

**Conditional Use Permit and Modification of Approved Master Plan
Revised Staff Report for Planning Commission Public Hearing on March 5, 2024
Case File CUP 2023-02**

Date: February 27, 2024

Case File: CUP 2023-02 Lincoln Palisades Phase VI

Property Owner: City of Lincoln City

Situs Address: Not addressed

Location: East of NE Wave Lane and NE 51st Loop

Tax Map and Lot: 06-11-35-CD-00100 and 06-11-35-CD-00102

Comprehensive Plan Designation: Residential Urban Low Density (RULD) (06-11-35-CD-00102)
Open Space (OS) Zone (06-11-35-CD-00100)

Zoning District: Single-unit Residential (R-1-7.5) (06-11-35-CD-00102)
Open Space (OS) Zone (06-11-35-CD-00100)

Site Size: 7.57 acres (06-11-35-CD-00102)

Proposal: Request to (1) approve a conditional use permit for extension of sanitary sewer lines in land zoned Open Space and (2) to revise to an approved planned development master plan.

Surrounding Land Uses and Zones: North: Single-unit dwellings; R-1-7.5
South: Single-unit dwellings; R-1-7.5
East: Undeveloped land; OS
West: Single-unit dwellings; R-1-7.5

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 December 22, 2023. The application was deemed complete on December 22, 2023. On January 2, 2024, 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 January 23, 2024.

Applicable Substantive Criteria: LCMC Chapter 17.43 Open Space (OS) Zone
LCMC Section 17.76.050 Type III Procedure
LCMC Section 17.77.060 Conditional Use Permit
LCMC Section 17.77.110 Modification of approved applications, plans, or conditions

BACKGROUND

The applicant, Alpha Building Ventures (ABV) is the owner and developer of property approved for development as Lincoln Palisades Phase VI. As a part of ABV's development project they will need to construct a connection to and extension of a sanitary sewer line on adjacent land owned by the City of Lincoln City. That city land is zoned Open Space (OS). In the OS zone public utilities and drainage facilities are conditional uses, so in order to be able to construct the sewer line ABV is required to obtain a conditional use permit.

ABV also proposes to modify the approved development plan for Lincoln Palisades Phase VI. As originally approved, the project was to include 32 lots in a single phase. ABV proposes to reduce the number of lots from 32 to 29 and to break the project into two phases.

Finally, ABV proposes to change how one of the roads in the development, NE 51st Loop, is supported where it goes around a gully on city open space property that contains a significant wetland. As originally proposed there were to be two "Ultrablock" retaining walls abutting the city's open space property and a stormwater quality facility that was required as a part of Lincoln Palisades Phase II. ABV proposes to replace the retaining walls and the stormwater quality facility with fill on city Open Space property.

The site is undeveloped and has no assigned address. The site does not contain any bluff erosion hazards, aesthetic resources, floodways, or flood hazard areas. It does contain a natural resource overlay in the form of a significant wetland. There is an existing sewer line that runs through the significant wetland, and this project includes a connection to this sewer line.

COMMENTS

The North Lincoln Fire and Rescue District's fire marshal commented that he had provided comments on the original proposal outlining revisions that must be made to the plan to meet the requirements of the Oregon Fire Code. He said these requirements exist to provide adequate safety and welfare for the people that will reside on these lots. He said after review of the present proposal it is obvious that the requirements were not addressed as adequate fire access does not exist. He said North Lincoln Fire and Rescue requests that all aspects of the Oregon Fire Code be followed to ensure the safety and welfare of the citizens, community, and the environment.

The North Lincoln Sanitary Service commented they are concerned about note on the drawing that says the right-of-way width varies. They said they would like to be on record that it may get too tight for on street parking on both sides of the street as well as room for us to negotiate a large truck down the street or around a corner if on street parking is allowed.

The Lincoln City Public Works Department commented as follows:

- The sanitary sewer connection proposed is sufficient, but no landscaping or slope stabilizing measures are noted within the easement area on the landscape plan.
- The slope grading is noted by the applicant as "necessary" within the submitted narrative. This is inaccurate. The road could alternatively be realigned, supported by a bridge structure, or retaining wall as was initially proposed during subdivision application. The fill slope was a proposed by the applicant to reduce construction & maintenance cost. While acceptable from an engineering perspective, the allowable use of the area remains in question and the construction plans are still not approved.
- The applicant's narrative claims that "drainage pretreatment, stormwater detention and other similar facilities" remain adequate with this conditional use proposal. This fails to mention or address the unmitigated removal of the existing storm water quality facilities, currently serving Lincoln Palisades Phase II, and the subsequent proposed construction of a fill slope within this location.

- It is likely that the stormwater drainage area proposed for grading does not have suitable soil conditions to support a roadway bank. If approved, additional geotechnical information on both existing soil conditions and proposed methods of construction would be required before the acceptability of the proposed slope construction can be assessed.
- The applicant states that native vegetation will address both visual and stability question of the area (page 8). No landscaping to support this is comment is noted within this area on the landscape plan. The planting of native trees and ground cover would both be necessary, and should be noted, in order to achieve what is outlined in the narrative.

ANALYSIS

1. Conditional Use (LCMC 17.77.060)

This part of this staff report relates to the construction of sanitary sewer lines on property owned by the City of Lincoln City and that is zoned Open Space (OS).

LCMC Chapter 17.43 Open Space (OS) Zone

LCMC Section 17.43.030 Conditional Uses

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C. Public utilities and drainage facilities.

Finding: The proposed sanitary sewer extension is an extension of an existing public utility on land located in the Open Space (OS) zone. Public utilities are conditional uses in the Open Space (OC) zone. Accordingly, the proposed sanitary sewer extension is a conditional use and requires a conditional use permit.

Chapter 17.77 Applications

17.77.060 Conditional use permit

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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.*
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, as was the required application fee. The submitted materials also included an existing conditions plan, site/landscape plan, phasing plan, and narrative.

No building plans are required for this proposal, and because none of the triggers of LCMC 17.52.300 are met, 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 applicants submitted their application on November 28, 2023. At that time the city's new comprehensive plan was not yet in effect, so this application must be judged against the comprehensive plan that was in effect at that time. 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.

Land Use Planning Goal: To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.

Finding: 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 proposed is in accordance with applicable zoning ordinance provisions. Accordingly, the request is in conformance with the planning goal.

Citizen Involvement Goal: Develop a Citizen Involvement Program (CIP) which ensures the continued participation of citizens in the land use planning process.

Finding: 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.

Public Services and Utilities Goal: To plan and develop a timely, orderly, and efficient arrangement of public facility and services which compliment [sic] the area and serve as a framework for urban and rural development.

Finding: The project involves a minor extension of the existing sanitary sewer system. The city's Public Works Department has provided recommended conditions of approval to ensure compliance with Lincoln City Public Works Design Standards. As presented and with conditions, the project conforms to the public facilities and services goal.

Urbanization Goal: To promote an orderly and efficient transition of land uses from rural to urban.

Finding: The urbanization goal is not applicable since the site is already within city limits.

Natural Hazard Goal: The City shall control development in hazardous areas to protect life and property from natural disasters and hazards.

Finding: The natural hazard goal is not applicable to the site since it does not contain any bluff hazard erosion zones, tsunami evacuation zones, or FEMA floodway or flood hazard areas.

Housing Goal: *To provide for the housing needs of all citizens.*

Finding: The project is consistent with the housing goal because it will enable development of 29 new houses on land zoned for housing.

Economy Goal: *To support the tourist industry and achieve a degree of diversity in the community which will allow a balanced economy that will, in turn, support an adequate level of services for all members of the area.*

Finding: This project is unrelated to the tourist industry. As a minor utility project it will have little direct economic impact. It is proposed in support of a housing project that will require workers so jobs will be provided in that project's development. Accordingly, the sewer project is consistent with the economic goal.

Aesthetic Goal: *To develop a livable and pleasing city which enhances man's activities while protecting the exceptional aesthetic quality of the area.*

Finding: The sewer project will have no aesthetic impacts beyond the impacts from vegetation removal, excavation, and grading. Compliance with conditions of approval regarding restoration of the site will serve to mitigate these impact, resulting in compliance with this goal.

Transportation Goal: *To provide a safe, convenient and rapid transportation network to facilitate the movement of goods and people.*

Finding: The sewer project is unrelated to the transportation goal.

Energy Goal: *To conserve energy.*

Finding: The sewer project is unrelated to the energy goal.

Overall Environmental Goal: *To achieve a balance between the need to provide housing and services and the need to protect and enhance the natural environments of the City.*

Finding: The sanitary sewer project will support the development of 29 new housing units. It will require minor and temporary disturbance of city-owned Open Space land. This is a reasonable balance between the need for housing and the need to protect the natural environment. The environmental goal is met.

Shoreland, Beaches, Dunes, Estuary, and Ocean Resources Goal: *To conserve to protect and to enhance the coastal resources of the City.*

Finding: The shoreland, beaches, dunes, estuary, and ocean resources 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 location of the proposed sanitary sewer line. The amount of land to be used for the sewer line is minor and there are no required setbacks, common spaces, retaining walls, parking and loading areas, or other such other features. If approved, the affected portions of the property will

be required to be restored and revegetated. There are no issues of adequate room relating to the proposed sewer line extension.

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 project consists simply of a sewer line extension and connection. The project by itself will not generate any traffic. There will be no streets or highways affected by the project. The housing development it relates to earlier was determined to have an adequate road system.

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 sewer extension's only adverse impact on surrounding properties will come from the visual impact of the disrupted natural vegetation on the site of the excavation for the sewer line. If the site is properly re-vegetated upon completion of the sewer line the impacts will be minor and short-lived.

Conditions of approval addressing re-vegetation of the site will result in criterion 4 being 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 or cultural attributes, but, as open space, does have scenic attributes. But since the applicant is not proposing to construct any structures as a part of this project, this requirement is not applicable. Criterion 5 is not applicable.

2. Filling on City Open Space Property.

The applicant also seeks to place fill on land, owned by the city and zoned Open Space (OS), to in order to provide earthen support for the placement of NE 51st Loop in Lincoln Palisades VI, Phase 2. LCMC 17.04.030 requires compliance with the terms of the land use zones found in LCMC Title 17. Accordingly, the first inquiry is whether a proposed use is allowed in the zone in which it is to be located.

In this case the proposed use is the placement of fill to support a street located on adjacent property. A close reading of the terms of the Open Space zone demonstrates that this activity is not among, by any reasonable reading, the permitted uses or the conditional uses allowed in the zone. The list of permitted uses in the Open Space zone as set out in LCMC 17.43.020 is as follows:

- A. Passive recreational activities such as hiking, biking on designated trails, birdwatching, picnicking, nature walks and other similar uses.
- B. Development and maintenance of trails, including pedestrian footbridges, in accordance with standards set forth in the parks master plan with a maximum width of eight feet.
- C. Educational activities and ecological research projects only if the director finds the use to be in accordance with the primary purposes of the open space zone.

- D. Natural resource restoration and enhancement projects.
- E. Interpretive displays.
- F. Removal of timber, rocks or other materials in established public use areas for purposes of public safety.
- G. Such other uses as the director determines to be in accordance with the primary purpose of the open space zone.

