



AGENDA

Lincoln City Planning Commission
Tuesday, May 19, 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 - May 5, 2020 6:00 PM

4. FINAL ORDERS, RESOLUTION, & WRITTEN COMMUNICATIONS

1. FO 2020-04 Devils Lake Dredging

4.1.1. FO 2020-04, the final order approving CUP 2020-02, which is the conditional use permit for Devils Lake Water Improvement District dredging

2. FR 2020-02 Scrutton Rezone

4.2.1. FR 2020-02, final recommendation for CPA ZC 2020-01 Scrutton rezone

3. FR 2020-01 and FR 2020-06 Woods One Annex and Rezone

4.3.1. FR 2020-01 and FR 2020-06 for ANNEX 2020-01 & CPA ZC 2020-02, Woods annexation, comprehensive plan map amendment, and zone change

4. FR 2020-05 ZOA 2019-08 Design Review Standards

4.4.1. FR 2020-05, final recommendation for ZOA 2019-08 Design Standards

5. FR 2020-04 ZOA 2020-02 Parking and Landscaping

4.5.1. FR 2020-04, final recommendation for ZOA 2020-02 Parking and Landscaping ordinance amendments

6. FR 2020-03 ZOA 2020-04 Permanent Signs

4.6.1. FR 2020-03, final recommendation for ZOA 2020-04 Signs ordinance amendment

5. PUBLIC HEARINGS/DELIBERATIONS

1. SUB & PUD 2020-01 The Cove Phase III

5.1.1. SUB PUD 2020-01 The Cove at Lincoln City Phase III - 40-lot subdivision for attached single-unit dwellings.

2. ZOA 2020-01 Procedures

5.2.1. ZOA 2020-01 Procedures - ordinance amendment to organize reviews into procedure types of Type I, II, III, or IV with associated applications and adding a chart showing each

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
May 5, 2020**

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

Attendee Name	Title	Status	Arrived
Marci Baker	Commissioner	Present	
Kim Blackerby	Commissioner	Present	
Joshua Brainerd	Commissioner	Present	
Patti Kroen	Chair	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 - Mar 3, 2020 6:00 PM

MOTION:

MOVER: Joshua Brainerd, Commissioner

SECONDER: Marci Baker, Commissioner

AYES: Baker, Blackerby, Brainerd, Kroen, Nelson, Schlesinger, Smith

RESULT: Passed

4. FINAL ORDERS, RESOLUTION, & WRITTEN COMMUNICATIONS

None

5. PUBLIC HEARINGS/DELIBERATIONS

1. Deliberations - ANNEX 2020-01 and CPA & ZC 2020-02

Chair Kroen explained the deliberations - that it is a case that the Planning Commission held a public hearing on, closed the record, deliberated, came back for final vote, and after some discussion decided to deliberate a little more at the next meeting, which ended up being two months later because of Covid-19.

Chair Kroen reminded the commissioners that in the deliberations they can pose legal questions to the city attorney, but they are not able to ask for additional facts.

Chair Kroen stated that her comments are well covered in the minutes from the March meeting, and asked for the thoughts of the other commissioners about the case.

City Attorney Richard Appicello suggested that the commissioners start with a motion and deliberate from there. Commissioner Nelson asked if the two parts of the case could be split into separate motions. Mr Appicello confirmed that they could.

Commissioner Nelson moved to allow the annexation (ANNEX 2020-01) with a second from Commissioner Blackerby. The vote is captured below.

Regarding the explanation for the "no" votes, Chair Kroen stated that here reasons are well reflected in the meeting minutes.

Commissioner Nelson motioned to deny the zone change (CPA & ZC 2020-02) with a second from Commissioner Baker. The vote is captured below. Chair Kroen explained that she did not think that R-1-5 is the right zone for the area, but because the vote was on a specific proposal, the vote had to be no. Commissioner Nelson said that she thinks the site should be annexed into the city (as reflected in her vote on that motion), but that it should not have the density of R-1-5.should have the density.

Commissioner Blackerby said that there is not much difference between the county zoning and the R-1-5 zone. This was followed by some discussion of the differences.

5.1.1.

MOTION:	Recommend approval of ANNEX 2020-01 to City Council
MOVER:	Lenny Nelson, Commissioner
SECONDER:	Kim Blackerby, Commissioner
AYES:	Kim Blackerby, Joshua Brainerd, Lenny Nelson, Miles Schlesinger
NAYS:	Marci Baker, Patti Kroen, MacNeale Smith
RESULT:	Passed

5.1.2.

MOTION:	Recommend denial of CPA & ZC 2020-02 to City Council
MOVER:	Lenny Nelson, Commissioner
SECONDER:	Marci Baker, Commissioner
AYES:	Baker, Blackerby, Brainerd, Kroen, Nelson, Schlesinger, Smith
RESULT:	Passed

2. Deliberations - CPA & ZC 2020-01 Scrutton

Chair Kroen reminded the commissioners of the background of the case, which is a request to amend the Comprehensive Plan maps and zoning for properties addressed on SW Ebb Ave (she listed the addresses) from Residential Multi-Family (RM) to Recreation Commercial (R-C) zone. Deliberations on the case were held at the March 3, 2020 Planning Commission meeting, but they resulted in a tie vote. The commissioners decided to continue deliberations until all seven commissioners could be present. Commissioner Schlesinger, who was absent for the deliberations and tied vote, was present for the public hearing, has reviewed the materials, and has all of the available evidence.

Mr Appicello stated that he had neglected at the beginning of the previous deliberations (ANNEX 2020-01/CPA & ZC 2002-02) to ask whether Commissioner Nelson had reviewed the record. She replied that she had.

Chair Kroen asked the commissioners for their thoughts on the case.

Commissioner Baker remarked on the applicants' acknowledgement that the intent of the application is to pass on the value of the Vacation Rental License that they currently have. She said that, with all of the applications of this type that have come before the Planning Commission, maybe the city needs to revisit the VRD rules that aren't working for people, but that revision of the VRD rules is not what is in front of the Planning Commission to consider. She said that the commissioners need to look at what is in front of them, which is the conversion of the multi-family lots to commercial.

Commissioner Blackerby said that the issue should be taken up and reconsidered when the Planning Commission looks at the zoning comprehensively. If we were in a process of rezoning the city, that area stands out to be a commercial-looking zone. Whether the intent is VRDs or not, the proposal to rezone fits into that direction.

Commissioner Smith raised a question that he had raised previously in the deliberations, "Is this the time to be doing this?" He asked whether the Planning Commission should be doing piecemeal changes, or whether they should address the conversion of the area to commercial at a different time when they are looking at doing a more comprehensive change. Commissioner Blackerby asked when that comprehensive change would occur. Is it 60 days off, or two years off? Commissioner Brainerd agreed. He said that everyone is in agreement that the Comprehensive Plan needs to be revisited, but that it is a resource and time-intensive process.

Commissioner Schlesinger said that he thinks the city will have such problems for the next two years that the Comprehensive Plan will take a back seat to getting the economy rolling again. He said that he believes that it is a problem that will be satisfied when the Comprehensive Plan is redone, but that he does not see any way that the Planning Commission will get a chance to look at it in the next two years. Commissioner Nelson added that, with the amount of time the Planning Commission spent on other ordinances like the sign ordinance, she does not think that even two years will be enough.

Commissioner Smith asked about the urgency of the request, and whether the Planning Commission has time to do a comprehensive look at zoning. Mr Appicello answered that the commissioners have a quasi-judicial case in front of them and have to make a decision. He also reminded them that when they make a zone change, all of the permitted uses in the new zone are available to the property owners and there is no limitation unless there is a binding development agreement.

