permitted retail products.**  
 14                   **(xxiv) Retail sales / convenience service establishments.**  
 15                   **(xxv) Retail sales & rental of outdoor recreation equipment.**  
 16                   **(xxvi) Spa facilities.**  
 17                   **(xxvii) Sporting goods store, without outdoor storage.**  
 18                   **(xxviii) Theaters, indoor.**  
 19                   **(xxix) Trade and skilled services.**

20  
 21                   **C. Residential use is authorized when located above the above listed**  
 22                   **non-residential uses. Non-residential use must always be located on**  
 23                   **the ground floor. Residential use includes apartment use, which may**  
 24                   **include individual condominium ownership or long term rentals; short**  
 25                   **term rentals and time share of such dwelling units is not authorized.**

26  
 27                   **D. Manufacturing.**

- 28                   **(i) Art studios .**  
 29                   **(ii) Artisan workshop.**  
 30                   **(iii) Distillery.**

31  
 32                   **E. Commercial Attraction.**

- 33                   **(i) Art galleries.**  
 34                   **(ii) Brewery.**  
 35                   **(iii) Commercial amphitheater venue.**  
 36                   **(iv) Commercial amusement establishment (indoor and outdoor).**  
 37                   **(v) Event center.**  
 38                   **(vi) Golf driving range.**  
 39                   **(vii) Gun range, indoor.**  
 40                   **(viii) Miniature golf.**  
 41                   **(ix) Special events.**  
 42                   **(x) Winery.**  
 43

1 **F. General Commercial.**

2 **(i) Animal sales and services: grooming and retail.**

3 **(ii) Bars, tap rooms, and taverns.**

4 **(iii) Business and personal services, such as barber shops, beauty**  
 5 **shops, tailors, laundries, printing, and locksmiths.**

6 **(iv) Child care/day nursery.**

7 **(v) Eating and drinking establishments, including sidewalk cafes.**

8 **(vi) Financial institutions.**

9 **(vii) Gift shops.**

10 **(viii) Health and fitness club.**

11 **(ix) Hotels, motels, resorts.**

12 **(x) Laundromats and dry cleaners.**

13 **(xi) Medical facilities such as clinics, out-patient services, health**  
 14 **care facilities, etc.**

15 **(xii) Offices.**

16 **(xiii) Parking lots, public or private.**

17 **(xiv) Rental center.**

18 **(xv) Repair and maintenance of permitted retail products.**

19 **(xvi) Retail sales / convenience service establishments.**

20 **(xvii) Retail sales & rental of outdoor recreation equipment.**

21 **(xviii) Spa facilities.**

22 **(xix) Sporting goods store, without outdoor storage.**

23 **(xx) Trade and skilled services.**

24

25 **17.29.040 Standards Applicable to all uses in the RCC District. Each of the**  
 26 **following standards and special conditions may be subject to negotiation in**  
 27 **the Statutory Development Agreement within the parameters specified**  
 28 **below.**

- 29 **A. The maximum building height shall be negotiable in the**  
 30 **Development Agreement, up to 45 feet, which is the maximum**  
 31 **permitted by the Lincoln City Charter. Maximum building height**  
 32 **applies only to space used for human habitation. "Height" means**  
 33 **the vertical distance from the average of the finished ground level**  
 34 **at the center of all walls of the building to the highest point of the**  
 35 **roof, exclusive of chimneys.**
- 36 **B. The minimum lot size is negotiable.**
- 37 **C. Front yard. The required front yard setback shall be negotiable.**
- 38 **D. Side, Rear, Street Side, and Interior Setbacks. The required side, rear**  
 39 **street side and interior setbacks shall be negotiable.**
- 40 **E. Landscaping shall generally comply with LCMC 17.52.100, except**  
 41 **that landscaping requirements may be varied when agreed to in the**  
 42 **Development Agreement.**

- 1           **F. All development in the RCC contributes to maintenance of Open**  
2           **Space, through financial assessment provisions in the Statutory**  
3           **Development Agreement, with said Open Space to be maintained as**  
4           **identified in the Statutory Development Agreement. The**  
5           **Development Agreement will specify the Open Space property for**  
6           **which the development shares maintenance responsibility.**
- 7           **G. The maximum lot coverage, including all impervious surfaces, shall**  
8           **not exceed 90 percent unless so negotiated in the Statutory**  
9           **Development Agreement.**
- 10           **H. There is no minimum or maximum floor to area ratio, provided the**  
11           **maximum lot coverage does not exceed 90 percent unless so**  
12           **negotiated in the Statutory Development Agreement.**
- 13           **I. Outdoor storage of goods and materials as an independent use not**  
14           **in conjunction with another use is prohibited.**
- 15           **J. There is no maximum residential density.**
- 16           **K. Outdoor displays of goods and materials for retail establishments**  
17           **are permitted on private property in front of the retail**  
18           **establishments, provided such displays do not block safe ingress and**  
19           **egress from all entrances and exits including those specifically for**  
20           **emergency use. Such displays shall not block safe pedestrian or**  
21           **vehicular circulation areas, block required parking areas, emergency**  
22           **accessways or interfere with landscape areas such that those areas**  
23           **will be prone to damage, or otherwise create a hazard. In addition,**  
24           **outdoor display of goods and materials shall be properly and safely**  
25           **stored inside during nonbusiness hours. Moreover, outdoor displays**  
26           **shall not encroach in public rights-of-way, including but not limited**  
27           **to streets, alleys or sidewalks, without express written permission of**  
28           **the city council as reflected in an executed temporary license,**  
29           **release and hold harmless agreement. License agreements shall**  
30           **require safe, sturdy and secure outdoor displays and may be subject**  
31           **to an annual fee determined by resolution of the city council.**

32  
33           **17.29.050 Signs.**  
34

35           **Signs shall be permitted in accordance with the provisions of Chapter 17.72 LCMC.**  
36           **An approved Statutory Development Agreement may modify standard City sign**  
37           **regulations.**  
38

39           **17.29.060 Parking.**  
40

41           **Off-street parking shall be provided in accordance with Chapter 17.56 LCMC, unless**  
42           **modified through an approved Statutory Development Agreement. Temporary**  
43           **overflow parking may be authorized if negotiated in the Development Agreement.**

1  
2 **17.29.70 Other required conditions.**  
3

- 4       **A. Environmental Protections. There shall be no modification of**  
5       **environmental protection regulations in the City Code, except that in a**  
6       **Statutory Development Agreement the minimum amount of relief**  
7       **necessary may be granted when it is necessary to access the property or is**  
8       **necessary to avoid a taking of all reasonable economic use of the property.**  
9
- 10       **B. No development shall occur in the RCC zone unless all city services (sewer**  
11       **and water and transportation) are available to serve such development as**  
12       **the impacts of the development occur.**

13  
14 **17.29.80 Specific authorization for Phased Commercial Development.**  
15

16 **Notwithstanding any other provision of Title 17, a Statutory Development**  
17 **Agreement implementing the RCC Zone, may authorize the use of a Multi-**  
18 **Phase Commercial Preliminary Master Plan. The Multi-Phase Commercial**  
19 **Preliminary Master Plan may include multiple discrete phases identified in**  
20 **an associated timetable of development and consistent with the time**  
21 **limitations established in the negotiated Statutory Development**  
22 **Agreement. Multi-phase commercial preliminary and final master plans are**  
23 **approved through the site plan design review process. The creation of**  
24 **discrete parcels for conveyance shall comply with subdivision or partition**  
25 **requirements of Title 16.**

26  
27  
28 **17.29.90 Authorization to modify requirements of the zone.**  
29

30 **To address the unique status of the RCC District, the City and the property**  
31 **owner(s) may modify development uses, requirements, and standards**  
32 **specified or referenced in this zone from the otherwise applicable provisions**  
33 **of the Code. The timetable of development requirements of Title 17 and**  
34 **Title 16 may be modified in a Statutory Development Agreement reviewed**  
35 **and approved as provided in ORS Chapter 94 and LCMC Chapter 17.96.**  
36 **Floodplains and Floodways, shall not be modified or exempted.**  
37

38 **SECTION 3. Findings Adopted.** The findings contained in the Whereas Clauses of this  
39 ordinance, together with the Findings set forth in Exhibit A, as well as the competent substantial  
40 evidence in the whole record of this legislative proceeding are incorporated into this section by  
41 reference as if fully set forth herein, and are adopted in support of this legislative action.  
42

1 **SECTION 4. Severability.** The sections, subsections, paragraphs and clauses of this ordinance  
2 are severable. The invalidity of one section, subsection, paragraph, or clause shall not affect the  
3 validity of the remaining sections, subsections, paragraphs and clauses.

4  
5 **SECTION 5. Ordinance Effective Date.** Pursuant to Chapter IX, Section 9.3, this ordinance  
6 takes effect 30 days after the date of its adoption.

7  
8 **SECTION 6. Codification.** Provisions of this Ordinance shall be incorporated in the City of  
9 Lincoln City Municipal Code and the word "ordinance" may be changed to "code", "article",  
10 "section", "chapter" or another word, and the sections of this Ordinance may be renumbered, or  
11 re-lettered, provided that any Whereas clauses and boilerplate provisions (i.e. Sections 3-6) need  
12 not be codified and the City Recorder is authorized to correct any cross-references and any  
13 typographical errors.

14  
15 The foregoing ordinance was distinctly read by title only in accordance with Chapter IX, Section  
16 9.2 of the City of Lincoln City Charter on the 27<sup>th</sup> day of January (First Reading) and on the 27<sup>th</sup>  
17 day of January (Second Reading).

18  
19 PASSED AND ADOPTED by the City Council of the City of Lincoln City this 27<sup>th</sup> day of  
20 January, 2020.

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25 \_\_\_\_\_  
26 DICK ANDERSON, MAYOR

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28 ATTEST:

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30  
31 \_\_\_\_\_  
32 CATHY STEERE, CITY RECORDER

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34 APPROVED AS TO FORM:  
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36 \_\_\_\_\_  
37 RICHARD APPICELLO, CITY ATTORNEY  
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**Exhibit A**  
Findings

**EXHIBIT A – ZOA 2019-16 FINDINGS  
[ORDINANCE NO. 2020-02]**

The Title of Proposed Ordinance 2019-02 (ZOA 2019-16) is as follows:

**ORDINANCE NO. 2020-02**

**AN ORDINANCE AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 17 (ZONING), CHAPTER 17.12 (ZONING DISTRICTS ESTABLISHED), SECTION 17.12.010 (CLASSIFICATION OF ZONES), ADDING A NEW RESORT COMMUNITY COMMERCIAL ZONING DISTRICT; CREATING A NEW CHAPTER: CHAPTER 17.29 (RCC) (RESORT COMMUNITY COMMERCIAL)**

This Zoning Ordinance Amendment implements the Recreation Resort Mixed Use FLUM created in Ordinance 2019-39. Specifically, ZOA 2019-16 creates a new optional zoning district, the Resort Community Commercial (RCC) to implement the land use designation. The District may only be used with a Statutory Development Agreement. (See Ordinance 2019-30). The RCC Zoning District resembles a commercial Planned Unit Development Zoning District in that it enables the Owner/Developer to negotiate with the City on both proposed uses as well as standards, and special conditions for development. The District does not represent a by-right quasi-judicial development option – it is only implemented with a negotiated agreement. Other by-right options for development exist (R-1-7.5) – however the City plans on creating a new by-right option in the future.

At this time only one property in the City has the FLUM designation of RRMU. [See Ordinance 2019-40 - applying the new Recreation Resort Mixed Use [RRMU] FLUM designation to 22.29 acres of real property City property at the Villages of Cascade Head]. That property is owned by the City and is not being rezoned to this District at this time.

The proposed amendment modifies the Lincoln City Zoning Code to add the following:

**SECTION 1.** Lincoln City Municipal Code Title 17(*Zoning*), Chapter 17.12 (*Zoning Districts Established*), Section 17.12.010 (*Classification of zones*), is amended by adding a new Resort Community Commercial (RCC) zoning district to the list of zones:

**17.12.010 Classification of zones.**

- A. For the purpose of this title, the following zones are hereby established in the city.

<u>Zone Description</u>	<u>Abbreviated Description</u>
Residential, Single-family	R-1
Residential, Roads End	R-1-RE
Vacation Rental	VR
Recreation-Residential	R-R
Residential, Multifamily	RM
Professional Campus	PC
Recreation Commercial	RC
General Commercial	GC
Nelscott Plan District	NP
Oceanlake Plan District	OP
Taft Village Core	TVC
Planned Industrial	PI
Marine-Waterway	MW
Natural Resource Overlay	NR
Park	P
Open Space	OS

**Resort Community Commercial    RCC**

**SECTION 2.** The Lincoln City Municipal Code Title 17(*Zoning*), is hereby amended to add a new Chapter 17.29, [*Resort Community Commercial District (RCC)*] to read as follows:

**Chapter 17.29 Resort Community Commercial**

**17.29.010. Purpose.**

**The Resort Community Commercial (RCC) District is intended to implement the Recreation Resort Mixed Use (RRMU) Future Land Use Map (FLUM) designation. The District is an optional implementing district and may only be implemented with a negotiated ORS Chapter 94 Development Agreement (hereinafter “Statutory Development Agreement”). The District provides a commercial attraction core and employment center complemented by other general commercial uses and vertical mixed use. The District is supported by surrounding**

**high, medium and low density residential development, preferably with a RRMS FLUM designation.**

**17.29.020 Uses permitted.**

**A Statutory Development Agreement will select from the uses permitted in the RCC District listed below. The Developer and City may agree to any of the following uses:**

**A. Public and Institutional Uses.**

- (i) Amphitheater.**
- (ii) Convention center.**
- (iii) Cultural and historical facilities and exhibits.**
- (iv) Educational institutions and research facilities.**
- (v) Essential emergency communications, early warning and associated facilities.**
- (vi) Government administrative/office.**
- (vii) Information kiosks.**
- (viii) Observation towers.**
- (ix) Outdoor and indoor recreation facilities.**
- (x) Public parking lots.**
- (xi) Transportation uses, defined in Chapter 17.08 LCMC.**
- (xii) Utility substation.**

**B. Non-Residential ground floor with residential above.**

- (i) Animal sales and services: grooming and retail.**
- (ii) Art galleries.**
- (iii) Art studios.**
- (iv) Artisan workshop.**
- (v) Bars, tap rooms and taverns.**
- (vi) Business and personal services, such as barber shops, beauty shops, tailors, laundries, printing, and locksmiths.**
- (vii) Child care/day nursery.**
- (viii) Cultural and historical facilities and exhibits.**
- (ix) Eating and drinking establishments, including sidewalk cafes.**
- (x) Educational institutions and research facilities.**
- (xi) Financial institutions.**
- (xii) Gift shops.**
- (xiii) Government administrative office.**
- (xiv) Health and fitness club.**
- (xv) Hotels, motels, resorts.**
- (xvi) Laundromats and dry cleaners.**

- (xvii) Medical facilities such as clinics, outpatient services, health care facilities, etc.
- (xviii) Miniature golf.
- (xix) Offices.
- (xx) Outdoor and indoor recreation facilities.
- (xxi) Parking lots, public or private.
- (xxii) Rental center.
- (xxiii) Repair and maintenance of permitted retail products.
- (xxiv) Retail sales / convenience service establishments.
- (xxv) Retail sales & rental of outdoor recreation equipment.
- (xxvi) Spa facilities.
- (xxvii) Sporting goods store, without outdoor storage.
- (xxiii) Theaters, indoor.
- (xxix) Trade and skilled services.

**C. Residential use is authorized when located above the above listed non-residential uses. Non-residential use must always be located on the ground floor. Residential use includes apartment use, which may include individual condominium ownership or long term rentals; short term rentals and time share of such dwelling units is not authorized.**

**D. Manufacturing.**

- (i) Art studios.
- (ii) Artisan workshop.
- (iii) Distillery.

**E. Commercial Attraction.**

- (i) Art galleries.
- (ii) Brewery.
- (iii) Commercial amphitheater venue.
- (iv) Commercial amusement establishment (indoor and outdoor).
- (v) Event center.
- (vi) Golf driving range.
- (vii) Gun range, indoor.
- (viii) Miniature golf.
- (ix) Special events.
- (x) Winery.

**F. General Commercial.**

- (i) Animal sales and services: grooming and retail.

- (ii) Bars, tap rooms, and taverns.
- (iii) Business and personal services, such as barber shops, beauty shops, tailors, laundries, printing, and locksmiths.
- (iv) Child care/day nursery.
- (v) Eating and drinking establishments, including sidewalk cafes.
- (vi) Financial institutions..
- (vii) Gift shops
- (viii) Health and fitness club.
- (ix) Hotels, motels, resorts.
- (x) Laundromats and dry cleaners..
- (xi) Medical facilities such as clinics, out-patient services, health care facilities, etc.
- (xii) Offices.
- (xiii) Parking lots, public or private.
- (xiv) Rental center.
- (xv) Repair and maintenance of permitted retail products
- (xvi) Retail sales / convenience service establishments.
- (xvii) Retail sales & rental of outdoor recreation equipment.
- (xviii) Spa facilities.
- (xix) Sporting goods store, without outdoor storage.
- (xx) Trade and skilled services.

**17.29.040 Standards Applicable to all uses in the RCC District. Each of the following standards and special conditions may be subject to negotiation in the Statutory Development Agreement within the parameters specified below.**

- A. The maximum building height shall be negotiable in the Development Agreement, up to 45 feet, which is the maximum permitted by the Lincoln City Charter. Maximum building height applies only to space used for human habitation. "Height" 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.**
- B. The minimum lot size is negotiable.**
- C. Front yard. The required front yard setback shall be negotiable.**

- D. Side, Rear, Street Side, and Interior Setbacks. The required side, rear street side and interior setbacks shall be negotiable.
- E. Landscaping shall generally comply with LCMC 17.52.100, except that landscaping requirements may be varied when agreed to in the Development Agreement.
- F. All development in the RCC contributes to maintenance of Open Space, through financial assessment provisions in the Statutory Development Agreement, with said Open Space to be maintained as identified in the Statutory Development Agreement. The Development Agreement will specify the Open Space property for which the development shares maintenance responsibility.
- G. The maximum lot coverage, including all impervious surfaces, shall not exceed 90 percent unless so negotiated in the Statutory Development Agreement.
- H. There is no minimum or maximum floor to area ratio, provided the maximum lot coverage does not exceed 90 percent unless so negotiated in the Statutory Development Agreement.
- I. Outdoor storage of goods and materials as an independent use not in conjunction with another use is prohibited.
- J. There is no maximum residential density.
- K. Outdoor displays of goods and materials for retail establishments are permitted on private property in front of the retail establishments, provided such displays do not block safe ingress and egress from all entrances and exits including those specifically for emergency use. Such displays shall not block safe pedestrian or vehicular circulation areas, block required parking areas, emergency accessways or interfere with landscape areas such that those areas will be prone to damage, or otherwise create a hazard. In addition, outdoor display of goods and materials shall be properly and safely stored inside during nonbusiness hours. Moreover, outdoor displays shall not encroach in public rights-of-way, including but not limited to streets, alleys or sidewalks, without express written permission of the city council as reflected in an executed temporary license, release and hold harmless agreement. License agreements shall require safe, sturdy and

**secure outdoor displays and may be subject to an annual fee determined by resolution of the city council.**

**17.29.050 Signs.**

**Signs shall be permitted in accordance with the provisions of Chapter 17.72 LCMC. An approved Statutory Development Agreement may modify standard City sign regulations.**

**17.29.060 Parking.**

**Off-street parking shall be provided in accordance with Chapter 17.56 LCMC, unless modified through an approved Statutory Development Agreement. Temporary overflow parking may be authorized if negotiated in the Development Agreement.**

**17.29.70 Other required conditions.**

- A. Environmental Protections. There shall be no modification of environmental protection regulations in the City Code, except that in a Statutory Development Agreement the minimum amount of relief necessary may be granted when it is necessary to access the property or is necessary to avoid a taking of all reasonable economic use of the property.**
- B. No development shall occur in the RCC zone unless all city services (sewer and water and transportation) are available to serve such development as the impacts of the development occur.**

**17.29.80 Specific authorization for Phased Commercial Development.**

**Notwithstanding any other provision of Title 17, 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 site plan design review process. The creation of discrete parcels**

**for conveyance shall comply with subdivision or partition requirements of Title 16.**

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**17.29.90 Authorization to modify requirements of the zone.**

**To address the unique status of the RCC District, the City and the property owner(s) may modify development uses, requirements, and standards specified or referenced in this zone from the otherwise applicable provisions of the Code. The timetable of development requirements of Title 17 and Title 16 may be modified in a Statutory Development Agreement reviewed and approved as provided in ORS Chapter 94 and LCMC Chapter 17.96. Floodplains and Floodways, shall not be modified or exempted.**

**Background:**

Section 1 of the ZOA merely adds RRC to the list of zones.

Section 2 adds the new District to the Zoning Code.

Permitted uses selection. A list of uses is provided for the Zone. When implemented with a development agreement, the Owner/Developer and the City may negotiate uses from this list to be included in the proposed development. The uses are primarily oriented toward commercial attraction and employment center in a resort/recreation context. The contemplated selection of uses in the Development Agreement can reduce the complexity of calculations used to justify the rezoning. That is, instead of worse-case scenario based on the most intense uses - in terms of traffic impacts, the actual use or uses selected – together with their timetable of development can be analyzed for available public facilities and services. In this way the City and Owner/Developer plan together to provide needed facilities and services based on the timing of the impacts of development.

Negotiation on standards. The zone allows negotiation on development standards. In much the same way that a Planned Unit Development Zoning District allows a developer to write their own zoning setbacks and dimensional standards, the RCC – when coupled with the statutory development agreement allows the Owner/Developer to essentially write their own zoning district (more correctly negotiate their own district). The parameters for the district are set forth. For example, building height is negotiable. Since the City Charter includes

a maximum 45-foot height limit, that parameter is noted. The Owner/Developer and City can negotiate an acceptable height limit for occupied structures that meets the needs of the developer and addresses the City's concerns for neighbors and visual impacts on the community.

The District authorizes flexibility for specified standards. The District also authorizes a multi-year commercial site plan – filling a hole in the City Code where a commercial planned development might be located. While the Code is being revised by the new planning director, this authorization shall serve as a stop-gap measure.

### **Analysis of Goals:**

#### 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 this proposal were made available for public review and purchase, and were posted on the city's website. Staff was available to interpret and explain the technical information. The city advertised public hearings on the proposed zoning code amendments in the local newspaper in accordance with notice requirements. The planning commission and the city council each held a public hearing at which citizens were invited to participate. Therefore, the amendments are 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 revision of the plan and implementing ordinances. The City Council considered the

proposed amendments to the Lincoln City Zoning Code in accordance with the process and based on the criteria provided in the municipal code. Therefore, the amendments are consistent with Goal 2 or Goal 2 does not apply.

(3) Goal 3: Agricultural Lands

"To preserve and maintain agricultural lands."

The area affected by the proposed zoning code amendment is located within the city's urban growth boundary. The area currently is 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 code amendment is within the city's urban growth boundary. The affected area does not include any designated forest lands. 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 proposed zoning code amendment affects only areas already committed to urban development and within the city's urban growth boundary. The amendment concerns only the creation of an option zoning district to implement the new RRMU FLUM. No application of the new District is occurring with Ordinance 2020-02. Any modification to existing protective measures (for example in a future statutory development agreement to implement the District) would have to be specifically authorized in the code, therefore the Goal is met or the Goal is not applicable.

(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 code amendment will not adversely affect the quality of the air, water, or land resources of the state. It does not by itself permit development that might affect air, water, or land quality. The code amendment only concerns the creation of a new optional zoning district to implement the RRMU FLUM designation. No application of the new District is being made in Ordinance 2020-02. A negotiated development agreement (which must be found consistent with the Code and Plan) is required to implement this district. Any modification to standards (for example in a future statutory development agreement to implement the District) must be specifically authorized in the code; therefore, the Goal is met or the Goal is not applicable.

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

"To protect people and property from natural hazards."

The code amendment does not allow development within any natural hazard area. The existing ordinance and plan requirement relating to natural hazards will continue to apply to all properties that might be affected by natural hazards. The code amendment only concerns the creation of a new optional zoning district to implement the RRMU FLUM designation. No application of the new District is being made in Ordinance 2020-02. A negotiated development agreement (which must be found consistent with the Code and Plan) is required to implement this district. Any modification to standards (for example in a future statutory development agreement to implement the District) must be specifically authorized in the code; therefore, the Goal is met or the Goal is not applicable.

