



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

04/11/2011

TO: Subscribers to Notice of Adopted Plan
or Land Use Regulation Amendments

FROM: Plan Amendment Program Specialist

SUBJECT: City of Lincoln City Plan Amendment
DLCD File Number 007-10

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Tuesday, April 26, 2011

This amendment was submitted to DLCD for review prior to adoption with less than the required 45-day notice. Pursuant to ORS 197.830(2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

*NOTE: The Acknowledgment or Appeal Deadline is based upon the date the decision was mailed by local government. A decision may have been mailed to you on a different date than it was mailed to DLCD. As a result, your appeal deadline may be earlier than the above date specified. NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.

Cc: Richard Townsend, City of Lincoln City
Gloria Gardiner, DLCD Urban Planning Specialist
Matt Spangler, DLCD Regional Representative

<paa> YA



FORM

2

DLCD

Notice of Adoption

In person electronic mailed

DATE STAMP

APR 06 2011

For Office Use Only

This Form 2 must be mailed to DLCD within **5-Working Days after the Final Ordinance is signed** by the public Official Designated by the jurisdiction and all other requirements of ORS 197.615 and OAR 660-018-000

Jurisdiction: **City of Lincoln City**

Local file number: **ZOA 2010-07**

Date of Adoption: **February 28, 2011**

Date Mailed: **April 5, 2011**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? Yes No Date: 09/17/10

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

Allows for restoration of substantially damaged, lawful, nonconforming structures, subject to review and reasonable conditions. More clearly defines terms, the concept of discontinuance, and rules regarding alteration, expansion, and reuse of nonconforming properties. Clarifies process by which nonconforming commercial design features are brought into compliance.

Does the Adoption differ from proposal? Please select one

Final ordinance includes provisions regarding nonconforming site development. It also establishes an administrative process for restoration of substantially damaged single-family dwellings and duplexes, as well as a review process by the Planning Commission for multi-family and non-residential uses.

Plan Map Changed from: **n/a**

to: **n/a**

Zone Map Changed from: **n/a**

to: **n/a**

Location: **city-wide**

Acres Involved: **n/a**

Specify Density: Previous: **n/a**

New: **n/a**

Applicable statewide planning goals:

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19

Was an Exception Adopted? YES NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?

Yes No

If no, do the statewide planning goals apply?

Yes No

If no, did Emergency Circumstances require immediate adoption?

Yes No

DLCD file No. 007-10 (18531) [16589]

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

Local Contact: **Debra Martzahn, Senior Planner**

Phone: (541) 996-1228 Extension:

Address: **PO Box 50**

Fax Number: **541-996-1284**

City: **Lincoln City**

Zip: **97367**

E-mail Address: **dmartzahn@lincolncity.org**

ADOPTION SUBMITTAL REQUIREMENTS

This Form 2 must be received by DLCD no later than 5 days after the ordinance has been signed by the public official designated by the jurisdiction to sign the approved ordinance(s) per ORS 197.615 and OAR Chapter 660, Division 18

1. This Form 2 must be submitted by local jurisdictions only (not by applicant).
2. When submitting the adopted amendment, please print a completed copy of Form 2 on **light green paper if available**.
3. Send this Form 2 and **one complete paper copy** (documents and maps) of the adopted amendment to the address below.
4. Submittal of this Notice of Adoption must include the final signed ordinance(s), all supporting finding(s), exhibit(s) and any other supplementary information (ORS 197.615).
5. Deadline to appeals to LUBA is calculated **twenty-one (21) days** from the receipt (postmark date) of adoption (ORS 197.830 to 197.845).
6. In addition to sending the Form 2 - Notice of Adoption to DLCD, please also remember to notify persons who participated in the local hearing and requested notice of the final decision. (ORS 197.615).
7. Submit **one complete paper copy** via United States Postal Service, Common Carrier or Hand Carried to the DLCD Salem Office and stamped with the incoming date stamp.
8. Please mail the adopted amendment packet to:

**ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540**

9. **Need More Copies?** Please print forms on **8½ -1/2x11 green paper only if available**. If you have any questions or would like assistance, please contact your DLCD regional representative or contact the DLCD Salem Office at (503) 373-0050 x238 or e-mail plan.amendments@state.or.us.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32