Chair Kroen said that the commissioners have the case in front of them and need to act on the request. They cannot tell the applicants to come back later. She pointed out that the Planning Commission has had several requests for zone changes in the last years or so, and although the term spot zoning isn't used anymore, that is what it is. The Planning Commission has responded consistently to those requests. She said that, in her opinion, the current request is not consistent with the current Comprehensive Plan, and that she would vote no, and look at this again when the Planning Commission reexamines zoning.

Mr Appicello reminded the commissioners that they did not start the discussion by asking whether there are any ex-parte communications to disclose. Chair Kroen asked the commissioners whether anyone had any ex-parte communications about CPA & ZC 2020-01. None of the commissioners reported any ex-parte communications. Chair Kroen asked if any of the commissioners had any ex-parte communication about the previous case (ANNEX 2020-1; CPA & ZC 2020-02). The commissioners did not report any.

Responding to Chair Kroen's comments about consistency, Commissioner Blackerby said that if the Planning Commission is not going to get to a comprehensive rezoning plan in the foreseeable future, it also means that the Planning Commission would not approve any requests for rezoning in the future. Chair Kroen answered that she is "concerned that we will slide down the proverbial slippery slope. If we aren't consistent then we don't have anything to stand on, and then we don't have anything to stand on."

Ms Skinner reminded the commissioners that Lincoln City has a current Comprehensive Plan, and while it may be outdated, it is still the adopted plan. There is no way of knowing right now what the outcomes of a revision to the Comprehensive Plan would be, and we cannot project what the site may or may not be designated as in a future Comprehensive Plan update. That isn't what is on the table. What is on the table is looking at this application against the current Comprehensive Plan and the current Comprehensive Plan goals and policies. Commissioner Nelson responded, pointing out that the current Comprehensive Plan allows for zone changes, and allows the Planning Commission to make such a decision if the situation warrants it.

Commissioner Blackerby moved to recommend approval of CPA & ZC 2020-01 to the City Council, with a second by Commissioner Brainerd. The votes are recorded below.

Chair Kroen and Commissioners Baker and Smith offered explanations for their "no" votes. Chair Kroen said that her vote was a question of consistency with the existing, adopted Comprehensive Plan - inconsistency with surrounding properties. Commissioner Baker said that she voted "no" because she agrees that the proposal is inconsistent with several planning goals, that the site is the north end of a very long strip of residential, and that it was clear that there were not any plans for development. She said that she thinks approval would lead to the same applications from every VRD owner. Commissioner Smith said that he agrees with Chair Kroen and Commissioner Baker, and that there is no apparent urgent need for a zone change at this time. The applicants did not have a need that was keeping them from doing what they wanted with or without the zone change.

5.2.1.

MOTION:	Recommend approval of CPA & ZC 2020-01 to City Council
MOVER:	Kim Blackerby, Commissioner
SECONDER:	Joshua Brainerd, Commissioner
AYES:	Kim Blackerby, Joshua Brainerd, Lenny Nelson, Miles Schlesinger
NAYS:	Marci Baker, Patti Kroen, MacNeale Smith
RESULT:	Passed

3. CUP 2019-02 Oksenholt NW Port Ave 6-plex WITHDRAWN

This application was withdrawn by the applicant

5.3.1. CUP 2019-02 Oksenholt NW Port Ave 6-plex - conditional use permit request WITHDRAWN by applicant

MOTION:	CUP 2019-02 Oksenholt NW Port Ave 6-plex - conditional use permit request WITHDRAWN by applicant
RESULT:	Withdrawn

4. CUP 2020-02 Devils Lake Dredging

Chair Patti Kroen introduced the public hearing and read the required script. She asked the commissioners whether they had any ex parte contacts, conflicts of interest or bias to report. Commissioner Brainerd, who was acting as applicant for this hearing recused himself from acting as a commissioner for the application. Commissioner Schlesinger stated that he thought he had a bias, because he is aware of how hard the Devils Lake Water Improvement Board has worked. However, he stated that he thought his bias would go to the truth of the facts and that he could weigh his decision within the guidelines that the Planning Commission operates under.

Mr Appicello explained that the case of Commissioner Brainerd is easy because he would have an actual conflict. He announced his conflict and recused himself. Commissioner Schlesinger is not an employee of the district, but made a statement to the effect that he is willing to set that bias aside and make a decision based on the record. The planning commission gets to decide whether to allow Miles to participate. These rules were recently reviewed during a Planning Commission training.

Commissioner Nelson moved to allow Commissioner Schlesinger to be allowed to participate in the hearing, with a second from Commissioner Blackerby. The results of the vote are recorded below.

There was nobody in the physical audience to challenge Commissioner Schlesinger's participation. Ms Skinner indicated that she had not received any e-mail comments.

5.4.1.

MOTION:	Motion to accept Commissioner Schlesinger's statement that he can set aside his bias and allow his participation in the public hearing for CUP 2020-02
MOVER:	Lenny Nelson, Commissioner
SECONDER:	Kim Blackerby, Commissioner
AYES:	Baker, Blackerby, Kroen, Nelson, Smith
RECUSED:	Joshua Brainerd, Miles Schlesinger
RESULT:	Passed

2. Staff Report

Planning and Community Development Director, Anne Marie Skinner presented the staff report. The request is for a conditional use permit application to dredge a portion of Devils Lake. The site does not have an address. The area proposed to be dredged is approximately 6,000 sf. Ms Skinner described the area and surrounding uses, as well as the history of the application and noticing. Devils Lake Water Improvement District has an easement at Hostetler Park, which is adjacent to the proposed dredging area. The application indicates that the easement and the south bank of the park will be used for staging and the base from which dredging will occur.

Chair Kroen asked whether the dredged area will extend from bank to bank. Ms Skinner said that she would let the applicant answer that question.

Ms Skinner reviewed the standards for conditional uses involving dredging from LCMC 17.44.040(A) the proposed dredging either meets or will meet each of those applicable standards. The applicant included the draft joint application to the US Army Corps of Engineers, the Oregon Department of State Lands, and the Oregon Department of Environmental Quality. All of those agencies will have to approve that request. Their approvals are pending Lincoln City's conditional use approval. Those approvals may come with conditions just as the city approval may come with conditions.

Ms Skinner also review the criteria for approving a conditional use permit from LCMC 17.60.050(C). The criteria are met or can be met with conditions. The staff report recommends two conditions of approval: 1) that the applicant complete a traffic plan to be reviewed and approved by Public Works and/or ODOT as applicable, and 2) that the applicant obtain and provide copies to the City of all the necessary permits.

Chair Kroen asked whether the conditional use permit is good for only one time dredgin or as needed over a ten year period. The application speaks to maintenance dredging as needed over a ten year period.

3. Applicant Testimony

Josh Brainard presented for the Devils Lake Water Improvement Board. He began by showing a progression of aerial photographs starting in 1994 and showing the progressive deposition of sediment in the lower portion of Devils Lake over a period of several decades. He told the commissioners that the best estimates are that sedimentation is going to continue to occur. Before the waterways were regulatied there were solutions using various methods. The DLWID has been working for the last several years with the Oregon Department of Fish and Wildlife. Pacific Lamprey was a species of concern in the area, but the opinion of the area is that it is very dynamic and that there is not enough area without change to support other than intermittent aquatic life. There have been issues previously with e-coli with a waterfowl origin.

The sediment deposits cause water to back up in the lake, which causes issues with the lake being able to drain out. This results in property damage and upsets habitat. The DLWID has a water right to maintain the weir and keep it free from debris.

The DLWID is not proposing to excavate bank to bank. They will dig a channel out to about 20 feet out in the water using an excavator to allow the river channel to flow out under the bridge. The City of Lincoln City and DLWID have been working on a similar project on the

West side of the bridge. They go out several times a year and maintain the channel next to the wayside. It is clear that they need to do something on the East side as well.

