

# Staff Report

## Case File PLA 2022-02

**Date:** March 23, 2022

**Case File:** PLA 2022-02

**Property Owner:** John L. Shadden, Margaret J. Shadden, and E. Jane Shadden  
361 NE 5<sup>th</sup> Ave  
Hillsboro, OR 97124

**Property Owner:** Same

**Situs Address:** 5112 NW Jetty Ave

**Location:** East side of NW Jetty Ave

**Tax Map and Lot:** 06-11-34-DD-02800-00

**Comprehensive  
Plan Designation:** Single-Family Residential District (R-5)

**Zoning District:** Single-Family Residential, Roads End (R-1-RE) Zone

**Site Size:** Parcel 1 (portion of Lot 7): 4,102 square feet prior to adjustment; 4,102 square feet after adjustment  
Parcel 2 (Lot 8): 5,045 square feet prior to adjustment; 5,045 square feet after adjustment

**Proposal:** Request for property line adjustment of equal land between two existing legal parcels

**Surrounding  
Land Uses  
and Zones:** North: Single-family dwellings; R-1-RE  
North: Single-family dwellings; R-1-RE  
North: Single-family dwellings; R-1-RE  
North: Single-family dwellings; R-1-RE

**Authority:** Section 16.08.180 of the Lincoln City Municipal Code (LCMC) gives the Planning and Community Development Director the authority to review the application and determine whether or not the proposed adjustment appears to comply with the provisions of Title 16 and other applicable city ordinances, and thereupon provide a notice of decision pursuant to LCMC 17.76.040.

**Procedure:** The application was received on February 28, 2022. The application was deemed complete on March 10, 2022. Notice of receipt of the application was mailed by the Planning and Community Development Department to the owners of all properties within 250 feet of the site on March 10, 2022, with a request for written comments to be received no later than March 24, 2022, at 5:00 PM. No written comments were received.



**Applicable** LCMC Chapter 16.08 Procedure  
**Substantive** LCMC Chapter 17.17 Single-Family Residential, Roads End (R-1-RE) Zone  
**Criteria:** LCMC Section 17.76.040 Type II Procedure

### **BACKGROUND**

The subject property (site) is addressed as 5112 NW Jetty Ave and comprises two legally-platted lots that were combined into one tax lot. The two legally-platted lots are Lot 8 and a portion of Lot 7, Block 2, of Barrigar Crest. Barrigar Crest was recorded in 1950. In 1967, and when the site was in unincorporated Lincoln County, a property line adjustment was recorded to deed a portion of Lot 7 to Lot 6 of Barrigar Crest. In 1975 the existing house was constructed over or on the shared lot line between Lots 7 and 8. In 1976, Lot 8 and the remaining portion of Lot 7 were combined into one tax lot for taxation purposes only.

The proposal is to adjust the shared property line between Lots 7 and 8. Currently the existing dwelling appears to be either on or over the shared lot line. The proposed adjustment will move the lot line such that the house will not be on or over the lot line and the side setback distance between the north side of the house and the shared lot line will be increased. Parcel 1 is 4,102 square feet prior to adjustment and will remain at 4,102 square feet after the adjustment. Parcel 2 is 5,045 square feet prior to the adjustment and will remain at 5,045 square feet after the adjustment.

### **ANALYSIS**

#### *16.08.160 Applicability*

*This procedure may be utilized, as an alternative to partition or replatting procedures, under the following circumstances:*

- A. The size, shape or configuration of two existing units (lots or parcels) of land, each of which is a legal lot or parcel, is to be modified by the relocation of a common boundary between the parcels; and*

**Finding:** The application consists of two legal parcels (Lot 8 and a portion of Lot 7, Block 2, Barrigar Crest). The proposed adjustment consists of an interior property line adjustment of the common boundary between the two existing legal parcels. This criterion is met.

- B. An additional unit of land is not created; and*

**Finding:** The application consists of two units of land before the adjustment. There will only be two units of land after the adjustment. This criterion is met.

- C. Adjustment of the property line shall not cause or increase any nonconformity with any applicable zoning or other requirement of the City of Lincoln City to a greater extent than prior to the adjustment.*

**Finding:** The two parcels in the application are located in the R-1-RE zone. No use changes are proposed as part of this application. No changes are proposed to the square footage of the lots after the adjustment. The parcel with the house (Parcel 2) will become more conforming, as the setback from the house to the north lot line will be increased. In the current configuration, the existing house is located over the shared lot line and thus has no interior side setback whatsoever. After the adjustment, the interior side setback will increase to 5 feet and will help to decrease the nonconformity. This standard is either met or will be met with the proposed adjustment.

*16.08.170 City approval required*

*Any person desiring to carry out a property line adjustment shall submit to the planning and community development director an application, together with such fee as established by city council resolution. The property line adjustment application shall be upon such form as shall be approved by the planning and community development director, and shall include at least the following information:*

**Finding:** A completed application that was signed by the property owners was submitted, along with the applicable fee. This criterion is met.

- A. A legal description (by lot and block or by metes and bounds) of the units of land as they exist prior to the proposed property line adjustment, and as they would exist after the adjustment.*

**Finding:** The applicant provided legal descriptions of the units of land as they currently exist and as proposed. This criterion is met.

