

**LINCOLN CITY PLANNING COMMISSION
MINUTES
December 22, 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	Absent	
MacNeale Smith	Commissioner	Present	

2. AGENDA CHANGES OR REVISIONS

Move both items for the request for extensions from Section 7 to Section 5 because they are advertised public hearings. No other changes or revisions.

3. MINUTES

Chair Kroen provided two edits. It was also pointed out that the motion to continue the hearing for PUD 2020-02 was not in the minutes but should have been.

3.1. Planning Commission - Regular Meeting - Dec 1, 2020 6:00 PM

MOTION:	
MOVER:	Lenny Nelson, Commissioner
SECONDER:	MacNeale Smith, Commissioner
AYES:	Baker, Blackerby, Brainerd, Kroen, Nelson, Smith
ABSENT:	Miles Schlesinger
RESULT:	Passed

4. FINAL ORDERS, RESOLUTION, & WRITTEN COMMUNICATIONS

None

5. PUBLIC HEARINGS/DELIBERATIONS

5.1. Extension request for CUP 2020-01 NWN Lincoln City Resource Center

Public participants were brought into the meeting from the waiting room. Planning Commission Chair Patti Kroen read the required statements.

No ex parte contacts, conflicts of interest, or biases were declared. No member of the audience challenged the jurisdiction of the Planning Commission or the qualifications of any of the commissioners.

Senior Planner Dave Mattison read the substantive criteria from Lincoln City Municipal Code, Section 17.60.080, and Chair Kroen summarized the order of proceedings.

Mr Mattison presented the staff report, described the original proposal and the site. There was a question about when the 1-year extension starts. City Attorney Richard Appicello responded that the effect of the 1-year extension is to add one year to the total timeline.

Chair Kroen asked whether the Planning Commission can put conditions on the extension. Mr Appicello replied that they can.

Commissioner Smith asked whether there is a definition of "diligently pursued." Mr Appicello replied that there is not one in the LCMC - just the common definitions of the words. He said that technically you define the terms when you make findings, and that a technical definition is not required.

Commissioner Blackerby asked whether there was anything in the code that takes into account extreme circumstances such as Covid. Mr Appicello replied that there has been no amendment to the land use code to accommodate COVID and not abiding by required timelines. Other jurisdictions have, but we do not.

Commissioner Nelson asked what happens if the Planning Commission cannot approve the request because the applicant does not meet the criteria. Do they have to start from scratch? Mr Appicello replied that the expiration is not until February, so there is time to make progress pursuing construction before the approval expires.

Mary Fierros-Bower, the applicant's representative, testified on behalf of Northwest Natural. Referring to the criteria, Ms Bower said the NWN is currently using the existing structure for storage, which she related to the activity being conducted on the premises. She said that because of the challenges this year, they have not gotten their plans finished, but that they are scheduled to have construction documents in April and to start construction in January 2022. She acknowledged that the code has requirements, and asked whether the existing use could be continued until they are able to build. Mr Appicello pointed out that the allowance for conducting the conditioned use in the criteria for extensions specifically says "if no construction, enlargement is required."

The applicant asked for a continuance to the January 19, 2021 Planning Commission.

MOTION:	Extension request for CUP 2020-01 NWN Lincoln City Resource Center
MOVER:	Lenny Nelson, Commissioner
SECONDER:	Marci Baker, Commissioner
AYES:	Baker, Blackerby, Brainerd, Kroen, Nelson, Smith
ABSENT:	Miles Schlesinger
RESULT:	Motion to Continue - Passed

5.2. Extension request for CUP 2019-04 Transitional Housing

Chair Kroen read the required statements. No ex parte contacts, conflicts of interest, or biases were declared. There were no challenges from the audience to the jurisdiction of the Planning Commission or the qualifications of any commissioner.

Mr Mattison read the applicable substantive criteria. He then presented the staff report, describing the original application to operate a transitional housing facility, the site, and the Final Order, which was approved on Dec 19th, 2019.

Commissioner Nelson asked Mr Appicello about the scope of the hearing. Mr Appicello replied that the applicable criteria is only LCMC 17.60.080 and whether an extension should be granted, and not about whether the conditional use permit should have been approved.

Elizabeth Gray with Helping Hands testified on behalf of the applicant. She said that work has commenced. That demolition has been completed. She said that during demolition, significant structural issues were found with one of the buildings. Building permits for one of the buildings have been issued, and building is supposed to begin Monday (12/28/2020) The applicant is diligently pursuing construction.

Patti Kroen said that when she originally signed the order (FO 2019-06), she was under the impression that there was not going to be a lot of work on the building itself - that permits were going to be pulled only to change the use. She asked whether that changed. Ms Gray replied that the north building does not require significant construction, but the west building was where significant structural issues were found.

The commissioners had no more questions for the applicant.

No written comments and no public testimony were received in favor of the application.

