



AGENDA

Lincoln City Planning Commission
Tuesday, April 19, 2022, 6:00 PM
Council Chambers,
801 SW Highway 101 - 3rd Floor, Lincoln City, OR 97367

- 1. CALL TO ORDER, PLEDGE OF ALLEGIANCE, & ROLL CALL**
- 2. AGENDA CHANGES OR REVISIONS**
- 3. MINUTES**
 - 3.1. Planning Commission - Regular Meeting - Apr 5, 2022 6:00 PM
- 4. FINAL ORDERS, RESOLUTION, & WRITTEN COMMUNICATIONS**
 - 4.1. Public Outreach Schedule
 - 4.2. FO 2022-04 for VAR 2022-01
 - 4.3. FR 2022-08 for ZOA 2022-05
 - 4.4. FR 2022-09 for ZOA 2022-06
- 5. PUBLIC HEARINGS/DELIBERATIONS**
 - 5.1. CPA ZC 2022-02 Nesika Park
 - 5.2. CPA ZC 2022-03 Park in Taft
 - 5.3. CPA ZC 2022-04 Taft Open Space
 - 5.4. CPA ZC 2022-05 Lincoln Palisades Open Space
 - 5.5. CPA ZC 2022-06 Wildwoods Open Space
- 6. OLD BUSINESS**
- 7. NEW BUSINESS**

8. **PLANNING COMMISSION TRAINING**
9. **REPORTS AND COMMENTS**
10. **FUTURE AGENDA ITEMS & NEXT MEETINGS**
11. **ADJOURN**

All information for this meeting is available on the City of Lincoln City website at www.lincolncity.org, and this meeting will be televised live on Charter Channel 4 Lincoln City and rebroadcast at various times. Planning Commission meetings are streamed live on the Internet through a link on the City of Lincoln City website, and can also be viewed following the meeting. The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired, for a hearing impaired device, or for other accommodations for persons with disabilities, should be made at least 48 hours in advance of the meeting to the City Recorder, at 541-996-1203.

**LINCOLN CITY PLANNING COMMISSION
MINUTES
April 5, 2022**

1. CALL TO ORDER, PLEDGE OF ALLEGIANCE, & ROLL CALL

Chair Blackerby called the April 15th Lincoln City Planning Commission meeting to order at 6:01 pm, offering the gavel to former Chair Baker. All stood for the Pledge of Allegiance, and roll was called.

Attendee Name	Title	Status	Arrived
Glenn Johnson	Commissioner	Present	
Mellissa Sumner	Commissioner	Present	
Marci Baker	Commissioner	Present	
Robert Vincent	Commissioner	Present	
Kim Blackerby	Chair	Present	
Miles Schlesinger	Commissioner	Excused	

2. AGENDA CHANGES OR REVISIONS

There were no changes to the agenda, other than those already published.

3. MINUTES

3.1. Planning Commission - Regular Meeting - March 15, 2022 @ 6:00 PM

MOTION:	Approve the minutes from the March 15th Planning Commission meeting with a minor change to capitalize the title of President for speaker Janet Knipe
MOVER:	Vincent
SECONDER:	Sumner
AYES:	Johnson, Sumner, Baker, Vincent, Blackerby
EXCUSED:	Schlesinger
RESULT:	Passed as Amended

4. FINAL ORDERS, RESOLUTION, & WRITTEN COMMUNICATIONS

4.1. FO 2022-03 for VAR 2022-02 Olson

Chair Blackerby introduced Final Order 2022-03 for the Olson natural resource variance.

MOTION:	Approve FO 2022-03 for VAR 2022-02 Olson
MOVER:	Vincent
SECONDER:	Johnson
AYES:	Johnson, Sumner, Baker, Vincent, Blackerby
EXCUSED:	Schlesinger
RESULT:	Passed

5. PUBLIC HEARINGS/DELIBERATIONS

5.1. VAR 2022-01 6604 NE Logan Rd Variance for Street Side Setback

Chair Blackerby made the required opening statements, including instructions for deliberations, reminders of the public hearing held two weeks prior and the closing of the record, and asked if anyone had any conflicts of interest. No conflicts of interest were expressed.

Director Skinner provided an updated staff report. Director Skinner stated that after considering additional written materials received from the applicant during the seven days following the close of the public hearing, staff were compelled to change the recommendation from denial to approval of the variance. The applicant asserted that the previous senior planner had not only reviewed and approved the site plan, but had also issued the permit, performed the setback inspection, and approved the setback inspection. Quoting testimony from the public, she also emphasized that "we must be able to trust staff" when consulting with the City. Staff agreed with the applicant's assertion that the mistakes made at the initial, intermediate, and final levels of approval represented an exceptional circumstance, meeting Criterion #1. She added further that although the owner had initially stated that they couldn't obtain a Certificate of Occupancy for the completed dwelling and that this was the property right being violated, the owners provided written testimony wherein they acknowledged that a Certificate of Occupancy could be obtained and that the property right being violated was not being able to use the completed dwelling without incurring fines pursuant to LCMC 17.04. Staff agreed that not being able to use a completed dwelling that meets all building code requirements, without incurring fines due to a street side setback encroachment, is the property right being violated; thus, Criterion #2 is met. The previous staff report included the findings that Criterion #3 and Criterion #4 were met.

Chair Blackerby asked Director Skinner to clarify the revised staff findings, and cited previous land use cases involving staff error that had not resulted in decisions favoring the applicants. He did not agree with the new findings regarding Criterion #1. Director Skinner emphasized that the Planning Commission did not need to agree with staff's recommendation and must make its own determination. Responding to a question from Commissioner Johnson, Director Skinner stated that the size of the encroachment was a factor in the decision-making process. Commissioner Baker questioned whether or not the 50' x 90' lot met the minimum lot size required in the R1RE zone. Director Skinner stated that the lot was created prior to the City's zoning code and is a nonconforming lot, noting that the zoning code allows construction on legal nonconforming lots. Responding to a question from Commissioner Sumner, Director Skinner stated that the adjacent building also constructed by 3G's Construction met the building and zoning codes. Mr. Appicello clarified that although it was the position of Director Skinner that the variance was necessary to preserve the applicant's property rights, the Planning Commission needed to make its own determination.

Chair Blackerby added that he did not feel the applicant had met Criterion # 3, and that the variance was detrimental to the neighborhood and the unique characteristics of Roads End. Commissioner Baker concurred and stated that while the staff errors were extraordinary, they did not place an undue hardship on the applicant, and did not diminish the negative impacts on the neighborhood. She also recalled past Planning Commission decisions that had been very difficult and burdensome, but that the need to uphold the City's code was the primary responsibility before the Commission.

A motion was made by Commissioner Sumner to deny VAR 2022-01, seconded by Commissioner Baker, citing that the application failed to meet Criterion #1, #2, and #3. The

motion passed four votes to one, with Commissioner Vincent voting against the motion and supporting the staff's recommendation to approve.

MOTION:	Deny VAR 2022-01 6604 NE Logan Rd Variance for street side setback
MOVER:	Sumner
SECONDER:	Baker
AYES:	Johnson, Sumner, Baker, Blackerby
NAYS:	Vincent
EXCUSED:	Schlesinger
RESULT:	Passed

5.2. ZOA 2022-07 R1RE Street Side Setback – WITHDRAWN

5.3. VAR 2022-03 Weston 6245 NW Logan Rd CONTINUED TO MAY 17, 2022, AT THE REQUEST OF THE PROPERTY OWNER'S REPRESENTATIVE

5.4. ZOA 2022-06 R1RE Front Setback

Chair Blackerby opened the public hearing for ZOA 2022-06 at 6:44 pm, introduced the application, read the required statements, and explained the order of proceedings. No Commissioners were excused for conflicts of interest.

Director Skinner presented the staff report. The applicants, Jay and Helen Weston, are requesting a zoning code text amendment to 17.17.070.D to clarify averaging for setbacks on Logan Road, and to decrease the front setback from 20' to 15' for decks. Public agency comments were received from North Lincoln Fire & Rescue District #1 and citizen comments were received from more than 20 Roads End property owners, all of which were included in the public hearing packet. Several provided additional comments that were not included in the packet, including Debbie Newhouse, David Jamieson, Andrew Lafrenz, Patti Kroen, Terry Newhouse, and Janet Knipe. Director Skinner read these comments into the record, as well as newly-received comments from Rob Allen and Gay Linfoot. All comments received were in opposition to the proposed request to reduce the front setback requirement.

In addition to consideration of the applicant's text amendment, Director Skinner requested that the Planning Commission consider removing the component of averaging altogether, as it places unnecessary burdens on staff to interpret, and measurements are based on inexact GIS data. Further, if the averaging language is to remain, she requested that the code be made more exact and include a requirement that the applicant submit a valid survey of the setback measurements completed by a licensed land surveyor.

Following a question from Commissioner Baker, Director Skinner responded that the front setbacks in all other residential zones are the same for all parts of the building. The difference between Roads End and other residential zones is that the standard front setback is 5 feet for single-story buildings and 7.5 feet for two-story buildings. Following a question from Chair Blackerby, Director Skinner clarified that the proposed amendment is not relevant to the variance request discussed earlier in the meeting, as that variance was specific to the street side setback in Roads End not the front setback.

Responding to a question from Chair Blackerby regarding the Fire Marshall's concerns about the allowance of posts, Director Skinner stated that review from the Fire Department is included in the building permit process in order to address life safety issues.

Chair Blackerby invited those signed up to comment to do so, beginning with the applicant. Christopher Koback spoke on behalf of the applicants, Jay and Helen Weston. He clarified the applicable code and the relevant criteria and provided context for the proposed text amendment. The applicants purchased the home after the decks were removed, and believed that they would be able to reconstruct them. Mr. Koback stated that they began working with City staff in order to craft a text amendment that addressed both private and public interests, and that the application successfully met the required criteria. In response to concerns regarding public input, Mr. Koback stated that the public hearings required by the code meet the public process goals.

Chair Blackerby clarified that the deck was already built and represented an encroachment into the setback. Mr. Koback stated that the text amendment request arose from the City and applicant dispute regarding the process of averaging. Director Skinner added that staff has historically only measured one side of the street when using the averaging option, and therefore supported the proposed language to specifically state use of one side of the street. She also emphasized that there needs to be an accurate determination, and the only way to do this would be to require a survey.

The first speaker, Patti Kroen, questioned why the owner didn't simply pursue a variance, as there was no clear public benefit. She disagreed with the owners' assertion that consistency with other residential zones is a benefit, as the Roads End area has worked hard to maintain its unique character. She stated that this text amendment would negatively impact the entire neighborhood, and fundamentally change the entire Roads End area. She urged the Planning Commission and the City Council to deny the application.

Next the Commission heard from Janet Knipe, in her role as both a local resident and as President of the Roads End Improvement Association (REIA). She stated that REIA is strongly opposed to this application. REIA's role is to monitor the work of builders and developers in the area and to ensure compliance with all applicable rules and regulations. She reiterated that the Roads End zoning requirements were deliberately established to be different from those in other areas in order to maintain the look and character of this unique area. Ms. Knipe added that there was no compelling need expressed by the neighborhood that these changes are necessary or desired. The specific comprehensive plan criterion impacted negatively by this proposal is found within the Aesthetics Goal. Ms. Knipe closed by requesting the Planning Commission and the City Council consider the adequacy of the public involvement process as defined by current code.

Chair Blackerby asked for clarification on the current requirements for public involvement, citing language from Ms. Knipe's written testimony. Director Skinner clarified that there was no difference between a City-initiated and a citizen-initiated text amendment application in regards to requirements for public involvement.

Catherine Wetterling spoke against the proposed text amendment. She and her family are long-time Roads End residents, and cited concerns regarding the applicants' behavior and their lack of respect for the neighborhood.

Lastly, the Commission heard from Stacey Baird. He opposes the application, and suggested that the proposal was really a zone change and not a simple text amendment.

Mr. Kobak, the applicant's representative, was given time for a rebuttal. He reaffirmed that the decks had already existed prior to annexation of Roads End into the city limits, and thus were consistent with the historic nature of the neighborhood, and that the application met the applicable criteria as supported by staff.

Commissioner Sumner moved to close the public hearing and the record, seconded by Commissioner Vincent.

Responding to a question from Commissioner Vincent, Director Skinner stated that discussion of the side setback requirement and decks was immaterial to the code text amendment at hand.

Commissioner Baker stated that the zone text amendment was the wrong path for a single property owner. Director Skinner requested Commissioners articulate the applicable criteria for any denial of the amendment, and to include that in the recommendation to the City Council.

Chair Blackerby disagreed that the comprehensive plan goal for public involvement should be considered met by simply holding a public meeting, but that it also should include being responsive to comments received. Chair Blackerby also identified the comprehensive plan goal of Urbanization as a possible area where the application criteria might be discussed. Director Skinner clarified that Urbanization is simply defined by what is inside and what is outside of the City. All areas within the City limits are considered as urbanized. She added that there are no design standards in the Lincoln City Municipal Code for single-unit dwellings, except a requirement for inclusion of two design features from a list of possible design features such as dormers, recessed porches, gables, and bay windows. She noted that these two design features are required for all single-unit dwellings in the entire city, not just Roads End.

Commissioner Sumner proposed a motion to remove the language for averaging, and to maintain the full 20-foot front setback. Commissioner Blackerby seconded the motion. In response, Commissioner Baker suggested that the averaging language was part of the initial recommendations by the Roads End neighborhood, and likely an important tool for allowing homeowners some flexibility with development on their properties. Staff noted that there were no public comments in opposition to the process of averaging.

Planning Commissioners and staff discussed a variety of options for responding to the text amendment, considering whether or not to include the ability for property owners to use the averaging method at all, and if included how it would be measured, and who would be required to establish the measurements. A new motion was crafted to continue to allow the averaging, but to specify that it be measured on the same side of the street, and be verified by a survey conducted by a licensed land surveyor.

MOTION:	Recommend approval of ZOA 2022-06 R1RE Front Setback averaging clarification to averaging on the same side of the street of the building and requiring a survey by a licensed land surveyor to take the measurements, with the cost being the burden of the applicant
MOVER:	Sumner
SECONDER:	Vincent
AYES:	Johnson, Sumner, Baker, Vincent, Blackerby
EXCUSED:	Schlesinger
RESULT:	Passed

On the issue of decreasing the front setbacks for decks from 20 feet to 15 feet, Chair Blackerby proposed a motion to recommend striking the requested reduction and leaving the 20-foot-front setback requirement for all portions of the structure. Commissioner Baker seconded. The motion passed unanimously. Director Skinner requested clarification of the rationale supporting the denial. The issues of aesthetics and citizen involvement were cited by the Commission.

MOTION:	Recommend denial of ZOA 2022-06 R1RE Front Setback reduction from 20 feet to 15 feet for decks
MOVER:	Blackerby
SECONDER:	Baker
AYES:	Johnson, Sumner, Baker, Vincent, Blackerby
EXCUSED:	Schlesinger
RESULT:	Passed

5.5. ZOA 2022-05 Code Corrections

The public hearing for ZOA 2022-05 was opened at 8:52 pm.

A 5-minute break was called by Chair Blackerby.

Director Skinner presented the staff report, providing an overview of the various corrections to the Zoning Code. The intent of these corrections is to improve the code, eliminate inconsistencies, and locate all definitions within the specific section reserved for definitions. Examples of specific changes include changing the term single or multi-family to single or multi-unit, the term home to dwelling, replacing all references to yards with the term setback, and replacing site plan review with development review. Other changes included incorporating Visitor Center as a permitted use to the Park zone and expanding the notification distance from 250' to 500' for Type III procedures.

One member of the public provided comment. Stacey Baird requested that the Planning Commission not move forward on the amendment, and to keep the public record open to allow further review and comment. One concern he had was the elimination of language within the Recreation Residential zone that appeared to allow for septic if no public sanitary sewer or water is available. This is not an allowed option in any zone, regardless of its present in Title 17, so the elimination of the obsolete and inaccurate language in the code does not impact the status quo.

Staff emphasized that the Planning Commission is simply a recommending body, and that an additional public hearing will be held with the City Council. Responding to a question from Chair Blackerby, Director Skinner stated that notice of the public hearing was published twice in the newspaper as required.

Commissioner Sumner moved to close the public hearing and the record, and Commissioner Vincent seconded. The motion passed unanimously.

MOTION:	Recommend approval of ZOA 2022-05 Code Corrections
MOVER:	Baker
SECONDER:	Sumner
AYES:	Johnson, Sumner, Baker, Vincent, Blackerby
EXCUSED:	Schlesinger
RESULT:	Passed

6. OLD BUSINESS

There was no old business to discuss.

7. NEW BUSINESS

There was no new business.

8. PLANNING COMMISSION TRAINING

No training took place.

9. REPORTS AND COMMENTS

There were no reports or comments.

10. FUTURE AGENDA ITEMS & NEXT MEETINGS

Responding to a question from Commissioner Sumner, Director Skinner stated that the Planning Commission would be holding a meeting on May 17, 2022, which is Election Day.

11. ADJOURN

Chair Blackerby adjourned the meeting at 9:29 pm.

Respectfully submitted,

Anne Marie Skinner
Planning & Community Dev. Director

Kim Blackerby
Chair

Planning Commission Communication

Public Outreach

Meeting Date: April 19, 2022 Primary Staff Contact: AnneMarie Skinner
Department: Planning Commission E-Mail: ASkinner@lincolncity.org
Secondary Dept: Secondary Contacts:
Approval: Estimated Time:

Attachments:

Public Outreach Schedule Flyer (PDF)

Lincoln City
Planning & Community Development

COMPREHENSIVE PLAN UPDATE

Community members are encouraged to participate in updating Lincoln City's Comprehensive Plan by providing comments on key issues regarding:

HOUSING

PUBLIC FACILITIES & SERVICES

TRANSPORTATION

COASTAL SHORELANDS

OPEN SPACES

NATURAL RESOURCES

SCHEDULE FOR IN-PERSON PUBLIC COMMENT SESSIONS:

<u>DATE</u>	<u>TIME</u>	<u>LOCATION</u>
May 4, 2022	10:00 – 11:30 AM	Driftwood Library
May 5, 2022	5:30 – 7:00 PM	Council Chambers
May 7, 2022	10:00 – 11:30 AM	Oregon Coast Community College
May 10, 2022	10:00 – 11:30 AM	Driftwood Library
May 12, 2022	4:00 – 5:30 PM	Council Chambers
May 14, 2022	1:00 – 2:30 PM	Oregon Coast Community College
May 15, 2022	1:00 – 2:30 PM	Driftwood Library
May 16, 2022	11:30 AM – 1:00 PM	Driftwood Library
May 18, 2022	12:00 – 1:30 PM	Oregon Coast Community College
May 19, 2022	5:30 – 7:00 PM	Council Chambers
May 22, 2022	1:00 – 2:30 PM	Driftwood Library
May 23, 2022	11:30 AM – 1:00 PM	Driftwood Library
May 24, 2022	5:30 – 7:00 PM	Council Chambers
May 25, 2022	5:30 – 7:00 PM	Council Chambers

Council Chambers, 3rd floor of City Hall, 801 SW Hwy 101, Lincoln City
Driftwood Library, 2nd floor of City Hall, 801 SW Hwy 101, Lincoln City
Oregon Coast Community College, 3788 SE High School Drive, Lincoln City



Planning Commission Communication

FO 2022-04 for VAR 2022-01

Meeting Date: April 19, 2022 Primary Staff Contact: AnneMarie Skinner
Department: Planning Commission E-Mail: ASkinner@lincolncity.org
Secondary Dept: Secondary Contacts:
Approval: Estimated Time:

Should the Planning Commission adopt the final order denying VAR 2022-01?