Chair Kroen said that she finds it curious that the DLWID is not proposing to do more extensive dredging - especially with the impacts to the channel to the south. She asked whether any modeling of how the channel will affect the sediment has been done. Mr Brainerd responded that it will be easier to approve the dredging as a maintenance activity. That they hope to conduct the maintenance dredging for a couple of years and would work on a larger sediment removal - a one time event. The hope is that some of the material sloughs off with the hydrology coming down the lake.

Chair Kroen asked if, because the dredging is timed during low flow for permitting purposes, there is a risk of material sloughing off from the south and blocking the channel before the rains come. Mr Brainerd said that they will go back and dig it out again.

Chair Kroen asked about the material sediment analysis mentioned in the application that said the sediment was primarily beach sand. Mr Brainerd responded that the last analysis came back that the sediment is completely inert.

Commissioner Blackerby asked what happens to the west side of the bridge when increased flows in the lake start to push sediment - whether there is the possibility of more sediment settling there and closing it on that side. Mr Brainerd responded that the DLWID has a current standing permit for removal of debris on the West side, and would exercise the permit in that case.

Commissioner Baker asked to look again at the 1994 aerial photo. Showed the 2001 photo. She said that she remembers when D-River looked like that, and that she did not realize that the change was because of the deposited sediment. She asked how big of a project it would be to get the lake back to looking like the 2001 photo. She said that it seems huge and that the environmental impacts would be massive. Mr Brainerd replied that it is not something that is completely out of reach. It is probably a \$700k budget. DLWID will be building partnerships to put together a plan for a larger project. That is the rationale behind doing the emergency-type dredging, so that they can maintain flow on both sides of the river if necessary.

Chair Kroen asked whether, because there is a listed species of salmon using the river, the DLWID had considered going to the state or to NOAA to get funding for habitat enhancement. Mr Brainerd answered that a lot of the programs are dry or are geared towards larger projects. There are not a lot of smaller grants that exist, unfortunately.

Commissioner Schlesinger said that the property was used as a boat marina and a swimming hole before the community center was built. In 1965 you put a boat in next to motel. Before that they had gas docks in Hostetler Park and restaurants. It was the official swimming pool where kids took swimming lessons. Every year they would put up an earthen dam to trap water there. The site has gone through lots of reiterations since the 1930s. He said that he can remember driving his boat to the bridge where the cars were crossing and walking up to Kyo's on a Friday night.

Chair Kroen said that it looks like, from plant survey, there is a concentration of invasive species that reproduces by fragmentation. She asked what plan the DLWID has in place to

treat the material that you pull out that will also contain pieces of that plant. Mr Brainerd said that they contract with a company (the ones who provided the biobase survey), and that eradication is supposed to happen in early May. If there is any in the excavated material, they will make best efforts to remove it and destroy it. The plant is very prolific and has to be burned. They will do something like a boom downstream to collect it.

Chair Kroen asked where fill is to be placed. Mr Brainerd explained that there are some sand-starved areas across Hwy 101 and down the beach, but also that there are others who have expressed interest in the sand, and as long as someone wants the clean fill and are not making money on it, they can take it. They have several options on where to place it and have not yet decided. Sand will only be stockpiled for dewatering until it is trucked away.

Ms Skinner asked for clarification about the proposal being only one-time vs 10 years. Mr Brainerd replied that the intention was for approval for multiple years. The dredging would involve approximately 450 cubic yards per year.

Mr Appicello pointed out that a conditional use runs with the lands, so the conditions need to say that the appropriate permits need to be obtained every time.

4. Other Testimony

No e-mail testimony was received and there was nobody present in person to testify.

5.4.5.

MOTION:	Motion to close the public hearing and the record for CUP 2020-02
MOVER:	Lenny Nelson, Commissioner
SECONDER:	Miles Schlesinger,
AYES:	Baker, Blackerby, Kroen, Nelson, Schlesinger, Smith
RECUSED:	Joshua Brainerd
RESULT:	Passed

6. Deliberations

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

Chair Kroen asked for deliberations or thoughts.

Commissioner Blackerby said that it would be fantastic to get that area of D Lake and D River to an appearance similar to the 2001 aerial photo. It would be a great thing to do for many reasons. Commissioner Baker said that she agrees with Commissioner Blackerby that there are environmental and other benefits to doing this. It used to be a recreational center. If it is still environmentally friendly, it could be a good place to do a little recreation. A nice eye-catching feature in the middle of Lincoln City that we have allowed to get all bogged up with sand.

Commissioner Schlesinger said that for a while after the restaurant people rented out paddle boards.

Chair Kroen noted that the staff report included two conditions of approval: 1) file copies of all required permits, 2) and the traffic plan.

Commissioner Nelson moved to approve the CUP, including the conditions in the staff report. Commissioner Blackerby seconded the motion. The results of the vote are recorded below.

5.4.7.

MOTION:	Motion to Approve CUP 2020-02 with conditions as written
MOVER:	Lenny Nelson, Commissioner
SECONDER:	Kim Blackerby, Commissioner
AYES:	Baker, Blackerby, Kroen, Nelson, Schlesinger, Smith
RECUSED:	Joshua Brainerd
RESULT:	Passed

5. ZOA 2020-01 Procedures

Staff recommended continuing the public hearing to the 5/19/2020 meeting. Commissioner Baker made a motion to do so. Commissioner Smith seconded the motion. The vote is recorded below.

5.5.1.

MOTION:	Motion to continue the public hearing for ZOA 2020-01 to the May 19, 2020 Planning Commission Meeting
MOVER:	Marci Baker, Commissioner
SECONDER:	MacNeale Smith, Commissioner
AYES:	Baker, Blackerby, Brainerd, Kroen, Nelson, Schlesinger, Smith
RESULT:	Passed

6. ZOA 2020-04 Permanent Signs

Chair Patti Kroen introduced the public hearing and read the required script. She asked the commissioners whether there were any abstentions or disqualifications. There were none.

1. Staff Report

Ms Skinner presented the staff report. She began by explaining that this amendment has been in the works for over a year. The main impetus was feather banners, which started before she was an employee at the city. When the sign code was amended a couple of years ago to remove content-based rules, a sunset was added for feather banners. The sunset has come and been extended twice.

The proposed zoning ordinance amendment separates permanent signs and temporary signs. The permanent signs provisions are proposed to remain in Title 17. Rules for temporary signage are being removed from land use and added to Chapter 9.34. Currently 9.34 contains all the rules and regulations for temporary signage. Having some of the rules of temporary signage in the zoning ordinance, as is currently the case, creates the potential for conflict. The

Planning Commission only makes recommendations of Titles 16 and 17. The draft of the temporary sign revisions is included in the meeting packet for information only, so that the Planning Commission knows that the temporary sign rules are still in the code, but not for the consideration of the Planning Commission.

There were no substantive changes made to the allowances for permanent signage. The current sign code allows up to 100 square feet of attached signage based on business frontage. The revisions keep that in place. The revisions resolve the 3 different sets of rules for the 3 pearls. All currently have different permanent sign rules than the other commercial districts in the city. The understanding as the outcome of the Planning Commission/City Council work sessions was that City Council and the Planning Commission wished to see some consistency with signs across the city. This ordinance strikes the sign ordinances in Taft, Nelscott, and Oceanlake, and makes signs subject to the provisions of the sign chapter. It allows the same square footage and height (20ft) allowed in the other business districts.

The revision adds diagrams for measuring sign dimensions. It also adds pictures and provides definitions. The hope is to eliminate questions about definitions when administering the ordinance. The revision provides standards for illumination. The current code has no standards for illumination - it only says that illuminated signs cannot produce glare or cast light on adjacent residences. Ms Skinner explained that she worked with a national sign organization to come up with the metrics for illumination in the revision. The revised sign code now provides a clear and objective standard: If someone wants an illuminated sign, they provide the cut sheet and manufacturer's data with the permit application and it is easy to approve or disapprove based on the metrics. The goal is to provide a clear and consistent code that is the same across the city.

