



AGENDA

Lincoln City Planning Commission
Tuesday, February 18, 2020, 6:00 PM
Council Chambers,
801 SW Highway 101 - 3rd Floor, Lincoln City, OR 97367

- 1. CALL TO ORDER, PLEDGE OF ALLEGIANCE, & ROLL CALL**
- 2. AGENDA CHANGES OR REVISIONS**
- 3. MINUTES**
 - 3.1. Planning Commission - Regular Meeting - Feb 4, 2020 6:00 PM
- 4. FINAL ORDERS, RESOLUTION, & WRITTEN COMMUNICATIONS**
 - 4.1. Final Order (FO 2020-03) for CUP 2020-01 and SPR 2020-01 Conditional Use Permit and Site Plan Design Review for Northwest Natural resource center at 2815 NE 36th Drive
 - 4.2. Final Order (FO 2020-02) for APP 2020-01 Lawson, et al Appeal of Eclevia dwelling as an unlimited use vacation rental dwelling
- 5. PUBLIC HEARINGS/DELIBERATIONS**
 - 5.1. CPA ZC 2020-01 Scrutton et al Zone Change: Request to rezone approximately 2.06 acres from Multiple-Family Residential (RM) to Recreation-Commercial (RC) zone
 - 5.2. Annex 2020-01 CPA ZC 2020-02 Woods One: Annexation of approximately 11.15 acres, comprehensive plan map amendment and zone change from Lincoln County's Residential (R-1-A) to Lincoln City's Single-Family Residential District (R-5) and R-1-5 Zone
- 6. OLD BUSINESS**
- 7. NEW BUSINESS**
- 8. PLANNING COMMISSION TRAINING**
- 9. REPORTS & 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 Cathy Steere, City Recorder, at 541-996-1203.

**LINCOLN CITY PLANNING COMMISSION
MINUTES
February 4, 2020**

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

Attendee Name	Title	Status	Arrived
Lenny Nelson	Commissioner	Present	
Patti Kroen	Chair	Present	
Miles Schlesinger	Commissioner	Present	
Joshua Brainerd	Commissioner	Present	
Marci Baker	Commissioner	Late	6:04 PM
Kim Blackerby	Commissioner	Present	

2. AGENDA CHANGES OR REVISIONS

None

3. MINUTES

3.1. Planning Commission - Regular Meeting - Jan 21, 2020 6:00 PM

MOTION:	Minor changes were submitted by Commissioner Blackerby. Those corrections were made prior to the meeting.
MOVER:	Lenny Nelson, Commissioner
SECONDER:	Kim Blackerby, Commissioner
AYES:	Nelson, Kroen, Schlesinger, Brainerd, Blackerby
ABSENT:	Marci Baker
RESULT:	Passed

4. FINAL ORDERS, RESOLUTION, & WRITTEN COMMUNICATIONS

1. FO 2020-01 for CUP 2019-05 Devils Lake RV

The Final Order 2020-01 was provided to the commissioners at the meeting. Several conditions approved at the January 21, 2020 Planning Commission meeting were not included in the order. Staff will prepare a final copy with the missing conditions for Chair Patti Kroen's signature.

4.1.1.

MOTION:	Approve Final Order 2020-01 for CUP 2019-05 Devils Lake RV with conditions as approved on January 21, 2020
MOVER:	Lenny Nelson, Commissioner
SECONDER:	Miles Schlesinger, Commissioner
AYES:	Nelson, Kroen, Schlesinger, Brainerd, Baker, Blackerby
RESULT:	Passed

5. PUBLIC HEARINGS/DELIBERATIONS

1. APP 2020-01 Lawson Appeal of Eclevia VRD

Chair Kroen read the required statements. No ex-parte contacts were declared. There were no challenges to the qualifications of any of the commissioners to participate in the hearing. At the request of Chair Kroen, Planning and Community Development Director Anne Marie Skinner read the applicable substantive criteria for the decision. All testimony must be directed to the substantive criteria. Chair Kroen summarized the public hearing procedures.

2. Staff Report

Director Skinner summarized the appeal. The Single-Family Residential (R-1-5) zone has a cap on the number of vacation rentals. An application for accessory use at the subject site was received on 7/22/2019. At the time the R-1-5 VRD cap was filled. The property owners asked to be placed on the established waiting list for R-1-5. Ms Skinner listed the dates and process for the original approval for the accessory license. The property owners received notification that they were next on the waiting list and on 11/14/2019 they requested an amendment for land use from accessory to unlimited. There are no changes in the standards between accessory and unlimited land use approval. Staff approved the unlimited VRD amendment. The appeal for the amended land use approval ended 1/7/2020. On 1/3/2020, the Planning Department received an appeal of the land use approval based on traffic (danger to residents), and that off-site parking is not available. Ms Skinner summarized the standards for approving a vacation rental dwelling, and described how each of them are met at the subject property.

Chair Kroen asked several questions about the requirements for parking spot size and how the site meets those requirements. Vacation rental dwellings are required to have one off-street parking spot per bedroom with a minimum of 2 spots. At least one of those 2 must a full-size parking spot (9 ft x 20 ft).

Commissioner Blackerby asked about the process for coming off of the wait list. Ms Skinner explained that the number of VRDs decreased somewhere in the R-1-5 zone, making room within the cap.

3. Appellant Testimony

Octavian Tomos and Jerry Newton, both named in the appeal letter, spoke for the appellants. Mr Newton said that he was in communication with Mr Lawson, who filed the appeal. He referred to a Planning Commission action three years ago to designate the entire area as a VRD designated area. He said that they brought a petition signed by 75 percent of the people who have permanent homes in the area saying that they did not want VRDs there. He said that the subject property seems to be an area that residents thought was omitted from the process. The house in question is at the corner of a street that is a dead end. The postal box is located there, and it is a place that residents go to get mail. There is no way to back out of the space without going into the neighbor's driveway. Mr Newton said that he is concerned about safety.

Mr Tomos said that he was not there when the neighbors brought the petition to the Planning Commission. He has been in the neighborhood about a year and a half. The house in question is right next to the mailbox. There is not room for two cars to get by. It is never just two cars at vacation rentals. There are other rentals in the area and they are packed with cars. The

biggest challenge is the space and the safety. Mr Tomos said that his wife has disabilities and walks that street. With all the traffic that will be coming, they are appealing the full-time VRD. To have someone there year round is an entirely different thing.

Mr Newton said that he would have no problem with the house being rented out for a full-time rental. The homeowners have not been there for a couple of months. The place was blown to pieces after the last storm and is in disarray. Mr Newton asked who is going to manage the place and manage the renters.

Mr Tomos said that the shed was blown over and all of the neighbors said to take pictures. Ms Skinner added that every VRD has a local representative. Chair Kroen added that they could come in to the planning counter and get the name of the local representative.

City Attorney Richard Appicello said that under the VRD license, each VRD must post a placard with the name of the local rep. Referring to the description of a petition "a couple of years ago," Mr Appicello explained that a couple of years ago we had a vacation rental zone created. The Planning Director at the time was going to do a city-wide rezoning to allow vacation rentals. That doesn't mean that individuals can't come in and apply for a license. After that experiment the VR zone was set aside to not be used again and they came up with the cap in the residential zone.

4. Applicant Testimony

The owner of the property was not present.

5. Public Testimony

A. Testimony in Favor

None

B. Neutral Testimony

None

C. Testimony in Opposition

None

D. Public Agencies

None

6. Rebuttal

No Rebuttal

MOTION:	Close the hearing and the record
MOVER:	Marci Baker, Commissioner
SECONDER:	Joshua Brainerd, Commissioner
AYES:	Nelson, Kroen, Schlesinger, Brainerd, Baker, Blackerby
RESULT:	Passed

7. Deliberations

There was no request for a continuance, and because the applicant was not present the Planning Commission deemed that the right to submit final written argument is waived.

Mr Appicello reminded the commissioners that testimony has to be directed to the applicable criteria.

Commissioner Schlesinger remarked that there are a number of rental properties because it's close to the park and lake frontage. There are a number of people who want to stay there. He said that he supports the status quo of upholding the Planning Director's approval.

Commissioner Baker said that all evidence shows that the criteria were met. Hypotheticals of whether the rules will be followed will be dealt with in the future. It is not something we can use as the basis of denying an application. Potential dangerous traffic is not a criteria in the code.

Commissioner Nelson expressed her agreement with Commissioner Baker.

Chair Kroen addressed the appellants, agreeing that parking does become an issue with some vacation rentals. But that because the owners of the subject property have met the requirements that are in the ordinance, the remedy is to call the police when there are issues and have them respond to it. That goes for a lot of things: noise, trash, etc. If you notice things going on that should not be going on, not only call the local representative, but also the police. When the licenses come up for renewal, the log kept by the police is looked at by the planners reissuing the license.

MOTION:	Deny the appeal and approve the application for unlimited use.
MOVER:	Joshua Brainerd, Commissioner
SECONDER:	Marci Baker, Commissioner
AYES:	Nelson, Kroen, Schlesinger, Brainerd, Baker, Blackerby
RESULT:	Passed

2. CUP 2020-01 & SPR 2020-01 NWN Lincoln City Resource Center

Chair Kroen read the required statements. No ex-parte contacts were declared. There were no challenges to the qualifications of any of the commissioners to participate in the hearing. At the request of Chair Kroen, Planning and Community Development Director Anne Marie Skinner read the applicable substantive criteria for the decision. All testimony must be directed to the substantive criteria. Chair Kroen summarized the public hearing procedures.

2. Staff Report

Director Skinner presented the staff report for CUP 2020-01 and SPR 2020-01. She described the site and the application in general. The subject site is an undeveloped lot containing vegetation and trees. Applicant will be constructing a new office building, a vehicle storage building, and other structures. Findings must be factual and supported by substantial evidence. Ms Skinner reviewed the applicable criteria.

Criterion 1: The applicant has noted that the site is in the General Commercial zoning district and that the code lists examples of uses that meet the intent, which includes PUD, motor vehicle repair and aggregate storage. The zone permits, as conditional uses, light fabrication and limited services. The Comprehensive Plan does not contain any applicable standards for service stations but does for utilities. The Comprehensive Plan notes that those services are located in Lincoln City and encourages planning to ensure there are no future constraints on future services.

Criterion 2: Ms Skinner referred the commissioners to the 7 pages of staff report covering this criterion. In staff's estimation, if the site plan review standards are met, then criterion 2 is met because criterion 2 relates to adequacy of the site (which is all covered in the requirements for site plan review). Most of the building design standards do not apply to this project because it is in neither in a string nor a pearl. Exterior lighting requirements apply. The applicant supplied a lighting plan that meets criteria.

Criterion 3: The applicant submitted a traffic profile. Staff noted that pedestrians will be required to walk on 36th street that does not include shoulders or sidewalks. The proposed use will change the type of vehicle traffic to now include large trucks and trailers. In the current unimproved state and given the type of vehicular traffic involved, frontage improvements are necessary the remaining length of the road connecting to the multi-use pathway on West Devils Lake Road. A curb and gutter and sidewalk are required on the southern boundary of the site and extending to West Devils Lake Road. Commissioner Nelson asked where the entrance is from the property onto NE 36th. Ms Skinner replied that the entrance appears to be in the south east corner of the property. Commissioner Nelson asked which part of the road will be improved. Ms Skinner replied that it will be the entire site frontage and the remaining 400 feet to West Devils Lake Road. Commissioner Blackerby asked whether Northwest Natural will pay for those improvements. Ms Skinner replied that they will. Commissioner Baker clarified that the improvements will be on the one side of the road. Ms Skinner confirmed that the improvements would be on one side of the road.

Criterion 4: The submitted site plan shows a 7 foot tall chain-link fence with privacy slats. The site will be developed with a cut. The cut, along with the landscaping and the fence, and the blended-in telemetry tower and shielded exterior lights will make minimal adverse impact to neighbors. The applicant included a site acoustical analysis showing that the impact of noise will be minimal. Commissioner Nelson asked whether chain link with slats is an approved fencing type. Ms Skinner replied that Title 17 has no requirements on types of fencing.

Criterion 5: Does not apply in the case.

Commissioner Schlesinger asked whether there is sewer along that part of the street or whether the applicant will be putting in a sewer line. Ms Skinner replied that she will let the applicant address that question.

3. Applicant Testimony

Mary Fierros-Bower, the applicant's representative, addressed the Planning Commission. She explained that she wrote down the questions that the commissioners had during the staff

report and that she would walk through those questions. Ms Fierros-Bower invited questions from the commissioners.

There was a question about the existing structure on the site. There is a storage garage there right now and a stockpile of gravel. The applicant is proposing to remove the garage. They will keep the ingress/egress in the same location.

Ms Fierros-Bower explained that they tried to be sensitive to the residents across the street. They are carving into the hillside to make the circulation of large vehicles easier as well as to provide screening. They are maintaining a 7 foot tall fence for security. Northwest Natural resource centers are secured and are not open to the public. There will be no visitors. Chair Kroen asked whether there will be a retaining wall when they excavate and carve into the hill. Ms Fierros-Bower replied that they are proposing a retaining wall, and indicated the area on the site plan for the commissioners.

Commissioner Blackerby asked whether Northwest Natural has a facility that they are currently using to do this work. Ms Fierros-Bower replied that there is currently a facility on Highway 101. Commissioner Blackerby asked what Northwest Natural will do when they have the new space. Ms Fierros-Bower replied that they will vacate that [Highway 101] space. In response to a question from Commissioner Blackerby about what will be done with the Highway 101 property after Northwest Natural moves to the new facility, Wayne Pipes, Director of Facilities, Security and Emergency Management for Northwest Natural, addressed the Planning Commission. He said that Northwest Natural would sell the existing location after the move to the new location. Properties are owned by the rate payers.

Commissioner Nelson noted a fuel tank on the plans and asked whether Northwest Natural will have a system set up so that if there is an accidental spill they can contain it on the site. Ms Fierros-Bower explained that there is an oil/water separator. The fuel tanks are dual tanks to prevent leaks. Commissioner Nelson asked what will be done with the water from the washing facility. They will have a water circulating unit and a recycling system for the water, which goes into the sanitary sewer afterward.

Commissioners Nelson and Blackerby both expressed their appreciation for the presentation and complimented the applicants for providing good information.

Mr Pipes said that, being a critical facility, the structures will be seismically upgraded.

Commissioner Baker asked about the neighborhood meeting held by Northwest Natural, and how the facility was received. The facility was received well. The neighbors had questions about trees and screening and noise and vehicles.

Commissioner Schlesinger expressed interest in the age of the current facility. The applicants explained that the building is over 50 years old. Northwest Natural took it over in 1965 or 1966. Commissioner Schlesinger asked if that building has the modern conveniences that will be included in the new facility. The applicants replied that it does not and the existing building is hard for vehicles to get out of - especially in the summer.

Commissioner Nelson asked whether the applicants will stipulate that traffic exits to West Devils Lake Road. The applicants replied that unless there is a specific road circumstance,

they will be going out to West Devils Lake Road to access the light at the intersection with Highway 101.

Commissioner Nelson asked how customers will come up to visit if Northwest Natural is closing the site that they have now. The applicants explained that customers do not come to their resource centers.

Chair Kroen asked whether, in the parking area, the applicants had contemplated adding an electric car parking space. Such a space is not required. Ms Fierros-Bower replied that one has not been included at this facility, but at the Vancouver Resource Center it is a requirement, so they have done future rough-ins for electric vehicle stations there.

Chair Kroen noted that it is a narrow street with big trucks coming in and out and asked whether the applicants had any thought to put some kind of flashing light to alert people on the street that a big truck is coming out. The applicants replied that they have not talked about a light. There is good sight distance on the driveway, which is one of the only flat spots on the site. There was a question about vegetation on the site plan, and Scott Morris, the civil engineer explained that anything planted in the clear vision area would be less than 30 inches.

Regarding the question about the sewer line, Mr Morris said that there is a sanitary sewer manhole right at the driveway. The line is pressured above the manhole, but they will feed into the gravity line.

Commissioner Nelson asked about stormwater facilities. The applicants explained that they will be collecting all the stormwater on site and will build a detention tank to treat the water. Runoff should be no more than it is now, and will probably be less. Chair Kroen noted that the parking and the rest of the site up to the retaining wall will be impervious, and asked whether they will be collecting water that is currently going into the ground. The applicants explained that the amount of impervious surface is the reason why they are building the detention tank. It will catch stormwater from everything except an area on the south side by the RV park. Chair Kroen asked whether they are anticipating any additional flow to the RV park. The applicants replied that there will be less.

4. Public Testimony

A. Testimony in Favor

John Miller, a resident in the neighborhood, said that Northwest Natural invited the neighborhood to a site plan meeting a month and a half ago. He said that the general consensus of the home owners that showed up was very favorable. Northwest Natural seemed to have all of their ducks in a row. The people there thought that it was a good idea for such a big space to have something like that there. Especially being out of the tsunami zone. It's a great thing for the neighborhood. Mr Miller said that there isn't much foot traffic because of the hill. People come down the hill much faster than they go up. Mr Miller recommended that the Planning Commission approve the proposal if the applicants have all of their ducks in a row.

B. Neutral Testimony

None

C. Testimony in Opposition

None

5. Rebuttal

No rebuttal. There was no request for a continuance or to hold the record open. The applicant waived the opportunity to submit final arguments.

5.2.5.1.

MOTION:	Close the hearing and the record
MOVER:	Kim Blackerby, Commissioner
SECONDER:	Lenny Nelson, Commissioner
AYES:	Nelson, Kroen, Schlesinger, Brainerd, Baker, Blackerby
RESULT:	Passed

6. Deliberations

Mr Appicello reminded the commissioners that there are two separate applications - a conditional use permit and the site plan review. The Planning Commission can move and vote on both applications together.

Commissioner Blackerby said that he thinks it is an impressive design and adds to the image of the city. The new facility is clearly an upgrade from what they are using today and makes the city better. Commissioner Brainerd added that it was a very professional application and thanked the applicants for being here and for their efforts to bring the community into the process. It is a big impact when you are talking about larger projects like this. Commissioner Baker said that it looks like the criteria are met. Staff did a good job on the conditions. The proposal looks like a good use for a large undeveloped area. Commissioner Nelson said that she is glad to see that they are retaining as many trees as possible. She said that she knows how steep the site is, and wondered what Northwest Natural was planning on doing in there. Commissioner Schlesinger said that he thinks that it is a great proposal and is glad that they are moving ahead. Commissioner Kroen said that she doesn't have anything to add to what the other commissioners said except "well done." She said that the plan is well thought out. She likes the design. She encouraged the applicants to keep as many sitkas as they can, and to plant as many as they can.

MOTION:	To approve both applications with the conditions in the staff report and the additional conditions from public works.
MOVER:	Joshua Brainerd, Commissioner
SECONDER:	Marci Baker, Commissioner
AYES:	Nelson, Kroen, Schlesinger, Brainerd, Baker, Blackerby
RESULT:	Passed

6. OLD BUSINESS

None

7. NEW BUSINESS

None

8. PLANNING COMMISSION TRAINING

Planned training is still on hold. A new commissioner appointment interview is scheduled on the City Council agenda for February 10, 2020

9. REPORTS & COMMENTS

None

10. FUTURE AGENDA ITEMS & NEXT MEETINGS

There are two cases on February 18, 2020: An annexation and rezone proposal, and a rezone proposal.

11. ADJOURN

Respectfully submitted,

James White
Assistant Planner

Patti Kroen
Chair



PLANNING COMMISSION STAFF REPORT
MEETING DATE: February 18, 2020

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

FO 2020-03 for CUP 2020-01 NW Natural Resource Center

Final Order (DOC)

FINAL ORDER 2020-03
BEFORE THE PLANNING COMMISSION
CITY OF LINCOLN CITY, LINCOLN COUNTY, OREGON
February 18, 2020

In the Matter of Approval of a Conditional Use Permit Application)
[CUP 2020-01] and Site Plan Design Review [SPR 2020-01] for) **FINDINGS OF FACT**
Northwest Natural resource center in the GC (General Commercial)) **CONCLUSIONS OF LAW**
Zone on Property Located at 2815 NE 36th Drive,) **AND ORDER**
Lincoln City, Oregon)

Applicant: Mary Fierros-Bower
Owner: Kim William Biddle

I. NATURE OF PROCEEDINGS

This matter comes before the Planning Commission for the City of Lincoln City for *de novo* consideration of a Conditional Use Permit application and Site Plan Design Review for construction of a new single-story office and vehicle storage/warehouse and other site structures, including a covered truck washing equipment room, a covered truck washing pad, a covered trash enclosure, emergency generator, telemetry tower, and staff and fleet parking located at 2815 NE 36th Drive, Lincoln City, Oregon. The property subject to this application totals approximately 4.72 acres.

The application materials were received on December 20, 2019, and deemed complete on January 6, 2020.

Notification of the February 4, 2020 public hearing before the Planning Commission was mailed, pursuant to Chapter 17, Lincoln City Municipal Code to area property owners within 250 feet of the site on January 14, 2020. *The News Guard* published the public hearing notice on Wednesday, January 22, 2020.

On February 4, 2020, the Planning Commission conducted a public hearing and considered the oral and written testimony presented, the staff report, and the record as a whole. The hearing was closed, and the record was closed. Based on the evidence presented at the public hearing on February 4, 2020, including the staff report, all properly submitted evidence and argument, the Planning Commission voted to approve the application with conditions. Based upon the evidence in the record, the Commission makes the following findings of fact and conclusions of law:

COMMISSION FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

II. FINDINGS OF FACT

- 1) The Nature of Proceedings (Section I) set forth above is true and correct and is specifically incorporated herein by this reference.

- 2) The subject of the above-referenced conditional use permit application is real property located within the City of Lincoln City ("City"), and described in the County Tax Assessor's maps as Tax Map 07-11-02-CA-00103 (the "Property"). The street address of the Property is 2815 NE 36th Drive, Lincoln City, Oregon. The site consists of approximately 4.72 acres.

- 3) The Comprehensive Plan designation for the property is General Commercial District (G-C) and a zoning classification of General Commercial (GC).

- 4) The surrounding Land Uses and Zoning are as follows:
 - North: Undeveloped and RV park; General Comm (GC) and Recreation Comm (RC)
 - South: NE 36th Drive and residences; Single-Family Residential (R-1-7.5)
 - East: residences; Single-Family Residential (R-1-7.5)
 - West: Undeveloped; General Commercial (GC)

- 5) The applicant is:
 - Mary Fierros-Bower
 - LRS Architects
 - 720 NW Davis St, Ste 300
 - Portland, OR 97209

- 6) The Property is owned by:
 - Wayne Pipes
 - 220 NW Second Ave
 - Portland, OR 97209

 - Kim William Biddle
 - PO Box 214
 - Gleneden Beach, OR 97388

- 7) The relevant substantive criteria include the following:
 - LCMC Chapter 17.32 General Commercial (GC) Zone

COMMISSION FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

LCMC Chapter 17.52 Supplementary Regulations and Exceptions

LCMC Chapter 17.60 Conditional Uses

LCMC Section 17.60.020 gives the Planning Commission authority to approve, approve with conditions, disapprove, or revoke conditional use permits subject to the provisions of LCMC Chapter 17.60.

LCMC 17.74 Commercial Design Standards

- 8) The background in the staff report is incorporated herein and is accepted as true and correct.

III. FINDINGS APPLYING APPLICABLE CODE CRITERIA

- 1) The Planning Commission finds and determines that the relevant approval criteria are found or referenced in the Lincoln City Municipal Code, principally Title 17, Chapter 17.60 (Conditional Uses), LCMC 17.32 (General Commercial) Zone, LCMC 17.52 (Supplementary Regulations and Exceptions), and LCMC 17.74 (Commercial Design Standards).
- 2) Chapter 17.32 (General Commercial Zone) Section 17.32.040.S lists public utility and utility substations as conditional uses. The proposed use is a utility resource center for the natural gas utility. It is not a public utility or utility substation, but since it is similar in nature to a public utility and utility substation, both of which are allowed with conditional use permits, the request for the utility resource center is likewise being considered a conditional use. Without a listed LCMC Title 17 definition for any of the aforementioned terms, staff has reviewed definitions from various dictionaries to determine that a utility resource center meets the intent of the GC zone as "other limited service facilities as listed" and is allowed with conditional use permit approval.
- 4) Chapter 17.60 (Conditional Uses), Section 17.60.050 provides:

17.60.050 Action by planning commission.

A. Within 60 days after the filing of the application, a public hearing shall be held and the commission shall render its decision. The decision of the planning commission shall be final unless appealed to the city council.

B. The planning commission may approve, approve with conditions or disapprove the conditional use permit application by the entry of a planning commission order, in open meeting, which order shall describe the basis for the decision and state the specific

COMMISSION FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

circumstances, findings of fact and evidence presented requiring the application of conditions to the approval.

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

D. Conditions of Approval. In permitting a conditional use, the planning commission may impose, in addition to regulations and standards expressly specified in this title, other conditions found necessary to protect the best interests of the surrounding property or neighborhood, or the city as a whole. These conditions may include, but not be limited to, the following:

1. Increasing required lot size, yard dimensions, open spaces or buffer areas;
2. Requiring fences, walls or landscape screening and/or buffering where necessary to reduce noise, glare and maintain the property in a character in keeping with the surrounding area;
3. Requiring landscaping and maintenance thereof;
4. Increasing street widths, controlling the location and number of vehicular access points to the property for ingress/egress;
5. Requiring means of pedestrian/bicycle access pathways to serve the property;

COMMISSION FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

6. Increasing the number of off-street parking and loading spaces required; surfacing and proper drainage of parking areas;
7. Limiting size, location and number of signs;
8. Limiting the location, coverage or height of buildings because of obstruction to view and reduction of light and air to adjacent property;
9. Limiting or prohibiting openings in sides of buildings or structures;
10. Enclosure of storage areas and limitation of outside display and/or storage of merchandise;
11. Requiring maintenance of grounds;
12. Regulation of noise, vibration, odors, etc.;
13. Regulation of time for certain activities;
14. Establishing a time period within which the proposed use shall be developed;
15. The requirement of a bond for removal of such use within a specified period of time;
16. Increase the size, type or capacity of any or all utility services, facilities or appurtenances;
17. Requirements under which any future enlargement or alteration of the use shall be reviewed by the planning commission and new conditions imposed;
18. The planning commission may require that an applicant furnish the city a performance bond with a contractual agreement to assure its share of the development of streets, curbs, gutters, sidewalks, water, sanitary sewers, storm sewers or other necessary and essential public improvements to city standards;
19. The planning commission may also require that site plan committee review and approval is necessary in any particular situation to accomplish the purposes and objectives of this title;
20. And such other conditions as will make possible the development of the city in an orderly and efficient manner and in conformity with the intent and purposes set forth in this chapter. (Ord. 92-3 § 2; Ord. 84-2 § 6.050)

To address the applicable criteria, the LCMC 17.60.030 requires, among other things:

COMMISSION FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

F. Statement and supportive evidence indicating the precise manner of conformance with each of the applicable provisions of this title together with any other data pertinent to the findings prerequisite to the granting of a conditional use permit as listed in LCMC 17.60.050(C);

The burden is on the applicant [17.60.070]:

The specific findings made by the planning commission in granting a conditional use permit must be factual and supported by substantial evidence. The burden of producing substantial evidence to support the requisite findings is on the applicant seeking the approval of the conditional use. If no evidence is produced concerning any of the findings listed in LCMC 17.60.050(C), the application may be denied based upon improper or inadequate findings. All evidence produced must be recited in the findings for approval of any conditional use permit application.

4) The Commission finds that it has received all information necessary to make a decision based on the entire record, including the Staff Reports, exhibits, application materials, public hearing testimony, and other materials received. Except where conflicting findings are made herein, the Commission adopts and specifically incorporates the findings as articulated by the Planning Department staff report, as the basis for the decision on the requested conditional use permit.

5) The Commission finds and determines, and adopts as its own the following findings concerning the applicable criteria:

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

The written Staff report provides:

In response to this criterion, the applicant notes that the site is in the GC zoning district, and that LCMC 17.32.040 lists examples of those uses which meet the intent of this zone on a conditional basis, subject to the provisions of LCMC Chapter 17.60, with public utility, utility substation, motor vehicle repair facility, tire shops, and aggregate sales and storage as some of the examples listed.

The City of Lincoln City Comprehensive Plan (Comprehensive Plan) provides a "general-commercial district to accommodate a wide range of retail commercial uses which attract shoppers from the community or the larger market area." The Comprehensive Plan further states the "District runs along Highway 101", and "to create better Highway 101 visual quality, excellence in design and landscaping will be encouraged by the Planning Commission." Staff notes that, even though the site is in the GC comprehensive plan district and zone, it is not located along Highway 101. Chapter 17.32 is the General Commercial

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(GC) zone with a stated purpose to permit as conditional uses low intensity fabrication uses and other limited service facilities as listed. Once an approval is granted with conditions, the Comprehensive Plan's implementation mechanism (or LCMC) is fully met.

The Comprehensive Plan contains no directly applicable policies for utility substations or utility resource centers; however, the Comprehensive Plan does contain a section for Public Services and Utilities. This section states that "other municipal services, such as fire service, health service, telephone and gas service, are located in Lincoln City and provide utilities on a regional basis to the North Lincoln County areas. These utilities or services have also completed comprehensive planning to ensure that there are no constraints to future extension of the services." The goal of the Public Services and Utilities section of the Comprehensive Plan is "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." Overall public facility policies are:

- It shall be the overall policy of Lincoln City to centralize public facilities where appropriate.*
- The City shall utilize the extension of public utilities as a method of controlling growth.*
- Lincoln City shall work with utility companies to develop and directly implement programs for placing all utilities underground. This program may be accomplished in conjunction with scheduled street repairs.*
- The City shall require new developments to pay for service extensions.*

Individual public facility policies pertain to sewer, water, and drainage. This criterion is either not applicable or is met

The Planning Commission finds and determines that both the Staff's and the Applicant's findings that this criterion is met has not been subject to any adverse testimony. Staff is correct in that once an approval is granted with conditions, the Plan's implementation mechanism (the Code) is fully met. Staff also correctly stated that the Comprehensive Plan contains no directly applicable policies which can be applied directly to the proposed use. Accordingly, the Planning Commission finds and determines that the Comprehensive Plan contains no directly applicable policies which can be applied directly to the proposed use; therefore, this criterion is met or is not applicable.