The only possible permitted use that might accord with the intended use is the last one, “Such other uses as the director determines to be in accordance with the primary purpose of the open space zone.” While at first look this might be an opening, the limitation to uses that are “in accordance with the primary purpose of the open space zone” eliminates this possibility. According to LCMC 17.43.010, the primary purpose of the Open Space zone is:

[T]o preserve open space for future generations, maintain water quality in lakes and streams, provide educational opportunities, protect significant and sensitive natural resource areas and enhance the city’s scenic beauty. The open space zone is intended to ensure that designated lands remain in their natural state, including reclaimed areas, by protecting such areas from development and preserving open space.

In staff’s opinion, placing fill on Open Space land to support development elsewhere is not in accordance with the primary purpose of the Open Space zone.

One other possibility is found among the listed conditional uses allowed in the Open Space zone, and in fact the applicant asserts that the proposed grading is allowed under this provision. LCMC 17.43.030 specifies the following conditional uses for this zone:

- A. Public facilities limited to a nature center and single-stall, unisexed, handicapped accessible restrooms.
- B. Public driveways and parking areas for uses permitted in this zone.
- C. Public utilities and drainage facilities.
- D. Docks, subject to the provisions of LCMC [17.44.040](#).

That possibility is located in the allowance of “public utilities and drainage facilities” if streets are considered “public utilities.” The applicant asserts that they are. But looking at the entirety of Title 17 demonstrates that streets and the grading required for them are not “public utilities.” Turning to LCMC 17.08, there is found a definition for “public utility” that specifies that “public utilities” are “telephone, electric, natural gas, telecommunication, and similar franchise facilities, and water and wastewater (sanitary sewer and storm) conveyance and treatment facilities.” Streets are not among the facilities contained in that definition, so there are no conditional uses that would apply in this case.

Since the applicant asserts that the grading for then 51st Loop falls within allowed conditional uses in the Open Space zone, and despite staff’s conclusion that it does not, we must address the conditional use criteria here.

LCMC Chapter 17.43 Open Space (OS) Zone

LCMC Section 17.43.030 Conditional Uses

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- C. Public utilities and drainage facilities.*

Finding: The proposed sanitary sewer extension is an extension of an existing public utility on land located in the Open Space (OS) zone. Public utilities are conditional uses in the Open Space (OC) zone. Accordingly, the proposed sanitary sewer extension is a conditional use and requires a conditional use permit.

Chapter 17.77 Applications
17.77.060 Conditional use permit

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E. Submittal Requirements.

- 3. 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.*
- 4. At a minimum, an application for a conditional use shall include the following:*
 - j. An application form signed by the applicant and every current property owner of record as shown on the most current recorded deed;*
 - k. Full payment of the application fee, based on the fee schedule in effect on the date of submittal;*
 - l. Existing conditions plan;*
 - m. Site plan;*
 - n. Landscape plan;*
 - o. Building elevations (for new construction);*
 - p. Phasing plan (if phasing is proposed);*
 - q. Traffic impact study pursuant to LCMC 17.52.300; and*
 - r. Narrative addressing compliance with each criterion and applicable standard.*

Finding: The completed and signed application form was submitted, as was the required application fee. The submitted materials also included an existing conditions plan, site/landscape plan, phasing plan, and narrative. No building plans are required for this proposal, and because none of the triggers of LCMC 17.52.300 are met, a traffic impact study is not required.

F. 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:

- 6. The proposal is in compliance with the comprehensive plan;*

Finding: The applicants submitted their application on November 28, 2023. At that time the city's new comprehensive plan was not yet in effect, so this application must be judged against the comprehensive plan that was in effect at that time. 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.

Land Use Planning Goal: To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.

Finding: 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 proposed is in accordance with applicable zoning ordinance provisions. Accordingly, the request is in conformance with the planning goal.

Citizen Involvement Goal: Develop a Citizen Involvement Program (CIP) which ensures the continued participation of citizens in the land use planning process.

Finding: 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.

Public Services and Utilities Goal: To plan and develop a timely, orderly, and efficient arrangement of public facility and services which compliment [sic] the area and serve as a framework for urban and rural development.

Finding: The project involves placing a structural fill on the city's Open Space property. The applicant asserts that the proposed extension of NE 51st Loop requires a structural support system and that, instead of the retaining walls on the applicant's own property as proposed in the original subdivision application, filling on the Open Space property would be more cost effective, safer, and easier to maintain. As noted by the Public Works Department's comments on the original CUP application, other alternatives are available such as realigning the road, supporting it by a bridge structure, or supporting it by a retaining wall. That may in fact be more efficient in a purely economic sense, in that it reduces construction and maintenance costs. But using someone else's property (i.e. the city's) for one's own economic benefit does not seem to be efficient in a larger sense, nor does it seem to be orderly. Moreover, placing fill on Open Space land does not appear to complement the area in that Open Space land is intended to remain undeveloped. The project does not conform to the public facilities and services goal.

Urbanization Goal: To promote an orderly and efficient transition of land uses from rural to urban.

Finding: The urbanization goal is not applicable since the site is already within city limits.

Natural Hazard Goal: The City shall control development in hazardous areas to protect life and property from natural disasters and hazards.

Finding: The natural hazard goal is not applicable to the site since it does not contain any bluff hazard erosion zones, tsunami evacuation zones, or FEMA floodway or flood hazard areas.

Housing Goal: To provide for the housing needs of all citizens.

Finding: The project is consistent with the housing goal because it will enable development of 29 new houses on land zoned for housing.

Economy Goal: To support the tourist industry and achieve a degree of diversity in the community which will allow a balanced economy that will, in turn, support an adequate level of services for all members of the area.

Finding: This project is unrelated to the tourist industry. As a minor project it will have little direct economic impact. It is proposed in support of a housing project that will require workers so jobs will be provided in that project's development. Accordingly, the project is consistent with the economic goal.

Aesthetic Goal: To develop a livable and pleasing city which enhances man's activities while protecting the exceptional aesthetic quality of the area.

Finding: The applicant has not addressed this goal. The fill project will result in a substantial amount of vegetation removal and grading on designated Open Space land. This will result in substantial aesthetic

impacts by denuding is of the established vegetation on the site. The applicant's landscaping plan does not address revegetation of the site if it were to be filled. A condition of approval regarding preparation and implementation of a restoration plan for the site that includes, among other things, placement and stabilization of appropriate amounts and types of topsoil, and planting, establishment (and, as needed, replacement), and maintenance of appropriate kinds and numbers of native plants could serve to mitigate these impacts. This may be sufficient to result in compliance with this goal.

Transportation Goal: To provide a safe, convenient and rapid transportation network to facilitate the movement of goods and people.

Finding: The applicant has not addressed this goal. The fill project would support a street that would become a part of the city's transportation network. To that extent the fill project is consistent with the transportation goal.

Energy Goal: To conserve energy.

Finding: The fill project is unrelated to the energy goal.

Overall Environmental Goal: To achieve a balance between the need to provide housing and services and the need to protect and enhance the natural environments of the City.

Finding: The fill project will support the development of 29 new housing units. The applicant asserts that it "effectively provides housing without sacrificing the natural resources in the area." In staff's opinion the fill will in fact result in the sacrifice of the natural environment of city-owned Open Space land. It is possible that the revegetation of the site as described above regarding the aesthetic impacts of the project will mitigate this sacrifice. On the other hand, the city's Public Works director has stated that, rather than the public sacrificing Open Space, if the applicant were to sacrifice one of the proposed 29 lots there would be no need for the proposed fill. In staff's opinion, given that if the applicant were to confine its project to its own land there would be no need for the filling of the Open Space land, the proposed fill does not result in a reasonable balance between the need for housing and the need to protect the natural environment. The environmental goal is not met.

Shoreland, Beaches, Dunes, Estuary, and Ocean Resources Goal: To conserve to protect and to enhance the coastal resources of the City.

Finding: The shoreland, beaches, dunes, estuary, and ocean resources is not applicable to this site since the site does not contain shoreland, beaches, dunes, or any estuary.

Criterion 1 is not met.

1. *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 location of the proposed fill. The amount of land to be used for the sewer line is minor and there are no required setbacks, common spaces, retaining walls, parking and loading areas, or other such other features. If approved, the affected portions of the property will be required to be restored and revegetated. There are no issues of adequate room relating to the proposed fill.

Criterion 2 is met.

- 2. 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 project consists of a fill intended to support a neighborhood street. The project by itself will not generate any traffic but it will contribute to development of housing along the street. The small number of housing units that the fill will enable, as few as one to six units, will not generate sufficient traffic to adversely affect the road system in the area.

Criterion 3 is met.

- 3. 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 applicant asserts that the road fill will have no visual impact on adjacent properties because it will be at ground level and will be seeded with natural ground cover. The applicant does not specify what the ground cover will be. This ignores the fact that the area proposed to be filled is fully covered with trees and understory plants and serves as wildlife habitat. Replacing an Open Space forest area with fill and some form of ground cover amounts to a significant adverse impact to the Open Space land, which extends from a substantial distance around the area proposed for filling, and to the visual quality of the area as seen from adjacent properties.

Finding: The applicant asserts that the stormwater quality facility that serves Lincoln Palisades Phase 1 and is located in the proposed road fill area will be replaced with a stormwater quality swale on lots in Phase VI. Assuming the swale is properly designed and maintained it should prevent significant water quality impacts downstream. This is especially important because the wetland that is located immediately adjacent to and downstream from the area proposed for the road fill is classified as a “significant wetland” and is to be protected from such adverse impacts.

Because the adverse effects on the city’s Open Space land from the removal of the established forest criterion 4 is not met.

- 4. 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 or cultural attributes, but, as open space, does have scenic attributes. But since the applicant is not proposing to construct any structures as a part of this project, this requirement is not applicable. Criterion 5 is not applicable.

3. Modification of Approved Applications, Plans, or Conditions of Approval (LCMC 17.77.110)

On January 18, 2022 the Planning Commission approved ABV’s application for approval of the preliminary master plan and preliminary plat for a 32-lot Planned Unit Development known as Lincoln Palisades Phase VI. ABV now wants to modify the approved plans by reducing the number of lots from 32 to 29 and by breaking the project into two phases.

LCMC 17.77.110.B specifically authorizes modification of planned developments through this modification process. The scope of review of a modification application is limited by LCMC 17.77.110.E to just the matters raised in the modification request. The approval criteria for a modification request are set out in LCMC 17.77.110.F.

F. Approval Criteria. To approve modification application, the review authority shall make findings of fact, based on evidence provided, that the following criteria are satisfied:

1. The location, size, and functional characteristics of the modified development can be made reasonably compatible with, and would have a minimal impact on, properties surrounding the subject site; and

Finding: The proposed modifications (i.e. reducing the number of lots and developing in two phases) do not change the compatibility with or impacts on surrounding properties from Lincoln Palisades Phase VI in any substantially negative way. This criterion is met.

2. New elements are provided that functionally compensate for any negative effects caused by the requested modification(s). New elements used to compensate for a negative effect shall be of at least equal value to the elements proposed to be changed.

Finding: The requested modifications do not result in any substantially negative effects. Consequently no new elements are needed to compensate for negative effects. This criterion is met.

3. The criteria in subsections (F)(1) and (F)(2) of this section shall be applied only to the area and/or lots within the development that are affected by the proposed modification.

Finding: The criteria named are applied to the entirety of Lincoln Palisades Phase VI since the requested modifications apply to the full Phase VI. This criterion is met.