Chair Kroen asked whether the revision defines original art displays. Ms Skinner answered that there is a definition in the sign code, that it is something that did not change in the revision, and that it original art displays are also exempt in the current ordinance.

Chair Kroen asked Ms Skinner to clarify sign placement in relation to the right of way and sidewalks. Ms Skinner replied that the revisions do not specifically allow or prohibit signs in the right of way. All signs need to be placed so as to abide by the clear-vision requirements. Another restriction for placement is ADA accessibility. The language of the revision provides the way that, if or when the city is able to work with ODOT and obtain authority or jurisdiction over the right of way for Hwy 101, permanent signage could be put in the right of way as long as it does not hinder ADA passage and vehicular and pedestrian traffic.

Chair Kroen asked whether signs in the right of way would currently have to be approved by ODOT. Mr Appicello replied that to process an application under Title 17, you have to be the owner of the property. Under Title 9, where it says no signs in the right of way, that is where it will be until whatever time the city takes control. If we ever do allow signs in the right of way, they would have to comply with ODOT-type sign rules.

Commissioner Baker asked whether the City has jurisdiction for the right of way for a portion of Hwy 101 in Taft. Mr Appicello responded that it is true, but that the City is not currently issuing permits for signs in the right of way.

Referring to the requirement that damaged signs must be repaired or removed, Chair Kroen asked what the consequence is. Mr Appicello replied that the city building official has

declared signs to be dangerous and ordered them to be removed. Ms Skinner added that not repairing or removing a damaged sign would be a code violation and a citation would be issued.

Commissioner Baker asked why temporary signs were moved out of Title 17. Ms Skinner replied that a temporary sign is not a land use. Permanent signs are there all the time, so that is land use. From a planning perspective it is more appropriate for temporary signs to be in Title 9, because they are not considered development in the sense that we consider development. Title 17 regulates uses and alteration of the land. A lot of times what we are talking about with temporary signs are temporary occupancies not on the property owners' property, so they are dealt with more like a nuisance code. Mr Appicello said that he has seen temporary signs handled both ways, but that he likes what Ms Skinner has done. Reasonable people will have different opinions, but handling temporary signs as a nuisance issue is better than handling them like development.

Chair Kroen said that the time limit on temporary seems to only be defined for real estate signs, and there are businesses in town that have had temporary signs up for years. She asked whether, when a motel or hotel puts up a temporary sign, that considered their permanent sign. Mr Appicello answered that we have an enforcement issue when it comes to signs in the city. That is what this is all about - trying to reduce the amount of temporary signage. Putting temporary signs into Title 9 is turns enforcement over to the police department rather than having the Planning Department deal with it. Chair Kroen said that if temporary signs are being turned over to the police department, they need to be given a framework of standards to use in enforcement. Mr Appicello replied that he will be thinking about enforcement by the police when he looks at the revision of Chapter 9.34.

Commissioner Baker asked about the minimum tenant sign allowance of 25 ft (17.72.100). The intent of the language is unclear. Ms Skinner replied that the intent is that each tenant space gets at least 25 feet of sign space, as opposed to first-come-first serve. She said that she will reword that section.

2. Testimony

No testimony submitted.

Nobody in the council chambers to provide testimony.

5.6.3.

MOTION:	Motion to close the public hearing and the record for ZOA 2020-04 Permanent Signs
MOVER:	Lenny Nelson, Commissioner
SECONDER:	Marci Baker, Commissioner
AYES:	Baker, Blackerby, Brainerd, Kroen, Nelson, Schlesinger, Smith
RESULT:	Passed

4. Deliberations

Commissioner Baker said that she thinks the revisions are miles better than having four different sign codes, and commended Ms Skinner for a good job putting together all the notes and discussions. Chair Kroen added that they had muddled through all of the meetings and came out with something that made sense.

Commissioner Smith asked about historical signs and whether they are limited to 100 square feet. He referenced the original Dorchester House, which still looks the same as when they had the original place. Ms Skinner replied that it would fall under nonconforming, so that they don't have to go take their sign down if it falls over 100 square feet.

Commissioner Brainerd moved to recommend approval of ZOA 2020-04 to the City Council. Commissioner Smith seconded the motion. The vote is recorded below.

5.6.5.

MOTION:	Motion to recommend approval of ZOA 2020-04 to City Council
MOVER:	Joshua Brainerd, Commissioner
SECONDER:	MacNeale Smith, Commissioner
AYES:	Baker, Blackerby, Brainerd, Kroen, Nelson, Schlesinger, Smith
RESULT:	Passed

7. ZOA 2020-02 Parking and Landscaping

Chair Patti Kroen introduced the public hearing and read the required script. She asked the commissioners whether there were any abstentions or disqualifications. There were none.

1. Staff Report

Ms Skinner presented the staff report. She began by explaining that, currently, landscaping requirements are located in a section under supplemental regulations. Part of this proposed ordinance is making a chapter for landscaping so that people can find it. The second portion, Off-street Parking, is currently scattered throughout Title 17. This makes it difficult for anyone to be sure that they have addressed all of the parking requirements.

The requirements haven't changed. There haven't been substantive changes to the landscaping and parking requirements. However, there is one exception - minimum parking requirement for multi-unit structures or apartment buildings. A request came from the Urban Renewal and Economic Development Department and developers that the department has been working with to split up the parking requirement for apartment buildings. The request was to keep 1.5 space requirement for 2+ bedroom units and reduce the requirement to 1 space for studios and one bedroom units. That is a substantive change. The other parking requirements are not a change - just a reorganization to a more understandable fashion.

Landscaping is similar. Landscaping requirements are reorganized so that they are in one section for single-family and duplexes and everything else is in a different section so that you can reference one section rather than moving back and forth between sections. The revision removes landscaping requirements from other chapters and replaces them with references to the landscaping chapter.

Chair Kroen asked whether the landscaping and parking requirements in Taft changed. Ms Skinner replied that they have not. The were only moved.

Chair Kroen noticed a reference to Type 2 and Type 3 procedures, and asked whether they are foreshadowing the ZOA 2020-01 that was continued to the May 19, 2020 meeting. Ms Skinner replied that they are.

Commissioner Blackerby asked whether the parking and landscaping requirements are consistent across the city. Ms Skinner replied that they are with this ordinance amendment. She said that one of the things that came out of the joint workshop for the design standards amendment was a desire for consistent standards throughout the city rather than different standards for Taft and different standards for Oceanlake. Having consistent standards levels the playing field. The requirements that were in design standards for parking lot landscaping are now in the landscaping section. Requirements on where parking should be located and the buffers around parking have been removed from Oceanlake and moved to the parking chapter. This makes things consistent so that parking lots for any development around the city will look the same.

Commissioner Blackerby asked what happens when a residential person lets their landscaping go to the point it no longer complies. He asked whether that is a code enforcement issue. Ms Skinner replied that it is a code enforcement issues, and that there is a section in the code dealing with property maintenance and nuisance issues.

Chair Kroen asked whether there were any conflicts of requirements as the parts from the different areas where brought together and made consistent. Ms Skinner replied that in Oceanlake, mixed-used buildings didn't require parking for the commercial portion but did for the residential portion. Taft didn't have a parking requirement for either portion of a mixed-use building. She went with the Oceanlake requirement to not require parking for the commercial portion but to required it for the residential portion. Any existing mixed-use development would be legal existing nonconforming.

2. Testimony

No public testimony received. Nobody present in person to give testimony.

5.7.3.