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;

The Staff report provides:

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This project entails construction of new buildings and structures on an undeveloped lot in the GC zone. Pursuant to LCMC 17.52.240 and 17.32.110.E, site plan review is required as well as adherence to commercial design standards of LCMC Chapter 17.74. A review of the requirements of LCMC Chapter 17.32, 17.52, and 17.74 follows showing that this criterion is met if the project is constructed in adherence to the submitted materials and code requirements, including those for site plan design review.

Chapter 17.32 General Commercial (GC) Zone

17.32.050 Yard requirements

Finding: There are no yard requirements unless adjacent to or across the street from a residential zone. In this case, the eastern side is adjacent to a residential zone, and the southern property line is across the street from a residential zone. The submitted site plan shows the required setbacks from the southern and eastern property lines of at least 10 feet for the front (southern) property line and at least 18 feet 6 inches from the side (eastern) property line. This requirement is met.

17.32.060 Minimum lot width

Finding: Minimum lot width only pertains to automobile service stations or new drive-in establishments. This project is neither of those; therefore, this requirement is not applicable.

17.32.070 Maximum building height

Finding: The maximum building height in the GC zone is 45 feet. The submitted exterior elevations, identified as Exhibit B, show the office building at 26 feet tall, the vehicle storage building/warehouse height at 28 feet, and the other site buildings varying between 23 and 32 feet in height. This requirement is met.

17.32.080 Maximum building size

The GC zone requires that no building or group of contiguous buildings exceed a maximum footprint of 60,000 square feet. The submitted plans and narrative show and state square footages of the office building at 4,270 square feet; the vehicle storage building and warehouse at 7,408 square feet; the enclosed storage vehicle garage at 1,530 square feet; the covered pipe storage shed at 3,568 square feet; and the covered spoil bin area shed at 3,438 square feet. The total combined square footages of the proposed buildings and structures is 20,214 square feet. This requirement is met.

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17.32.090 Signs

Finding: The submitted materials show no proposed signage. The applicant states no signage is proposed for the site. This requirement is not applicable.

17.32.100 Parking

Finding: This requirement is met per the detailed discussion later in this document.

17.32.110 Other required conditions

A. Landscaping

Finding: A landscaping plan was submitted with the applicant's materials showing all landscaping requirements of Section 17.52.100 are being met. The site plan shows a total impervious area of 110,765 square feet. The proposal includes a bioswale of 4,920 square feet, landscape area inside the proposed fence of 2,015 square feet, and landscaped area outside the proposed fence of 38,6y85 square feet. The undeveloped area of the site, that will remain with mature vegetation in place, is 65,145 square feet. The percent of total lot area to be landscaped is 22.4% which exceeds the minimum requirement. This requirement is met.

B. Outdoor Storage Area

Finding: The southern and western sides of the project will be obscured from view by the grade of the hill. All other views will be obscured by a 7-foot-tall chain link fence with black-colored vertical privacy slats. This requirement is met.

C. Outdoor Sale Display

Finding: The narrative states that no outdoor sale displays are proposed. The applicant's submitted site plan also states in a note that no outdoor sale displays are proposed. This requirement is not applicable.

D. Restrictions

Finding: The applicant submitted civil drawings showing a preliminary utility plan for city sewer and water services to the site. This requirement is met.

E. All commercial or mixed-use buildings in the GC zone must conform to Chapter

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17.74 LCMC, Commercial Design Standards.

Finding: This requirement is met per the detailed discussion later in this document.

17.52.060 Clear-vision requirement

Finding: The project proposes one entrance from NE 36th Drive. The submitted site plan shows the required clear vision triangle, with no obstructions taller than 2.5 feet. This requirement is met.

17.52.100 Landscaping

Finding: The applicant submitted a detailed landscape plan (identified as Exhibit B) showing compliance with landscaping. Landscaping will be inspected by city staff for compliance prior to issuance of a certificate of occupancy. This requirement is met.

17.52.120 Utilities

Finding: The applicant states in the narrative that all electrical, telephone, and cable television services will be placed underground in accordance with city standards. This will be confirmed during the structural permitting process by city staff. This requirement is met.

17.52.170 Lighting

Finding: The applicant submitted an exterior lighting plan that shows compliance with all exterior lighting requirements. The applicant states in the narrative that all light fixtures are proposed to have cut off shields to avoid glare, light pollution, and light spillover onto residential properties. The proposed light poles are under 20 feet tall. This will be confirmed by city staff for compliance during the structural permitting process. This requirement is met.

17.52.170 Trash receptacle enclosure

Finding: The submitted materials show the proposed trash enclosure that is separate from the main building. The enclosure consists of an 8-foot-tall CMU wall that supports a steel canopy 4 feet above the wall. This enclosure will effectively block from view the trash and recycling containers contained therein. Additionally, the trash enclosure is located inside of the 7-foot-tall chain-link-fenced area. The chain link will contain privacy slats. Accordingly, the trash receptacles will not be visible from public right-of-way or neighboring properties. This requirement is met.

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17.52.180 Screening of mechanical equipment

Finding: The applicant states in the narrative that the emergency generator and condensing units are located between the office building and the storage vehicle garage. Other mechanical equipment is screened from view of the public right-of-way and neighboring properties with a combination of building facades, the proposed chain link fencing with privacy slats, and vegetation. If constructed as proposed and shown on the submitted plans, this requirement is met.

17.52.220 Tree protection and removal

Finding: The applicant submitted a report from an arborist dated November 15, 2019. The applicant indicates 89 trees will be removed and 86 will be retained. A review of the report and the tree removal plan shows that 63 of the 89 trees being removed are either dead or within 100 feet of the proposed buildings. Accordingly, only 26 trees need to be replaced on a one-for-one basis to meet tree mitigation requirements. The submitted plans show that 89 trees will be planted, which far exceeds the tree mitigation requirement. The applicant submitted a tree protection plan, identified in Exhibit E, along with the tree removal permit application. The tree protection and removal requirements have been met.

17.52.240 Site plan review

Finding: The site is undeveloped, and the applicant proposes new buildings and structures with accompanying landscaping and parking. The proposed new development requires site plan review prior to proceeding to submittal of structural permit applications. The required site plan review application, fee, and drawing set were submitted for review. Applicable agencies and departments were notified of the request. Properties within 250 feet of the site were notified of the request. No comments from the public were received. Dan Wentz with Lincoln City Public Works submitted comments via email with recommended conditions of approval which are incorporated herein. Lon French with North Lincoln Sanitary Service submitted comments stating the following: "I have been in contact with Sky Woodhouse of LRS Architects in regards to NW Natural Gas's new location. The location of the enclosure works for us, but with the property being surrounded by fencing and building effectively creating a screen, I believe that meets the requirements for the screening needed for their garbage enclosure." The site plan review requirement has been met.

Chapter 17.56 Off-street Parking and Loading Regulations

Finding: Off-street loading is required for hospitals, hotels, commercial, or industrial buildings having a gross floor area of 10,000 square feet or more. None of the proposed

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buildings are 10,000 square feet or more, so no off-street loading spaces are required. The number of off-street parking spaces required for the project is based on the use and square footage of the structures. The portion of the building being used as office space requires 1 space per 400 square feet plus 1 space for each employee. The remainder of the structures requires 1 space for each 5,000 square feet for the first 20,000 square feet plus 1 additional space for each 50,000 square feet. In this case, the project proposes to provide 4,270 square feet of office space with 11 employees for a total of 22 parking spaces required. The vehicle storage building and warehouse and the enclosed storage vehicle garage require 2 parking spaces, for a grand total of 24 parking spaces. The parking plan shows 24 parking spaces are being provided. The parking area will be screened from view by the grade of the hill and the proposed 7-foot-tall chain link fence with privacy slats. The parking lot will be surfaced with impervious asphaltic or Portland cement. The submitted plans show either curbing or wheel stops at all parking spaces. All proposed parking spaces are 10 feet wide by 20 feet long, and no compact spaces are being provided. The required accessible parking is being provided. The required landscaping is being provided. One bicycle rack providing two bicycle parking spaces is being provided. If constructed as shown in the submitted materials, the off-street parking requirements are met.

Chapter 17.74 Commercial Design Standards

17.74.060 Site design

Finding: The standards for site design are only applicable for projects located in a pearl or a string. This project is not located in either; therefore, the site design standards are not applicable to this application.

17.74.070 Pedestrian circulation

Finding: Pedestrian facilities shall be provided in accordance with the site design standards in LCMC 17.74.060. The site design standards in LCMC 17.74.060 are only applicable to sites in a pearl or a string. The site is not in a pearl or a string, so the site design standards are not applicable, which means the pedestrian facilities requirements are not application either. The pedestrian circulation requirements are not applicable to this application.

17.74.080 Building design

B. Standards

1. Height.

Finding: The minimum height requirement is 18 feet. The maximum height requirement is 45 feet. The submitted elevations show that all the buildings vary in height between 23 and 32 feet in height. The height requirement is met.

2. Building Form.

a. Overall Design. Architectural designs shall address all four sides of a building, for example by continuing architectural elements around building corners. New buildings should not mimic any other building in their form or detailing, but instead should reflect the predominant forms within each pearl or string, as applicable, while expressing individuality.

Finding: The submitted elevations address all four sides of the buildings. The site is not within a pearl or string, so there is no predominant form to reflect. This requirement is met.

b. Stepped Rooflines. Height should vary from building to building to avoid a homogenous appearance.

Finding: The heights of the proposed buildings vary between 23 feet and 32 feet in height. This requirement is met.

c. Roof Forms. Roof designs shall conform predominately to one of the following: flat with stepped parapet, gabled, or hipped. Secondary roof forms may include towers, dormers, turrets or other features with rounded (e.g., split-barrel), shed (e.g., dormer), pyramidal, or crossing elevations. Gambrel, dual-pitched (e.g., hipped "mansard"), deck (flat-topped, hipped), A-frame, and similar roof forms are discouraged.

Finding: The applicant states the roof form is a "simply high/low split gable roofs to accommodate a ribbon of high clerestory windows to maximize daylighting opportunities into the office building and high bay vehicle storage and warehouse areas." The elevations show the gable roof type. This requirement is met.

- 3. Window Transparency*
- 4. Building Orientation*

Finding: The standards for window transparency and building orientation are only applicable to pearls and the string. The site is not in a pearl or the string; therefore, these requirements are not applicable to this project.

- 5. Primary Entrance*

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Finding: The submitted materials show clearly-defined primary entrances that provide a weather protection shelter of at least 5 feet in depth through the building overhang. This requirement is met.

6. *Secondary entrances*
7. *Armature of Block*
8. *Building Mass*

Finding: The standards for secondary entrances, block armature, and building mass are only applicable to pearls or the string. Since the site is not in a pearl or the string, these requirements are not applicable to this application.

9. *Accessibility*

Finding: The required accessible parking is being provided as shown on the submitted materials. Accessibility requirements for the structures will be reviewed for compliance as part of the structural permitting process. This requirement is met.

10. *Openings*

Finding: The submitted materials show the storefront windows are articulated with mullions and concrete window sills. There are no upper floors, so no upper floor windows are proposed. The building does provide clerestory windows, however, which are vertically aligned with the ground floor windows where possible. The main entry door is articulated with transparent doors and glazing to allow natural light to the inside and views to the outside. The openings requirements are met.

11. *Horizontal Rhythms*

Finding: The submitted materials show, and the narrative indicates, that a horizontal roof overhang provides visual articulation along the façade, protection from the elements, and adds an overall sense of enclosure for the users. The building includes a horizontal CMU building base wall, and a horizontal clerestory window ribbon above featured at all four building facades. This requirement is met.

12. *Vertical Lines*

Finding: The building is a single-story building. However, smooth metal wall panels with vertical seams is being provided along with storefront window frames with a vertical mullion design to further enhance the building's verticality. This requirement is met.

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13. Materials and Color

Finding: The applicant states in the narrative the following:

"The design of the building is consistent with the character and image of the surrounding area by recalling materials and detailing that is prevalent in this area and on the nearby existing commercial buildings. The proposed building draws from the exterior material color palette used in the existing surrounding residential homes and the site's natural surroundings. The building utilizes a CMU wall base on all four sides of the building, a smooth flat metal panel system above and standing seam metal roofs. Corrugated metal siding is not proposed as it is not allowed as a primary cladding material. Materials were chosen for durability and to withstand the harsh marine environment.

A modernist interpretation of architectural design incorporating tan CMU wall base, warm beige smooth metal panel wall system, dark bronze storefront window frames, concrete window sills, dark bronze roof fascia and gutters is carried throughout the building's "front façade." The color scheme consists of simple earth tones to blend in well with the surrounding trees. The colors, materials, large windows and metal siding are intricately detailed and are recurring elements featured throughout the building facades unifying the building architecture and the site in general. See Exhibit B, Exterior Elevations sheet."

Based upon the applicant's narrative and submitted elevations, staff feels the requirements for natural materials and earth tone colors have been met.

14. Pedestrian Shelters

Finding: The pedestrian shelter requirements only apply to ground floor elevations where the building abuts a sidewalk, plaza, pedestrian access way or outdoor seating area. None of those are the case, so this requirement is not applicable.

15. Mechanical Equipment

Finding: The applicant's submitted materials show mechanical equipment placed between buildings. No rooftop equipment is proposed. The telemetry will be pre-finished in a non-reflective forest green color and located towards the rear side of the property, with the antenna being painted to match the tower. The site will also contain a 7-foot-tall chain link fence with privacy slats around the perimeter. Additionally, existing vegetation to the west will remain and additional perimeter plantings will take place as part of the project. The screening requirements for mechanical equipment are met, provided the project is constructed as shown in the submitted materials.

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17.74.090 Transportation and streetscape standards

Finding: The Public Works Department provided recommended conditions of approval addressing street and right-of-way improvements. With the recommended conditions of approval, this requirement will be met.

17.74.110 Parking

Finding: Parking requirements have been found to be in compliance with the code as discussed previously in this document.

17.74.120 Landscaping

Finding: The submitted materials show all the required landscaped areas, tree protection for remaining trees, number and types of plantings, irrigation method, sizes of vegetation at time of planting, and the required percentage of landscaping. Staff finds this requirement is met provided the landscaping is installed as portrayed in the submitted materials.

17.74.130 Exterior Lighting

Finding: The submitted lighting plan and photometric analysis shows that none of the light poles will be taller than 20 feet, all lights will be shielded and down facing, none of the parking area exceeds four-foot candles of luminance, and no light spillage will occur on adjacent properties. The exterior lighting requirements are met.

The Staff Report listed the following conditions of approval:

1. The approval is subject to all applicable federal, state, county, city, and local agency and jurisdictional requirements. It is the applicant's responsibility to ascertain all such requirements and comply accordingly.
2. The approval is subject to being developed and constructed as shown and stated in the submitted materials, notwithstanding any portions of the submitted materials not meeting code requirements. All portions of development and construction shall meet all code requirements.
3. Frontage improvements, per LCMC 17.52.230, extending east from the southeastern property corner the remaining 400 feet of NE 36th Dr, connecting the proposed sidewalk improvements to the multi-use pathway on NE West Devils Lake Rd shall be required prior to issuance of a final certificate of occupancy. This shall include curb, gutter, 5-foot-wide sidewalk, necessary storm system improvements to accommodate drainage changes, and connection to the existing multi-use pathway on NE West Devils Lake Rd.

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4. The applicant shall submit two copies of engineering plans for all public improvements and site development to the Department of Public Works for review and approval either as submitted or as modified in accordance with requirements of the City Engineer. The City Engineer's review and any required modifications shall be for the purpose of assuring that the improvements shall be consistent with Lincoln City Public Works Standards and the provisions of this condition of approval.
5. Prior to issuance of the structural permits and any site work, construction activity, demolition, clearing, grubbing, or excavating, a Combined Public Works Permit application shall be submitted with permit application. All right-of-way work planned shall be noted on the approved plans and performed as shown.
6. The approved plan set and permits shall be kept on the site, at all times, until construction is complete and all final inspections have been passed.
7. The applicant shall submit two copies of erosion control plans to the Department of Public Works. The City Engineer will review and approve all erosion control plans. Approved soil erosion control measures must be in place and inspected by the Department of Public Works prior to any construction activities.
8. If disturbing one or more acres of land during construction activity, the applicant is responsible for application, acquisition, and compliance with Oregon DEQ 1200-C Stormwater permit.
9. Sidewalk, curb, and gutter, and necessary pavement repair shall be completed along NE 36th Dr frontage in compliance with LCMC 17.52.230. All city right-of-way work planned shall be noted on the approved plan set and performed as shown.
10. Cross-sections of the NE 36th Dr sidewalk and roadway shall be submitted with engineered plans. Cross-section intervals should not exceed 100 feet and shall demonstrate adequate transition to either existing or proposed asphalt grade.
11. Application shall include engineered plans that demonstrate ADA-accessible clearance, elevations, grade, transitions, and terminations for all public sidewalk in compliance with state and federal standards. Current design required ADA curb ramps on both sides of the noted driveway access design, and for the curb return at the southwestern property corner.
12. Curb return, 20' of curb and gutter, and 20'L x 24'W asphalt apron shall be paved down western property frontage to NE Surf Dr.
13. Within 30 days after construction field verified, stamped as-builts for all public improvements, including relevant survey data, shall be provided to the City Public Works Department in AutoCAD format. All discovered utilities and changes to the approved site-plan shall be noted with callouts indicating location, depth, and material. The record drawings shall be established in model space using the state plane coordinate system, Oregon North Zone 3601, with horizontal survey control of NAD 83 and vertical control of NAVD 88.

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14. All materials utilized in public improvements shall adhere to LCPW standards including, but not limited to: concrete, asphalt, pavement and base depth, striping, pipe, fittings, and structures.
15. ACP roadway repair to all trench cuts shall be T-cut style trench repair, per LCPW standards.
16. All new impervious paving shall be treated according to the Lincoln City Public works Stormwater Design Standards. Treatment shall be sized according 50% of the 2-year, 24-hour rain event.
17. All increase from the existing sites total impervious area shall be detained according to Lincoln City Public Works Stormwater Design Standards: 2-year, 10-year, 25-year 24-hour rain event
18. Calculations for conveyance, detention, water quality, and drainage facilities shall be submitted with permit application and demonstrate that the system is capable of handling the increased flows and/or proposed work on the system will adequately increase system size.
19. Public storm water infrastructure shall be added as needed to accommodate new roadway infrastructure. Catch basins shall be added as needed along the NE 36th curb line to accommodate increased concentration of storm water. Run-off shall be culverted to flow beneath the added driveway access.
20. Roadway catch basins shall have 12" sump, with a grease/oil separator.
21. The applicant is responsible for ensuring that requested fire and domestic service ensures adequate flow & pressure for required water supply. The applicant shall be responsible for conducting any flow tests required to establish water pressure and flow information. The applicant shall give the Public Works Department 48 hours advance notice of any flow testing to be performed. A water distribution city staff member shall be on site at the time of flow testing
22. Applicant is responsible for the verification of existing private infrastructure and any repairs required. Applicant shall be responsible for verifying the existing condition of utilities proposed for use.
23. All connections to the existing water system, assemblies, and meter assemblies shall be noted on approved plans, designed, and constructed according to Lincoln City Public Works Design Standards. Domestic connections larger than 1" shall be completed by the applicant. Meter assembly shall include a 2-inch meter setter (or applicable size), 1-inch side bypass, and 2" NRS resilient seat gate valve (or applicable size).
24. Any taps, 1" or smaller, shall be noted with location & size. Work shall be completed by city water crews and invoiced with standard permit fee.

The Planning Commission finds and determines that the staff analysis correctly identifies the standards and site design requirements for a public utility and for a public substation in the General Commercial zone and how this specific request is meeting those standards, or will meet those standards with imposition of conditions (see conditions of approval noted above).

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The Planning Commission finds and determines that with the imposition of conditions (see conditions of approval listed above), this criterion is met.

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;

The Staff report provides:

The applicant refers to the applicant's attached Exhibit B, site plan, and Exhibit F, traffic profile, in response to this criterion. The applicant's identified Exhibit F, traffic profile, states this is a specialty trade contractor with no visitors. Said profile indicates the proposed resource center will experience a total of 32 trips per day, with five workers making four trips per day for a total of 20 trips, and six workers making two trips per day for a total of 12 trips.

The site is located on the north side of NE 36th Dr. NE 36th Dr is paved, but it does not contain sidewalk, curb, or gutter. LCMC 17.52.230 requires that a new building or structure in connection with any permitted or conditional use is subject to public infrastructure improvement requirements. These requirements include installation of curbs and gutters along adjacent streets not having curbs and gutters, and also paving 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, and public works/engineering standards (17.52.230.2.a). Also required is installation of sidewalks in accordance with street design standards in the City's Transportation System Plan and public works/engineering standards (17.52.230.2.d). The project contains new buildings and structures, as well as being a conditional use, so adherence to 17.52.230 is mandatory.

Staff notes that pedestrians are forced to walk on the 24-foot-wide roadway of NE 36th Drive, which doesn't contain shoulder or pathways. The development's uses are proposed to include vehicle storage, crew dispatch, equipment storage, and local office function. Although the submitted traffic profile estimates 32 trips per day, the proposed use will change the kind of vehicular traffic. The trips are more likely to be large dispatch vehicles, construction equipment transport, or equipment and material delivery. This kind of traffic frequently includes large trailers and/or flat-bed trailers. Given the current status of NE 36th Dr in its unimproved state with its lack of curb and gutter, sidewalk, and full street section, and given the kind of vehicular traffic the proposed use will involve, staff feels that, for this criterion to be met, frontage improvements are necessary extending east from the southeastern property corner the remaining 400 feet of NE 36th Dr, to NE West Devils Lake

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Rd, thereby connecting the sidewalk improvements to the multi-use pathway on NE West Devils Lake Rd With compliance to LCMC 17.52.230, as well as the additional improvements to the remaining 400-foot length of NE 36th Dr, this criterion is met.

The Planning Commission finds and determines that with the imposition of conditions (see conditions of approval listed above), the streets and highways are of adequate width to handle the vehicular traffic to the facility. This criterion is met.

- 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;**

The Staff report provides:

The submitted site plan shows the proposed building is approximately 150 feet from the east property, 30 feet from the south property line, 50 feet from the north property line, and several hundred feet from the west property line. Existing trees and vegetation on the western portion of the site will remain. Landscaping will be installed around the perimeter of the site, along with a bioswale in the eastern portion of the site and a 7-foot-tall chain link fence with privacy slats around the perimeter of the resource center. Only one entrance is proposed at the southeast corner of the site to provide vehicular egress and ingress for the applicant's stated 32 vehicle trips per day. Street frontage improvements to the site's NE 36th Dr frontage will take place as required by the code to provide sidewalk along the front of the site.

The applicant's narrative indicates the emergency generator and condensing units are ground-mounted to concrete pads, located in between the buildings thus effectively screening them from view from all streets and neighboring properties. No rooftop equipment is proposed. The proposed telemetry tower assembly will be pre-finished in a non-reflective forest green color to blend in with the surrounding area trees and landscape. Additionally, the tower will be located towards the rear of the property to be screened with sight-obscuring rows of trees and vegetation. The applicant states the antenna will be painted to match the tower and all cables and wires will be hidden from view and, if possible, painted to match the tower color.

All proposed exterior lights will be shielded. Parking area luminance does not exceed the four-foot candle maximum. The submitted photometric plan shows no light spillage onto adjacent properties. No up lighting is proposed.

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The submitted elevations, model and bird's eye views show the resource center surrounded with trees. Existing trees to the west of the center will remain. Numerous trees will be planted around the center to provide sight obstruction, in addition to the privacy fence.

The application does not include any requests for signage.

The applicant included a site acoustical analysis prepared by Listen Acoustics. The analysis states that sound levels at the site occur for a short period of time, during the morning and afternoon, typically 10 minutes. The rest of the day, very little noise occurs as the employees are off the site. Page 6 of the analysis indicates that the site design has beneficial natural and constructed sound barriers as shown in the 3D perspective below, including the large earth berm/cut and the building itself. The summary states: "noise from typical operations at the Northwest Natural Resource Center generally will not exceed maximum permissible noise as defined by the Lincoln City Municipal Code. One potential exception is a few seconds of vehicle sound passing by the residential lot at the driveway on the East side."

Property owners within 250 feet of the site received notice of the request. No written comments were received from property owners within 250 feet.

Staff finds this criterion is satisfied provided the project is built as presented in the submitted materials.

With the imposition of conditions listed above or incorporated herein, the Planning Commission finds and determines (concurring with staff) that this criterion can be met.

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.

The subject site is not in one of these designated areas. This criterion is not applicable.

V. ORDER

In sum, the Planning Commission for the City of Lincoln City finds and determines that the requested Conditional Use Permit Application meets the approval criteria in LCMC 17.60.050.C. but only with the imposition of conditions referenced or incorporated herein. The Planning Commission further finds and determines that the requested Site Plan Design Review Application meets the approval criteria in LCMC 17.74 and LCMC 17.52.240 but only with the imposition of the conditions referenced or incorporated herein. Accordingly, based on the

COMMISSION FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

above Findings of Fact and Conclusions of Law, and based upon the evidence in the whole record, the Planning Commission hereby APPROVES the requested Conditional Use Permit contained in CPA 2019-05, and the Site Plan Design Review contained in SPR 2020-01, with the conditions set forth or referenced herein.

Lincoln City Planning Commission

Patti Kroen, Chair

Signature authorized and approved by the full Commission this 18th day of February, 2020.

COMMISSION FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER



PLANNING COMMISSION STAFF REPORT
MEETING DATE: February 18, 2020

Report prepared by AnneMarie Skinner, Planning & Community Development Director

FO 2020-02 Lawson Appeal of Eclevia VRD

Final Order Lawson Appeal of Eclevia VRD Approval (RTF)

BEFORE THE PLANNING COMMISSION FOR THE
CITY OF LINCOLN CITY, LINCOLN COUNTY, OREGON

FEBRUARY 18, 2020

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In the Matter of an Appeal of the Decision of the)	
City of Lincoln City Planning and Community)	FINAL ORDER
Development Director's)	No. 2020-02
Approving a Vacation Rental Dwelling at)	
1184 NE Lake Drive as an unlimited use Vacation)	
Rental Dwelling)	
File: APP 2020-01)	
Appellants: Jerry L. Lawson, Jr.; Robert Piples;)	
Maryann D. Hatlelid; Octavian and Lynlee Tomos;)	
and Jerry and Marilynne Newton)	
Property Owners: Macario and Rachel Eclevia)	

I. NATURE OF PROCEEDING

This matter came before the Lincoln City Planning Commission for an appeal hearing. The appeal was from a December 16, 2019 decision of the Planning and Community Development Director for VRD-2019-14-A approving the use of an existing single-family residence as a vacation rental dwelling with unlimited use.

The Planning Commission held a public hearing on the appeal on February 4, 2020. Based upon the evidence in the whole record, the Planning Commission makes the following findings of fact and conclusions of law:

II. FINDINGS OF FACT

1) The Nature of Proceeding set forth above is true and correct and is incorporated herein by this reference.

2) The subject of the appeal is a proposal to use a single-family dwelling as an unlimited vacation rental dwelling on property described on the Lincoln County Assessor's map as 07-11-11-CD-03300, and addressed as 1184 NE Lake Drive ("Property").

3) The comprehensive plan designation and zoning of the property is Single-Family Residential (R-5), Single-Family Residential (R-1-5).

4) The property owners are Macario and Rachel Eclevia ("Owner"). The appellants are Jerry L. Lawson, Jr, Octavian and Lynlee Tomos, Robert Piples, Maryann D. Hatlelid, and Jerry and

1 Marilynne Newton ("Appellant").

2
3 5) The application for land use authorization as an accessory vacation rental dwelling was
4 received for review in the Planning and Community Development Department on July 22, 2019.
5 Application materials included a hand-drawn site plan and proof of garbage service from North
6 Lincoln Sanitary Service. The application was deemed complete on August 15, 2019.

7
8 6) On August 15, 2019, a notice of application was mailed to property owners within 250 feet of
9 the exterior boundary of the property. No comments were received.

10
11 7) On September 6, 2019, the property was inspected for compliance with land use standards, as
12 well as the health and safety licensing standards.

13
14 8) On September 18, 2019, the land use application for an accessory vacation rental dwelling was
15 approved by the Planning and Community Development Director with conditions.

16
17 9) On September 20, 2019, the notice of decision for authorization for accessory vacation rental
18 dwelling use was mailed to the applicant and to all property owners within 250 feet of the exterior
19 boundary of the property.

20
21 10) On October 10, 2019, the 20-day appeal period for the decision approving the accessory
22 vacation rental dwelling end. No appeals were received.

23
24 11) The original application that was approved on September 18, 2019, was for an accessory
25 vacation rental dwelling. The Owner did not apply for an unlimited vacation rental dwelling
26 because, at the time of their original application, there were no unlimited use permits available.

27
28 12) At the time of the original application for an accessory vacation rental dwelling, the Owner
29 requested to be placed on the waiting list for an unlimited vacation rental dwelling.

30
31 13) Between the period of September 18, 2019 and November 7, 2019, an unlimited vacation rental
32 dwelling license became available, thus providing the Owner the opportunity to take that now-
33 available unlimited vacation rental dwelling permit and switch the approved accessory vacation
34 rental dwelling to an unlimited vacation rental dwelling.

35
36 14) There is no difference or change in standards for an accessory versus unlimited vacation rental
37 dwelling, other than the number of nights allowed for use. Based upon the fact that all standards
38 were met enabling the previous director to approve the accessory vacation rental dwelling in
39 September 2019, and after reviewing that compliance with none of the standards changed between
40 September 2019 and December 2019, the current Planning and Community Development Director
41 approved the request for an unlimited vacation rental dwelling on December 16, 2019.

42
43 15) On December 18, 2019, staff mailed notice of the decision approving the amendment from an
44 accessory to an unlimited vacation rental dwelling.

45

- 1 16) The 20-day appeal period for this decision ended on January 7, 2020.
- 2
- 3 17) On January 3, 2020, Planning and Community Development received a letter from Jerry L.
- 4 Lawson, Jr., with Delta Counsel, P.C., on behalf of himself and Octavian and Lynlee Tomos, Jerry and
- 5 Marilynne Newton, Maryann D. Hatlelid, and Robert Piples, dated December 30, 2019, appealing
- 6 the decision approving Owner's unlimited use vacation rental dwelling.
- 7
- 8 18) On January 6, 2020, staff mailed notice of the appeal hearing to all owners of property within
- 9 250 feet of the exterior boundary of the Property and to Lincoln City's neighborhood associations.
- 10
- 11 19) On January 27, 2020, staff visited the site and took photos of the off-street parking area to
- 12 include in the staff report. Staff released its staff report on the appeal on January 27, 2020.
- 13
- 14 20) On February 4, 2020, the Planning Commission held a public hearing on the appeal. The
- 15 Planning Commission received the staff report, testimony from the Appellant, and written
- 16 testimony as well as oral testimony from all those who wished to testify. The Planning Commission
- 17 closed the public hearing and held deliberations.
- 18
- 19 21) The Planning Commission closed the public hearing and held deliberations.
- 20
- 21 22) The unanimous decision was made to uphold the director's decision approving the unlimited
- 22 use vacation rental dwelling, thereby denying the Appellants' appeal request.

