

Conditional Use Permit Staff Report for Planning Commission Public Hearing on May 17, 2022 Case File CUP 2022-02

Date: May 11, 2022

Case File: CUP 2022-02 Rainbow Villa

Applicant: Gene Pfeifer
Design Build Associates, LLC

Property Owners: Shafiul Azam Chowdhury
Bashir Uddin Mahmud
Farzana Forhad
Sazzadur Rahman

Situs Address: 4250 and 4230 SE Hwy 101

Location: East side of Hwy 101 and SW Coast Ave/Hwy 101 intersection

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

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

Zoning District: General Commercial (GC) Zone

Site Size: 47,571 square feet (per the submitted survey map)

Proposal: Request for conditional use permit for a multi-unit residential development

**Surrounding
Land Uses
and Zones:** North: Premier RV Resort; GC
South: Undeveloped; GC
East: Premier RV Resort; GC
West: Hwy 101, Wickliffe Apartments; GC

Authority: Section 17.76.160 of the Lincoln City Municipal Code (LCMC) gives the Planning Commission the authority to approve, approve with conditions, disapprove, or revoke conditional use permits subject to the provisions of LCMC Chapter 17.77.

Procedure: The application was received on April 4, 2022. The application was deemed complete on April 5, 2022. On April 25, 2022, pursuant to LCMC 17.76.050.E, the Planning and Community Development Department mailed a notice of public hearing to property owners within 250 feet of the subject property. The *News Guard* published the public hearing notice on May 3, 2022.



Applicable	LCMC Chapter 17.32 General Commercial (GC) Zone
Substantive	LCMC Chapter 17.76 Procedures
Criteria:	LCMC Chapter 17.77 Applications

BACKGROUND

The subject property (site) comprises two individual tax lots identified as 07-11-27-CA-00600-00 (4250 SE Hwy 101) and 07-11-27-CA-00700-00 (4230 SE Hwy 101). The submitted survey map shows the site as containing 47,571 square feet. The site is developed as a nine-unit residential development with existing water service, existing sanitary sewer service, and an existing driveway approach directly off of Hwy 101.

The site does not contain any bluff erosion hazards, aesthetic resource, floodway, flood hazard areas, or natural resource overlays. The site is largely flat, with a gentle slope from north to south and a steep drop-off towards the southeast portion of the site. The southeast portion of the site contains mature trees and vegetation.

Premier RV Resort surrounds the site to the north and east. Hwy 101 borders the site on the west, and west of Hwy 101 is an apartment complex called Wickliffe Apartments. The two properties immediately to the south are undeveloped.

The applicant proposes demolition of the existing development and replacing it with the proposed three-story, 46-unit residential structure. The southeast portion of the site will remain undisturbed with retention of as many mature trees and vegetation as possible. The project proposes 50 parking spaces with 16 of those included as part of the building, and the garbage enclosure at the northeastern portion of the site.

COMMENTS

No comments were received from surrounding property owners.

Comments were received from Oregon Department of Transportation (ODOT), via email, on April 12, 2022, stating the following: “The application narrative indicates that “The applicants propose to deed all the property to the west of the east edge of the existing public sidewalk to the public; and agree to make this a condition of approval.” If the City requires any frontage improvements such as but not limited to a wider sidewalk or a separated sidewalk, would then recommend the deeded property include the proposed new or future back of walk.”

A list of recommended conditions of approval was received from Public Works, via email, on April 15, 2022, and the list is included in the conditions of approval at the end of the staff report.

Comments were received from North Lincoln Sanitary Service, via email, on April 19, 2022, stating the following: “I just got off the phone with you a bit ago, and I’m sending over information on your garbage and recycling needs. There is a Word doc that details info about your site as well as ideas to build the enclosure. There are some drawings that are referred to in the Word doc, and then there is an Excel (basic) drawing of a suggested enclosure idea. My biggest concern is the location of the enclosure next to a parking spot. We would need some sort of protection to keep the container from rolling in to a parked car when we wheel them out, or we would need the enclosure moved a bit to get us away from the stall.”

ANALYSIS

Chapter 17.32 General Commercial (GC) Zone
17.32.040 Conditional uses permitted

Finding: Multi-unit dwellings are listed as a conditional use (17.32.040.K - multi-unit dwellings developed under the standards and requirements for multi-unit dwellings in Chapter 17.20 LCMC and Article III of Chapter 17.74 LCMC). The application proposes construction of new multi-unit dwellings.

*Chapter 17.20 Multiple-Unit Residential (R-M) Zone
17.20.050 Development standards*

		Required	Provided
	Min. lot width	25 feet	214.99
	Min. lot area (square feet)	2,500	47,571
	Min. density	15 dwelling units per net acre = $1.09 \times 15 = 16.4$ or 16	46
	Max. building height		
a.	Primary buildings	40 feet	40
b.	Accessory buildings, structures, uses	25 feet	None proposed
	Min. building setbacks		
a.	Front porch	0 feet	Not applicable
b.	Front wall	0 feet	Not applicable
c.	Side interior	5 feet	North side – approximately 18 feet South side – approximately 18 feet
d.	Side street	0 feet	Not applicable
e.	Rear	15 feet	15 feet
	Min. setbacks for garage/carport entrances	Varies	No garages/carports provided
	Max. building coverage	$65\% = 47,571 \times 0.65 = 30,921.15$	15,944 square feet
	Common area	$250 \text{ square feet/unit} = 250 \times 46 \text{ units} = 11,500 \text{ square feet}$	16,908 square feet
	Vehicle storage space	None required	None provided, none required

Finding: The site meets the minimum lot width and lot size requirements for the proposed development as shown on the submitted site plan. The minimum density requirement of 16 units is being met and exceeded with the proposed 46 units. The submitted site plan shows the 15-foot rear setback requirement and the minimum 5-foot side setbacks are being met. There are no front or street side setback requirements. The submitted materials don't show any proposed accessory buildings or structures, nor are any garages or carports proposed. The maximum building coverage allowance for the site is 30,921.15 square feet, and the project only proposes 15,944 square feet of building coverage. The submitted site plan shows the 16,908-square-foot green area as the required common area. Vehicle storage space is not required, and none is being provided.

The submitted site plan shows that construction of the building will take place on the south tax lot of the site, along with a portion of the required parking spaces and the common area. The remaining parking spaces are located on the north tax lot of the site. The two tax lots need to be combined so that all portions of the development are contained on one tax lot and not split between the two tax lots. The applicant has submitted a

separate application for a property line adjustment lot consolidation, which is in process as PLA 2022-03. A condition of approval shall be requiring recording of the deed reflecting the property line adjustment lot consolidation prior to submitting the structural permit application.

- i. *Common area must be designed for passive or active recreational use and may include usable floor area in the development's recreation building or club house. Common area must be located outside of required setbacks and required parking areas. The common area requirement is allowed to count toward the minimum landscape percentage requirement in Chapter 17.55 LCMC.*

Finding: The common area appears to be designed for passive recreational use, which is allowed. No recreation building or club house is proposed as part of the project.

The submitted site plan does not provide the dimensions of the common area such that it can be ascertained if any portion of the common area is within the rear or side setbacks. It appears that both the rear and side setback areas are included in the common area square footage, but the provided common area square footage of 16,908 is substantially more than the required 11,500. A revised site plan shall be submitted with the structural permit application clearly depicting the dimensions of the common area and showing all square footage of the required 11,500 square feet of common area as being outside of, and not including, any setback or parking area.

- ii. *Common area must be available, accessible, and free for use by occupants and their guests without leaving the development.*

Finding: The submitted site plan shows that the common area is on the site, with no obstructions barring occupants or their guests from use.

- iii. *Common area must be connected to primary building entrances by an ADA-accessible walkway that is at least five feet wide. The square footage area of ADA-accessible walkways can count towards the minimum common area square footage requirement if they provide at least one connection to each other, connection to other common areas, or connection to public right-of-way or the parking area for the development.*

Finding: The submitted site plan does not depict the required ADA-accessible walkways from the common area to the primary building entrances, but this can be modified to be clearly shown on the plan submitted with the structural permit application.

