



AGENDA

Lincoln City Planning Commission
Tuesday, May 3, 2022, 6:00 PM
City Hall 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 19, 2022 6:00 PM
- 4. FINAL ORDERS, RESOLUTION, & WRITTEN COMMUNICATIONS**
 - 4.1. Final Recommendation for CPA ZC 2022-02 Nesika Park
 - 4.2. Final Recommendation for CPA ZC 2022-03 Park in Taft
 - 4.3. Final Recommendation for CPA ZC 2022-04 Taft Open Space
 - 4.4. Final Recommendation for CPA ZC 2022-05 Palisades Open Space
 - 4.5. FR 2022-14 for CPA ZC 2022-06 Wildwoods
- 5. PUBLIC HEARINGS/DELIBERATIONS**
 - 5.1. CUP 2022-01 Resnikoff dock
 - 5.2. ZOA 2022-08 Housing
- 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 19, 2022**

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

Chair Blackerby called the April 19th Lincoln City Planning Commission meeting to order at 6:01 pm. All stood for the Pledge of Allegiance and roll was called.

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

2. AGENDA CHANGES OR REVISIONS

There were no changes to the Agenda.

3. MINUTES

3.1. Planning Commission - Regular Meeting - Apr 5, 2022 6:00 PM

Chair Blackerby and Commissioner Baker requested changes to paragraph 4 on page 4 of the packet to clarify their discussion regarding the specific criteria that formed the basis of their support to deny the variance request. Chair Blackerby also requested a change to the first paragraph on page 8 of the packet to more completely reflect the discussion as it related to aesthetics and the unique characteristics of Road's End. These edits and two other minor adjustments were made and the minutes were accepted as amended.

MOTION:	Approve minutes with the discussed changes.
MOVER:	Baker
SECONDER:	Vincent
AYES:	Sumner, Baker, Vincent, Blackerby
EXCUSED:	Johnson, Schlesinger
RESULT:	Passed as Amended

4. FINAL ORDERS, RESOLUTION, & WRITTEN COMMUNICATIONS

4.1. Public Outreach Schedule

Director Skinner shared the schedule for the Comprehensive Plan Update public engagement process. A total of 14 public open forums are scheduled in three different locations throughout the month of May, with the locations being the Driftwood Library, Lincoln City Council Chambers, and the Community Room at Oregon Coast Community College Lincoln City location. Director Skinner described the nature of these forums as opportunities for interested parties to share thoughts and concerns and provide input about the direction of Lincoln City as it relates to the

priority goals of Housing, Public Facilities & Services, Transportation, Coastal Shorelands, Open Spaces, and Natural Resources.

4.2.FO 2022-04 for VAR 2022-01

Chair Blackerby opened the deliberations with a question to Commissioner Schlesinger about whether or not he had been able to view the video of the previous Planning Commission meetings and the relevant public hearings. As he had not, it was determined that Commissioner Schlesinger would abstain from voting on the final order and both final recommendations.

Chair Blackerby requested that FO 2022-04 be edited to better reflect the intent and details of the Planning Commission’s discussion on this variance as summarized in paragraph 3 of the Final Order. He stated that it would be more accurate to say that the five-foot reduction portion of the request was not in keeping with the historic character of Road’s End because it was not in the spirit of the agreements reached between the City of Lincoln City and the citizens of the Road’s End neighborhood at the time of annexation, thus not meeting the goal for aesthetics. He also felt that the goal for citizen involvement was not met because neighborhood meetings were not held. Commissioner Baker added that although the characteristics of the neighborhood may be historic, that the agreements and the code language are based on very recent work done by the community, City staff and the Lincoln City Planning Commission. Regarding public involvement, Director Skinner stated that the required notification and public meeting process had been followed, including notification of the Roads End Improvement Association.

The language of the final order was revised to state that the variance would have negative impacts on the neighborhood in that it would specifically be in conflict with the terms of the code adopted by the City of Lincoln City and the citizens of the Road’s End neighborhood.

MOTION:	Approve FO 2022-04 for VAR 2022-01 as amended
MOVER:	Vincent
SECONDER:	Sumner
AYES:	Sumner, Baker, Vincent, Blackerby
ABSTAIN:	Miles Schlesinger
EXCUSED:	Johnson
RESULT:	Passed as Amended

4.3.FR 2022-08 for ZOA 2022-05

The Planning Commission voted 4-0 to approve Final Recommendation 2022-08 as written. The item will be the subject of a public hearing at the City Council at their meeting on May 9th.

MOTION:	Approve FR 2022-08 for ZOA 2022-05 as written
MOVER:	Vincent
SECONDER:	Baker
AYES:	Sumner, Baker, Vincent, Blackerby
ABSTAIN:	Schlesinger
EXCUSED:	Johnson
RESULT:	Passed

4.4.FR 2022-09 for ZOA 2022-06

The Planning Commission voted 4-0 to approve Final Recommendation 2022-09 as written. The item will be the subject of a public hearing at the City Council at their meeting on May 9th.

MOTION:	Approve FR 2022-09 for ZOA 2022-06 as written
MOVER:	Baker
SECONDER:	Vincent
AYES:	Sumner, Baker, Vincent, Blackerby
ABSTAIN:	Schlesinger
EXCUSED:	Johnson
RESULT:	Passed

5. PUBLIC HEARINGS/DELIBERATIONS

Chair Blackerby opened the Public Hearings for all five CPA ZC applications at 6:30 pm, introduced the applications, read the required statements, and explained the order of proceedings for the hearings. No Commissioners were excused for conflicts of interest, no challenges were offered. Chair Blackerby disclosed that he had driven by the properties to familiarize himself with the sites. Director Skinner listed the applicable substantive criteria.

Director Skinner presented a summary of the staff report for each application, noting that all the subject parcels are owned by the City.

CPA ZC 2022-02 for Nesika Park proposes a change from R-M Multiple Unit Residential to P Park. The subject property is approximately a third of an acre and is located on the east side of SE Keel Ave approximately 430 feet south of SE 3rd Street.

CPA ZC 2022-03 for a new park in the Taft neighborhood proposes a change from R-1-7.5 Single Family Residential to P Park. The subject property is 6.61 acres and comprises four tax lots addressed as 1545 SE 50th St, unaddressed, 4926 SE Keel Ave, and 4936 SE Keel Ave.

CPA ZC 2022-04 for a parcel also in the Taft neighborhood, along Schooner Creek, proposes a change from GC General Commercial to OS Open Space. The subject property is approximately three quarters of an acre and is located at the northeast corner of the SE 51st St/SE 52nd St intersection.

CPA ZC 2022-05 for the Lincoln Palisades open space proposes a change from R-1-7.5 Single Family Residential to OS Open Space. The subject property is more than 18 acres and comprises two unaddressed parcels, located between The Villages at Cascade Head to the east and Lincoln Palisades to the west.

Finally, CPA ZC 2022-06 for the Wildwoods site proposes a change from Lincoln County's R-1 to Lincoln City's OS Open Space. The subject property is 0.08 acre and part of the larger Friends of the Wildwoods open space nature area.

The purpose of these zone changes is to align the existing and future uses of the sites with the appropriate zoning, and to remove land that is not buildable for a variety of reasons from the buildable land inventory in order to have a more accurate picture of the true development potential of land within city limits. Director Skinner stated that she had not received any written comments to date, and only two phone calls which were questions to clarify the location of two different parcels.

Commissioner Baker made a motion to close the public hearing, seconded by Commissioner Vincent and approved unanimously. The public hearing was closed at 7:08 pm.

5.1. CPA ZC 2022-02 Nesika Park

MOTION:	Recommend approval of CPA ZC 2022-02 Nesika Park
MOVER:	Vincent
SECONDER:	Schlesinger
AYES:	Sumner, Baker, Vincent, Blackerby, Schlesinger
EXCUSED:	Johnson
RESULT:	Passed

5.2. CPA ZC 2022-03 Park in Taft

MOTION:	Recommend approval of CPA ZC 2022-03 Park in Taft
MOVER:	Baker
SECONDER:	Vincent
AYES:	Sumner, Baker, Vincent, Blackerby, Schlesinger
EXCUSED:	Johnson
RESULT:	Passed

5.3. CPA ZC 2022-04 Taft Open Space

MOTION:	Recommend approval of CPA ZC 2022-04 Taft Open Space
MOVER:	Vincent
SECONDER:	Baker
AYES:	Sumner, Baker, Vincent, Blackerby, Schlesinger
EXCUSED:	Johnson
RESULT:	Passed

5.4. CPA ZC 2022-05 Lincoln Palisades Open Space

MOTION:	Recommend approval of CPA ZC 2022-05 Lincoln Palisades Open Space
MOVER:	Sumner
SECONDER:	Vincent
AYES:	Sumner, Baker, Vincent, Blackerby, Schlesinger
EXCUSED:	Johnson
RESULT:	Passed

5.5. CPA ZC 2022-06 Wildwoods Open Space

MOTION:	Recommend approval of CPA ZC 2022-06 Wildwoods Open Space
MOVER:	Vincent
SECONDER:	Baker
AYES:	Sumner, Baker, Vincent, Blackerby, Schlesinger
EXCUSED:	Johnson
RESULT:	Passed

6. OLD BUSINESS

There was no old business to discuss.

7. NEW BUSINESS

There was no new business to discuss.

8. PLANNING COMMISSION TRAINING

No training was conducted.

9. REPORTS AND COMMENTS

There were no reports or comments from the Commission.

10. FUTURE AGENDA ITEMS & NEXT MEETINGS

The next Lincoln City Planning Commission will be held on Tuesday, May 3, 2022, in Council Chambers. Agenda items include the public hearing for a Conditional Use Permit for an existing dock (CUP 2022-01) and a public hearing for a zoning ordinance amendment (ZOA 2022-08). The purpose of this ZOA is to incorporate required state legislation from 2021 regarding housing, sheltering, and childcare facility siting. The amendment also seeks to reduce a number of impediments to property redevelopment currently in the code. A recent Planning Department mailing to all property owners in Lincoln City included a notice of the public hearing for this proposed zoning amendment, as well as a schedule of public outreach sessions for to obtain input regarding the Comprehensive Plan Update.

11. ADJOURN

Chair Blackerby adjourned the Lincoln City Planning Commission meeting at 7:20 pm.

Respectfully submitted,

Anne Marie Skinner
Planning & Community Dev. Director

Kim Blackerby
Chair

Planning Commission Communication

Final Recommendation for CPA ZC 2022-02 Nesika Park

Meeting Date: May 3, 2022 Primary Staff Contact: AnneMarie Skinner
Department: Planning Commission E-Mail: ASkinner@lincolncity.org
Secondary Dept: Secondary Contacts:
Approval: Estimated Time:

Potential Motion:

I move to approve the Final Recommendation for CPA ZC 2022-02 Nesika Park recommending approval of the comprehensive plan map amendment and zone change.

Attachments:

FR 2022-10 for CPA ZC 2022-02 Nesika Park (DOC)

**LINCOLN CITY
PLANNING COMMISSION**

IN THE MATTER OF

Comprehensive Plan Map Amendment)	Final Recommendation
and Zone Change)	No. 2022-10
R-M to Park)	
)	

NATURE OF THE APPLICATION

CPA ZC 2022-02 amends the Lincoln City Comprehensive Plan Map and the Lincoln City Zoning Map by changing the map designation and zoning classification of the site identified as Assessor’s Map 07-11-15-DA-00200-00. The map designation will change from High-Density Residential District to Park Zone. The zoning classification will change from Multiple-Unit Residential (R-M) Zone to Park (P) Zone.

FINAL RECOMMENDATION

Based on the evidence presented at the public hearing on April 19, 2022, including the staff report and the findings (attached hereto as Exhibit A), the Planning Commission recommends that the City Council approve the comprehensive plan map amendment and zone change of Map/Tax Lot 07-11-15-DA-00200-00 from the High-Density Residential District and R-M zone to the Park and P zone.

APPROVED THIS 3rd DAY OF MAY, 2022.

Kim Blackerby
Planning Commission Chair

ATTEST:

Anne Marie Skinner
Planning & Community Development Director

Exhibit A Findings

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.

Planning Commission Communication

Final Recommendation for CPA ZC 2022-03 Park in Taft

Meeting Date: May 3, 2022 Primary Staff Contact: AnneMarie Skinner
Department: Planning Commission E-Mail: ASkinner@lincolncity.org
Secondary Dept: Secondary Contacts:
Approval: Estimated Time:

Potential Motion:

I move to approve the Final Recommendation for CPA ZC 2022-03 Park in Taft recommending approval of the comprehensive plan map amendment and zone change.

Attachments:

FR 2022-11 for CPA ZC 2022-3 Taft park (DOC)

**LINCOLN CITY
PLANNING COMMISSION**

IN THE MATTER OF

Comprehensive Plan Map Amendment) Final Recommendation
and Zone Change) No. 2022-11
R-1-7.5 to P)
)

NATURE OF THE APPLICATION

CPA ZC 2022-03 amends the Lincoln City Comprehensive Plan Map and the Lincoln City Zoning Map by changing the comprehensive plan map designation and zoning classification of the site addressed as 1545 SE 50th St, 4926 and 4936 SE Keel St, and an unaddressed parcel identified as Assessors Map 07-11-27-DD-04500-00. The map designation will change from Medium Density Residential District to Park Zone. The zoning classification will change from Single-Family Residential (R-1-7.5) Zone to Park (P) Zone.

FINAL RECOMMENDATION

Based on the evidence presented at the public hearing on April 19, 2022, including the staff report and the findings (attached hereto as Exhibit A), the Planning Commission recommends that the City Council approve the comprehensive plan map amendment and zone change of the parcels addressed as 1545 SE 50th St, 4926 and 4936 SE Keel St, and an unaddressed parcel identified as Assessor’s Map 07-11-27-DD-04500-00 from the Medium Density Residential District and R-1-7.5 zone to the Park Zone and P zone.

APPROVED THIS 3rd DAY OF MAY, 2022.

Kim Blackerby
Planning Commission Chair

ATTEST:

Anne Marie Skinner
Planning & Community Development Director

Exhibit A Findings

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

Final Recommendation for CPA ZC 2022-04 Taft Open Space

Meeting Date:	May 3, 2022	Primary Staff Contact:	AnneMarie Skinner
Department:	Planning Commission	E-Mail:	ASkinner@lincolncity.org
Secondary Dept:		Secondary Contacts:	
Approval:		Estimated Time:	

Potential Motion:

I move to approve the Final Recommendation for CPA ZC 2022-04 Taft Open Space recommending approval of the comprehensive plan map amendment and zone change.

Attachments:

FR 2022-12 for CPA ZC 2022-04 Taft OS (DOC)

**LINCOLN CITY
PLANNING COMMISSION**

IN THE MATTER OF

Comprehensive Plan Map Amendment) Final Recommendation
and Zone Change) No. 2022-12
GC to OS)
)

NATURE OF THE APPLICATION

CPA ZC 2022-04 amends the Lincoln City Comprehensive Plan Map and the Lincoln City Zoning Map by changing the comprehensive plan map designation and zoning classification of the site identified as Assessor’s Map 07-11-27-DD-04900-00. The map designation will change from General-Commercial District to Open Space Zone. The zoning classification will change from General Commercial (G-C) Zone to Open Space (OS) Zone.

FINAL RECOMMENDATION

Based on the evidence presented at the public hearing on April 19, 2022, including the staff report and the findings (attached hereto as Exhibit A), the Planning Commission recommends that the City Council approve the comprehensive plan map amendment and zone change of the site identified as Assessor’s Map 07-11-27-DD-04900-00 from the General-Commercial District and G-C zone to the Open Space Zone and Open Space Zone.

APPROVED THIS 3rd DAY OF MAY, 2022.

Kim Blackerby
Planning Commission Chair

ATTEST:

Anne Marie Skinner
Planning & Community Development Director

Exhibit A Findings

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 space, thus encouraging development elsewhere that is outside of the flood hazard and tsunami evacuation zones. The proposal is consistent with Goal 7.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Planning Commission Communication

Final Recommendation for CPA ZC 2022-05 Palisades Open Space

Meeting Date: May 3, 2022 Primary Staff Contact: AnneMarie Skinner
Department: Planning Commission E-Mail: ASkinner@lincolncity.org
Secondary Dept: Secondary Contacts:
Approval: Estimated Time:

Potential Motion:

I move to approve the Final Recommendation for CPA ZC 2022-05 Palisades Open Space recommending approval of the comprehensive plan map amendment and zone change.

Attachments:

FR 2022-13 for CPA ZC 2022-05 Palisades (DOC)

**LINCOLN CITY
PLANNING COMMISSION**

IN THE MATTER OF

Comprehensive Plan Map Amendment) Final Recommendation
and Zone Change) No. 2022-13
R-1-7.5 to OS)
)

NATURE OF THE APPLICATION

CPA ZC 2022-05 amends the Lincoln City Comprehensive Plan Map and the Lincoln City Zoning Map by changing the comprehensive plan map designation and zoning classification of the site identified as Assessor’s Map 06-11-35-CA-00100-00 and 06-11-35-CD-00100-00. The map designation will change from Medium-Density Residential District to Open Space Zone. The zoning classification will change from Single-Family Residential (R-1.7.5) Zone to Open Space (OS) Zone.

FINAL RECOMMENDATION

Based on the evidence presented at the public hearing on April 19, 2022, including the staff report and the findings (attached hereto as Exhibit A), the Planning Commission recommends that the City Council approve the comprehensive plan map amendment and zone change of the site identified as Assessor’s Map 06-11-35-CA-00100-00 and 06-11-35-CD-00100-00 from the Medium-Density Residential District and R-1-7.5 zone to the Open Space Zone and OS zone.

APPROVED THIS 3RD DAY OF MAY, 2022.

Kim Blackerby
Planning Commission Chair

ATTEST:

Anne Marie Skinner
Planning & Community Development Director

Exhibit A Findings

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 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

FR 2022-14 for CPA ZC 2022-06

Meeting Date: May 3, 2022 Primary Staff Contact: AnneMarie Skinner
Department: Planning Commission E-Mail: ASkinner@lincolncity.org
Secondary Dept: Secondary Contacts:
Approval: Estimated Time:

Potential Motion:

I move to approve the Final Recommendation for CPA ZC 2022-06 Wildwoods Open Space recommending approval of the comprehensive plan map amendment and zone change.

Attachments:

FR 2022-14 for CPA 2022-06 Wildwoods (DOC)

**LINCOLN CITY
PLANNING COMMISSION**

IN THE MATTER OF

Comprehensive Plan Map Amendment) Final Recommendation
and Zone Change) No. 2022-14
Lincoln County R-1 to OS)
)

NATURE OF THE APPLICATION

CPA ZC 2022-06 amends the Lincoln City Comprehensive Plan Map and the Lincoln City Zoning Map by changing the comprehensive plan map designation and zoning classification of the site identified as Assessor’s Map 07-11-11-BA-00404-00. The map designation will change from Lincoln County R-1 to Open Space Zone. The zoning classification will change from Lincoln County R-1 to Open Space (OS) Zone.

FINAL RECOMMENDATION

Based on the evidence presented at the public hearing on April 19, 2022, including the staff report and the findings (attached hereto as Exhibit A), the Planning Commission recommends that the City Council approve the comprehensive plan map amendment and zone change of the site identified as Assessor’s Map 07-11-11-BA-00404-00 from Lincoln County R-1 to the Open Space Zone and OS zone.

APPROVED THIS 3rd DAY OF MAY, 2022.

Kim Blackerby
Planning Commission Chair

ATTEST:

Anne Marie Skinner
Planning & Community Development Director

Exhibit A Findings

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.

Planning Commission Communication

CUP 2022-01 Resnikoff dock

Meeting Date: May 3, 2022 Primary Staff Contact: AnneMarie Skinner
Department: Planning Commission E-Mail: ASkinner@lincolncity.org
Secondary Dept: Secondary Contacts:
Approval: Estimated Time:

Attachments:

CUP 2022-01 Application Package(PDF)
Comments DSL (PDF)
Wetland Land Use Notice (PDF)
Comments ODFW 03_30_2022 (PDF)
ODFW Residential Dock Guidelines 2016 (PDF)
Cassel 5 Photos (PDF)
Cassel 2 photos (PDF)
CUP 2022-01 Staff Report (PDF)
Comments DSL Jennifer Miller (PDF)
Photos from Applicant (PDF)

Conditional Use 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: Philip & Nancy Resnikoff
 ADDRESS: 496 SE Schooner Creek Rd
Lincoln City, OR 97367
 PHONE: 925-202-4246
 E-MAIL: resnikoffphil@gmail.com

APPLICANT:

NAME: Same as above
 ADDRESS: _____

 PHONE: _____
 E-MAIL: _____

SITE INFORMATION:

ZONING DISTRICT: Taft M-W Zone
 TAX MAP AND LOT: 07-11-27-DA-00101
 SITE ADDRESS: 496 SE Schooner Creek Rd.

REQUESTED CONDITIONAL USE:

Cite the code section of the proposed conditional use: LCMC 17. 44.040-B


TO GRANT ANY CONDITIONAL USE, THE PLANNING COMMISSION MUST FIND, BASED UPON EVIDENCE BOTH FACTUAL AND SUPPORTIVE THAT IS PROVIDED BY THE APPLICANT, THAT ALL THE FOLLOWING ARE TRUE:



- Plan of the proposed dock showing location and all dock dimensions that are compliant with LCMC 17.44.040.B
- Description and/or materials cut sheets of the proposed materials of the dock that are compliant with LCMC 17.44.040.B

I (We) hereby declare under penalty of perjury under the laws of the State of Oregon that the foregoing information, as well as the information provided in the attached narrative, is true, complete, and accurate. I (We) acknowledge that providing false information in the application or any application materials shall be a violation and grounds to deny the application and void any approvals.

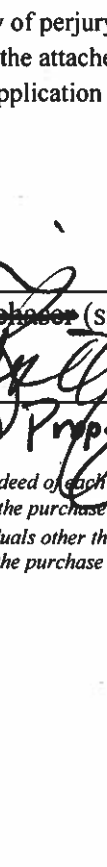
SIGNATURES:



 Property Owner/Contract Purchaser (signature required)

3/28/22

 Date



 Applicant (signature required) Property Co-Owner

3/28/22

 Date

- All property owners listed on the deed of each parcel/lot 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.

Philip Resnikoff
496 SE Schooner Creek Rd
Lincoln City, OR 97367

3/1/2022

City of Lincoln City
 Planning and Community Development
 801 SW Highway 101
 Lincoln City, OR. 97367

Dear Planning Department; The following is a detailed narrative to accompany the Conditional Use Application above.

My wife Nancy and I purchased our property on Schooner Creek in February of 2015. We are on the water way intersection of Schooner Creek and "No Name Creek", a small side creek. We have loved living on the creek and seeing the natural wildlife and marine life out there every day. We've enjoyed kayaking and canoeing. We had seen lots of floating docks around the city waterways and went to City Hall to inquire about necessary permits for us to put a floating dock on our property. In 2016 we were told that as long as we were not planning on dredging, drilling, placing pilings or disturbing the creek bed or marine life we did not need a permit. We described the kind of dock we were planning on with a small ramp from the shore to the dock and were told that no permit would be needed. We were advised to talk with the neighbor to assure that there would not be any impact on their property or access to the creek. We had that discussion and there was no objection as our plan was to have the dock on our side of the property boundary on "No Name Creek". Our property line extends halfway across "No Name Creek". The prior neighbor had a pontoon boat that he kept right on Schooner Creek against the back of his property. We built the dock and put it in the water in early April of 2017. It has worked well for us in getting in and out of the kayaks and canoe, especially when the grandchildren are here. I open with this brief paragraph to explain that this application is for a dock that has been in place for 5 years now. The pages following this narrative will include current photos of the dock and its location as well as a sketch of the property and the waterways involved.

Compliance with LCMC 17.77.060

D1. In Compliance

D2. n/a

D3. n/a

D4. This dock has been in this location for 5 years and has had no adverse effect on adjoining properties.

D5. n/a

Compliance with LCMC 17.44.040.B

1. Attached documents verify compliance with regulations regarding materials used to construct the dock. This application complies with the Planning Departments for submission.
2. This dock has not had any negative impact on the creeks with respect to pollution or the preservation of marine life or other natural resources.

