

MEETING NOTICE

TOWN OF LA CONNER PLANNING COMMISSION

Tuesday, September 5, 2023 6:00 p.m.

Location

Lower Maple Center
104 Commercial Street, La Conner, WA
And by Zoom
Information below and on the Town website

Agenda

1. CONVENE
2. PUBLIC COMMENT (Topics not otherwise on the Agenda) – Time Limit 3 Minutes
3. MINUTES
 - ❑ Approve minutes from the August 1, 2023 meeting
4. OLD BUSINESS
 - Status Report: Talmon Development
 - Status Report: Public Participation Program
 - Ongoing Discussion: Short Term Rental Regulations
 - High Density Housing Discussion
5. NEW BUSINESS
 - Permit application for tree removal at Hotel Planter
 - Explanation of Housing Element Update Process and Timeline
6. CLOSING COMMENTS

Topic: Planning Commission Meeting

Time: Sep 5, 2023 06:00 PM Pacific Time (US and Canada)

<https://phadowud-online.zoom.us/j/87588605640?pwd=aXFzNkswNGxpMENNTmRCMFNRbG9KQT09>

Meeting ID: 875 8860 5640

Passcode: 993636

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+12532158782,,87588605640#,,, *993636# US (Tacoma)

TOWN OF LA CONNER
PLANNING COMMISSION MEETING
August 1, 2023

The Planning Commission meeting was called to order at 6:00 p.m.

Commissioners present: Carol Hedlin, Marna Hanneman, Bruce Bradburn via Zoom, John Leaver, Sommer Holt

Commissioners absent: None

Staff: Michael Davolio, Ajah Eills

PUBLIC COMMENT:

Greg Ellis, who is in the process of developing land on 333 Washington Street, stated that the Town needs affordable housing for families, and that that is his focus. He indicated that property outside the floodplain could be developed with federal grants for affordable housing, and brought up the concept of a property transfer because 333 Washington is in the floodplain.

Linda Talman stated that the Kirkland population is 92,200 people, which is around 102x the size of La Conner, and because of this size difference using ideas from Kirkland would be ludicrous, and like trying to give a meal for a lion to a kitten. She expressed her belief that there should be no short-term rentals and that the Town shouldn't use conditional use permits. She said that the Town should focus on the building blocks of good development before moving forward.

Kathy Shiner questioned the protocols for public comment periods and inquired about expectations from the state. A discussion about the public comment requirements, the Comprehensive Plan designation and role in the Town's development, and state expectations followed.

MINUTES:

Commissioner Holt moved to approve the minutes from the July 18, 2023 meeting. Seconded by Commissioner Leaver. **Motion carried unanimously.**

OLD BUSINESS:

There was no new information about the Talmon Development. The applicant will need to schedule a pre-construction meeting before any work is completed. Staff discussed a future meeting with the La Conner School District in order to present to students in the senior class as part of the Public Participation Program. The Transportation Element of

the Comprehensive Plan Update includes Level of Service standards, which have posed a complication. The parking study is complete.

There was an ongoing discussion of the pros and cons of short-term rentals, including a discussion based on the differences between the commercial and residential zone. It was decided to make a “call for community comments” in order to ensure members of the community are able to comment. There was a brief discussion of short-term rentals at 333 Washington Street. This sparked a general discussion of noise levels and the noise ordinance in La Conner. Staff presented potential high density development regulations, and following this a discussion on the difference between a high-density development and a planned urban residential development occurred.

NEW BUSINESS:

Staff presented updates on bills from the 2022-2023 legislative session.

COMMISSIONER COMMENTS/STAFF COMMENTS:

Commissioners agreed that the intersection of Maple and Morris is too dangerous and too complex, while Commissioner Holt and Commissioner Hedlin said that people often run the stop sign on Morris Street. Commissioners inquired if there was anyway to simply the intersection of Maple and Morris. Commissioner Holt asked if there was a way to amend the PURD regulations to accommodate high-density development. Commissioners agreed to temporarily table the discussion of high-density development regulations. Commissioner Leaver inquired about a trip to Langley.

The next Planning Commission meeting will be on September 5, 2023.

With no further business Commissioner Hanneman moved to adjourn the meeting at 7:10 p.m. Seconded by Commissioner Leaver. **Motion carried unanimously.**

Chair

Date

Planning Assistant

From: Marna Hanneman <yogamarna@gmail.com>
Sent: Monday, August 28, 2023 10:04 AM
To: Ajah Eills Assistant Planner La Conner
Subject: Fwd: Planning Commission/short-term rentals

Ajah:

Please see below. Would you please pass on to all concerned.

Marna

Begin forwarded message:

From: Nancy Crowell <nkcrowell@hotmail.com>
Date: August 28, 2023 at 9:51:59 AM PDT
To: Marna Hanneman <YogaMarna@gmail.com>
Subject: Planning Commission/short-term rentals

Hi Marna –

You are the only planning commissioner for whom I can find an email. (I really wish email links were listed on the town website.)