POTENTIAL MOTION:

I move to adopt the final order (FO 2022-04) denying VAR 2022-01.

Attachments:

FO 2022-04 for VAR 2022-01 (PDF)

LINCOLN CITY
PLANNING COMMISSION

IN THE MATTER OF

Case File VAR 2022-01)
6604 NE Logan Rd) Final Order No. 2022-04
Street Side Setback Variance)

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Findings of Fact and Conclusions of Law regarding compliance with applicable approval criteria as set forth in the Lincoln City Planning and Community Development Department Staff Report for VAR 2022-01, together with documents and application materials in the record including public testimony and written comments, all being hereby adopted and incorporated into this Order by this reference

The Planning Commission motion denying (Baker, Blackerby, Johnson, Sumner in favor; Vincent opposed) the application indirectly references as findings and conclusions the following points provided during deliberation by Chair Blackerby and Commissioner Baker, with concurrence from Commissioner Johnson, and Commissioner Sumner:

1. Regarding Criterion 1: *Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity and result from lot size or shape legally existing prior to the date of the ordinance codified in this chapter, topography, or other circumstances over which the property owner has no control;*
 - The applicant did not provide any evidence showing that exceptional or extraordinary circumstances apply to the property. The applicant’s contention that the staff error is the exceptional or extraordinary circumstance does not meet the criterion since it doesn’t apply to the property, staff error is not an exceptional or extraordinary circumstance, and the applicant does have control over this particular circumstance. It is the responsibility of the applicant to read the code and ascertain for themselves the requirements. In this case, the applicant was responsible to read LCMC 17.17.070 and see that the minimum required street side setback is 20 feet (except that it may be one foot less for each two feet of front setback over the minimum but not to less than 10 feet), not the 10 feet that the applicant used.

2. Regarding Criterion 2: *The variance is necessary for the preservation of a property right of the property owner which is substantially the same as owners of other property in the same zone or vicinity possess.*
 - The applicant did not provide any evidence that a property right is being lost if the variance is not granted. The property is in a residential zone, and the construction of detached dwellings is permitted. The applicant obtained a building permit and constructed a detached dwelling. The fact that the applicant did not place the dwelling in accordance with the minimum street side setback requirement is not loss of a property right. The applicant did not provide any evidence showing that violating the minimum required street side setback is a property right.

- 3. Regarding Criterion 3: *The variance should not be materially detrimental to the purposes of this title, or to property in the zone or vicinity in which the property is located, or otherwise conflict with the objectives of any city planning policy.*
 - The variance is detrimental to the neighborhood and the unique characteristics of Roads End. The variance would have negative impacts on the neighborhood.
- 4. To approve a variance all four criteria must be met. Criterion 1, Criterion 2, and Criterion 3 were not met for the reasons stated above.

Commissioner Vincent voted against the motion, stating that he agrees with the director’s recommendation to approve as outlined in the verbal update given at the beginning of the deliberations.

FINAL ORDER

Based on the evidence presented at the public hearing on March 15, 2022, and the additional written comments received in the 7-day record extension period after the close of the public hearing, including the staff report and the supporting application materials contained in Case File VAR 2022-01, the Planning Commission finds and determines that the application contained in the file DOES NOT SATISFY all applicable approval criteria as detailed in the written staff report and noted above, and the application is therefore DENIED.

FINAL ORDER APPROVED THIS 19th DAY OF APRIL, 2022.

 Planning Commission Chair

ATTEST:

 Anne Marie Skinner
 Director, Planning & Community Development

Planning Commission Communication

FR 2022-08 for ZOA 2022-05

Meeting Date: April 19, 2022 Primary Staff Contact: AnneMarie Skinner
Department: Planning Commission E-Mail: ASkinner@lincolncity.org
Secondary Dept: Secondary Contacts:
Approval: Estimated Time:

Question:

Should the Planning Commission adopt the final recommendation FR 2022-08 for ZOA 2022-05?

Potential Motion:

I move to adopt FR 2022-08 for ZOA 2022-05 code corrections.

Attachments:

Final Recommendation for ZOA 2022-05 (DOC)

**LINCOLN CITY
PLANNING COMMISSION**

IN THE MATTER OF

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

NATURE OF THE APPLICATION

ZOA 2022-05 AMENDS THE LINCOLN CITY MUNICIPAL CODE, TITLE 17 (ZONING), CHAPTERS 17.04 (GENERAL PROVISIONS), 17.08 (DEFINITIONS), 17.16 (R-1), 17.17 (R-1-RE), 17.18 (VR), 17.24 (PC), 17.28 (RC), 17.29 (RCC), 17.32 (GC), 17.36 (PI), 17.40 (RR), 17.42 (P), 17.46 (NR), 17.52 (SUPPLEMENTARY REGULATIONS), 17.64 (NONCONFORMING SITUATIONS), 17.74 (DESIGN STANDARDS), 17.76 (PROCEDURES), 17.77 (APPLICATIONS), 17.80 (PROVISIONS APPLYING TO SPECIAL USES) And TITLE 16 (SUBDIVISIONS), CHAPTER 16.08 (PROCEDURE) TO MAKE CORRECTIONS.

FINAL RECOMMENDATION

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

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

APPROVED THIS 19th day of April, 2022.

Kim Blackerby
Planning Commission Chair

ATTEST:

Anne Marie Skinner
Planning & Community Development Director

ORDINANCE NO. 2022-15

AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 17 (ZONING), CHAPTERS 17.04 (GENERAL PROVISIONS), 17.08 (DEFINITIONS), 17.16 (R-1), 17.17 (R-1-RE), 17.18 (VR), 17.24 (PC), 17.28 (RC), 17.29 (RCC), 17.32 (GC), 17.36 (PI), 17.40 (RR), 17.42 (P), 17.46 (NR), 17.52 (SUPPLEMENTARY REGULATIONS), 17.64 (NONCONFORMING SITUATIONS), 17.74 (DESIGN STANDARDS), 17.76 (PROCEDURES), 17.77 (APPLICATIONS), 17.80 (PROVISIONS APPLYING TO SPECIAL USES) and TITLE 16 (SUBDIVISIONS), CHAPTER 16.08 (PROCEDURE) TO MAKE CORRECTIONS.

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

WHEREAS, Chapter 2, Section 2.1 and 2.2., of the City of Lincoln City Charter provides:

2.1 Powers of the City

The city has all powers which the constitutions, statutes and common law of the United States and of this state expressly or impliedly grant or allow municipalities as fully as though this charter specifically enumerated each of those powers.

2.2 Construction of Charter

In this charter no mention of a particular power shall be construed to be exclusive or to restrict the scope of the powers which the city would have if the particular power were not mentioned. The charter shall be liberally construed to the end that the city may have all powers necessary or convenient for the conduct of its municipal affairs, including all powers that cities may assume pursuant to state laws and to the municipal home rule provisions of the state Constitution; and

WHEREAS, the above referenced grant of power has been interpreted as affording all legislative powers home rule constitutional provisions reserved to Oregon Cities. *City of Beaverton v. International Ass'n of Firefighters, Local 1660, Beaverton Shop*, 20 Or. App. 293; 531 P 2d 730, 734 (1975); *LaGrande/Astoria v. PERB*, 281 Or 137, 142 (1978), *aff'd on reh'g* 284 Or 173 (1978); and

WHEREAS, the amendments to the Lincoln City Municipal Code are in conformance with the Statewide Planning Goals and Lincoln City Comprehensive Plan goals as addressed in attached Exhibit "A"; and

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

WHEREAS, on February 3, 2022, the City duly notified the Oregon Department of Land Conservation and Development pursuant to ORS 197.610, of its consideration of the proposed amendment(s); and

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

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

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

THE CITY OF LINCOLN CITY ORDAINS AS FOLLOWS:

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

17.04.030 Compliance.

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

It is unlawful for any person to erect, construct, establish, move into, alter, enlarge, use, or cause to be used, any building, structure, improvement or use of premises located in any zone described in this title contrary to the provisions of this title. Where this title imposes greater restrictions than those imposed or required by other rules or regulations or ordinances, the provisions of this title shall control.

The issuance or granting of any City permit or license, or the review or approval of any application, shall not be construed to be a permit or license for, or an approval of, any violation of any of the provisions of this title.

Permits, licenses, or approvals (whether by mistake or by design) purporting to waive or cancel the mandatory provisions of this title shall not be valid. Participants in local land use proceedings must ascertain for themselves, from the local code, what they must do to protect their rights. Estoppel cannot arise from an action of a city official who purports to waive the provisions of a mandatory ordinance or otherwise exceeds their authority. The issuance of a permit or license, or the approval of an application, based on documents, plans, and other data shall not prevent the director from requiring correction of errors in the documents, plans, and other data.

SECTION 2. Chapter 17.08 (*General Provisions*), Section 17.08.010 (*Definitions*) is hereby amended, with the following revised definitions inserted in alphabetical order, as follows:

17.08.010 Definitions.

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

"City" means the city of Lincoln City, Oregon.

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

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

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

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

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

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

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

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

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

“Mini warehouse” See Self-storage facility.

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

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

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

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

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

“Self-storage facility” means a building or group of buildings containing separate, individual, and private storage spaces of varying sizes available for lease or rent for varying periods of time; mini-warehouse.

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

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

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

“Usable open space” means

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“Wetland” means an area that is inundated or saturated by surface water or groundwater at a frequency and duration to support, and that under normal

circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

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

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

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

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

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

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

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

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

17.16.070 Lot requirements.

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

REQUIRED MINIMUMS								
Zone	Lot Area	Lot Width	Lot Depth	Front <u>Setback</u>	Side <u>Setback</u>	Street Side	Rear <u>Setback</u>	Maximum Lot

REQUIRED MINIMUMS								
				Yard ⁽³⁾	Yard	Setback Yard ⁽³⁾	Yard	Building Coverage ⁽⁵⁾
R-1-5	5,000 sq. ft.;	50' detached; 35' attached	70'	5 ^{'(1)} 7-1/2 ^{'(2)}	5 ^{'(1)} 7-1/2 ^{'(2)} or 0' for common wall of attached dwellings	5 ^{'(1)} 7-1/2 ^{'(2)}	5 ^{'(1)} 7-1/2 ^{'(2)}	35% ⁽⁴⁾
R-1-7.5	7,500 sq. ft.;	70' detached; 35' attached	80'	same as above				35% ⁽⁴⁾
R-1-10	10,000 sq. ft.	80'	80'	same as above				35% ⁽⁴⁾

- (1) For one-story structures.
- (2) For structures more than one story.
- (3) The front and street side **setbacks yards** shall be increased to a minimum of 20 feet in front of a garage/carport and/or driveway entrance to a garage/carport. The increase in setback shall not apply to portions of the dwelling that are below or to the side of the garage/carport or driveway entrance. The increase in setback shall not apply to any portion of the dwelling above the garage/carport that is cantilevered (i.e., supported only by the wall of the structure from which it projects), provided the lowest point of the cantilever is a minimum of seven feet above grade. On corner lots, the clear-vision area requirement of LCMC 17.52.060 and 17.52.070 shall apply.
- (4) For existing lots between 3,000 sq. ft. and 4,000 sq. ft., maximum-~~lot~~ **building** coverage shall be 40 percent. For existing lots less than 3,000 sq. ft., maximum **lot building** coverage shall be 50 percent.
- (5) **See definition of Building Coverage in Chapter 17.08 LCMC. Includes accessory buildings (garages and outbuildings).**

SECTION 6. Chapter 17.16 (Single **Family Unit** Residential (R-1) Zone), Section 17.16.100 (Other required conditions), is hereby amended, as follows:

17.16.100 Other required conditions.

All single-~~unit~~ family dwellings (site-built, modular and manufactured homes) to be constructed or located in ~~residential zones shall an R-1- zone are~~ **encouraged to** use at least two of the following design features to provide visual relief along the front of the **dwelling home**:

- A. Dormers;
- B. Gables;
- C. Recessed entries;
- D. Covered porch entries;
- E. Cupolas;
- F. Pillars or posts;
- G. Bay or bow windows;
- H. Eaves (minimum six-inch projection);
- I. Off-sets on building face or roof (minimum 16 inches).

SECTION 7. Chapter 17.17 (*Single Unit Family Residential, Roads End (R-1-RE) Zone*), Section 17.17.050 (*Restrictions*), Paragraph C, is hereby amended, as follows:

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

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

17.17.070 Lot requirements.

Lot requirements shall be as follows:

- D. The minimum front **yard setback** shall be 20 feet. Except that the minimum setbacks from Logan Road need not exceed the average setback of buildings on all lots within 100 feet of the lot on which the proposed building is to be located and that abut Logan Road.
- E. The minimum interior side **yard setback** shall be seven and one-half feet for single-story buildings and 10 feet for buildings with more than one story.
- F. The minimum street side **yard setback** shall be 20 feet, except that it may be one foot less for each two feet of front yard setback over the minimum, but not to less than 10 feet.
- G. On corner lots, the clear-vision area requirement of LCMC 17.52.060 and 17.52.070 shall apply.
- H. The minimum rear **yard setback** shall be seven and one-half feet for single-story buildings and 10 feet for buildings with more than one story. In no case shall the distance between residential structures on the same lot or on adjacent lots be less than 10 feet.

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

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

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

17.18.070 Lot/yard setback other requirements.

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

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

- (1) For one-story structures.
- (2) For structures more than one story.
- (3) The front and street side **setbacks yards** shall be increased to a minimum of 20 feet in front of a garage/carport and/or driveway entrance to a garage/carport. The increase in setback shall not apply to portions of the dwelling that are below or to the side of the garage/carport or driveway entrance. The increase in setback shall not apply to any portion of the dwelling above the garage/carport that is cantilevered (i.e., supported only by the wall of the structure from which it projects), provided the lowest point of the cantilever is a minimum of seven feet above grade. On corner lots, the clear-vision area requirement of LCMC 17.52.060 shall apply.
- (4) For existing lots between 3,000 sq. ft. and 4,000 sq. ft. maximum **building lot** coverage shall be 40 percent. For existing lots less than 3,000 sq. ft., maximum **building lot** coverage shall be 50 percent.
- (5) **See definition of Building Coverage in Chapter 17.08 LCMC. Includes accessory buildings (garages and outbuildings).**

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

17.24.050 Setback requirements.

- A. Front **Setback Yard**. The minimum front **setback yard** shall be 20 feet.
- B. Side, **Street Side**, and Rear **Setback Yard**. The minimum side and rear **setback yard** shall be at least five feet., ~~except that t~~The street side **setback yard** shall be a minimum of 15 feet. The side, **street side**, and rear **setbacks yards** shall be increased by one-half foot for each foot by which the building height exceeds 15 feet.
- C. For **special additional** setback requirements, see Chapter 17.52 LCMC, Supplementary Regulations and Exceptions.

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

17.24.090 Other required conditions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17.32.050 Setback requirements.

A. Front ~~Setback. Yard~~. None, except when the front property line ~~yard~~ is abutting or across the street from a property parcel in a residential zone and then the front ~~setback yard~~ shall be that the front yard required in the contiguous residential zone. However, the provisions of LCMC 17.52.060 and 17.52.070 shall apply.

B. Side, Street Side and Rear ~~Setback. Yard~~. None, except when the side, street side or rear property line ~~yard~~ is abutting or across the street from a property parcel in a residential zone, and then the side, street side or rear ~~setback yard~~

shall be a minimum of 10 feet. The required side, street side or rear **setback yard** shall be increased by one-half foot for each foot by which the building height exceeds 15 feet. However, the provisions of LCMC 17.52.060 and 17.52.070 shall apply.

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

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

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

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

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

17.36.080 Other required conditions.

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

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

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

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

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

~~public sewer line but which will be connected to a public water line, may be developed utilizing an approved subsurface sewerage disposal system, provided a deferred improvement agreement is executed and recorded by the owner of record consenting to the establishment of a local improvement district to participate in future public sewer system extensions and connections.~~

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

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

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

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

J. Recreational vehicles shall be placed on a concrete or asphaltic concrete pad or a maintained crushed rock surface (minimum compacted depth of four inches of one and one-half inches to zero inches covered with minimum compacted depth of two inches of three-fourths inch to zero inches.

