



AGENDA

Lincoln City Planning Commission
Tuesday, April 5, 2022, 6:00 PM
801 SW Highway 101 - 3rd Floor, Lincoln City, OR 97367

- 1. CALL TO ORDER, PLEDGE OF ALLEGIANCE, & ROLL CALL**
- 2. AGENDA CHANGES OR REVISIONS**
- 3. MINUTES**
 - 3.1. Planning Commission - Regular Meeting - Mar 15, 2022 6:00 PM
- 4. FINAL ORDERS, RESOLUTION, & WRITTEN COMMUNICATIONS**
 - 4.1. FO 2022-03 for VAR 2022-02 Olson
- 5. PUBLIC HEARINGS/DELIBERATIONS**
 - 5.1. VAR 2022-01 6604 NE Logan Street Side Setback Variance
 - 5.2. ZOA 2022-07 R1RE Street Side Setback - WITHDRAWN
 - 5.3. VAR 2022-03 Weston 6245 NW Logan Rd CONTINUED TO MAY 17, 2022, AT THE REQUEST OF THE PROPERTY OWNER'S REPRESENTATIVE
 - 5.4. ZOA 2022-06 R1RE Front Setback
 - 5.5. ZOA 2022-05 Code Corrections
- 6. OLD BUSINESS**
- 7. NEW BUSINESS**
- 8. PLANNING COMMISSION TRAINING**
- 9. REPORTS AND COMMENTS**
- 10. FUTURE AGENDA ITEMS & NEXT MEETINGS**

11. ADJOURN

All information for this meeting is available on the City of Lincoln City website at www.lincolncity.org, and this meeting will be televised live on Charter Channel 4 Lincoln City and rebroadcast at various times. Planning Commission meetings are streamed live on the Internet through a link on the City of Lincoln City website, and can also be viewed following the meeting. The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired, for a hearing impaired device, or for other accommodations for persons with disabilities, should be made at least 48 hours in advance of the meeting to the City Recorder, at 541-996-1203.

**LINCOLN CITY PLANNING COMMISSION
MINUTES
March 15, 2022**

1. CALL TO ORDER, PLEDGE OF ALLEGIANCE, & ROLL CALL

Chair Blackerby called the meeting to order at 6:01 PM.

Attendee Name	Title	Status	Arrived
Glenn Johnson	Commissioner	Present	
Melissa Sumner	Commissioner	Present	
Marci Baker	Commissioner	Present	
Robert Vincent	Commissioner	Present	
Kim Blackerby	Chair	Present	
Miles Schlesinger	Commissioner	Present	

2. AGENDA CHANGES OR REVISIONS

Director Skinner noted that the Public Hearing for ZOA 2022-05 would be continued to the April 5th Planning Commission meeting, per request by the applicant.

3. MINUTES

3.1. Planning Commission - Regular Meeting - Mar 1, 2022, 6:00 PM

MOTION: Approve the minutes of the March 1, 2022 meeting as written
MOVER: Vincent
SECONDER: Johnson
AYES: Johnson, Sumner, Baker, Vincent, Blackerby, Schlesinger
RESULT: Passed

4. FINAL ORDERS, RESOLUTION, & WRITTEN COMMUNICATIONS

4.1. Final Recommendation for CPA ZC 2022-01 Purvine

The Final Recommendation for CPA ZC 2022-01 was unanimously approved.

MOTION: Approve the Final Recommendation for CPA ZC 2022-01 Purvine
MOVER: Johnson
SECONDER: Vincent
AYES: Johnson, Sumner, Baker, Vincent, Blackerby, Schlesinger
RESULT: Approved

5. PUBLIC HEARINGS/DELIBERATIONS

5.1. ZOA 2022-05 Code corrections and clarifications Title 16 and Title 17 - continued to April 5, 2022

This public hearing was continued to April 5, 2022.

5.2. VAR 2022-01 6604 NE Logan Street Side Setback Variance

Chair Blackerby opened the Public Hearing for VAR 2022-01 at 6:05 PM, introduced the application, read the required statements, and explained the order of proceedings. No Commissioners were excused for conflicts of interest, no challenges were offered. Director Skinner read the list of applicable substantive criteria.

Director Skinner presented the staff report. The applicant/property owner, Roger Griswold, is requesting a variance from the required street side setback to 10 feet on his property at 6604 NE Logan Road. The required setback for this property in the Roads End Residential zone is 16.38 feet. Ms. Skinner provided background on the project, including the site location, applicable zoning, and the procedures followed for public notification. She also gave an overview of the permitting process and the activities that lead to the construction being nearly completed prior to discovery of the 6.38-foot-setback encroachment. Following a citizen complaint, Director Skinner reviewed the various options with Mr. Griswold, and he chose to pursue a variance. A number of public comments were received in response to the public hearing notification, all in opposition to the variance citing concerns regarding views, traffic, and setting unwanted precedents. No public agencies provided comments. Director Skinner shared the findings of the staff report as they relate to the four approval criteria and reviewed the setback requirements.

Responding to a question from Chair Blackerby, Director Skinner estimated that the houses in the vicinity of this property were built primarily between 1965 and 1994. In answer to his second question, Ms. Skinner described how applicants obtain the planning and zoning information needed to develop in Lincoln City, including talking with City staff and researching the applicable codes which are provided online. Commissioner Schlesinger inquired as to how the error occurred, and whether removal of the front deck and stairs could remedy the situation. In response, Director Skinner stated that she was not working for the City at the time of the application and thus was unable to be certain why the error was not caught earlier. She added that if the deck and stairs did not exist the house would be in compliance. Commissioner Baker commented that she calculated the removal of the deck and stairs would still result in a 6" encroachment. Director Skinner suggested that an Administrative Adjustment could address a 6-inch encroachment.

Roger Griswold provided the applicant's response, shared his background, and his desire to fully use his property. He stated that he completed due diligence before he purchased the property, and that he relied heavily upon staff for guidance. He also stated that he disagrees with the staff finding for the criteria relating to exceptional or extraordinary circumstances, and that a completed house he is not able to occupy represents an exceptional circumstance.

Responding to a question from Commissioner Baker, Mr. Griswold stated that he had assistance from a pool of people in preparing his narrative, and that he has significantly expanded his knowledge of the Lincoln City Municipal Code since he became aware of this issue. Responding to a question from Commissioner Vincent, the applicant stated that he had received staff approvals throughout the process.

Chair Blackerby asked for clarification regarding the foundation setback inspection process, and inquired as to whether or not that inspection was inclusive of the forms for posts and footings for the deck and stairs. Mr. Griswold stated that the plans were specific, and that the inspector would likely have noted these elements. Chair Blackerby asked for clarification about the impact of the

deck and stairs on the overall setback requirements, and asked the applicant to provide a response to the viability of this alteration. Mr. Griswold responded that he had considered a number of alternatives, but none were very desirable aesthetically or functionally, and all were financially burdensome.

Commissioner Vincent asked Director Skinner whether the Planning Commission was the final policy body, and if they were able to approve the variance. Director Skinner stated that the Planning Commission is the decision-making body for a variance, but that any approval must be based on the stated approval criteria.

There were no persons present in support of the variance, and there were no persons presenting as neutral on the variance.

The first speaker opposed to the variance was Janet Knipe speaking in her role as president of the Roads End Improvement Association (REIA). Ms. Knipe stated that REIA is concerned with new development not being consistent with the applicable zoning and the impact on the livability of the area. Considerable time was spent developing the current language in the zoning code to specifically reflect the unique values of the Roads End neighborhood, and that they need to be able to trust that City staff will ensure new development is compliant. She urged the Planning Commission to deny the request. Commissioner Johnson asked Ms. Knipe as to whether she preferred an altered house or no house. She declined to answer, stating that her role was simply to respond to the variance request based on the given criteria, and to support the enforcement of applicable zoning criteria in Roads End. Responding to a question from Commissioner Vincent, Ms. Knipe stated that she was made aware of the issue due to the public hearing notification process. Chair Blackerby inquired about the timing of the Roads End annexation, the development of the zoning regulations, and about the membership of the REIA. In response Ms. Knipe shared that annexation occurred in 2013. The zoning process that was completed in 2015 included extensive citizen involvement and deliberations with the City. According to Ms. Knipe, the REIA has 211 members, which according to Ms. Knipe is approximately 20-25% of the property owners in Roads End.

Mr. Pat McGough of 1835 NE 66th Street spoke on behalf of his 96-year-old mother-in-law, Deborah Prater. She has been living in her home for almost 70 years, and has been negatively impacted by the encroachment. Mr. McGough argued that the builder must be held accountable for compliance with the zoning code. Responding to a question from Commissioner Johnson about alternatives, Mr. McGough declined to answer, citing the Planning Commission's responsibility to make such decisions. In responding to a question from Commissioner Vincent, Mr. McGough shared that the encroachment has negatively impacted his mother's-in-law view.

The Commissioners heard from Mr. Stacey Baird, 7659 NE Logan Road, who called their attention to a previous Planning Commission meeting packet that included a map of the area showing all of the estimated setbacks in the general vicinity of the subject property. He added that the foundation survey provided by the applicant contradicted the original plat of the subdivision. Director Skinner shared with the Commission a copy of the setback map that Mr. Baird mentioned.

Patty Kroen spoke as a resident of the neighborhood, a participant in the Roads End post-annexation zoning process, and a former Lincoln City Planning Commissioner. Ms. Kroen reiterated the message that residents worked hard through the Roads End zoning process to ensure future development would be in keeping with the unique characteristics of the neighborhood. She

stated that while the preservation of views are not part of the criteria, the setbacks were intended to maintain visual consistency. She urged the Planning Commission to deny the variance request.

Mr. Griswold was given the opportunity to respond to these comments. He reiterated that he conducted ample due diligence, his need for a variance, and the lack of reasonable alternatives.

Chair Blackerby asked those participating in the public hearing if anyone wished to request a continuance or to leave the record open. Stacey Baird requested that the matter remain open. Following clarification from City Attorney Richard Appicello, Commissioner Sumner moved to leave the record open until March 22, 2022, at 5:00 PM, which was seconded by Commissioner Johnson. The motion was approved 4-2.

Commissioner Sumner moved to continue deliberations to the April 5, 2022, meeting, which was seconded by Commissioner Baker. The motion was approved 4-2. The public hearing was declared closed at 7:44 PM.

MOTION:	Leave the record for VAR 2022-01 open until March 22, 2022, 5:00 PM
MOVER:	Sumner
SECONDER:	Baker
AYES:	Johnson, Sumner, Baker, Blackerby
NAYS:	Vincent, Schlesinger
RESULT:	Passed

MOTION:	Continue deliberations of VAR 2022-01 to the April 5, 2022 meeting
MOVER:	Sumner
SECONDER:	Baker
AYES:	Johnson, Sumner, Baker, Blackerby
NAYS:	Vincent, Schlesinger
RESULT:	Passed

5.3. VAR 2022-02 Olson Natural Resource Development Variance

Chair Blackerby opened the Public Hearing for VAR 2022-02, the Olson Natural Resource Variance at 7:45 PM, introduced the application, read the required statements, and explained the order of proceedings. No Commissioners were excused for conflicts of interest, no challenges were offered. Director Skinner read the list of applicable substantive criteria.

Director Skinner presented the staff report. The applicant/property owners, James and Jody Olson, are requesting a variance in order to construct a single-family residence on a property encumbered by a natural resource overlay zone. Ms. Skinner provided background on the project, the wetland analysis provided by a consultant to the property owner, input from the Department of State Lands, and communications with the Department of Land Conservation and Development. She reviewed the staff findings related to the specific review criteria, stating that the applicant has met these criteria and therefore staff recommends approval by the Planning Commission.

The applicants, James and Jody Olson, provided a brief overview of their situation, including the purchase of the lot in 1993 for their future retirement home, which occurred prior to the establishment of the natural resource overlay zone. Mr. Olson stated that they were not made aware of the overlay and its impact to the buildability of their lot until very recently.

There was no testimony in support for, neutral to, or opposed to the application. There was no testimony from invited agencies.

Responding to a question from Chair Blackerby, Mr. Olson shared that they had not moved forward in creating a building plan pending Commission action on the variance.

Commissioner Vincent moved to close the public hearing. Commissioner Sumner seconded, and the motion passed.

The applicants waived their opportunity to provide final written arguments after the close of the hearing.

Chair Blackerby opened deliberations. Commissioner Vincent moved to approve the variance, seconded by Commissioner Johnson. The motion passed 5 in favor, one absent.

MOTION:	VAR 2022-02 Olson Natural Resource Development Variance
MOVER:	Vincent
SECONDER:	Johnson
AYES:	Johnson, Sumner, Baker, Vincent, Blackerby
AWAY:	Schlesinger
RESULT:	Passed

6. OLD BUSINESS

None.

7. NEW BUSINESS

7.1. Housing Needs Analysis Update

Director Skinner gave an overview of current activities relating to the Housing Needs Analysis, and its relation to the Comprehensive Plan Update. Ms. Skinner shared that she is working with Alison Robertson, Director of Lincoln City Economic Development and Urban Renewal Agency, and 3J Consulting to update the 2017 Housing Analysis. Results are expected to be ready for presentation to the Planning Commission in late summer/early fall. Staff are also working on refining the buildable lands inventory to more accurately reflect existing conditions, zoning, lot restrictions, and ownership. Currently the inventory shows a surplus of buildable lands.

7.2. Housing - Comprehensive Plan Update

Director Skinner reminded the Commissioners that they identified Housing as one of their top priority goals to address within the Comprehensive Planning Update. She shared that the public had been invited to attend and provide feedback, but that the lack of attendance indicated a need to reconsider the community engagement program moving forward.

Patti Kroen agreed that a more rigorous public involvement process would be necessary, and suggested a variety of strategies for soliciting public input, such as work sessions and attendance at community events.

Director Skinner shared comments she had received from three members of the public. One expressed concern regarding the City's lack of response to the issue of homelessness and the lack of affordable housing and related services. Two comments objected to the proliferation of short-term rentals and their impact on the cost and availability of workforce housing.

Commissioner Baker shared a couple of ideas about increasing public participation in the Comprehensive Plan Update. Commissioner Sumner offered to host an event in coordination with the Chamber of Commerce. Chair Blackerby suggested utilizing casino facilities for events, and Commissioner Baker added that schools might also be good sites.

Lastly, Director Skinner shared that she and Director Robertson would be providing the City Council with an update on housing at the City Council's March 28th meeting. This will include information about construction trends, numbers of permits obtained, and progress made on the strategies identified in the previous housing study.

8. PLANNING COMMISSION TRAINING

None.

9. REPORTS AND COMMENTS

None.

10. FUTURE AGENDA ITEMS & NEXT MEETINGS

The Planning Commission meeting on April 5th will include deliberations on VAR 2022-01 regarding the Roads End street side setback variance, and introduction of a code text amendment on setbacks in Roads End. One other code text amendment regarding general Title 17 corrections will also be presented. Responding to a question from Chair Blackerby and feedback from several Commissioners, Director Skinner stated that the next Planning Commission meeting will be an in-person meeting.

11. ADJOURN

Chair Blackerby closed the meeting at 8:49 PM.

Respectfully submitted,

Anne Marie Skinner
Planning Director

Kim Blackerby
Chair

Planning Commission Communication

FO 2022-03 for VAR 2022-02 Olson

Meeting Date:	April 5, 2022	Primary Staff Contact:	AnneMarie Skinner
Department:	Planning Commission	E-Mail:	ASkinner@lincolncity.org
Secondary Dept:		Secondary Contacts:	
Approval:		Estimated Time:	

Potential Motion:

I move to approve FO 2022-03 for VAR 2022-02 Olson natural resources development variance.

Attachments:

FO 2022-03 for VAR 2022-02 Olson nat res dev variance (PDF)

**LINCOLN CITY
PLANNING COMMISSION**

IN THE MATTER OF

Case File VAR 2022-02	)	
Olson	)	Final Order No. 2022-03
Natural Resources Development Variance	)	

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Findings of Fact and Conclusions of Law regarding compliance with applicable approval criteria as set forth in the Lincoln City Planning and Community Development Department Staff Report for VAR 2022-02, together with supporting documents and application materials in the record, are hereby adopted and incorporated into this Order by this reference.

The incorporated staff report finds that the application meets all applicable approval criteria. The Planning Commission agreed with the findings in the staff report and unanimously moved and voted to approve the request for a natural resources development variance to allow future construction of a detached single-unit dwelling.

FINAL ORDER

Based on the evidence presented at the public hearing on March 15, 2022, including the staff report, and the supporting application materials contained in Case File VAR 2022-02, the Planning Commission finds and determines that the application contained in the file SATISFIES AND MEETS all applicable approval criteria as detailed in the staff report, and the application is therefore APPROVED.

FINAL ORDER APPROVED THIS 5TH DAY OF APRIL, 2022.

Planning Commission Chair

ATTEST:

Anne Marie Skinner
Director

Planning Commission Communication

VAR 2022-01 Street side setback

Meeting Date:	April 5, 2022	Primary Staff Contact:	AnneMarie Skinner
Department:	Planning Commission	E-Mail:	ASkinner@lincolncity.org
Secondary Dept:		Secondary Contacts:	
Approval:		Estimated Time:	

Question:

Should the Planning Commission approve or deny the requested variance?

Staff Recommendation:

Staff recommends the Planning Commission hold the public hearing, close the public hearing and the record, deliberate, and approve or deny the requested variance.

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 variance as a Type III application with the decision authority given to the Planning Commission.

Background:

See attached Staff Report

Planning Commission Options:

1. Hold the public hearing, close the public hearing and the record, deliberate, and move to approve or deny the requested variance.
2. Hold the public hearing, keep the hearing and record open, and continue it to a future meeting, date and time certain.
3. Hold the public hearing, close the public hearing but keep the record open to allow additional submittals, and continue deliberation to a future meeting, date and time certain.

Financial Impact

None

Potential Motions:

1. Move to approve VAR 2022-01 as requested.
2. Move to deny VAR 2022-01 to vary the minimum street side setback because the request doesn't meet all the criteria for approval, specifically (then state which of the criterion are not met and why).

Attachments:

VAR 2022-01 Application (PDF)
 VAR 2022-01 Narrative (PDF)
 VAR 2022-01 Site Plan (PDF)
 Comments Fire 02_08_2022 (PDF)
 Comments Hibler 02_14_2022 (PDF)
 Comments Urban Renewal 02_08_2022 (PDF)
 Email Mcgough (PDF)
 Comments Mcgough (DOCX)
 00003046a roads end 1 addition- jan 1932 (PDF)
 00014283 darius 1993 lot survey (PDF)
 Foundation Survey Map (PDF)
 VAR 2022-01 STAFF REPORT (PDF)
 VAR 2022-01 Approximate setbacks (PDF)
 R-1-RE Street Side Setbacks (PDF)
 Additional Comments Combined (PDF)

Variance Application

PROPERTY OWNER/CONTRACT PURCHASER (as listed on deed OR purchase contract):

Copy of purchase contract must be included with submittal for application to be accepted.

NAME: _____
 ADDRESS: _____

 PHONE: _____
 E-MAIL: _____

PROPERTY OWNER/CONTRACT PURCHASER (as listed on deed OR purchase contract):

Copy of purchase must be included with submittal for application to be accepted.

NAME: _____
 ADDRESS: _____

 PHONE: _____
 E-MAIL: _____

SITE INFORMATION:

ZONING DISTRICT: _____
 TAX MAP AND LOT: _____
 SITE ADDRESS: _____

REQUESTED VARIANCE:

Cite the code section of the code requirement to be varied: LCMC 17. _____

**THE PLANNING COMMISSION MUST BE PROVIDED
 ENOUGH EVIDENCE AND PROOF IN THIS
 APPLICATION THAT FINDINGS OF FACT CAN BE
 MADE THAT ALL OF THE FOLLOWING
CIRCUMSTANCES EXIST:**



LCMC 17.77.140.C.1 – *Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity and result from lot size or shape legally existing prior to the date of the ordinance codified in this chapter, topography, or other circumstances over which the property owner has no control;*

LCMC 17.77.140.C.2 – *The variance is necessary for the preservation of a property right of the property owner which is substantially the same as owners of other property in the same zone or vicinity possess;*

LCMC 17.77.140.C.3 – *The variance should not be materially detrimental to the purposes of this title, or to property in the zone or vicinity in which the property is located, or otherwise conflict with the objectives of any city planning policy; and*

LCMC 17.77.140.C.4 – *The variance requested is the minimum variance which would alleviate the hardship.*

A detailed narrative must be prepared and submitted, along with this completed application form, that provides detailed evidence and proof that each of the four circumstances listed above exist. Each circumstance must be discussed and thoroughly addressed.

I (We) hereby declare under penalty of perjury under the laws of the State of Oregon that the foregoing information, as well as the information provided in the attached narrative, is true, complete, and accurate. I (We) acknowledge that providing false information in the application shall be a violation and grounds to deny the application and void any approvals.

SIGNATURES:



Property Owner/Contract Purchaser (signature required)

Date

Property Owner/Contract Purchaser (signature required)

Date

- All property owners listed on the deed of each parcel/lot must sign the application.
- All contract purchasers listed on the purchase contract must sign the application.
- If contract purchasers are individuals other than the property owners shown on the deed, all property owners listed on the deed as well as all contract purchasers listed on the purchase contract must sign the application.

Narrative in Support of Roger Griswold's Request for a Variance from the Street Side setback Requirement

This narrative provides evidence and argument in support of a variance from the street side setback requirement for the completed house located at 6604 NE Logan Road in the Roads End neighborhood. Each of the criteria for a variance as found in LCMC 17.77.140 are set out in **bold** below, followed by a discussion of each.

1. Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity and result from lot size or shape legally existing prior to the date of the ordinance codified in this chapter, topography, or other circumstances over which the property owner has no control.

