

Development Review Staff Report, Decision, and Conditions of Approval Case File DEV REV 2022-08

Date: June 8, 2022

Case File: DEV REV 2022-08 Torrance

Project Contact: Scott Torrance

Property Owner: Tyler Torrance, LLC

Situs Address: 2204 SE Hwy 101

Location: East side of Hwy 101, approximately 310 feet north of SE 23rd Dr

Tax Map and Lot: 07-11-22-AD-01700-00

Comprehensive Plan Designation: General-Commercial District (G-C) and Planned Industrial District (P-I)

Zoning District: General Commercial (GC) Zone (western portion)
Planned Industrial (PI) Zone (eastern portion)

Site Size: 31,435 square feet

Proposal: Development of an accessory outdoor storage area

Surrounding Land Uses and Zones: North: Business; GC, PI
South: Undeveloped; GC, PI
East: Undeveloped; PI
West: Hwy 101, Business; GC

Authority: Section 17.76.040.A of the Lincoln City Municipal Code (LCMC) states that the review authority for Type II applications shall be the Planning and Community Development Director (Director). Table 17.76.020-1 of LCMC Chapter 17.76 lists development review as a Type II application with the Director listed as the review authority.

Procedure: The application was received on May 3, 2022. The application was deemed complete on May 6, 2022. On May 4, 2022, pursuant to LCMC 17.76.040.E, the Planning and Community Development Department mailed a notice of application to property owners within 250 feet of the subject property.



Applicable	LCMC Chapter 17.36 Planned Industrial (PI) Zone
Substantive	LCMC Chapter 17.52 Supplementary Regulations and Exceptions
Criteria:	LCMC Chapter 17.55 Landscaping Standards
	LCMC Section 17.76.040 Type II Procedure
	LCMC Section 17.77.070 Development Review

BACKGROUND

The subject property (site) is addressed as 2204 SE Hwy 101. The tax lot number is 07-11-22-AD-01700-00, and the assessed site size is 31,435 square feet. The site previously contained a dwelling that has been demolished. The site also contains a shed. The site's west boundary is Hwy 101. Split zoning of GC and PI borders the site to both the north and south. North of the site is developed as businesses. South of the site is undeveloped, as is east of the site.

Lincoln City's GIS mapping shows the site does not contain bluff erosion hazards, aesthetic resource, floodway, flood hazard areas, or natural resource overlay zone.

The project proposes installation of a fence and a landscape wall, placement of two outdoor storage containers to be used in conjunction with Bear Valley Nursery, and landscaping.

COMMENTS

No comments were received from the public.

Comments were received from North Lincoln Fire & Rescue District #1, via email, on May 6, 2022, noting the following requirements: 1) gate shall have a minimum unobstructed width of 12 feet and clear of overhead obstructions to 13 feet 6 inches; and 2) gate shall be equipped with Knox Box weather-resistant padlock or key switch for electric operation.

Comments were received from Oregon Department of Transportation (ODOT), via email, on May 9, 2022, noting that the application materials appear to indicate no change to highway right-of-way. The email also stated that, if the applicant proposes or the City requires any work in highway right-of-way, then the applicant will need to contact ODOT's District 4 Maintenance Permits Office to obtain a permit for any such work.

Comments from Lincoln City Public Works were received, via email, on May 13, 2022, and consisted of the following: "I only have 1 condition for this development, and it's specifically because I don't know if they plan on graveling a large area. If they do, we are concerned that the gravel will migrate down the driveway access to the roadway. Applicant has put forward the intent to use the area as a storage & intermittent access area. With this in mind, the applicant shall, at a minimum, continue the paving of the driveway apron, at least 10 feet beyond where the proposed grade break, where the grade of the vehicle access levels out. This shall prevent placed soil and/or rock from migrating down the existing, steep driveway slope and into Highway 101 in violation of LCMC 12.08."

