

**LINCOLN CITY PLANNING COMMISSION
MINUTES
June 15, 2021**

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

Attendee Name	Title	Status	Arrived
Marci Baker	Chair	Present	
Kim Blackerby	Commissioner	Present	
Patti Kroen	Commissioner	Present	
Lenny Nelson	Commissioner	Present	
Miles Schlesinger	Commissioner	Absent	
MacNeale Smith	Commissioner	Present	

2. AGENDA CHANGES OR REVISIONS

3. MINUTES

3.1. Planning Commission - Regular Meeting - May 18, 2021 6:00 PM

MOTION:	Motion to approve the minutes from the May 18, 2021 Planning Commission meeting
MOVER:	Lenny Nelson, Commissioner
SECONDER:	Marci Baker, Commissioner
AYES:	Baker, Blackerby, Kroen, Nelson, Smith
ABSENT:	Miles Schlesinger
RESULT:	Passed

4. FINAL ORDERS, RESOLUTION, & WRITTEN COMMUNICATIONS

None

5. PUBLIC HEARINGS/DELIBERATIONS

1. Public Hearing ZOA 2021-02 - Ordinance 2021-10 Chapter 15.16 Appeal / Variance procedures

City Attorney Richard Appicello read the script presenting the proposed amendment.

There were no abstentions or declarations of bias.

Mr Appicello presented the staff report for the proposed zoning ordinance amendment, ZOA 2021-02, amending LCMC Chapter 15.16. He said that he wrote this amendment back in January to address some issues that the city came across when someone was contemplating filing an appeal of a floodplain issue. The amendment references the procedures that were adopted as part of Ordinance 2020-15, tying together the amendments made last year.

There is a long list of considerations for granting a variance. Mr Appicello said that the amendment is not intended to fix those - it is just housekeeping to separate the floodplain appeals and the floodplain variances. The amendment also clarifies that an appeal will be on the record , if there is an appeal.

Commissioner Blackerby moved to close the public hearing and the record. Commissioner Nelson seconded Kim and seconded by Lenny. All were in favor.

Deliberation and Recommendation to the City Council.

Commissioner Nelson said that she does not understand why the Planning Commission would hear an appeal of an issue with the floodplain. Mr Appicello said that the Planning Commission are currently the appeal board. Floodplain administration is addressed by the Planning Department - it is land use and fits within the jurisdiction of the Planning Commission. He said that the amendment does not change any of that - it is to separate appeals and variances, which were jumbled together in the code as it currently exists. Commissioner Nelson said that she doesn't understand how the Planning Commission would have the authority or the experience to grant variances to the floodplain code. Mr Appicello said that all appointed bodies have the option to refer matters to a hearings officer to conduct a hearing and make a recommendation. It is built into the municipal code.

Chair Baker said that she is also not familiar with the floodplain and what the floodplain administrator does. Mr Appicello said that variances come to the Planning Commission. An appeal would be something like a case where the floodplain administrator decides that a remodel in the floodplain has been more than 50% of the value of the structure. That decision could be appealed to the Planning Commission for a review on the record to determine whether the floodplain administrator followed the procedures in the code. The appellant has to identify exactly how the floodplain administrator messed up. The Planning Commission is unlikely to see successful appeals of floodplain decisions because the floodplain administrator makes decisions based on substantial evidence.

Commissioner Nelson said that she read through the considerations for a decision and noted several that she would not have the expertise to make a decision on. Mr Appicello noted again that in cases where a case is beyond the technical capabilities of the Planning Commission, there is always the possibility of using a hearings officer, and that on option is to recommend to City Council that these go to a land use hearings officer.

Commissioner Blackerby said that he appreciates what Commissioner Nelson is saying, but that he sees that Mr Appicello is giving an option for cases where it is beyond the capabilities of the Planning Commission. Commissioner Kroen said that it is reasonable for the Planning Commission to make a decision on a variance or an appeal and if it is outside the experience of the commissioners that there is the option for a hearings examiner.

Commissioner Blackerby moved to recommend approval of the ordinance to the City Council. Commissioner Kroen seconded. All voted yes except for Commissioner Nelson, who said that she voted no because she believes that she does not have the capability to grant variances based on the grounds that were listed.

5.1.1.

MOTION:	Motion to close the public hearing and the record for ZOA 2021-02
MOVER:	Kim Blackerby, Commissioner
SECONDER:	Lenny Nelson, Commissioner
AYES:	Baker, Blackerby, Kroen, Nelson, Smith
ABSENT:	Miles Schlesinger
RESULT:	Passed

5.1.2.

