

**LINCOLN CITY PLANNING COMMISSION  
MINUTES  
June 16, 2020**

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

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

**2. AGENDA CHANGES OR REVISIONS**

None

**3. MINUTES**

**3.1. Planning Commission - Regular Meeting - Jun 2, 2020 6:00 PM**

<b>MOTION:</b>	Kim moved Miles Second No discussion All in favor
<b>MOVER:</b>	<b>Kim Blackerby,</b>
<b>SECONDER:</b>	<b>Miles Schlesinger,</b>
<b>AYES:</b>	Baker, Blackerby, Kroen, Nelson, Schlesinger, Smith
<b>EXCUSED:</b>	Joshua Brainerd
<b>RESULT:</b>	<b>Passed</b>

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

None

**5. PUBLIC HEARINGS/DELIBERATIONS**

1. ZOA 2020-01 Procedures

Planning Commission Chair Patti Kroen introduced the public hearing for file ZOA 2020-01 Procedures and read the required script. She asked the commissioners whether there were any abstentions or disqualifications. There were none.

Planning and Community Development Director, Anne Marie Skinner presented the staff report. This ordinance amendment is an attempt to organize and make things consistent for processing land use applications. The public hearing before City Council is scheduled for Monday, June 22,

2020 and there will not be another Planning Commission meeting before then.

The draft that was presented to the Planning Commission for review is not in ordinance form, and the formatting is not consistent. This will be fixed by the city attorney and his assistant before the draft goes to the City Council.

Currently Title 17 refers to land use applications in various places throughout the Title. There is not a list of the land use applications and the procedures for processing them. The applications are not new. Instead, the new chapter is intended to be more navigable and understandable than the current form. In most jurisdictions in Oregon and Washington, each of the applications is organized into one of four procedure types:

- Type 1 (ministerial) procedures are cut and dry applications of the code. An example is Home Occupation Applications. Applicants either meet the requirements or they do not.
- Type 2 (administrative) applications and procedures have reasonably objective criteria and require only limited discretion. These procedures require public notice and an opportunity for appeal, but there is no public hearing.
- Type 3 (quasi judicial) procedures include decisions made by the appointed or elected review authority (the Planning Commission or City Council). These procedures require one or more public hearings along with notice.
- Type 4 (legislative) procedures are heard by the City Council with a recommendation from the Planning Commission (the current public hearing is a type 4 procedure). Type 4 can also apply to a applications covering a large geographic area or multiple properties.

The ordinance does not change the way that applications are handled - it just organizes them into something that is easier to explain, easier to refer to, and easier for staff to administer. One hope is to provide clarity and remove ambiguity from some of the things that currently exist in Title 17.

At the end of the chapter are descriptions for submitting an application and withdrawing an application. There are also procedures for pre-application conferences. Guidelines for conditions of approval. Procedures for challenging conditions of approval. None of which are in the current code.

Chapter 17.77 takes all of the applications and puts them into one place. The chapter does not change any approval criteria.

Commissioner Smith and Chair Kroen pointed out several missing items in the draft ordinance. Ms Skinner realized that an incorrect earlier version of the draft was included by mistake in the meeting packet instead of the most recent edited version.

Chair Kroen identified the use of the words "review authority" as a reference to the Planning Commission and the City Council as a radical change. She said that she is not comfortable with changes that appear to remove quasi-judicial decision making from the Planning Commission. There was some discussion between the commissioners and with Ms Skinner about the change.

Chair Kroen asked about the sudden detail on pages 42-48 of the meeting packet. Ms Skinner replied that none of the detail is a change to the way the current code appears. Commissioner

Nelson said that the discussion of density bonuses was not clear to her. Ms Skinner explained that the density bonuses are a part of the Planned Unit Development process, and are not proposed to change from the way they are currently in the code. They are simply moving from a different chapter.