4. The proposed modification shall demonstrate compliance with the approval criteria of the original application.

The proposed modifications do not change Lincoln Palisades Phase VI in any substantive manner. The proposed modification to reduce the number of lots from 32 to 29 does not change area to be included in Lincoln Palisades Phase VI. All it does is make some minor adjustments to the proposed lot lines. Otherwise everything else remains essentially the same. Similarly, the proposed modification to break Lincoln Palisades Phase VI into two smaller phases does not affect the findings made earlier. The findings made for the approval of the preliminary master plan for Lincoln Palisades Phase VI regarding compliance with the approval criteria of the original application remain true for the proposal as proposed to be modified. Those findings, are set out in the Staff Report Revised Dec 27, 2021 PUD 2021-02 SUB 2021-01, which as attached as Exhibit A and incorporated herein. This criterion is met.

RECOMMENDATION

Staff recommends that the Planning Commission hold a public hearing on the proposed conditional use and modification request, take public testimony, close the public hearing, deliberate, and determine whether the request complies with the criteria for granting approval of the request, complies with the criteria with conditions, or doesn't comply with the criteria.

Should the Planning Commission determine that the request complies with the criteria with conditions, staff suggests the following conditions of approval:

General

1. Approval of either of the conditional use permits applied for in this application does not amount to permission to enter the property of the City of Lincoln City or to perform any of the work described in the application on the city's land. Before entering onto the city's land or conducting any activity that affects the city's land the applicant/property owner must obtain permission from the city to enter onto and use the city's land and must pay any rent or other fees relating to the applicant/property owner's use of the city's land.
2. The applicant/property owner/developer shall be responsible for full compliance with all applicable city, state, and federal codes, rules, regulations, and standards.

Planning and Public Works Regarding the Sewer Extension

1. All conditions of approval contained in Lincoln City Planning Commission Final Order No. 2022-01 remain in full force and effect.
2. In installing the sanitary sewer line described in the application, the applicant/property owner must limit disturbance of the ground to the minimum practicable. In determining what the minimum practicable disturbance is the applicant/property owner shall consult with and defer to the decision of the Lincoln City Public Works Department, whose decision itself shall be based on consultations with the Lincoln City Planning & Community Development Department and the Lincoln City Parks & Recreation Department.
3. Before installing the sanitary sewer line described in the application, the applicant/property owner must prepare a grading plan and submit it to the Lincoln City Public Works Department for approval. The applicant/property owner shall not begin any land clearing, grading, or excavation for the sanitary sewer line before the Lincoln City Public Works Department has approved the plan, which approval shall be based on consultations with the Lincoln City Planning & Community Development Department and the Lincoln City Parks & Recreation Department.
4. Before installing the sanitary sewer line described in the application, the applicant/property owner must prepare a slope stabilization plan and submit it to the Lincoln City Public Works Department for approval. The applicant/property owner shall not begin any land clearing, grading, or excavation for the sanitary sewer line before the Lincoln City Public Works Department has approved the plan, which approval shall be based on consultations with the Lincoln City Planning & Community Development Department and the Lincoln City Parks & Recreation Department.
5. Before installing the sanitary sewer line described in the application, the applicant/property owner must prepare a restoration and revegetation plan and submit it to the Lincoln City Public Works Department for approval. The applicant/property owner shall not begin any land clearing, grading, or excavation for the sanitary sewer line before the Lincoln City Public Works Department has approved the plan, which approval shall be based on consultations with the Lincoln City Planning & Community Development Department and the Lincoln City Parks & Recreation Department. The restoration and revegetation plan must address, among other things, placement and stabilization of appropriate amounts and types of topsoil, and planting, establishment (and, as needed, replacement), maintenance of appropriate kinds and numbers of native plants, and prevention of the establishment of invasive such as Scotch broom.

Planning and Public Works Regarding the Road Fill

1. All conditions of approval contained in Lincoln City Planning Commission Final Order No. 2022-01 remain in full force and effect.
2. In constructing the fill described in the application, the applicant/property owner must limit disturbance of the ground to the minimum practicable. In determining what the minimum practicable disturbance is the applicant/property owner shall consult with and defer to the decision of the Lincoln

City Public Works Department, whose decision itself shall be based on consultations with the Lincoln City Planning & Community Development Department and the Lincoln City Parks & Recreation Department.

3. Before constructing the fill described in the application, the applicant/property owner must prepare a grading plan and submit it to the Lincoln City Public Works Department for approval. The applicant/property owner shall not begin any land clearing, grading, or excavation for the sanitary sewer line before the Lincoln City Public Works Department has approved the plan, which approval shall be based on consultations with the Lincoln City Planning & Community Development Department and the Lincoln City Parks & Recreation Department.
4. Before constructing the fill described in the application, the applicant/property owner must prepare a slope stabilization plan and submit it to the Lincoln City Public Works Department for approval. The applicant/property owner shall not begin any land clearing, grading, or excavation for the sanitary sewer line before the Lincoln City Public Works Department has approved the plan, which approval shall be based on consultations with the Lincoln City Planning & Community Development Department and the Lincoln City Parks & Recreation Department.
5. Before constructing the fill on the city's Open Space land the applicant/property owner must prepare a restoration and revegetation plan and submit it to the Lincoln City Public Works Department for approval. The applicant/property owner shall not begin any land clearing, grading, or excavation for the fill before the Lincoln City Public Works Department has approved the plan, which approval shall be based on consultations with the Lincoln City Planning & Community Development Department and the Lincoln City Parks & Recreation Department. The restoration and revegetation plan must address, among other things, placement and stabilization of appropriate amounts and types of topsoil; planting, establishment (and, as needed, replacement), maintenance of appropriate kinds and numbers of native plants; and prevention of the establishment of invasive such as Scotch broom.
6. Before constructing the fill described in the application, the applicant/property owner must prepare a stormwater quality plan addressing replacement of the existing stormwater quality facility on the city's Open Space land that serves Lincoln Palisades Phase I and submit it to the Lincoln City Public Works Department and obtain the department's approval.
7. The applicant/property owner must ensure that in constructing the fill described in the application no equipment of any kind is allowed to enter the wetland on the city's Open Space property.
8. The applicant/property owner must ensure that in constructing the fill described in the application no fill of any kind or amount is allowed to enter the wetland on the city's Open Space property.
9. The applicant/property owner must ensure that in constructing the fill described in the application no vegetation is removed from the wetland on the city's Open Space property.

Fire

1. The project shall meet the current Oregon Fire Code requirements for access and water supply, as reviewed by North Lincoln Fire & Rescue District #1 through the structural permitting process, and structural permits shall not be issued until compliance with the current Oregon Fire Code requirements is shown in the submitted plans.



Staff Report Planning Commission Hearing on November 16, 2021 – continued to December 7, 2021 – continued to January 4, 2022 Case File PUD 2021-02 SUB 2021-01 Lincoln Palisades Phase VI

Date: December 27, 2021

Case File: PUD 2021-02 SUB 2021-01 Lincoln Palisades Phase VI

Applicant: Steve Lindell dba Alpha Building Ventures, LLC
PO Box 688
McMinnville, OR 97128
stephenlindell6@gmail.com

Property Owner: Steve Lindell dba Alpha Building Ventures, LLC
PO Box 688
McMinnville, OR 97128

Site Address: Unaddressed

Location: Intersection of NE 51st Loop and NE Wave Lane

Tax Map and Lot: 06-11-35-CD-00102

Comprehensive Plan Designation: Medium-Density Residential District (R-7.5)

Zoning District: Single-Family Residential (R-1-7.5) Zone

Site Size: Approximately 7.57 acres

Proposal: Preliminary master plan/preliminary plat for the planned unit development/subdivision of Lincoln Palisades Phase VI, to subdivide the 7.57-acre site into 32 lots intended for construction of detached single-family dwellings

Surrounding Land Uses and Zones:
North: Single-family dwellings (Lincoln Palisades Phase V); R-1-7.5
South: Single-family dwellings (Pacific Rim Estates); R-1-7.5
East: Undeveloped (The Villages); R-1-7.5
West: Single-family dwellings (Lincoln Palisades Phase II); R-1-7.5

Public Notice: The Planning and Community Development Department mailed notice of the public hearing to the owners of all properties within 500 feet of the site on October 27, 2021. The *News Guard* published the public hearing notice on November 2, 2021. The applicant posted a notice of the public hearing on the site at least 10 days prior to November 16, 2021.

Authority:	Lincoln City Municipal Code (LCMC) 17.76.050.G states that Table 17.76.020-1 identifies the decision authority for each Type III application. Table 17.76.020-1 of LCMC Chapter 17.76 identifies a planned unit development/subdivision as a Type III application with the decision authority given to the Planning Commission.
Applicable	LCMC Title 16 Subdivisions
Substantive	LCMC Chapter 17.16 Single-Family Residential (R-1) Zone
Criteria:	LCMC Section 17.76.050 Type III Procedure LCMC Section 17.77.120 Planned Developments

BACKGROUND

The subject property (site) is undeveloped and comprises approximately 7.57 acres. The site is bordered by NE Wave Lane as its northwesterly boundary. There is a stub of NE 51st Loop in the southwesterly area of the site, and another stub of NE 51st Loop in the northwesterly portion of the site where it intersects in a tee with NE Wave Lane. The site is surrounded by single-family detached development to the north, south, and west (Lincoln Palisades Phase II, Lincoln Palisades Phase V, and Pacific Rim Estates). The area to the east of the site is undeveloped wetlands and steep slopes owned by Lincoln City.

On July 14, 2021, Alpha Building Ventures, LLC submitted the current application for preliminary plat/preliminary master plan approval of Lincoln Palisades Phase VI. The proposal is to subdivide the site's 7.57 acres into 32 lots as a planned unit development/subdivision for future construction of single-family detached dwellings. Lincoln Palisades Phase VI will be constructed in one phase and will include the dedication of the proposed streets as public street right-of-way for use by the public. No dedications to the city, and no other public dedications besides the street right-of-way, are proposed.

The scheduled and noticed public hearing for the project was held on November 16, 2021. The original staff report was presented, the applicant testified, and those in attendance that wanted to testify had the opportunity to do so. At approximately 4:30 p.m. on November 16, 2021, the applicant emailed a revised plan set. The revised plan set was forwarded to the Planning Commission, but the time between receiving the revised plan set and the start of the meeting was not sufficient enough to allow staff the time necessary to revise the staff report, the commissioners to review the revised plan set, or to afford the public with the opportunity to review the revised plan set. A request was made to continue the public hearing and keep the record open, and the applicant agreed. The public hearing was continued to December 7, 2021, and the record remained open. The applicant submitted a revised plan set on November 19, 2021, which was posted to the website for public viewing, and the staff report was updated to address the revised plan set.

The continued public hearing was held on December 7, 2021. At that hearing, the applicant proposed elimination of two of the recommended conditions of approval. The conditions involved Tracts A and B, which in the applicant's testimony were proposed to be eliminated and the lot layout reconfigured. After hearing the remainder of the applicant's testimony and the testimony of those present, the Planning Commission voted to continue the public hearing to January 4, 2022, to allow staff enough time to revise the staff report based on the applicant's proposed layout changes and the public enough time to review the applicant's proposed layout changes. The applicant submitted a revised plan set on December 17, 2021, and this staff report has been updated to reflect the revised plan set. The previously-proposed Tracts A and B have been eliminated. The plan now proposes 32 lots and no tracts. All streets will be dedicated to the public. There will be nothing that is owned in common, thus eliminating the need for a homeowners' association.