III. FINDINGS APPLYING APPLICABLE CODE CRITERIA

- 23
- 24
- 25
- 26 23) The Planning Commission finds and determines that the applicable criteria for
- 27 this decision are located in Lincoln City Municipal Code Title 17, including specifically the
- 28 following:
- 29
- 30 LCMC 17.04.030 (General Provisions, Compliance)
- 31 LCMC 17.80.050 (Vacation Rental Dwelling Use Criteria)
- 32 LCMC 17.76.040.A (Appeals, Decision of Planning Director)
- 33
- 34 24) The Planning Commission finds and determines that it has received all information necessary
- 35 to make a decision based on the staff report, public hearing testimony, and the evidence in the
- 36 whole record including the exhibits received.

A. PARKING AND TRAFFIC

- 37
- 38
- 39
- 40 25) The subject residence has two bedrooms. The submitted site plan shows the site provides
- 41 the required off-street parking in the form of one compact-sized parking space by the deck, and
- 42 one standard-sized parking space in the driveway. A compact-sized parking space must be at
- 43 least 8 feet wide by 16 feet long. A standard-sized parking space must be at least 9 feet wide by
- 44 20 feet long.
- 45

1 26) LCMC 17.80.050.B.3 specifically states the parking requirements as follows:

2
3 Parking. In any residential or commercial zone, one off-street parking space will be
4 provided for each bedroom in the dwelling unit, and no less than two spaces will be
5 provided for each dwelling unit. If the proposed VRD use cannot provide the required
6 parking and also meet the other standards of this subsection (B) of this section, including
7 required landscaping, the vacation rental occupancy of the dwelling shall be reduced to
8 conform to the available amount of off-street parking and made a condition of licensing
9 under Chapter 5.14 LCMC.

10
11 27) The decision for the accessory vacation rental dwelling notes that the residence consists of a
12 two-bedroom dwelling where there are two off-street parking spaces being provided per a
13 recorded easement (Doc 8189780). One parking space is behind the house by the deck
14 (compact), and other to the side of the house (standard). The decision for the unlimited use
15 vacation rental dwelling notes parking will not change.

16
17 28) The appellant appealed the decision stating off-street parking is not available at the location,
18 contending that even though the site plan shows off-street parking spaces the house is too
19 close to the corner and the road narrows at the peak of the hill.

20
21 29) Staff reviewed the site plan and performed two site visits - one on September 16, 2019 and a
22 second on January 27, 2020 – and confirmed through the review, both site visits, and photos
23 taken of the parking spaces, that the site does contain the two required off-street parking
24 spaces shown on the submitted site plan.

25
26 30) The Planning Commission finds and determines that the site in its current state provides two
27 off-street parking spaces as required per LCMC 17.80.050.B.3.

28
29 31) The appellants' appeal also stated that traffic from an unlimited vacation rental will be a
30 danger to residents on NE Lake Drive.

31
32 32) A complete review of the required standards listed in LCMC 17.80.050 for an unlimited use
33 vacation rental dwelling shows that traffic is not a standard of approval.

34
35 33) The Planning Commission finds and determines that the Planning Commission is without
36 legal authority to require a traffic impact study for an unlimited use vacation rental dwelling, or
37 place any conditions on the approval of an unlimited use vacation rental dwelling pertaining to
38 traffic, as neither traffic issues nor traffic impact studies are standards of approval for granting
39 vacation rental dwelling permits.

40
41 34) The Planning Commission finds and determines that the Planning Commission is not
42 authorized to place conditions, in the context of a simple appeal, that are outside of standards
43 set forth in the Lincoln City Municipal Code.

44
45 **IV. ORDER**

1
2 Based on the above Findings of Fact and Conclusions of Law, the Planning Commission for the
3 City of Lincoln City hereby Orders that the decision of the Planning and Community
4 Development Director regarding the approval of an unlimited use vacation rental dwelling, for a
5 single-family residence at 1184 NE Lake Drive ("Property") is **UPHELD**. The Planning Commission
6 voted unanimously in favor of the motion to deny the appeal.

7
8 ADOPTED THIS 18th DAY OF FEBRUARY 2020.

9
10
11
12
13 _____
14 Patti Kroen, Chair

15
16 _____
17 ATTEST: Anne Marie Skinner
18 Planning & Community Development Director



PLANNING COMMISSION STAFF REPORT
MEETING DATE: February 18, 2020

Report prepared by AnneMarie Skinner, Planning & Community Development Director

CPA ZC 2020-01 Scrutton et al Zone Change

See Attached Staff Report

Planning Commission Staff Report CPA ZC 2020-01 (PDF)
Application Package(PDF)
Comments Agencies (PDF)
Comments Applicants (PDF)
Aerial Map (PDF)
Zoning Map (PDF)
Bluff Erosion Zones (PDF)
Tsunami Evacuation Zones (PDF)
FEMA Flood Hazard Areas (PDF)
Aesthetic Resource (PDF)
Zones SW 3rd to SW 37th (PNG)

Staff Report

Planning Commission Hearing on February 18, 2020

Case File CPA/ZC 2020-01

Date: February 11, 2020

Case File: CPA/ZC 2020-01 Scrutton, et al Comprehensive Plan Amendment and Zone Change

Applicants:

Michael B. Test/Jean L. Celia 4523 Pacific Ct Lincoln City, OR 97367	Eugene L. and Karen L. Scrutton 7956 SE 17 th Ave Portland, OR 97202
Robert Glanville 315 SW Ebb Ave Lincoln City, OR 97367	Coast Commercial Associates LLC 735 Browning Ave SE, Ste 120 Salem, OR 97302
Monica Steele PO Box 967 Lincoln City, OR 97367	Eric W. Coats and Robin L. Coats, Trustees PO Box 5984 Bend, OR 97708

Applicant's Representative: Richard Townsend
Townsend Planning & Design LLC
1936 NE 63rd St
Lincoln City, OR 97367

Property Owners: Same as Applicants

Situs Addresses: 305 SW Ebb Ave, 315 SW Ebb Ave, 327 SW Ebb Ave, 339/343 SW Ebb Ave, 405 SW Ebb Ave, Unaddressed, 427 SW Ebb Ave, 887 SW 5th St

Location: West side of SW Ebb Ave, bordered by SW 3rd St to the north and SW 5th St to the south

Tax Map and Lots: 07-11-15-DB-00700, 07-11-15-DB-00800, 07-11-15-DB-00900, 07-11-15-DB-01000, 07-11-15-DB-01100, 07-11-15-DB-01201, 07-11-15-DB-01200, 07-11-15-DB-01300

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

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

Site Size: 0.08 ac, 0.08 ac, 0.14 ac, 0.11 ac, 0.40 ac, 0.37 ac, 0.39 ac, 0.49 ac = 2.06 ac

Proposal: Comprehensive plan map amendment from High-Density Residential District (R-M) to Commercial-Recreation District (R-C) and zone change from Multiple-Family Residential (R-M) Zone to Recreation-Commercial (RC) Zone



Proposed Comprehensive Plan Designation:	Commercial-Recreation District (R-C)
Proposed Zone:	Recreation-Commercial (RC) Zone
Surrounding Land Uses and Zones:	North: Residential; RC South: Residential; RM East: Residential and Commercial; GC West: Pacific Ocean
Public Notice:	The Planning and Community Development Department mailed notice to the owners of all properties within 250 feet of the site on January 28, 2020. <i>The News Guard</i> published the public hearing notice on February 5, 2020.
Authority:	Lincoln City Municipal Code (LCMC) Section 17.88.040.A. <i>Upon filing of the application for an amendment as described in LCMC 17.88.030, or upon motion of the city council or planning commission for the initiation of the amendment, the matter shall automatically be referred to the planning commission. The planning commission shall study the matter to the extent that it considers such study to be necessary, including the holding of a public hearing if it so desires, and shall, in open meeting, recommend the approval or disapproval of the amendment. The recommendation shall be reported to the city council by filing the recommendation with the city manager. The city manager shall, upon filing the recommendation, report the same to the city council at a subsequent regular city council meeting after the filing of the recommendations, by setting the matter for public hearing pursuant to LCMC 17.88.050</i>
Applicable Substantive Criteria:	The amendment must be in conformance with the Oregon Statewide Planning Goals, the Lincoln City Comprehensive Plan, and the applicable provisions of LCMC Title 17.

BACKGROUND

The application for the requested comprehensive plan map amendment and zoning change was received on December 19, 2019 and deemed complete on January 6, 2020. Notice of the public hearings was mailed to property owners within 250 feet of the site on January 28, 2020. Notice of the public hearing was published in *The News Guard* on February 5, 2020.

The subject site consists of eight tax lots, and is hereinafter referred to as the site. The eight tax lots in their totality equal 2.06 acres and have five different ownerships. With the exception of two of the eight tax lots, the site is completely developed with residential dwellings. Construction dates of the existing houses, per Lincoln County Property Reports, are as follows: 305 SW Ebb Ave constructed in 1979; 315 SW Ebb Ave constructed in 1938; 327 SW Ebb Ave constructed in 1934; 339 and 343 SW Ebb constructed in 1940 and 1944 respectively; 405 SW Ebb Ave constructed in 1924; and 887 SW 5th St constructed in 1948. All were constructed as houses and are being used for residential purposes. They are being assessed for tax purposes as improved residential property.

The site is bounded by three streets and the Pacific Ocean. The north boundary of the site is SW 3rd Ave. The south boundary of the site is SW 5th Ave. The east boundary of the site is SW Ebb Ave. The west boundary of

the site is the Pacific Ocean. The three streets are paved, public, local streets. None have sidewalks, curb, gutter, or bicycle lanes. The use of the properties immediately adjacent to the north of SW 3rd St of the site is residential. The use of the properties immediately adjacent to the east of SW Ebb Ave if the site is a combination of commercial and residential. The use of the properties immediately adjacent to the south of SW 5th St of the site is residential.

The southwestern-most portion of the site is in the Distant Tsunami Evacuation Zone. The remainder of the site is in the Local Tsunami Evacuation Zone. The southwestern-most portion of the site is in the VE Flood Hazard Area. The remainder of the site is not in a special flood hazard area. The site contains no wetlands, significant wetlands, delineated wetlands, or significant riparian areas. The site contains no historical or cultural resources. The portion of SW 3rd St immediately abutting the northern property line of the site is an aesthetic resource, but the site itself contains no aesthetic resources. The entire site is in the Bluff Erosion Zone, ranging from the Active Hazard Zone, to High Hazard to Moderate Hazard to Low Hazard Zone. The very southeastern-most portion of the site is not in the Bluff Erosion Zone.

ANALYSIS

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

If rezoned, the property owners may use the tax lots for any use the Recreation-Commercial (RC) zone permits. In an RC zone, the following are given as examples of those uses which meet the intent of this zone:

- A. Motels and resorts;
- B. Eating and drinking establishments;
- C. Gift shops;
- D. Convention centers;
- E. Single-family dwellings and duplexes;
- F. Time-share units;
- G. Bed and breakfast accommodations;
- H. Attached single-family dwellings;
- I. Manufactured homes;
- J. Essential emergency communications, early warning and associated emergency facilities;
- K. Community gardens and market gardens;
- L. Mixed-use development;
- M. Transportation uses;
- N. Tiny house developments;
- O. Four-flat dwellings.

Vacation rental dwellings are also allowed as a permitted use in the RC zone.

A. Lincoln City Comprehensive Plan Goals

1. Land Use Planning Goal

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

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

The Comprehensive Plan Land Use Planning element states that zoning as the most common method of land use regulation and control. It is generally guided by the comprehensive plan. Essentially, zoning is a means of ensuring that the land uses of an area are properly situated in relation to one another. The proposed amendment must conform to the Statewide Planning Goals and be consistent and compatible with other unamended portions of the comprehensive plan.

The request is to change approximately 2.06 acres of property currently zoned as the Multiple-Family Residential zone to the Recreation-Commercial zone. The proposed map amendment and zone introduces a new zone to the area of the site. The site is bordered by SW 3rd St to the north. Staff notes that, while there is Recreation-Commercial zoning north of SW 3rd St, a review of the zoning map shows that there is no Recreation-Commercial zoning south of SW 3rd St until SW 36th St. In fact, there is no Recreation-Commercial zoning at all from the Pacific Ocean to the eastern City limits in the area between south of SW 3rd St and the north side of SW 36th St. It is this area in which the site resides.

An extension of the RC zone to the south will represent an intrusion into the existing residential area that is not consistent with the unamended portion of the Comprehensive Plan. The change is not consistent with the land use planning goal, as it represents a major shift or the first domino to fall in an area that currently contains no RC zoning. Accordingly, the amendment is not consistent with the City’s land use planning goal.

Goal 1 is not satisfied.

2. Citizen Involvement Goal

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

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

Among the policies under the City’s Citizen Involvement Program goal is one that says “Lincoln City shall assure that a reasonable effort is made to encourage the opportunity for citizens to attend public meetings.” The Planning Commission and City Council meetings are publicized widely with hearing notices mailed to

property owners in the affected area, published in *The News Guard*, and posted on the City's website. The City holds public hearings in the evening to encourage public attendance. Moreover, for those unable to attend in person, the meetings are televised live, streamed live over the internet, and rebroadcast on cable television. Video of meetings and the packet materials are also available on the City's website for review, free of charge. These aforementioned items in their totality constitute a more than reasonable effort to encourage citizens to attend public meetings and meet Goal 2.

Goal 2 is satisfied.

3. Public Services and Utilities Goal

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

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

- a. Pacific Power provides electric power;
- b. The City of Lincoln City provides water service;
- c. The City of Lincoln City provides sanitary sewer service;
- d. NW Natural provides natural gas service;
- e. Various providers provide land line and cellular telephone service.
- f. Streetlights are provided from the City of Lincoln City and Pacific Power.

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 has already developed as urban. The proposed rezoning will not change the current urban development and may allow for increased intensity of use.

Goal 4 is satisfied.

5. Natural Hazard Goal

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

The City's maps show the site as being in Bluff Erosion and Tsunami Evacuation zones. With the exception of two of the eight tax lots, the site is fully developed with residential dwellings.

The proposal is not consistent with Goal 5.

6. Housing Goal

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

The applicant states:

“The proposed rezoning will have little if any effect on the availability of adequate numbers of needed housing units at price ranges and rents commensurate with the area. Because the property is ocean-front, and ocean-front property is expensive compared to other properties, there is no practical way the property could be used for affordable or workforce housing.”

The proposed rezoning would convert approximately 2.06 acres of development land from multiple-family residential zoning to recreation-commercial zoning. The proposed RC zone permits single-family dwellings and duplexes, attached single-family dwellings, manufactured homes, tiny house developments, and four-flat dwellings, as accessory dwelling units. Multi-family dwellings are allowed with conditional use permit approval.

The site in its current zoning could support the conversion of the existing dwellings to multi-family dwelling units as an outright permitted use. The site could also continue to support the existing residences as well as new residences or new multi-family dwellings on the undeveloped portion of the site without any zone changes. Additionally, the site could support a joint conversion from the existing single-family dwellings to a multi-family dwelling complex in its present zone.

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

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

The study showed the buildable land inventory for residential uses in the City includes approximately 1,124.5 acres on 1,702 tax lots. Nearly 93 percent of the residential land supply, or 1,041 acres, is dedicated to single-family homes. The remaining 83.5 acres is designated for multi-family development. Buildable residential lands are well-distributed among various lot sizes. The study states that the estimated demand for residential lands in the City ranges from 206 to 249 acres. With a vacant residential land supply of 1,124 acres, the City has a surplus of approximately 876 acres of buildable residential lands. Even though the City has a surplus of buildable residential lands, the bulk of the current housing stock is single-family detached homes. Removing 2.06 acres of land that currently outright permits multi-family dwellings, while not impacting to a significant degree the surplus, does impact the potential the site has for developing into multi-family housing units which are lacking.

Staff finds the request is not consistent with Goal 6.

7. Economy Goal

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

The applicant states the following:

“The proposed rezoning will have a positive effect on the tourist economy...It will encourage development or redevelopment of the property to be rezoned and if used as vacation rentals will allow that use to continue indefinitely rather than ceasing on the sale or transfer of the property.”

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 City conducted an Economic Opportunities Analysis and Housing Needs Analysis, dated April 2017, prepared by Cogan Owens Greene, FCS Group, and Fregonese Associates. The lodging demand portion of the analysis indicated that over the next 20 years there will be demand for approximately 1,600 new hotel/motel rooms in Lincoln City. Lodging is one of the recommended target uses from the study, as well as food/beverage services. Both motels and resorts and eating and drinking establishments are permitted uses in the RC zone.

Staff finds that Goal 7 is satisfied.

8. Aesthetic Goal

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

With the exception of two of the eight tax lots comprising the site, the site is fully developed with existing structures. No changes to the site, the landscaping, or the exteriors of the buildings are proposed as part of this application. The application does not include a request for a statutory development agreement, nor does it include any development plans for the two undeveloped tax lots or redevelopment plans for the developed tax lots. While the applicant states that “this extensive and detailed report will provide the city, through a decision by the Planning Commission, the means to ensure that development or redevelopment on the property will not adversely affect the aesthetic character of the area,” without a statutory development agreement, no mechanism is provided through a rezone application to make such a promise.

Staff finds that Goal 8 is either not applicable to this application or is not satisfied.

9. Transportation Goal

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

The site is accessible by SW Ebb Ave, which is a paved local public street. SW Ebb Ave does not contain sidewalks or bike paths. The site’s SW Ebb Ave frontage connects to Hwy 101 to the east via SW 3rd St, SW 4th St, and SW 5th, all of which are paved local public streets. None contain bicycle paths. Sidewalks are sporadic, and there are no marked crosswalks at any of the intersections between the site and Hwy 101.

Staff finds Goal 9 is satisfied for vehicular traffic, but not for pedestrian and bicycle traffic.

10. Energy Goal

“To conserve energy.”

No new construction is proposed. No additions or remodeling are proposed. The structures will remain in their current status built to whatever energy and building codes existed at the time of construction. The site is close to other destinations and services.

Staff finds Goal 10 partially satisfied.

11. Overall Environmental Goal

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

The site is largely developed. The city's inventory of natural resources, including wetlands, riparian areas, and fish and wildlife habitat, show none are on the site. The site contains no known aesthetic, cultural, or designated historic resources.

Staff finds Goal 11 is satisfied.

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

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

With the exception of two of the eight tax lots comprising the site, the area proposed for rezoning is a developed site containing buildings and landscaping. Rezoning of the already-developed tax lots will not have any environmental or other additional impact on the coastal shorelands. Since the entire site is in the bluff erosion zone, development of the two undeveloped tax lots will necessitate a topographic survey, followed by a geotechnical report, wherein the unaltered bluff edge and maximum annual erosion rate is identified, which will further identify the required minimum setback from the unaltered bluff edge. With adherence to development requirements regarding bluff erosion zones, this goal is satisfied.

Staff finds Goal 12 is satisfied.

B. Statewide Planning Goals

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

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

The request is consistent with Goal 1.

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

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

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

The proposal is not consistent with Goal 2.

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

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

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.

Goal 4 is not applicable.

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

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

Goal 5 is not applicable.

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

Current building and public works standards for new development require protection of these resources. No new construction, additions, or new development are proposed as part of this application.

Goal 6 is not applicable.

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

City maps show no the site as being in the Bluff Erosion and Tsunami Evacuation Zones. The findings concerning the Comprehensive Plan’s Natural Hazard Element are incorporated herein by this reference.

The proposal is not 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 recreation commercial zone permits recreational uses of eating and drinking establishments.

The application is consistent with Goal 8.

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

The proposed rezoning allows for economic uses, including motels and resorts, eating or drinking establishments, gift shops, or vacation rental dwellings. The findings concerning the Comprehensive Plan’s Economy Goal are incorporated herein by this reference.

The proposed rezoning is consistent with Goal 9.

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

Current multiple-family residential zoning would allow the existing residences to remain, as well as allowing for new development of multi-family dwellings on the undeveloped tax lots or a redevelopment of the entire site into a large multi-family complex. A change of zoning to the RC zone would allow the same number of units currently allowed, but would require conditional use permit approval for such. Zoning to the RC zone also allows for unlimited use of the existing dwellings as vacation rental dwellings, thus removing them from the available housing stock for permanent residences. The findings that address the City’s housing goal are incorporated herein by this reference.

Staff finds the proposal is not consistent with Goal 10.

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

Utilities and services are available to the site. The findings concerning the City’s Public Services and Utilities goal are incorporated herein by this reference.

The proposed rezoning is consistent with Goal 11.

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

The site is accessible by SW Ebb Ave, a local public street. SW 3rd St is north of the site, and SW 5th St is south of the site; both are local public streets and both directly connect with NW Highway 101, which is a principal arterial. The proposed use, therefore, is consistent with the City’s Comprehensive Plan and

Transportation Plan has it has access to three local streets and close connection with a principal arterial. Neither bicycle lanes or sidewalks exist on the streets. The findings concerning the City's Transportation goal are incorporated herein by this reference.

The proposed comprehensive plan map amendment and zone change is consistent with Goal 12 for vehicular traffic, but not for pedestrian and bicycle traffic.

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

With the exception of two of the eight tax lots comprising the site, it is fully developed with existing dwellings. No new development or construction is proposed. In the event any new development or construction takes place at a future date, such development or construction will have to comply with building and energy codes in place at the time of application. The findings concerning the City's Energy goal are incorporated herein by this reference.

Goal 13 is not applicable to this application.

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

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

The proposal is consistent with Goal 14.

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

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

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

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

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

The site is in the Bluff Erosion Zone, but most of the site is already developed. Adherence to requirements pertinent to development in the Bluff Erosion Zone is required for any new development or redevelopment of the site. The findings concerning the Comprehensive Plan's Shoreland, Beaches, Dunes, Estuary & Ocean Resources Element are incorporated herein by this reference.

Goal 17 is satisfied.

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

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

Goal 18 is met or not applicable.

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

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

Goal 19 is not applicable.

RECOMMENDATION

The Planning Commission should hold a public hearing on the proposed comprehensive plan map amendment to Commercial-Recreation District (R-C) and zone change to Recreation Commercial (RC) Zone, close the public hearing, deliberate, and make a recommendation of approval or denial to City Council based upon compliance with the Comprehensive Plan, Statewide Planning Goals, and submitted evidence.

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LAND USE APPLICATION

OFFICE USE ONLY
RECEIVED
 Stamp Date & Time
 DEC 19 2019
PLANNING
 File No: _____

APPLICATION TYPE

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

NAME OF APPLICANT: Engene L. Scrutton & Karen L. Scrutton
 MAILING ADDRESS: 7956 SE 17th Ave
 CITY: Portland STATE: OR ZIP: 97202-6765
 DAYTIME PHONE: _____ Signature: _____
 EMAIL (OPTIONAL): _____

OWNER OF RECORD (if other than applicant)
 NAME: _____
 MAILING ADDRESS: _____
 CITY: _____ STATE: _____ ZIP: _____
 DAYTIME PHONE: _____ Signature: Engene L. Scrutton Karen L. Scrutton
 EMAIL (OPTIONAL): _____

APPLICANT AND/OR OWNER'S INTEREST IN PROPERTY SUBJECT TO REQUEST:
 AGENT, FUL OWNER, CONTRACT PURCHASER, OPTION HOLDER, LESSEE, OTHER
PROJECT LOCATION:
 PROJECT ADDRESS: 405 SW 6th Ave
 ASSESSOR'S MAP NO.: 07-11-15-DB TAX LOT(S): 0100
 AREA: 0.17 (ACRES) SQ. FT.: _____ ZONING: R-M

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

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

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

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

THE FOLLOWING ATTACHMENTS SHALL ACCOMPANY THE FILING OF THIS APPLICATION:

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

FINDINGS OF FACT:

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

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

See attached narrative

OFFICE USE ONLY Date Filed: _____ Amount/Fee: _____ Receipt No: _____ Received By: _____ 30 Days: _____ Deemed Incomplete: _____ Deemed Complete: _____ 120 Day Deadline: _____	 LAND USE APPLICATION	OFFICE USE ONLY Stamp Date Received _____ File No: _____
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APPLICATION TYPE

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

NAME OF APPLICANT: Michael B. Test & Jean L. Celia
 MAILING ADDRESS: 2245 Crestview Dr. S 4523 Pacific Ct
 CITY: Salem Lincoln City STATE: OR ZIP: 97367
 DAYTIME PHONE: 541-264-0532 Signature: Michael Test Jean L. Celia
 EMAIL (OPTIONAL): mkltst@hotmail.com revjlc@yahoo.com

OWNER OF RECORD (if other than applicant)
 NAME: MICHAEL B. TEST / JEAN L. CELIA
 MAILING ADDRESS: 4523 Pacific Ct
 CITY: Lincoln City STATE: OR ZIP: 97367
 DAYTIME PHONE: 541-537-1294 Signature: Michael Test Jean Celia
 EMAIL (OPTIONAL): MKLTST@hotmail.com revjlc@yahoo.com

APPLICANT AND/OR OWNER'S INTEREST IN PROPERTY SUBJECT TO REQUEST:
 AGENT, FEE OWNER, CONTRACT PURCHASER, OPTION HOLDER, LESSEE, OTHER
 PROJECT LOCATION: _____
 PROJECT ADDRESS: 305 SW 6th Ave.
 ASSESSOR'S MAP NO.: 07-11-15-DB TAX LOT(S): 00700
 AREA: 0.08 (acres) SQ. FT.: _____ ZONING: R-M

OFFICE USE ONLY

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 30 Days: _____
 Deemed Incomplete: _____
 Deemed Complete: _____
 120 Day Deadline: _____



**LAND USE
APPLICATION**

OFFICE USE ONLY

Stamp Date Received

File No: _____

APPLICATION TYPE

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

NAME OF APPLICANT: Robert Glanville

MAILING ADDRESS: 315 SW Ebb Ave

CITY: Lincoln City STATE: OR ZIP: 97367

DAYTIME PHONE: _____ Signature: _____

EMAIL (OPTIONAL): _____

OWNER OF RECORD (if other than applicant)

NAME: _____

MAILING ADDRESS: _____

CITY: _____ STATE: _____ ZIP: _____

DAYTIME PHONE: 541 921 7127 Signature: R. Glanville

EMAIL (OPTIONAL): _____

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

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

PROJECT LOCATION:

PROJECT ADDRESS: 315 SW Ebb Ave

ASSESSOR'S MAP NO.: 07-11-15-DB TAX LOT(S): 00800

AREA: 0.08 (acres) SQ. FT.: _____ ZONING: R-11

OFFICE USE ONLY Date Filed: _____ Amount/Fees: _____ Receipt No: _____ Received By: _____ 30 Days: _____ Deemed Incomplete: _____ Deemed Complete: _____ 120 Day Deadline: _____	 LAND USE APPLICATION	OFFICE USE ONLY Stamp Date Received _____ File No: _____
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<input type="checkbox"/> APPEAL OF PLANNING DEPARTMENT DECISION	<input type="checkbox"/> NATURAL RESOURCE DEVELOPMENT REVIEW	<input type="checkbox"/> URBAN GROWTH BOUNDARY AMENDMENT
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<input type="checkbox"/> COMPREHENSIVE PLAN &/OR ZONING ORDINANCE TEXT AMENDMENT	<input type="checkbox"/> PLANNED UNIT DEVELOPMENT PRELIMINARY MASTER PLAN	<input type="checkbox"/> VARIANCE
<input type="checkbox"/> CONDITIONAL USE PERMIT	<input type="checkbox"/> PLANNED UNIT DEVELOPMENT FINAL MASTER PLAN	<input type="checkbox"/> OTHER _____

NAME OF APPLICANT: Monica Steele

MAILING ADDRESS: P.O. Box 967

CITY: Lincoln City STATE: OR ZIP: 97367

DAYTIME PHONE: _____ SIGNATURE: _____

EMAIL (OPTIONAL): _____

OWNER OF RECORD (if other than applicant)

NAME: Monica Steele

MAILING ADDRESS: _____

CITY: _____ STATE: _____ ZIP: _____

DAYTIME PHONE: _____ SIGNATURE: Monica Steele

EMAIL (OPTIONAL): _____

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

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

PROJECT LOCATION: _____

PROJECT ADDRESS: 327 SW Elk Ave

ASSESSOR'S MAP NO.: 07-11-15-DB TAX LOT(S): 00900 & 01000

AREA: 0.24 (ACRES) SQ. FT.: _____ ZONING: R-M

KACAM

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 Receipt No: _____
 Received By: _____
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 Deemed Incomplete: _____
 Deemed Complete: _____
 120 Day Deadline: _____

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 File No: _____

LAND USE APPLICATION

APPLICATION TYPE


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

NAME OF APPLICANT: Coast Commercial Associates LLC
MAILING ADDRESS: 491 Atlantic Dr NE 735 Browning Ave SE #120
CITY: Salem **STATE:** OR **ZIP:** 97303 97302
DAYTIME PHONE: 503-999-0421 **Signature:** Don Wyatt Sr
EMAIL (OPTIONAL): _____

OWNER OF RECORD (if other than applicant)
NAME: Coast Commercial Associates LLC
MAILING ADDRESS: 235 Browning Ave SE #120
CITY: Salem **STATE:** OR **ZIP:** 97302
DAYTIME PHONE: 503-999-0421 **Signature:** Don Wyatt Sr
EMAIL (OPTIONAL): _____

APPLICANT AND/OR OWNER'S INTEREST IN PROPERTY SUBJECT TO REQUEST:
 AGENT, FEE OWNER, CONTRACT PURCHASER, OPTION HOLDER, LESSEE, OTHER
PROJECT LOCATION: _____
PROJECT ADDRESS: 427 SW 6th Ave
ASSESSOR'S MAP NO.: 07-11-13-08 **TAX LOT(S):** 01200 & 01201
AREA: 0.25 (ACRES) **80,000** SQ. FT. **ZONING:** R-1M

City of Salem App. REV 02/2005 Planning and Community Development, 801 NW Highway 101, PO Box 58, Salem, OR 97307
 TEL: 503-586-2124 FAX: 503-586-1784

OFFICE USE ONLY Date Filed: _____ Amount/Fee: _____ Receipt No: _____ Received By: _____ 30 Days: _____ Deemed Incomplete: _____ Deemed Complete: _____ 120 Day Deadline: _____	 City of Lincoln Lincoln City LAND USE APPLICATION	OFFICE USE ONLY Stamp Date Received _____ File No: _____
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APPLICATION TYPE

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

NAME OF APPLICANT: Eric W. Coats, Trustee & Robin L. Coats, Trustee
 MAILING ADDRESS: P.O. Box 5984
 CITY: Reed STATE: OR ZIP: 97708
 DAYTIME PHONE: 541 419 4440 Signature: [Signature]
 EMAIL (OPTIONAL): _____

OWNER OF RECORD (if other than applicant)
 NAME: _____
 MAILING ADDRESS: _____
 CITY: _____ STATE: _____ ZIP: _____
 DAYTIME PHONE: _____ Signature: [Signature]
 EMAIL (OPTIONAL): RobinLCoats@gmail.com

APPLICANT AND/OR OWNER'S INTEREST IN PROPERTY SUBJECT TO REQUEST:
 AGENT, FREE OWNER, CONTRACT PURCHASER, OPTION HOLDER, LESSEE, OTHER
 PROJECT LOCATION: _____
 PROJECT ADDRESS: 987 SW 5th St
 ASSESSOR'S MAP NO.: 07-11-15-DB TAX LOT(S): 01300
 AREA: 0.18 (acres) SQ. FT.: _____ ZONING: R-1A

OFFICE USE ONLY Date Filed: _____ Amount/Fee: _____ Receipt No: _____ Received By: _____ 30 Days: _____ Ordained Incomplete: _____ Ordained Complete: _____ 120 Day Deadline: _____	 LAND USE APPLICATION	OFFICE USE ONLY Stamp Date Received _____ File No: _____
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APPLICATION TYPE

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

NAME OF APPLICANT: Eric W. Coats, Trustee & Robin L. Coats, Trustee
 MAILING ADDRESS: P.O. Box 5984
 CITY: Bend STATE: OR ZIP: 97708
 DAYTIME PHONE: _____ Signature: _____
 EMAIL (OPTIONAL): _____

OWNER OF RECORD (if other than applicant)

NAME: _____
 MAILING ADDRESS: _____
 CITY: _____ STATE: _____ ZIP: _____
 DAYTIME PHONE: _____ Signature: _____
 EMAIL (OPTIONAL): robinlcoats@gmail.com

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

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

PROJECT LOCATION: _____
 PROJECT ADDRESS: 887 SW 5th St
 ASSESSOR'S MAP NO.: 07-11-15-DB TAX LOT(S): 01300
 AREA: 0.18 (acres) SQ. FT.: _____ ZONING: R-M

OFFICE USE ONLY

Date Filed: _____
 Amount/Fee: _____
 Receipt No: _____
 Received By: _____
 30 Days: _____
 Deemed Incomplete: _____
 Deemed Complete: _____
 120 Day Deadline: _____



OFFICE USE ONLY

Stamp Date Received

LAND USE APPLICATION

File No: _____

APPLICATION TYPE

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

NAME OF APPLICANT: _____

MAILING ADDRESS: _____

CITY: _____ **STATE:** _____ **ZIP:** _____

DAYTIME PHONE: _____ **Signature:** _____

EMAIL (OPTIONAL): _____

OWNER OF RECORD (if other than applicant)

NAME: _____

MAILING ADDRESS: _____

CITY: _____ **STATE:** _____ **ZIP:** _____

DAYTIME PHONE: _____ **Signature:** _____

EMAIL (OPTIONAL): _____

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

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

PROJECT LOCATION: _____

PROJECT ADDRESS: _____

ASSESSOR'S MAP NO.: _____ **TAX LOT(S):** _____

AREA: _____ (acres) **SQ. FT.:** _____ **ZONING:** _____

APPLICANTS' NARRATIVE

Nature of Request

Eugene and Karen Scrutton, on behalf of themselves and their neighboring property owners, request re-zoning of eight lots totaling approximately 1.0 acre of land located within the Lincoln City city limits. They propose a change in zoning from the existing Multiple Family Residential (RM) zone to the Recreation-Commercial (RC) zone.

