

Conditional Use Permit Staff Report for Planning Commission Public Hearing on July 5, 2022 Case File CUP 2022-04

Date: June 21, 2022

Case File: CUP 2022-04 SE Lee Pump Station

Property Owner: City of Lincoln City

Situs Address: 2010 SE Lee Ave

Location: East side of SE Lee Ave, approximately 200 feet south of SE 19th St

Tax Map and Lot: 07-11-22-AD-00100-00

**Comprehensive
Plan Designation:** High-Density Residential District (R-M)

Zoning District: Multiple-Unit Residential (R-M) Zone

Site Size: 1.64 acres

Proposal: Request to approve a conditional use permit for a pump station as part of Lincoln City's public water infrastructure system

**Surrounding
Land Uses
and Zones:**
North: Apartments; R-M
South: Church, Head Start; R-M
East: Houses, undeveloped land; R-1-7.5, Lincoln County
West: Apartments; R-M

Authority: Lincoln City Municipal Code (LCMC) 17.76.020 states that all land use applications and approvals shall be decided by using Type I, II, III, or IV procedures. The procedure types govern the decision-making process for that application. Table 17.76.020-1 in LCMC Chapter 17.76 lists a conditional use permit as a Type III procedure with the Planning Commission as the review authority.

Procedure: The application was received on May 5, 2022. The application was deemed complete on May 9, 2022. On May 16, 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 24, 2022.

**Applicable
Substantive
Criteria:**
LCMC Chapter 17.20 Multiple-Unit Residential (R-M) Zone
LCMC Section 17.76.050 Type III Procedure
LCMC Section 17.77.060 Conditional Use Permit



BACKGROUND

The subject property (site) is identified as Assessor’s Map 07-11-22-AD-00100-00 and addressed as 2010 SE Lee Ave. The site is developed with a municipal water tank (commonly referred to as the SE Lee Reservoir). The covered 2-million-gallon reservoir was constructed in 1981. The site is secured by chain link fencing around the entire perimeter, and is screened by mature vegetation around 90% of the perimeter.

The site does not contain any bluff erosion hazards, aesthetic resource, floodway, flood hazard areas, or natural resource overlays.

Apartments and residential use are to the north of the site. Head Start is to the south of the site. East of the site is undeveloped forest land that is outside of city limits and the urban growth boundary. West of the site is SE Lee Ave and west of that is a church and residential use.

The project proposes installation of a pump station at the site, in addition to the SE Lee Reservoir. The pump station comprises a 240-square-foot pump house building, new pump and associated public water infrastructure, underground power improvements to serve the pump house building, and miscellaneous site improvements. The construction of the new pump house building and accoutrements will replace an existing pump station located at the corner of SE 15th St and SE Oar Ave. The applicant’s narrative states that the SE Oar pump station is “at the tail-end of its life; the automatic transfer frequently fails to function during power outages, the mechanical equipment requires frequent maintenance, and the pump is undersized to serve full build out of the partially-developed Delake Heights Subdivision. The current pump is located in the center of the SE 15th street [sic] right-of-way. This prevents access development for the undeveloped lots off SE 15th street [sic] and the eventual through street development to SE 19th outlined in Lincoln City’s Transportation System Plan.”

COMMENTS

Comments were received from Don Kaizen, via email, on May 23, 2022. Mr. Kaizen expresses concerns with noise and potential fugitive dust during the construction process. Mr. Kaizen requests preparation of a work plan detailing a methodology for measuring noise and dust by which the contractors must abide.

Comments were received from North Lincoln Fire & Rescue District #1, via email, on May 9, 2022. The comments indicate that the security fence shall have emergency services access via Knox box, Knox box key switch for electric gates, or a Knox box padlock. The commenter also stated that there isn’t a fire hydrant accessible to the district for properties south of the proposed pump station, that 2019 Oregon Fire Code requires a fire hydrant within 400 feet of the two sites to the south, and that the commenter was advised that a fire hydrant would be incorporated as part of this project to serve the two sites to the south.