Chair Kroen asked why pre-application conferences are not recommended for Type 4 procedures. Ms Skinner explained that most Type 4 applications are staff-initiated, and that if someone was tying to rezone several hundred properties, which would also be a Type 4 application, they would likely come in for a pre-application conference anyway.

Chair Kroen asked about the requirement for noticing to go out to properties within 500 ft for subdivisions instead of the usual 250 ft. She mentioned a recent public hearing that had to be continued because the original noticing only went to properties within 250 ft but it was supposed to go to people within 500 feet of the subject site. Ms Skinner replied that the 500 ft reference is in Title 16, which also needs to be changed, but which is a different task on the list.

Commissioner Blackerby asked whether noticing to properties within 250 ft is the standard in cities. Ms Skinner replied that the distance for noticing is specific to jurisdictions, and that she does not know the 250 ft came from in Lincoln City. It is something that the Planning Commission could recommend changing.

There was some continued conversation about missing pieces in the draft that was included in the meeting packet. Chair Kroen expressed unease making a recommendation based on such an incomplete draft. Mr Appicello pointed out that some of the other draft ordinances with hearings in front of the City Council on June 22, 2020 include references to Type I, Type II, Type III procedures, which are introduced in the Procedures ordinance currently under discussion. However, the ordinances themselves are not on the next City Council meeting - only the public hearings on the amendments. It isn't the usual process, but the City Council could have the public hearing and the ordinance for Procedures at the July 13, 2020 meeting. Chair Kroen pointed out that it would allow the Planning Commission to continue the hearing to the July 7, 2020 meeting.

**5.2.**

<b>MOTION:</b>	<b>Motion to continue the public hearing for ZOA 2020-01 Procedures to the July 7, 2020 meeting of the Planning Commission</b>
<b>MOVER:</b>	<b>Lenny Nelson, Commissioner</b>
<b>SECONDER:</b>	<b>Marci Baker, Commissioner</b>
<b>AYES:</b>	Baker, Blackerby, Kroen, Nelson, Schlesinger, Smith
<b>EXCUSED:</b>	Joshua Brainerd
<b>RESULT:</b>	<b>Passed</b>

**6. OLD BUSINESS**

None

**7. NEW BUSINESS**

## 1. Tree Ordinance Work Session

The purpose of this work session is to discuss the tree ordinance and possible revisions to it. Ms Skinner explained that the main impetus behind the discussion is that there is a prohibition against tree topping in the ordinance. There was a citizen who appeared before the City Council asking to revise that prohibition. City Council asked staff to look at that issue specifically and the whole ordinance in general.

Commissioner Schlesinger asked when the tree ordinance was written. Ms Skinner, who was looking at the Lincoln City Municipal Code, replied that it appeared that the tree ordinance was adopted in portions, with the original language in place in 1984, with revisions in subsequent years.

Chair Kroen said that the Planning Commission discussed the tree ordinance a couple of years ago. There was some discussion at the time of how complicated the tree ordinance was. The Planning Commission put it on the list as something that they would like to address to simplify and make a little more user friendly. She said that she did not know that there was a citizen-initiated question about tree topping.

Ms Skinner explained that there are a number of things wrong with the current ordinance. Nobody understands it. Any time someone comes in to the Planning Department with a tree removal question it take everyone coming together to figure out what the ordinance is requiring.

Commissioner Schlesinger said that trees should be a part of the landscaping ordinance. Trees are an important asset and need to be recognized as such.

Ms Skinner said that the current code says that any tree within 100 feet of a building can be removed. Commissioner Blackerby added that it doesn't seem like there is much enforcement of the tree ordinance. If you want to build, it's just clear cut. He said that a 120+ year-old tree on lot next to his was removed. If you go down to Olivia Beach, there are not many trees left down there anymore. Chair Kroen added that at the north end of town you see lots that are for sale with no building permit that have been clear-cut as they are put up for sale. She said that she agrees that the tree ordinance needs to be revisited - because it is confusing, if for no other reason. If the Planning Commission revisits it, enforcement will be discussed. There were a number of strident comments about the need to conserve trees during the visioning process. It is important to revisit this and to strengthen it - to justify the choices the Planning Commission makes and to put some teeth in the tree ordinance.