(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 code amendment does not adversely affect the provision of or ability to site recreational areas in the City. The code amendment only concerns the creation of a new optional zoning district to implement the RRMU FLUM designation. No application of the new District is being made in Ordinance

2020-02. A negotiated development agreement (which must be found consistent with the Code and Plan) is required to implement this district. Any modification to standards (for example in a future statutory development agreement to implement the District) must be specifically authorized in the code; therefore, the Goal is met or the Goal is not applicable.

(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 code amendment does not relate to opportunities for economic activity of Oregon's citizens. The code amendment will not adversely impact Oregon's ability to provide economic opportunity to its citizens. The City of Lincoln City's most-recent Economic Needs Assessment demonstrated that there is a surplus of land available for development of commercial activity. The code amendment only concerns the creation of a new optional zoning district to implement the RRMU FLUM designation. No application of the new District is being made in Ordinance 2020-02. A negotiated development agreement (which must be found consistent with the Code and Plan) is required to implement this district. The addition of a new optional district to implement the RRMU FLUM designation to the City's toolbox in conjunction with statutory development agreements may foster new development- adding needed economic development and housing. Any modification to standards (for example in a future statutory development agreement to implement the district) must be specifically authorized in the code; therefore, the Goal is met or the Goal is not applicable.

(10) Goal 10: Housing

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

The code amendment does not directly relate to the housing needs of the people of Lincoln City. The amendment will not adversely impact the City's ability to provide needed housing to its citizens. The City's most recent Housing Needs Assessment demonstrated that there is a substantial surplus of land available for development of needed housing in the city and its urban growth boundary. The code amendment concerns the creation of a new optional zoning district to implement the RRMU FLUM designation. No application of the new District is being made in Ordinance 2020-02. A negotiated development agreement (which

must be found consistent with the Code and Plan) is required to implement this district. The addition of the district to the City's toolbox in conjunction with statutory development agreements will add to the City's economic development and add needed alternative housing. Any modification to standards (for example in a future statutory development agreement to implement the district must be specifically authorized in the code; therefore, the Goal is met or the Goal 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 code amendment does not relate directly to public facilities and services. The code amendment only concerns the creation of a new optional zoning district to implement the RRMU FLUM designation. No application of the new District is being made in Ordinance 2020-02. A negotiated development agreement (which must be found consistent with the Code and Plan) is required to implement this district. The addition of the new district with an implementing development agreement to the City's toolbox in conjunction with statutory development agreements may foster public facility and services improvements through the negotiation process. Any modification to standards (for example in a future statutory development agreement to implement the district) must be specifically authorized in the code; therefore, the Goal is met or the Goal is not applicable.

(12) Goal 12: Transportation

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

The code amendment does not relate directly to transportation. The code amendment only concerns the creation of a new optional zoning district to implement the RRMU FLUM designation. No application of the new District is being made in Ordinance 2020-02. A negotiated development agreement (which must be found consistent with the Code and Plan) is required to implement this district. The addition of the new district to implement the RRMU FLUM designation to the City's toolbox in conjunction with statutory development agreements may foster new transportation projects. Any modification to standards (for example in a future statutory development agreement to

implement the district) must be specifically authorized in the code; therefore, the Goal is met or the Goal is not applicable.

(13) Goal 13: Energy Conservation

"To conserve energy."

The plan amendment does not relate directly to energy conservation. The code amendment only concerns the creation of a new optional zoning district to implement the RRMU FLUM designation. No application of the new District is being made in Ordinance 2020-02. A negotiated development agreement (which must be found consistent with the Code and Plan) is required to implement this district. The addition of the new District to the City's toolbox in conjunction with statutory development agreements may foster new energy efficient development through the negotiation process. Any modification to standards (for example in a future statutory development agreement to implement the district) must be specifically authorized in the code; therefore, the Goal is met or the Goal 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 plan amendment does not relate directly to urbanization. The code amendment only concerns the creation of a new optional zoning district to implement the RRMU FLUM designation. No application of the new District is being made in Ordinance 2020-02. A negotiated development agreement (which must be found consistent with the Code and Plan) is required to implement this district. The addition of the new implementing district for the RRMU FLUM designation to the City's toolbox in conjunction with statutory development agreements may foster new annexations - adding needed housing and furthering economic development. Any modification to standards (for example in a future statutory development agreement to implement the district) must be specifically authorized in the code; therefore, the Goal is met or the Goal 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 code amendment does not by itself allow development in areas adjacent to the city's designated estuarine resource (i.e., Siletz Bay). The code amendment only concerns the creation of a new optional zoning district to implement the RRMU FLUM designation. No application of the new District is being made in Ordinance 2020-02. A negotiated development agreement (which must be found consistent with the Code and Plan) is required to implement this district. The addition of the new district to implement the RRMU FLUM designation to the City's toolbox in conjunction with statutory development agreements may foster more protection of Goal 5 and other natural resources – through the negotiation process. Any modification to standards (for example in a future statutory development agreement to implement the district) must be specifically authorized in the code; therefore, the Goal is met or the Goal is not applicable.

(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 high-water elevation of Schooner Creek, Drift Creek, and Siletz Bay estuaries. The code amendment only concerns the creation of a new optional zoning district to implement the RRMU FLUM designation. No application of the new District is being made in Ordinance 2020-02. A negotiated development agreement (which must be found consistent with the Code and Plan) is required to implement this district. The addition of the new district to the City's toolbox in conjunction with statutory development agreements may foster more protection of Goal 5 and other natural resources – through the negotiation process. Any modification to standards (for example in a future statutory development agreement to implement the district) must be specifically authorized in the code; therefore, the Goal is met or the Goal is not applicable.

(18) Goal 18: Beaches & 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 code amendment only concerns the creation of a new optional zoning district to implement the RRMU FLUM designation. No application of the new District is being made in Ordinance 2020-02. A negotiated development agreement (which must be found consistent with the Code and Plan) is required to implement this district. The addition of the new district to the City's toolbox in conjunction with statutory development agreements may foster more protection of Goal 5 and other natural resources – through the negotiation process. Any modification to standards (for example in a future statutory development agreement to implement the district) must be specifically authorized in the code; therefore, the Goal is met or the Goal is not applicable.

(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 code amendment only concerns the creation of a new optional zoning district to implement the RRMU FLUM designation. No application of the new District is being made in Ordinance 2020-02. A negotiated development agreement (which must be found consistent with the Code and Plan) is required to implement this district. The addition of the new district to the City’s toolbox in conjunction with statutory development agreements may foster more protection of Goal 5 resources and other natural resources – through the negotiation process. Any modification to standards (for example in a future statutory development agreement to implement the district) must be specifically authorized in the code; therefore, the Goal is met or the Goal is not applicable.

## 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 their preparation, review, and revision. Review of the proposed code amendment was in accordance with the Lincoln City Comprehensive Plan and the applicable zoning ordinance provisions and, therefore, 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 and review of the amendments by the Planning

Commission (a citizen board) and the City Council (comprised of elected citizen representatives,) establishes conformance with this goal. The 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 code amendment does not relate directly to public facilities and services. The code amendment only concerns the creation of a new optional zoning district to implement the RRMU FLUM designation. No application of the new District is being made in Ordinance 2020-02. A negotiated development agreement (which must be found consistent with the Code and Plan) is required to implement this district. The addition of the new district implement the RRMU FLUM designations to the City's toolbox in conjunction with statutory development agreements may foster more timely development of public facilities and services – through the negotiation process. Any modification to standards (for example in a future statutory development agreement to implement the district) must be specifically authorized in the code; therefore, the Goal is met or the Goal is not applicable.

(4) Urbanization Goal

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

The code amendment does not relate directly to urbanization. The code amendment only concerns the creation of a new optional zoning district to implement the RRMU FLUM designation. No application of the new District is being made in Ordinance 2020-02. A negotiated development agreement (which must be found consistent with the Code and Plan) is required to implement this district. The addition of the new district to the City's toolbox in conjunction with statutory development agreements may foster new annexations - adding needed housing and furthering economic development. Any modification to standards (for example in a future statutory development agreement to implement the district) must be specifically authorized in the code; therefore, the Goal is met or the 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 code amendment does not authorize 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 code amendment only concerns the creation of a new optional zoning district to implement the RRMU FLUM designation. No application of the new District is being made in Ordinance 2020-02. A negotiated development agreement (which must be found consistent with the Code and Plan) is required to implement this district. The addition of the new zoning district to the City’s toolbox in conjunction with statutory development agreements may foster new annexations - adding needed housing and furthering economic development. Any modification to standards (for example in a future statutory development agreement to implement the district) must be specifically authorized in the code; therefore, the Goal is met or the Goal is not applicable.

(6) Housing Goal

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

The amendment does not relate directly to the housing needs of the people of Lincoln City. The City’s Housing Needs Assessment demonstrated that there is a substantial surplus of land available for development of needed housing in the city and its urban growth boundary. The code amendment only concerns the creation of a new optional zoning district to implement the RRMU FLUM designation. No application of the new District is being made in Ordinance 2020-02. A negotiated development agreement (which must be found consistent with the Code and Plan) is required to implement this district. The addition of the new district to the City’s toolbox in conjunction with statutory development agreements may foster new development- adding alternative (over nonresidential uses) needed housing and furthering economic development. Any modification to standards (for example in a future statutory development agreement to implement the district) must be specifically authorized in the code; therefore, the Goal is met or the 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 code amendment does relate to opportunities for economic activity of Oregon's citizens. The amendment will not adversely impact Oregon's ability to provide economic opportunity to its citizens. The City of Lincoln City's most-recent Economic Needs Assessment demonstrated that there is a surplus of land available for development of commercial activity.

The code amendment only concerns the creation of a new optional zoning district to implement the RRMU FLUM designation. The purpose of the zone is to be an engine for economic development. No application of the new District is being made in Ordinance 2020-02. A negotiated development agreement (which must be found consistent with the Code and Plan) is required to implement this district. The addition of the district to the City's toolbox in conjunction with statutory development agreements may foster new development- adding needed economic development to the City and a different alternative housing type (over non-residential development). Any modification to standards (for example in a future statutory development agreement to implement the district) must be specifically authorized in the code; therefore, the Goal is met or the Goal is not applicable.

(8) Aesthetic Goal

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

The code amendment does not relate directly 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 code amendment does not relate directly to transportation. The code amendment only concerns the creation of a new optional zoning district to implement the RRMU FLUM designation. No application of the new District is being made in Ordinance 2020-02. A negotiated development agreement (which

must be found consistent with the Code and Plan) is required to implement this district. The addition of the new zoning district to implement the RRMU FLUM designation to the City's toolbox in conjunction with statutory development agreements may foster new transportation projects through the negotiation process. Any modification to standards (for example in a future statutory development agreement to implement the district) must be specifically authorized in the code; therefore, the Goal is met or the Goal is not applicable.

(10) Energy Goal

"To conserve energy."

The code amendment does not relate directly to energy conservation. The code amendment only concerns the creation of a new optional zoning district to implement the RRMU FLUM designation. No application of the new District is being made in Ordinance 2020-02. A negotiated development agreement (which must be found consistent with the Code and Plan) is required to implement this district. The addition of the new district to the City's toolbox in conjunction with statutory development agreements may foster new energy efficient development through the negotiation process. Any modification to standards (for example in a future statutory development agreement to implement the district) must be specifically authorized in the code; therefore, the Goal is met or the 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."

The code amendment only concerns the creation of a new optional zoning district to implement the RRMU FLUM designation. No application of the new District is being made in Ordinance 2020-02. A negotiated development agreement (which must be found consistent with the Code and Plan) is required to implement this district. The addition of the district to the City's toolbox in conjunction with statutory development agreements may foster more protection of Goal 5 and other natural resources – through the negotiation process. Any modification to standards (for example in a future statutory development agreement to implement the district) must be specifically authorized in the code; therefore, the Goal is met or the Goal is not applicable.

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

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

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 high-water elevation of Schooner Creek, Drift Creek, and Siletz Bay estuaries. The code amendment only concerns the creation of a new optional zoning district to implement the RRMU FLUM designation. No application of the new District is being made in Ordinance 2020-02. A negotiated development agreement (which must be found consistent with the Code and Plan) is required to implement this district. The addition of the new RCC District to the City's toolbox in conjunction with statutory development agreements may foster more protection of Goal 5 and other natural resources – through the negotiation process. Any modification to standards (for example in a future statutory development agreement to implement the district) must be specifically authorized in the code; therefore, the Goal is met or the Goal is not applicable.

## Council Communication

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### Ordinance 2020-03 ADU Fix

Meeting Date:	January 27, 2020	Primary Staff Contact:	Richard Appicello
Department:	City Attorney	E-Mail:	RAppicello@lincolncity.org
Secondary Dept:	Planning Department	Secondary Contacts:	AnneMarie Skinner
Approval:	Ronald F Chandler	Estimated Time:	5 minutes

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#### Question(s):

Should the City Council conduct and approve First and Second Reading and adopt Ordinance 2020-03 entitled:

#### ORDINANCE 2020-03

**AN ORDINANCE AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 17, (ZONING), AMENDING CHAPTER 17.08 (DEFINITIONS); AMENDING CHAPTER 17.80 (PROVISIONS APPLYING TO SPECIAL USES); SECTION 17.80.110 (ACCESSORY DWELLING UNIT STANDARDS) TO REMOVE DISCRETIONARY STANDARDS; AMENDING THE FOLLOWING CHAPTERS TO REFLECT THE REVISION: CHAPTER 17.16 (SINGLE FAMILY RESIDENTIAL (R-1) ZONE); 17.17 (SINGLE FAMILY RESIDENTIAL ROADS END (R-1-RE) ZONE); CHAPTER 17.18 (VACATION RENTAL (VR) ZONE); CHAPTER 17.20 (MULTI-FAMILY RESIDENTIAL (R-M) ZONE); CHAPTER 17.28 (RECREATION COMMERCIAL (RC) ZONE); CHAPTER 17.32 (GENERAL COMMERCIAL (GC) ZONE); CHAPTER 17.34 (NELSCOTT PLAN (NP) DISTRICT); CHAPTER 17.40 (RECREATION RESIDENTIAL (R-R) ZONE); CHAPTER 17.45 (TAFT VILLAGE CORE (TVC) ZONE) AND CHAPTER 17.50 (OCEANLAKE PLAN (OP) DISTRICT; CHAPTER 17.52 (SUPPLEMENTAL REGULATIONS AND EXCEPTIONS).**

#### Staff Recommendation:

Staff recommends Council conduct First Reading of Ordinance 2020-03 and, *if unanimous*, Conduct and approve Second Reading and adopt the Ordinance. Any changes must be read.

#### Authority:

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

**Background:**

The proposed ordinance is in response to comments from DLCD that the recently amended Accessory Dwelling Unit standards contain discretionary provisions prohibited by state law. The amendment removes the objectionable provisions.

**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 February 10, 2020 [or]
3. Continue First Reading to February 10, 2020.
4. Do not proceed with proposed ordinance.

**Potential Motions:**

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

**ORDINANCE 2020-03**

**AN ORDINANCE AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 17, (ZONING), AMENDING CHAPTER 17.08 (DEFINITIONS); AMENDING CHAPTER 17.80 (PROVISIONS APPLYING TO SPECIAL USES); SECTION 17.80.110 (ACCESSORY DWELLING UNIT STANDARDS) TO REMOVE DISCRETIONARY STANDARDS; AMENDING THE FOLLOWING CHAPTERS TO REFLECT THE REVISION: CHAPTER 17.16 (SINGLE FAMILY RESIDENTIAL (R-1) ZONE); 17.17 (SINGLE FAMILY**

**RESIDENTIAL ROADS END (R-1-RE) ZONE; CHAPTER 17.18 (VACATION RENTAL (VR) ZONE; CHAPTER 17.20 (MULTI-FAMILY RESIDENTIAL (R-M) ZONE; CHAPTER 17.28 (RECREATION COMMERCIAL (RC) ZONE); CHAPTER 17.32 (GENERAL COMMERCIAL (GC) ZONE; CHAPTER 17.34 (NELSCOTT PLAN (NP) DISTRICT); CHAPTER 17.40 (RECREATION RESIDENTIAL (R-R) ZONE; CHAPTER 17.45 (TAFT VILLAGE CORE (TVC) ZONE) AND CHAPTER 17.50 (OCEANLAKE PLAN (OP) DISTRICT; CHAPTER 17.52 (SUPPLEMENTAL REGULATIONS AND EXCEPTIONS).**

*Council:*

1. Motion to approve First Reading of Ordinance 2020-03.

*If unanimous: conduct Second Reading*

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

*Council:*

1. Motion to approve Second Reading and adopt Ordinance 2020-03.

**[or]**

2. Motion to set Second Reading for February 10, 2020.

**Attachments:**

2020-03 ADU fix (DOCX)

FINAL 2020-03 Findings Ext. A 1.20.20 (DOCX)

ORDINANCE NO. 2020-03

AN ORDINANCE AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 17, (ZONING), AMENDING CHAPTER 17.08 (DEFINITIONS); AMENDING CHAPTER 17.80 (PROVISIONS APPLYING TO SPECIAL USES); SECTION 17.80.110 (ACCESSORY DWELLING UNIT STANDARDS) TO REMOVE DISCRETIONARY STANDARDS; AMENDING THE FOLLOWING CHAPTERS TO REFLECT THE REVISION: CHAPTER 17.16 (SINGLE FAMILY RESIDENTIAL (R-1) ZONE); 17.17 (SINGLE FAMILY RESIDENTIAL ROADS END (R-1-RE) ZONE); CHAPTER 17.18 (VACATION RENTAL (VR) ZONE); CHAPTER 17.20 (MULTI-FAMILY RESIDENTIAL (R-M) ZONE); CHAPTER 17.28 (RECREATION COMMERCIAL (RC) ZONE); CHAPTER 17.32 (GENERAL COMMERCIAL (GC) ZONE); CHAPTER 17.34 (NELSCOTT PLAN (NP) DISTRICT); CHAPTER 17.40 (RECREATION RESIDENTIAL (R-R) ZONE); CHAPTER 17.45 (TAFT VILLAGE CORE (TVC) ZONE) AND CHAPTER 17.50 (OCEANLAKE PLAN (OP) DISTRICT; CHAPTER 17.52 (SUPPLEMENTAL REGULATIONS AND EXCEPTIONS).

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 November 12, 2019; no ORS 227.186(4) notice appears to be required because the Ordinance merely conforms the existing code to state law by removing discretionary standards; however the amendment was included in a city-wide ORS 227.186(4) in an abundance of caution; and
D. The Planning Commission, on December 17, 2019, held a public hearing and considered the amendments contained within this ordinance. On December 17, 2019 the Planning Commission voted to transmit the amendments to the City Council with a recommendation that the ordinance be adopted; and

- 1 E. The City Council conducted the public hearing on January 27, 2020, closed the
- 2 hearing, closed the record, and deliberated on the proposed amendments on
- 3 January 27, 2020 and provided direction to staff to return with an Ordinance for
- 4 adoption; and
- 5
- 6 F. All persons were given an opportunity to provide written and/or oral testimony
- 7 on the proposed ordinance amendments.
- 8
- 9

10 **THE CITY OF LINCOLN CITY ORDAINS AS FOLLOWS:**

11

12 **SECTION 1.** Chapter 17.08. (*Definitions*), Section 17.08.020 (*Definitions*), is hereby

13 amended to revise the definition of accessory dwelling unit as follows:

14

15 "Accessory dwelling unit" means **an interior, attached or detached residential**

16 **structure that is used in conjunction with or that is accessory to a single-**

17 **family dwelling and that includes permanent interior provisions for living,**

18 **sleeping, eating, cooking, and sanitation. a dwelling unit providing**

19 **complete independent living facilities for one or more persons that include**

20 **permanent provisions for living, sleeping, eating, cooking, and sanitation**

21 **and that is created within, attached to, or detached from a single-family**

22 **dwelling, attached single-family dwelling, or manufactured home. The**

23 **accessory dwelling unit is auxiliary to and smaller than the single-family**

24 **dwelling, attached single-family dwelling, or manufactured home.**

25

26 **SECTION 2.** Chapter 17.80. (*Provisions Applyng to Special Uses*), Section 17.80.110

27 (*Accessory dwelling unit standards*), is hereby amended to remove discretionary

28 standards, as follows:

29

30 | **17.80.110 Accessory dwelling unit standards.**

31 A. Purpose. Accessory dwelling units (ADUs) are allowed to provide **property**

32 **home**owners with a means of obtaining, through tenants in either the accessory

33 dwelling unit or the principal **dwelling** unit, rental income, companionship,

34 security, and services; ADUs add affordable units to the existing housing supply;

35 ADUs make housing units available to **moderate-income** people who might

36 otherwise have difficulty finding homes within Lincoln City; ADUs create housing

37 units in **single-family residential** neighborhoods that are appropriate for people

38 at a variety of stages in the life cycle; and ADUs protect neighborhood stability,

1 property values, and the ~~single-family~~ residential appearance of the  
2 neighborhood.

3  
4 B. Standards. Accessory dwelling units shall conform to the following standards:

5  
6 1. Type. Accessory dwelling units may be a portion of the ~~building that~~  
7 ~~contains the primary principal~~ dwelling unit, attached to a garage, or a  
8 separate, free-standing unit.

9  
10 2. Floor Area. Accessory dwelling units shall not exceed 750 square feet of  
11 floor area or 50 percent of the floor area of the principal dwelling unit,  
12 whichever is less.

13  
14 ~~3. Lot Size. An accessory dwelling unit may be developed on a lot or~~  
15 ~~parcel with an area of 3,500 square feet or more. If the lot or parcel~~  
16 ~~does not meet the minimum lot size for the zoning district in which the~~  
17 ~~lot or parcel is located, the accessory dwelling unit must be a portion of~~  
18 ~~the existing building (or lawful addition to) the principal dwelling unit.~~  
19 ~~Notwithstanding the above, the ADU may be a separate structure if the~~  
20 ~~lot is 5,000 square feet or larger, is legally nonconforming and~~  
21 ~~provided all other zoning standards are met.~~

22  
23 ~~3.4.~~ One Unit. A lot or parcel may have a maximum of one accessory  
24 dwelling unit.

25  
26 ~~4.5.~~ Exempt from Density Limits. Accessory dwelling units are exempt from  
27 the density standards of the zoning districts in which they are located.

28  
29 ~~5.6.~~ Occupancy. No one may occupy an accessory dwelling unit until the  
30 planning and community development department has issued a certificate  
31 of ~~occupancy completion~~ for the unit.

32  
33 ~~7. Design. An accessory dwelling unit shall comply with the following~~  
34 ~~standards:~~

35  
36 ~~a. Roofs. Roofs of detached accessory dwelling units shall be~~  
37 ~~similar to the main house, preferably not flat, and shall include~~  
38 ~~high-quality architectural embellishments, such as dormers, gables,~~  
39 ~~and eave trim.~~

40

1 ~~b. Facades. A street-facing facade of the accessory dwelling unit~~  
2 ~~shall include a high-quality exterior of materials that are durable~~  
3 ~~and appropriate in a coastal environment, and windows similar in~~  
4 ~~size, style, and orientation to the main house, including molding.~~

5  
6 ~~c. Color. The exterior color shall be of the same color family and~~  
7 ~~intensity as the main house.~~

8  
9 **6. 8.** Unity of Ownership. An accessory dwelling unit shall not in any way be  
10 segregated in ownership from the principal dwelling unit.

11  
12 **7. 11.** Primary Entrance. If the accessory dwelling unit’s primary entrance is  
13 not the same as that for the principal dwelling unit it shall be less visible  
14 from the street view of the principal dwelling unit than the main entrance of  
15 the principal dwelling unit. If the accessory dwelling unit is accessed via a  
16 stairway, the stairway may not be constructed on the front of the principal  
17 dwelling unit.

18  
19 **8. 12.** Vacation Rental. Neither the accessory dwelling unit nor the principal  
20 dwelling unit may be used as a vacation rental dwelling.

21  
22 **9. 13.** Sewer Connection. Both the principal dwelling unit and the accessory  
23 dwelling unit must be connected to the city sewer system. Neither the  
24 accessory dwelling unit nor the principal dwelling unit may use a septic  
25 system.