- iv. *All required common areas must include at least one amenity for users including seating, trash/recycling bins, dog waste stations, or play equipment – all of which must coordinate with and complement the development. If a common area has direct connection to an ADA-accessible walkway, then that connection and ADA-accessible walkway can count as the amenity for that particular common area. Common areas provided over and above the minimum requirement do not need to provide any amenities.*

Finding: The submitted materials don't provide any indication that any amenities are being provided. This requirement is not met, but it can be with a revised site plan submitted as part of the structural permit application showing the location and type of required amenities.

17.20.060 Landscaping

Landscaping shall be provided in accordance with Chapter 17.55 LCMC.

Finding: A detailed landscape plan was not included with the application package for the conditional use permit. However, the site plan does show that landscaping is proposed around the perimeter of the site and the parking areas for a total square footage of 3,073 square feet, plus the 16,908 square feet of common area. 15% of the site must be landscaped, which equates to 7,135.65 (47,571 x 0.15). By showing that the required area of landscaping is being provided, the details of what will be planted is not necessary in order to conclude that compliance with the requirements of Chapter 17.55 can be met with submittal of a detailed landscape plan showing the proposed numbers and types of plantings.

17.20.070 Signs

Signs shall be allowed in accordance with Chapters 9.34 and 17.72 LCMC.

Finding: The application does not include any requests for signs.

17.20.080 Supplementary regulations and exceptions

Supplementary regulations and exceptions shall be adhered to in accordance with Chapter 17.52 LCMC.

Finding: Compliance with Chapter 17.52 is addressed later in this staff report.

17.20.090 Off-street parking and loading

Finding: Compliance with off-street parking and loading requirements is addressed later in this report under Chapter 17.56.

17.20.110 Restrictions

No development shall occur in the R-M zone unless all city services (sewer and water) are available to serve such development.

Finding: The site currently has both sewer and water city services. Public Works has reviewed the preliminary plans and provided conditions of approval. This requirement is met for purposes of conditional use.

Chapter 17.52 Supplementary Regulations and Exceptions

17.52.060 Clear-vision area requirement

- A. Requirement to Provide Clear Vision. For public safety purposes, all properties shall have triangular clear-vision areas (aka clear-vision triangles) where streets (public or private) intersect with other streets, commercial alleys and commercial driveways. Clear-vision triangles shall be also be provided for street intersections with commercial driveways as provided herein. Clear-vision areas at local intersections shall meet the requirements in this section, which are meant to be adequate to allow drivers and pedestrians who are stopped or approaching with caution to see intersecting traffic in time to avoid collisions. Clear-vision areas at intersections with Highway 101 must meet with Oregon Department of Transportation approval and comply with the requirements of this section.*

Finding: The project does not propose streets intersecting with other streets, commercial alleys, or commercial driveways. The project does not have any street intersections with commercial driveways, because the project does not have any commercial driveways. The project is a residential project, not a commercial project. The clear-vision area requirements are not applicable.

17.52.120 Utilities

- B. In all zones, all electrical, telephone and cable television utility service installations or connections made as part of new construction of a building or structure shall be placed underground in accordance with city standards.*

Finding: The project proposes new construction, so all electrical, telephone, and cable television utility service installations or connections made as part of the new construction shall be placed underground. The submitted narrative states that all utilities will be underground. This shall be reviewed for compliance as part of the structural permit application and construction process. This requirement is met for purposes of the conditional use.

17.52.150 Exterior lighting.

Artificial exterior lighting shall not be designed to shine or create glares in any residential zone or residential use, adjacent dwelling unit or in a public right-of-way.

- A. Light poles must not exceed a height of 20 feet.*
- B. All lighting must be shielded to avoid glare, light pollution (night sky), and light spillover onto residential properties. Shielding must be integral to the light fixture and direct light downward.*
- C. Luminance at the property line, or no more than five feet over the property line, must be zero.*
- D. Maximum initial luminance of outdoor sales displays, outdoor storage areas, service station canopies, and similar areas must not exceed 20 foot-candles.*
- E. Maximum initial luminance of parking lots must not exceed four foot-candles.*
- F. Up-lighting is prohibited. The maximum illumination limits for wall washing are one foot-candle for dark colored surfaces and one-half foot-candle for light colored surfaces.*
- G. Pedestrian ways and building entrances not otherwise illuminated by building-mounted lights or streetlights must provide between one and two foot-candles of light from bollards, step lights, or other low-profile fixtures that are appropriate for walkways and plazas.*
- H. The manufacturer's data or measurement must demonstrate conformance with this section. Cut sheets, a photometric plan analysis, and an exterior lighting plan showing the locations, types, sizes, and heights of all exterior lighting fixtures shall be included with the applicable application submittal.*

Finding: The submitted materials do not provide any exterior lighting information. However, submitting the exterior lighting plan and photometric analysis can be deferred to the structural permitting process, and the applicant's narrative states that the exterior lighting plan submittal is being deferred. As a condition of approval, an exterior lighting plan showing compliance with LCMC 17.52.150 shall be submitted with the structural permit application and shall include a photometric analysis and cut sheets of the proposed exterior lighting fixtures.

17.52.170 Solid waste, garbage, trash, recycling, and composting receptacle storage areas.

All solid waste, garbage, trash, recycling, and composting receptacles shall be located within a building or within an enclosure that is at least 20 feet or more from any pedestrian space which screens the receptacle from the view of neighboring property, pedestrian space, or from right-of-way, except those receptacles associated with a detached single-unit dwelling, attached single-unit dwelling, duplex, or manufactured dwelling.

Finding: The submitted site plan shows the location of the solid waste enclosure approximately 200 feet east of the site's Hwy 101 frontage. The narrative states the solid waste area will be enclosed but no details are provided. The project is residential in nature, so a pedestrian space is not required.

Comments were received from North Lincoln Sanitary Service, via email, on April 19, 2022, stating the following: "I just got off the phone with you a bit ago, and I'm sending over information on your garbage and

recycling needs. There is a Word doc that details info about your site as well as ideas to build the enclosure. There are some drawings that are referred to in the Word doc, and then there is an Excel (basic) drawing of a suggested enclosure idea. My biggest concern is the location of the enclosure next to a parking spot. We would need some sort of protection to keep the container from rolling in to a parked car when we wheel them out, or we would need to enclosure moved a bit to get us away from the stall.”

Details of the type and height of enclosure, showing compliance with LCMC 17.52.170 and approval from North Lincoln Sanitary Service, shall be included with the structural permit application. This requirement is met for purposes of conditional use.

17.52.180 Placement and screening of mechanical equipment

- A. *Any heating, air conditioning, or other mechanical equipment installed on or near a building to be used to serve the building or a function performed therein, and any propane tanks, shall be screened from the ground level view from adjacent properties, pedestrian spaces, and from public right-of-way, and shall not be located within 20 feet of pedestrian space.*
- B. *Rooftop mechanical units shall not be visible from any public right-of-way and shall not exceed the allowable building height.*
- C. *Ground-mounted mechanical units shall be limited to the sides or rears of buildings and screened from view from adjacent properties and from public right-of-way.*
- D. *Standpipes, meters, vaults, and similar equipment shall not be placed on a front elevation when other alternative locations exist.*

Finding: The submitted narrative states that HVAC units will be mounted on the roof in the mid-span of the roof and thus not be visible to the public. The narrative further states that electric meters will be screened, or within the building envelope. Staff notes that the front elevation is the west elevation, not the north elevation. Accordingly, standpipes, meters, vaults, and similar equipment shall not be placed on the west elevation when other alternative locations exist (such as the north, south, or east elevations). This requirement is met for the purposes of this application, and will be reviewed for continued compliance during the permitting and construction processes.

17.52.220 Tree protection and removal

Finding: The narrative states that significant trees will not be removed. Staff notes that the site does not contain any trees designated by the city as being significant or an aesthetic resource. A detailed tree protection and removal plan was not included with the submitted materials but shall be submitted with the structural permit application and shall clearly show the tree protection method to be utilized during construction. This requirement is met for purposes of conditional use.

17.52.230 Public infrastructure improvements

Finding: Public Works reviewed the submitted plans and provided conditions of approval.