Site Information

Applicants/Owners: Eugene L and Karen L Scrutton
7956 SE 17th Avenue
Portland OR 97202

Applicants' Representative: Richard Townsend
Townsend Planning & Design LLC
1936 NE 63rd Street
Lincoln City, OR 97367

Maps and Tax lots: Map 07-11-15-DB Tax Lots 00700, 00800, 00900, 01100, 01200, 01201, 01300

Location: 405 SW Ebb Avenue

Current City Comprehensive Plan Designation: High Density Residential (R-M)

Current City Zoning Designation: Multiple-Family Residential (R-M)

Proposed Comprehensive Plan Designation: Commercial-Recreation (R-C)

Proposed Zoning Designation: Recreation Commercial (R-C)

Surrounding Land Uses And Zoning:
North: Dwellings and Motel, (R-M and R-C)
East: Commercial (G-C)
South: Dwellings (R-M)
West: Beach and ocean

EVIDENCE OF CONFORMANCE WITH STANDARDS

LCMC 17.88.030.E. requires an applicant for a comprehensive plan amendment to provide evidence "indicating the precise manner in which the proposed amendment is in conformance with the comprehensive plan" and other applicable standards. This evidence is provided here.

A. Comprehensive Plan Goals

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

The Comprehensive Plan of Lincoln City is the document that guides land use decisions in the City of Lincoln City. The plan, which the Oregon Department of Land Conservation and Development has acknowledged as consistent with the Statewide Planning Goals, is the policy framework that guides the city's land use decisions as it establishes goals and policies that provide a general framework for implementing land use regulations. As described below, this application complies with the comprehensive plan's goals and policies.

Regarding the process for this application, the city code does not specify a process or criteria specifically for making a decision on annexation. But the city does have a general procedure, set out in Chapter 12 of LCMC Title 17, for handling such decisions. With two public hearings including published and mailed public notice, this process complies with this goal. Since this application will go through this process, it too complies with this goal.

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

The City has a Citizen Involvement Program that provides opportunities for citizens to participate in policy and ordinance development and to comment on specific land use proposals. The present application for annexation and zoning will be available for public review and examination at the Planning Department and online at the city's website. There will be two public hearings that will be provided by notice to the public in general and specifically to surrounding property owners. Both the city's planning commission and city council will hold public hearings on this application and the hearings, which will be televised and live-streamed, will include opportunities for written and oral public comments. This process makes this application consistent with this goal.

3. Public Services and Utilities Goal: *"To plan and develop timely, orderly, and efficient arrangement of public facilities and services which complement the area and serve as a framework for urban and rural development."*

The property is fully urbanized and developed, and is currently being served by public services and utilities as follows:

- A) The property is currently being served by electric power through Pacific Power.
- B) The property is currently receiving water service from the City of Lincoln City.
- C) The property is currently receiving sanitary sewer service from the City of Lincoln City.
- D) The property is currently receiving natural gas service from NW Natural.
- E) The property is currently served by street lighting from the City of Lincoln City and Pacific Power.

Services are currently available and on site, and no changes or extensions are requested or needed. This goal is satisfied.

4. Urbanization Goal: *"To promote an orderly and efficient transition of land uses from rural to urban."*

The property lies well within the Lincoln City urban growth boundary, and in fact well within the Lincoln City city limits. It is already fully developed and fully urbanized. The proposed rezoning conforms to this goal.

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

Lincoln City has identified and mapped various areas of natural hazards such as those described in Environment Hazards, Coastal Lincoln County, Oregon (RNCR, 1979), in flood hazard mapping, and more recently in reports from the Oregon Department of Geology and Mineral Industries relating to tsunami inundation and coastal erosion that have been incorporated into the city's comprehensive plan. Most of the property already is developed.

The property is not within the 100-year floodplain. The property is located in the nearshore tsunami zone, but only a few feet to the south or east are easily accessible areas that will provide safe refuges from any tsunami. The property also is in the coastal erosion zone. Lincoln City Municipal Code Chapter 17.47 controls any future development in this area and requires a geotechnical analysis of the site and a set-back from the bluff edge of 60 times the annual erosion rate plus five feet. Through adopting this requirement the City Council has deemed this an adequate protection and buffer city-wide and the proposed rezoning will not affect this requirement. The proposal to rezone it to the city's RC zone is consistent with this goal.

6. Housing Goal: *"To provide for the housing needs of all citizens."*

The proposed rezoning will have little if any effect on the availability of adequate numbers of needed housing units at price ranges and rents commensurate with the area. Because the property is ocean-front, and ocean-front property is expensive compared to other properties, there is no practical way the property could be used for affordable or workforce housing.

The 2017 Housing Needs Assessment concludes that there is a substantial "surplus" of residentially-zoned land within the Lincoln City UGB. It says Lincoln City has plenty of available land inside its UGB for residential development through 2036 and therefore there is no need to add more land to the UGB to meet state law requirements. The actual figures are: a need for 206 to 249 acres of land, a supply of 1,124 acres within the UGB, and therefore a "surplus" of 876 acres within the UGB.

The proposed rezoning is consistent with this goal.

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

The proposed rezoning will have a positive effect on the tourist economy. The Recreation-Commercial (RC) zone is intended for commercial uses having a definite relationship to the community's resort and recreation industry such as food, lodging, recreational activities and services that have a resort character. It will encourage development or redevelopment of the property to be rezoned and if used as vacation rentals will allow that use to continue indefinitely rather than ceasing on the sale or transfer of the property. The rezoning is consistent with the Economy Goal.

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

By itself, rezoning has little or nothing to do with the aesthetic quality of the area. But there is a "significant aesthetic resource" adjacent to the northern end of the proposed rezoning area, in the right-of-way of SW Third Street, west of SW Ebb Avenue. This is one of many street rights-of-way that were declared significant in 1975 and 2000, principally to preserve them as ocean overlooks and view corridors. At the present time this "significant aesthetic resource" is not developed as an overlook but consists merely of a grassy patch with a barricade backed by sand. See the illustration, below.



Figure 1: SW Third Street Significant Aesthetic Resource

LCMC 17.48.020 requires that "development in areas of significant aesthetic resources must not reduce the scenic character of the area." The Municipal Code does not provide any standards in this regard, but the Comprehensive Plan does. It requires those proposing development within 100 feet of a scenic viewpoint to provide a detailed diagram and narrative explaining how the proposed development will affect the visual and aesthetic quality of the scenic area. It must address the following:

- a. How the activity will maintain natural vegetation.
- b. If vegetation is removed, how the activity will restore and protect the site from erosion and other negative results.
- c. If necessary, how the activity should be screened to protect the scenic view.
- d. The number, size, and design of signs associated with the activity.
- e. The extent of natural materials and design to be employed in the activity.
- f. The balance between the activity and other surrounding developed areas.
- g. How wildlife habitats and environmental quality will be protected.

This extensive and detailed report will provide the city, through a decision by the Planning Commission, the means to ensure that development or redevelopment on the property will not adversely affect the aesthetic character of the area. The Planning Commission's decision is appealable to the City Council, and in fact the City Council may call the decision up for review on its own motion.

Another significant protection for the aesthetic character of the area will come as a direct result of rezoning it. Once the property is rezoned into the Recreation Commercial zone it will be subject to the city's commercial design standards. This will ensure that any new development on the property will be an attractive, well-designed asset to the community. The rezoning is consistent with this goal.

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

The property is in an area that already is fully developed. A local street runs adjacent to the property. It is less than 200 feet from Highway 101. There is a sidewalk on Highway 101, but not on SW Ebb Avenue. Public transit runs along Highway 101 in both north and south directions. This goal largely is already met in the area, and redevelopment under the new zone will make it better still. The property has frontage on SW Ebb Avenue. LCMC 17.52-230, Public Infrastructure Improvement Requirements, requires the installation of curbs, gutters, and sidewalks along abutting streets when properties are developed. This means that if the property is redeveloped the pedestrian transportation network will be improved in both extent and safety through putting in a stretch of sidewalk where none is found today.

A quick look at the reasonable worst case traffic generation before and after the proposed rezoning shows that there would be only a minor traffic impact from the rezoning. The site is long and narrow, constrained by the required setback along SW Ebb Avenue and the requirement for a coastal erosion geological hazard setback along the west side of the property. Taking this into account, the amount of traffic generated by various allowed uses under the existing and the proposed zoning would be as shown in Table 1, below.

	Units	Trips Per Day Per Unit		Total Trips Per Day	PMA Peak Trips Per Unit		Total Peak Trips
		RM	RC		AM	PM	
MFR	20	6.72	6.72	134.4	0.62	0.62	12.4
Motel	40	--	5.63	225.2	--	0.47	18.8
SFR	8	0.57	0.57	45.6	1.01	1.01	8.08

Table 1. Vehicle trip generation by various uses in the RM and RC zones, based on ITE Trip Generation Manual.

This shows that in a reasonable worst case development under the RC zone, consisting of a 40-unit motel, would result in 6.2 additional PM peak hour trips compared to the reasonable worst case development allowed (consisting of a 20-unit multifamily dwelling (MFD)) under the existing R-M zone. The maximum total trip generation is estimated to be about 225 trips per day under the RC zone, compared to 134 trips per day under the R-M zone, a difference of 91 trips per day. Given the proximity of Highway 101 to the property it is likely that almost all of

the trips from the property will use the highway. According to QDOT's State Highway Traffic Volumes table, the average daily traffic at the D River traffic counter is 25,400 trips per day. The additional trips resulting from the rezoning would amount to slightly over one-third of one percent of the traffic on the highway. This shows that the traffic resulting from the proposed zone change will not significantly affect the transportation system. The rezoning is consistent with the transportation goal.

10. Energy Goal: *"To conserve energy."*

The energy goal speaks to using ensuring that development in the city meets or exceeds the energy conservation requirements of the building code. In fact the plans examiners and the building official carefully review building plans to make sure any proposed development does just that. Thus any development or redevelopment on the property would be in compliance with this goal.

The energy goal also encourages development that is within walking distance of services and shopping areas. The property is within walking distance of the many employment sites such as the stores and restaurants only a few hundred feet away on Highway 101. The shopping areas along Highway 101 within walking distance include many tourist-oriented businesses as well as those such as McKay's Market oriented toward residents. So while rezoning, by itself, will have no immediate effect on energy conservation, development of the site will conform to this goal.

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 property already is completely urbanized and largely developed. There is no "natural environment" there. Years ago the city conducted inventories natural resource inventories city wide for wetlands, riparian areas, fish and wildlife habitat, and aesthetic and scenic areas. These inventories and subsequent "significance" determinations show that the property contains no sites or resources designated as "significant" under the city's Natural Resource Overlay Zone other than the "significant aesthetic resource" in the SW Third Street right-of-way, described above. Thus the city determined there are no unusually valuable resources on the site that warranted restrictions on development that differ from those imposed on all property in the city, other than that one aesthetic resource that has adequate protections in place as described above. The proposed rezoning is consistent with this goal.

12. Shoreland, Beaches, Dunes, Estuary and Ocean Resource Goal: *"To conserve, to protect, to enhance the coastal resources of the city."*

Because the city's coastal shoreland planning area extends westward from Highway 101, the property is within the coastal planning area. Nevertheless, there is only minimal applicability of

this goal. The goal requires protection of significant coastal shorelands resources including significant wetlands, riparian areas, major beaches, or fish and wildlife habitats, and aesthetic and scenic areas. But there are no significant wetlands, riparian areas, major beaches, and fish or wildlife habitats mapped on the property. There is one significant aesthetic area the right-of-way of 54 Third Street west of 2nd East, as described above. As described above, there are adequate protections for this resource in place to ensure that it is not degraded.

The goal also prohibits residential development and commercial and industrial buildings or beaches, active foredunes, conditionally stable foredunes that are subject to coastal undercutting or wave over-topping, and delfation planes that are subject to coastal flooding. To the limited extent the property includes the beach, the policy will ensure that it is protected from any development. As for the other coastal resources mentioned, this policy does not apply because these coastal resources are not found on the subject property. For these reasons, the proposed rezoning is consistent with the goal.

E. Statewide Planning Goals

In addition to the goals of the city's Comprehensive Plan, the annexation and rezoning must be consistent with Oregon's Statewide Planning Goals. In large measure these parallel the city's goals, and the proposed annexation and rezoning are consistent with the Statewide goals for the same reasons they are consistent with the city's goals as described above.

Goal 1. Citizen Involvement: *"To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process."*

The City has developed a Citizen Involvement Program that the state has approved. The present application for annexation and rezoning will be available for public review and examination at the Planning Department and online at the city's website. There will be two public hearings that will be preceded by notice to the public in general and specifically to surrounding property owners. Both the city's planning commission and city council will hold public hearings on this application and the hearings, which will be televised and live-streamed, will include opportunities for written and oral public comments. This process makes this application 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 has adopted a land use planning process and policy framework in the form of the comprehensive plan and the zoning ordinance. These provide the basis for all decisions and actions related to the use of land and ensure an adequate factual base for such decisions and actions. The City Council adopted them after public hearings, and from time to time has revised them as circumstances have changed. The revisions also followed public hearings. The city's Comprehensive Plan has been acknowledged as being consistent with the Statewide Planning Goals. Citizens and affected governmental units had opportunity for review and input during preparation, review, and revision of the plan and implementing ordinances. Review of this application 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 property carries the zone of R-M which is a residential zone, not an agricultural zone. It has had this zone for many years. The proposed rezoning does not affect agricultural lands. Accordingly, this goal is not applicable to this application.

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 property carries the zone of R-M, which is a residential zone, not a forest zone. It has had this zone for many years. The proposed annexation and rezoning do not affect forest lands. Accordingly, this goal is not applicable to this application.

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 property is located well within the city's Urban Growth Boundary. The property does not contain any areas designated as a Goal 5 resource, though it is adjacent to the "significant aesthetic resource" in the right-of-way of SW Third Street. As described above under the Comprehensive Plan Aesthetics goal, there are code and plan provisions already in place that provide strong protections for that resource. Development and redevelopment of the property will not adversely affect the resource and the proposed rezoning is consistent with this goal.

Goal 6. Air, Water and Land Resource Quality. *"To maintain and improve the quality of the air, water, and land resources of the state."*

The city is not in an air quality non-attainment area, nor is it in an air quality maintenance area. There is no danger that it will be in any such area in the foreseeable future. Development pursuant to the city's zoning ordinance of this site would not affect these resources. The city maintains water quality through its wastewater treatment facility, which operates pursuant to a National Pollutant Discharge Elimination System permit, and is within the federal standards for water quality. The city's wastewater treatment facility can handle wastewater from development or redevelopment of the property. The proposed rezoning is consistent with this goal.

Goal 7. Areas Subject to Natural Disasters and Hazards: *"To protect people and property from natural hazards."*

The property is mostly in the nearshore tsunami evacuation zone, but at its southern end it is not. It has easy walking access to the areas outside the tsunami zone. The property is in the coastal erosion zone. Lincoln City Municipal Code Chapter 17.47 controls any future development in this area and requires a geotechnical analysis of the site and a set-back from the bluff edge of 60 times the annual erosion rate plus five feet. Through adopting this requirement the City Council has deemed this an adequate protection and buffer city-wide and the proposed rezoning will not affect this requirement. The proposal to rezone it to the city's R1 zone is consistent with this goal. Since there are adequate protections in place already, property development there will be consistent with this goal.

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 property is located in the midst of extensive recreational facilities. The city's seven-mile-long beach is immediately adjacent to the property. The D River State Wayside is a short walk away. The property also has easy access to the Devils Lake State Park and its trails and other recreational facilities, as well as the city-owned open space that is adjacent to the state park. The Lincoln City Cultural Center, with its entertainment and art facilities, is located a short walk from the property. The proposed rezoning is consistent with this goal.

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 present R-M zoning does not provide any opportunities for economic activities other than the existing VADs (which are not allowed to be transferred), short term construction, and small-scale home occupations. The proposed rezoning would allow a greater variety of economic activities as well as stabilizing the existing ones. Stabilization is important to economic investment; without it the incentive to invest is greatly reduced, if not eliminated completely.

Moreover, the greater suite of allowed economic activities under the RC zone would encourage the creation of jobs. These facts demonstrate that the proposed rezoning is consistent with the Economic Development Goal.

Goal 10. Housing: *"To provide for the housing needs of citizens of the state."*

The proposed rezoning will have little if any effect on the availability of adequate numbers of needed housing units. Because the property is ocean-front, and ocean-front property is expensive compared to other properties, there is no practical way the property could be used for affordable or workforce housing.

The 2017 Housing Needs Assessment concludes that there is a substantial "surplus" of residentially-zoned land within the Lincoln City UGB. It says Lincoln City has plenty of available land inside its UGB for residential development through 2036 and therefore there is no need to add more land to the UGB to meet state law requirements. The actual figures are: a need for 206 to 249 acres of land, a supply of 1,124 acres within the UGB, and therefore a "surplus" of 876 acres within the UGB.

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 property is fully urbanized and developed, and is currently being served by public services and utilities as follows:

- A) The property is currently being served by electric power through Pacific Power.
- B) The property is currently receiving water service from the City of Lincoln City.
- C) The property is currently receiving sanitary sewer service from the City of Lincoln City.
- D) The property is currently receiving natural gas service from NW Natural.
- E) The property is currently served by street lighting from the City of Lincoln City and Pacific Power.

Services are currently available and on site, and no changes or extensions are requested or needed. This goal is satisfied.

Goal 12. Transportation : *"To provide and encourage a safe, convenient and economic transportation system."*

Rezoning, by itself, will not affect transportation. But once it is accomplished, the property will be able to be developed with uses other than what is allowed now, that could have some level of impact on the city's transportation system. As described above under the Comprehensive

Plan Transportation Goal, in a reasonable worst case development scenario under the RC zone, there would be 6.2 additional PM peak hour trips compared to development allowed under the existing zone. The total trip generation was estimated to be about 225 trips per day, which is only 91 trips more than what could be expected under the current zoning. This additional traffic is just a little more than one-third of one percent of the traffic on Highway 101. The traffic resulting from the proposed zone change will not significantly affect the transportation system.

The property has about 450 feet of frontage on SW Elk Avenue. LCMC 17.52.230, *Public Infrastructure Improvement Requirements*, requires the installation of curbs, gutters, and sidewalks along abutting streets when properties are developed. This means that the pedestrian transportation network will be improved in both extent and safety through putting in a stretch of sidewalk where none are found today. The rezoning is consistent with the transportation goal.

Goal 13 Energy Conservation: *"To conserve energy."*

The property is adjacent to existing utilities and city streets. The property is within walking distance of numerous employers, a grocery store, other retail, recreation, public transportation, and community services. Development would be required to provide sidewalks that would encourage non-motorized transportation. All of this would result in substantial energy conservation compared to development elsewhere in the urban growth boundary. The annexation and rezoning, therefore, would be consistent with the energy goal.

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 property consists of already urbanized land within the city limits. Rezoning will not result in any need to extend public services such as water, sewer, and police. Rezoning the property will preserve the efficiencies that exist today and in fact enhance them through encouraging even more efficient use of oceanfront property located at the center of the city. The proposed zoning is consistent with the surrounding uses and zoning. The rezoning proposal meets this goal.

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

The State of Oregon established the boundaries of the Willamette River Greenway in the 1980's, and the property is not within the Greenway. Accordingly, Goal 15 does not apply to this application.

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 property is not within or adjacent to any estuarine areas. This goal is not applicable to the proposed rezoning.

Goal 17. Coastal Shoreland: *"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."*

Because the city's coastal shoreland planning area extends westward from Highway 101, the property is within the coastal planning area. Nevertheless, there is only minimal applicability of this goal. The goal requires protection of significant coastal shorelands resources including significant wetlands, riparian areas, major marshes, fish and wildlife habitats, and aesthetic and scenic areas. But there are no mapped significant wetlands, riparian areas, major marshes, fish or wildlife habitats, and only the small aesthetic area adjacent at SW Third Street. This goal also prohibits residential development and commercial and industrial buildings on beaches, active foredunes, conditionally stable foredunes that are subject to ocean undercutting or wave over-topping, and dune areas that are subject to ocean flooding. This policy does not apply because these coastal resources are not found on the subject property.

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

This goal requires local governments to inventory beaches and dunes in order to provide information necessary for identifying and designating beach and dune uses and policies for the governments' comprehensive plans. Lincoln City relies on the inventory material contained in two studies: The inventory material is from Beaches and Dunes of the Oregon Coast (O.L.C. & D.L., 1975) and Environmental Hazard Inventory, Coastal Lincoln County (RNKR Associates, 1977). The property is not in a designated beach or active dune area. Accordingly, Goal 18 does not apply to this application.

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.”*

This goal relates to actions by local, state, and federal agencies that are likely to affect the ocean resources and uses of Oregon’s territorial sea. Neither the currently allowed uses of the property nor the additional uses that would be allowed under the proposed RC zone are likely to affect marine resources and ecological functions and accordingly Goal 19 does not apply to this application.

C. Transportation Planning Rule

OAR 660-002-0060(1): *“If an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation (including a zoning map) would significantly affect an existing or planned transportation facility, then the local government must put in place measures as provided in section (2) of this rule, unless the amendment is allowed under section (3), (9) or (10) of this rule.”*

The Transportation Planning Rule requires the city to determine whether a proposed land use amendment would “significantly affect an existing or planned transportation facility” and if so to mitigate that effect through certain prescribed measures. In the present case the issue is whether the proposed rezoning would “significantly affect” Highway 101. If not, then analysis under the transportation planning rule is completed and no mitigation is necessary. The initial analysis under the transportation planning rule is a comparison of reasonable worst case scenarios under the existing and proposed zones, in this case R-M and RC. As shown above under a reasonable worst case analysis the RC zoning would result in 6.2 additional PM peak hour trips compared to the trips generated under the R-M zoning. Also, based on 2018 traffic counts on Highway 101 at the D River the addition of these weekday peak hour trips will increase travel on Highway 101 by 0.002% at the maximum hour. Based on these findings, the additional 6.2 peak hour trips generated by the zone change will not significantly affect the transportation system and, therefore no further traffic impact analysis is needed and no further inquiry under the transportation planning rule is required.

Prepared and submitted by:

Richard Townsend

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Lincoln, OR 97351
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541-333-5474

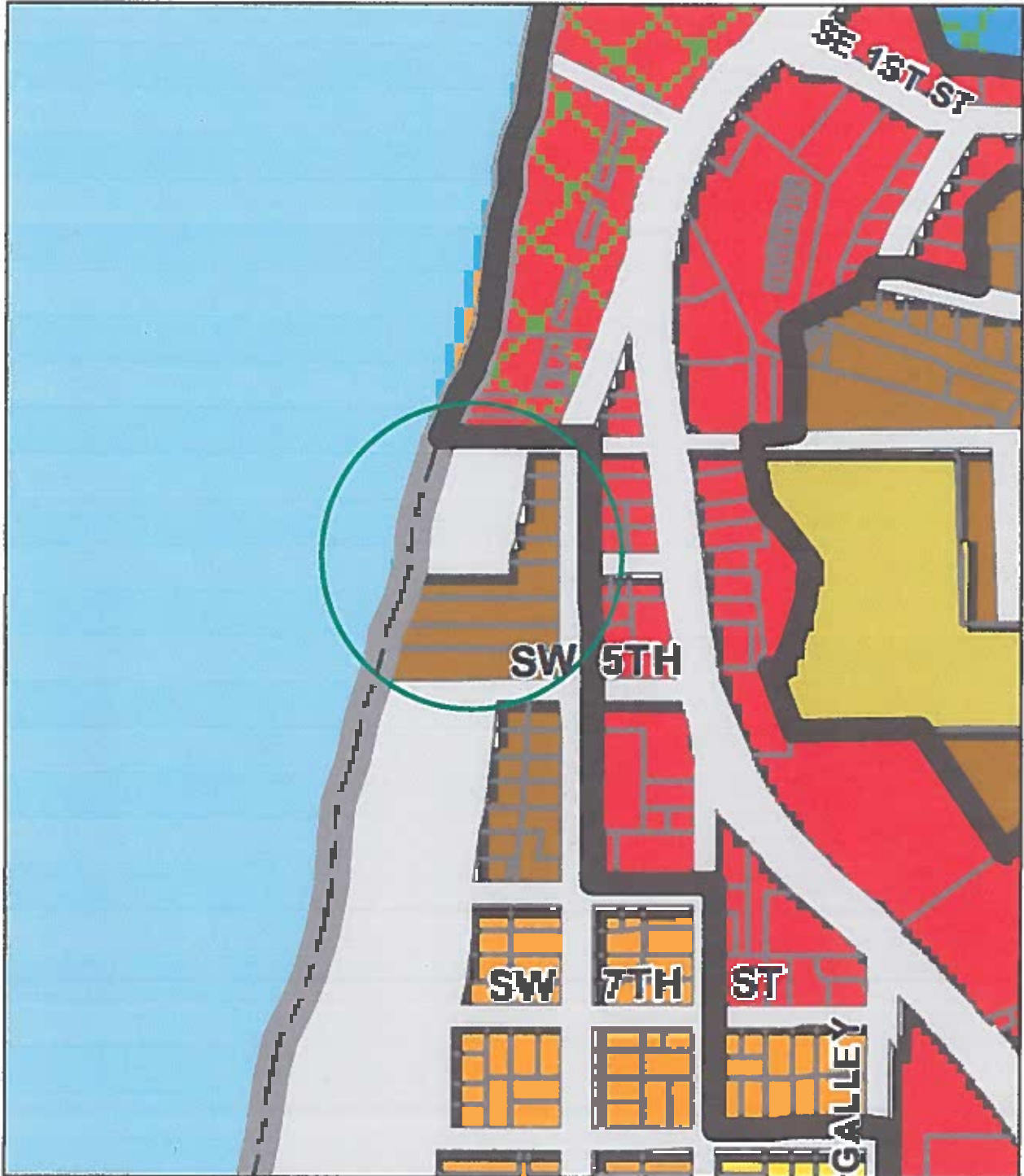


Figure 2: Zoning map-detail showing the property proposed for rezoning circled in green.

AnneMarie Skinner

From: Daniel Wentz
Sent: Thursday, December 19, 2019 4:29 PM
To: James White
Cc: Stephanie Reid
Subject: RE: CPA & ZC 2020-01 Scrutton et al

James,

Public Works doesn't have any comments on this zoning change.