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

 - 1. All manufactured homes shall be skirted or placed on foundations.
 - 2. The manufactured home shall be provided with gutters and down spouts to direct surface water into storm drains or as approved by the planning director or designee.
 - 3. If the manufactured home is removed from its foundation, the owner of the property shall agree in writing to remove the foundation and all additions to the manufactured home and to permanently disconnect and secure all utilities. This agreement authorizes the jurisdiction to perform the work and place a lien against the property for the cost of the work in the event the owner fails to accomplish the work within 30 days from the date the manufactured home is removed from its foundation. This condition shall not apply in the event that the manufactured home is replaced on the original foundation, or the original foundation as modified, by another~~

~~approved manufactured home within 90 days of the removal of the original manufactured home.~~

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

~~5. Manufactured homes and recreational vehicles shall be placed on concrete or asphaltic concrete pad or maintained crushed rock surface (minimum compacted depth of four inches of one and one-half inches to zero inches covered with minimum compacted depth of two inches of three-fourths inch to zero inches).~~

SECTION 25. Chapter 17.42 (*Park (P) Zone*), Section 17.42.020 (*Permitted uses*), is hereby amended to amend Paragraph H and add a new Paragraph N as follows:

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

N. Visitor Information Center.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 26. Chapter 17.46 (*Natural Resource Overlay (NR) Zone*), Section 17.46.030 (*Application*), is hereby amended as follows:

- ~~A. The natural resource overlay zone consists of the land identified in the city comprehensive plan as “significant natural resource areas,” including significant riparian areas, significant wetlands, and significant wildlife areas.~~
- B. A.** These provisions **of Chapter 17.46 LCMC** are to be applied in conjunction with the provisions of the underlying zone. Where the provisions of the **natural resource NR** overlay zone conflict with those of the underlying zone, the more restrictive provisions must be applied.
- ~~C. B.~~-Limitation on Extent of Significant Riparian Areas. The significant riparian area extends a certain distance upland from the ordinary high water mark and includes everything within the area between the ordinary high water mark and the upper edge of the significant riparian area, to a maximum distance of 50 feet. If the area of transition extends less than 50 feet from the ordinary high water mark, then the significant riparian area will be less than 50 feet in width. The significant riparian area may be more than 50 feet if the significant riparian area is adjacent to a significant wetland **or wetland**, in which case the maximum 50-foot distance is to be measured from the upland edge of the wetland **or significant wetland**. If it is necessary, for purposes of an application, to determine the extent of a significant riparian area, the property owner is responsible for having a qualified professional conduct a delineation to determine the **riparian area or** significant riparian area boundaries.

SECTION 26. Chapter 17.46 (*Natural Resource Overlay (NR) Zone*), Section 17.46.040 (*Uses allowed*), is hereby amended to amend Paragraph B as follows:

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

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

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

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

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

2.3. The following uses are allowed outright:

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

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

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

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

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

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

SECTION 27. Chapter 17.46 (*Natural Resource Overlay (NR) Zone*), Section 17.46.050 (*Natural resources development review*) is hereby amended, as follows:

17.46.050 Natural resources development review.

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

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

~~C. The written statement of the director must be published in the next available edition of the newspaper. Notices of the action must be mailed to all property owners within 250 feet of the exterior boundary of the property where the development is to take place. Required notices must be mailed by regular first class mail and must be postmarked no later than the date of publication in the newspaper. The director also must mail a notice of the~~

~~action to the following public agencies, as appropriate: the Oregon Department of Fish and Wildlife, Oregon Division of State Lands, Oregon Department of Land Conservation and Development, U.S. Fish and Wildlife Service, Environmental Protection Agency, and U.S. Army Corps of Engineers.~~

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

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

SECTION 27. Chapter 17.46 (*Natural Resource Overlay (NR) Zone*), Section 17.46.060 (*Natural resources development variance*), is hereby amended, as follows:

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

~~**B. Development Guidelines. Variances for proposed development within the natural resource overlay zone will be considered only when the following development guidelines are met:**~~

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

SECTION 28. Chapter 17.46 (*Natural Resource Overlay (NR) Zone*), Section 17.46.090 (*Claims of map error*), is hereby deleted, as follows:

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

SECTION 29. Chapter 17.46 (*Natural Resource Overlay (NR) Zone*), Section 17.46.100 (*Plan amendment option (ESEE)*), is hereby amended, as follows:

17.46.100 Plan amendment option (ESEE).

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

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

other sites within the city can meet the specific needs of the proposed use.

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

SECTION 30. Chapter 17.52 (*Supplementary Regulations and Exceptions*), Section 17.52.100 (*Landscaping*), is hereby deleted, as follows:

Chapter 17.52

SUPPLEMENTARY REGULATIONS AND EXCEPTIONS

Sections:

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

~~17.52.100 — Landscaping.~~

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

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

~~1. Newly developed lots.~~

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

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

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

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

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

~~i. The location and number of proposed plantings. Materials in the plan shall not be installed until the plan has been approved.~~

~~ii. The degree and direction of finished slopes of all landscape areas. Degree of slope shall be measured and indicated by category as per subsection (F)(1)(a) of this section.~~

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

~~a. Landscape plan shall be submitted with the site plan and shall be drawn to scale and shall include the location of buildings, impervious surfaces, and pervious surfaces. Plans must indicate the~~

location, species, and number of proposed plantings and how the landscaped area will be irrigated.

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

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

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

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

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

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

Exemptions and adjustments:

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

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

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

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

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

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

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

1. Single-Family Dwellings and Duplexes.

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

R-1*	R-M	NCR	R-R	OPD I-M	OPD OF	NBMU	NBD
20%	20%	20%	15%	10%	10%	10%	10%

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

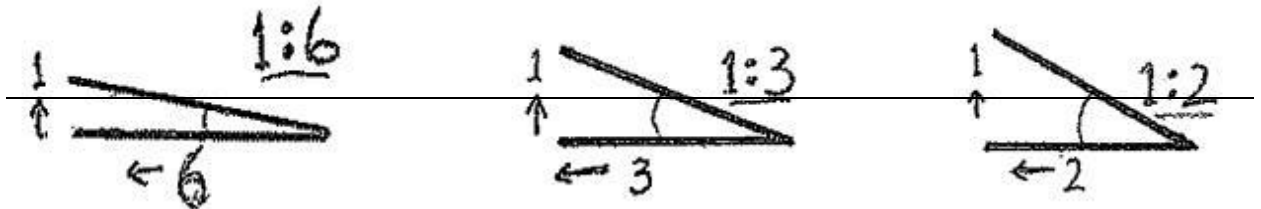
~~b. A minimum of 25 percent of the front yard shall consist of one or more planted areas, which shall count towards total required planted area for the lot.~~

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

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

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

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



~~The minimum coverage of living groundcover shall be determined based on the maximum slope of an individual planted area in the following categories:~~

~~Category 1: For gradual slopes of 0 up to and including 1:6, living groundcover shall cover a minimum of 25% of the required planted area.~~

~~Category 2: For slopes greater than 1:6 up to and including 1:3, groundcover shall cover a minimum of 50% of the~~

required planted area.

Category 3: For slopes greater than 1:3 up to and including 1:2, groundcover shall cover a minimum of 75% of the required planted area.

Category 4: Steep slopes greater than 1:2 shall meet requirements set out in Chapter 12.08 LCMC, Grading and Erosion Control.

b. Groundcover Size. Groundcover plants shall be sized and spaced so that they grow together to cover the minimum required area in subsection (E)(1)(a) of this section within three years of planting. Until new plants have grown to cover the required area, bare ground between plants shall be protected from erosion with non-living groundcover, as specified in subsection (F)(2) of this section. Wattle, bio-bags, or similar methods approved by the city engineer shall be used in conjunction with organic, non-living groundcover to prevent erosion on slopes greater than 1:6.

2. Non-Living Groundcover. Depth of mulch shall be the minimum necessary (i.e., a two- to three-inch-thick layer) to ensure effective erosion control and to avoid leaching of excessive nutrients. Mulch between plantings shall consist of any of the following materials:

a. Organic materials. Examples include wood mulch and wood nuggets that are a minimum diameter of one inch, straw, and well-aged compost and leaves.

i. Mulch shall be weed-free.

ii. Mulching with manure that has not been composted or aged is prohibited.

b. Non-organic materials, such as loose (not compacted) small river gravel, river rock, and pumice.

G. Additional Required Vegetation.

1. Single-Family Dwellings and Duplexes. For single-family dwellings and duplexes, one plant unit must be planted and maintained for every 500 square feet of required planted area. One plant unit equals 10 points in any combination according to the values listed below:

10 points: one large tree (over 20 feet in height at maturity)

5 points: one small tree (20 feet in height or less when mature)

2 points: one native species or drought-

tolerant shrub

~~1 point: one native species or drought-tolerant perennial~~

~~Exception: If the percentage of living groundcover in a planted area is 100 percent, additional vegetation requirements may be reduced by 50 percent.~~

~~2. All Development Other Than Single-Family Dwellings and Duplexes.~~

~~All areas to be landscaped and buffered shall be planted with a minimum of the following:~~

- ~~a. One large tree or two small trees per 20 feet of lot perimeter; and~~
- ~~b. One deciduous or evergreen shrub per five feet of lot perimeter.~~
- ~~c. Plantings shall not be higher than five feet if they would block the view of any shoreline of the Pacific Ocean, Siletz Bay or Devils Lake.~~

~~H. Standards for Plant Materials.~~

~~1. Size.~~

- ~~a. Large trees shall be a minimum of one-inch caliper or six feet in height at time of planting.~~
- ~~b. Small trees shall be a minimum of one-gallon size or two years old at time of planting.~~
- ~~c. Shrubs shall be a minimum of one-gallon size when planted.~~
- ~~d. Perennials shall be a minimum of four-inch pot size.~~

~~2. Species and Practices.~~

- ~~a. Use of native and drought-tolerant species is advised generally, and required in subsection (G)(1) of this section for shrubs and perennials.~~
- ~~b. Invasive and noxious plants as defined in LCMC 8.12.010 or by the Oregon Department of Agriculture are prohibited.~~
- ~~c. For all development other than single-family dwellings and duplexes, plant materials shall achieve balance between low-lying and vertical shrubs and trees.~~
- ~~d. High fertilizer hydro-seeding is prohibited.~~

~~3. Condition. All selections must be healthy and disease-free.~~

~~I. Additional Pervious Surface. For areas of a lot not covered with impervious surfaces or required planted areas, any of the following is permitted:~~

- ~~1. Pervious off-street parking surfaces.~~
- ~~2. Pervious hardscape features, i.e., patios, decks, sidewalks and pathways, etc.~~
- ~~3. Non-organic groundcover (e.g., rock) with or without vegetation.~~

~~4. Organic groundcover with vegetation as per subsection (F) of this section (i.e., additional planted areas).~~

~~J. Generally.~~

~~1. Time of Installation. All required landscaping shall be installed prior to issuance of a certificate of occupancy or, in relation to development for which a certificate of occupancy is not required, prior to commencement of use.~~

~~a. Agreement to Delay Installation. If all required landscaping has not been satisfactorily completed prior to application for issuance of a certificate of occupancy or prior to a proposed commencement of use, and if the director determines that a delay in completion of the landscaping is appropriate because there has not been a reasonable amount of time for the completion of the landscaping or for other reasons, then the director may require, as a condition of such issuance or use, a landscaping agreement signed by the owner, in a form satisfactory to the director. A landscaping agreement shall:~~

~~i. Identify all landscaping to be completed and establish a time period, not to exceed 120 days, within which the owner shall complete the landscaping;~~

~~ii. Provide that if the owner does not complete the identified landscaping within the established time period, then the city may complete the landscaping and recover the full cost and expense of completion from the owner;~~

~~iii. Require the owner to hold harmless, defend, and indemnify the city and its mayor and council members, officers, boards, commissioners, and employees from claims of any nature arising or resulting from the performance of any acts required to be done by the owner under the agreement.~~

~~b. Financial Security Required for Delayed Installation. An owner entering into a landscaping agreement under this subsection shall file with the city, as a condition to city acceptance of the agreement, financial security to assure the full and faithful performance of the agreement by the owner. The financial security shall be in an amount equal to 110 percent of the owner's estimated cost to complete the landscaping, as approved by the director, which amount shall be subject to reduction from time to time in the sole discretion of the director as satisfactory installation of the landscaping is completed. The financial security required under this subsection shall be in a form approved by the director and may be one or more of the following:~~

~~i. A surety bond executed by a surety company authorized to transact business in the state of Oregon;~~

~~ii. Cash; or~~

~~iii. An irrevocable standby letter of credit or similar financial security instrument.~~

~~2. Maintenance. The owner of a lot is responsible for continuous maintenance of the landscaping required by this chapter, including necessary irrigation, weeding, pruning and, if necessary, replacing, in a substantially similar manner as originally approved. The lot owner is responsible for keeping the required planted areas free from weeds and litter. Failure to maintain the landscaping in accordance with this chapter shall be considered a Class B violation.~~

~~3. Landscaping shall be in conformance with the general visibility requirements set out in LCMC 17.52.260.~~

~~4. Any constructed earth berms shall be between three feet and four feet in height, and topped with ground cover and shrubbery.~~

~~5. Uses within a development that might provide objectionable views, such as garbage and trash collection stations, and laundry areas in multifamily developments, shall be landscaped with screen plantings, or landscaped masonry wall or fencing.~~

~~6. Drainage pipes and appurtenances located on an ocean front parcel shall be secured and screened with landscaping to the extent feasible, and the discharge shall be placed to limit erosion.~~

SECTION 31. Chapter 17.52 (*Supplementary Regulations and Exceptions*), Section 17.52.190 (*building height limitations*), Paragraph C, is hereby amended as follows:

3. For the purposes of this subsection, "approved grade" means:
 - a. The existing grade, meaning one of the following:
 - i. The ground level before any human disturbance as shown by survey or other reliable evidence; or
 - ii. The ground level shown on the city's ~~2018 2009~~-LIDAR data (which is available from the ~~planning and community development department~~); or

SECTION 31. Chapter 17.52 (*Supplementary Regulations and Exceptions*), Section 17.52.220 (*Tree Protection and Removal*), Paragraph C, (*Definitions*), is hereby amended to amend the definition of "Development" as follows:

"Development" means grading, excavation, fill, or construction on a site requiring **development review, site plan review**

SECTION 32. Chapter 17.52 (*Supplementary Regulations and Exceptions*), Section 17.52.220 (*Tree Protection and Removal*), Paragraph F, Numbered paragraph 2, Paragraph a. subparagraph vi, subparagraph (A) is hereby amended as follows:

- (A) The city has approved a **site plan, development review**, subdivision, planned ~~unit~~ development or building permit; and

SECTION 33. Chapter 17.52 (*Supplementary Regulations and Exceptions*), Section 17.52.220, (*Tree Protection and Removal*), Paragraph F, Numbered paragraph 3, (Review Process) is hereby amended as follows:

3. If part of a project that requires subdivision review, **development site plan** review, or a conditional use permit, the permit for tree removal shall be processed as part of development or conditional use permit review. Other tree removal applications shall be reviewed by the director of planning and community development, who may require an erosion control plan to determine conformance with Chapter 12.08 LCMC, Grading and Erosion Control, and rules issued by the public works department.

SECTION 34. Chapter 17.52 (*Supplementary Regulations and Exceptions*), Section 17.52.220 (*Tree Protection and Removal*), Paragraph G, (*Replacement of Trees lawfully removed*), Numbered paragraph 1, (*Applicability*) is hereby amended as follows:

1. Applicability. The standards of this section apply to trees removed with a permit required by subsection (F) of this section that are more than 100

feet from a building subject to ~~site plan development~~ review, or conditional use approval, or that are removed to allow development of parking in excess of the amount of required parking, or that are removed for purposes other than compliance with a governmental requirement. If the tree being removed is dead, dying, diseased or dangerous to life or property, replacement is encouraged, but not required, unless the tree is a protected tree, in which case replacement is required.

SECTION 35. Chapter 17.52 (*Supplementary Regulations and Exceptions*), Section 17.52.220 (*Tree Protection and Removal*), Paragraph I, (*Tree protection and Replacement Plan Required*), Numbered paragraph 1, (*Applicability*) is hereby amended as follows:

1. Applicability. Requirements of this subsection apply to any lot, parcel or combination of lots or parcels for which an application for a subdivision, ~~site plan development~~ review, planned unit development or conditional use is filed if the proposed project will involve tree removal.

SECTION 36. Chapter 17.52 (*Supplementary Regulations and Exceptions*), Section 17.52.260 (*Standards for Attached Single Family Dwelling Development*), is hereby deleted, as follows:

~~**17.52.260 Standards for attached single family dwellings development.**~~

~~**A. There are no minimum lot area or setback standards for individual lots in an attached single family housing development; provided, that the attached housing development as a whole meets the density, parking, height and landscaping requirements for the underlying zone.**~~

~~**B. Perimeter Setback Requirements. The front, street side, side and rear yards around the perimeter of an attached single family housing development are those of the underlying zone.**~~

~~**C. Land Coverage. The maximum land coverage by buildings and structures for an attached single family housing development shall not exceed 45 percent of the total land area.**~~

~~**D. Special yards and distances between buildings shall be provided as follows:**~~

- ~~**1. The distance between a principal building and any accessory building shall be a minimum of 10 feet.**~~
- ~~**2. An inner court providing access to double row dwelling groups shall be a minimum of 20 feet in width.**~~
- ~~**3. The distance between principal buildings shall be at least one-half the sum of the height of both buildings; provided, however, that in no case shall the distance be less than 15 feet. This requirement shall also apply to portions of the same building separated from each other by a court or other open space.**~~

~~4. The supplementary regulations and exceptions provisions of this chapter relating to setback requirements may also be applicable.~~

~~E. Maximum Building Height. Maximum building height shall be 35 feet except as provided in LCMC 17.52.200.~~

~~F. Recreation Area. A minimum of 250 square feet of recreation area shall be provided for each living unit. The recreation area may be in one or more locations in the attached single-family housing development. Recreation buildings may be considered as part of these requirements.~~

~~G. Storage Area. Storage space (for boats, campers, etc.) shall be provided at the rate of one 10-foot by 20-foot space in size for every four living units. Adequate maneuvering room shall be provided; storage space shall be fenced with a six-foot-high sight-obscuring fence, hedge or wall.~~

~~H. Restrictions. No development of attached single-family dwellings or attached single-family housing developments may occur unless all city services (sewer and water) are available to serve such development.~~

~~I. Design Features. All attached single-family dwellings shall utilize at least two of the following design features to provide visual relief along the front of the dwelling:~~

- ~~1. Dormers;~~
- ~~2. Gables;~~
- ~~3. Recessed entries;~~
- ~~4. Covered porch entries;~~
- ~~5. Cupolas;~~
- ~~6. Pillars or posts;~~
- ~~7. Bay or bow windows;~~
- ~~8. Eaves (minimum six inches projection);~~
- ~~9. Off-sets on building face or roof (minimum 16 inches).~~

SECTION 37. Chapter 17.64 (*Nonconforming Situations*), Section 17.64.010, (*General provisions*), is hereby amended, as follows:

~~D. Restoration of a Damaged Lawful, Nonconforming Structure or Use. A lawful, nonconforming structure or use that has been damaged may be restored to its former height and footprint, as approved through a Type II procedure as set forth in LCMC 17.76.040, with the application process outlined in LCMC 17.77.116. its previous extent, if the value of the damage, as determined by the city, is less than 50 percent of the appraised value of the building or structure, as determined by the records of the county assessor for the year preceding destruction.~~