17.52.300 Traffic impact study (TIS) requirements

A TIS shall accompany a land use application at the request of the city engineer, if the proposal involves one or more of the following:

1. *An amendment to the Lincoln City comprehensive plan or zoning map;*
2. *A new direct property approach road to US 101;*
3. *Likely generation of 50 or more p.m. peak-hour trips on US 101, or 100 or more p.m. peak-hour trips on the local transportation system, according to the Institute of Transportation Engineers (ITE) Trip Generation Manual;*

4. *If use on any street or direct property approach road intersecting with US 101 increases by 10 vehicles or more per day that exceed 20,000 pounds gross vehicle weight;*
5. *An existing or proposed access driveway that does not meet minimum spacing or sight distance requirements, or a driveway located where vehicles entering or leaving the property are restricted, or such vehicles are likely to queue or hesitate at an approach or access connection, thereby creating a safety hazard; or*
6. *A change in internal traffic patterns that may cause safety problems, such as back-up onto the highway or traffic crashes in the approach area.*

Finding: The project is not an amendment to the comprehensive plan or the zoning map. The project does not propose a new direct property approach to Hwy 101. The project will not generate 50 or more p.m. peak-hour trips on Hwy 101. The use will not generate 10 vehicles or more per day that exceed 20,000 pounds gross vehicle weight. The project meets the minimum spacing and sight distance requirements. There will be no changes in internal traffic patterns that may cause safety problems. The city engineer did not request a TIS for the project. A TIS is not required for this project.

Chapter 17.55 Landscaping

17.55.040 Landscaping requirements for all development other than detached single-unit dwellings, attached single-unit dwellings, manufactured dwellings, and duplexes.

- A. *Landscaping is required on all portions of the site not covered by buildings, structures, or impervious surfaces.*

Finding: The submitted site plan shows all portions of the site that are not covered by the building, asphalt, or concrete as being landscaped.

- B. *Fifteen percent of the total gross area of the site shall be landscaped with live vegetation according to the standards contained within this chapter. Existing plants and trees that are healthy and noninvasive count towards the 15 percent live vegetation requirement, provided they will be protected during development adequately enough to ensure future preservation.*

Finding: The submitted site plan shows that more than 15% of the site will be landscaped. Submittal of a complete and detailed landscape plan that clearly shows complete compliance with Chapter 17.55 shall be required as part of the structural permit application package.

1. *At a minimum, the site shall contain three distinct and separate landscape area, containing an overall total of the following spaced and/or grouped according to best planting practices and aesthetics:*
 - a. *One tree per 20 feet of total lot perimeter; and*
 - b. *One shrub per 10 feet of total lot perimeter; and*
 - c. *Living ground cover.*

Finding: The number of trees and shrubs is not indicated in the submitted materials. However, a detailed landscape plan can and shall be included with the structural permit application showing the numbers and locations of existing and proposed trees, shrubs, and living ground cover to meet this requirement.

2. *If islands are required in parking areas, each island must contain at least one tree, sized appropriately for the area of the island. The remainder of the island must be covered with shrubs and/or living or nonliving ground cover, subject to the standards set out in subsection (C) of this section and LCMC 17.55.050. Islands count towards both the parking landscaping requirement and the 15-percent landscaping requirement.*

Finding: The submitted site does not show any islands.

C. Ground Cover and Mulch

1. *Ground cover used as mulch between plantings shall be placed at a minimum two- to three-inch-thick layer to ensure effective erosion control and to avoid leaching of excessive nutrients*
2. *Acceptable mulch materials are straw, well-aged compost and leaves, wood mulch or bark dust, or wood nuggets that are a minimum diameter of one inch. Mulching with manure that has not been composted or aged is prohibited.*
3. *Nonliving ground cover materials such as noncompacted pea gravel, river rock, pumice, stones, boulders, bark dust, and cedar chips are acceptable ground cover.*
4. *Standards for living ground cover are those set out in LCMC 17.55.050.*

Finding: The types of ground cover and mulch are not indicated in the submitted materials. However, a detailed landscape plan can and shall be included with the structural permit application showing compliance with the ground cover and mulch standards.

17.55.050 Selection, preparation, and installation for all landscaping

A. Selection of Materials

1. *Invasive and noxious plants as defined in LCMC 8.12.010 or by the Oregon Department of Agriculture are prohibited.*

Finding: The submitted materials do not show the planting of any invasive and noxious plants, but neither do they show any plantings. Submittal of a complete and detailed landscape plan that clearly shows complete compliance with Chapter 17.55 is required as part of the structural permit application package.

2. *Hydro-seeding is prohibited.*

Finding: The submitted site plan does not show any hydro seeding, but neither does it show any plantings. Submittal of a complete and detailed landscape plan that clearly shows complete compliance with Chapter 17.55 is required as part of the structural permit application package.

3. *All selections must be healthy at the time of planting.*

Finding: The submitted landscaping plan does not show any plantings. Submittal of a complete and detailed landscape plan that clearly shows complete compliance with Chapter 17.55 is required as part of the structural application package.

4. *Sizes of Plantings.*
 - a. *Deciduous trees must be a minimum of one and one-half caliper inches at the time of planting.*
 - b. *Conifer trees must be a minimum of five feet in height at the time of planting.*
 - c. *Ground cover plants must be at least four-inch pot size.*
 - d. *Shrubs must be at least three-gallon size at the time of planting, unless three-gallon sizes are not available for purchase at the time of planting for the particular shrub selected. In those instances, one- or two-gallon size is allowed.*
 - e. *Plantings at their mature height shall not be higher than five feet if they would block the view of any shoreline of the Pacific Ocean, Siletz Bay or Devils Lake.*
 - f. *All plantings must be one, or a combination of, the following: native to the Pacific Northwest; selected from the City of Lincoln City Guide to Landscape Selections; or suitable for the site conditions as certified by a written and signed statement from a landscape architect licensed in the state or Oregon or a landscape nursery person.*

Finding: The submitted plans do not show any plantings. Submittal of a complete and detailed landscape plan that clearly shows complete compliance with Chapter 17.55 is required as part of the structural permit application package.

17.55.060 Irrigation and maintenance

- A. *Irrigation. The intent is to ensure that plants will survive the critical establishment period when they are most vulnerable due to lack of watering. Irrigation systems shall be provided for all planted areas for a period of at least two years, or until it is demonstrated that new plants have become naturalized.*

Finding: The submitted materials do not provide any information pertaining to irrigation. Submittal of a complete and detailed landscape plan that clearly shows complete compliance with Chapter 17.55 is required as part of the structural permit application package.

17.55.070 Clear-vision requirements.

Landscaping shall be in conformance with the clear-vision area requirements set out in LCMC 17.52.060.

Finding: Clear-vision requirements are not applicable to this residential development as it does not contain any commercial driveways or street intersections.

17.55.080 Living landscaping as screening

- A. *When screening is required, the applicant may choose to use vegetation as the screening method. If so, the following standards must be met:*
1. *Screening shall be in the form of a hedge.*
 2. *The hedge shall consist of evergreen shrubs and shall be native to the Pacific Northwest and suitable for the site conditions as certified by a nursery person or a landscape architect licensed in the state of Oregon or selected from the City of Lincoln City Guide to Landscape Selections.*
 3. *Selected shrubs must have a mature height of at least six feet.*
 4. *Shrubs must be of sufficient size and number to provide solid sight obstruction, at a minimum of six feet in height, at the time of planting.*

Finding: No living landscaping as screening is proposed.

Chapter 17.56 Off-street Parking and Loading Regulations

17.56.030 Number of off-street parking spaces required

- A. *The number of off-street parking spaces required shall be as set forth in Table 17.56.030-1.*

Finding: The project proposes a 46-unit apartment building. A breakdown of the number of bedrooms in each unit is not given, but the narrative states that 49 parking spaces are required. Table 17.56.030-1 states that multi-unit dwellings containing three or more units have an off-street parking requirement of one space per one-bedroom unit and 1.5 spaces per two-bedroom unit. Without a breakdown of the number of bedrooms in each unit, staff cannot determine if the off-street parking space requirement is met.

- B. *Exceptions to the Number of Off-Street Parking Spaces Required. One or more exceptions may apply to a development.*
1. *There are no off-street parking requirements for commercial uses, commercial buildings, or the commercial portion of mixed use buildings located within the boundaries of any of the pearls (Wecoma, Oceanlake, DeLake, Taft, Nelscott, Cutler City), said boundaries as identified on the city's adopted zoning map.*

Finding: This requirement is not applicable to this project since it is not located in Wecoma, Oceanlake, DeLake, Taft, Nelscott, or Cutler City.