ORDINANCE NO. 2011-03

**AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING
ORDINANCE NO. 84-2 (AS AMENDED) DEFINITIONS AND PROVISIONS
GOVERNING NONCONFORMING USES IN LINCOLN CITY MUNICIPAL
CODE CHAPTER 17.64**

The City Council finds:

- A. The proposed amendments to the Zoning Ordinance definitions and provisions governing non-conforming uses and structures are in conformance with the Statewide Planning Goals and Lincoln City Comprehensive Plan goals as addressed in attached Exhibit "A".
- B. The amendments are in conformance with the Zoning Ordinance, including, but not limited to, required initiation, processing and noticing requirements.
- C. The Planning Commission, on November 2, 2010 considered proposed amendments to this ordinance, and after a public hearing, voted to transmit them to the City Council with a recommendation to adopt. Since the Commission's meeting, staff continued to refine the language and concepts.
- D. The City duly notified the Oregon Department of Land Conservation and Development of its consideration of the proposed amendments.
- E. The City Council opened a public hearing on December 13, 2010 and, without discussion, continued it to February 14, 2011, at which time the Council considered the proposed amendment transmitted by the Planning Commission, as modified by staff.
- F. All persons were given an opportunity to provide written and/or oral testimony on the proposed ordinance amendments.

33
34
35
36
37
38
39
40
41
42
43
44

THE CITY OF LINCOLN CITY ORDAINS AS FOLLOWS:

Section 1. Lincoln City Municipal Code section 17.08.010 is amended by repealing the following definition:

"Nonconforming structure or use" means a lawful existing structure or use, at the time this title or any amendment thereto becomes effective, which does not conform to the requirements of the zone in which it is located.

Section 2. Lincoln City Municipal Code section 17.08.010 is amended by adding the following definitions:

1 “Nonconforming commercial site development” means characteristics of existing
2 developed properties that do not meet standards specified in LCMC Chapter 17.74,
3 Commercial Design Standards, or design standards adopted for specific pearl districts, as
4 applicable.
5

6 “Nonconforming structure” means a structure that was lawful at the time of construction,
7 but that presently does not conform to the provisions of the zoning district in which it is
8 situated. Any existing structure, including a sign or sign structure, for which zoning
9 regulations now require a conditional use permit or other permit, shall be deemed to be
10 nonconforming until such a permit is secured.
11

12 “Nonconforming use” means a use that was originally lawful, but no longer is a permitted
13 use in the district in which it is situated. Any existing use for which zoning regulations
14 now require a conditional use permit shall be deemed to be nonconforming until such a
15 permit is secured.

16 **Section 3.** Section 17.52.140 Lot size requirements – General exceptions is hereby
17 repealed.

18 **Section 4.** Lincoln City Municipal Code chapter 17.64 is repealed and replaced, as
19 follows:
20

21 **17.64. Nonconforming Situations**
22

23 **17.64.010. General provisions.** These provisions apply to non-conforming sites,
24 structures, uses, including accessory uses, commercial design standards, but not signs.
25 See Chapter 17.72.90 for non-conforming sign regulations.

26 A. Purpose. The purpose of this chapter is to allow nonconforming structures and
27 nonconforming uses to continue, but not to encourage their perpetuation, and
28 ultimately to bring them into conformance with this code and the comprehensive
29 plan.

30 B. Pre-existing conditional use permit or variance. A use or structure that was lawful
31 by reason of a conditional use permit or variance may continue only on the terms of
32 the approved permit or variance and subject to all conditions and limitations under
33 which the permit or variance was approved or subsequently amended.

34 C. Determination that Nonconforming Use, Site, or Structure is Lawful.

35 The city may make a determination of whether a nonconforming use on a
36 particular property is lawful, if necessary for staff review of an application.
37 Determination will be based on evidence submitted into the record that shows
38 whether the nonconforming situation was permitted by the standards and
39 regulations in existence at the time established and continued without any period
40 of discontinuance or abandonment as provided under Section 17.74. This
41 determination shall be an administrative process.