MOTION:	Motion to close the public hearing and the record for ZOA 2020-02 Parking and Landscaping
MOVER:	Kim Blackerby, Commissioner
SECONDER:	Joshua Brainerd, Commissioner
AYES:	Baker, Blackerby, Brainerd, Kroen, Nelson, Schlesinger, Smith
RESULT:	Passed

4. Deliberations

Commissioner Blackerby motioned to recommend approval of ZOA 2020-02 to the City Council with changes as discussed. Commissioner Nelson seconded the motion. The vote is recorded below.

5.7.5.

MOTION:	Motion to recommend ZOA 2020-02 to City Council with changes as identified
MOVER:	Kim Blackerby, Commissioner
SECONDER:	Lenny Nelson, Commissioner
AYES:	Baker, Blackerby, Brainerd, Kroen, Nelson, Schlesinger, Smith
RESULT:	Passed

8. ZOA 2019-08 Design Standards

Chair Patti Kroen introduced the public hearing by describing the purpose of the proposed ordinance, and read the required script. She asked the commissioners whether there were any abstentions or disqualifications. There were none.

1. Staff Report

Ms Skinner presented the staff report and began by saying that the proposed ordinance has been a long time in coming, and that the amendment has gone through lots of staff changes. Ms Skinner picked up the ordinance at the tail end of a lot of work, and said that she hopefully cleaned it up and made into an acceptable ordinance that meets the intent of the Planning Commission and City Council. The outcome of the joint work sessions between the Planning Commission and the City Council was to have design standards that are consistent across the city.

Ms Skinner opened up for questions rather than go through the entire ordinance, which is lengthy, and which the commissioners had along with the staff report in advance for review.

Chair Kroen recognized that the revisions were a huge effort, and commended Ms Skinner for stepping in to the middle of it. She then asked about the definition of clearstory, which she said is incorrect in the text and should instead be defined as a window that starts above eye level.

Chair Kroen called out line 29 on page 146 of the meeting packet, noting that it calls out radio or television transmitters or towers but not cell towers, and asked whether that was on purpose. Ms Skinner replied that it is unchanged from the current ordinance. Chair Kroen said that she doesn't understand why we would not want to allow wireless communication towers as a conditional use in other areas. Ms Skinner replied that the revised ordinance does not change or allow any of the conditional uses - that it is up to the Planning Commission. Commissioner Smith suggested that if wireless communication towers are allowed as a conditional use in other areas, it may open the possibility of infrastructure improvements. Chair Kroen said that she thinks we should consider wireless towers as a conditional use in other places - that it could be important down the line.

Chair Kroen and Commissioner Baker both commented about view protection on page 181 of the meeting packet - that the previous discussion had been to add Siletz Bay and the lake to the list of views to be protected, and that north-south streets within a couple blocks of the oceanfront would not be sufficient to protect views of Siletz Bay and Devils Lake.

Commissioner Baker noted a requirement in the Taft Village Core, on page 166 of the meeting packet, for a 48 inch clearance, where other places in the city require a 60 inch ADA clearance. She said that she doesn't see any harm in requiring the extra foot in Taft.

Commissioner Baker asked about the timing of changes to reader signs. Ms Skinner confirmed that the requirements have not changed from what was already there.

2. Testimony

No testimony submitted
Nobody present in City Hall

5.8.3.

MOTION:	Motion to close the public hearing and the record for ZOA 2019-08 Design Review Standards
MOVER:	Joshua Brainerd, Commissioner
SECONDER:	Marci Baker, Commissioner
AYES:	Baker, Blackerby, Brainerd, Kroen, Nelson, Schlesinger, Smith
RESULT:	Passed

4. Deliberations

Commissioner Baker moved to recommend approval of ZOA 2019-18 to City Council with the adjustments as discussed. Commissioner Brainerd seconded. The vote is recorded below.

5.8.5.

MOTION:	Motion to recommend approval of ZOA 2019-08 to City Council with adjustments as discussed
MOVER:	Marci Baker, Commissioner
SECONDER:	Joshua Brainerd, Commissioner
AYES:	Baker, Blackerby, Brainerd, Kroen, Nelson, Schlesinger, Smith
RESULT:	Passed

6. OLD BUSINESS

There was no old business

7. NEW BUSINESS

None

8. PLANNING COMMISSION TRAINING

None

9. REPORTS & COMMENTS

None

10. FUTURE AGENDA ITEMS & NEXT MEETINGS

The public hearing for ZOA 2020-01 Procedures was continued to the May 19, 2020 meeting. There may also be a hearing for a 40-lot subdivision, The Cove Phase III. They do not yet have the traffic impact analysis, and they need that to proceed. So we may have a shorter meeting.

Ms Skinner thanked the commissioners for their patience in going through all of the material.

11. ADJOURN

adjourned 8:58

Respectfully submitted,

James White
Assistant Planner

Patti Kroen
Chair

PLANNING COMMISSION STAFF REPORT
MEETING DATE: May 19, 2020

Report prepared by AnneMarie Skinner, Planning & Community Development Director

FO 2020-04 Final Order for DLWID dredging

Final Order for CUP 2020-02

STAFF RECOMMENDATION

See attached Final Order for CUP 2020-02 Devils Lake Water Improvement District dredging

Final Order 2020-04 - CUP 2020-02 (DOC)

- 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 a portion of Devils Lake located within the City of Lincoln City ("City"), and described in the County Tax Assessor's maps as Tax Map 07-11-15-AC-Water (the "Site"). The site consists of approximately 6,000 square feet.
- 3) The Comprehensive Plan designation for the property is General Commercial District (G-C). The zoning classification of the site is Marine Waterway (M-W).
- 4) The surrounding Land Uses and Zoning are as follows:
 - North: Hostetler Park, R-C; Northeast: Restaurant, R-C
 - South: Restaurant and Residences, GC
 - East: Devils Lake, M-W
 - West: Hotel and Businesses, GC; Highway 101
- 5) The applicant is:
 - Devils Lake Water Improvement District
 - PO Box 974
 - Lincoln City, OR 97367
- 6) The Property is owned by:
 - State of Oregon, Department of State Lands
 - 775 Summer St NE #100
 - Salem, OR 97301
- 7) The relevant substantive criteria include the following:
 - LCMC Chapter 17.44 Marine Waterway (M-W) Zone
 - 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.

COMMISSION FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

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), and LCMC 17.44 (Marine Waterway Zone).

2) Chapter 17.44 (Marine Waterway Zone) Section 17.44.030.D lists "Any use permitted in the M-W zone involving filling, dredging, draining, disposal of dredging spoils, and similar activities;" as a conditional use.

3) 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 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,**

COMMISSION FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

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;
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;

COMMISSION FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

- 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:

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) Chapter 17.44 (Marine Waterway (M-W) Zone), Section 17.44.040 provides:

1744.040 Standards for conditional uses.

COMMISSION FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

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

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

1. Evidence shall be provided that the applicant has complied with, or fully intends to comply with, all standards of the Department of Environmental Quality, the Division of State Lands, and all other agencies having interests or ordinances applicable to the property in question.
2. The activity shall not represent a source of water pollution to any nearby tidelands, marshlands, rivers, streams or other waterways used for the raising, production or preservation of marine life or other natural resources.
3. Any filling or dredging activity shall not substantially alter the course of any channel or the natural movement of any waters, result in increased flood hazards, or cause the formation of appreciable bottom or sludge deposits deleterious to marine life.
4. Any fill or dredging spoil area shall be deposited behind a watertight berm to avoid any sloughing and to stabilize the area.
5. If a fill is proposed of which any portion falls below mean higher high water or mean high water plus six feet, whichever is highest, and which is adjacent to or having potential access to a navigable waterway, the developer shall designate on the plan a portion of the parcel to remain unfilled for possible off-channel moorage or similar use. The size of the area to remain unfilled shall be determined on the basis of the need generated by proposed or anticipated uses on the fill, and shall be not less than 20 percent of that portion of the parcel lying below the highest above-mentioned elevation. The location and design of the unfilled portion shall be approved by the planning department.
6. Applications for a permit for filling, dredging or similar activities shall include:
 - a. The source of the applicant's right to fill or dredge;
 - b. The purpose of the proposed operation;
 - c. The legal description of the area where the operation will take place;
 - d. The depth to which dredging or filling is to take place and the proposed angle of slope;
 - e. The manner in which material will be dredged or used for fill and the type

COMMISSION FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

of material to be used;

f. The method to be used to stabilize the dredge or fill area;

g. A map showing the plan of dredging or filling and the uses proposed for the area;

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

5) 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.