COMMENTS

The following comments were received in response to the original plan set:

Patrick Dunne emailed comments on November 2, 2021. The full text of the email and the accompanying attachments are included as part of this staff report. Mr. Dunne notes that “more roads” are needed “to ease congestion and provide quicker emergency response” and provides suggested escape routes.

The proposed project is providing the street improvements, circulation, and connectivity that is required by the code. There are two ways in and out of the development, there is circulation through the development, and both stubs of NE 51st Loop are being extended, with one of the extensions going to the eastern boundary line for future connectivity with future development of The Villages. The proposed street improvements exceed the minimum code requirement for local streets.

George (Tim) and Joyce Stoelb emailed comments on November 5, 2021. The full text of the email is included as part of this staff report. The Stoelbs questioned the minimum lot sizes, narrow road frontage, tree plantings, Tract A’s maintenance, installation of streetlights, proposed traffic controls, and safety concerns regarding evacuation.

The minimum lot size in the R-1-7.5 zone is 7,500 square feet, with a minimum width of 70 feet. Many of the proposed lots did not meet those standards in the original plan set, but lot size requirements are met in the revised plan set. The proposed streets are local streets with a 50-foot-wide right-of-way to be dedicated to the public. The proposed right-of-way width exceeds the minimum city requirement, and all proposed lots have at least 25 feet of frontage on a street. The city’s code does not provide specific requirements for tree planting in a subdivision or planned unit development. Individual lots, at the time of house construction, must be landscaped with a minimum of one tree per 150 feet of total lot perimeter, one shrub per 30 feet of total lot perimeter, and sufficient number of living ground cover plants to cover 10% of the gross area of the lot within three years of planting. The submitted tentative plan shows a proposed Tract A to the north of proposed Lot 1. Tract A is a stormwater facility to be owned and maintained by the Lincoln Palisades Phase VI homeowners’ association. Streetlights and traffic control signs will be installed by the developer as needed to be compliant with city standards for streetlights and traffic signage. The proposed project is providing the street improvements, circulation, and connectivity that is required by the code. There are two ways in and out of the development and there is circulation through the development. The proposed street improvements meet the minimum code requirement for local streets.

The following comments were received in response to the November revised plan set:

Joyce and Tim Stoelb submitted comments via email on November 28, 2021. Comments 1 and 2 pertain to covenants, conditions, and restrictions (CC&Rs). The applicant provided a copy of CC&Rs recorded for a prior phase, noting that CC&Rs will be recorded with the final plat for Lincoln Palisades Phase VI. The final draft specific to Lincoln Palisades Phase VI must be submitted with the final master plan submission. Comment 3 questions the responsibility of Tract A’s ownership and maintenance. It is standard procedure for such subdivision stormwater facilities to be owned and maintained by the homeowners’ association. Comment 4 pertains to the proposed Tract B landscaped common lot. It is standard procedure for such landscaped common lots to be owned and maintained by the homeowners’ association. Comment 5 raises concern over the proposed sidewalks. Lincoln City Municipal Code requires sidewalks. Comment 6 addresses streetlights. Requirements for streetlights are outlined in Lincoln City’s Public Works Design Standards. Comments 7, 8, 9, and 10 address traffic control, a traffic analysis, the safety of Port Lane, and evacuation routes, respectively. Lincoln City’s Public Works Design Standards, the code, and the Transportation Master Plan provide requirements for transportation safety. The project meets the requirements as presented and will be reviewed for continued compliance with the City’s review of the final engineering plans.

On December 26, 2021, Patrick Dunne emailed comments regarding the revised plan set and revised narrative that were submitted on December 17, 2021. The comments are attached to this staff report and include perceived errors in the applicant’s narrative and exhibits.

ANALYSIS

Chapter 17.16 Single-Family Residential (R-1) Zone

17.16.070 Lot requirements

The map designations R-1-5, R-1-7.5, and R-1-10 create separate single-family residential zoning classifications as though separately listed in LCMC 17.12.010. Lot requirements for the zoning classifications designated on the zoning map shall be as follows:

REQUIRED MINIMUMS								
<i>Zone</i>	<i>Lot Area</i>	<i>Lot Width</i>	<i>Lot Depth</i>	<i>Front Yard⁽³⁾</i>	<i>Side Yard</i>	<i>Street Side Yard⁽³⁾</i>	<i>Rear Yard</i>	<i>Maximum Lot Coverage⁽⁵⁾</i>
<i>R-1-5</i>	<i>5,000 sq. ft.; 8,000 for duplex or two-family</i>	<i>50' detached; 35' attached</i>	<i>70'</i>	<i>5⁽¹⁾ 7-1/2⁽²⁾</i>	<i>5⁽¹⁾ 7-1/2⁽²⁾ or 0' for common wall of attached dwellings</i>	<i>5⁽¹⁾ 7-1/2⁽²⁾</i>	<i>5⁽¹⁾ 7- 1/2⁽²⁾</i>	<i>35%⁽⁴⁾</i>
<i>R-1-7.5</i>	<i>7,500 sq. ft.; 8,000 for duplex or two-family</i>	<i>70' detached; 35' attached</i>	<i>80'</i>	<i>same as above</i>				<i>35%⁽⁴⁾</i>
<i>R-1-10</i>	<i>10,000 sq. ft.</i>	<i>80'</i>	<i>80'</i>	<i>same as above</i>				<i>35%⁽⁴⁾</i>

Finding: The site is in the R-1-7.5 zone, which has a minimum lot area requirement of 7,500 square feet for lots for detached dwellings, with a minimum lot depth requirement of 70 feet for detached dwellings and a minimum lot width requirement of 80 feet. The application proposes 32 lots ranging in area from 7,500 to 16,106 square feet. The minimum lot size requirement is met. The minimum lot width is 70 feet. A review of the submitted materials shows that all the proposed lots are at least 70 feet wide. A review of the submitted materials shows that all the lots meet the minimum depth requirement of 80 feet. The required minimum lot size, width, and depth standards are met.

Setbacks and minimum lot coverage are not applicable for this application since the application does not include any building permit applications. Setbacks and maximum lot coverage will be reviewed on a house-by-house basis during the review of the building permit application, once submitted.

17.16.075 Landscaping

Finding: Landscaping for the individual lots will be reviewed on a house-by-house basis during the review of the building permit application, once submitted. Chapter 17.16 does not have a landscaping requirement for the development as a whole. Landscaping for the overall planned unit development is discussed later in the staff report under Section 17.77.120.

17.16.080 Signs

Finding: The application does not propose any signs.

17.16.090 Off-street parking and loading

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

Finding: This is an application for planned unit development/subdivision preliminary plan approval. No building permit applications are included. When the building permit applications are submitted, they will be reviewed for compliance with the off-street parking requirement for a single-family detached dwelling on an individual lot. Building permits will not be issued unless the permit applications demonstrate compliance with the off-street parking requirements.

17.16.100 Other required conditions

All single-family dwellings (site-built, modular and manufactured homes) to be constructed or located in residential zones shall use at least two of the following design features to provide visual relief along the front of the home:

Finding: This is an application for planned unit development/subdivision preliminary plan approval. No building permit applications are included. When the building permit applications are submitted, they will be reviewed for compliance with the required design features. Building permits will not be issued unless the permit applications demonstrate compliance with the design feature requirements.

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 the 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 on July 14, 2021, along with the required fee. The application was deemed complete on September 29, 2021, 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 complete 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;*
- 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 applicant, the department shall also provide notice to the Oregon Department of Land Conservation and Development.*

Finding: The Planning and Community Development Department mailed the notice of public hearing to the parties noted in LCMC 17.76.050.E.1.a through d on October 27, 2021. Property owners of record within 500 feet of the perimeter property line, rather than 250 feet, were notified as required by LCMC Title 16.

- 2. *The notice of public hearing provided 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; and*
 - 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.*

F. *Public notices for Type III applications shall be mailed a minimum of 20 days prior to the first evidentiary public hearing.*

Finding: The notice of the public hearing on November 16, 2021, was mailed on October 27, 2021, by city staff. The notice contained all the required elements. At the public hearing on November 16, 2021, the public hearing was continued to a date and time certain of December 7, 2021, at 6:00 p.m. At the public hearing on December 7, 2021, the public hearing was continued to a date and time certain of January 4, 2022, at 6:00 p.m.

G. *Decision Authority. Table 17.76.020-1 identifies the decision authority for each Type III application.*

Finding: Table 17.76.020-1 identifies the Planning Commission as the decision authority for a planned unit development/subdivision application.

Chapter 17.77 Applications

17.77.120 Planned development

- A. *Purpose. It is the purpose of this section to allow master planned developments in any residential or commercial zone, or any combination of them, and, in doing so, to allow a more flexible approach to land development than that which is normally accomplished through the subdivision and zoning*

ordinances of the city. The planned development approach is intended to provide more desirable environments by encouraging creative site planning and building designs; to make possible greater diversification between buildings and open spaces; and to conserve land and minimize development costs. In addition to the uses allowed in residential zones, the planned development approach may allow certain commercial uses subject to the specific limitations of this section.

Finding: The site is in the R-1-7.5 zone, which is a residential zone. The revised plan set submitted on December 17, 2021, meets all the minimum lot size requirements. The applicant is not asking for any deviations from the minimum code requirements.

B. Allowable Density. The allowable residential density in a planned development that meets only the minimum planned development standards is the “maximum base residential density” and shall be determined in the following manner:

1. Determine the gross square footage of the project site.

Finding: The gross square footage of the site is 329,749.2 (7.57 acres).

2. Subtract from the gross square footage the square footage of any areas proposed for nonresidential development, including commercial uses, places of worship, schools, and public buildings and their associated parking areas and grounds (including required yards and landscaping areas). The result is the “preliminary gross residential areas.”

Finding: The project does not propose any nonresidential development, so the preliminary gross residential area is 329,749.2 square feet.

3. Subtract from the preliminary gross residential area the square footage of any areas of significant natural resources as identified in the comprehensive plan. The result is the “final net residential area.”

Finding: The comprehensive plan identifies significant wetlands bordering the site’s north and south boundaries, and these are depicted on the applicant’s submitted Sheet 2.0. The significant wetlands are not on the subject site, so there is nothing to subtract from the preliminary gross residential area. This leaves the final gross residential area at 329,749.2 square feet.

4. Multiply the final gross residential area by 0.83. The result is the “final net residential area.”

Finding: 329,749.2 multiplied by 0.83 equals 273,691.8 as the final net residential area.

5. Divide the final net residential area by the minimum lot size of the underlying zone. The result is the “maximum base residential density” expressed in dwelling units. Any number not a whole number shall be rounded down to a whole number.

Finding: 273,691.8 divided by 7,500 (minimum lot size of the R-1-7.5 zone) equals 36.5, which rounds down to 36. The maximum number of dwelling units allowed is 36. The number proposed by the applicant is 32 lots. The number proposed is four less than what is allowed; therefore, the residential density requirement is met.

C. Residential Density Bonuses.

Finding: The application does not propose any residential density bonuses.

D. Affordable Housing Bonus. An additional density bonus...

Finding: The application does not propose any affordable housing bonus.