I would like to voice my concerns about the Planning Commission potentially considering changing codes for short-term rentals in town (as I read in the newspaper). A quick search online for La Conner rentals reveals many options for people who don't want to stay in one of our designated hotels or inns. I don't think, although I'm not sure, the current code is currently creating disruptions in neighborhoods. I see some rooms for rent in occupied homes, I see condos on Maple Avenue for rent. I sent a small cabin on first street. I see an entire house on the hill, an entire house on Morris Street, in addition to our Inns, hotels, and B & B. In short, it seems we have rental options covered for a town our size and we may even have expanded the options too much, as a few of the options could certainly be long term rental options for people who work here and would like to live in town but can't afford to buy.

I know that Greg Ellis is trying to figure out how to build on his space and develop housing that might address our need for smaller, more affordable options, but I don't understand why he would need to create "short-term" rentals in addition to that. It's easy enough to build a good fence and install landscaping to hide the grocery store and restaurant next door. I'm sure there are people who would sacrifice that location on the lot for a reasonably priced place to live, full time, in La Conner.

This is a letter for the public record so that the entire Planning Commission can see my input.

Thanks,
Nancy Crowell
528 Road Street

Planning Assistant

From: Scott Thomas <administrator@townoflaconner.org>
Sent: Friday, August 18, 2023 3:28 PM
To: Ajah Eills
Subject: FW: short term rentals

From: joan cross <joaninbhutan@yahoo.com>
Sent: Friday, August 18, 2023 3:17 PM
To: administrator@townoflaconner.org
Subject: short term rentals

To Town Administrator, Planner, and planning commission
Please see that the Planning commission gets this feed back as I noticed there was a call for residents input.

To the La Conner Town Planning Committee: August 16, 2023

I'd like to weigh in on short term rental policies. Please consider these points:

- 1) Short term rentals tend to be an ADU in someone's home or backyard today but in the future they could be built specifically for short term rentals by out of town investors or corporations with no sense of LaConner as a community. There could be exceptions for house sitters for La Conner residents who go on vacation or winter in warmer climes.
- 2) The people who rent them are also not of the community and may become an adverse influence on our sense of community.
- 3) These short term rentals are taking precious space from the limited land in La Conner that could be better planned for low-income service/retail workers who presently can't afford to live here.

Sincerely and respectfully submitted,

Joan Cross, 708 S. 4th St. La Conner

Planning Assistant

From: Don P. <donpendleton01@gmail.com>
Sent: Thursday, August 17, 2023 6:39 AM
To: Scott Thomas; Michael Davolio; Danielle Freiburger; mayor@townoflaconner.org
Subject: Affordable Housing vs Short Term Rentals in Residential Zone

Affordable housing, the issue nearly every city and county in our region is struggling with, including La Conner. And, with the city considering new code changes, it seems the situation may only get worse.

Over the past few years, I've attended many planning commission meetings and at every meeting, the urgent need for affordable housing is discussed. Yet, instead of pursuing policies that will produce more affordable permanent housing, the town is considering encouraging even more short-term rentals by expanding the rules for short-term rentals to include the residential zone. There has already been discussion, from a local developer, to include a row of short term rentals within his affordable housing plans in the lot behind Pioneer Market. These lots are in the residential zone.

With the need and state mandate for affordable housing, why is short term housing in the residential zone even on the table? The current code already allows homeowners the flexibility of opening up their homes as bed and breakfasts so long as it is owner occupied. And accessory dwelling units (ADUs) in the residential zone can be rented out month-to-month or longer.

The existing code is clear: short-term (less than 30 days) rentals and nightly rentals are not allowed in the residential zone. That is the code that has served our community well - and that is the code on the books when the home and lot owners bought or acquired their property.

Much has been written over the past years about the impacts of short-term rentals in small towns. Among the key findings is that short term rentals for vacationers displace long-term rental housing which is a real equity issue given that home ownership has become so expensive. Additionally, short term rentals can increase neighborhood conflicts with more traffic and noise.

Of course, tourism is important to our economy. Already the commercial zone allows a lot of options for tourists: Airbnb's, VRBO's, inns and hotels in addition to several B & B's within the residential zone. The 306 Center Street project, located in the commercial zone, includes plans for adding about 5 more short term rentals on the ground floor of their condominium/apartment project. Most of these tourist accommodations are long-term businesses with deep ties to the community who also contribute a substantial share of city revenue. We need to think of their interests, too.

La Conner is a small town defined by the bordering farmland and water that has attracted a strong and diverse community. It's why this has been my home for more than 30 years. Our town plan needs to balance the importance of tourism with the needs of the people who actually live here by ensuring that our neighborhoods include affordable homes, both ownership and long-term rentals, so that families and a local workforce can afford to live here. There is a community feeling here in town. We all like where we live and feel that the balance between business and residents must be balanced, beneficial and equitable to all.

Kathy Shiner
216 N 3rd St

Please pass this on to both the Planning Commission and Town Council members as well.

Planning Assistant

From: Linda Talman <linda.talman@gmail.com>
Sent: Tuesday, August 22, 2023 1:16 PM
To: Danielle Freiberger
Subject: letter for website, the council members and the planning commission.

Short term rental; long term damage

What is it like to use a short term rental? Simple. You look for a mega corporation site (VRBO or Airbnb or similar. - one that advertises units in a location you wish to visit and then sign up for a rental of choice. (They are usually expensive once all the charges are added in which doesn't happen till the final page or your agreement..)