- 3.a. Complies
- b. Complies
- c. Complies

4. N/a

- 5.a. The dock is on our property
- b. The purpose of the dock is to get into and out of kayaks and canoes
- c. The dock is located on Tax map and Lot # 07-11-27-DA-00101
- d. There are no other similar facilities within 250 feet of this dock and a drawing of the dock and its location are attached below
- e. The project was completed 4/4/2017

- 6.a. n/a
- b. n/a
- c. n/a
- d. n/a
- e. n/a
- f.i. Total area of dock is 69 sf. 6feet wide by 11 1/2 feet in length.
- ii. Complies
- iii. Complies
- iv. Complies
- v. Complies
- vi. Complies. See attached documents from wood manufacturer and "cut sheets". I want to mention here that I do not know and have never met or spoken with the gentleman who wrote the letter to the Planning Department. I contacted the company to get verification that their product does not contain any of the compounds noted in 17.040.44.B.6.f.vi. I had no idea that he had already made contact with the Planning Department and sent the letter. He went a bit further than I had asked for. I hope no offence was taken.
- vii. Complies
- viii. n/a
- ix. n/a
- x. n/a
- xi. n/a

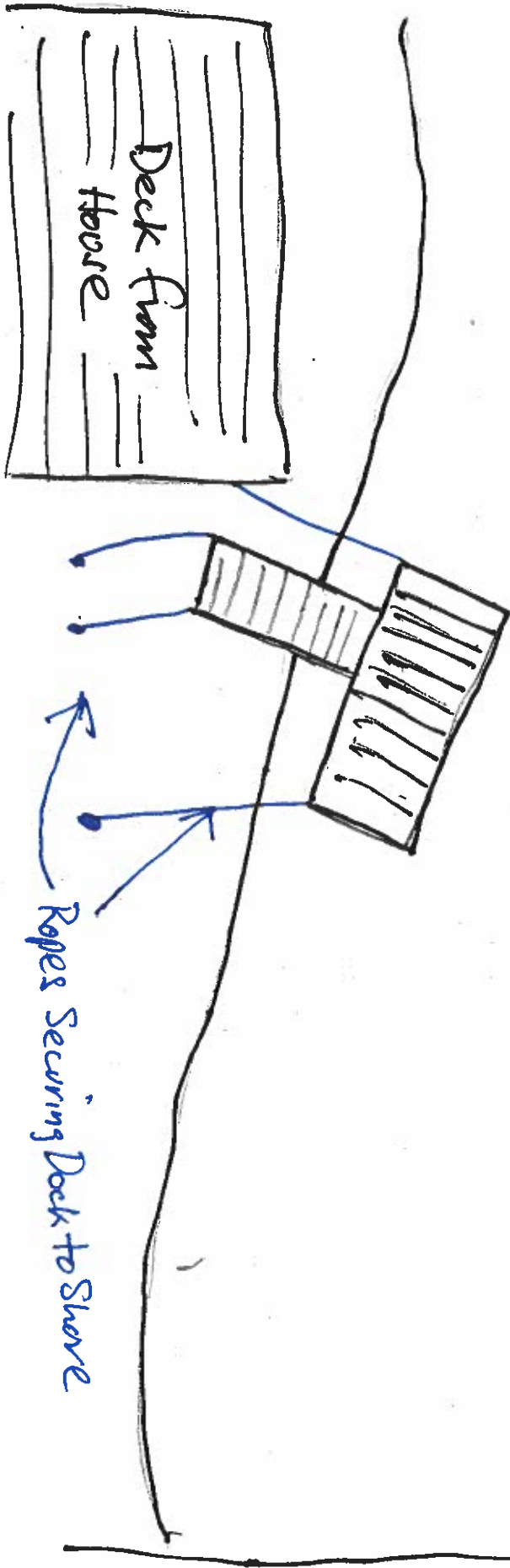
Submittal Attachments:

- Completed Conditional Use Application
- Detailed written narrative
- Completed Online Direct Pay Authorization Agreement.
- Photographs of dock showing its location
- Sketch of Docks location
- Letter from Ryan Pessah dated 1/28/2022
- Cut Sheets for Wolmanized Outdoor Wood
- Description and cut sheets provided by Eagle Floats

Respectfully yours,

Philip Resnikoff

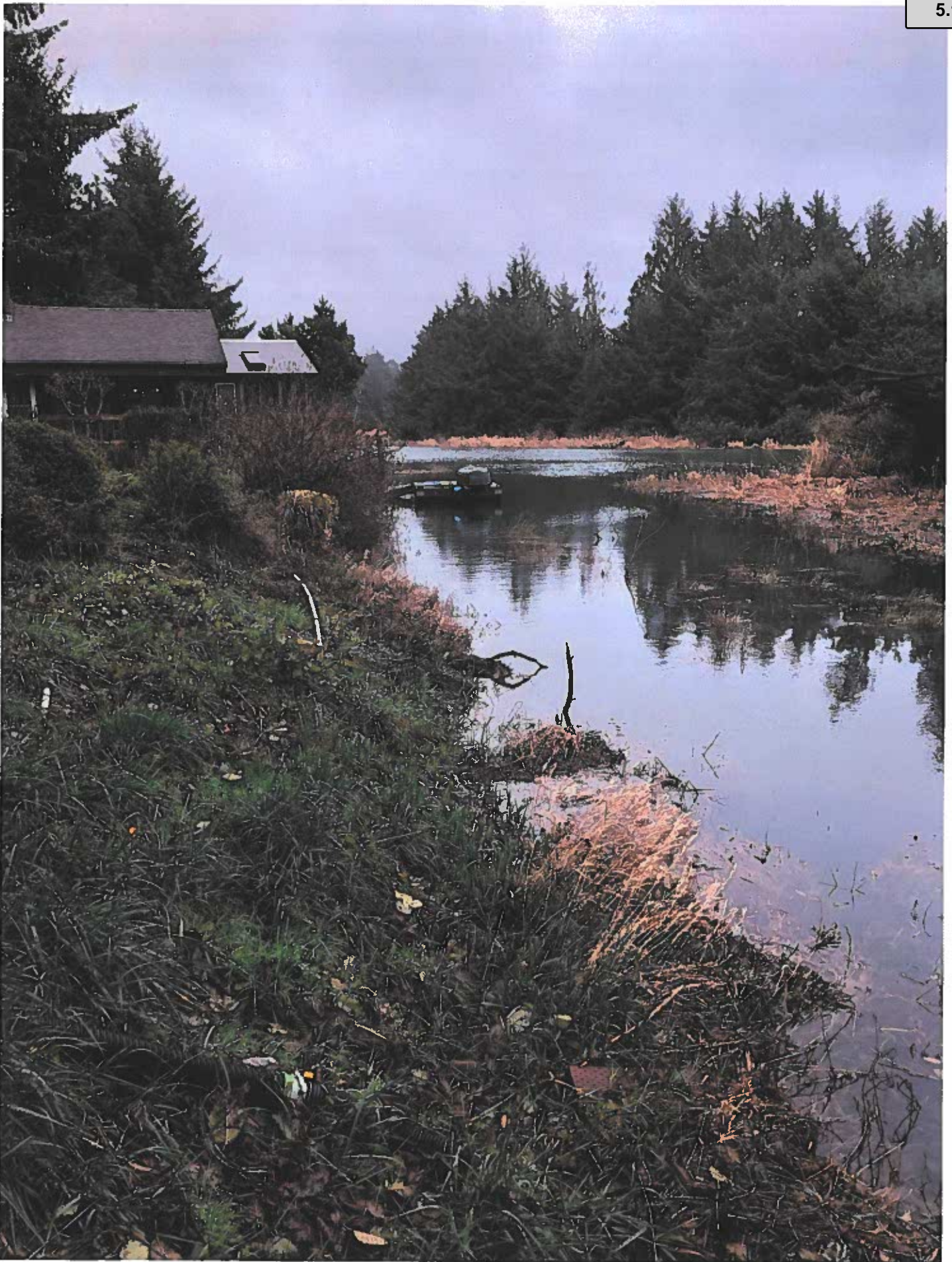
"Schooner Creek"

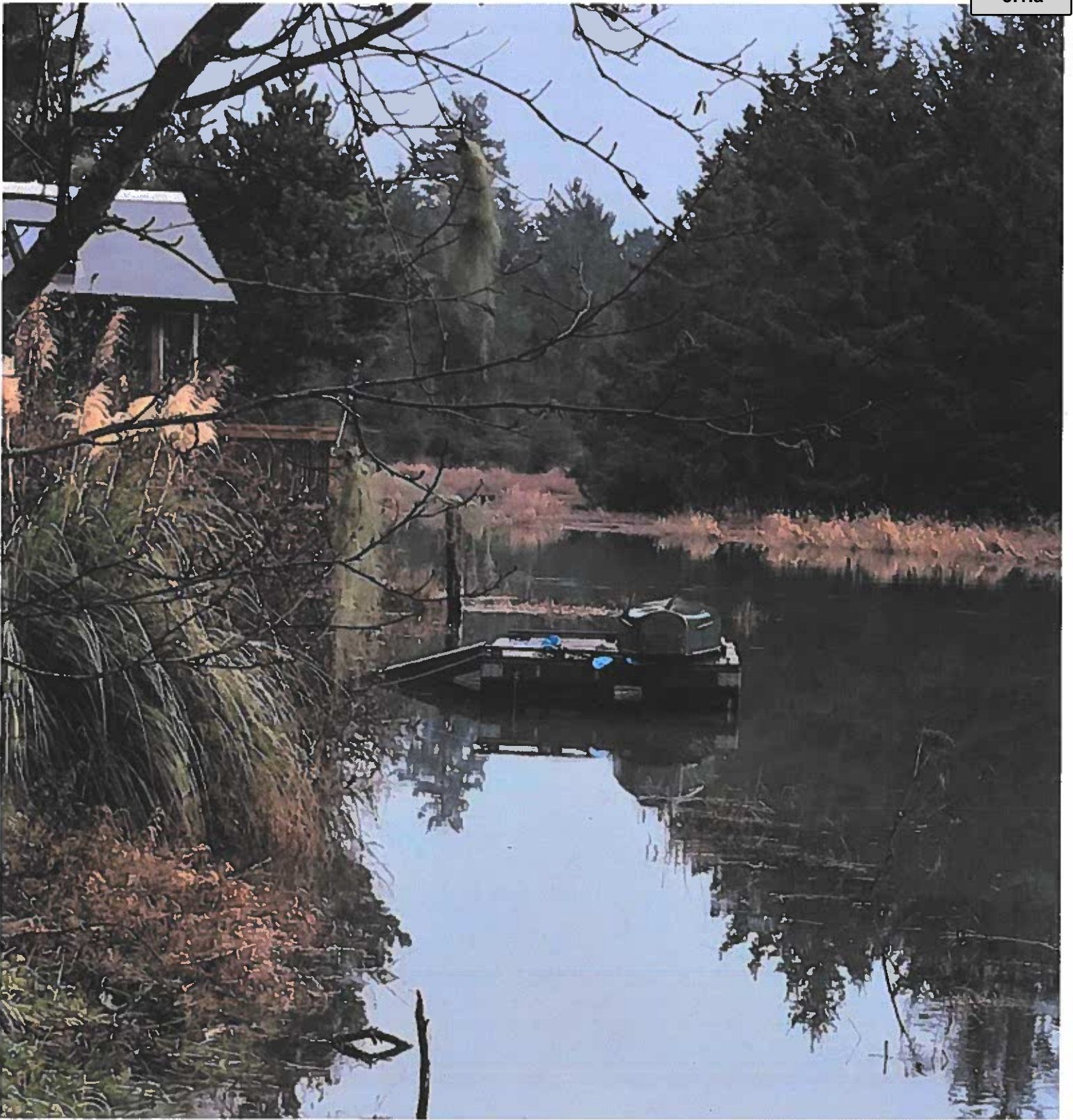


"No Name Creek"



SE 5th Street







75 years of service
— 1947-2022 —

January 28, 2022

Anne Marie Skinner
Planning & Community Development Director
Lincoln City Code Enforcement
1503 SE East Devils Lake Rd
Lincoln City, OR 97367

RE: 496 S Schooner Creek RD, Lincoln City, OR, 97367 - Conditional Use Permit Criteria

Dear Anne Marie Skinner,

Thank you for calling me on Thursday, January 27, 2022, and for our discussions regarding the conditional use permit for Phil Rensikoff and Nancy Hatley. Thank you for giving Western Wood Preservers Institute the opportunity to share with you information about specific criteria within the conditional use permit.

WWPI is a non-profit trade association founded in Oregon in 1947 to serve the interests of the preserved wood industry in western North America. WWPI works with federal, state, and local agencies, as well as designers, contractors, and users over the entire preserved wood life cycle, ensuring that preserved wood is produced and used in a safe, responsible, and environmentally friendly manner. Preserved wood products are essential to our infrastructure as utility companies use preserved wood poles to provide power and telecommunication services. Railroad ties are made from preserved wood and make up the foundation of our rail system that provides safe transportation for people and goods. Dock, pier, and marina owners rely on preserved wood pilings to help import and export good as well as for recreational use because these products provide a safe and long-lasting service life.

The Lincoln City Municipal Code section 17.44.040 Standards for conditional uses, subsection (B) (6) (f) (vi) states the following:

Treated wood is not allowed as a construction material for docks or ramps. Treated wood is lumber, pilings, and other wood products preserved with alkaline copper quaternary (ACQ), ammoniacal copper arsenate (ACA), ammoniacal copper zinc arsenate (ACZA), copper naphthenate, chromated copper arsenate (CCA), pentachlorophenol, or creosote.

The dock that Mr. Phil Rensikoff and Nancy Hatley intend to use does not contain any of the preservatives mentioned in 17.44.040 (B) (6) (f) (vi). The dock is made with a U.S. EPA approved preservative, copper azole (CA). The U.S. EPA has approved CA for freshwater piling as well as freshwater and saltwater splash (marine) decking applications. Under the Lincoln City Municipal code section 17.44.040, subsection (B) (6) (f) (vi) CA is permitted.

Please do not hesitate to contact me if you have any questions about the preservatives used for Phil Rensikoff and Nancy Hatley. I am also available to answer any other questions you may have about preserved wood and wood preservatives. I look forward to work with you on updating the Lincoln City Municipal code section to remove the bias on preserved wood products.

Thank you,

Ryan Pessah
Director of Government Relations
Western Wood Preservers Institute

SAFETY DATA SHEET

Issue Date 27-May-2015

Revision Date 03-Jul-2019

Version 3

1. IDENTIFICATION

Product identifier

Product Name

Wolmanized® Outdoor® Wood

Other means of identification

Product Code

23455

Synonyms

Copper Azole Treated Wood

Recommended use of the chemical and restrictions on use

Recommended Use

Treated Wood.

Details of the supplier of the safety data sheet

Supplier Address

Customers and Licensees of:

Arch Treatment Technologies, Inc - A

Lonza Company

3941 Bonsal Road

Conley, GA 30288

Manufacturer Address

Emergency telephone number

Company Phone Number

24 Hour Emergency Phone Number

Emergency Telephone

2. HAZARDS IDENTIFICATION

Classification

OSHA Regulatory Status

This chemical is considered hazardous by the 2012 OSHA Hazard Communication Standard (29 CFR 1910.1200)

23455 - Wolmanized® Outdoor® Wood

Revision Date 03-Jul-2019

Skin corrosion/irritation	Category 3
Serious eye damage/eye irritation	Category 2B
Respiratory sensitization	Category 1
Skin sensitization	Category 1
Carcinogenicity	Category 1A
Specific target organ toxicity (single exposure)	Category 3

Label elements**Emergency Overview****Danger****Hazard statements**

May cause cancer
 Causes eye irritation
 May cause allergy or asthma symptoms or breathing difficulties if inhaled
 May cause an allergic skin reaction
 May cause respiratory irritation
 Causes mild skin irritation



23455 - Wolmanized® Outdoor® Wood

Revision Date 03-Jul-2019

Physical state Solid

Odor No information available

Precautionary Statements - Prevention

Obtain special instructions before use
 Do not handle until all safety precautions have been read and understood
 Use personal protective equipment as required
 Wash face, hands and any exposed skin thoroughly after handling
 Avoid breathing dust/fume/gas/mist/vapors/spray
 Use only outdoors or in a well-ventilated area

Precautionary Statements - Response

IF exposed or concerned: Get medical advice/attention
 IF IN EYES: Rinse cautiously with water for several minutes. Remove contact lenses, if present and easy to do. Continue rinsing
 If eye irritation persists: Get medical advice/attention
 IF INHALED: Remove victim to fresh air and keep at rest in a position comfortable for breathing

Hazards not otherwise classified (HNOC)

Not applicable

Other Information

Causes mild skin irritation

3. COMPOSITION/INFORMATION ON INGREDIENTS**Substance**

This material is considered hazardous by the OSHA Hazard Communication Standard (29 CFR 1910.1200).

Synonyms

Copper Azole Treated Wood.

Chemical Name	CAS No.	Weight-%	Trade Secret
Wood and Wood Dust	NOT ASSIGNED	99 - 100	

23455 - Wolmanized® Outdoor® Wood

Revision Date 03-Jul-2019

Copper Ethanolamine Complex	14215-52-2	0.1 - 1	
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4. FIRST AID MEASURES

Description of first aid measures

General advice	In case of accident or unwellness, seek medical advice immediately (show directions for use or safety data sheet if possible).
Eye contact	Immediately flush with plenty of water. After initial flushing, remove any contact lenses and continue flushing for at least 15 minutes. Do not rub affected area.
Skin contact	IF ON SKIN (or hair): Remove/Take off immediately all contaminated clothing. Rinse skin with water/shower.
Inhalation	Remove to fresh air. Call a physician immediately. If not breathing, give artificial respiration.
Ingestion	If swallowed, call a poison control center or physician immediately. If swallowed, do not induce vomiting: seek medical advice immediately and show this container or label.

Most important symptoms and effects, both acute and delayed

Symptoms See Section 11: TOXICOLOGICAL INFORMATION.

Indication of any immediate medical attention and special treatment needed

Note to physicians May cause sensitization in susceptible persons. Treat symptomatically.

5. FIRE-FIGHTING MEASURES

Suitable extinguishing media

Use extinguishing measures that are appropriate to local circumstances and the surrounding environment. Carbon dioxide (CO₂). Water spray or fog.

Unsuitable extinguishing media Do not use a solid water stream as it may scatter and spread fire.

Specific hazards arising from the chemical

In the event of fire and/or explosion do not breathe fumes. May cause sensitization in susceptible persons.

Hazardous combustion products Carbon monoxide. Carbon dioxide (CO₂). Nitrogen oxides (NO_x).

Explosion data

Sensitivity to Mechanical Impact None.

Sensitivity to Static Discharge None.

Protective equipment and precautions for firefighters

As in any fire, wear self-contained breathing apparatus pressure-demand, MSHA/NIOSH (approved or equivalent) and full protective gear.

6. ACCIDENTAL RELEASE MEASURES

Personal precautions, protective equipment and emergency procedures

Personal precautions Ensure adequate ventilation, especially in confined areas.

For emergency responders Use personal protection recommended in Section 8.

Environmental precautions

Environmental precautions See Section 12: ECOLOGICAL INFORMATION.

Methods and material for containment and cleaning up

Methods for containment Cover powder spill with plastic sheet or tarp to minimize spreading.

Methods for cleaning up Cover powder spill with plastic sheet or tarp to minimize spreading and keep powder dry. Take up mechanically, placing in appropriate containers for disposal. Avoid creating dust. Clean contaminated surface thoroughly. Pick up and transfer to properly labeled containers. After cleaning, flush away traces with water. Take precautionary measures against static discharges.

7. HANDLING AND STORAGE

Precautions for safe handling

Advice on safe handling Do not burn treated wood. Do not use pressure treated chips or sawdust as mulch. Use with local exhaust ventilation. May form combustible dust concentrations in air. Take precautionary measures against static discharges. Avoid contact with skin, eyes or clothing. Wash contaminated clothing before reuse. Do not eat, drink or smoke when using this product. Do not breathe dust/mist/vapors/spray.

Conditions for safe storage, including any incompatibilities

Storage Conditions Avoid generation of dust.

Incompatible materials None known based on information supplied.

8. EXPOSURE CONTROLS/PERSONAL PROTECTION

Control parameters

Chemical Name	ACGIH TLV	OSHA PEL	NIOSH IDLH
Wood and Wood Dust NOT ASSIGNED	1.0 mg/m ³ Inhalable, 0.5 mg/m ³ Inhalable Western Red Cedar	15 mg/m ³ Total Dust 5.0 mg/m ³ Respirable Fraction	-

Appropriate engineering controls

Engineering Controls

Showers. Eyewash stations. Ventilation: Saw, cut or machine wood outdoors or in well ventilated areas. Due to the explosive potential of dust when suspended in air, precautions should be taken when sawing, sanding, or machining wood or wood products to prevent sparks or other ignition sources. If required, use wet methods and/or explosion suppression systems to reduce generation of dust. Local exhaust ventilation is recommended when sawing, sanding, or machining this product. General dilution ventilation is recommended in processing and storage areas.

Individual protection measures, such as personal protective equipment

Eye/face protection

Use safety glasses with side shields or chemical goggles when sawing or cutting treated or untreated wood.

Skin and body protection

Wear leather gloves. Wear long sleeve shirt, pants, and steel-toed shoes when handling treated or untreated wood.

Respiratory protection

None normally required. When sawing or cutting treated or untreated wood, wear a NIOSH approved N95 or better dust mask.

General Hygiene Considerations

Handle in accordance with good industrial hygiene and safety practice. Do not eat, drink or smoke when using this product. Take off all contaminated clothing and wash it before reuse. Avoid contact with skin, eyes or clothing. Wash face, hands and any exposed skin thoroughly after handling.

9. PHYSICAL AND CHEMICAL PROPERTIES

Information on basic physical and chemical properties

Physical state

Solid

Appearance

No information available

Odor

No information available

23455 - Wolmanized® Outdoor® Wood

Revision Date 03-Jul-2019

Color	Slightly green	Odor threshold	No information available
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<u>Property</u>	<u>Values</u>	<u>Remarks • Method</u>
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pH	No information available	
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Melting point / freezing point	No information available	
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Boiling point / boiling range	No information available	
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Flash point		
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Evaporation rate	No information available	
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Flammability (solid, gas)	No information available	
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Flammability Limit in Air		
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Upper flammability limit:	No information available	
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Lower flammability limit:	No information available	
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Vapor pressure	No information available	
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23455 - Wolmanized® Outdoor® Wood

Revision Date 03-Jul-2019

Vapor density	No information available
Relative density	No information available
Water solubility	No information available
Solubility in other solvents	No information available
Partition coefficient	No information available
Autoignition temperature	No information available
Decomposition temperature	No information available
Kinematic viscosity	No information available
Dynamic viscosity	No information available
Explosive properties	No information available
Oxidizing properties	No information available
<u>Other Information</u>	
Softening point	No information available
Molecular weight	No information available
VOC Content (%)	No information available
Density	No information available
Bulk density	No information available

10. STABILITY AND REACTIVITY

Reactivity

No data available

Chemical stability

Stable under recommended storage conditions.

Possibility of Hazardous Reactions

None under normal processing.

Conditions to avoid

Extremes of temperature and direct sunlight.

Incompatible materials

None known based on information supplied.

Hazardous Decomposition Products

None known based on information supplied.

11. TOXICOLOGICAL INFORMATION

Information on likely routes of exposure**Product Information**

Inhalation	WOOD and WOOD DUST :. May cause cancer. May cause sensitization by inhalation. May cause allergy or asthma symptoms or breathing difficulties if inhaled.
Eye contact	WOOD and WOOD DUST :. Irritating to eyes.
Skin contact	WOOD and WOOD DUST :. May cause irritation. May cause allergic skin reaction.
Ingestion	WOOD and WOOD DUST :. Harmful if swallowed.

Information on toxicological effects

Symptoms No information available.

Delayed and immediate effects as well as chronic effects from short and long-term exposure

23455 - Wolmanized® Outdoor® Wood

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Chemical Name	ACGIH	IARC	NTP	OSHA
Wood and Wood Dust NOT ASSIGNED	X	Group 1	X	X

IARC (International Agency for Research on Cancer)

Group 1 - Carcinogenic to Humans

OSHA (Occupational Safety and Health Administration of the US Department of Labor)

X - Present

Numerical measures of toxicity - Product Information

ATEmix (oral)

ATEmix (dermal)

ATEmix (inhalation-gas)

ATEmix (inhalation-dust/mist)

ATEmix (inhalation-vapor)

Numerical measures of toxicity

12. ECOLOGICAL INFORMATION

Ecotoxicity

Persistence and degradability

No information available.

Bioaccumulation

No information available.

Other adverse effects

No information available

13. DISPOSAL CONSIDERATIONS

Waste treatment methods

Disposal of wastes

This material, as supplied, is not a hazardous waste according to Federal regulations (40 CFR 261). Dispose of in accordance with federal, state and local regulations.

Contaminated packaging

No information available.