E. Large-Scale, Mixed Use Planned Developments. This subsection sets forth special...

Finding: At 7.57 acres, the site does not meet the minimum 100-acre criterion for a large-scale, mixed-use planned development, and no large-scale, mixed-use development is proposed.

F. Preliminary Master Plan Application. The preliminary master plan, which must include a drawing showing the layout of the proposed planned development, must contain the following information:

1. *Proposed name of the planned development;*

Finding: The submitted plan set identifies the proposed name of the planned development as Lincoln Palisades Phase VI.

2. *Date, north point and scale of drawing;*

Finding: The submitted plan set provides a date, north arrow, and scale.

3. *Appropriate identification clearly stating that the drawing is a preliminary planned development master plan;*

Finding: Sheet 1.0 of the submitted plan set identifies the drawing set as the preliminary master plan for Lincoln Palisades Phase VI.

4. *Location of the planned development by section, township and range; a legal description sufficient to define the location and boundaries of the proposed planned development tract; and the tract designation or other description according to the real estate records of the county assessor;*

Finding: The section, township, range, and tract designation is provided on Sheet 1.0 of the applicant's submitted plan set.

5. *A vicinity sketch map at a scale of one inch equals 400 feet showing adjacent property boundaries and land uses;*

Finding: The required vicinity sketch map is shown on Sheet 1.0 of the applicant's submitted plan set.

6. *The following:*

- a. *Location, widths and names of all existing streets or other public ways within or abutting the planned unit development;*
- b. *Contour lines having the following minimum intervals:*
- c. *Location of at least one temporary benchmark within the planned unit development boundaries or the source of the contour line data shown...;*
- d. *Location and direction of all water courses and natural features such as rock outcroppings, marshes and wooded areas, and the approximate locations of trees or stands of trees having a trunk...The plan must identify those water courses, natural features and areas of trees meeting the described criteria which are to remain and those which may be altered or removed;*
- e. *Proposed streets, including location, widths and approximate radii or curves;*

- f. *Location of existing and proposed easements on the site or abutting property, showing the width and purpose of each easement;*
- g. *The types of housing proposed within the planned development, the approximate location or locations for each type of housing, and the approximate housing density proposed at each location;*
- h. *Site, if any, allocated for:*
- i. *Area coverage of existing and proposed structures, lots, streets or other development.*

Finding: Sheet 2.0 of the applicant’s submitted plan set shows all existing conditions, including the location, widths, and names of existing streets; contour lines; and the location and direction of water courses and natural features. Existing trees are also shown, with indications of those to be removed and those to remain. Proposed streets are shown on Sheet 3.0 of the applicant’s submitted plan set. The source of the contour line data is noted on Sheet 1.0 of the applicant’s submitted plan set. Sheet 1.0 of the plan set also notes that 32 lots are proposed for single-family detached dwellings. Proposed easements are shown on Sheet 3.0 of the submitted plan set.

G. Supplemental Preliminary Master Plan Information. The applicant also shall submit the following information to supplement the preliminary master plan. This information can be submitted in separate statements accompanying the preliminary master plan:

- 1. *Proposed restrictions to be filed in the county deed records, in outline form, such as...*

Finding: The applicant’s submitted materials include proposed restrictions for Lincoln Palisades Phase VI that were initially recorded to govern Lincoln Palisades Phase II. The applicant’s narrative states that they “will also be recorded for the final plat for Lincoln Palisades Phase VI.” The final set to be recorded for Lincoln Palisades Phase VI must be included with the final master plan application, and this will be a condition of approval.

- 2. *Approximate locations and anticipated grades of all streets. Typical cross-sections of the proposed streets showing widths of roadways, curbs, location and widths of sidewalks and the location and size of utility mains;*

Finding: Sheet 4.0 provides the utility layout plan for the project. Sheets 4.1 through 4.5 detail the streets, street grades, and typical cross-sections for the proposed streets. Final engineering drawings that will be submitted as part of the final approval will be reviewed by staff for compliance with Lincoln City’s engineering design standards.

- 3. *Approximate plan of proposed sanitary sewers, storm drains, storm water detention and drainage pretreatment facilities and the water distribution system;*

Finding: Sheet 4.0 of the submitted plan set provides the utility layout plan for the project. Final engineering drawings that will be submitted as part of the final approval will be reviewed by staff for compliance with Lincoln City’s engineering design standards.

- 4. *A general description of the property intended to be dedicated to the city or public, other than street rights-of-way, including proposed dedication restrictions;*

Finding: The submitted plan set shows no dedication of property to the city. The streets are shown as being dedicated to the public as public right-of-way, and the applicant’s narrative states that approximately 1.3 acres of the site will be dedicated as public right-of-way for streets. There are no code requirements for dedication

to the city or the public, just the requirement to provide a general description of any intended dedications other than street rights-of-way.

5. *A description of any residential density bonus...*

Finding: The applicant is not requesting any residential density bonuses, so this requirement is not applicable.

6. *Proposed number of residential units;*

Finding: The applicant proposes 32 lots for the future construction of 32 single-family detached dwellings. This is stated in the applicant's narrative in the project description and reflected on the submitted plan set. This requirement is met.

7. *An approximate tabulation of all dwelling units by type;*

Finding: As noted on Sheet 1.0 of the submitted plan set, the project proposes 32 lots for single-family parcels. The applicant's narrative also states that the site will be "divided into 32 lots for detached, single-family dwellings." This requirement is met.

8. *A narrative description of the planned development and the manner in which it meets the purpose set out in subsection (A) of this section;*

Finding: The submitted materials from the applicant included a narrative description of the project, with an explanation of how the project meets the purpose of a planned unit development. The applicant's narrative states the following:

"The purpose of Lincoln Palisades Phase VI is to utilize the flexible approach granted to development by the Planned Unit Development (PUD) process to provide detached, single-family housing to the City of Lincoln City. The subject parcel was created by partition in 2015 (Exhibit D). This partition divided the upland buildable area from the steep slopes and wetlands nearby. The result was a clear delineation between buildable land and preserved natural features. Because of the creative site planning and design permitted through a PUD, the proposed development can efficiently use the buildable land created by this partition. The proposed preliminary master plan complies with the purpose statement of LCMC 17.77.120 Planned Unit Development."

Staff confirmed that the partition in 2015 that divided the buildable area from the steep slopes and wetlands, with subsequent dedication to Lincoln City, did occur. Preserving natural resources and separating out the buildable land from those preserved natural resources is the very intent of the planned unit development. In this instance, not only has the buildable land been separated from the preserved natural resources, but those preserved natural resources were dedicated to Lincoln City and the proposed development still meets all the code requirements, including lot size, without requesting any of the flexibility that is allowed through the planned unit development process. This project meets the purpose of the planned unit development.

9. *A statement describing the present and proposed ownership;*

Finding: The applicant's narrative describes the present ownership as Alpha Building Ventures, LLC. The narrative states that Alpha Building Ventures, LLC will continue to own the site throughout the entitlement process, noting that Alpha Building Ventures, LLC might develop individual lots or sell lots to others for development. The required information is present in the application.

10. A preliminary landscape plan, covering both areas to retain undisturbed, their natural vegetation and areas to be relandscaped;

Finding: The submitted plan set includes Sheet 3.1 (Preliminary Landscape Plan & Tree Inventory) and Sheet 3.2 (Preliminary Landscape Plan & Tree Inventory Notes). The required information is present in the application.

11. A circulation plan and traffic impact analysis identifying likely circulation patterns for and traffic impacts from traffic generated by the development including patterns and impacts within the development, in the area surrounding the development, and in other affected areas of the city;

Finding: The applicant's narrative provides traffic impact and trip generation information. A full traffic impact analysis was performed for all six phases of Lincoln Palisades in 2013 by Access Engineering. The development of the planned-for lots in Lincoln Palisades Phase VI does not warrant a new traffic impact analysis, since the proposed lots were accounted for in the 2013 analysis. Additionally, LCMC 17.52.300 outlines when a traffic impact analysis is required, and the code does not require a traffic impact analysis for this 32-lot project. Trip generation numbers were updated and provided by the applicant in the narrative. Trip generation for 32 single-family detached dwellings, as per the Ninth Edition of the Institute of Transportation Engineers Trip Generation Manual, is 40 PM peak hour trips. The addition of 40 PM peak hour trips does not trigger any requirements for improvements other than those proposed with the new public streets and traffic control signage.

Sheet 3.0 of the submitted site plan shows the circulation plan for the project with the northerly NE 51st Loop stub extending to the eastern portion of the site and ending in a cul-de-sac as required by Lincoln City Public Works. The southerly NE 51st Loop stub extends to the east and then north as Street A, where it connects to the extended northerly NE 51st Loop. The proposed street layout provides two-way traffic circulation to all the new lots, excepting Lots 1 and 2 which will access from the existing NE Wave Lane, and Lot 3, which can access from either NE Wave Lane or NE 51st Loop. The new streets will be dedicated to the public with 50 feet of right-of-way, which meets the city's standards for local streets. The new street layout also provides two ways in and out of the project.

The requirement for traffic information is met.

12. A statement whether the applicant proposes to submit the final master plan for review as a single master plan or in phases; a statement of the date or dates by which the applicant proposes to submit the final master plan or final master plan phases for review; and a statement of the date or dates by which the applicant anticipates that the development and related improvements or each phase thereof will be substantially completed;

Finding: This required information is present in the applicant's narrative, which notes that the final master plan will be submitted as a single phase at the earliest opportunity. This requirement is met.

13. A tree maintenance and protection plan, which shall contain the following information:

Finding: Sheets 3.1 and 3.2 of the applicant's submitted plan set provide the preliminary landscape and tree plan. Sheet 3.2 lists the six existing trees on the site, but does not provide details on their condition other than noting Tree 1373 splits at the base into two trunks. The legend on Sheet 3.1 has a symbol for "existing tree to be removed" and one for "existing tree to be protected." However, it doesn't appear that either of those symbols are present on the plan itself shown on Sheet 3.1.

The three existing red alder trees are located within the area of the proposed sidewalk, so staff assumes these three red alder trees will be removed. Tree 5158 is in the northeast corner of what is shown as proposed Lot 4 on Sheet 3.1. Without indication of Tree 5158 being non-viable and unhealthy or being able to be protected sufficiently during construction to remain healthy and viable, Tree 5158 needs to be shown as being preserved on the final landscape and tree plan. Tree 1373, along with being noted as having a split base into two trunks, is also located in the middle of proposed Lot 33 as shown on Sheet 3.1. Its location precludes building of a structure on Lot 30, so Tree 1373 needs to be shown as being removed on the final landscape and tree plan. Tree 1374 needs to be protected and preserved since it appears to be a healthy and viable tree. If the applicant provides evidence from the arborist that Tree 1374 is not healthy or viable and/or cannot be sufficiently protected during construction to remain viable, then that information needs to be included the final tree maintenance and protection plan with an indication that Tree 1374 will be removed.

As a condition of approval, the application materials submitted for the final master plan shall include a final tree maintenance and protection plan that very clearly depicts the location and identification of all six of the site's existing trees, the removal of the site's three red alder trees, the removal of Tree 1373, and the protection of Trees 1374 and 5158. In lieu of depicting Trees 1374 and 5158 as protected trees, the applicant shall submit information from the arborist showing to staff's satisfaction that either or both trees are not healthy and viable and/or that they cannot be sufficiently protected during construction to remain viable.