6) The Commission finds and determines, and adopts as its own the following findings concerning the applicable criteria in Section 17.44.040:

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

The written staff report provides:

The applicant included, as part of the application for conditional use permit, a draft Joint Permit Application to the U.S. Army Corps of Engineers, the Oregon Department of State Lands, and the Oregon Department of Environmental Quality. The applicant has also indicated that the "Devils Lake Water Improvement District (DLWID), a political sub-division, fully intends to comply with all applicable local, state, and federal agencies having interests or jurisdictions in and over the project site."

The Planning Commission finds and determines that the findings of both the staff and the applicant concluding that this criterion is met has not been subject to any adverse testimony. Staff is correct in that once copies of approvals from applicable agencies have been given to Planning and Community Development, the criterion has been met.

- 2. The activity shall not represent a source of water pollution to any nearby tidelands, marshlands, rivers, streams or other waterways used for the raising, production or preservation of marine life or other natural resources;**

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The written staff report provides:

In response to the conditional use standards for dredging, found in LCMC 17.44.040, the applicant wrote: "We expect minimal turbidity as a result of this maintenance sediment reduction project. We expect any turbidity to clear within hours, with outflow into the D River then directly to ocean currents. Our contractor is very familiar with exercising equipment-control while operating excavation equipment and will take all precautions necessary to ensure minimal sediment disturbance. Typically, lake flow during the proposed project work time is roughly 6 cubic feet per second, or laminar/without turbulence."

The applicant reports that the project will be completed during August low-flow conditions to reduce sediment mobilization during and after construction, and that DLWID staff will provide observation for turbidity. Any turbidity event that doesn't quickly recover to pre-construction conditions will be reported to the Oregon Department of State Lands and the Oregon Department of Fish and Wildlife. Related to water pollutants other than turbidity, the applicant's Joint Permit Application states: "The equipment park area will be pollution-controlled by the placement of booms during any fueling or if necessary, equipment maintenance activities. Contractor will have on site appropriate spill kits to immediately tend to any incidental spills relating to his equipment."

Ultimately, turbidity and other potential pollutants are covered by permits required by the U.S. Army Corps of Engineers, the Oregon Department of State Lands, and the Oregon Department of Environmental Quality, and the applicant can satisfy this criterion by acquiring and complying with those permits.

Based upon the staff report and the evidence provided by the applicant, the Planning Commission finds and determines that the criterion is met.

- 3. Any filling or dredging activity shall not substantially alter the course of any channel or the natural movement of any waters, result in increased flood hazards, or cause the formation of appreciable bottom or sludge deposits deleterious to marine life;**

The written staff report provides:

The applicant writes: "This sediment reduction maintenance project will not appreciably alter any lake or river channel course; it will be undertaken to lesson flood hazards and reduce sediment deposits deleterious to marine life."

COMMISSION FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

The Planning Commission finds and determines (concurring with staff and the evidence provided by the applicant) that this criterion is met.

4. Any fill or dredging spoil area shall be deposited behind a watertight berm to avoid any sloughing and to stabilize the area;

The written staff report provides:

The applicant wrote that "all dredged sand material will be track hoe-removed from the lower lake and deposited upland/directly adjacent to the removal site for offsite disposal." This criterion is met.

The Planning Commission finds that this criterion is met based upon the staff report and evidence submitted by the applicant.

5. If a fill is proposed of which any portion falls below mean higher high water or mean high water plus six feet, whichever is highest, and which is adjacent to or having potential access to a navigable waterway, the developer shall designate on the plan a portion of the parcel to remain unfilled for possible off-channel moorage or similar use. The size of the area to remain unfilled shall be determined on the basis of the need generated by proposed or anticipated uses on the fill, and shall be not less than 20 percent of that portion of the parcel lying below the highest above-mentioned elevation. The location and design of the unfilled portion shall be approved by the planning department;

The permit application is for sediment removal and does not include any proposed fill activities. This criterion is not applicable.

6. Applications for a permit for filling, dredging or similar activities shall include: a) the source of the applicant's right to fill or dredge; b) the purpose of the proposed operation; c) the legal description of the area where the operation will take place; d) the depth to which dredging or filling is to take place and the proposed angle of slope; e) the manner in which material will be dredged or used for fill and the type of material to be used; f) the method to be used to stabilize the dredge or fill area; g) a map showing the plan of dredging or filling and the uses proposed for the area; and h) the time when the project is scheduled to begin and to be completed.

The required map and information were provided by the applicant and were included as part of the record. The Planning Commission finds that this criterion is met

COMMISSION FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

7) The Planning Commission finds and determines, and adopts as its own, the following findings concerning the applicable criteria in Section 17.60.050:

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

The Planning Commission finds that the Comprehensive Plan does not address dredging except as it relates directly to the Siletz River Estuary; 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:

Because of the nature of the proposed work – dredging of the lake channel from the bank with no permanent construction – adequacy of the site is best determined by asking whether the purposes of the proposal can be met while still meeting the standards for conditional use involving dredging and disposal of dredging spoils as required by LCMC 17.44.040. The applicant indicated that dredging will be able to be accomplished from the bank using a track hoe with sufficient boom length, and that they will not have to enter the wetted lake channel to complete the work.

Analysis of the consistency of the proposal with the requirements of LCMC 17.44.040 is presented previously in this document and is included herein for reference.

Potential impacts to the staging and work area are unclear. There are jurisdictional wetlands along most of the south property line of Tax Lot 3200. The applicant indicates that track hoe work from within Hostetler Park will only impact volunteer blackberry stands/lowest city wetlands. The wetland areas are not included in the City's inventory of significant wetlands, and so would be under the jurisdiction of the Oregon Department of State Lands, with which the applicant is already consulting as part of the Joint Permit Application.

This criterion is met or can be met with the condition of approval that all applicable approvals from Oregon Department of State Lands and the Joint Permit Application are obtained prior to the commencement of any staging or work activity.

The Planning Commission finds and determines that the staff analysis correctly identifies the standards for conditional use involving dredging and disposal of dredging spoils as required by LCMC 17.44.040 and how this specific request is meeting those standards, or will meet those standards.

COMMISSION FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

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 wrote "Dump truck traffic will be necessary during 4-5 day project duration. Existing road network/traffic signals will easily accommodate this modified, short-duration traffic."

The applicant does not indicate how many dump truck trips will be required, how far the dump trucks will be going, or what time of day they will be moving. All of that information is necessary to determine whether there will be an impact – especially during the proposed August in-water work window when traffic on that section of Hwy 101 is particularly congested. However:

- (a) A large dump truck can typically transport 28,000 lbs (14 tons), and a small dump truck can typically transport 13,000-15,000 lbs.*
- (b) Wet sand weighs approximately 3,300 lbs per cubic yard.*
- (c) Although a typical dump truck will hold 10-14 cubic yards of material, because of weight limitations, a dump truck should be able to carry between 4 and 8.5 cubic yards of wet sand (given the capacities and weight given above), depending on size of the truck.*
- (d) The applicant has indicated that approximately 450 cubic yards of material will be removed during the proposed dredging.*
- (e) Using the above numbers and assumptions, 450 cubic yards will require between 53 and 113 round trips.*
- (f) The applicant estimates that the dump truck trips will occur over 4 or 5 days, which equals 11 trips a day on the low end and 29 trips per day on the high end.*

This criterion can be met with a condition of approval that the applicant provide a traffic plan to be reviewed and approved by Lincoln City Public Works or Oregon Department of Transportation, or one or both as applicable, prior to the commencement of any staging or dredging activity.