~~E. Restoration of a Substantially Damaged Lawful, Nonconforming Structure or Use. If damaged to an extent of 50 percent or more, as determined through a Type I procedure, a lawful nonconforming structure or use may be restored to its former height and footprint only, as approved by the city. A request to restore a~~

~~lawful, nonconforming single-unit dwelling or duplex shall be processed as a Type II procedure, as outlined in LCMC 17.76.040. A request to restore a lawful, nonconforming multi-unit dwelling, mixed use structure, or commercial structure or use shall be processed as a Type III procedure, as outlined in LCMC 17.76.050. A decision to approve an application to restore a nonconforming structure must include findings of all the following:~~

- ~~1. The damage was not intentionally caused by the property owner;~~
- ~~2. The restoration does not increase the degree of nonconformity or add new nonconformity, and except as specified above, restored structures conform to requirements of this code;~~
- ~~3. Restoration is according to plans approved by the fire marshal, building inspector and floodplain manager, and, if required, in conformance with a geo-technical report;~~
- ~~4. The restored structure or use does not encroach unlawfully on adjacent properties;~~
- ~~5. The restoration complies with reasonable conditions imposed by the city on a building permit in order to mitigate any new or increased adverse impact on adjacent property; and~~
- ~~6. In the case of a multi-unit dwelling, mixed use structure, or commercial structure, the reconstructed use or structure would not interfere with the intent and purpose of the zone in which it is located.~~

~~**F. E.** Time Limit on Restoration of Lawful Nonconformity. The owner of a damaged lawful, nonconforming use or structure shall apply for a building permit for restoration no later than 24 months from the date of the damage. After 24 months following the date of damage, the building **and use** will be subject to current zoning regulations for the **zone in which the land and building are located.** district in which the land and buildings are located, including residential density standards.~~

~~**G. F.** Routine Repairs and Maintenance. Routine maintenance and repairs may be performed on structures, buildings, or sites that are nonconforming or that house nonconforming uses. Examples of maintenance and repairs are painting, repairing dry rot, and reroofing. Routine repairs and maintenance do not include expansion of the square foot area of a structure or use, or creation of new units within residential structures. **Routine repairs and maintenance performed in any 12-month period may not exceed 50 percent of the assessed value of the existing building, structure or use.**~~

SECTION 37. Chapter 17.64 (*Nonconforming Situations*), Section 17.64.040, (*Nonconforming commercial site development*), is hereby deleted, as follows:

~~**17.64.040 — Nonconforming commercial site development.**~~

~~The purpose of this section is to upgrade elements of nonconforming commercial development that affect the appearance of a site and create adverse impact on adjacent sites. The intent is to make commercial development closer to conformance with design standards in Chapter 17.74 LCMC but not to require extensive changes that would be impractical or extremely expensive, such as moving, lowering or structurally altering buildings.~~

~~A. Subject to the other provisions of this chapter, when the owner of a use or structure located on a commercially zoned lot that contains nonconforming site development elements converts to a different use, enlarges or structurally alters the use or structure, the owner also shall alter the nonconforming site development elements to conform to standards in Chapter 17.74 LCMC to the maximum extent feasible within a cost not to exceed 25 percent of the cost of the conversion, enlargement, or structural alteration.~~

~~B. The following elements shall be made compliant with the provisions as outlined below, or, as approved by the review authority, as close to compliant as possible within the cost limitation defined in subsection (A) of this section.~~

- ~~1. Pedestrian spaces as set out in LCMC 17.74.080;~~
- ~~2. Materials and colors as set out in LCMC 17.74.100(J);~~
- ~~3. Pedestrian shelters and weather protection as set out in LCMC 17.74.100 (I);~~
- ~~4. Exterior lighting as set out in LCMC 17.52.150; and~~
- ~~5. Windows/transparency as set out in LCMC 17.74.100(H).~~

SECTION 38. Chapter 17.74 (*Design Standards*), Section 17.74.040 (*Standards versus guidelines*), Paragraph B, (*Burden of Proof*) and Paragraph C, (*Adjustments and Modifications*) are hereby amended, as follows:

B. Burden of Proof. The submitted application and associated materials must demonstrate how the proposal meets all the applicable standards contained in this chapter and other applicable city regulations. Through adjustment ~~or~~ **modification** requests, the application and associated materials must also provide evidence of why a standard is not relevant given the context of the site and proposed use.

C. Adjustments ~~and Modifications~~. Adjustments to ~~or modifications of~~ the standards in this chapter are not variances. ~~The procedures and criteria for variances are addressed in Chapter 17.68 LCMC.~~ The review authority may approve requests for adjustments to ~~or modifications of~~ the standards in this chapter provided the applicant demonstrates the following:

1. The character types and guiding principles, as contained in LCMC 17.74.050, and the intent statement(s) under the standard to be adjusted ~~or~~

~~modified~~ can be better met through the proposed alternative design solution; or
2. Necessary characteristics of the allowed use present practical difficulties in meeting a standard. In such cases, the submitted materials must provide alternative features to meet the intent of the standard, along with an explanation of how the alternative features meet the intent of the standard being adjusted. ~~or modified~~

SECTION 39. Chapter 17.76 (Procedures), Section 17.76.020 (Summary of Procedure Types), Table 17.76.020-1 table entries, are hereby amended, as follows:

Lot Property line adjustment	Type II	Director
Natural resources development review	Type II	Director
Natural resources development variance	Type III	Planning Commission
Planned unit development		

SECTION 40. Chapter 17.76 (Procedures), Section 17.76.040 (Type II procedure), Paragraph E, (Public Notice of Application and Comment Period), Numbered paragraph 3, is hereby amended, as follows:

3. The failure of a property owner to receive notice does not invalidate the land use action if the notice was sent. An affidavit of mailing of the public notice of receipt of a complete application shall be prepared with the mailing date noted and the list of parties to whom the notice was mailed attached to the affidavit, along with the notice itself.

SECTION 41. Chapter 17.76 (Procedures), Section 17.76.040 (Type II procedure), Paragraph H, (Appeal), Numbered paragraph 4, is hereby amended, as follows:

4. The appeal shall follow the requirements and procedures of LCMC 17.76.180, and shall be a hearing de novo. The appeal shall not be limited to the application materials, evidence and other documentation, and specific issues raised in the review leading up to the Type III decision, but may include other relevant evidence and arguments. The hearing appeal body may allow additional evidence, testimony, or argument concerning any applicable standard, criterion, condition, or issue.

SECTION 42. Chapter 17.76 (Procedures), Section 17.76.050 (Type III procedure), Paragraph E, (Notice of Public Hearing), Numbered paragraph 1, subparagraph c, is hereby amended, as follows:

c. Property owners of record within ~~500~~ **250** feet of the perimeter property line of the property or properties subject to the application,

using the most recently provided property tax assessment roll of the Lincoln County assessor's office as provided to the city to determine property owners of record;

SECTION 43. Chapter 17.76 (*Procedures*), Section 17.76.050 (*Type III procedure*), Paragraph F, is hereby amended, as follows:

F. Public notices for Type III applications shall be mailed a minimum of 20 days prior to the first evidentiary public hearing. **The failure of a property owner to receive notice does not invalidate the land use action if the notice was sent. Notice of the public hearing for Type III applications shall also be published in a newspaper of general circulation in the city, at least 10 days but not more than 21 days before the first scheduled public hearing on the proposal.**

SECTION 44. Chapter 17.76 (*Procedures*), Section 17.76.050 (*Type III procedure*), Paragraph J, (*Appeal*), Numbered paragraph 2, is hereby amended, as follows:

2. The appeal shall follow the requirements and procedures of LCMC 17.76.180, **and shall be a hearing de novo. The appeal shall not be limited to the application materials, evidence and other documentation, and specific issues raised in the review leading up to the Type III decision, but may include other relevant evidence and arguments. The hearing appeal body may allow additional evidence, testimony, or argument concerning any applicable standard, criterion, condition, or issue.**

SECTION 45. Chapter 17.76 (*Procedures*), Section 17.76.060 (*Type IV procedure(legislative)*) Paragraph E. (Mailed Notice of Public Hearing), Numbered Paragraph 3, is hereby deleted, as follows:

~~3. For each mailing of notice, the department shall prepare an affidavit of mailing.~~

SECTION 46. Chapter 17.76 (*Procedures*), Section 17.76.140 (*Expiration of Decision*), Paragraph A, Numbered paragraph 4, is hereby amended, as follows:

4. A copy of the recorded final plat has been submitted to the department within **two years one year** of approval of a partition or subdivision or a copy of the recorded survey map has been submitted to the department within **two years one year** of approval of the **property lot** line adjustment.

SECTION 47. Chapter 17.76 (*Procedures*), Section 17.76.160 (Public hearings), Paragraph E, (*Compliance with Notice Requirements*) is hereby amended, as follows:

E. Compliance with Notice Requirements. Mailed notice shall be deemed to have been provided upon the date the notice is deposited in the mail. **The failure of a property owner to receive notice does not invalidate the land use action if the notice was sent. Failure of the addressee to receive such notice shall not invalidate the proceedings if it can be demonstrated by affidavit that such notice was given.**

SECTION 48. Chapter 17.76 (*Procedures*), Section 17.76.160 (Public hearings), Paragraph M, (*Action by Review Authority Following Public Hearing*) Numbered Paragraph 2, is hereby amended, as follows:

2. Findings in support of any decision shall be made in accordance with the review authority's adopted rules of procedure and with applicable state law. **The findings must be factual and must be supported by substantial evidence submitted into the record.**

a. For the city council to adopt an ordinance for an amendment to this title, comprehensive plan document, and/or map, findings must be made and adopted as part of said ordinance that are adequate to support the proposed amendment. The amendment must comply with and conform to the comprehensive plan and comprehensive plan map. For amendments to the comprehensive plan, comprehensive plan map, zoning map, and/or this title, proposals must be consistent with provisions in the Oregon Transportation Planning Rule, OAR 660-012-0060. If statewide planning goals provide a more specific direction than is provided by the city's comprehensive plan, then the findings must provide evidence that the proposed amendment is in conformance with statewide planning goals.

SECTION 49. Chapter 17.76 (*Procedures*), Section 17.76.160 (Public hearings), Paragraph N, (*Record*) Numbered Paragraph 2, is hereby amended, as follows:

2. An interested party may request a verbatim transcript of the recorded proceedings before the review authority on the matter. **Requests for verbatim transcripts shall be accompanied by the fee for a verbatim transcript, as specified in the adopted fee schedule. Requests for transcripts shall be accompanied by a deposit separate from the appeal fee, as specified in the adopted fee schedule. The city shall maintain an accurate record of the costs of the transcript preparation, and any unexpended portion of the deposit or additional amount due shall be refunded to or payable by the interested party.**

SECTION 50. Chapter 17.77 (*Applications*), Section 17.77.005 (*Administrative adjustment*), Paragraph A, (*Scope and Authority*) is hereby amended, as follows:

- A. Scope and Authority. Requests for administrative adjustments are applicable only to required ~~setbacks yards (setbacks)~~ and building height in all zoning districts. An administrative adjustment permits a minor encroachment into a required setback yard, or maximum height, not to exceed six inches, in addition to any other relief granted by the applicable code. Administrative adjustments may not be requested for any other portion of the code other than the items noted above as being eligible for an administrative adjustment.

SECTION 52. Chapter 17.77 (*Applications*) is hereby amended as, as follows, to add Section 17.77.112 (*natural resources development variance*):

17.77.112 Natural Resources Development Variance

A. Procedure. Natural resources development variance applications are subject to the Type III procedure, as described in LCMC 17.76.050.

B. Submittal Requirements. Type III application submittal requirements are set forth in LCMC 17.76.050 and more specific submittal requirements are provided on application forms and checklists as authorized in LCMC 17.76.110.

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

1. Strict adherence to the natural resource overlay zone standards of Chapter 17.46 LCMC would effectively preclude a use of the property that reasonably could be expected to occur in the zone, and that the property owner would be precluded a property right which is substantially the same as owners of other property in the same zone or vicinity;

2. The proposed development can be accommodated, including actions to mitigate impacts to natural resource functions, without substantial negative impact to the property's significant wetland, significant riparian, and/or significant wildlife habitat areas.

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

4. The variance requested, of the possible variances necessary to create a buildable area outside of a significant wetland, significant riparian, and/or significant wildlife habitat area, has the least impact to the functions of any significant wetland, significant riparian, and/or significant wildlife habitat areas on the property.

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

E. Expiration of a Decision. Refer to LCMC 17.76.140.

F. Extension of a Decision. Refer to LCMC 17.76.150

SECTION 53. Chapter 17.77 (*Applications*) is hereby amended as, as follows, to add Section 17.77.116 (*nonconforming – restoration of lawful nonconformity*):

17.77.116 Nonconforming – Restoration of Lawful Nonconformity

A. Procedure. Applications to restore a lawful nonconforming structure or use are subject to the Type II procedure, as described in LCMC 17.76.040.

B. Submittal Requirements. Type II application submittal requirements are set forth in LCMC 17.76.040 and more specific submittal requirements are provided on application forms and checklists as authorized in LCMC 17.76.110.

C. Approval Criteria. To approve a request to restore a lawful nonconforming structure or use, the director shall make findings of fact, based on evidence provided, that all of the following circumstances exist:

- 1. The damage was not intentionally caused by the current property owner;**
- 2. The restoration or does not increase the degree of nonconformity or add new nonconformity;**
- 3. The restoration is according to plans approved by the fire marshal, building official, and floodplain manager, and if required, in conformance with a geotechnical report;**
- 4. The restored structure or use does not encroach unlawfully on adjacent properties;**
- 5. The restoration complies with reasonable conditions imposed by the city on a structural permit to mitigate any new or increased adverse impact on adjacent property; and**

6. In the case of a multi-unit dwelling, mixed-use structure, or commercial structure, the reconstructed use or structure would not interfere with the intent and purpose of the zone in which it is located.

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

E. Expiration of a Decision. Refer to LCMC 17.76.140.

F. Extension of a Decision. Refer to LCMC 17.76.150

SECTION 54. Chapter 17.80 (*Provisions Applying to Special Uses*), Section 17.80.040 (*Standards for mobile home parks, recreational vehicle parks, and tiny house developments*)red conditions), Paragraph C, (*Tiny House Developments*) is hereby amended, as follows:

C. Tiny House Developments.

1. Definitions. The following definitions apply to this section:

a. "Tiny house" means a standalone dwelling with a floor area of 400 square feet or less, excluding lofts. For purposes of this section, "tiny house" does not mean a trailer or a recreational vehicle.

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

1.2. Tiny houses are allowed in a tiny house development at a density of one tiny house for each 1,200 square feet of land area.

2.3. Tiny house developments shall not be used as vacation rentals.

3.4. Tiny houses must be separated from each other and from other structures by at least 10 feet, and at the perimeter of the development must comply with the setback requirements of the R-1 zone.

4.5. A tiny house development must provide at least one off-street parking space for each tiny house. Parking spaces may be clustered and need not be located immediately adjacent to the individual tiny houses they serve.

5.6. All tiny houses in a tiny house development must comply with all applicable Oregon building code requirements.

6.7. A tiny house development is subject to **development review in LCMC 17.77.070.** ~~the site plan approval process of LCMC 17.52.240.~~

SECTION 55. Chapter 17.80 (*Provisions Applying to Special Uses*), Section 17.80.050 (*Vacation rental dwelling use criteria*), Paragraph B, (*Vacation Rental Dwelling Standards*), Numbered Paragraph 5, (*Landscaping*) Paragraph a, (Residential Zones and the VR Zone) and Paragraph b, (Commercial Zones) are hereby amended, as follows:

- a. Residential Zones **(R-1-5, R-1-7.5, R-1-10, R-1-RE, R-M, R-R)** and the VR Zone. The owner must landscape **all yards** in accordance with the standards of LCMC **17.55.030. 17.52.100.** **Additionally, a A** minimum of 50 percent of the front **setback area yard (the area between the side lot lines, the front lot line, and the front of the dwelling)** must be landscaped. For oceanfront properties constrained by a need to be set back from the bluff edge due to geological hazards, landscaping may be reduced in order to accommodate required parking.
- b. Commercial Zones **(NBD, NBMU, TVC, OP-OF, OP-IM, OP-MSH, RC, and GC)**. The owner shall install and maintain **landscaping to the landscaping as shown in the approved site plan for the commercial use or mixed-use application. If the approval does not include a site plan then the landscaping, at a minimum, must** meet the landscaping standards of LCMC **17.55.030. 17.52.100.**

SECTION 56. Chapter 17.80 (*Provisions Applying to Special Uses*), Section 17.80.050 (*Vacation rental dwelling use criteria*), Paragraph B, (*Vacation Rental Dwelling Standards*), Numbered Paragraph 6, (*Signs*) is hereby amended, as follows:

6. Signs. In **any of the zones, both residential and commercial zones**, any sign on the property shall be in compliance with the sign requirements for **the use in** the R-1 zone, as established in LCMC 17.72.060(B).

SECTION 57. Chapter 17.80 (*Provisions Applying to Special Uses*), Section 17.80.050 (*Vacation rental dwelling use criteria*), Paragraph C, (*Application and Review*), Numbered Paragraph 1, (*Application Requirements*), Paragraph c, is hereby amended, as follows:

- c. The applicant shall certify that the person identified as the owner on the application does not own other property in the city that is used as a vacation rental dwelling or is approved by the city for vacation rental dwelling use, if the application is for a vacation rental dwelling in a residential **(R-1-5, R-1-7.5, R-1-10, R-1-RE, R-M, R-R)** zone.