Thanks



Daniel Wentz
 ENGINEERING TECHNICAL III

City of Lincoln City | Public Works
 501 Sherman St. | PO Box 51 | Lincoln City, OR
 503.938.7338 | 503.938.7325
 E: Dwentz@lincolncity.org | W: lincolncity.org

From: James White
Sent: Thursday, December 19, 2019 1:37 PM
To: AnneMarie Skinner <askinner@lincolncity.org>; Alison Robertson <arobertson@lincolncity.org>; Brandon Zipser <brandonz@nwcodepros.com>; Daniel Wentz <dwentz@lincolncity.org>; 'Duane Liner' <duane.j.liner@odot.state.or.us>; 'Ed Ulrich' <fulrich@nlfr.org>; Jeanne Sprague <jsprague@lincolncity.org>; Jerry Palmer <jpalmer@lincolncity.org>; Lila Bradley <lbradley@lincolncity.org>; 'ODOT Region 2 Manager' <ODOTR2PLANMGR@odot.state.or.us>; Richard Appicello <rappicello@lincolncity.org>; Ronald Chandler <rchandler@lincolncity.org>; 'Scott Nelson' <brian.s.nelson@odot.state.or.us>; Stephanie Reid <sreid@lincolncity.org>
Subject: CPA & ZC 2020-01 Scrutton et al

Good afternoon,

The attached application and associated materials have been submitted to the Planning and Community Development Department for the above-referenced project. Please review the materials to determine whether everything has been provided to allow your department to provide comments for the requested comprehensive plan map and zone change. Please reply as follows:

1. If there are items or information missing from the materials, please reply to this email specifically indicating the items or information needed.
2. If the application is complete for your purposes, please reply to this email indicating the application is complete.

AnneMarie Skinner

From: Frederick Ulrich <fulrich@nfr.org>
Sent: Monday, January 6, 2020 12:10 PM
To: James White; AnneMarie Skinner; Alison Robertson; Brandon Zipser; Daniel Wentz; 'Duane Limer'; Jeanne Sprague; Jerry Palmer; Lila Bradley; 'ODOT Region 2 Manager'; Richard Appicello; Ronald Chandler; 'Scott Nelson'; Stephanie Reid
Subject: RE: CPA & ZC 2020-01 Scrutton et al

The submitted documents do not indicate any conflict with the 2019 Oregon Fire Code.



Frederick E. Ulrich, Jr.

Fire Marshal

North Lincoln Fire & Rescue District #11

P.O. Box 200, 4500 SE Highway 101
 Lincoln City, Oregon 97110
 503-388-2330 (office); 503-388-2344 (fax)
 503-388-8024 (cell)

From: James White <jwhite@lincolncity.org>
 Sent: Monday, January 06, 2020 11:01 AM
 To: AnneMarie Skinner <amskinner@lincolncity.org>; Alison Robertson <arobertson@lincolncity.org>; Brandon Zipser <brandzip@lincolncity.org>; Daniel Wentz <dwentz@lincolncity.org>; Duane Limer <duane.limer@products.com>; Frederick Ulrich <fulrich@nfr.org>; Jeanne Sprague <jsprague@lincolncity.org>; Lila Bradley <lbradley@lincolncity.org>; 'ODOT Region 2 Manager' <ODOTR2PLANNING@odot.state.or.us>; Richard Appicello <rappicello@lincolncity.org>; Ronald Chandler <rchandler@lincolncity.org>; Scott Nelson <scott.nelson@products.com>; Stephanie Reid <st Reid@lincolncity.org>
 Subject: RE: CPA & ZC 2020-01 Scrutton et al

Good morning,

The attached application and materials have been deemed complete and are ready for review. **Please provide comments/conditions of approval by Thursday, January 23rd at 5:00 p.m.** If responses are not received by the date and time indicated, the assumption is that your department has no comments regarding the attached application.

Thank you,



James White
Assistant Planner

AnnelMarie Scianer

From: Karen Scuzzer
Sent: Monday, February 8, 2021, 7:07 AM
To: Planning
Subject: 2A & 2B 2020-21 Scuzzer lots

Dear Members of the Planning Commission,

We've owned our home at 400 5th Ave for the past 20 years. The current zoning on our block is for multi family RUM zone. Our block is narrow, steeped and has the ocean on one side and commercial properties on the other side. We are across the street from the 5th Street and the Hall, the Sea & Sand restaurant that has been closed for over 10 years and The Pier restaurant dumpster. Our block is not a good fit for apartments / multi family dwellings due to its steep, long slumpy wedge and lack of view of the oceanfront.

The 2 empty lots to our south that have been vacant for longer than 20 years and occupied with people building fires in the streets and climbing down the back to the beach. This block could benefit from a zone change to RC zone. I would speak with you as to build on the 2 empty lots or give different options to all the owners of these narrow, steeped lots. Please consider this zone change for us and our neighbors on the block.

Jean Celia
Mike Test
4523 NW Pacific Court
Lincoln City, Oregon 97367

February 10, 2020

Lincoln City Planning Commission
801 SW Hwy 101
Lincoln City, Oregon 97367



RE: CPA & ZC 2020-01 Scrutton et al.

Dear Commissioners:

Thank you for reviewing the above-referenced application.

Since this property is in next to commercial uses (Subway, bank, etc.), and one block west of Hwy 101, please consider re-zoning it from RM. The configuration of the subject properties (a long, thin wedge) does not lend itself to multi-family construction, such as apartment development. The value of oceanfront property also is not conducive to such development.

Thank you again for your consideration

Sincerely,

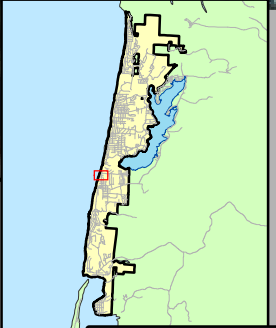
Jean Celia



Aerial Map



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

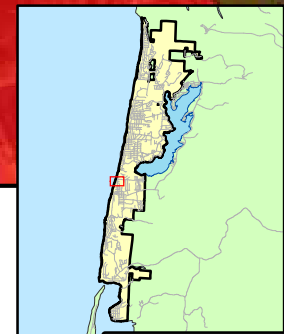


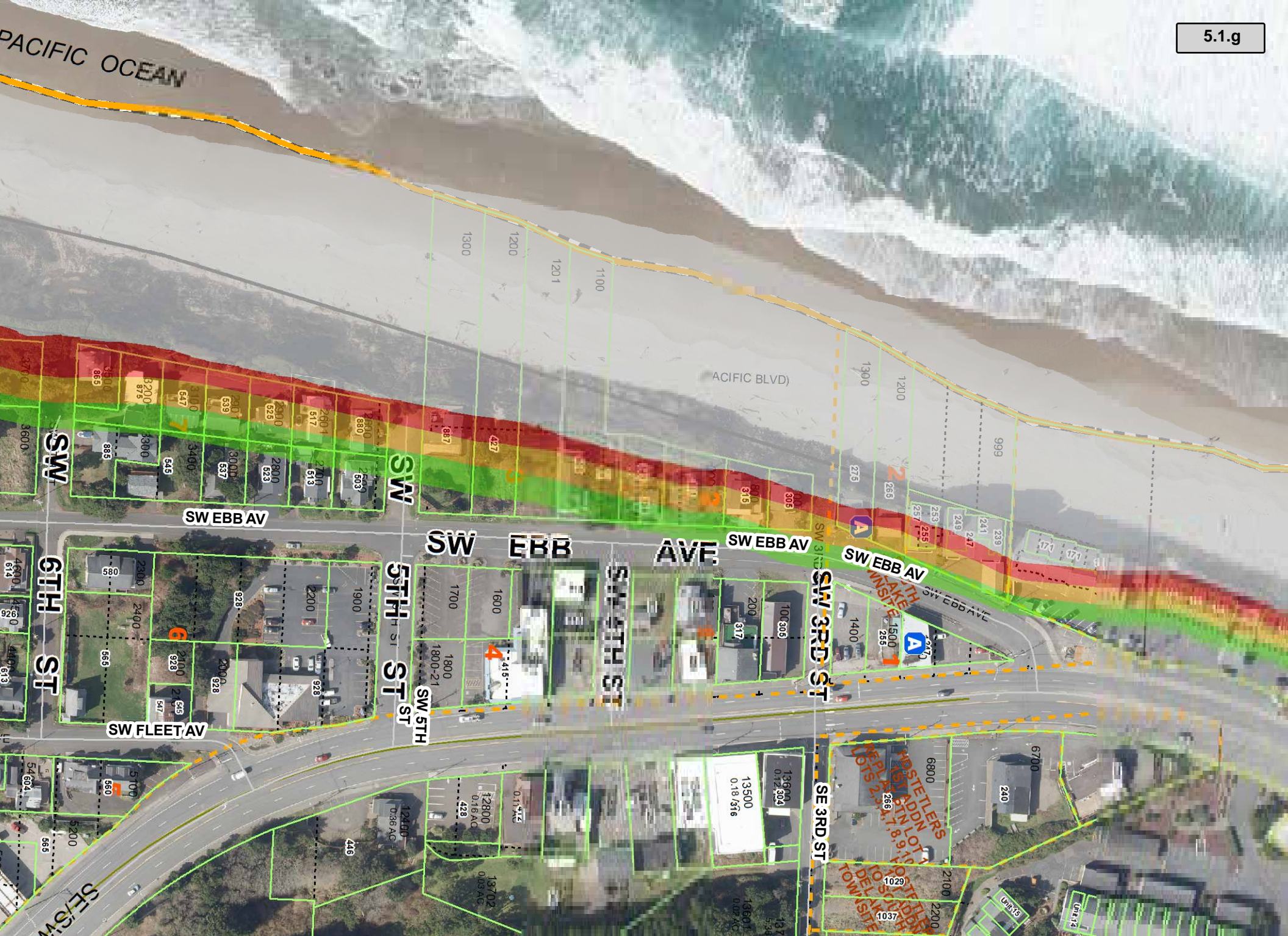


Zoning Map



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Vicinity Map

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



PLANNING COMMISSION STAFF REPORT
MEETING DATE: February 18, 2020

Report prepared by AnneMarie Skinner, Planning & Community Development Director

Annex 2020-01 CPA ZC 2020-02 Woods One

See Attached Staff Report

Staff Report ANNEX 2020-01 CPA ZC 2020-02 for PC Hearing (PDF)
Application Package(PDF)
Aerial Map (PDF)
Zoning Map (PDF)
Utilities Map (PDF)
Natural Resource Overlay Map (PDF)
Geologic Features Map (PDF)
Comments Neighbor Dunne (PDF)

Staff Report

Planning Commission Hearing on February 18, 2020

Case File ANNEX 2020-01 and CPA/ZC 2020-02

Date: February 11, 2020

Case File: ANNEX 2020-01 and CPA/ZC 2020-02 Woods Annexation

Applicant: Woods One LLC
24850 SW Melott Rd
Hillsboro, OR 97123
503-628-0950
swoods.home@aol.com

Applicant's Representative: Richard Townsend
Townsend Planning & Design LLC
1936 NE 63rd St
Lincoln City, OR 97367

Property Owner: Woods One LLC
24850 SW Melott Rd
Hillsboro, OR 97123

Situs Address: No address

Location: East side of NW Logan Rd, approximately 370 feet south of the east-west stretch of NE Port Ln

Tax Map and Lot: 06-11-35-CC-02400 and 06-11-35-CC-02900

Comprehensive Plan Designation: Lincoln County's Residential

Zoning District: Lincoln County's Residential (R-1-A)

Site Size: 11.15 ac per Lincoln County Property Report

Proposal: Annexation of approximately 11.15 acres into City of Lincoln City with a comprehensive plan map change from Lincoln County to Lincoln City's Single-Family Residential District (R-5) and a zoning map change from Lincoln County's Residential (R-1-A) Zone to Lincoln City's Single-Family Residential (R-1-5) Zone



**Proposed
Comprehensive Plan
Map Designation:**

Single-Family Residential District (R-5)

Proposed Zone:

Single-Family Residential (R-1-5) Zone

**Surrounding
Land Uses
and Zones:**

North: Northwest single-family residences, Northeast city water tower; R-1-RE
South: Southwest hotel, Southeast undeveloped tribal land; RC
East: Single-family residences; R-1-7.5
West: NW Logan Rd, and west of the road single-family residences; R-1-RE

Public Notice:

The Planning and Community Development Department mailed notice of the public hearings to the owners of all properties within 250 feet of the site on January 27, 2020. A second notice was sent February 4, 2020, correcting a typographical error in the Assessor's Map number for Tax Lot 2900. The *News Guard* published the notice on February 5, 2020 and February 12, 2020. On February 5, 2020, the notice of the public hearings was posted on the subject property, at City Hall (801 SW Hwy 101), the Driftwood Public Library (801 SW Hwy 101), the Lincoln City Community Center (2150 NE Oar Place), and the Lincoln City Cultural Center (540 NE Hwy 101).

Authority:

Lincoln City Comprehensive Plan Urbanization Policy 5(g) *Annexation of sites within the UGB shall be reviewed by the Planning Commission and shall be in accordance with relevant Oregon statutes.*

Oregon Revised Statutes (ORS) 222.111(1) *When a proposal containing the terms of annexation is approved in the manner provided by the charter of the annexing city or by ORS 222.111 (Authority and procedure for annexation) to 222.180 (Effective date of annexation) or 222.840 (Short title) to 222.915 (Application of ORS 222.840 to 222.915), the boundaries of any city may be extended by the annexation of territory that is not within a city and that is contiguous to the city or separated from it only by a public right-of-way or a stream, bay, lake, or other body of water. Such territory may lie either wholly or partially within or without the same county in which the city lies.*

ORS 222.111(2) *A proposal for annexation of territory to a city may be initiated by the legislative body of the city, on its own motion, or by a petition to the legislative body of the city by owners of real property in the territory to be annexed. Authority and procedure for annexation, states the boundaries of any city may be extended by the annexation of territory that is not within a city and that is contiguous to the city. A proposal for annexation of territory to a city may be initiated by the legislative body of the city, on its own motion, or by a petition to the legislative body of the city by owners of real property in the territory to be annexed.*

ORS 222.120(1) *Except when expressly required to do so by the city charter, the legislative body of a city is not required to submit a proposal for annexation of territory to the electors of the city for their approval or rejection.*

ORS 222.120(2) *When the legislative body of the city elects to dispense with submitting the question of the proposed annexation to the electors of the city, the*

legislative body of the city shall fix a day for a public hearing before the legislative body at which time the electors of the city may appear and be heard on the question of annexation.

Lincoln City Municipal Code (LCMC) Section 17.88.040.A. Upon filing of the application for an amendment as described in LCMC 17.88.030, or upon motion of the city council or planning commission for the initiation of the amendment, the matter shall automatically be referred to the planning commission. The planning commission shall study the matter to the extent that it considers such study to be necessary, including the holding of a public hearing if it so desires, and shall, in open meeting, recommend the approval or disapproval of the amendment. The recommendation shall be reported to the city council by filing the recommendation with the city manager. The city manager shall, upon filing the recommendation, report the same to the city council at a subsequent regular city council meeting after the filing of the recommendations, by setting the matter for public hearing pursuant to LCMC 17.88.050.

**Applicable
Substantive
Criteria:**

The amendment must be in conformance with Oregon Revised Statutes, the Oregon Statewide Planning Goals, the Lincoln City Comprehensive Plan, and the applicable provisions of LCMC Title 17.

BACKGROUND

Previous Efforts

The subject property has been the subject of two previous annexation attempts. In 2005, Kirk Wardius requested that the site be annexed into the city and retain the existing Lincoln County Residential (R-1-A) zoning (*file ANNEX 2005-01 Wardius*), which is a single-family residential designation with a 6,000 square foot minimum lot size. A development plan was not submitted as part of that application.

The City Council denied the 2005 annexation request, citing a number of reasons, including:

- The inability of the City to identify the impacts and service demands of development on the property because the application materials did not contain a development plan;
- Concerns about the impact of new traffic in an already-congested section of road and an inability to determine the portion of the cost of improvements that new development in the area proposed for annex would be responsible for without a traffic study and before completion of the City's Transportation Master Plan; and
- Uncertainty about the availability of water and the ability to provide for the subject property and for the Roads End area as a whole.

There was a second attempt to annex the site in 2014 (*file ANNEX 2014-01 Logan Park*). The property owner, Central Oregon Coast Properties LLC, submitted applications for annexation, comprehensive plan amendment and zone change, and preliminary master plan approval in March 2014. The application proposed 71 new dwelling units in a mix of apartments, townhouses, and single-family homes that preserved the center of the property as open space with development clustered on the property edges.

The City Council denied the 2014 annexation and preliminary master plan request, in a Final Order dated June 8, 2015, finding that:

- “There is currently no demonstrated public need or necessity for annexation of additional residential lands...”; and that
- “The developer’s proposal to include a workforce housing component in the Development Agreement was appropriately directed to filling a specific housing need; however, ultimately, the level of commitment the developer was willing to make toward this need in the Development Agreement (in terms of percentage) was inadequate.”

Current Application

The current application requesting annexation with an associated comprehensive plan map amendment and zoning change was received on January 3, 2020. The application does not include any requests for a statutory development, planned unit development preliminary master plan, or subdivision preliminary plat.

The application materials were reviewed by City staff, and the application was deemed completed on January 14, 2020. The letter notifying the applicant of the completeness determination was mailed on January 16, 2020. Notice of the public hearings was mailed to property owners within 250 feet of the site on January 27, 2020. A second notice of the public hearings correcting a typographical error in the Assessor’s Map number for Tax Lot 2900 was mailed to the same list of property owners within 250 feet of the site on February 4, 2020. Notice of the public hearings was published in *The News Guard* on February 5, 2020 and February 12, 2020. The notice was posted on February 5, 2020, on the subject property, at Lincoln City City Hall (801 SW Hwy 101), the Driftwood Public Library (801 SW Hwy 101), the Lincoln City Community Center (2150 NE Oar Pl), and the Lincoln City Cultural Center (540 NE Hwy 101).

The applicant states the nature of the request as follows:

Woods One LLC seeks annexation of approximately 11.15 acres of land located within the Urban Growth Boundary. They propose a change in zoning from Lincoln County’s R-1-A zone to the city’s R-1-5 zone.

ANALYSIS

Annexation

Oregon Administrative Rules 660-014-0060, Annexations of Lands Subject to an Acknowledged Comprehensive Plan, states that a city annexation made in compliance with a comprehensive plan acknowledged pursuant to ORS 197.251(1) or 197.625 shall be considered by the [Land Conservation and Development Commission] to have been made in accordance with the [Statewide Planning Goals] unless the acknowledged comprehensive plan and implementing ordinances do not control the annexation. A comprehensive plan policy need not be a mandatory approval criterion to “control the annexation” for purposes of OAR 660-014-0060; it is sufficient that the policy provides relevant guidance with respect to annexations.

Pursuant to LCMC 17.88.050.D., for the City Council to adopt an ordinance for an amendment Title 17 (the zoning ordinance), comprehensive plan document and/or map, findings must be made, and adopted as a part of said ordinance, that are adequate to support the amendment proposal. The findings must be factual and must be supported by substantial evidence submitted into the record. It must be found that the amendment complies with and conforms to the comprehensive plan goals, policies, and land use map. It may be further necessary to provide evidence that the proposed amendment is in conformance with statewide land use planning goals and policies when a more specific direction is provided by the goals than the comprehensive plan.

Comprehensive Plan Map Amendment and Zone Change

The city's comprehensive plan provides for major and minor revisions. Major revisions are changes to the comprehensive plan and zoning map that have widespread and significant impact upon the immediate area of the change; such as quantitative changes, producing large volumes of traffic; a qualitative change in the character of the land use itself, such as conversion of residential to commercial land use; or a spatial change that affects large areas or many different ownerships. The definition of minor revision is listed as changes to the comprehensive plan and zoning map which focus on specific individual properties and which do not have a significant effect beyond the immediate area of change. The request is for a change between similar zones (Lincoln County's Single-Family Residential with 6,000-square-foot minimum lot size to Lincoln City's Single-Family Residential R-1-5 with 5,000-square-foot minimum lot size), which staff considers to be a minor revision. The proposed amendment must conform to the Statewide Planning Goals and be consistent and compatible with other unamended portions of the comprehensive plan.

The Planning Commission needs to be aware that statements in the application regarding the intentions of the property owner to do such things as providing "a substantial portion of workforce housing in the property's development mix" are not binding, unless a statutory development agreement is approved by the City Council. Similarly, the applicant's expression of willingness to provide an easement for drainage of the City's water tower is not binding either.

A. Lincoln City Comprehensive Plan Goals

1. Land Use Planning Goal

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

The City Council established a land use policy framework and implementing ordinance through adoption of a comprehensive plan and zoning ordinance, respectively. The Land Conservation and Development Commission (DLCD) acknowledged the City of Lincoln City's Comprehensive Plan (Comprehensive Plan) and implementing land development regulations (including Zoning Title 17) as complying with the Statewide Planning Goals. Review of these amendments in accordance with the Comprehensive Plan and the applicable zoning ordinance provisions, including the provisions of Chapter 17.88 LCMC, 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 amendment must conform to the Statewide Planning Goals and be consistent and compatible with other unamended portions of the comprehensive plan.

The request is to change approximately 11.15 acres of property currently zoned Lincoln County's R-1-A to Lincoln City's R-1-5 zone. The proposed zone change introduces a new zone to the immediately adjacent sites and surrounding areas as north and west are zoned R-1-RE and east is zoned R-1-7.5.

The Comprehensive Plan states the following:

A Medium-Density Residential District (R-7.5), in which the minimum lot size per dwelling unit is 7,500 square feet and the housing density is in [the] range of 4 to 5 dwelling units per acre. In areas not served by the sewer system, larger lots will be required.

A Single-Family Residential District (R-5), located along the ocean and lake fronts is to be composed primarily of single-family dwellings. This district is designed to provide neighborhoods of a quiet residential nature in which all structures have approximately the same height and bulk. The majority of the land in these areas is platted in lots of 5,000 square feet or less.

LCMC 17.16.010 lists the purpose of the Single-Family Residential (R-1) zone as: “to promote and encourage environment for family living and to protect and stabilize the residential characteristics of the zone. The R-1 zone is intended to provide primarily for single-family dwellings.” R-1-5 and R-1-7.5 have the same purpose as they are both in the R-1 zone.

LCMC 17.17.010 lists the purpose of the Single-Family Residential, Roads End (R-1-RE) zone as: “to retain and maintain the historic and traditional nature of the Roads End neighborhood, to promote and encourage a suitable environment for family living and to protect and stabilize the residential characteristics of the area. The R-1-RE zone is intended to provide primarily for single-family dwellings.”

Below are the development standards for the three zones.

Zone	Lot Area	Lot Width	Lot Depth	Front Yard	Side Yard	Street Side Yard	Rear Yard	Max Lot Coverage
R-1-5	5,000 sq ft	50 ft	70 ft	5 or 7-1/2	5 or 7-1/2	5 or 7-1/2	5 or 7-1/2	35%
R-1-7.5	7,500 sq ft	70 ft	80 ft	5 or 7-1/2	5 or 7-1/2	5 or 7-1/2	5 or 7-1/2	35%
R-1-RE	5000 sq ft	50 ft	70 ft	20	7-1/2 or 10	20	7-1/2 or 10	35%

After comparing the R-1-5, R-1-7.5, and R-1-RE comprehensive plan and zoning purposes, as well as the development standards, staff concludes the request does not represent an intrusion into the existing residential area that is not consistent with the unamended portion of the Comprehensive Plan.

Regarding the annexation request, LCMC Title 17 does not specify a process or criteria for making a decision on annexation. The Comprehensive Plan provides in Urbanization Policy 5(g) that “annexation of sites within the UGB shall be reviewed by the Planning Commission and shall be in accordance with relevant Oregon statutes.” The proposed annexation is within the city’s designated urban growth boundary, so if the City finds annexation serves the City’s other goals and is in accordance with relevant Oregon statutes, then it is in conformance with this goal.

2. Citizen Involvement Goal

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

The 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 annexation, map amendment, and zone change included mailed and published notice to the public and property owners, and review of the proposal by the Planning Commission and the City Council, consistent with the Plan, Goal, and Resolution

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

3. Public Services and Utilities Goal

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

The site is undeveloped, so it does not contain public services and utilities presently. However, it is assumed public services and utilities are in place adjacent to the site of the proposed annexation, map amendment, and zone change, and are currently providing service to the existing developments to the north, south, east, and west. The City's mapping shows an existing sanitary sewer line running on the northern property line, with three manholes. A pressurized water main line is in place along the eastern side of NW Logan Road. The existing sanitary sewer and water systems have capacity to accommodate residential development on the subject site.

The applicant identifies, and the City's mapping shows, a natural drainage way bisecting the site. The applicant states the drainage way is adequate to handle storm water drainage. The applicant also mentions the City's plans to use the drainage way as emergency overflow for the 4.25-million-gallon water tank and notes that the City does not have an easement for such a use. The application expresses a willingness to provide such an easement, although the current application provides no mechanism for making this binding.

There is no mention in the application of other utilities and public services such as electric power. The City's mapping does not provide information on any utilities other than sanitary sewer, water, and storm water. Again, staff assumes that, based upon the existing developments surrounding the subject site, private utilities are available or can be made available to serve new residential development on the subject site.

Existing services and utilities, and connections of such to the subject site as part of development, generally satisfy Goal 3.

4. Urbanization Goal

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

In addition to setting the rules for modifications to the urban growth boundary (UGB), the urbanization policies associated with the urbanization goal set the process and criteria for annexation of lands within the UGB. The area affected by the proposed annexation is entirely within the UGB and is surrounded on all sides by land already incorporated into the City.

The area affected by the proposed map amendment and zone change is within the UGB and is surrounded by urban development. The proposed rezoning will not change the current urban development; rather, it will add to it. Goal 4 is satisfied.

5. Natural Hazard Goal

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

The City’s maps do not show any known natural hazards at the subject site. The subject site is outside the bluff erosion zone, and is outside the 500-year flood zone (FEMA flood zone X). Evidence of ancient mass-wasting events were mapped by CH2M-Hill on the properties immediately to the north, but not on the subject site. The proposal is consistent with Goal 5.

6. Housing Goal

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

The proposed annexation and rezoning would add approximately 11.15 acres of R-1-5-zoned property to the City’s inventory of buildable residential land. The proposed R-1-5 zone permits single-family dwellings and duplexes, attached single-family dwellings, manufactured homes, and four-flat dwellings.

The applicant notes that the subdivision will have to be processed as a planned unit development as required by current standards in LCMC 16.08.050. Using the method described in LCMC 17.52.210 to calculate the maximum number of dwelling units that might be allowed on the site, without applying additional density bonuses, the applicant came up with a maximum of 80 allowed dwelling units on the site. Staff estimated 79 units as part of the 2005 annexation attempt, and the applicant proposed 71 units in the 2014 attempt. For the purpose of assessing compliance with this goal, staff use a range of 70-80 potential new dwelling units.

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

The resulting baseline housing forecast for the City identifies the need for 948 net new dwellings for permanent residents over the next 20 years. Assuming that the 948 net new is proportional in type to the existing mix of dwelling units, 578 new single-family dwellings are needed for permanent residents over the next 20 years. Further, if we assume the current level of seasonal housing (second homes and short-term rentals) and vacant inventory remain at current levels (36 percent of total inventory), there would be additional demand for approximately 536 housing units. The combination of housing for permanent residents and seasonal housing is expected to require 1,484 dwellings over the next 20 years – 905 of which would be single-family units.

An examination of the most recent tax lot data from Lincoln County (received December 2019) shows an inventory of undeveloped and underdeveloped residential land that includes approximately 1,232 acres on 2,014 lots. This does not include permitted residential uses on undeveloped commercial land. Approximately 83 percent, or 1,030 acres, of the residential land supply is dedicated to single-family dwellings. The 2017 study states that the estimated demand for residential lands in the City ranges from 206 to 249 acres. With a vacant residential land supply of 1,232 acres, the City has a surplus of approximately 983 acres of buildable residential lands. Additionally, with an inventory of approximately 1,432 undeveloped or underdeveloped

single-family residential lots and a need for approximately 281 new single-family residences, the City has a surplus inventory of approximately 983 single-family lots.

The 2014 attempt to annex the subject site sought to accommodate the need for a mix of dwelling types as part of the development's master plan. The current application acknowledges that a specific development plan has not been identified, but states that the owners intend to include a substantial proportion of workforce housing in the development mix and discusses the number of units that would be allowed. As stated previously in this report, any statements by the applicant about development intentions are not binding and there is no way for the City to know whether, by annexing an additional 11.15 acres, it will get the types and quantities of development that is needed to meet estimated current and future housing demands.

The application refers to workforce housing – especially mentioning “housing for those employed at nearby tourist facilities such as the casino, restaurants, and motels” – which is a specific need in Lincoln City. However, there is no guarantee that development of the site will contribute the mix or quantity of housing needed in Lincoln City, or that it will result in additional new housing rather than displacing infill development that would otherwise occur. The proposed annexation is not consistent with Goal 6.

The types and quantity of development under the existing County Single-Family Residential zoning will change only incrementally if the zone change is granted. The request is consistent with Goal 6.

7. Economy Goal

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

The applicant states the following:

“The proposed annexation and rezoning will have little direct effect on the tourist economy. Indirect effects may be felt through the removal of the blighted clear-cut area and its replacement with attractive, well-planned development that includes recreational opportunities. This will be especially beneficial to Roads End by providing a more pleasing entrance to the area and its tourist-oriented resources such as the state park and the nearby trail network. When built out the property also will benefit the tourist economy through providing additional housing opportunities for those employed at nearby tourist facilities such as the casino, restaurants, and motels. The construction phase also will provide a substantial number of jobs, providing a benefit to other sectors of the city's economy. These facts demonstrate that the proposed annexation and rezoning are consistent with the Economy Goal.”

The R-1-5 zone does not permit any commercial uses. Bed and breakfast accommodations and accessory vacation rental dwellings are allowed, subject to code requirements, as accessory to the dwelling. Annexation of the site into the City with the R-1-5 zone does not provide any industry to support tourism, other than the few bed and breakfasts and accessory vacation rental dwellings that may result in some of the new houses. Staff finds this Goal 7 is either met or is not applicable.

8. Aesthetic Goal

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

The subject site was previously densely forested with mature trees. Previous owners of the subject site removed all of the trees prior to the 2014 annexation attempt, and the site is now covered with brush and

invasive weeds. Development of the site, with the associated landscaping and likely open space, will be an improvement, aesthetically. Goal 8 can or will be met as part of future development.