ANALYSIS

Chapter 17.36 Planned Industrial (PI) Zone
17.36.020 Uses permitted

Finding: The site is located in the PI zone. Garden supplies and equipment, and greenhouses and nurseries are listed as a permitted use as LCMC 17.36.020.D in the PI zone. The site is an extension of Bear Valley Nursery, which is located to the north. Bear Valley Nursery is a garden supplies and equipment and nursery facility.

17.36.040 Setback requirements

A. Front Yard. The minimum front yard shall be five feet.

Finding: The submitted site plan shows that no structures are proposed within five feet of the front property line. The proposed location for the storage containers is well over five feet from the front (west) property line. This requirement is met.

B. Side, Street Side and Rear Yard. The minimum side, street side and rear yard shall be at least five feet. The side and rear yard shall be increased by one-half foot for each foot by which the building height exceeds 15 feet.

Finding: The application states that the height of the proposed storage containers is 10 feet. Accordingly, the required side and rear setbacks are 5 feet. The submitted site plan shows that the proposed location for the storage containers is well over 5 feet from the side (north and south) and rear (east) property lines. This requirement is met.

C. For special setback requirements, see Chapter 17.52 LCMC, Supplementary Regulations and Exceptions.

Finding: Compliance with special setback requirements is addressed in detail later in this staff report under Chapter 17.52.

17.36.050 Maximum building height

Maximum building height shall be 45 feet, except as provided in LCMC 17.52.190 and 17.52.200.

Finding: The project will place two storage containers on the site with a stated height of 10 feet. No other structures are proposed. This requirement is met.

17.36.060 Signs

Signs shall be allowed subject to the provisions of Chapters 9.34 and 17.72 LCMC.

Finding: This application does not propose any signs.

17.36.070 Off-street parking and loading

Off-street parking and loading shall be provided in accordance with Chapter 17.56 LCMC.

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

17.36.080 Other required conditions

A. Landscaping. Landscaping shall be provided in accordance with Chapter 17.55 LCMC.

Finding: Compliance with landscaping requirements is addressed later in this staff report.

B. All operations, activities and storage may be maintained outside a building in a side or rear yard; provided, that such storage is separated from all public streets and other property by a sight-obscuring fence, wall or vegetative hedge at least six feet in height.

Finding: The submitted site plan shows an 8-foot-tall cyclone fence in front of the storage containers and a proposed landscape wall along the front property line. Fences over 7 feet tall require a structural permit prior to erection. The application materials do not indicate if or how the proposed fence obscures sight. This can be

addressed with a condition of approval requiring demonstration of the type of sight-obscuring fencing as part of the fence's structural permitting process.

- C. Properties to be used for surface mining shall be enclosed on the boundaries by a sight-obscuring fence, wall or vegetative hedge at least six feet in height, except for reasonable areas of ingress and egress.*

Finding: The site will not be used for surface mining, so this requirement is not applicable.

- D. Restrictions. No development shall occur in the PI zone unless all city services (sewer and water) are available to serve such development.*

Finding: The site has sewer and water available in Hwy 101.

Chapter 17.52 Supplementary Regulations and Exceptions

17.52.030 Access requirement

Every lot shall abut a street, other than an alley, for at least 25 feet.

Finding: The site abuts Hwy 101 for more than 25 feet.

17.52.050 Storage in front setback area

Boats, RVs, trailers and house trailers shall not be stored in a required front setback area.

Finding: The required front setback is five feet. The project does not propose the storage of boats, RVs, trailers, or house trailers in the five-foot front setback. This requirement is met.

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 approach from Hwy 101 is existing. The submitted plans do not show the placement of any vegetation or objects in the clear-vision triangle around the existing approach.

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: It doesn't appear from the submitted materials that any service installations or connections are being made as part of the new construction of either of the storage containers. This requirement is not applicable to the project.

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.

Finding: No exterior lighting is proposed as part of the project.

17.52.160 Required setbacks – Exceptions

- A. *Architectural Features.* Architectural features such as cornices, eaves, canopies, sunshades, gutters, chimneys, flues, awnings, and bay windows not more than four feet wide or high may project up to 18 inches into a required setback area.

Finding: No architectural features projecting into a required setback area are proposed.