Financial advisors suggest that people "put their money to work" by buying property in a place where said client might want to hang out. Easy money for the owner, they say. A contract is signed with AIRBNB or VRBO etc. which then sets up the contract, the cleaning people, the advice for the owners - and the contract restrictions. (In La Conner there are a couple places that are legally permitted bed and breakfasts that use the corporate entities to advertise –which is fine.)

The last place we stayed at was so darn cute. We could imagine living there. We could imagine a family in the darling little home. There was a whole street of the little homes. . We felt that they loved us. They left a bottle of wine. Snacks, soap for the washing machine. Menus. Why, these owners must be Super Hosts! (a real thing)(and they were)

What's the problem?

A family was displaced. The school population decreased. Low income housing evaporated. The schools lost population. Hotel lost business.

In La Conner short term rentals are allowed in commercial zone only –primarily on Morris and First) The same places as hotels. Bed and breakfasts on the other hand are allowed in owner occupied residences in the residential zones.

Will the renters eat out? Possibly. So do residents. However, the kitchens are quite complete. Are the actual owners part of the community? No. In our case, the owners were permanent three states away. The unit runs on remote.

Do you want to live in a neighborhood where you have no idea who the neighbors are and where party houses are a possibility?

We don't need to subsidize this investment tool.

Kind regards,

Linda Z Talman

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The only real job of a public official is to make their grandchildren proud. That's called vision.....

Linda

Linda Z. Talman
PO Box 392
La Conner, WA

360 840 1714

MEMORANDUM

TO: Planning Commission
FROM: Planning Department Staff
SUBJECT: Proposed Code Amendments for Affordable Housing
DATE: September 5, 2023

Staff has previously presented draft suggestions intended to accommodate housing for low- and moderate-income individuals and families. Attached you will find our most recent draft. Please note that we have also proposed revisions to our Binding Site Plan regulations to accommodate these changes.

Chapter 15.25 PLANNED UNIT RESIDENTIAL DEVELOPMENT (PURD)

Sections:

[15.25.010 Purpose.](#)

[15.25.020 Permitted location and size of planned unit development.](#)

[15.25.030 Permitted uses.](#)

[15.25.040 Initiation of planned unit residential developments.](#)

[15.25.050 Availability of public services.](#)

[15.25.060 Procedure for approval of planned unit residential development.](#)

[15.25.070 Pre-application conference.](#)

[15.25.080 Preliminary Development plan.](#)

[15.25.090 Final development plan.](#)

[15.25.100 Changes to the development plan.](#)

[15.25.110 Expiration of authorization.](#)

[15.25.120 Open space.](#)

[15.25.130 Density increases.](#)

[15.25.140 Building setbacks and heights.](#)

[15.25.150 Filing fees.](#)

15.25.010 Purpose.

The purpose of a planned unit residential development is to:

- (1) Allow a more flexible plan of development than the traditional one house-one lot development;
- (2) Promote more economical and efficient use of the land, provide a harmonious variety of housing choices and plot plans, and preserve open spaces. [Ord. 671 § 3.3.A, 1995.]
- (3) Encourage the development of more affordable housing for individuals and families of lower or moderate incomes.

15.25.020 Permitted location and size of planned unit development.

A PURD may be located only in a residential zone and on a parcel of ~~one acre~~ 15,000 square feet or more. [Ord. 671 § 3.3.B, 1995.]

15.25.030 Permitted uses.

All permitted uses shall conform with a specific final development plan as specified in this section. The following uses are permitted:

(1) Residential units, either single-family detached or multiple attached units or a combination of detached single-family or multifamily units;

(2) All accessory and conditional uses as permitted in a residential zone;

(3) Recreational facilities, tennis courts, playgrounds, and community halls;

(4) Conditional uses permitted in a residential zone. [Ord. 671 § 3.3.C, 1995.]

(5) Short-term residential uses, provided that the dwelling unit is located within fifty (50) feet of property zoned for a Commercial use, and that the number of short-term dwellings does not exceed ten (10%) percent of the total number of dwellings.

15.25.040 Initiation of planned unit residential developments.

Planned unit residential development projects may be initiated by:

(1) The owner of all the property involved, if under one ownership; or

(2) An application filed jointly by all owners having title to all the property in the area proposed for the planned unit residential development project if there is more than one owner; or

(3) A governmental agency; or

(4) A person having an interest in the property to be included in the planned unit residential development. The PURD applications shall be in the name or names of the recorded owner(s) of the property included in the development. However, the application may be filed by holder(s) of an equitable interest in or having an option on such property. The applicant must provide evidence of full ownership interest in the land (either legal title or the execution of a binding sales agreement) before final plan approval. [Ord. 671 § 3.3.D, 1995.]

15.25.050 Availability of public services.

(1) Developers of planned unit residential development projects shall plan developments in a manner that will provide direct access to major collector streets where feasible, without creating additional traffic along minor streets in surrounding residential neighborhoods.