42 D. Restoration of a Damaged Lawful, Nonconforming Structure or Use. A lawful,
43 nonconforming structure or use that has been damaged may be restored to its
44 previous extent, if the value of the damage, as determined by the city, is less than

1 50% (fifty percent) of the appraised value of the building or structure, as determined
2 by the records of the county assessor for the year preceding destruction.

3 E. Restoration of a Substantially Damaged Lawful, Nonconforming Structure or Use. If
4 damaged to an extent of 50% or more, as determined by the city, a lawful
5 nonconforming structure or use may be restored to its former height and footprint
6 only, as approved by the city. The Planning and Community Development
7 Director has authority to review an application to restore a lawful, nonconforming
8 single-family dwelling or duplex use as an administrative decision. The Planning
9 Commission has authority to review an application to restore a lawful,
10 nonconforming multi-family dwelling, mixed use structure or commercial
11 structure or use and shall conduct a public hearing on the application. A decision
12 to approve an application to restore a nonconforming structure must include
13 findings of all the following:

- 14 1) The damage was not intentionally caused by the property owner;
- 15 2) The restoration does not increase the degree of nonconformity or add new
16 non-conformity, and except as specified above, restored structures
17 conform to requirements of this code;
- 18 3) Restoration is according to plans approved by the fire marshal, building
19 inspector and floodplain manager, and, if required, in conformance with a
20 geo-technical report;
- 21 4) The restored structure or use does not encroach unlawfully on adjacent
22 properties;
- 23 5) The restoration complies with reasonable conditions imposed by the city
24 on a building permit in order to mitigate any new or increased adverse
25 impact on adjacent property; and
- 26 6) In the case of a multi-family dwelling, mixed-use structure, or commercial
27 structure, the reconstructed use or structure would not interfere with the
28 intent and purpose of the zone in which it is located.

29 F. Time Limit on Restoration of Lawful, Non-conformity. The owner of a damaged
30 lawful, nonconforming use or structure shall apply for a building permit for
31 restoration no later than 24 (twenty-four) months from the date of the damage.
32 After 24 (twenty-four) months following the date of damage, the building will be
33 subject to current zoning regulations for the district in which the land and
34 buildings are located, including residential density standards.

35 G. Routine repairs and maintenance. Routine maintenance and repairs may be
36 performed on structures, buildings, or sites that are nonconforming or that house
37 non-conforming uses. Examples of maintenance and repairs are painting, repairing
38 dry rot, and re-roofing. Routine repairs and maintenance do not include expansion of
39 the square foot area of a structure or use, or creation of new units within residential
40 structures. Routine repairs and maintenance performed in any 12-month period may
41 not exceed 50% of the assessed value of existing building, structure or use.
42

43 **17.64.020. Nonconforming structures.**

44
45 A. Alteration of a nonconforming structure. A nonconforming building or structure
46 may be enlarged or altered to the extent that such alteration or enlargement conforms

1 to current regulations. An alteration made to provide safe access to a building for
2 persons with disabilities is not considered an enlargement. Alteration of a non-
3 conforming residential structure shall not change the number of dwelling units, if
4 the change would increase non-conformity.

5 B. Moving a nonconforming structure. A nonconforming structure may be moved
6 within the same lot, if the move decreases the level of non-conformity. A non-
7 conforming structure may be moved to a different lot only if the relocated structure
8 conforms to the regulations of its new location and applicable state law, including
9 but not limited to ORS 455.410 (2010).

10 C. Completion of structure. Nothing contained in this ordinance shall require any
11 change in the plans, construction, alteration or designated use of a structure for
12 which a valid approval has been granted prior to the effective date of this ordinance,
13 except that if the structure will be nonconforming, it shall be considered abandoned
14 for the purposes of section 17.64.030.B, if not operational within twenty-four
15 months of the date of issuance (or any extension) of the building permit.

