

**LINCOLN CITY PLANNING COMMISSION  
MINUTES  
July 7, 2020**

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

<b>Attendee Name</b>	<b>Title</b>	<b>Status</b>	<b>Arrived</b>
Marci Baker	Commissioner	Present	
Kim Blackerby	Commissioner	Present	
Joshua Brainerd	Commissioner	Absent	
Patti Kroen	Chair	Present	
Lenny Nelson	Commissioner	Present	
Miles Schlesinger	Commissioner	Present	
MacNeale Smith	Commissioner	Present	

**2. AGENDA CHANGES OR REVISIONS**

None

**3. MINUTES**

**3.1.**

<b>MOTION:</b>	<b>Motion to adopt the June 16, 2020 Planning Commission meeting minutes</b>
<b>MOVER:</b>	<b>Kim Blackerby, Commissioner</b>
<b>SECONDER:</b>	<b>MacNeale Smith, Commissioner</b>
<b>AYES:</b>	Baker, Blackerby, Kroen, Nelson, Schlesinger, Smith
<b>ABSENT:</b>	Joshua Brainerd
<b>RESULT:</b>	<b>Passed</b>

**4. FINAL ORDERS, RESOLUTION, & WRITTEN COMMUNICATIONS**

None

**5. PUBLIC HEARINGS/DELIBERATIONS**

**1. SUB PUD 2020-01 The Cove at Lincoln City Phase III**

The applicants were brought into the zoom meeting and Chair Kroen introduced the public hearing. This public hearing is a request for approval of a residential subdivision and planned unit development.

Chair Kroen asked for declarations of ex parte contact and conflict of interest.. None were declared. She asked if there were challenges from the audience on the qualifications of any commissioner to participate. There were none.

**1. Staff Report**

Planning and Community Development Director Anne Marie Skinner presented the staff report for SUB & PUD 2020-01 The Cove at Lincoln City Phase III. She listed the applicant, owner, applicant's representative, and the registered agent, and described the location and zoning. The request is for a 40-lot subdivision, preliminary plat, and preliminary and final master plan planned unit development approval. Notice went to land owners within 500 ft of the site. This was a second notice - the original notice mistakenly only went out only to properties within 250 ft, which is the reason that the hearing was continued to tonight.

Site does not contain any significant wetlands or significant riparian. There is some wetland on the site not identified as significant. DSL has jurisdiction over the non-significant wetlands, and their response to notice is contained in the staff report in the meeting packet. Staff has compared the request against the applicable criteria. That analysis is contained in the staff report. Staff has also prepared some suggested conditions of approval, which are also in the staff report.

Commissioner Schlesinger asked about a previous plan for a Foothill Boulevard, which would connect SE 51st to East Devils Lake Rd somewhere by the outlet mall. He said that he believes the property in question is where this road would go through, and wonder if that was taken into account. For the community to grow, there has to be a second round to get from SE 51st, past the high school, up to East Devils Lake Rd. This would allow people to get where they need to go in the summer when traffic is bumper to bumper. Ms Skinner replied that there is nothing in Title 16 or in Title 17 to compel the developer to install that portion of that road.

Commissioner Blackerby asked how many acres the 40 units would be placed on. Ms Skinner replied that the site is 3.39 acres, and that the maximum density allowed under the code would be 64 units at the site.

Commissioner Nelson asked about the difference between a single-unit attached and a duplex. Ms Skinner replied that a duplex is two units on a single lot and that an attached single-unit dwelling is also two [or more] units but they are on separate lots and so can be sold fee-simple title. A duplex cannot.

Chair Kroen asked when the original approval for the PUD was. Ms Skinner said that she would have to get back with that information because she did not have it at hand.

Commissioner Nelson asked if there is any plan for tree protection. Ms Skinner replied that the applicant would have more information about tree replacement.

Chair Kroen asked how many of the lots in phases 1 and 2 have been built. Ms Skinner replied that 6 out of 39 units have been built. Chair Kroen confirmed that approximately 80% of the units have not been built.

Commissioner Baker noted that the applicants are only proposing attached single-family dwellings and said that she is trying to get an idea of what that would look like. Ms Skinner described the layout of attached single-unit dwellings. Chair Kroen suggested that perhaps the applicant could help the commissioners understand how the units will be constructed.

Commissioner Nelson noted that there is a page in the packet that shows exactly how the structures will be built. Chair Kroen suggested visualizing a series of town houses but with each unit on its own lot.

Ms Skinner said that common areas and outdoor storage are required, and are both included in the subdivision. The application meets all of the requirements for attached single-unit dwellings and all the requirements of the PUD ordinance.