The extraordinary circumstance here is the fact that with a street side setback of 10 feet, the newly-constructed house on the property does not meet the street side setback requirement. LCMC 17.17.070.F. says:

The minimum street side yard shall be 20 feet, except that it may be one foot less for each two feet of front yard setback over the minimum, but not to less than 10 feet.

The situation came about as a result of a cascade of mistakes on the part of the city. Before purchasing the property, on November 17th, I called and talked to James White in the planning department in a 13 minute phone call. Among the matters I spoke with him about, we specifically talked about setbacks. At that time he told me that the street side setback was 10 feet. I spoke with him again when I was developing the house plans for this lot and the adjacent one on Dec 1st during a 4 minute and 50 second call, and at that time he reaffirmed the 10-foot setback. I had a third conversation with him as I was finalizing the plans. In these calls I asked specifically about setbacks, lot coverage, deck heights, and if there was anything I needed to know in regard to building in Lincoln City and by the ocean and on these lots. I have not built anything here before and was unfamiliar with local codes and anything that may be specific to where I'm planning to build. I was given information about high wind areas, using stainless steel and aluminum because of the salt air. Except for the misinformation about the street side setback he was very helpful and informative. I had no reason to believe he was not providing accurate information.

When I completed the building plans I applied for a building permit. Among the reviews that the city performed on the building plans was a review by the planning department. As a part of the planning department review the reviewer, David Mattison, checked the setbacks, including the street side setback. The plans showed clearly that the proposed setback was 10 feet. The reviewer approved the plans as I submitted them with the 10-foot setback.

After all the reviews were completed, the city issued a building permit and I began construction. One of the first steps in building a house is to put in the forms into which the

concrete for the foundations and footings will be poured. When the forms were in place, as required I called the city for an inspection. One of the primary purposes of this inspection is to ensure that the house is being placed properly on the lot in accordance with the approved plans and that the required setbacks are met. The planning department's inspector, David Mattison, approved everything and the forms passed inspection. I then went ahead and poured the footings and built the house. At the point where there was only touch up painting and the like left to complete I was ready for a final inspection. At this point, Anne Marie Skinner called me and told me I had a problem because the house was built too close to the street side property line. This was a shock to me as I had asked specifically about setbacks, had passed the building plans review (including setbacks), and had passed the field inspection (also including setbacks). As a consequence I have a completed house that is not allowed to be occupied, and I am asking for a variance.



The completed house, view looking northeast from Logan Road. NE 66th Street to the right.

At this point it is important to understand how much of variance I am seeking. As shown above, LCMC 17.17.070.F. allows the street side yard to be reduced by as much as 10 feet if the actual front setback is greater than what is required. Another code provision makes the required front setback for properties fronting on Logan Road equal to the average setback of buildings on all lots within 100 feet of the lot on which the proposed building is to be located and that abut Logan Road. According to the Planning & Community Development Director, this average is 12.77 feet. So the required front setback is 12.77 feet.

The front face of my house is set back 34 feet from the front property line. But the front deck sets back at about 25 feet, and the stairs to the front door entrance are set back 20 feet. Using the stairs' setback of 20 feet, the house is set back 7.23 feet more than is required. Because LCMC 17.17.070.F. allows the street side setback to be reduced by one foot for each two feet of front yard setback over the minimum, the actual required street side setback is 16.38 feet ($20 - [7.23/2]$). So the actual variance I am seeking is 6.38 feet.

As a side note, it is important to understand that this is not a case of claiming that because of the city's repeated mistakes, the city is estopped from applying the ordinance's setback requirement. Instead, this is a case where, yes, the setback requirement applies, but because of the extraordinary circumstance resulting from the city's mistakes – the completed house that does not fully meet the setback requirements – the ordinance's variance provisions allow me the necessary relief.

2. The variance is necessary for the preservation of a property right of the property owner which is substantially the same as owners of other property in the same zone or vicinity possess.

The property right involved here is the right to build and occupy a detached dwelling on the property. The property is zoned R-1-RE and in this zone a detached dwelling is an outright permitted use. This right to build and occupy a house is shared in common with all other properties in the R-1-RE zone. In this case, the house has been built but cannot be occupied because the final inspection revealed that it does not meet the setback requirement. The variance is needed so that the house may be occupied.

3. The variance should not be materially detrimental to the purposes of this title, or to property in the zone or vicinity in which the property is located, or otherwise conflict with the objectives of any city planning policy.

LCMC 17.04.020 sets out the purposes of Title 17. In relevant part, the purposes include promoting sound development, protecting and enhancing real property values, avoiding development that is detrimental to the stability and livability of the city, and safeguarding and enhancing the appearance of the city through effective land use, architectural design, and site planning. This variance is not detrimental to any of these purposes. The house, as built and as shown in the photo, is attractively designed and is a positive addition to the appearance of the city.

Reducing the street side setback by 6.38 feet, to 10 feet, does not materially affect any of the property in the zone or vicinity. In terms of views, it still leaves, next to NE 66th Street's 50-foot right-of-way, a 10-foot setback for views to the west from houses up hill to the east. This setback of 10 feet is greater than what is required in any other zone in Lincoln City. In every other single-family residential zone in Lincoln City the required street side setback is five feet for a one-story dwelling and 7.5 feet for more than one story. This includes the R-1-5 zone, R-1-7.5 zone, the R-1-10 zone, the RR zone, the VR zone, the NCR zone, and, for single-unit dwellings, the NBMU zone. In the RM zone, to the extent

single-unit residences are allowed, the required street side setback is the same: five feet and 7.5 feet. In the OPD zone, there is no street side setback requirement, except for oceanfront dwellings, where the required setback is 10 feet – exactly what is sought here. In the TVC zone, there is no setback requirement at all, except that there is a 10-foot maximum setback.

The 20-foot street side setback requirement in the R-1-RE zone did not originate in Lincoln City. It is a hold-over from the old Lincoln County R-1A zone that was in effect in Roads End at the time of its annexation into the city. There is nothing unique about the street side situation in Roads End, other than this legacy standard, compared to the rest of the city, and the rest of the city has seen fit to apply the 5/7.5-foot standard without ill effect. And even in Roads End, the street side setback, under certain circumstances as described above, is allowed to be reduced to 10 feet, which is exactly what is being sought here.

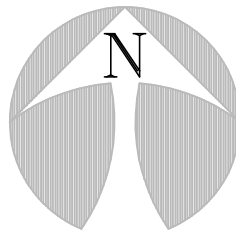
4. The variance requested is the minimum variance which would alleviate the hardship.

The hardship in this case is the inability to provide the required 16.38-foot -minimum setback from the side (south) property line to the side of the existing house. The house was built with a ten-foot setback in accordance with the approved plans and inspections. The alternative is to remove over six feet of the completed house, which would be extremely costly and which would destroy the habitability of the remaining structure. The minimum necessary to alleviate this hardship is varying the street-side setback from 16.38 feet to 10 feet. The house has been built and completed and is ready for an occupancy permit. The variance requested is exactly what is required – no more and no less – to allow the house to be occupied in accordance with the approved plans.

CONTRACTOR/OWNER

3 G'S CONSTRUCTION
(503)-871-8434
PO BOX 85 SALEM OR 97308
map 06-11-34-AA-03200
LOT SF 4,500
HOUSE AND STRUCTURE SF 1540
IMERVIOUS STRUCTURES SF 1880
FRONT YARD 1020 SF

SITE PLAN



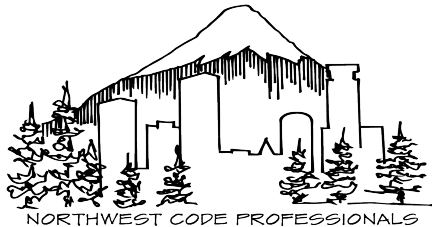
1"=20'

SUBDIVISION: _____ LOT: ____ BLK: ____
NAME: 3 G'S CONSTRUCTION PH. # 503-871-8434
ADDRESS: _____ CDA: _____
ASBUILT # _____ MAP # _____
STORM DRAINAGE: _____
WATER SERVICE LEVEL: _____ CODE: ____ PS: ____
SIDEWALK: _____

APPROVAL STAMPS



Additional engineering plans required for public improvements - deferred submittal required for review prior to final



Reviewed for Code Compliance
Approved by: Brandon Zipser
Permit #: **541-21-000119-STR**
Date: **04/15/2021**
Reviewed for Lincoln City

See attached Building Department Checklist.
Numbered items on plans reference code requirements and corresponding code sections.

① ② ③ ④

See Engineering "S" Pages

541-21-000119-STR

RECEIVED
03/25/2021
PLANNING

541-21-000119-STR
Approved plans shall be on site and accessible at inspection.

LCPW NOTES:

CALL 541-996-1013 OR 541-996-1238 FOR INSPECTIONS, QUESTIONS OR REMARKS.

ROW IMPROVEMENTS: FULL ENGINEER PLANS SHALL BE SUBMITTED FOR APPROVAL IN ACCORDANCE WITH THE REQUIREMENTS OF 17.52.230. IMPROVEMENTS SHALL BE COMPLETED, INSPECTED, AND APPROVED BY LCPW PRIOR TO FINAL APPROVAL AND ISSUANCE OF BUILDING COA. DEFERRED SUBMITTAL AT OWNER'S REQUEST AND FULL LIABILITY

E&SC- NO SEDIMENT DUE TO CONSTRUCTION TO LEAVE SITE. CITY WILL DELIVER STRAW WATTLES UPON REQUEST, AFTER FEES HAVE BEEN PAID.
-INSTALL EROSION & SEDIMENT CONTROL (E&SC) AS SHOWN OR NECESSARY BEFORE ANY CONSTRUCTION ACTIVITY BEGINS.

WATER- WATER METER WILL BE INSTALLED WITHIN 30 DAYS OF APPROVED EROSION CONTROL INSPECTION. CALL FOR COORDINATION IF REQUESTING ALTERNATIVE.

SEWER- INSTALL TO FOLLOW ALL LCPW DETAILS. CALL FOR INSPECTION BEFORE COVERING. USE FITTING SUITABLE FOR TRAFFIC IF PLACED IN DRIVEWAY.

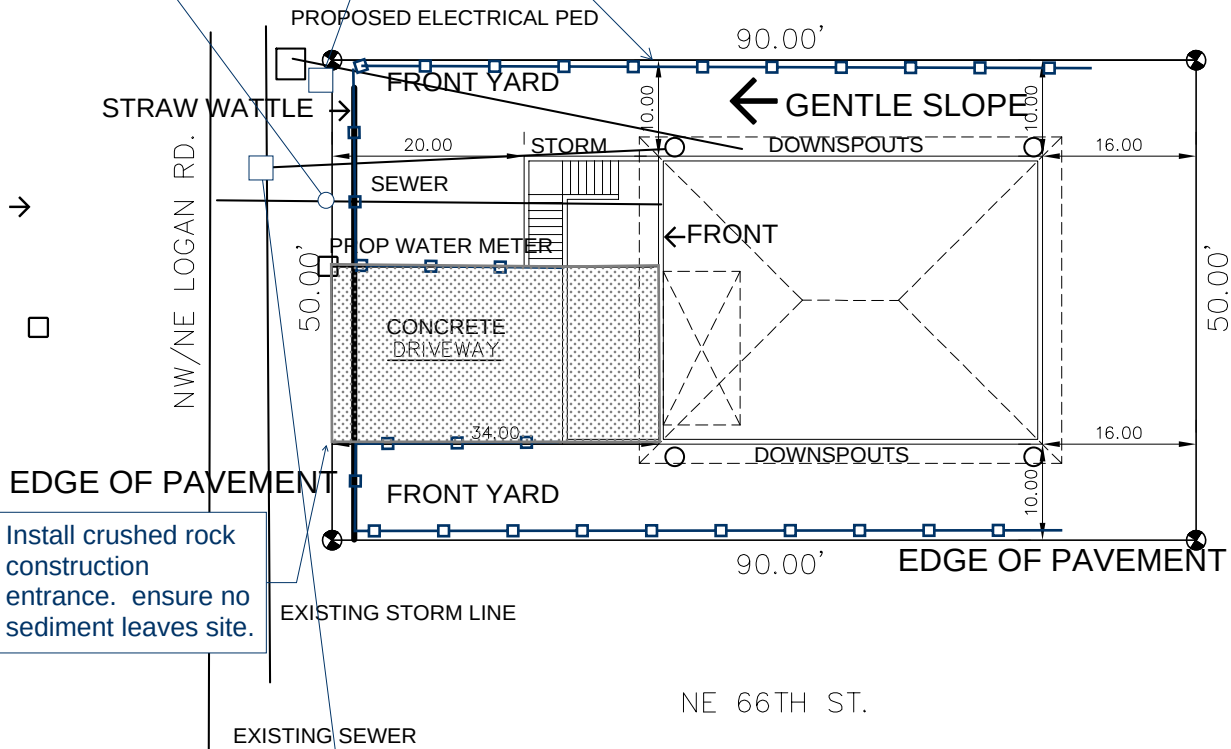
STREETS- ANY STREET CUTS TO BE PATCHED WITH HOT OR WARM MIX ASPHALT CEMENTS. SEE STANDARD DETAIL FOR PATCH SPECIFICATIONS.

GRADING - NO GRADING PLAN SHOWN FOR APPROVAL. ALL GRADING TO BE COMPLETED ACCORDING TO LCPW STANDARDS AND LCMC. INQUIRE FOR QUESTIONS REGARDING GRADING APPROVAL PRIOR TO COMPLETION OF WORK.

Water meter will be placed at NW property corner. Other utility installations shall accommodate.

Tap & lateral installation in right of way per LCPW detail. Install CO at PL

Perimeter control required along ALL downslopes to excavation



Install crushed rock construction entrance. ensure no sediment leaves site.

Storm tap via inserta-tee or corrugated saddle connection. Call for inspection from LCPW

SITE PLAN APPROVED
SUBJECT TO NOTATIONS
03/25/2021
David Mattison
PLANNING & COMMUNITY DEVELOPMENT DEPARTMENT

ANY DECKS, PORCHES, BAYS, CANTILEVERS OR OTHER FEATURES NOT SHOWN ON THE SITE PLAN ARE NOT APPROVED. EVEN IF SHOWN ON THE BUILDING PLANS.

- ☒ Residential Landscape Plan Required
- ☒ Driveway must be asphalt/concrete/pavers
- ☒ ALL utilities must underground (Includes cable, phone, & electric)

WARNING

You must follow these plans exactly as you submitted them and as approved. If you want to make ANY changes they must be approved by Both the building inspector AND the Planning Department. Approval by the building inspector alone is not enough. You might end up violating the setback or height requirements of the zoning ordinance. If that happens you will have to FIX THE PROBLEM AT YOUR OWN COST before we will issue a Certificate of Occupancy. It is possible the only way to fix the problem will be to DEMOLISH some or all of the structure.

THERE WILL BE NO EXCEPTIONS!

SITE PLAN
6600 LOGAN RD.
LINCOLN CITY, OREGON
SCALE: 1" = 20.00'

Setbacks to property lines shall be marked at the footing inspection. The contractor of record is responsible for establishing the correct property markers and setbacks.

JOB SITE MUST BE POSTED WITH ADDRESS & PERMIT NUMBER VISIBLE FROM THE STREET THE APPROVED PLANS MUST BE KEPT ON THE JOB SITE IN SUCH A WAY THAT THEY ARE EASILY LOCATED & PROTECTED FROM WATER AND OTHER DAMAGE.

- * CONTRACTOR TO VERIFY ALL DIMENSIONS IN FIELD*
- * ALL UTILITY LOCATIONS ARE TO BE DETERMINED BY CONTRACTOR.*
- * ALL PROPERTY ELEVATIONS ARE TO BE DETERMINED BY CONTRACTOR.*

PRESCRIPTIVE ENERGY CODE

NOTICE
ALL FEDERAL, STATE, AND LOCAL CODES, ORDINANCES, REGULATIONS ECT. SHALL BE CONSIDERED AS PART OF SPECIFICATIONS FOR THIS BUILDING AND SHALL TAKE PREFERENCE OVER ANYTHING SHOWN, DESCRIBED, OR IMPLIED IN THESE BUILDING PLANS. COORDINATE ALL APPLICABLE MODIFICATIONS TO THESE DRAWINGS AS REQUIRED.

NOTE:
DESIGNER IS NOT AN ARCHITECT OR ENGINEER AND ASSUMES NO LIABILITY FOR THE PLANS IN PART OR WHOLE AND/OR THE CONSTRUCTION OF THE WORK CONTAINED HERE IN. A QUALIFIED PROFESSIONAL SHOULD REVIEW PLANS FOR ERRORS AND OMISSIONS. THESE PLANS SHOULD NOT BE UNDERTAKEN WITHOUT THE ASSISTANCE OF A QUALIFIED CONSTRUCTION PROFESSIONAL. THESE PLANS ARE INTENDED TO BE GUIDELINES FOR CONSTRUCTION THE CONTRACTOR RESERVES THE RIGHT TO MAKE SUCH MINOR DEVIATIONS AS DEEMED NECESSARY AS LONG AS SUCH DEVIATIONS PROMOTE THE OVERALL EFFICACY AND AESTHETICS OF THE PLAN CONTRACTOR SHALL VERIFY AND BE RESPONSIBLE FOR ALL DIMENSIONS AND CONDITIONS ON THE JOB. DESIGNER MUST BE NOTIFIED OF ANY DISCREPANCIES OR VARIATIONS OF AND FROM THESE DRAWINGS PRIOR TO WORK ON THE JOB.

See energy form and floor plan notes for required energy code requirements.

- ENVELOPE ENHANCEMENT MEASURE:
OPTION#2: UPGRADED FEATURES
- CONSERVATION MEASURE:
OPTION A: HIGH EFFICIENCY HVAC SYSTEM
- HOUSE WRAP:
WEATHERSMART

INSTALLATION OF SIDING, HOUSE WRAP, AND WINDOWS TO BE PER CODE REQUIREMENTS AND MANUFACTURER'S INSTALLATION INSTRUCTIONS.

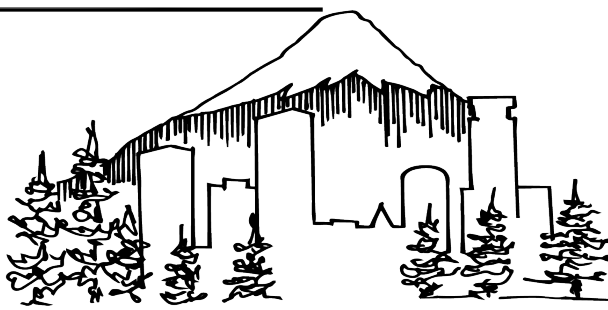
THE CONTRACTOR ASSUMES FULL RESPONSIBILITY FOR THE CORRECT INSTALLATION OF ALL EXTERIOR FINISHES AND WEATHERPROOFING.