SECTION 58. Chapter 17.80 (*Provisions Applying to Special Uses*), Section 17.80.050 (*Vacation rental dwelling use criteria*), Paragraph C, (*Application and Review*), Numbered Paragraph 2, (*Administrative Review and Decision*), is hereby amended, as follows:

2. Type II Procedure. Administrative Review and Decision.

a. The application shall be processed as a Type II procedure, pursuant to LCMC 17.76.040

~~a. Notice of Receipt of Application. After receipt of a vacation rental dwelling land use approval application, the department shall provide written notice of the application to:~~

~~i. Owners of property within 250 feet of the property for which the application is submitted. The list of property owners shall be compiled from the most recent property tax assessment roll. Where 50 percent or more of the number of properties in the area subject to notice are owned by the same person, as defined in this section, the notice area shall be expanded until the number of properties owned by the same person constitutes 20 percent or less of the properties in the notice area.~~

~~ii. Any neighborhood association recognized by the city whose boundaries include the site.~~

~~b. The written notice of the application shall include the following information:~~

~~i. The date, time, and place where comments are due, if a person wishes to have the comments considered during the review process. The due date shall be 14 days after the date of the notice.~~

~~ii. A statement that the criteria governing the land use approval decision are the requirements of subsection (B) of this section.~~

~~iii. The street address or another easily understood geographical reference to the property.~~

~~iv. A statement that the land use application and any other file materials are available for review at the department and that copies can be obtained at cost.~~

~~v. The name and phone number of a department contact person.~~

~~c. The planning and community development director shall review an application for VRD in any zone under the applicable standards of subsection (B) of this section and shall issue an administrative decision on the application.~~

~~d. Notice of administrative decision shall be provided as required in LCMC 17.76.020 and mailed at applicant's expense to all owners of property of record as indicated on the most recently available tax assessment roll, located within 250 feet of the exterior boundary of the property for which the application is made. Where 50 percent or more of the number of properties in the area subject to notice are owned by~~

~~the same person, as defined in this section, the notice area shall be expanded until the number of properties owned by the same person constitutes 20 percent or less of the properties in the notice area. The notice shall contain the information required by LCMC 17.76.020(A) and allow any person opportunity to appeal the decision within 20 days of mailing of the notice. The mailed notice shall state that if tenants or lessees are in possession of the property, the city requests the owner to provide a copy of the notice to each tenant or lessee.~~

b. e. The authorization for VRD land use approval or VRD nonconforming use shall remain valid provided the use is conducted lawfully, under a valid revocable vacation rental dwelling license issued under Chapter 5.14 LCMC, and in compliance with Chapter 3.04 LCMC, Transient Room Tax. If a property owner who has received a VRD land use authorization fails to apply for and receive a VRD license under Chapter 5.14 LCMC within one year of having received the VRD land use authorization, or having received a VRD license under Chapter 5.14 LCMC, fails to renew it within the license grace period, the city will consider the VRD authorization abandoned and the ~~planning and community development~~ director will declare the authorization void. For a legal nonconforming use in the R-1-RE zone, discontinuance, abandonment, sale or transfer, as specified in subsection (B)(2)(d) of this section, triggers termination of the nonconforming use. The ~~planning and community development~~ director will mail a written notice of the decision to declare the VRD land use authorization null and void or declare the VRD nonconforming use terminated to the property owner. The property owner may appeal the ~~planning and community development~~ director's decision as provided in LCMC 17.76.180.

SECTION 59. Chapter 17.80 (*Provisions Applying to Special Uses*), Section 17.80.050 (*Vacation rental dwelling use criteria*), Paragraph C, (*Application and Review*), Numbered Paragraphs 3 (*Appeal*) and 4 (*Fees*) are hereby amended, as follows:

3. Appeal. The decision of the planning and community development director on an application for vacation rental dwelling land use may be appealed as provided in LCMC 17.76.180. Appeal of the director's decision ~~of the planning and community development director~~ shall be in the form of an evidentiary hearing before the planning commission. The planning commission decision shall be final and is not subject to further appeal.
4. Fees. The city is authorized to adopt fees in an amount established by resolution to recover the actual costs of processing and reviewing an application for vacation rental dwelling land use including fees for appeals of such decisions.

SECTION 60. Chapter 17.80 (*Provisions Applying to Special Uses*), Section 17.80.060 (*Bed and breakfast accommodation standards*), Paragraph E, is hereby amended, as follows:

E. Bed and breakfast accommodations must maintain **the landscaping requirements of LCMC 17.55.030.** ~~the residential lawn nature of front and side yards.~~

SECTION 61. Chapter 17.80 (*Provisions Applying to Special Uses*), Section 17.80.070 (*Essential emergency communications and warning facilities*), Paragraph B, is hereby amended, as follows:

B. Essential emergency communications, early warning and associated emergency facilities are not required to comply with the requirements, guidelines, or standards of either LCMC **17.77.070** ~~17.52.240~~ or Chapter 17.74 LCMC, or any other **development review site plan** or design standards, guidelines, or requirements contained in this code.

SECTION 62. Chapter 17.80 (*Provisions Applying to Special Uses*), Section 17.80.080 (*Animals and gardens*), Paragraph B, (*Gardens*), are hereby amended, as follows:

B. Gardens. Gardens are permitted in all zones as an accessory use to any principal use permitted outright or to a permitted conditional use, in each case subject to the standards of this section.

1. Personal Gardens. Personal gardens are allowed as an accessory use on any lot. Personal gardens may be used to meet part or all of any landscaping requirement set out in this code. Personal gardens may include structures such as cold frames, greenhouses, and hoop houses in any **yard area of the site** other than a required front **yard** or street side **yard setback area** and do not count against the **allowed maximum** building coverage in any zone, even if the structure requires a building permit. To the extent such structures require a building permit they may not be located closer than three feet to any property line.

2. Community Gardens. Community gardens, including those allowed as a principal use under the regulations of any zone, may include structures such as cold frames, greenhouses, and hoop houses. If the community garden is a use accessory to a principal use involving a building, such structures may be located in any **area of the site yard** other than a required front **yard** or street side **yard setback area** and do not count against the **allowed maximum** building coverage in any zone, even if the structure requires a building permit. To the extent such structures require a building permit they may not be located closer than three feet to any property line (five feet in a residential zone). Community gardens may include a tool house or other storage building not exceeding 10

feet by 10 feet or 10 feet in height and not located closer than three feet to any property line. No off-street parking spaces are required for a community garden.

3. Market Gardens. Market gardens, including those allowed as a principal use under the regulations of any zone, may include structures such as cold frames, greenhouses, and hoop houses. If the market garden is a use accessory to a principal use involving a building, such structures may be located in any **area of the site yard** other than a required front **yard** or street side **yard setback area** and do not count against the **allowed maximum** building coverage in any zone, even if the structure requires a building permit. To the extent such structures require a building permit they may not be located closer than three feet to any property line (five feet in a residential zone). Market gardens may include a tool house or other storage building not exceeding 10 feet by 10 feet or 10 feet in height and not located closer than three feet to any property line. No off-street parking spaces are required for a market garden that is accessory to a principal use that requires parking. If a market garden is a principal use at least one parking space must be provided for the first 5,000 square feet of garden area or portion thereof, and for each 5,000 square feet of garden area beyond the first 5,000 square feet. Market gardens are not subject to the home occupation requirements of LCMC 17.52.010. (E). Operators of market gardens are subject to the occupation tax requirements of Chapter 5.04 LCMC.

SECTION 63. Chapter 17.80 (*Provisions Applying to Special Uses*), Section 17.80.110 (*Accessory dwelling unit standards*), Paragraph B., (*Standards*) paragraphs 5 through 10, are hereby amended, as follows:

~~**5. Occupancy. No one may occupy an accessory dwelling unit until the planning and community development department has issued a certificate of completion for the unit.**~~

~~**6. Design. An accessory dwelling unit shall comply with the following standards:**~~

~~**a. Roofs. Roofs of detached accessory dwelling units shall be the same shape, pitch and material as the main house, and shall include the same type of architectural embellishments, if any (e.g., dormers, gables, and eave trim).**~~

~~**b. Facades. A street-facing facade of the accessory dwelling unit shall include the same exterior of materials and windows and molding shall be of the same size, style, and orientation as the main house.**~~

~~**c. Color. The exterior color of the accessory dwelling unit shall be of the same color as the main house.**~~

~~**5. 7.**~~ Unity of Ownership. An accessory dwelling unit shall not in any way be segregated in ownership from the principal dwelling unit.

~~**6. 8.**~~ Primary Entrance. If the accessory dwelling unit's primary entrance is not the same as that for the principal dwelling unit it shall be less visible from the street view of the principal dwelling unit than the main entrance of the principal

dwelling unit. If the accessory dwelling unit is accessed via a stairway, the stairway may not be constructed on the front of the principal dwelling unit.

~~7.9.~~ Vacation Rental. Neither the accessory dwelling unit nor the principal dwelling unit may be used as a vacation rental dwelling.

~~8.10.~~ Sewer Connection. Both the principal dwelling unit and the accessory dwelling unit must be connected to the city sewer system. Neither the accessory dwelling unit nor the principal dwelling unit may use a septic system.

SECTION 64. Chapter 17.80 (*Provisions Applying to Special Uses*), Section 17.80.120 (*Cottage housing developments*), Paragraph B, (*Definitions*), is hereby deleted, as follows:

B. Definitions. The following definitions apply to this section:

~~1. "Common open space" means an area improved for recreational use or gardening that all owners in the cottage cluster own and maintain in common through a homeowners' association, condominium association, or similar mechanism.~~

~~2. "Cottage" means a detached, single-family dwelling unit that is part of a cottage housing development and that contains 1,250 square feet or less of gross floor area.~~

~~3. "Cottage cluster" means a group of four to 12 cottages, arranged around a common open space.~~

~~4. "Cottage housing development" means one or two clusters of cottages developed under a single land development plan, or as a part of another land development plan.~~

~~5. "Footprint" means the gross floor area of a cottage's ground-level story.~~

~~6. "Gross floor area" means the area within the exterior walls, but excluding any space where the floor to ceiling height is less than six feet.~~

SECTION 65. Chapter 17.80 (*Provisions Applying to Special Uses*), Section 17.80.120 (*Cottage housing developments*), Paragraph C, (*Applicable Zoning Districts*), is hereby amended, as follows:

C. Applicable Zones. ~~Zoning Districts~~. Cottage housing developments are allowed only in the single-unit residential (R-1), recreation residential (R-R), and multiple-unit residential (R-M) zones. Cottage housing development are allowed only in the single-family residential (R-1), recreation residential (R-R), and multiple-family (R-M) zoning districts.

SECTION 66. Chapter 17.80 (*Provisions Applying to Special Uses*), Section 17.80.120 (*Cottage housing developments*), Paragraph E, (*Site Plan*), is hereby amended, as follows:

E. Site Plan Development Review Required. Cottage housing developments require approval through the site plan development review process of LCMC 17.77.070. ~~17.52.240~~.

SECTION 67. Chapter 17.80 (*Provisions Applying to Special Uses*), Section 17.80.120 (*Cottage housing developments*), Paragraph F, (*Standards*), Numbered paragraph 6, (*Common Open Space*), subparagraph e, is hereby amended, as follows:

e. Parking areas, required **setback areas yards**, private open space, and driveways do not qualify as common open space.

SECTION 68. Chapter 17.80 (*Provisions Applying to Special Uses*), Section 17.80.140 (*Temporary emergency operations uses during declared emergency*), Paragraph B, is hereby amended, as follows:

B. Temporary emergency operations uses are not required to comply with the requirements of **development review in LCMC 17.77.070. 17.52.240 (Site plan review)**.

SECTION 69. Chapter 17.80 (*Provisions Applying to Special Uses*), Section 17.80.150 (*Four-flat dwellings*), Paragraph A and B, are hereby amended, as follows:

17.80.150 Four-flat dwellings.

A. Definition. A “four-flat dwelling” is a structure designed to resemble a single-family dwelling, containing four individual dwelling units and appearing to have no more than two (one in front) exterior entrances opening onto a common hallway(s) providing access to the four individual units within the structure.

A.B. Standards. Four-flat dwellings are subject to the following standards:

1. Minimum Lot Size. A four-flat dwelling may be located on a lot of at least 10,000 square feet.
2. Parking. Each four-flat dwelling must have a minimum of six off-street parking spaces.
3. Setbacks. Each four-flat dwelling must meet the single-**familyunit** dwelling setback requirements of the zone in which it is located.
4. **Building Lot** Coverage. Each four-flat dwelling must meet the maximum **building lot** coverage requirements of the zone in which it is located.
5. Vacation Rentals. Four-flat dwellings shall not be used as vacation rentals in any zone.
6. Height Requirement. Four-flat dwellings must comply with the height requirement of the zone in which they are located.
7. **Site-plan Development** review per LCMC **17.52.240 17.77.070** is not required for four-flat dwellings.

SECTION 70. Chapter 17.80 (*Provisions Applying to Special Uses*), Section 17.80.160 (*Accessory uses- Places of worship*), Paragraph A, numbered Paragraph 1, and Paragraph B, numbered Paragraph 1, are hereby amended, as follows:

17.80.160 Accessory uses – Places of worship.

A. In the general commercial (GC) ~~zone district~~, Nelscott ~~pPlan~~ (NP) district (business district and ~~bBeachside mixed use~~), Taft Village Core (TVC), and Oceanlake ~~pPlan~~ (OP) district (~~mMain sStreet~~, interior ~~MU~~ and ~~oOceanfront~~), the following accessory uses, customarily associated with the practices of the religious activity, are allowed:

1. Subject to compliance with ~~site plan development~~ review (~~LCMC 17.52.240 LCMC 17.77.070~~) and availability of adequate public facilities, an approved and constructed place of worship shall be allowed the reasonable use of the subject real property for accessory use activities, including those uses and limitations identified in ORS 227.500 as that section exists on the effective date of the ordinance codified in this section. In addition, temporary sheltering of individuals and families in building and fire code compliant facilities is authorized (temporary use), not to exceed 50 persons, with a minimum of 35 square feet per person required. Strict compliance with Oregon Fire Code TA No. 14-12, adopted herein by this reference and on file in the Lincoln City planning department, is required. The fire district shall be notified when such temporary sheltering use is requested. **Development review is not required for such temporary sheltering use.**

B. In the single-~~familyunit~~ residential (R-1) ~~zone district~~, single-~~unitfamily~~ residential roads-end (R-1-RE) ~~zone district~~, vacation rental (VR) ~~zone district~~, the ~~multiple-unit multifamily~~ residential (R-M) ~~zone district~~, the recreation residential (R-R) ~~zone district~~, and Nelscott ~~pPlan~~ (NP) district (cottage residential) the following accessory uses, customarily associated with the practices of the religious activity, are allowed:

1. Subject to compliance with ~~site plan development~~ review (~~LCMC 17.52.240 LCMC 17.77.070~~) and availability of adequate public facilities, an approved and constructed place of worship shall be allowed the reasonable use of the subject real property for accessory use activities, including those uses and limitations identified in ORS 227.500 as that section exists on the effective date of the ordinance codified in this chapter. In addition, temporary sheltering of individuals and families in building and fire code compliant facilities is authorized (temporary use), not to exceed 25 persons, with a minimum of 35 square feet per person required. Strict compliance with Oregon Fire Code TA No. 14-12, adopted herein by this reference and on file in the Lincoln City planning department, is required. The fire district shall be notified when such temporary sheltering use is requested. **Development review is not required for such temporary sheltering use.**

SECTION 71. Chapter 17.80 (*Provisions Applying to Special Uses*), Section 17.80.170 (*Mobile food units and mobile food unit pods*), Paragraph A (*Definitions*), is hereby deleted, as follows:

A. ~~Definitions.~~

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

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

SECTION 72. Chapter 17.80 (*Provisions Applying to Special Uses*), Section 17.80.170 (*Mobile food units and mobile food unit pods*), Paragraph B (*Standards*) numbered paragraph 11, is hereby amended, as follows:

11. State, County, City Requirements. Applicants must obtain any required state, county, and city licenses and permits including food handling, **Serve Safe**, and annual city mobile food unit license pursuant to Chapter 5.30 LCMC.

SECTION 73. Chapter 17.80 (*Provisions Applying to Special Uses*), Section 17.80.170 (*Mobile food units and mobile food unit pods*), Paragraph D (*Application requirements*), is hereby amended as follows:

~~D. **Land Use Approvals and Licensing.** **Application Requirements.** Land use approval **for mobile food units** must be obtained prior to **the city’s issuance of the required mobile food unit license for each mobile food unit. Land use approval is required for each separate address at which an individual mobile food unit desires to operate, with a separate mobile food unit license being issued for each separate address once land use approval has been obtained, all requirements have been met, and all required city fees have been paid. Applying for the city mobile food unit license. The land use application submittal shall include the following:**~~

~~1. **The land use approval process for mobile food units is a Type I procedure as outlined in LCMC 17.76.030.**~~

~~1. **Completed application form provided by the department, which includes the applicant’s name, mailing address, phone number and signature, as well as the names, addresses, phone numbers, and signatures of all property owners of the subject site;**~~

- ~~2. Applicable fee for the land use application;~~
- ~~3. Site plan containing at least the following:

 - ~~a. North arrow, scale, and date of drawing;~~
 - ~~b. Property boundaries and dimensions;~~
 - ~~c. Location of existing structures;~~
 - ~~d. Proposed location of mobile food unit with distances from all property lines and all structures;~~
 - ~~e. Parking lot layout, drive aisles, access, and pedestrian and vehicular circulation pattern with dimensions;~~~~
- ~~4. Explanations and/or pictures or other evidence of how all fire and life safety, state, and county requirements are being met;~~
- ~~5. Explanations and/or pictures or other evidence of how the site will remain free of trash, litter, and food waste.~~

SECTION 74. Chapter 17.80 (*Provisions Applying to Special Uses*), Section 17.80.180 (*Wireless communications facilities*), Paragraph A (*Review Authority Action*) numbered paragraphs 5 through 7 are amended, as follows:

~~5. Notice. When mailed notice of a public hearing or an administrative action relating to a wireless communications facility is required by LCMC 17.76.050, such notice shall be sent to the applicant and to owners of record of property on the most recent property tax assessment roll where such property is located within 250 feet from the exterior boundary of the subject property.~~

~~6. 5. Administrative Approval of Co-Location Requests. Application. Requests to co-locate by placing antennas or other transmission and reception devices on an existing tower, building, or other structure, shall be processed as a development review request, pursuant to LCMC 17.77.070. If an applicant wishes to co-locate by placing antennas or other transmission and reception devices on an existing tower, building, or other structure, the director may approve the co-location application, or approve it with conditions.~~

~~7. 6. Planning Commission Action. In addition to the findings required by LCMC 17.77.060 (D), in order to grant approval, or approval with conditions, of a conditional use permit for a wireless communications facility, the planning commission must find, based upon evidence provided by the applicant, that:~~

~~a. For applications proposing the siting of wireless communications facilities through means other than co-location, that higher priority alternatives for providing the specific, proposed wireless service are not feasible.~~

~~b. The proposed facility/tower will not unreasonably interfere with the view from any public park, natural scenic vista, historic building or district, or significant aesthetic resource.~~

- c. The height and mass of the facility/tower does not exceed that which is essential for its intended use and public safety.
- d. The owner of the wireless communications facility has agreed to permit other persons/providers to attach antennas or other communications apparatus that do not interfere with the primary purpose of the facility.
- e. The proposed facility/tower is not to be constructed in such a manner as to result in needless height or mass.
- f. The finish of the proposed facility/tower will be of a tone or color that minimizes the tower's visual impact.