No written comments or public testimony were received neutral to the application.

Several written comments were received. One a letter from the Ashley Inn and signed by the hotel manager, was read to the Planning Commission. The letter asked the commissioners to deny the application for extension and requested that the conditional use be reapplied for. The letter also requested that the property be re-deeded to the City.

Written comments were received from Thomas Barnes, owner of the Lincoln Woods apartments, who was present and read them to the commissioners himself. He said:

We strongly object to the extension of the CUP and request that the extension be denied and a new Cup be applied for if this project is to go forward, for the following reasons:

1. Procedural inconsistencies in the notification and wording of the public notices regarding the public hearing initially, resulting in the public being denied the opportunity to voice their objections.

2. The city did not question or survey any of the businesses or residents in the immediate area to gauge the sentiment of those immediately affected by this CUP. Had they done so, as a responsible government agency would do, to ensure that they were serving the interest of their community, they would have found that there is strong opposition to this project in this location. This project is not wanted in this location. It is located in the middle of the town, on Hwy 101, the gateway to Lincoln City, it is in the middle of the tourist district. in the middle of residential, commercial, and multi-family complexes.

3. The city's actions to allow this use at this location is irresponsible and will endanger the health and safety of the families and children of Lincoln Woods Apartment complex (approximately 100 families) which is located contiguous to this location. The immediate area comprises business and residential, as well as the public at large. The children must walk past this location daily to catch the school bus when school resumes and again when the bus brings them home.

4. There has been no action to date, no renovations have taken place etc., which violates one of the conditions of the CUP (in use, or diligently pursued during a 12 month period)

For these and many other objections we strongly urge the planning commission to deny this request for an extension and if this project is to proceed then a new CUP application process and new public hearings should take place.

Written comments were also received by Byron Farley, who chose to address the commissioners directly. His several written comments were made available in the meeting packet. Mr Farley agreed with Mr Barnes' recommendation to allow Helping Hands to apply for a new conditional use permit, calling it wisdom and equitable. He argued that if there is no construction required, then the permitted use has to be carried out. He argued that no building or structures are proposed, and no changes were to be made to the building, so diligent pursuit of construction doesn't matter. The applicant needed to start the use. Mr Farley also argued that the applicant had not been forthright in their application. He said that there has not been any evidence that there has been any construction, but that even if there had been, there wasn't any construction needed. Therefore inviting the applicants to reapply would be fair and equitable. My Farley also said that he has not seen the deed that conveyed the property to Helping Hands, but for the sake of the record he would question whether Helping Hands has the authority to bring the application for extension.

The applicant offered some rebuttal, saying that Helping Hands were not the original applicants for the original conditional use permit - the permit was not filled out by Helping Hands. The property was deeded to Helping Hands, and they are the ones pursuing the extension.

Commissioner Nelson said that she recalled the Planning Commission putting several construction requirements on the project. Chair Kroen said that there were a couple of conditions, but that she doesn't recall them being associated with the building, per se. She said that she recalls the fence and some sort of playground equipment for children, but doesn't recall them discussing any construction in the buildings.

Mr Appicello asked if a copy of the final order was entered into the record. Chair Kroen submitted into the record Final Order 2019-06 for CUP 2019-04 Traditional Housing.

Mr Farley didn't object to the addition of the Final Order, saying that regardless of what is in the final order, his argument is unchanged.

Mr Appicello recommended closing the hearing and leaving the record open until Wednesday 12/30 at noon, and to continue deliberations until the meeting on January 5, 2021. Leaving the record open allows any party to offer additional evidence.

Ms Gray indicated that she wishes to submit final written argument, which must be submitted by 6 pm on January 5th, 2021.

MOTION: **Extension request for CUP 2019-04 Transitional Housing**

5.3.

MOTION: **Motion to close the hearing and leaving the record open until Wednesday, December 30, 2020 at noon, and to continue deliberations until the meeting on January 5, 2021**

MOVER: **Lenny Nelson, Commissioner**

SECONDER: **Joshua Brainerd, Commissioner**

AYES: Blackerby, Brainerd, Kroen, Nelson, Smith

NAYS: Marci Baker

ABSENT: Miles Schlesinger

RESULT: **Passed**

6. OLD BUSINESS

7. NEW BUSINESS

8. PLANNING COMMISSION TRAINING

The joint training meeting with the City Council is scheduled for the first Planning Commission meeting in February.

9. REPORTS & COMMENTS

None

10. FUTURE AGENDA ITEMS & NEXT MEETINGS

The next Planning Commission meeting is on January 5th, which will be the continuation of the extension request for the transitional housing conditional use permit.

The continuation of the NWN extension hearing and the continuation of Lincoln Palisades are scheduled for January 19th.

11. ADJOURN

Respectfully submitted,

James White
Assistant Planner

Patti Kroen
Chair