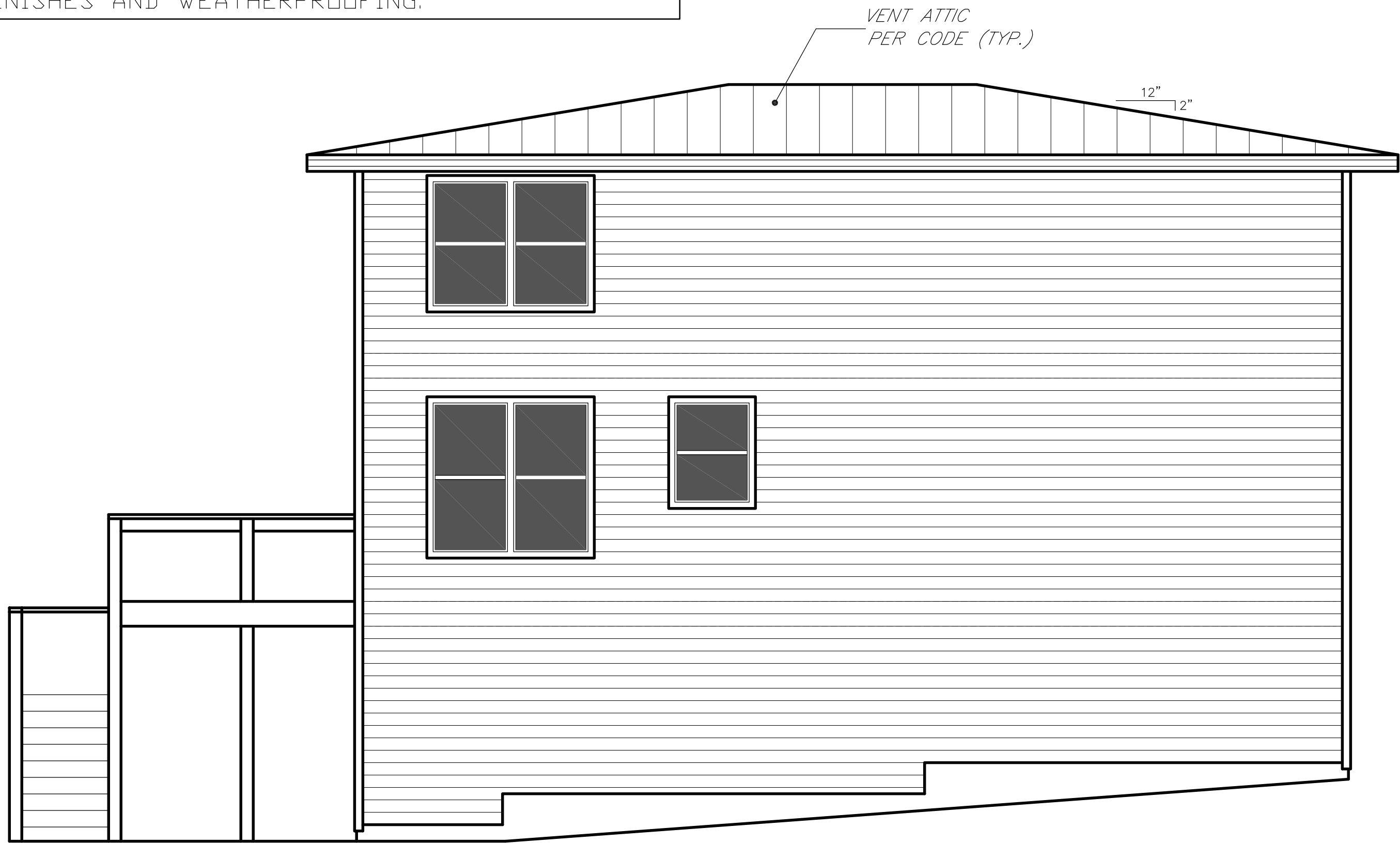


LEFT ELEVATION SCALE: 1/4" = 1'-0"



FRONT ELEVATION SCALE: 1/4" = 1'-0"


NORTHWEST CODE PROFESSIONALS
Reviewed for Code Compliance
Approved by: Brandon Zipser
Permit #: 541-21-000119-STR
Date: 04/15/2021
Reviewed for Lincoln City

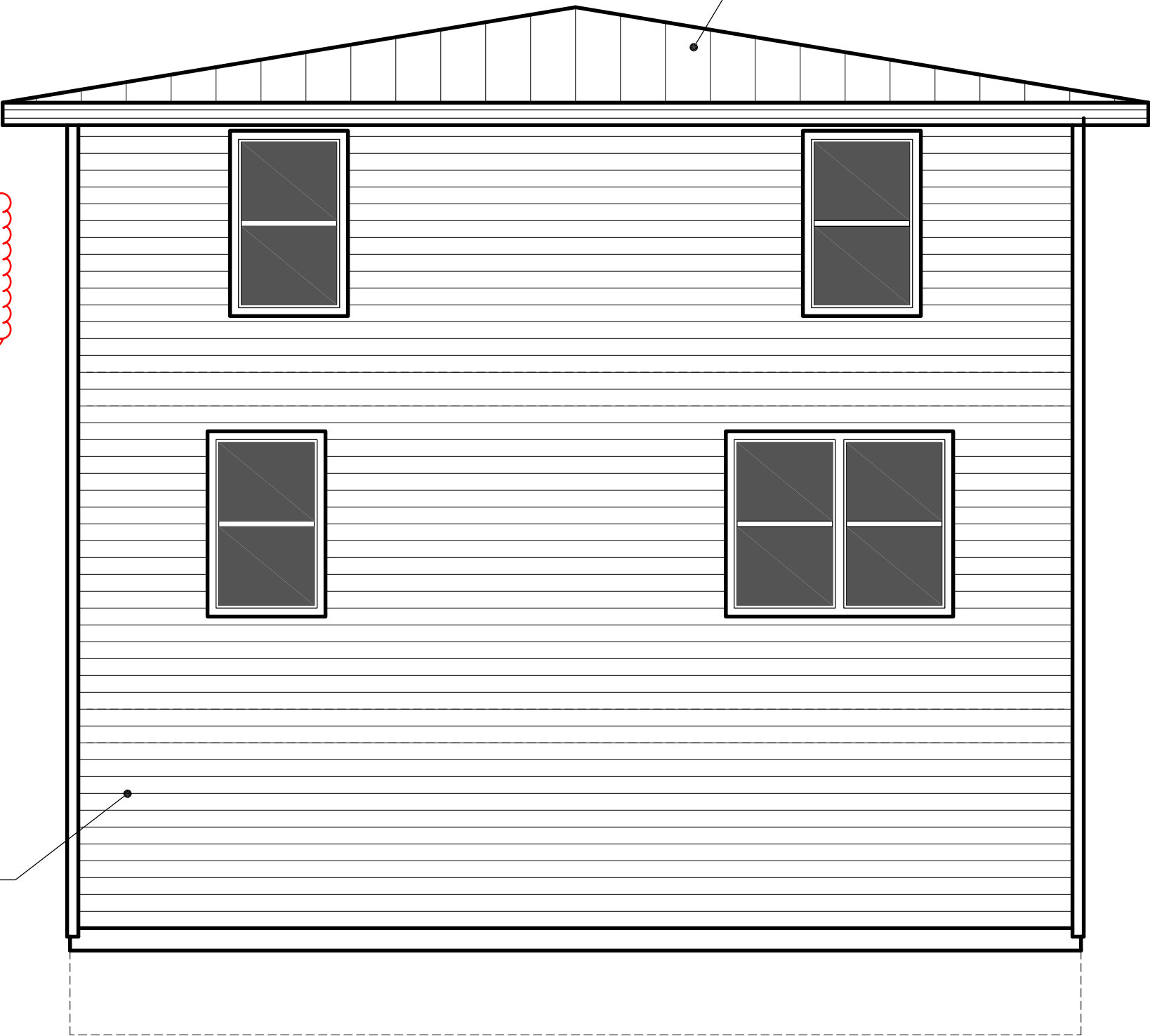


RIGHT ELEVATION SCALE: 1/4" = 1'-0"

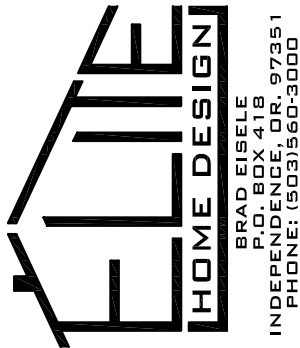
All roofing and siding materials must be rated for 105 MPH wind. Corrosion resistant fasteners required (Highly recommend stainless steel). Eave, rake and kick out flashings required. Head flashings required above all projecting horizontal trim.

ELEVATIONS ARE ARTISTIC RENDERINGS ONLY

HARDI PLANK SIDING OVER APPROVED HOUSE WRAP. INSTALL SIDING/HOUSE WRAP AND WINDOWS PER CODE & MANUFACTURER'S INSTALLATION INSTRUCTIONS



REAR ELEVATION SCALE: 1/4" = 1'-0"

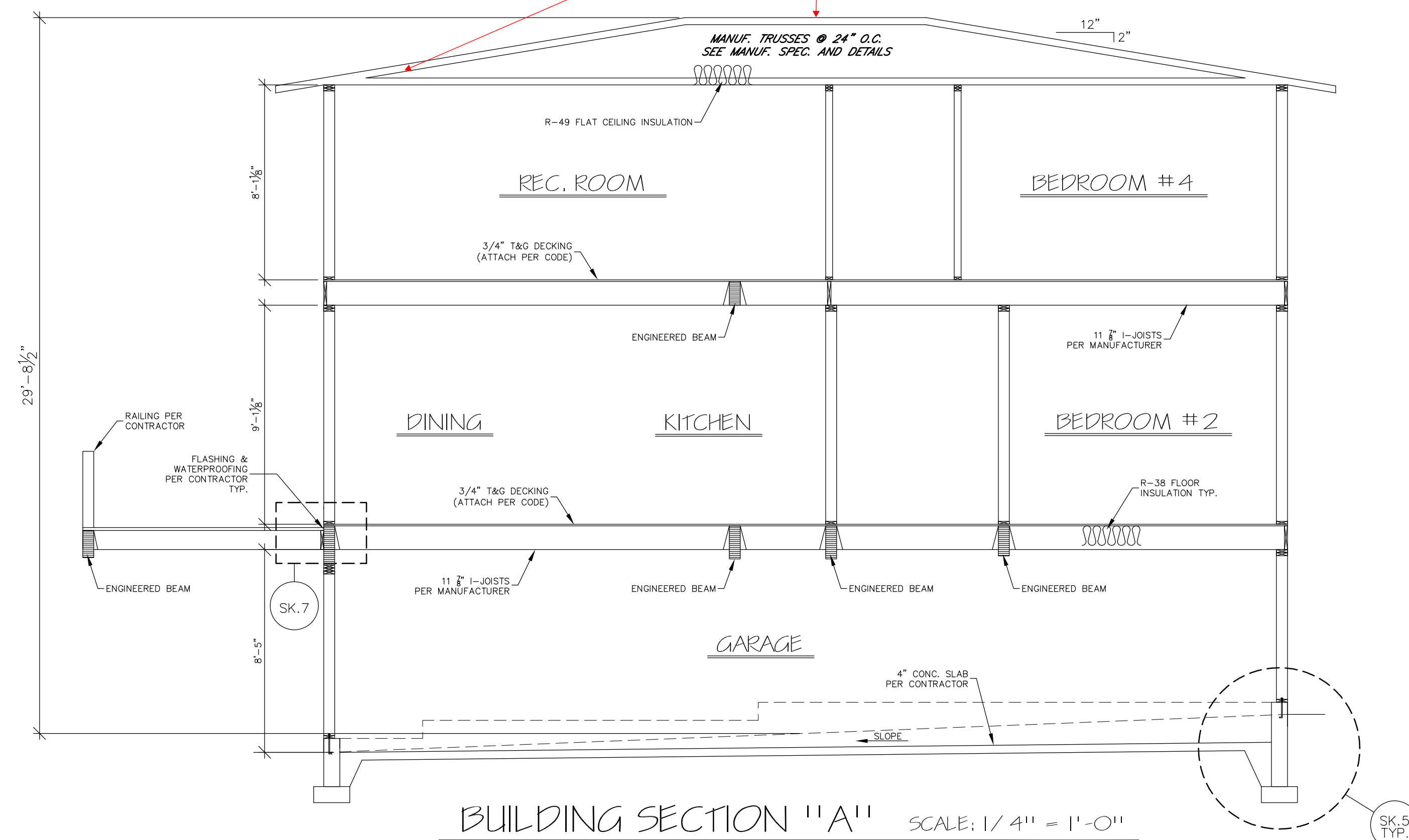


2400 PLAN
6600 LOGAN RD.
LINCOLN CITY, OREGON

CONTRACTOR: 3 G'S CONST.
(503) 871-8434

DATE:	03-07-21
SCALE:	1/4" = 1'-0"
DRAWN:	BRAD EISELE
JOB:	
SHEET:	1
OF	6 SHEETS

Reviewed for Code Compliance
Approved by: Brandon Zipser
Permit #: **541-21-000119-STR**
Date: **04/15/2021**
Reviewed for Lincoln City

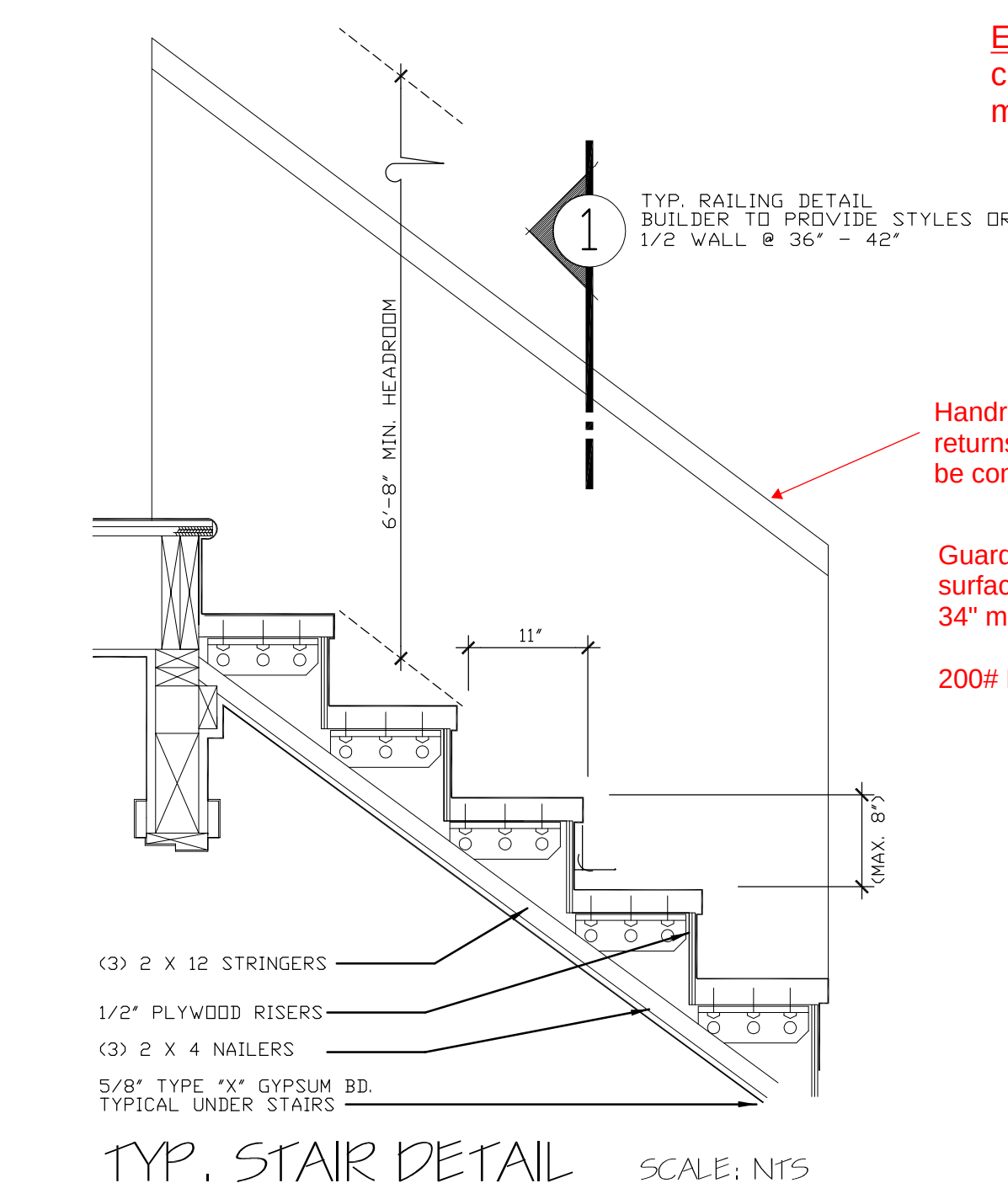


****Due to very low profile truss system, required insulation and ventilation is not possible to achieve. Consult inspector, closed cell spray foam may be needed to achieve required R-Value and remove the need for ventilation.**

N1107.4 Solar interconnection pathway. A square metal junction box not less than 4 inches by 4 inches (102 mm by 102 mm) with a metal box cover shall be provided within 24 inches (610 mm) horizontally or vertically of the main electrical panel. A minimum ¾-inch rigid metal raceway shall extend from the junction box to a capped roof termination or to an accessible location in the attic with a vertical clearance of not less than 36 inches (914 mm).

Where the raceway terminates in the attic, the termination shall be located not less than 6 inches (152 mm) above the insulation. The end of the raceway shall be marked as "RESERVED FOR SOLAR."

Exception: In lieu of ¾ inch rigid metal raceway, a minimum #10 copper 3-wire MC cable installed from the junction box to the termination point including 6 inches (152 mm) additional wire is permitted.



Handrail= 30-38" & must have returns. 1.5" clear from wall. Must be continuous for entire flight.

Guardrails= 36" min at flat surfaces.
34" min in stair flights.

200# Lateral load design.

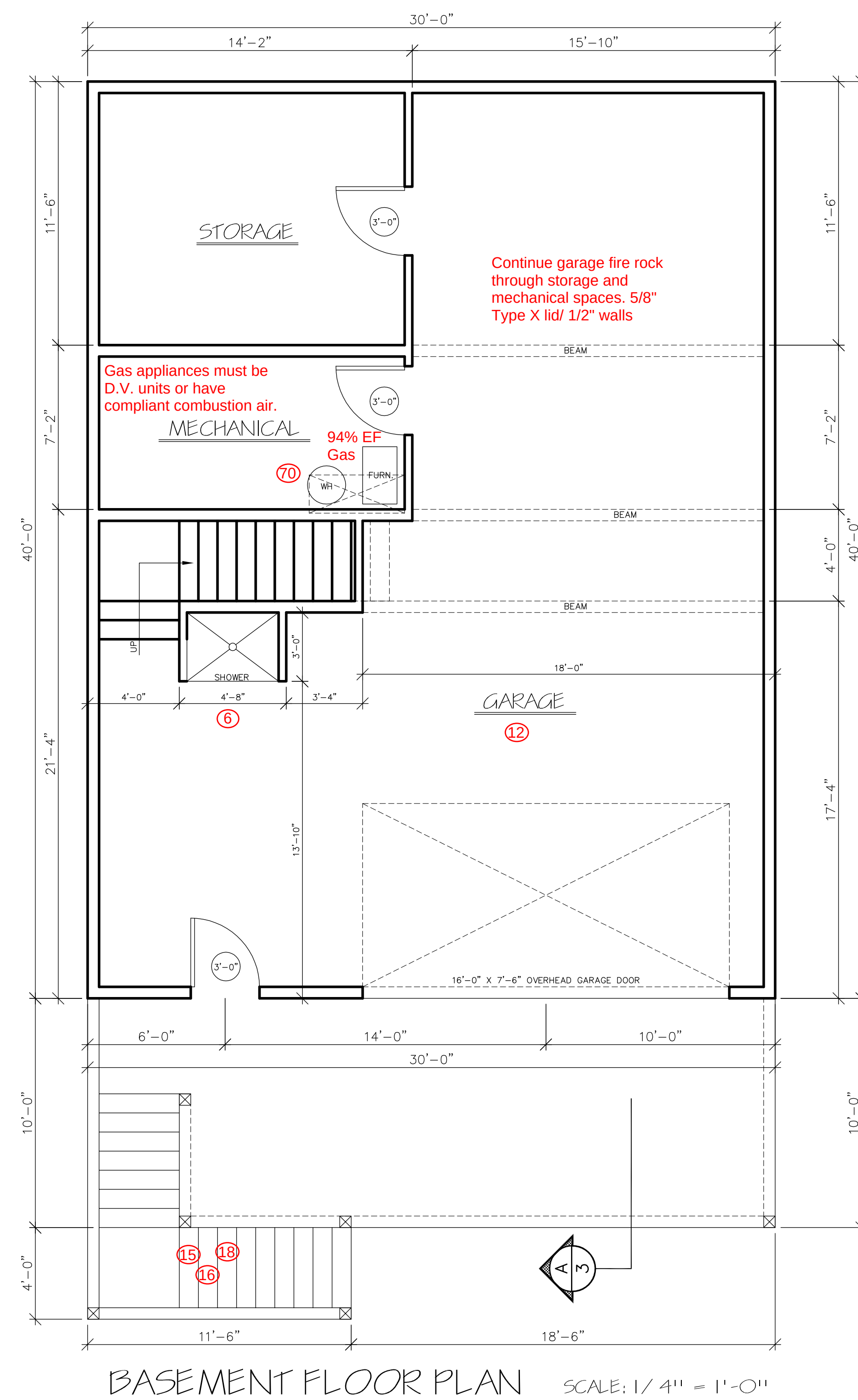
See attached Building Department Checklist.
Numbered items on plans reference code
requirements and corresponding code sections.

N O T I C E

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ORDINANCES, REGULATIONS ECT. SHALL BE
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FOR THIS BUILDING AND SHALL TAKE
PREFERENCE OVER ANYTHING SHOWN,
DESCRIBED, OR IMPLIED IN THESE BUILDING
PLANS. COORDINATE ALL APPLICABLE
MODIFICATIONS TO THESE DRAWINGS AS REQUIRED.

See Engineering "S" Pages

Engineer notes and requirements have been transferred to the plans.



Continue garage fire rock through storage and mechanical spaces. 5/8" Type X lid/ 1/2" walls

Gas appliances must be D.V. units or have compliant combustion air.

94% EF
Gas

GARAGE

BASEMENT FLOOR PLAN SCALE: 1/4" = 1'-0"

ENVELOPE ENHANCEMENT MEASURE:
OPTION#2: UPGRADED FEATURES
EXTERIOR WALLS—U—0.057/R—23 INTERMEDIATE R—21 ADVANCED
FRAMED FLOORS—U—0.026/R—38
WINDOWS—U—0.28 (AVERAGE UA)

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ASSUMES NO LIABILITY FOR THE PLANS IN PART OR WHOLE
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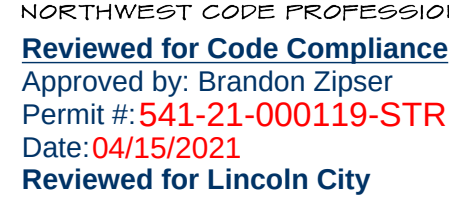


EISELE
HOME DESIGN
BRAD EISELE
INDEPENDENCE, MO. 67351
PHONE: (903) 560-3000

2400 PLAN
6600 LOGAN RD.,
LINCOLN CITY, OREGON

CONTRACTOR: 3 G'S CONST.
(503) 871-8434

DATE:	03-07-21	
SCALE:	1/4" = 1'-0"	
DRAWN:	BRAD EISELE	
JOB:		
SHEET:	3	
OF	6	SHEETS

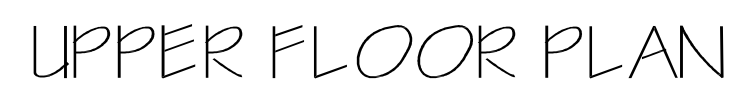


Date: 04/15/2021
Reviewed for Lincoln City



SCALE: N.T.S.