ANALYSIS

Chapter 17.20 Multiple-Unit Residential (R-M) Zone

17.20.050 Development standards

		Required	Provided
	Min. lot width (feet)	Not applicable	Not applicable
	Min. lot area (square feet)	None	Not applicable
	Min. density	Not applicable	Not applicable
	Max. building height		
a.	Primary buildings	35 feet	Not applicable
b.	Accessory buildings, structures, uses	25 feet	16 feet 11 inches

		Required	Provided
Min. building setbacks			
a.	Front porch	5 feet	Not applicable
b.	Front wall	10 feet	10 feet
c.	Side interior	10 feet	Over 10 feet
d.	Side street	10 feet	Not applicable
e.	Rear	15 feet	Over 15 feet
Min. setbacks for garage/carport entrances		Not permitted	No garages/carports proposed
Max. building coverage		$45\% = 71,002.8 \times 45\% = 31,951.26$ square feet	240 square feet
Common area		None required	None required
Vehicle storage space		None required	None required

Finding: There are no minimum lot width, lot area, or density requirements for a conditional use permit in the R-M zone. The proposed structure is a pump house to house a water pump as accessory to the city's public water system. The structure meets or exceeds the front, interior sides, and rear setback requirements. There are no street side setbacks required because the site is not a corner lot. The structure is 16 feet 11 inches in height, which is less than the allowed maximum height of 25 feet for an accessory building. The structure is 240 square feet, which is well under the maximum allowed building coverage of 31,951.26 square feet. Common area and vehicle storage space are not required for a conditional use permit. The development standards are met or not applicable.

17.20.060 Landscaping

Landscaping shall be provided in accordance with Chapter 17.55 LCMC.

Finding: Compliance with this section is discussed later in the staff report under Chapter 17.55

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: All city services are present at the site. This requirement is met.

*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. No commercial driveways are proposed. No public or private street intersections are proposed. No street intersections with commercial driveways are proposed. No intersections with Hwy 101 are proposed. The existing driveway is not considered a commercial driveway in that it is not for commercial use or use by the public. The driveway is used solely for access to the site for pump station and reservoir maintenance. The clear-vision area requirement is 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. This shall be reviewed for compliance as part of the structural permit application and construction process. This requirement is met for purposes of this application.

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 only proposed exterior lighting will be that required by the Oregon building code for the pump house building. All lighting shall be LED lighting and shall comply with the luminance and down-lighting requirements of LCMC 17.52.150. This shall be reviewed for compliance as part of the structural permitting process.

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 project does not propose any solid waste, garbage, trash, recycling, or composting receptacle storage areas, nor are any needed or required. Accordingly, no screening is required. This requirement is not applicable to this application.

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 materials indicate installation of mechanical equipment on the south side of the pump house building. The applicant states that “screening shall be provided in the form of landscaping within the 10 foot setback area outside of the noted fence. Landscape screening shall be provided in accordance with LCMC 17.55.080, Living Landscaping as Screening. Tentative plantings are Thuja “Green Giant” Shrub or Pacific Wax Myrtle planting. Screening from the south shall be provided by grading & existing vegetation.” This requirement has been met as much as it can be and will be reviewed for ultimate compliance during the final planning inspection, which will take place as part of the structural permitting process.

17.52.220 Tree protection and removal

- A. Scope. This section applies to all trees within the city wherever located.*
- B. Purpose. This purpose statement provides a general philosophy to guide the specific enforcement and implementation of provisions and criteria in this section.*
- C. Definitions.*
- D. Tree Removal Prohibitions*
 - 1. Tree removal is prohibited, except as allowed in this section. Violations of this section are enforceable as Class B violations.*
 - 2. Topping is prohibited, except where necessary for utility work or public safety, in which case it requires a tree removal permit. The burden of proof is on the applicant to demonstrate...*

3. *Removal of protected trees is prohibited. Protected trees must be maintained according to applicable tree protection plans, CC&Rs (conditions, covenants and restrictions), and other recorded agreements.*
4. *Removal of trees in wetlands that fall under the jurisdiction of state or federal government removed without concurrence from those state and/or federal agencies that have jurisdiction is prohibited.*
5. *Removal of trees as part of commercial forestry operations, as described in this section, is prohibited, and commercial forestry is not permitted, except as specifically allowed by this section.*

Finding: The site does not contain any protected trees. The project does not propose any topping of trees. The site does not contain any wetlands. No commercial forestry operations are proposed as part of the project.