(2) Planned unit developments shall be designed in a manner that will not overtax existing sanitary sewers, water lines, storm water and surface drainage systems, and other utility systems resulting in higher net public costs, unless compensation or equivalent services are provided. [Ord. 671 § 3.3.E, 1995.]

15.25.060 Procedure for approval of planned unit residential development.

A PURD application may be submitted as a subdivision or short subdivision per Chapter 15.30 LCMC, or as a binding site plan (Chapter 15.55 LCMC). ~~must conform with the provisions of Chapter 15.30 LCMC, Subdivisions/Short Subdivisions. The planning commission shall review the PURD application concurrently with the subdivision application, if applicable. [Ord. 671 § 3.3.F, 1995.]~~

15.25.070 Pre-application conference.

Before filing any application for a planned unit residential development the applicant shall submit preliminary plans to the planning department for staff and planning commission information and review. [Ord. 671 § 3.3.G, 1995.]

15.25.080 Preliminary Development plan.

(1) Following the pre-application conference, the applicant shall submit a formal ~~preliminary~~ application for ~~staff and to the planning commission review.~~ The preliminary development plan shall include the following documents:

(a) Application form indicating:

(i) Existing zoning;

(ii) Total site area;

(iii) Area of bodies of water;

(iv) Gross area of site: subsection (1)(a) (ii) minus (1)(a)(iii);

(v) Total number of dwelling units;

(vi) Density: subsection (1)(a)(v) divided by (1)(a)(iv);

(vii) Usable open space (percent of percent of subsection (1)(a)(ii));

(viii) Common open space (percent of subsection (1)(a)(vii));

(b) Legal description of site and statement of present ownership;

(c) Description of the natural setting, including slope, topography, soil type, significant land forms, bodies of water, trees and other vegetation, scenic assets and surrounding buildings. Areas requiring substantial recontouring or grading shall be described;

- (d) Development schedule including estimated dates of start, completion and phasing;
- (e) Intent as to final ownership, including plans for rental, sale or combination. If the proposed use is for low or moderate income housing, there must be provisions to ensure that those dwelling units will remain available for low and moderate income individuals and families for not less than twenty (20) years;
- (f) Site development map(s) depicting:
- (i) Topographic lines at five-foot intervals;
 - (ii) Water bodies and critical areas;
 - (iii) Natural features including major land forms, rock out-croppings and flood hazard area;
 - (iv) Areas of significant tree cover and how they are affected by the plan;
 - (v) Property lines; easements;
 - (vi) Existing street names;
 - (vii) Configuration and function of all buildings, noting proposed heights of each and distance between property line and nearest building;
 - (viii) Vehicular circulation, parking area, loading areas and storage areas (indicate number of parking spaces for use);
 - (ix) Pedestrian circulation;
 - (x) Areas of private open space;
 - (xi) Recreational facilities, if any;
 - (xii) A landscaping plan showing areas of tree removal, retention or addition plus the location, type and size of existing or new plant materials, street furniture and other physical features including transformers, hydrants, telephone pedestals, walls and fences, trash storage area, and retaining walls, location, type and height of proposed street and walkway lighting, location and design of signs to be included;
 - (xiii) Areas requiring substantial grading or recontouring;

(xiv) Graphic scale with north arrow, date and title;

(xv) A legible sketch of the vicinity within 500 feet of the proposed development showing significant features of the land including buildings and zoning designations;

(g) If the proposed site is within shoreline management jurisdiction an application for shoreline substantial development permit along with any other permits required, such as a floodplain permit or other local, state, or federal permits, shall be filed;

(h) If the proposed site is located within the town's Historic Design district, the application shall show the extent to which the proposal is consistent with the town's Historic Design Review standards, or shall provide a statement as to why such standards should not be applied;

(i) A description of the types of dwelling units and number of bedrooms in each;

(j) A description of programs for insuring continued maintenance of common elements of the development;

(k) Architectural plans depicting general typical floor plans with dimensions, elevations or renderings sufficient to indicate the basic architectural character of the development;

(l) An environmental checklist;

(m) Any additional information required by staff and the planning commission as necessary to evaluate the character and impact of the proposed PURD.

(2) The planning director and the planning commission shall make recommendations to the Hearing Examiner to determine ~~decide~~ if the proposal meets the requirements and conforms to the intent of this code and the comprehensive plan. ~~If unacceptable, the application shall be returned.~~ The town's SEPA official shall review the environmental checklist and issue a determination of environmental impact incurred as a result of the proposal. Following a public hearing, the Hearing Examiner will make a final determination regarding the development proposal. If the proposal is submitted as a subdivision, the Hearing Examiner will make a recommendation for final action to the Town Council, per Section 15.12.120 LCMC. If the proposal is submitted as a binding site plan, the decision of the Hearing Examiner will be final, subject to appeal to Skagit County Superior Court.

(3) If the proposal is adjacent to unincorporated areas of Skagit County, notice of the application shall be given to the Skagit County department of planning and economic development.

~~(4) If the application meets the minimum requirements, it shall be reviewed at a public hearing held by the planning commission. If an environmental impact statement (EIS) is required, the final EIS shall be available for at least 10 days before the hearing on the proposal.~~

(5) Notice of ~~planning commission~~ public hearing:

(a) Notice shall be given by publication of at least one notice not less than 10 days prior to the hearing in a newspaper of general circulation within the town.