MOTION:	Motion to recommend approval of ZOA 2021-02 to the City Council
MOVER:	Kim Blackerby,
SECONDER:	Patti Kroen, Commissioner
AYES:	Marci Baker, Kim Blackerby, Patti Kroen, MacNeale Smith
NAYS:	Lenny Nelson
ABSENT:	Miles Schlesinger
RESULT:	Passed

2. Public Hearing ZOA 2021-01 - COVID Time Extension

Mr Appicello read the script and introduced the public hearing for ZOA 2021-02, which involves a Council-initiated proposal to create a process for an 18-month timetable extension for pre-approved land use approvals.

There were abstentions or declarations of bias.

Mr Appicello presented the staff report. He said that there were a lot of things that were put on hold because of the COVID pandemic. One of those things was lending for real estate development projects. The City Council said in February that they were interested in considering a timetable extension. The proposed ordinance allows for an extension of up to 18 months. Type II and Type III approvals are eligible. Projects must have been approved by and still be unexpired on specific dates described in the ordinance. The approval decision will be administrative, handled by the Planning Director, and will not be about revisiting the original approval. If you meet the criteria you will get the 1-time, 18-month timetable extension.

No members of the public were present in the hearing room to offer testimony, and no written testimony was received.

Commissioner Nelson moved to close the hearing and record, seconded by Commissioner Smith. All were in favor.

Commissioner Nelson asked when the 18 months starts. Mr Appicello answered that it is a timetable extension, so it adds 18 months onto the expiration date of the eligible approval.

Commissioner Blackerby asked how the \$250 fee was arrived at. Mr Appicello said that it is a standard fee for appeals, but that they would not want to go more than \$250. Commissioner Blackerby said that because we are doing this under COVID and because COVID has affected so many people in so many ways, this is an opportunity for the city to do something to show more

understanding. He recommended reducing the fee. Commissioner Smith said that he can see that the intent of the proposed ordinance is to relieve hardship that came from COVID. A \$250 fee is an added a hardship. Mr Appicello said that if the Planning Commission wants to make a recommendation for a different fee, they can do that in the recommendation. He said that he thinks that the \$250 is the existing fee for a timetable extension.

Commissioner Kroen said that she would like to make a recommendation that the fee be reduced to \$50. She made a motion to recommend approval with the fee reduced to \$50.

5.2.1.

MOTION:	Motion to close the public hearing and the record for ZOA 2021-01
MOVER:	Lenny Nelson, Commissioner
SECONDER:	MacNeale Smith, Commissioner
AYES:	Baker, Blackerby, Kroen, Nelson, Smith
ABSENT:	Miles Schlesinger
RESULT:	Passed

5.2.2.

MOTION:	Motion to recommend approval of ZOA 2021-01 with the fee reduced to \$50
MOVER:	Patti Kroen, Chair
SECONDER:	Kim Blackerby, Commissioner
AYES:	Baker, Blackerby, Kroen, Nelson, Smith
ABSENT:	Miles Schlesinger
RESULT:	Passed

6. OLD BUSINESS

None

7. NEW BUSINESS

None

8. PLANNING COMMISSION TRAINING

None

9. PLANNER COMMENTS

Commissioner Blackerby asked if there was any update on the vacant Planning Commission position. Mr Kim said that he has heard one person applied but he does not know anything about the person. Mr Appicello said that there are procedures in the code.

Commissioner Blackerby asked that we get notice of things that are coming for the next meeting. Mr Mattison said there is another zoning amendment for the R-M zone to allow for the permitted use of detached single unit homes on lots less than 8,000 square feet. Also on the agenda is SUB 2020-02, the Overlook subdivision.

There was discussion about a group site visit. Commissioner Blackerby asked how many people would be interested in a group site visit for SUB 2020-02. He asked Mr Mattison to coordinate a site visit.

Mr Kim said that the discussions related to the Comprehensive Plan are on hold for a couple months in order to be able to have the workshops in person. City Council has an in-person meeting scheduled for July 12, and he wants to see how that goes. Mr Appicello said that the City Council wants to encourage public participation, and that the City Manager asked that we delay in order to let reopening happen. In-person meetings will take some adjustment because things have been strange for a while. The comprehensive plan will not be a subject of discussion at the next Planning Commission meeting.

Commissioner Nelson asked where the recreation area for the apartments across from City Hall is. Mr Appicello said that staff will have to get back to the commissioners with an answer

10. FUTURE AGENDA ITEMS & NEXT MEETINGS

11. ADJOURN

7:16 adjourn.

Respectfully submitted,

James White
Assistant Planner

Marci Baker
Chair