16
17 **17.64.030. Nonconforming uses.**

18
19 A. Lawful, Nonconforming Uses Allowed to Continue. A lawful nonconforming use
20 of land may continue as long as it remains otherwise lawful, provided the
21 nonconforming use does not cease for any reason for a period of more than six
22 months. For purposes of calculating the six-month period, a use is discontinued or
23 abandoned on the occurrence of the first of any of the following events:

- 24 1. On the date when the use of land is physically vacated;
- 25 2. For commercial uses, on the date the sale of merchandise or the provision
26 of services ceases;
- 27 3. On the date of termination of any lease or contract under which the
28 nonconforming use has occupied the land; or
- 29 4. On the date a request for final reading of water and power meters is made
30 to the applicable utility.

31 B. Discontinuance of a nonconforming use. If a conforming use has replaced a
32 nonconforming use, or if the nonconforming use of a building, structure or site
33 ceases for a period of six months or more, as described in paragraph A above, the
34 planning and community development director shall deem the nonconforming use
35 discontinued, and the building, structure or land area shall be occupied only by uses
36 conforming to the regulations for the zone in which it is located. If a nonconforming
37 use has ceased, but the owner is marketing the property continually and actively for
38 sale or lease, the planning and community development director may allow the
39 lawful nonconforming status to continue for up to 18 additional months. The
40 director's determination shall be an interpretation, subject to appeal to the planning
41 commission. Following an evidentiary hearing, the planning commission decision
42 will be final, unless called up by the City Council under 17.76.040 (B).

43 C. Alteration of a nonconforming use. No building, structure, or land area devoted to
44 or accessory to a nonconforming use may be used, moved or expanded unless the
45 movement or expansion reduces nonconformity. Alteration of a non-conforming

1 residential use shall not change the number of dwelling units, if the change would
2 increase non-conformity.

- 3 D. Change of nonconforming use. The planning commission may approve an
4 application for conversion to another non-conforming use in accordance with the
5 provisions of LCMC 17.76.010, if, on the basis of the application and the
6 evidence submitted, it finds the proposed use is suitable to the site and location
7 and will not have greater adverse affect on the neighborhood or community than
8 the previous use with regard to traffic, parking demand, hours of operation, noise,
9 dust, and customer and/or residential activity. The commission may place
10 conditions on the new non-conforming use to ensure compatibility and maximize
11 conformance to current regulations.

12
13 **17.64.40 Nonconforming commercial site development.** The purpose of this section is
14 to upgrade elements of nonconforming commercial development that affect the
15 appearance of a site and create adverse impact on adjacent sites. The intent is to make
16 commercial development closer to conformance with design standards in Chapter 17.74,
17 but not to require extensive changes that would be impractical or extremely expensive,
18 such as moving, lowering or structurally altering buildings.

- 19 A. Subject to the other provisions of this chapter, when the owner of a use or structure
20 located on a commercially zoned lot that contains nonconforming site
21 development elements converts to a different use, enlarges or structurally alters
22 the use or structure, the owner also shall alter the nonconforming site
23 development elements to conform to standards in Chapter 17.74 to the maximum
24 extent feasible within a cost not to exceed 25% (twenty-five percent) of the cost
25 of the conversion, enlargement, or structural alteration.

- 26 B. The following elements shall be made compliant with the commercial design
27 standards in Chapter 17.74, or, as approved by the planning and community
28 development director, as close to compliant as possible within the cost limitation
29 defined in paragraph A.

- 30 1. pedestrian circulation, as set out in 17.74.070;
- 31 2. materials and colors as set out in 17.74.080 (13);
- 32 3. pedestrian spaces as set out in 17.74.100;
- 33 4. screening and parking area landscaping as set out in 17.74.120;
- 34 5. water quality as set out in 17.74.120 (5);
- 35 6. exterior lighting as set out in 17.74.130;
- 36 7. transparency as set out in 17.74.080 B.3; and
- 37 8. landscaping of existing setbacks and yard areas.


38
39 **17.64.050 Nonconforming Lots of Record.** If a lot or the aggregate of contiguous lots as
40 recorded in the office of the county clerk has an area or dimension that does not
41 meet the lot size requirements of the zone in which the property is located, such
42 lot or lots may be occupied by a use or uses permitted in the zone, subject to the
43 other requirements of the zone; provided such lots in residential zones shall be
44 limited to a single-family dwelling and such lots in the R-R zone shall be limited
45 to a single-family dwelling or a recreational vehicle.