9. Transportation Goal

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

The application refers to the traffic impact study submitted as part of the 2014 annexation attempt, which identified a worst-case development under City zoning as resulting in only 11 additional PM peak hour trips compared to development under the existing county zone. However, the applicant only compares the traffic impacts from the difference between the existing County zoning and the proposed new City zoning and does not analyze the impacts from the additional 71 units that were proposed as part of the 2014 annexation attempt.

Future development will have to comply with the City's development standards, including compliance with the City's Transportation System Plan. The subject site receives access from NW Logan Road which is a minor arterial from Highway 101 to the subject site, and it's a high-use street. NW Logan Road is paved, but it does not have sidewalks or bicycle paths on either side. The NW Logan Road/Highway 101 intersection contains a traffic signal. The City's Transportation System Plan identifies driving improvements, bicycle paths, and pedestrian walkways as elements to be studied in the future. Staff finds Goal 9 is or will be satisfied with improvements required through development of the subject site.

10. Energy Goal

"To conserve energy."

The annexation and zone change alone should not affect energy conservation. However, because of topographic constraints it is possible that future development will be clustered along the edges of the site, which will reduce the energy costs of site preparation. Additionally, the close proximity of the site to entertainment, services, and shopping may encourage walking instead of driving. This outcome is considerably more likely if improvements are made to provide sidewalks and bike lanes on Logan Road. All new construction in the future development will have to comply with energy codes adopted by the State of Oregon. Staff finds this goal is either not applicable to this application or will be met with future development.

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."

Although much of the habitat value of the mature forest vegetation was lost when the site was previously deforested, the existing vegetation does provide some habitat and continuing ecosystem services. In particular, the City's maps show 30,767 square feet of jurisdictional wetland running approximately north-south through the middle of the site along the bottom of the drainage way. The delineated wetland represents 6% of Tax Lot 2900 and 10.2% of Tax Lot 2400. Future development must adhere to LCMC Chapter 17.46, which provides requirements and restrictions for identified significant natural resources. Goal 11 is met with adherence to Title 17.

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

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

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

B. Statewide Planning Goals

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

The application for annexation and for amending the comprehensive plan map and changing the zoning is available at no cost on the City’s website and also available for public review and purchase at the counter. Staff is available to explain the proposal and technical information. The City publishes hearing notices in the local newspaper in accordance with notice requirements and mails notices to impacted property owners pursuant to Measure 56. The notice of public hearing was posted at public locations across the City. 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 annexation and 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. The findings concerning the planning goal for the 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 annexation and rezoning is within the City’s Urban Growth Boundary. The area is currently designated and zoned for urban development and will remain as such, any rezoning notwithstanding. The rezoning will not affect agricultural lands; therefore, Goal 3 is not applicable.

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

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

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

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

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

Current building and public works standards for new development require protection of these resources. Any future development made possible by the proposed annexation and zone change will have to comply with those standards. Goal 6 is not applicable to the immediate application, but future development will be consistent with the goal.

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

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

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

The Single-Family Residential (R-1-5) zone is a residential zone. Goal 8 is not applicable.

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 findings concerning the Comprehensive Plan’s Economy Goal are incorporated herein by this reference. The Single-Family Residential (R-1-5) zone is a residential zone. Goal 9 is not applicable.

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

The current zoning and lot configuration of the site would allow a maximum of two detached dwellings or two manufactured homes. The proposed annexation and rezone could allow as many as 70-80 new dwelling units. The findings that address the City’s housing goal are incorporated herein by this reference. Staff considers the proposal consistent with Goal 10.

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

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

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

Future development will have to comply with the City's development standards, including compliance with the City's Transportation System Plan. The subject site receives access from NW Logan Road which is a minor arterial from Highway 101 to the subject site, and it's a high-use street. NW Logan Road is paved, but it does not have sidewalks or bicycle paths on either side. The NW Logan Road/Highway 101 intersection contains a traffic signal. The City's Transportation System Plan identifies driving improvements, bicycle paths, and pedestrian walkways as elements to be studied in the future. Staff finds Goal 12 is or will be satisfied with improvements required through development of the subject site.

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

The findings concerning the City's Energy goal are incorporated herein by this reference. Staff considers the proposal consistent with Goal 13.

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 findings concerning the Comprehensive Plan's Land Use goal, Housing goal and Urbanization goal are incorporated herein by this reference. The proposal is consistent with Goal 14.

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

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

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

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

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

The City's coastal shorelands are not impacted by the annexation and rezoning. The findings concerning the Comprehensive Plan's Shoreland, Beaches, Dunes, Estuary & Ocean Resources Element are incorporated herein by this reference. Goal 17 is not applicable.

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

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

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

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

RECOMMENDATION

Hold a public hearing on the proposed annexation, comprehensive plan map amendment to Single-Family Residential District (R-5), and zone change to Single-Family Residential (R-1-5) Zone, close the public hearing, deliberate, and make a recommendation to City Council to approve or deny the request based upon the evidence presented and compliance with the applicable criteria.

OFFICE USE ONLY

Date Filed: _____
 Amount/Fee: _____
 Receipt No: _____
 Received By: _____
 30 Days: _____
 Deemed Incomplete: _____
 Deemed Complete: _____
 120 Day Deadline: _____



LAND USE APPLICATION

OFFICE USE ONLY

Stamp: Date Received
PLANNING
 02/25/2008
RECEIVED
 File No: _____

APPLICATION TYPE

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

NAME OF APPLICANT: Woods One LLC
 MAILING ADDRESS: 24950 SW Delcott Road
 CITY: Hillsboro STATE: OR ZIP: 97123
 DAYTIME PHONE: 503.628.0950 Signature: [Signature]
 EMAIL (OPTIONAL): SWOODS.Home@POL.COM

OWNER OF RECORD (if other than applicant)
 NAME: _____
 MAILING ADDRESS: _____
 CITY: _____ STATE: _____ ZIP: _____
 DAYTIME PHONE: _____ Signature: _____
 EMAIL (OPTIONAL): _____

APPLICANT AND/OR OWNER'S INTEREST IN PROPERTY SUBJECT TO REQUEST:
 AGENT, FEE OWNER, CONTRACT PURCHASER, OPTION HOLDER, LESSEE, OTHER
 PROJECT LOCATION: _____
 PROJECT ADDRESS: _____
 ASSESSOR'S MAP NO.: Q6-U-3500 TAX LOT(S): 02402202900
 AREA: 11.15 (acres) SQ. FT.: _____ ZONING: County R-1-A

ANNEXATION PETITION

AMENDMENT TO THE COMPREHENSIVE PLAN AND ZONING MAP

Lincoln City Comprehensive Plan's Urbanization Policy 5.g. states, "Annexation of sites within the UGB shall be reviewed by the Planning Commission and shall be in accordance with relevant Oregon statutes."

The City's Comprehensive Plan also states that minor revisions to the Comprehensive Plan and Zoning Map shall be reviewed by the Planning Commission, which shall forward a recommendation to the City Council.

THE FOLLOWING ATTACHMENTS MUST ACCOMPANY THIS APPLICATION:

FOR MAP AMENDMENTS: the applicant shall provide title report and/or other documentation to provide evidence that the applicant is the owner of record, a purchaser under a recorded land sale contract, or the holder of an option to purchase property which is the subject of the application.

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

ANNEXATION CRITERIA

According to the Urbanization policy 5(g) set forth in the City's Comprehensive Plan (page 26), "Annexation of sites within the UGB shall be reviewed by the Planning Commission and shall be in accordance with relevant Oregon Statutes." Therefore, the Statewide Planning Goal number 14 is considered below. Describe how your proposal addresses the following items:

STATEWIDE PLANNING GOAL 14 CONSIDERATIONS

CONSIDERATION 1: The need for orderly, economic provision for public facilities and services.

See attached narrative.

CONSIDERATION 2: The need for availability of sufficient land within the City for the various uses, to insure choices in the market place.

See attached narrative.

CONSIDERATION 3: The acknowledged comprehensive plan.

See attached narrative

CONSIDERATION 4: The need for encouragement of development within the current City boundaries before annexation of additional land.

See attached narrative

COMPREHENSIVE PLAN AND ZONING MAP AMENDMENT CRITERIA

According to the City's Comprehensive Plan, changes to the Comprehensive Plan and Zoning map must conform to the Statewide Planning Goals and be consistent and compatible with other unamended portions of the Comprehensive Plan. Describe how your proposal addresses each of the Statewide Planning Goals below:

See attached narrative

Statewide Planning Goals

Goal 1- Citizen Involvement

Goal 2- Land Use Planning

Goal 3- Agricultural Lands

Goal 4- Forest Lands

Goal 5- Open Spaces, Scenic and Historic Areas and Natural Resources

Goal 6- Air Water and Land Resources Quality

Goal 7- Areas Subject to Natural Disasters and Hazards

Goal 8- Recreational Needs

Goal 9- Economic Development

Goal 10- Housing

Goal 11- Public Facilities and Services

Goal 12- Transportation

Goal 13- Energy Conservation

Goal 14- Urbanization

Goal 16- Estuarine Resources

Goal 17- Coastal Shoreland

Goal 18- Beaches & Dunes

Goal 19- Ocean Resources

This application is hereby submitted, and the statements and information are true and complete to the best of my/our knowledge.

APPLICANT'S VERIFICATION

I (We) hereby declare under penalty of perjury under the laws of the State of Oregon that the information in this application and its attachments is true, complete, and correct.

Stephen P. Wade
Applicant

1-4-2020
Date

NOTE TO APPLICANT: Since the burden of presenting evidence to support the request rests with the applicant at the public hearing, your attendance and participation at this public meeting, or that of your representative, is respectfully requested.

Burden of proof. The specific findings made by the City Council, upon the recommendation of the Planning Commission, to adopt an ordinance to annex this area and/or amend the comprehensive plan text and/or map must be factual and supported by substantial evidence. The burden of producing substantial evidence to support the requisite findings is on the applicant seeking the amendment. If no evidence is produced concerning the requisite findings listed in LCMC 17.88.050 (C), the application may be denied based upon improper or inadequate findings. The evidence produced must be referenced in the final order and findings of fact adopted as a part of the ordinance adopting the amendment proposal.

APPLICANTS' NARRATIVE

Nature of Request

Woods One LLC seeks annexation of approximately 11.15 acres of land located within the Urban Growth Boundary. They propose a change in zoning from Lincoln County's R-1-A zone to the city's R-1-5 zone.

Site Information

Applicants/Owners: Woods One LLC
24850 SW Melott Road
Hillsboro, OR 97123

Applicants' Representative: Richard Townsend
Townsend Planning & Design LLC
1936 NE 63rd Street
Lincoln City, OR 97367

Maps and Tax Lots: Map 06-11-35CC, Tax Lots 02400 and 02900

Location: East side of Logan Road, SE of Port Lane Intersection

Current County Comprehensive Plan Designation: Residential

Current County Zoning Designation: Single-Family Residential (R-1-A)

Proposed Comprehensive Plan Designation: Single-family Residential R-5

Proposed Zoning Designation: Single-family residential (R-1-5)

Surrounding Land Uses And Zoning: North: Residential (R-1-RE)
East: Residential (R-1-7.5)
South: motel and vacant land (RC, Recreational Commercial)
West: Residential (R-1-RE)

Evidence of Compliance with Standards

LCMC 17.88.030.6. requires an applicant for a comprehensive plan amendment to provide evidence "indicating the precise manner in which the proposed amendment is in conformance with the comprehensive plan" and other applicable standards. According to the Comprehensive Plan, the proposed amendment must conform to the Statewide Planning Goals and be consistent and compatible with other unamended portions of the comprehensive plan. This evidence is provided here.

A. Comprehensive Plan Goals

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

The Comprehensive Plan of Lincoln City is the document that guides land use decisions in the City of Lincoln City. The plan, which the Oregon Department of Land Conservation and Development has acknowledged as consistent with the Statewide Planning Goals, is the policy framework that guides the city's land use decisions as it establishes goals and policies that provide a general framework for implementing land use regulations. As described below, this application complies with the comprehensive plan's goals and policies.

Regarding the process for this application, the city code does not specify a process or criteria specifically for making a decision on annexation. But the city does have a general procedure, set out in Chapter 12 of LCMC Title 17, for handling such decisions. With two public hearings including published and mailed public notice, this process complies with this goal. Since this application will go through this process, it too complies with this goal.

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

The City has a Citizen Involvement Program that provides opportunities for citizens to participate in policy and ordinance development and to comment on specific land use proposals. The present application for annexation and rezoning will be available for public review and examination at the Planning Department and online at the city's website. There will be two public hearings that will be preceded by notice to the public in general and specifically to surrounding property owners. Both the city's planning commission and city council will hold public hearings on this application and the hearings, which will be televised and live-streamed, will include opportunities for written and oral public comments. This process makes this application consistent with this goal.

3. Public Services and Utilities Goal: *"To plan and develop timely, orderly, and efficient arrangement of public facilities and services which complement the area and serve as a framework for urban and rural development."*

A gravity sewer line runs along the north property line of the Woods property, and another runs in the Logan Road right-of-way on the west side of the property. A 4.25 million gallon water tank is on the city-owned property immediately to the north, where there also is a water pump station. A water main runs just to the north of the sewer line that is on the property line. Water mains also run in the Logan Road right-of-way. According to the city engineer, both the water and sewer lines have the capacity to serve development of the Woods property. The Roads End South sewer pump station serves the area of the Woods property, and the city recently upgraded it by installing two new pumps, upgrading the electrical controls, replacing the generator, and bringing the pump station building up to current code standards. According to the city's website, "The Roads End South Pump Station Upgrade Project was implemented to serve the existing service area and to handle additional flows from future development."¹ The development that would follow the proposed annexation and rezoning, subject to planning Commission approval of any subdivision or planned unit development plan, is exactly what this pump station upgrade was designed to accommodate.

Regarding stormwater, there is a natural drainage way that will serve adequately for stormwater control. At the present time that drainage way also is used by the city for drainage from the 4.25 million gallon water tank on property adjacent to the Woods property. The city does not have an easement for this use of the Woods property, but the Woods are willing to provide such an easement. This will contribute to the orderly development of stormwater management facilities in Lincoln City. This goal is satisfied.

4. Urbanization Goal: *"To promote an orderly and efficient transition of land uses from rural to urban."*

The Woods property lies well within the Lincoln City urban growth boundary, and in fact well within the Lincoln City city limits. The Woods property is an island of unannexed territory that is surrounded on all sides by lands that are inside Lincoln City and developed with urban uses. Because it is within the long established urban growth boundary the property is expected to be urbanized (i.e. developed with urban uses). This is because lands inside the urban growth boundary encompass those lands eligible for annexation to the City and conversion to urban uses in accordance with the Lincoln City Comprehensive Plan. The proposed map amendment would allow development of the property to proceed as an infill project, thus ensuring that eligible lands within existing boundaries are urbanized before outward expansion occurs.

¹ <https://www.lincolncity.org/roadsendsouthpumpstation>

As shown above, the Woods property already has water and sewer mains immediately adjacent, so no new extensions of mains would be needed to serve this site. Moreover, the Woods property is located close to employment areas, recreational areas, public services, and local and regional public transportation routes. This makes the property highly desirable for residential development, moreso than other areas that are within the city's urban growth boundary – such as the east side of the lake and the holly farm area – but lacking some or all of these advantages. The proposed annexation conforms to this goal.

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

Lincoln City has identified and mapped various areas of natural hazards such as those described in Environment Hazards, Coastal Lincoln County, Oregon (RNCR, 1979), in flood hazard mapping, and more recently in reports from the Oregon Department of Geology and Mineral Industries relating to tsunami inundation and coastal erosion that have been incorporated into the city's comprehensive plan. The Woods property is not located in any of the identified hazard areas, so there will be no development in a hazardous area resulting from the proposed annexation and rezone. Accordingly the proposal to Annex it and rezone it to the city's R-1-5 zone is consistent with this goal.

6. Housing Goal: *“To provide for the housing needs of all citizens.”*

The proposed annexation and rezoning are consistent with the city's housing goal. Given the size of the property (11.15 acres) the Lincoln City Municipal Code will require it to be developed under the code's Planned Unit Development provisions. Using the calculations required by LCMC 17.52.210, the maximum number of dwelling units that would be allowed, exclusive of any density bonuses, is 80 units. While no specific plan of development has been settled on, the Woods intend to include a substantial proportion of workforce housing in the property's development mix. This directly addresses the plan's goal of providing for the housing needs of all citizens. Importantly, the Woods property is close to food stores, drug stores, employment centers (e.g. the casino and two shopping centers), recreational resources (e.g. the beach, the trails to the knoll and the thumb), public services (e.g. DMV, the Oregon Employment Department, and the Lincoln County Health Department), the future school site at the holly farm, and both local and regional public transit services. Water and sewer mains with sufficient capacity to serve the property are immediately adjacent to it, meaning that no expensive extensions of the mains will be required. The topography of the site essentially forces leaving a substantial portion of the property undeveloped, which will have the benefit of providing for on-site recreational opportunities and natural stormwater detention and treatment. Moreover, it is an island of undeveloped residential land, surrounded by fully developed land. In sum, it is

land to intelligible property in Lincoln City that is more appropriate for development for residential use.

When this property was proposed for annexation several years ago, some argued that bringing it into the city would lower land values, which that that time were still feeling the effects of the Great Recession. In rejecting the annexation of the property, some city council members apparently thought their duty was to keep property values artificially high by limiting the supply of developable land. This actually is contrary to the intent of the Comprehensive Plan's Housing Goal. The goal speaks to the housing needs of everyone, not just those with the wherewithal to purchase high-priced land. The explanation of the Housing Goal cites four user groups competing for housing in Lincoln City: (1) the permanent resident seeking shelter at affordable prices; (2) the tourist industry seeking seasonal shelter for its employees; (3) the elderly population seeking retirement shelter; and (4) the seasonal resident seeking shelter. The conclusion reached in the Housing Goal is, "There is a competition for the limited housing available in Lincoln City. The competition creates artificially high prices and reduces housing choices." The intent of the Housing Goal is to address the need for housing choice, and thus the focus for the Housing Goal is not on keeping prices up, but on ensuring everyone in the city is able to find affordable housing.

Those who felt that the city had a duty to keep prices up focused on a few items to demonstrate the problem. Among the evidence they cited were the following:

1. The fact that in 2013 land values in the Hunters Highland subdivision were 58.6% of their 2010 values.
2. The fact that the Dayview subdivision had gone into default.
3. The fact that there was a pending proposal for a 234 unit planned unit development in the Lincoln Palisades area.
4. The fact that there were 700 vacant, residentially-zoned parcels in Lincoln City.

In the final order denying the annexation application, the City Council made a point of noting that their decision might be different in the future. In describing the motion to deny the application, the Final Order says.

The Council motion clearly indicated that the Council believed there was no current public need/public necessity for the annexation and zone change at this time. [emphasis in original]

In fact, much has changed since that time:

1. According to data from the Lincoln County Assessor's office, in 2010 the lot values in Hunter's Highlands average 280% of what they were in 2012.

2. The Bayview subdivision is thriving, being more than two-thirds sold out with only 24 out of the original 73 lots still available for purchase (and actually is a result by an original purchaser).
3. The 234-unit Lincoln Palisades PUD proposal was withdrawn, and more modest subdivisions have taken its place ("Phase 3" with 12 lots priced at an average of \$85,000, and "Phase 4" with 11 lots priced at an average of \$70,000).
4. The number of undeveloped lots is not the same as the number that are on the market. A quick search shows that as of early November 2019 there were only 111 residentially-zoned properties (including dividable parcels) on the market. In fact there were only 71 lots that were other than in-fill lots in subdivisions on the market (Bayview, 24 out of 73 original lots; Garden Estates, 7 out of 44 lots; Olive Beach, 4 out of 72 lots; Lincoln Palisades Phase 2, 5 out of 44 lots; Lincoln Palisades Phase 3, 8 out of 12 lots; Lincoln Palisades Phase 4, 9 out of 11 lots; Halhaven, 14 out of 35 lots). In the five years since the original annexation application was filed, the city has added only 67 new lots to the city's supply, but has issued building permits for over 300 new single unit dwellings.

According to the city's 2017 Housing Needs Assessment, which came out two years after the City Council's decision on the original Logan Park annexation application, land prices in Lincoln City reflected a shortage of available lots:

Current housing prices in Lincoln City, as measured by home sales prices and rent levels, have been increasing in recent years as the vacant inventory tightens. Local home prices are being inflated to some extent by an influx of investment from "second home" buyers from outside the local market area. (City of Lincoln City Economic Opportunities Analysis and Housing Needs Analysis, p. 28)

This conclusion is echoed and reaffirmed by more recent data. For example, according to the Zillow website, the median home sales price in Lincoln City rose over 65% from \$189,000 in 2015 to \$312,500 in 2019 (retrieved August 27, 2019).

Some may observe that the 2017 Housing Needs Assessment concludes that there is a substantial "surplus" of residentially zoned land within the Lincoln City UGB. One must keep in mind the purposes of the Housing Needs Assessment and the Buildable Lands Inventory. With respect to residential development, there are two. The first is to predict the numbers and kinds of housing units that the city will need over the coming 20 years. The second is to determine whether there is enough developable land within the urban growth boundary (UGB) to allow development of that needed housing, and if there isn't, to identify the steps that need to be taken to make sure there will be enough land. The state law governing the sufficiency of buildable lands within the UGB gives a city three ways to correct any identified shortfall: (1) amend the city's urban growth boundary to increase its size, (2) amend the city's

comprehensive plan or zoning ordinance to allow more density, or (3) a combination of the first two.²

So, what does our housing needs assessment and buildable lands inventory say about Lincoln City? At its most basic level, it says Lincoln City has plenty of available land inside its UGB for residential development through 2036 and therefore there is no need to add more land to the UGB to meet state law requirements. The actual figures are: a need for 206 to 249 acres of land, a supply of 1,124 acres within the UGB, and therefore a "surplus" of 876 acres within the UGB.

Keep in mind that the state just requires the needed land to be inside the UGB. It doesn't say anything about whether the land has to have full city services (i.e. water and sewer), whether it has to have any proximity to employment, food stores, or schools, or whether it has access to public transit, despite the fact that these attributes are key to whether land is desirable for needed housing. And in fact, the vast majority of the city's buildable lands, including almost all of the land outside the city limits but inside the UGB, have none of these attributes. The Woods property, however, has all of them.

The proposed annexation and rezoning are consistent with this goal.

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

The proposed annexation and rezoning will have little direct effect on the tourist economy. Indirect effects may be felt through the removal of the blighted clearcut area and its replacement with attractive, well-planned development that includes recreational opportunities. This will be especially beneficial to Roads End by providing a more pleasing entrance to the area and its tourist-oriented resources such as the state park and the nearby trail network. When built out the property also will benefit the tourist economy through providing additional housing opportunities for those employed at nearby tourist facilities such as the casino, restaurants, and motels. The construction phase also will provide a substantial number of jobs, providing a benefit to other sectors of the city's economy. These facts demonstrate that the proposed annexation and rezoning are consistent with the Economy Goal.

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

² ORS 197.296 (6)

By themselves, annexation and rezoning have little or nothing to do with the aesthetic quality of the area. But once the Planning Commission grants development approval (not sought in the present application), the site will be transformed via appropriate conditions of approval, as mentioned above, into an attractive, well-planned asset to the community. Gone will be the Scotch broom, pampas grass, and other invasive plants that dominate the site now. This will happen only if the annexation and rezoning are approved, so they are consistent with this goal.

9. Transportation Goal: *"To provide a safe, convenient and rapid transportation network to facilitate the movement of goods and people."*

The 2014 annexation, rezoning, and PUD master plan approval application included a traffic impact study that showed only a minor effect from the proposed rezoning from the existing county R-1-A zone to the city's R-1-S zone. The analysis showed that in a reasonable worst case development under the city zone would result in 11 additional PM peak hour trips compared to development under the existing county zone. The total trip generation was estimated to be about 778 trips per day. The analysis determined that the traffic resulting from the proposed zone change will not significantly affect the transportation system.

The Woods property has about 500 feet of frontage on Logan Road. LCMC 17.52.230, *Public Infrastructure Improvement Requirements*, requires the installation of curbs, gutters, and sidewalks along abutting streets when properties are developed. This means that the pedestrian transportation network will be improved in both extent and safety through putting in a stretch of sidewalk where none are found today. Additionally, it will be possible to improve the bicycle transportation system's extent and safety through extending the existing bicycle lane, which ends opposite NE 51st Street, 500 feet to the north. Finally, however the property ends up being developed, there will be a network of internal transportation facilities including streets and walkways that will add to the city's transportation infrastructure. The annexation and rezoning are consistent with the transportation goal.

10. Energy Goal: *"To conserve energy."*

The energy goal speaks to using development techniques such as cluster development to reduce the energy costs of site preparation and development. The combination of the municipal code's requirement that sites of this size be developed under the city's planned unit development regime together with the topography of the site means that the only practical way to develop the property will be as a cluster development.

The energy goal also encourages development that is within walking distance of services and shopping areas. As was described above under the housing goal, the property is within walking distance of employment sites such as the casino, services such as the health department, DMV, and employment office, and two shopping centers. So while annexation and rezoning, by

Measures, will have no immediate effect on energy conservation, development of the site will conform to this goal.

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."*

Unfortunately, a previous owner clear cut the site and destroyed the mature second growth trees that covered it. Much of the site's existing habitat value was lost as well. There has been some regeneration of vegetation on the site, with alder and invasive species such as scotch broom, perilla grass, and blackberries predominating. The city-wide natural resource inventories and significance determinations the city developed for wetlands, riparian areas, fish and wildlife habitat, and aesthetic and scenic areas show that prior to the clear-cutting the property contained no sites or resources designated as "significant" under the city's Natural Resource Overlay Zone. The same is true today. There is an area of mapped wetland in the bottom of the drainage swales on the property, but the city did not designate it as "significant." Thus the city determined there are no unusually valuable resources on the site that warranted restrictions on development that differ from those imposed on all property in the city. At the time of development, there will be a balance between housing and natural areas through retention of the steep drainage area, including any wetland within it, in a natural state. The proposed annexation and rezoning are consistent with this goal.

12. Shoreland, Beaches, Dunes, Estuary and Ocean Resources Goal: *"To conserve, to protect, to enhance the coastal resources of the city."*

Because the city's coastal shoreland planning area extends westward from Highway 101, the Woods property is within the coastal planning area. Nevertheless, there is only minimal applicability of this goal. The goal requires protection of significant coastal shorelands resources including significant wetlands, riparian areas, major marshes, fish and wildlife habitats, and aesthetic and scenic areas. But there are no significant wetlands, riparian areas, major marshes, fish or wildlife habitats, or aesthetic or scenic areas mapped on the property. This goal also prohibits residential development and commercial and industrial buildings on beaches, active foredunes, conditionally stable foredunes that are subject to ocean undercutting or wave overtopping, and deflation planes that are subject to ocean flooding. This policy does not apply because these coastal resources are not found on the subject property.

B. Statewide Planning Goals

In addition to the goals of the city's Comprehensive Plan, the annexation and rezoning must be consistent with Oregon's Statewide Planning Goals. In large measure these parallel the city's goals, and the proposed annexation and rezoning are consistent with the Statewide goals for the same reasons they are consistent with the city's goals as described above.

Goal 1. Citizen Involvement: *"To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process."*

The City has developed a Citizen Involvement Program that the state has approved. The present application for annexation and rezoning will be available for public review and examination at the Planning Department and online at the city's website. There will be two public hearings that will be preceded by notice to the public in general and specifically to surrounding property owners. Both the city's planning commission and city council will hold public hearings on this application and the hearings, which will be televised and live-streamed, will include opportunities for written and oral public comments. This process makes this application 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 has adopted a land use planning process and policy framework in the form of the comprehensive plan and the zoning ordinance. These provide the basis for all decisions and actions related to the use of land and ensure an adequate factual base for such decisions and actions. The City Council adopted them after public hearings, and from time to time has revised them as circumstances have changed. The revisions also followed public hearings. The city's Comprehensive Plan has been acknowledged as being consistent with the Statewide Planning Goals. Citizens and affected governmental units had opportunity for review and input during preparation, review, and revision of the plan and implementing ordinances. Review of this application 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 Wanik property carries the Lincoln County zone of R-1-A, which is a residential zone, not an agricultural zone. It has had this zone for many years. The proposed annexation and rezoning do not affect agricultural lands. Accordingly, this goal is not applicable to this application.

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 Woods property carries the Lincoln County zone of R-1-A, which is a residential zone, not a forest zone. It has had this zone for many years. The proposed annexation and rezoning do not affect forest lands. Accordingly, this goal is not applicable to this application.

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 Woods property is located well within the city's Urban Growth Boundary. The property does not contain any areas designated as a Goal 5 resource. The wetland on the property is not significant. The proposed annexation and rezoning are consistent with this goal.

Goal 6. Air, Water and Land Resource Quality. *"To maintain and improve the quality of the air, water, and land resources of the state."*

The city is not in an air quality non-attainment area, nor is it in an air quality maintenance area. There is no danger that it will be in any such area in the foreseeable future. Development pursuant to the city's zoning ordinance of this site would not affect these resources. The city maintains water quality through its wastewater treatment facility, which operates pursuant to a National Pollutant Discharge Elimination System permit, and is within the federal standards for water quality. The Roads End pump station and the city's wastewater treatment facility can handle wastewater from this development. The ravine that runs through the property will provide needed storm water retention and treatment. The proposed annexation and rezoning is consistent with this goal.

Goal 7. Areas Subject to Natural Disasters and Hazards: *"To protect people and property from natural hazards."*

The Woods property is not in the tsunami evacuation zone, the coastal erosion zone, or the 100-year floodplain. In fact there are no mapped natural hazards associated with the site other than a small area of slopes over 25% that can easily be avoided when the property is developed. Since there are no real hazards on the property development there will be consistent with this goal.

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 Woods property is located in the midst of extensive recreational facilities. The city's seven-mile-long beach lies within easy walking distance, as does the Roads End State Park. The property also has easy access to the Villages at Cascade Head and the trail network that reaches the knoll and the thumb. The Chinook Winds Casino, with its entertainment and gaming

facilities, is located a short walk from the property. When developed, the property will have open space areas that can be used for recreation as well. The proposed annexation and rezoning is consistent with this goal.