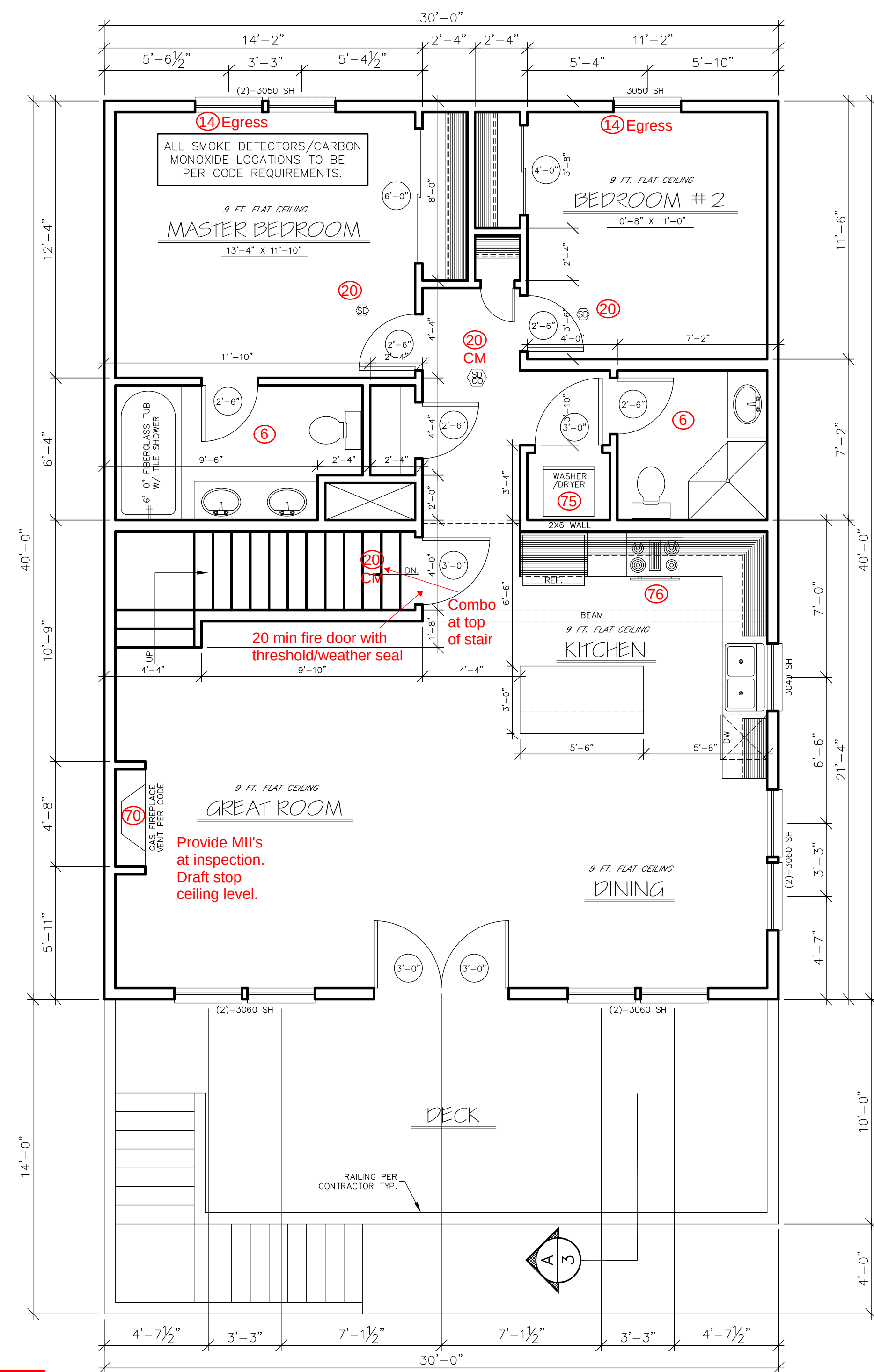
Any opening window with a sill less than 24" to the floor, and that has a greater then a 72 inch drop outside must have have fall protection per R312.2



SCALE: 1/4" = 1'-0"

MAIN FLOOR	1200 SQ. FT.
SECOND FLOOR	1200 SQ. FT.
TOTAL LIVING	2400 SQ. FT.
LOWER FLOOR/GARAGE	1200 SQ. FT.

See attached Building Department Checklist.
Numbered items on plans reference code
requirements and corresponding code sections.



MAIN FLOOR PLAN

SCALE: 1/4" = 1'-0"

ENVELOPE ENHANCEMENT MEASURE:
OPTION#2: UPGRADED FEATURES
EXTERIOR WALLS—U-0.057/R-23 INTERMEDIATE R-21 ADVANCED
FRAMED FLOORS—U-0.026/R-38
WINDOWS—U-0.28 (AVERAGE UA)

N O T I C E

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ROOF VENTILATION PER SECTION R806
THE MINIMUM NET FREE VENTILATING AREA SHALL BE 1/150 OF THE AREA OF THE VENTED SPACE.
VENT LOCATIONS TO BE DETERMINED BY CONTRACTOR IN FIELD AND BE INSTALLED PER CODE REQUIREMENTS.

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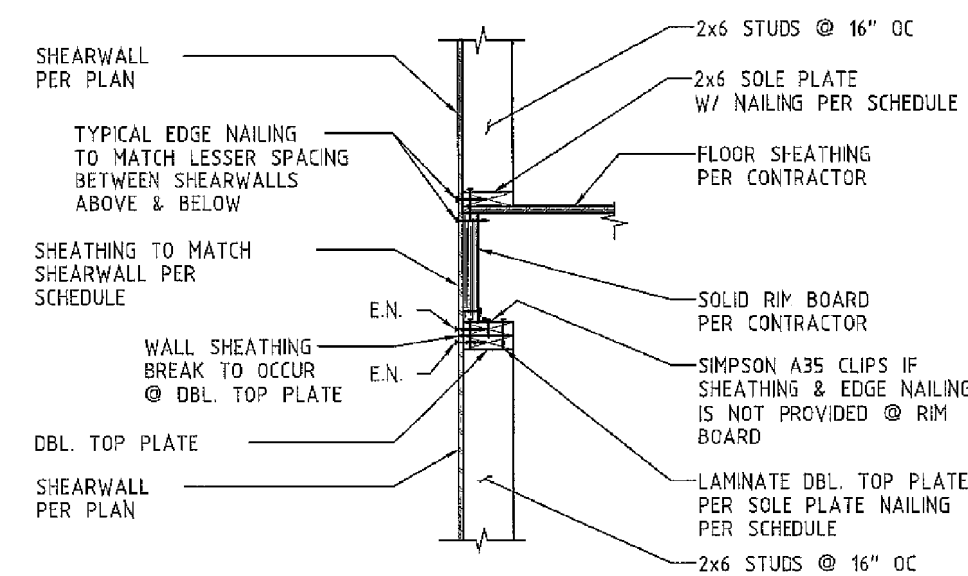
2400 PLAN

6600 LOGAN RD.

LINCOLN CITY, OREGON

CONTRACTOR: 3 G'S CONST.
(503) 871-8434

DATE:	03-07-21	
SCALE:	1/4" = 1'-0"	
DRAWN:	BRAD EISELE	
JOB:		
SHEET:	2	
OF	6	SHEETS



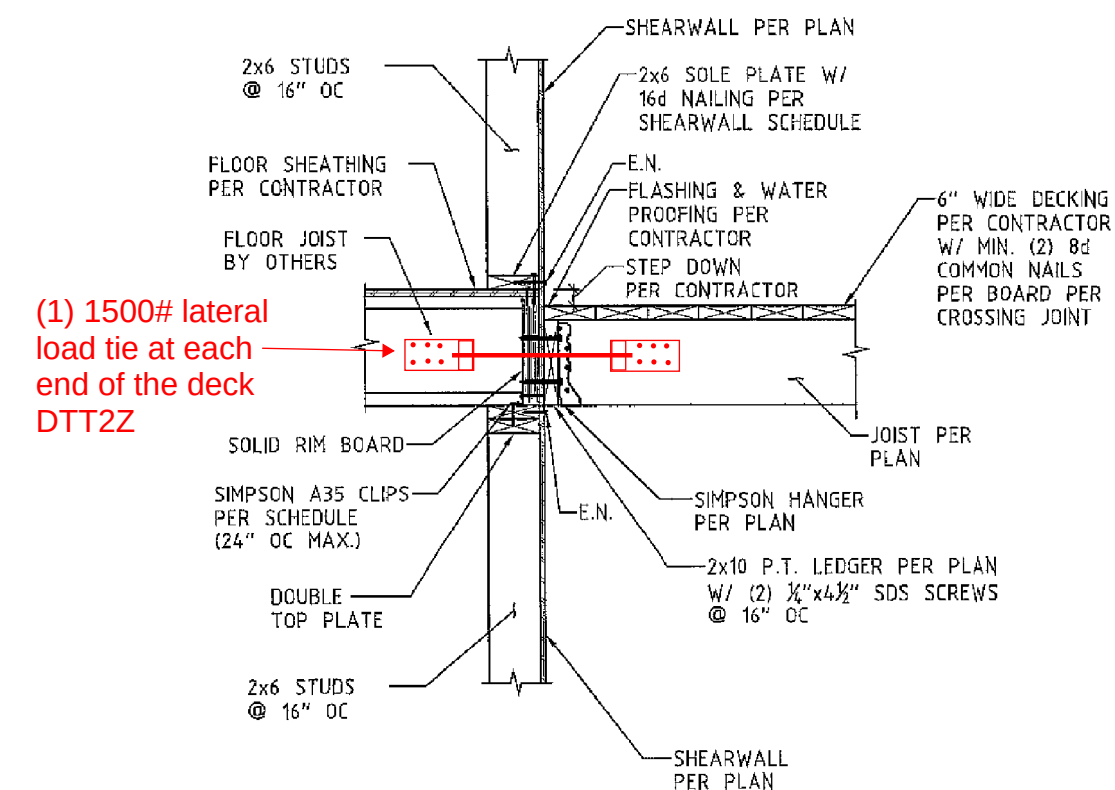
NOTE: OPTIONAL DETAIL TO REPLACE THE A35 CLIPS @ DOUBLE TOP PLATE CONNECTION AS DESCRIBED ON SHEARWALL SCHEDULE. ONLY VALID FOR SHEARWALLS TYPE A, B & C. FOR OTHER TYPES USE A35 CLIPS PER SCHEDULE.

SHEAR TRANSFER BETWEEN FLOOR

3/4" x 1'-0"

FILE NO: 210105 SHEET NO: SK-6
MADE BY: JWL DATE: 2/17/21
CLIENT: 3 G'S CONSTRUCTION
PROJECT: 6600 LOGAN ROAD RESIDENCE

NOTE: FLASHING AND WATER PROOFING PER CONTRACTOR



DECK FRAMING

3/4" x 1'-0"

FILE NO: 210105 SHEET NO: SK-7
MADE BY: JWL DATE: 2/17/21
CLIENT: 3 G'S CONSTRUCTION
PROJECT: 6600 LOGAN ROAD RESIDENCE

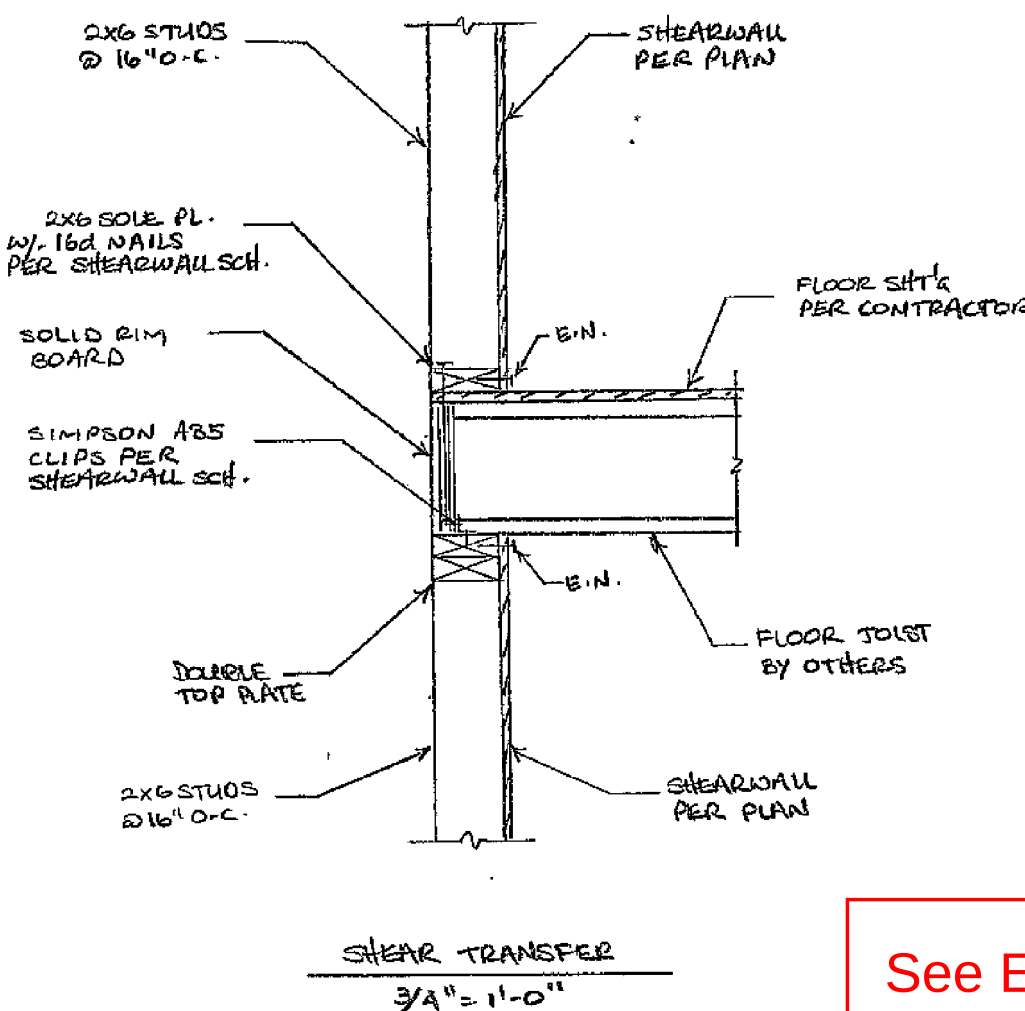
UPPER FLOOR ENGINEERING PLAN

SCALE: 1/4" = 1'-0"

ENGINEERED TRUSS CALCULATIONS
ARE REQUIRED TO BE ON THE JOBSITE
PRIOR TO CONSTRUCTION

Squash block all point loads through
floors to the foundation/approved
footings below.

Refer to project I-Joist layouts. Install per
engineering and manufacturer spec's



See Engineering "S" Pages

Engineer notes and requirements
have been transferred to the plans.

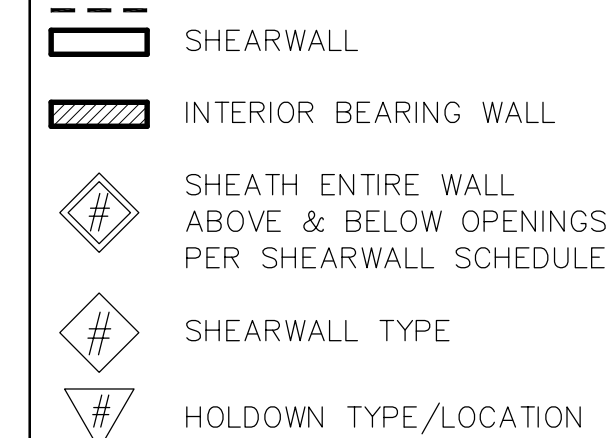
LEE STRUCTURAL
ENGINEERS LLC

FILE NO: 210105 SHEET NO: SK-8
MADE BY: JWL DATE: 2/17/21
CLIENT: 3 G'S CONSTRUCTION
PROJECT: 6600 LOGAN ROAD RESIDENCE

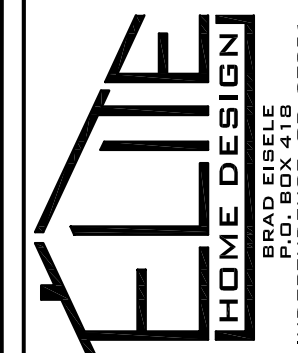
MAIN FLOOR ENGINEERING PLAN

SCALE: 1/4" = 1'-0"

NOTE:
- TYP. TRUSS/WALL CONN. TO BE (2) SIMPSON H2.5A CLIP (ONE EACH SIDE) U.O.N.
- TYP. FRAMING TO BE DF-L #2 U.O.N.
- TYP. HDR. TO BE 4X8 DF#2 U.O.N.



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2400 PLAN
6600 LOGAN RD.
LINCOLN CITY, OREGON

CONTRACTOR: 3 G'S CONST.
(503) 871-8434

DATE: 03-07-21

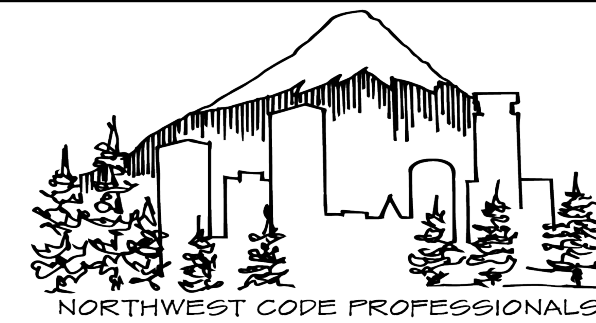
SCALE: 1/4" = 1'-0"

DRAWN: BRAD EISELE

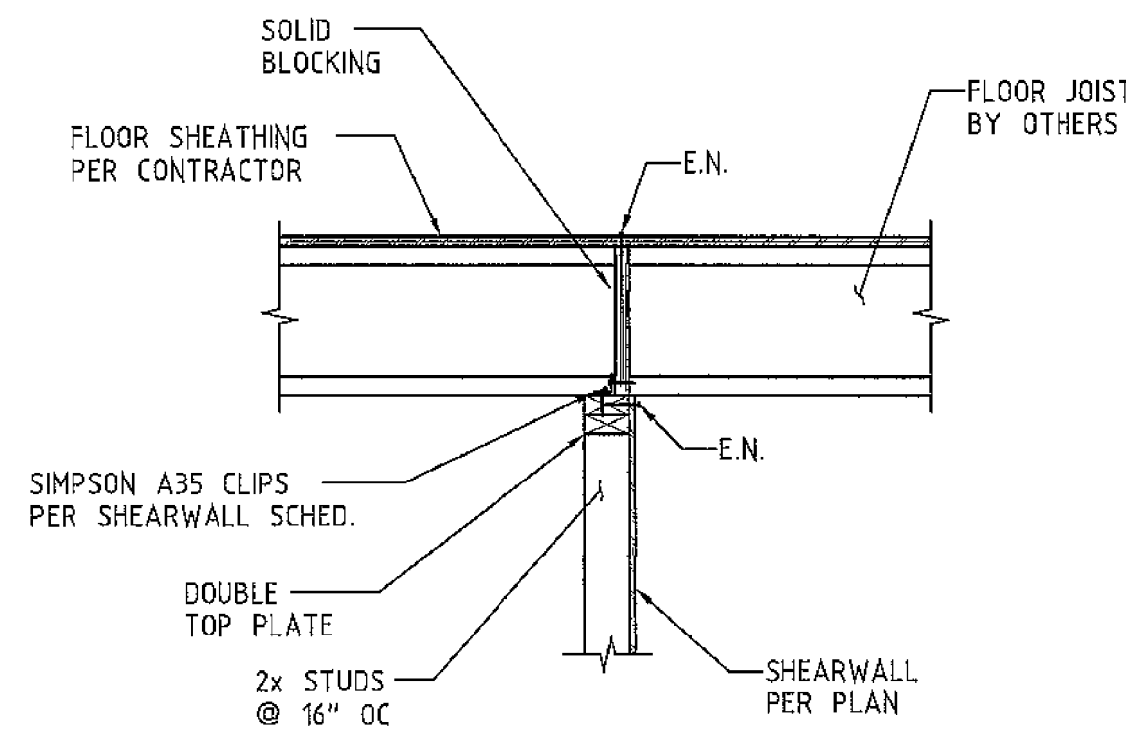
JOB:

SHEET: 4

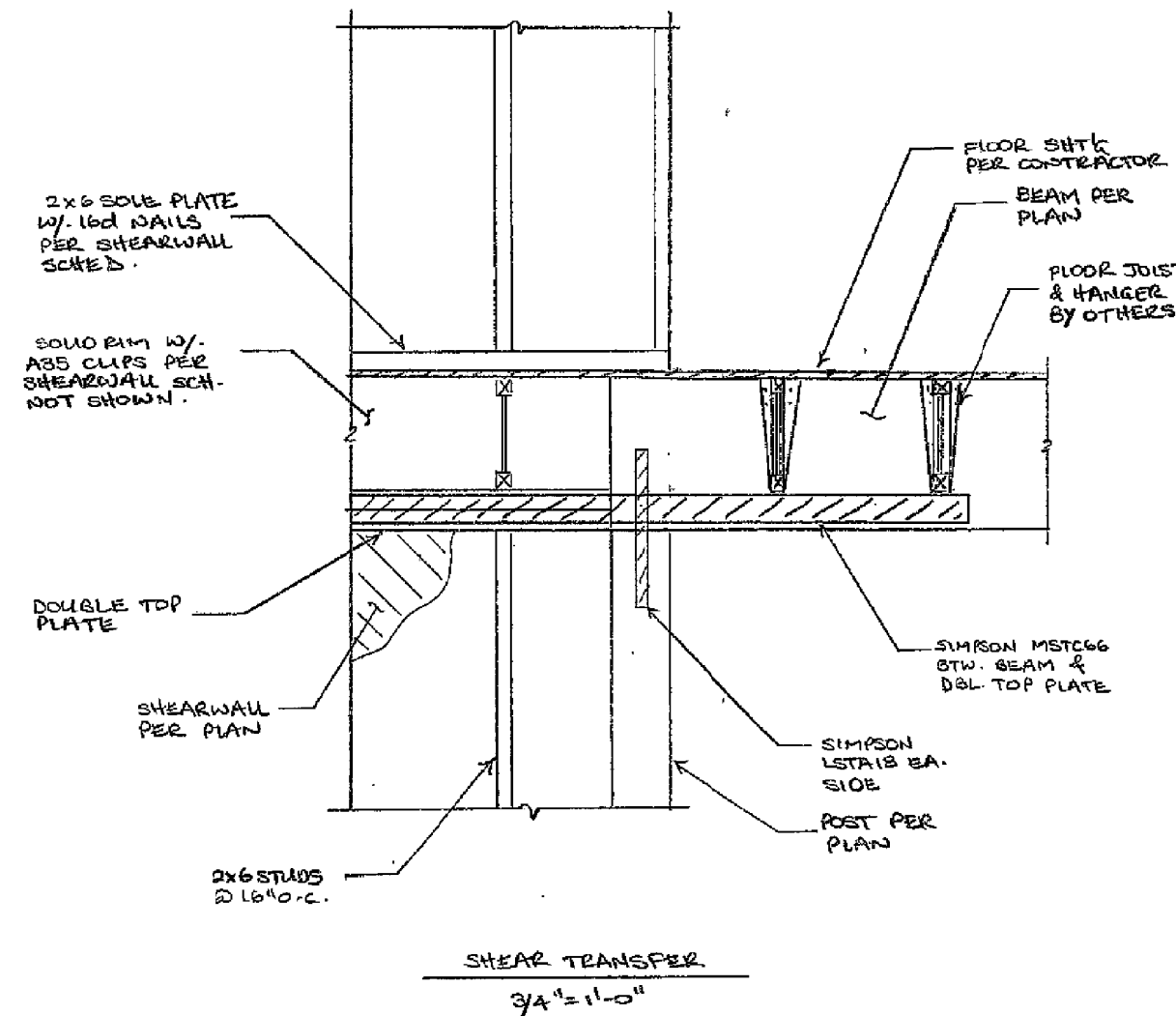
OF 6 SHEETS



Reviewed for Code Compliance
Approved by: Brandon Zipser
Permit #: 541-21-000119-STR
Date: 04/15/2021
Reviewed for Lincoln City