(b) Notices of the hearing shall be mailed to all property owners within 300 feet of the proposed development. Addresses for mail notices shall be obtained by the applicant based on the current rolls of the Skagit County assessor's office or obtained from a title company doing business in Skagit County and submitted with the application on one-inch by two-and-five-eighths-inch mailing labels.

(c) Additional notice of such hearing may be required by local authorities to notify adjacent property owners and the public, i.e., posting on the property.

(6) The Hearing Examiner ~~planning commission~~ shall examine the proposal at the public hearing and consider the proposed preliminary development plan, information presented by the applicant, any technical planning assistance, and the public.

(7) The Hearing Examiner ~~planning commission~~ may approve, disapprove, or impose changes or conditions of approval within 30 days from the date of the hearing unless the applicant consents to an extension of such time period.

(8) A copy of the Hearing Examiner's ~~planning commission~~ action, or written recommendations shall be forwarded to the applicant and, if the proposal is submitted as a subdivision, to the town council. The town council shall consider the recommendation at its next regularly scheduled meeting and shall, by resolution, approve or disapprove the ~~preliminary~~ development plan. ~~Preliminary approval does not constitute a rezone or right to begin development.~~

~~(9) Within a maximum of six months following the approval of the preliminary development plan, the applicant shall file with the planning commission a final development plan containing the information required in detail. The planning commission may, upon determination of just cause, extend the period for filing of the final development plan up to six months.~~

~~(10) If the applicant fails to apply for final approval for any reason, the preliminary approval shall be deemed to be revoked and all that portion of the area included in the development plan for which final~~

approval has not been given shall be subject to the zoning and subdivision codes otherwise applicable thereto. [Ord. 842 § 9, 2002; Ord. 671 § 3.3.H, 1995.]

15.25.090 Final development plan.

(1) ~~The planning commission shall review the final development plan application and staff recommendations. One minimum requirement for approval shall be that the final development plan does not vary substantially from the previously approved preliminary development plan. The final development plan shall be deemed sufficiently consistent with the preliminary development plan provided modification by the applicant does not involve one or more of the following:~~

- ~~(a) Violate any provisions of this section;~~
- ~~(b) Vary the lot area requirement by more than 10 percent;~~
- ~~(c) Involve a reduction of more than 10 percent of the area reserved for common open space and/or usable open space;~~
- ~~(d) Increase the total ground area covered by buildings by more than five percent;~~
- ~~(e) Increase density or number of dwellings units by more than 10 percent;~~
- ~~(f) Provided, the increases do not exceed maximums previously established in this code.~~

~~If substantial compliance with the preliminary development plan is not established, the new plan must repeat the public hearing process for review of changes.~~

(2) ~~In addition to the requirements for the preliminary development plan, the final development plan shall include:~~

- ~~(a) Description of types of dwelling units and number of bedrooms in each;~~
- ~~(b) Description of programs for insuring continued maintenance of common elements of the development;~~
- ~~(c) Landscaping plan indicating generally: the location, type and size of existing or new plant materials, street furniture and other physical features including transformers, hydrants, telephone pedestals, walls and fences, trash storage area, and retaining walls, location, type and height of proposed street and walkway lighting, location and design of signs to be included.~~

~~Final details may be required to be approved by the planning commission subsequent to final approval.~~

~~(d) Architectural plans depicting general typical floor plans with dimensions, elevations or renderings sufficient to indicate the basic architectural character of the development.~~

~~(3) The planning commission shall examine the final development plan and determine whether it conforms to the approved preliminary development plan. The planning commission shall make a decision on the final development plan within one month after the official date it has received the plan. If there is any significant discrepancy, the commission may permit the applicant to revise the plan and resubmit it as a final development plan within 30 days.~~

~~If the planning commission does grant such permission, the commission's ultimate acceptance or rejection of the revised final development plan shall become final 10 days after the date of decision. The commission may also approve the plan without revision. The decision of approval without revision will become final 10 days after the date of decision.~~

~~(4) If the planning commission does not approve a final development plan, their specific reasons for disapproval shall be stated in writing and made part of the public record, as well as presented to the applicant.~~

~~(5) Final approvals subject to modifications or conditions shall be agreed to in writing by the applicant before recording and formal acceptance.~~

~~(6) Following formal acceptance and recording by the planning commission, the town council shall conduct necessary legislative actions relevant to the proposed project, such as accepting and recording site plans and plats, and accepting any dedicated properties, streets, and right-of-way. The original final PURD text, maps and approved documents shall be submitted for approval by the La Conner planning director and, once signature is obtained from the planning director approving said documents, each shall be recorded with the Skagit County auditor and a copy filed with the Skagit County assessor.~~

~~(7) At least one reproducible copy of the final recorded PURD text, maps, and approval documents, including recording information, shall be submitted to the town. Additional copies shall be submitted to the town as required.~~

~~(8) After necessary legislative actions by the town council, and recording of the PURD as set forth herein, building permits may be issued and construction begun. [Ord. 842 § 16, 2002; Ord. 671 § 3.3.1, 1995.]~~

15.25.100 Changes to the development plan.

(1) Any changes in the preliminary or final development plan, after approval through the above procedures shall be reviewed by the planning commission to determine if a new plan should be submitted.