E. When Tree Removal Is Allowed Without a Tree Removal Permit.

1. *Generally.*
 - a. *In all cases, removal of trees must be conducted in a manner consistent with LCMC 12.08.050(B), which regulates land-disturbing activities.*
 - b. *Removal of trees less than six inches in diameter is permitted without a tree removal permit, unless they are protected trees.*

Finding: If the site contains any trees that are less than six inches in diameter, they may be removed without a tree removal permit.

2. *Single-Family Dwellings and Duplexes or Two-Family Dwellings, and Attached Single-Family Dwellings.*

Finding: The project is not a single-family dwelling, duplex, or attached single-family dwelling, so this is not applicable to the application.

3. *Public Utilities and Public Works.*
 - a. *Removal of trees is allowed without a permit if performed by utility or city public works personnel to remove vegetation and trees that present a danger to life or property, to restore utility services, or to reopen a public thoroughfare to traffic.*
 - b. *Removal of trees is allowed without a permit if performed by city public works personnel to remove trees that are deemed nuisances under Chapter 8.12 LCMC, Nuisances, or to remove trees necessary to install or maintain improvements on parklands, streets, sewers, or utility within public owned and dedicated rights-of-way or public utility easements.*

Finding: No public utilities and public works tree removal is proposed for this project.

4. *Dangerous and Nuisance Trees.*

Finding: The submitted materials do not indicate the presence of any dangerous or nuisance trees on the site.

- F. When a Tree Removal Permit is Required. Except as allowed in subsection (E) of this section, no person shall engage in or cause land clearance or tree removal without first having obtained a tree removal permit issued by the city.*
1. *A tree removal permit may be issued only for:*
 - a. *Single-Family Dwellings, Duplexes, Two-Family Dwellings, and Attached Single-Family Dwellings.*

Finding: The project is not a single-family dwelling, duplex, or attached single-family dwelling.

b. Multifamily Dwellings, Commercial or Industrial Sites, Undeveloped

Finding: The project is not a multi-unit dwelling or commercial or industrial site. The site is developed with the SE Lee Reservoir.

- c. Sites, Trees More than 100 feet from Single-Family Dwellings and Duplexes or Two-Family Dwellings, and Attached Single-Family Dwellings on the same lot. Removal of trees is allowed with a permit for the following reasons only:*
- i. Diseased or Dead.*
 - ii. Solar Access.*
 - iii. Surveyor Access.*
 - iv. Spread of Disease, Insects and Threat of Natural Hazard.*
 - v. Selective Thinning on Open Space and Park Zoned Land.*
 - vi. Development. Removal of tree(s) for the placement of structures and other improvements, in accordance with subsection (F)(9) of this section and provided:*
 - (A) The city has approved a site plan, subdivision, planned unit development or building permit; and*
 - (B) The city has approved a tree protection plan, if required by subsection (H) of this section.*

Finding: The tree removal permit is required for development on the site. Removal of trees for the placement of structures and other improvements is allowed on a site with a tree removal permit. The project proposes the placement of a pump house building and accompanying improvements and requests permission to remove up to 30 trees to accomplish the development. The building permit will be requested once conditional use approval has been received.

- 2. Conditions. The city may place conditions on any tree removal permit as appropriate...*
- 3. Review Process. If part of a project that requires subdivision review, site plan review, or a conditional use permit, the permit for tree removal shall be processed as part of development or conditional use permit review. Other tree removal applications shall be reviewed by the director...*
- 4. Fee. The city council may adopt by resolution a fee to cover the actual or average costs of...*

Finding: No fee has been established by resolution for a tree removal permit.

- 5. Authority. The city manager or the city manager's designee, including the director of planning and community development in the case of development approval, or the public works director in the case of a public works permit, is authorized to issue, extend, enforce, and revoke a tree removal permit.*

Finding: The planning and community development director will give ultimate approval of the tree removal permit in conjunction with reviewing the building permit application.

- 6. Permit Notice and Appeal.*
 - a. The city shall provide notice of decision or hearing in conjunction with the required notice for subdivision, partition, site development review, planned development or conditional use and in accordance with Chapter 17.76 LCMC, Procedures. Notice shall not be required for other tree removal permits.*
 - b. Appeals of a tree removal permit shall be as provided...*

Finding: The required notice of the public hearing was mailed to property owners within 250 feet of the site, pursuant to Chapter 17.76.