2. *The number of off-street parking spaces may be reduced by 10 percent of the off-street parking requirement for every five bicycle parking spaces provided over and above the standard requirement for bicycle parking spaces.*

Finding: The applicant is not requesting a reduction in the off-street parking requirement.

3. *The number of off-street parking spaces may be reduced by 10 percent of the off-street parking requirement by preserving at least two mature and healthy trees. To receive this credit, a licensed Oregon arborist must certify the trees to be preserved are health, and the grading plan must show enough protection and lack of disturbance around the roots (again, as certified by a licensed Oregon arborist) that the trees will be protected and preserved throughout construction and thereafter.*

Finding: The applicant is not requesting a reduction in the off-street parking requirement.

17.56.040 Number of off-street loading spaces required

- A. *Every building hereafter erected or established, for a use other than residential, having a gross floor area of 10,000 square feet or more shall provide and maintain at least one off-street loading space plus one additional off-street loading space for each additional 20,000 square feet of gross floor area.*
- B. *Each loading space shall be not less than 10 feet wide by 25 feet in length and 14 feet in height.*

Finding: The proposed project is residential in use, so this requirement is not applicable.

17.56.050 Joint use of off-street parking and loading spaces

- A. *Off-street parking and loading requirements may be satisfied by the same parking or loading space used jointly to the extent that it can be shown by the owners or operators of the uses, structures, sites, or developments that their operations and parking needs do not overlap in point of time.*
- B. *If the uses, structures, sites, or developments are under separate ownership, the right to joint use of off-street parking or loading spaces must be evidenced by a deed, lease, contract, or other appropriate written document establishing the terms of the joint use, and submitted to the department.*

Finding: The project will accommodate the off-street parking requirement on the site.

17.56.060 More than one use in a building or on a development

Finding: This requirement is not applicable to this project. The only use proposed is residential, and it is solely contained on the site in one building.

17.56.080 Development standards for off-street parking and loading areas for all uses other than detached single-unit dwellings, attached single-unit dwellings, and duplexes

- A. *Location*
 1. *Off-street parking and loading shall be located on the same lot or parcel as the use or on a separate lot or parcel not farther than 1,000 feet from the building or use they are intended to serve, measured in a straight line from nearest property corner to nearest property corner.*
 2. *Area in a public right-of-way or an alley shall not be used as fulfilling any part of the off-street parking or loading requirements.*

Finding: The submitted materials show that the off-street parking is located on the same lot as the use. This requirement is met.

3. *Off-street parking and loading spaces shall be located above, beneath, to the rear, or to the side of buildings.*

Finding: The west elevation of the building is the front of the building. The submitted materials show that the required off-street parking spaces are located to the north of the building.

4. *Parking and loading spaces must be outside of required building setback areas.*

Finding: The submitted materials show that the parking spaces along the north boundary are within the required five-foot building setback area by approximately one foot. Accordingly, the parking spaces will need to shift one foot to the south for compliance with this requirement.

5. *Parking and loading spaces must be at least 10 feet from public right-of-way, and the space between the public right-of-way and the parking and loading spaces must be landscaped according to the standards in Chapter 17.55 LCMC.*

Finding: The submitted materials show that the off-street parking spaces are 10 feet from Hwy 101. The required landscaping to meet the standards of Chapter 17.55 is not shown on site plan, but submittal of a complete and detailed landscape plan showing compliance with Chapter 17.55 is required as part of the structural permit application submittal package.

6. *In no case shall any parking area or parking or loading space be located between the front of the building and the front property line.*

Finding: The front property line is the west property line. The submitted site plan clearly shows that there are no parking spaces between the west property line and the west (front) wall of the building.

7. *Parking and loading spaces must be located such that there are no backing movements or other maneuvering within public right-of-way. Backing movements or other maneuvering within alleys or private streets is allowed, however.*

Finding: The submitted site plan shows proposed drive aisles such that no backing movements or other maneuvering will take place within Hwy 101.

B. Surfacing

1. *Parking spaces, parking areas, and driveways shall have permanent, dust-free surfaces and shall be constructed to support use by solid waste vehicles and firefighting apparatus.*
2. *Surfaces shall consist of one or more of the following materials:*
 - a. *Concrete or asphalt;*
 - b. *Block pavers of concrete, stone, brick, or similar material. This surface is considered impervious unless, through consultation with the city engineer, the spacing and installation are determined to be sufficient to count as an allowable pervious surface;*
 - c. *Pervious concrete or asphalt; or*
 - d. *Other materials, as approved by the city engineer.*

Finding: The submitted site plan shows parking spaces and drive aisles being surfaced with asphalt.

- C. *Redevelopment. Site design shall incorporate the conversion of existing parking areas located in front of buildings to pedestrian spaces as properties redevelop.*

Finding: Pedestrian spaces are not required for residential developments.

D. Installation and Maintenance.

1. *Materials shall be installed and maintained adequately for all-weather use, including proper drainage so as to avoid flow of water across sidewalks and any property line.*

Finding: The drainage plan shall be submitted as part of the structural permit application package and shall be reviewed for compliance by Public Works.

2. *All pervious surfaces shall be designed, installed, and maintained to ensure proper storm water infiltration.*

Finding: It does not appear from the submitted materials that any pervious surfaces are proposed for parking areas.

E. Maximum Impervious Surface. All parking spaces, parking areas, and loading spaces in excess of the minimum required amount shall be surfaced with pervious materials as approved by the city engineer.

Finding: As discussed earlier in this staff report, staff is unable to calculate the required number of parking spaces without a breakdown of the number of bedrooms in each unit. During the structural permit process if it is shown that more parking spaces are being provided than what is required, the plans will need to be altered to show the required pervious material before the permit will be issued.

F. Curbing and Wheel Stops

1. *Parking spaces shall be contained by a curb or wheel stop so placed to prevent a vehicle from extending into an adjacent property, public right-of-way, private street, sidewalk, or landscaping area.*
2. *Curbing shall be a minimum of four inches in height and width.*
3. *Wheel stops shall be a minimum of four inches in height and width, and six feet in length; shall be firmly attached to the ground, and so constructed as to withstand normal wear.*
4. *Parking spaces having curbing or wheel stops may be reduced in length by two feet, allowing for overhang of the vehicle parked in that space, provided the curbing or wheel stops are placed two feet back from the front of the parking space.*

G. Marking. All off-street parking and loading spaces shall be permanently and clearly marked, and such marking shall be replaced regularly, so as to remain clearly visible at all times.

Finding: Compliance with these requirements is reviewed as part of the structural permitting process.

H. Landscaping

1. *In all instances except the following when occurring on individual lots and except in the R-1-5, R-1-7.5, R-1-10, R-1-RE, and VR zones, parking areas shall include landscaping to cover not less than 10 percent of the area devoted to parking spaces and areas, which area is computed as a part of the required landscaping of the total gross area pursuant to Chapter 17.55 LCMC.*

Finding: The submitted site plan does not specifically address the required parking area landscaping. This requirement will be reviewed for compliance as part of the structural permitting process.

2. *Surface parking lots must have perimeter buffer strip landscaping of not less than four feet in depth (see Figure 17.56.080-1) landscaped in accordance with Chapter 17.55 LCMC.*

Finding: The submitted site plan shows the required four-foot-wide perimeter buffer landscape strip.

3. *Screening. Any off-street parking area providing five or more parking spaces shall be screened from view by a screening hedge or a six-foot-tall, sight-obscuring fence on each side that adjoins property situated in the R-1-5, R-1-7.5, R-1-10, R-1-RE, R-M, R-R, or NCR zones or the premises of any school. Screening hedges are subject to the provisions of Chapter 17.55 LCMC.*

Finding: The site does not adjoin the premises of any school, nor does it adjoin any residential zones.