## **2. Applicant Testimony**

Applicant introduced himself and showed a brief slideshow. He introduced the applicant and the engineering firm. He showed a markup of the site plan in the application demonstrating what a single-family attached unit looks like. The proposal is for groups of two, three, and four attached units. The existing sub-division that has already been approved and some two-unit attached dwellings are built. What is now proposed is similar to what was approved previously but has expired. The lot sizes comply with the criteria. The recreation and common spaces are in the center.

Stormwater infiltration planters will be attached to the houses so that the roof drains will be filtered through them before they go into the public system.

The road mentioned by Commissioner Schlesinger is in the City's transportation plan, and is to the east of this site.

The attached units are to comply with the site being in the Multi-Family Residential (RM) zone. The roads are designed as private streets. Regarding trees, the site is very steep. To build streets so the fire trucks can come up you have to have a maximum grade, and trees will have to be removed to do the grading. The developer will have to do a combination of replacing/preserving trees and paying a fee in lieu of planting.

Commissioner Schlesinger confirmed that the proposed Foothills Boulevard that he had mentioned earlier in the meeting will come up to 19th street and up through Mast and is not contiguous to this property.

Chair Kroen asked if the applicant intends to build the homes. He answered that AKS is the engineering firm. They don't build homes - they work with the residential developers who do this work. Chair Kroen asked about the other Cove phases, where 80% of the lots have not been built on even though they are zoned and approved for the same kind of construction that is being asked for on this property. She asked why Phase III is being proposed now. She also mentioned the more than 700 trees on the property and asked why less than 10% of the trees are scheduled to be preserved (and most of those on the edges) to put in streets and lots that may not be built on for a decade like phases I and II. The applicant answered that Phase I was platted in 2009 with six lots that have all been built on. The second phase was not recorded until 2017, and had 32 additional lots that were intended to be built on at the same time as Phase III.

Chair Kroen said that she appreciates the intent of providing housing that isn't available elsewhere in the city. In the last visioning process conducted by the City, there was a lot of concern from citizens about lots that are clearcut prior to development and then do not end up being built on. She said that is the reason why she is asking why Phase III is being proposed

now if Phase II has not attracted buyers or builders sufficient to build those additional lots. The applicant responded that the bulk of the lots being discussed are in Phase II, which was only recently recorded. The idea was to build it all at once and not just build the second phase. The property owners replied that it did not make financial sense to make the required improvements to Phase II at the time. Chair Kroen asked why the applicant/owners think that having 40 more lots will change the dynamics of sale and purchase, and whether they have purchasers lined up. The owners replied that they do not have pre-purchasers. The applicant replied that, if the application for Phase II is approved, it will take another year to complete the infrastructure and complete the final plat. During that time they will be building the homes from Phase II. By the time the final plat is done for Phase III, they will be ready to roll right into construction of the homes.

Commissioner Blackerby asked whether the lots are going to be built on spec and then sold, or sold and then built? The applicant replied that the homes will be built and then sold, and added that there was no point in starting Phase II without knowing that they would be able to roll into Phase III. All of the phases were originally approved in 2007.

Public infrastructure is built for Phase II, but the individual development of lots is not done for Phase II.

Commissioner Baker asked the applicant whether they are saying that, if Phase III is not approved, none of the houses in Phase II will be built. The applicant replied that they are looking at economies of scale. The owner needs the density of this many units to pay for the infrastructure costs and to make the development affordable. They could just start building the individual units in Phase II but that would raise the price of each unit. The demand is there right now, and there are many people looking for houses. Chair Kroen asked why, if the demand is there, nobody has built on the lots. The applicant replied that it does not make sense in the long term to just build a couple of lots. It takes hundreds of thousands of dollars to get to the start of building. In response, Chair Kroen asked why the original six lots (Phase I) did not fall into that category [economies of scale]. The applicant replied that the six lots were built before the recession and that all building stopped in 2009 and is just now recovering.

Chair Kroen asked whether the trees have to come out. The applicant answered that yes, to put in the streets with the grade, they do. Taking trees out after building permits have been issued may work on a flat lot with a detached home.

Chair Kroen asked whether the recreation area is sited on the wetland and, if so, what people will do for recreation in the wetland. She also asked what kind of recreation enhancements will go in the area. The applicant replied that the code does not define what the recreation has to be. The area is steep, so the idea was to leave it in its passive state for passive recreation. Open space.

Commissioner Blackerby asked whether, if he wanted to buy a lot in Phase II, which has all of the infrastructure on it, he could buy one. The applicant responded that all of the public infrastructure is in place, but it would still be an additional \$30-40k to get the lot ready to build.