The Planning Commission finds and determines that with the imposition of the above condition, the streets and highways are adequate to handle the vehicular traffic that will be generated by the proposed dredging activity. This criterion is met.

COMMISSION FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

- 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 application indicates that work is of a temporary, short duration (4-5 days) as needed over ten years. Most impacts are likewise expected to also be temporary and of short duration. The potential for increased traffic congestion as the result of numerous dump truck trips is discussed as part of Criterion 3 above and is included herein for reference. Similarly, the potential for wetland impacts is discussed under Criterion 2 above and is included herein for reference.

In addition to out-of-the-water staging and equipment operations, and moving fill off-site, there is the potential for adverse aquatic impacts. The applicant provided a draft Joint Permit Application to the U.S. Army Corps of Engineers, the Oregon Department of State Lands, and the Oregon Department of Environmental Quality as part of the materials included with the application for a Conditional Use Permit. That draft application indicates that the proposed dredging area is a designated Essential Salmon Habitat area and is listed as critical habitat. Additionally, work in the water requires a floodplain development permit issued by the City of Lincoln City.

The applicant can meet this criterion by obtaining all necessary permits and complying with associated conditions of approval, including but not limited to: the joint USACoE, DSL, DEQ permit, a Lincoln City Floodplain Development Permit, and any required environmental assessments or consultations as identified during the permitting process. All required permits shall be obtained prior to staging or work activity and a copy of each shall be submitted to Planning and Community Development for inclusion in this project folder.

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.

COMMISSION FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

V. CONDITIONS OF APPROVAL

1. A traffic plan must be prepared and submitted for review and approval by Lincoln City Public Works and/or Oregon Department of Transportation, one or both as applicable, prior to the commencement of any staging or dredging activity, showing how the proposed activity will not impact traffic during daytime hours between 8:00 a.m. and 5:00 p.m., on any day of the week. The approved traffic plan shall be given to Planning and Community Development for inclusion in the project folder.

2. The applicant shall obtain all necessary permits and comply with associated conditions of approval, including but not limited to: the joint U.S. Army Corp of Engineers, Oregon Department of State Lands, Oregon Department of Environmental Quality, Lincoln City Floodplain Development Permit, and any required environmental assessment reports as identified during the permitting process by any applicable agency. All required permits shall be obtained prior to staging or work activity and a copy of each shall be submitted to Planning and Community Development for inclusion in the project folder.

VI. 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. and in LCMC 17.44.040, but only with the imposition of conditions referenced or incorporated herein. Accordingly, based on the 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 2020-02, with the conditions set forth or referenced herein.

Lincoln City Planning Commission

Patti Kroen, Chair

Signature authorized and approved by the full Commission this 19th day of May, 2020.

COMMISSION FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER



**PLANNING COMMISSION STAFF REPORT
MEETING DATE: May 19, 2020**

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

FR 2020-02 for Scrutton rezone

See attached FR 2020-02

FR 2020-02 - CPA 2020-01 - Scrutton Rezone (DOC)

LINCOLN CITY PLANNING COMMISSION

IN THE MATTER OF

Amendments to the Lincoln City Comprehensive Plan Map and Lincoln)
City Municipal Code relating to CPA & ZC 2020-01, Lincoln County)
Assessor’s Map 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)

**Final Recommendation
No. 2020-06**

NATURE OF THE APPLICATION

CPA & ZC 2020-01 would amend the Lincoln City Comprehensive Plan Map and Lincoln City Zoning Map to re-designate property at Assessor’s Map 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, and 07-11-15-DB-013000 from Multi-Family Residential (R-M) to Recreation-Commercial (RC).

FINAL RECOMMENDATION

Based on the evidence presented at the public hearing on February 18, 2020, including the staff report, the Planning Commission recommends that the City Council approve the proposed comprehensive plan and zoning map amendments (4-3 vote). The four commissioners (Nelson, Schlesinger, Brainerd, Blackerby) who voted in favor of the recommendation for approval based their vote upon the following factors:

1. The area surrounding the site has a distinctly commercial character;
2. Three of the properties are already Vacation Rental Dwellings (VRDs); and
3. The circumstances of the site (size of the lots, value of the ocean view, etc) make future development as multi-family residences unlikely.

The three commissioners (Kroen, Smith, Baker) who voted in opposition of the recommendation for approval based their vote upon the following factors:

1. Zoning for the entire city should be looked at comprehensively and revised accordingly rather than making piecemeal changes that are essentially spot zoning.
2. Testimony at the public hearing suggests that the request for a rezone is an attempt to circumvent VRD rules rather than an imminent desire to develop the site as commercial development. If there is a problem with the VRD rules, they should be dealt with by changing the VRD rules and not through lot-by-lot changes to the underlying zoning.

APPROVED THIS 19th DAY OF MAY, 2020.

Patti Kroen
Planning Commission Chair

ATTEST:

Anne Marie Skinner
Planning & Community Development Director

PLANNING COMMISSION STAFF REPORT
MEETING DATE: May 19, 2020

Report prepared by AnneMarie Skinner, Planning & Community Development Director

FR 2020-01 and FR 2020-06 for Woods Annex and Zone Change

See attached FR 2020-01 for ANNEX 2020-01

See attached FR 2020-06 for CPA ZC 2020-02

FR 2020-01 - ANNEX 2020-01 (DOCX)

FR 2020-06 - CPA and ZC 2020-02 (DOCX)

LINCOLN CITY PLANNING COMMISSION

IN THE MATTER OF

In the Matter of Approval of an Annexation to)
The City of Lincoln City of two Tax Lots near NW)
Logan Rd, Lincoln County Assessor’s Map)
06-11-35-CC Tax Lots 2400 and 2900)

**Final Recommendation
No. 2020-01**

NATURE OF THE APPLICATION

ANNEX 2020-01 would annex 11.15 acres into the City of Lincoln City and retain the site’s Lincoln County zoning designation.

FINAL RECOMMENDATION

Based on the evidence presented at the public hearing on February 18, 2020, including the staff report, the Planning Commission recommends that the City Council approve the proposed annexation (4-3 vote). The four commissioners (Nelson, Schlesinger, Blackerby, Brainerd) who voted in favor of the recommendation for approval based their vote upon the following factors:

1. The site is currently an island of county land completely surrounded by the City of Lincoln City, and it makes sense to annex it into the city.
2. The property, which has been clear cut, is currently an eyesore, and any development would be an improvement on its current condition.

The three commissioners (Kroen, Baker, Smith) who voted in opposition of the recommendation for approval based their vote upon the following factors:

1. There is already currently adequate land in the city zoned for single-family residential construction.
2. There is potential for as many as 80 new homes on the site, which would add to the “problems that already exist on Logan Road, which is the only exit from Roads End, and also with the Logan Road/Highway 101 intersection.”
3. Without a development plan and a development agreement, there is no guarantee that the type of housing needed in the city will be added by annexing the additional land.

APPROVED THIS 19th DAY OF MAY, 2020.