14. TRANSPORT INFORMATION

DOT

Not regulated

23455 - Wolmanized® Outdoor® Wood

Revision Date 03-Jul-2019

15. REGULATORY INFORMATION

International Inventories

TSCA	Complies
DSL/NDSL	Complies
EINECS/ELINCS	Complies
ENCS	Complies
IECSC	Complies
KECL	Complies
PICCS	Complies
AICS	Complies

Legend:

TSCA - United States Toxic Substances Control Act Section 8(b) Inventory
 DSL/NDSL - Canadian Domestic Substances List/Non-Domestic Substances List
 EINECS/ELINCS - European Inventory of Existing Chemical Substances/European List of Notified Chemical Substances
 ENCS - Japan Existing and New Chemical Substances
 IECSC - China Inventory of Existing Chemical Substances
 KECL - Korean Existing and Evaluated Chemical Substances
 PICCS - Philippines Inventory of Chemicals and Chemical Substances
 AICS - Australian Inventory of Chemical Substances

US Federal Regulations**SARA 313**

Section 313 of Title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA). This product does not contain any chemicals which are subject to the reporting requirements of the Act and Title 40 of the Code of Federal Regulations, Part 372

SARA 311/312 Hazard Categories

Acute health hazard	Yes
Chronic Health Hazard	Yes
Fire hazard	Yes
Sudden release of pressure hazard	No
Reactive Hazard	No

CWA (Clean Water Act)

This product contains the following substances which are regulated pollutants pursuant to the Clean Water Act (40 CFR 122.21 and 40 CFR 122.42)

Copper Ethanolamine Complex is expressed as Copper

Chemical Name	CWA - Reportable Quantities	CWA - Toxic Pollutants	CWA - Priority Pollutants	CWA - Hazardous Substances
Copper Ethanolamine Complex	-	X	-	-

23455 - Wolmanized® Outdoor® Wood

Revision Date 03-Jul-2019

14215-52-2				
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CERCLA

This material, as supplied, contains one or more substances regulated as a hazardous substance under the Comprehensive Environmental Response Compensation and Liability Act (CERCLA) (40 CFR 302)

Chemical Name	Hazardous Substances RQs	CERCLA/SARA RQ	Reportable Quantity (RQ)
Copper Ethanolamine Complex 14215-52-2	-	X	-

US State Regulations**California Proposition 65**

This product contains the following Proposition 65 chemicals

Chemical Name	California Proposition 65
Wood and Wood Dust - NOT ASSIGNED	Carcinogen

Warning: This wood contains chemicals known to the State of California to cause cancer, birth defects or other reproductive harm.

U.S. State Right-to-Know Regulations

Chemical Name	New Jersey	Massachusetts	Pennsylvania
Dipropylene glycol methyl ether 34590-94-8	X	X	X
Propiconazole 60207-90-1	X	-	-

U.S. EPA Label Information

EPA Pesticide Registration Number Not applicable

16. OTHER INFORMATION, INCLUDING DATE OF PREPARATION OF THE LAST REVISION

NEPA Health hazards 2 Flammability 1 Instability 0 Physical and Chemical Properties -

HMIS Health hazards 2 Flammability 1 Physical hazards 0 Personal protection X

Issue Date 27-May-2015
Revision Date 03-Jul-2019

23455 - Wolmanized® Outdoor® Wood

Revision Date 03-Jul-2019

Disclaimer

The information provided in this Material Safety Data Sheet is correct to the best of our knowledge, information and belief at the date of its publication. The information given is designed only as a guidance for safe handling, use, processing, storage, transportation, disposal and release and is not to be considered a warranty or quality specification. The information relates only to the specific material designated and may not be valid for such material used in combination with any other materials or in any process, unless specified in the text.

End of Safety Data Sheet

Floats Used for Dock

<p>FEATURES:</p> <ul style="list-style-type: none"> • Commercial or Private Applications • Rugged, Seamless, Rotationally-Molded Polyethylene Outer Shell • Solid Expanded Polystyrene Foam Core • Fifteen (15) Year Warranty • Convenient Molded Mounting Slots • Hydrodynamically Contoured Corners • Rigorous Testing and Quality Assurance • Nominal Wall Thickness of .150" • Oil, Gas and Marine Life Resistant • Installs Quickly to Wood, Steel or Aluminum Frames • US Army Corps of Engineers Approved • Dart Impact Tested • Hunt Absorbtion Tested • Made in the USA 	<p>Dockbuilders Eagle Floats</p> <p>Dockbuilders Eagle dock floats are a one-piece rotationally molded part, which eliminates seams that could result in separation and leakage. The .150" nominal thick shell is made of extra strong virgin polyethylene containing ultraviolet inhibitors. This tough shell helps prevent damage from oil, gas, and marine organisms. Each float has a solid, foam-filled, expanded polystyrene core using precision computer-controlled technology. Dockbuilders Eagle dock floats have a flat top with molded-in mounting slots for easy attachment to any dock framework; whether wood, steel or aluminum. Floating docks built with Dockbuilders Eagle dock floats will provide long lasting and carefree encapsulated flotation, resulting in long-range savings for recreational docks and complex marinas.</p>
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Eagle Floats™ Specifications

All Eagle Floats™ outer shells are manufactured to the following standards from 100% Virgin LLDE, filled with molded in place virgin 1pcf Expanded Polystyrene.

PROPERTIES	ASTM (1)	Typical Values (2)
Melt Index (3)	D-1238	3.5 g/10min
Density	D-792	0.941 g/cm ³
Bent Strip ESCR (4)	D-1693	> 1,000 h
Flexural Modulus (5)	D-790	827 Mpa (119,950 psi)
Tensile Yield Strength (6)	D-638	20.2 Mpa (2,930 psi)
Tensile Yield Elongation (6)	D-638	12%
Tensile Ultimate Strength (6)	D-638	29.3 Mpa (4,250 psi)
Tensile Ultimate Elongation (6)	D-638	895.00%
Melting Point	E-794	125o C (257o F)
Heat Distortion Temp		
66 psi (4.64kg/cm ²)	D-648	60o C (140o F)
264 psi (18.56kg/cm ²)	D-648	43o C (109o F)
Vicant Melting Point	D1525	123o C (253o F)
Hardness, Shore D	D2240	61
ARM Low Temp Impact (7)	ARM Method	230 J (170 ft-lb)
0.250" (6.35 mm)		
ARM Low Temp Impact (7)	ARM Method	95 J (70 ft-lb)
0.125" (3.17 mm)		

(1) Properties designated have been determined using methods which are in accordance with or substantially in accordance with specified testing standards.

(2) Typical values represent average laboratory values as guides only, not as specifications

(3) Condition 190o C/2.16 kg

- (4) Condition, 100% Igepal
- (5) 1% Strain Value
- (6) TypeIV specimen, 2" (50.8 mm) per minute test speed, 0.075" (1.9 mm) thickness
- (7) -40oC

From: [BROWN Jevra * DSL](#)
To: [Anne Marie Skinner](#)
Cc: [LANDRUM Carrie * DSL](#); [FITZGERALD Richard W * DSL](#); [MILLER Jennifer A * DSL](#)
Subject: FW: CUP 2022-01 Resnikoff dock
Date: Tuesday, April 19, 2022 9:32:32 AM
Attachments: [image001.png](#)
[CUP_2022-01_Application_Package.pdf](#)

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

Hi Anne Marie,

My apologies for the delay in my reply. I am still catching up from vacation. I did not see any documents in our database regarding this action/dock CUP, including no WLUN. Even though generally WLUN are not needed for CUPs in this case the WLUN would have provided all the answers I am providing here – and would also fit because Schooner Creek is designated Essential Salmonid Habitat (so the dock may need a permit – may have needed) and is a tidal water, therefore under DSL ownership.

Regarding the permit/enforcement for the dock – it sounds like it was placed by a previous owner – please coordinate with:

Carrie Landrum	Aquatic Resource Coordinator	Removal-Fill Permits & Enforcement: Lincoln, Marion, Polk	503-986-5285	Carrie.Landrum@dsl.oregon.gov
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Regarding the possible need for a dock registration, please ask the applicant to coordinate with:

Jennifer Miller	Waterways Technician-Registrations	Registrations - West of the Cascades	503-986-5274	Jennifer.A.Miller@dsl.oregon.gov
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Thank you!

Jevra Brown, Aquatic Resource Planner
Department of State Lands
Cell 503-580-3172
NOTE NEW EMAIL ADDRESS: Jevra.Brown@DSL.Oregon.gov

Checking for wetlands and waters? – Use the [STATEWIDE WETLANDS INVENTORY](#)

To help prevent the spread of COVID-19 many of the DSL staff are telecommuting.

From: Anne Marie Skinner <askinner@lincolncity.org>
Sent: Tuesday, March 29, 2022 9:30 PM
To: Department Heads <Department_Heads@lincolncity.org>; NELSON Scott <Scott.NELSON@odot.oregon.gov>; BROWN Jevra * DSL <Jevra.BROWN@dsl.oregon.gov>; TAYLOR Clara * DSL <Clara.TAYLOR@dsl.oregon.gov>; Daniel Wentz <dwentz@lincolncity.org>; Devils Lake Water Improvement District (lake.manager@dlwid.org) <lake.manager@dlwid.org>; director.nlchm (director.nlchm@gmail.com) <director.nlchm@gmail.com>; LINER Duane J <Duane.J.LINER@odot.oregon.gov>; Frederick Ulrich (fulrich@nlfr.org) <fulrich@nlfr.org>; Joshua.Lee (Joshua.Lee@PacifiCorp.com) <Joshua.Lee@PacifiCorp.com>; Katharine.A.Mott2@usace.army.mil; Lon French (lfrench@northlincolnsanitary.com) <lfrench@northlincolnsanitary.com>; Onno Husing <ohusing@co.lincoln.or.us>; pamelal (pamelal@ctsi.nsn.us) <pamelal@ctsi.nsn.us>; PHIPPS Lisa * DLCD <Lisa.PHIPPS@dlcd.oregon.gov>; PARKER Ryan * OPRD <Ryan.PARKER@opr.oregon.gov>; Schurter, Andrew <Andrew.Schurter@nwnatural.com>; Scott Branchfield <sbranchfield@co.lincoln.or.us>; SPANGLER John J * ODFW <John.J.SPANGLER@odfw.oregon.gov>; surveys@co.lincoln.or.us; WILSON Derek R * ODFW <Derek.R.WILSON@odfw.oregon.gov>
Subject: CUP 2022-01 Resnikoff dock

Hello,

Attached is the application package requesting conditional use permit approval of a dock. Please provide me with any comments no later than April 8, 2022. If you do not have comments, you do not need to respond. If no response is received, the assumption is that you do not have comments.

Thank you,
Anne Marie



Anne Marie Skinner

DIRECTOR

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

From: Laserfiche_Forms@dsl.state.or.us
To: [Anne Marie Skinner](#)
Subject: Wetland Land Use Notice
Date: Thursday, April 21, 2022 12:46:42 PM

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

Hello Anne Marie Skinner,

The Wetland Land Use Notice number for your Local Case File # CUP 2022-01 is WN2022-0408, and has been assigned to:

Jessica Salgado

541-388-6421

jessica.salgado@dsl.oregon.gov

Thank you.

From: [WILSON Derek R * ODFW](#)
To: [Anne Marie Skinner](#)
Subject: RE: CUP 2022-01 Resnikoff dock
Date: Wednesday, March 30, 2022 1:47:12 PM
Attachments: [image001.png](#)
[ODFW Residential Dock Guidelines 2016.pdf](#)

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

Hello Anne,

I am providing you with our Residential Dock Guidelines to serve as comment on the Resnikoff dock. We use these guidelines to comment on all residential over water structures that require some type of a permit from a local, state or federal agency. If you have any questions, please let me know.

Thank you,

Derek Wilson
 Habitat Conservation Biologist
 ODFW – Newport
 Direct (541) 857-2535
 Main Line (541) 867-4741
derek.r.wilson@odfw.oregon.gov

From: Anne Marie Skinner <askinner@lincolncity.org>
Sent: Tuesday, March 29, 2022 9:30 PM
To: Department Heads <Department_Heads@lincolncity.org>; NELSON Scott <Scott.NELSON@odot.oregon.gov>; BROWN Jevra * DSL <Jevra.BROWN@dsl.oregon.gov>; TAYLOR Clara * DSL <Clara.TAYLOR@dsl.oregon.gov>; Daniel Wentz <dwentz@lincolncity.org>; Devils Lake Water Improvement District (lake.manager@dlwid.org) <lake.manager@dlwid.org>; director.nlchm (director.nlchm@gmail.com) <director.nlchm@gmail.com>; LINER Duane J <Duane.J.LINER@odot.oregon.gov>; Frederick Ulrich (fulrich@nlfr.org) <fulrich@nlfr.org>; Joshua.Lee (Joshua.Lee@PacifiCorp.com) <Joshua.Lee@PacifiCorp.com>; Katharine.A.Mott2@usace.army.mil; Lon French (lfrench@northlincolnsanitary.com) <lfrench@northlincolnsanitary.com>; Onno Husing <ohusing@co.lincoln.or.us>; pamelal (pamelal@ctsi.nsn.us) <pamelal@ctsi.nsn.us>; PHIPPS Lisa * DLCD <Lisa.PHIPPS@dlcd.oregon.gov>; PARKER Ryan * OPRD <Ryan.PARKER@opr.oregon.gov>; Schurter, Andrew <Andrew.Schurter@nwnatural.com>; Scott Branchfield <sbranchfield@co.lincoln.or.us>; SPANGLER John J * ODFW <John.J.SPANGLER@odfw.oregon.gov>; surveys@co.lincoln.or.us; WILSON Derek R * ODFW <Derek.R.WILSON@odfw.oregon.gov>
Subject: CUP 2022-01 Resnikoff dock

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provide me with any comments no later than April 8, 2022. If you do not have comments, you do not need to respond. If no response is received, the assumption is that you do not have comments.

Thank you,
Anne Marie



Anne Marie Skinner
DIRECTOR

City of Lincoln City | Planning & Community Development
801 SW Hwy 101 | PO Box 50 | Lincoln City, OR

P: 541.996.1228

E: askinner@LincolnCity.org | **W:** LincolnCity.org

Oregon Department of Fish and Wildlife Residential Dock Guidelines

February 2016

Purpose of Guidelines – The mission of the Oregon Department of Fish and Wildlife (ODFW) is to protect and enhance Oregon’s fish and wildlife and their habitats for use and enjoyment by present and future generations. As part of this mission, ODFW has developed guidelines for residential docks to reduce the adverse effects of these structures on Oregon’s waterways. The Residential Dock Guidelines (guidelines) are designed to assist the public in minimizing potential impacts to fish, wildlife, and habitat resources. Many of the adverse impacts associated with docks can be minimized by following the ODFW recommended dock guidelines. This includes minimizing the footprint of the structures and using light penetrable grating to allow for natural light to filter through.

Using the Residential Dock Guidelines – These guidelines provide the public with knowledge of aquatic resource impacts associated with docks, and provide a tool to assist in developing residential dock proposals that minimize impacts on fish, wildlife, and habitat resources. ODFW will use these guidelines as a basis for providing recommendations on planning, permitting, and regulatory processes that involve residential docks. This includes the permitting of new or modified residential dock construction. The guidelines are not intended for public boarding docks, including those designed or funded by the Oregon State Marine Board.

There may be limited situations where modification of residential dock guidelines is warranted. ODFW may consider new information, the need for greater detail, or other factors that would improve the quality and usefulness of these guidelines. ODFW staff, through the appropriate Watershed District office, may clarify dock guidelines based on site-specific conditions as appropriate with the permitting entities. Statewide updates to guidelines will occur on a periodic basis, as needed.

Developing the Guidelines – The guidelines were developed based on scientific literature, ODFW biologists’ recommendations, and coordination with the Oregon Department of State Lands, Oregon State Marine Board and the National Marine Fisheries Service (NMFS).

Impacts to Fish, Wildlife, and Habitat – Overwater structures, such as docks, ramps and boathouses have been shown to alter fish assemblages, behavior, predator/prey relationships, and diminish habitat function (Jennings et al 1999, Lange 1999). The continued development and proliferation of residential boat docks and associated infrastructure, such as boathouses in waters of the state may reduce recovery efforts for species listed under the federal Endangered Species Act (e.g., Oregon Coast coho salmon) and lead to cumulative impacts on aquatic species, habitats, and public use. The rapid increase in numbers and cumulative effects of shoreline docks and boathouses in Oregon may lead to reduced waterfowl usage due to human disturbance and activity, and may prevent waterfowl from accessing preferred foraging areas (Korschgen et al 1992). Shoreline structures such as docks may also change water flow patterns and disrupt natural sediment transport along the shoreline (Kahler et al 2000). See Appendix A for additional details on impacts from overwater structures, including predation, aquatic vegetation, public access, water quality and float pollution.

Recommended Residential Dock Guidelines

ODFW encourages the use of public facilities, community docks and boat ramps, mooring buoys, and dry land storage to reduce impacts to fish and wildlife habitats. These guidelines were developed using the best available science to provide a tool for landowners to use when proposing new or modifying existing residential docks and consider the functions, values, and needs of the fish, wildlife, and habitats that may be impacted by such structures.

Size:

- Total area of dock on water should not exceed 144 square feet (recommended maximum size should be no wider than 6 feet and no more than 24 feet long) and no part should be covered or enclosed. ODFW recommends 144 square feet to accommodate a recreational boat and minimize the footprint and shade impact on aquatic resources.
- Docks serving two or more adjacent home owners can be 6 feet x 48 feet in size.

Light Penetration:

- Docks should have at least 50% of the float surface composed of grating containing at least 60% open space surface.
- The ramp/gangway out to the dock should be 100% grated to allow light to pass through. Ramp width should not exceed 5 feet. Ramp square footage is not included in the total dock area square footage.
- Grated surfaces on the docks should not be used for storage (e.g., boats, benches, kayaks, fish cleaning stations, etc.) or other purposes that will reduce natural light penetration through the structure.

Materials:

- Treated wood should not be used in the construction materials for docks or ramps¹.
- Oregon law requires encapsulation of expanded polystyrene foam floatation used in state waters. Encapsulation methods and materials must be approved by the Oregon State Marine Board prior to installation of foam flotation. Additional information and application forms are available at:
http://www.boatoregon.com/OSMB/Clean/foam_encapsulation/FoamApplication.shtml.
 For more information call the OSMB Environmental Programs Coordinator at (503) 378-2611.

¹ "Treated wood" means lumber, pilings, and other wood products preserved with alkaline copper quaternary (ACQ), ammoniacal copper arsenate (ACA), ammoniacal copper zinc arsenate (ACZA), copper naphthenate, chromated copper arsenate (CCA), pentachlorophenol, or creosote.

Other Guidelines and Considerations:

- All work should be completed in accordance with the ODFW Guidelines for Timing of In-Water Work to Protect Fish and Wildlife Resources².
- All pilings should be fitted with devices to prevent perching by piscivorous birds.
- There should be minimal disturbance to any buried, submerged, or floating woody debris removal during construction.
- There should be minimal disturbance to riparian vegetation and associated banks in the development of the structures.
- Ramps and their attendant docks should not extend out in to the stream more than 10% of the width of the stream (measured from Ordinary High Water). Docks on the Columbia River and the main-stem Willamette River may extend out into the river farther and may have a minimum water depth requirement (see alternative criteria below).
- The boat dock should not include any part that is covered or enclosed, such as but not limited to boat houses, sheds, fish cleaning stations, kayaks, canoes, hot tubs and benches.
- ODFW encourages landowners to coordinate with other local, state, and federal agencies where approvals or permits may be necessary for dock and associated structures.
- For piling removal, dislodge the piling with a vibratory hammer, when possible, to avoid a pile break by twisting or bending. A floating surface boom may be necessary to capture floating surface debris.

For the Columbia River and mainstem Willamette River, the following alternative dock recommendations are intended to provide consistency with criteria identified by the National Marine Fisheries Service (Standard Local Operating Procedures for Endangered Species to Administer Actions Authorized or Carried Out by the U.S. Army Corps of Engineers (SLOPES IV In-water Over-water Structures, dated April 5, 2012³).

- Any new or replacement float must be placed at least 50 feet from the shoreline (100-feet from the shoreline in the Columbia River) as measured at ordinary low water or mean lower low water and may not be placed in an estuarine area with submerged aquatic vegetation.
- Docks less than or equal to 6 feet in width should have greater than 20 feet of water depth below the float (both criteria measured at mean low water).

² http://www.dfw.state.or.us/lands/inwater/Oregon_Guidelines_for_Timing_of_%20InWater_Work2008.pdf

³ http://www.nwp.usace.army.mil/Portals/24/docs/environment/SLOPES-IV/2012_04-05_SLOPES_IV_in-over-water.p

- Docks over 6 feet in-width should have 50% of the dock surface grated (allowing 60% light transmission) and be located in water that maintains a flow velocity of at least 0.7 feet per second.

Appendix A- Rationale

Predation – ODFW recommends guidelines on dock size and light penetration to reduce the loss of habitat and to limit the creation of favorable conditions for predators. Some studies suggest overwater structures can alter predator prey relationships by improving predator success. This includes created favorable habitat for predators that provides ambush cover and low light intensities. For example, predators may use sheltered areas that provide slack water to ambush prey in faster currents (Laufle 2010, NOAA 2002). Overwater structures may also affect salmonid behavior. Celedonia et al (2008) showed that salmonids will avoid and move around overwater structures. Salmonids will swim towards deeper water to migrate around the structure and this may increase fish predation (Nowak and Quinn 2002, Fresh et al 2001). Avoidance of overwater structures increases migration time, and energy usage needed for survival. Warm water fish species (e.g., largemouth bass) have also been shown to occupy shallow and deep water habitats (Ward et al. 1994). Studies have demonstrated overwater structures can create a light/dark contrast, which can create simplified habitat that limits function for salmonid rearing or foraging, alter the behavior of juvenile fish moving along the shoreline and provides an increased opportunity for predation on coho salmon by predatory fish and birds (Jennings et al 1999, Lange 1999, Kahler et al 2000). Light plays an important role for prey to escape from predation. Shade provided by dock structures has been shown to improve the visibility to shaded objects under the dock while simultaneously minimizing the visibility of unshaded objects outside of the dock (Helfman 1981). This light/dark interface allows ambush predators like bass to hide in the darkened area while prey migrates through the bright background, leaving the prey more vulnerable to predation (NOAA 2002). The negative environmental conditions created by boat docks that can contribute to increased predation on salmonids, such as increased shading, can be avoided or minimized by using the recommended guidelines.

Aquatic Vegetation – ODFW recommends guidelines on light penetration to minimize impacts on aquatic plants. Docks, boathouses, and other overwater structures shade lake, river, and estuarine beds preventing sunlight from reaching plants, animals, and limit aquatic macrophytes, epibenthic algae, and phytoplankton primary production (Nightengale and Simenstad 2001; Simenstad et al. 1999; Fresh et al 1995, 2001, 2006; Burdick and Short 1995). Aquatic plants are the foundation for most aquatic food webs. Reducing plant diversity and productivity can have adverse effects to higher organisms (e.g., invertebrates, fishes, amphibians, birds and various terrestrial animals).

Public Access – ODFW recommends guidelines on dock size to minimize the potential impact to public trust values, such as fishing and recreation. The submerged and submersible land underlying all navigable and tidally-influenced waters of the state is public trust for Oregonians. This allows the public to utilize waters of the state for recreation, fishing, and navigation. When overwater structures are developed in waters of the state, the associated public land and resources it contains may become inaccessible to the public. Potential impacts to these public trust values in waters of the state, such as navigation, fishing, and public recreation should be considered when developing residential dock structures. Limiting the extent that ramps and their

attendant docks can extend out into waterways to 10% of the stream width is necessary to reduce adverse impacts to public access along waterways. Measurement should be from Ordinary High Water or other jurisdictional boundary as determined by the Department of State Lands. Additional information on the Public Ownership of Oregon's Waterways is available here: <http://www.oregon.gov/dsl/NAV/Pages/index.aspx>

Other Impacts to Aquatic Organisms – ODFW recommends guidelines for materials used in construction to minimize adverse impacts on fish and wildlife resources. Certain materials that may be used for constructing docks and other overwater structures may release toxic metals or polycyclic aromatic hydrocarbons into the environment through leaching by rainwater and direct contact with fresh/salt water. If not properly sealed, float material associated with these structures may be ingested by wildlife. Seabirds will ingest foam pellets and feed them to their young. If chicks are fed too much plastic, they are likely to suffer physiological stress from blockage and satiation that can result in their death. ODFW recommends the floatation materials be limited to properly encapsulated expanded polystyrene (EPS) or extruded polystyrene (XPS).

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From: [Adam Springer](#)
To: [Anne Marie Skinner](#)
Subject: CUP 2022-01 Resnikoff Dock
Date: Monday, April 25, 2022 10:31:59 AM
Attachments: [Photos.pdf](#)

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

Ms. Skinner,

Thanks for speaking with me today. Attached are the photos I was provided by Mr. Cassel showing how much of the waterway is blocked by the dock when the water is low.