J. Lighting of Parking Areas

1. *If provided, light poles in parking areas shall not exceed a height of 20 feet.*
2. *Any provided lighting in parking areas shall be shielded or provided with cut-offs to avoid glare, light pollution (night sky) and light spillover onto residentially used properties.*
3. *Maximum initial luminance of lighting provided in parking areas shall not exceed four foot-candles, with zero foot-candles at property lines.*

Finding: The submitted narrative indicates that the property owner is deferring submittal of the exterior lighting plan to the structural permit application.

- K. Accessible Parking. Parking areas shall meet all applicable accessible parking requirements of federal, state, and local codes.*

Finding: The required ADA-accessible parking must be shown on the plan submitted with the structural permit application.

L. Parking Area Layout and Dimensions

1. *A minimum of 50 percent of the required number of parking spaces must be designed as standard sized spaces with a minimum space width of nine feet and length of 20 feet.*
2. *No more than 50 percent of the required number of parking spaces may be designed as compact sized spaces with a minimum space width of eight feet and length of 16 feet.*
3. *A clear pedestrian circulation route from parking stalls to the primary building entrance, or a pedestrian area immediately adjacent to the primary building entrance, must be provided.*
4. *Parking areas shall be designed as follows:*

Finding: The applicant's narrative states that the project is providing 26 standard spaces at 9x20 and 24 compact spaces at 8x16. The revised plan submitted with the structural permit application shall show the typical dimensions for the parking spaces, as well as the width of the drive aisles.

M. Parking Rows

1. *Surface parking lots containing more than 20 parking spaces must have rows of not more than 12 continuous parking spaces and shall include one planting island between every 12 parking stalls.*

Finding: The submitted site plan shows there are no rows of parking spaces containing 12 continuous parking spaces.

2. *The perimeter of parking lots or the outer parking aisles must contain at least a four-foot-wide landscaping/drainage swale or landscape buffer (see Figure 17.56.080-1) landscaped pursuant to the provisions of Chapter 17.55 LCMC. The perimeter landscaping buffer counts towards the interior parking lot landscaping requirement of subsection (H)(1) of this section.*

Finding: The submitted site plan shows the required perimeter landscape buffer.

- N. RV, Motorhome, and Bus Parking. Developments with 50 or more required off-street parking spaces shall provide the following minimum number of off-street parking spaces sized and designated for the parking of RVs, motorhomes, and buses:*

Finding: The applicant's narrative states that the project requires 49 off-street parking spaces. Staff is unable to calculate the off-street parking requirement without the breakdown of numbers of bedroom per unit. Should the required number of off-street parking spaces be 50 or more, then the required RV, motorhome, and bus parking space shall be provided with review for compliance as part of the structural permitting process.

- O. Structured Parking. Where structured parking is provided in a stand-alone structure that...*

Finding: A review of the submitted plans shows that the project is not providing any stand-alone structured parking.

17.56.090 Bicycle parking

- A. Number of Bicycle Parking Spaces Required. One bicycle parking space, as defined in subsection (D) of this section, is required for every 20 vehicle parking spaces required in LCMC 17.56.030.*
- B. Access. An unobstructed walkway of at least five feet in width shall connect each bicycle parking area to the primary entrance or the pedestrian area in front of the primary entrance.*
- C. Location. All bicycle parking areas shall be within a well-lighted area within 100 feet of, or clearly visible from the primary building entrance or public right-of-way. Where necessary, a sign shall direct users to the bicycle parking area.*
- D. Dimensions. Each bicycle parking space shall be at least two feet by six feet with a vertical clearance of six feet.*
- E. Security. Bicycle parking facilities shall be either a lockable enclosure for storing bicycles or a stationary object (i.e., a rack) to which bicyclists can lock their bicycles.*

Finding: The narrative states that there is a 3.5-foot wide strip in the parking structure with several bays reserved for bicycles. Additional details are not given. The plans do not provide the exact location and dimensions. Compliance with bicycle parking requirements shall be reviewed during the structural permitting process.

Chapter 17.74 Design Standards

Chapter 17.74 Design Standards

17.74.130 Building design

- A. Intent.*
- B. Building Stepback.*
- 1. Upper Floor Stepback. The upper elevations of building facades facing a public right-of-way or pedestrian space must step back above 25 feet or above the second story, whichever is the lesser height (Figure 17.74.130-1). The following options are acceptable to meet this standard:

 - a. The top floor must step back at least 10 feet; or*
 - b. Progressive stepbacks of several upper floors must total at least 10 feet.**

Finding: The only façade that faces public right-of-way is the west façade. The submitted elevations do not provide enough dimensions or measurements to determine if this is being met to the letter of the code, but it is apparent from the picture that there are varying levels of the floors on the west elevation.

Staff notes that the guiding principles of the design standards include the following:

Enhance the street front by providing visual interest through site design and building articulation.

The applicant's submitted materials clearly depict a street-facing elevation with a lot of visual interest, as well as articulation. There are three different roof heights in the west elevation, windows, different types of exterior materials, and contrasting trim and main body colors proposed. Accordingly, in lieu of providing the full stepback requirement, the applicant is providing alternatives to meet the intent of visual interest along the street. Staff concludes that the intent of the stepback requirement is met.

- C. *Building Form. All buildings must incorporate elements to preclude blank building elevations facing a public right-of-way or pedestrian space. Along the façade of the structure, such features must occur at a minimum of every 30 lineal feet, with each floor containing at least two of the following features:*
1. *Roof line offset of at least two feet from the top surface of one roof to the top surface of the other;*
 2. *An offset on the building face of at least eight inches from one exterior wall to the other;*
 3. *A section of the facade, at least four feet in width, that is either recessed or bumped out by at least one foot deep from the front wall plane;*
 4. *A recessed building entry at least two feet deep, as measured horizontally from the face of the main building facade, and at least four feet wide;*
 5. *A balcony at least four feet deep and eight feet wide, that is accessible from at least one interior room;*
 6. *A covered porch at least two feet deep (measured horizontally from the face of the main facade) and at least four feet wide;*
 7. *Recess with a minimum depth of four feet; or*
 8. *Extension projecting a minimum of two feet and running horizontally a minimum of four feet.*

Finding: The submitted materials appear to show that the west elevation proposes to provide features 1, 2, 3, and/or 7. This shall be confirmed with the structural permit application with clear dimensions and labels of each provided feature.

D. *Roof Form.*

1. *Sloped roofs are required for buildings with a front façade width less than 50 feet.*

Finding: The front façade width is greater than 50 feet.

2. *Sloped roofs are the preferred roof form for buildings with a front façade width 50 feet or greater. Flat roofs should be avoided.*

Finding: While a sloped roof is the preferred roof form, it is not required. The applicant proposes a flat roof to accommodate the eco- and environmentally-friendly green roof.

3. *Sloped roofs must have a pitch between 6:12 and 12:12. Mono-pitch (shed) roofs must have a pitch of at least 4:12.*

Finding: The applicant proposes an eco- and environmentally-friendly green roof, which needs to be flat.

4. *In instances where sloped roofs are not practicable and a flat roof is the only option, the flat roof must have projecting cornices to create a prominent edge when viewed against the sky. Cornices must be made of a different material and color than the predominate siding of the building, except that brick siding may include matching brick cornices.*

Finding: The project is providing a sloped roof on each end of the building to provide visual interest and create a prominent edge when viewed against the sky.

5. *Dual-pitched or hipped “mansard” and A-frame roof forms are not permitted.*

Finding: The project is not proposing any dual-pitched, hipped mansard, or A-frames.

E. Building Entrances.

1. *Porches. Usable porches and stoops are recommended to form a predominant motif of the building design and should be located on the front and/or side of the building to respond to the climatic conditions and the character of nearby residential uses.*

Finding: Porches are a recommendation and not a requirement. In this instance, the project is utilizing garden patios to form the predominant motif of the building design. The garden patios are located on the north side of the building.

2. *Primary Entrances. Buildings must have clearly defined primary entrances that provide a weather protection shelter for a depth of not less than five feet extending from the building entry.*

Finding: It is unclear from the submitted materials if the required weather protection shelter is being provided. This can be addressed through the structural permitting process with clear identification of the primary entrance to each unit and/or an adjustment request.

3. *Accessibility. Each building must have at least one ADA-compliant entrance connecting required parking to the building.*

Finding: It is unclear from the submitted materials which entrance of each building is the ADA-compliant entrance. As a condition of approval, revised plans shall be submitted that clearly label and identify the required ADA-compliant entrance.