Commissioner Blackerby referred to Chair Kroen's count of 700 trees being taken out at the site and asked how many trees will be replaced. The applicant responded that 59 of the trees

are listed as being preserved, and that they will replace as many trees as they can fit. Ms Skinner added that the code does not allow removal of trees on a lot unless a building permit has been issued for that lot, which means that the entire 3+ acres cannot be clear cut. The only way that they can clear cut would be if they can come in and apply for building permits. The tree ordinance does not allow that. The applicant replied that it is their understanding that trees within 100 ft of infrastructure can be removed. Ms Skinner explained how the tree ordinance works. Trees can be removed (with an approved plan) for installation of infrastructure (streets), but trees on lots cannot be removed until there are building permits. In response, the applicant described the process that they will go through to install streets and clear trees necessary to build streets, but not any of the trees where the houses will be built until the building permits are approved.

Commissioner Nelson asked how adding 40 units would make casts work out when Phase II couldn't be built because of the cost of the improvements. The applicant replied that the goal is to spread the infrastructure costs across all of the units, and that there will be additional costs for Phase II as well.

Commissioner Baker asked why, if it makes the most sense to do phases II and III together, why they weren't done together in the first place? The applicant replied that Phase II and Phase III were proposed and approved together, but that the infrastructure for Phase III did not get installed, and the approval expired.

Chair Kroen asked how many houses the applicant plans on building by the end of 2022. The applicant replied that it would save them a lot of money if they were able to build all of the units in one year, but that the rate of construction is market driven, and they do not know what the market will do in the fall. There was additional conversation about the timing of the project and the rate of construction.

### **3. Other Testimony**

A neighbor, Mr Provost, provided testimony. He said that between Phase II and Phase III there are 72 new units to be built, which he equated to 144 additional cars that will all have to exit the neighborhood onto 12th, 14th, and 16th streets. He asked what the City will do about the traffic problem that he said will occur if the subdivision is approved and the new houses are all built within 5 or 6 years. He requested that a light be put up on 16th street, which he says will be built up sooner or later. He also brought up the difficulty that cars parked along the road by the apartments would pose to emergency responders.

Chair Kroen confirmed with Ms Skinner that the staff report says the number of vehicles anticipated is not enough to require a traffic study. She also pointed out that the application suggests that Marine Ave is another access point for the development. Chair Kroen also asked whether there are any plans for overflow parking to accommodate additional cars. Page 13 of the meeting packet (P03) shows all of the parking, which is only what is required by the code. About the traffic impact study (TIS), Ms Skinner replied that the code says that a TIS shall accompany an application at the request of the City Engineer if the proposal would result in more than 100 pm peak hour trips. An additional 40 units will not generate 100 pm peak hour trips. Chair Kroen summarized that the City Engineer looked at the application and decided that it did not reach the threshold to require a traffic impact study. City Engineer Stephanie Reed added that although the current application does not trigger the need for a TIA for 40 units, there was a definite requirement to improve 16th St when all three phases of the project

were approved as a subdivision in 2007 or 2008. She said that she does not think that the requirement is in play because the project was broken up into 3 phases.

Chair Kroen asked Ms Reed how the requirement to improve 16th St in the original approval could be dropped. Ms Reed replied that the requirement expired because the approved plan expired. The approval expired. Commissioner Baker asked whether Phase II still has an approval. Ms Skinner responded that approval means installation of infrastructure and recording of the final plat. The final plat for Phase II is recorded, so Phase II is done. Ms Reed added that if the application was for Phase II and Phase III together, we would require a traffic impact analysis.

Commissioner Schlesinger said that he thinks that 16th St and the improvements there need to be looked at as if Phase II and Phase III are being developed all at one time. Traffic in the area will be affected if they are successful in building the entire development.

Chair Kroen reminded the commissioners that the approval can include required conditions. Requiring the improvement of 16th street consistent with what was original approved could be a condition of approval. Ms Skinner confirmed that the Planning Commission could make the improvements a condition of approval. They would be related to Criteria E in the Staff Report and would be a finding that the criteria is not met.

The applicant responded with a summary of the discussion and the topics discussed: trees, market forces that influence how fast homes are built, parking, and traffic. He said that they had arrived at a conclusion on tree removal and there are clear and objective criteria that are met. There is a condition of approval (#3) dealing with trees being removed. The next issue was parking. The proposal for parking already exceeds the code criteria for parking. The next category is market forces and timing. The comments from the commissioners are appreciated and understood, It happens every so often that projects stall and sit there for a while. But none of that is related to an approval criteria for the project. The applicant pointed out the discussion on page 38 of the meeting packet, which talks about the application as it relates to needed housing in the state of Oregon.