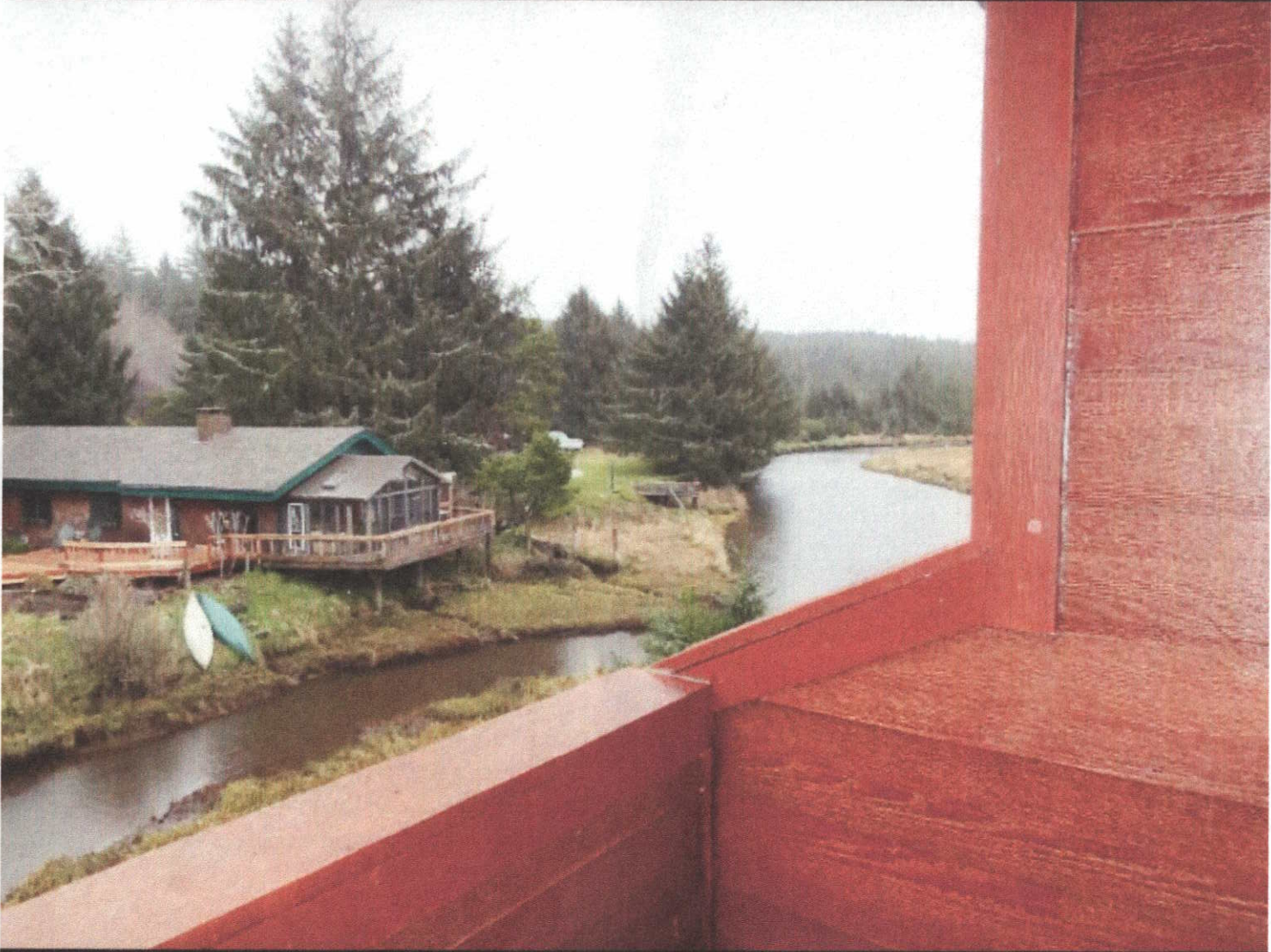
Adam

Adam C. Springer
Attorney at Law
Yaquina Law LLC
PO Box 1987
380 SW 2nd Street
Newport, OR 97365
(541) 272-5500
www.yaquinalaw.com











From: [Adam Springer](#)
To: [Anne Marie Skinner](#)
Subject: Re: CUP 2022-01 Resnikoff Dock
Date: Monday, April 25, 2022 12:05:22 PM
Attachments: [image001.png](#)

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

Attached are two more photos, both taken recently and taken at the same time. One shows my client's access to the water, and then the second shows Resnikoff's dock at that same tide.

Thanks,

Adam C. Springer
Attorney at Law
Yaquina Law LLC
PO Box 1987
380 SW 2nd Street
Newport, OR 97365
(541) 272-5500
www.yaquinalaw.com

On Mon, Apr 25, 2022 at 10:56 AM Anne Marie Skinner <askinner@lincolncity.org> wrote:

Hi Adam,

Thank you for these pictures. I will incorporate them into the staff report.



Anne Marie Skinner

DIRECTOR

City of Lincoln City | Planning & Community Development

801 SW Hwy 101 | PO Box 50 | Lincoln City, OR

P: 541.996.1228

E: askinner@LincolnCity.org | W: LincolnCity.org

From: Adam Springer <springer@yaquinalaw.com>

Sent: Monday, April 25, 2022 10:32 AM

To: Anne Marie Skinner <askinner@lincolncity.org>

Subject: CUP 2022-01 Resnikoff Dock

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Adam

Adam C. Springer

Attorney at Law

Yaquina Law LLC

PO Box 1987

380 SW 2nd Street

Newport, OR 97365

(541) 272-5500

www.yaquinalaw.com





Conditional Use Permit

Staff Report for Planning Commission Public Hearing on May 3, 2022

Case File CUP 2022-01 Resnikoff

Date: April 20, 2022

Case File: CUP 2022-01 Resnikoff dock

Property Owner: Nancy Hatley and Phil Resnikoff
496 S Schooner Creek Rd
Lincoln, City, OR 97367

Situs Address: 496 S Schooner Creek Rd

Location: Southeast corner of S Schooner Creek Rd/SE 51st St intersection

Tax Map and Lot: 07-11-27-DA-00101-00

Comprehensive Plan Designation: Commercial General District

Zoning District: General Commercial (GC) Zone

Site Size: 0.8 acre

Proposal: Request for a conditional use permit for a dock

Surrounding Land Uses and Zones: North: S Schooner Creek Rd, undeveloped; R-1-5
South: Houses; GC
East: Houses; County zoning
West: SE 51st St, houses; R-1-7.5

Authority: Section 17.76.160 of the Lincoln City Municipal Code (LCMC) gives the Planning Commission the authority to approve, approve with conditions, disapprove, or revoke conditional use permits subject to the provisions of LCMC Chapter 17.77.

Procedure: The Planning and Community Development Department mailed notice to the owners of all properties within 250 feet of the site on April 1, 2022. The *News Guard* published the public hearing notice on April 19, 2022.



Applicable	LCMC Chapter 17.32 General Commercial (GC) Zone
Substantive	LCMC Chapter 17.44 Marine Waterway (M-W) Zone
Criteria:	LCMC Section 17.77.060 Conditional Uses

BACKGROUND

The subject property (site) is addressed as 496 S Schooner Creek Rd and contains a detached dwelling and accessory structures. The site is bordered by S Schooner Creek Rd to the north and SE 51st St to the west. Properties to the east of the site are not in city limits. Along the site's south boundary there is a small "finger" of water from the adjacent Schooner Creek.

Almost the entire site is in the AE flood hazard zone. The southeast portion of the site is in the floodway. The site is not contain any aesthetic resource or bluff erosion hazards. Portions of the site along the south boundary contain significant wetlands.

COMMENTS

Comments were received from Oregon Department of State Lands (DSL) noting that Schooner Creek is designated essential salmonid habitat (so the dock may need a permit from DSL) and is a tidal water, therefore, under DSL ownership. DSL was under the impression that the dock had been placed by a previous owner, which is not the case. The full email is included as part of this staff report.

Comments were received from Oregon Department of Fish and Wildlife (ODFW). ODFW provided their Residential Dock Guidelines to serve as their comments on the dock, stating that they use the guidelines on all residential over water structures that require some type of permit from a local, state, or federal agency. The full email and the guidelines are included as part of this staff report.

Comments were received from Adam Springer, attorney at law, on behalf of Mr. Cassel stating the following:

"Thanks for speaking with me today. Attached are the photos I was provided by Mr. Cassel showing how much of the waterway is blocked by the dock when the water is low."

"Attached are two more photos, both taken recently and taken at the same time. One shows my client's access to the water, and then the second shows Resnikoff's dock at that same tide."

The emails and photos are included as part of this staff report.

ANALYSIS

Chapter 17.32

17.32.040, Conditional uses permitted

T. Docks, subject to the provisions of LCMC 17.44.040

Finding: LCMC 17.32.040.T allows docks in the GC zone, subject to an approved conditional use permit application and compliance with the provisions of LCMC 17.44.040. This application is the official request for approval of the dock conditional use. Compliance with LCMC 17.44.040 is addressed in this report.

Chapter 17.44 Marine Waterway (M-W) Zone

17.44.040 Standards for conditional uses

In the M-W zone, the applicable provisions of this section shall apply. The standards for conditional uses shall be as follows:

A. Standards for Uses Involving Filling, Dredging, Drainage, Disposal of Dredging Spoils, and Similar Activities or Construction of Wharfs, Bulkheads or Similar Devices.

Finding: This application and request does not include filling, dredging, drainage, or disposal of dredging spoils; therefore, these standards are not applicable.

B. Standards for Uses Involving Construction, Addition or Reconstruction of a Pier, Dock, Boat House or Similar Facility.

Finding: The property owners would like to obtain conditional use permit approval for a dock on the site that was constructed prior to obtaining conditional use permit approval. The site does not contain any existing piers, docks, boat houses, or similar facilities, and these facilities are not proposed.

1. *Evidence shall be provided that the applicant has complied with, or fully intends to comply with, all standards of the Department of Environmental Quality, the Division of State Lands, and all other agencies having interests or ordinances applicable to the property in question.*

Finding: DSL provided comments on April 19, 2022, indicating that the property owners need to contact both Carrie Landrum and Jennifer Miller at DSL for requirements and/or permits. DSL also noted that Schooner Creek is designated essential salmonid habitat and is a tidal water; therefore, it is under DSL ownership.

ODFW provided comments on March 30, 2022, with their residential dock guidelines. They use these guidelines to comment on all residential over water structures that require some type of permit from a local, state, or federal agency. At a minimum, the dock requires a conditional use permit from the city. It's possible that DSL will require permits as well.

The property owners provided no evidence in the submitted materials that they have contacted any agency for requirements. Accordingly, this requirement is not met.

The facility or any use related to it shall not allow any water pollution to occur to any nearby tidelands, marshlands, rivers, streams or other waterways used for the raising, production or preservation of marine life or other natural resources.

Finding: According to the property owners, no activities are proposed that will involve any water pollution to occur. Dock construction and materials will adhere to all requirements to avoid water pollution. The property owners will use the dock to place kayaks in the water. These activities do not create any water pollution. This requirement is met.

3. *The facility shall not substantially alter the course of any channel or the natural movement of any waters or result in increased flood hazards, or the formation of appreciable bottom or sludge deposits deleterious to marine life, and shall meet all of the following requirements:*

- a. *No dock, pier or similar facility shall extend into any watercourse more than 25 feet from ordinary low water line nor 50 feet from ordinary high water line, unless it can be shown that*

such extension is necessary and will not increase flood hazards or create other problems such as the deterioration or destruction of marine life or wildlife habitat as a result of the extension.

Finding: The submitted site plan does not identify the ordinary low water line or the ordinary high water line. The submitted site plan also does not show the length of the dock or its placement in relation to either the ordinary low or ordinary high water line. Staff is unable to determine if this requirement is met from the submitted materials.

b. No dock, pier or similar facility shall extend into the navigable channel any distance greater than required for safe moorage and shall be designed so as to minimize potential flood hazard and loss of navigable waterway area.

Finding: The submitted site plan does not provide enough details for staff to ascertain if the dock's location presents a loss of navigable waterway area. Staff is, therefore, unable to determine if this requirement is met from what has been submitted.

c. No dock, pier or similar facility shall extend into any watercourse more than five percent of the width thereof as measured perpendicular from the mean low water line on one side of the watercourse to the mean low water line on the opposite side.

Finding: The submitted site plan does not show the dimensions of the dock, the mean low water line, or the dimensions of the site. Staff is, therefore, unable to determine if this requirement is met from what has been submitted.

2. No plumbing facilities for the handling of domestic or industrial waste shall be part of the facility unless approved by the city manager or design.

Finding: The submitted materials don't show any plumbing facilities on the existing dock. This requirement is met.

5. Application for a permit for a pier, dock, bulkhead, boat house, or similar facility shall include:

a. The source of the applicant's right to construct the facility;

Finding: The submitted narrative states: "The dock is on our property."

b. The purpose of the facility;

Finding: The submitted narrative states: "The purpose of the dock is to get into and out of kayaks and canoes."

c. The legal description of the area where the facility will be located;

Finding: The site is identified as 07-11-27-DA-00101-00.

d. A map and drawings, showing the plan for construction of the facility. Such plan shall include a vicinity map drawn to scale showing location and design of similar facilities and other development within 250 feet of the parcel upon which the improvement is proposed;

Finding: The submitted materials include a site plan, but it is not drawn to scale, nor does it appear to show other development within 250 feet of the site. The submitted narrative states that “there are no other similar facilities within 250 feet of this dock and a drawing of the dock and its location are attached below.”

e. The time when the project is scheduled to begin and to be completed.

Finding: According to the submitted narrative, the project was completed on April 4, 2017.

6. Plans for a pier, dock, boat house, or similar facility shall meet the following requirements:

a. In new subdivisions considered by the planning commission following the adoption of the ordinance codified in this title, docks having less than 10 moorage spaces will be approved only in the instance that no other public or private means of launching or moorage is available or can be developed within 1,000 feet of the site in question.

Finding: The site is not a new subdivision, so this requirement is not applicable.

b. Facilities being proposed in areas where it is likely that additional similar structures will be desired shall be designed to be combined into joint facilities whenever possible.

Finding: To the south of the site is an existing house that is adjacent to the same body of water to which the site is adjacent. The submitted narrative states: “The prior neighbor had a pontoon boat that he kept right on Schooner Creek against the back of his property. The discussions with the adjoining neighbor were in 2016. Our dock was built and placed in the water in April of 2017 while the previous owner was still occupying the house. If the current owner has any plans to build a similar dock it has not been mentioned to me. If Mr. Cassel is interested in building some type of joint facility I'd be happy to hear what he would propose.”

c. The design of moorages must provide sheer logs or similar devices for fending debris. Such improvements need not be maintained during periods where there is no danger of flood water.

Finding: This is not applicable to the existing dock. No moorages are proposed as part of this application.

d. Docks shall have the long dimension running parallel to the channel unless future development will result in pier construction or moorages being connected, necessitating facility design perpendicular to the channel. The width of those portions of such facilities shall be the minimum dimension required to provide safe access and moorage.

Finding: The submitted site plan shows that the long dimension of the dock is parallel to the body of water in which it sits. This requirement is met.

e. One dock shall not be closer to another dock than the length of the shorter structure or 25 feet, whichever distance is greater.

Finding: The submitted site plan shows no other docks within the vicinity. The GIS map also shows no other docks within the vicinity. This requirement is met.

f. Additionally, docks allowed with conditional use approval in the GC, TVC, OS, P, RM, RC, and R1 zoning districts, must meet the following requirements and standards:

i. Total area of dock on water must not exceed 144 square feet with a width not exceeding six feet and a length not exceed 24 feet.

Finding: The submitted site plan is not to scale and it does not provide any dimensions. However, the submitted narrative states that the dock is 6 feet wide by 11 ½ feet long, with a total area of 69 square feet. This requirement is met.

ii. No part of the dock can be covered or enclosed, such as but not limited to boat houses, sheds, fish cleaning stations, kayaks, canoes, hot tubs, and/or benches.

Finding: The existing dock is not covered or enclosed, and no covers or enclosures are proposed. This requirement is met.

iii. Docks must have at least 50 percent of the float surface composed of grating containing at least 60 percent open space surface.

Finding: The submitted narratives states that the dock complies with this requirement. Other than that statement, the submitted materials do not provide enough information to determine the composition of the float surface; accordingly, staff cannot conclusively determine if this requirement is met.

iv. The ramp/gangway of the dock must be 100 percent grated to allow light to pass through. Ramp width must not exceed five feet. The ramp square footage is not included in the total dock area square footage.

Finding: The submitted materials do not provide enough information to determine if the ramp/gangway of the dock is 100% grated; accordingly, staff cannot conclusively determine if this requirement is met.

v. Grated surfaces on the docks must not be used for storage (e.g., boats, benches, kayaks, fish cleaning stations, etc.) or other purposes that will reduce natural light penetration through the dock.

Finding: The photos submitted with the application, as well as the GIS map, show that the dock is being used to store a kayak. As a condition of approval, no storage of boats, benches, kayaks, fish cleaning stations, etc. shall be allowed on the dock and all such existing items shall immediately be removed.

vi. Treated wood is not allowed as a construction material for docks or ramps. Treated wood is lumber, pilings, and other wood products preserved with alkaline copper quaternary (ACQ), ammoniacal copper arsenate (ACA), ammoniacal copper zinc arsenate (ACZA), copper naphthenate, chromated copper arsenate (CCA), pentachlorophenol, or creosote.

Finding: The submitted materials include a letter from the wood manufacturer in which it is stated that the dock is made with copper azole (CA) and that the U.S. EPA has approved CA for freshwater piling as well as freshwater and saltwater splash (marine) decking applications. The code does not preclude wood treated with CA. This requirement is met.

vii. Oregon law requires encapsulation of expanded polystyrene foam flotation used in state waters. Encapsulation methods and materials must be approved by the Oregon State Marine Board prior to installation of foam flotation.

Finding: The submitted package includes information about the floats used for the dock. The information lists that the floats have a “rugged, seamless, rotationally-molded polyethylene outer shell” and a “solid expanded polystyrene foam core.” These features show that the polystyrene foam flotation device is encapsulated. The narrative does not provide any information regarding approval from the Oregon State Marine Board prior to the April 2017 installation. As a condition of approval, the property owners shall obtain approval from the Oregon State Marine Board for the continued use of the installed floats and provide an emailed copy of that approval to Lincoln City Planning and Community Development. If the Oregon State Marine Board does not approve the existing floats, then the floats shall be removed and replaced with floats approved by the Oregon State Marine Board.

viii. All pilings must be fitted with devices to prevent perching by piscivorous birds.

Finding: The dock is free floating and does not contain pilings. This requirement is not applicable.

ix. All work must be completed in accordance with the Oregon Department of Fish and Wildlife Guidelines for Timing of In-Water Work to Protect Fish and Wildlife Resources.

Finding: No work is proposed. The dock is an existing dock. This requirement is not applicable to the current application.

x. There must be minimal disturbance to any buried, submerged, or floating woody debris removal during construction.

Finding: The submitted narrative did not provide any information regarding disturbances during construction in 2017. No new construction is proposed. This requirement is not applicable to the current application.

xi. For piling removal, dislodge the piling with a vibratory hammer, when possible, to avoid a pile break by twisting or bending. A floating surface boom may be necessary to capture floating surface debris.

Finding: No piling removal is proposed as part of this request. This requirement is not applicable to the current application.

17.77.060 Conditional Uses

In order to grant any conditional use, the planning commission must find, based upon evidence, both factual and supportive, provided by the applicant, that:

1. The proposal is in compliance with the comprehensive plan;

Finding: The property owners request conditional use permit approval for a dock. As detailed earlier in this report, the submitted materials do not conclusively show compliance with LCMC Chapter 17.44. The zoning code enacts the comprehensive plan, so without compliance with LCMC Chapter 17.44 there is not compliance with the comprehensive plan. Conditions of approval can be applied to make the project comply with LCMC Chapter 17.44, though, which would then make the proposal in compliance with the comprehensive plan.

2. *The site for the proposed use is adequate in size and shape to accommodate the use and all yards, spaces, wall and fences, parking, loading, landscaping and other features required by this title;*

Finding: The property owners request conditional use permit approval for a dock. It is unclear if all the requirements of LCMC Chapter 17.44, as detailed earlier in this report, are met. No setbacks, common spaces, retaining walls, parking and loading areas, or landscaping are required for a dock. Staff concludes that this criterion is not satisfied, but it can be with conditions of approval.

3. *The site for the proposed use relates to streets and highways adequate in width and degree of improvement to handle the quantity and kind of vehicular traffic that would be generated by the proposed use;*

Finding: The project proposes installation of a private dock at a private residence. The project will not generate any traffic over and above the traffic from the existing detached dwelling. This criterion is satisfied.

4. *The proposed use will have minimal adverse impact upon adjoining properties and the improvements thereon. In making this determination, the commission shall consider, but not be limited to, the proposed location of the improvements on the site, vehicular egress/ingress and internal circulation, pedestrian access, setbacks, height and bulk of buildings, walls and fences, landscaping, screening, exterior lighting and signing;*

Finding: The placement of the dock on the site may or may not meet all the dock siting requirements of LCMC Chapter 17.44 as detailed earlier in this report. No buildings, retaining walls, fences, landscaping, screening, exterior lighting, or signage are proposed or required for the dock. No pedestrian access is required to the private dock on a private residence site. Vehicular egress/ingress and internal circulation is not needed for a private dock on a private residence site. The site itself is already existing and improved with a driveway and detached dwelling with associated required residential landscaping. Staff concludes that this criterion may or may not be satisfied, but it can be with the conditions of approval.

5. *In areas designated as requiring preservation of historic, scenic or cultural attributes, proposed structures will be of a design complementary to the surrounding area.*

Finding: The site does not have any historic, scenic, or cultural attributes, so this requirement is not applicable.

RECOMMENDATION

Staff recommends that the Planning Commission hold a public hearing on the proposed conditional use request, take public testimony, close the public hearing, deliberate, and determine whether the request complies with the criteria for granting approval of the request, complies with the criteria with conditions, or doesn't comply with the criteria.

Should the Planning Commission determine that the request complies with the criteria with conditions, staff suggests the following conditions of approval:

1. The property owners shall email Oregon Department of State Lands (DSL), Oregon Department of Fish and Wildlife, and Oregon State Marine Board within 14 business days of the signing of the final order approving the conditional use to determine what requirements, if any, need to be met. Lincoln City Planning and Community Development shall be copied on all emailed communications, and copies of written approvals, reviews, and/or permits shall be submitted to Lincoln City Planning and Community Development within 7 business days of receipt.

2. The property owners shall provide written evidence to the Lincoln City Planning and Community Development Department from both Carrie Landrum and Jennifer Miller at DSL that the project has been reviewed and approved by each of them or written evidence that such review and approval is not necessary.
3. All required permits shall be obtained within one year of the conditional use permit approval and an electronic copy of each shall be emailed to Lincoln City Planning and Community Development for inclusion in the project folder.
4. A revised site plan that is drawn to scale shall be submitted to Lincoln City Planning and Community Development that shows the ordinary low and ordinary high water lines, along with the dock and the dock's dimensions clearly labeled, and the location of the dock such that it does not extend into any watercourse more than 25 feet from ordinary low water line nor 50 feet from ordinary high water line.
5. A revised site plan that is drawn to scale shall be submitted showing the navigable waterway area along with both the ordinary low and ordinary high water lines, and the navigable route in times of low water for the adjacent neighbor such that the dock's location is not precluding use of the watercourse during times of low water.
6. A revised site plan that is drawn to scale shall be submitted that shows the mean low water line on both sides of the watercourse, and the dimensions and location of the dock such that the dock does not extend into any watercourse more than 5% of the width thereof as measured perpendicular from the mean low water line on one side of the watercourse to the mean low water line on the opposite side.
7. The property owners shall provide sufficient evidence to Lincoln City Planning and Community Development to show that the ramp/gangway to the dock is 100% grated.
8. The property owners shall cease to use the dock for storage of boats, benches, kayaks, fish cleaning stations, etc. and anything else. The dock shall remain free of storage of any item at all times.
9. The property owners shall provide sufficient evidence to Lincoln City Planning and Community Development to show that at least 50 percent of the float surface is composed of grating containing at least 60 percent open space surface.
10. The property owners shall obtain approval from the Oregon State Marine Board for the continued use of the installed floats and provide an emailed copy of that approval to Lincoln City Planning and Community Development. If the Oregon State Marine Board does not approve the existing floats, then the floats shall be removed and replaced with floats approved by the Oregon State Marine Board.

From: [MILLER Jennifer A * DSL](#)
To: [Anne Marie Skinner](#)
Cc: [LANDRUM Carrie * DSL](#)
Subject: RE: CUP 2022-01 Resnikoff dock
Date: Tuesday, April 26, 2022 8:50:50 AM
Attachments: [image001.png](#)

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

Yes, please have them contact me to register their dock;
registrations.dsl@dsl.oregon.gov or 503-986-5274.

Thanks,

Jennifer Miller
 Waterways Technician
 503-986-5274 - Phone
registrations.dsl@dsl.oregon.gov

From: Anne Marie Skinner <askinner@lincolncity.org>
Sent: Monday, April 25, 2022 2:29 PM
To: LANDRUM Carrie * DSL <Carrie.LANDRUM@dsl.oregon.gov>; MILLER Jennifer A * DSL <Jennifer.A.MILLER@dsl.oregon.gov>
Subject: CUP 2022-01 Resnikoff dock

Carrie and Jennifer,

If you have any conditions of approval for this dock at 496 S Schooner Creek Rd, please email them to me. Otherwise, I am going to make a general condition to contact you and provide me proof of such contact.



Anne Marie Skinner
 DIRECTOR

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

RECEIVED 4/27/2022

4/27/2022

Case File CUP 2022-01 Resnikoff

Additional Photos and response to comments made by Adam Springer, Atty. for Mr. Cassel

This is the comment submitted by Mr. Springer

"Ms. Skinner,
Thanks for speaking with me today. Attached are the photos I was provided by Mr. Cassel showing how much of the waterway is blocked by the dock when the water is low.

Adam"

Photos 1 & 2 are the photos submitted with this comment. I believe these photos are meant to be misleading.