(2) Changes in the development plan may be approved by the planning commission; provided, that such changes do not:

(a) Change the use or character of the development;

(b) Increase overall coverage of structures;

(c) Increase density;

(d) Reduce the amount of open spaces;

(e) Change the general location or amount of land devoted to specific uses.

(3) Changes may include minor shifting of the location of buildings, utility easements, public open spaces, or other similar features of the plan. [Ord. 671 § 3.3.J, 1995.]

15.25.110 Expiration of authorization.

(1) If no construction has begun within six months of final approval of the PURD, the approval shall expire. The planning commission may extend approval for an additional six-month period if an application for extension is received before the authorization expires. If no construction has begun at the end of this extension, the final development plan shall become null and void, and a new one shall be required for any development on subject property.

(2) Upon the abandonment of a particular project authorized under this chapter or upon the expiration of two years from the final approval of a PURD which has not by then been completed or commenced with an extension of time for completion granted, the authorization shall expire and the land and the structures thereon may be used only for a lawful purpose permissible within the zone in which the PURD is located. [Ord. 671 § 3.3.K, 1995.]

15.25.120 Open space.

(1) Open space is an identifiable greenbelt area which is accessible and available to all occupants of dwelling units for whose use the space is intended. This includes private as well as common open space.

(2) Open space does not include:

(a) An area of the site covered by buildings, roads, parking structures or accessory structures;

- (b) Proposed street rights-of-way;
- (c) Open parking areas and driveways for dwellings;
- (d) School sites;
- (e) Commercial areas;
- (f) Land totally unsuited for building because of topographic features may be counted as open space.

(3) The total area of the development, minus undevelopable area and bodies of water, is the gross site area.

(4) Required usable open space in a PURD is a minimum of 50 percent of the gross site area, to include private yards.

(5) Required common open space is an identifiable greenbelt area and is a minimum of 50 percent of the usable open space. Common open space are lands used for scenic, recreational or landscaping purposes within the development and for the use of all residents of the PURD.

(6) Adequate guarantee must be provided to ensure permanent retention of "common open space" land area resulting from the application of these regulations, either by private reservation or protective covenants, for the use of residents within the development or by dedication to the public or a combination. [Ord. 671 § 3.3.L, 1995.]

15.25.130 Density increases.

(1) The number of dwelling units that may be constructed in a PURD shall be based upon one dwelling unit for each ~~5,000~~ 4,000 square feet of gross site area. If the proposed development is designed to accommodate housing for low or moderate income families or individuals, density shall be limited only by the availability of land within the development, taking into account the required open space and limitations based on setback requirements and height limitations.

(2) For development proposals that do not include provisions for low or moderate income individuals or families, the Hearing Examiner ~~planning commission~~ may approve development ~~up to 40 percent higher~~ density, based on site plan review and the guidelines listed below which are to be treated as additives:

(a) Open space. A density bonus of up to 20 percent is allowed for providing up to 20 percent of gross site area as common open space (in addition to the common open space required in LCMC [15.25.120\(e\)](#)) on an equivalent basis.

(b) A density bonus of up to 10 percent is allowed for landscaping, recreation facilities or improvements suitable to the site that enhance the quality of the development and benefit the residents of the PURD and the town of La Conner.

(c) A density bonus of up to 10 percent is allowed for visual focal points, use of existing physical features, sun and wind orientation, architectural style, energy efficient siting and/or design. [Ord. 671 § 3.3.M, 1995.]

15.25.140 Building setbacks and heights.

(1) Individual multifamily dwelling buildings must meet setbacks and height limits required in the zone in which it is located with respect to the outside perimeter of the PURD.

(2) Individual single-family residences must meet setbacks and height limits required in the zone in which it is located with respect to their respective lot lines.

~~(3) The planning commission shall specify an extended building setback line of up to 100 feet, but not less than 25 feet on lots that border agricultural land to prevent shadows or other intrusions onto or conflicting with agricultural land and uses.~~

~~(34)~~ The minimum distance between buildings within a PURD shall be 10 feet.

~~(45)~~ Setbacks of buildings from the perimeter of a PURD shall be compatible with the residential zone in which it is located, unless extenuating circumstances show a need for increasing perimeter setbacks.

[Ord. 671 § 3.3.N, 1995.]

15.25.150 Filing Fees.

(1) A filing fee set by the town council shall be paid to the town clerk at the time of application.

(2) If the PURD is filed at the same time as a preliminary plat for the same tract, to be processed simultaneously in accordance with a subdivision or short subdivision application, the fee shall be one and one-half times the fee for the subdivision application. [Ord. 671 § 3.3.O, 1995.]

(3) If the PURD proposes to provide low or moderate income housing, impact fees shall be waived. However, all fees for utilities and other improvements shall still apply.

Chapter 15.55 BINDING SITE PLAN REGULATIONS

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15.55.010 Purpose.