Commissioner Blackerby asked whether the City has a tree board, which is referenced in the current ordinance. Ms Skinner replied that there is not one.

Ms Skinner explained that, currently on a developed lot, removal of trees is allowed as long as the trees are within 100 feet of the dwelling if the lot is not capable of further division. Most of the lots in the City are not capable of further division. No permit is currently required unless the tree has been designated as a protected tree as part of a planned-unit development. Then you get into where a permit is required. Even when a permit is required, the Planning Department has to issue a tree removal permit if the applicants meet the qualifications for tree removal (which is within 100 feet of a dwelling). If an adjacent lot is owned by the same lot as the developed lot and the trees are within 100 ft of the dwelling, the owner can remove trees on the undeveloped lot within 100 feet of the dwelling.

Chair Kroen said that the 100-foot rule allows for a lot of tree removal - it pretty much allows a lot to be clear-cut. Addressing the commissioners, Chair Kroen said that it seems that they are all in agreement that the tree ordinance needs to be revised, and we need to see the best way to do that. The tree ordinance development workbook that was included in the meeting packet starts the process by putting together a working group, which is a good thing because there is a lot of knowledge out there that would be valuable to bring together. There has been a lot of research on not just trees but tree systems. The ordinance needs to be about trees. She said that she does not want to muddle the tree ordinance together with other landscaping and things. It needs to look at trees and the significance of trees to people in the city. The Planning Commission needs to honor the strong support in the visioning for preserving a large number of trees. It needs to have teeth and consequences for those who ignore the ordinance.

Commissioner Schlesinger said that he would like to know if there is a good arborist in the community who could come up and give a tutorial on what the Planning Commission should be looking for. A tree ordinance is an important part of planning. He said that he can remember in Portland when they planted the first trees in the transit mall. They all died because there wasn't a big enough area for the root system.

Commissioner Smith said that one of the things to consider is the deer population that we have here. Deer need large green spaces to move around. If you take those away, there are more traffic accidents and more interactions between people and deer. The preservation of green spaces and the interaction with nature, that is one of the reasons people come here, and that is going to be centered around trees. Maybe we can find someone to talk to us about that and those effects as well.

Chair Kroen said that it would be nice to get all of the work on the revised ordinance done before The Villages is built. Commissioner Nelson replied that, if the Planning Commission is going to do all of the things that have already been talked about, there will not be a new ordinance for a year or a year and a half.

Chair Kroen pointed out that the material provided for the meeting suggested that sometimes you do not want the participation of high-profile people in the city because they like to be heard. She said that she would like to see a small group of people tackle this and bring back a draft.

Commissioner Blackerby asked Ms Skinner if she could provide any more information about the citizen who was concerned with tree topping? Ms Skinner said that the individual and his neighbors want to allow tree topping because the trees are so tall that they are blocking their view of the ocean. Commissioner Smith said that he was under the impression that tree topping was frowned on because it is harmful to the overall health of the tree in general - because it can lead to a dead tree, and very dead tree becomes a fallen-over tree.

Chair Kroen asked about the tree board questionnaire that was included in the tree ordinance workbook. It is a tool that can be used to present to the community or a group in the community to get their response. But it could be used in a smaller group setting as well.

Chair Kroen asked whether there has been any discussion in the City in terms of developers and incentivising preservation of trees. So many of our lots that are available are in-fill lots and there

are trees on them. Has there been any discussion about incentives for developers if they can preserve trees on the property. Ms Skinner said that she is not aware of any discussion.

There was some discussion about the possibility of mitigation. Commissioner Nelson said that the only problem with mitigation is that unless you make the required mitigation onerous, developers would much rather knock down the trees and put a couple thousand dollars in a bank account. She said that she does not see that as a successful way to preserve trees. Chair Kroen said that mitigation would have to be calculated in such a way that preserving trees is advantageous to the developer.