- B. *Accessory Structures.* A required side or rear setback may be reduced to three feet for an accessory structure, provided the structure is detached from other structures by five feet or more and does not exceed a height of one story nor an area of 200 square feet.

Finding: No accessory structures are proposed.

- C. *Fences.* Fences, which may be located within required setback areas up to the property line, may not exceed three and one-half feet from the grade of the street centerline in the required front setback area, and shall not exceed six feet in other setback areas nor conflict with requirements of a clear vision area as provided in LCMC 17.52.060 or the clear vision areas of adjacent private driveways.

Finding: The proposed 8-foot-tall fence is well over five feet from the front property line and appears to be proposed at five feet from the south side property line.

- D. *Retaining Walls.* Retaining walls may be constructed in required setback areas, subject to the following limitations:
1. *One or more retaining walls, none of which individually exceeds four feet in height, may be used, provided each successive wall is set back or stepped from the next lowest wall at least one foot for each one foot of height for that wall;*
 2. *Within side and rear building setbacks that are not adjacent to a street or right-of-way, the height of a retaining wall exposed toward the interior of the property may be allowed that is up to eight feet in height. Those exposed toward the exterior of the property shall be limited as in subsection (D)(1) of this section.*

Finding: No retaining walls are proposed. A landscape wall is proposed along the front property line, but it is less than four feet in height.

- E. *Disabled Access Facilities.* Disabled access facilities may be constructed in required setback areas as additions to existing buildings...
- F. *Bridges.* Unenclosed and uncovered pedestrian or vehicular bridges for access to a dwelling may be constructed in a required setback area. Such bridges may not have a slope up from the adjacent roadway exceeding the maximum allowed for driveways.
- G. *Porches, Decks, and Stairs.* Unenclosed and uncovered porches, decks, and stairs may be constructed in a required setback area, provided no part of the porch, deck, or stairs is more than 30 inches above the ground or otherwise requires a building permit.

Finding: A review of the submitted materials shows that there are no disabled access facilities, bridges, porches, decks, or stairs within any required setback area.

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: No solid waste containers are proposed or needed for the project.

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.*

Finding: No mechanical equipment is proposed for the storage containers.

- B. Rooftop mechanical units shall not be visible from any public right-of-way and shall not exceed the allowable building height.*

Finding: No rooftop mechanical units are proposed for the storage containers.

- 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.*

Finding: No ground-mounted mechanical units are proposed.

- D. Standpipes, meters, vaults, and similar equipment shall not be placed on a front elevation when other alternative locations exist.*

Finding: It doesn't appear that any standpipes, meters, vaults, or similar are proposed as part of the project.

17.52.190 Building height limitations

- A. No structure used for human habitation that exceeds 45 feet in height...*

Finding: The proposed structures are not for human habitation.

- B. No structure that exceeds 35 feet in height shall be permitted in a residential zone within 500 feet of any shoreline without prior approval as a Type III procedure.*

Finding: The application states that the proposed height of the storage containers is 10 feet.

- C. No structures used for human occupancy shall be permitted to exceed the building height limitations of the zones in which they are located. To ensure that this standard is met the following rules apply:*

Finding: No structures are proposed for human occupancy.

17.52.220 Tree protection and removal

Finding: The site contains mature trees. Trees in the proposed location of the storage containers and fence will be removed as part of the development. The trees are not protected, so replacement is not required.

17.52.230 Public infrastructure improvements

Finding: Public Works has reviewed the submitted application materials and provided conditions of approval that are listed at the end of the staff report as part of the decision.

17.52.300 Traffic impact study (TIS) requirements

- B. 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:*

Finding: The application does not meet the threshold for needing a TIS, and one wasn't requested by the city engineer.

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 landscape plan shows that the entire site either is already or will be landscaped where the site is not covered by buildings, structures, or impervious surfaces.

- 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 materials state the site contains approximately 15,000 square feet of live vegetation, which is more than 15% of the 31,435-square-foot site. The project's continued compliance with LCMC Chapter 17.55 will be reviewed and inspected as part of the structural permitting process

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: There isn't an off-street parking space requirement for storage sheds.