*"The Cove at Lincoln City Phase III subdivision is a "needed housing" application under Oregon Revised Statute (ORS) 197.303(1)(a) as it provides detached single-family housing within an urban growth boundary. ORS 197.307(4) states that a local government may apply only clear and objective standards, conditions, and procedures regulating the development of needed housing, and such standards, conditions, and procedures cannot have the effect, either in themselves or cumulatively, of discouraging needed housing through unreasonable cost or delay."*

There was some continued conversation about the definition of needed housing and whether attached single-unit dwellings count.

No testimony from public agencies.

No continuance was requested. There was no request to leave the record open.

#### 5.1.4.

<b>MOTION:</b>	<b>Motion to close the public hearing and the record for SUB &amp; PUD 2020-01</b>
<b>MOVER:</b>	<b>Marci Baker, Commissioner</b>
<b>SECONDER:</b>	<b>Kim Blackerby, Commissioner</b>
<b>AYES:</b>	Baker, Blackerby, Brainerd, Kroen, Nelson, Schlesinger, Smith
<b>RESULT:</b>	<b>Passed</b>

### 5. Deliberation

Applicant waives the opportunity to submit written final argument.

Commissioner Nelson asked Mr Appicello for input on the state statute related to needed housing. Mr Appicello explained that the City made changes to the code to make sure that requirements are objective, as required. He said that he does not believe that the standards and criteria are vague and unenforceable. He also said that, in a planned development, it specifically requires that you establish a time table for development. The development proposed here is not just the infrastructure - they are proposing attached housing. The original approval should have had a time table for development, which seems a reasonable requirement. Whether or not Phase II is allowed to develop at all is a separate question, but he would like to hear from the City Engineer about her thoughts on a condition related to improvement of 16th street.

Commissioner Schlesinger said that the plan should have been done all at one time and would have needed improvement on 16th street. There was some continued Discussion about whether the improvements to 16th St are still in play for Phase II. Mr Appicello reminded the commissioners that Phase II is not the subject of the hearing.

Commissioner Schlesinger said that he cannot, in good conscience, move the proposal forward. He said that he thinks the whole thing needs to be considered as Phase I, II, and III.

Commissioner Blackerby said that he is in favor of additional affordable housing in Lincoln City, but that the process for this one has be piecemealed. There needs to be additional conditions applied to it.

Commissioner Nelson said that there isn't anything saying the applicants have to build affordable housing on the site. They applicants say that they will, and they do have very small lots, but there is nothing here that commits them to doing affordable housing. Mr Appicello replied that the question is whether it is needed housing and it has clear and objective criteria. The opinion of the City Engineer is that the conditions are not triggered by this application.

Chair Kroen requested, at his suggested, that Mr Appicello talk to the previous planning director to find out what happened with Phase II and allowing it to be recorded without completing the required improvements to 16th St.

Commissioner Blackerby asked what kind of conditions can be added to the approval. Can we attach conditions related to the improvement of 16th street? Additional tree preservation? Mr Appicello replied that the one thing the applicants did not include was a time table. This is

a plan development, not just a subdivision. We need a time table for vertical construction. We have the ability, if construction goes past five years, to have the applicants come back and reexamine the plan.

Chair Kroen pointed out that Planning staff did identify a couple of conditions, including a tree replacement plan, and a landscaping plan that meets code. She said that an additional condition she would like to see would be a housing plan and build-out within five years (for just Phase III).

Commissioner Brainerd said that his main concern was already covered by Mr Appicello - making sure that the land doesn't lay fallow for too long. Land is something that Lincoln City has a lot of inventory of, so the primary concern with the application is the time table to getting standing structures finished and people living in them.

Chair Kroen said that she would like to see a plan for the recreation area consistent with the requirements of the code and actually providing some benefit to the folks that would be living in this master-planned development.

Commissioner Blackerby said that more affordable housing is needed in this town, but that he does not think the owners or the developers have put in enough thought on the impacts to the city in this case.

Commissioner Baker asked whether the improvements to 16th St required in the prior approval would have been required before the houses are built. Mr Appicello said that the question is not relevant to the case at hand, but that he will look into the question and get back to the Planning Commission.

Commissioner Schlesinger said that he does not feel like the plan is ready for prime time and that he will vote to not approve it as submitted. There are problems with Phase II yet to be resolved, and parking is not adequate and there are needed improvements to 16th street.

Commissioner Brainerd said that it seems like there are some major gaps in the proposal that need to be put in to make it complete.

Staff will prepare a final order for adoption at the next available meeting.