Photos 2,3 & 4 are time stamped and taken at a low tide on 4/25/2022. At this level the water in this side creek is no more than a trickle. Photo #3 is the same ramp as in Mr. Cassel's photo #1. Clearly photo #1 is not taken at low tide. Photo #4 is taken from the other side of the dock, looking back up the creek and you can see the creek is not at all navigable for canoes or kayaks. Photo #5 shows that at low tide, the dock is not usable to get into kayaks or canoes. We understand that we can only access the water during a high tide.

Photos #6 & 7 were taken the following morning at high tide which was at about 5.3 feet. #6 shows water level just getting up to the gravel on the gravel ramp. #7 Shows the dock with plenty of room for passage on the right side. A canoe or kayak can float right through the eel grass here. The previous neighbor would regularly trim down the eel grass. We trim the grass on our side, but the grass on our neighbors side has not been trimmed in years.

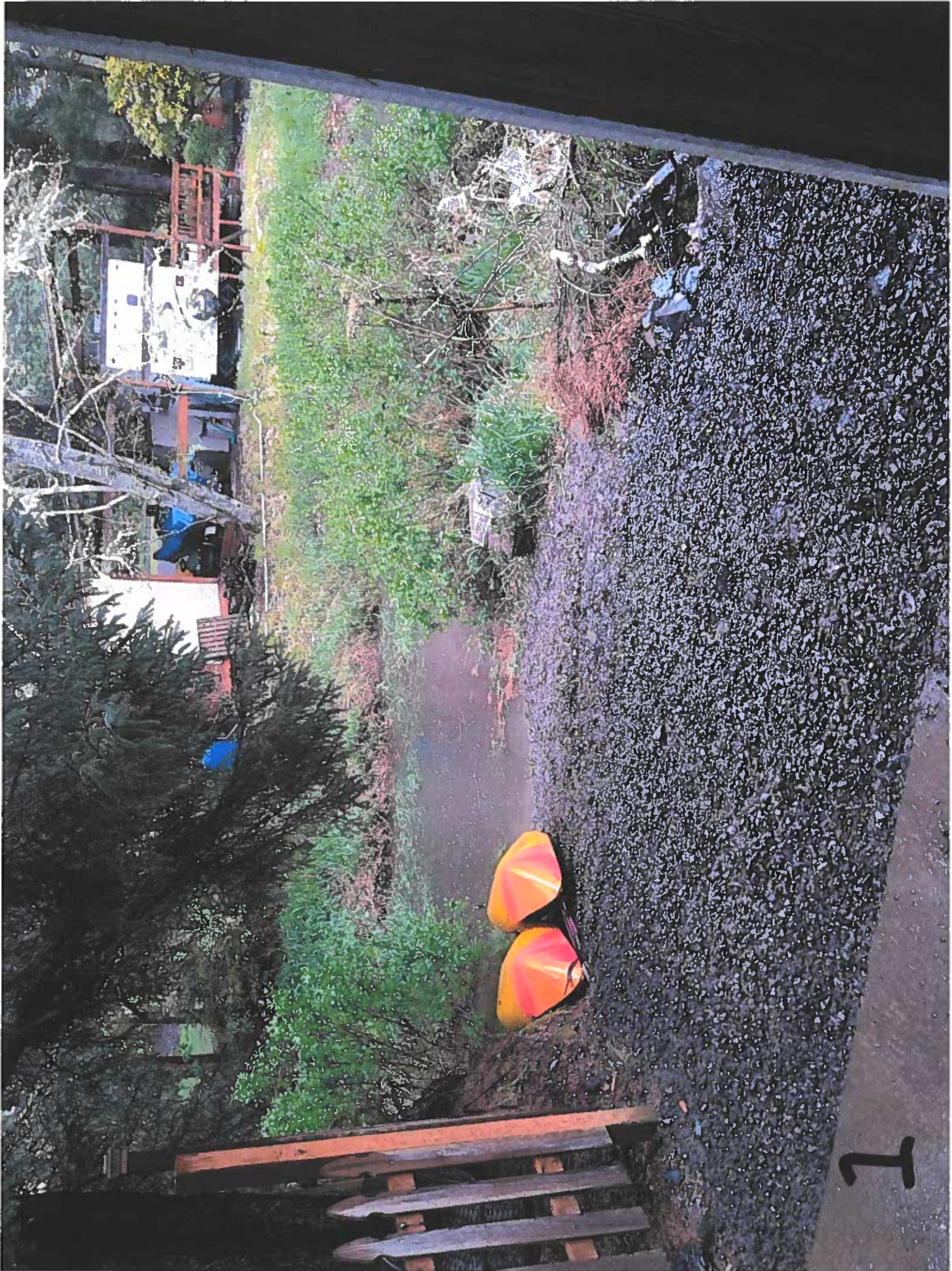
If you look at the dock ramp in photo #2 you can see the ramp is angled downward toward the dock. This is at low tide. In Photo #7 the ramp is straight across to the dock. This is at a 5.3 tide. There would be no issue here for the neighbors to paddle by our dock without any interference.

Photo #8 shows the dock at a high tide at about 7 feet. Here there is absolutely no issue with eel grass or our dock affecting the neighbor. The ramp here is angled upward toward the dock.

In the middle of Schooner Creek, at our corner is a large sandbar that becomes visible during low tide. This sandbar makes Schooner Creek itself non navigable at this corner. Photo #8 shows a sea lion that got stuck during the low tide. He had to wait until the tide came back up before he could swim away. We all have to wait until the tide rises before getting our kayaks and canoes into the water.

Photo #10 was given to me by the Planning Department and shows an arial view of the property with boundary lines (green) and the creek. It shows our dock on our side of the boundary and displays clear passage during high tide.

I hope this summary clears things up.



1



2



Apr 25, 2022, 4:53 PM



Apr 25, 2022, 6:16 PM



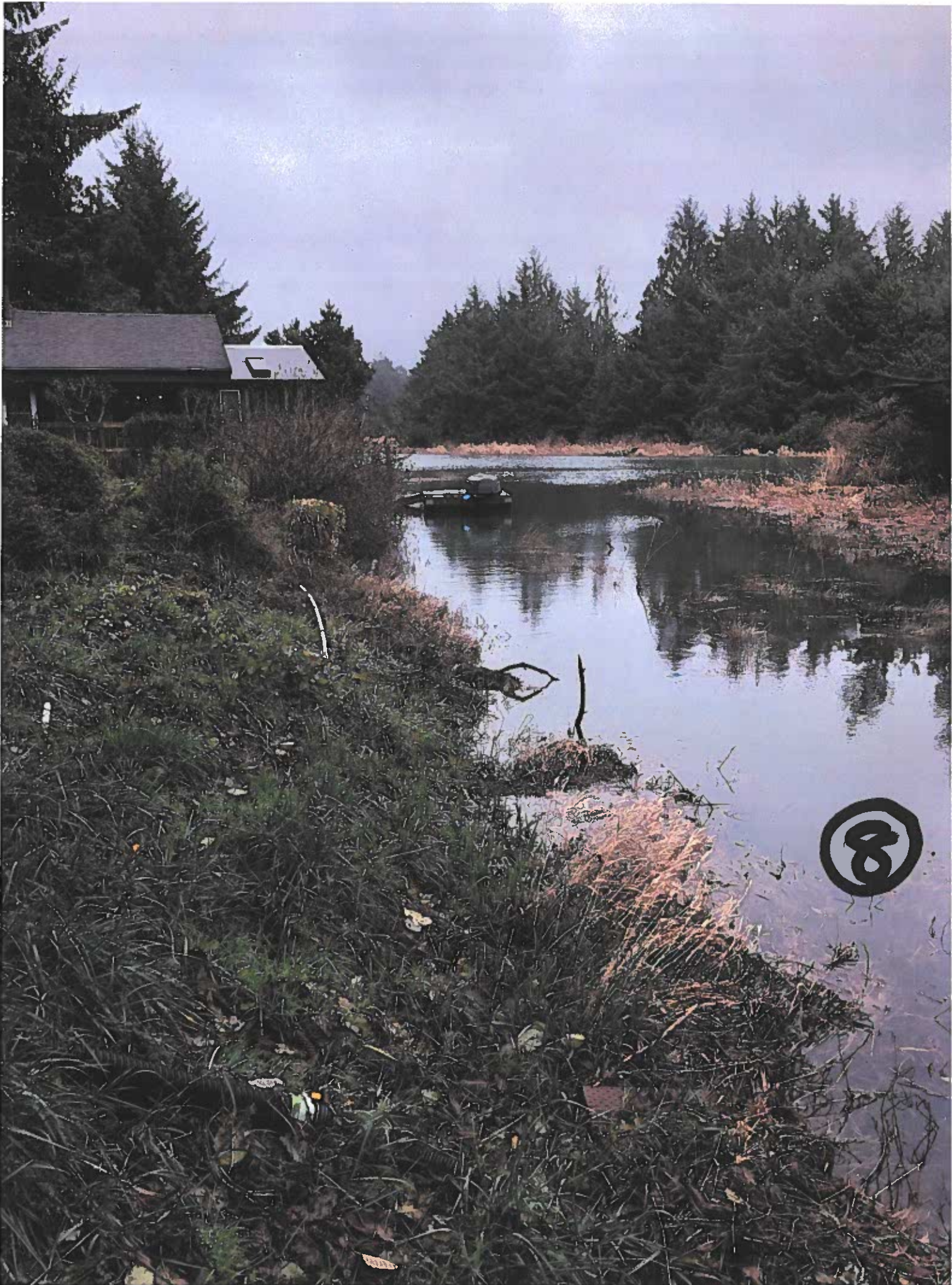
Apr 25, 2022, 6:27 PM

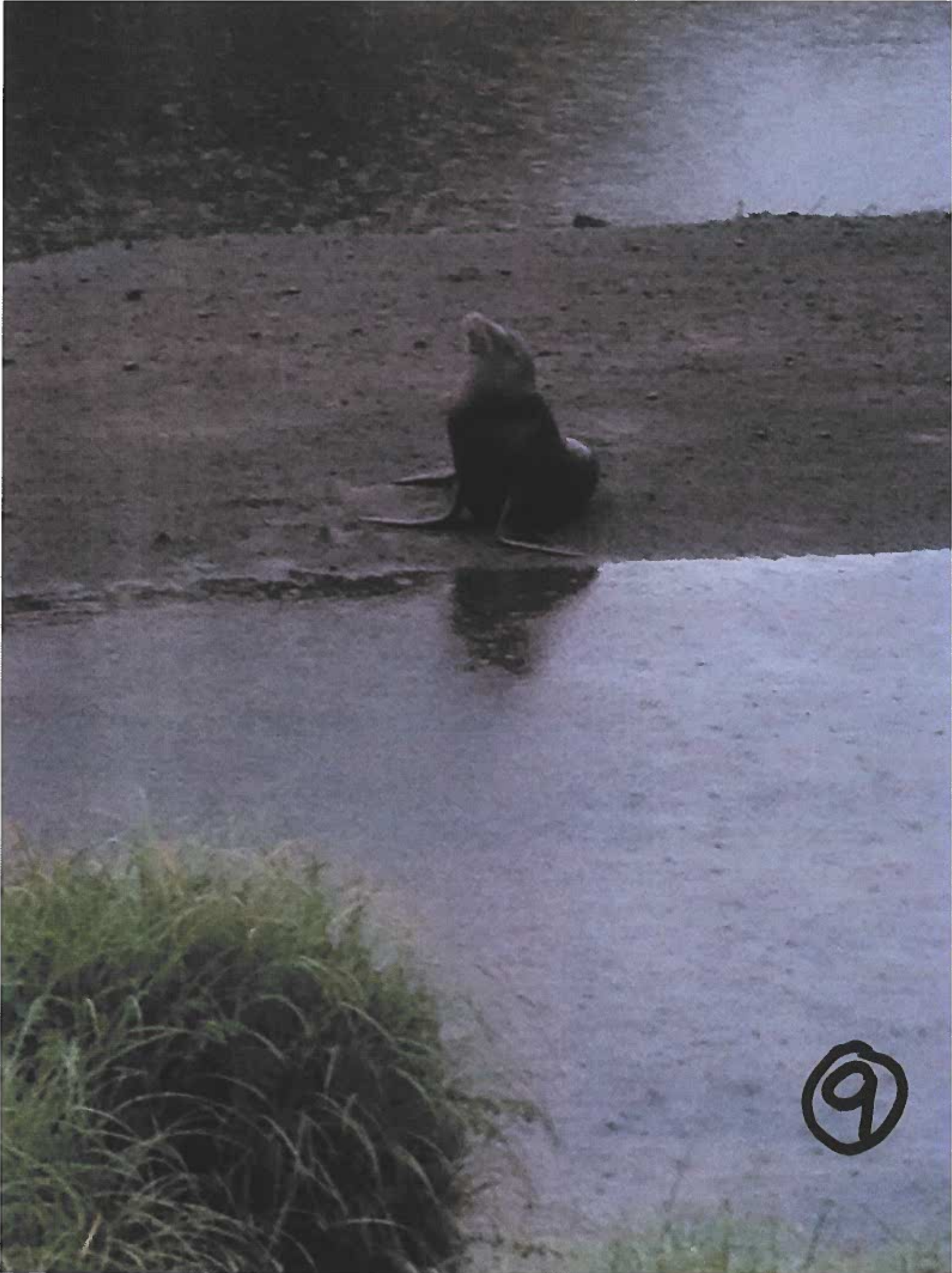


Apr 26 2022 10:01 AM

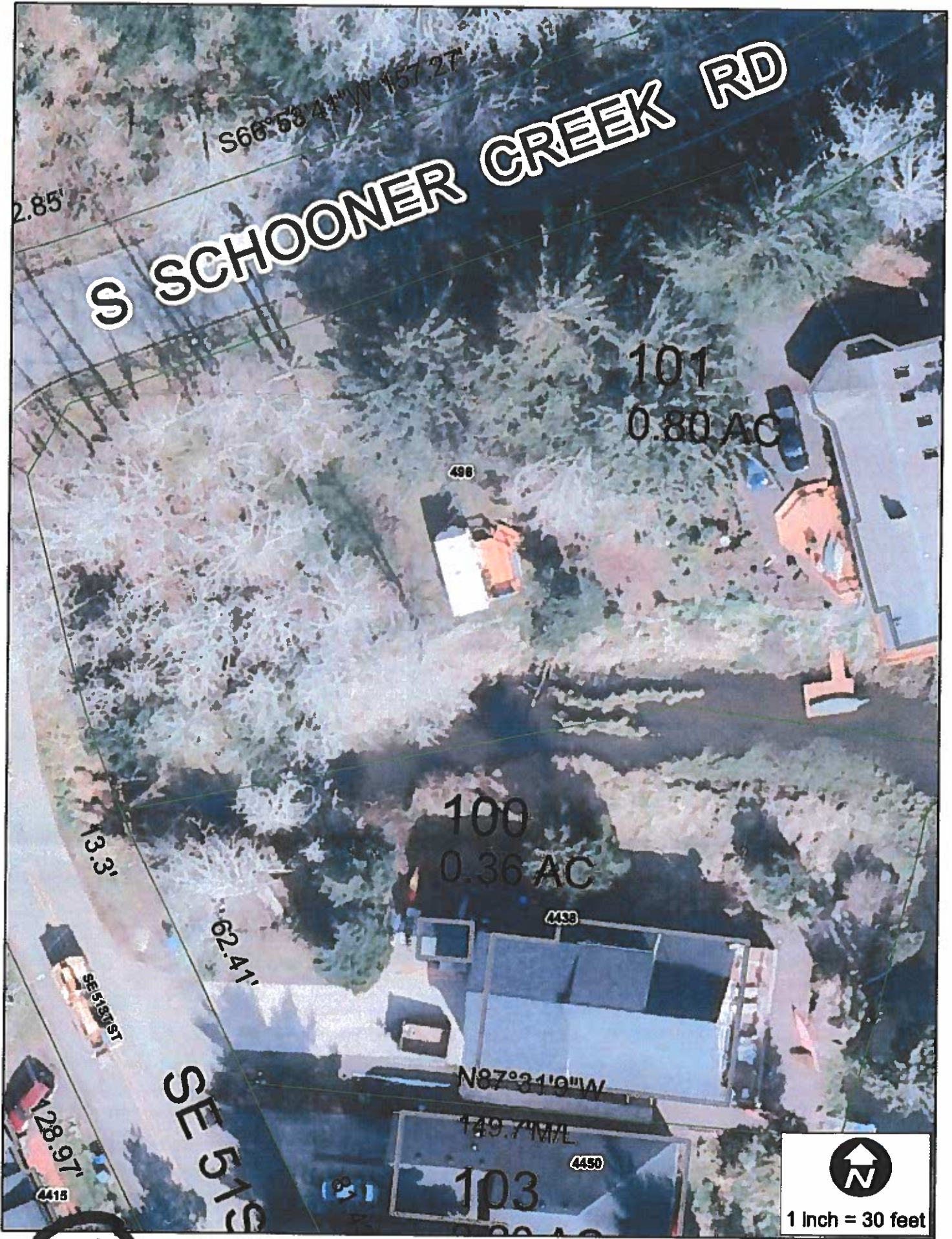


Apr 26, 2022, 10:01 AM





9



10

Planning Commission Communication

ZOA 2022-08 Housing

Meeting Date: May 3, 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 conduct a public hearing on Zoning Ordinance Amendment ZOA 2022-08 (Housing)?

Staff Recommendation:

Staff recommends the Planning Commission conduct the public hearing.

Authority:

Legal authority for text amendments is as follows:

17.76.060 Type IV (Legislative).

- A. General Description. Type IV procedures apply to "legislative" matters. Legislative decisions are made by the City Council and involve the adoption or amendment of policy by ordinance. Legislative decisions may also apply to applications involving a geographic area containing many properties. Type IV procedures require general public notice and a public hearing.
- B. When Applicable. Table 17.76.020-1 identifies Type IV applications. Applications not listed on Table 17.76.020-1 may be identified as Type IV by the director based on the general description in this section.
- C. Pre-application Conference. Pre-application conferences are not required for Type IV applications.
- D. Application Requirements.
 - 1. Application forms. Legislative applications must be made on forms provided by the department.
 - 2. Submittal Information. The application shall contain all of the following information:

- a. The information requested on the application form;
 - b. A map and/or plan addressing the appropriate criteria and standards in sufficient detail for review and decision (as applicable); and
 - c. The required fee as adopted by City Council resolution, except when the City initiates request.

- E. Mailed Notice of Public Hearing. The notification procedure for Type IV requests must conform to state land use laws (ORS 227.175) and as follows:
 - 1. In accordance with procedures required by the Oregon Department of Land Conservation and Development (DLCD), the department shall notify DLCD of legislative amendments at least 35 days before the first public hearing at which public testimony or new evidence will be received.

 - 2. At least 20 days, but not more than 40 days, before the date of the first public hearing, a notice shall be prepared in conformance with ORS 227.175 and mailed to:
 - a. Each owner whose property would be directly affected by the proposal (e.g., rezoning or a change from one comprehensive plan land use designation to another), see ORS 227.186 for instructions;
 - b. Any affected governmental agency;
 - c. Any person who requests notice in writing; and
 - d. For a zone change affecting a manufactured home or mobile home park, all mailing addresses within the park, in accordance with ORS 227.175.

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

- F. Published Notice of Public Hearing. Notice of the public hearings for Type IV applications shall be published two times in a newspaper of general circulation in the city, at least 10 days but not more than 21 days before the first scheduled public hearing on the proposal.

- G. Public Hearing Procedure. The Planning Commission shall conduct the public hearing on Type IV applications in accordance with the procedures set forth in subsection 17.76.160. In addition to the public hearing held by the Planning Commission, the City Council shall also conduct a public hearing on Type IV applications.

- H. Recommendation Authority.
 - 1. Following receipt of testimony and deliberation at the public hearing held before the Planning Commission, the Planning Commission shall provide a recommendation to the City Council for all Type IV applications. The Planning Commission shall recommend that the City Council approve or deny the proposed amendments, with or without changes. The Planning Commission's recommendation shall be issued as a Final Recommendation, and shall include findings supporting the recommendation,

- based on public testimony and the application's success or failure to satisfy the applicable criteria.
2. Decision Authority. Upon receiving the Planning Commission's Final Recommendation, the City Council shall hold a public hearing on the Type IV application.
 - I. Notice of Decision.
 1. Not more than seven days after the date the City Council approves a Type IV application, the director shall mail a notice of decision to persons of record who appeared orally or in writing before either the Planning Commission or the City Council.
 2. The director shall also notify DLCD of the decision within the timeframe and method prescribed by DLCD.
 3. The City Council's decision is final for purposes of appeal on the date the notice is mailed.
 - J. Appeal. The final decision of the City Council to approve or deny a Type IV application may be appealed to the Land Use Board of Appeals (LUBA) only when such appeal is authorized under applicable state law.

Background:

In 2020 and 2021, the Oregon Legislature adopted several bills that impact housing and child care facilities, among other things. This ordinance amendment incorporates the state requirements into the zoning code for transparency and to ensure that staff and the public know that the city is following state requirements.

The code has been updated to reflect HB 4064 – Manufactured Housing – generally restricting local governments from prohibiting the siting of, or imposing unique placement standards on a manufactured dwelling or prefabricated structure inside and outside of a manufactured dwelling park. The code has been updated to reflect emergency sheltering provisions in HB 2006 and HB 4051. The code has been updated to reflect requirements in HB 2008 to allow affordable housing provided by religious nonprofit corporations. The code has been updated to allow affordable housing as required by SB 8. The code has been updated to reflect requirements in HB 3261 for motel and hotel conversions to affordable housing. The code has been updated to reflect requirements for child care centers and family child care homes from HB 3109.

At the request of City Council, the code has been updated to remove impediments to development of housing and redevelopment of existing developed sites to the extent that is practicable and reasonable.

Planning Commission Options

- Hold the required public hearing scheduled for this evening and review all the evidence in the record. If the hearing is closed and the record is closed, deliberate on the proposed amendment and make a recommendation to City Council.
- Continue the public hearing until the Planning Commission meeting on May 17, 2022.

Attachments:

ZOA 2022-08 Draft (PDF)

DRAFT

Chapter 17.04

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.

A building, structure, or land shall not be used or occupied, and a change in the existing character, land use, or building occupancy classification of a building or structure or portion thereof, or land, shall not be made, until a certificate of occupancy has been issued for such change in character, use, or occupancy classification. A certificate of occupancy shall not be issued until the site complies with all applicable municipal and state ordinances, codes, regulations, and standards as evidenced by approvals from the building official, director, city engineer, and fire marshal.

Chapter 17.08 DEFINITIONS

17.08.010 Definitions.

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

“Affordable housing” means housing in which each unit on the property is made available to own or rent to households with incomes of 80 percent or less of the area median income as determined by the Oregon Housing Stability Council based on information from the United States Department of Housing and Urban Development, or the average of all units on the property is made available to own or rent to households with incomes of 60 percent or less of the area median income. In either or both cases, affordability is enforceable by an affordable housing covenant, included as described in ORS 456.270 to 456.295, for a duration of no less than 30 years. See LCMC 17.80.200.

“Child care center” means a child care facility, other than a family child care home, that is certified under ORS 329A.280(3).

“Conversion” means changing the lawful use of a property from use as a hotel or motel to use as an emergency shelter; from use as a hotel or motel that was converted to an emergency shelter to then use as affordable housing; or from use as a hotel or motel to use as affordable housing and including an alteration to a building that changes the number of units but does not expand the building footprint. Per 2021 House Bill 3261, conversion as defined herein is not a land use decision as defined in ORS 197.015. See LCMC 17.80.190.

~~“Day care center” means an establishment receiving compensation for providing care, supervision, and protection of six or more children at any one time during any part of the 24-hour day.~~

~~“Day care home” means a home occupation taking place in a dwelling unit in which care is provided to no more than five children at any one time, by a resident of the dwelling unit, during a part of the 24-hour day, with compensation.~~

“Emergency shelter” means a facility consisting of dwelling units, dormitories and/or yurts which provides necessary counseling services for 50 or fewer homeless persons for a period not to exceed 180 days per person and which includes associated cooking and sanitation facilities necessary to accommodate the maximum occupancy of the facility. **a building that provides shelter on a temporary basis for individuals and families who lack permanent housing.**

“Family child care home” means a child care facility in a dwelling that is caring for not more than 16 children and is certified under ORS 329A.280(2) or is registered under ORS 329A.330.

“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.**

“Temporary occupant” means any person that occupies any room or rooms for habitation for a continuous period not exceeding 30 days. This excludes any person who pays for lodging on a monthly basis. **This also excludes occupants of emergency shelters.**

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

Chapter 17.16

SINGLE-FAMILY UNIT RESIDENTIAL (R-1) ZONE

17.16.020.A.5. Manufactured homes; ~~when developed in accordance with the standards set forth in LCMC 17.52.250;~~

17.16.030 Accessory uses.

G. Family child care home.

17.16.040.B. Public or private schools (kindergarten through 12th grade, educational institutions, nursery schools and child care centers ~~day care centers~~);

17.16.100 Other required conditions.

All single-~~family~~unit dwellings (site-built, modular and manufactured homes) to be constructed or located in the R-1 zones ~~residential zones shall~~ **are encouraged, but not required, to** use at least two of the following design features **on the front of the dwelling: to provide visual relief along the front of the dwelling;**

17.17.020.A.2. Manufactured homes; ~~built to meet the standards on LCMC 17.52.250;~~

17.17.100 Other required conditions.

All single-~~family~~unit dwellings (site-built, modular and manufactured homes) to be constructed or located in the R-1 zones in residential zones shall **are encouraged, but not required, to** use at least two of the following design features on the front of the dwelling:

17.17.030 Accessory uses.

G. Family child care home.

Chapter 17.18

17.18.020.E. Manufactured homes; ~~when developed in accordance with the standards set forth in LCMC 17.52.250;~~

17.18.020.L. Residential homes.