Patti Kroen
Planning Commission Chair

ATTEST:

Anne Marie Skinner
Planning & Community Development Director

LINCOLN CITY PLANNING COMMISSION

IN THE MATTER OF

Amendments to the Lincoln City Comprehensive)
Plan Map and Lincoln City Municipal Code)
relating to CPA & ZC 2020-02, Lincoln County)
Assessor’s Map 06-11-35-CC Tax Lots 2400 and 2900)

Final Recommendation
No. 2020-06

NATURE OF THE APPLICATION

CPA ZC 2019-04 would amend the Lincoln City Comprehensive Plan Map and Lincoln City Zoning Map to re-designate property at Assessor’s Map 06-11-35-CC Tax Lots 2400 and 2900 from Lincoln County Single Family Residential to Lincoln City’s Single-Family Residential (R-1-5) Zone.

FINAL RECOMMENDATION

Based on the evidence presented at the public hearing on February 18, 2020, including the staff report, the Planning Commission recommends that the City Council deny the proposed comprehensive plan and zoning map amendments (unanimous vote). The Planning Commission recommends denial based upon the following factors:

1. Granting the requested zone change would create an island of R-1-5 zone at the intersection of the R-1-RE, R-1-7.5, and R-C zones.
2. There are concerns about the impacts to infrastructure and to already-congested traffic on Logan Rd if the site is built to the density allowed in the R-1-5 zone.

APPROVED THIS 19th DAY OF MAY, 2020.

Patti Kroen
Planning Commission Chair

ATTEST:

Anne Marie Skinner
Planning & Community Development Director



**PLANNING COMMISSION STAFF REPORT
MEETING DATE: May 19, 2020**

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

FR 2020-05, final recommendation for ZOA 2019-08 Design Standards

See attached FR 2020-05

FR 2020-05 - ZOA 2019-08 - Design Review Standards (DOC)

**LINCOLN CITY
PLANNING COMMISSION**

IN THE MATTER OF

Amendments to Title 17, Zoning, concerning) Final Recommendation
Amendments for Design Review) No. 2020-05
Standards)

NATURE OF THE APPLICATION

ZOA 2019-08 amends Title 17 (Zoning) in Chapters 17.20 (Multi-Family Residential (R-M) Zone) and 17.74 (Commercial Design Standards) to provide design review guidelines in the R-M zone and to expand existing guidelines and standards for commercial design.

FINAL RECOMMENDATION

Based on the evidence presented at the public hearing on May 5, 2019, including the staff report, and the additional comment received during the open record period, the Planning Commission recommends unanimously that the City Council approve the draft ordinance with the following changes:

1. Add Siletz Bay and Devils Lake to the required view protection standards and delete “northerly-southerly” street designations.
2. On page 166, change 48 to 60 inches to be consistent with other references to cover depths.
3. Correct the definition of clerestory.
4. Add wireless communications facilities to Chapter 17.20 as a conditional use.
5. Correct typographical error in Line 36 on Page 157.

APPROVED THIS 19th DAY OF May, 2020.

Patti Kroen
Planning Commission Chair

ATTEST:

Anne Marie Skinner
Planning & Community Development Director



**PLANNING COMMISSION STAFF REPORT
MEETING DATE: May 19, 2020**

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

FR 2020-04 for ZOA 2020-02 Parking and Landscaping

See attached FR 2020-04

FR 2020-04 - ZOA 2020-02 - Parking and Landscaping - Copy (DOC)

**LINCOLN CITY
PLANNING COMMISSION**

IN THE MATTER OF

Amendments to Title 17, Zoning, concerning) Final Recommendation
Amendments for Parking and Landscaping) No. 2020-04
Standards)

NATURE OF THE APPLICATION

ZOA 2020-02 amends Title 17 (Zoning) in Section 17.08.010 (Definitions) and in Chapter 17.56 (Off-street Parking and Loading), replaces Section 17.52.100 (Landscaping) with a new Chapter 17.55 (Landscaping), and updates references to Chapters 17.55 and 17.56 throughout Title 17.

FINAL RECOMMENDATION

Based on the evidence presented at the public hearing on May 5, 2020, including the staff report, the Planning Commission recommends unanimously that the City Council approve the draft ordinance.

APPROVED THIS 19th DAY OF May, 2020.

Patti Kroen
Planning Commission Chair

ATTEST:

Anne Marie Skinner
Planning & Community Development Director



**PLANNING COMMISSION STAFF REPORT
MEETING DATE: May 19, 2020**

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

FR 2020-03 for ZOA 2020-04 Signs

See attached FR 2020-03

FR 2020-03 - ZOA 2020-04 - Permanent Signs - Copy (DOC)

**LINCOLN CITY
PLANNING COMMISSION**

IN THE MATTER OF

Amendments to Title 17, Zoning, concerning) Final Recommendation
Amendments for Permanent Sign) No. 2020-03
Standards)

NATURE OF THE APPLICATION

ZOA 2020-04 amends Title 17 (Zoning) in Section 17.08.010 (Definitions), and in Chapter 17.72 (Sign Regulations), and updates references to Chapter 17.72 throughout Title 17.

FINAL RECOMMENDATION

Based on the evidence presented at the public hearing on May 5, 2020, including the staff report, the Planning Commission recommends unanimously that the City Council approve the draft ordinance, with the following change:

- 1. Clarify the area measurement per tenant space in Section 17.72.100.

APPROVED THIS 19th DAY OF May, 2020.

Patti Kroen
Planning Commission Chair

ATTEST:

Anne Marie Skinner
Planning & Community Development Director

PLANNING COMMISSION STAFF REPORT
MEETING DATE: May 19, 2020

Report prepared by AnneMarie Skinner, Planning & Community Development Director

SUB PUD 2020-01 The Cove Phase III

The applicant has requested that this public hearing be continued to June 2, 2019, at 6:00 p.m.

STAFF RECOMMENDATION

Motion and second to continue the public hearing for SUB PUD 2020-01 The Cove at Lincoln City Phase III to Tuesday, June 2, 2019, at 6:00 p.m. in the Council Chambers.



PLANNING COMMISSION STAFF REPORT
MEETING DATE: May 19, 2020

Report prepared by AnneMarie Skinner, Planning & Community Development Director

ZOA 2020-01 Procedures

PROJECT INFORMATION

Applicant/Owner	City of Lincoln City PO Box 50 Lincoln City, OR 97367
Map & Lot No.	City-wide ordinance amendment
Comprehensive Plan & Zoning	City-wide ordinance amendment
Surrounding Land Uses And Zoning	City-wide ordinance amendment
Public Notice	Mailed to property owners in city limits on February 26, 2020. Published in The News Guard on March 4, 2020
Relevant Substantive Criteria	Lincoln City Municipal Code (LCMC) 17.88.020

BACKGROUND

The public hearing for this ordinance amendment was originally scheduled for March 17, 2020. Due to the cancellation of the Planning Commission meetings on March 17, 2020, and April 7, 2020, and April 21, 2020, the hearing has been continued to May 5, 2020. However, staff needs additional time to perform a coordinated review between the planning director and the city attorney prior to the public hearing and is requesting a continuance of the public hearing to June 2, 2020.

The current chapter for procedures in Title 17 does not have procedures categorized as Type I, Type II, Type III, or Type IV procedures. To provide a very clear method of identifying the review process for a particular land use application, staff proposes organizing the current land use applications into one of the four types.

AUTHORIZATION

This amendment was initiated by the Planning and Community Development Director pursuant to LCMC 17.88.020.

ORDINANCE FORM

This proposed amendment has not yet been placed in the City Council's final ordinance form.

ANALYSIS

The attached language provides the definitions for each of the proposed types, as well as a chart showing which type of procedure is assigned to each land use application. The process for

submitting the applications, as well as requirements for each application, is also provided. The organization of the applications into procedure types will provide a clearer, more transparent method for administering the land use applications.

STAFF RECOMMENDATION

Continue the public hearing to June 2, 2020, at 6:00 p.m.