SECTION 75. Chapter 16.08, (*Procedure*), Section 16.08.050 (*Approval authority*), is hereby amended, as follows:

16.08.050 Approval authority.

B. Subdivision plats shall be approved by the planning commission in accordance with these regulations. ~~A subdivision with land area greater than two acres or 10 lots shall be processed as a planned unit development.~~ All partition plats and property line adjustment maps shall be approved by the city staff in accordance with these regulations. The city council delegates its authority to the planning commission, and to the city staff, respectively, to approve or disapprove the subdivision, partition of land and property line adjustments, except for appeals.

SECTION 76. Findings Adopted.

The findings contained in the Whereas Clauses of this Ordinance, and Exhibit A, as well as the competent substantial evidence in the whole record of this legislative proceeding are incorporated into this section by reference as if fully set forth herein, and are adopted in support of this legislative action.

EXHIBIT A – FINDINGS

Findings for Ordinance 2022-15

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

Ordinance 2022-15 makes corrections to the code.

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

- A. Statewide Planning Goals
 - (1) Goal 1: Citizen Involvement

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

All documents relating to the proposal (amendment) were made available for public review and/or purchase, and were posted on the city's website. Staff was available to interpret and explain the technical information. The local newspaper published hearing notices in accordance with notice requirements. The planning commission and city council each held a public hearing at which citizens were invited to participate. Therefore, the amendment is consistent with Goal 1.

- (2) Goal 2: Land Use Planning

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

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

- (3) Goal 3: Agricultural Lands

"To preserve and maintain agricultural lands."

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

(4) Goal 4: Forest Lands

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

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

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

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

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

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

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

The amendment will not adversely affect the quality of the air or water. The amendment by itself does not permit development that might affect water or air quality. The existing ordinances and plan requirements relating to water and air quality will continue to apply to all properties that might be affected. Therefore, the amendment is consistent with Goal 6.

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

"To protect people and property from natural hazards."

The amendment by itself does not allow development within any natural hazard area. The existing ordinances and plan requirements relating to natural hazards will continue

to apply to all properties that might be affected by natural hazards. Therefore, the amendment is consistent with Goal 7.

(8) Goal 8: Recreational Needs

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

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

(9) Goal 9: Economic Development

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

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

(10) Goal 10: Housing

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

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

(11) Goal 11: Public Facilities and Services

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

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

(12) Goal 12: Transportation

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

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

(13) Goal 13: Energy Conservation

"To conserve energy."

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

(14) Goal 14: Urbanization

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

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

(15) Goal 15: Willamette River Greenway

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

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

(16) Goal 16: Estuarine Resources

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

The amendment on its own does not allow development in areas adjacent to the city's designated estuarine resource (i.e., Siletz Bay). All development in such areas is already controlled by existing ordinances and comprehensive plan standards. The amendment, therefore, is consistent with Goal 16.

(17) Goal 17: Coastal Shorelands

"To conserve, protect, where appropriate, develop and where appropriate restore the resources and benefits of all coastal shorelands, recognizing their value for protection and maintenance of water quality, fish and wildlife habitat, water-dependent uses, economic resources and recreation and aesthetics. The management of these shoreland areas shall be compatible with the characteristics of the adjacent coastal waters; and to reduce the

hazard to human life and property, and the adverse effects upon water quality and fish and wildlife habitat, resulting from the use and enjoyment of Oregon's coastal shorelands."

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

(18) Goal 18: Beaches and Dunes

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

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

(19) Goal 19: Ocean Resources

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

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

B. Comprehensive Plan Goals

(1) Planning Goal

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

The City Council of Lincoln City adopted the Lincoln City Comprehensive Plan and its implementation measure, the Lincoln City Zoning Ordinance, after public hearing and has reviewed it on a periodic cycle to take into account changing public policies and

circumstances. The city provided opportunities for review and comment by citizens and affected governmental units during preparation, review, and revision. Review of the proposed amendment was in accordance with the Lincoln City Comprehensive Plan and the applicable zoning ordinance provisions. Accordingly, the amendment is in conformance with this goal.

(2) Citizen Involvement Goal

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

The City has developed a citizen involvement program. In addition, the public hearing process, with notice to the public through publication in the local newspaper and review of the amendment by the Planning Commission (a citizen board) and the City Council (elected citizen representatives) establishes conformance with this goal.

(3) Public Services and Utilities Goal

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

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

(4) Urbanization Goal

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

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

(5) Natural Hazard Goal

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

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

(6) Housing Goal

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

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

(7) Economy Goal

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

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

(8) Aesthetic Goal

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

The amendment does not relate to aesthetics. This goal is not applicable.

(9) Transportation Goal

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

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

(10) Energy Goal

"To conserve energy."

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

(11) Overall Environmental Goal

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

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

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

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

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

Planning Commission Communication

FR 2022-09 for ZOA 2022-06

Meeting Date: April 19, 2022 Primary Staff Contact: AnneMarie Skinner
Department: Planning Commission E-Mail: ASkinner@lincolncity.org
Secondary Dept: Secondary Contacts:
Approval: Estimated Time:

Question:

Should the Planning Commission adopt final recommendation FR 2022-09 for ZOA 2022-06?

Potential Motions:

I move to adopt final recommendation FR 2022-09 for ZOA 2022-06.

Attachments:

Final Recommendation 2022-06 (DOC)

**LINCOLN CITY
PLANNING COMMISSION**

IN THE MATTER OF

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

NATURE OF THE APPLICATION

ZOA 2022-06 AMENDS THE LINCOLN CITY MUNICIPAL CODE, TITLE 17, (ZONING), AMENDING CHAPTER 17.17 (SINGLE-FAMILY RESIDENTIAL, ROADS END), SECTION 17.17.070 (LOT REQUIREMENTS), PARAGRAPH D, TO REVISE THE LANGUAGE FOR THE FRONT SETBACK

FINAL RECOMMENDATION

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

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

The Planning Commission felt that the five foot reduction portion of the request was not in keeping with the historic character of Roads End, thus not meeting the aesthetic goal in the Lincoln City Comprehensive Plan. Additionally, the Planning Commission felt that the goal for citizen involvement was not met because neighborhood meetings were not held. The Planning Commission expressly rejects as a basis for this recommendation the inappropriate personal attacks on the applicant made by several citizens providing public comment.

APPROVED THIS 19th day of April, 2022.

Kim Blackerby
Planning Commission Chair

ATTEST:

Anne Marie Skinner
Planning & Community Development Director

ORDINANCE NO. 2022- __

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

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

The City Council finds:

- A. The amendments to the Lincoln City Municipal Code are in conformance with the Statewide Planning Goals and Lincoln City Comprehensive Plan goals as addressed in attached Exhibit "A"; and
- B. The amendments are in conformance with the Zoning Ordinance, including, but not limited to, required initiation, processing and noticing requirements; and
- C. The City duly notified the Oregon Department of Land Conservation and Development pursuant to ORS 197.610, of its consideration of the proposed amendment(s) on March 2, 2022; City staff determined the amendment does not remove uses from any zone and accordingly did not require a city-wide mailing under ORS 227.186(4), but mailing was made to all property owners in the R-1-RE zone; and
- D. The Planning Commission, on April 5, 2022, held a public hearing and considered the amendments contained within this ordinance. On April 5, 2022, the Planning Commission voted to transmit the amendments to the City Council with a recommendation that the ordinance be adopted; and
- E. The City Council conducted the public hearing on May 9, 2022, closed the hearing, closed the record, and deliberated on the proposed amendments on May 9, 2022 and provided direction to staff to return with an Ordinance for adoption; and
- F. All persons were given an opportunity to provide written and/or oral testimony on the proposed ordinance amendments.

THE CITY OF LINCOLN CITY ORDAINS AS FOLLOWS:

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

D. The minimum front setback yard shall be 20 feet. Except that the minimum setbacks from Logan Road need not exceed the average setback of buildings on all lots within 100 feet of the lot on the same side of the street which the proposed building is to be located and that abut Logan Road. **If the applicant chooses to use the averaging setback option, then the applicant shall bear the cost of obtaining a survey from an Oregon-licensed professional surveyor showing the surveyed 100-foot setback distances.**

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

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

SECTION 4. Savings. Notwithstanding the amendment to this Title, the existing Title remains valid and in full force and effect for purposes of all criminal, civil or administrative code enforcement cases or land use actions or applications filed or commenced during the time said ordinances were operative. Nothing in this Ordinance affects the validity of prosecutions commenced and continued under the laws in effect at the time the matters were originally filed.

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

EXHIBIT A – FINDINGS

Findings for Ordinance 2022-??

The above-referenced proposed ordinance was properly noticed pursuant to ORS 197.610. The ordinance proposes an amendment to Chapter 17.17 Single-Family Residential, Roads End (R-1-RE), so all property owners in R-1-RE were mailed notice of the public hearings on March 15, 2022. Notice to DLCD was made on March 2, 2022. Notice of the public hearings was published in the local newspaper on March 22, 2022, and March 29, 2022.

Ordinance 2022-?? provides clarification to the averaging option for the front setback requirement in the R-1-RE zone by specifying that the averaging applies to buildings on the same side of the street as the subject property and adding a requirement for a survey of the setback distances if the average option is chosen.

Written comments were received expressing opposition to the applicant's requested 5-foot setback reduction for decks. Individuals also testified in opposition to the 5-foot setback reduction for decks at the Planning Commission public hearing.

- A. Statewide Planning Goals
 - (1) Goal 1: Citizen Involvement

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

All documents relating to the proposal (amendment) were made available for public review and/or purchase, and were posted on the city's website. Staff was available to interpret and explain the technical information. The local newspaper published hearing notices in accordance with notice requirements. Notice of the public hearings was mailed to all property owners in the R-1-RE zone and neighborhood associations on March 15, 2022. The planning commission and city council each held a public hearing at which citizens were invited to participate. Therefore, the amendment is consistent with Goal 1.

- (2) Goal 2: Land Use Planning

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

The City Council of Lincoln City adopted the Lincoln City Comprehensive Plan and its implementation measure, the Lincoln City Zoning Ordinance, after public hearing and has reviewed them on a periodic cycle to take into account changing public policies and

circumstances. Citizens and affected governmental units had opportunities for review and comment during preparation, review, and revisions of the plan and implementing ordinances. The City Council considered the proposed amendments to the Lincoln City Zoning Ordinance in accordance with the process and based on the criteria provided in the Municipal Code. Therefore, the amendment is consistent with Goal 2.

(3) Goal 3: Agricultural Lands

"To preserve and maintain agricultural lands."

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

(4) Goal 4: Forest Lands

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

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

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

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

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

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

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

The amendment will not adversely affect the quality of the air or water. The amendment by itself does not permit development that might affect water or air quality. The existing ordinances and plan requirements relating to water and air quality will continue to apply to all properties that might be affected. Therefore, the amendment is consistent with Goal 6.

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

"To protect people and property from natural hazards."

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

(8) Goal 8: Recreational Needs

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

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

(9) Goal 9: Economic Development

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

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

(10) Goal 10: Housing

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

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

(11) Goal 11: Public Facilities and Services

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

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

(12) Goal 12: Transportation

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

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

(13) Goal 13: Energy Conservation

"To conserve energy."

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

(14) Goal 14: Urbanization

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

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

(15) Goal 15: Willamette River Greenway

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

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

(16) Goal 16: Estuarine Resources

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

The amendment on its own does not allow development in areas adjacent to the city's designated estuarine resource (i.e., Siletz Bay). All development in such areas is already controlled by existing ordinances and comprehensive plan standards. The amendment, therefore, is consistent with Goal 16.

(17) Goal 17: Coastal Shorelands

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

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

(18) Goal 18: Beaches and Dunes

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

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

(19) Goal 19: Ocean Resources

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

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

B. Comprehensive Plan Goals

(1) Planning Goal

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

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

(2) Citizen Involvement Goal

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

The City has developed a citizen involvement program. In addition, the public hearing process, with notice to the public through publication in the local newspaper and review of the amendment by the Planning Commission (a citizen board) and the City Council (elected citizen representatives) establishes conformance with this goal.

(3) Public Services and Utilities Goal

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

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

(4) Urbanization Goal

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

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

(5) Natural Hazard Goal

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

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

(6) Housing Goal

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

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

(7) Economy Goal

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

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

(8) Aesthetic Goal

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

The amendment does not relate to aesthetics. This goal is not applicable.

(9) Transportation Goal

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

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

(10) Energy Goal

"To conserve energy."

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

(11) Overall Environmental Goal

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

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

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

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

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

Planning Commission Communication

CPA ZC 2022-02 Nesika Park

Meeting Date: April 19, 2022 Primary Staff Contact: AnneMarie Skinner
Department: Planning Commission E-Mail: ASkinner@lincolncity.org
Secondary Dept: Secondary Contacts: Jeanne Sprague
Approval: Estimated Time:

Attachments:

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

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

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



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

BACKGROUND

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

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

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

COMMENTS

No comments were received.

ANALYSIS

A. Lincoln City Comprehensive Plan

1. Land Use Planning Goal

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

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

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

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

The proposed map amendment and zone change would convert the site from the Multiple-Unit Residential zone to the P zone. The site is developed and in use as a park, and the large area adjacent to the site is in use as the same park. The proposal will align the zone with the existing development and use. Staff finds the proposal is consistent with Goal 1.

2. Citizen Involvement Goal

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

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

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

3. Public Services and Utilities Goal

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

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

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

Existing services and utilities generally satisfy Goal 3.

4. Urbanization Goal

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

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

5. Natural Hazard Goal

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

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

6. Housing Goal

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

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

7. Economy Goal

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

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

8. Aesthetic Goal

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

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

9. Transportation Goal

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

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

10. Energy Goal

"To conserve energy."

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

11. Overall Environmental Goal

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

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

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

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

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

B. Statewide Planning Goals

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

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

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

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

The proposed rezoning is integrated and consistent with the planning process and policy framework; specifically, the request furthers compliance with existing policies to stabilize and protect the existing mixed-use neighborhood (Nesika Park, undeveloped land, and residential uses) from incompatible uses. Findings concerning the Planning goal for the Lincoln City Comprehensive Plan are incorporated herein by this reference. The request is consistent with Goal 2.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Map Amendment/Zone Change Application

PROPERTY OWNER/CONTRACT PURCHASER (as listed on deed OR purchase contract):

Copy of purchase contract must be included with submittal for application to be accepted.

NAME: City of Lincoln City
ADDRESS: 801 SW Hwy 101
Lincoln City, OR 97367
PHONE: _____
E-MAIL: _____

PROPERTY OWNER/CONTRACT PURCHASER (as listed on deed OR purchase contract):

Copy of purchase must be included with submittal for application to be accepted.

NAME: _____
ADDRESS: _____
PHONE: _____
E-MAIL: _____

CONTACT:

NAME: Anne Marie Skinner, Planning & Community Development Director
ADDRESS: 801 SW Hwy 101
Lincoln City, OR 97367
PHONE: 541-996-1228
E-MAIL: askinner@lincolncity.org

SITE INFORMATION:

CURRENT COMPREHENSIVE PLAN MAP CLASSIFICATION: R-M High Density Residential District
CURRENT ZONE: R-M Multiple Unit Residential
TAX MAP AND LOT: 07-11-15-DA-00200
TOTAL GROSS ACREAGE: 0.31 acres
SITE ADDRESS (or location if unaddressed): 500 block of SE Keel Ave

REQUEST:

REQUESTED COMPREHENSIVE PLAN MAP CLASSIFICATION: P Park
REQUESTED ZONE: P Park




TO APPROVE THE REQUEST, THE REVIEW AUTHORITY MUST BE ABLE TO MAKE FINDINGS OF FACT, BASED ON EVIDENCE PROVIDED IN THE APPLICATION MATERIALS AND NARRATIVE, THAT THE REQUEST IS CONSISTENT WITH THE COMPREHENSIVE PLAN AND THE STATEWIDE PLANNING GOALS.

A NARRATIVE ADDRESSING CONSISTENCY WITH THE COMPREHENSIVE PLAN AND THE STATEWIDE PLANNING GOALS MUST ACCOMPANY THIS COMPLETED APPLICATION FORM.


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

SIGNATURES:

DocuSigned by:


Property Owner/Contract Purchaser (signature required)

Date

Property Owner/Contract Purchaser (signature required)
DocuSigned by:


Contact (signature required)

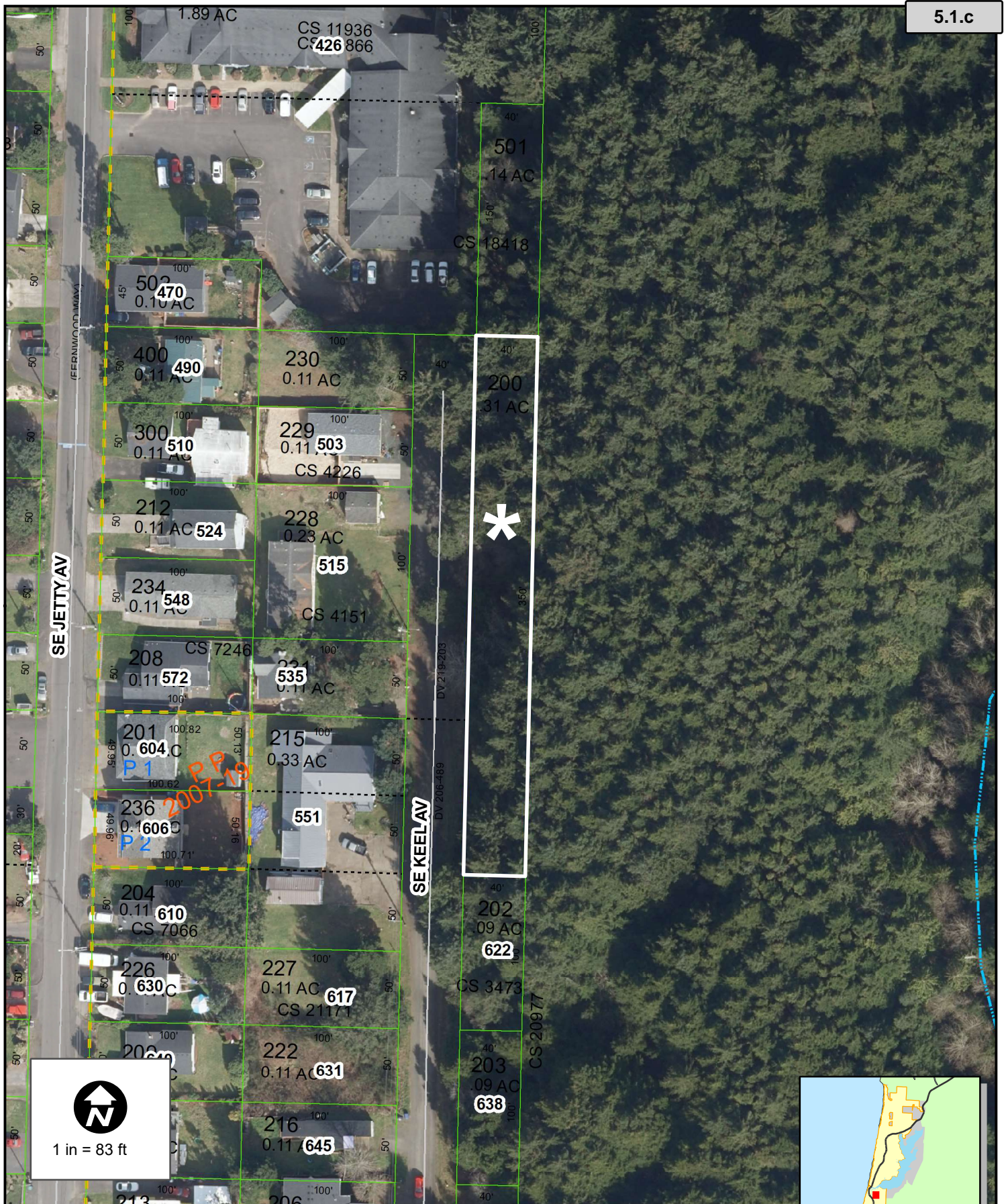
Date


Date

- All property owners listed on the deed must sign the application.
- All contract purchasers listed on the purchase contract must sign the application.
- If contract purchasers are individuals other than the property owners shown on the deed, all property owners listed on the deed as well as all contract purchasers listed on the purchase contract must sign the application.