Chair Kroen asked about the inclusion of the City of Portland's tree ordinance in the meeting materials. Ms Skinner replied that Portland's ordinance is an option system, which seems to work quite well for Portland. If the Commission wants to use some sort of option system, the Portland ordinance could revise to fit Lincoln City.

Chair Kroen asked Ms Skinner if she is aware of any tree ordinances in coastal Oregon towns. Ms Skinner replied that the coastal towns do not seem to have tree removal ordinances. Commissioner Schlesinger said that he thinks we should do more survey of the other communities and then we should be a leader in the development of the tree ordinance.

Chair Kroen said that she thinks it would be good to have a couple, maybe three, commissioners on a sub-committee. Commissioner Nelson suggested that one of the participants on the committee should be Commissioner Brainerd because that is his background. Chair Kroen said that she would approach him about the sub-committee and see if he has time.

Commissioner Baker pointed out that the current ordinance calls for a tree board, but the City does not have one. She also pointed out that the ordinance workbook emphasizes that community vision is the best place to start from. Chair Kroen said that the vision was done a year and a half ago as part of the Imagine Lincoln City, 25-year visioning process. We have it still. The document wasn't specific to trees, but trees were mentioned a number of times. The visioning was intended to be used in the future to support things like this and to support the comprehensive plan revisions. It is a data point that we can start with.

Commissioner Baker said that the intent statement in the current code is not very strong and there is not much discussion of the importance of trees.

Chair Kroen invited Commissioner Blackerby to be on the sub-committee. Commissioner Nelson said that she would also like to be. Commissioner Baker said that trees are not her expertise.

Mr Appicello reminded the commissioners that the meetings still need to comply with the public meetings law. He said that the only way to avoid the public meetings law is to have a sub-committee of one.

The composition of the sub-committee is commissioners Nelson, Blackerby, and Schlesinger.

Chair Kroen said that speed is important, and asked Mr Appicello how far in advance the meetings need to be noticed. Mr Appicello replied that notice must be given no less than 24 hours in advance. The public does not have to be given an opportunity to comment. It is a public attendance law, not a public participation law.

Commissioner Smith said that there is discussion of nuisance plants in the ordinance example, but not in the current Lincoln City ordinance. Mr Appicello replied that there is a separate noxious plants section in the nuisance code. Chair Kroen added that the revised ordinance can get at the same thing by acknowledging the species that are acceptable.

Chair Kroen told the new sub-committee members that she would appreciate if they had their first meeting before the July 7, 2020 Planning Commission meeting. Ms Skinner said that she would do a quick search of the coastal cities and would forward what she found to everyone.

**8. PLANNING COMMISSION TRAINING**

None

**9. REPORTS & COMMENTS**

None

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

The July 7, 2020 meeting will see hearings for ZOA 2020-01 Procedures (which was continued from tonight), and SUB/PUD 2020-01. There are not any other applications or public hearings for the next meeting or the following meeting. Would have already received an application to have provided notice. Right now there is nothing scheduled for the second meeting in July. Chair Kroen suggested that the tree ordinance be brought back for the second meeting in July. Ms Skinner said that she will add an agenda item to that meeting.

Chair Kroen asked if there is any update on the master plan for The Villages? Ms Skinner replied that there is an approved preliminary master plan that doesn't expire until 2023. The only thing that would come back to the PC would be when/if direction is given to create the residential zone to compliment the comprehensive plan map designation that was created. The commercial zone has been created but it has not been implemented.

Commissioner Blackerby asked for regular updates on the results of City Council actions on Planning Commission recommendations. Ms Skinner said that she would start to do that regularly.

**11. ADJOURN**

7:40

Respectfully submitted,

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James White  
Assistant Planner

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Patti Kroen  
Chair