H. Consideration of Preliminary Master Plan. Preliminary master plans shall be processed as a Type III procedure as set forth in LCMC 17.76.050. The planning commission's consideration of the preliminary master plan shall be subject to the following:

Finding: The application for preliminary master plan approval is being processed as a Type III procedure as set forth in LCMC 17.76.050.

- 1. The planning commission shall approve, or approve with conditions, the plan if it finds that the plan, either as submitted or with conditions, meets all of the following criteria. The planning commission shall disapprove the plan if it finds that the plan, either as submitted or with conditions, does not meet any one or more of the following criteria:*
 - a. The proposed planned development will be substantially compatible with existing development in the surrounding area; and undeveloped land in the surrounding area can be developed in a manner substantially compatible with the proposed planned development.*

Finding: The existing development in the surrounding area is single-family detached dwellings. Specifically, the site is bordered by future platted lots for future dwellings to the north (Lincoln Palisades Phase V) and existing platted lots and dwellings to the south (Pacific Rim Estates) and west (Lincoln Palisades Phase II). The area immediately adjacent to the east is owned by Lincoln City and there are no plans to develop this open space area. The proposed use of single-family detached dwellings is consistent with the existing and future use of single-family detached dwellings in the surrounding area, and the proposed lot sizes are also consistent with the surrounding area. This requirement is met.

- b. Construction of the planned development can be accomplished in a manner that does not create unreasonable negative impacts on the area surrounding the development or in the city. In order to assure the avoidance or mitigation of negative construction impacts on the area surrounding the development or in the city, the planning commission may impose conditions including but not limited to:*
 - i. Requirements that removal of landscaping during construction be limited to areas of the planned development to be constructed shortly following removal and to portions of those areas on which construction will occur;*

- ii. *Prohibitions of open burning on the site during construction;*
- iii. *Prohibitions or limitations on construction track-out;*
- iv. *Restrictions on construction noise; and*
- v. *Restrictions on construction traffic.*

Finding: Lincoln City Municipal Code (LCMC) provides safeguards to prevent unreasonable negative impacts on surrounding areas during construction. The adopted provisions include:

- LCMC 8.08.020 which prohibits the outdoor burning of construction waste
- LCMC 8.12.040 which requires authorized construction projects to apply reasonable safeguards to avoid creating attractive nuisances
- LCMC 9.10.030 which prohibits sound exceeding 50 dBA as measured at the property boundary between 7:00 PM and 7:00 AM
- LCMC 9.10.040 which exempts construction activities from sound limitations between the hours of 7:00 AM and 7:00 PM
- LCMC Chapter 12.08 which mandates installation and maintenance of city-approved erosion control measures by contractors
- LCMC 12.12.090 which requires that all work undertaken, including but not limited to excavation, backfilling, surface restoration, protection of utilities, traffic control, safety precautions, noise and dust control and cleanup, shall all be approved by the city.
- LCMC 17.52.220.F.1.b.vi requires that the project has received approval prior to tree removal.

Regarding the removal of landscape during construction, Sheets 3.1 and 3.2 of the applicant's submitted plan set provide the preliminary landscape and tree plan. Sheet 3.2 lists the six existing trees on the site, but does not provide details on their condition other than noting Tree 1373 splits at the base into two trunks. The legend on Sheet 3.1 has a symbol for "existing tree to be removed" and one for "existing tree to be protected." However, it doesn't appear that either of those symbols are present on the plan itself shown on Sheet 3.1.

The three existing red alder trees are located within the area of the proposed sidewalk, so staff assumes these three red alder trees will be removed. Tree 5158 is in the northeast corner of what is shown as proposed Lot 4 on Sheet 3.1. Without indication of Tree 5158 being non-viable and unhealthy or being able to be protected sufficiently during construction to remain healthy and viable, Tree 5158 needs to be shown as being preserved on the final landscape and tree plan. Tree 1373, along with being noted as having a split base into two trunks, is also located in the middle of proposed Lot 33 as shown on Sheet 3.1. Its location precludes building of a structure on Lot 30, so Tree 1373 needs to be shown as being removed on the final landscape and tree plan. Tree 1374 needs to be protected and preserved since it appears to be a healthy and viable tree. If the applicant provides evidence from the arborist that Tree 1374 is not healthy or viable and/or cannot be sufficiently protected during construction to remain viable, then that information needs to be included the final tree maintenance and protection plan with an indication that Tree 1374 will be removed.

As a condition of approval, the application materials submitted for the final master plan shall include a final tree maintenance and protection plan that very clearly depicts the location and identification of all six of the site's existing trees, the removal of the site's three red alder trees, the removal of Tree 1373, and the protection of Trees 1374 and 5158. In lieu of depicting Trees 1374 and 5158 as protected trees, the applicant shall submit information from the arborist showing to staff's satisfaction that either or both trees are not healthy and viable and/or that they cannot be sufficiently protected during construction to remain viable.

The adopted LCMC provisions provide enough protection from unreasonable negative impacts from construction that along with the condition of approval regarding tree protection, additional conditions of approval for additional safeguards are not warranted.

- c. *The development will not create unreasonable negative impacts on the area surrounding the development or in the city. In order to assure the avoidance or mitigation of negative impacts, the review authority may require the filing of restrictions in the county deed records including but not limited to restrictions:*
- i. *Prohibiting the removal of specified landscaping; and*
 - ii. *Prohibiting open burning during construction.*

Finding: LCMC 8.08.020 prohibits the outdoor burning of construction waste. No additional restrictions are necessary regarding open burning during construction.

The site does not contain any significant or protected vegetation that needs to be preserved. The applicant submitted a landscaping plan showing proposed future plantings.

- d. *Street, water, sewer, drainage and drainage pretreatment, storm water detention, and other similar facilities in the area surrounding the development and in the city are or will be adequate to provide for the health, safety and welfare for the development's population densities and the type of development proposed, taking into consideration existing and projected future demands on those facilities.*

Finding: The Public Works Department reviewed the submitted preliminary plans and found that, with the conditions listed at the end of the staff report, the proposed facilities are adequate to provide for the health, safety, and welfare of the inhabitants of the 32 future single-family dwellings.

- e. *Street, water, sewer, drainage and drainage pretreatment, storm water detention and other similar facilities proposed to be constructed as part of the development are adequate to provide for the health, safety and welfare for the population densities and the type of development proposed.*

Finding: The Public Works Department reviewed the submitted preliminary plans and found that, with the conditions listed at the end of the staff report, the proposed facilities are adequate to provide for the health, safety, and welfare of the inhabitants of the 32 future single-family dwellings.

- f. *The proposed number of residential units does not exceed the maximum permitted number of residential units, and at least 15 percent of the gross area is dedicated to landscaping. For the purposes of computing area dedicated to landscaping, dedicated open space and protected resource areas may be treated as area dedicated to landscaping, but parking areas may not.*

Finding: The project proposes 32 lots for the future construction of a single-family detached dwelling on each lot. As detailed earlier in this staff report, the maximum permitted number of residential units is 36 and 32 units are being proposed. This requirement is met.

The submitted landscape plan shows proposed landscaping for the site. Additionally, over 14 acres of land was dedicated to Lincoln City as part of the 2015 partition in anticipation of the remaining phases of Lincoln Palisades. Pursuant to the code's "for the purposes of computing area dedicated to landscaping, dedicated open space..." and given the previous 2015 open space dedication to the city, the landscaping requirement has been met.

2. *The planning commission, in approving a preliminary master plan, may attach conditions it finds are necessary or appropriate to carry out the purposes of this title.*

Finding: Recommended conditions that are necessary and appropriate to carry out the purposes of LCMC Title 17 are listed at the end of the staff report.

Title 16 Subdivisions

Chapter 16.08 Procedure

16.08.210 Inspection and processing fee

A subdivision inspection and processing fee shall be submitted as established by city council resolution.

Finding: The required subdivision inspection and process fee was paid in full on July 14, 2021.

16.08.220 Tentative Plan – Submission

Finding: The tentative plan was filed with the Planning & Community Development Department on July 14, 2021. The application was deemed complete on September 29, 2021, and the public hearing was scheduled for November 16, 2021. Staff noticed the public hearing date with a 500-foot radius notification area, and in the local publication, the *News Guard* as required by Title 16.

16.08.240 Tentative plan – Approval

- A. The planning commission will review the plan and the reports of the agencies listed above and shall give tentative approval of the plan in its preliminary form, as submitted, or as it may be modified. If disapproved, the planning commission shall express its disapproval and its reasons therefor in writing. The applicant may appeal such decisions to the city council in accordance with LCMC 16.20.020.*

Finding: The public hearing where the Planning Commission will review the submitted materials and all received comments was held on November 16, 2021. On that date, the public hearing was continued to a date certain of December 7, 2021. On December 7, 2021, the public hearing was continued to 6:00 p.m. on January 4, 2022.

- B. Approval of the tentative plan shall indicate the planning commission’s approval of the final plat, provided there is no change in the plan of the subdivisions, as shown on the tentative plan, and there is full compliance with all requirements imposed by the planning commission as conditions of tentative plan approval.*

Finding: The Planning Commission may impose conditions of approval when considering approval of the tentative plan.

- C. The action of the planning commission shall be noted on...*

Finding: A final order outlining the findings and decision of the Planning Commission shall be prepared and adopted and provided to the applicant.

16.08.250 Tentative Plan – Required data

- A. Preparation. The subdivider shall prepare a tentative plan, together with improvement plans and other supplementary material, as may be required, to indicate the general program and objectives of the project. To assure knowledge of existing conditions, and to obtain compliance with existing city development plans, the subdivider may confer with the department of community development and department of public works prior to preparation of the tentative plan.*

Finding: The applicant submitted a tentative plan set with the application. The tentative plan set includes a cover sheet, existing conditions, street layout, preliminary landscape plan and tree inventory, overall utility plan, street plan and profile, and a street storm plan and profile.

B. Scope. The tentative plan need not be a finished drawing, but it should show all pertinent information to scale, in order that the planning commission may properly review the proposed development.

Finding: The submitted tentative plan shows all pertinent information to scale.

C. Partial Development. Where the area to be subdivided contains only part of the tract owned or controlled by the subdivider, the planning commission may require a sketch of a tentative layout for streets and parcels in the unsubdivided portion.

Finding: The submitted tentative plan shows that the proposed project comprises the entire site; therefore, this standard is not applicable to the proposed subdivision.

D. Information Required. The tentative plan shall include the following information:

1. Detailed Map. The tentative plan shall be drawn at a scale of one inch equals 50 feet up to 10 acres;

Finding: The submitted tentative plan is drawn at a scale of one inch equals 100 feet, which is a sufficient scale to be legible.

2. General Information. The following information shall be shown on the tentative plan:

- a. Proposed name of the subdivision.*
- b. Date, north point and scale of drawing;*
- c. Appropriate identification clearly stating the drawing as a tentative plan;*
- d. Location of the subdivision by section, township and range, and a legal description sufficient to define the location and boundaries of the proposed tract, and the tract designation or other description according to the real estate records of the county assessor;*
- e. A vicinity sketch map at a scale of one inch equals 400 feet showing adjacent property boundaries and land uses;*

Finding: The tentative plan shows the proposed name as Lincoln Palisades Phase IV. The date, north arrow, and scale are shown on the submitted plan set. The plan set is identified as the preliminary master plan. The cover sheet notes the legal description as “Tax lot 102 Lincoln County Tax Map 06-11-35-CD. Located in the southeast one-quarter of Section 35, Township 6 South, Range 11 West, Willamette Meridian, City of Lincoln City, Lincoln County, Oregon.” The cover sheet also includes a vicinity map at a scale of one inch equals 400 feet that identifies adjacent property boundaries and land uses. This requirement has been met.