TYP. FLOOR TO SHEAR WALL CONN.
3/4"=1'-0"



SHEAR TRANSFER
3/4"=1'-0"

Refer to project I-Joist layouts.
Install per engineering and
manufacturer spec's

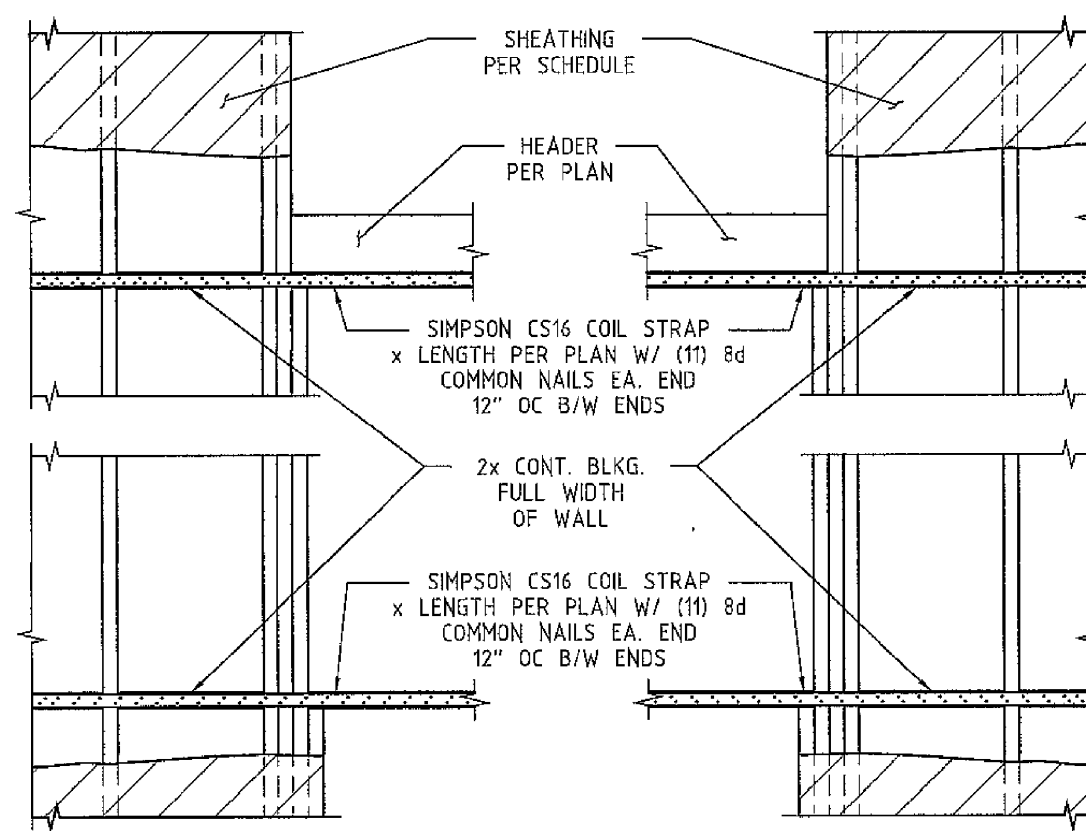
Squash block all point loads through
floors to the foundation/approved
footings below.

LEE STRUCTURAL
ENGINEERS LLC

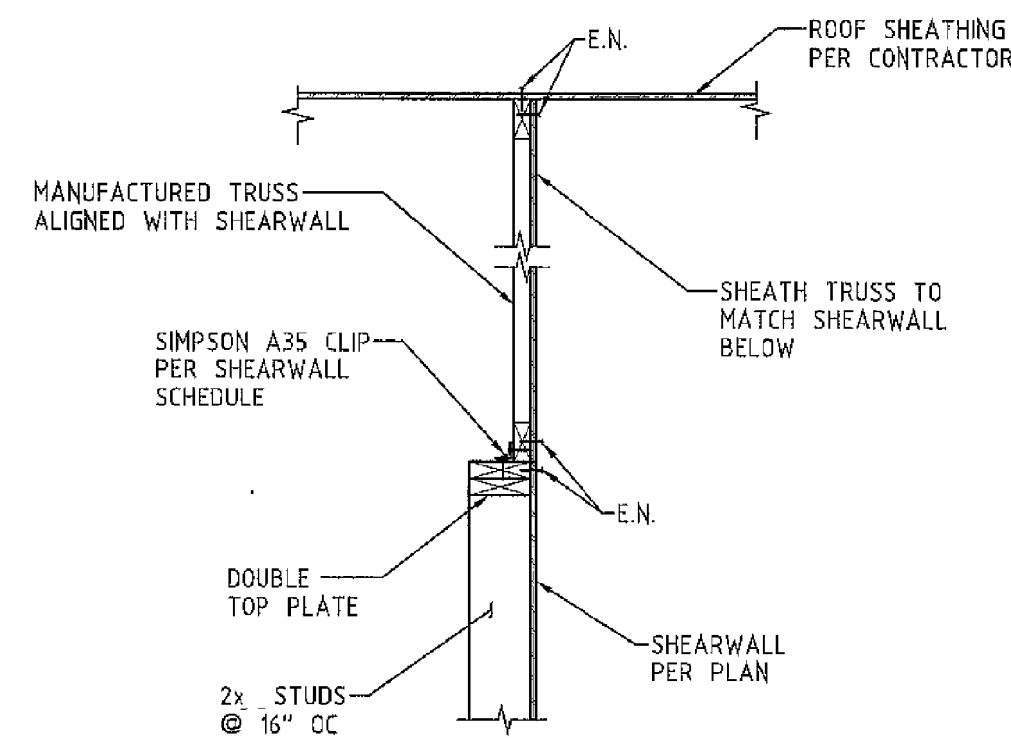
FILE No: 210105 SHEET No: SK-9
MADE BY: JWL DATE: 2/17/21
CLIENT: 3 G'S CONSTRUCTION
PROJECT: 6600 LOGAN ROAD RESIDENCE

LEE STRUCTURAL
ENGINEERS LLC

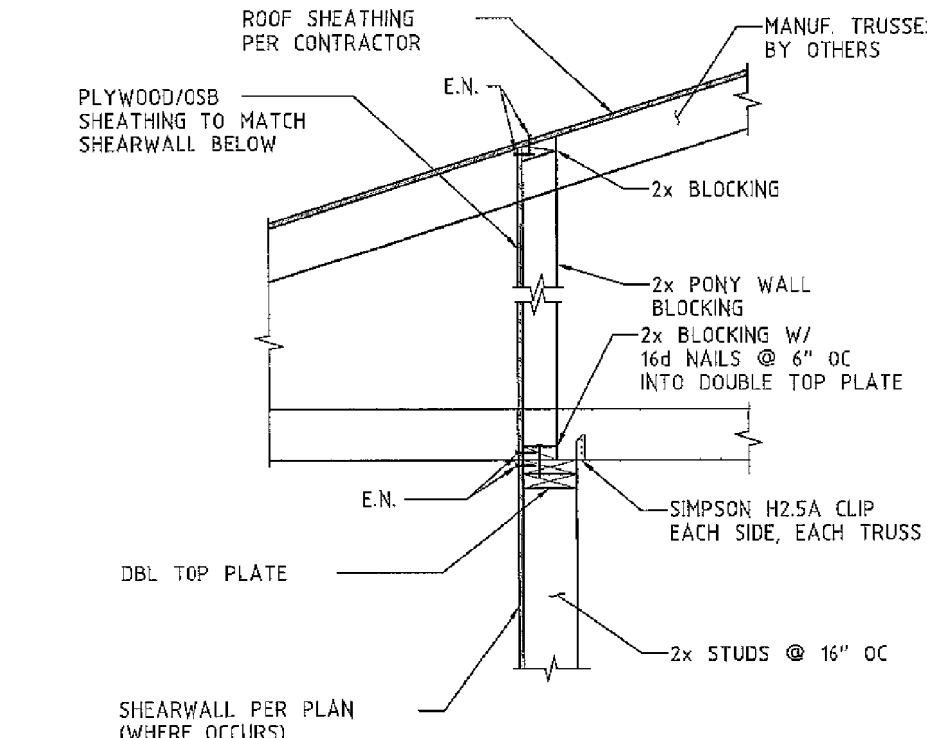
FILE No: 210105 SHEET No: SK-10
MADE BY: JWL DATE: 2/17/21
CLIENT: 3 G'S CONSTRUCTION
PROJECT: 6600 LOGAN ROAD RESIDENCE



STRAP TIE @ SILL AND HEADER
3/4"=1'-0"



SHEAR TRANSFER DETAIL
3/4"=1'-0"



SHEAR TRANSFER
PERPENDICULAR TO TRUSS
3/4"=1'-0"

LEE STRUCTURAL
ENGINEERS LLC

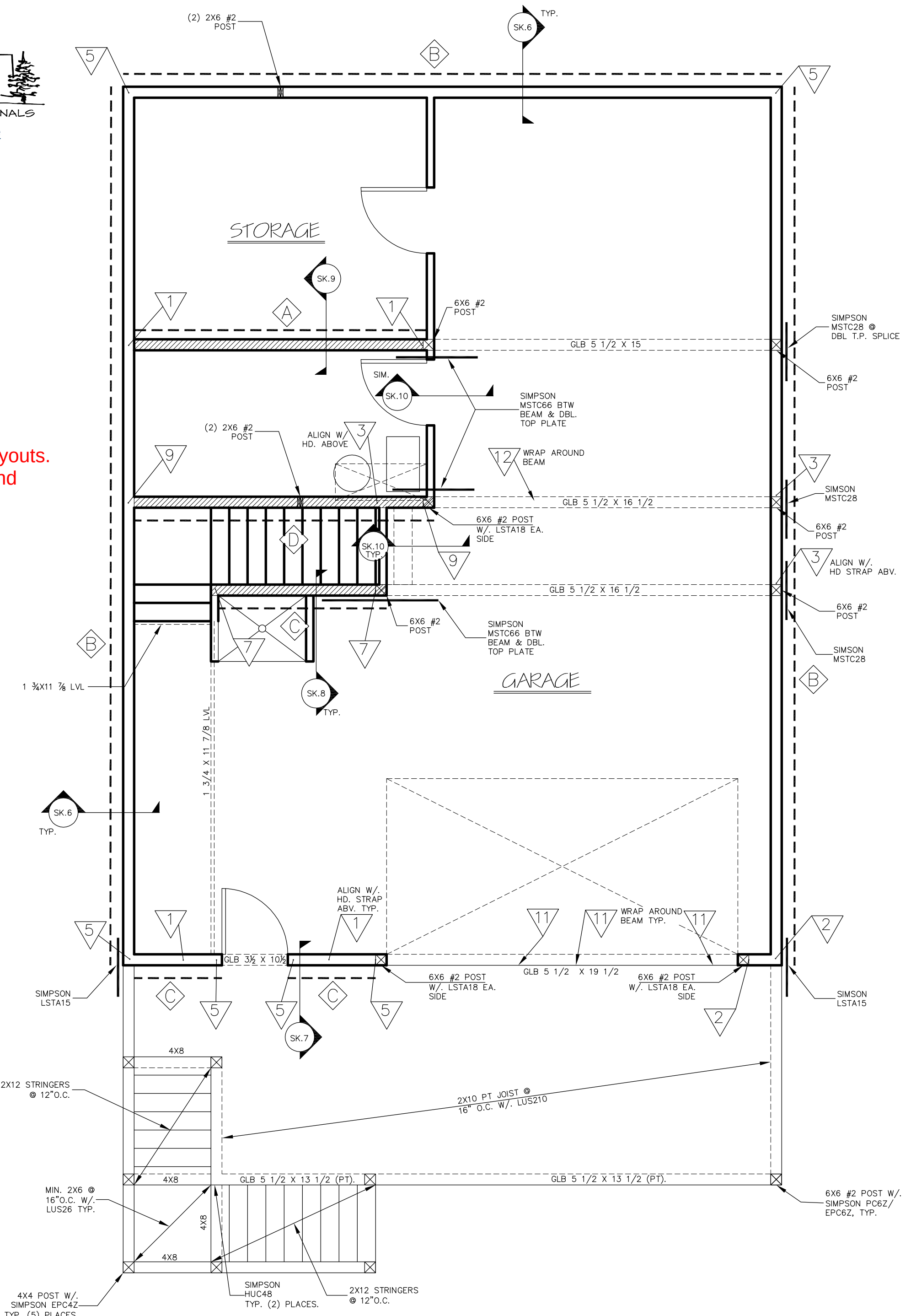
FILE No: 210105 SHEET No: SK-11
MADE BY: JWL DATE: 2/17/21
CLIENT: 3 G'S CONSTRUCTION
PROJECT: 6600 LOGAN ROAD RESIDENCE

LEE STRUCTURAL
ENGINEERS LLC

FILE No: 210105 SHEET No: SK-12
MADE BY: JWL DATE: 2/17/21
CLIENT: 3 G'S CONSTRUCTION
PROJECT: 6600 LOGAN ROAD RESIDENCE

LEE STRUCTURAL
ENGINEERS LLC

FILE No: 210105 SHEET No: SK-13
MADE BY: JWL DATE: 2/17/21
CLIENT: 3 G'S CONSTRUCTION
PROJECT: 6600 LOGAN ROAD RESIDENCE



BASEMENT FLOOR ENGINEERING PLAN SCALE: 1/4" = 1'-0"

NOTE:
-TYP. TRUSS/WALL CONN. TO BE (2) SIMPSON H2.5A CLIP (ONE EACH SIDE) U.O.N.
-TYP. FRAMING TO BE DF-L #2 U.O.N.
-TYP. HDR. TO BE 4X8 DF#2 U.O.N.

- SHEARWALL
- INTERIOR BEARING WALL
- SHEATH ENTIRE WALL ABOVE & BELOW OPENINGS PER SHEARWALL SCHEDULE
- SHEARWALL TYPE
- HOLDOWN TYPE/LOCATION

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EDITE HOME DESIGN
BRAD EISELE
INDEPENDENCE, OR 97331
PHONE: (503) 871-8434

2400 PLAN
6600 LOGAN RD.
LINCOLN CITY, OREGON

CONTRACTOR: 3 G'S CONST.
(503) 871-8434

DATE: 03-07-21
SCALE: 1/4" = 1'-0"
DRAWN: BRAD EISELE
JOB:
SHEET: 5
OF 6 SHEETS

Lee Structural Engineers, LLC.
Job # 210105
Project: 6600 Logan Road Residence

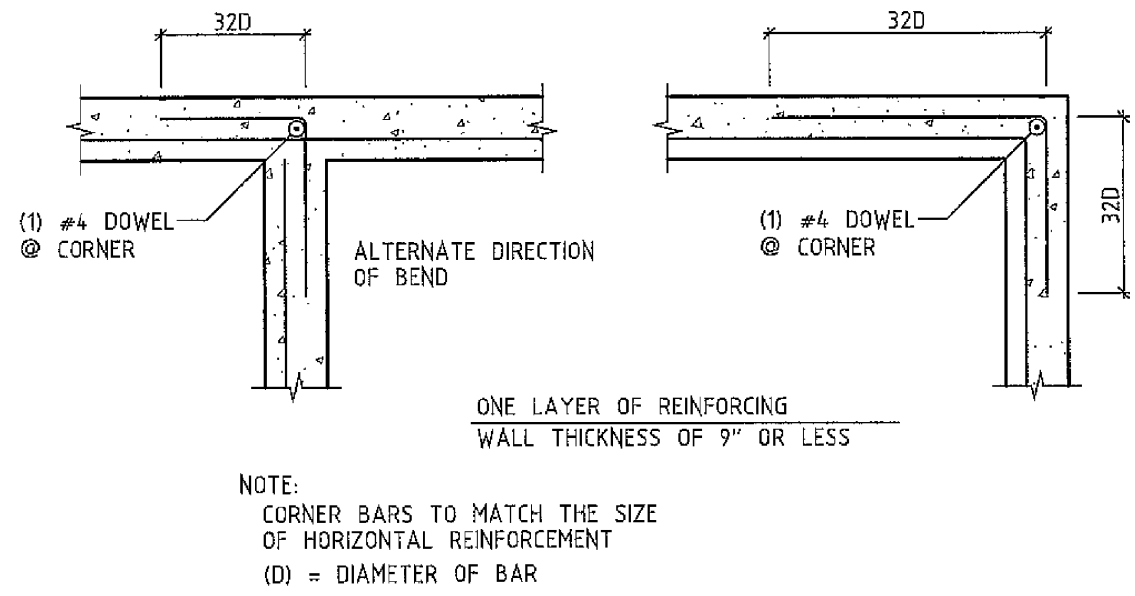
Date: 2/17/2021
Designer: JWL

Sheet # T.2
Client: 3 G's Construction

HOLDOWN SCHEDULE ^{1,2,3,4,5}														
(Not all holdown types shown may be used on project)														
Mark	Holdown	Anchor Bolt	Anchor Diameter	Embedment Length	Minimum Stemwall Width	Minimum Boundary Member	Connection to Boundary Member	Remarks	Allowable Loads			Allowable Loads		
									(Wind)			(Seismic)		
									Mid-Wall	Corner	End Wall	Mid-Wall	Corner	End Wall
1	LTT20B	SSTB16	5/8"	12 5/8"	6"	(2) 2x6 ⁶	(10) 10d Common		1500#	1500#	1500#	1500#	1500#	1500#
2	HDU2	SSTB16	5/8"	12 5/8"	6"	(2) 2x6 ⁶	(6) 1/4" x 2 1/2"		3075#	3075#	3075#	2550#	2550#	2550#
3	HDU4	SSTB20	5/8"	16 5/8"	6"	(2) 2x6 ⁶	(10) 1/4" x 2 1/2"		4145#	3880#	3880#	3145#	2960#	2960#
4	HDU5	SSTB24	5/8"	20 5/8"	6"	(2) 2x6 ⁶	(14) 1/4" x 2 1/2"		4825#	4295#	4285#	3740#	3325#	3325#
5	HDU8	SSTB28	7/8"	24 7/8"	8"	4x6	(20) 1/4" x 2 1/2"		6970#	6970#	6970#	6970#	6970#	6995#
6	HDQ8	SSTB28	7/8"	24 7/8"	8"	4x6 ⁸	(20) 1/4" x 3"		7630#	7630#	7310#	7630#	7630#	8365#
7	HDQ8	SSTB28	7/8"	24 7/8"	8"	6x6	(20) 1/4" x 3"		9230#	8360#	7310#	8315#	7315#	8365#
8	HDQ8	SB1x30	1"	24"	8"	6x6	(20) 1/4" x 3"		9230#	9230#	6930#	9230#	8315#	6065#
9	HHQ11	SB1x30	1"	24"	8"	6x6	(24) 1/4" x 2 1/2"		11810#	9505#	6930#	11470#	8315#	6065#
10	MSTC28	N/A	N/A	N/A	N/A	(2) 2x6 ⁸	(12) - 10d Common			1155#			1155#	
11	MSTC40	N/A	N/A	N/A	N/A	(2) 2x6 ⁸	(28) - 10d Common			2695#			2695#	
12	MSTC62	N/A	N/A	N/A	N/A	(2) 2x6 ⁸	(44) - 10d Common			4235#			4235#	
13	MSTC66	N/A	N/A	N/A	N/A	(2) 2x6 ⁸	(54) - 10d Common			5380#			5380#	

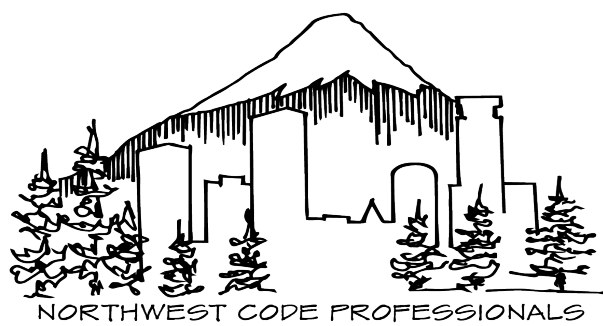
Notes:

- Holdowns by Simpson Strong-Tie Company, Inc. See Simpson catalog for proper installation.
- Hardmount all holdown anchors prior to concrete pour.
- Edge nail sheathing to all posts or boundary members at holdowns.
- Locate HD within 6" of end of shear panel.
- Install holdown minimum 5" clear from corner.
- Laminate studs with 16d nails at 12" on center staggered. Clinch tips of nails.
- Use Simpson SDS 1/4" diameter wood screws.
- Assume a DF sill or sole plate. 6x6 boundary member required with HP sole plate.