1 **17.64.060 Violation; Enforcement.** Any modification of a nonconforming use, site or
2 structure that according to this chapter requires city approval shall not be initiated before
3 such approval is obtained. Failure to obtain an approval required by this chapter is a
4 violation punishable as a class A violation under LCMC 1.16, with each day the property
5 is used in violation of this section considered a separate infraction. Notice provisions of
6 subsection 17.84.020(B) shall not apply in any enforcement of violation of chapter 17.64,
7 and the city may at its option proceed to file a complaint or take other remedial action as
8 provided in chapter 17.84 without prior notice of violation to the property owner or any
9 opportunity to correct.

10
11 **Section 5.** The City Recorder is authorized to make any required corrections due to
12 scrivener's errors, including but not limited to cross-references, prior to codifying this
13 ordinance.

14
15 **Section 6.** In the event that any provision of this ordinance is determined by a court of
16 competent jurisdiction to be invalid or unenforceable, such invalid provision shall be
17 severed and the remaining provisions of the ordinance that have not been held invalid or
18 unenforceable shall continue to be valid and enforceable to the fullest extent permitted by
19 law.

20
21 PASSED AND ADOPTED by the City Council of the City of Lincoln City this 28th
22 day of February, 2011.

23
24
25
26
27
28

DICK ANDERSON, MAYOR

29 ATTEST:

30
31
32
33
34
35
36

CATHY STEERE, CITY RECORDER

ORDINANCE 2011-03
EXHIBIT A

A. Statewide Planning Goals

(1) Goal 1: Citizen Involvement

“To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.”

All documents relating to this proposal were made available for public review and purchase, and staff was available to interpret and explain the technical information. All affected property owners were noticed regarding the public hearings on the proposed zoning ordinance amendments and hearing notices were published in the local paper in accordance with notice requirements. The amendments are consistent with Goal 1.

(2) Goal 2: Land Use Planning

“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.”

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 them on a periodic cycle to take into account changing public policies and circumstances. Citizens and affected governmental units had opportunities for review and comment during preparation, review, and revision of the plan and implementing ordinances. The City Council considered amendment to Chapter 17.64 of the Lincoln City Zoning Ordinance in accordance with the process and based on the criteria provided in the Municipal Code.

(3) Goal 3: Agricultural Lands

“To preserve and maintain agricultural lands.”

The area affected by the proposed comprehensive plan map and zoning map amendments is located within the city’s urban growth boundary. The area currently is designated and zoned for urban development. No agricultural lands will be affected by the amendment. Goal 3 is not applicable.

(4) Goal 4: Forest Lands

“To conserve forest lands by maintaining the forest land base and to protect the state’s forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land

consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.”

The area affected by the proposed zoning ordinance amendment is located within the city’s urban growth boundary. The affected area does not include any designated forest lands, therefore, Goal 4 is not applicable.

(5) Goal 5: Natural Resources, Scenic and Historic Areas, and Open Spaces

“To protect natural resources and conserve scenic and historic areas and open spaces.”

The proposed zoning amendment allows rebuilding of substantially damaged structures, which in some instances may be buildings that contribute to historic areas. The amendment requires upgrading of nonconforming commercial design standards as other improvements are made, thus improving general appearance of commercial areas. The amendment should have no impact on natural resources. The amendment is consistent with Goal 5.

(6) Goal 6: Air, Water and Land Resources Quality

“To maintain and improve the quality of the air, water and land resources of the state.”

The proposed amendment allows rebuilding of substantially damaged nonconforming structures, but only as approved by the fire marshal, building inspector and floodplain manager, and, if required, in conformance with a geo-technical report. The required approvals are intended to ensure no impact to the city’s air, water and land resources quality; therefore, it is consistent with Goal 6.

(7) Goal 7: Areas Subject to Natural Disasters and Hazards

“To protect people and property from natural hazards.”

