



Partition Staff Report, Decision, and Conditions of Approval Case File PAR 2023-01

Date: February 23, 2023

Case File: PAR 2023-01

Property Owners: KR Cinemas LLC

Site Address: 3755 SE High School Dr

Location: Northeast corner of SE High School Dr/Hwy 101 intersection

Tax Map and Lot: 07-11-27-BD-00101-00

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

Zoning District: General Commercial (GC) Zone

Site Size: 4.66 acres

Proposal: Request to divide the existing parcel into two parcels

Surrounding Land Uses and Zones:
North: Single-Unit Dwellings, Undeveloped land; NP-NBD, R-1-7.5
South: Industrial Supply, Self-storage, Commercial; PI, GC
East: Community College, Open Space; R-1-7.5, OS
West: Hwy 101, Hotels; R-C

Authority: Section 16.08.100 of the Lincoln City Municipal Code (LCMC) gives the Planning and Community Development Director the authority to review the application and determine whether the proposed minor replat or partition 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 10, 2023. The application was deemed complete on January 18, 2023. On January 11, 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 Substantive Criteria:
LCMC Chapter 16.08 Procedure, Article II Partition and Minor Replat
LCMC Chapter 17.32 General Commercial (GC) Zone
LCMC Section 17.76.040 Type II Procedure

BACKGROUND

The subject property (site) is identified as Assessor’s Map 07-11-27-BD-00101-00 and addressed as 3755 SE High School Dr. The site is the former Lincoln City Cinemas and is fully developed with a building, landscaping, and a parking lot.

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

The site is surrounded by a mixture of different land uses, including residential, commercial, industrial, and open space.

The property owners propose dividing the site into two parcels. The proposal will result in Parcel 1 of approximately 2.41 acres and Parcel 2 of approximately 2.25 acres. Parcel 1 will have frontage on SE High School Dr as its south boundary, and Parcel 2 will have frontage on SE High School Dr as the south boundary and Hwy 101 as the west boundary.

COMMENTS

No comments were received.

ANALYSIS

16.08.090 Inspection and processing fee

Finding: The property owners paid the required processing fee at the time of submitting the partition application.

16.08.100 Review and approval procedure

- A. When a proposed partition contains three or fewer parcels, the city staff may approve the partition when all of the following conditions are met:*

Finding: The application proposes to divide one parcel into two parcels. This requirement is met.

- 1. All parcels front on an existing road or street as required by LCMC 17.52.030.*

Finding: The preliminary plat shows that Parcel 1 has approximately 83 feet of frontage on SE High School Drive and Parcel 2 has well over 200 feet of frontage on SE High School Dr. This requirement is met.

- 2. No parcels have been previously partitioned from said tract during the last calendar year, calculated from the date of application*

Finding: A review of Lincoln County and Lincoln City records shows that no parcels have been partitioned within the last year. This criterion is met.

- 3. All parcels conform to the provisions of the city comprehensive plan and LCMC Title 17.*

Finding: The site is located in the GC zone. Permitted uses are listed in LCMC 17.32.020. Lot requirements are listed in LCMC 17.32.050, 17.32.060, 17.32.070, and are as follows:

Standard	Required	Parcel 1 Provided	Parcel 2 Provided	Requirement Met
Lot Area	No Minimum Required	138,085 sf	64,805	Yes

Lot Width	NA(For Drive-In Only)	235 ft	225 ft	Yes
Lot Depth	NA	499 ft	297 ft	Yes
Front Yard	0	253 ft	Not applicable	Not applicable
Side Yard	0 or 10 ft + ½ ft building over 15 ft abutting residential	East is Existing, West is 84 ft	Not applicable	Not applicable
Street Side Yard	0	Not applicable	Not applicable	Not applicable
Clear Vision	Corner Lots	Not applicable	Not applicable	Not applicable
Rear Yard	10 ft + ½ ft building over 15 ft abutting residential	Existing	Not applicable	Not applicable
Building Coverage	N/A	Not applicable	Not applicable	Not applicable

The GC zone is provided to accommodate a wide range of retail commercial uses including those which attract shoppers from a community or larger market area, as well as convenience service/retail uses and single-family residential dwelling units. Retail commercial uses are those that sell services and/or products to the ultimate consumer. Also permitted as conditional uses are low intensity fabrication uses and other limited service facilities as listed. The partition will create two parcels. No uses have been proposed. The lot requirements are met as indicated above.

