

**LINCOLN CITY PLANNING COMMISSION
MINUTES
October 19, 2021**

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

Attendee Name	Title	Status	Arrived
Robert Vincent	Commissioner	Present	
Mellissa Sumner	Commissioner	Present	
Marci Baker	Chair	Excused	
Kim Blackerby	Commissioner	Present	
Lenny Nelson	Commissioner	Present	
Miles Schlesinger	Commissioner	Present	
MacNeale Smith	Commissioner	Present	

2. AGENDA CHANGES OR REVISIONS

3. MINUTES

3.1. Planning Commission - Regular Meeting - Sep 21, 2021 6:00 PM

MOTION:	Motion to approve the September 21, 2021 Planning Commission minutes as edited.
MOVER:	Robert Vincent, Commissioner
SECONDER:	Lenny Nelson, Commissioner
AYES:	Vincent, Sumner, Blackerby, Nelson, Schlesinger, Smith
EXCUSED:	Marci Baker
RESULT:	Passed

4. FINAL ORDERS, RESOLUTION, & WRITTEN COMMUNICATIONS

Commissioner Smith moved to approve Final Recommendations FR 2021-01, FR 2021-02, FR 2021-03, FR 2021-4. Commissioner Schlesinger seconded. Commissioners Vincent and Sumner abstained. All others approved.

1. FR 2021-04 for ZOA 2021-04
2. FR 2021-03 for ZOA 2021-03
3. FR 2021-02 for ZOA 2021-02
4. FR 2021-01 for ZOA 2021-01

4.5.

MOTION:	Motion to approve final recommendations FR 2021-01, FR 2021-02, FR 2021-03, and FR 2021-04
MOVER:	MacNeale Smith, Commissioner
SECONDER:	Miles Schlesinger, Commissioner
AYES:	Kim Blackerby, Lenny Nelson, Miles Schlesinger, MacNeale Smith
ABSTAIN:	Robert Vincent, Mellissa Sumner
EXCUSED:	Marci Baker
RESULT:	Passed

5. PUBLIC HEARINGS/DELIBERATIONS

1. Continued to 11/2/2021: ZOA 2021-05 Lighting

5.1.1.

MOTION:	Motion to continue the hearing to the November 2, 2021 meeting to allow staff to finish the ordinance
MOVER:	MacNeale Smith, Commissioner
SECONDER:	Robert Vincent, Commissioner
AYES:	Vincent, Sumner, Blackerby, Nelson, Schlesinger, Smith
EXCUSED:	Marci Baker
RESULT:	Passed

2. VAR 2021-02 Excellence Inc 2219 NW Hwy 101

Vice-Chair Blackerby introduced the hearing and read the required statements. There were no declarations of ex parte contact, conflict of interest, or bias. Commissioners acknowledged that the site is regularly visible while traveling in Lincoln City. There were no challenges to the commission or any of the commissioners to hear the case.

Senior Planner David Mattison read the substantive criteria.

Vice-Chair Blackerby summarized the procedures.

Mr Mattison presented the staff report. The current application comes out of an on-going development review, SPR 2021-03, of the conversion of use of an existing building to an office use. The applicant is requesting a 4-foot variance for the placement of their parking, which will not fit on the site with the addition of a required buffer setback in addition to the otherwise required minimum setbacks. Staff feel that all the requirements for a variance have been met. No comments were received during the 14-day comment period. Staff is recommending approval.

Commissioner Smith asked whether the applicant had a specific use for the building other than what was covered in the agenda packet - specifically whether they had a tenant lined up. Mr Mattison said that there was none mentioned in the application.

Greg Wescott presented. He said that he has had a number of people express interest in leasing the space. His intention has been to finish the outside of the structure and then finish the inside based on the tenant's needs. He said that the proposed location of the parking spaces meets all of the requirements except for one - the front of the spaces encroaches into the rear setback by approximately 4 feet. The staff report demonstrates that the criteria are met.

Commissioner Nelson asked whether the applicant knew about the location of the structure on the lot when he bought it. He said that he did. Commissioner Nelson also asked about the removal of walls in the plans, in the sense of maintaining the building's assets. Mr Wescott said that he tries to save as much of the character of the building as possible.

Commissioner Nelson asked whether the discussion would get into the four approval criteria for a variance. Ms Skinner said that if the commissioners have any questions about the criteria, they should ask them before closing the hearing. During deliberation is the time to discuss whether the criteria are met.