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."*

When built out the property also will benefit the tourist economy through providing additional housing opportunities for those employed at nearby tourist facilities such as the casino, restaurants, and motels. The construction phase also will provide a substantial number of jobs, providing a benefit to other sectors of the city's economy. These facts demonstrate that the proposed annexation and rezoning are consistent with the Economic Development Goal.

Goal 10. Housing: *"To provide for the housing needs of citizens of the state."*

The proposed annexation and rezoning are consistent with the housing goal in that they would provide land ready to be developed for housing. As described under the comprehensive plan housing goal, above, past concerns about a glutted housing market have been overtaken by time and events. That discussion is incorporated here by reference. This site is ideal for housing in that it is close to employment, services, transportation, recreation, and a future school site.

The proposed annexation and rezoning conform to the housing goal. Turning to the specific considerations called out on the city's annexation petition form.

CONSIDERATION 1: The need for orderly, economic provision for public facilities and services. As noted above, the Woods property is surrounded by developed property with full urban services. Water and sewer services are available immediately adjacent to the site and providing these services to the property will require no extensions of mains. Water and sewer capacities in the adjoining lines are adequate to serve the Woods property, and in fact were sized specifically to serve the Woods property and other undeveloped property in the vicinity. No expansion of public facilities or services is needed for this property.

CONSIDERATION 2: The need for availability of sufficient land within the City for the various uses, to insure choices in the market place. The Woods property, because of the ready availability of urban services, can be developed at a cost that is significantly less than other properties, both within the city limits and within the UGB. This will help to allow the property to be developed in a way that encourages more affordable options for housing. Since its size requires it to be developed as a planned unit development there will be even further possibilities for a variety of housing choices. Because the Woods property is an island of county land completely surrounded by land within the city, and because of its proximity to shopping, employment, recreation, and transportation, it will help to reduce sprawl into other areas of the UGB while adding to the housing options within the city.

CONSIDERATION 3: The acknowledged comprehensive plan. As shown above in Part A of this narrative, the proposed annexation and rezoning is consistent with the city's acknowledged comprehensive plan. Part A is incorporated here by reference.

CONSIDERATION 4: The need for encouragement of development within the current City boundaries before annexation of additional land. Annexing the Woods property, since it is an island of county land completely surrounded by land within the city, will encourage development of land that, as described above, has full urban services immediately available, is close to employment, shopping, recreation, and transportation, and because of these attributes, is more suitable for development than much of the undeveloped land already inside the city limits. In essence, annexation of the Woods property, because it is an island of county land completely surrounded by land within the city, is unlike annexation of land that merely abuts the city limits. In fact, most people probably believe the Woods property already is subject to city jurisdiction.

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."*

A gravity sewer line runs along the north property line of the Woods property, and another runs in the Logan Road right-of-way on the west side of the property. A 4.25 million gallon water tank is on the city-owned property immediately to the north, where there also is a water pump station. A water main runs just to the north of the sewer line that is on the property line. Water mains also run in the Logan Road right-of-way. According to the city engineer, both the water and sewer lines have the capacity to serve development of the Woods property. The Roads End South sewer pump station serves the area of the Woods property, and the city recently upgraded it by installing two new pumps, upgrading the electrical controls, replacing the generator, and bringing the pump station building up to current code standards. According to the city's website, "The Roads End South Pump Station Upgrade Project was implemented to serve the existing service area and to handle additional flows from future development."³ The development that would follow the proposed annexation and rezoning, subject to planning Commission approval of any subdivision or planned unit development plan, is exactly what this pump station upgrade was designed to accommodate.

Regarding stormwater, there is a natural drainage way that will serve adequately for stormwater control. At the present time that drainage way also is used by the city for drainage from the 4.25 million gallon water tank on property adjacent to the Woods property. The city does not have an easement for this use of the Woods property, but the Woods are willing to

³ <https://www.lincolncity.org/roadsendsouthpumpstation>

provide such an easement. This will contribute to the orderly development of stormwater management facilities in Lincoln City. The proposed annexation and rezoning is consistent with this goal.

Goal 12. Transportation: *"To provide and encourage a safe, convenient and economic transportation system."*

Annexation and rezoning, by themselves, will not affect transportation. But once these are accomplished, the property will be able to be developed with residences, and they will have some level of impact on the city's transportation system. As described above under the Comprehensive Plan Transportation Goal, A 2014 traffic impact analysis showed that in a reasonable worst case development under the city zone would result in 11 additional PM peak hour trips compared to development under the existing county zone. The total trip generation was estimated to be about 778 trips per day. The analysis determined that the traffic resulting from the proposed zone change will not significantly affect the transportation system.

The Woods property has about 500 feet of frontage on Logan Road, LCMC 17-52,230. *Public Infrastructure Improvement Requirements*, requires the installation of curbs, gutters, and sidewalks along abutting streets when properties are developed. This means that the pedestrian transportation network will be improved in both extent and safety through putting in a stretch of sidewalk where none are found today. Additionally, it will be possible to improve the bicycle transportation system's extent and safety through extending the existing bicycle lane, which ends opposite NE 51st Street, 500 feet to the north. Finally, however the property ends up being developed, there will be a network of internal transportation facilities including streets and walkways that will add to the city's transportation infrastructure. The annexation and rezoning are consistent with the transportation goal.

Goal 13 Energy Conservation: *"To conserve energy."*

The property is adjacent to existing utilities and city streets. After development, the annexation and rezoning would result in housing opportunities within walking distance of numerous employers, including the Casino, and within walking distance of grocery stores, drug stores, other retail, recreation, public transportation, and community services. Development would be required to provide sidewalks and hike paths that would encourage non-motorized transportation. All of this would result in substantial energy conservation compared to development elsewhere in the urban growth boundary. The annexation and rezoning, therefore, would be consistent with the energy goal.

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 Woods property is an island of property surrounded by urbanized land within the city limits. The present situation is the opposite of orderly and efficient land use. County islands within the city limits result in a need to extend public services such as water, sewer, and police over a larger area than would be needed if development were accommodated in an orderly arrangement. Annexing and rezoning the Woods property will correct the disorder and inefficiencies that exist today. The proposed zoning is consistent with the surrounding uses and zoning. The annexation and rezoning proposal meet this goal.

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

The State of Oregon established the boundaries of the Willamette River Greenway in the 1980's, and the Woods property is not within the Greenway. Accordingly, Goal 15 does not apply to this application.

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 Woods property is not within or adjacent to any estuarine areas. This goal is not applicable to the proposed annexation and rezoning.

Goal 17. Coastal Shoreland: *"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."*

Because the city's coastal shoreland planning area extends westward from Highway 101, the Woods property is within the coastal planning area. Nevertheless, there is only minimal applicability of this goal. The goal requires protection of significant coastal shorelands resources including significant wetlands, riparian areas, major marshes, fish and wildlife habitats, and aesthetic and scenic areas. But there are no significant wetlands, riparian areas, major marshes, fish or wildlife habitats, or aesthetic or scenic areas mapped on the property. This goal also prohibits residential development and commercial and industrial buildings on beaches, active foredunes, conditionally stable foredunes that are subject to ocean undercutting or wave over

topping and deflation planes that are subject to ocean flooding. This policy does not apply because these coastal resources are not found on the subject property.

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

This goal requires local governments to inventory beaches and dunes in order to provide information necessary for identifying and designating beach and dune uses and policies for the governments' comprehensive plans. Lincoln City relies on the inventory material contained in two studies: The inventory material is from Beaches and Dunes of the Oregon Coast (O.L.C. & D.L., 1975) and Environmental Hazard Inventory, Coastal Lincoln County (RHKR Associates, 1977). The Woods property is not in a designated beach or active dune area. Accordingly, Goal 18 does not apply to this application.

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."*

This goal relates to actions by local, state, and federal agencies that are likely to affect the ocean resources and uses of Oregon's territorial sea. The Woods property does not front on the ocean, nor is there a direct connection from it to the ocean for things like runoff. Development of the Woods property is not likely to affect marine resources and ecological functions and accordingly Goal 19 does not apply to this application.

C. Transportation Planning Rule

ORR 640-012-0050(1): *"If an amendment to a functional map, or acknowledged comprehensive plan, or land use regulation including zoning map, would significantly affect an existing or planned transportation facility, then the local government must put in place measures as provided in section (2) of this rule, unless the amendment is allowed under section (3), (4), or (5) of this rule."*

The Transportation Planning Rule requires the city to determine whether a proposed land use amendment would "significantly affect an existing or planned transportation facility" and if so to mitigate that effect through certain prescribed measures. In the present case the issue is whether the proposed map amendment would "significantly affect" Logan Road or Highway 101. That issue analysis under the transportation planning rule is completed and no mitigation

is necessary. The initial analysis under the transportation planning rule is a comparison of reasonable worst case scenarios under the existing and proposed zones. For the 2014 amendment and rezoning application, the applicant commissioned a traffic impact analysis that compares the number of trips generated by a reasonable worst case scenario for each tract designation, County 8-1-4 and City 4-3-5. The traffic impact analysis showed that under a reasonable worst case analysis the City 8-1-3 zoning would result in 11 additional PM peak hour trips compared to the trips generated under the County 8-1-4 zoning. The traffic impact analysis showed based on 2013 traffic counts on Logan Road and Highway 101 that the addition of these weekday peak hour trips will increase travel on Logan Road at Highway 101 by 2.9% and through the Highway 101 intersection with Logan Road by 3.4%. Based on these findings, the additional 11 peak hour trips generated by the zone change will not significantly affect the transportation system and therefore no further traffic impact analysis is needed and no further study under the transportation planning rule is required.

Prepared and Submitted by:

Richard Townsend
 Townsend Planning & Design LLC
 1535 NE 63rd Street
 Lincoln City, OR 97367
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 521-921-0474

255 SW Coast Highway, Suite 100
Newport, OR 97365
Phone: (541)265-2288 / Fax: (541)265-9570

Western

Woods One, LLC, an Oregon limited liability company
24850 SW Melott Road
Portland, OR 97213

Date: July 10, 2019
Order No.: WT0173342-AK
Property: 5000 Blk NE Logan Road
Lincoln City, OR 97367

Woods One, LLC, an Oregon limited liability company

Thank you for choosing Western Title & Escrow Company to provide your title insurance. Attached, please find the following:

Owners Policy

Thank you for allowing us the opportunity to provide for your title and escrow needs. Please let us know if there is anything more we can do.

Should you have any questions, please do not hesitate to contact me.

Sincerely,

Anya Kirkes
Title Examiner
anna.kirkes@westerntitle.com

OWNER'S POLICY OF TITLE INSURANCE

Issued By:

Policy Number:

**Fidelity National Title**
Insurance Company**WT0173342**

Any notice of claim and any other notice or statement in writing required to be given to the Company under this Policy must be given to the Company at the address shown in Section 10 of the Conditions.

COVERED RISKS

SUBJECT TO THE EXCLUSIONS FROM COVERAGE, THE EXCEPTIONS FROM COVERAGE CONTAINED IN SCHEDULE B, AND THE CONDITIONS, FIDELITY NATIONAL TITLE INSURANCE COMPANY, a Florida corporation (the "Company") insures, as of Date of Policy and, to the extent stated in Covered Risks 2 and 10, after Date of Policy, against loss or damage, not exceeding the Amount of Insurance, sustained or incurred by the Insured by reason of:

1. Title being vested other than as stated in Schedule A.
2. Any defect in or lien or encumbrance on the Title. This Covered Risk includes but is not limited to insurance against loss from
 - (a) A defect in the Title caused by
 - (i) forgery, fraud, undue influence, duress, incompetency, incapacity, or impersonation;
 - (ii) failure of any person or Entity to have authorized a transfer or conveyance;
 - (iii) a document affecting Title not properly created, executed, witnessed, sealed, acknowledged, notarized, or delivered;
 - (iv) failure to perform those acts necessary to create a document by electronic means authorized by law;
 - (v) a document executed under a falsified, expired, or otherwise invalid power of attorney;
 - (vi) a document not properly filed, recorded, or indexed in the Public Records including failure to perform those acts by electronic means authorized by law; or
 - (vii) a defective judicial or administrative proceeding.
 - (b) The lien of real estate taxes or assessments imposed on the Title by a governmental authority due or payable, but unpaid.
 - (c) Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land. The term "encroachment" includes encroachments of existing improvements located on the Land onto adjoining land, and encroachments onto the Land of existing improvements located on adjoining land.
3. Unmarketable Title.
4. No right of access to and from the Land.
5. The violation or enforcement of any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to
 - (a) the occupancy, use, or enjoyment of the Land;
 - (b) the character, dimensions, or location of any improvement erected on the Land;
 - (c) the subdivision of land; or
 - (d) environmental protection.

If a notice, describing any part of the Land, is recorded in the Public Records setting forth the violation or intention to enforce, but only to the extent of the violation or enforcement referred to in that notice.

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- 6. An enforcement action based on the exercise of a governmental police power not covered by Covered Risk 5 if a notice of the enforcement action, describing any part of the Land, is recorded in the Public Records, but only to the extent of the enforcement referred to in that notice.
- 7. The exercise of the rights of eminent domain if a notice of the exercise, describing any part of the Land, is recorded in the Public Records.
- 8. Any taking by a governmental body that has occurred and is binding on the rights of a purchaser for value without knowledge.
- 9. Title being vested other than as stated in Schedule A or being defective
 - (a) as a result of the avoidance in whole or in part, or from a court order providing an alternative remedy, of a transfer of all or any part of the title to or any interest in the Land occurring prior to the transaction vesting Title as shown in Schedule A because that prior transfer constituted a fraudulent or preferential transfer under federal bankruptcy, state insolvency, or similar creditors' rights laws; or
 - (b) because the Instrument of transfer vesting Title as shown in Schedule A constitutes a preferential transfer under federal bankruptcy, state insolvency, or similar creditors' rights laws by reason of the failure of its recording in the Public Records
 - (i) to be timely, or
 - (ii) to impart notice of its existence to a purchaser for value or to a judgment or lien creditor.
- 10. Any defect in or lien or encumbrance on the Title or other matter included in Covered Risks 1 through 9 that has been created or attached or has been filed or recorded in the Public Records subsequent to Date of Policy and prior to the recording of the deed or other instrument of transfer in the Public Records that vests Title as shown in Schedule A.

The Company will also pay the costs, attorneys' fees, and expenses incurred in defense of any matter insured against by this Policy, but only to the extent provided in the Conditions.

IN WITNESS WHEREOF, FIDELITY NATIONAL TITLE INSURANCE COMPANY has caused this policy to be signed and sealed by its duly authorized officers.

Issuing Office or Agent:
 Western Title & Escrow Company
 255 SW Coast Highway, Suite 100
 Newport, OR 97385
 (541)285-2288 FAX (541)285-9570

Fidelity National Title Insurance Company

Countersigned By:



Authorized Officer or Agent



By



President

Attest



Secretary

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EXCLUSIONS FROM COVERAGE

The following matters are expressly excluded from the coverage of this policy, and the Company will not pay loss or damage, costs, attorneys' fees, or expenses that arise by reason of:

1. (a) Any law, ordinance, permit, or governmental regulation (including those relating to building and zoning) restricting, regulating, prohibiting, or relating to
 - (i) the occupancy, use, or enjoyment of the Land;
 - (ii) the character, dimensions, or location of any improvement erected on the Land;
 - (iii) the subdivision of land; or
 - (iv) environmental protection
 or the effect of any violation of these laws, ordinances, or governmental regulations. This Exclusion 1(a) does not modify or limit the coverage provided under Covered Risk 5.
- (b) Any governmental police power. This Exclusion 1(b) does not modify or limit the coverage provided under Covered Risk 5.
2. Rights of eminent domain. This Exclusion does not modify or limit the coverage provided under Covered Risk 7 or 8.
3. Defects, liens, encumbrances, adverse claims, or other matters
 - (a) created, suffered, assumed, or agreed to by the Insured Claimant;
 - (b) not known to the Company, not recorded in the Public Records as of Date of Policy, but known to the Insured Claimant and not disclosed in writing to the Company by the Insured Claimant prior to the date the Insured Claimant became an Insured under this policy;
 - (c) resulting in no loss or damage to the Insured Claimant;
 - (d) attaching or created subsequent to Date of Policy (however, this does not modify or limit the coverage provided under Covered Risk 9 and 10); or
 - (e) resulting in loss or damage that would not have been sustained if the Insured Claimant had paid value for the Title.
4. Any claim, by reason of the operation of federal bankruptcy, state insolvency, or similar creditors' rights laws, that the transaction vesting the Title as shown in Schedule A, is
 - (a) a fraudulent conveyance or fraudulent transfer; or
 - (b) a preferential transfer for any reason not stated in Covered Risk 9 of this policy.
5. Any lien on the Title for real estate taxes or assessments imposed by governmental authority and created or attaching between Date of Policy and the date of recording of the deed or other instrument of transfer in the Public Records that vests Title as shown in Schedule A.

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FIDELITY NATIONAL TITLE INSURANCE COMPANY

POLICY NO. WT0173342

Customer Reference: 451418GB431

SCHEDULE A

Name and Address of Title Insurance Company: Fidelity National Title Insurance Company
 c/o Anya Kirkes
 Western Title & Escrow Company
 255 SW Coast Highway, Suite 100
 Newport, OR 97365

Address Reference: 5300 Bk NE Logan Road, Lincoln City, OR 97387

Date of Policy	Amount of Insurance	Premium
June 28, 2018 at 09:18 AM	5245,000.00	\$813.00

1. Name of Insured:

Woods One, LLC, an Oregon limited liability company

2. The estate or interest in the Land that is insured by this policy is

Fee Simple

3. Title is vested in:

Woods One, LLC, an Oregon limited liability company

4. The Land referred to in this policy is described as follows:

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

THIS POLICY VALID ONLY IF SCHEDULE B IS ATTACHED

END OF SCHEDULE A

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SCHEDULE B EXCEPTIONS FROM COVERAGE

This policy does not insure against loss or damage, and the Company will not pay costs, attorneys' fees or expenses that arise by reason of:

1. Taxes or assessments which are not shown as existing liens by the records of any taxing authority that levies taxes or assessments on real property or by the Public Records, proceedings by a public agency which may result in taxes or assessments, or notices of such proceedings, whether or not shown by the records of such agency or by the Public Records.
2. Any facts, rights, interests or claims, which are not shown by the Public Records but which could be ascertained by an inspection of the Land or by making inquiry of persons in possession thereof.
3. Easements, or claims of easement, which are not shown by the Public Records; reservations or exceptions in patents or in Acts authorizing the issuance thereof; water rights, claims or title to water.
4. Any encroachment (of existing improvements located on the Land onto adjoining land or of existing improvements located on adjoining land onto the subject Land), encumbrance, violation, variation or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the subject Land.
5. Any lien or right to a lien for services, labor, material, equipment rental or workers compensation heretofore or hereafter furnished, imposed by law and not shown by the Public Records.

SPECIFIC ITEMS AND EXCEPTIONS:

6. Regulations, levies, liens, assessments, rights of way and easements of Devils Lake Water Improvement District.
7. Rights of the public to any portion of the Land lying within the area commonly known as roads and highways.
8. Terms, provisions and conditions, including, but not limited to, maintenance provisions, and a covenant to share the costs of maintenance, contained in document,

Recording Date: June 15, 1979
Recording No.: Book 101, Page 1521
(Affects Parcel II)

9. Terms, provisions and conditions, including, but not limited to, maintenance provisions, and a covenant to share the costs of maintenance, contained in document,

Recording Date: June 15, 1979
Recording No.: Book 101, Page 1522
(Affects Parcel I)

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EXHIBIT "A"
LEGAL DESCRIPTION

Parcel I:

A parcel of land lying in Government Lot 26, in Section 35, Township 6 South, Range 11 West, Willamette Meridian, in Lincoln County, Oregon, more particularly described as follows:

Beginning at the Northwest corner of Government Lot 31 in Section 34, Township 6 South, Range 11 West, Willamette Meridian; running thence East 1479.5 feet, thence 580 feet South to the true place of beginning, thence from said true place of beginning North 74° East 203 feet, thence South 224 feet thence West 280.5 feet to the center of the County Road; thence North 21° 30' East 180 feet to the true place of beginning;

EXCEPTING any portion within roads, streets and highways.

Parcel II:

That part of U.S. Lot 26 in Section 35, Township 6 South, Range 11 West, Willamette Meridian, in Lincoln County, Oregon, described as follows:

Beginning at the southeast corner of said Lot 26; thence West along the South line of said Lot 642.88 feet to the Easterly line of the County Road, thence Northerly along the Easterly line of said County Road to the South line of the tract conveyed to Ernest C. Soper and wife by Deed recorded September 9, 1843 in Book 95, page 347, Deed Records; thence East along the South line of said Soper tract 250 feet, more or less, to the Southeast corner of said Soper tract; thence North along the East line of said Soper tract 223 feet to the Northeast corner thereof; thence North 73° 19' East 350 feet, more or less, to the East line of said U.S. Lot 26; thence South along the East line of said U.S. Lot 26, a distance of 875 feet, more or less, to the point of beginning.

EXCEPTING THEREFROM the following described tract of land:

Beginning at a point on the south line of U.S. Lot 26 in Section 35, Township 6 South, Range 11 West, Willamette Meridian, in Lincoln County, Oregon, that is on the Easterly right of way line of Logan Road, thence Northerly along said Easterly right of way line 60 feet; thence East and parallel to the South line of said Lot 26, 100 feet; thence Southerly parallel to said Easterly right of way line 60 feet; thence Westerly 100 feet to the point of beginning.

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CONDITIONS

1. DEFINITION OF TERMS

The following terms when used in this policy mean:

- (a) "Amount of Insurance": The amount stated in Schedule A, as may be increased or decreased by endorsement to this policy, increased by Section B(b), or decreased by Sections 10 and 11 of these Conditions.
- (b) "Date of Policy": The date designated as "Date of Policy" in Schedule A.
- (c) "Entity": A corporation, partnership, trust, limited liability company, or other similar legal entity.
- (d) "Insured": The insured named in Schedule A.
- (e) The term "Insured" also includes:
- successors to the Title of the Insured by operation of law as distinguished from purchase, including heirs, devisees, survivors, personal representatives, or next of kin;
 - successors to an Insured by dissolution, merger, consolidation, distribution, or reorganization;
 - successors to an Insured by its conversion to another kind of Entity;
 - a grantee of an Insured under a deed delivered without payment of actual valuable consideration conveying the Title:
 - if the stock, shares, memberships, or other equity interests of the grantor are wholly owned by the named Insured;
 - if the grantee wholly owns the named Insured;
 - if the grantee is wholly owned by an affiliated Entity of the named Insured, provided the affiliated Entity and the named Insured are both wholly owned by the same person or Entity; or
 - if the grantee is a trustee or beneficiary of a trust created by a written instrument established by the Insured named in Schedule A for estate planning purposes.
- (f) With regard to (A), (B), (C), and (D) relating, however, all rights and defenses as to any successor that the Company would have had against any predecessor insured.
- (g) "Insured Claimant": An insured claiming loss of damage.
- (h) "Knowledge" or "Known": Actual knowledge, not constructive knowledge or notice that may be imputed to an Insured by reason of the Public Records or any other records that impart constructive notice of matters affecting the Title.
- (i) "Land": The land described in Schedule A, and affixed improvements that by law constitute real property. The term "Land" does not include any property beyond the lines of the area described in Schedule A, nor any right, title, interest, estate, or easement in existing streets, roads, avenues, alley streets, ways, or waterways, but this does not modify or limit the extent that a right of access to and from the Land is insured by this policy.
- (j) "Mortgage": Mortgage, deed of trust, trust deed, or other security instrument, including one evidenced by electronic means authorized by law.
- (k) "Public Records": Records established under state statute as of Date of Policy for the purpose of imparting constructive notice of matters relating to real property to purchasers for value and without knowledge. With respect to Covered Risk 5(d), "Public Records" shall also include environmental protection laws filed in the records of the clerk of the United States District Court for the district where the Land is located.
- (l) "Title": The estate or interest described in Schedule A.
- (m) "Unmarketable Title": Title affected by an alleged or apparent matter that would prevent a prospective purchaser or lessee of the Title or lender on the title to be released from the obligation to purchase, lease, or lend if there is a contractual condition requiring the delivery of marketable title.

2. CONTINUATION OF INSURANCE

The coverage of this policy shall continue in force as of Date of Policy in favor of an Insured, but only so long as the Insured retains an estate or interest in the Land, or holds an obligation secured by a purchase money Mortgage given by a purchaser from the Insured, or only so long as the Insured shall have liability by reason of warranty in any transfer or conveyance of the Title. This policy shall not continue in force in favor of any purchaser from the Insured of either (i) an estate or interest in the Land, or (ii) an obligation secured by a purchase money Mortgage given to the Insured.

3. NOTICE OF CLAIM TO BE GIVEN BY INSURED CLAIMANT

The Insured shall notify the Company promptly in writing if (i) in case of any litigation as set forth in Section 6(e) of these Conditions, (ii) in case Knowledge shall come to an Insured hereunder of any claim of title or interest that is adverse to the Title, as Insured, and that might cause loss of damage for which the Company may be liable by virtue of this policy, or (iii) if the Title, as Insured, is rejected as Unmarketable Title. If the Company is prejudiced by the failure of the Insured Claimant to provide prompt notice, the Company's liability to the Insured Claimant under the policy shall be reduced to the extent of the prejudice.

4. PROOF OF LOSS

In the event the Company is unable to determine the amount of loss or damage, the Company may, at its option, require as a condition of payment that the Insured Claimant furnish a signed proof of loss. The proof of loss must describe the defect, lien, encumbrance, or other matter insured against by the policy that constitutes the basis of loss or damage and shall state, to the extent possible, the basis of calculating the amount of the loss or damage.

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AMERICAN
LAND TITLE
ASSOCIATION



(continued)

6. DEFENSE AND PROSECUTION OF ACTIONS

- (a) Upon written request by the insured, and subject to the options contained in Section 7 of these Conditions, the Company, at its own cost and without unreasonable delay, shall provide to the defense of an insured in litigation in which any third party asserts a claim covered by this policy defense to the insured. This obligation is limited to only those stated causes of action affecting matters insured against by this policy. The Company shall have the right to select counsel of its choice (subject to the right of the insured to object for reasonable cause) to represent the insured as to such stated causes of action. It shall not be liable for and will not pay the fees of any other counsel. The Company will not pay any fees, costs, or expenses incurred by the insured in the defense of those causes of action that allege matters not insured against by this policy.
- (b) The Company shall have the right, in addition to the options contained in Section 7 of these Conditions, at its own cost, to initiate and prosecute any action or proceeding or to do any other act that in its opinion may be necessary or desirable to establish the Title, as insured, or to prevent or reduce loss or damage to the insured. The Company may take any appropriate action under the terms of this policy, whether or not a claim relates to the insured. The exercise of these rights shall not be an admission of liability or waiver of any provision of this policy. If the Company exercises its rights under this subsection, it must do so diligently.
- (c) Whenever the Company brings an action or initiates a defense as required or permitted by this policy, the Company may pursue the litigation to a final determination by a court of competent jurisdiction, and it expressly reserves the right, in its final decision, to appeal from any adverse judgment or order.

6. DUTY OF INSURED CLAIMANT TO COOPERATE

- (a) In all cases where this policy permits or requires the Company to prosecute or provide defense for the defense of any action or proceeding and any applicable, the insured shall secure to the Company the right to so prosecute or provide defense in the action or proceeding, including the right to use, at its option, the name of the insured for the purpose. Whenever requested by the Company, the insured, at the Company's expense, shall give the Company all reasonable aid (i) in securing evidence, obtaining witnesses, procuring or defending the action or proceeding, or affecting settlement, and (ii) in any other lawful act that in the opinion of the Company may be necessary or desirable to establish the Title of any other matter as insured. If the Company is prejudiced by the failure of the insured to furnish the required cooperation, the Company's obligations to the insured under the policy shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation, with regard to the matter or matters requiring such cooperation.
- (b) The Company may reasonably require the insured claimant to submit to examination under oath by any authorized representative of the Company and to produce for examination, inspection, and copying, at such reasonable times and places as may be designated by the authorized representative of the Company, all records, in whatever medium maintained, including books, ledgers, checks, memoranda, correspondence, reports, e-mails, diaries, notes, and notes whether hearing a date before or after Date of Policy, that reasonably pertain to the loss or damage. Further, if requested by any authorized representative of the Company, the insured claimant shall grant its permission, in writing, for any authorized representative of the Company to examine, inspect, and copy all of these records in the custody or control of a third party that reasonably pertain to the loss or damage. An inspection designated as confidential by the insured claimant provided to the Company pursuant to this provision shall not be disclosed to others unless, in the reasonable judgment of the Company, it is necessary in the administration of the policy. Failure of the insured claimant to submit for examination under oath, produce any reasonable requested information, or grant permission to secure reasonably necessary information from third parties as required in this subsection, unless prohibited by law or governmental regulation, shall terminate any liability of the Company under this policy as to that claim.

7. OPTIONS TO PAY OR OTHERWISE SETTLE CLAIMS; TERMINATION OF LIABILITY

In case of a claim under this policy, the Company shall have the following additional options:

- (a) To Pay or Tender Payment of the Amount of Insurance.
To pay or tender payment of the Amount of Insurance under this policy together with any costs, attorneys' fees, and expenses incurred by the insured claimant that were authorized by the Company up to the time of payment or tender of payment and that the Company is obligated to pay.
Upon the exercise by the Company of this option, all liability and obligations of the Company to the insured under this policy, other than to make the payment required in the subsection, shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation.
- (b) To Pay or Otherwise Settle With Parties Other Than the Insured or With the Insured Claimant.
(i) to pay or otherwise settle with other parties (or in the name of an insured claimant any claim brought against under this policy. In addition, the Company will pay any costs, attorneys' fees, and expenses incurred by the insured claimant that were authorized by the Company up to the time of payment and that the Company is obligated to pay, or
- (ii) to pay or otherwise settle with the insured claimant the loss or damage provided for under this policy, together with any costs, attorneys' fees, and expenses incurred by the insured claimant that were authorized by the Company up to the time of payment and that the Company is obligated to pay.
- Upon the exercise by the Company of either of the options provided for in subsection (b)(i) or (ii), the Company's obligation to the insured under this policy for the claimed loss or damage, other than the payments required to be made, shall terminate, including any liability or obligation to defend, prosecute, or continue any litigation.

8. DETERMINATION AND EXTENT OF LIABILITY

This policy is a contract of indemnity against actual monetary loss or damage sustained or incurred by the insured claimant who has suffered loss or damage by reason of matters insured against by this policy.