26  
27  
28 **SECTION 3.** Chapter 17.16 (*Single Family Residential (R-1) Zone*), Section 17.16.030  
29 (*Accessory Uses*), Paragraph D. is amended to read as follows

30  
31 D. Accessory dwelling units ~~in association with single-family dwellings~~, subject  
32 to the provisions of LCMC 17.80.110;

33  
34  
35 **SECTION 4.** Chapter 17.17 (*Single Family Residential Roads End (R-1-RE) Zone*), Section  
36 17.17.030 (*Accessory Uses*), Paragraph E. is amended to read as follows

37  
38 E. Accessory dwelling units ~~in association with single-family dwellings~~, subject  
39 to the provisions of LCMC 17.80.110;

40

1 **SECTION 5.** Chapter 17.18 (*Vacation Rental (VR) Zone*), Section 17.18.030 (*Accessory*  
2 *Uses*), Paragraph C. is amended to read as follows

3  
4 C. Accessory dwelling units, subject to the provisions of LCMC 17.80.110, ~~except~~  
5 **LCMC 17.80.110(B)(11).**

6  
7 **SECTION 6.** Chapter 17.20 (*Multi-Family Residential (R-M) Zone*), Section 17.20.030  
8 (*Accessory Uses*), Paragraph E. is amended to read as follows

9  
10 E. Accessory dwelling units ~~in association with single family dwellings~~, subject  
11 to the provisions of LCMC 17.80.110;

12  
13  
14 **SECTION 7.** Chapter 17.28 (*Recreation Commercial (RC) Zone*), Section 17.28.030  
15 (*Accessory Uses*), Paragraph B is amended to read as follows:

16  
17 B. Accessory dwelling units ~~in association with single family dwellings~~, subject  
18 to the provisions of LCMC 17.80.110;

19  
20 **SECTION 8.** Chapter 17.32 (*General Commercial (GC) Zone*), Section 17.32.030  
21 (*Accessory Uses*), Paragraph B. is amended to read as follows:

22  
23 B. Accessory dwelling units ~~in association with single family dwellings~~, subject  
24 to the provisions of LCMC 17.80.110;

25  
26 **SECTION 9.** Chapter 17.34 (Nelscott Plan (NP) District), Section 17.34.005 (*Definitions*) is  
27 amended to remove the definition of Accessory dwelling unit as follows:

28  
29 ~~“Accessory dwelling unit” means a dwelling unit either attached to a single-~~  
30 ~~family or duplex primary dwelling unit or located on the same lot, having an~~  
31 ~~independent primary means of access, visually subordinate to the primary~~  
32 ~~dwelling, and having a total floor area of not more than 750 square fee~~  
33

34  
35 **SECTION 10.** Chapter 17.34 Nelscott Plan (NP) District), Section 17.34.050. (*Permitted*  
36 *Uses*), Table 17.34.050.A. (*Land Uses Allowed in Nelscott*), Accessory Dwelling Unit is  
37 hereby amended as follows:

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**Table 17.34.050.A – Land Uses Allowed in Nelscott**

Uses	Status of Use in District		
Use Categories	Business District	Cottage Residential	Beachside Mixed Use
Accessory dwelling unit, <del>accessory to single-family dwelling or duplex, subject to compliance with design guidelines, subject to the provisions of LCMC 17.80.110</del>	P	P	P

**SECTION 11.** Chapter 17.34 Nelscott Plan (NP) District), Section 17.34.090. (*Buildings and Structures*), Paragraph A (*Single-Family Dwelling and Duplexes*), paragraph 2 (*Incentives*) is hereby amended as follows:

~~**a. Accessory Dwelling Units. A dwelling that complies with at least four of the five guidelines below is eligible for an accessory dwelling unit.**~~

**SECTION 12.** Chapter 17.40 (*Recreation-Residential (R-R) Zone*), Section 17.40.030 (*Accessory Uses*), Paragraph B, is amended to read as follows:

B. Accessory dwelling units ~~in association with single-family dwellings~~, subject to the provisions of LCMC 17.80.110;

**SECTION 13.** Chapter 17.45 (*Taft Village Core (TVC) Zone*), Section 17.45.040 (*Land use activities*), Paragraph I (Residential), numbered paragraph 6, is amended to read as follows:

**17.45.040 Land use activities.**

<b>I. Residential</b>	
-----------------------	--



1           ~~17.52.110 — Distance between buildings.~~

2           ~~A minimum distance of 15 feet shall be maintained between buildings~~  
 3           ~~designed for dwelling purposes on the same lot. A minimum distance of 3~~  
 4           ~~feet shall be maintained between a building designed for dwelling purposes~~  
 5           ~~and other buildings on the same lot.~~

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

11  
 12           **SECTION 18. Severability.** The sections, subsections, paragraphs and clauses of this  
 13 ordinance are severable. The invalidity of one section, subsection, paragraph, or clause  
 14 shall not affect the validity of the remaining sections, subsections, paragraphs and  
 15 clauses.

16  
 17           **SECTION 19. Savings.** Notwithstanding the amendment to this Title, the existing Title  
 18 remains valid and in full force and effect for purposes of all criminal, civil or  
 19 administrative code enforcement cases or land use actions or applications filed or  
 20 commenced during the time said ordinances were operative. Nothing in this Ordinance  
 21 affects the validity of prosecutions commenced and continued under the laws in effect  
 22 at the time the matters were originally filed.

23  
 24           **SECTION 20. Ordinance Effective Date.** Pursuant to Chapter IX, Section 9.3, this  
 25 ordinance takes effect 30 days after the date of its adoption.

26  
 27           **SECTION 21. Codification.** Provisions of this Ordinance shall be incorporated in the City  
 28 of Lincoln City Municipal Code and the word "ordinance" may be changed to "code",  
 29 "article", "section", "chapter" or another word, and the sections of this Ordinance may be  
 30 renumbered, or re-lettered, provided that any Whereas clauses and boilerplate  
 31 provisions (i.e. Sections 17-21) need not be codified and the City Recorder is authorized  
 32 to correct any cross-references and any typographical errors.

33  
 34           The foregoing ordinance was distinctly read by title only in accordance with Chapter IX,  
 35 Section 9.2 of the City of Lincoln City Charter on the 27<sup>th</sup> day of January 2020 (First  
 36 Reading) and on the 27<sup>th</sup> day of January , 2020 (Second Reading).

1 PASSED AND ADOPTED by the City Council of the City of Lincoln City this 27<sup>th</sup> day  
2 of January 2020.

3

4

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\_\_\_\_\_  
DICK ANDERSON, MAYOR

7

8 ATTEST:

9

10

11

\_\_\_\_\_  
CATHY STEERE, CITY RECORDER

12

13

14

15 APPROVED AS TO FORM:

16

17

18

\_\_\_\_\_  
RICHARD APPICELLO, CITY ATTORNEY

19

20

21

**EXHIBIT A – ZOA 2019-14 FINDINGS**  
**[ORDINANCE NO. 2020-03]**

The Title of Proposed Ordinance 2019-03 (ZOA 2019-14) is as follows:

**ORDINANCE NO. 2020-03**

**AN ORDINANCE AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 17, (ZONING), AMENDING CHAPTER 17.08 (DEFINITIONS); AMENDING CHAPTER 17.80 (PROVISIONS APPLYING TO SPECIAL USES); SECTION 17.80.110 (ACCESSORY DWELLING UNIT STANDARDS) TO REMOVE DISCRETIONARY STANDARDS; AMENDING THE FOLLOWING CHAPTERS TO REFLECT THE REVISION: CHAPTER 17.16 (SINGLE FAMILY RESIDENTIAL (R-1) ZONE); 17.17 (SINGLE FAMILY RESIDENTIAL ROADS END (R-1-RE) ZONE); CHAPTER 17.18 (VACATION RENTAL (VR) ZONE); CHAPTER 17.20 (MULTI-FAMILY RESIDENTIAL (R-M) ZONE); CHAPTER 17.28 (RECREATION COMMERCIAL (RC) ZONE); CHAPTER 17.32 (GENERAL COMMERCIAL (GC) ZONE); CHAPTER 17.34 (NELSCOTT PLAN (NP) DISTRICT); CHAPTER 17.40 (RECREATION RESIDENTIAL (R-R) ZONE); CHAPTER 17.45 (TAFT VILLAGE CORE (TVC) ZONE) AND CHAPTER 17.50 (OCEANLAKE PLAN (OP) DISTRICT); CHAPTER 17.52 (SUPPLEMENTAL REGULATIONS AND EXCEPTIONS).**

This Zoning Ordinance Amendment makes corrections to the City's ADU ordinance based upon input from the Department of Land Conservation and Development. Specifically, DLCDC requested that certain discretionary or subjective language be removed to be more consistent with state law.

The bulk of the substance of the proposed amendment is located in Sections 1 and 3 and modifies the Lincoln City Zoning Code to add and delete the following:

**SECTION 1.** Chapter 17.08. (*Definitions*), Section 17.08.020 (*Definitions*), is hereby amended to revise the definition of accessory dwelling unit as follows:

"Accessory dwelling unit" means **an interior, attached or detached residential structure that is used in conjunction with or that is accessory to a single-family dwelling and that includes permanent interior provisions for living, sleeping, eating, cooking, and sanitation.** ~~a dwelling unit providing complete~~

~~independent living facilities for one or more persons that include permanent provisions for living, sleeping, eating, cooking, and sanitation and that is created within, attached to, or detached from a single-family dwelling, attached single-family dwelling, or manufactured home. The accessory dwelling unit is auxiliary to and smaller than the single-family dwelling, attached single-family dwelling, or manufactured home.~~

**SECTION 2.** Chapter 17.80. (*Provisions Applying to Special Uses*), Section 17.80.110 (*Accessory dwelling unit standards*), is hereby amended to remove discretionary standards, as follows:

**17.80.110 Accessory dwelling unit standards.**

A. Purpose. Accessory dwelling units (ADUs) are allowed to provide ~~property~~ homeowners with a means of obtaining, through tenants in either the accessory dwelling unit or the principal dwelling unit, rental income, companionship, security, and services; ADUs add affordable units to the existing housing supply; ADUs make housing units available to ~~moderate-income~~ people who might otherwise have difficulty finding homes within Lincoln City; ADUs create housing units in ~~single-family residential~~ neighborhoods that are appropriate for people at a variety of stages in the life cycle; and ADUs protect neighborhood stability, property values, and the ~~single-family~~ residential appearance of the neighborhood.

B. Standards. Accessory dwelling units shall conform to the following standards:

1. Type. Accessory dwelling units may be a portion of the ~~building that contains the primary principal~~ dwelling unit, attached to a garage, or a separate, free-standing unit.

2. Floor Area. Accessory dwelling units shall not exceed 750 square feet of floor area or 50 percent of the floor area of the principal dwelling unit, whichever is less.

~~3. Lot Size. An accessory dwelling unit may be developed on a lot or parcel with an area of 3,500 square feet or more. If the lot or parcel does not meet the minimum lot size for the zoning district in which the lot or parcel is~~

~~located, the accessory dwelling unit must be a portion of the existing building (or lawful addition to) the principal dwelling unit. Notwithstanding the above, the ADU may be a separate structure if the lot is 5,000 square feet or larger, is legally nonconforming and provided all other zoning standards are met.~~

~~3.4.~~ One Unit. A lot or parcel may have a maximum of one accessory dwelling unit.

~~4.5.~~ Exempt from Density Limits. Accessory dwelling units are exempt from the density standards of the zoning districts in which they are located.

~~5.6.~~ Occupancy. No one may occupy an accessory dwelling unit until the planning and community development department has issued a certificate of **occupancy completion** for the unit.

~~7. Design. An accessory dwelling unit shall comply with the following standards:~~

~~a. Roofs. Roofs of detached accessory dwelling units shall be similar to the main house, preferably not flat, and shall include high-quality architectural embellishments, such as dormers, gables, and eave trim.~~

~~b. Facades. A street-facing facade of the accessory dwelling unit shall include a high-quality exterior of materials that are durable and appropriate in a coastal environment, and windows similar in size, style, and orientation to the main house, including molding.~~

~~c. Color. The exterior color shall be of the same color family and intensity as the main house.~~

~~6. 8.~~ Unity of Ownership. An accessory dwelling unit shall not in any way be segregated in ownership from the principal dwelling unit.

**7. 11.** 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.

**8. 12.** Vacation Rental. Neither the accessory dwelling unit nor the principal dwelling unit may be used as a vacation rental dwelling.

**9. 13.** 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.

### **Background:**

The current ordinance for accessory dwelling units contains inconsistencies with other portions of Title 17 that reference accessory dwelling units. There is also some subjective language regarding design standards that needs to be removed at the request of the Oregon Department of Land Conservation and Development.

The Planning Commission held a public hearing on December 17, 2019, closed the public hearing, and recommended on a 6-0 vote that the City Council approve the draft ordinance. Their Final Recommendation was signed on January 7, 2020.

Council consideration at a public hearing was scheduled for January 27, 2020.

### **Analysis of Goals:**

- 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 this proposal were made available for public review and purchase, and were posted on the city's website. Staff was available to interpret and explain the technical information. The city advertised public hearings on the proposed zoning code amendments in the local newspaper in accordance with notice requirements. The planning commission and the city council each held a public hearing at which citizens were invited to participate. Therefore, the amendments are 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 revision of the plan and implementing ordinances. The City Council considered the proposed amendments to the Lincoln City Zoning Code in accordance with the process and based on the criteria provided in the municipal code. Therefore, the amendments are consistent with Goal 2 or Goal 2 does not apply.

(3) Goal 3: Agricultural Lands

"To preserve and maintain agricultural lands."

The area affected by the proposed code amendment is located within the city's urban growth boundary. The area currently is 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 code amendment is within the city’s urban growth boundary. The affected area does not include any designated forest lands. 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 proposed zoning code amendment affects only areas already committed to urban development and within the city’s urban growth boundary. The amendment concerns the removal of subjective design standards to make the City code consistent with state law, together the amendments to make the code internally consistent. Therefore the Goal is met or the Goal is not applicable.

(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 code amendment will not adversely affect the quality of the air, water, or land resources of the state. It does not by itself permit development that might affect air, water, or land quality. The amendment concerns the removal of subjective design standards to make the City code consistent with state law, together the amendments to make the code internally consistent. Therefore, the Goal is met or the Goal is not applicable.

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

“To protect people and property from natural hazards.”

The code amendment does not allow development within any natural hazard area. The existing ordinance and plan requirement relating to natural hazards will continue to apply to all properties that might be affected by natural hazards.

The amendment concerns the removal of subjective design standards to make the City code consistent with state law, together the amendments to make the code internally consistent. Therefore, the Goal is met or the Goal is not applicable.

(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 code amendment does not adversely affect the provision of or ability to site recreational areas in the City. The amendment concerns the removal of subjective design standards to make the City code consistent with state law, together the amendments to make the code internally consistent. Therefore, the Goal is met or the Goal is not applicable.

(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 code amendment does not relate to opportunities for economic activity of Oregon's citizens. The code amendment will not adversely impact Oregon's ability to provide economic opportunity to its citizens. The City of Lincoln City's most-recent Economic Needs Assessment demonstrated that there is a surplus of land available for development of commercial activity. The amendment concerns the removal of subjective design standards to make the City code consistent with state law, together the amendments to make the code internally consistent. Therefore, the Goal is met or the Goal is not applicable.

(10) Goal 10: Housing

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

The code amendment does not directly relate to the housing needs of the people of Lincoln City. The amendment will not adversely impact the City's ability to provide needed housing to its citizens. The City's most recent Housing Needs

Assessment demonstrated that there is a substantial surplus of land available for development of needed housing in the city and its urban growth boundary.

The amendment concerns the removal of subjective design standards to make the City code consistent with state law, together the amendments to make the code internally consistent. Therefore, the Goal is met or the Goal 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 code amendment does not relate directly to public facilities and services. The amendment concerns the removal of subjective design standards to make the City code consistent with state law, together the amendments to make the code internally consistent. Therefore, the Goal is met or the Goal is not applicable.

(12) Goal 12: Transportation

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

The code amendment does not relate directly to transportation. The amendment concerns the removal of subjective design standards to make the City code consistent with state law, together the amendments to make the code internally consistent. Therefore, the Goal is met or the Goal is not applicable.

(13) Goal 13: Energy Conservation

"To conserve energy."

The plan amendment does not relate directly to energy conservation. The amendment concerns the removal of subjective design standards to make the City code consistent with state law, together the amendments to make the code internally consistent. Therefore, the Goal is met or the Goal 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 plan amendment does not relate directly to urbanization. The amendment concerns the removal of subjective design standards to make the City code consistent with state law, together the amendments to make the code internally consistent. Therefore, the Goal is met or the Goal 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 code amendment does not by itself allow development in areas adjacent to the city's designated estuarine resource (i.e., Siletz Bay). The amendment concerns the removal of subjective design standards to make the City code consistent with state law, together the amendments to make the code internally consistent. Therefore, the Goal is met or the Goal is not applicable.

(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 high-water elevation of Schooner Creek, Drift Creek, and Siletz Bay estuaries.

The amendment concerns the removal of subjective design standards to make the City code consistent with state law, together the amendments to make the code internally consistent. Therefore, the Goal is met or the Goal is not applicable.

(18) Goal 18: Beaches & 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 concerns the removal of subjective design standards to make the City code consistent with state law, together the amendments to make the code internally consistent. Therefore, the Goal is met or the Goal is not applicable.

(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 concerns the removal of subjective design standards to make the City code consistent with state law, together the amendments to make the

code internally consistent. Therefore, the Goal is met or the Goal is not applicable.

## 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 their preparation, review, and revision. Review of the proposed code amendment was in accordance with the Lincoln City Comprehensive Plan and the applicable zoning ordinance provisions and, therefore, 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 and review of the amendments by the Planning Commission (a citizen board) and the City Council (comprised of elected citizen representatives,) establishes conformance with this goal. The 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 code amendment does not relate directly to public facilities and services. The amendment concerns the removal of subjective design standards to make the City code consistent with state law, together the amendments to make the

code internally consistent. Therefore, the Goal is met or the Goal is not applicable.

(4) Urbanization Goal

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

The code amendment does not relate directly to urbanization. The amendment concerns the removal of subjective design standards to make the City code consistent with state law, together the amendments to make the code internally consistent. Therefore, the Goal is met or the 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 code amendment does not authorize 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 concerns the removal of subjective design standards to make the City code consistent with state law, together the amendments to make the code internally consistent. Therefore, the Goal is met or the Goal is not applicable.

(6) Housing Goal

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

The amendment does not relate directly to the housing needs of the people of Lincoln City. The City's Housing Needs Assessment demonstrated that there is a substantial surplus of land available for development of needed housing in the city and its urban growth boundary.

The amendment concerns the removal of subjective design standards to make the City code consistent with state law, together the amendments to make the code internally consistent. Therefore, the Goal is met or the 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 code amendment does not directly relate to opportunities for economic activity of Oregon's citizens. The amendment will not adversely impact Oregon's ability to provide economic opportunity to its citizens. The City of Lincoln City's most-recent Economic Needs Assessment demonstrated that there is a surplus of land available for development of commercial activity.

The amendment concerns the removal of subjective design standards to make the City code consistent with state law, together the amendments to make the code internally consistent. Therefore, the Goal is met or the Goal is not applicable.

(8) Aesthetic Goal

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

The code amendment does not relate directly 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 code amendment does not relate directly to transportation. The amendment concerns the removal of subjective design standards to make the City code consistent with state law, together the amendments to make the code internally consistent. Therefore, the Goal is met or the Goal is not applicable.

(10) Energy Goal

"To conserve energy."

The code amendment does not relate directly to energy conservation. The amendment concerns the removal of subjective design standards to make the

City code consistent with state law, together the amendments to make the code internally consistent. Therefore, the Goal is met or the 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."

The amendment concerns the removal of subjective design standards to make the City code consistent with state law, together the amendments to make the code internally consistent. Therefore, the Goal is met or the Goal is not applicable.

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

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

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 high-water elevation of Schooner Creek, Drift Creek, and Siletz Bay estuaries.

The amendment concerns the removal of subjective design standards to make the City code consistent with state law, together the amendments to make the code internally consistent. Therefore, the Goal is met or the Goal is not applicable.

## Council Communication

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### Resolution 2020-03 Establish Statutory Development Agreement Form

Meeting Date:	January 27, 2020	Primary Staff Contact:	Richard Appicello
Department:	City Attorney	E-Mail:	RAppicello@lincolncity.org
Secondary Dept:		Secondary Contacts:	AnneMarie Skinner
Approval:	Ronald F Chandler	Estimated Time:	5 Minutes

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#### Question:

Should the City Council approve Resolution 2020-03 establishing a Development Agreement form in compliance with Ordinance 2019-30?

#### Staff Recommendation:

Staff recommends the Council approve Resolution 2020-03 establishing a Development Agreement form.

#### Authority:

Ordinance 2019-30 approved October 14, 2019 by City Council.

#### Background:

All Development Agreements will not be the same. The standard form of Development Agreement is based on the statutory requirements and provides a starting point for negotiation. Changes proposed to the standard form are shown in the application submittal. See Lincoln City Municipal Code, Title 17 (*Zoning*), Chapter 17.96 (*Statutory Development Agreements*).

#### Council Options:

The City Council may:

Approve the Development Agreement standard form [or]

Do not approve the Development Agreement standard form.

#### Financial Impact

None expected.

**Potential Motions:**

I move to approve Resolution 2020-03.

**Attachments:**

Resolution 2020-03 (DOCX)

FORM Development Agreement 1-22-20(DOC)

RESOLUTION NO. 2020-03

A RESOLUTION OF THE CITY OF LINCOLN CITY ESTABLISHING A STANDARD FORM DEVELOPMENT AGREEMENT IN COMPLIANCE WITH ORDINANCE NO. 2019-30

WHEREAS, Ordinance 2019-30, approved October 14, 2019 provides for a Development Agreement standard form to be adopted by resolution of the City Council.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LINCOLN CITY, AS FOLLOWS:

Section 1. Form Approved. The standard form Statutory Development Agreement authorized to be approved by Resolution in Ordinance 2019-30 is hereby approved and is attached hereto as Exhibit A and made a part hereof by this reference.

Section 2. Submittals. Statutory Development Agreement applications shall show changes proposed from the standard form agreement.

Section 3. Recitals. The City Council adopts the recitals of this resolution, which are incorporated into this section by reference, as additional facts supporting its conclusion that the resolution is in the public interest of the City of Lincoln City.

Section 4. Effective Date. This resolution is effective as of the date of its adoption.

PASSED AND ADOPTED by the City Council of the City of Lincoln City this 27th day of January, 2020.

DICK ANDERSON, MAYOR

ATTEST:

CATHY STEERE, CITY RECORDER

## STATUTORY DEVELOPMENT AGREEMENT FOR [NAME OF PROJECT]

**THIS AGREEMENT** is entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between **CITY OF LINCOLN CITY**, a municipal corporation and political subdivision of the State of Oregon (hereinafter referred to as "City"); and **NAME OF CORPORATION OR OTHER ENTITY**, an Oregon \_\_\_\_\_, (hereinafter referred to as "OWNER").

### RECITALS

**WHEREAS**, Name of Corporation or Other Entity is the OWNER or contract purchaser of approximately \_\_\_\_\_ acres of real property located on \_\_\_\_\_ in Lincoln City, Oregon (the property at the time of application being inside / outside Lincoln City's corporate limits, and within City's Urban Growth Boundary); and,

**WHEREAS**, OWNER has submitted land use applications to list applications e.g. annexation, plan designation, rezoning, commercial master site plan or residential planned development. The proposed development, as modified through the review process, consists of the following elements, among other things:

Briefly describe commercial square footage, and/or type and number and density of residential development. Is the project a PUD? Briefly describe phases of development and elements of each discrete phase. Briefly describe amenities (e.g. recreation or open spaces).