Parcel 1 has an existing structure that was previously used as a movie theater. Portions of the north and east property lines of Parcel 1 are adjacent to residential zones, but since the structure is existing, the setback requirements are not applicable because the location of the north and east property lines are not changing so there will be no change to the current distance between the building and the north and east property lines. Parcel 1 will have a new west side property line. However, the setback requirement for the west side property line is 0, since it is not abutting or across the street from a residential zone. The front property line of Parcel 1 is the south property line, and it's not abutting or across the street from a residential zone, so the setback for the front property line is 0. Parcel 2 does not have any existing structures. This requirement is met.

B. An application for approval, together with required fees...

Finding: The application and required fees were submitted on January 10, 2023.

C. Upon receipt of the application for minor replat or partition, the planning and community development director shall review the application and determine whether the proposed...

Finding: This staff report comprises the review of the application and concludes with a determination of whether the proposed partition appears to comply with the provisions of Chapter 16.08 and other applicable city ordinances.

16.08.110 Required data

A. Name and address of the owner or owners of record;

Finding: The owner is identified as KR Cinemas LLC. The address is listed on the application.

B. For land adjacent to and within the parcel to be partitioned, show locations, names and existing widths of all streets and easements of way; location, width and purpose of all other existing or proposed easements; and location and size of sewer and water lines, drainage ways and power poles;

Finding: The partition plat shows the frontages and streets widths for both SE Hwy 101 and SE High School Drive. Sewer, water, storm and electricity infrastructure appears to be shown on both Public and Private property. This requirement is met.

C. Outline and location of existing buildings to remain in place within the proposed partitioning and directly adjacent;

Finding: The location of the existing structure was shown in the provided application materials.

D. Appropriate identification clearly stating the plan as a minor replat or partition.

Finding: The map is identified as a partition plat.

16.08.120 Disposition of approved tentative plans

When a tentative plan has been approved, all copies shall be marked with the date and conditions, if any, of approval.

Finding: No comment necessary.

16.08.130 Large parcels may require subdivision procedure

If the parcel of land to be partitioned exceeds five acres and is being partitioned into more than two parcels within a year, any one of which is less than one acre, full compliance with all requirements...

Finding: The subject site is 4.6 acres; therefore, this requirement is not applicable to this application.

16.08.140 Approval conditions

Approval may be conditioned upon extension or assurance of public improvements as described in LCMC 16.16.010 through 16.16.100.

Finding: No comments were received by the city engineer; therefore, this standard is not applicable.

16.08.150 Final plat – Filing – Time limit

Within two years of the tentative plan approval, the applicant shall submit to the city a final plat for the minor replat or partition that is consistent with the tentative plan and state law. A signature block...

Finding: This requirement is a condition of approval.

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 two-parcel partition request, subject to the following conditions:

1. Prior to recording the plat map, submit a draft of the plat map to Lincoln City Planning and Community Development.
2. Once Lincoln City Planning and Community Development has confirmed consistency with the approval and all conditions of approval have been met, submit the plat map to Lincoln City Planning and Community Development for signature.
3. Record the plat map within two years of the date of this decision.
4. A copy of the recorded plat map shall be emailed to planning@lincolncity.org within 30 days of the recording date.

Prepared by: Weston Fritz, Associate Planner

Approved by: **Anne Marie Skinner**

Digitally signed by Anne Marie Skinner
DN: C=US, E=askinner@lincolncity.org, O=City of Lincoln City,
OU=Planning & Community Development, CN=Anne Marie Skinner
Date: 2023.02.23 17:17:24-08'00'

Anne Marie Skinner
Director, Planning and Community Development

Date