The proposed amendment allows rebuilding of substantially damaged nonconforming structures, but only as approved by the fire marshal, building inspector and floodplain manager, and, if required, in conformance with a geo-technical report. The required approvals are intended to ensure no impact to the city’s air, water and land resources quality; therefore, it is consistent with Goal 7.

(8) Goal 8: Recreational Needs

“To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities, including destination resorts.”

Except for nonconforming recreational facilities, the proposed amendment should have no impact on recreational needs and, therefore, is consistent with Goal 8.

(9) Goal 9: Economic Development

“To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon’s citizens.”

The proposed amendments clarify the rules regarding improvements to nonconforming uses and re-use of nonconforming structures, which should facilitate investment. By allowing rebuilding of substantially damaged nonconforming structures, the amendment enables mortgages, and consequently, sale of these structures. It is consistent, therefore, with Goal 9.

(10) Goal 10: Housing

“To provide for the housing needs of citizens of the state.”

By allowing reconstruction of substantially damaged nonconforming housing, the proposed amendment enables mortgages, and consequently, sale of these structures. The amendments are consistent with Goal 10.

(11) Goal 11: Public Facilities and Services

“To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.”

The proposed amendment would have no impact on existing city water and sewer infrastructure and treatment facilities; therefore, the amendments are consistent with Goal 11.

(12) Goal 12: Transportation

“To provide and encourage a safe, convenient and economic transportation system.”

The proposed amendment would have little or no foreseeable impact on the transportation system and therefore, is consistent with Goal 12.

(13) Goal 13: Energy Conservation

“To conserve energy.”

The amendment would facilitate reconstruction and reuse of nonconforming structures, which would be consistent with Goal 13.

(14) Goal 14: Urbanization

“To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.”

Under certain conditions, the proposed amendment may allow some nonconforming uses and structures to continue, expand and change to other nonconforming uses, which would increase efficient use of land. The conditions on reuse and the requirements to upgrade commercial design elements would support livability in the community. All would be urban land uses; therefore, the amendment is consistent with Goal 14.

(15) Goal 15: Willamette River Greenway

“To protect, conserve, enhance and maintain the natural, scenic, historical, agricultural, economic and recreational qualities of lands along the Willamette River as the Willamette River Greenway.”

The affected area is not located within the Willamette River Greenway; therefore, Goal 15 is not applicable.

(16) Goal 16: Estuarine Resources

“To recognize and protect the unique environmental, economic, and social values of each estuary and associated wetlands; and to protect, maintain, where appropriate develop, and where appropriate restore the long-term environmental, economic, and social values, diversity and benefits of Oregon’s estuaries.”

The proposed amendment may affect nonconforming uses within or adjacent to a designated estuarine resource; however, the amendment allows for review and approval by city officials and conditions on reconstruction that would mitigate any new or increased adverse impacts, and therefore, is in conformance with Goal 16.

(17) Goal 17: Coastal Shorelands

“To conserve, protect, where appropriate, develop and where appropriate restore the resources and benefits of all coastal shorelands, recognizing their value for protection and maintenance of water quality, fish and wildlife habitat, water-dependent uses, economic resources and recreation and aesthetics. The management of these shoreland areas shall be compatible with the characteristics of the adjacent coastal waters; and To reduce the hazard to human life and property, and the adverse effects upon water quality and fish and wildlife habitat, resulting from the use and enjoyment of Oregon’s coastal shorelands.”

The amendment could affect nonconforming uses adjoining the coastal shoreland. A major change in the amendment allows reconstruction of substantially damaged nonconforming structures, if in conformance with required geo-technical reports and approved by the building inspector and floodplain manager. Therefore, Goal 17 is met.

(18) Goal 18: Beaches & Dunes

“To conserve, protect, where appropriate develop, and where appropriate restore the resources and benefits of coastal beach and dune areas; and To reduce the hazard to human life and property from natural or man-induced actions associated with these areas.”

The proposed amendment are not located within a designated beach or active dune area; therefore, Goal 18 is not applicable.

(19) Goal 19: Ocean Resources

“To conserve marine resources and ecological functions for the purpose of providing long-term ecological, economic, and social value and benefits to future generations.”