**WHEREAS**, the proposed development will be known as "**Name of Project** \_\_\_\_\_" more particularly described in the application, including but not limited to the date and title of final revised application materials and exhibits, supporting documents, materials and official plans as said application and materials have been amended and refined by this Agreement, and contained in the record of Planning Department File(s): List planning Department file numbers, incorporated herein and made a part hereof by this reference; and

**WHEREAS**, to realize the development of Name of Project, numerous approvals and authorizations are required, including but not limited to:

**Ordinance Attachment 1 - DEVELOPMENT AGREEMENT FOR "Name of Project"**

[delete / add applicable approvals]

1. Annexation;
2. Comprehensive Plan Map Change;
3. Zoning Map Change;
4. PUD Preliminary Master Plan;
5. Master Site Plan (Non-Residential);
6. PUD Final Master Plan(s) and Preliminary Plat;
7. Final Site Plan or Plans for Phased Developments, if any;
8. Final Plat(s);
9. Authorization to Construct Project Infrastructure;
10. Improvement Agreement and Financial Security;
11. Building Permit(s);
12. Tree Removal Permits, Erosion Control Permits, and the like; and
13. Building Permits

**WHEREAS**, efficiency, public policy, and community involvement are best promoted if the various public processes and approvals required for the [list required approvals that can be concurrently processed (e.g. annexation, comprehensive plan amendment, zone map change, and PUD Preliminary Master Plan approval or Master Site Plan with phased site plan approvals)] are “bundled” for global consideration; and,

**WHEREAS**, OWNER and City agree that a Development Agreement pursuant to ORS Chapter 94 and LCMC Chapter 17.96 is the best tool to bundle the required approvals to achieve consolidated review and action on the approvals necessary for the Name of Project and,

**WHEREAS**, a decision to enter into a Development Agreement is a negotiated legislative land use decision by the City addressing the orderly and efficient development of land within the City limits or the City’s urban growth boundary; and,

**WHEREAS**, on \_\_\_\_\_, 20\_\_ , City’s Planning Commission considered the requests to \_\_\_\_\_ [list applications bundled for public process ... e.g. annexation, comprehensive plan and zoning map amendments and the like...] for Name of Project as presented in Files [List file names]; after due consideration of the entire record, the Commission recommended to the City Council that Council approve the [list applications] for the subject property, provided a Development Agreement pursuant to ORS Chapter 94 and LCMC Chapter 17.96 be entered into by the parties to bind the OWNER to the representations in the associated applications; and,

**WHEREAS**, on \_\_\_\_\_, 20\_\_ , the City Council considered the *Ordinance Attachment 1 - DEVELOPMENT AGREEMENT FOR "Name of Project"*

above-referenced land use applications together with this Development Agreement at a public hearing held in accordance with the notice and advertising requirements of the Oregon Revised Statutes [ORS 94.513(2)] and Lincoln City Municipal Code Chapter 17.96; and,

**WHEREAS**, on \_\_\_\_\_, 20\_\_, the hearing was closed and the record was closed. Council continued deliberations on the applications and development agreement until \_\_\_\_\_, 20\_\_; and

**WHEREAS**, on \_\_\_\_\_, 20\_\_ the City Council deliberated on the proposed land use applications and Development Agreement and tentatively approved the requested Agreement, and associated land use actions; Council further directed staff return with an Ordinance, Findings of Fact, Conclusions of Law and Order, and Development Agreement for final adoption by ordinance on \_\_\_\_\_, 20\_\_; and

**WHEREAS**, on \_\_\_\_\_, 20\_\_ the City Council conducted and approved the First and Second Reading of Ordinance 20\_\_-\_\_ declaring the approval of the Development Agreement, and associated land use approvals with an effective date of \_\_\_\_\_ 20\_\_; and

**WHEREAS**, City's Council finds and determines that this Development Agreement is consistent with City's Comprehensive Plan, the applicable provisions of Lincoln City Municipal Code and applicable provisions of the Oregon Revised Statutes in effect at the time of entering into the Development Agreement pursuant to ORS 94.508 and LCMC Chapter 17.96; and

**WHEREAS**, City has authority to enter into this Development Agreement and to adopt a City Ordinance approving this Development Agreement pursuant to the Lincoln City Charter, State Statutes, the City's Comprehensive Plan and Municipal Code; and

**WHEREAS**, the adoption of the Ordinance 20\_\_-\_\_ approving Name of Project Development Agreement, [list associated applications and file numbers], is fully supported by evidence in the whole record, including specifically the evidence supporting the Findings of Fact, Conclusions of Law and Order, attached to Ordinance 20\_\_-\_\_, as Attachment 2.

**NOW, THEREFORE, in consideration of the mutual promises and performance obligations of each party as set out in this Agreement, the CITY and OWNER do hereby agree as follows:**

***Ordinance Attachment 1 - DEVELOPMENT AGREEMENT FOR "Name of Project"***

**1.0 RECITALS.** The above Recitals are true and correct and are incorporated herein by this reference.

**2.0 INTENT AND PURPOSE.**

This Development Agreement is intended to facilitate, control and manage the development of the Name of Project within the City of Lincoln City. The Ordinance approving the Development Agreement "bundles" required approvals for consolidated consideration and approval. (Note: Development Agreements need not "bundle required approvals", but can also serve as a roadmap for future approvals. – It is more efficient to concurrently process approvals requiring Planning Commission and City Council approval) This Agreement enumerates the special terms, conditions and requirements of development, including a timetable of development, negotiated and agreed to by the City and OWNER.

**3.0 LEGAL AND EQUITABLE OWNERSHIP.**

Name of Corporation or Entity represents and warrants that it is the fee OWNER of the real property described and shown in **Exhibit A** attached hereto and made a part hereof by this reference. The property is generally described as located [describe location, include address if any], the property being at the time of application inside / outside Lincoln City's limits, and inside the City's Urban Growth Boundary. The property consists of \_\_\_\_\_ tax lot(s) \_\_\_\_\_, on assessor's map \_\_\_\_\_ and contains approximately \_\_\_\_\_ acres.

**4.0. DEFINITIONS.**

4. "Applicant" means "OWNER" - [FULL LEGAL NAME OF DEVELOPER/OWNER] [must be registered with Oregon Secretary of State Corporations Division including D/B/As].

4.2 "LCMC " means the Lincoln City Municipal Code, as amended, including but not limited to Title 16 (Subdivision) and Title 17 (Zoning).

4.3 "Agreement" means this Development Agreement, entered into between the parties pursuant to ORS 94.504 through ORS 94.528 and Chapter 17.96 LCMC.

4.4 "CITY" means the City of Lincoln City, Oregon.

4.5 "Council" means the City Council of the City of Lincoln City.

4.6 "Planning Commission" means the City of Lincoln City 's duly appointed Planning Commission.

4.7 "Comprehensive Plan" means the City of Lincoln City 's Comprehensive Plan, as amended.

4.8 "ORS" means the Oregon Revised Statutes, as amended.

4.9 "LCMC" means the Lincoln City Municipal Code

**Ordinance Attachment 1 - DEVELOPMENT AGREEMENT FOR "Name of Project"**

4.10 "Project" means the Name of Development project approved by City pursuant to this Agreement, as described in the record.

4.11 "Property" means the subject real property described and shown in Exhibit A, owned by, or under contract to **OWNER**.

**5.0 UNIFIED CONTROL.**

The OWNER hereby warrants that OWNER has unified ownership of all real property included in the Name of Project Property, as set forth in **Exhibit A**. Documents certifying title are attached hereto and incorporated herein as **Exhibit B**. A covenant of Unified Control by the OWNER is attached hereto and incorporated herein as **Exhibit C**.

**6.0 DEVELOPMENT PLAN USES, DENSITY, INTENSITY, BUILDING HEIGHT.**

[ORS 94.504(2)(b)(c)(d)]

The OWNER agrees that the Name of Project [list concurrent bundled approvals, e.g. annexation, comprehensive plan and zoning change] approved concurrent with this Agreement are expressly tied to and contingent upon compliance with this Agreement, and the development of the property in accordance with the Name of Project [preliminary PUD plan, or non-PUD master site plan or a concept plan], a reduced copy of which is attached as **Exhibit D** and made a part hereof by this reference. All development will be undertaken and carried out in accordance with this Agreement and with the following:

**6.1** The permitted development uses, maximum densities, intensities, building height, size and dimension criteria, other regulations and conditions permitted for Name of Project shall be those specifically set forth in this Agreement and as depicted on the approved preliminary or master plan, as well as consistent final plan(s) and plat(s) to be approved:

**Density or Intensity:**

Describe number of units and density and /or describe square footage and list all non-residential / commercial uses. Describe any flexibility in density or intensity of use. Terms like "not to exceed square footage" or range of unit numbers to add flexibility.

[Development density and intensity may be modified in accordance with major or minor amendment provisions of LCMC Titles 16 and Title 17. Per the Code, a major amendment includes any density/intensity increase;]

**Maximum Building Height:**

Not to exceed height [ ] feet (excluding features not designed for occupancy).

**Size and Dimension:**

The construction of all structures within the Project shall be governed by the size and dimension criteria (e.g. setbacks) set forth in or incorporated into this Agreement or as reflected on the Approved PUD Preliminary Plan or Approved Master Plan for the Project. [Described or incorporate by reference setbacks and other dimensional controls, e.g. reference The "Size and Dimension Standards for Name of Project" with dated ----, are specifically accepted as controlling the development of the project setbacks and incorporated herein by this reference]. [or] [e.g. Development of lots ## - ## must comply with the R-1-5 setbacks] [or] set a default when desired: e.g. When not specifically modified herein, the standards, regulations, limitations and restrictions of the R-1-7.5 zone shall be met.

**Permitted uses of property:**

The uses permitted within Name of Project, including Phases 1- # shall be those uses set forth in this Agreement as follows: list here or under Special Conditions or as indicated on the approved Preliminary Master Plan (PUD) or approved Master Site Plan (non-residential) or concept plan together with such incidental and subordinate accessory uses as enumerated in the Code or this Agreement.

Set a default when desired: e.g. When not specifically modified herein, the uses, standards, regulations, limitations and restrictions of the R-1-5 zone shall be met.

The permitted uses, density and intensity of uses, and other aspects of the development requirements on the Name of Project shall also be governed by this Agreement and the City Council Findings of Fact, Conclusions of Law and Order concerning the proposed development project, (See Attachment 2) incorporated herein by this reference.

**6.2** It is agreed and understood that, unless otherwise expressly stated herein, the provisions of the Lincoln City Municipal Code, the Lincoln City Comprehensive Plan, and other adopted land development regulations were applied by the City in considering and ***Ordinance Attachment 1 - DEVELOPMENT AGREEMENT FOR "Name of Project"***

entering into this Development Agreement, to the extent such Code provisions, Ordinances, Comprehensive Plan and land development regulations existed on the date of this Agreement. [ORS 94.518].

(a) It is agreed and understood that the development of **Name of Project** will be undertaken and carried out in accordance with this Agreement, the Preliminary PUD Plan or Master Plan approval, or concept plan, (**Exhibit D** attached hereto and made a part hereof by this reference), as well as future approvals, including the Final Plan approval(s) (for each discrete phase), tentative and final plats, engineering authorization to construct project infrastructure (construction plan approval), and, as applicable, Improvement Agreements, Landscaping Agreements, Financial Security, and other associated City approvals and building permits, to be approved by the City, and in strict compliance with the approved timetable of development (**Exhibit E**).

(b) It is agreed and understood that the development of **Name of Project** authorized by the Preliminary PUD approval or Master Plan approval or concept plan, includes no actual physical commencement of construction but only authorizes preparation of detailed Final Master Plan(s) and Preliminary (Tentative) and Final Plat(s). Similarly, Final Plan Approval and Tentative Plat does not authorize physical commencement of development but merely authorizes and facilitates preparation of Final Construction (Engineering) Plans and Specifications for Construction Plan Approval.

(c) It is agreed and understood that the development of this Project, including but not limited to infrastructure construction, shall be accomplished in accordance with the Construction Plan Approval (without or without a final plat) to be approved by the City Engineer, in accordance with the approved final plan and, if necessary, plat and in accordance with such laws, ordinances and regulations, including engineering standards as were in effect at the time of the final site plan application is deemed complete. Construction Plan approval in conjunction with a Final Plat requires submission of an Improvement Agreement and provision of acceptable Financial Security covering all required improvements. Plant material installation and survival is also subject to bonding in accordance with Chapter 17.72.

(d) It is agreed and understood that the remaining development of this Project must be accomplished in accordance with the final plat or plats, if any, to be approved by the City in accordance with the prior approvals conditions, including the preliminary (tentative) plat and such laws, ordinances and regulations as may be in effect at the time the final plat application is deemed complete.

(e) When not specifically addressed in this Agreement, and except as provided for subdivision infrastructure construction in ORS 92.040, all permits and authorizations for the development of this project shall be in accordance with the law in effect at the time such applications are deemed complete.

**6.3** The special conditions of approval and requirements adopted in the process of the approval of the PUD Preliminary Master Plan or Master Site Plan or concept plan for the property which requirements are set forth in **Exhibit F**, attached hereto and made a part hereof, shall be strictly adhered to by the OWNER.

## **7.0 TIMETABLE OF DEVELOPMENT, PHYSICAL COMMENCEMENT AND COMPLETION.**

[ORS 94.504(4)]

The timetable for development, including commencement and completion dates, as officially approved and adopted by the City and agreed to by OWNER, are described and shown in **Exhibit E**, attached hereto and made part hereof by this reference. The timetable shall be strictly adhered to by the OWNER. Notwithstanding the above, it is expressly understood that all timetables set forth herein shall be tolled during any third party LUBA challenge or subsequent appeal of the City Council's approval of the development agreement and associated (current) applications.

## **8.0 VESTED RIGHTS.**

**8.1** Except where specified in this Agreement, the OWNER shall have the right to develop Name of Project in accordance with the provisions and requirements of this Agreement, the Preliminary Master Plan (PUD) / Master Site Plan (non-residential) approval, and such consistent future Final Master Plans (PUD), Final Site Plans (non-residential), Plats, Construction Plans, and other permits to be approved in accordance with applicable laws and regulations.

**8.2** There shall at all times be strict adherence to the provisions of this Development Agreement and the approved Preliminary and Final Master Plans, Master and Final Site Plans, Preliminary and Final Plats as well as the approved construction plans and permits. Failure to strictly comply with any such provisions or requirements shall be deemed a breach of this Agreement. Any change or amendment to this Agreement, the Preliminary and Final Master Plans, Master and Final Site Plans, plats, construction plans or permits can only be made in accordance with change provisions of this Agreement (or associated approvals), or to the extent such changes (flexibility) are contemplated in the Agreement or associated land use approvals. However, if the amendment is not addressed or provided for in this Agreement or the land use approval, then such amendment must be processed in accordance with the amendment procedures for this Agreement or the

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applicable approval and such amendment must be consistent with such laws and ordinances as may be in effect at the time of such Amendment. For subdivisions, ORS 92.040 is expressly understood to protect preliminary and final subdivision plat approvals from the application of new subdivision construction laws, except when amendments are proposed, in which case such amendments, *to the extent of the amendment*, must be consistent with the law in effect at the time of the proposed change.

**8.3** Notwithstanding the timetable of development, and subject to unilateral amendment by the City to address public health, safety and welfare regulations, in the event that all or a portion of the **Name of Project** should be destroyed by a storm, fire or other common disaster, the OWNER, its grantees, successors or assigns and/or the Association(s), shall have the right to rebuild and/or repair so long as there is strict compliance with this Agreement, the **Preliminary and Final Master Plans (PUD)**, **Master and Final Site Plans (non-residential)**, and as applicable, **Preliminary and Final Plats**, approved construction plans and permits, as the same may be formally amended from time to time.

## **9.0 DURATION OF AGREEMENT AND CONTINUING OBLIGATIONS.**

[ORS 94.504(2)(a)]

Provided all parties have executed the Agreement, this Agreement shall be effective thirty (30) days after Ordinance adoption. Subject to compliance with the internal project timetable set forth in **Exhibit E**, the duration of the Agreement shall be for **NEGOTIABLE - the maximum fifteen (15) year period** authorized by ORS 94.504. Termination of the duration of this Agreement only terminates authorization to engage in physical construction and development of the property, excluding vertical construction of detached single family dwelling units on individual platted lots (for residential projects only). To the extent this agreement incorporated the development approval, this Agreement remains in full force and effect for purposes of development approval authorization for the completed project, including all continuing maintenance obligations.

## **10.0. PROVISION FOR THE RESERVATION, DEDICATION OR DONATION OR SALE OF LAND FOR PUBLIC PURPOSES.** [ORS 94.504(2)(e)]

Here express any donations, dedications of real property to the City or to the public, including interests in land (right of way, easements, ...)

Examples: Dedication of Easement. Reciprocal easements for access; All project infrastructure and amenities to be dedicated to the public or to the City – e.g. streets, parks, utility easements

### **11.0 SCHEDULE OF FEES OR CHARGES.** [ORS 94.504(2)(f)]

All development authorized in the Name of Project is subject to payment of applicable System Development Charges (SDC's) and utility fees and charges at the applicable trigger times, usually building permit issuance, as specified in the SDC ordinances and other codes in effect at the time development occurs. Unless otherwise stated, this Agreement does not award or grant any SDC credits to any party nor does this Agreement freeze or otherwise fix the SDC charges for development referenced herein.

Such other fees and charges, (e.g. such as proportionate share contributions of public infrastructure) are set forth **Exhibit F** (Special Conditions) and incorporated herein by this reference.

Note: It is possible to prepay all applicable SDCs and lock in the rate – there is no reason to do this unless a facility is constrained or approaching constraint and the owner desires to reserve available capacity. Such reservation would however be subject to compliance with the approved timetable of development.

Also: SDC credit is generally granted after completion of improvements, notwithstanding this, the parties can process and agree to credit, assuming final inspection and inspection of the improvement occurs as per the timetable of development.

### **12.0 RESPONSIBILITY FOR INFRASTRUCTURE.** [ORS 94.504(2)(h)]

Except where otherwise provided, the OWNER is fully responsible for the construction of all infrastructure development to support the Name of Project including public facility improvements (street/traffic improvements, water, sewer and storm water) recreation improvements, common area improvements and restoration and enhancement of natural areas, and internal project infrastructure, including utilities, and amenities, both on-site and off-site and as required by the Lincoln City Municipal Code, including City Engineering Standards, as more fully set forth in the Findings of Fact, Conclusions of Law and Order attached to the Ordinance approving the Development Agreement, incorporated herein and made a part hereof by this reference.

Subject to the Budget and other Disclaimer provisions of this Agreement, the City will construct or will participate in the construction of the following infrastructure:

- Set forth project, parties responsible, allocation of cost and expense, (e.g. City shall contribute to the cost of "oversizing" the following facilities ... explain approval subject to approval of City Engineer ...)

### **13.0 RESPONSIBILITY FOR COMMON AREAS.**

The Lincoln City Municipal Code requires that common areas, including shared open space, be shown on the preliminary and final master plans, master and final site plan and plats. The Code further requires that the OWNER make adequate provisions for the continuing maintenance and upkeep of common areas by an association or other legal entity. The City is not required to accept dedication of common areas. **For PUDs:** The application indicates that the OWNER will establish covenants, conditions, and restrictions (CC&Rs) and an OWNER's association and that the association shall be responsible for enforcement of the CC&Rs as well as ownership and maintenance of common areas, including maintenance of landscape tracts within right-of-ways and restored open space tracts. The parties agree that the following common area maintenance provisions shall apply:

**13.1** The OWNER shall create a Declaration of Covenants, Conditions and Restrictions for Logan Park, (hereinafter the "CC&R"). CC&Rs shall refer to the terms and conditions of this Development Agreement including the administrative enforcement provisions of this agreement and the ability of the City to enforce and assess the Association for the maintenance of common areas as well as the enforcement provisions of Chapter 17.84 of the Municipal Code concerning violation of any Order issued pursuant to Title 17, including site plan approval. As a part of said Covenants and Restrictions, the Association shall be established for the maintenance, operation and management of the Common Areas as defined therein. All of the above areas in the PUD are designated and shown on the Preliminary Master Plan which is attached hereto as **Exhibit "D"** and made a part hereof. All such areas shall be shown on final plans and plats. The CCR shall be part of the first application for Final Master Plan approval and shall be in conformity with the LCMC and Oregon Revised Statutes.

**13.2** It shall be deemed a breach of this Agreement for any land to be conveyed by the OWNER by an instrument which does not contain the Covenants, Conditions and Restrictions or incorporate them by reference. The Association shall not be dissolved nor shall it dispose of any Common Areas, by sale or otherwise, except to an organization conceived and organized to own and maintain the Common Areas, without first receiving approval of the City. The City, as a condition precedent to the dissolution or disposal of Common Areas, may require dedication of common open areas, utilities or road rights-of-way to the public as are deemed necessary.

**13.3** In the event that the Owner or Association (or any successor organization) fails at **Ordinance Attachment 1 - DEVELOPMENT AGREEMENT FOR "Name of Project"**

any time to maintain the Common Areas in reasonable order and condition in accordance with the approved Plan(s), including any specific plan for restoration and maintenance of the natural areas, then the City may treat such failure as a violation of the development approval as provided in Chapter 17.84. As an alternative to the Notice of Violation Procedures, the City may serve written notice by certified mail, return receipt requested, upon such entity or upon each OWNER of real property with an interest in the common areas, which notice shall set forth the manner in which the entity or owner has failed to maintain the Common Areas in reasonable order and condition, and shall demand that such failure be remedied within thirty (30) days of the sending of such notice or, in the alternative, that such organization appear before the City Council or their designee at a specified time (at least ten (10) days but not more than thirty (30) days after the sending of such notice) either to contest the alleged failure to maintain the Common Areas or to show cause why it cannot remedy such failure within the thirty (30) day period. If such failure has not been remedied within the thirty (30) day period or such longer period as the City may allow, then the City, in order to maintain strict compliance with development authorizations, and in order to preserve the taxable values of the real property within the Projectand to prevent the Common Areas from becoming a public nuisance, shall hold a public hearing to consider the advisability of the City entering upon such Common Areas and maintaining them for a period of one (1) year. Notice of such hearing shall be sent by certified mail, return receipt requested, to the organization involved and (if such organization is dissolved) to each OWNER of real property within an interest in the common areas and shall be published in a newspaper of general circulation published in Lincoln City, Oregon. Such notice shall be sent and published at least fifteen (15) days in advance of the hearing. At such hearing the City may determine that it is or is not advisable for the City to enter upon such Common Areas, take non-exclusive possession of them and maintain them, according to City standards and any preservation areas management plan, if any, for one (1) year. Such entry, possession and maintenance when followed in accordance with the above procedures shall not be deemed a trespass, or seizure, and shall be deemed entry and possession with consent. In no event shall any such entry, possession and maintenance be construed to give to the public or the City any right to use the Common Areas.

**13.4** The City may, upon public hearing with written notice given in the same manner as above, return possession and maintenance of such Common Areas to the organization, or successor organization, abandon such possession and maintenance, or continue such possession and maintenance for additional one (1) year periods.

**13.5** The cost of such maintenance by the City, including the full administrative cost of the notice and hearing processes identified herein and outlined above, shall be assessed ratably against the responsible legal entity or property owners of which an interest in the common areas and shall become a charge or lien on said properties if not paid within thirty

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(30) days after the receipt of a statement therefore.

**14.0 ASSUMPTIONS UNDERLYING AGREEMENT AND CHANGED CIRCUMSTANCES.** [ORS 94.504(6)]

The assumptions underlying this Agreement, specifically as regards the ability of the City to service the Development with regards to public facilities, are set forth herein, or are included in the Findings of Fact, Conclusions of Law and Order, attached to the Development Agreement Ordinance and incorporated into or referenced in this Agreement. In sum, this agreement is being entered into at a preliminary development order stage, or earlier, and the parties acknowledge that adequate public facility service is at this point fully feasible, but not at this point guaranteed. The conditions of approval identify areas where additional study is needed; at this point the assumption is that City has adequate public facility capacity to provide necessary services to the of Project, given the extended timetable of development.

In particular, the terms, conditions and restrictions of this Agreement as well as the law in effect at the time further development approvals are sought, determine the ability of the development to be served. Given the extended timetable of development, the possibility that intervening development will utilize existing capacity remains possible. OWNER has not "reserved" capacity via prepayment of applicable SDC fees and payment of ongoing utility base charges. In the event of changed circumstances, this Agreement provides for permitted amendment, modification or revocation. The parties will work together in good faith to find a solution to cure any inability to provide services or otherwise comply with the terms of this Agreement. This Agreement specifically contemplates development of the Name of Project as shown on the Preliminary Master Plan (PUD) / Master Site Plan in accordance with the approved timetable of development.