F. Building Windows.

1. *Facades Facing a Public Right-of-Way. At least 15 percent of the area of each façade that faces a public right-of-way must have, and maintain, clear and transparent windows or main entrance doors. Windows or doors contributing to this standard must allow views from inside the building to the street. Glass block does not meet this standard. Windows in garage doors do not count toward meeting this standard, but windows in garage walls do count toward meeting this standard. Only transparency in doors at the main entrance and facing the street property line counts toward this standard.*

Finding: The submitted materials do not provide the percentage of transparent windows proposed for the west elevation. As a condition of approval, revisions shall be made to the west elevation sheet to clearly depict and label the required 15% of transparent windows.

2. *Garage Windows. Garages with a side or rear wall that faces the street must have a window on the street-facing wall that is a minimum of six square feet in area.*

Finding: The project is not proposing any garages.

- G. *Building Materials. Exterior walls of all buildings and structures, including accessory, must be primarily clad in wood clapboard, cementitious fiber board, wood shingle, wood drop siding, primed board, wood board and batten, brick, stone, or architectural-grade synthetic materials. Natural materials or natural stain or unfinished wood is the preferred primary cladding.*

Finding: The submitted materials do not indicate the type of exterior building materials, but this can be addressed through the structural permitting process.

H. Building Colors.

Finding: The submitted materials do not indicate the proposed exterior colors, but this can be addressed through the structural permitting process.

I. Garage Requirements.

Finding: The project does not propose any garages.

*Chapter 17.76 Procedures
17.76.050 Type III procedure*

- A. General Description. Type III procedures apply to quasi-judicial permits and applications. Decisions on quasi-judicial permits and applications are made by either the planning commission or city council, and require substantial exercise of discretion and judgment in applying approval criteria. Type III procedures require public notice and one or more public hearings.*
- B. When Applicable. Table 17.76.020-1 identifies Type III applications. Applications not listed in Table 17.76.020-1 may be identified as Type III by the director based on the general description in this section.*
- C. Pre-Application Conference. A pre-application conference is not required prior to application submittal of a Type III application, but is strongly encouraged. Guidelines for pre-application conferences are set forth in LCMC 17.76.090.*

Finding: The applicant had a pre-application conference for the request prior to submitting the application for conditional use.

D. Application Requirements. Type III 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, along with the required fee. The application was deemed complete in accordance with LCMC 17.76.110.D and E.

E. Notice of Public Hearing.

- 1. After a Type III 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. Owner 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.*
 - e. At the discretion of the application, the department also shall provide notice to the Oregon Department of Land Conservation and Development.*

Finding: The Planning and Community Development Department mailed the written public notice to the parties noted in LCMC 17.76.050.E.1.a through e.

2. *The notice of public hearing shall include the following:*
 - a. *A brief description of the request;*
 - b. *A list of 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. *The date, time, and location of the hearing;*
 - e. *A statement that failure of an issue to be raised in a hearing, in person or by letter, or failure to provide statements or evidence sufficient to afford the decision maker an opportunity to respond to the issue precludes appeal to the Board based on that issue;*
 - f. *The name of a department staff member to contact and the telephone number where additional information may be obtained;*
 - g. *A 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;*
 - h. *A statement that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and will be provided at reasonable cost; and*
 - i. *A general explanation of the requirements for submission of testimony and the procedure for conduct of hearings.*

Finding: The public notice of hearing mailed by the Planning and Community Development Department included all the required information.

- F. *Public notices for Type III applications shall be mailed a minimum of 20 days prior to the first evidentiary public hearing.*

Finding: The public hearing date is May 17, 2022. The public notice was mailed on April 25, 2022.

Chapter 17.77 Applications

17.77.060 Conditional use permit

- A. *Purpose. In all zones, conditional uses listed in that zone may be permitted subject to the granting of a conditional use permit. Because of their unusual characteristics, or the special characteristics of the area in which they are to be located, conditional uses require special consideration so that they may be properly located with respect to the objectives of this title and their effect on surrounding properties.*
- B. *Procedure. Conditional use permit requests are subject to the Type III procedure, as described in LCMC 17.76.050.*
- C. *Submittal Requirements.*
 1. *Type III application submittal requirements are set forth in LCMC 17.76.050. Specific submittal requirements are provided on application forms and checklists as authorized in LCMC 17.76.110.*

Finding: The required documents were submitted.

2. *At a minimum, an application for a conditional use shall include the following:*
 - a. *An application form signed by the applicant and every current property owner of record as shown on the most current recorded deed;*
 - b. *Full payment of the application fee, based on the fee schedule in effect on the date of submittal;*

- c. Existing conditions plan;
- d. Site plan;
- e. Landscape plan;
- f. Building elevations (for new construction);
- g. Phasing plan (if phasing is proposed);
- h. Traffic impact study pursuant to LCMC 17.52.300; and
- i. Narrative addressing compliance with each criterion and applicable standard.

Finding: The completed and signed application form was submitted, along with a copy of the current recorded deed. The submitted materials also included an existing conditions plan, site/landscape plan, building elevations, and narrative. No phasing is proposed, and a traffic impact study is not required.

D. Approval Criteria. 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;*

Finding: The property owners request conditional use permit approval for a multi-unit residential development in the GC zone. As detailed earlier in this report, the submitted materials either show compliance or can show compliance with conditions of approval with the applicable portions of LCMC Title 17, which is the zoning code. The zoning code enacts the comprehensive plan, so with compliance with LCMC Title 17 there is compliance with the comprehensive plan.

The City Council of Lincoln City adopted the Lincoln City Comprehensive Plan and its implementation measure, the Lincoln City Zoning Ordinance, after public hearing and has reviewed it on a periodic cycle to take into account changing public policies and circumstances. The city provided opportunities for review and comment by citizens and affected governmental units during preparation, review, and revision. Review of the proposed is in accordance with applicable zoning ordinance provisions. Accordingly, the request is in conformance with the planning goal.

The city has developed a citizen involvement program. In addition, the public hearing process, with notice to the public and review of the request by the Planning Commission (a citizen board) establishes conformance with the citizen involvement goal.

The site is a developed site that already utilizes city water and city sanitary sewer services. The project will necessitate changes to the existing services, and Public Works has provided recommended conditions of approval to ensure compliance with Lincoln City Public Works Design Standards. The site is served by Lincoln City Police and North Lincoln Fire & Rescue District #1. Compliance with the current Oregon Fire Code is ensured through the structural permitting process. As presented and with conditions, the project conforms to the public facilities and services goal.

The urbanization goal is not applicable since the site is already within city limits. The natural hazard goal is not applicable to the site since it does not contain any bluff hazard erosion zones, floodway, or flood hazard areas.

The housing goal is to provide for the housing needs of all citizens. The project is consistent with the housing goal because it will be providing 46 new, code-compliant housing units to the citizens of Lincoln City in place of the nine existing older units. This is an increase of 37 housing units to assist in providing for the housing needs of all citizens.

The economy goal is either not applicable or is met. The project is a housing project, but construction of the project will require workers so jobs will be provided in the project's development. Additionally, structural

permit fees and system development charges will be assessed and collected. The submitted narrative states that “providing more diversity in housing helps the employees be more confident in locating in Lincoln City. Thus, local businesses get more competent and happy employees.”

The project must comply with the landscaping standards and design standards. Applicability of and compliance with these standards ensures an aesthetically-pleasing development. The aesthetics goal is met through adherence to LCMC Title 17.

The site is accessed from Hwy 101, which is an existing street. No new streets are proposed. Required street frontage improvements will take place as part of the project. The site contains an existing bus stop, which will remain. The transportation goal is met.

Design and construction of the structure must be in compliance with the state-adopted energy requirements. The applicant’s narrative states that “the probably HVAC will be a ductless heat system” to provide better control of room temperature. Additionally, the building has been designed to avoid excess perimeters that create heat gain and heat loss, and the projected nature of the garden patios will prevent excessive sun from entering the units in the summer months. The energy goal is met.