The following items must be included in the submittal package and saved as separate pdfs, with pdfs titled as indicated:

1. Completed application form with all signatures (pdf titled APPLICATION)
2. Written narrative addressing consistency with the comprehensive plan and statewide planning goals (pdf titled NARRATIVE)
3. Online Direct Pay Authorization Agreement Form for Credit/Debit Cards (pdf titled ONLINE DIRECT PAY)
 - If payment by check is desired, mail to: Lincoln City Planning, PO Box 50, Lincoln City, OR 97367
4. Any other materials in support of the request (pdf titled OTHER MATERIALS)




 1 in = 83 ft



Vicinity Map

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

Date: 3/11/2022



Location

Planning Commission Communication

CPA ZC 2022-03 Park in Taft

Meeting Date: April 19, 2022 Primary Staff Contact: AnneMarie Skinner
Department: Planning Commission E-Mail: ASkinner@lincolncity.org
Secondary Dept: Secondary Contacts: Jeanne Sprague
Approval: Estimated Time:

Attachments:

CPA ZC 2022-03 Taft park (PDF)

Taft Park Map (PDF)

CPA ZC 2022-03 Staff Report (DOCX)

Map Amendment/Zone Change Application

PROPERTY OWNER/CONTRACT PURCHASER (as listed on deed OR purchase contract):

Copy of purchase contract must be included with submittal for application to be accepted.

NAME: City of Lincoln City
ADDRESS: 801 SW Hwy 101
Lincoln City, OR 97367
PHONE: _____
E-MAIL: _____

PROPERTY OWNER/CONTRACT PURCHASER (as listed on deed OR purchase contract):

Copy of purchase must be included with submittal for application to be accepted.

NAME: _____
ADDRESS: _____
PHONE: _____
E-MAIL: _____

CONTACT:

NAME: Anne Marie Skinner, Planning & Community Development Director
ADDRESS: 801 SW Hwy 101
Lincoln City, OR 97367
PHONE: 541-996-1228
E-MAIL: askinner@lincolncity.org

SITE INFORMATION:

CURRENT COMPREHENSIVE PLAN MAP CLASSIFICATION: R-7.5 Medium Density Residential
CURRENT ZONE: R-1-7.5 Single Family Residential
TAX MAP AND LOT: 07-11-27-DD-03500, 04500, 04600, and 04700
TOTAL GROSS ACREAGE: 6.61 acres
SITE ADDRESS (or location if unaddressed): 1545 SE 50th St, unaddressed, 4926 and 4936 SE Keel Ave

REQUEST:

REQUESTED COMPREHENSIVE PLAN MAP CLASSIFICATION: P Park
REQUESTED ZONE: P Park




TO APPROVE THE REQUEST, THE REVIEW AUTHORITY MUST BE ABLE TO MAKE FINDINGS OF FACT, BASED ON EVIDENCE PROVIDED IN THE APPLICATION MATERIALS AND NARRATIVE, THAT THE REQUEST IS CONSISTENT WITH THE COMPREHENSIVE PLAN AND THE STATEWIDE PLANNING GOALS.

A NARRATIVE ADDRESSING CONSISTENCY WITH THE COMPREHENSIVE PLAN AND THE STATEWIDE PLANNING GOALS MUST ACCOMPANY THIS COMPLETED APPLICATION FORM.


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

SIGNATURES:

DocuSigned by:

E407B002084E44A...

Property Owner/Contract Purchaser (signature required)

Date

DocuSigned by:

FF146B6FFAE8476...

Contact (signature required)

Date

Date

- *All property owners listed on the deed must sign the application.*
- *All contract purchasers listed on the purchase contract must sign the application.*
- *If contract purchasers are individuals other than the property owners shown on the deed, all property owners listed on the deed as well as all contract purchasers listed on the purchase contract must sign the application.*

The following items must be included in the submittal package and saved as separate pdfs, with pdfs titled as indicated:

1. Completed application form with all signatures (pdf titled APPLICATION)
2. Written narrative addressing consistency with the comprehensive plan and statewide planning goals (pdf titled NARRATIVE)
3. Online Direct Pay Authorization Agreement Form for Credit/Debit Cards (pdf titled ONLINE DIRECT PAY)
 - If payment by check is desired, mail to: Lincoln City Planning, PO Box 50, Lincoln City, OR 97367
4. Any other materials in support of the request (pdf titled OTHER MATERIALS)

Comprehensive Plan Map Amendment Zone Change Staff Report for Planning Commission Public Hearing Case File CPA ZC 2022-03 Taft

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



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

BACKGROUND

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

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

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

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

Phase 1 (FY20-21):

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

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

Phase 2 (FY21-22):

Exploratory survey: \$33,000

Topographic and boundary survey: \$20,700

Building demolition: \$25,000

Conceptual design: \$25,000

Phase 3 (FY22-23):

Landscape architect for final design: \$150,000

Wetland delineation: \$50,000

Restroom architect: \$25,000

Lighting design: \$25,000

Phase 4 (FY23-24):

Pending funding, break ground on construction.

Includes:

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

COMMENTS

No comments were received.

ANALYSIS

A. Lincoln City Comprehensive Plan

1. Land Use Planning Goal

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

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

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

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

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

2. Citizen Involvement Goal

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

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

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

3. Public Services and Utilities Goal

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

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

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

Existing services and utilities generally satisfy Goal 3.

4. Urbanization Goal

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

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

5. Natural Hazard Goal

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

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

6. Housing Goal

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

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

7. Economy Goal

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

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

8. Aesthetic Goal

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

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

9. Transportation Goal

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

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

10. Energy Goal

"To conserve energy."

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

11. Overall Environmental Goal

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

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

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

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

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

B. Statewide Planning Goals

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

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

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

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

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

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

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

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

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

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

The proposed rezoning will change the site to the Park zone to be consistent with its proposed use and to assist in the preservation of areas in the city that are designated as scenic and historic areas and open spaces, which the site is not. The site does not contain any structures, nor is the site listed on the National Register of

Historic Places. The findings concerning the Lincoln City Comprehensive Plan's Overall Environmental goal, as well as the Shoreland, Beaches, Dunes, Estuary and Ocean Resources goal, are incorporated herein by this reference. The proposal is consistent with Goal 5.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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


Planning Commission Communication

CPA ZC 2022-04 Taft Open Space

Meeting Date: April 19, 2022 Primary Staff Contact: AnneMarie Skinner
Department: Planning Commission E-Mail: ASkinner@lincolncity.org
Secondary Dept: Secondary Contacts: Jeanne Sprague
Approval: Estimated Time:

Attachments:

Taft Open Space Sales Agreement(PDF)
CPA ZC 2022-04 Taft open space Application (PDF)
Taft Waterfront Parcel Map(PDF)
CPA ZC 2022-04 Staff Report (PDF)

After recording return to:	
Order Number: 12218	
	
Grantee Name(s)	
City of Lincoln City, Oregon, a Municipal Corporation PO Box 50 Lincoln City, OR 97367	
Until a change is requested, all tax statements shall be sent to the following address:	
Same as Above	

STATE OF OREGON } ss.
County of Lincoln

3 Pages

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


DANA W. JENKINS, Lincoln County Clerk



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

Reserved for Recorder's Use

STATUTORY WARRANTY DEED

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

SEE ATTACHED EXHIBIT "A"

Account No(s): **R177113**
Map/Tax Lot No(s): **07-11-27-DD-4900**

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

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

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

Executed this 31st day of July, 2008

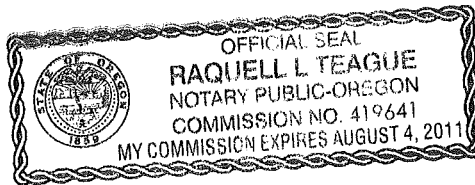
Lincoln County School District, a Municipal Corporation

Tom Rinearson
By: Tom Rinearson, Superintendent

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

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

Raquell L. Teague
Notary Public for Oregon



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

David Hawker
By: David Hawker, City Manager

EXHIBIT "A"

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

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

EXCEPTING THEREFROM any portion lying within the county road.

AGREEMENT FOR SALE OF REAL PROPERTY

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

WITNESSETH:

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

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

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

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

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

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

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

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

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

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

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

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

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

4. Purchaser Representations. Purchaser makes the following representations:

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

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

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

5. Seller Representations. Seller makes the following representations:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

and to Seller at:

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

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

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

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

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

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

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

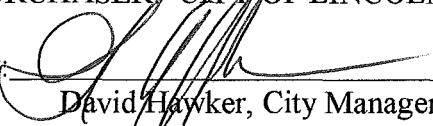
the same agreement, notwithstanding that all of the parties are not signatory to the original or the same counterpart.

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

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

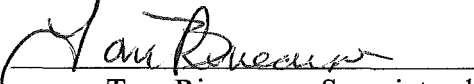
IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first above written.

PURCHASER: CITY OF LINCOLN CITY, OREGON

By: 
David Hawker, City Manager

Date: 7/29, 2008

SELLER: LINCOLN COUNTY SCHOOL DISTRICT


Tom Rinearson, Superintendent

Date: 7/31, 2008

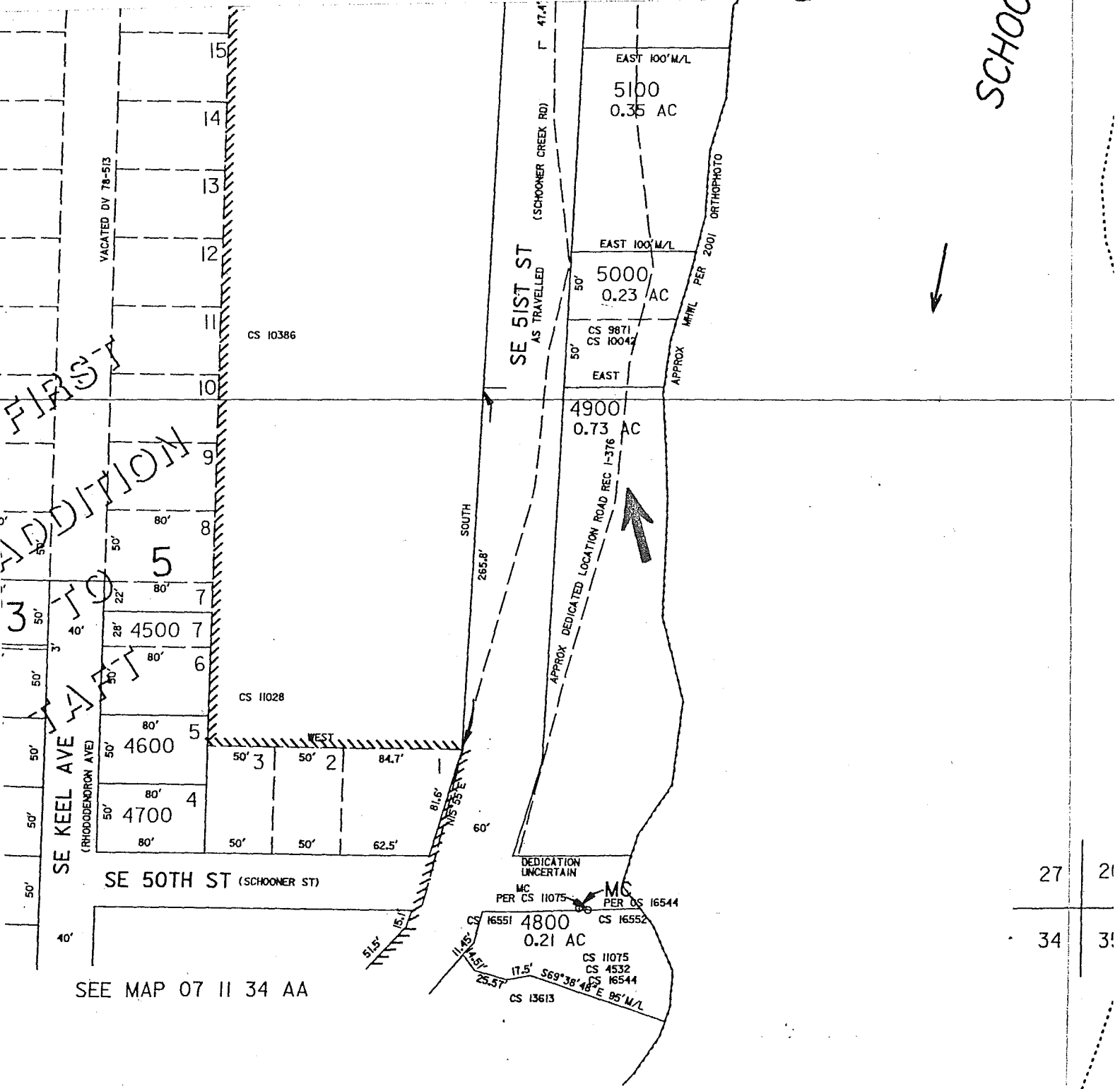
Western Title & Escrow

The Lincoln County Assessor's Office is in the process of redrawing county maps. The map numbers and tax sheet numbers provided herein may or may not match. The information shown on this sketch is provided without charge and is provided as a courtesy only. It is not intended to show all matters related to the property including but not limited to dimensions, easements, encroachments, or location of boundaries. Western Title & Escrow assumes no liability for any matter related to this sketch. Reference should be made to an accurate survey for additional information.

ORDER #: 12218

MAP: 7-11-27 00 T24900

SCALE: 1" = 100'



Map Amendment/Zone Change Application

PROPERTY OWNER/CONTRACT PURCHASER (as listed on deed OR purchase contract):

Copy of purchase contract must be included with submittal for application to be accepted.

NAME: City of Lincoln City
ADDRESS: 801 SW Hwy 101
Lincoln City, OR 97367
PHONE: _____
E-MAIL: _____

PROPERTY OWNER/CONTRACT PURCHASER (as listed on deed OR purchase contract):

Copy of purchase must be included with submittal for application to be accepted.

NAME: _____
ADDRESS: _____
PHONE: _____
E-MAIL: _____

CONTACT:

NAME: Anne Marie Skinner, Planning & Community Development Director
ADDRESS: 801 SW Hwy 101
Lincoln City, OR 97367
PHONE: 541-996-1228
E-MAIL: askinner@lincolncity.org

SITE INFORMATION:

CURRENT COMPREHENSIVE PLAN MAP CLASSIFICATION: GC General Commercial District
CURRENT ZONE: GC General Commercial
TAX MAP AND LOT: 07-11- 27-DD-04900
TOTAL GROSS ACREAGE: 0.73 acres
SITE ADDRESS (or location if unaddressed): northeast corner of SE 51st St and SE 52nd St

REQUEST:

REQUESTED COMPREHENSIVE PLAN MAP CLASSIFICATION: OS open space
REQUESTED ZONE: OS open space



TO APPROVE THE REQUEST, THE REVIEW AUTHORITY MUST BE ABLE TO MAKE FINDINGS OF FACT, BASED ON EVIDENCE PROVIDED IN THE APPLICATION MATERIALS AND NARRATIVE, THAT THE REQUEST IS CONSISTENT WITH THE COMPREHENSIVE PLAN AND THE STATEWIDE PLANNING GOALS.

A NARRATIVE ADDRESSING CONSISTENCY WITH THE COMPREHENSIVE PLAN AND THE STATEWIDE PLANNING GOALS MUST ACCOMPANY THIS COMPLETED APPLICATION FORM.

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

SIGNATURES:

Lila Bradley
E407B002084E44A
Property Owner/Contract Purchaser (signature required)

Date

Property Owner/Contract Purchaser (signature required)

Date

[Signature]
FF148D8FFA8B47E
Contact (signature required)

Date

- All property owners listed on the deed must sign the application.
- All contract purchasers listed on the purchase contract must sign the application.
- If contract purchasers are individuals other than the property owners shown on the deed, all property owners listed on the deed as well as all contract purchasers listed on the purchase contract must sign the application.

The following items must be included in the submittal package and saved as separate pdfs, with pdfs titled as indicated:

1. Completed application form with all signatures (pdf titled APPLICATION)
2. Written narrative addressing consistency with the comprehensive plan and statewide planning goals (pdf titled NARRATIVE)
3. Online Direct Pay Authorization Agreement Form for Credit/Debit Cards (pdf titled ONLINE DIRECT PAY)
 - o If payment by check is desired, mail to: Lincoln City Planning, PO Box 50, Lincoln City, OR 97367
4. Any other materials in support of the request (pdf titled OTHER MATERIALS)

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

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



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

BACKGROUND

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

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

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

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

COMMENTS

No comments were received.

