

Staff Report

Case File PLA 2022-03

Date: April 27, 2022

Case File: PLA 2022-03 Rainbow Villa

Property Owners: Chowdhury Shafiul Azam
13630 NW Trevino St
Portland OR 97229

Farzana Forhad
1841 Garzoni Place
Santa Clara, CA 95054

Bashir Uddin Mahmud
4129 NW Chaparral Terrace
Beaverton, OR 97006

Sazzadur Rahman
3295 NW 114th Ter
Portland OR 97229

Situs Address: 4250 SE Hwy 101 and 4230 SE HWY 101

Location: East side of Hwy 101

Tax Map and Lot: 07-11-27-CA-00600-00
07-11-27-CA-00700-00

**Comprehensive
Plan Designation:** Commercial-General (C-G) District

Zoning District: General Commercial (GC) Zone

Site Size: 4250 SE Hwy 101- 43,124 square feet prior to adjustment
4230 SE Hwy 101- 5,227 square feet prior to adjustment

Proposal: Request for property line adjustment that will combine the two tax lots into one

**Surrounding
Land Uses
and Zones:** North: Recreational vehicle park; GC
South: Undeveloped land; GC
East: Recreational vehicle park, ball field; GC, R-1-7.5
West: Hwy 101, dwellings; GC



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 April 5, 2022. The application was deemed complete on April 6, 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 April 7, 2022 with a request for written comments to be received no later than April 21, 2022, at 5:00 PM.

Applicable Substantive Criteria: LCMC Chapter 16.08 Procedure
LCMC Chapter 17.32 General Commercial (G-C)
LCMC Section 17.76.040 Type II Procedure

BACKGROUND

The subject property (site) comprises two tax lots. The application proposed to combine the two tax lots into one parcel. The result will be one parcel of 48,351 square feet. The application is for a lot consolidation and the applicant elected to use the property line adjustment procedure to accomplish the consolidation. Both properties are currently addressed, one as 4230 SE HWY 101 and the other as 4250 SE HWY 101. There is currently a cottage-style development onsite called Rainbow Villas on the site. The applicant has applied for a conditional use permit to replace the existing villas with a multi-unit residential structure.

COMMENTS

No comments were received from the public.

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 tax lots. The proposed adjustment consists of an interior property line adjustment of a common boundary between the two existing legal tax lots such that only one lot will remain. This criterion is met.

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

Finding: The application consists of two units of land being consolidated into one unit of land. 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 tax lots are currently developed and being used in conjunction with each other for the current development. The consolidation would not have any functional changes on the development, nor will it change any existing setbacks to the exterior property lines. Although the applicant is seeking a conditional use permit for a multi-unit residential development, no changes have been explicitly tied to this application. By removing the common interior property line, the property will be more in conformance with Lincoln City's code requirements. This criterion has been met.

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 recorded 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 April 5, 2022, with the required fee. The application was deemed complete on April 6, 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.*

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.

Prepared by: Weston Fritz, Associate Planner

Approved by:



Anne Marie Skinner
Director, Planning & Community Development

May 6, 2022
Date