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 project does not include erection or establishment of a building with a gross floor area of 10,000 square feet or more, so loading spaces are not required.

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 has not requested use of joint off-street parking spaces.

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 garden supplies and equipment, and greenhouses and nurseries.

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

Finding: Off-street parking and loading are not required for the project, nor does the project propose installation of any off-street parking or loading spaces.

Chapter 17.74 Design Standards

17.74.020 Applicability

- A. *Zoning Districts. The provisions of this chapter apply to the multiple-unit residential (R-M), recreation commercial (RC), general commercial (GC), Nelscott plan district (NP), Taft Village core (TVC), and Oceanlake Plan district (OP) zones as follows:*

Finding: The site is located in the PI zone, so LCMC Chapter 17.74 is not applicable.

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.*

Finding: A pre-application conference is not required, nor was one held.

- 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, along with the required fee. The application was deemed complete in accordance with LCMC 17.76.110.D and E.

- 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 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.a through f. The required affidavit of mailing was prepared, pursuant to LCMC 17.76.040.E.3. The written public notice included the written comment period of 14 days.

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 throughout this staff report. Consideration of the written comments received, if any, is given at the beginning of this report.

- 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:*
 - a. *A brief description of the request;*
 - b. *A statement of the decision and the applicable approval criteria used in making the decision;*
 - c. *The street address or other easily understood geographical reference to the subject property;*
 - d. *A statement that the decision is final, unless appealed as provided in LCMC 17.76.180;*
 - e. *The requirements for filing an appeal of the decision, including a statement of the date and time by which an appeal must be filed;*
 - f. *A statement that the complete file is available for review; and*
 - g. *The name of a department staff member to contact and the telephone number where additional information may be obtained.*

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.

Chapter 17.77 Applications

17.77.070 Development review

- A. *The purpose of development review is to...*
- 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.*

Finding: The site is in the PI zone. The project proposes development of the site as an outdoor storage area as part of Bear Valley Nursery. Accordingly, development review approval is required.

- C. *Exemptions. The activities, development and construction projects listed below are exempt from development review:*

Finding: Development of the site as an outdoor storage area is not an exemption.

- D. *Procedure. Development review applications are subject to the Type II procedure as described in...*

Finding: The application is being processed as a Type II 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.

- 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: The requirements of LCMC Chapter 17.74 are not applicable to this project, so no adjustments are needed.

G. *Approval Criteria. To approve an application for development review, the review authority must find that...*

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.

H. *Conditions of Approval. Pursuant to LCMC 17.76.120, the review authority may impose...*

Finding: Conditions of approval have been imposed to ensure compliance with applicable criteria.

DECISION

Based upon an analysis of the submitted application and accompanying materials against applicable criteria, the Director concludes that all criteria have been or will be met, and thus **APPROVES WITH CONDITIONS** the development review request for development of an outdoor storage area, subject to the following conditions:

General

1. This approval notwithstanding, the applicant/property owner/developer shall be responsible for knowledge of and full compliance with all applicable city, state, and federal codes, rules, regulations, codes, rules, standards, and policies.
2. Permits shall not be issued until compliance with applicable codes, rules, regulations, standards, and policies is shown in the submitted plans that accompany the permit applications.
3. Structural permits are required pursuant to building code requirements, and a site development permit is required if/when structural permits are not required.
4. The site shall not be deployed for use until full compliance with structural permits and/or the site development permit, and all applicable codes, rules, and regulations, is demonstrated through the passing of required inspections.

Fire

1. Gates to the site shall have a minimum unobstructed width of 12 feet and be clear of overhead obstructions by at least 13 feet 6 inches.
2. Gates to the site shall be equipped with a Knox Box weather-resistant padlock or key switch for electric operation.

Public Works

1. To prevent soil and/or rock from migrating down the existing, steep driveway slope and into Hwy 101, paving of the driveway apron shall continue to at least 10 feet beyond the proposed grade break where the grade of the vehicle access levels out.

Approved by:



Anne Marie Skinner, Director
Planning and Community Development

June 14, 2022

Date