7. *Display of Permit.*

Finding: The tree removal permit is part of the building permit and will be displayed on the site throughout construction.

8. *Duration. A tree removal permit shall be effective for 18 months from the date of approval. Upon written request...*

Finding: The applicant intends to begin construction immediately following approvals.

9. *Tree Removal for Development. Removal of tree(s) for the placement of structures and other improvements shall comply with the following:*

a. *Timing of Permit issuance.*

- i. *Building. A permit for tree removal from individual building lots shall be issued in conjunction with, and not prior to, issuance of the building permit.*

Finding: The tree removal permit will be issued by the City in conjunction with issuance of the building permit.

- ii. *Infrastructure. A tree removal permit may not be issued under this subsection for removal for installation of street, gutter, curb, sidewalk, sanitary sewer, storm sewer, and water system improvements until the city engineer has given final approval to the design of the improvements...*
- iii. *Phased Developments. For phased developments, a separate tree...*

Finding: The project will be completed in one phase, so this standard is not applicable to this application.

- b. *Tree removal shall conform to the approved tree protection and replacement plan, if required by subsection (H) of this section, and to subsection (I) of this section, Tree Protection and Replacement Plan Required.*
- c. *Revegetation. Immediately following completion of the improvements, areas disturbed by tree removal shall be revegetated in accordance with the requirements of LCMC 17.52.100(F), (G), (H), and (I).*

G. *Replacement of Trees Lawfully Removed.*

1. *Applicability. The standards of this section apply to trees removed with a permit required by subsection (F) of this section that are more than 100 feet from a building subject to development plan review, or conditional use approval, or that are removed to allow development...*

Finding: The trees proposed for removal are within 100 feet of the pump house building. Accordingly, replacement is not required.

H. *Design Modifications for Tree Retention – Design Modifications of Public Improvements.*

Finding: No design modification for tree retention are proposed.

I. *Tree Protection and Replacement Plan Required.*

1. *Applicability. Requirements of this subsection apply to any lot, parcel or combination of lots or parcels for which an application for a subdivision, site plan review, planned unit development or conditional use is filed if the proposed project will involve tree removal.*
2. *Elements of a Tree Protection Plan.*

3. *Recording of Tree Protection Plan. Approved tree protection plans shall be recorded, either separately or included in development agreements required in LCMC Titles 16 and 17 for planned unit developments (PUDs) and subdivisions.*

Finding: This is a conditional use, so the tree protection plan is required. The submitted materials included a topographic survey and tree survey. The plan notes existing trees, proposed trees for removal, proposed trees for preservation, location, size, and species of trees to be preserved. The trees to be removed are marked on the plans and will be flagged on the site prior to construction. The applicant's narrative states that the required tree protection fencing will be placed on the site prior to construction. The project is not a PUD or a subdivision, so recording a tree protection plan is not required.

17.52.230 Public infrastructure improvements

- A. *Infrastructure Easement and Improvement Requirements. The issuance of a structural permit for the addition, alteration, or repair, within any 12-month period, exceeding 50 percent of the assessed value of an existing building or structure, or for a new building or structure in connection with any permitted or conditional use within any zone as described in this title, or of a development review approval for development for which development review is required under LCMC 17.77.070, shall be subject to the following requirements:*

Finding: The project involves construction of a new structure in connection with a conditional use, so public infrastructure improvements are required. However, the site is adjacent to a fully improved street that contains sidewalk, curb, and paving. The applicant's narrative notes that the existing driveway apron does not meet the standards of the Americans with Disabilities Act and will be reconstructed as part of the project to reach compliance. The site contains existing city water and sewer services. The applicant's narrative states the following: "Drainage accommodations are being made at the back of sidewalk to direct site drainage into the city storm system. This includes a grass lined drainage swale for conveyance & water quality function. Water & sewer services are existing to the site. Additional connections are being completed to connect the proposed infrastructure upgrades to the existing system. Underground power utilities are being extended to serve the development per the submitted plans. No existing overhead utilities exist to the site." It is clear from the applicant's submitted materials that any improvements that are needed will be constructed. However, most of the public infrastructure improvements that would be required already exist.