Commissioner Schlesinger asked whether the application has received approval from the DEQ, because it was previously a service station. Mr Appicello reminded the commissioners that they need to focus on the approval criteria for the application in question.

Commissioner Schlesinger asked Ms Skinner whether the City of Lincoln City has any code for de-certifying service stations. Ms Skinner replied that there is not anything in Title 17, so if there is anything, it would be under the building code rather than the planning and zoning code. Vice-Chair Blackerby summarized that the question tonight is related specifically to the variance for the parking, and anything related to DEQ or building will be taken care of during the building permit.

No testimony was offered in support of the application.
No testimony neutral to the application was offered.
No testimony was offered in opposition to the application.
There was no testimony from public agencies.

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

The public hearing and record were closed by a motion and a vote (recorded below). Mr Appicello explained the applicant's right to submit final written argument. The applicant waived the right.

Mr Appicello did not have any specific comments on legal issues. Ms Skinner did not have anything to add either.

Deliberations:

Commissioner Nelson read the four criteria for approving a variance. Regarding exceptional or extraordinary circumstances in the first criterion, she said that when Mr Wescot bought the property, the structure was located where it is now, and that if he bought the property where it sits, he has no real reason to get a variance because the building is already there. Also if you look at the plans, there is not much of the building that is going to be left because they are replacing all four sides. If he goes to put the brick back up, the earthquake requirements will not allow him to anymore.

Regarding the second criterion, Commissioner Nelson said that nobody has a property right to complain about where their building is.

Commissioner Vincent said that right now the building is doing nothing. Especially if he is able to keep some of the original building and utilize it, he thinks that there is no problem with

Commissioner Nelson responded to Commissioner Vincent, saying that although utilizing the building, etc are good things, but they do not speak to the requirements.

Vice-Chair Blackerby said that if we look at the rear of the building, it is not going to be moving, and is still encroaching on the setback. The variance isn't about the building. Even though fixing an eyesore is not part of the criteria, I believe the criteria are met and so it is a win-win.

Commissioner Schlesinger said that Vice-Chair Blackerby's comments reflect his thoughts.

There were no additional comments.

Commissioner Vincent moved to approve the Commissioner Sumner seconded.

The application was approved by a motion and vote, as recorded below.

5.2.1.

MOTION:	Motion to close the public hearing and the record
MOVER:	Miles Schlesinger, Commissioner
SECONDER:	Robert Vincent, Commissioner
AYES:	Vincent, Sumner, Blackerby, Nelson, Schlesinger, Smith
EXCUSED:	Marci Baker
RESULT:	Passed

5.2.2.

MOTION:	Motion to approve VAR 2021-02
MOVER:	Robert Vincent, Commissioner
SECONDER:	Melissa Sumner, Board Member
AYES:	Vincent, Sumner, Blackerby, Schlesinger, Smith
NAYS:	Lenny Nelson
EXCUSED:	Marci Baker
RESULT:	Passed

3. CUP 2021-01 Dock 3000 NE 26th

Vice-Chair Blackerby opened the hearing, introduced the application, and read the required statements. There were no declarations of ex parte contact, bias, or conflict interest. There were

no challenges from the audience to the qualifications of any commissioner or the jurisdiction of the commission.

Mr Mattison read the applicable substantive criteria.

Vice-Chair Blackerby described the hearing procedures.

Mr Mattison presented the staff report. The application is for a new dock. One comments was received, from Carol Harris who is present to give testimony. The commissioners received a copy of that. LCMC 17.16 for the identifies docks in the R-1-7.5 Zone as a conditional use. There are two sets of criteria for the conditional use - the general conditional use criteria and conditional use criteria for docks. The applicants have met or will meet, with conditions, all of the criteria. Mr Mattison read the recommended conditions from the staff report and said that staff recommend approval with the conditions as read.

Commissioner Schlesinger said that he did not know that the city required a permit for a dock. Ms Skinner said that prior to the adoption of our dock ordinance the land use portion of approving a dock was under the jurisdiction of Lincoln County. When the City took that over several years ago, they adopted requirements for a conditional-use approval for land use. There are no other permits for a dock required by the City. After conditional use, the applicant must obtain permits from other jurisdictions as required.

Commissioner Vincent asked a questions about the comment letter from Ms Harris raising concerns related to motorized boats. Ms Skinner said that there is not a way to get beyond the subject site before you hit Devils Lake Rd and the bridge.