- B. A map (a tax map, survey, or equivalent) depicting the configuration of the units of land prior to and after the proposed adjustment. This information may be depicted on the same map.*

**Finding:** The application included a map of the site depicting the current and future configuration. As part of final approval, the record of survey map must be submitted reflecting the proposed adjustment. This criterion is or can be met.

*Chapter 17.76 Procedures*

*17.76.040 Type II procedure*

- A. General Description. Type II procedures apply to administrative permits and applications. Decisions on administrative applications are made by the director, based on reasonably objective approval criteria that require only limited discretion. Type II procedures require public notice and an opportunity for appeal, but do not require a public hearing or a public meeting.*
- B. When Applicable. Table 17.76.020-1 identifies Type II applications. Applications not listed in Table 17.76.020-1 may be identified as Type II by the director based on the general description in this section.*
- C. Pre-Application Conference. A pre-application conference is not required for Type II procedures.*
- D. Application Requirements. Type II applications shall:*
- 1. Be submitted on application forms provided by the department and shall include all information, exhibits, plans, reports, and signatures requested on the application forms.*
  - 2. Be accompanied by the required fee as adopted by city council resolution.*
  - 3. Be subject to the completeness review procedure set forth in LCMC 17.76.110(D) and (E).*

**Finding:** The required application forms and materials were submitted on February 28, 2022, with the required fee. The application was deemed complete on March 10, 2022.

- E. Public Notice of Application and Comment Period. Type II applications require public notice of receipt of a complete application with an opportunity for area property owners and other interested parties to provide written comment prior to issuance of the decision.*
- 1. After a Type II application has been accepted as completed under LCMC 17.76.110(E), the department shall mail a written public notice to the following:*
    - a. The applicant and applicant's representative;*
    - b. The owners of record of the subject property;*

- c. *Property owners of record within 250 feet of the perimeter property line of the property or properties subject to the application, using the most recently provided property tax assessment roll of the Lincoln County assessor's office as provided to the city to determine property owners of record; and*
- d. *Any neighborhood or community organization or association recognized by the governing body and whose boundaries include the site.*

**Finding:** The Planning and Community Development Department mailed the public notice of receipt of a complete application to the parties noted in LCMC 17.76.040.E.1.a through d.

- 2. *The written public notice shall include the following:*
  - a. *A brief description of the request;*
  - b. *The applicable criteria from the ordinance and the comprehensive plan that apply to the application at issue;*
  - c. *The street address or other easily understood geographical reference to the subject property;*
  - d. *Statement that failure of an issue to be raised in writing prior to the expiration of the public comment period, or failure to provide statements or evidence sufficient to afford the review authority an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals (LUBA);*
  - e. *The name of a department staff member to contact and the telephone number where additional information may be obtained; and*
  - f. *Statement that a copy of the application, all documents and evidence submitted by or on behalf of the applicant, and applicable criteria are available for inspection at no cost and will be provided at reasonable cost.*
- 3. *An affidavit of mailing of the public notice of receipt of a complete application shall be prepared with the mailing date noted and the list of parties to whom the notice was mailed attached to the affidavit, along with the notice itself.*
- 4. *Public notices for receipt of complete Type II applications shall include a written comment period of 14 days from the date the notice was mailed for the submission of written comments before the decision is issued.*

**Finding:** The written public notice contained all the information required in LCMC 17.76.040.E.2 through 4.

*F. Review Authority. The review authority for Type II applications shall be the director.*

**Finding:** The Director reviewed the submitted Type II application.

*G. Decision.*

- 1. *Based on the criteria and facts contained within the record, the director shall approve, approve with conditions, or deny the request. The decision shall address all relevant approval criteria and consider written comments submitted before the close of the comment period.*

**Finding:** The relevant approval criteria are addressed in detail earlier in this document. No written comments were received before the close of the comment period.

- 2. *The decision is considered final for purposes of appeal on the date the notice of the decision is mailed. Within seven days after the director has issued the decision, a notice of the decision shall be sent by mail to the following:*
  - a. *The applicant and applicant's representative;*
  - b. *The owners of record of the subject property;*

- c. Any person, group, agency, association, or organization who submitted written comments during the comment period; and
- d. Any person, group, agency, association, or organization who submitted a written request to receive notice of the decision.
- e.

**Finding:** Within seven days after the Director has issued the decision, the notice of that decision shall be mailed by the Planning and Community Development Department, pursuant to LCMC 17.76.040.G.2.

3. The notice of the decision shall include the following:

**Finding:** The Planning and Community Development Department will issue the notice of decision that shall contain all the information noted in subsection 17.76.040.G.3.a through g.

**DECISION**

Based upon an analysis of application against applicable criteria, staff concludes all criteria have or will be met, and thus **APPROVES** the requested property line adjustment subject to the following conditions:

- 1. The owners of the properties involved in the property line adjustment shall prepare and record a conveyance or conveyances in accordance with ORS 92.190(4), attaching a copy of the notice of city approval.
- 2. The owners shall obtain a survey of the adjusted property line, monuments shall be placed, and the survey shall be filed with the county surveyor, as required by ORS 92.060(7).
- 3. Copies of the recorded conveyances and the recorded record of survey map shall be emailed to Planning and Community Development at [planning@lincolncity.org](mailto:planning@lincolncity.org).

Prepared by: Weston Fritz, Associate Planner

Approved by:



\_\_\_\_\_  
Anne Marie Skinner  
Director, Planning & Community Development

March 28, 2022  
Date