17.18.030 Accessory uses.

E. Family child care homes.

17.18.040 Conditional uses.

B. Public or private schools (kindergarten through twelfth grade, educational institutions, nursery schools and child care centers ~~day care centers~~);

17.18.100 Other required conditions.

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

Chapter 17.20

MULTIPLE-UNIT RESIDENTIAL (R-M) ZONE

17.20.020 Permitted uses.

C. Detached single-~~family~~unit dwelling ~~unit~~, including manufactured **home dwelling**, if located on a lawfully created lot with an area of 10,000 square feet or less that existed on September 9, 2020, and if developed under the standards set forth for single-~~family~~unit dwellings ~~units~~ within the R-1 zone;

D. Detached single-~~family~~unit dwelling ~~unit~~, including manufactured **home dwelling**, if existing on or if a building permit was applied for before September 9, 2020, and remains valid, and if developed under the standards set forth for single-~~family~~unit dwellings ~~units~~ within the R-1 zone;

17.20.030 Accessory uses.

H. Family child care homes.

17.20.040 Conditional uses.

J. Child care centers.

17.20.050 Development standards.

		Attached single-unit dwellings, residential facilities, and residential homes	Attached single-unit dwellings developments ⁵	Duplexes	Multi-unit dwellings	Conditional uses	
1.	Min. lot width	25	None	25 feet	25 feet	Not applicable	
2.	Min. lot area (square feet)	2,500	None	2,500	2,500	None	
3.	Min. density	None	15 dwelling units per net acre ^{2,3}	None	15 dwelling units per net acre ^{2,3}	Not applicable	
4.	Max. building height (see also LCMC 17.52.190 and 17.52.200)						
	a.	Primary buildings	35 feet	35 feet	35 feet	40 feet	35 feet
	b.	Accessory buildings, structures, uses	25 feet	25 feet	25 feet	25 feet	25 feet

		Attached single-unit dwellings, residential facilities, and residential homes	Attached single-unit dwellings developments ⁵	Duplexes	Multi-unit dwellings	Conditional uses
5.	Min. building setbacks (except garage/carport entrances) ⁴					
	a. Front porch	5 feet	5 feet	5 feet	0 feet	5 feet
	b. Front wall	10 feet	10 feet	10 feet	0 feet	10 feet
	c. Side interior	5 feet, but 0 feet for attached walls	5 feet, except 0 feet for attached walls	5 feet	5 feet	10 feet
	d. Side street	10 feet	10 feet	10 feet	0 feet	10 feet
	e. Rear	10 feet	10 feet	10 feet	15 feet	15 feet
6.	Min. setbacks for garage/carport entrances (attached or detached)					
	a. Front-loaded access	10 feet behind front street-facing wall of dwelling	10 feet behind front street-facing wall of dwelling	10 feet behind front street-facing wall of dwelling	Not permitted	Not permitted
	b. Side-loaded access	Must not project beyond side street-facing wall of dwelling	Must not project beyond side street-facing wall of dwelling	Must not project beyond side street-facing wall of dwelling	Must not project beyond side street-facing wall of primary building	Not permitted
	c. Rear-loaded access	3-foot minimum from rear property line	3-foot minimum from rear property line	3-foot minimum from rear property line	3-foot minimum from rear property line	3-foot minimum from rear property line
7.	Max. building coverage	35%	45%	45%	65%	45%
8.	Common area Usable open space	None required	Required ⁴ None required	None required	Required ¹	None required
9.	Vehicle storage space	None required	Required ⁵	None required	None required	None required

¹A minimum of **250 75** square feet of **usable open space common area** per dwelling unit must be installed as follows:

- i. **Common area Usable open space** must be designed for passive or active recreational use and may include usable floor area in the development's recreation building or club house. **Common area Usable open space** must be located outside of required setbacks and required parking areas. ~~The common area requirement is allowed to count toward the minimum landscape percentage requirement in Chapter 17.55 LCMC.~~
- ii. **Private decks, balconies, or patios for individual units may count towards the usable open space square footage provided the deck, balcony, or patio is at least 48 square feet in area with a minimum depth of 5 feet. Common area must be available, accessible, and free for use by occupants and their guests without leaving the development.**
- iii. **Other than private decks, balconies, or patios for individual units, Common area usable open space** must be connected to primary building entrances ~~(in the case of multi-unit dwellings)~~ by an **on-site** ADA-accessible walkway. ~~that is at least five feet wide.~~ The square footage area of **on-site** ADA-accessible walkways can count towards the

minimum ~~usable open space common area~~ square footage requirement if they provide at least one connection to each other, ~~connection to other common areas, or connection to to~~ public right-of-way, or ~~to the development's parking area, for the development.~~

iv. Usable open space that is not a private deck, balcony, or patio for an individual unit is allowed to count towards the minimum landscape percentage requirement in Chapter 17.55 LCMC provided the space meets the landscaping requirements in Chapter 17.55 LCMC.

v. Usable open space that is not a private deck, balcony, or patio for an individual unit~~All required common areas~~ must include at least one amenity for users such as including seating, trash/recycling bins, dog waste stations, or play equipment – all of which must coordinate with and complement the development. ~~If a common area has direct connection to an ADA-accessible walkway, then that connection and ADA-accessible walkway can count as the amenity for that particular common area. Common areas provided over and above the minimum requirement do not need to provide any amenities.~~

⁴Refer to LCMC 17.52.160(B) for ~~exceptions to~~ setback requirements for accessory buildings.

⁵~~Vehicle storage space for boats, campers, RVs, etc. shall be provided at the rate of one 10-foot by 20-foot space in size for every four dwelling units. Adequate maneuvering room shall be provided. The perimeter of the vehicle storage space, excepting the entrance to such, shall be blocked from sight with a six-foot high sight-obscuring fence, hedge, or wall that complies with clear-vision area requirements of LCMC 17.52.060, and, if a hedge, complies with LCMC 17.55.080, Living landscaping as screening.~~

Chapter 17.24

PROFESSIONAL CAMPUS (PC) ZONE

17.24.020 Uses permitted.

K. Child care centers.

L. Affordable housing (see definition in Chapter 17.08 LCMC)

Chapter 17.28

RECREATION-COMMERCIAL (RC) ZONE

17.28.020 Uses permitted.

A. Motels, hotels, and resorts;

E. Detached ~~single-family unit~~ dwellings and duplexes, if developed under the standards set forth ~~for single-family dwellings~~ within the R-1 zone;

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

I. ~~Manufactured homes; when developed in accordance with the standards specified in LCMC 17.52.250;~~

Q. Child care centers

R. Conversion (see definition in Chapter 17.08 LCMC)

S. Affordable housing (see definition in Chapter 17.08 LCMC)

T. Residential homes

17.28.030 Accessory uses.

D. Family child care home

17.28.100 Other required conditions.

~~B. Design Features. All single family units (site built, modular and manufactured homes) to be constructed or located in the zone shall utilize at least two of the following design features to provide visual relief along the front of the home:~~

B. Design Features. All single-unit dwellings (site built, modular, and manufactured homes) to be constructed or located in the zone are encouraged, but not required, to use at least two of the follow design features along the front of the dwelling:

Chapter 17.29 Resort Community Commercial

17.29.020 Uses permitted.

A.13 Conversion (see definition in Chapter 17.08 LCMC)

A.14 Affordable housing (see definition in Chapter 17.08 LCMC)

~~B.7. Child care/day nursery.~~ Child care center/family child care home/residential home.

~~F.4. Child care/day nursery.~~ Child care center.

Chapter 17.32

GENERAL COMMERCIAL (GC) ZONE

17.32.020 Uses permitted.

N. ~~Detached s~~Single-family unit dwellings and duplexes, if developed under the standards set forth within the R-1 zone; in the R-1 zone;

~~W. Manufactured homes, if developed under the standards set forth within the R-1 zone. when developed in accordance with the standards specified in LCMC 17.28.100(C) and 17.52.250;~~

II. Attached single-unit dwellings or attached single-unit dwellings developments, when developed in accordance with the applicable standards specified in LCMC 17.20.050.

JJ. Child care centers.

KK. Conversion (see definition in Chapter 17.08 LCMC)

LL. Affordable housing (see definition in Chapter 17.08 LCMC)

MM. Residential homes

17.32.030 Accessory uses.

D. Family child care homes.

Chapter 17.34

NELSCOTT PLAN (NP) DISTRICT

17.34.030 Permitted uses.

Table 17.34.030-1 – Land Uses Allowed in Nelscott

Uses	Subdistrict		
	Business District	Cottage Residential	Beachside Mixed Use

<u>Manufactured homes, subject to the provisions of LCMC 17.52.250</u>			
<u>Government use</u>			
<u>Child care centers, family child care homes, or residential homes day care, adult or child day care; does not include family day care (16 or fewer children) under ORS 657A.440</u>	<u>PC</u>	<u>PC</u>	<u>PC</u>
<u>Residential Categories</u>			
<u>Conversions (see definition in Chapter 17.08 LCMC)</u>	<u>P</u>	<u>N</u>	<u>P</u>
<u>Affordable housing (see definition in Chapter 17.08 LCMC)</u>	<u>P</u>	<u>P</u>	<u>P</u>

17.34.040 Development standards.

Table 17.34.040-1 – Development Standards

Standard	Business District	Cottage Residential	Beachside Mixed Use
Minimum Lot Area* (square feet) *Development must conform to lot width, depth, yard setback and coverage standards – Detached single-family unit dwelling – Attached single-family unit dwelling – Other structures	3,750 sq. ft. 3,750 sq. ft. 3,750 sq. ft.	3,750 sq. ft. Not applicable 3,750 sq. ft.	3,750 sq. ft. 3,750 sq. ft. 3,750 sq. ft.
Minimum Setbacks			
Garage/carport entrance setback from <u>front and street property lines</u>	20 ft.	20 ft.	20 ft.

1. Multifamily unit dwellings must meet the design standards of LCMC 17.74.130, 17.20.100.

Chapter 17.36 Planned Industrial (P-I) Zone

17.36.020 Uses permitted.

L. Child care centers

M. Affordable housing (see definition in Chapter 17.08 LCMC)

Chapter 17.40

RECREATION-RESIDENTIAL (R-R) ZONE

17.40.010 Purpose.

The recreation-residential zoning district is intended to establish sites for a wide range of residential activities from weekend and seasonal residents to year-round residents in attached or detached single-unit dwellings, manufactured homes, and recreational vehicles sited on individual lots.

17.40.020 Permitted uses.

- A. Community gardens and market gardens not larger than 12,500 square feet, in accordance with the standards of LCMC 17.80.080;**
- B. Cottage housing developments, subject to the provisions of LCMC 17.80.120;**

- C. Detached or attached single-unit dwellings;
- D. Duplexes;
- E. Essential emergency communications, early warning, and associated emergency facilities;
- F. Four flat dwellings, subject to the provisions of LCMC 17.80.
- G. Manufactured homes;
- H. Recreational vehicles;
- I. Residential homes;
- J. Tiny house developments, subject to the provisions of LCMC 17.80.
- K. Transportation uses, defined in Chapter 17.08 LCMC.

17.40.030 Accessory uses.

- A. Accessory dwelling units, subject to the provisions of LCMC 17.80.110;
- B. Family child care homes;
- C. Gardens and animals, subject to the provisions of LCMC 17.80.080;
- E. Vacation rental dwellings, provided they are not rented for more than 30 nights in any calendar year, and subject to LCMC 17.80.050 and to the license requirements of Chapter 5.14 LCMC.

17.40.040 Conditional uses permitted.

- A. A conditional use listed in the R-1 zone (see LCMC 17.16.040).

17.40.050 Restrictions.

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

17.40.060 Maximum building height.

The maximum building height shall be 35 feet, except as provided in LCMC 17.52.190 and 17.52.200.

-17.40.070 Lot requirements.

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<u>Minimum Lot Area</u>	<u>Minimum Lot Width</u>	<u>Minimum Lot Depth</u>	<u>Minimum Front Setback⁽¹⁾</u>	<u>Minimum Side Setback</u>	<u>Minimum Street Side Setback⁽¹⁾</u>	<u>Minimum Rear Setback</u>
<u>2,400 sq. ft.</u>	<u>40'</u>	<u>62.5'</u>	<u>5'</u>	<u>5' or 0' for common wall of attached single-unit dwellings</u>	<u>5'</u>	<u>5'</u>

(1) The front and street side setbacks shall be increased to a minimum of 20 feet in front of a garage/carport and/or driveway entrance to a garage/carport. The increase in setback shall not apply to portions of the dwelling that are below or to the side of the garage/carport or driveway entrance. The

increase in setback shall not apply to any portion of the dwelling above the garage/carport that is cantilevered (i.e., supported only by the wall of the structure from which it projects), provided the lowest point of the cantilever is a minimum of seven feet above grade.

17.40.075 Landscaping.

Landscaping shall be provided in accordance with Chapter 17.55 LCMC.

17.40.080 Signs.

Signs shall be allowed subject to the provisions of Chapters 9.34 and 17.72 LCMC.

17.40.090 Off-street parking and loading.

Off-street parking and loading shall be provided in accordance with Chapter 17.56 LCMC.

17.40.100 Other required conditions.

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

17.42.020

I. Such other uses as the ~~—planning and community development~~ director determines to be in accordance with the primary purposes of the park zone;

17.42.050.A. Setback requirements. Setback requirements will be those set forth in LCMC 17.32.040 unless the ~~planning and community development~~ director makes a finding that imposing said setback requirements will negatively impact the surrounding property owners.

17.43.020.C. Educational activities and ecological research projects only if the ~~planning and community~~ director finds the use to be in accordance with the primary purposes of the open space zone.

17.43.020.G Such other uses as the ~~parks~~ director determines to be in accordance with the primary purpose of the open space zone.

17.43.040.A. Setback Requirements. Setback requirements will be those set forth in LCMC 17.16.070 unless the ~~planning and community development~~ director determines that imposing said setback requirements will negatively impact the resource value.

17.45.020 Permitted uses.

Table 17.45.020-1 – Land Uses Allowed in TVC

Uses	Status of Use
I. Residential	
6. Manufactured homes, subject to the provisions of LCMC 17.52.250	P
L. Other Uses	
15. Child care centers	P
16. Family child care homes	P
17. Residential homes	P
18. Conversions (see definition in Chapter 17.08 LCMC)	P

17.45.050.I.3.h. The area in which the sidewalk café is authorized is identified in a manner, as approved by the **planning** director, which will clearly separate and delineate it from the areas of the sidewalk that will remain open to pedestrian traffic.

Chapter 17.50 Oceanlake Plan (OP) District

Table 17.50.030-1 – Land Uses Allowed in Oceanlake

Uses	Status of Use		
	Main Street Area	Interior Area	Oceanfront Area
Use Categories			
Residential Categories			
Household Living			
All residential uses allowed, if:			
Manufactured homes, subject to the provisions of LCMC 17.52.250		P	P
Affordable housing (see definition in Chapter 17.08 LCMC)	P	P	P
Day care, adult or child day care; does not include family day care (16 or fewer children) under ORS 657A.440 Child care center, family child care home, or residential home	CP	P	CP
Other Categories			
Accessory structures (with a permitted use)	P	P	P
Conversions (see definition in Chapter 17.08 LCMC)	P	P	P

17.52.060.B.4. Notwithstanding the definitions set forth above, the minimum clear-vision area (clear-vision triangle) may be modified by the city engineer, with the concurrence of the **planning** director, upon written finding that more or less sight distance is necessary (i.e. due to traffic speeds or roadway alignment).

17.52.060.D.2. Topographical features (e.g., inclines, retaining walls) existing as of May 28, 2014, or, for newer development, as determined by the city engineer and **planning** director as necessary or unavoidable.

17.52.120 Utilities.

~~**A. In the single-family residential (R-1) zone, and the multiple-unit residential (R-M) zone, when city services are not available or when only partial services are available, the minimum parcel size shall be five acres;**~~

~~except, however, any existing lots of record less than five acres in area which do not front on a public sewer line but which will be connected to a public water line may be developed with a single family dwelling utilizing an approved subsurface sewerage disposal system, provided a deferred improvement agreement is executed and recorded by the owner of record consenting to the establishment of a local improvement district to participate in future public sewer system extensions and connections.~~

17.52.190.C.3.a.iv. If there has been grading on the proposed building site, without a grading permit, the ~~planning and community development~~ director, in consultation with the city engineer, will determine the existing grade.

17.52.160 Required setbacks – Exceptions.

A. Architectural Features. Architectural features such as cornices, eaves, canopies, sunshades, gutters, chimneys, flues, awnings, and bay windows ~~not more than four feet wide or high~~ may project up to 18 inches into a required setback area.

B. Accessory Structures. A required side or rear setback may be reduced to three feet for an accessory structure, provided the structure is detached from other structures by five feet or more and does not exceed a height of one story nor an area of 200 square feet.

C. Fences. Fences, ~~which may be located~~ within required setback areas up to and on the property line, may not exceed ~~six~~ seven feet in height three and one half feet from the grade of the street centerline in the required front setback area, and shall not exceed six feet in other setback areas nor conflict with requirements of a clear vision area as provided in LCMC 17.52.060 or the clear vision areas of adjacent private driveways.

D. Retaining Walls. Retaining walls may be constructed in required setback areas, subject to the following limitations:

1. One or more retaining walls, none of which individually exceeds ~~six~~ four feet in height, may be used, in front or street side setback areas, provided each successive wall is set back or stepped from the next lowest wall at least one foot for each one foot of height for that wall;

2. Within interior side and rear building setbacks areas that are not adjacent to a street or right-of-way, the height of a retaining wall ~~exposed toward the interior of the property may be allowed that is is allowed~~ up to eight feet in height. ~~Those exposed toward the exterior of the property shall be limited as in subsection (D)(1) of this section.~~

3. All building code and structural permitting requirements shall be met prior to construction of any retaining wall.

E. Disabled Access Facilities. Disabled access facilities may be constructed in required setback areas as additions to existing buildings if ~~exclusive of railings they do not exceed the height of the building's ground floor and they~~ do not conflict with the clear vision requirements of LCMC 17.52.060. For purposes of this section disabled access facilities include ramps, sidewalks, curbing and entrances constructed for the purpose of making a building accessible to a disabled person. Disabled access facilities must be constructed in accordance with any applicable requirements of the building code in effect at the time of their construction. Disabled access facilities constructed as additions to a nonconforming structure shall not be considered an alteration or extension of the nonconforming structure.

F. Bridges. Unenclosed and uncovered pedestrian or vehicular bridges for access to a dwelling may be constructed in a required setback area. ~~Such bridges may not have a slope up from the adjacent roadway exceeding the maximum allowed for driveways.~~

17.52.170 Solid waste, garbage, trash, recycling, and composting receptacle storage areas.

All solid waste, garbage, trash, recycling, and composting receptacles shall be located within a building or within an enclosure ~~that is at least 20 feet or more from any pedestrian space~~ which screens the receptacle from the view of neighboring property, pedestrian space, or from right-of-way, except those receptacles associated with a detached single-unit dwelling, attached single-unit dwelling, duplex, or manufactured home dwelling.

17.52.180 Placement and screening of mechanical equipment.

A. Any heating, air conditioning, or other mechanical equipment installed on or near a building to be used to serve the building or a function performed therein, and any propane tanks, shall be screened from the ground level view from adjacent properties, pedestrian spaces, and from public right-of-way, ~~and shall not be located within 20 feet of pedestrian space.~~

B. Rooftop mechanical units shall not ~~be visible from any public right-of-way and shall not~~ exceed the allowable building height.

C. Ground-mounted mechanical units shall be limited to the sides or rears of buildings and screened from view from adjacent properties and from public right-of-way.

D. Standpipes, meters, vaults, and similar equipment shall not be placed on a front elevation unless there is no other option. ~~when other alternative locations exist.~~

17.52.230 Public infrastructure improvement requirements.

A. Infrastructure, Easement, and Improvement Requirements. The issuance of a structural permit for ~~the addition, alteration, or repair, within any 12-month period, exceeding 50 percent of the assessed value of an existing building or structure, or for~~ a new building or structure in connection with any permitted or conditional use within any zone as described in this title, or in connection with ~~of~~ a development review approval for development for which development review is required under LCMC 17.77.070, or the review of any project for which development review is required under LCMC 17.77.070 but does not involve the issuance of a structural permit, shall be subject to Public Works Design Standards, Lincoln City Transportation System Plan, LCMC Title 12, and LCMC Title 13. Preliminary plans shall be submitted as part of the development review process, with final plans submitted as part of the structural permit process. If development review is not required, the plans shall be submitted for review as part of the structural permit process. ~~the following requirements:~~

~~1. The applicant shall submit, as part of a structural permit application, a site plan drawn to scale showing the nature, size, and location of:~~

- ~~a. Proposed buildings and improvements;~~
- ~~b. Proposed access and off-street parking;~~
- ~~c. Proposed private and public utility lines, facilities, and easements;~~
- ~~d. Proposed curbs, gutters, pavement, and sidewalks and related easements;~~
- ~~e. Proposed storm water detention, treatment, and drainage features, facilities, and easements;~~
- ~~f. Existing private and public utility lines, facilities, and easements;~~
- ~~g. Existing storm water detention, treatment, and drainage features, facilities, and easements;~~
- ~~h. Existing lot lines; and~~

~~2. Except as otherwise provided in subsections (B) and (C) of this section, the applicant shall agree to:~~

- ~~a. Install curbs and gutters along adjacent streets not having curbs and gutters, and also pave the roadways from the curbs to 12 feet beyond centerline of unpaved or partially unpaved streets contiguous to the property proposed for development, in accordance with applicable standards of this title, street design standards in the city's transportation system plan, public works/engineering standards, and LCMC Title 16 (Subdivisions). If existing rights-of-way for streets contiguous to the property are not adequate in width to meet the standards of this title and LCMC Title 16 (Subdivisions), the applicant shall dedicate right-of-way to the city sufficient to allow streets that are adequate in width; and~~

~~b. Dedicate to the city utility easements five feet in width along rear lot lines, or along front lot lines, as required by the city; and~~

~~c. Dedicate easements for drainage purposes, and provide storm water detention, treatment, and drainage features and facilities, as approved by the city engineer, in order to accommodate expected runoffs as determined by a registered professional engineer licensed in Oregon, according to generally accepted drainage accommodation principles; and~~

~~d. Install sidewalks in accordance with street design standards in the city's transportation system plan and public works/engineering standards along boundaries contiguous with streets, within existing right-of-way if adequate in width; and, if existing easements are not adequate in width, to deed easements to the city sufficient to allow sidewalks of required width;~~

~~Exceptions: In lieu of the sidewalks required by subsection (A)(2)(d) of this section, the applicant shall agree as follows:~~

~~i. For properties in a commercial zone east of Highway 101 that abut the D River, to install sidewalks five feet in width adjacent to the river, and to deed easements to the city sufficient to allow the city to add additional width to the riverfront sidewalks so that they can be a total of 10 feet in width;~~

~~ii. [Reserved];~~

~~iii. [Reserved]; and~~

~~e. Install and connect to the city systems water and sewer lines and appurtenances that conform to adopted city standards; and~~

~~f. Place underground all existing electrical, telephone, and cable television utility service installations or connections between any building or structure and the utility distribution system, in accord with city standards, in addition to meeting the requirements of LCMC 17.52.120; and~~

~~g. Develop the site and construct all buildings and improvements in strict conformity to the tendered site plan; and~~

~~h. Provide any of the following transit-related improvements, if development includes or is adjacent to existing or planned transit stops shown in the city transportation system plan or an adopted plan prepared by a transit provider, as determined by the city engineer or community development director:~~

~~i. Reasonably direct pedestrian connections between the transit stop and building entrances of the site. For the purpose of this section, "reasonably direct" means a route that does not deviate unnecessarily from a straight line or a route that does not involve a significant amount of out-of-direction travel for users;~~

~~ii. An easement or dedication for a passenger shelter or bench, if such an improvement is in an adopted plan; and~~

~~i. Maintain the sidewalk, landscape strip, and curb adjacent to the property to standards in LCMC Title 12, Streets, Sidewalks, and Public Places.~~

In lieu of a required improvement, the city ~~engineer~~ manager or a designated representative may accept a deferred improvement agreement, fee-in-lieu agreement, or other cost allocation agreement, in a form approved by the ~~city engineer~~ city manager or designate, for installation of curbs, gutters, sidewalks, street paving, water and sewer lines and appurtenances, and storm water detention, treatment, and drainage features and facilities, if the city ~~engineer~~ manager or designate determines that a fee-in-lieu agreement ~~delay~~ is appropriate prior to the commencement of construction of these improvements. The cost to the developer shall equal the cost of installation, including engineering and design, as determined by the city

engineer, based on the applicable city standards in effect at the time of application. The applicant shall pay the fee ~~or sign an alternative agreement~~ prior to ~~approval of the final plat or~~ issuance of a building (structural) or development permit. Property owners who pay a fee in lieu of constructing a required specific improvement shall not be responsible for any future additional costs associated with that same improvement. The city shall use all such fees for construction, repair, or maintenance of the public infrastructure improvements of the type identified above and located within the city which provide a benefit to the subject property; and

~~3. The city manager or a designated representative finds that the building site is not subject to natural hazards such as flooding, falling rock, landslides, or mass movement, and that the building site is capable of accommodating the proposed structure without danger to users of the site or to the citizens of the city; and~~

~~4. If no street is contiguous to the property from which safe and convenient access and egress can be obtained for pedestrians and vehicular traffic, the applicant shall agree, if required by the city manager or a designated representative, to dedicate a street right of way and to construct improvements to adopted city standards as provided in subsection (A)(2)(a) of this section.~~

~~5. As to applications for development review approval, if the site consists of more than one lot and any lot does not conform to the minimum access or lot requirements for the zone in which the lot is located, the owner shall agree that, prior to issuance of a structural permit, or commencement of development if a structural permit is not required, the owner will either:~~

~~a. Provide to the city a covenant that the lots comprising the site, unless subsequently partitioned or subdivided, will be treated as a single lot for all purposes of the municipal code and this title and that the lots comprising the site will not be sold separately; or~~

~~b. Reconfigure the lots comprising the site, in accord with the applicable legal procedures, so that all lots comprising the site will conform to the minimum lot and access requirements for the zone in which the lots are located.~~

B. Limitations on Infrastructure Requirements. If the applicant asserts that it cannot legally be required, as a condition of structural permit or development review approval, to provide easements or improvements at the level otherwise required by ~~this section~~, then:

1. The structural permit or development review application shall include a rough proportionality report, prepared by a qualified civil or traffic engineer, as appropriate, showing:

- a. The estimated extent, on a quantitative basis, to which the improvements will be used by persons served by the building or development, whether the use is for safety or for convenience;
- b. The estimated level, on a quantitative basis, of improvements needed to meet the estimated extent of use by persons served by the building or development;
- c. The estimated impact, on a quantitative basis, of the building or development on the public infrastructure system of which the improvements will be a part;
- d. The estimated level, on a quantitative basis, of improvements needed to mitigate the estimated impact on the public infrastructure system; and

2. The applicant shall, instead, be required to provide easements and improvements that are roughly proportional to what is needed for the safety or convenience of persons served by the building, structure, or development, plus those additional easements and improvements that are roughly proportional to what is needed to mitigate the impact of the building, structure, or development on the public infrastructure system of which the improvements will be a part, if the impacts are not fully mitigated by the easements and improvements needed for the safety or convenience of persons served by the building, structure, or development.

