

FINAL ORDER 2022-08

**BEFORE THE PLANNING COMMISSION
CITY OF LINCOLN CITY, LINCOLN COUNTY, OREGON
July 19, 2022**

In the Matter of Approval of a Conditional
Use Permit Application [CUP 2022-04] for
Water Service Pump Station in a Multiple-
Unit Residential (R-M) Zone at 2010 SE Lee
Ave, Lincoln City, Oregon

)
) **FINDINGS OF FACT**
) **CONCLUSIONS OF LAW**
) **AND ORDER**

I. NATURE OF PROCEEDINGS

This matter comes before the Planning Commission for the City of Lincoln City for *de novo* consideration of a Conditional Use Permit application for a Water Service Pump Station in a Multiple-Unit Residential (R-M) Zone at 2010 SE Lee Ave, Lincoln City, Oregon.

The application materials were received on May 6, 2022, and deemed complete on May 9, 2022.

Notification of the July 5, 2022, public hearing before the Planning Commission was mailed, pursuant to Chapter 17.76, Lincoln City Municipal Code, to area property owners within 250 feet of the site on May 16, 2022. *The News Guard* published the public hearing notice on Tuesday, May 24, 2022.

On July 5, 2022, the Planning Commission conducted a public hearing and considered the oral and written testimony presented, the staff report, and the record as a whole. The hearing was closed, and the record was closed. Based on the evidence presented at the public hearing on July 5, 2022, including the staff report and all properly submitted evidence and argument, the Planning Commission voted to APPROVE the request, with conditions.

Based upon the evidence in the record, the Commission makes the following findings of fact and conclusions of law:

II. FINDINGS OF FACT

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- 1) The Nature of Proceedings (Section I) set forth above is true and correct and is specifically incorporated herein by this reference.
- 2) The subject of the above-referenced conditional use permit application is real property located within the City of Lincoln City ("City"), and described in the County Tax Assessor's maps as Tax Map 07-11-22-AD-00100-00 (Property). The street address of the Property is 2010 SE Lee Ave, Lincoln City, Oregon. The site is approximately 1.64 acres.
- 3) The Comprehensive Plan designation for the property is High-Density Residential District. The zoning classification of the site is Multiple-Unit Residential (R-M) Zone.
- 4) The surrounding Land Uses and Zoning are as follows:

North: Apartments; R-M
South: Church, Head Start; R-M
East: Houses, undeveloped land; R-1-7.5, Lincoln County
West: Apartments; R-M
- 5) The applicants are:

City of Lincoln City
PO Box 50
Lincoln City, OR 97367
- 6) The Property is owned by:

City of Lincoln City
PO Box 50
Lincoln City, OR 97367
- 7) The relevant substantive criteria include the following:

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

LCMC Section 17.76.050 Type III Procedure

LCMC Chapter 17.77.060 Conditional Use Permit
- 8) The background in the staff report is incorporated herein and is accepted as true and correct.

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III. FINDINGS APPLYING APPLICABLE CODE CRITERIA

- 1) The Planning Commission finds and determines that the relevant approval criteria are found or referenced in the Lincoln City Municipal Code, principally Title 17, Chapter 17.20 Multiple-Unit Residential (R-M) Zone and Section 17.77.060 (Conditional Uses).
- 2) Chapter 17.20 Multiple-Unit Residential (R-M) Zone Section 17.20.040.D lists government buildings as a conditional use.
- 3) Chapter 17.77 (Applications), Section 17.77.060 provides:

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;
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;
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;
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;
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.

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:

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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 outside displays and/or storage of merchandise;
11. Requiring maintenance of 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 shall be reviewed by the review authority and new conditions imposed;

18. Requirements for providing the city a performance bond with a contractual agreement to assure its share of the development of streets, curbs, gutters, sidewalks, water, sanitary sewers, storm sewers, or other necessary and essential public improvements to city standards; and/or

19. Any such other conditions that will make possible the development of the city in an orderly and efficient manner and conformity with the intent and purposes set forth in this title and the comprehensive plan.

4) The Commission finds that it has received all information necessary to make a decision based on the entire record, including the staff reports, exhibits, application materials, public hearing testimony, and other materials received. Except where conflicting findings are made herein, the Commission adopts and specifically incorporates the findings as articulated by the Planning Department staff report, as the basis for the decision on the requested conditional use permit.

5) The Planning Commission finds and determines, and adopts as its own, the following findings concerning the applicable criteria in Section 17.77.060:

1. The proposal is in compliance with the comprehensive plan;

The written staff report notes that the zoning code enacts the comprehensive plan and with compliance with the zoning code there is compliance with the comprehensive plan. As shown in the findings above, the request is in compliance with all of the required criteria from Chapter 17.20. Planning Commission finds that this criterion is met based upon the written and verbal staff reports.

2. The site for the proposed use is adequate in size and shape to accommodate the use and all yards, spaces, wall and fences, parking, loading, landscaping and other features required by this title;

The written staff report provides:

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.

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The Planning Commission finds that this criterion is met based upon the staff report and testimony from the applicants given during the public hearing.

- 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;**

The staff report provides:

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.

The Planning Commission finds that this criterion is met based upon the staff report and evidence submitted by the applicant.

- 4. The proposed use will have minimal adverse impact upon adjoining properties and the improvements thereon. In making this determination, the commission 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 bulk of buildings, walls and fences, landscaping, screening, exterior lighting and signing;**

The staff report provides:

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.

Based upon the staff report and testimony received during the public hearing, the Planning Commission finds that this criterion is met.

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- 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.**

The site is not in one of these designated areas. This criterion is not applicable.

IV. ORDER

In sum, the Planning Commission for the City of Lincoln City finds and determines that the requested Conditional Use Permit Application meets, or can meet with conditions, the approval criteria in LCMC 17.77.060.D. Accordingly, based on the above Findings of Fact and Conclusions of Law, and based upon the evidence in the whole record, the Planning Commission hereby APPROVES WITH CONDITIONS the requested Conditional Use Permit contained in CUP 2022-04.

1. Installation and continued operation of the water service pump station shall comply with all applicable city, state, and federal codes, rules, regulations, and permitting processing, and applicable building and electrical code requirements.

Lincoln City Planning Commission



Kim Blackerby, Chair

Signature authorized and approved by the full Commission this 19th day of July, 2022.