The proposed amendment would not affect the near-shore ocean and continental shelf; therefore, Goal 19 is not applicable.

B. Comprehensive Plan Goals

(1) 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.”

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 their preparation, review, and revision. Review of the proposed amendment was in accordance with the Lincoln City Comprehensive Plan and the applicable zoning ordinance provisions and in conformance with this goal.

(2) Citizen Involvement Goal

“Develop a Citizen Involvement Program which ensures the continued participation of citizens in the land use planning process.”

The City has developed a citizen involvement program. In addition, the public hearing process, with notice to the public and property owners and review of the amendment by the Planning Commission (a citizen board) and the City Council (a citizen board,) establishes conformance with this goal.

(3) Public Services and Utilities Goal

“To plan and develop a timely, orderly, and efficient arrangement of public facilities and services, which compliment the area and serve as a framework for urban and rural development.”

The proposed amendments would have negligible affect on the availability and arrangement of public services and utilities. The goal is satisfied.

(4) Urbanization Goal

“To promote an orderly and efficient transition of land uses from rural to urban.”

The proposed Comprehensive Plan and Zoning amendments relate to land previously development and zoned for urban development. The amendment allows for appropriate reuse, reconstruction and expansion of legal, nonconforming uses, which satisfy this goal.

(5) Natural Hazard Goal

“The City shall control development in hazardous areas to protect life and property from natural disasters and hazards.”

Nonconforming uses and structures in natural hazards areas will be affected by the amendment. Reconstruction of substantially damaged structures and uses will be subject to review by the floodplain manager, building inspector, fire marshal and must conform to a geo-technical report, if required; therefore, meeting Goal 5.

(6) Housing Goal

“To provide for the housing needs of all citizens.”

By allowing reconstruction of substantially damaged nonconforming housing, the proposed amendment enables mortgages, and consequently, sale of these structures. The amendments are consistent with the housing goal.

(7) 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.”

The proposed amendment clarifies the rules regarding improvements to nonconforming uses and re-use of nonconforming structures. By allowing rebuilding of substantially damaged nonconforming structures, the amendment enables mortgages, and consequently, sale and use of these structures. The amendments, therefore, meet the goal.

(8) Aesthetic Goal

“To develop a livable and pleasing city which enhances man’s activities while protecting the exceptional aesthetic quality of the area.”

The proposed zoning amendment allows rebuilding of substantially damaged structures, which in some instances may be buildings that contribute to historic areas. The amendment clarifies the right to restore and maintain nonconforming structures, and rules regarding improvements. The amendment requires upgrading of nonconforming commercial design standards as other improvements are made, thus improving general appearance of commercial areas. This goal is satisfied.

(9) Transportation Goal

“To provide a safe, convenient and rapid transportation network to facilitate the movement of goods and people.”

The proposed amendment would have negligible effect on the transportation network. This goal is satisfied.

(10) Energy Goal

“To conserve energy.”

The amendment would facilitate reconstruction and reuse of nonconforming structures, which would be consistent with this goal.

(11) Overall Environmental Goal

“To achieve a balance between the need to provide housing and services and the need to protect and enhance the natural environment of the city.”

The proposed amendment would facilitate the restoration and reuse of nonconforming properties, subject to review by city officials and the fire marshal, and reasonable conditions. Maintaining intensity of use through redevelopment postpones the need for expansion of the UGB. This goal is satisfied.

(12) Shoreland, Beaches, Dunes, Estuary and Ocean Resources Goal

“To conserve, to protect, to enhance the coastal resources of the city.”

The proposed amendment could affect nonconforming structures and uses located adjacent to coastal shorelands, beaches, dunes, estuary, or ocean. Restoration of substantially damaged nonconformities would be governed by a geo-technical report and review of city officials. Therefore, this goal is met.

CC
NCO
)

ITY, OR 97367



DEPT OF

APR 06 2011

LAND CONSERVATION
AND DEVELOPMENT

Attn: Plan Amendment Specialist
Dept. of Land Conservation/Dev.
635 Capitol Street NE, Suite 150
Salem, OR 97301-2540