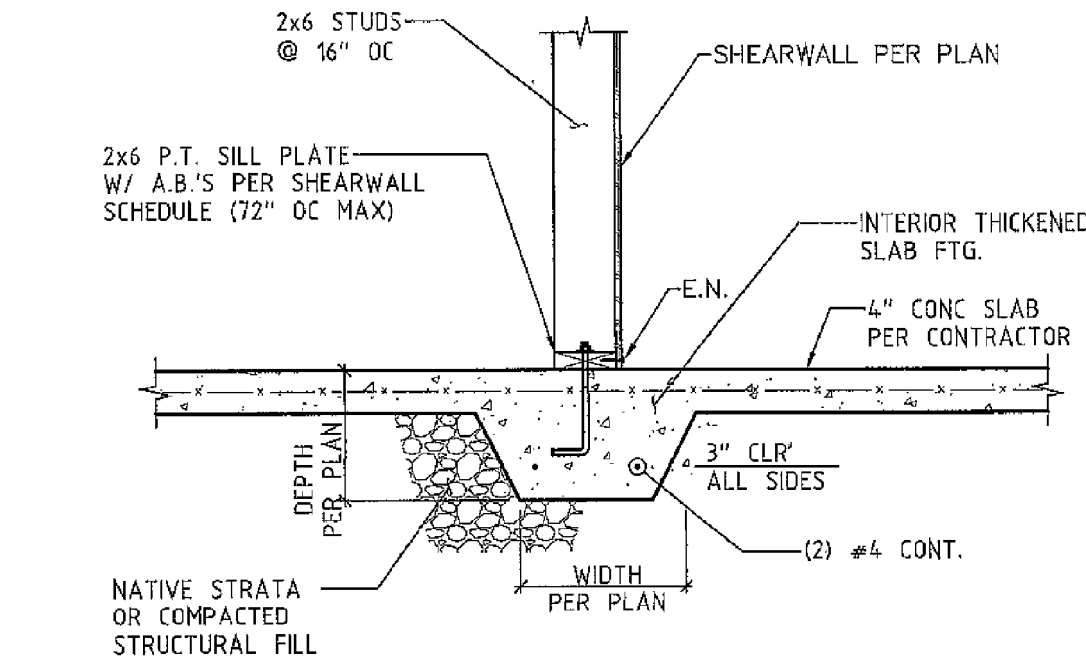


LEE STRUCTURAL ENGINEERS LLC

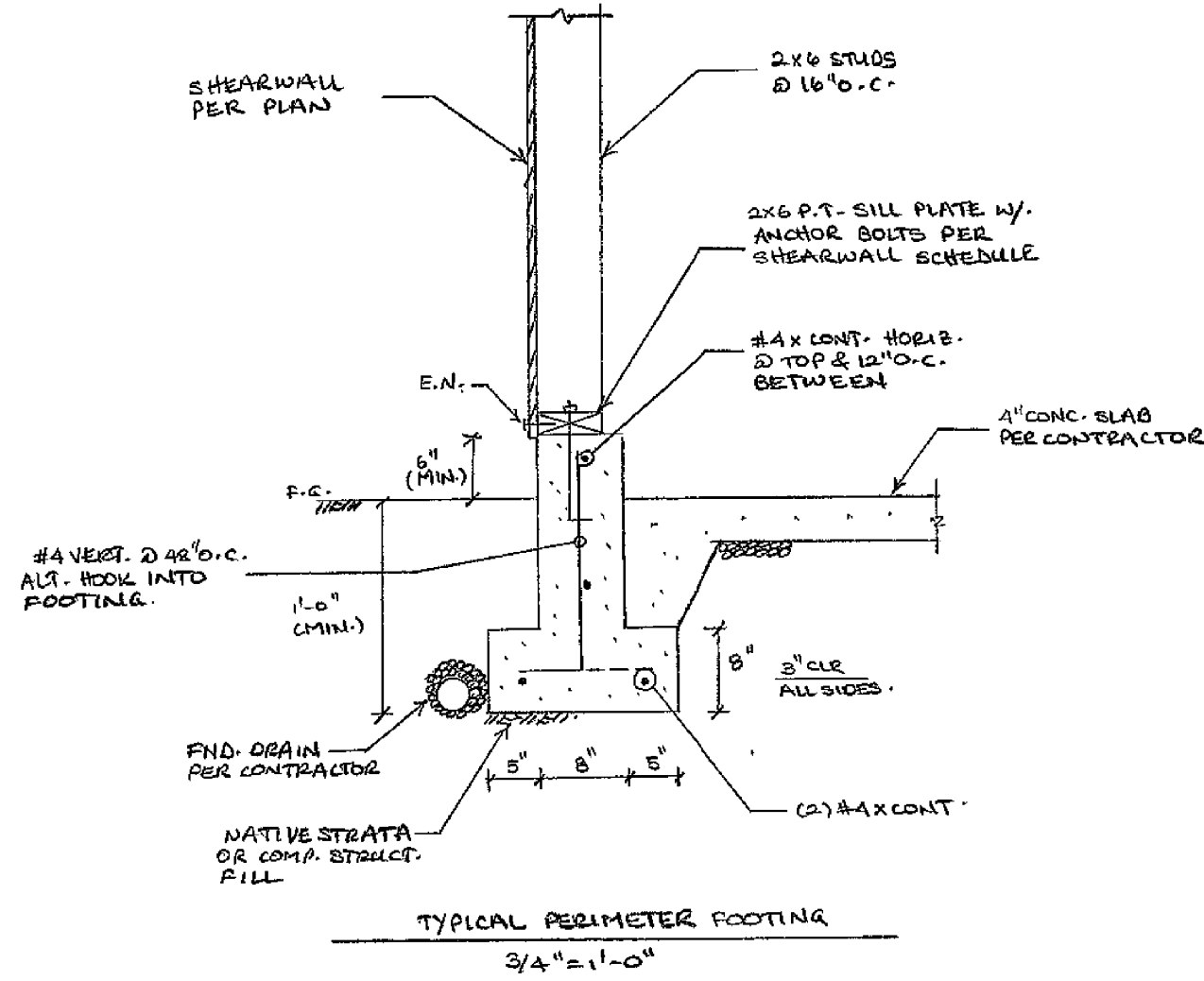
FILE No: 210105 SHEET No: SK-3
MADE BY: JWL DATE: 2/17/21
CLIENT: 3 G'S CONSTRUCTION
PROJECT: 6600 LOGAN ROAD RESIDENCE



Squash block all point loads through floors to the foundation/approved footings below.



INTERIOR STRIP FTG.
3/4"=1'-0"



LEE STRUCTURAL ENGINEERS LLC

FILE No: 210105 SHEET No: SK-4
MADE BY: JWL DATE: 2/17/21
CLIENT: 3 G'S CONSTRUCTION
PROJECT: 6600 LOGAN ROAD RESIDENCE

See attached Building Department Checklist. Numbered items on plans reference code requirements and corresponding code sections.

- (28)(30)(31)(32)
- (33)(34)(35)(36)

LEE STRUCTURAL ENGINEERS LLC

FILE No: 210105 SHEET No: SK-5
MADE BY: JWL DATE: 2/17/21
CLIENT: 3 G'S CONSTRUCTION
PROJECT: 6600 LOGAN ROAD RESIDENCE

Setbacks to property lines shall be marked at the footing inspection. The contractor of record is responsible for establishing the correct property markers and setbacks.

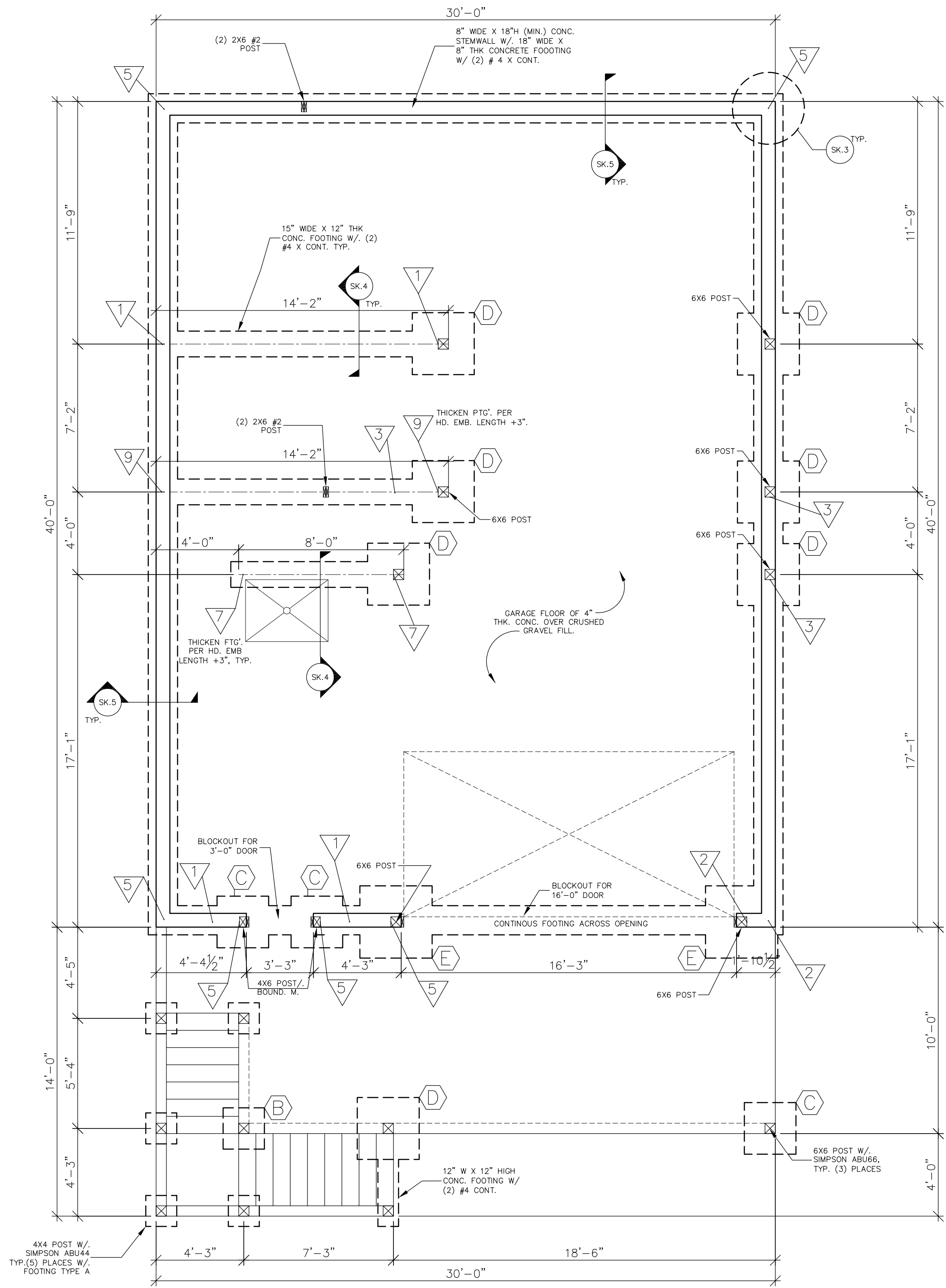
Soil Conditions are assumed 1500psf. If at excavation soils issues are found, consult a qualified engineer and the jurisdiction.

MARK	FOOTING SIZE	FOOTING REINFORCEMENT
(A)	1'-6" X 1'-6" X 10"	(2) #4 X 1'-0" EA. WAY
(B)	2'-0" X 2'-0" X 10"	(3) #4 X 1'-6" EA. WAY
(C)	2'-6" X 2'-6" X 10"	(3) #4 X 2'-0" EA. WAY
(D)	3'-0" X 3'-0" X 10"	(4) #4 X 2'-6" EA. WAY
(E)	3'-6" X 3'-6" X 12"	(4) #4 X 3'-0" EA. WAY

NOTE: THICKEN EXTERIOR ISOLATED PAD FOOTING TO 12" (MIN.) FOR FROST

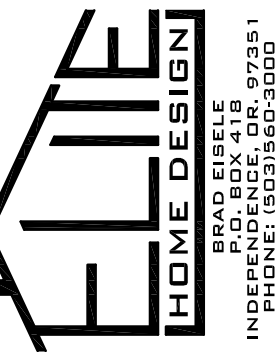
NOTE:
-LOCATE FND. VENTS 12" CLEAR (MIN.) FROM HD'S. & AB'S

HOLDOWN TYPE/LOCATION
 FOOTING MARK



EXPANSIVE SOILS OR OTHER SOIL ISSUES MAY BE PRESENT ON YOUR PROPERTY (BUILDING SITE). THE OWNER OR PERMIT HOLDER IS RESPONSIBLE TO VERIFY IF ANY SOIL CONDITIONS ARE PRESENT PRIOR TO FOUNDATION/ FOOTING INSTALLATION.

THIS DESIGNER IS NOT AN ARCHITECT OR ENGINEER AND ASSUMES NO LIABILITY FOR THE PLANS IN PART OR WHOLE AND/OR THE CONSTRUCTION OF THE WORK CONTAINED HERE IN. A QUALIFIED PROFESSIONAL SHOULD REVIEW PLANS FOR ERRORS AND OMISSIONS.



2400 PLAN
6600 LOGAN RD.
LINCOLN CITY, OREGON

CONTRACTOR: 3 G'S CONST.
(503) 871-8434

DATE: 03-07-21

SCALE: 1/4" = 1'-0"

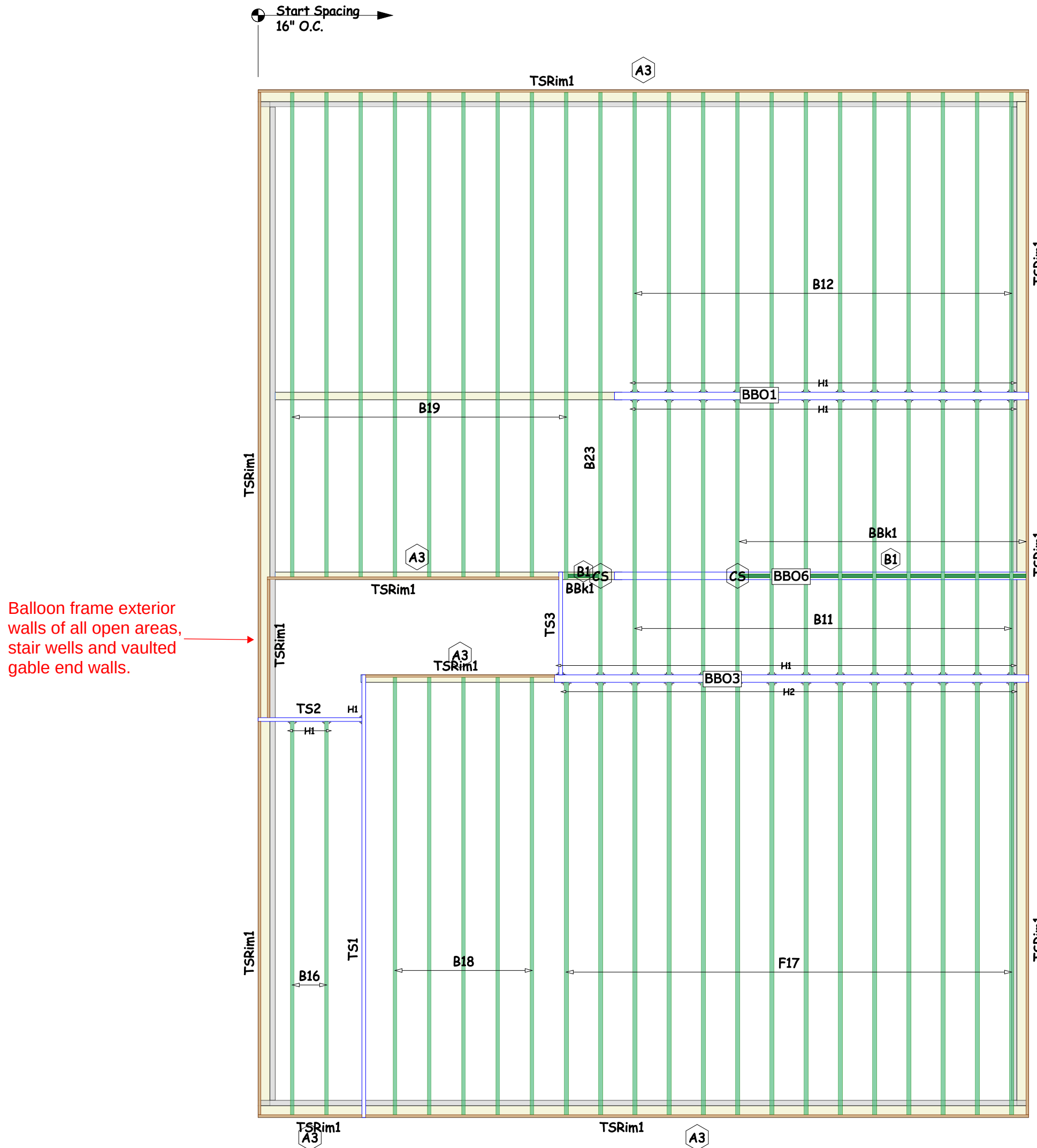
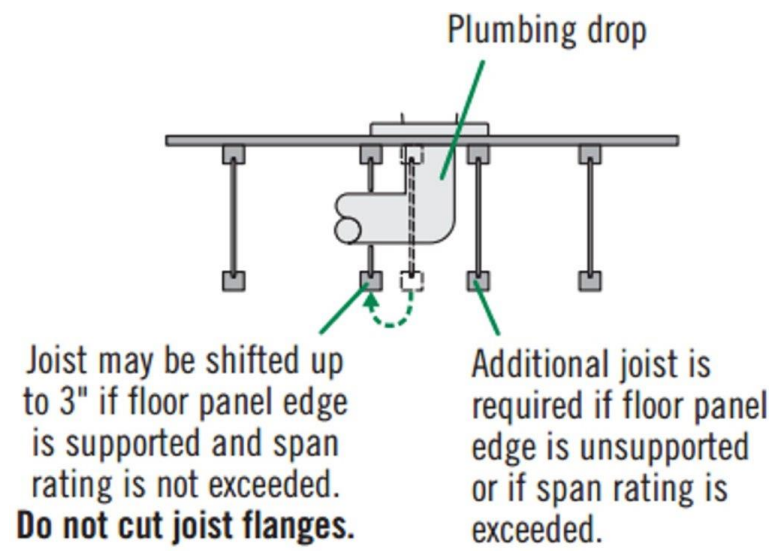
DRAWN: BRAD EISELE

JOB:

SHEET: 6

OF 6

SHEETS



Framing Connector Summary								
PlotID	Qty	Manuf	Product	Skew	Slope	Backer Blks	Filler	Web Stiff
H1	41	Simpson	IUS1.81/11.88	-	-	No	No	No
H2	14	Simpson	IUS2.06/11.88	-	-	No	No	No

TJIs				
PlotID	Length	Product	Plies	Net Qty
B23	23-00-00	11 7/8" TJI 110 joist	1	1
B19	19-00-00	11 7/8" TJI 110 joist	1	9
B18	18-00-00	11 7/8" TJI 110 joist	1	5
B16	16-00-00	11 7/8" TJI 110 joist	1	2
B12	12-00-00	11 7/8" TJI 110 joist	1	12
BBk1	11-02-02	11 7/8" TJI 110 joist	1	1
B11	11-00-00	11 7/8" TJI 110 joist	1	12
F17	17-00-00	11 7/8" TJI 210 joist	1	14

TimberStrand				
PlotID	Length	Product	Plies	Net Qty
TSRim1	20-00-00	1 1/4" x 11 7/8" 1.3E TimberStrand LSL	1	5
TSRim1	20-00-00	1 1/4" x 11 7/8" 1.3E TimberStrand LSL	1	4
TS1	18-00-00	1 3/4" x 11 7/8" 1.55E TimberStrand LSL	1	1
TS2	5-00-00	1 3/4" x 11 7/8" 1.55E TimberStrand LSL	1	1
TS3	4-00-00	1 3/4" x 11 7/8" 1.55E TimberStrand LSL	1	1

Sheeting				
PlotID	Length	Product	Plies	Net Qty
		23/32"x48"x96" Weyerhaeuser Edge Gold Panel (0/24) T&G FF	1	37

LEVEL NOTES	
Current Date:	1/25/2021
File Name:	SP21-061.jvl
Level Name:	Main
Members with Design Overridden:	
TJ-Pro Rating (Weighted Average):	55
Minimum Level TJ - Pro Rating & Joist:	TJ-Pro rating = 46, joist = B18(1098)
Maximum Level TJ - Pro Rating & Joist:	TJ-Pro rating = 70, joist = B11(1111)
FLOOR	
Floor Container:	FC1
Use/Occupancy:	ResidentialLivingAreas
Floor Area Loading is:	40.0 lb/ft² Live Load & 15.0 lb/ft² Dead Load
Maximum Allowed Deflection:	L/480 Live Load & L/240 Total Load
TJ-Pro Rating Information:	
Weighted Average:	55
Directly Applied Ceiling:	Gypsum 5/8"
Decking Attachment:	Glue and Nail
Decking Material:	23/32"x48"x96" Weyerhaeuser Edge Gold Panel (0/24) T&G FF
Blocking at max 8-00-00 o.c.:	No

See Engineering "S" Pages

541-21-000119-STR
Approved plans shall be on site
and accessible at inspection.