The applicant’s narrative states: “The box design with exterior appendages for esthetics [sic] provides a good example of conservation and sustainability. It has more energy efficient shell, uses less materials, takes less labor, saves time, saves funds, saves natural resources. The mature trees that are being saved will continue to release oxygen. The HVAC is more efficient. Excess summer sun is actually shaded. Visual open space is improved; without crowding the street with buildings. We will be incorporating a green roof on the west end lower roof.” Staff notes that the submitted materials show a proposed green roof and retention of mature trees. Staff also notes that the proposed project is not occurring within coastal shorelands, flood plains, waterway shorelands, scenic corridors, scenic viewpoints, or any are of historical significance. The environmental goal is either met or not applicable.

The shoreland, beaches, dunes, estuary, and ocean resources is not applicable to this site since the site does not contain shoreland, beaches, dunes, or any estuary.

Criterion 1 is met.

2. *The site for the proposed use is adequate in size and shape to accommodate the use and all required setbacks, common spaces, retaining walls, parking and loading areas, landscaping, and other features required by this title;*

Finding: The submitted site plan shows the proposed building outside of the required 15-foot rear and 5-foot side setback areas. The submitted site shows a proposed common space that exceeds the minimum requirement. The submitted site plan shows all areas of the site not covered by the building or impervious surface as landscaped areas. The submitted materials either show or provide explanations to incorporate most of the other features required by this title, as described throughout this staff report. As noted in the staff report, those items not addressed in the current submittal will have to be addressed as part of the structural permit application submittal. By showing the required setback areas, common space square footage, off-street parking spaces, and landscaped areas, it is clear that the size and shape of the site is more than adequate to accommodate the proposed 46-unit multi-unit residential development. Other required features that aren’t shown can be addressed with conditions of approval and through the review of the structural permit application.

Criterion 2 is met.

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;*

Finding: The site is accessed from the existing and improved Hwy 101. Any required street frontage improvements to the site's frontage shall be completed as part of the development. ODOT reviewed the application and had no comments other than a recommendation that any deeded property to increase right-of-way include the proposed new or future back of walk. Public Works provided recommended conditions of approval. The project does not reach the threshold of requiring a traffic impact study.

Criterion 3 is met.

4. *The proposed use will have minimal adverse impact upon adjoining properties and the improvements thereon. In making this determination, the review authority 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 mass of buildings, retaining walls, fences, landscaping, screening, exterior lighting, and signage;*

Finding: The site is bordered by an RV park to the north and east, which is a form of residential development. Additionally, there is a grade drop down from the RV park to naturally provide a buffer between the proposed apartment complex and the existing RV park. South of the site is undeveloped, and west of Hwy 101 is an apartment complex similar to what is being proposed. Exterior lighting will have to meet the lighting standards of LCMC Title 17. The mature trees and vegetation will be retained to the extent practicable, which provides a natural screen to the future development of the south properties. With the similarities between the existing surrounding development and the type of proposed development, the grade drop, the natural screening provided by existing trees, and adherence to LCMC Title 17, staff finds that the proposed project will have minimal adverse impact upon adjoining properties.

Regarding pedestrian access, however, staff notes that the proposed facility increases the density of housing from nine units to 46 units. Beach accesses, restaurants, shopping, and continuous sidewalk exist on the west (opposite of the project) side of Hwy 101. The increased residential density will also increase pedestrian use and potentially increase crossings of an uncontrolled portion of Hwy 101, with the closest controlled pedestrian crossing over 2,000 feet to the south at SE 48th and Hwy 101. Rectangular rapid flashing beacons (RRFBs) have become a precedent for safer highway crossings through Lincoln City. The site's frontage is identified in the Lincoln City Transportation System plan as a location for an RRFB with exact placement subject to ODOT design requirements. Staff recommends installation of an RRFB along or adjacent to the property's Hwy 101 frontage

Criterion 4 is met with a condition of approval to install an RRFB along or adjacent to the property's Hwy 101 frontage and subject to ODOT design requirements.

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.*

Finding: The site does not have any historic, scenic, or cultural attributes, so this requirement is not applicable. Criterion 5 is not applicable.

- E. *Conditions of Approval. Pursuant to LCMC 17.76.120, 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 properties or neighborhood, or the city as a whole. These conditions may include, but not be limited to, the following:*
 1. *Increasing required lot size, setbacks, common open spaces, or screening and buffering areas;*

2. *Requiring fences, screening walls, landscaping, or screening/buffering where necessary to reduce noise and glare from the use and maintain the property in a character in keeping with the surrounding area;*
3. *Requiring landscaping and maintenance thereof;*
4. *Increasing street widths and/or controlling the location and number of vehicular access points to the property for ingress/egress;*
5. *Requiring means of pedestrian/bicycle pathways to serve the property;*
6. *Increasing the number of off-street parking and loading spaces required; surfacing and proper drainage of parking area;*
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 properties;*
9. *Limiting or prohibiting openings in sides of buildings or structures;*
10. *Enclosure of outdoor storage areas and limitation of...*
11. *Requiring maintenance o grounds;*
12. *Regulation of noise, vibration, odors, etc.;*
13. *Regulation of time for certain activities;*
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...*
18. *Requirements for providing the city a performance bond with a contractual agreement to assure its share of the development of streets, curbs, gutters,...*
19. *Any such other conditions that 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 title and the comprehensive plan.*

Finding: Staff's recommended conditions of approval are included at the end of the staff report.

Chapter 17.77 Applications

17.77.070 Development review

- A. *The purpose of development review is to establish a coordinated process to ensure that new development is in compliance with the requirements of this title prior to the submittal of structural permit applications, or in instances where structural permit application are not necessary prior to the commencement of any development. The development review application shall demonstrate that the proposed development will comply with all of the applicable requirements of this title, and that...*
- B. *Applicability. Except as exempted in subsection (C) of this section, development review approval is required before any structural permit is issued authorizing development and before any outdoor storage area or parking lot development commences in the R-M, PC, RC, GC, PI, M-W, P, OS, TVC, NP, and OP zones, and before any nonresidential structural permit is issued authorizing development and before any nonresidential outdoor storage area or parking lot development commences in any other zone.*
- C. *Exemptions. The activities, development and construction projects listed below are exempt from development review:*
- D. *Procedure. Development review applications are subject to the Type II procedure as described in LCMC 17.76.040, unless any of the following circumstances apply:*
 1. *The applicant chooses to submit as a Type III procedure; or*
 2. *A Type III application is necessary to approve one or more of the uses proposed in the development, in which case the development review application shall be processed concurrently with the Type III application as a Type III procedure.*

- E. *Submittal Requirements. Type II application submittal requirements are set forth in LCMC 17.76.040 and more specific submittal requirements are provided on application forms and checklists as authorized in LCMC 17.76.110.*

Finding: The required documents were submitted by the property owner. Since a Type III application (conditional use permit application) is necessary to approve the proposed use of a multi-unit residential development, the development review is being processed concurrently with the conditional use request.

- F. *Concurrent Applications for Adjustments. Requests for adjustments to standards required in Chapter 17.74 LCMC shall be processed concurrently with the development review application.*

Finding: Requests for adjustments were not made per se, but adjustment requests are obvious in the proposed elevations and roof form, as detailed above in Chapter 17.74.

- G. *Approval Criteria. To approve an application for development review, the review authority must find that the development, as described in the submitted application, either complies with all of the requirements of this title or will comply with all of the requirements of this title subject to conditions that shall ensure compliance with all of the requirements of this title.*

Finding: Based on an analysis of the submitted application and accompanying materials against the requirements of this title and as detailed throughout this staff report, the project as submitted either complies with all of the requirements of this title or will comply with all of the requirements of this title subject to the conditions of approval that ensure compliance with all requirements of this title.

RECOMMENDATION

Staff recommends that the Planning Commission hold a public hearing on the proposed conditional use and development review request, take public testimony, close the public hearing, deliberate, and determine whether the request complies with the criteria for granting approval of the request, complies with the criteria with conditions, or doesn't comply with the criteria.

Should the Planning Commission determine that the request complies with the criteria with conditions, staff suggests the following conditions of approval:

General

1. The applicant/property owner/developer shall be responsible for full compliance with all applicable city, state, and federal codes, rules, regulations, and standards.