Vice-Chair Blackerby referred to the map in the meeting packet and asked where the ramp would be located. Mr Mattison indicated the location. Vice-Chair Blackerby asked about the ownership of the canal. Mr Appicello said that the dock is adjacent to the city-owned property. The dock is on the applicant's private property. Ms Skinner explained the ownership represented in the map.

There were no additional questions for staff.

Mr and Mrs Kammermeyer spoke to the Planning Commission. The dock will be adjacent to the water. They wanted a place to launch their kayaks.

Commissioner Nelson asked whether the applicants looked into trying to stay out of the riparian area. Mrs Kammermeyer said that there isn't any area that they can get to the water without crossing the riparian area. The permit with DSL will require a construction phasing plan. Ms Skinner added that docks are allowed in riparian areas per the LCMC. The dock will have to go through a Natural Resources Development Review, which is the next step if the conditional use is approved. Preservation of the riparian area is one of the things that they will have to demonstrate. The dock is located on private property. It is not located within the waters of Devils Lake. However, one of the conditions of approval is that the applicants contact the Department of State Lands and receive any applicable permits from them.

There were no further questions for the applicants.

Carol Harris presented to the commissioners. She said that she has no concern about the Kammermeyer's dock.

The was no testimony in support of the application.
No additional testimony neutral to the application was given.
There was no testimony in opposition to the application.

No testimony from agencies.

No requests for a continuance or to leave the record open.
The applicants waived the right submit final written comment.

The public hearing and the record were closed with a motion and vote, as recorded below.

Mr Appicello did not have any specific comments. Neither did Ms Skinner.

The application for a conditional use permit was approved by a motion and a vote, as recorded below.

5.3.1.

MOTION:	Motion to close the public hearing and the record
MOVER:	Robert Vincent, Commissioner
SECONDER:	MacNeale Smith, Commissioner
AYES:	Vincent, Sumner, Blackerby, Nelson, Schlesinger, Smith
EXCUSED:	Marci Baker
RESULT:	Passed

5.3.2.

MOTION:	Motion to approve CUP 2021-01 with conditions as noted in the staff report
MOVER:	Robert Vincent, Commissioner
SECONDER:	MacNeale Smith, Commissioner
AYES:	Vincent, Sumner, Blackerby, Nelson, Schlesinger, Smith
EXCUSED:	Marci Baker
RESULT:	Passed

6. OLD BUSINESS

None

7. NEW BUSINESS

None

8. PLANNING COMMISSION TRAINING

None

Vice-Chair Blackerby said that it would be wonderful to get training from Public Works on how traffic studies are done.

Mr Appicello encouraged the new commissioners to call him or visit if they have questions.

9. PLANNER COMMENTS

Ms Skinner reported that she e-mailed the commissioners the items that were promised last meeting - the statewide planning goals and the current comprehensive plan. Although there are 600 pages or so, the actual Comprehensive Plan document is only the first 50 pages. The rest is amendments, studies, etc. For the statewide planning goals, Ms Skinner asked that the commissioners chose their top 5 in priority to address in the Comprehensive Plan update. She also asked that if the commissioners have any of the comments they made to the previous director on the previous draft, to please send them to her. She said that she had received Commissioner Blackerby's comments.

Commissioner Blackerby said that former commissioner Kroen submitted comments as well. Ms Skinner said that she will search through to find those comments.

Ms Skinner asked if any of the commissioners have any comments to make to the group. Commissioner Blackerby said that this was something that he noticed the City Council doing. He said that he thinks it is a good opportunity to provide any comments. He said that his perception is that this meeting went exceptionally better than other meetings in the recent past.

Commissioner Schlesinger did not have anything to add, except for thanking the City Manager for Ms Skinner's return.

Commissioners Nelson and Smith did not have any comments.

Commissioner Vincent thanked the group for all the help that he has gotten.

10. FUTURE AGENDA ITEMS & NEXT MEETINGS

As was noted at the beginning of the meeting, the lighting ordinance was continued to the November 2, 2021 meeting, and will likely be the only agenda item for that meeting. The rest of the meetings of the year, there is a meeting on Nov 16, December 7, and on Dec 21. Ms Skinner asked whether there is any conflict with those dates and commissioners' holiday schedules. After some discussion it was decided to leave those meetings on the calendar and adjust later if necessary.

11. ADJOURN

Respectfully submitted,

James White
Assistant Planner

Marci Baker
Chair