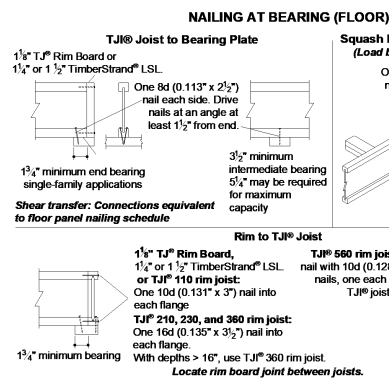
Squash block all point loads through
floors to the foundation/approved
footings below.

521-21-000119-STR

RECEIVED

03/15/2021

PLANNING



1. MATERIAL PLACEMENT PLAN DISCLOSURES:
PARR LUMBER COMPANY ("PARR") DOES NOT
GUARANTEE THE ACCURACY OF THIS
MATERIAL PLACEMENT PLAN. THE MATERIAL
LIST INCORPORATED IN THIS PLACEMENT
PLAN IS AN ESTIMATE ONLY. THE ACTUAL
AMOUNT OF MATERIAL USED MAY VARY FROM
THE AMOUNT OF MATERIAL ESTIMATED DUE TO A NUMBER
OF FACTORS. PARR MAKES
NO REPRESENTATION OR WARRANTY
REGARDING THE ACTUAL AMOUNT OF MATERIAL
USED. ALL LOADS AND DIMENSIONS USED TO
CREATE THIS MATERIAL PLACEMENT PLAN
HAVE BEEN PROVIDED BY THE CUSTOMER AND
VERIFIED BY THE CUSTOMER FOR COMPLETENESS,
ACCURACY AND COMPLIANCE WITH APPLICABLE
CODE REQUIREMENTS. IT IS THE RESPONSIBILITY
OF THE CUSTOMER TO VERIFY ALL DIMENSIONS
LISTED FOR SIZE, LENGTH AND APPLICATION.
THIS PLACEMENT PLAN IS SUBJECT TO REVIEW
BY THE CUSTOMER'S QUALIFIED PROFESSIONAL
ENGINEER IN RELATION TO THE PARTICULAR STRUCTURE
OR STRUCTURAL COMPONENTS THEREOF.

2. DISCLOSURE AND HOLD HARMLESS:
CUSTOMER SHALL INDEMNIFY AND HOLD PARR,
ITS OFFICERS, AGENTS AND EMPLOYEES HARMLESS
AGAINST AND FROM ANY AND ALL CLAIMS,
LIABILITIES, DAMAGES, LOSSES AND EXPENSES,
INCLUDING REASONABLE ATTORNEY FEES,
FOR ANY CLAIM, CAUSE OF ACTION, DEMAND,
PERSONAL INJURY, OR DAMAGE TO
ANY PROPERTY OR PERSON ARISING OUT OF OR
IN ANY WAY CONNECTED WITH ANY ACT OR
OMISSION IN REGARD TO THIS PLAN.

3. LIMITATION OF LIABILITY: IN NO EVENT
SHALL PARR BE LIABLE TO CUSTOMER OR ANY
THIRD PARTY FOR LOSS OF PROFITS, REVENUE,
DATA OR USE OR FOR ANY INDIRECT,
INCIDENTAL, SPECIAL OR CONSEQUENTIAL
DAMAGES. DAMAGES SHALL BE LIMITED TO THE AMOUNT
PAID BY CUSTOMER FOR THE GOODS OR SERVICES
PROVIDED BY PARR UNDER THIS AGREEMENT.

THIS PLACEMENT PLAN MUST BE REVIEWED
AND APPROVED BY A DESIGN PROFESSIONAL
OF RECORD. LOCATE PLUMBING OUTLETS
AND ADJUST TOLERANCE TO TJI TO AVOID
PLUMBING DAMAGE. ALL LEADER ATTACHMENTS
MUST BE REVIEWED BY A DESIGN PROFESSIONAL
OF RECORD. INDICATE ANY PRODUCT
AND DIMENSIONS PRIOR TO ORDERING PRODUCT.

If designed per framing code, dimensional tolerances, blocking is required over intermediate bearing in joists.
Consult local code for blocking requirements.
Please refer to the engineer of record for requirements.
Contact your dealer if additional material is required.

THIS DRAWING IS BASED ON:

ARCHITECTURAL DRAWINGS PREPARED BY:
XXXXXXXXXXXXXXXXXXXXXXXXXXXX
DATED: XXXXXX

STRUCTURAL DRAWINGS PREPARED BY:
XXXXXXXXXXXXXXXXXXXXXXXXXXXX
DATED: XXXXXX

JOB COMMENTS: SP21-061

3 G's Construction
6600 Logan Rd.
Parr Salem
Sergio S.

1/25/2021

Created By: Parr Lumber Co.

Spencer Hawke

7650 NE Wagon Dr.
Hillsboro, OR

Phone: 503-638-6912

Email: spencer.hawke@parr.com

REV BY DATE

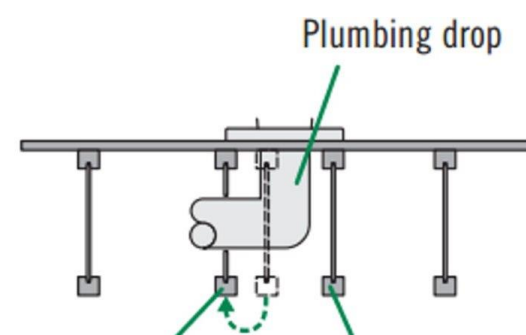
LAYOUT SCALE: 1/4" = 1'

SHEET

1 OF 2



THINK SAFETY- READ INSTALLATION INFORMATION BEFORE PROCEEDING



Joist may be shifted up to 3" if floor panel edge is supported and span rating is not exceeded.
Do not cut joist flanges.

Additional joist is required if floor panel edge is unsupported or if span rating is exceeded.



Reviewed for Code Compliance
 Approved by: Brandon Zipser
 Permit #: 541-21-000119-STR
 Date: 04/15/2021
Reviewed for Lincoln City

THIS DRAWING IS BASED ON:

ARCHITECTURAL DRAWINGS PREPARED BY:
XXXXXXXXXXXXXXXXXXXXXXXXXXXX
DATED: W W W W

STRUCTURAL DRAWINGS PREPARED BY:
XXXXXXXXXXXXXXXXXXXX

JOB COMMENTS: SP21-061

s Construction
00 Logan Rd.
Parr Salem
Sergio S.

1/25/2021

See Engineering "S" Pages

Framing Connector Summary								
PlotID	Qty	Manuf	Product	Skew	Slope	Backer Blks	Filler	Web Stiff
H1	12	Simpson	IUS1.81/11.88	-	-	No	No	No
H3	12	Simpson	IUS2.06/11.88	-	-	No	No	No
H4	3	Simpson	MTU2.37/11	-	-	No	No	Yes

TJIs				
PlotID	Length	Product	Pies	Net Qty
B23	23-00-00	11 7/8" TJI 110 joist	1	9
B22	22-00-00	11 7/8" TJI 110 joist	1	1
B18	18-00-00	11 7/8" TJI 110 joist	1	6
B16	16-00-00	11 7/8" TJI 110 joist	1	2
B9k1	9-02	11 7/8" TJI 110 joist	1	1
F17	17-00-00	11 7/8" TJI 210 joist	1	12
R23	23-00-00	11 7/8" TJI 360 joist	1	3
R19	19-00-00	11 7/8" TJI 360 joist	1	10

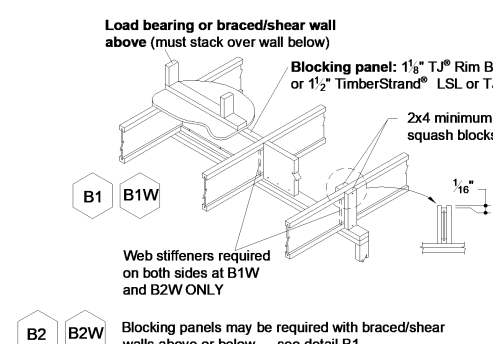
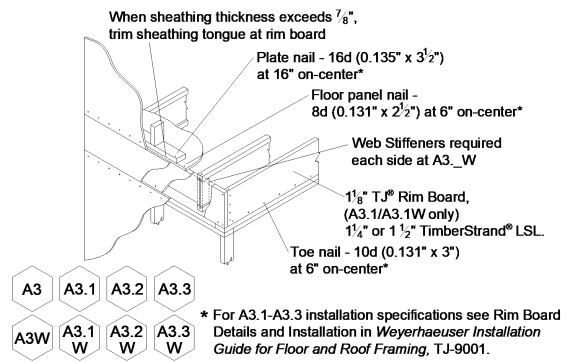
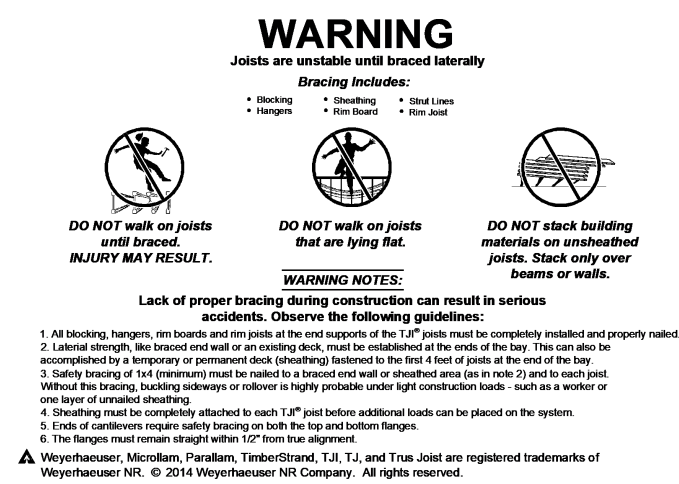
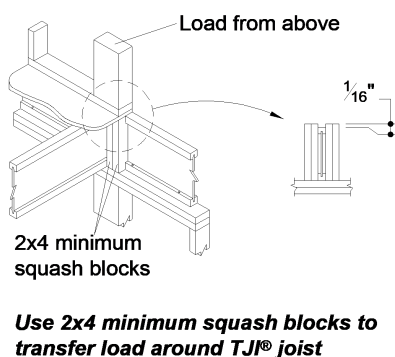
TimberStrand				
PlotID	Length	Product	Piles	Net Qty
TSRim1	20-00-00	1 1/4" x 11 7/8" 1.3E TimberStrand LSL	1	5
TSRim1	20-00-00	1 1/4" x 11 7/8" 1.3E TimberStrand LSL	1	4
TS1	18-00-00	1 3/4" x 11 7/8" 1.55E TimberStrand LSL	1	1
TS2	5-00-00	1 3/4" x 11 7/8" 1.55E TimberStrand LSL	1	2

Design Accessory				
PlotID	Length	Product	Plies	Net Qty
	9-02	7/8" x 2 5/16" Web Stiffeners	1	6

Sheeting				
PlotID	Length	Product	Plies	Net Qty
		23/32"x48"x96" Weyerhaeuser Edge Gold Panel (0/24) T&G FF	1	36

LEVEL NOTES	
Current Date:	1/25/2021
File Name:	SP21-061.jvl
Level Name:	Upper
Members with Design Overrides:	
TJ-Pro Rating (Weighted Average):	50
Minimum Level TJ - Pro Rating & Joist:	TJ-Pro rating = 46, joist = B16(I154)
Maximum Level TJ - Pro Rating & Joist:	TJ-Pro rating = 63, joist = B23(I177)
FLOOR	
Floor Container:	FC2
Use/Occupancy:	ResidentialLivingAreas
Floor Area Loading is:	40.0 lb/ft² Live Load & 15.0 lb/ft² Dead Load
Maximum Allowed Deflection:	L/480 Live Load & L/240 Total Load
TJ-Pro Rating Information:	
Weighted Average:	50
Directly Applied Ceiling:	Gypsum 5/8"
Decking Attachment:	Glue and Nail
Decking Material:	23/32"x48"x96" Weyerhaeuser Edge Gold Panel (0/24) T&G FF
Blocking at max 8'-00'-00 o.c.:	No

Squash block all point loads through floors to the foundation/approved footings below.



From: [Frederick Ulrich](#)
To: [Anne Marie Skinner](#)
Subject: RE: VAR 2022-01 3GS Construction Setback Variance
Date: Tuesday, February 8, 2022 10:52:43 AM
Attachments: [image002.png](#)
[image003.png](#)

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

The requested variance has no conflict with OFC requirements.



Frederick (Ed) Ulrich
Fire Marshal

North Lincoln Fire & Rescue
District #1

Phone: 541-996-2233
 Cell: 541-921-9024
 Fax: 541-996-5344
 Email: fulrich@nlfr.org

Administrative Offices
 Bob Everest Station 14
 PO Box 200
 2525 NW Highway 101
 Lincoln City, OR 97367

From: Anne Marie Skinner <askinner@lincolncity.org>
Sent: Tuesday, February 08, 2022 10:33 AM
To: Department Heads <Department_Heads@lincolncity.org>; Brian.S.NELSON
 (Brian.S.NELSON@odot.state.or.us) <Brian.S.NELSON@odot.state.or.us>; BROWN Jevra * DSL
 <Jevra.BROWN@dsl.oregon.gov>; Clara Taylor (clara.taylor@dsl.oregon.gov)
 <clara.taylor@dsl.oregon.gov>; Daniel Wentz <dwentz@lincolncity.org>; Devils Lake Water
 Improvement District (lake.manager@dlwid.org) <lake.manager@dlwid.org>; director.nlchm
 (director.nlchm@gmail.com) <director.nlchm@gmail.com>; duane.j.liner
 (duane.j.liner@odot.state.or.us) <duane.j.liner@odot.state.or.us>; Frederick Ulrich
 <fulrich@nlfr.org>; Joshua.Lee (Joshua.Lee@PacifiCorp.com) <Joshua.Lee@PacifiCorp.com>;
 Katharine.A.Mott2@usace.army.mil; Lon French (lfrench@northlincolnsanitary.com)
 <lfrench@northlincolnsanitary.com>; Onno Husing <ohusing@co.lincoln.or.us>; pamelal
 (pamelal@ctsi.nsn.us) <pamelal@ctsi.nsn.us>; PHIPPS Lisa * DLCD (Lisa.PHIPPS@dlcd.oregon.gov)
 <Lisa.PHIPPS@dlcd.oregon.gov>; Schurter, Andrew <Andrew.Schurter@nwnatural.com>;
 surveys@co.lincoln.or.us; UNITIS Matthew * DSL (Matthew.UNITIS@dsl.oregon.gov)
 <Matthew.UNITIS@dsl.oregon.gov>
Subject: VAR 2022-01 3GS Construction Setback Variance

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you know the content is safe.

Hello,

Attached to this email are application materials for a street side setback variance. The application was received February 6, 2022. Please review the application materials and provide an emailed response to this email indicating additional items you may need to complete your review **OR** provide any comments you have on the application, as well as your recommended conditions of approval.

Please reply **no later than Tuesday, February 15, 2022**. If no response is received, the assumption is that you have no comments, need no additional materials, and/or have no conditions of approval.



Anne Marie Skinner

DIRECTOR

City of Lincoln City | Planning & Community Development
801 SW Hwy 101 | PO Box 50 | Lincoln City, OR
P: 541.996.1228
E: askinner@LincolnCity.org | W: LincolnCity.org

From: trishhibler@gmail.com
To: [Planning](#)
Subject: Public Hearing on VAR 2022-01
Date: Monday, February 14, 2022 6:37:47 PM

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

I'm writing about the requested variance at 6604 NE Logan Road. They're requesting variance of 6.38 feet from the minimum 20-foot street side setback.

As I recall from a notice from a month or more ago, the property was also in violation on the north side property line with about the same measurement. I supposed it was just an oversight and that happens sometimes. Now that there's another variance requested, I'm wondering if it was intentional and then the builder just asks for a variance.

I own the house up the hill at 1923 NE 66th. The building of the two houses has impacted my view of the ocean, especially the house closest to 66th. Is that house also too close to the set back from the side street? That would be quite a coincidence.

I spoke to someone at the planning commission last spring about adding a very small deck to the street side front of my house. I was informed that it would violate the setback and wouldn't be allowed. It seems rather unfair that the house facing Logan Road is able to build so close to the side street (66th) since it faces Logan Road and blocks way more view than my small deck would have done.

I'm not sure how this can be resolved but I felt that I needed to state my objections.

Patricia Hibler, property owner
1923 NE 66th
Lincoln City, OR 97367

Mailing address:
1285 32nd Ave. NW
Salem, OR 97304
Sent from [Mail](#) for Windows

From: [Alison Robertson](#)
To: [Anne Marie Skinner](#)
Subject: RE: VAR 2022-01 3GS Construction Setback Variance
Date: Tuesday, February 8, 2022 12:09:38 PM
Attachments: [image001.png](#)

I have no comments.

Thanks,
 Alison



Alison Robertson, AICP, LEED AP
DIRECTOR

City of Lincoln City | Urban Renewal & Economic Development
 801 SW Hwy 101 | PO Box 50 | Lincoln City, OR
 P: 541.996.1207
 E: ARobertson@LincolnCity.org | W: LincolnCity.org

From: Anne Marie Skinner <askinner@lincolncity.org>
Sent: Tuesday, February 8, 2022 10:33 AM
To: Department Heads <Department_Heads@lincolncity.org>; Brian.S.NELSON
 (Brian.S.NELSON@odot.state.or.us) <Brian.S.NELSON@odot.state.or.us>; BROWN Jevra * DSL
 <Jevra.BROWN@dsl.oregon.gov>; Clara Taylor (clara.taylor@dsl.oregon.gov)
 <clara.taylor@dsl.oregon.gov>; Daniel Wentz <dwentz@lincolncity.org>; Devils Lake Water
 Improvement District (lake.manager@dlwid.org) <lake.manager@dlwid.org>; director.nlchm
 (director.nlchm@gmail.com) <director.nlchm@gmail.com>; duane.j.liner
 (duane.j.liner@odot.state.or.us) <duane.j.liner@odot.state.or.us>; Frederick Ulrich
 (fulrich@nlfr.org) <fulrich@nlfr.org>; Joshua.Lee (Joshua.Lee@PacifiCorp.com)
 <Joshua.Lee@PacifiCorp.com>; Katharine.A.Mott2@usace.army.mil; Lon French
 (lfrench@northlincolnsanitary.com) <lfrench@northlincolnsanitary.com>; Onno Husing
 <ohusing@co.lincoln.or.us>; pamelal (pamelal@ctsi.nsn.us) <pamelal@ctsi.nsn.us>; PHIPPS Lisa *
 DLCD (Lisa.PHIPPS@dlcd.oregon.gov) <Lisa.PHIPPS@dlcd.oregon.gov>; Schurter, Andrew
 <Andrew.Schurter@nwnatural.com>; surveys@co.lincoln.or.us; UNITIS Matthew * DSL
 (Matthew.UNITIS@dsl.oregon.gov) <Matthew.UNITIS@dsl.oregon.gov>
Subject: VAR 2022-01 3GS Construction Setback Variance

Hello,

Attached to this email are application materials for a street side setback variance. The application was received February 6, 2022. Please review the application materials and provide an emailed

response to this email indicating additional items you may need to complete your review **OR** provide any comments you have on the application, as well as your recommended conditions of approval.

Please reply **no later than Tuesday, February 15, 2022**. If no response is received, the assumption is that you have no comments, need no additional materials, and/or have no conditions of approval.



Anne Marie Skinner
DIRECTOR

City of Lincoln City | Planning & Community Development
801 SW Hwy 101 | PO Box 50 | Lincoln City, OR
P: 541.996.1228
E: askinner@LincolnCity.org | W: LincolnCity.org

From: mcgought@centurytel.net
To: [Anne Marie Skinner](#)
Subject: Response to VAR 2022-01
Date: Sunday, February 27, 2022 6:57:15 PM
Attachments: [Beach house response.docx](#)

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Good morning Ms. Skinner,

I have attached our response to Mr. Griswold's request for a variance on the property at 6604 NE Logan Rd. If you need anything more, please let me know. Also, my husband, Patric Mcgough, would like to speak at the hearing on March 15th. Thank you for your time,

Therese Mcgough
503-678-5334

To the Planning Commission members,

This is a response in the matter of VAR 2022-01

I am writing this letter on behalf of my Mother, Dorothy Prater, my Sister, Denise Prater and myself Therese McGough. We jointly own the property at 1835 NE 66th St., Lincoln City 97367 and have since 1953. It is not a rental property and has been enjoyed by our family for decades. My Father and Grandfather bought the two lots as a place where our family could gather together.

We recently replaced our existing deck that had been in place for over 50 years. We needed to make numerous revisions to comply with current building codes and setbacks at considerate cost even though the setback issues were entirely on the two lots we have always owned. We believe that 3GS Construction out of Salem, should be held to the same building codes and setbacks as the longtime Lincoln City property owners.

To the matter at hand; We would like the variance Mr. Griswold is requesting to be denied. Here are our reasons.

1. Any contractor building a structure has no excuse for not looking into the current zoning codes. They are easily found on the city website. The blatant disregard for the building codes is inexcusable. The structure he built is simply too large for the size of the lot. The structure he built right next to it was also not built within code and was also too large for the lot, but 6 inches is very different from the 6.38 foot variance he is asking for now. This is no one's fault but his own and he should be made to make it compliant.
2. As everyone knows Logan Rd is an extremely busy street and directly at the end of 66th is a public access for the beach. The line of sight, because of the structure's placement is a hazard and we believe does not comply with the clear-vision area requirement. A vehicle on 66th cannot see a vehicle heading south unless you enter the road, especially if there are cars in the driveway. I had this problem when building was occurring. Pedestrians also have the same problem and even through there is a crosswalk at the corner it can be dangerous, especially for young children who tend to run ahead of their parents in their excitement to get to the beach. I have found that many people driving and walking are not paying good attention to their surroundings. This is another zoning violation.