~~C. Easements and Improvements Deferred from Land Divisions. If a prior land division approval under LCMC Title 16 affecting the building, structure, or development site has deferred, until submission of a structural permit or development review application, the definition of the level of easements or public infrastructure improvements required to be provided in relation to the land division, based on an assertion that the level of easements or improvements required cannot be defined until actual development is proposed for the divided land, then the owner shall provide with the application a report as described in subsection (B) of this section and, as a condition of application approval, shall be required to dedicate easements and provide public infrastructure improvements required under LCMC Title 16, to the extent the easements and improvements meet the standards set out in subsection (B)(2) of this section.~~

D. Appeals.

1. Any person aggrieved by that person's inability to obtain a building permit pursuant to this section or by the decision of any administrative officer or agency based upon or made in the course of the administration or enforcement of this section may appeal as a Type III procedure pursuant to LCMC 17.76.050.

~~2. Notwithstanding subsection (D)(1) of this section, decisions of the city manager, public works director, city engineer, or designated representative in the enforcement of deferred improvement agreements entered into under subsection (A)(2) of this section shall not be subject to appeal.~~

~~E. Limitations to Issuance of Certificate of Occupancy. No certificate of occupancy shall be approved for issuance by the director or by the city engineer until the applicant has fulfilled all requirements of, and has executed the agreements required by, this section, and shall not be approved for issuance by the director or city engineer if there is any variance from the approved development review.~~

~~F. Applicability. This section, except for subsection (C) of this section and proceedings under this section related thereto, shall not apply to structural permit applications for building on land subdivided pursuant to a final subdivision plat approved or subdivision exemption granted by the planning commission and/or city council after November 1, 1989.~~

~~17.52.250—Standards for manufactured homes.~~

~~All manufactured homes shall:~~

~~A. Enclose a floor area of not less than 600 square feet;~~

~~B. Have a backfill style foundation or skirting of pressure treated wood, masonry, or continuous concrete footing-wall construction, complying with the minimum set up standards of the adopted State Administrative Rules for Manufactured Dwellings, Chapter 918;~~

~~C. Have a roof with nominal pitch of three feet in height for each 12 feet of width;~~

~~D. Be certified by the manufacturer to have exterior thermal envelopes meeting the performance standards specified in state law for single family dwellings constructed under the State Building Code;~~

~~E. Not have bare metal siding or roofing; and~~

~~F. Not be sited adjacent to any structure listed on the Register of Historic Landmarks and Districts.~~

Chapter 17.55

LANDSCAPING STANDARDS

17.55.020 Applicability.

The standards of this chapter shall apply to:

A. All Type II and Type III procedures.

B. New construction.

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

17.55.030 Landscaping requirements for detached single-unit dwellings, attached single-unit dwellings, manufactured homes dwellings, and duplexes.

B. Landscaping Requirements. Landscaping is required on all disturbed portions of the site not covered by buildings, structures, or impervious surfaces. Existing plants and trees that are healthy and noninvasive count towards the minimum requirements listed below, provided they will be protected during development adequately enough to ensure future preservation.

1. At a minimum, the site shall contain the following spaced and/or grouped according to best planting practices and aesthetics:

a. One tree per 150 feet of total lot perimeter; and

b. One shrub per 30 feet of total lot perimeter; and

c. **The remainder of the site that is not covered by buildings, structures, or impervious surfaces shall be covered with living or nonliving ground cover as outlined in subsection (C) of this section and LCMC 17.55.050.** ~~Sufficient number of living ground cover plants spaced to cover 10 percent of the gross area of the site within three years of planting.~~

17.55.040 Landscaping requirements for all development other than detached single-unit dwellings, attached single-unit dwellings, manufactured dwellings, and duplexes.

A. Landscaping is required on all portions of the site not covered by buildings, structures, or impervious surfaces.

~~B. Fifteen percent of the total gross area of the site shall be landscaped with live vegetation according to the standards contained within this chapter.~~ Existing plants and trees that are healthy and noninvasive count towards the ~~15 percent live vegetation~~ **tree and shrub** requirement **below**, provided they will be protected during development adequately enough to ensure future preservation.

1. At a minimum, the site shall contain **the following spaced and/or grouped according to best planting practices and aesthetics:** ~~three distinct and separate landscape areas, containing an overall total of the following spaced and/or grouped according to best planting practices and aesthetics:~~

a. One tree per ~~20~~ **100** feet of total lot perimeter; and

b. One shrub per ~~10~~ **30** feet of total lot perimeter; and

c. **The remainder of the site that is not covered by buildings, structures, or impervious surfaces shall be covered with living or nonliving ground cover as outlined in subsection (C) of this section and LCMC 17.55.050.** ~~Living ground cover.~~

2. If islands are required in parking areas, each island must contain at least one tree, sized appropriately for the area of the island. The remainder of the island must be covered with shrubs and/or living or nonliving ground cover, subject to the standards set out in subsection (C) of this section and LCMC 17.55.050. Islands count towards ~~both~~ the parking landscaping requirement, **and the 15 percent landscaping requirement.**

C. Ground Cover and Mulch.

1. Ground cover used as mulch between plantings shall be placed at a minimum two- to three-inch-thick layer to ensure effective erosion control and to avoid leaching of excessive nutrients.

2. Acceptable mulch materials are straw, well-aged compost and leaves, wood mulch or bark dust, or wood nuggets that are a minimum diameter of one inch. Mulching with manure that has not been composted or aged is prohibited.

3. Nonliving ground cover materials such as noncompacted pea gravel, river rock, pumice, stones, boulders, bark dust, ~~and cedar chips, or similar,~~ are acceptable ground cover.
4. Standards for living ground cover are those set out in LCMC 17.55.050.

17.55.050 Selection, preparation, and installation for all landscaping.

A. Selection of Materials.

1. Invasive and noxious plants as defined in LCMC 8.12.010 or by the Oregon Department of Agriculture are prohibited.
2. Hydro-seeding is prohibited. **Wildflower seeding is prohibited.**
3. All selections must be healthy and disease-free at the time of planting.
4. Sizes of Plantings.
 - a. Deciduous trees must be a minimum of ~~one and~~ one-half caliper inches at the time of planting.
 - b. Conifer trees must be a minimum of ~~five~~ **four** feet in height at the time of planting.
 - c. Ground cover plants must be at least four-inch pot size.
 - d. Shrubs must be at least ~~one three-~~gallon size at the time of planting, ~~unless three-gallon sizes are not available for purchase at the time of planting for the particular shrub selected. In those instances, one or two-gallon size is allowed.~~
 - e. Plantings at their mature height shall not be higher than five feet if they would block the view of any shoreline of the Pacific Ocean, Siletz Bay or Devils Lake.
 - f. All plantings must be one, or a combination of, the following: native to the Pacific Northwest; selected from the City of Lincoln City Guide to Landscape Selections; or suitable for the site conditions as certified by a written and signed statement from a landscape architect licensed in the state of Oregon or a landscape nursery person.

B. Preparation.

1. ~~All newly landscaped areas~~ **The entire site** must be cleared of invasive and noxious plants as defined in LCMC 8.12.010 and by the Oregon Department of Agriculture prior to installation of ~~new~~ landscaping.
2. ~~All newly landscaped areas~~ **The entire site** must be cleared of **weeds, as well as** dead, dying, or diseased vegetation prior to installation of ~~new~~ landscaping.

C. Installation.

1. Plant materials must be installed to current nursery industry standards.
2. Plant materials must be properly supported to ensure survival. Support devices such as guy wires or stakes must not interfere with vehicular or pedestrian movement.
3. All landscaping shall be installed prior to **final inspection by the department or: issuance of a certificate of occupancy or:**
 - a. Agreement to Delay Installation. If all landscaping has not been satisfactorily completed prior to **the final inspection by the department requesting issuance of a certificate of occupancy** and the director determines that a delay in completion of the landscaping is appropriate because there has not been a reasonable amount of time for the completion of the landscaping or for other reasons, then the director

may require, as a condition of ~~such issuance or~~ use **of the site**, a landscaping agreement signed by the owner, in a form satisfactory to the director. A landscaping agreement shall:

- i. Identify all landscaping to be completed and establish a time period, not to exceed 120 days, within which the owner shall complete the landscaping;
- ii. If the identified landscaping is not completed within the established time period, then this shall be considered a Class B violation with a fine of up to \$1,000 per day for each day the identified landscaping remains incomplete.

Chapter 17.56

OFF-STREET PARKING AND LOADING

17.56.010 Applicability.

~~The standards of this chapter shall apply to: The requirements of this chapter are applicable for all zoning districts, unless specifically stated otherwise, and shall be adhered to when:~~

- A. All Type II and Type III procedures;
- B. New construction.

~~A. A new building is hereafter erected; or~~

~~B. An existing building is enlarged to the extent that the cost of construction exceeds 50 percent of the improvement value of the building as shown on the Lincoln County Property Report from the Lincoln County assessor's office or to the extent that the building's capacity is increased by more than 50 percent in terms of units listed in LCMC-17.56.050; or~~

~~C. The occupancy classification of an existing building, or any portion thereof, is changed and the building enlarged; parking spaces shall be provided in proportion to the increase only, provided the increase is less than 50 percent of the existing building area. If the increase exceeds 50 percent, parking shall be provided for the entire structure in accordance with the requirements of this chapter. If the structure in which the change of use is to occur is not enlarged, no additional parking shall be required.~~

17.56.020 General standards.

A. The provision and maintenance of off-street parking, bicycle parking, and loading spaces and associated improvements is a continuing obligation of the property owner. The subsequent use of the property shall be conditional upon the unqualified continuance and availability of the amount of off-street parking, bicycle parking, and loading spaces required by this chapter.

B. Any requirement resulting in less than a whole number shall be rounded up to the nearest whole number for the required number of spaces. (Example: 0.75 equals one space; 1.25 equals two spaces; 1.50 equals two spaces; 1.75 equals two spaces.)

C. Areas needed to meet the off-street parking and loading requirements shall not be transformed or changed to another type of use, or transferred to meet the parking requirements of another building or use, until the parking required for the original user of said parking or loading area is provided at another allowable location.

1. Required parking areas shall be available for the parking of operable passenger vehicles of residents, customers, patrons, and employees only.
2. Required parking and loading spaces and areas may not be used for the parking or storage of equipment, storage of goods or merchandise, displays of goods or merchandise, or any other use other than fulfilling the off-street parking or loading space requirements.

D. Portions of off-street parking areas may be redeveloped for transit-related uses, such as transit shelters or park-and-ride lots, to the extent the off-street parking area continues to meet applicable standards and subject to approval through the applicable procedural review.

17.56.030 Number of off-street parking spaces required.

A. The number of off-street parking spaces required shall be as set forth in Table 17.56.030-1.

Table 17.56.030-1 – Number of Spaces Required

Use	Requirement
A. Residential:	
1. Detached single-unit, attached single-unit, and duplex a. 1,000 square feet or less per unit b. Over 1,000 square feet per unit	1 space per dwelling unit 2 spaces per dwelling unit
2. Multi-unit dwelling containing three or more dwelling units	1 space per dwelling unit 1.5 spaces per dwelling unit for those units with two or more bedrooms and 1 space per dwelling unit for one-bedroom or studio units
3. Rooming or boarding houses; residential hotel	1 space for each accommodation plus 1 additional space per 2 employees
4. Mobile home park	1.5 spaces per dwelling
5. Congregate care facility	1 space per 4 accommodations plus 1 additional space per employee
6. Bed and breakfast accommodation	1 space per accommodation plus the required spaces per dwelling unit
7. Elderly housing units	1 space per dwelling unit plus 1 additional space per employee
B. Commercial-Residential:	
1. Recreational vehicle park	1 space per recreational vehicle space plus 1 additional space per employee
2. Hotel or motel	1 space per guest room or suite plus 1 additional space for each employee
3. Club, lodge	Spaces to meet the combined requirements of the uses conducted, such as hotel, restaurant, auditorium, etc.
C. Institutions:	
1. Welfare or correctional institution, convalescent hospital, nursing home, rest home, sanitarium or similar institution	1 space per 4 beds for residents, patients or inmates plus 1 for each employee
2. Hospital	1 space per 2 beds plus 1 space for each employee
D. Places of Public Assembly:	
1. Place of worship, auditorium, gymnasium, community center or other place of public assembly	1 space per 4 seats or 8 feet of bench length in the main auditorium or, if no permanent seats are provided, 1 space per 80 sq. ft. of floor area of the main auditorium
2. Library, reading room, museum, art gallery	1 space per 400 sq. ft. plus 1 space for each employee
3. Preschool nursery, day nursery or kindergarten	1 space per teacher, adult supervisor or employee
4. Elementary or junior high school and equivalent private or parochial school	1 space per classroom and special instruction area or the requirement for a place of public assembly, whichever is the greater, plus 1 space per nonteaching and administrative employee
5. High school	8 spaces per classroom and special instruction area, or the requirement for a place of public assembly, whichever is the greater

Use	Requirement
6. College, university, institution of higher learning and equivalent parochial school	1 space for each 5 seats in total number of classrooms
E. Commercial Amusement:	
1. Amusement park	1 space for 1,000 sq. ft. of patron serving area, plus 1 space for each employee
2. Billiard and pool halls	1 space for each table plus 1 space for each employee
3. Bowling alley	5 spaces for each alley plus 1 space for each employee
4. Dance hall	1 space for each 50 sq. ft. of patron area, plus 1 space for each employee
5. Golf course (9- and 18-hole)	5 spaces per hole, plus 1 space per employee at maximum shift plus 75 percent of the spaces otherwise required for any accessory uses (e.g., bar, restaurant, etc.)
6. Golf driving range	1 space for each 10 linear feet of driving line
7. Miniature golf	1-1/2 spaces per hole
8. Indoor arena or theater	1 space for each 4 seats or 8 feet of bench length
9. Moorage (boat)	1 space for each 2-boat berth plus 1 space for each employee
10. Skating rink	1 space for each 50 sq. ft. of floor or rink area plus 1 space for each employee
11. Stadium	1 space for each 8 seats or 16 feet of bench length
12. Swimming pool	1 space for each 100 sq. ft. of pool area plus 1 space for each employee
13. Tennis and racquet court	4 spaces for each court
F. Commercial:	
1. Store, supermarket, and department store	1 space for each 400 sq. ft. of gross floor area plus 1 space for each employee
2. Retail store handling bulky merchandise such as automobiles, furniture and large appliances	1 space for each 600 sq. ft. of gross floor area plus 1 space for each employee
3. Service or repair shop	1 space per 800 sq. ft. of gross floor area plus 1 space for each employee
4. Bank or office (except medical and dental)	1 space for each 400 sq. ft. of floor area plus 1 space for each employee
5. Medical and dental clinic	1 space per 200 sq. ft. of floor area plus 1 space for each employee
6. Restaurant, tavern or bar	1 space for each 3 seats provided for customers plus 1 space for each employee
7. Mortuary	1 space for each 4 chapel seats plus 1 space for each employee
G. Industrial:	
1. Manufacturing uses	1 space for each 2 employees on maximum shift
2. Storage warehouse, trucking freight terminals	1 space for each 5,000 sq. ft. for first 20,000 sq. ft. plus 1 additional space for each 50,000 sq. ft.
3. Wholesale establishment	1 space per employee plus 1 space per 700 sq. ft. of patron serving area

B. Exceptions to the Number of Off-Street Parking Spaces Required. One or more exceptions may apply to a development.

1. There are no off-street parking requirements for commercial uses, commercial buildings, or the commercial portion of mixed use buildings located within the boundaries of any of the pearls (Wecoma, Oceanlake, DeLake, Taft, Nelscott, Cutler City), said boundaries as identified on the city's adopted zoning map.

2. The number of off-street parking spaces may be reduced by 10 percent of the off-street parking requirement for every five bicycle parking spaces provided over and above the standard requirement for bicycle parking spaces. **The number of off-street parking spaces may be reduced by 20 percent of the off-street parking requirement for every 10 bicycle parking spaces provided over and above the standard requirement for bicycle parking spaces.**

3. The number of off-street parking spaces may be reduced by 10 percent of the off-street parking requirement by preserving at least two mature and healthy trees. **The number of off-street parking spaces may be reduced by 20 percent of the off-street parking requirement by preserving at least four mature and healthy trees.** To receive this credit, a licensed Oregon arborist must certify the trees to be preserved are healthy, and the grading plan must show enough protection and lack of disturbance around the roots (again, as certified by a licensed Oregon arborist) that the trees will be protected and preserved throughout construction and thereafter.

4. Projects that are providing affordable housing as defined in LCMC Chapter 17.08 may reduce the parking requirement by up to 20 percent.

17.56.070 Development and maintenance standards for off-street parking for detached single-unit dwellings, attached single-unit dwellings, and duplexes.

~~**C. Redevelopment. Site design shall incorporate the conversion of existing parking areas located in front of buildings to pedestrian spaces as properties redevelop.**~~

Chapter 17.64
NONCONFORMING SITUATIONS

17.64.010.D. Restoration or Replacement of a Damaged or Destroyed Lawful, Nonconforming Structure or Use. A lawful, nonconforming structure or use that has been damaged or destroyed may be restored or replaced to its previous extent height and footprint, as approved by the city through the structural permit process, if all the following is true:

1. The damage or destruction was not intentionally caused by the property owner;
2. The restoration or replacement does not increase the degree of nonconformity or add new nonconformity;
3. The restored or replaced structure does not encroach on adjacent properties; 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 structural permit for restoration or replacement no later than 24 months from the date of the damage or destruction. After 24 months following the date of damage or destruction, the use or structure building will be subject to current zoning regulations for the district in which the land and structures buildings are located., including residential density standards.~~

17.64.040 — Nonconforming commercial site development.

~~The purpose of this section is to upgrade elements of noneonforming 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).

17.64.050 17.64.040 Nonconforming lots of record.

~~If a lot or the aggregate of contiguous lots as recorded in the office of the county clerk has an area or dimension that does not meet the lot size requirements of the zone in which the property is located, such lot or lots~~ Nonconforming lots of record may be occupied by a use or uses permitted in the zone, subject to the other requirements of the zone. ~~;~~ ~~provided, such lots in residential zones shall be limited to a single family dwelling and such lots in the R-R zone shall be limited to a single family dwelling or a recreational vehicle.~~

17.64.060 17.64.050 Violation – Enforcement.

Chapter 17.74

17.04.020 Applicability

A. Zoning Districts. The provisions of this chapter apply to the multiple-unit residential (R-M), recreation commercial (RC), general commercial (GC), Nelscott plan district (NP), Taft Village core (TVC), and Oceanlake plan district (OP) zones. ~~as follows:~~

~~1. Article I, General Provisions.~~

~~2. Article II, Design Regulations for Mixed Uses and Uses Other Than Residential.~~

~~3. Article III, Design Regulations for Multi-Unit Structures and Developments.~~

17.40.030 Exceptions ~~and noneonformances~~

B. Additions or Expansion. Additions to or expansions of an existing building or structure are exempt from standards contained in this chapter. ~~that are specific to building design, provided the addition or expansion is less than 800 square feet of gross floor area. If the addition or expansion consists of 801 square feet or more of gross floor area, then the standards contained in this chapter that are specific to building design shall apply to the addition or expansion. Existing nonconforming portions of the building shall come into conformity as provided in Chapter 17.64 LCMC. As part of the addition or expansion, and regardless of size, all other portions of the site (landscaping, off street parking and loading, supplementary regulations and exceptions, and noneonformances, etc.) must comply with respective code requirements as applicable.~~

C. Residential Dwellings Exception. Detached single-unit dwellings, attached single-unit dwellings, attached single-unit dwellings developments, duplexes, and manufactured homes dwellings in any zone are exempt from all requirements of this chapter.

~~D. Nonconformances. See Chapter 17.64 LCMC for application of these standards in nonconforming situations.~~

17.74.040 Standards versus guidelines.

A. The sections that follow provide intent statements, followed by standards and guidelines. Most standards contain approval criteria that are objective; however, some criteria require the review authority to apply discretion. Where discretion is involved, the review authority must use the guidelines in evaluating a proposal. The following further explains the relationship between intent statements, standards, and guidelines.

1. Intent statements are not utilized as applicable approval criteria for evaluating the application for approval or denial. However, intent statements are utilized when considering approval or denial of requests for adjustments ~~or modifications~~ as the applicant must demonstrate how the requested adjustment ~~or modification~~ and proposed alternative conform to the intent statements.

2. Standards use the words “shall” or “must” and are mandatory. A request for an adjustment ~~or modification~~ is required if the standard cannot be met.

3. Guidelines use the words “should,” “may,” “preferred,” “encouraged,” and “discouraged,” and are advisory only. Guidelines supplement the standards and provide examples of acceptable or unacceptable design.

a. Graphics used in this chapter do not prescribe a particular design, but serve as examples of acceptable or unacceptable design solutions.

4. Standards and guidelines both serve as approval criteria, but the review authority has much greater latitude in applying guidelines. Where a guideline conflicts with a standard, the standard prevails.

5. In the case of a requested adjustment ~~or modification~~ to a standard, the submitted application and associated materials must demonstrate how the adjustment ~~or modification~~ results in equal or greater conformity to the intent of the code and other applicable standards and guidelines.

6. Nullification of one standard or guideline by a court of competent jurisdiction does not cause any other standard or guideline to be nullified (severability).

~~B. Burden of Proof. The submitted application and associated materials must demonstrate how the proposal meets all the applicable standards contained in this chapter and other applicable city regulations. Through adjustment 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.~~

17.74.050 Guiding principles.

E. Roof Form.

2. Pitched Roofs. Roofs must be gabled or hipped. Sloped roofs **should must** have a minimum pitch of at least **3:12. 6:12.**

~~4. Blank Wall Treatments. In pearls, walls longer than 30 feet that face public right-of-way or pedestrian space must incorporate two or more of the following:~~

~~a. Vegetation, such as trees, shrubs, and ground cover adjacent to and covering at least 50 percent of the wall surface. Such vegetation must be selected from the City of Lincoln City Guide to Landscape Selections or recommended as being suitable for the local climate by a licensed arborist, or registered landscape architect, who is licensed in the state of Oregon;~~

~~b. Artwork, such as bas-relief sculpture, original art displays, or trellis structures covering at least 50 percent of the wall surface;~~

~~c. Seating area with special paving and seasonal plantings; and/or~~

~~d. Masonry materials with architectural detailing, reveals, pilasters or other means of rustication techniques.~~

H. Windows/Transparency.

1. Ground Floor Windows.

a. Consistent with a desired storefront character, and to avoid blank walls, each individual wall plane must contain partial transparency in the form of windows, windowed doors, or transom windows.

b. The required percentage of ground floor transparency in the individual wall plane must be placed in the area of that wall plane that is between 30 and 80 inches above the sidewalk grade.

c. Ground-floor elevation windows **should must** be framed by piers or pilasters at their sides; awnings, canopies, or trim/hoods at their top; and kick plates or bulkheads at their base.

d. Decorative detailing and ornamentation around windows is encouraged, but is not required.