**15.0 BUDGET AND GENERAL DISCLAIMER.** [ORS 94.504(5)]

All City obligations pursuant to this Agreement which require the expenditure of funds are contingent upon future appropriations by the City as part of the local budget process. Nothing in this Agreement implies an obligation on the City to appropriate any such moneys. City acknowledges that following the required review and approval of a Final Site Plan / Final Master Plan (PUD) for adequacy of public facilities, and approval of final civil plans (construction plan approval) and associated construction permits, the determination for issuing building permits for the construction of buildings on the Property is not an obligation that would require the expenditure of funds and, therefore, is not contingent upon future appropriations by the City.

The City and OWNER are entering into this Agreement voluntarily in the spirit of cooperation and coordination to facilitate the OWNER's desire to develop summarize project. The City desires to facilitate

However, nothing in this Agreement makes the City or OWNER responsible for the contracts or commitments of the other as regards development of the Name of Project or as regards public improvements constructed by OWNER with the intention of donating such facilities to the City. The OWNER is not subject to public contracting rules and regulations and nothing herein makes OWNER subject to such public agency requirements.

OWNER is not the City's agent and City is not the OWNER's agent for purposes of any contracts or commitments made by either party. OWNER acknowledges and agrees that future final approvals, including final master plan(s), final site plans, final plat approval(s), final civil plan (construction plan approval) and construction permits and building permits are subject to compliance with all applicable approved preliminary master plans (PUD), master site plan (non-PUD), approval conditions and applicable land development regulations in effect at the time the approvals are sought, except as may be provided for infrastructure construction in ORS 92.040 or as otherwise provided in this Agreement. Except as expressly provided herein, no rights to obtain final development approvals nor any other rights to develop Name of Project have been granted or implied simply by the City's approval of this Development Agreement, including the donations, dedications and land exchange contained herein, without OWNER's full compliance with approved preliminary and final plans, approval conditions and the applicable law in effect at the time such final approvals are sought. The OWNER, or its successors and assigns, may not attempt to force, coerce or intimidate the City to approve the final master plan, final site plan, plat or other development authorizations, including building permits, without full compliance with this Agreement and incorporated approval conditions, by asserting that the City has committed to such approvals for Name of Project based on the theory of vested rights or equitable estoppel or any other legal theory based solely on the City's approval of this Agreement, or acceptance of donations, dedications. City approval of final development orders requires strict compliance with applicable approval conditions and the applicable criterion for approval.

#### **16.0 FUTURE DISCRETIONARY APPROVALS.** [ORS 94.504(3)]

The following is a list of all discretionary local development approvals (**bold**) as well as other steps and ministerial actions necessary for the development of (Name of Project):

Not all these approvals apply in every case

1. **Ordinance Declaring Council Approval of Development Agreement, as well as Findings of Fact, Conclusions of Law and Order for other approvals**
2. **Ordinance Approving Annexation and Library District Removal** (concurrent with 1 above)
3. **Ordinance Approving Comprehensive Plan Map and Zone Change**
4. **PUD Preliminary Master Plan**
5. **Master Site Plan**
6. **PUD Final Plan Approval**
7. **Preliminary Plat**
8. **Final Site Plan**
9. **Final Civil Plan (Engineering Construction Authorization) Approval for Phases \_\_\_\_\_.**
10. Approval of all other State, County, Federal Agency permits prerequisite to construction activity.
11. Conveyance and acceptance of easements / dedications.
12. Final Plat Approva(s).
13. Building Permit(s)

The terms, restrictions and requirements of these approvals are set forth in the applicable City Ordinances, including the Lincoln City Municipal Code, applicable State statutes and regulations, the preliminary approvals, including Preliminary Master Plan approval / Master Site Plan approval and this Agreement. Generally, the law in effect at the time of the application is deemed complete governs the review and approval of the decision, when not inconsistent with the Preliminary Master Plan approval / Master Site Plan approval. All local development approvals and permits identified in this Agreement shall be obtained at the sole cost of the OWNER. The failure of this Agreement to address a particular permit, condition, term or restriction shall not relieve the OWNER of the necessity of complying with the law governing said permitting requirements, conditions, terms or restrictions. Any matter or thing required to be done pursuant to the requirements of the ordinances of the City of Lincoln City shall not be otherwise amended, modified or waived unless such modification, amendment or waiver is expressly provided for in this Agreement with specific reference to the provisions so modified waived or amended. In no event shall delay in obtaining permits from other agencies be deemed as automatically requiring an extension of time to obtain required development approvals or the Development Agreement with City. Nor shall such delay be interpreted as requiring the City to approve an extension of time to any existing development order or development agreement. The following sworn statement shall be submitted prior to commencement of Physical construction:

### **Sworn Statement, Verification of Federal, State, and Local Permit Compliance.**

Prior to any land clearing, alteration, or physical construction (other than survey work or environmental testing) on the premises by OWNER and DEVELOPER, if any, shall execute a sworn statement under penalty of perjury and false swearing, that OWNER has obtained all required Federal, State, and local authorizations, permits and approvals for the proposed development, including any proposed use, or alteration of the site, including also any off-site improvements. [More than one sworn statement may be provided, such as in the event of authorized discrete Phases or activities]. OWNER shall be solely responsible for obtaining all approvals, permits, licenses, insurance, and authorizations from the responsible Federal, State and local authorities, or other entities, necessary to use the property in the manner contemplated, including all authorizations necessary to perform land clearing, construction and improvement of property in the location and manner contemplated. This provision includes, but is not limited to, when applicable, a permit or statement from the National Marine Fisheries Service and/or Fish and Wildlife Service that OWNER's proposed use and/or development will not take or harm any endangered or threatened species as that term is defined in applicable Federal Statutes and Regulations. Further, it is expressly agreed and understood that the City of Lincoln City has no duty, responsibility or liability for requesting, obtaining, ensuring, or verifying OWNER's compliance with the applicable state and federal agency permit or approval requirements. Any permit or authorization granted by the City, including any exemption, exception, permit, approval or variance pursuant to the Lincoln City Municipal Code shall not in any way be interpreted as a waiver, modification, or grant of any state or federal agency permits or authorizations or permission to violate any state or federal law or regulation. OWNER shall be held strictly liable, and shall hold the City of Lincoln City, its officers and employees harmless for administrative, civil and criminal penalties for any violation of Federal and State statutes or regulations, including but not limited to the Clean Water Act, Endangered Species Act, treaties, regulations and rules implementing such environmental laws. Nothing herein shall be interpreted as restricting or limiting the City from bringing an enforcement action under the Lincoln City Municipal Code or applicable State of Oregon criminal statutes.

### **17.0 SCHEDULE/PROCEDURE FOR COMPLIANCE REVIEW.** [ORS 94.504(2)(g)]

Two weeks prior to the one year anniversary date of the effective date of the Ordinance approving this Agreement, the OWNER shall submit a written report to the Planning Director for the City, for review and consideration at the next available Council meeting. The report shall address the extent and timing of compliance with the terms and conditions of this Agreement by the OWNER and the City. The submission shall be made in letter form to the City Planning Director for placement on the next available agenda. The Council shall review this report and this Agreement at the next available meeting, and if deemed

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necessary, may direct that a subsequent report be submitted and considered on or about the subsequent anniversary date of this Agreement, and likewise thereafter. The Planning and Engineering Departments shall prepare a response to the OWNER's submittal. If the Council believes the report or response demonstrate failure to comply with the terms of this Development Agreement, the report and response and this Agreement shall be referred to the Planning Commission for recommendation to the Council. In accordance with the amendment/revocation procedures the Council shall determine whether the evidence demonstrates that the OWNER or City have not complied in good faith with the terms and conditions of this Development Agreement. At such time the Council shall also determine whether this Agreement should be amended, modified, revoked or terminated.

**18.0 BREACH OF AGREEMENT/REMEDIES & ENFORCEMENT** [ORS 94.504(2)(j)]  
[ORS 94.522]

**18.1** It is the intent of the parties to strictly comply with the terms and conditions of this Development Agreement to the mutual benefit of both the OWNER and the City.

**18.2** In the event either party believes a material breach of the terms and conditions of this Agreement has occurred, whether by action or inaction of a party, the injured party shall serve written notice on the other of the alleged breach and the other party shall have thirty (30) days to cure or respond in writing to the injured party. In the event of a disagreement after the exchange of writings, the City Manager shall set a time, date, and place for a public meeting of the City Council. The meeting shall give the City Manager and the OWNER an opportunity to explain to the Council the facts supporting or disproving the alleged breach, and allow the parties to propose a method of fulfilling this Agreement's terms and conditions. The parties may mutually negotiate an amendment to this Agreement to cure the alleged breach, and approve such amendment, after required notice, hearing and ordinance procedures are followed. Material breach includes but is not limited to any assignment by a party for the benefit of creditors, or adjudication declaring bankruptcy, or appointment of a receiver, trustee or creditor's committee over a party. Material breach also includes failure to proceed with the development authorized in accordance with development approvals, including specifically compliance with the Timetable of Development.

**18.3** Until termination or revocation of this Development Agreement, the terms of this Agreement are enforceable by any party to this Agreement. [ORS 94.522] The parties stipulate and agree that enforcement in Circuit Court is subject to the prerequisite administrative process set forth herein. Similarly, land use enforcement proceedings shall be preceded with the informal process set forth above. Thereafter, each party shall have all available remedies at law or in equity to recover damages and compel performance of the other party pursuant to this Agreement. The rights and remedies afforded under

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this Agreement are not exclusive and shall be in addition to and cumulative with any and all rights otherwise available at law or in equity. The exercise by either party of any one or more of such remedies shall not preclude the exercise by it, at the same or different time, of any other remedy for the same default or breach or of any of its remedies for any other default or breach by the other parties, including, without limitation, the right to compel specific performance

**18.4** In no event shall an injunctive order be issued which would require Lincoln City to issue a development approval or permit in violation of the Lincoln City Municipal Code, State Statutes or the terms and conditions of the Preliminary Master Plan approval or subsequent final approvals. This provision does not limit the available remedies for other forms of breach. The parties agree that the prevailing party shall be entitled to attorney fees and costs in the event of litigation, including any appeal, to enforce this Agreement.

**18.5** In the event of a material breach by the OWNER, City may, but is not required as a prerequisite to legal action, pursue land use revocation or termination of this Agreement in accordance with the following administrative process:

If at the public hearing to revoke or terminate this Agreement, the City finds, based on substantial competent evidence, that the OWNER is in material breach of this Agreement, and an amendment to this Agreement to cure the breach is not appropriate, the City may revoke and terminate the Development Agreement and the development authorization for all or part of the **Name of Project**. The breach hearing shall be held concurrent with a revocation hearing held pursuant to the Lincoln City Municipal Code which may include revocation of one or more of the following: development agreement, annexation, comprehensive plan designation, rezoning, master site plan, final site plan, PUD preliminary master plan, PUD final master plan, construction plan approval, building permits. The City may initiate any necessary actions, including but not limited to a comprehensive plan and zoning amendments to cause the property to revert to its immediately pre-existing land use and zoning designation, or to rezone to the most appropriate land use and zoning designation for the property involved. Public hearings on such land use and or zoning amendments shall follow those procedures in effect for voluntary requests for land use amendments and rezonings, including any applicable hearings before the Planning Commission. The OWNER shall reimburse the County for all reasonable costs associated with breach of the Agreement, including, but not limited to, planning, engineering, and legal costs, legal notice and mailing costs, as well as any applicable application fees.

In the event of a breach of this agreement, and any termination or revocation of this Agreement or underlying development orders, no further construction authorization or building permits shall be issued to the OWNER (or to its successors in interest) based upon the development approvals found to be in violation. In the event of revocation of approvals, those portions of the property which may have buildings or structures constructed upon them in conformity with the development plans shall thenceforth be regarded as nonconforming uses with respect to the any revised land use or zoning classification.

In lieu of revoking this Agreement, development orders and the development authorization, City may agree to modify this Agreement upon a finding that such modification is in the best interests of City and the public. It is further agreed by the OWNER and the City that all costs incurred by the City for the breach and revocation proceedings shall be paid by the OWNER. However, no costs shall be assessed against the OWNER if the result of the hearing or upon review by the Court, is a finding that the City is in material breach of the Agreement, or that the OWNER is not in material breach.

If assessed costs are not paid by the OWNER, the City is empowered to place a lien against the property in the amount of the unpaid costs. This provision shall not be interpreted to provide an exclusive remedy, and either party may pursue any appropriate remedy at law or equity in the event the other party or its successors in interest fail to abide by the provisions of this Agreement. If OWNER disagrees with City's decision concerning revocation or termination of this Agreement as set forth above, then OWNER may file a legal action in a court of competent jurisdiction to review and determine the merits of City's decision and issue an appropriate judgment or decree.

**18.6** In addition, any person who violates the Lincoln City Municipal Code, and development approvals, authorizations and conditions issued pursuant thereto, are subject to the enforcement provisions set out in the Lincoln City Municipal Code, as amended from time to time, including civil and criminal the penalties set forth therein. Nothing herein shall constitute an exclusive remedy and the City reserves the right to pursue any and all legal and equitable remedies in order to abate a violation of this Ordinance.

**19.0 STATE AND FEDERAL LAW CHANGE.** [ORS 94.504(2)(I)]

The parties agree that this Agreement is based on the proposition that the **Name of Project** will comply with City, Regional, State, and Federal policies, laws, and rules. If Regional Policy, State or Federal laws are enacted after City approval of this Agreement, which are applicable to and preclude either party's compliance with the terms or conditions **Ordinance Attachment 1 - DEVELOPMENT AGREEMENT FOR "Name of Project"**

of this Agreement, or render compliance impossible, unlawful, or inconsistent with such laws or rules, or regional policies, this Agreement shall first be modified or amended, by mutual agreement, as is necessary, to comply or to sever provisions and give effect to the remainder of the Agreement. If such modification or amendment cannot remedy the inconsistency, this Agreement shall be revoked to comply with the relevant State or Federal laws or regional policies and regulations. Accordingly, if this Agreement fails in its essential purpose, then the parties shall be placed into their original position to the extent practical. If not practical, such revocation proceeding, caused without fault to either party, shall preserve to the extent possible under the law, an equal balance between the parties, with protection afforded the City and protection for the OWNER related to the development authorizations and improvements for which the OWNER has expended funds in good faith reliance on the governmental authorization.

## **20.0 EFFECT OF ANNEXATION [ORS 94.504(2)(L)]**

Annexation is / is not necessary to authorize the development contemplated in the Name of Project as described and shown in the application materials, as amended.

If annexation is required:

The City's concern has been that after annexation is approved the OWNER will abandon the innovative and creative project which accompanied the application and simply sell the property to a new OWNER. Council sought to bind the OWNER to his representations and promises. Accordingly, the OWNER and City expressly agree in this negotiated Development Agreement, that use of the subject property is permitted only in accordance with the terms and conditions of this Agreement. This Agreement and approvals may be amended provided such amendments are consistent with the law in effect at the time of the amendment, to the extent of the amendment. The City is not required to amend the Agreement.

This Agreement contemplates that property which is the subject of this Agreement will be fully annexed into City as part of the terms and conditions of the Development Agreement. The required public hearings having been held concurrent with the approval of this Agreement, only the normal ordinance processes for annexation and withdrawal from Special Districts remains to effectuate the approval. The Annexation is more fully described in the Findings of Fact, Conclusions of Law and Order concerning the land use approvals, attached to the Ordinance declaring approval of this Development Agreement. This Agreement contemplates and provides for annexation of all portions of the Name of Project as a material term of this Agreement. Therefore, failure to accomplish annexation as contemplated will require amendment, modification, or revocation of the Development Agreement.

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**21.0 AMENDMENT, TERMINATION OR REVOCATION.** [ORS 94.508(2)] [ORS 94.522]

**21.1** OWNER and City, their successors and assignees may mutually agree to amend, modify, terminate or revoke this Agreement after compliance with the Ordinance amendment procedures identified herein, or as otherwise provided for in this Agreement. In the event of such mutual amendment, modification, termination or revocation, the parties shall be required to mutually agree as to any required allocation, return, or payment for public improvements, dedications or expenditures made in reliance upon this Agreement.

**21.2** The parties hereto shall at all times strictly adhere to the terms and conditions of this Agreement. Amendment, termination or revocation of this Agreement shall be made by adoption of an Ordinance declaring the action and setting forth the terms and conditions. Unless another procedure specific to Development Agreements is provided in a City Development Agreement Ordinance, (and such procedure pursuant to ORS 94.513(1) is specifically contemplated and anticipated herein) the procedures and requirements for amendment, revocation or modification of a Development Agreement are the same as for approval of a Development Agreement, currently notice and hearing before the Council. Except as provided below, no modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document approved and executed by all the parties hereto.

**21.3** Pursuant to ORS 94.518, except as provided in this Development Agreement, the local government law and policies governing this Agreement shall be those laws and policies in effect at the time of approval of this Development Agreement. Pursuant to the terms of this Development Agreement, generally, unless specifically inconsistent with the Concept Plan, PUD Preliminary Master Plan Master Site Plan, the law in effect at the time of subsequent development approvals governs those approvals. In addition, unless a reservation of legislative power is included in a Development Agreement, the Agreement is subject to a legal challenge as void or voidable for "contracting away the police power". Accordingly, the following reservation of power is included in this and in all City Development Agreements. City may apply subsequently adopted laws and policies to this Development Agreement if the City holds a public hearing proposing imposition of such subsequently adopted laws in an amendment of this Agreement and determines any one of the following:

- A.** The laws and policies are not in conflict with the laws and policies governing the Development Agreement and do not prevent development of the land uses, intensities or densities in the Development Agreement; or

**Ordinance Attachment 1 - DEVELOPMENT AGREEMENT FOR "Name of Project"**

- B.** The laws and policies are essential to the public health, safety, or welfare, and expressly state that they shall apply to a development that is subject to a Development Agreement; or
- C.** The laws and policies are specifically anticipated and provided for in the Development Agreement; or
- D.** City demonstrates that substantial changes have occurred in pertinent conditions existing at the time of approval of the Development Agreement; or
- E.** It is demonstrated that the Development Agreement is based on substantially inaccurate information supplied by the OWNER.

Nothing in this section shall prohibit the City from applying subsequently enacted laws to the Development Agreement in the event an amendment or modification of this Agreement is requested by OWNER pursuant to the terms of this Agreement. This Agreement specifically anticipates applying current health and safety regulations to any reconstruction of the project, should destruction occur, (e.g. current regulations will be used to guide re-installation of public infrastructure), when such compliance is possible given the physical parameters of the site.

## **22.0 RECORDING AND EFFECTIVENESS.** [ORS 94.528]

**22.1 Recording.** The OWNER shall provide the City an executed Development Agreement, unaltered except for changes agreed upon during consideration of the matter, or to correct typographical errors, together with executed and unaltered Exhibits, including legal description, prior to 5:00 p.m. on \_\_\_\_\_ (not more than 20 days after adoption of the Ordinance). City shall record this Agreement and Exhibits with the County Clerk as required by ORS 94.528 within ten (10) days of the execution of this Agreement by all parties. OWNER is solely responsible for recording costs. Any alteration or change to this Agreement not accepted by the City in writing shall render this Agreement and the Ordinance approving it, ineffective and recording shall not occur. If this Development Agreement is amended, canceled, modified, extended or revoked, the appropriate recording shall be made in the County records to reflect the action. The burdens of this Agreement shall be binding upon, and the benefits of this Agreement shall inure to, all successors in interest to the parties of this Agreement.

**22.2 Finality and Effectiveness.** The Ordinance declaring approval and adopting the Development Agreement is a final City land use decision on the date the Ordinance Second Reading and adoption is completed, the Ordinance and Findings are signed by ***Ordinance Attachment 1 - DEVELOPMENT AGREEMENT FOR "Name of Project"***

the Mayor and Notice of the City's Decision is provided. Notwithstanding the finality of the land use decision, the decision shall not be effective until the later of the following: the complete execution of this Development Agreement and Exhibits by OWNER and City; and (3) the finality of the Land Use Approvals defined herein. As used herein "finality of Land Use Approvals" means the date upon which the Ordinance is effective if no appeal is filed, and, if an appeal is filed, the date that all appeals are final. All timetables are tolled for the period of delay caused by any third party appeal; and the parties agree to an administrative addendum to restate deadlines for clarity after the resolution of any appeal.

### **23.0 ADOPTION OF ORDINANCE [ORS 94.508(1)&(2)]**

City's Council finds that this Development Agreement is consistent with the provisions of the Lincoln City Municipal Code in place at the time of its adoption, and approves this Agreement by adoption of an Ordinance declaring approval of this Agreement, and supported by Findings of Fact, Conclusions of Law and Orders concerning the actions referenced therein. This Development Agreement is a land use decision under ORS Chapter 197.

### **24.0 ENTIRE AGREEMENT.**

This Agreement incorporates or references all prior negotiations, correspondence, conversations, agreements or understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in, incorporated into, or referenced in this document. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

### **25.0 SEVERABILITY.**

If any clause, section, sentence or any other portion or any part of this Agreement is contrary to, prohibited by, or deemed invalid or null and void for any reason under any applicable law or regulation, such provisions shall be inapplicable and deemed omitted to the extent so contrary, prohibited, invalid or void, however, the remainder hereof shall not be invalidated thereby and shall be given full force and effect to the fullest extent permitted by law. In the event of such invalidation or prohibition, the Parties shall meet to discuss amendments and alternatives to address the deficiency.

### **26.0 JURISDICTION AND GOVERNING LAW.**

*Ordinance Attachment 1 - DEVELOPMENT AGREEMENT FOR "Name of Project"*

The parties acknowledge that this Agreement has been negotiated and entered into in the State of Oregon. The parties hereto further agree that any and all suits or actions at law, not within the exclusive jurisdiction of the Land Use Board of Appeals, shall initially be brought in the Circuit Court of the State of Oregon for Lincoln County, or the United States District Court for the District of Oregon. This Agreement shall be construed and interpreted under the laws of the State of Oregon.

**27.0 ASSIGNMENT/SUCCESSORS AND ASSIGNS.** [ORS 94.504(k)]

This Agreement shall be recorded pursuant to ORS 94.528 in the Official Records of Lincoln County, Oregon and said Agreement shall run with the land. Such Agreement is binding upon the City and OWNER, their successors in interest, heirs, assigns and personal representatives. This Agreement shall be fully assignable, in whole or in discrete approved part (see the covenant of unified control), by OWNER and shall bind and inure to the benefit of OWNER and its assigns and successors.

**28.0 NOTICES.** All notices, demands, requests, or replies provided for or permitted by this Agreement shall be in writing and may be delivered by any one of the following methods: (a) by personal delivery; (b) by deposit with the United States Postal Service as certified or registered mail, return receipt requested, postage prepaid, to the addresses stated below; (c) by prepaid nationally-recognized overnight courier (such as UPS, overnight mail, or Federal Express), or be by facsimile transmission). Notice deposited with the United States Postal Service in the manner described above shall be deemed effective three (3) business days after deposit with the Postal service. Notice by facsimile or overnight express delivery service shall be deemed effective one (1) business day after transmission or after deposit with the express delivery service. Notice by personal delivery shall be deemed effective at the time of personal delivery. For purposes of notice demand, request or payment:

Owner name and address

with copy to:

Legal counsel for Owner, Name and

In the case of notice or communication to the City, addressed as follows:

**City of Lincoln City  
Attn.: Ronald Chandler, City Manager  
P.O. Box 50**

**Lincoln City, OR 97367**

with copies to:

**City of Lincoln City  
Attn.: Richard Appicello, City Attorney  
P.O. Box 50  
Lincoln City, OR 97367**

or addressed in such way in respect to a Party as that Party may, from time to time, designate in writing and dispatched as provided in this Agreement.

## **29.0 MISCELLANEOUS PROVISIONS.**

**29.1 Headings.** The titles of the sections in this Agreement are inserted for convenience of reference only, and shall be disregarded in construing or interpreting any of its provisions.

**29.2 Waivers.** No waiver made by either Party with respect to the performance, or manner or time thereof, or any obligation of the other Party or any condition inuring to its benefit under this Agreement shall be considered a waiver of the rights of the other Party making the waiver. No waiver by City or OWNER or any provisions of this Agreement or any breach thereof shall be of any force or effect unless in writing; and no waiver shall be construed to be a continuing waiver.

**29.3 Time of the Essence.** Time is of the essence in this Agreement.

**29.4 Calculation of Time.** All periods of time referred to herein shall include Saturdays, Sundays, and legal holidays in the State of Oregon, except that if the last day of any period falls on a Saturday, Sunday, or legal holiday in the State of Oregon, the period shall be extended to include the next day which is not a Saturday, Sunday, or such legal holiday.