ANALYSIS

A. Lincoln City Comprehensive Plan

1. Land Use Planning Goal

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

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

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

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

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

2. Citizen Involvement Goal

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

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

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

3. Public Services and Utilities Goal

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

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

4. Urbanization Goal

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

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

5. Natural Hazard Goal

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

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

6. Housing Goal

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

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

7. Economy Goal

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

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

8. Aesthetic Goal

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

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

9. Transportation Goal

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

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

10. Energy Goal

“To conserve energy.”

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

11. Overall Environmental Goal

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

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

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

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

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

B. Statewide Planning Goals

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Since the area of the proposed amendment and zone change is on the dry land area of the City, the proposal will not affect the near shore, ocean, and continental shelf. The findings concerning the City’s Shoreland,

Beaches, Dunes, Estuary and Ocean Resources goal are incorporated herein by this reference. Goal 19 is met or not applicable.

Planning Commission Communication

CPA ZC 2022-05 Lincoln Palisades Open Space

Meeting Date: April 19, 2022 Primary Staff Contact: AnneMarie Skinner
Department: Planning Commission E-Mail: ASkinner@lincolncity.org
Secondary Dept: Secondary Contacts: Jeanne Sprague
Approval: Estimated Time:

Attachments:

CPA ZC 2022-05 Palisades open space (PDF)
Palisades Open Space Map(PDF)
CPA ZC 2022-05 Staff Report (DOCX)

Map Amendment/Zone Change Application

PROPERTY OWNER/CONTRACT PURCHASER (as listed on deed OR purchase contract):

Copy of purchase contract must be included with submittal for application to be accepted.

NAME: City of Lincoln City
ADDRESS: 801 SW Hwy 101
Lincoln City, OR 97367
PHONE: _____
E-MAIL: _____

PROPERTY OWNER/CONTRACT PURCHASER (as listed on deed OR purchase contract):

Copy of purchase must be included with submittal for application to be accepted.

NAME: _____
ADDRESS: _____
PHONE: _____
E-MAIL: _____

CONTACT:

NAME: Anne Marie Skinner, Planning & Community Development Director
ADDRESS: 801 SW Hwy 101
Lincoln City, OR 97367
PHONE: 541-996-1228
E-MAIL: askinner@lincolncity.org

SITE INFORMATION:

CURRENT COMPREHENSIVE PLAN MAP CLASSIFICATION: Medium Density Residential
CURRENT ZONE: R-1-7.5 Single Family Residential
TAX MAP AND LOT: 06-11-35-CA-00100 and 06-11-35-CD-00100
TOTAL GROSS ACREAGE: 18.64 acres
SITE ADDRESS (or location if unaddressed): Palisades open space

REQUEST:

REQUESTED COMPREHENSIVE PLAN MAP CLASSIFICATION: Open Space
REQUESTED ZONE: OS Open Space



TO APPROVE THE REQUEST, THE REVIEW AUTHORITY MUST BE ABLE TO MAKE FINDINGS OF FACT, BASED ON EVIDENCE PROVIDED IN THE APPLICATION MATERIALS AND NARRATIVE, THAT THE REQUEST IS CONSISTENT WITH THE COMPREHENSIVE PLAN AND THE STATEWIDE PLANNING GOALS.

A NARRATIVE ADDRESSING CONSISTENCY WITH THE COMPREHENSIVE PLAN AND THE STATEWIDE PLANNING GOALS MUST ACCOMPANY THIS COMPLETED APPLICATION FORM.

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

SIGNATURES:

DocuSigned by:
E407B002084E44A...
Lila Bradley
Property Owner/Contract Purchaser (signature required)

Date

DocuSigned by:
FF446B6FFAE8476...
[Signature]
Contact (signature required)

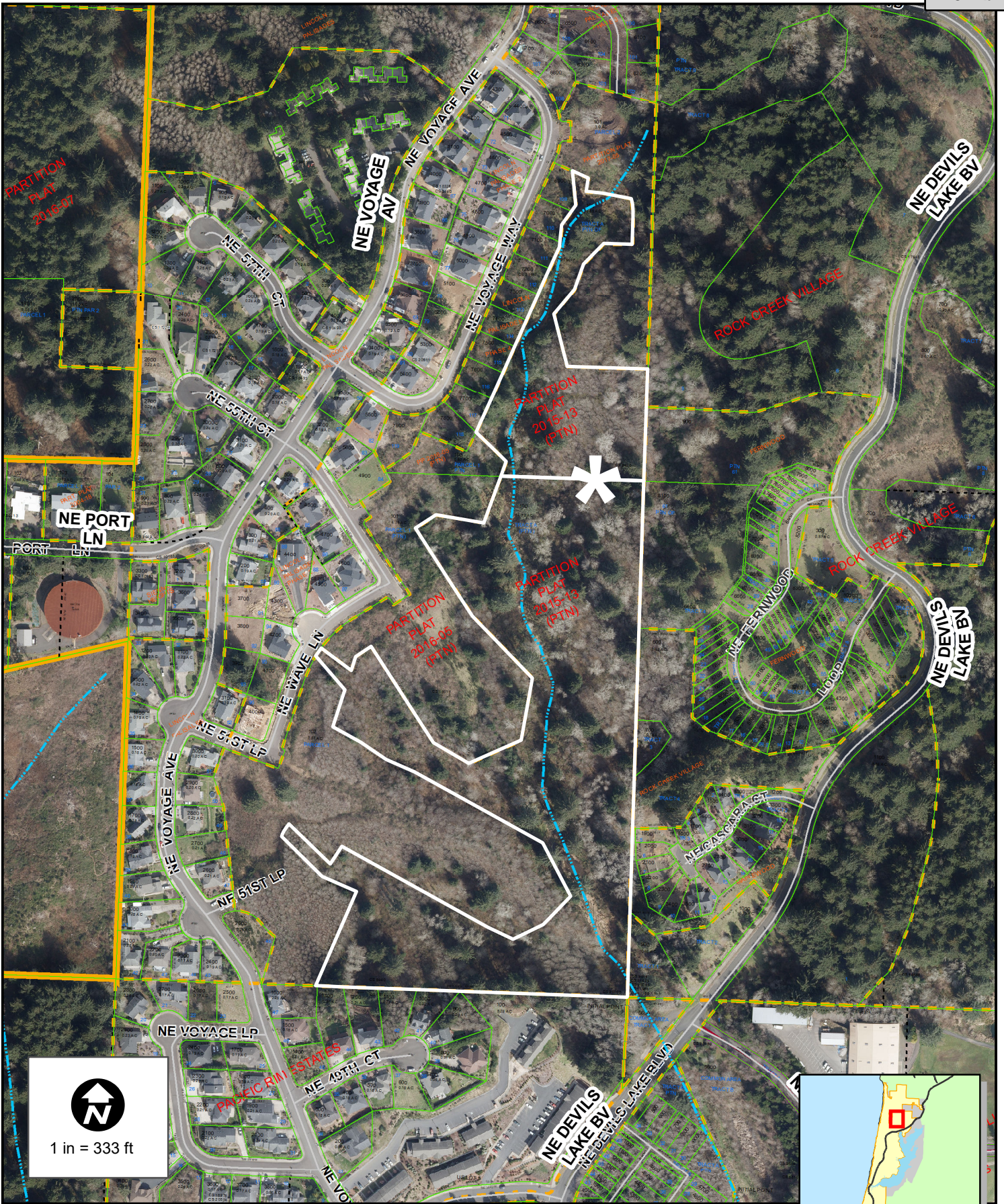
Date

Date

- All property owners listed on the deed must sign the application.
- All contract purchasers listed on the purchase contract must sign the application.
- If contract purchasers are individuals other than the property owners shown on the deed, all property owners listed on the deed as well as all contract purchasers listed on the purchase contract must sign the application.

The following items must be included in the submittal package and saved as separate pdfs, with pdfs titled as indicated:

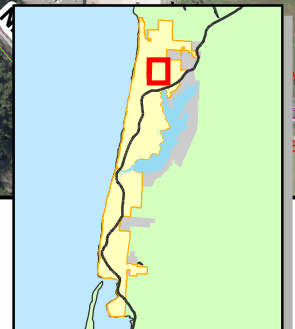
1. Completed application form with all signatures (pdf titled APPLICATION)
2. Written narrative addressing consistency with the comprehensive plan and statewide planning goals (pdf titled NARRATIVE)
3. Online Direct Pay Authorization Agreement Form for Credit/Debit Cards (pdf titled ONLINE DIRECT PAY)
 - o If payment by check is desired, mail to: Lincoln City Planning, PO Box 50, Lincoln City, OR 97367
4. Any other materials in support of the request (pdf titled OTHER MATERIALS)



Vicinity Map

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

Date: 3/11/2022



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

Date:	April 11, 2022
Case File:	CPA ZC 2022-05 Palisades Open Space
Property Owner:	City of Lincoln City PO Box 50 Lincoln City, OR 97367
Situs Address:	Unaddressed
Location:	Between The Villages at Cascade Head to east and Lincoln Palisades to west
Tax Map and Lot:	06-11-35-CA-00100-00 and 06-11-35-CD-00100-00
Comprehensive Plan Designation:	Medium-Density Residential District (R-7.5)
Zoning District:	Single-Family Residential (R-1-7.5) Zone
Site Size:	Approximately 18.64 acres
Proposal:	Comprehensive Plan Map Amendment from Medium-Density Residential to Open Space Zone and Zone Change from R-1-7.5 to OS
Surrounding Land Uses and Zones:	North: Undeveloped and residential; R-1-7.5 South: Residential; R-1-7.5 East: The Villages at Cascade Head; R-1-7.5 West: Lincoln Palisades; R-1-7.5
Authority:	Lincoln City Municipal Code (LCMC) 17.76.050.G states that Table 17.76.020-1 identifies the decision authority for each Type III application. Table 17.76.020-1 of LCMC Chapter 17.76 identifies a comprehensive plan amendment and a zone change as a Type III application with the decision authority given to the City Council after a recommendation from the Planning Commission.
Procedure:	The Planning and Community Development Department mailed notice to the owners of all properties within 250 feet of the site on March 30, 2022. The <i>News Guard</i> published the public hearing notice on April 5, 2022.



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

BACKGROUND

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

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

COMMENTS

No comments were received.

ANALYSIS

A. Lincoln City Comprehensive Plan

1. Land Use Planning Goal

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

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

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

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

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

2. Citizen Involvement Goal

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

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

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

3. Public Services and Utilities Goal

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

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

4. Urbanization Goal

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

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

5. Natural Hazard Goal

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

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

6. Housing Goal

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

The housing needs of the citizens has largely been satisfied through the development of Lincoln Palisades. To develop Lincoln Palisades and meet all of the requirements, including the landscaping requirement, at least 15% of that site had to be dedicated for open space. The site meets that requirement. Changing the zone from residential to open space will align the zone and the code requirement for open space and continue to keep Lincoln Palisades in compliance with its development requirements while still providing housing to the citizens. Staff finds the proposal to be consistent with Goal 6 or Goal 6 is not applicable.

7. Economy Goal

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

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

8. Aesthetic Goal

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

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

9. Transportation Goal

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

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

10. Energy Goal

“To conserve energy.”

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

11. Overall Environmental Goal

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

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

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

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

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

B. Statewide Planning Goals

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Planning Commission Communication

CPA ZC 2022-06 Wildwoods Open Space

Meeting Date: April 19, 2022 Primary Staff Contact: AnneMarie Skinner
Department: Planning Commission E-Mail: ASkinner@lincolncity.org
Secondary Dept: Secondary Contacts: Jeanne Sprague
Approval: Estimated Time:

Attachments:

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



Vicinity Map

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Date: 3/11/2022



Map Amendment/Zone Change Application

PROPERTY OWNER/CONTRACT PURCHASER (as listed on deed OR purchase contract):

Copy of purchase contract must be included with submittal for application to be accepted.

NAME: City of Lincoln City
ADDRESS: 801 SW Hwy 101
Lincoln City, OR 97367
PHONE: _____
E-MAIL: _____

PROPERTY OWNER/CONTRACT PURCHASER (as listed on deed OR purchase contract):

Copy of purchase must be included with submittal for application to be accepted.

NAME: _____
ADDRESS: _____
PHONE: _____
E-MAIL: _____

CONTACT:

NAME: Anne Marie Skinner, Planning & Community Development Director
ADDRESS: 801 SW Hwy 101
Lincoln City, OR 97367
PHONE: 541-996-1228
E-MAIL: askinner@lincolncity.org

SITE INFORMATION:

CURRENT COMPREHENSIVE PLAN MAP CLASSIFICATION: Low Density Residential
CURRENT ZONE: R-1 Single Family Residential
TAX MAP AND LOT: 07-11-11-BA-00404
TOTAL GROSS ACREAGE: 0.08 acres
SITE ADDRESS (or location if unaddressed): North side of Friends of Wildwoods property

REQUEST:

REQUESTED COMPREHENSIVE PLAN MAP CLASSIFICATION: Open Space
REQUESTED ZONE: OS Open Space




TO APPROVE THE REQUEST, THE REVIEW AUTHORITY MUST BE ABLE TO MAKE FINDINGS OF FACT, BASED ON EVIDENCE PROVIDED IN THE APPLICATION MATERIALS AND NARRATIVE, THAT THE REQUEST IS CONSISTENT WITH THE COMPREHENSIVE PLAN AND THE STATEWIDE PLANNING GOALS.

A NARRATIVE ADDRESSING CONSISTENCY WITH THE COMPREHENSIVE PLAN AND THE STATEWIDE PLANNING GOALS MUST ACCOMPANY THIS COMPLETED APPLICATION FORM.

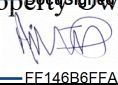
I (We) hereby declare under penalty of perjury under the laws of the State of Oregon that the foregoing information is true, complete, and accurate.

SIGNATURES:

Decided By:

E407B002084E44A

Property Owner/Contract Purchaser (signature required)

Date

Property Owner/Contract Purchaser (signature required)

FF146B6FFAE8476

Contact (signature required)

Date

Date

- All property owners listed on the deed must sign the application.
- All contract purchasers listed on the purchase contract must sign the application.
- If contract purchasers are individuals other than the property owners shown on the deed, all property owners listed on the deed as well as all contract purchasers listed on the purchase contract must sign the application.

The following items must be included in the submittal package and saved as separate pdfs, with pdfs titled as indicated:

1. Completed application form with all signatures (pdf titled APPLICATION)
2. Written narrative addressing consistency with the comprehensive plan and statewide planning goals (pdf titled NARRATIVE)
3. Online Direct Pay Authorization Agreement Form for Credit/Debit Cards (pdf titled ONLINE DIRECT PAY)
 - o If payment by check is desired, mail to: Lincoln City Planning, PO Box 50, Lincoln City, OR 97367
4. Any other materials in support of the request (pdf titled OTHER MATERIALS)

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

Date:	April 11, 2022
Case File:	CPA ZC 2022-06 Friends of Wildwoods Open Space
Property Owner:	City of Lincoln City PO Box 50 Lincoln City, OR 97367
Situs Address:	Unaddressed
Location:	South of NE Tide Ave, approximately 920 feet west of NE West Devils Lake Blvd
Tax Map and Lot:	07-11-11-BA-00404-00
Comprehensive Plan Designation:	Undesignated
Zoning District:	Undesignated
Site Size:	Approximately 0.08 acre
Proposal:	Comprehensive Plan Map Amendment to Open Space Zone and Zone Change to OS
Surrounding Land Uses and Zones:	North: Residential; R-M South: Friends of Wildwoods Open Space; OS East: Friends of Wildwoods Open Space; OS West: Residential; R-R
Authority:	Lincoln City Municipal Code (LCMC) 17.76.050.G states that Table 17.76.020-1 identifies the decision authority for each Type III application. Table 17.76.020-1 of LCMC Chapter 17.76 identifies a comprehensive plan amendment and a zone change as a Type III application with the decision authority given to the City Council after a recommendation from the Planning Commission.
Procedure:	The Planning and Community Development Department mailed notice to the owners of all properties within 250 feet of the site on March 30, 2022. The <i>News Guard</i> published the public hearing notice on April 5, 2022.



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

BACKGROUND

The subject property (site) is unaddressed and identified as Tax Map 07-11-11-BA-00404-00. The site is bordered by an apartment complex to the north, Friends of Wildwoods Open Space to the east and south, and residential development to the west. The site is part of the Friends of Wildwoods Open Space, which is already zoned OS. The site is a long, narrow strip of land (approximately 10 feet by 369 feet) with dimensions that preclude development. Additionally, the site is part of a designated open space area. The amendment will align the use and the zone.

COMMENTS

No comments were received.

ANALYSIS

A. Lincoln City Comprehensive Plan

1. Land Use Planning Goal

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

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

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

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

The proposed map amendment and zone change would designate the site with the OS zone to align with its use as part of the Friends of Wildwoods Open Space. Staff finds the proposal is consistent with Goal 1.

2. Citizen Involvement Goal

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

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

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

3. Public Services and Utilities Goal

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

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

4. Urbanization Goal

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

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

5. Natural Hazard Goal

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

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

6. Housing Goal

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

The site is in use as designated open space. Designated open space is precluded from development. Goal 6 is not applicable.

7. Economy Goal

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

The Comprehensive Plan states that the City's primary industry is tourism and concludes that tourism will continue to function as the City's basic industry. Friends of Wildwoods Open Space is open to the public and is a feature utilized by tourists. Staff finds this goal is either not applicable to the request or is met.

8. Aesthetic Goal

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

The site does not contain any aesthetic resources, but it is preserved and used as open space. The proposal will align the zone with the use. This will preserve the area in its natural state with the native vegetation, which serves to preserve the aesthetic quality of the area. The request is consistent with the Aesthetic Goal.

9. Transportation Goal

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

The site is open space and will remain undeveloped. Residents and visitors can access the site via NE Tide Ave or NE West Devils Lake Blvd. This goal is satisfied.

10. Energy Goal

“To conserve energy.”

The site will remain undeveloped as open space. No energy will be expended in development or use. The goal, therefore, is satisfied or not applicable.

11. Overall Environmental Goal

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

The entire site will be preserved as open space in its natural state. This goal is satisfied.

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

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

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

B. Statewide Planning Goals

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The site is in use as designated open space. Designated open space is precluded from development. Goal 10 is not applicable.

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

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

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

The site is open space and will remain undeveloped. Residents and visitors can access the site via NE Tide Ave or NE West Devils Lake Blvd, both of which are public streets. The request is consistent with Goal 12.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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