3. Existing Conditions. The following existing conditions shall be shown on the tentative plan:

- a. Location, widths and names of all existing or platted streets or other public ways within or adjacent to the tract; and other important features, such as section lines and corners, city boundary lines and monuments;*
- b. Contour lines having the following minimum intervals:*
 - i. Two-foot contour intervals for ground slopes less than 10 percent;*
 - ii. Five-foot contour intervals for ground slopes 10 percent or greater;*
 - iii. Contours shall be related to the city or other datum approved by the city engineer and/or surveyor;*

- c. *Location of at least one temporary bench mark within the plat boundaries or the source of the contour line data shown (source and accuracy subject to city engineer and/or surveyor's approval);*
- d. *Location and direction of all watercourses;*
- e. *Natural features, such as rock outcroppings, marshes, wooded areas and isolated preservable trees;*
- f. *Existing uses of the property, including location of all existing structures to remain on the property after subdividing;*

Finding: The submitted plan set includes an existing conditions plan, identified as Sheet 2.0, which contains the required elements. This requirement has been met.

1. *Proposed Plan of Land Subdivision. The following information shall be included on the tentative plan:*
 - a. *Proposed Streets – Location, Widths, Approximate Radii of Curves. The relationship of all streets to any projected streets, as shown on any development plan adopted by the planning commission or, if there is no complete plan, as suggested by the department of community development. Street names will be determined and assigned by the city;*
 - b. *Easements. Location on the site or abutting property showing the width and purpose of all existing and proposed easements;*
 - c. *Lots. Approximate dimensions of all lots, minimum lot size, proposed lot and block numbers;*
 - d. *Proposed Land Uses. Sites, if any, allocated for:*
 - i. *Multiple-family dwellings;*
 - ii. *Shopping centers;*
 - iii. *Churches;*
 - iv. *Industry;*
 - v. *Parks, schools, playgrounds;*
 - vi. *Public or semipublic buildings;*
 - vii. *Open space;*

Finding: The submitted plan set shows the location, widths, and approximate radii of curves of the proposed streets. The plan set also shows the easements and lot information, noting that the project will be for future construction of single-family detached dwellings.

2. *Area Coverage. Area coverage of existing and proposed structures, lots, streets or other changes anticipated;*

Finding: The applicant's submitted Sheet 1.0 of the plan set provides the estimated area coverage for the project.

3. *Explanatory Information. Any of the following information which may be required by the planning commission, and which may not be shown practicably on the tentative plan, may be submitted in separate statements accompanying the tentative plan:*
 - a. *Proposed deed restrictions in outline form;*

Finding: Proposed deed restrictions were included as part of the submitted materials.

- b. *Approximate existing centerline profiles showing the finished grades of all streets, as approved by the city engineer, included in the proposed subdivision;*

Finding: Sheets 3.0 and 4.1 through 4.4 provide the street layout and street plan and profile with the required information.

- c. Typical cross sections of proposed streets, showing widths of roadways, curbs, location and width of sidewalks and the location and size of utility mains;*

Finding: Sheets 3.0 and 4.1 through 4.4 provide the street layout and street plan and profile with the required information.

- d. Approximate plan and profiles of proposed sanitary sewers, storm drains and water distribution system, showing pipe sizes and the location of valves and fire hydrants, all to conform to city standards;*

Finding: Sheet 4.0 of the submitted plan set gives the overall utility plan for the project, and Sheet 4.5 provides the street storm plan and profile.

- e. A general description of property intended to be dedicated to the city or public, other than street rights-of-way, including proposed dedication restrictions.*

Finding: The submitted plan set shows that the proposed streets will be dedicated to the public as public right-of-way. The project does not propose any dedications to the city.

Chapter 16.12 Design Standards

16.12.010 Design standards and principles of acceptability

Finding: Staff's review of the submitted materials concludes that the proposed subdivision is (or will be with satisfaction of the proposed conditions of approval) in conformity with the comprehensive plan, LCMC Titles 16 and 17, and other applicable ordinances of the city.

16.12.020 Streets – General requirements

The location, width and grade of streets shall be considered in their relation to existing and planned streets, to topographical conditions, to public convenience and safety, and their appropriate relation to the proposed use of the land to be served by such streets. Where location is not shown in a development plan, the arrangement of streets in a subdivision shall either:

Finding: The submitted plan shows the proposed streets for Lincoln Palisades Phase VI. The streets are proposed with 50-foot-wide rights-of-way, to be dedicated to the public as public streets. The two stubs of NE 51st Loop will be extended and continued through the site, with a connection to NE Wave Lane and a new (as yet unnamed) street identified as Street A.

16.12.030 Streets – Minimum Right-of-Way and Roadway Width.

Finding: The submitted plan set shows the proposed right-of-way width as 50 feet. The typical street section is shown on Sheet 3.0 of the submitted plan set with a 28-foot-wide street driving surface and 0.5-foot-wide curb and gutter, 5-foot-wide sidewalk, and 5.5-foot-wide landscape strip on each side of the 28-foot-wide street driving surface. The 7-foot-wide public utility easement is at the front of each of the new lots. The proposed street section exceeds the minimum street standards for a local street outlined in the table in LCMC 16.12.030.

16.12.040 Streets – Reserve strips

Finding: The project does not propose reserve strips, nor are any needed. This requirement is not applicable to this project.

16.12.050 Streets – Alignment

All streets, other than minor streets or culs-de-sac, shall, so far as practical, be in alignment with existing streets by continuations of the centerlines thereof. In no case shall the staggering of streets make “T” intersections so designed that a dangerous job is produced. Jogs of less than 100 feet on such streets, measured along the centerline of the intersected street, must be adjusted by curves or diagonals so that the alignment across the street is continuous.

Finding: The continuation of NE 51st Loop is a local (minor) street, so this standard is not applicable. Regardless, the centerline of both the north and south extensions is a direct continuation of the existing centerline.

16.12.060 – Streets – Future Expansion (A) Where a subdivision or partition adjoins undeveloped property, streets which, in the findings of the planning commission, should be continued in the event of the subdivision or partitioning of the undeveloped property will be required to be provided through the boundary lines of the tract.

Finding: The only adjoining undeveloped property is to the east of the site. This area is owned by Lincoln City and contains wetlands. There are no developments plans for this land that necessitate connectivity. This requirement, then, is not applicable to this project since subdivision or partitioning of the undeveloped eastern property is not anticipated.

16.12.070 – Streets – Intersection Angles

Finding: The submitted plan set shows that the proposed streets intersect at as near to a right angle as possible. Not one of the proposed intersections is at an angle of less than 75 degrees. This requirement is met.

16.12.080 Existing streets

Finding: The proposed subdivision has frontage on NE Wave Lane and stubs of NE 51st Loop. These existing streets are public streets with an existing 50-foot-wide right-of-way. There are no improvement projects identified in the Transportation System Plan adjacent to or within the site. This requirement is met.

16.12.090 - Half-streets

Finding: The project does not propose any half streets.

16.12.100 - Cul-de-sacs

Finding: The proposed cul-de-sacs are shown in the submitted plan set as being preliminarily compliant with city standards. Final engineering plans must be submitted for city staff to review and confirm compliance.

16.12.110 - Street names.

Finding: A street name for the one new street has not been proposed. As a condition of approval, the applicant shall work with city staff in selecting a name for the identified “Street A” that complies with applicable county, city, and emergency services street-naming standards.

16.12.120 – Streets – Grades and Curves

Finding: NE 51st Loop is classified as a local street. The submitted plan set shows 9.5% as the steepest slope of the NE 51st Loop proposed construction. This is less than the 12%-maximum mandated by LCMC 16.12.120.A. The submitted preliminary plans show compliance with the grade and curve requirements. Final engineering plans must be submitted for city staff to review and confirm compliance.

16.12.130 Streets – Planting easements

Where approval of streets less than 60 feet in width is granted, additional easements for street trees, shrubs, sidewalks and utilities may be required.

Finding: A 50-foot-wide right-of-way is proposed for the streets in the project. The proposed street section includes the required 5-foot-wide sidewalk. A 5.5-foot-wide landscape strip is proposed outside of, and adjacent to, both sides of the right-of-way. The required public utility easement is shown along the front of each lot as a 7-foot-wide public utility easement.

16.12.140 Marginal access streets

Where a subdivision or partition abuts or contains an existing or proposed major street, the...

Finding: The subdivision does not abut or contain an existing or proposed major street. This requirement is not applicable.

16.12.210 Lots – General requirements

The lengths, widths and shapes of blocks shall be designed with due regard to providing adequate building sites suitable to the special needs of the type of use contemplated, needs for convenient access circulation, control and safety of street traffic, and limitation and opportunities of topography.

Finding: The blocks as shown in the submitted plan set are of lengths, widths, and shapes to accommodate the required street widths to provide access and circulation throughout the development, as well as utilities and utility easements to provide service to each of the new lots.

16.12.220 – Minimum Lot Sizes

Finding: The tentative plan shows the square footage of the individual lots. The lot sizes range from 7,500 square feet to almost 17,000 square feet. The minimum lot size requirements are met.

16.12.230 Through lots

Finding: The submitted plan set does not show any through lots.

16.12.240 – Lot Side Lines

Finding: A review of the submitted plan set shows that all newly-created lot side lines in the proposed subdivision will be at right angles to the proposed street on which each new lot has frontage. On the curved streets and cul-de-sacs they are radial to the curve. The proposed development complies with this standard.

16.12.250 – Lots - Resubdivision

Finding: There is no portion of the proposed development proposed to be further subdivided in the future. Some of the proposed lots are larger than the minimum lot size of 7,500 square feet, but only one is large

enough to be re-divided. (Lots would have to be at least 15,000 square feet to be divided. Proposed Lot 22 at 16,106 square feet is the only lot large enough to be divided.)

16.12.260-Residential building setback lines

Finding: The proposed development will not establish special building setback lines; therefore, this requirement is not applicable to the project.

16.12.270 – Public Open Space

- A. *Due consideration shall be given by the subdivider or partitioner to the allocation of suitable areas for schools, parks and playgrounds to be dedicated for public use as per the city comprehensive plan.*

Finding: The site does not contain any comprehensive plan-slanted areas for schools, parks, or playgrounds, so this requirement is not applicable to the project.

Chapter 16.16 Improvements

16.16.010 Required improvements

- A. *The following improvements shall be installed at the expense of the subdivider or partitioner in accordance with the city requirements:*
1. *Streets, including drainage adequate to serve the property and streets;*
 2. *Sanitary sewers and services;*
 3. *Water distribution lines and services;*
 4. *Sidewalks in any pedestrian ways;*
 5. *Street name signs and street light poles;*
 6. *Lot, street and perimeter monumentation;*
 7. *Underground power lines;*
 8. *Underground telephone lines;*
 9. *Bicycle, equestrian or special “ways”;*
 10. *Underground cable TV lines.*

Finding: The submitted preliminary plans show the layout of the proposed streets, sanitary sewers and services, water lines, sidewalks, and utility easements for underground utilities. Bicycle, equestrian, or special “ways” are not proposed, nor are they required. Required monuments are set as part of the final platting process by the surveyor and shown on the final plat map that is recorded in the county recorder’s office.