**29.5 Construction.** In construing this Agreement, singular pronouns shall be taken to mean and include the plural and the masculine pronoun shall be taken to mean and include the feminine and neuter, as the context may require.

**29.6 Good Faith and Reasonableness.** The Parties intend that the obligations of good faith and fair dealing apply to this Agreement generally, and that no negative inferences be drawn by the absence of an explicit obligation to be reasonable in any

***Ordinance Attachment 1 - DEVELOPMENT AGREEMENT FOR "Name of Project"***

portion of this Agreement. The obligation to be reasonable shall only be negated if arbitrariness is clear and explicitly permitted as to the specific item in question, as in the case of a Party being given "sole discretion" or being allowed to make a decision in its "sole judgment."

**29.7 Cooperation in the Event of Legal Challenge.** In the event of any legal action instituted by a third party or other governmental entity or official challenging the validity of any provision of this Agreement, or Ordinance adopting this Agreement, the parties agree to cooperate in defending such action.

**29.8 Enforced Delay, Extensions of Time of Performance.** In addition to the specific provisions of this Agreement, a performance by any party shall not be in default where such default or delays is due to war; insurrection, strikes, walkouts, riots, floods, drought, earthquakes, fires, casualties, acts of God, unforeseen governmental restrictions imposed or mandated by governmental entities other than the City, enactment of conflicting state or federal laws or regulations, new or supplementary environmental regulation, litigation or similar bases for excused performance which is not within the reasonable control of the party to be excused; provided, however, that the Parties agree to proceed in good faith in accordance with the terms and conditions of this Agreement.

**29.9 No Third Party Beneficiaries.** City and OWNER, and their successors and assigns, are the only parties to this Agreement and are the only Parties entitled to enforce its terms. Nothing in this Agreement gives, or is intended to give, or shall be construed to give or provide, any benefit or right, whether directly or indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as the intended beneficiaries of this Agreement.

**29.10 Other Necessary Acts.** Each party shall execute and deliver to the other all such further instruments and documents and take such additional acts (which in the case of the City, shall require adopting necessary ordinances and resolutions) as may be reasonably necessary to carry out this Agreement in order to provide and secure to the other parties the full and complete enjoyment of rights and privileges hereunder.

**IN WITNESS WHEREOF,** the parties hereto have set their hands and seals on the day and year first above written. The date of this Agreement shall be the date on which this Agreement is effective (i.e. 30 days after it was approved by Ordinance at Second Reading by the City Council of the City of Lincoln City, Oregon.)

**OWNER:** \_\_\_\_\_.

Signed, sealed and delivered

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in the presence of:



Richard Appicello, OSB 904331  
City Attorney

STANDARD FORM

### MORTGAGE HOLDER CONSENT

ALL MORTGAGE HOLDERS MUST SIGN A CONSENT TO THE DEVELOPMENT AGREEMENT TO ACKNOWLEDGE AND CONSENT TO *INTER ALIA* THE PROVISION FOR THE RESERVATION OR DEDICATION OF LAND FOR PUBLIC PURPOSES. [ORS 94.504(2)(e)]

The undersigned mortgage holder, \_\_\_\_\_, hereby certifies that it is the holder of a certain mortgage lien or encumbrance on the land subject to this Development Agreement and does hereby consent and agree to the foregoing Development Agreement, including the reservations, dedications, donations, sales, and/or exchanges of land for public purposes contained herein and agrees that its mortgage, lien, or encumbrance shall be subordinate to such reservation, dedication, donation, sale or exchange.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

#### MORTGAGE HOLDER

\_\_\_\_\_

Signed, sealed and delivered in the presence of:

Signature of Authorized Agent  
Name printed: \_\_\_\_\_  
Title: \_\_\_\_\_  
Address: \_\_\_\_\_

Witnesses:  
Name printed: \_\_\_\_\_  
Name printed: \_\_\_\_\_

State of \_\_\_\_\_ )  
County of \_\_\_\_\_ )  
City of \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, by \_\_\_\_\_ of \_\_\_\_\_, a \_\_\_\_\_ *Name of Officer* \_\_\_\_\_ *Name of Corporation* corporation, on behalf of the corporation. He/She is personally *State or Place of Incorporation* known to me or has produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
Notary Public

Notary Seal

My Commission Expires:

**EXHIBIT A**

**Name of Project**

**LEGAL DESCRIPTION**

STANDARD FORM

**EXHIBIT B**

**OWNERSHIP CERTIFICATION**

I, \_\_\_\_\_, a member of the Oregon State Bar, hereby certify that the record title to the property described in **Exhibit A** to that Development Agreement for Name of Project dated the \_\_\_\_\_ day of \_\_\_\_\_, by and between The City of Lincoln City, Oregon and Name of OWNER, an Oregon ENTITY TYPE, is in the ownership of Name of Owner.

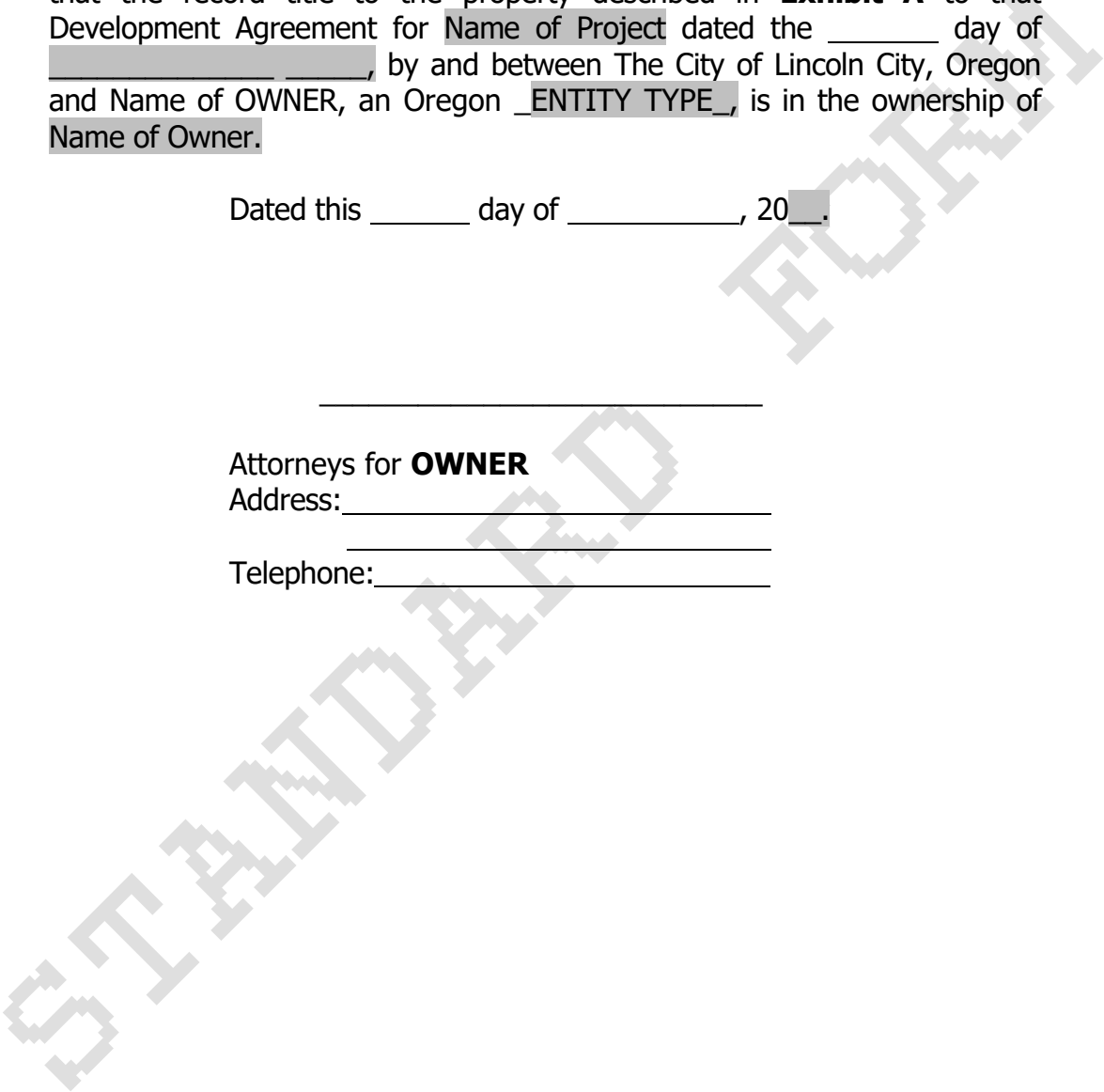
Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_

Attorneys for **OWNER**

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_



## EXHIBIT C

### UNIFIED CONTROL

We, the undersigned, being the OWNERS of the property described in Exhibit A to that to that Development Agreement for "Name of Development", dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, between The City of Lincoln City Oregon and OWNER, an Oregon \_\_\_\_\_, do hereby covenant and agree that said described property shall be held under single ownership and shall not be transferred, conveyed, sold or divided in any unit other than in its entirety; provided, however, that individual partition parcels or subdivision lots, or fully constructed condominium units, if any, may be conveyed.

In addition, the following conveyances shall be permitted:

- (1) If the project is designed and planned to be developed in phases or portions of phases, and each discrete phase or portion of a phase complies with the requirements contained within the Development Agreement and PUD Preliminary Master Plan / Master Site Plan approval, then each phase may be conveyed separately upon final master plan / final site plan and final [boundary] plat approval of that phase or approved sub-phase.
- (2) Common elements, common open area open spaces, preservation areas and developed recreation areas, if any, may be conveyed to a property owners' association or other legal entity or governmental entity, so long as such conveyance shall be subject to the express restriction that the subject property will never be used for any purpose other than as common elements, common open areas, open spaces, preservation areas or developed recreation areas, as applicable.
- (3) Other portions of the subject property that will be used or maintained by governmental, environmental, charitable or other organizations or agencies for such purposes as the City Council of the City of Lincoln City may deem appropriate.

Nothing herein contained shall limit, in any manner, the undersigned, or their successors or assigns, to mortgage or encumber the property or any part thereof. Encumbrances are encouraged to correspond to approved phase(s), legal parcel or lot lines.

The undersigned further agrees that this condition, restriction and limitation shall be deemed a covenant running with the land and shall remain in full force and effect and be binding on the undersigned, its successors and assigns, until such time as the same may be released in writing by the City of Lincoln City, Oregon.

The undersigned further agrees that this instrument may be recorded in the public



**EXHIBIT D**  
**Preliminary PUD Master Plan**  
**Master Site Plan**  
**Concept Plan**

(The approved Concept Plan / Master Site Plan / Preliminary Master Plan shall be reduced to a letter sized legible document(s) for recording as Exhibit D)

STANDARD FORM

**EXHIBIT E**  
**TIMETABLE OF DEVELOPMENT**  
**PHYSICAL COMMENCEMENT AND COMPLETION**

[ORS 94.504(4)]

This development will be constructed in discrete geographic phases as shown on Exhibit D (Concept Plan / Preliminary Master Plan / Master Site Plan) to this Agreement in accordance with the timetable of development set forth herein.

**Physical commencement** of construction of any phase of development shall occur on or before \_\_\_\_\_ from the effective date of Ordinance 20\_\_-\_\_\_\_ approving the Development Agreement. Surveying, soil testing, and authorized nuisance abatement activities do not qualify as commencement of construction. Failure to commence physical development shall cause the expiration of the Preliminary Master Plan / Master Site Plan) and shall require re-approval of the plan (and an amendment to this Agreement) in accordance with all current laws then in effect.

**Completion** of all infrastructure and vertical construction, for residential PUDs: except for detached single family units on individual platted lots, shall occur as specifically provided for in this Timetable of Development, and in no case later than fifteen (15) years from the effective date of the Ordinance 20\_\_-\_\_\_\_ approving the Development Agreement.

**The Phase Schedule** set forth below is the anticipated logical progression of the geographically discrete phases of development. Each discrete phase may however require infrastructure in other phases or in the common area and such extra-phase development must be authorized by construction plan approval and a written (blanket) easement benefitting the Phase. In this way the Phase moving forward is protected in the event other phases do not proceed or are conveyed as authorized in the Unified Control (Exhibit C), by judicial division or otherwise.

**The Timetable contains some flexibility** as described herein. Without the necessity of an amendment to this Agreement by Council, the OWNER may request an administrative adjustment to the Timetable of Development to proceed with a Phase or Phases out of the order set forth below. The Planning Director shall make the decision (as a minor amendment) on the adjustment as a Director's decision in accordance with the Code. Any adjustment shall maintain and not delay the construction of the prerequisite infrastructure and such infrastructure as needed for the applicable discrete Phase of development. The sequence may be in any order so long as the prerequisite infrastructure and other needed improvements are constructed to serve that particular phase. In addition, identified off-site improvements and payments with a time certain or specific trigger shall be made or paid as required. (e.g. if a condition requires payment with the first phase, that means any first phase). Further, the Unified Control (Exhibit C) authorizes conveyance of discrete phases in accordance with terms specified.

**Prerequisite Work:** List any soil testing, surveying or nuisance abatement or property maintenance required to maintain the subject property prior to development activities. (e.g. removal of invasive species / erosion control measures).

All timeframes below are measured from the effective date of the ordinance adopting the Development Agreement. Submission of a complete application for a Phase approvals shall be no less than 120 days prior to the approval date set forth below.

Phase	Approval of Master Site Plan,	Approval of Final Site Plan Tentative Plat (if any)	Infrastructure Completion / Final Plat(if any) /	Vertical Construction
1	Month/Day/Year	Month/Day/Year	Month/Day/Year	Month/Day/Year

Final Civil Plan Approval (construction authorization) and any associated construction permits must be obtained within \_\_\_ months (6 if not completed) of Final Site Plan Approval. Final Plat approval, if any, must be obtained within two years of Preliminary Plat approval.

Final Plat approval will not be approved without a Contract for Construction of Required Improvements with Financial Security for project infrastructure as well as a Contract for Installation and Maintenance of Plant Materials with Financial Security with respect to Phase 1 elements

Required Phase 1 elements include, but are not limited to:

- List elements in detail:

List additional Phases

Failure to strictly comply with this timetable of development requires an amendment to this Agreement and subjects the OWNER to then current laws, including but not limited to engineering construction standards, contrary to the ordinary protection of ORS 92.040.

Notwithstanding this provision, the Planning Director may extend, once, by no more than twelve (12) months, any *internal* project timetable in accordance with procedures then in

effect to extension of Preliminary Master Plan approvals.

The physical commencement deadline and fifteen (15) year completion deadline shall not be administratively extended.

After the construction termination date, no further development is authorized, except that building permits for single family units on individual platted lots shall be permitted on the subject. Any amendment to the extent of the Amendment shall comply with the laws in effect at the time the amendment is sought.

Failure of the timetable of development to list an element of the Project does not relieve or excuse the OWNER of the requirement to construct such improvement if the improvement is shown on the Preliminary Master Plan Master Site Plan as located physically within the Phase lines or adjoining right-of-way or is listed as a condition of approval for a particular phase or in the application materials and record.

**EXHIBIT F**  
**NAME OF PROJECT**  
**Special Conditions**

**Special Conditions will vary depending upon the Project**

STANDARD FORM

## Council Communication

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### Bard Road Sewer Construction Contract Award

Meeting Date:	January 27, 2020	Primary Staff Contact:	Stephanie Reid
Department:	Public Works	E-Mail:	SReid@lincolncity.org
Secondary Dept:		Secondary Contacts:	
Approval:	Ronald F Chandler	Estimated Time:	5

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#### Question:

Should the City Council award the construction contract for the Bard Road LID Sewer Project to Jesse Rodriguez Construction, LLC?

#### Staff Recommendation:

Staff recommends the construction contract be awarded to Jesse Rodriguez Construction, LLC. in the amount of \$143,005.00 with a construction contingency of \$14,300.50 (10 percent of bid amount) for a total amount of \$157,305.50.

#### 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:

The City Council approved Resolution 2019-22 in October 2019 to create a Local Improvement District to construct sanitary sewer to serve the properties on SW Bard Road. The project consists of a 370 feet of gravity sanitary sewer, three manhole structures, 800 feet of low-pressure sanitary sewer, necessary valves, fittings, and service connections for each existing property.

#### Council Options:

Council may award the construction contract to Jesse Rodriguez Construction, LLC. or may not award the construction contract to Jesse Rodriguez Construction, LLC.

#### Bids

The Public Works Department completed the design of the Bard Road Sanitary Sewer LID. The project was advertised for bid on December 4, 2019. The City Public Works Department opened bids for the project on January 9, 2020. Nine bids were received:

<b>Bidder</b>	<b>Bid Amount</b>
Jesse Rodriguez Construction, LLC	\$143,005.00
CG Contractors	\$159,910.00
K&E Excavating, Inc.	\$189,205.00
Advanced Excavation	\$194,410.00
James Drayton Trucking & Excavating	\$200,627.00
Todd Albert Construction	\$208,113.92
Pacific Excavation	\$210,852.00
3 Kings Environmental	\$232,291.00
Enterprise Northwest Inc.	\$241,433.00

The lowest responsive and responsible bidder was Jesse Rodriguez Construction, LLC in the amount of \$143,005.00.

### **Project Budget and Costs**

The following table shows the estimated project cost.

<b>Item</b>	<b>Estimated Project Cost</b>
Engineering Design and Construction Management	In-house
Surveying	In-house
Bid Advertisement	\$446.91
Bureau of Labor and Industries	\$250.00
LID Administration	\$14,300.50
Construction Bid	\$143,005.00
Construction Contingency	\$14,300.50
<b>Total</b>	<b>\$172,002.91</b>

### **Financial Impact**

The project is funded in 469-000 UNBONDED ASSESSMENT FUND which had a fund balance of \$447,587.00 as of July 1, 2019.

**Potential Motions:**

Move to award the Bard Road LID Sewer Project construction contract to Jesse Rodriguez Construction, LLC. In the amount of \$143,005.00 with a construction contingency of \$14,300.50 (10 percent of bid amount) for a total amount of \$157,305.50.

**Attachments:**

Bid Tab (PDF)