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 plans show and the applicant's narrative states that the site is fully landscaped on all portions not covered by impervious surfaces or structures.

- 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 total site area is 1.64 acres, which equates to 71,438.4 square feet. 15% of 71,438.4 equals 10,715.76 square feet. The applicant's narrative states that 4,550 square feet of the site is existing or proposed impervious surface area from structures or paving. The remaining square footage of the site is landscaped with native, mature vegetation. The existing vegetation will be preserved, except those portions that will be removed to accommodate installation of the new pump house building. Disturbed areas not covered with impervious surfaces will be landscaped again. This requirement is met and exceeded.

- 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 total lot perimeter is 1,111 feet, which equates to a requirement of 56 trees, 112 shrubs, and 7,088 square feet of living ground cover. The site currently contains 75 trees and over 112 shrubs. The remainder of the site that is not covered with impervious surfaces contains native vegetation. The applicant's narrative provides two different numbers for tree removal – at the beginning of the narrative it states that 25 trees will be removed, but on page 10 of the narrative it states that 30 trees will be removed. Sheet C-3 of the submitted plan set shows that 30 trees will be removed. Removal of 30 trees will leave 45 trees on the site. Removal of 25 trees will leave 50 trees on the site. Compliance with landscaping standards will be reviewed during the structural permitting and inspection process.

- 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: Islands are not required for this project, so this requirement is not applicable.

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 applicant's narrative states that bare soils will either be seeded or covered with a landscaping material listed above. This requirement is met to the extent possible for purposes of this application. Confirmation of ultimate compliance with Chapter 17.55 will take place during the final planning inspection as part of the structural permitting process.

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 or noxious plants, and the applicant's narrative states that no invasive or noxious species are to be installed. This requirement is met to the extent possible for purposes of this application. Confirmation of ultimate compliance with Chapter 17.55 will take place during the final planning inspection as part of the structural permitting process.

2. *Hydro-seeding is prohibited.*

Finding: The applicant's narrative states that all seeding shall be completed by hand. This requirement is met to the extent possible for purposes of this application. Confirmation of ultimate compliance with Chapter 17.55 will take place during the final planning inspection as part of the structural permitting process.

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

Finding: The applicant must ensure that the landscape contractor selects healthy vegetation for planting. Confirmation of ultimate compliance with Chapter 17.55 will take place during the final planning inspection as part of the structural permitting process.

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 of Oregon or a landscape nursery person.

Finding: The applicant's narrative indicates that all new planting will meet the requirements of Chapter 17.55. Confirmation of ultimate compliance with Chapter 17.55 will take place during the final planning inspection as part of the structural permitting process.

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 majority of the site's landscaping is established. The applicant's narrative does not provide information regarding irrigation for establishing the proposed vegetation. As a condition of approval, the method of irrigation for establishing the proposed vegetation shall be indicated in the plans submitted with the structural permit application.

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: The submitted plans show that the clear-vision areas do not contain any proposed vegetation that will violate the rules for clear vision. Confirmation of ultimate compliance with Chapter 17.55 will take place during the final planning inspection as part of the structural permitting process.

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. The site in its present state has mature vegetative screening on the north, east, and south boundaries. Pursuant to security rules from the United States Department of Homeland Security, screening from the public right-of-way along the west boundary is prohibited.

Chapter 17.56 Off-street Parking and Loading Regulations

Finding: No off-street parking, loading spaces or bicycle parking spaces are required for construction of a pump house.

Chapter 17.74 Design Standards

Finding: The site is in the R-M zone and the project proposes construction of a building, so the provisions of Chapter 17.74 are applicable. However, the site and use are not commercial, residential, or intended for use

by the public or pedestrians. The site is intended to be secure for protection of City infrastructure. A locked, pedestrian door will be provided with pedestrian access to the existing sidewalk. Screening is provided in the form of existing mature vegetation on the north, south, and east property lines. The west property line is being partially screened by fencing and the new building. The site must remain visible from public right-of-way to ensure that security requirements for Low to Medium Security Sites are met, per United States Department of Homeland Security. These requirements preclude development of pedestrian space and pedestrian shelters. The building's wall planes facing the right-of-way are less than 800 square feet. The applicant's narrative states the following: "The building is an accessory use to the primary, water reservoir use of the property, and is cohesive with Lincoln City's other pump station building design. This construction & use falls outside of the above "Intent" section of the Building Design standards; Outside of the base development standards (including building height & setbacks) the remaining building design standards, subsections D through K, have not been included in the narrative."