- B. *All improvements shall be constructed to the subdivision or partition boundary.*

Finding: The submitted preliminary plans show the location of proposed improvements throughout the project to the project boundary lines.

- C. *Where dedicated or undedicated open space is proposed or provided, it shall...*

Finding: The project does not propose either dedicated or undedicated open space.

16.16.020 – Improvements - Streets

Finding: The submitted preliminary plans show the design of the proposed streets, with the street section that contains curb and gutter, sidewalk, and a landscape strip. The final engineering plans will be reviewed by city staff for compliance with the city’s street standards.

16.16.030 – Surface Drainage and Storm Sewer System

Finding: The tentative plan shows a proposed storm water collection system along the proposed right-of-way, as well as stormwater easements. The final engineering plans will provide the final details on the stormwater system and will be reviewed by city staff for compliance with the city’s storm sewer system requirements.

16.16.040 – Sanitary Sewer

Finding: There is an eight-inch sanitary sewer main located in NE Wave Lane. The proposed subdivision will tie into this line and extend another eight-inch sanitary sewer line through NE 51st Loop. Each proposed lot will connect to the sanitary sewer line in the proposed streets.

16.16.050 – Water System

Finding: There is an eight-inch water main located in NE Wave Lane. The proposed development will tie into this line and extend another eight-inch waterline from NE Voyage Way through NE 51st Loop. Each proposed lot will connect to the water line in the proposed streets.

16.16.060 – Sidewalks

Finding: The project proposed construction of a five-foot-wide sidewalk on both sides of the proposed right-of-way. All sidewalks shall be designed to meet all applicable ADA and city standards, with the design being reviewed by city staff for compliance during the final engineering plan review process.

16.16.070 Street Names Signs. Street name signs shall be installed at all intersections according to city standards or a deposit made with the city in an amount equal to cost of the installation. Installation shall be made by the city.

Finding: Installation of street name signs will be completed during infrastructure construction of the proposed project.

RECOMMENDATION

Staff recommends that the Planning Commission hold a public hearing on the proposed planned unit development/subdivision, take public testimony, close the public hearing, deliberate, and decide whether the request complies with the criteria for granting approval, complies with the criteria for granting approval with conditions, or doesn’t comply with the criteria.

If the Planning Commission approves the 32-lot planned unit development/subdivision of Lincoln Palisades Phase VI with conditions, staff’s recommended conditions of approval are as follows:

PLANNING

1. The project shall be developed in one phase.
2. The final plat for Lincoln Palisades Phase VI shall be submitted to the Lincoln City Planning and Community Development Department within two years following the approval date of the final order by the Planning Commission, and it shall incorporate the conditions of approval.
3. With submittal of the final engineering plans, applicant shall submit a solid waste disposal plan that has been approved by North Lincoln Sanitary Service that allows sufficient accessibility for collection vehicles to service the development.
4. The development shall comply with all applicable fire code requirements.
5. Development of the project shall comply with applicable Oregon Department of State Lands requirements.

6. The development shall comply with all applicable federal, state, county, local, and city rules and regulations, including Lincoln City Municipal Code.
7. A final draft of the proposed restrictions to be recorded for Lincoln Palisades Phase VI shall be included with the final master plan submission package.
8. A final tree maintenance and protection plan shall be included with the final master plan submission package. The final plan shall very clearly depict the location and identification of all six of the site's existing trees, the removal of the site's three red alder trees, the removal of Tree 1373, and the protection of Trees 1373 and 5158. In lieu of depicting Trees 1374 and 5158 as protected trees, the applicant shall submit information from the arborist showing to staff's satisfaction that either or both trees are not healthy and viable and/or that they cannot be sufficiently protected during construction to remain viable. The final plan shall also very clearly show the proposed tree protection method for off-site remaining trees and how they will be preserved through construction.
9. The final master plan shall substantially show the lot layout, lot sizes, street layout, and 32 lots shown on the revised preliminary plan set that was submitted on December 17, 2021.

ENGINEERING

Engineering Plans

1. The applicant shall submit legible, digital copies of engineering plans for all public improvements and site development to the Lincoln City Public Works Department (LCPWD) for review and approval. These shall either be approved as submitted or modified in accordance with requirements of the City Engineer. Plans shall be stamped by a licensed professional engineer and shall show all existing and proposed conditions. The applicant is responsible for verifying the presence or absence of existing utilities and infrastructure. The City Engineer's review and any required modifications shall be for assuring that the improvements shall be consistent with Lincoln City Public Works Standards and the provisions of this condition of approval.
2. Prior to commencement of any site work, construction activity, demolition, clearing, grubbing, or excavating, an application for a Public Works Right-of-Way Permit shall be submitted to LCPWD. All planned right-of-way work shall be noted on the final engineering plans for review and performed as shown and approved.
3. The approved plan set and permits shall be kept on the site, at all times, until construction is complete and all final inspections have been passed. Any changes to the approved engineering plans affecting public improvements or utilities shall be submitted to LCPWD for approval prior to construction of altered facilities.
4. In accordance with LCMC 16.08.080, construction inspections and required consultation services shall be provided by the applicant. Reports and testing verifying appropriate construction in accordance with the approved site plan shall be provided to LCPWD as work progresses.
5. **Within 30 days after construction**, field-verified, stamped as-built drawings for all public improvements, including relevant survey data, shall be provided to LCPWD in AutoCAD format. All discovered utilities and changes to the approved plans shall be noted with callouts indicating location, depth, and material. As-built drawings shall note all installed water and sewer service locations, as well as sewer cleanout depths. **The record drawings shall be established in model space using the state plane coordinate system, Oregon North Zone 3601, with horizontal survey control of NAD 83 and vertical control of NAVD 88.**

Erosion Control, Site Preparation, and Grading

1. The applicant shall submit two copies of erosion control plans to LCPWD. The City Engineer shall review all erosion control plans for compliance, prior to any construction activities. Approved soil erosion control measures must be in place and inspected by LCPWD prior to any construction activities. Additional inspections required as conditions of the below 1200-C stormwater permit shall be applicant's responsibility.

2. The proposed area exceeds one or more acres of land disturbance throughout construction. The applicant is responsible for application for, acquisition of, and compliance with the Oregon Department of Environmental Quality (DEQ) 1200-C stormwater permit.
3. All grading work shall adhere to building code appendix 33, Excavation & Grading, as adopted in LCMC 12.08. This shall include but not be limited to:
 - Compaction procedures for fill >2' shall be submitted as part of the engineered grading plan. Compaction testing shall be completed within the right-of-way, public easements, and slopes impacting the right-of-way per Lincoln City Public Works (LCPW) standards (*modified \proctor testing*). Reports shall be submitted to LCPWD prior to roadway construction and show no less than 90% compaction for subgrade and 95% for aggregate base.
 - Finished slopes shall not exceed 1:2. Where slopes exceed 1:3 and total elevation change >12' terracing shall be designed at mid height (*or 30' intervals*) no less than 6' wide. See LCPW 610 for more detail.
4. Planting and slope stabilization methods and materials shall be noted in the approved grading plan and implemented prior to final approval by LCPWD. Additional planting and slope stabilization measures for grades exceeding 1:3 shall be implemented by the applicant as needed.
5. No filling or grading shall be noted outside of applicant's property right-of-way noted for dedication. All retaining wall construction proposed within or impacting the right-of-way and exceeding 4' in height shall be designed and stamped by a licensed structural engineer. The design engineer shall be additionally contracted for construction inspections of retaining wall design.

Street Improvements

1. New sidewalk, curb, gutter, and necessary pavement repair shall be constructed, as part of subdivision construction, along all subdivision street frontage in compliance with LCMC 17.52.230. All city right-of-way work planned shall be noted on the approved plan set and performed as shown. Sidewalk shall include improvement across adjacent city-owned open space in accordance with LCMC 16.16.010.C.
2. ADA-compliant transitions shall be installed at all end of walks in compliance with state and federal public right-of-way accessible guidelines.
3. The clear vision triangle, 50'Lx10'W visibility, shall be shown on the submitted final plan set and maintained at all intersections.
4. Required street signage shall be provided and installed by the developer, including: street name signs, stop signs, and "no parking" signs, as well as required striping. With the 28-foot curb-to-curb width, "no parking" signs shall be installed on one designated side of the roadways and as additionally required for fire access and egress.
5. All proposed roadway cuts and repairs per LCPW standards shall be shown on the permit plan set. Areas of existing pavement with more than two service cuts shall be completed in a single asphalt repair, with the existing pavement T-cut, and impacted pavement repaired to full existing depth or 2" minimum depth ground and inlayed.
6. New street names shall be selected in accorded with city requirements and standards.

Storm Sewer

1. All existing storm sewer utilities shall be accommodated and easements dedicated in accordance with LCPW standards.
2. All new impervious paving shall be treated according to LCPW stormwater design standards. Treatment shall be sized according to 50% of the 2-year, 24-hour rain event.
3. All increase from the existing site's total impervious area shall be detained according to LCPW stormwater design standards: 2-year, 10-year, 25-year 24-hour rain event OR calculations shall be submitted demonstrating dispersion to pre-development flows prior to storm system termination. Applicant shall be responsible for providing evidence of approved, alternative provisions which apply to the site.

4. Calculations for conveyance, infiltration, detention, water quality, and drainage facilities shall be submitted with final plan set and demonstrate that the system is capable of handling the increased flows and/or proposed work on the system will adequately increase system size.
5. Each lot shall be provided appropriate stormwater discharge via one of the following, and the applicant shall clearly identify the designated method for each lot:
 - a. Direct frontage for stormwater discharge into an existing drainage way
 - b. A stormwater easement allowing stormwater discharge to an existing drainage way
 - c. Adequate fall to the roadway curb line for conveyance via the roadway or public storm sewer system.
 - d. Piped connection to a public storm sewer system at the platted property line.
6. Rip-Rap Swale Construction or equivalent energy dispersal method shall be designed and installed at all stormwater discharges. Sizing shall be adequate for all design storm events.

Sanitary Sewer

1. All work and materials shall be completed in accordance with LCPW design standards.
2. Cleanouts shall be installed at all property lines per LCPW design standards. This shall include the location and addition of cleanouts to the existing sewer laterals noted at newly-platted properties.
3. Sanitary sewer plans shall be additionally submitted to DEQ for approval. Applicant shall be responsible for adhering to any additional approval conditions from DEQ. After construction, facilities shall be in accordance with LCPW design standards prior to final acceptance.

Water Utilities

1. All connections to the public water system, assemblies, and service line locations shall be designed and completed by the applicant according to LCPW design standards.
2. Applicant shall be responsible for the verification of existing infrastructure and utilities proposed for use/shown on the approved plan set.
3. Material submittals for all public water improvements shall be submitted to LCPWD for review and approval in accordance with LCPW Water Distribution standards.
4. Water meters shall be clustered in pairs at shared property corners whenever possible, in accordance with LCPW design standards
5. Engineering plans shall note the radius on all sections of waterline proposed for deflection. Deflection shall not be used as an alternative to required bends and shall never exceed manufacturer tolerances.
6. Fire hydrants shall be placed within the proposed development according to fire code requirements and shall be shown on the submitted permit plan set.