Bard Road LID				Engineer's Estimate		Jesse Rodriguez Construction, LLC		CG Contractors		K&E Excavation		Advanced Excavation		James Drayton Trucking & Excavating		Todd Albert Construction		Pacific Excavation, Inc.		3 Kings Environmental		TOTAL		
ITEMS	QUANTITY	UNIT	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL
<b>GENERAL BID ITEMS</b>																								
00210	Mobilization	1	LS	\$15,000.00	\$15,000.00	\$14,000.00	\$14,000.00	\$15,000.00	\$15,000.00	\$18,000.00	\$18,000.00	\$15,800.00	\$15,800.00	\$19,000.00	\$19,000.00	\$19,800.00	\$19,800.00	\$20,700.00	\$20,700.00	\$55,000.00	\$55,000.00	\$17,362.00	\$17,362.00	
00225	Temporary Work Zone Traffic Control, Complete	1	LS	\$15,000.00	\$15,000.00	\$1,000.00	\$1,000.00	\$1,000.00	\$1,000.00	\$6,000.00	\$6,000.00	\$7,950.00	\$7,950.00	\$10,000.00	\$10,000.00	\$10,000.00	\$10,000.00	\$2,600.00	\$2,600.00	\$10,000.00	\$10,000.00	\$6,800.00	\$6,800.00	
00415	Video Inspection	1	LS	\$1,000.00	\$1,000.00	\$1,750.00	\$1,750.00	\$3,000.00	\$3,000.00	\$1,300.00	\$1,300.00	\$5,096.00	\$5,096.00	\$4,000.00	\$4,000.00	\$2,150.00	\$2,150.00	\$2,100.00	\$2,100.00	\$2,500.00	\$2,500.00	\$3,574.00	\$3,574.00	
	HDPE Pressure Testing per specification	1	LS	\$800.00	\$800.00	\$500.00	\$500.00	\$1,500.00	\$1,500.00	\$1,500.00	\$1,500.00	\$2,480.00	\$2,480.00	\$3,500.00	\$3,500.00	\$1,000.00	\$1,000.00	\$3,100.00	\$3,100.00	\$1,250.00	\$1,250.00	\$2,300.00	\$2,300.00	
00445	8" Pipe, PVC 3034, Class B Backfill, 0-10 feet Depth	371	FT	\$90.00	\$33,390.00	\$107.00	\$39,697.00	\$68.00	\$25,228.00	\$95.00	\$35,245.00	\$103.00	\$38,213.00	\$80.00	\$29,680.00	\$68.00	\$25,228.00	\$108.00	\$40,068.00	\$55.00	\$20,405.00	\$130.00	\$48,230.00	
00445	6" Pipe, PVC 3034, Class B Backfill, 0-10 feet Depth	32	FT	\$70.00	\$2,240.00	\$57.00	\$1,824.00	\$66.00	\$2,112.00	\$110.00	\$3,520.00	\$109.00	\$3,488.00	\$195.00	\$6,240.00	\$78.00	\$2,496.00	\$80.00	\$2,560.00	\$146.00	\$4,672.00	\$104.00	\$3,328.00	
00445	4" Pipe, PVC 3034, Class B Backfill, 0-10 feet Depth	54	FT	\$50.00	\$2,700.00	\$55.00	\$2,970.00	\$53.00	\$2,862.00	\$90.00	\$4,860.00	\$93.00	\$5,022.00	\$120.00	\$6,480.00	\$11.00	\$594.00	\$70.00	\$3,780.00	\$91.00	\$4,914.00	\$99.00	\$5,346.00	
00445	3" Pipe, HDPE Solid Weld, IPS, DR11, Class B Backfill, All Depths	809	FT	\$65.00	\$52,585.00	\$24.00	\$19,416.00	\$50.00	\$40,450.00	\$50.00	\$40,450.00	\$59.00	\$47,731.00	\$45.00	\$36,405.00	\$41.00	\$33,169.00	\$65.00	\$52,585.00	\$41.00	\$33,169.00	\$84.00	\$67,956.00	
00445	2" Pipe, HDPE Solid Weld, IPS, DR11, Class B Backfill, All Depths	186	FT	\$60.00	\$11,160.00	\$23.00	\$4,278.00	\$48.00	\$8,928.00	\$55.00	\$10,230.00	\$58.00	\$10,788.00	\$42.00	\$7,812.00	\$64.29	\$11,957.94	\$62.00	\$11,532.00	\$48.00	\$8,928.00	\$77.00	\$14,322.00	
00445	1 1/4" Pipe, HDPE Solid Weld, IPS, DR11, Class B Backfill, All Depths	120	FT	\$50.00	\$6,000.00	\$22.00	\$2,640.00	\$42.00	\$5,040.00	\$70.00	\$8,400.00	\$57.00	\$6,840.00	\$125.00	\$15,000.00	\$13.55	\$1,626.00	\$61.00	\$7,320.00	\$43.00	\$5,160.00	\$68.00	\$8,160.00	
00445	8" x 4" Tee	1	EA	\$300.00	\$300.00	\$80.00	\$80.00	\$1,100.00	\$1,100.00	\$220.00	\$220.00	\$88.00	\$88.00	\$150.00	\$150.00	\$51.30	\$51.30	\$59.00	\$59.00	\$211.00	\$211.00	\$104.00	\$104.00	
00445	8" x 6" Tee	2	EA	\$350.00	\$700.00	\$90.00	\$180.00	\$1,200.00	\$2,400.00	\$220.00	\$440.00	\$89.00	\$178.00	\$180.00	\$360.00	\$53.07	\$106.14	\$61.00	\$122.00	\$300.00	\$600.00	\$107.00	\$214.00	
00445	2" x 1 1/4" Solid Weld or Electrofusion Saddle Tee	1	EA	\$300.00	\$300.00	\$50.00	\$50.00	\$650.00	\$650.00	\$130.00	\$130.00	\$134.00	\$134.00	\$300.00	\$300.00	\$37.73	\$37.73	\$43.00	\$43.00	\$200.00	\$200.00	\$424.00	\$424.00	
00445	2" x 2" Solid Weld or Electrofusion Saddle Tee	1	EA	\$350.00	\$350.00	\$25.00	\$25.00	\$690.00	\$690.00	\$130.00	\$130.00	\$105.00	\$105.00	\$400.00	\$400.00	\$7.76	\$7.76	\$9.00	\$9.00	\$175.00	\$175.00	\$207.00	\$207.00	
00445	3" x 2" Solid Weld or Electrofusion Saddle Tee	4	EA	\$400.00	\$1,600.00	\$75.00	\$300.00	\$710.00	\$2,840.00	\$130.00	\$520.00	\$156.00	\$624.00	\$400.00	\$1,600.00	\$45.56	\$182.24	\$52.00	\$208.00	\$138.00	\$552.00	\$185.00	\$740.00	
00445	3" x 1 1/4" Solid Weld or Electrofusion Saddle Tee	7	EA	\$400.00	\$2,800.00	\$75.00	\$525.00	\$680.00	\$4,760.00	\$130.00	\$910.00	\$178.00	\$1,246.00	\$440.00	\$3,080.00	\$45.10	\$315.70	\$52.00	\$364.00	\$220.00	\$1,540.00	\$198.00	\$1,386.00	
00445	4" Cleanout	2	EA	\$500.00	\$1,000.00	\$550.00	\$1,100.00	\$900.00	\$1,800.00	\$350.00	\$700.00	\$245.00	\$490.00	\$300.00	\$600.00	\$148.43	\$296.86	\$170.00	\$340.00	\$800.00	\$1,600.00	\$699.00	\$1,398.00	
00445	6" Cleanout	2	EA	\$750.00	\$1,500.00	\$625.00	\$1,250.00	\$1,000.00	\$2,000.00	\$400.00	\$800.00	\$313.00	\$626.00	\$360.00	\$720.00	\$225.79	\$451.58	\$260.00	\$520.00	\$900.00	\$1,800.00	\$741.00	\$1,482.00	
00470	Construct Standard MH (48") & Replace Existing CleanOut	1	LS	\$5,000.00	\$5,000.00	\$5,500.00	\$5,500.00	\$5,400.00	\$5,400.00	\$4,500.00	\$4,500.00	\$3,799.00	\$3,799.00	\$4,500.00	\$4,500.00	\$10,100.00	\$10,100.00	\$5,350.00	\$5,350.00	\$4,700.00	\$4,700.00	\$3,698.00	\$3,698.00	
00470	Standard Manhole (48")	1	LS	\$4,500.00	\$4,500.00	\$4,625.00	\$4,625.00	\$4,500.00	\$4,500.00	\$4,500.00	\$4,500.00	\$4,034.00	\$4,034.00	\$4,500.00	\$4,500.00	\$7,136.00	\$7,136.00	\$5,350.00	\$5,350.00	\$4,000.00	\$4,000.00	\$4,044.00	\$4,044.00	
00470	Standard Manhole (48") & Stubouts	1	EA	\$6,000.00	\$6,000.00	\$4,800.00	\$4,800.00	\$4,800.00	\$4,800.00	\$4,500.00	\$4,500.00	\$3,917.00	\$3,917.00	\$4,800.00	\$4,800.00	\$9,000.00	\$9,000.00	\$5,350.00	\$5,350.00	\$4,000.00	\$4,000.00	\$4,044.00	\$4,044.00	
00470	Standard Manhole Frame & Cover	3	EA	\$500.00	\$1,500.00	\$400.00	\$1,200.00	\$300.00	\$900.00	\$500.00	\$1,500.00	\$590.00	\$1,770.00	\$500.00	\$1,500.00	\$540.50	\$1,621.50	\$210.00	\$630.00	\$250.00	\$750.00	\$655.00	\$1,965.00	
	Connect 3" HDPE to Manhole and Drop Assembly	1	LS	\$1,500.00	\$1,500.00	\$700.00	\$700.00	\$900.00	\$900.00	\$1,500.00	\$1,500.00	\$974.00	\$974.00	\$1,500.00	\$1,500.00	\$2,050.00	\$2,050.00	\$2,500.00	\$2,500.00	\$1,500.00	\$1,500.00	\$462.00	\$462.00	
	2" Service Valve Box & Lateral Assembly with all Fittings & End of Service Marker	5	EA	\$1,200.00	\$6,000.00	\$1,550.00	\$7,750.00	\$1,200.00	\$6,000.00	\$1,700.00	\$8,500.00	\$1,518.00	\$7,590.00	\$1,200.00	\$6,000.00	\$2,759.00	\$13,795.00	\$1,650.00	\$8,250.00	\$4,000.00	\$20,000.00	\$2,336.00	\$11,680.00	
	1 1/4" Service Valve Box & Lateral Assembly with all Fittings & End of Service Marker	7	EA	\$1,000.00	\$7,000.00	\$1,550.00	\$10,850.00	\$1,100.00	\$7,700.00	\$1,200.00	\$8,400.00	\$1,058.00	\$7,406.00	\$1,200.00	\$8,400.00	\$2,173.00	\$15,211.00	\$1,170.00	\$8,190.00	\$2,500.00	\$17,500.00	\$1,464.00	\$10,248.00	
	45 Degree Bend (2-Inch Solid Weld)	1	EA	\$500.00	\$500.00	\$25.00	\$25.00	\$500.00	\$500.00	\$170.00	\$170.00	\$134.00	\$134.00	\$200.00	\$200.00	\$7.61	\$7.61	\$10.00	\$10.00	\$340.00	\$340.00	\$179.00	\$179.00	
	22 1/2 Degree Bend (3-Inch Solid Weld)	3	EA	\$500.00	\$1,500.00	\$75.00	\$225.00	\$500.00	\$1,500.00	\$170.00	\$510.00	\$165.00	\$495.00	\$200.00	\$600.00	\$46.02	\$138.06	\$49.00	\$147.00	\$225.00	\$675.00	\$143.00	\$429.00	
	3" x 2" Solid Weld Reducer	1	EA	\$500.00	\$500.00	\$25.00	\$25.00	\$400.00	\$400.00	\$170.00	\$170.00	\$134.00	\$134.00	\$400.00	\$400.00	\$9.50	\$9.50	\$15.00	\$15.00	\$600.00	\$600.00	\$135.00	\$135.00	
	End of Line Flushing Station (Complete)	1	LS	\$2,000.00	\$2,000.00	\$2,500.00	\$2,500.00	\$1,000.00	\$1,000.00	\$3,000.00	\$3,000.00	\$1,108.00	\$1,108.00	\$2,500.00	\$2,500.00	\$9,200.00	\$9,200.00	\$2,550.00	\$2,550.00	\$3,500.00	\$3,500.00	\$2,760.00	\$2,760.00	
	Air Vacuum/Release Valve (Complete)	1	LS	\$3,500.00	\$3,500.00	\$9,000.00	\$9,000.00	\$1,000.00	\$1,000.00	\$9,000.00	\$9,000.00	\$8,695.00	\$8,695.00	\$12,500.00	\$12,500.00	\$11,515.00	\$11,515.00	\$12,500.00	\$12,500.00	\$12,000.00	\$12,000.00	\$8,986.00	\$8,986.00	
00640	Roadway Grading with 3/4-0"	10	CY	\$100.00	\$1,000.00	\$27.00	\$270.00	\$60.00	\$600.00	\$100.00	\$1,000.00	\$75.00	\$750.00	\$40.00	\$400.00	\$250.00	\$2,500.00	\$57.00	\$570.00	\$200.00	\$2,000.00	\$63.00	\$630.00	
00744	Repair Sewer Trench with 3 Inches Asphalt	110	FT	\$30.00	\$3,300.00	\$30.00	\$3,300.00	\$25.00	\$2,750.00	\$60.00	\$6,600.00	\$42.00	\$4,620.00	\$30.00	\$3,300.00	\$12.00	\$1,320.00	\$83.00	\$9,130.00	\$25.00	\$2,750.00	\$61.00	\$6,710.00	
	Landscape Restoration, Top Soil and Seeding Per Construction notes	1	LS			\$500.00	\$500.00	\$500.00	\$500.00	\$1,500.00	\$1,500.00	\$1,400.00	\$1,400.00	\$4,000.00	\$4,000.00	\$15,000.00	\$15,000.00	\$1,800.00	\$1,800.00	\$4,400.00	\$4,400.00	\$1,865.00	\$1,865.00	
	Mailbox Relocation and Post Replacement	1	EA			\$150.00	\$150.00	\$100.00	\$100.00	\$500.00	\$500.00	\$685.00	\$685.00	\$200.00	\$200.00	\$40.00	\$40.00	\$500.00	\$500.00	\$900.00	\$900.00	\$265.00	\$265.00	
	<b>Total LID Costs</b>				<b>\$192,225.00</b>		<b>\$143,005.00</b>		<b>\$159,910.00</b>		<b>\$189,205.00</b>		<b>\$194,410.00</b>		<b>\$200,627.00</b>		<b>\$208,113.92</b>		<b>\$210,852.00</b>		<b>\$232,291.00</b>		<b>\$241,433.00</b>	

## Council Communication

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### Economic Development Toolbox for City: Update, Committee, New Tools, Discussion

Meeting Date:	January 27, 2020	Primary Staff Contact:	Alison Robertson
Department:	Urban Renewal	E-Mail:	alisonr@lincolncity.org
Secondary Dept:		Secondary Contacts:	
Approval:	Ronald F Chandler	Estimated Time:	25 Minutes

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#### Objective:

The objectives of this meeting are to:

- 1) provide the City Council with an **update** on the Economic Development Tools and associated program criteria,
- 2) create a **City Loan and Grant Committee**, like the one for the Urban Renewal Agency,
- 3) **adopt** new City Economic Development Tools, and
- 4) **discuss** questions related to program criteria.

#### Background:

- Attached is the March 25, 2019, staff report with in-depth background on past years of development of the toolbox for the Urban Renewal Agency.
- March 25, 2019, Agency and City both approved all Economic Development Tool objectives. Criteria for new Agency and City tools to be researched and brought back to the Agency and City for final program approval. City funds to be held for one year with public development site partnerships to have priority over fund requests. City toolbox funds will be available starting May 14, 2020.

#### Update:

The following outlines the plan to bring the full list of toolbox items to completion, with fully developed criteria:

- a. Reformatting existing tools for consistency
- b. Combined documents for UR and City Economic Development tools
- c. One application format to be used for all programs
- d. Proposed plan:
  - i. Phase 1 – adopt existing UR tools for City toolbox
  - ii. Phase 2 – adopt new tools: Infrastructure partners and Pre-Development Assistance for UR and City toolbox

- iii. Phase 3 – Adopt new housing tools: Energy Efficiency for residential, Façade Improvement for Residential, Mixed-Use Housing, Workforce Housing for UR and City toolbox
- iv. Phase 4 – Adopt new tools: Building Rehabilitation Grant for UR and City toolbox if both bodies approve grant programs
- v. Revisit remaining tools and timeline for adoption

### **City Loan and Grant Committee:**

Staff recommends that the Urban Renewal Agency Loan and Grant Committee members be accepted as the same City Loan and Grant Committee to review all Loan and Grant program applications.

***Possible Motion:*** *To accept the current members of the Urban Renewal Agency Loan and Grant Committee (Diane Kusz, Diana Hinton (URA 2020 Chair), and Dick Anderson (Mayor) as the City Loan and Grant Committee.*

### **New Tools:**

Phase 1 of the proposed Economic Development Toolbox formation is to adopt four of the existing tools of the Urban Renewal Agency for the City Toolbox. That way each toolbox is the same, but would vary based on funding and whether or not the applicant is located within, or outside, the Urban Renewal Year 2000 Development Plan Area boundary. The four tools available for adoption are:

- a. Business Expansion (0%- 2% Interest) Loan Program
- b. Local Program Support (Grant)
- c. Energy Efficiency (0% Interest) Loan Program
- d. Façade Improvement (0% Interest) Loan Program

There is a fifth tool, the Downtown Manager Tool, that was a 2-year pilot project with the Bay Area Merchants Association (BAMA). Funding for this tool will expire by June 30, 2020. BAMA has submitted a new proposal for the Urban Renewal Agency to discuss (previous to this City Council meeting) that may, or may not be adopted as a tool by the City Council for future consideration.

***Possible Motion:*** *To adopt the existing tools of the Urban Renewal Agency for the City's Economic Development Toolbox. This would include the Business Expansion Loan, the Local Program Support Grant, the Energy Efficiency Loan, and the Façade Improvement Loan. [Downtown Manager Tool could also be adopted as a tool with the understanding that applications would be reviewed by the Loan and Grant Committee on a first-come, first-served basis.]*

**Discussion: Questions for consideration:**

Staff will need direction on the Agency's desired outcomes with the new Economic Development Tools and any required criteria for the tools, or incentives. The list of tools is attached.

- a. Will City provide loan forgiveness and grants? If so, for how much and in what circumstances?
- b. Will City increase loan interest rates to accommodate administrative program costs?
- c. What criteria should City require for grant approval?
  - vi. Could consider jobs created/retained, local jobs (how local), tax increase through redevelopment or significant renovation (at least 50% value), wages (higher/lower than living wage)
  - vii. Incentives: grant received, or loan forgiven, only at meeting certain threshold of job count, wage level, etc.
- d. New inquiry for assistance with rip rap or shoreline stabilization was received. Could this be included in any of the existing tools?

**Budget:**

The Agency has budgeted about \$500,000 for the Property Rehab Program Fund (832) for all the available tools.

The City has a remaining FY219-20 budget of \$75,000 for all Economic Development Tools. Multiple tools are being created and funding would be available as a first come, first served basis, with our partner developers having priority until May 14, 2020.

**Attachments:**

Application\_AllPrograms\_DRAFT\_01162020 (PDF)  
 BusinessExpansion\_DRAFT\_01162020 (PDF)  
 EnergyEfficiency\_Commercial\_DRAFT\_01162020(PDF)  
 FacadeImprovements\_Commercial\_DRAFT\_01162020 (PDF)  
 LocalProgramSupport\_DRAFT\_01162020 (PDF)  
 EC DEv Plan-Draft OutlineV.21\_Staff\_w\_Notes (PDF)



# Lincoln City Urban Renewal and Economic Development Application for Assistance

**1. Economic Development Program requested:**  
(See Economic Development Toolbox program descriptions) \_\_\_\_\_

**2. Applicant / Operating Business**

Name: \_\_\_\_\_  
Tax ID#: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_  
Project Address: \_\_\_\_\_  
Contact Person: \_\_\_\_\_  
Phone: \_\_\_\_\_  
Email: \_\_\_\_\_

**3. Owner of property (if not applicant)**

Name: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_  
Phone: \_\_\_\_\_  
Email: \_\_\_\_\_

**4. Brief description of the proposed project:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**5. Estimated project completion date:** \_\_\_\_\_

**6. Total cost of project:** \_\_\_\_\_

**7. Amount of Loan/Grant request:** \_\_\_\_\_

**8. For Energy Efficiency programs:**

Total Incentives: \_\_\_\_\_ Total Credits: \_\_\_\_\_

**9. If applicant is not the owner of the subject property, does applicant have:**

Lease: \_\_\_\_\_ Yes \_\_\_\_\_ No Expires: \_\_\_\_\_  
Other: \_\_\_\_\_

**10. To be included with application:**

_____ Authorization from Property Owner (as needed)	_____ Evidence of ownership page (Business and Property, as applicable)
_____ Plot plan (as needed)	_____ Preliminary design drawings (as needed)
_____ Cost estimate from licensed contractor (as applicable)	_____ Property equity information
_____ Energy Assessment and evidence of project registration (for Energy Efficiency programs)	

**11. Applicant to Coordinate with Planning and Public Works Departments**

The applicant understands that the approval of funding is separate from any required reviews, approvals, building permits, fees, and/or any granting of change in property use.

The applicant and the property owner are responsible to coordinate with the appropriate County and/or City Planning and Public Works Departments.

**12. Certification by Applicant**

The applicant certifies that all information in this application, and all information furnished in support of this application is true and complete to the best of the applicant's knowledge.

If the applicant is not the owner of the property to be renovation, or if the applicable business is a partnership, corporation, etc. rather than an individual, the applicant certifies that he/she/they has the authority to sign and enter into an agreement to perform any renovation or other work associated with this proposed project, on the property.

Applicant is current with all City taxes, licenses and fees.

\_\_\_\_\_  
Applicant's Signature Date

\_\_\_\_\_  
Applicant's Signature Date

**Return completed application and all necessary attachments to:**

Lincoln City Urban Renewal  
801 SW Hwy 101 – P.O. Box 50  
Lincoln City, Oregon 97367

For additional information, call Lincoln City Urban Renewal at 541-996-1095

## BUSINESS EXPANSION PROGRAM

### PROGRAM GOAL

The goal of this program is to provide existing businesses and non-profit organizations with funding for business expansion including building renovation, additions to existing buildings, equipment purchase, business diversification and relocation assistance.

### FINANCING

There are two funding sources for this program; City Economic Development funds (*funds are restricted to public property development partnerships until after May 14, 2020*) and Urban Renewal funds (if the property is located within the Year 2000 Urban Renewal District). Funds are subject to availability of annual funding. This program can only provide funds for future work; not refinancing of completed work.

Loan amount requested determines some program requirements. Please see the following varied requirements and fees for each range of requested loan amount for City or Urban Renewal funds:

\$1,000 - \$2,500 Loan Amount (Tier 1 Loan)	
Interest Rate	0%
Payback Term	4 Years
Private Contribution of Total Project Cost	Waived
Monthly Servicing Fee	\$12
Deposit toward Loan Processing Fees (ex. Credit Report, etc.)	Waived
Collateral Type	Personal Guarantee

\$2,501 - \$25,000 Loan Amount (Tier 2 Loan)	
Interest Rate	1.5% (Fixed)
Payback Term	6 Years
Private Contribution of Total Project Cost	10%
Monthly Servicing Fee	\$12
Deposit toward Loan Processing Fees (ex. Credit Report, Title Report, etc.)	\$300 (Non-Refundable)
Collateral Type	Business Assets & Personal Property

\$25,001 - \$75,000 Loan Amount (Tier 3 Loan)	
Interest Rate	2% (Fixed)
Payback Term	10 Years
Private Contribution of Total Project Cost	15%
Monthly Servicing Fee	\$12
Deposit toward Loan Processing Fees (ex. Credit Report, Title Report, etc.)	\$500 (Non-Refundable)
Collateral Type	Business Assets & Personal Property
Job Creation/Retention Requirement	For <u>loans of \$50,000 or more</u> - applicant <u>must</u> show evidence that this Business Expansion Loan will create a high probability of adding or retaining staff.

**ELIGIBILITY**

- Eligible activities: including, but not limited to, business expansion including building renovation, additions to existing buildings, equipment purchase, essential furnishing, business diversification, relocation assistance and improvements which enhance the pedestrian environment.
- Ineligible activities: including, but not limited to, working capital, refinancing of existing debt, security systems, personal property, inventory, billboards, and credit card debt.

**APPLICATION PROCESS**

1. Forms are available online ([www.LincolnCity.org](http://www.LincolnCity.org)) and in the Urban Renewal Office, City Hall, 801 SW Highway 101, Room 350. Submit completed pre-application form to the Urban Renewal (UR) Office. UR and City staff will initially determine when a pre-application is substantially complete and meets the program objectives. Completed applications will include in part:
  - pre-application form
  - requested loan amount
  - evidence of property and/or business ownership
  - property equity information
  - preliminary design drawings
  - itemized cost estimates from suppliers or licensed contractor, as applicable
  - description of business expansion plan, including intended staffing objectives
  - intended staffing objectives
  - estimated project completion time
2. Pre-application is forwarded to the Outside Loan Officer who will request preliminary title reports, credit reports, and appraisals or will perform alternative procedures to determine credit worthiness of the applicant for the proposed project. The applicant must demonstrate the ability to repay the loan in a timely manner and may be asked to provide the following information to the Outside Loan Officer:
  - Business Plan or detailed description of your business
  - Breakdown of use of funds for the project
  - Personal financial statements
  - Resumes of business owner
  - Business income statement and balance sheet for past 3 years
  - Projected Income Statements
3. Outside Loan Officer provides summarized financial information about the applicant's ability to repay the loan to UR and City staff to include in the application packet for the UR or City Loan and Grant Committee (Committee) to review. The request is issued an anonymous loan number.
4. Application packet is presented to the Committee to determine whether the project meets the mission and purpose of the Business Expansion Program and for tentative approval to process. The Committee, at its discretion, may consider other conditions or building appurtenances.
5. If the Committee recommends approval, the application packet is sent to either the Urban Renewal Agency or City Council for final approval. In certain circumstances, the Urban Renewal Agency or City Council may authorize a higher loan amount.

**CONDITIONS AND CONSIDERATIONS**

1. The Urban Renewal Agency shall have the sole authority to approve an application to receive Urban Renewal funds. City Council shall have the sole authority to approve an application to receive City Economic Development funds.
2. The borrower must demonstrate the ability to repay the loan in a timely manner.
3. Processing and closing fees are paid by the borrower and not included in the loan amount, unless otherwise noted.
4. The bank loan is to be a construction-type loan. Funds are disbursed as work is completed and verified.
5. Equipment purchase or construction must begin within six months and completed within twelve months of Urban Renewal Agency or City Council approval.
6. Repayment begins after first draw request, with payments based on entire loan amount.
7. Loan cancellation and repayment occur if borrower fails to comply with the conditions of the loan. Penalties may apply.
8. Applicants must be current with all applicable taxes, licenses and fees.
9. For improvements to real property, where not currently available, the plan must meet American with Disabilities Act compliance for accessibility from at least one entrance at street level.
10. Note is due upon refinancing or sale of the business or property as applicable.
11. Before any funds are distributed, loan applicant must obtain all necessary approvals including those from Lincoln City Planning and Public Works Departments.

**COLLECTION POLICY**

Delinquencies, collection procedures, and foreclosures will be in accordance with procedures of all participating financial partners.



For more information, please contact the  
Lincoln City Urban Renewal Office at 541-996-1095



## ENERGY EFFICIENCY PROGRAM

### PROGRAM GOAL

The goal of this program is to provide funds for existing commercial properties and businesses to assist in reducing energy costs by improving building systems and business operations. [Please note: Vacation Rental Dwellings (VRDs) are not considered commercial buildings.]

Projects must be registered with Energy Trust of Oregon and/or USDA Rural Development REAP Grant Program. Energy Efficiency must meet the minimum Standard Incentives through Energy Trust of Oregon and/or the USDA Rural Development REAP Grant Program requirements. This Energy Efficiency Program acts as a “gap” funding to make possible energy efficiency improvements to commercial buildings.

### FINANCING

There are two funding sources for this program; City Economic Development funds (*funds are restricted to public property development partnerships until after May 14, 2020*) and Urban Renewal funds (if the property is located within the Year 2000 Urban Renewal District). Funds are subject to availability of annual funding. This program can only provide funds for future work; not refinancing of completed work.

- Multiple loans for multiple properties having the same owner are available, so long as the total loan amounts do not exceed \$150,000 (\$75,000 maximum per property per fiscal year).
- This loan may be combined with other Urban Renewal or City Economic Development Loans given the total loan amounts remain under \$75,000 in one year (not to exceed \$150,000).
- This program offers a 0% interest rate loan with no pre-payment penalty.
- It is recommended that any operation business attain other applicable certification
- Projects that do not comply with submitted plans will not qualify for 0% financing. They may assess the current prime rate of interest plus a two percent penalty.
- Applicants may request a waiver of costs in cases where an energy study (rather than assessment) is needed.

Financing for Property Owners:

- Must have 30% equity interest in property
- \$150,000 maximum secured loan per property
- Up to ten-year payback, fully amortized through monthly payments

Financing for Business Owners

- Must provide written authorization for any building alterations from property owner
- \$5,000 maximum personally guaranteed loan to business owners
- Up to five-year payback, fully amortized through monthly payments

### ELIGIBILITY

- Eligible activities: including, but not limited to, rehabilitation, renovation or replacement of existing building systems such as HVAC (Heating, Ventilation, Air Conditioning), lighting, hot water (solar, electric, gas), insulation, equipment (washing machines, dryers, refrigeration), etc.