A binding site plan is an overlay of a ~~commercially or industrially zoned~~ site proposed for developed, new development or redevelopment. It is intended for ~~commercial and industrial use~~, as an alternative to a subdivision, to create additional building lots, or to define building pads that are reviewed as part of a larger site plan as leaseable or saleable lots. Binding site plans are subject to the provisions of RCW [58.17.035](#). [Ord. 1132 § 2, 2015; Ord. 807 § 1, 2001.]

15.55.020 Applicability.

The division of property by the binding site plan process may only be used for division of land for the sale or lease of ~~commercially or industrially zoned~~ property; ~~provided, residential uses are not included~~. [Ord. 807 § 1, 2001.]

15.55.030 Preapplication.

Prior to applying for binding site plan approval, a proponent shall present a preliminary site plan that contains (in a rough and approximate manner) all of the information required for a formal binding site plan application. The purpose of the preliminary site plan submittal is to enable the person presenting the plan

to obtain a preliminary assessment from the town as to the preliminary site plan's compliance with adopted plans, policies and ordinances of the town. Prior to receiving binding site plan approval an applicant is required to submit a fully completed application. The preapplication review described herein creates no rights to the proponent or obligation to the proponent by the jurisdiction. [Ord. 807 § 1, 2001.]

15.55.040 Application.

Applications for binding site plan approval shall be filed with the planning director. To be considered complete and considered for approval, a binding site plan must contain the following:

(1) ~~Ten~~ Electronic or paper copies of the binding site plan on 18-inch by 24-inch paper showing:

- (a) Name of the binding site plan and space for numerical assignment;
- (b) Legal description of the entire parcel, legal description of each proposed lot, square footage of each lot, date, scale and north arrow;
- (c) Boundary lines, rights-of-way for streets, easements and property lines of lots and other sites with accurate bearings dimensions or angles and arcs and of all curve data;
- (d) Names and rights-of-way widths of streets within the parcel and immediately adjacent the parcel;
- (e) Number of each lot and block;
- (f) References to covenants, joint use, access easements or other agreements either to be filed separately or with the binding site plan;
- (g) Zoning setback lines and building envelopes where applicable;
- (h) Location, dimension and purpose of any easements noting if the easements are private or public;
- (i) Location and description of monuments and all lot corners set and found;
- (j) Datum, elevations and primary control points approved by the town engineer, descriptions and ties to all control points shall be shown with dimensions, angles and bearings;
- (k) A dedicatory statement acknowledging public and private dedications and grants;
- (l) Parking areas, loading areas, general circulation, landscaping area;

- (m) Proposed use and location of buildings with dimensions where applicable;
- (2) Be submitted with the documents required by LCMC [15.55.050](#), [15.55.060](#) and [15.55.070](#);
- (3) Be accompanied with a fee as set by the town council;
- (4) A completed environmental checklist. [Ord. 807 § 1, 2001.]

15.55.050 Survey required.

- (1) A survey must be performed and filed with every binding site plan. The survey must be conducted by or under the supervision of a Washington State registered land surveyor. The surveyor shall certify on the binding site plan that it is a true and correct representation of lands actually surveyed and the survey was done in accordance with state law.
- (2) In all binding site plans, lot corner survey pins must be set before final approval can be granted.
- (3) In all binding site plans, perimeter monuments must be set before final approval can be granted.
- (4) In all binding site plans, control monuments must be set before final acceptance of public improvements.
- (5) In all binding site plans, flood elevations shall be shown. [Ord. 1211 § 2(A), 2022; Ord. 807 § 1, 2001.]

15.55.060 Binding site plan certifications required.

- (1) A certificate giving a full and correct description of the lands divided as they appear on the binding site plan, including a statement that the division has been made with the free consent and in accordance with the desires of the owners of the land covered by the binding site plan, must be filed with the application. If the binding site plan is subject to a dedication the certificate or a separate written instrument shall also be required and contain a dedication of all streets and other public areas to the public.
- (2) A certification by a licensed surveyor, licensed in the state, that the binding site plan survey is accurate and conforms to the provisions of these regulations and state law must be filed with the application.
- (3) All binding site plans are required by RCW [58.17.040](#) to contain the following declaration:

All development and use of the land described herein shall be in accordance with this binding site plan, as it may be amended with the approval of the town, and in accordance with such other governmental permits, approvals, regulations, requirements, and restrictions that may be imposed upon such land and the development thereof. Upon completion, the improvements on the land shall be included in one

or more condominiums or owned by an association or other legal entity in which the owners of units therein or their owners' associations have a membership or other legal or beneficial interest. This binding site plan shall be binding upon all now or hereafter having any interest in the land described herein.

[Ord. 807 § 1, 2001.]

15.55.070 Binding site plan title report.

All binding site plan applications shall be accompanied by a title company certification (current within 30 days) confirming that the title of the lands as described and shown in the binding site plan are legally held in the name of the owner(s) signing the binding site plan. [Ord. 807 § 1, 2001.]

15.55.080 Administrative duties.

(1) The planning director administers the provisions of this chapter. Binding site plans for commercial or industrial uses shall be processed as a Type I permit. Binding site plans for proposed residential uses shall be reviewed and acted upon by the Hearing Examiner.