Planning

1. The property line adjustment lot consolidation shall be recorded prior to submitting the structural permit application.
2. A site plan showing the size and location of, and garbage hauler access to, the trash enclosure shall be signed and dated by North Lincoln Sanitary Services signifying their approval of the size, location, and access. This signed and dated site plan shall be submitted with the structural permit application materials through ePermitting as part of the structural permit process.
3. The site plan shall be modified to show the required common area square footage outside of, and not including, any setback or parking area. Common area dimensions shall be clearly depicted as separate from setback and parking areas. The revised site plan shall also show the type and location of the required common area amenities. The revised site plan shall be submitted with the structural permit application materials through ePermitting as part of the structural permit process.
4. A complete and detailed landscape plan that shows full compliance with LCMC Chapter 17.55 and 17.56 shall be submitted with the structural permit application materials through ePermitting as part of the structural permit process.

5. An exterior lighting plan showing compliance with LCMC 17.52.150 shall be submitted with the structural permit application, along with cut sheets of the proposed exterior lighting fixtures and a photometric analysis showing compliance with LCMC 17.52.150. These items shall be submitted through ePermitting as part of the structural permit process.
6. Revised plans shall show compliance with the LCMC Chapter 17.52.
7. The plans shall be modified to show the breakdown of the number of units with one bedroom and the number of units with two bedrooms, along with the required number of off-street parking spaces, with none encroaching into the side setback areas.
8. Plans shall be modified to show any provided off-street parking spaces in excess of what is required to be surfaced with pervious materials.
9. Plans shall be revised to show compliance with all applicable requirements of LCMC Chapter 17.56.
10. The west elevation shall be revised to clearly show and label compliance with LCMC 17.74.130.C., or an adjustment shall be requested as part of the structural permit application process.
11. The plans shall be revised to clearly show and label compliance with LCMC 17.74.130.E, or an adjustment shall be requested as part of the structural permit application process.
12. The west elevation shall be revised to clearly show and label compliance with LCMC 17.74.130.F.
13. The proposed exterior building materials shall be included with the submitted structural permit application package and shall show compliance with LCMC 17.74.130.G.
14. The proposed color scheme shall be included with the submitted structural permit application package and shall show compliance with LCMC 17.74.130.H.
15. Prior to issuance of any certificate of occupancy, installation of an RRFB along or adjacent to the property's Hwy 101 frontage and subject to ODOT design requirements shall be completed.

Fire

1. The project shall meet the current Oregon Fire Code requirements for access and water supply, as reviewed by North Lincoln Fire & Rescue District #1 through the structural permitting process, and structural permits shall not be issued until compliance with the current Oregon Fire Code requirements is shown in the submitted plans.

Public Works

Engineering:

1. The applicant/developer/property owner shall submit digital copies of civil engineering plans for all public improvements and site development to Lincoln City Public Works (LCPW) for review and approval either as submitted or as modified in accordance with requirements of Lincoln City's city engineer (City Engineer). The plans must clearly delineate existing and proposed conditions on a single sheet. The City Engineer's review and any required modifications shall be for the purpose of assuring that the improvements shall be consistent with LCPW Design Standards and the provisions of this condition of approval.
2. All public infrastructure construction, including sanitary sewer connections, new domestic and fire water service construction, storm sewer, and roadway construction shall be designed and stamped by a licensed professional engineer.
3. A Combined Public Works Permit application shall be completed and submitted through ePermitting as part of the building permit application materials. All right-of-way work shall be noted on the approved plans and performed as shown. The approved plan set and permits shall be kept on the site, at all times, until construction is complete and all final inspections have been passed. All materials and construction shall adhere to LCPW Design Standards. Submittals and testing to verify compliance with LCPW Design Standards shall be submitted to LCPW as requested.
4. The applicant shall be responsible for obtaining and adhering to ODOT permits and associated state agency design/permit requirements and inspections.
5. All public utility, roadway, and stormwater management improvements shall be completed in accordance with the approved civil engineering plans, LCPW Design Standards, and the project's

conditions of approval within 18 months of the structural permit issue date. Per the Lincoln City Municipal Code, final permit approval from LCPW shall not be issued until all improvements have been completed in accordance with the approved plans and applicable standards.

6. Within 30 days after construction, field-verified, stamped as-built drawings for all public improvements, including relevant survey data, shall be provided to the LCPW in AutoCAD format. All discovered utilities and changes to the approved plans shall be noted with callouts indicating location, depth, and material. The record drawings shall be established in model space using the state plane coordinate system, Oregon North Zone 3601, with horizontal survey control of NAD 83 and vertical control of NAVD 88.
7. Actual costs incurred by Lincoln City for review and/or construction services shall be assessed as additional fees in accordance with Lincoln City Municipal Code 12.12.030. A deposit shall be invoiced at structural permit issuance in accordance with adopted fee schedules. Additional costs for city inspection and/or construction services beyond the deposit amount shall be due prior to final approval of the subject permit.

Erosion Control:

1. The submitted plans shall include erosion control plans in accordance with LCMC 12.08 for review and approval by the city engineer. Approved soil erosion control measures must be in place and inspected by LCPW prior to any construction activities. Erosion control plans must be prepared by a registered professional engineer, landscape architect, engineering geologist, or certified professional in erosion sediment and control.
2. If disturbing one or more acres of land during construction activity the applicant is responsible for application, acquisition, and compliance with Oregon DEQ 1200-C stormwater permit.

Street Improvements:

1. Sidewalk, curb, and necessary pavement repair shall be completed along street frontage in compliance with LCMC 17.52.230.
2. This shall include improvement of non-compliant existing sidewalk along the development's frontage to meet current standards and ADA requirements. This shall include but not be limited to: a minimum 6-foot sidewalk width, ADA-compliant sidewalk clearance, an ADA-compliant driveway apron, and minimum design criteria required by ODOT.
3. All right-of-way work planned shall be noted on the approved plan set, meet applicable design standards, and be performed as shown.
4. Acquisition of any state permits shall be the responsibility of the applicant. As mentioned above, required Highway 101 roadway improvements shall incorporate minimum design criteria requirements put in place by ODOT. Highway 101 roadway design should incorporate additional recommendations put forward by ODOT.
5. The clear vision triangle, 50'Lx10'W visibility at highway access, shall be maintained in site plan layout in accordance with LCMC 17.52.060.
6. All materials and construction shall adhere to LCPW Design Standards. Submittals and testing to verify compliance with standards shall be submitted to LCPW as requested

Storm Water:

1. All new impervious paving and pollutant generating surfaces shall be treated according to LCPW Design Standards. Treatment shall be sized according to 50% of the 2-year, 24-hour rain event.
2. All increase from the existing site's total impervious area shall be detained according to LCPW Design Standards: 2-year, 10-year, 25-year, 24-hour rain event
3. A stormwater report, demonstrating proposed drainage facilities compliance with LCPW Design Standards, or (for detention) a downstream analysis demonstrating no impacts, shall be submitted with the structural permit application.

Water and Sewer:

1. The applicant/development/property owner is responsible for determining the desired fire and domestic service size and ensuring the presence of adequate flow and pressure. The applicant/developer/property owner shall be responsible for conducting any flow tests required to establish pertinent pressure and flow information. The applicant/developer/property owner shall give both Lincoln City Public Works and North Lincoln Fire & Rescue District #1 at least 48 hours advance notice of any flow testing to be performed. A water distribution staff member from Lincoln City and an applicable representative of North Lincoln Fire & Rescue District #1 shall be at the site at the time of flow testing.
2. All sanitary sewer and water construction shall adhere to LCPW Design Standards and/or applicable state or industry standards.
3. The applicant is responsible for the verification of existing private infrastructure proposed for use and/or any repairs required.
4. Any water connections, 1" or smaller requested to be completed by the city shall be noted on submitted plans with size and location. Requested work to be completed by the city shall be invoiced the standard permit fee. Water connections larger than 1" shall be completed by the applicant per the approved plans.

Right-of-Way and/or Easement Dedication:

1. Roadway, public access, stormwater, utility, and/or other easements as necessary for existing or proposed encroachment shall be dedicated for public facilities on the site and shall be noted on the approved plans. The recorded easement document shall be submitted to LCPW prior to requesting the final inspection by LCPW.
2. The applicant shall be responsible for easement and/or right-of-way coordination with ODOT.