- Ineligible activities (including, but not limited to): working capital, refinancing of existing debt, security systems, personal property, furnishings, inventory, billboards

### APPLICATION PROCESS

1. Contact Energy Trust of Oregon and/or USDA REAP Program to register the project and receive free Energy Assessment and determine proposed project, and register the project with ETO or USDA Rural Development Program.
  - Energy Trust of Oregon  
Call 1-866-368-7878 to inquire about program incentives and register your project. To submit an Energy Assessment Request with the Energy Trust of Oregon visit:  
<https://energytrust.org/forms/commercial/ExistingBuildingIntakeForms/ShowForm/Form100E>
  - USDA Rural Development  
Call 1-503-414-3369 to inquire about program incentives and register your project;  
Or visit: [http://www.rurdev.usda.gov/ORbcp\\_energy.html](http://www.rurdev.usda.gov/ORbcp_energy.html)
2. Obtain cost estimates for proposed project work.
3. Forms are available online ([www.LincolnCity.org](http://www.LincolnCity.org)) and in the Urban Renewal (UR) Office, City Hall, 801 SW Highway 101, Room 350. Submit completed pre-application form with energy assessment and cost estimates to UR Office. UR and City staff will initially determine when a pre-application is complete and meets the program objectives. Completed pre-applications will include:
  - Pre-application form
  - Evidence of property and/or business ownership
  - Preliminary design drawing
  - Property equity information
  - Description of methods and materials to be used
  - Itemized cost estimates from licensed contractor
4. Pre-application is forwarded to the Outside Loan Officer who will request preliminary title reports, credit reports, and appraisals or will perform alternative procedures to determine credit worthiness of the applicant for the proposed project. The borrower must demonstrate the ability to repay the loan in a timely manner.
5. Outside Loan Officer provides summarized financial information about the applicant's ability to repay the loan to UR and City staff to include in the application packet for the UR of City Loan and Grant Committee (Committee) to review.
6. Application packet is presented to the Committee for discussion and consideration. The Committee, at its discretion, may consider other conditions or building appurtenances.
7. If the Committee recommends loan approval, the request is issued an anonymous loan number and sent to the Urban Renewal Agency or City Council for final approval. In certain circumstances the Agency may authorize a higher loan amount.

### CONDITIONS AND CONSIDERATIONS

1. The Urban Renewal Agency shall have the sole authority to approve an application to receive Urban Renewal funds. City Council shall have the sole authority to approve an application to receive City Economic Development funds.
2. The borrower must demonstrate the ability to repay the loan in a timely manner.

3. Processing and closing fees are paid by the borrower and not included in the loan amount, unless otherwise noted.
4. The bank loan is a construction-type loan. Funds are disbursed as work is completed and verified.
5. Equipment purchase or construction must begin within six months and completed within twelve months of Urban Renewal Agency or City Council approval.
6. Repayment begins after first draw request, with payments based on entire loan amount.
7. Loan cancellation and repayment occur if borrower fails to comply with the conditions of the loan. Penalties may apply.
8. Applicants must be current with all applicable taxes, licenses and fees.
9. Any work impacting exterior facades shall be updated and integrated into a design that complements adjacent structures to provide a harmonious composition of masses, materials, colors, and textures. Building components, if any (windows, doors, eaves and parapets), shall have good proportions and relationship to one another. Lighting standards and fixtures shall be of a design and size compatible with the building and adjacent areas. Design attention shall be given to mechanical equipment or other utility hardware so as to screen them from view to the extent feasible.
10. Minor addition(s) to an existing structure do not increase the square footage of the existing structure by more than 50%.
11. Note is due upon refinancing or sale of the business or property as applicable.
12. Before any funds are distributed, loan applicant must obtain all necessary approvals including those from Lincoln City Planning and Public Works Departments.

### COLLECTION POLICY

Delinquencies, collection procedures, and foreclosures will be in accordance with procedures of all participating financial partners.



For more information, please contact the  
Lincoln City Urban Renewal Office at 541-996-1095



## FAÇADE IMPROVEMENT PROGRAM

### PROGRAM GOAL

The goal of this program is to provide renovation and rehabilitation funds for commercial properties to assist in alleviating blight conditions, to improve building structures, and to compliment local design characteristics. The program contracts with local design professionals for design services.

### FINANCING

There are two funding sources for this program; City Economic Development funds (*funds are restricted to public property development partnerships until after May 14, 2020*) and Urban Renewal funds (if the property is located within the Year 2000 Urban Renewal District). Funds are subject to availability of annual funding. This program can only provide funds for future work; not refinancing of completed work.

- Funds can be used for structural and aesthetic building improvements, but must include façade improvements.
- Projects that do not comply with submitted plans will not qualify for 0% financing. They may be assessed the current prime rate of interest plus a two percent penalty.
- Multiple façade improvement loans for multiple properties having the same owner are available, so long as the total loan amounts do not exceed \$150,000.

#### Financing for Property Owners

- Property owners must have 30% equity interest in property
- \$150,000 maximum secured loan to property owners
- Zero percent interest rate
- Loan processing and closing costs paid by borrower
- Ten-year payback, fully amortized through monthly payments
- Up to twenty hours of free design consultation (max. \$1,200.00)

#### Financing for Business Owners

- If the applicant is not the owner of the property to be renovated, written authorization from the property owner must be submitted with the application.
- \$ 5,000 maximum personally guaranteed loan to business owners
- Zero percent interest rate
- Loan processing and closing costs paid by borrower
- Five-year payback, fully amortized through monthly payments
- Up to ten hours of free design consultation (max: \$600.00)

### ELIGIBILITY

- Eligible activities: including, but not limited to, rehabilitation of building facades, including masonry cleaning, cornice restoration, new siding, exterior painting, canopies, and window awnings, repair to gutters and downspouts, removal of old signs and replacement of new conforming signs, Americans with Disabilities Act compliance and improvements which enhance the pedestrian environment. A plan that includes façade improvements may be eligible for structural repairs, rot repair, roofing, sidewalks, walkways, public plaza, interior renovations of public space, lighting, code compliance, minor additions, and "Pearl" projects. A Pearl project would be work that supports the Community Vision for the related district.
- The loan program is available to businesses for signage without the façade requirement under these conditions:

- The sign and business is located in a Historic Business District (Pearl), and
- The Historic Business District has established signage guidelines, or
- An existing sign is being brought into compliance
- Ineligible activities: including, but not limited to, working capital, refinancing of existing debt, security systems, personal property, furnishings, inventory, billboards.

#### **PROGRAM FAÇADE AND DESIGN GUIDELINES**

1. Minor addition(s) to an existing structure do not increase the square footage of the existing structure by more than 50%
2. Exterior facades shall be updated and integrated into a design that complements adjacent structures to provide a harmonious composition of masses, materials, colors, and textures.
3. Lighting standards and fixtures shall be of a design and size compatible with the building and adjacent areas.
4. Building components, such as windows, doors, eaves and parapets, shall have good proportions and relationship to one another.
5. Design attention shall be given to mechanical equipment or other utility hardware so as to screen them from view to the extent feasible.
6. Signs will be a part of the architectural concept. Size, materials, color, lettering and location shall be harmonious with the building design and the number of signs shall be minimized.

#### **APPLICATION PROCESS**

1. Forms are available online ([www.LincolnCity.org](http://www.LincolnCity.org)) and in the Urban Renewal Office, City Hall, 801 SW Highway 101, Room 350. Submit completed pre-application form to the Urban Renewal (UR) Office. UR and City staff will initially determine when a pre-application is substantially complete and meets the program objectives. Completed applications will include in part:
  - pre-application form
  - requested loan amount
  - evidence of property and/or business ownership
  - property equity information
  - preliminary design drawings
  - itemized cost estimates from a licensed contractor
  - description of methods and materials to be used
  - estimated project completion time
2. Pre-application is forwarded to the Outside Loan Officer who will request preliminary title reports, credit reports, and appraisals or will perform alternative procedures to determine credit worthiness of the applicant for the proposed project. The applicant must demonstrate the ability to repay the loan in a timely manner and may be asked to provide the following information to the Outside Loan Officer:
  - Business Plan or detailed description of your business
  - Breakdown of use of funds for the project
  - Personal financial statements
  - Resumes of business owner
  - Business income statement and balance sheet for past 3 years
  - Projected Income Statements
3. Outside Loan Officer provides summarized financial information about the applicant's ability to repay the loan to UR and City staff to include in the application packet for the UR or City Loan and Grant Committee (Committee) to review.

4. Application packet is presented to the Committee to determine whether the project meets the mission and purpose of the Business Expansion Program and for tentative approval to process. The Committee, at its discretion, may consider other conditions or building appurtenances.
5. If the Committee recommends approval, the request is issued an anonymous loan number and sent to either the Urban Renewal Agency or City Council for final approval. In certain circumstances, the Urban Renewal Agency or City Council may authorize a higher loan amount.

#### **CONDITIONS AND CONSIDERATION**

1. The Urban Renewal Agency shall have the sole authority to approve an application to receive Urban Renewal funds. City Council shall have the sole authority to approve an application to receive City Economic Development funds.
2. The borrower must demonstrate the ability to repay the loan in a timely manner. In cases where the property owner is able and demonstrates the skill to do the work themselves without using a licensed contractor (by applicable codes and ability), the Urban Renewal Agency or City Council can consider disbursement of funds (for materials, not labor) similar to a line of credit with any added conditions to reduce risk on a case by case basis.
3. Processing and closing fees are paid by the borrower and not included in the loan amount, unless otherwise noted.
4. The bank loan is to be a construction-type loan. Funds are disbursed as work is completed and verified.
5. Equipment purchase or construction must begin within six months and completed within twelve months of Urban Renewal Agency or City Council approval.
6. Repayment begins after first draw request, with payments based on entire loan amount.
7. Loan cancellation and repayment occur if borrower fails to comply with the conditions of the loan. Penalties may apply.
8. Applicants must be current with all applicable taxes, licenses and fees.
9. For improvements to real property, where not currently available, the plan must meet American with Disabilities Act compliance for accessibility from at least one entrance at street level.
10. Note is due upon refinancing or sale of the business or property as applicable.
11. Before any funds are distributed, loan applicant must obtain all necessary approvals including those from Lincoln City Planning and Public Works Departments.

#### **COLLECTION POLICY**

Delinquencies, collection procedures, and foreclosures will be in accordance with procedures of all participating financial partners.



For more information, please contact the  
Lincoln City Urban Renewal Office at  
541-996-1095



## LOCAL PROGRAM SUPPORT

### PROGRAM GOAL

The goal of this program is to provide an annual financial assistance program for local organizations involved in Economic Development activities and provide services that support the mission of the Urban Renewal Agency and the economic development goals of City Council.

Applicant will be considered on its ability to:

- Provide business development information to area businesses
- Create new economic development programs available to area businesses
- Assist businesses to access local Business Advisors
- Provide scholarship funding to business owners and employees for training

### FINANCING

There are two funding sources for this program; City Economic Development funds (*available after May 14, 2020*) and Urban Renewal funds (if the property is located within the Year 2000 Urban Renewal District). Funds are subject to availability of annual funding.

- Grants are available up to \$10,000. In certain circumstances, the Urban Renewal Agency or City council may authorize a higher grant amount, for example, if the applicant has shown past success with previously disbursed program funds.
- Local Program Support funding for different economic development programs may be available, so long as the total amount does not exceed \$25,000 in any one year.

### ELIGIBILITY

- Eligible activities: including, but not limited to, scholarships for training courses, tuition for Small Business Management Program, technical assistance programs, networking programs.
- Ineligible activities: including, but not limited to, refinancing of existing debt, security systems, personal property, furnishings, inventory, billboards

### APPLICATION PROCESS

1. Forms are available online ([www.LincolnCity.org](http://www.LincolnCity.org)) and in the Urban Renewal (UR) Office, City Hall, 801 SW Highway 101, Room 350. Applications are available January 1 and must be submitted on or before March 1 to the UR Office. Completed applications will include the information/application form including a description of how the funds are to be used. Applications may be accepted at other times throughout the year if funding is available.
2. UR and City staff will initially determine when an application is substantially complete and meets the program objectives. Completed applications will include:
  - Application form
  - Total cost of project
  - Requested grant amount
  - Description of economic development program
  - Estimated project completion date
3. If recommended by staff, the application will then be presented to the City or Urban Renewal Agency Loan and Grant Committee (Committee) for tentative approval to process.

4. If the Committee recommends approval, the request is issued an anonymous number and sent to either the Urban Renewal Agency or City Council for final approval. In certain circumstances, the urban Renewal Agency or City Council may authorize a higher loan amount.

#### **CONDITIONS AND CONSIDERATIONS**

1. The Urban Renewal Agency shall have the sole authority to approve an application to receive Urban Renewal funds. City Council shall have the sole authority to approve an application to receive City Economic Development funds.
2. Funds must be used within twelve months of Urban Renewal Agency or City Council approval.
3. The timing and format of a completion report will be agreed on by UR and City staff and applicant.



For more information, please contact the  
Lincoln City Urban Renewal Office at 541-996-1095





## Lincoln City & Urban Renewal Agency *Economic Development Toolbox*

### SUSTAINABLE BUSINESSES

- **BUSINESS EXPANSION LOAN**

Provide existing businesses funding for building expansion, equipment purchase, etc. that will result in creating at least one FTE job. Funding comes in the form of a loan and/or forgivable loan and is based on the number of jobs created.

**Tool approved by Agency: 10-8-2012**

**Program approved by Agency and made available: 5-13-13.**

**Tool approved by City: 5-13-19 (funds restricted to public property development partnerships until 5-14-20)**

**No URA loans issued; no URA applications received.**

- **MIXED-USE HOUSING LOANS**

Provide loans for second story residential remodel construction of existing commercial buildings or percentage of cost for second story construction of new building. Funding can be used for upgrades such as elevators, private access, etc.

**Tool approved by Agency: 5-13-19**

**Tool approved by City: 5-13-19 (funds restricted to public property development partnerships until 5-14-20)**

- **WORKFORCE HOUSING LOANS**

Provide loans for residential construction meeting the local workforce market, defined as those earning 60%-120% of the median family income for Lincoln County. Loan terms could be determined as payable upon Certificate of Occupancy, lease or sale. Could be used in conjunction with other tools such as Pre-Pay Development Fees, or Infrastructure Partners.

**Tool approved by Agency: 5-13-19**

**Tool approved by City: 5-13-19 (funds restricted to public property development partnerships until 5-14-20)**

- **ENERGY EFFICIENCY LOANS** – (COMMERCIAL)

Provide loans for 0% interest for 10 years to fund energy efficiency projects for commercial buildings or businesses such as; solar panels, new windows, heating unit, etc. Properties must be located in the UR district.

**Tool approved by Agency: 10-8-2012**

**Program approved by Agency and made available: 5-13-13.**

**2 URA loans issued for \$110,692.**

**Tool approved by City: 5-13-19 (funds restricted to public property development partnerships until 5-14-20)**

This could be considered for residential loans to serve workforce housing objectives. In the case of residential loans, one idea is to offer the loans only to homes that are valued at or below the

median sales price (est. 299,000), or, at or below \$252,000 which is the home sales price based on 120% of Median Family Income.

**Tool approved by Agency: 5-13-19**

**Tool approved by City: 5-13-19 (funds restricted to public property development partnerships until 5-14-20)**

- CHILD CARE

Child Care is an important concern to both employees and employers. It impacts an employer's ability to attract and retain workers. Therefore economic development strategies are including childcare as a part of their programs. This could be in the form of assisting an established program or providing space for a cooperative program.

**Tool approved by Agency: 5-13-19**

**Tool approved by City: 5-13-19 (funds restricted to public property development partnerships until 5-14-20)**

- INTERNET COMMERCE CONVERSION LOAN

Provide funding which supports an existing storefront business to begin selling products on the internet.

**Tool approved by Agency: 5-13-19**

**Tool approved by City: 5-13-19 (funds restricted to public property development partnerships until 5-14-20)**

- GAP FUNDING PROGRAM

Provide Gap Funding (10%-20%) available to add to bank lending, personal funds, loan programs etc. necessary to finalize a development project that creates jobs.

**Tool approved by Agency: 5-13-19**

**Tool approved by City: 5-13-19 (funds restricted to public property development partnerships until 5-14-20)**

- DOWNTOWN MANAGER

Fund a Downtown Manager position for a two-year pilot project. A Downtown Manager would work closely with established Merchant Associations, businesses in the other Historic Business Districts, the Visitor and Convention Bureau, regional Economic Development agencies and the Urban Renewal Agency.

Activities of a Downtown Manager might include:

- Establishing and organizing shared objectives between the various areas of town
- Foster positive relationships as a liaison between businesses, property owners and City Departments
- Market available storefronts
- Improve the visual impact of the Business Districts
- Coordinate district events with Business activities

Program success would demonstrate to area businesses the benefits they would realize and they would then be given the opportunity to create a Business Improvement District to fund such a position in the future.

**Tool approved by Agency: 12-8-2014.**

**Program approved by Agency and made available: 12-22-2014.**

**1 request approved December 2014, from the Bay Area Merchants Association (BAMA) for \$28,000 per year (for 2-year pilot project) as the budget allows.**

**Project started winter 2016. Since then, \$20,844 has been invoiced, over 25 months.**

**Tool approved by City: 5-13-19**

- BUSINESS OPERATIONS REVIEW

This program might support the existing Lincoln County Microenterprise Program or contract with firm to perform review of business operations and opportunities and make available to businesses within the Urban Renewal District. Work with owners, executives, managers and operators to assess company needs and business practices and use this knowledge to guide company leaders and staff in responding to competition and changing environments.

**Tool approved by Agency: 5-13-19**

**Tool approved by City: 5-13-19 (funds restricted to public property development partnerships until 5-14-20)**

- MAIN STREET INITIATIVE

Offer up to \$10,000 grants to Merchant Associations. The Association would determine the best use for the funding to support their district and apply to the Agency for the funds. The Association would also oversee the project and present a final report.

**Tool approved by Agency: 5-13-19**

**Tool approved by City: 5-13-19 (funds restricted to public property development partnerships until 5-14-20)**

- BUSINESS STARTUP LOANS

Provide funding for startup business ventures. Funding can be available as a loan and/or a small grant. This could be in the form of an UR program or partner with an existing program to provide additional funding.

**Tool approved by Agency: 5-13-19**

**Tool approved by City: 5-13-19 (funds restricted to public property development partnerships until 5-14-20)**

- MICRO-ENTERPRISE LOANS

Provide small loans or grants for startup business ventures. Assists small businesses in their initial stages of development and established businesses with loan amounts ranging from \$1,000 to \$20,000 for Start-ups and up to \$50,000 for existing businesses. Funds may be used for working capital, purchase of equipment, supplies or real estate. Terms are from six months to five years. Funds focus on businesses that provide services and improve the quality of life in their neighborhoods.

**Tool approved by Agency: 5-13-19**

**Tool approved by City: 5-13-19 (funds restricted to public property development partnerships until 5-14-20)**

- BUSINESS INCUBATOR/BUSINESS CENTER

Provide startup assistance such as storefront, office infrastructure (phone, DSL, copier) for a defined period of time to grow a new business. Also consider establishing a Business Center for use by traveling business people or second home owners.

**Tool approved by Agency: 5-13-19**

**Tool approved by City: 5-13-19 (funds restricted to public property development partnerships until 5-14-20)**

- WELCOME HOME ENTREPRENEURIAL PROGRAM

In an effort to attract our youth back to Lincoln City to begin or continue a business venture, the Agency will provide business startup funding, business plan course, mentoring opportunity, office space, storefront space if needed, training, Chamber membership, etc. This opportunity could also apply to retirees interested in opening a business.

**Tool approved by Agency: 5-13-19**

**Tool approved by City: 5-13-19 (funds restricted to public property development partnerships until 5-14-20)**

- PRE-DEVELOPMENT FEES

System Development Charges and permit fees prepaid by URA to be repaid prior to Certificate of Occupancy or at time of sale or portion of sale. For Public Private Partnership Projects, fees for site preparation could also include tree survey, geotechnical/soils study, wetland delineation, environmental study and preliminary design/engineering as part of a Development Agreement.

**Tool approved by Agency: 5-13-19**

**Tool approved by City: 5-13-19 (funds restricted to public property development partnerships until 5-14-20)**

- BUILDING REHABILITATION (FACADE IMPROVEMENT) LOANS

Provide zero interest loans for facade improvements for existing commercial buildings in the Urban Renewal District.

**Program initially made available: 1999.**

**Revisions by Agency to increase loan amount up to \$75,000, include interior improvements for public space and signage: 10-22-12.**

**Over 45 loans issued in excess of \$1.85 M.**

**5 loans approved in 2015-2016 (total issued \$255,000).**

**2 loans approved in 2016-17 (total of \$69,000).**

**No loans approved in 2017-18; none pending.**

**New loan servicing with Oregon Cascades West Council of Governments: January 2018.**

**Program approved by City: 5-13-19**

This could be considered for residential loans to serve workforce housing objectives. In the case of residential loans, one idea is to offer the loans only to homes that are valued at or below the median sales price (est. 299,000), or, at or below \$252,000 which is the home sales price based on 120% of Median Family Income.

**Tool approved by Agency: 5-13-19**

**Tool approved by City: 5-13-19 (funds restricted to public property development partnerships until 5-14-20)**

- BUILDING REHABILITATION GRANTS

Provide grants for facade improvements or interior modifications for existing commercial buildings. This program could target specific properties of interest or areas of the community and funding should be time sensitive for greatest impact.

**Tool approved by Agency: 5-13-19**

**Tool approved by City: 5-13-19 (funds restricted to public property development partnerships until 5-14-20)**

- LEASE SUBSIDY PROGRAM

Provide, in the form of a loan or grant, a lease subsidy program for new or expanding businesses, which locate within the Urban Renewal District. Should only be used for identified and targeted business sectors (business not currently in LC or area of town).

**Tool approved by Agency: 5-13-19**

**Tool approved by City: 5-13-19 (funds restricted to public property development partnerships until 5-14-20)**

## COMMUNITY APPEARANCE

- SIGN CHANGE OUT GRANTS

Provide matching grant for change out of existing pole signs, plastic signs, backlit signs, and deteriorated signage or to provide standardized Blade signs in Historic Business Districts. This program would include design consultation and should be implemented to compliment a citywide signage and wayfinding program.

**Tool approved by Agency: 5-13-19**

**Tool approved by City: 5-13-19 (funds restricted to public property development partnerships until 5-14-20)**

- VACANT SPACE LEASING

To encourage the use of vacant storefronts, the City would offer a fee holiday from City start-up fees and charges when a business locates within a vacant commercial space. Among fees to be waived: Initial Business Occupational Tax Permit fees, Land Use review fees, Tenant improvements building permits, System Development Charges.

**Tool approved by Agency: 5-13-19**

**Tool approved by City: 5-13-19 (funds restricted to public property development partnerships until 5-14-20)**

- INFRASTRUCTURE PARTNERS

For private redevelopment projects that support the efforts of the Agency and Community Vision Plans, the Agency will partner to construct necessary and required public works infrastructure such as water, sewer and storm mainline extensions, also sidewalks, off-street parking, curbs and gutters. This may also include telecommunications assistance, such as access to high speed broadband, to foster job creation and economic development objectives.

**Tool approved by Agency: 5-13-19**

**Tool approved by City: 5-13-19 (funds restricted to public property development**

**partnerships until 5-14-20)**

- BROWNFIELD ASSISTANCE

For private commercial or mixed-use projects that support the efforts of the Agency and Community Vision Plans, the Agency will partner with property owners to assist with Brownfield site challenges to further sale or redevelopment of the property. Assistance is possible in the form of loans or grants for environmental assessment or clean-up/remediation.

**Tool approved by Agency: 5-13-19**

**Tool approved by City: 5-13-19 (funds restricted to public property development partnerships until 5-14-20)**

## PROGRAM SUPPORT

- WORK FORCE EDUCATION GRANTS

Partner with other organizations such as Small Business Development Center to fund Work Force Education programs.

**Tool approved by Agency: 5-13-19**

**Tool approved by City: 5-13-19 (funds restricted to public property development partnerships until 5-14-20)**

- LOCAL PROGRAM SUPPORT

Create an annual financial support program for local organizations involved in Economic Development activities that support the mission of the Urban Renewal Agency and provide services within the UR District.

**Tool approved by Agency: 10-8-2012**

**Program approved by Agency and made available: 2-25-13.**

**7 grants issued (6 to SBDC; 1 to Buy Local Lincoln County Association; total funded \$73,000)**

**Tool approved by City: 5-13-19**

## TOURISM

- VISITOR ATTRACTION LOAN / GRANT

Provide funding to ventures with a business model that would be considered a visitor attraction - i.e. Glass Studio, Culinary Center. If these attractions are not profit motivated, loan funding could have a write-off component (Grant).

**Tool approved by Agency: 5-13-19**

**Tool approved by City: 5-13-19 (funds restricted to public property development partnerships until 5-14-20)**