(2) A fully completed application for commercial or industrial binding site plan approval shall be approved with conditions, returned to the applicant for modifications, or denied within 28 days of its being deemed complete by the planning director unless the applicant agrees, in writing, to an extension of this period. A binding site plan application shall be deemed complete when the planning director determines the application meets the requirements of LCMC [15.55.040](#), [15.55.050](#), [15.55.060](#) and [15.55.070](#).

(3) Upon receiving a complete application for binding site plan approval, the planning director shall transmit a copy of the binding site plan, together with copies of any accompanying documents as the planning director deems appropriate, to the following:

(a) Town public works director, who shall review the proposed binding site plan with regard to its conformance to the general purposes of adopted traffic and utility plans, adequate provisions for storm drainage, streets, alleys, other public ways, water and sanitary sewer and conformance to any applicable improvement standards and specifications;

(b) Water and sewer superintendent, who shall review the proposed binding site plan with regard to its conformance to the general purposes of the adopted water and sewer regulations and conformance to any applicable improvement standards and specifications;

(c) Fire chief, who shall review the proposed binding site plan with regard to adequate provisions for emergency access;

(d) Any other town department, utility provider, school district or other public or private entity as the planning director deems appropriate.

(4) In transmitting the proposed binding site plan to the parties referenced above, the planning director shall solicit their comments and recommendations, and note the date by which comments and recommendations must be received by the planning director in order to be considered. Any comments received by that date shall be incorporated into the formal findings that will form the basis of the planning director's decision on the binding site plan. If no comments are received from any of the parties referenced above, the planning director shall make such findings as he/she deems ~~just~~ appropriate. However, in every case a proposed binding site plan shall contain a statement of approval from the town engineer, as to the survey data, the layout of streets, alleys and other rights-of-way, design of sewer and water systems and other infrastructure. The planning director shall not approve a binding site plan which does not contain a statement signed by the town engineer.

(5) The planning director shall review the proposed binding site plan and determine its conformance to the general purposes of this title, its conformance with the comprehensive plan and its conformance with the zoning ordinance and any other applicable land use controls. These determinations shall form the basis of the planning director's decision on the binding site plan. [Ord. 807 § 1, 2001.]

15.55.090 Development requirements.

(1) All improvements within the BSP must be in conformance with the recorded binding site plan and any conditions placed upon the binding site plan by the planning director.

(2) Any new development within a binding site plan area is subject to the development standards of the La Conner Municipal Code and the shoreline master program.

(3) Filing a completed and approved binding site plan does not vest any development proposal associated with the binding site plan. Any proposed improvement or development within the BSP is subject to review pursuant to all applicable local, state and federal regulations. [Ord. 807 § 1, 2001.]

15.55.100 Standards for binding site plans.

The following standards shall apply to binding site plans that are prepared for recording:

(1) All binding site plans shall be ~~drawn 18 inches by 24 inches~~ prepared in a manner acceptable to the county auditor for recording;

(2) All tracts, parcels and lots created by a binding site plan shall be burdened by an approved maintenance agreement maintaining access to the various lots, tracts and parcels and for the costs of maintaining landscaping and other common areas;

(3) When any lot, tract or parcel is created without street frontage, access and utility easements shall be provided and said easements shall be recorded in the county auditor's office with the recording number and an easement notation provided on the face of the binding site plan;

(4) Sufficient parking for each use per Chapter [15.90](#) LCMC must be located on the lot where the use is located or through joint parking agreements with adjoining owners. Notations on parking agreements must be provided on the face of the binding site plan. All parking lots shall be paved and designed to control drainage on site. [Ord. 1211 § 2(A), 2022; Ord. 1132 § 2, 2015; Ord. 807 § 1, 2001.]

15.55.110 Approval and filing.

(1) A binding site plan shall not be recorded until all land use decisions regarding the concurrent development proposal have been completed and approved.

(2) Upon approval of the binding site plan by the planning director in consultation with the town engineer and public works director, the applicant shall take the original binding site plan, obtain all other approvals from affected utilities and the county treasurer, and file it with the county auditor, conforming to statutory requirements.

(3) The applicant must provide the planning director one paper copy of the recorded document and the county assessor one paper copy of the recorded document before the binding site plan becomes valid. [Ord. 1211 § 2(A), 2022; Ord. 1132 § 2, 2015; Ord. 807 § 1, 2001.]

15.55.120 Alteration.

The recorded binding site plan may be altered at the planning director's discretion by processing through the review/approval procedure. Alterations to a binding site plan must be recorded. [Ord. 807 § 1, 2001.]

15.55.130 Vacation.

The recorded binding site plan may be vacated by the planning director, but only after approval and recording of a new binding site plan. [Ord. 807 § 1, 2001.]

15.55.140 Appeals.

Appeals of an administrative decision relating to a binding site plan may be made to a hearing examiner pursuant to LCMC [15.135.220](#). [Ord. 807 § 1, 2001.]

15.55.150 Enforcement.

No person shall record any binding site plan with the auditor that does not bear the verification of approval as defined by this chapter. The town will prosecute violation of this title and commence actions to restrain and enjoin a violation of this title and compel compliance with the provision of this chapter. The costs of such action shall be the responsibility of the violator. [Ord. 807 § 1, 2001.]