#### 5.1.6.

<b>MOTION:</b>	<b>Motion to deny SUB &amp; PUD 2020-01</b>
<b>MOVER:</b>	<b>Kim Blackerby, Commissioner</b>
<b>SECONDER:</b>	<b>Miles Schlesinger, Commissioner</b>
<b>AYES:</b>	Baker, Blackerby, Brainerd, Kroen, Nelson, Schlesinger, Smith
<b>RESULT:</b>	<b>Passed</b>

## 2. ZOA 2020-01 Procedures

Chair Kroen introduced the hearing and read the required statements.

Ms Skinner presented the staff report. Because the report was essentially a summary of the one given at the previous meeting, she gave a summary rather than presenting extensive detail. The code currently has a chapter of administrative procedures. The revision groups each application into types and sets consistent procedures. It creates a new chapter in Title 17 that gathers all of the applications from sections across Title 17 For clarity and ease of use. The hope is that the revisions will make applying procedures easier both for developers and staff. That is the intent and that is what the two chapters lay out

Chair Kroen asked if anything was lost during the process of putting the draft into ordinance format? Mr Appicello replied that nothing substantive was lost.

No public testimony was submitted and there were no additional questions or comments from the commissioners

Lenny moved to close the hearing and the record. Miles second. No discussion.

#### 5.2.1.

<b>MOTION:</b>	<b>Motion to close the public hearing and the record for ZOA 2020-01 Procedures</b>
<b>MOVER:</b>	<b>Lenny Nelson, Commissioner</b>
<b>SECONDER:</b>	<b>Miles Schlesinger, Commissioner</b>
<b>AYES:</b>	Baker, Blackerby, Brainerd, Kroen, Nelson, Schlesinger, Smith
<b>RESULT:</b>	<b>Passed</b>

#### 5.2.2.

<b>MOTION:</b>	<b>Motion to recommend approval of ZOA 2020-01 to the City Council</b>
<b>MOVER:</b>	<b>Lenny Nelson, Commissioner</b>
<b>SECONDER:</b>	<b>Marci Baker, Commissioner</b>
<b>AYES:</b>	Baker, Blackerby, Brainerd, Kroen, Nelson, Schlesinger, Smith
<b>RESULT:</b>	<b>Defeated</b>

### 6. OLD BUSINESS

None

### 7. NEW BUSINESS

#### 1. Roads End/The Villages at Cascade Head Urban Renewal Plan

Urban Renewal and Economic Development Director, Alison Robertson. City Councilor and chair of the Urban Renewal Agency Diana Hinton, and consultant Eliane Howard, presented the draft Urban Renewal Plan to the Planning Commission. The primary question was whether the plan is consistent with the Lincoln City Comprehensive Plan.

The commissioners participated in an active discussion about the draft plan.

7.1.1.

<b>MOTION:</b>	<b>Motion to find that the Urban Renewal Plan for Roads End and the Villages at Cascade Head is consistent with the Lincoln City Comprehensive Plan and to recommend approval to the City Council</b>
<b>MOVER:</b>	<b>Marci Baker, Commissioner</b>
<b>SECONDER:</b>	<b>Lenny Nelson, Commissioner</b>
<b>AYES:</b>	Baker, Blackerby, Kroen, Nelson, Schlesinger, Smith
<b>ABSENT:</b>	Joshua Brainerd
<b>RESULT:</b>	<b>Passed</b>

**8. PLANNING COMMISSION TRAINING**

**9. REPORTS & COMMENTS**

This meeting was Ms Skinner's last Planning Commission meeting as Planning Director. With the planning department down two staff members and with the comprehensive plan in need of revisiting and revising, Chair Kroen asked about the possibility of a moratorium on zone changes until progress has been made on the comprehensive plan and the planning department is fully staffed. Mr Appicello replied that the Planning Commission has done a good job of identifying when an application is inconsistent with the underlying comprehensive plan, and that he does not think a moratorium is needed to continue doing that.

City Manager Ron Chandler gave an update on the planning department and plans related to staffing.

1. Previous Case Updates

Ms Skinner gave the commissioners an update on cases that have recently gone from the commissioners to the City Council:

- ANNEX 2020-01 and CPA ZC 2020-02 applicant requested a continuance to the August 10 city council meeting. Council has not made a decision on the project.
- CPA ZC 2020-01 City Council denied the application for the same reasons that the commissioners who voted against recommending it.

**10. FUTURE AGENDA ITEMS & NEXT MEETINGS**

**11. ADJOURN**

Respectfully submitted,

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James White  
Assistant Planner

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Patti Kroen  
Chair