

# Property Line Adjustment Staff Report, Decision, and Conditions of Approval Case File PLA 2023-02

**Date:** February 16, 2023

**Case File:** PLA 2023-02

**Property Owners:** Shelli Renee Neal, Trustee of the Shelli Renee Neal Revocable Trust

**Situs Address:** 1540 NW 39<sup>th</sup> St  
Unaddressed

**Location:** Southeast corner of NW Jetty Ave/NW 39<sup>th</sup> St intersection

**Tax Map and Lot:** 07-11-03-DA-01000-00  
07-11-03-DA-01001-00

**Comprehensive  
Plan Designation:** Single-Family Residential District (R-5)

**Zoning District:** Single-Unit Residential (R-1-5) Zone

**Site Size:** 07-11-03-DA-01000-00 = 20,626 square feet before; 18,422 square feet after  
07-11-03-DA-01001-00 = 5,005 square feet before; 7,208 square feet after

**Proposal:** Request to adjust a common boundary between two parcels

**Surrounding  
Land Uses  
and Zones:** North: Houses; R-1-5  
South: Houses; R-1-5  
East: Houses; R -1-5  
West: Houses, Pacific Ocean; R-1-5

**Authority:** Section 16.08.180 of the Lincoln City Municipal Code (LCMC) gives the Planning and Community Development Director the authority to review the application and determine whether or not the proposed adjustment appears to comply with the provisions of Title 16 and other applicable city ordinances, and thereupon provide a notice of decision pursuant to LCMC 17.76.040.

**Procedure:** The application was received on January 30, 2023. The application was deemed complete on January 31, 2023. On February 1, 2023, 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  
Substantive  
Criteria:** LCMC Chapter 16.08 Procedure, Article III Property Line Adjustment  
LCMC Chapter 17.16 Single-Unit Residential (R-1-5) Zone  
LCMC Section 17.76.040 Type II Procedure



## **BACKGROUND**

The subject property (site) comprises two parcels. Parcel 07-11-03-DA-01000-00 is addressed as 1540 NW 39<sup>th</sup> St and contains an existing four-plex, duplex, and detached single-unit dwelling. The other parcel, 07-11-03-DA-01001-00, is unaddressed and is currently undeveloped.

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

The site is surrounded by R-1-5 zoning, primary developed as single-unit dwellings.

The parcels comprising the site are owned by the same individual. The property owner seeks to modify a common boundary between the two parcels.

## **COMMENTS**

No comments were received.

## **ANALYSIS**

### *16.08.160 Applicability*

*This procedure may be utilized, as an alternative to partition or replatting procedures, under the following circumstances:*

- A. The size, shape or configuration of two existing units (lots or parcels) of land, each of which is a legal lot or parcel, is to be modified by the relocation of a common boundary between the parcels; and*

**Finding:** Each of the tax lots that comprise the site are legal lots/parcels. The property owner seeks to modify a common boundary between the two parcels. This criterion is met.

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

**Finding:** The application consists of two legal units of land before the adjustment, and two units of land after the adjustment. This criterion is met.

- C. Adjustment of the property line shall not cause or increase any nonconformity with any applicable zoning or other requirement of the City of Lincoln City to a greater extent than prior to the adjustment.*

**Finding:** The site is located in the R-1-5 zone. There are no maximum lot size standards in the R-1-5 zone. The minimum lot size is 5,000 square feet. There are minimum setback requirements of 5 feet for single-story structures and 7 ½ feet for multi-story structures. The minimum lot width is 50 feet. The minimum lot depth is 70 feet. After the adjustment, the existing four-plex on 07-11-03-DA-01000-00 will have a 7 ½-foot setback from the new property line on 07-11-03-DA-01001-00. All other structures meet the minimum setbacks from the new property line. Both parcels will meet the minimum lot width and depth after the adjustment. This standard has been met.

### *16.08.170 City approval required*

*Any person desiring to carry out a property line adjustment shall submit to the planning and community development director an application, together with such fee as established by city council resolution. The property line adjustment application shall be upon such form as shall be approved by the planning and community development director, and shall include at least the following information:*

**Finding:** A completed application that was signed by the property owner was submitted, along with the applicable fee. This criterion is met.

- A. A legal description (by lot and block or by metes and bounds) of the units of land as they exist prior to the proposed property line adjustment, and as they would exist after the adjustment.*

**Finding:** The applicant provided legal descriptions of the units of land as they currently exist and as proposed. This criterion is met.

- B. A map (a tax map, survey, or equivalent) depicting the configuration of the units of land prior to and after the proposed adjustment. This information may be depicted on the same map.*

**Finding:** The application included a map of the site depicting the current and proposed configuration. This criterion is met.

*Chapter 17.76 Procedures  
17.76.040 Type II procedure*

- A. General Description. Type II procedures apply to administrative permits and applications. Decisions on administrative applications are made by the director, based on reasonably objective approval criteria that require only limited discretion. Type II procedures require public notice and an opportunity for appeal, but do not require a public hearing or a public meeting.*
- B. When Applicable. Table 17.76.020-1 identifies Type II applications. Applications not listed in Table 17.76.020-1 may be identified as Type II by the director based on the general description in this section.*
- C. Pre-Application Conference. A pre-application conference is not required for Type II procedures.*
- D. Application Requirements. Type II applications shall:*
- 1. Be submitted on application forms provided by the department and shall include all information, exhibits, plans, reports, and signatures requested on the application forms.*
  - 2. Be accompanied by the required fee as adopted by city council resolution.*
  - 3. Be subject to the completeness review procedure set forth in LCMC 17.76.110(D) and (E).*

**Finding:** The required application forms and materials were submitted, 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. *The failure of a property owner to receive notice does not invalidate the land use action if the notice was sent.*
4. *Public notices for receipt of complete Type II applications shall include a written comment period of 14 days from the date the notice was mailed for the submission of written comments before the decision is issued.*

**Finding:** The written public notice contained all the information required in LCMC 17.76.040(E)(2) through (4).

*F. Review Authority. The review authority for Type II applications shall be the director.*

**Finding:** The Director reviewed the submitted Type II application.

*G. Decision.*

1. *Based on the criteria and facts contained within the record, the director shall approve, approve with conditions, or deny the request. The decision shall address all relevant approval criteria and consider written comments submitted before the close of the comment period.*

**Finding:** The relevant approval criteria are addressed in detail throughout this staff 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:*

**Finding:** The Planning and Community Development Department will issue the notice of decision that shall contain all the information noted in LCMC 17.76.040(G)(3)(a) through (g).

**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 property line adjustment request, subject to the following conditions:

1. The owner of the properties involved in the property line adjustment shall prepare and record a conveyance or conveyances in accordance with ORS 92.190(4), attaching a copy of the notice of city approval.
2. The owner shall obtain a survey of the adjusted property line, monuments shall be placed, and the survey shall be filed with the county surveyor, as required by ORS 92.060(7).
3. Copies of the recorded conveyances and the recorded record of survey map shall be emailed to Planning and Community Development at [planning@lincolncity.org](mailto:planning@lincolncity.org).

Prepared by: Weston Fritz, Associate Planner

Approved by: **Anne Marie Skinner**

Digitally signed by Anne Marie Skinner  
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Anne Marie Skinner  
 Director, Planning and Community Development

Date