Staff concurs with the applicant's assessment. The intent of the building design standards is to reflect the following community values: context-sensitive and eclectic coastal architecture; articulated building facades to break up large volumes and promote human scale; contextually appropriate materials, textures, and colors; pedestrian-scale development through ground floors made active with windows, pedestrian amenities, and furnishings; and corner buildings that serve as focal points with vertical building elements, furnishings, and/or public art. Again, this site and the pump house building are not for public use and do not want to invite the public or provide pedestrian-scale friendliness, use, or scale. Accordingly, the building design standards are simply not applicable to this project.

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.*
- 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 notice of a public hearing 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.*
3. *The failure of a property owner to receive notice does not invalidate the land use action if the notice was sent.*

Finding: The public notice of hearing contained all the information required in LCMC 17.76.050.E.2.a through i.

- 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 July 5, 2022. The public notice was mailed on May 16, 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. 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 City of Lincoln City requests conditional use permit approval to complete a pump station upgrade by replacing the failing pump station at SE Oar with the proposed new pump station at SE Lee Ave. 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 proposal 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 is in keeping with the objectives of Lincoln City's water master plan, which has been adopted as part of the comprehensive plan. 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 site is in the R-M zone and is not providing housing, but it is providing water for existing houses in the city and providing water services for new housing in the city. In this way, the project is consistent with the housing goal or the housing goal is not applicable.

The economy goal is either not applicable or is met. The project is not commercial, but construction of the project will require workers so jobs will be provided in the project's development. Additionally, structural permit fees will be assessed and collected.

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 SE Lee Ave, which is an existing street. No new streets are proposed. The site's SE Lee Ave frontage is already improved. The existing drive apron will be upgraded to meet current standards. The project does not propose any use or activity that will increase traffic or invoke a need for additional streets in the city. The transportation goal is met.

Design and construction of the structure must be in compliance with the state-adopted energy requirements. The energy goal is met.

The site does not contain any natural resources or natural hazards. The project only proposes construction of a pump house building and accompanying improvements. The environmental goal is not applicable.

The shoreland, beaches, dunes, estuary, and ocean resources goal 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 setback areas. The submitted materials indicate all landscaping requirements of Chapter 17.55 either have been or will be met. The project does not require common spaces, retaining walls, or parking and loading areas. The submitted materials show that all other features that are required are being provided, as addressed throughout this staff report.

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 SE Lee Ave. No street frontage improvements are required to the site's existing improved street frontage. No new streets are required for the project. The

project, once completed, will not generate any additional traffic since the use is not commercial, residential, or open to the public. 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 exists as a developed site containing the SE Lee Reservoir. The site contains existing mature trees and vegetation, which serves as a barrier and screening. Additional screening is not allowed due to security requirements of United States Department of Homeland Security. As presented, the project meets applicable code requirements as detailed throughout this staff report. The project is not a commercial, industrial, residential, or public project. Access to the site is limited to authorized city employees. It is highly unlikely that, once construction is completed, there will be any impact to any of the adjoining properties. The only adverse impacts expected will be minimal and will be limited to the time of construction. This impact will be mitigated with strict adherence to the city's rules for contractors and construction projects, including dust control, erosion control, and noise.

Criterion 4 is met.

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:*
 6. *Construction, alteration, or maintenance of public infrastructure including streets, traffic control devices, drainage ways, sanitary and storm sewers, storm water quality facilities, water lines, electrical power or gas distribution lines, or telephone or television cable systems;*

Finding: The proposed project is construction of a pump station building as part of water public infrastructure. Accordingly, the project is exempt from development review.

RECOMMENDATION

Staff recommends that the Planning Commission hold a public hearing on the proposed conditional use, take public testimony, close the public hearing, and deliberate. 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. As part of the structural permitting process, compliance with applicable portions of Chapters 17.52 and 17.55 shall be completed prior to Planning's final inspection of the site.

Fire

1. Security fence shall have access provided for firefighter emergency response via Knox Box key switch for electric gates or Knox Box padlock.