2. Upper Floor Windows. Upper-floor window orientation must be vertical or have a width that is no greater than the width of the ground-floor window immediately below it. Upper-floor windows should follow the vertical lines of the lower-level piers and the horizontal definition of spandrels and any cornices.

~~3. Transparency for Non-Street Facing Elevations. The transparency standard must be met for any non-street facing elevation that faces a pedestrian space or that contains a primary entrance.~~

4. Projecting Windows, Display Cases. For durability and aesthetic reasons, projecting windows and display cases must be integral to the building design and contain trim or other detailing consistent with the overall composition of the building.

5. ATMs and Service Windows. ATMs and service windows must be visible from the public right-of-way for security and have a canopy, awning, or other weather protection shelter.

6. Prohibited Windows. Highly tinted, opaque, or mirrored glass (except stained-glass windows) do not meet the intent of this section and are prohibited.

I. Pedestrian Shelters and Weather Protection.

1. Required pedestrian shelters must extend at least five feet over the pedestrian area, with a minimum clearance of ~~12~~ **8** feet between the shelter and sidewalk surface.

Article III. Design Regulations for Multi-Unit Residential Structures ~~and Developments~~

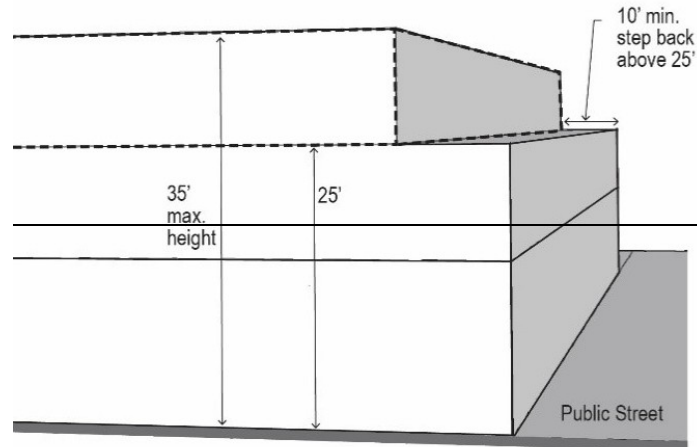
17.74.130 Building design regulations for multi-unit residential structures.

~~B. Building Stepback.~~

~~1. Upper Floor Stepback. The upper elevations of building facades facing a public right of way or pedestrian space must step back above 25 feet or above the second story, whichever is the lesser height (Figure 17.74.130-1). The following options are acceptable to meet this standard:~~

- ~~a. The top floor must step back at least 10 feet; or~~
- ~~b. Progressive stepbacks of several upper floors must total at least 10 feet.~~

Figure 17.74.130-1. Building setback.



C.B. Building Form. All buildings must incorporate elements to preclude blank building elevations facing a public right-of-way or pedestrian space (Figure 17.74.130-2). Along the façade of the structure, such features must occur at a minimum of every 100 ~~30~~ lineal feet, with each floor containing at least one ~~two~~ of the following features:

1. Roof line offset of at least two feet from the top surface of one roof to the top surface of the other;
2. An offset on the building face of at least eight inches from one exterior wall to the other;
3. A section of the facade, at least four feet in width, that is either recessed or bumped out by at least one foot deep from the front wall plane;
4. A recessed building entry at least two feet deep, as measured horizontally from the face of the main building facade, and at least four feet wide;
5. A balcony at least four feet deep and eight feet wide, that is accessible from at least one interior room;
6. A covered porch at least two feet deep (measured horizontally from the face of the main facade) and at least four feet wide;
7. Recess with a minimum depth of four feet; or
8. Extension projecting a minimum of two feet and running horizontally a minimum of four feet.

D. C. Roof Form.

- 1. Sloped roofs are the preferred form for buildings, and flat roofs should be avoided.
- 2. Sloped roofs must have a pitch between 3:12 and 12:12. Mono-pitch (shed roofs) must have a pitch of at least 2:12.
- 3. Dual-pitched or hipped “mansard” and A-frame roof forms are not permitted.
- 2. Sloped roofs are the preferred roof form for buildings with a front facade width 50 feet or greater. **Flat roofs should be avoided.**
- 1. Sloped roofs are required for buildings with a front facade width less than 50 feet.
- 2. Sloped roofs are the preferred roof form for buildings with a front facade width 50 feet or greater. Flat roofs should be avoided.
- 3. Sloped roofs must have a pitch between 6:12 and 12:12. Mono-pitch (shed) roofs must have a pitch of at least 4:12 (Figure 17.74.130-4).
- 4. In instances where sloped roofs are not practicable and a flat roof is the only option, the flat roof must have projecting cornices to create a prominent edge when viewed against the sky. Cornices must be made of a different material and color than the predominate siding of the building, except that brick siding may include matching brick cornices.
- 5. Dual-pitched or hipped “mansard” and A frame roof forms are not permitted.

Figure 17.74.130-4. Roof

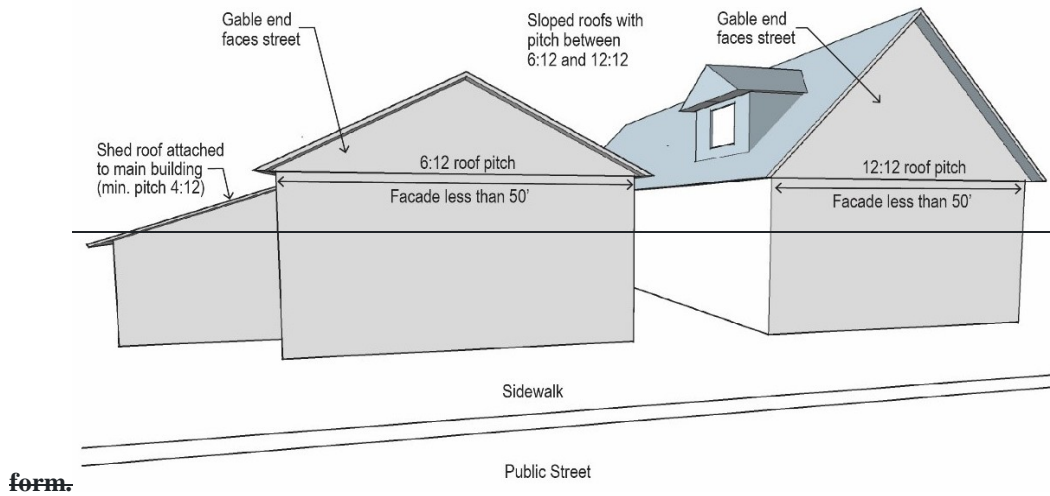


Figure 17.74.130-5. Examples of roof form.



Street-facing gables.



Pitched roof with attached shed roof.

E. D. Building Entrances.

F. E. Building Windows.

G. F. Building Materials.

H. G. Building Colors.

I. H. Garage Requirements.

17.77.070 Development review.

A. The purpose of development review is to establish a coordinated process to ensure that new development on previously undeveloped sites is in compliance with the requirements of this title. ~~prior to the submittal of structural permit applications, or in instances where structural permit applications are not necessary prior to the commencement of any development. The development review application shall demonstrate that the proposed development will comply with all of the applicable requirements of this title, and that the arrangement of all buildings, structures, access points, parking and loading facilities, landscaping, exterior lighting, and storm water facilities will avoid traffic congestion and will provide for pedestrian and vehicular safety and welfare.~~

1. Development review does not replace, or excuse applicants, property owners, or developers from obtaining, any other permits or approvals required by this title, by the Lincoln City Municipal Code, or by any other local, state, or federal law or authority applicable to the proposed development, including but not limited to sign, tree removal, structural, demolition, grading and erosion control, conditional use, planned development, and/or land division permits.

B. Applicability. Except as exempted in subsection (C) of this section, development review approval is required; before any structural permit is issued authorizing development and before any outdoor storage area or parking lot development commences in the R-M, PC, RC, GC, PL, M-W, P, OS, TVC, NP, and OP zones, and before any nonresidential structural permit is issued authorizing development and before any nonresidential outdoor storage area or parking lot development commences in any other zone.

1. Before application for or issuance of any nonresidential structural permit, mixed-use structural permit, or any multi-unit residential structural permit on undeveloped sites in the R-M, PC, RC, GC, PI, MW, P, OS, TVC, NP, and OP zones

2. Prior to commencement of redeveloping existing parking lots or developing new parking lots in any zone.

C. Exemptions. The ~~following activities, development and construction projects listed below~~ are exempt from development review:

1. Detached single-unit dwellings, attached single-unit dwellings, **attached single-unit dwellings developments, recreational vehicles,** manufactured homes, and duplexes;
2. Routine repairs and maintenance;
3. Interior remodeling of an existing building or structure; (also called tenant improvements) or building alterations required to meet ADA or Oregon Residential Specialty Code or Oregon Structural Specialty Code requirements as applicable;
4. Temporary structures associated with temporary uses;
5. Accessory structures ~~that don't require a structural permit;~~
6. Construction, alteration, or maintenance of public infrastructure including streets, traffic control devices, drainage ways, sanitary and storm sewers, storm water quality facilities, water lines, electrical power or gas distribution lines, or telephone or television cable systems;
7. Type I **procedures;** applications;
8. Exterior remodeling of a structure where no portion of the remodeled area is visible to public right of way; or
9. **Expansions of an existing structure.** Development meeting all of the following criteria:
 - a. ~~The development proposes no new structures that require a structural permit; and~~
 - b. ~~The development involves either no expansion of an existing structure or expansion of an existing structure by 800 square feet or less in total; and~~
 - e. ~~The development does not change existing on-site traffic circulation patterns; and~~
 - d. ~~The development adds less than three additional parking spaces.~~

10. Restoration or replacement of a damaged or substantially damaged lawful, nonconforming structure or use (see LCMC 17.64.010).

F. Concurrent Applications for Adjustments. Requests for adjustments to standards required in Chapter 17.74 LCMC ~~shall~~ **should** be processed concurrently with the development review application.

17.77.140 Variance.

A. Procedure. Variance applications are subject to the Type III procedure, as described in LCMC 17.76.050.

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

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

1. Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity and result from **at least one of the following (city official or city staff error is not an exceptional or extraordinary circumstance):**

a. lot size or shape legally existing prior to the date of the ordinance codified in this chapter; **or**

b. topography; **or**

c. ~~or~~ other circumstances **specifically pertaining to the property** over which the property owner has no control;

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

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

4. The variance requested is the minimum variance which would **mitigate the exceptional or extraordinary circumstance. alleviate the hardship.**

17.80.050 Vacation rental dwelling use criteria.

B.3.a. The ~~planning and community development~~ director has the discretion to require such changes as are necessary to conform the dwelling to available approved parking and shall inspect the dwelling as necessary to confirm the occupancy has been so conformed prior to approving the use in any allowed zone. An example is changing a bedroom to another use.

17.80.090 Small wind energy systems.

D. 3. Engineering Report. Before any roof-mounted system is mounted the property owner must submit a report prepared by an Oregon licensed professional engineer attesting to the fact that the structure to which the system will be mounted is or will be sufficiently strong to support the system and to withstand the wind, vibratory, and other loads to which it would be subjected as a result of mounting the system on it. This report is subject to approval by the ~~building official planning and community development director~~ prior to the mounting of the system.

17.80.120 Cottage housing developments.

A. Purpose. A cottage housing development is a small cluster of dwelling units appropriately sized for smaller households and available as an alternative to the development of typical detached single-~~unit dwellings, family homes~~. Cottage housing is intended to address the changing composition of households, and the need for smaller, more diverse, and ~~often,~~ more affordable housing choices. ~~Providing for a variety of housing types also encourages innovation and diversity in housing design and site development, while ensuring compatibility with surrounding single-family residential development.~~

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

~~D. B. Ownership. Cottage housing developments may be sited on one commonly owned parcel with individual cottages owned in a condominium, cooperative, or similar arrangement, or cottages may be on individual lots with shared amenities and facilities owned in common.~~

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

F. ~~D.~~ Standards. Cottage housing developments are subject to the following standards:

~~1. Density. Cottages may be built at up to twice the density allowed by the underlying zoning for detached single-family houses.~~

2. Number of Cottages. A cottage housing development is composed of at least one ~~one or two~~ cottage clusters, with a ~~each~~ cluster containing four to 12 dwelling units.

~~3. Proximity to Other Cottage Housing Developments. No part of a cottage housing development may be within 500 feet of another cottage housing development.~~

4. Cottage Design. The cottages in a cottage housing development are subject to the following standards:

a. Maximum Floor Area. The gross floor area of each cottage shall not exceed 1,250 square feet with an overall maximum average gross floor area of 1,000 square feet per unit for the development. ~~At least 25 percent of the cottages in each cluster shall have a gross floor area less than 1,000 square feet.~~

b. Maximum Footprint. The footprint of each cottage shall not exceed ~~800~~ 1,000 square feet, or 1,400 ~~1,200~~ square feet including an attached garage.

c. Maximum Height. The height of each cottage shall not exceed 25 feet.

d. Setbacks. The setbacks from adjacent property lines along the perimeter of the cottage housing development shall be the same as required by the underlying zone. The minimum distance between all structures, including accessory structures, shall be in accordance with building code requirements.

~~e. Private Open Space. Each cottage may have private open space for the exclusive use of the cottage residents. Private open space does not count towards the required common open space.~~

~~e. f. Orientation of Cottages. Cottages shall be clustered around the common open space. Each cottage shall have a primary entrance and covered porch oriented to the common open space. All cottages shall be within 50 feet walking distance from the common open space, measured from the facade of the cottage to the nearest delineation of the common open space. The design of the common open space shall not use unusual areas or projections to meet this requirement. Lots in a cottage housing development are not required to abut a public street.~~

~~g. Public Street Facing Facades. Cottages abutting a public street shall have an entrance and a porch, bay window, or other architectural enhancement oriented to the public street. Garage or carport entrances may not face a public street.~~

~~h. Porches. Each cottage shall have a covered open porch that shall be oriented toward the common open space and that shall be at least six feet in depth measured perpendicular to the abutting building facade and at least 60 square feet in area.~~

~~i. Fire Access. No part of any structure shall be more than 150 feet, as measured by the shortest clear path on the ground, from fire department vehicle access.~~

~~j. Energy Efficiency. Each cottage shall meet or exceed the energy code provisions of the Oregon Residential Specialty Code.~~

5. Community Buildings. Cottage housing developments may include community buildings that provide space for accessory uses such as community meeting rooms, exercise rooms, day care, or community eating areas. They shall have a footprint of no more than 800 square feet and may not exceed one story in height. Their design, including the roof lines, shall be similar to and compatible with that of the cottages within the cottage housing development.

6. Common Open Space. All cottage housing developments must provide 200 square feet of common open space per unit. Each cottage cluster shall have common open space in order to provide a sense of openness and community of residents. Common open space is subject to the following standards:

~~a. Each cottage cluster shall contain at least 2,000 square feet of common open space regardless of the number of cottages in the cluster, and not less than 400 square feet of common open space per cottage.~~

~~b. Each cottage cluster's common open space shall be in a single, contiguous, usable piece.~~

~~c. Each cottage cluster's common open space shall abut at least 50 percent of the cluster's cottages.~~

~~d. Cottages shall abut each cottage cluster's common open space on at least two sides of the open space.~~

7. Off-street Parking. Off-street parking shall comply with Chapter 17.56 LCMC, excepting the minimum number of off-street parking spaces. Parking for a cottage housing development is subject to the following standards:

a. Minimum Number of Off-street Parking Spaces. Cottage housing developments require a minimum of one off-street parking space per unit, which may be provided through a combination of individual garages/carports, common off-street parking areas, or garages/carports. shall have at least one parking space for each cottage with a gross floor area of 700 feet or less, one and one half parking spaces for each cottage with a gross floor area of 701 to 1,000 square feet (with the total number required rounded up to the nearest whole number), and two parking spaces for each cottage with a gross floor area over 1,000 square feet.

~~b. Guest Parking. Cottage housing developments shall have at least one-half additional guest parking spaces for each cottage in the development, rounded up to the nearest whole number. These spaces shall be clearly identified as being reserved for guests.~~

~~c. Reduction in Number of Required Parking Spaces. The required number of parking spaces may be reduced by the number of on-street parking spaces on public streets adjacent to and immediately abutting the cottage housing development.~~

~~d. Clustering. Parking areas may be arranged in clusters limited to no more than five contiguous spaces.~~

~~e. Access. Parking areas shall be accessed only by a private driveway or public alley. No parking space may access a public or private street directly. No parking space may be between a public street and cottages abutting the public street.~~

~~f. Design. The design of garages and carports, including the roof lines, windows, and trim, shall be similar to and compatible with that of the cottages within the cottage housing development.~~

~~g. Screening. Landscaping or architectural screening at least three feet tall shall separate parking areas from the common area and public streets. Solid board fencing shall not be allowed as an architectural screen.~~

~~8. Walkways. A system of interior walkways shall connect each cottage to the common area, parking areas, any community buildings, and sidewalks abutting any public streets bordering the cottage housing development. Interior walkways shall be at least five feet in width.~~

~~8.9. Interior Fences. Fences on the interior of the cottage housing development shall not exceed three feet in height and shall not consist of solid board fencing.~~

~~9.10. Existing Structures. On a lot or parcel to be used for a cottage housing development, an existing detached single-family unit dwelling that may be nonconforming with respect to the requirements of this section may remain, but the extent of its nonconformity may not be increased. Such dwellings shall count towards the number of cottages allowed in the cottage housing development.~~

~~10.11. Exemptions. Cottage housing developments are exempt from the following standards:~~

~~a. The requirement of LCMC 16.08.050 that a subdivision with land area greater than two acres or 10 lots must be processed as a planned unit development.~~

~~b. The minimum lot sizes, minimum lot depths, minimum lot widths, and maximum building coverage of LCMC 16.12.220.~~

~~c. The standards of LCMC 17.16.070 (R-1 zone) for minimum lot width, maximum lot building coverage, minimum lot area (but not the applicable underlying maximum density, as modified by subsection (F)(1) of this section), and setback requirements (except on the outer perimeter of the cottage housing development), which outer perimeter setbacks shall be those as required by the underlying zone. Notwithstanding the exception for maximum lot coverage above, if the coverage standard for the underlying district is exceeded, the cottage cluster project shall utilize innovative design techniques (e.g., bioswales and pervious concrete) to retain storm water on site and provide for water quality treatment before discharge. Such storm water treatment methods are subject to approval of the city engineer.~~

~~d. The standards of Chapter 17.56 LCMC pertaining to the number of required off-street parking spaces. LCMC 17.16.090 (R-1 zone) relating to off-street parking and loading.~~

~~e. The standards of LCMC 17.40.060 (R-R zone) for setback requirements (except on the perimeter of the cottage housing development), minimum lot area (but not the applicable underlying maximum density, as modified by subsection (F)(1) of this section), and off-street parking and loading.~~

~~f. The number of required parking spaces of LCMC 17.56.030.~~

~~11. 12.~~ Vacation Rental. No cottage in a cottage housing development may be used as a vacation rental dwelling.

~~12. 13.~~ Sewer Connection. Each cottage in a cottage housing development must be connected to the city sewer system. No cottage in a cottage housing development may use a septic system.

17.80.150 Four-flat dwellings.

A. Standards.

1. Minimum Lot Size. **~~A four-flat dwelling may be located on a lot of at least 10,000 square feet. There is no minimum lot size requirement for a four-flat dwelling.~~**

2. Parking. Each four-flat dwelling must have a minimum of ~~six~~ **four** off-street parking spaces, **and they must be located on the same tax lot as the four-flat dwelling.**

17.80.190 Conversions.

A. Except as provided in this section and notwithstanding any statewide land use planning goals or land use regulations, the city shall unconditionally allow the conversion of the lawful use of a property:

1. From use as a hotel or motel to use as an emergency shelter.

2. From use as a hotel or motel that was converted to an emergency shelter to then use as affordable housing.

3. From use as a hotel or motel to use as affordable housing.

B. This section applies to areas:

1. Not designated on the comprehensive plan map as specifically for heavy industrial uses;

2. Not within an area designated for a statewide land use planning goal relating to natural disasters or hazards, including flood plains or mapped environmental health hazards, unless the converted use complies with regulations directly related to the disaster or hazards;

3. With adequate transportation access to commercial and medical services; and

4. Containing lawfully-existing hotels or motels.

C. The converted use shall comply with:

1. Applicable building codes; and

2. Occupancy limits.

17.80.200 Affordable Housing

A. Affordable housing shall be allowed, and shall not require a zone change or conditional use permit for affordable housing on property if:

1. The property upon which the housing sits is owned by a public body, as defined in ORS 174.109; or

2. The property upon which the housing sits is owned by a nonprofit corporation that is organized as a religious corporation; or

3. The property is zoned for commercial uses; or

4. The property is zoned for to allow places of worship; or

5. The property is public lands.

B. The provision for allowing affordable housing in the Planned Industrial (PI) Zone only applies if:

1. The property is publicly-owned property;

2. The property is adjacent to lands zoned for residential uses or schools; and

3. The property is not specifically designated for heavy industrial uses.

C. The provision for allowing affordable housing does not apply:

1. On properties that cannot be adequately served by water, sewer, storm water drainage, or streets, or will not be adequately served at the time that development on the property is complete; or

2. The property contains a slope of 25 percent or greater; or

3. The property is within a 100-year floodplain; or

4. The property is constrained by land use regulations based on statewide land use planning goals relating to:

a. Natural disasters and hazards; or

b. Natural resources, including air, water, land or natural areas, but not including open spaces or historic resources

D. Additionally, notwithstanding any statewide land use planning goal or land use regulation, with respect to a property owned by a nonprofit corporation organized as a religious corporation, the city:

1. May not apply any standards of conditions of approval under ORS 197.307(4) to the development of affordable housing or unless those conditions are related to health, safety, habitability, and infrastructure.

2. Shall approve an application for the use of property to allow the development of affordable housing on the property notwithstanding the uses allowed by the zoning of the property, if the lot or parcel is zoned for uses other than for industrial uses or contiguous to property zoned to allow or used for residential uses. The city shall not require that the property be rezoned for residential uses or comply with any conditions except those related to health, safety, habitability, and infrastructure.

17.80.220 Emergency Shelters

A. an application for the development or use of land for an emergency shelter as defined in Chapter 17.08 LCMC, shall be approved on any property, notwithstanding ORS Chapter 195, 197, 197A, 215, or 227, or any statewide plan, rule of the Land Conservation and Development Commission or local land use regulation, zoning ordinance, regional framework plan, function plan, or comprehensive plan, if the emergency shelter:

1. Includes sleeping and restroom facilities for clients;

2. Will comply with applicable building codes;

3. Will not result in the development of a new building that is sited within an area designated under a statewide planning goal relating to natural disasters and hazards, including flood plains or mapped environmental health hazards, unless the development complies with regulations directly related to the hazard;

4. Has adequate transportation access to commercial and medical services; and

5. Will not pose any unreasonable risk to public health or safety.

B. The emergency shelter must be operated by:

1. A local government as defined in ORS 174.116;

2. An organization with at least two years' experience operating an emergency shelter using best practices that is:

_____ a. A local housing authority as defined in ORS 456.375; or

_____ b. A religious corporation as defined in ORS 65.001; or

_____ c. A public benefit corporation, as defined in ORS 65.001, whose charitable purposes includes the support of unsheltered individuals, that has been recognized as exempt from income tax under section 501(a) of the Internal Revenue Code on or before January 1, 2018; or

3. A nonprofit corporation partnering with any other entity described in this subsection.

C. An emergency shelter approved under this section may provide onsite for its clients and at no cost to the clients:

1. Showering or bathing;

2. Storage for personal property;

3. Laundry facilities;

4. Service of food prepared either on the site or off the site;

5. Recreation areas for children and pets;

6. Case management services for housing, financial, vocational, education, or physical or behavioral health care services; or

7. Any other services incidental to shelter.

D. An emergency shelter approved under this section may include youth shelters, winter or warming shelters, day shelters and family violence shelters as defined in ORS 409.290.

E. An emergency shelter approved under this section may also provide additional services not described in subsections © and (D) of this section to individuals who are transitioning from unsheltered homeless status. An organization providing services under this subsection may charge a fee of no more than \$300 per month per client and only to clients who are financially able to pay the fee and who request the services.

F. The approval of an emergency shelter under this section is not a land use decision and is subject to review only under ORS 34.010 to 34.100.

G. Application must be made prior to July 1, 2023, and approval is void unless the shelter is operating within two years following the approval.