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(continued)

- (e) The extent of liability of the Company for loss or damage under this policy shall not exceed the lesser of
- the Amount of Insurance, or
 - the difference between the value of the Title as insured and the value of the Title subject to the risk insured against by this policy.
- (f) If the Company persists in rights under Section 5 of these Conditions and is unsuccessful in establishing the Title as insured,
- the Amount of Insurance shall be increased by Ten percent (10%), and
 - the Insured Claimant shall have the right to have the loss or damage determined either as of the date the claim was made by the Insured Claimant or as of the date it is settled and paid.
- (c) In addition to the extent of liability under (a) and (b), the Company will also pay those costs, attorneys' fees, and expenses incurred in accordance with Sections 5 and 7 of these Conditions.

9. LIMITATION OF LIABILITY

- (a) If the Company establishes the Title, or removes the alleged defect, lien, or encumbrance, or cures the lack of a right of access to or from the Land, or cures the claim of unmarketable Title, as insured, in a reasonably diligent manner by any method, including litigation and the completion of any appeals, it shall have fully performed its obligations with respect to that matter and shall not be liable for any loss or damage caused to the Insured.
- (b) In the event of any litigation, including litigation by the Company or with the Company's consent, the Company shall have no liability for loss or damage until there has been a final determination by a court of competent jurisdiction, and disposition of all appeals, adverse to the Title, as insured.
- (c) The Company shall not be liable for loss or damage to the Insured for liability voluntarily assumed by the Insured in settling any claim or suit without the prior written consent of the Company.

10. REDUCTION OF INSURANCE; REDUCTION OR TERMINATION OF LIABILITY

All payments under this policy, except payments made for costs, attorneys' fees, and expenses, shall reduce the Amount of Insurance by the amount of the payment.

11. LIABILITY NONCUMULATIVE

The Amount of Insurance shall be reduced by any amount the Company pays under any policy insuring a Mortgage to which subsection is taken in Schedule B or to which the Insured has agreed, assumed, or taken subject, or which is assumed by an Insured after Date of Policy and which is a charge or lien on the Title, and the amount so paid shall be deemed a payment to the Insured under this policy.

12. PAYMENT OF LOSS

When liability and the extent of loss or damage have been definitely fixed in accordance with these Conditions, the payment shall be made within thirty (30) days.

13. RIGHTS OF RECOVERY UPON PAYMENT OR SETTLEMENT

- (a) Whenever the Company shall have settled and paid a claim under this policy, it shall be subrogated and entitled to the rights of the Insured Claimant in the Title and all other rights and remedies in respect to the claim that the Insured Claimant has against any person or property, to the extent of the amount of any loss, costs, attorneys' fees, and expenses paid by the Company. If requested by the Company, the Insured Claimant shall execute documents to evidence the transfer to the Company of these rights and remedies. The Insured Claimant shall permit the Company to sue, compromise, or settle in the name of the Insured Claimant and to use the name of the Insured Claimant in any transaction or litigation involving these rights and remedies.

If a payment on account of a claim does not fully cover the loss of the Insured Claimant, the Company shall defer the exercise of its right to recover until after the Insured Claimant shall have recovered its loss.

- (b) The Company's right of subrogation includes the rights of the Insured to indemnities, guarantees, other policies of insurance, or bonds, notwithstanding any terms or conditions contained in those instruments that address subrogation rights.

14. INTENTIONALLY DELETED**15. LIABILITY LIMITED TO THIS POLICY; POLICY ENTIRE CONTRACT**

- (a) This policy together with all endorsements, if any, attached to it by the Company is the entire policy and contract between the Insured and the Company. In interpreting any provision of the policy, the policy shall be construed as a whole.
- (b) Any claim of loss or damage that arises out of the status of the Title or by any action asserting such claim shall be restricted to the policy.
- (c) Any amendment of or endorsement to this policy must be in writing and authorized by an authorized person, or expressly incorporated by Schedule A of the policy.
- (d) Each endorsement to this policy issued at any time is made a part of this policy and is subject to all of its terms and provisions. Except as the endorsement expressly states, it does not (i) modify any of the terms and provisions of the policy, (ii) modify any prior endorsement, (iii) reduce the Date of Policy, or (iv) increase the Amount of Insurance.

16. SEVERABILITY

In the event any provision of this policy, in whole or in part, is held invalid or unenforceable under applicable law, the policy shall be deemed not to include that provision or such part held to be invalid, but all other provisions shall remain in full force and effect.

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(continued)

17. CHOICE OF LAW; FORUM

- (a) **Choice of Law:** The Insured acknowledges the Company has underwritten the risks covered by this policy and determined the premium charged therefor in reliance upon the law affecting interests in real property and applicable to the interpretation, rights, remedies, or enforcement of policies of title insurance of the jurisdiction where the Land is located.

Therefore, the court or an arbitrator shall apply the law of the jurisdiction where the Land is located to determine the validity of claims against the Title that are adverse to the Insured and to interpret and enforce the terms of this policy. In neither case shall the court or arbitrator apply its conflicts of law principles to determine the applicable law.

- (b) **Choice of Forum:** Any litigation or other proceeding brought by the Insured against the Company must be filed only in a state or federal court within the United States of America or its territories having appropriate jurisdiction.

18. NOTICES, WHERE SENT

Any notice of claim and any other notice or statement in writing required to be given to the Company under this policy must be given to the Company at:

Fidelity National Title Insurance Company
P.O. Box 45023
Jacksonville, FL 32232-5023
Attn: Claims Department

END OF CONDITIONS

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**SCHEDULE B
EXCEPTIONS FROM COVERAGE**
continued

10 Easements and rights recorded hereon as granted in a document.

Granted to: Roads Eric Sanitary District
Recording Date: February 25, 1980
Recording No.: Book 112 Page 125E
Affect Parcel: 1

11 Easements and rights recorded hereon as granted in a document.

Granted to: Roads Eric Sanitary District
Recording Date: April 25, 1980
Recording No.: Book 112 Page 125E
Affect Parcel: 1

END OF SCHEDULE B

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LRM NO. 11/01/2012

EXHIBIT "A"
Legal Description

Parcel I

A parcel of land lying in Government II of 20, in Section 35, Township 8 South, Range 11 West, Willamette Meridian, in Lincoln County, Oregon, more particularly described as follows:

Beginning at the Northeast Corner of Quarter Lot 31 in Section 34, Township 8 South, Range 11 West, Willamette Meridian, running thence East 147^o 5' feet, thence South 500 feet to the true place of beginning, thence from said true place of beginning North 74^o East 203 feet, thence South 224 feet, thence West 280 feet to the center of the County Road, thence North 21^o 30' East 160 feet to the true place of beginning.

EXCEPTING any portion within roads, ditches and highways.

Parcel II

That part of U.S. Lot 20 in Section 35, Township 8 South, Range 11 West, Willamette Meridian, in Lincoln County, Oregon, described as follows:

Beginning at the southeast corner of said Lot 20, thence West along the South line of said Lot 642 80 feet to the Eastern line of the County Road, thence North along the Eastern line of said County Road to the South line of the tract conveyed to I. and C. Soper and wife by deed recorded September 9, 1943 in Book 95, page 247, Deed Records; thence East along the South line of said Soper tract 750 feet, more or less, to the Southeast corner of said Soper tract, thence North along the East line of said Soper tract 273 feet to the Northeast corner thereof, thence North 73^o 18' East 350 feet, more or less, to the East line of said U.S. Lot 20, thence South along the East line of said U.S. Lot 20, a distance of 675 feet, more or less, to the point of beginning.

EXCEPTING THEREFROM the following described tract of land:

Beginning at a point on the south line of U.S. Lot 20 in Section 35, Township 8 South, Range 11 West, Willamette Meridian, in Lincoln County, Oregon, that is on the Eastern right of way line of Logan Road, thence Northerly along said Eastern right of way line 80 feet, thence East and parallel to the South line of said U.S. Lot 20, 100 feet; thence Southerly parallel to said Eastern right of way line 60 feet, thence Westerly 100 feet to the point of beginning.

EQUIHEAT "B"
Exceptions

Subject to:

Regulations, rules, state instruments, rights of way and easements of Onida Lake Water Improvement District.

Right of the public in any portion of the land being added the area necessary to provide safe and dignified.

Terms, provisions and conditions, including, but not limited to, maintenance provisions, and a covenant to ensure the same of easements, contained in the documents.

Recording Date: June 13, 1979
Recording No.: Book 107, Page 152
(Affects Parcel 4)

Terms, provisions and conditions, including, but not limited to, maintenance provisions, and a covenant to ensure the same of easements, contained in document.

Recording Date: June 15, 1979
Recording No.: Book 107, Page 152
(Affects Parcel 4)

Easement(s) and rights incidental thereto as shown is granted in a document.

Granted to: Platte River Sanitary District
Recording Date: February 28, 1980
Recording No.: Book 176, Page 1076
(Affects Parcel 4)

Easement(s) and rights incidental thereto as shown is granted in a document.

Granted to: Platte River Sanitary District
Recording Date: April 22, 1980
Recording No.: Book 176, Page 767
(Affects Parcel 4)

STATE OF OREGON
COUNTY OF CLATSOP
CLATSOP COUNTY CLERK
1000 1/2 COMMERCIAL BL. SUITE 110
SEASIDE, OR 97138

DEED INSTRUMENT
Title Deed

DEED INSTRUMENT
Woods Cove, (11), in Clatsop County, Clatsop County

DEED INSTRUMENT
Book No. 2019-08924
Page No. 111
DATE OF RECORDING 07/21/2019

DEED INSTRUMENT
BOOK NO. 2019-08924
PAGE NO. 111
DATE OF RECORDING 07/21/2019

DATE: 07/21/2019
TIME: 11:00 AM
BY: CLATSOP COUNTY CLERK

2019-08924
CLATSOP COUNTY CLERK
1000 1/2 COMMERCIAL BL. SUITE 110
SEASIDE, OR 97138
CLATSOP COUNTY CLERK
1000 1/2 COMMERCIAL BL. SUITE 110
SEASIDE, OR 97138
CLATSOP COUNTY CLERK
1000 1/2 COMMERCIAL BL. SUITE 110
SEASIDE, OR 97138

CLATSOP COUNTY CLERK

STATUTORY WARRANTY DEED

THIS DEED, TOGETHER WITH THE INSTRUMENTS TO WHICH IT REFERS, IS HEREBY DECLARED TO BE A STATUTORY WARRANTY DEED AS DEFINED IN SECTION 2.010 OF THE CLATSOP COUNTY CODE.

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

THE DEED AND ACTUAL CONVEYANCE FROM THE PERSONS TO WHOM THIS DEED IS MADE SHALL BE VALID AND EFFECTIVE AS TO THE INTERESTS OF THE PARTIES TO THE SAME.

WITNESSETH:

THE CLATSOP COUNTY CLERK, CLATSOP COUNTY, OREGON

NOTICE: THIS DEED IS SUBJECT TO THE PROVISIONS OF THE CLATSOP COUNTY CODE, SECTION 2.010, AND THE OREGON DEED ACT, CHAPTER 88, ORS 88.001 AND 88.002 TO 88.010 AND SECTIONS 2 TO 11, CHAPTER 88, OREGON LAWS 1987, SECTIONS 2 TO 8 AND 11, CHAPTER 88, OREGON LAWS 1988, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THE INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. PURSUANT TO SECTION 2.010 OF THE CLATSOP COUNTY CODE, THIS INSTRUMENT IS SUBJECT TO THE PROVISIONS OF THE CLATSOP COUNTY CODE, SECTION 2.010, AND THE OREGON DEED ACT, CHAPTER 88, ORS 88.001 AND 88.002 TO 88.010 AND SECTIONS 2 TO 11, CHAPTER 88, OREGON LAWS 1987, SECTIONS 2 TO 8 AND 11, CHAPTER 88, OREGON LAWS 1988, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

BY SIGNING THIS INSTRUMENT, THE UNDERSIGNED HAVE AGREED TO THE TERMS AND CONDITIONS SET FORTH HEREIN.

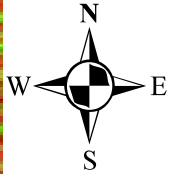
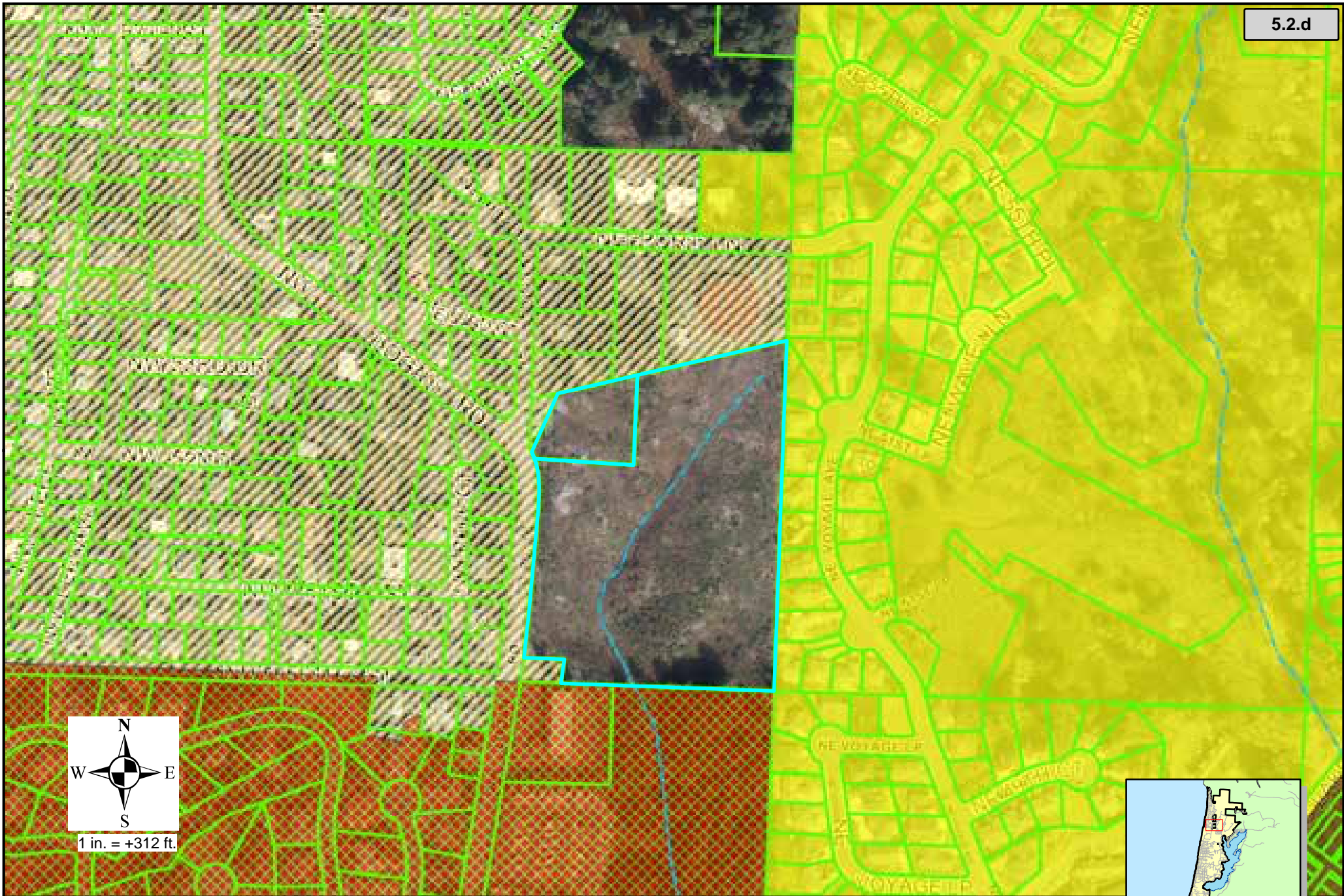
[Signature]
Clatsop County Clerk

State of Oregon
County of Clatsop

This instrument was acknowledged before me on July 21, 2019 by Clatsop County

[Signature]
Notary Public, State of Oregon, My Comm. Expires 07/21/2021



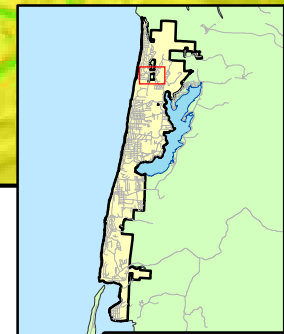


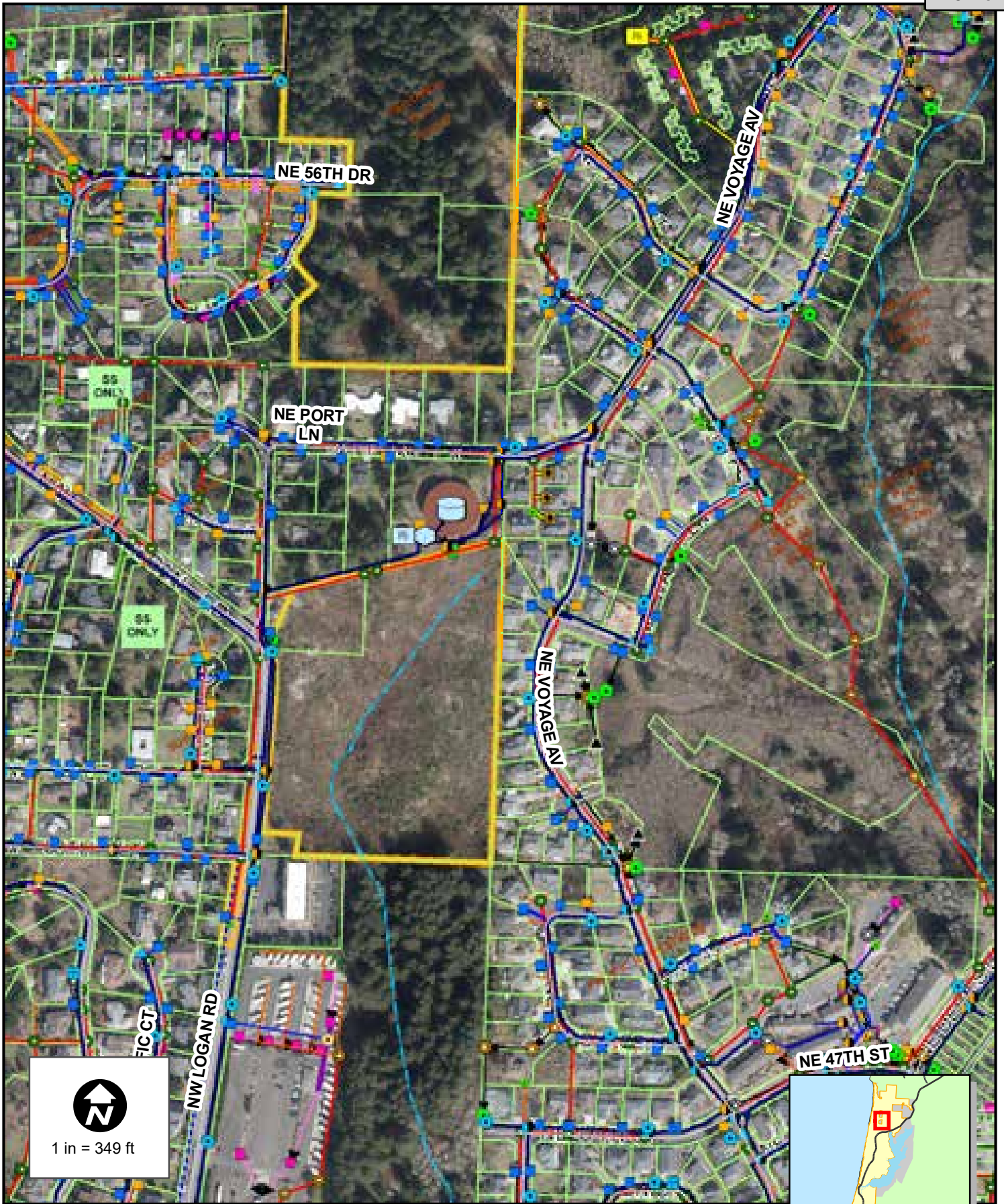
1 in. = +312 ft.

Zoning Map



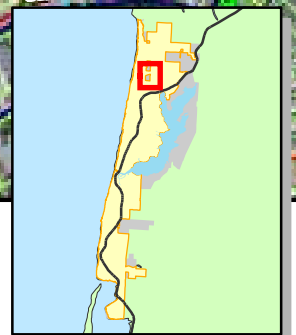
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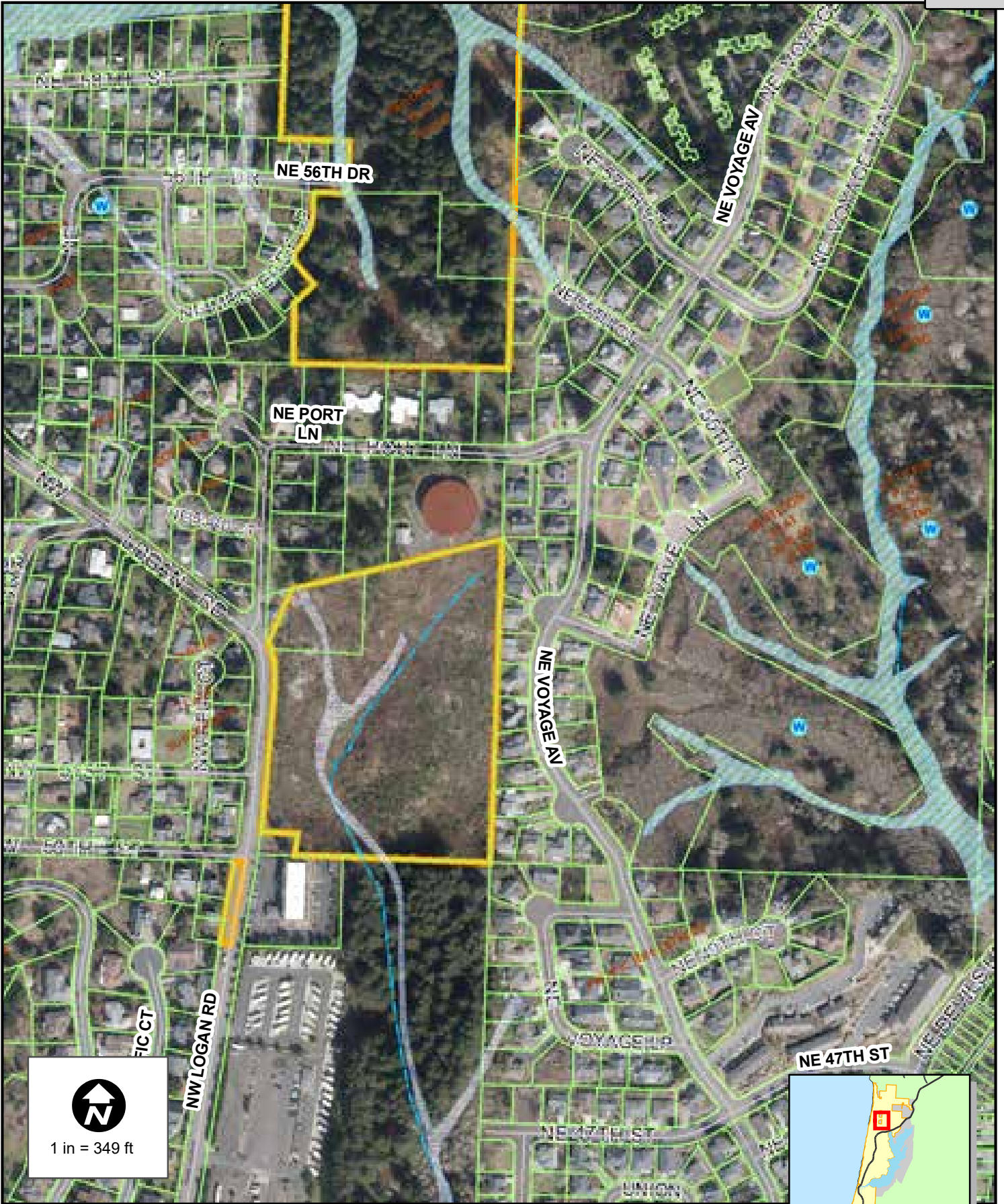




Vicinity Map

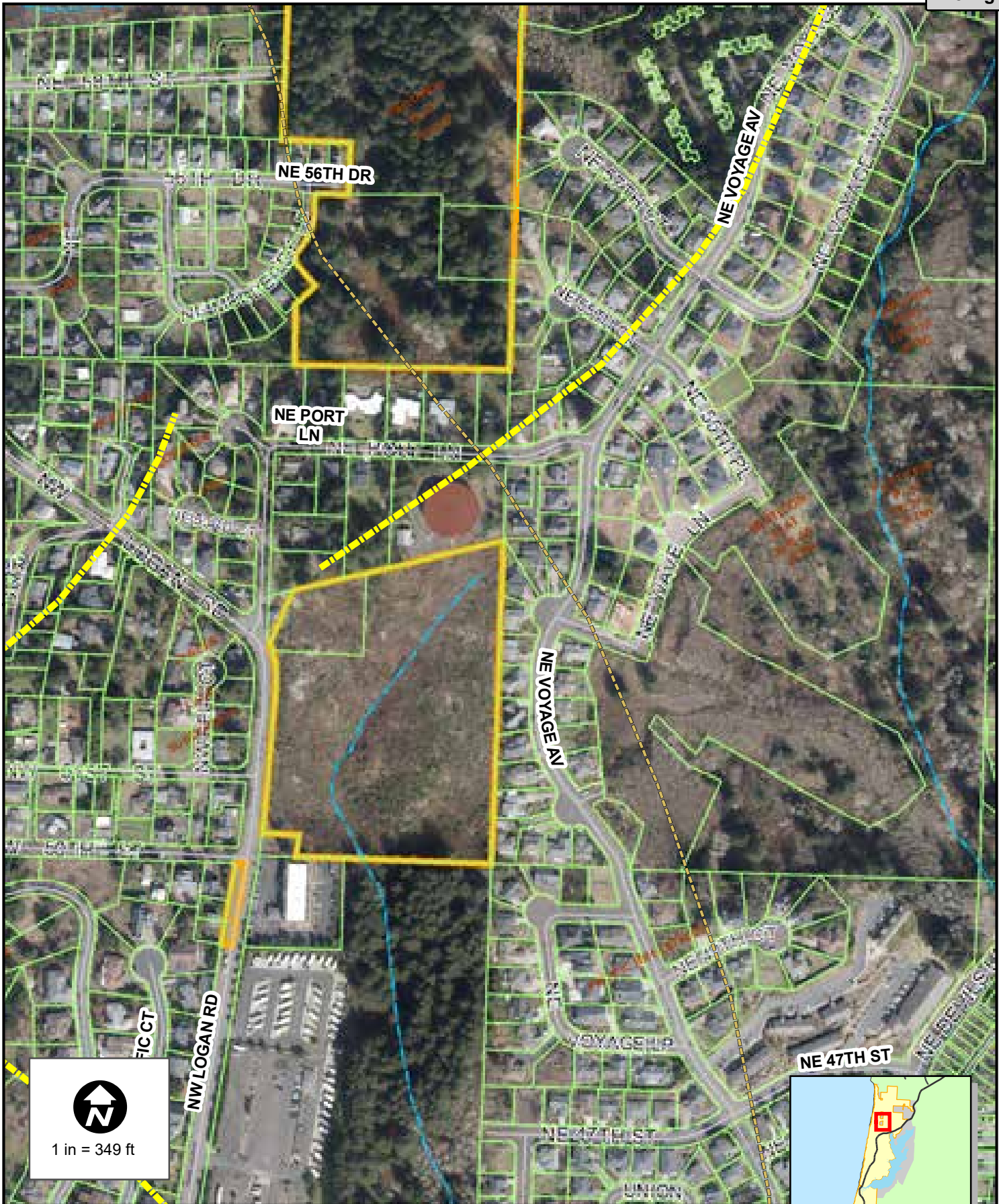
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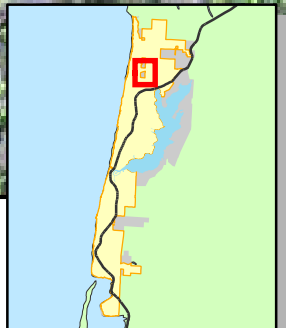
Vicinity Map

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Vicinity Map

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Layers

Geologic

5.2.g

Geologic_Features

Geo_Desc

- Marine Terrace with sporadic ferrogeneous
- Near surface bedrock
- Sand area aquifers

Hydrologic_Hazards

Hydrologic_Hazards_desc

- Flooding (100 yr. return interval)
- Seasonal High Ground Water
- Streambank Erosion

Landslide_Areas

Landslide_Areas

- Geologically Recent Slides
- Massive Ancient Slides
- Minor Slope Sloughing

Shoreline_Protection_Features

Shoreline_Protection_Features_desc

- Revetments
- Riprap

Other_Hazards

Description

- Erosional Scarp > 3m
- Flotsam Accumulation
- Ocean Flooding
- Sand Accretion

Packet Pg. 147

WRITTEN TESTIMONY

Submitted by:
 Patrick M. Dunne
 5155 NE Voyage Ave
 Lincoln City, OR 97367

February 12, 2020

My objective is to ensure the proposed annexation (ANNEX 2020-01/CPA & ZC 2020-02 Woods One Annex and Rezone) does not cancel the reforestation requirement (1971 Forest Practices Act (FPA)) resulting in an unknown further period of blighted property.

1. The Oregon Department of Forestry, Forest Practice Administrative Rules and Forest Practices Act, CHAPTER 629 Forest Practices Administration, 629-610-0040 Time Allowed for Reforestation states "The landowner shall complete planting or seeding within 24 months..."
2. In 2012 the property was clear cut.
3. In 2014 and to date no reforestation has been implemented.
4. The proposed annexation states: Goal 4, page 11, "The Woods property carries the Lincoln County zone of R-1-A, which is a residential zone, not a forest zone."
5. FPA 629-600-0050 Forest Practice Rules, 629-600-0100 Definitions states: "(25) "Forestland" means land which is used for the growing and harvesting of forest tree species, regardless of how the land is zoned or taxed or how any state or local statutes, ordinances, rules or regulations are applied."
6. In 2012 logs were harvested and removed, a commercial activity.
7. Reforestation is required and overdue. The proposed annexation states: Goal 6, page 4, "While no specific plan of development has been settled on, the Woods intend to..." I am concerned this annexation will not remedy the FPA violation, indefinitely leaving the property blighted.


 Patrick M. Dunne