We therefore ask that Mr. Griswold's variance be denied.

Sincerely, Therese McGough

Commented [P1]:



C.S. # 14283
FILED 04 October 1993
LINCOLN COUNTY SURVEYOR

NARRATIVE

PURPOSE OF SURVEY IS LOCATE AND MARK CORNERS OF TWO ADJOINING TRACTS OF LAND DESCRIBED IN DEEDS MF 198 PG 1845 AND MF 244 PG 1857, BOTH METES AND BOUNDS DESCRIPTIONS SHOWN ON C.S. #2340 AS LOTS 1 & 2 "ROADS END" (NOT A RECORDED SUBDIVISION).

MONUMENTS OF SURVEYS C.S. #296, 440, 8521, 8623 AND 9975 AS FOUND WERE HELD ALONG WITH DEED DATA TO LOCATE DEED LINES OF SUBJECT TRACTS AND FOUND THE SOUTH LINE OF DEED DESCRIPTION MF 244 PG 1857 OVERLAPPING THE NORTH LINE OF 1ST ADDITION TO ROADS END WHICH OVERLAP WAS HELD AS THE EXCEPTION CALLED BY DEED OF SOUTHERLY SUBJECT TRACT MF 244 PG 1857.

BY RECOVERING AND HOLDING THE 'INITIAL POINT' OF '1ST ADDITION' STONE W/ DRILL HOLES ALONG WITH MONUMENT OF C.S. #8525 FOR THE NORTH LINE OF 1ST ADDITION THE DATA OF AND MONUMENTS SET FOR THE NORTH LINE OF LOT 1 1ST ADDITION SHOWN IN A PREVIOUS SURVEY BY THIS FIRM C.S. #13,951 WERE FOUND SLIGHTLY OUT OF POSITION WITH LINE EXTENDED FROM C.S. #8525, THEREFORE THESE MONUMENTS WERE RESET TO CONFORM WITH C.S. #8525.

DATA OF C.S. #13,951 FOR THE NORTH LINE OF LOT 1 1ST ADDITION IS TO BE AMENDED BY AN AFFIDAVIT OF CORRECTION TO FOLLOW. THIS AMENDED NORTH LINE OF LOT 1 1ST ADDITION WAS THEN INTERSECTED WITH THE EAST AND WEST DEED LINES OF MF 244 PG 1857 AND HELD FOR SOUTH LINE MF 244 PG 1857.

MONUMENTS WERE SET FOR THE NORTH LINE OF MF 198 PG 1845 PER DEED, A PROPOSED BOUNDARY LINE ADJUSTMENT BETWEEN SUBJECT TRACTS, AND AT THE INTERSECTION OF THE WESTERLY R/W LINE OF LOGAN RD. AS EXTENDED SOUTH FROM MONUMENTS OF RECORD SURVEYS FOUND AS SHOWN WITH THE NORTH LINE OF 1ST ADDITION AND FOUND TO BE IN R/W ALIGNMENT OF 1.51' AT POINT AS SHOWN.

EQUIPMENT USED: TOPCON GTS-2C SEMI-TOT. STA. - PRISM/STAFF
100 FT. ST. CHAIN & MAG. LOCATOR

SURVEY OF TRACTS LOCATED IN THE N.E. 1/4 OF SECTION 34 T6S, R11W, W.M. LINCOLN COUNTY OR.

FOR
MR & MRS GERALD FULLMAN
3306 S.W. SHERWOOD PL.
PORTLAND OR.

SURVEY BY: DARIUS K. FERGUSON P.L.S. - LAND SURVEYING & DESIGN
P.O. BOX 15 NEATSBY, OR. 97364 - PH: (503) 994-5854

NOTE-A = P.D.B. MF 198 PG 1845
& MF 244 PG 1857

DEED = S-773.15' S-773.43'
W-261.73' W-261.75' MS
FROM CORNER: 26.27.34.35

NOTE-B = BUILDING RESTRICTION LINE
TO FUTURE CONSTRUCTION.

- LEGEND
- = MONUMENTS FOUND AS NOTED
 - = MONUMENTS SET - 5/8" X 30" I.R. W/ YELLOW PLASTIC 110 CAP PLS. 2279
 - ▲ = TRACK IN WOOD WALK: 8-21-93
 - = NORTH LINE 1ST ADDITION TO ROADS END PER C.S. #8525 AND EXTENDED WESTERLY TO AMEND NORTH LINE OF PREVIOUS SURVEY BY THIS FIRM OF LOT 1 & 2 1ST ADD TO ROADS END C.S. #13,951
 - = RECORD DATA OF DEEDS, C.S. #2340 AND OTHER SURVEYS AS NOTED
 - - - - - = RECORD DATA OF 1ST ADDITION TO ROADS END AND C.S. #13,951
 - + - - - - = PRORATED MEASURE OF C.S. #13,951
 - = DATA DIFFERENT THAN RECORD AND NEW DATA OBSERVED THIS PLAT
 - MS = MEASURED
 - ① = TRACT NUMBER AS SHOWN ON C.S. #2340
 - 1- = LOT NUMBER 1ST ADDITION TO ROADS END

SCALE: 1" = 30'

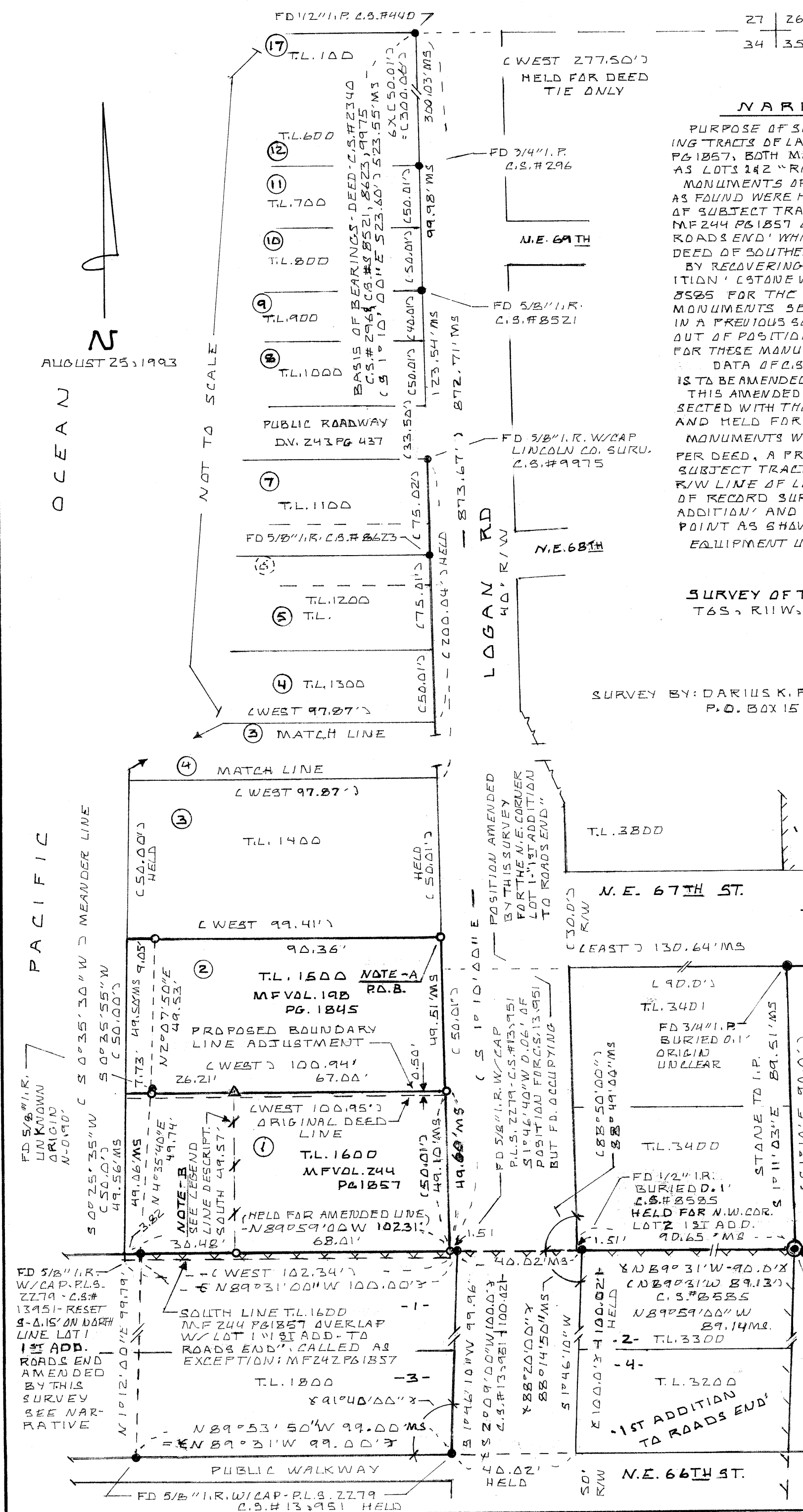
BLOCK 1
"RAIL
ADDITION"

HELD - FD 12" X 8" X 16"
STONE W/ 1/4" DRILL HOLE - BURIED 0.3' INITIAL POINT
"1ST ADDITION TO ROADS END" - N 75° 57' 50" W Δ.27' OF FD 1/2" I.P.

REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
JULY 16, 1987
DARIUS K. FERGUSON
2,279

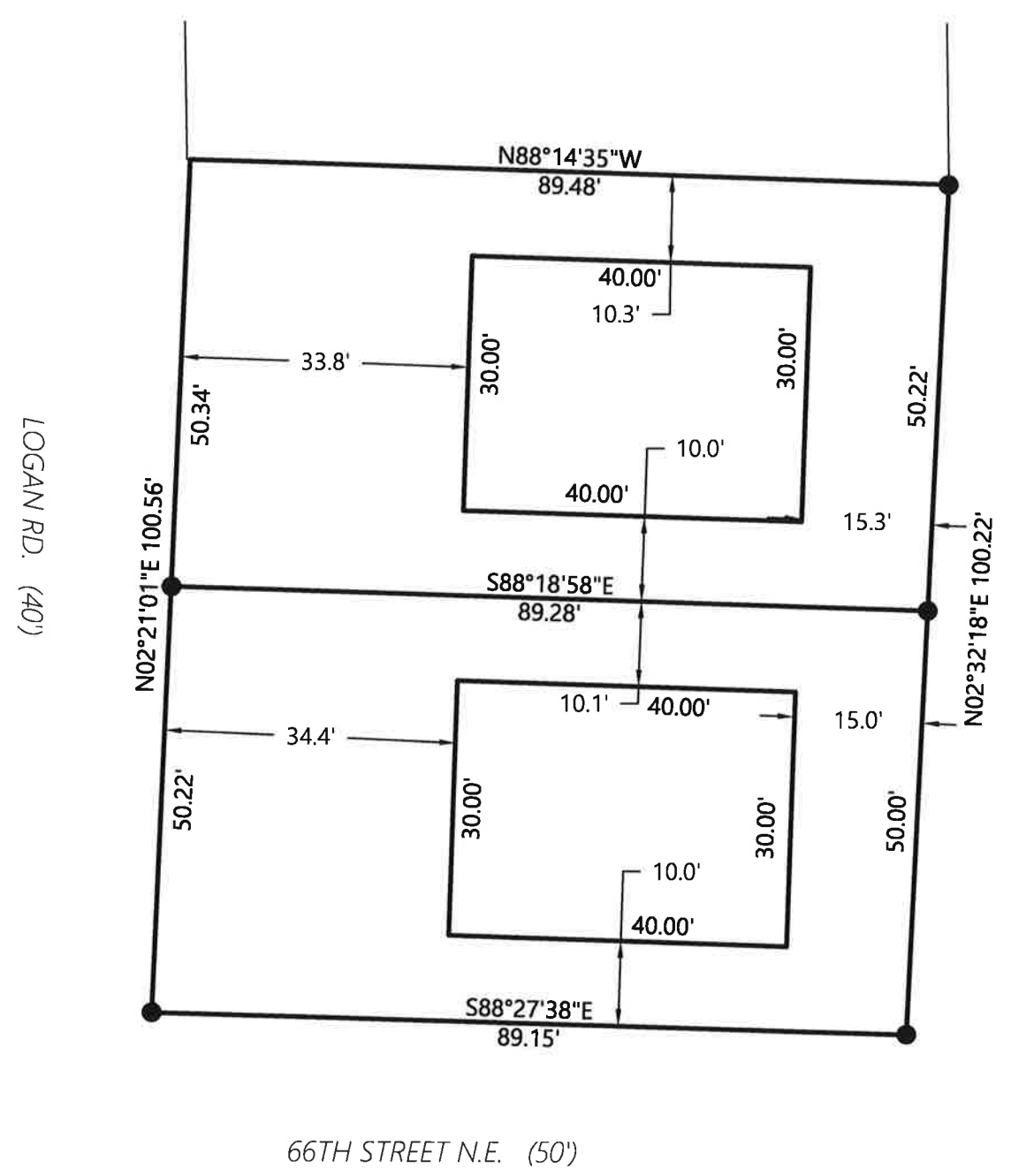
REG. CURRENT
THRU 12-31-93



FOUNDATION SURVEY

FOR 3 G'S CONSTRUCTION
IN THE NE 1/4 SEC. 34, T. 6 S., R. 11 W., W.M.
LINCOLN CITY, LINCOLN COUNTY, OREGON


1" = 20'
1/25/2022
#7272



● = FOUND MONUMENT

I, ROBERT D. HAMMAN, A REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF OREGON, HEREBY CERTIFY THAT THE FOUNDATIONS FOR THE BUILDINGS HEREON HAVE BEEN CONSTRUCTED AS SHOWN.

REGISTERED
PROFESSIONAL
LAND SURVEYOR



OREGON
JULY 13, 2004
ROBERT D. HAMMAN
64202LS

EXPIRES: 6-30-2023

BY:
MULTI/TECH ENGINEERING SERVICES, INC.
1155 13TH ST. S.E. SALEM, OREGON 97302
503-363-9227

Variance

Staff Report for Planning Commission Public Hearing

Case File VAR 2022-01

Date: February 18, 2022

Case File: VAR 2022-01 6604 NE Logan Rd Street Side Setback

Applicant: 3 G's Construction, Inc.
PO Box 85
Salem, OR 97308

Property Owner: 3 G's Construction, Inc.
PO Box 85
Salem, OR 97308

Situs Address: 6604 NE Logan Rd

Location: Northeast corner NE Logan Rd/NE 66th St intersection

Tax Map and Lot: 06-11-34-AA-03200-00

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

Zoning District: Single-Family Residential, Roads End (R-1-RE) Zone

Site Size: 0.10 acre

Proposal: Vary required 16.38-foot street side setback to 10 feet

Surrounding Land Uses and Zones: North: Residential; R-1-RE
South: Residential; R-1-RE
East: Residential; R-1-RE
West: Residential; R-1-RE

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 variance as a Type III application with the decision authority given to the Planning Commission.

Procedure: The Planning and Community Development Department mailed notice to the owners of all properties within 250 feet of the site on February 8, 2022. The *News Guard* published the public hearing notice on February 15, 2022.



Applicable LCMC Chapter 17.17 Single-Family Residential, Roads End (R-1-RE) Zone
Substantive LCMC Section 17.76.050 Type III Procedures
Criteria: LCMC Section 17.77.140 Variances

BACKGROUND

The subject property (site) is addressed as 6604 NE Logan Rd and contains a newly-constructed detached dwelling. The application for a structural (building) permit for the new construction was submitted on March 10, 2021. The review of the site plan by the former senior planner, David Mattison, took place on March 25, 2021, with subsequent approval. Public Works and Building staff completed their reviews and the permit was issued on April 28, 2021.

With the issued permit, the applicant proceeded to site preparation. This included clearing and grading, as well as setting the footings for the pouring of the foundation. The applicant requested the required setback inspection, which was subsequently performed on May 17, 2021, by David Mattison. David Mattison approved the setback inspection. Both the site plan and the setback inspection approved by David Mattison showed a street side setback of 10 feet, rather than the required 16.38 feet.

A citizen complaint was filed in January 2022 regarding the possible street side setback encroachment. The complaint was verified and a code violation case was created on January 20, 2022. A courtesy notice was issued to the property owner of the site requesting that, no later than January 30, 2022, one of three actions take place: remove all setback encroachments; apply for a zoning code text amendment to LCMC 17.17.070; or apply for a variance for the street side setback. The applicant chose to apply for a variance and subsequently submitted the required application and fee.

COMMENTS

On February 8, 2022, Fire Marshal Ulrich provided a comment that the requested variance has no conflict with OFC requirements.

On February 8, 2022, the director of Lincoln City Urban Renewal & Economic Development emailed that she has no comments.

On February 14, 2022, Patricia Hibler provided comments stating that the building of the house has impacted her view of the ocean and questioning the fairness of this variance request when she wasn't allowed to add a small deck to the street side of her house because it would have violated the setback. Staff notes that LCMC Title 17 has no requirements for view protection and impacts to views is not a criterion for approving or disapproving a variance.

ANALYSIS

17.08 Definitions

“Setback” means the minimum or maximum distance required between a specified object and another point. Typically, a setback refers to the minimum or maximum distance from a building or structure to a specified property line. “Street side setback” means the required distance from the street side property line and a specified object.

17.17.070 Lot requirements.

Lot requirements shall be as follows:

- D. The minimum front yard shall be 20 feet. Except that the minimum setbacks from Logan Road need not exceed the average setback of buildings on all lots within 100 feet of the lot on which the proposed building is to be located and that abut Logan Road.*

Finding: The average setback of buildings on all lots within 100 feet of the site and that abut Logan Rd calculates to 12.77 feet. Accordingly, the front setback for the site is 12.77 feet. All portions of the structure, including porches, stairs, decks, and balconies that are over 30 inches from the ground, must meet the 12.77-foot-front setback requirement. In this case, the front of the main wall of the house is set back 34.4 feet from the front property line, and the upper stairs and deck that are over 30 inches from the ground are set back 20 feet from the front property line. The front setback requirement is not only met, but is exceeded by 7.32 feet.

F. The minimum street side yard shall be 20 feet, except that it may be one foot less for each two feet of front yard setback over the minimum, but not to less than 10 feet.

Finding: The front setback for the site is 12.77 feet. The front of the main wall of the house is set back 34.4 feet from the front property line. However, the upper stairs and deck on the front of the house that are over 30 inches from the ground are only set back 20 feet from the front property line. Accordingly, the provided front setback is 7.32 feet over the minimum of that which is required (required 12.77 feet, provided 20 feet – 20-12.77 = 7.32).

The provided front setback is 20 feet. The required front setback is 12.77 feet. The distance over the minimum of 20 feet is determined by subtracting the minimum requirement (12.77 feet) from what has been provided (20 feet) to yield 7.32. That number is then divided by 2, which equals 3.62.

3.62 is then subtracted from the minimum street side setback of 20 feet to give the required street side setback for this site at 16.38 feet. The provided street side setback is 10 feet, which means that the house encroaches by 6.38 feet into the required street side setback.

17.77.140 Variance

C. Approval Criteria. To approve a variance, the planning commission shall make findings of fact, based on evidence provided, that all of the following circumstances exist:

- 1. Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity and result from lot size or shape legally existing prior to the date of the ordinance codified in this title, topography, or other circumstances over which the applicant has no control;*

Finding: This criterion requires evidence of an exceptional or extraordinary circumstance that applies to this site, which does not apply to other properties in the vicinity, over which the applicant has no control. The applicant feels this criterion is met with the extraordinary circumstance being the city's inaccurate review and approval of the site plan showing the 10-foot street side setback, followed by the city's inaccurate passing of the setback inspection, both over which the applicant has no control. The applicant's narrative specifically states the following:

"The extraordinary circumstance here is the fact that with a street side setback of 10 feet, the newly-constructed house on the property does not meet the street side setback requirement... The situation came about as a result of a cascade of mistakes on the part of the city...Before purchasing the property, on November 17th, I called and talked to James White in the planning department in a 13 minute phone call. Among the matters I spoke with him about, we specifically talked about setbacks. At that time he told me that the street side setback was 10 feet...Except for the misinformation about the street side setback he was very helpful and informative...As a part of the planning department review the reviewer, David Mattison, checked the setbacks, including the street side setback. The plans showed clearly that the proposed setback was 10 feet. The reviewer approved the plans as I submitted them with the 10-foot setback...When the forms were in place, as required I called the city for an inspection. One of the primary purposes of this inspection is to ensure that the house is being placed properly on the lot in accordance

with the approved plans and that the required setbacks are met. The planning department's inspector, David Mattison, approved everything and the forms passed inspection. I then went ahead and poured the footings and built the house... This was a shock to me as I had asked specifically about setbacks, had passed the building plans review (including setbacks), and had passed the field inspection (also including setbacks). As a consequence I have a completed house that is not allowed to be occupied, and I am asking for a variance."

The applicant's narrative also states:

"As a side note, it is important to understand that this is not a case of claiming that because of the city's repeated mistakes, the city is estopped from applying the ordinance's setback requirement. Instead, this is a case where, yes, the setback requirement applies, but because of the extraordinary circumstance resulting from the city's mistakes – the completed house that does not fully meet the setback requirements – the ordinance's variance provisions allow me the necessary relief."

The applicant has not provided any evidence of an exceptional or extraordinary circumstance which does not apply to the other properties in the R-1-RE zone or the vicinity and result from lot size or shape legally existing prior to the date of the ordinance codified. No evidence has been provided that the lot size or shape of the site is an exceptional or extraordinary circumstance. No evidence has been provided that the topography of the site is an exceptional or extraordinary circumstance. The applicant is relying on the "other circumstances over which the applicant has no control" portion of 17.77.140.C and is claiming the circumstance over which the applicant has no control is the city's inaccurate approval of the site plan and subsequent inaccurate approval of the setback inspection. Staff concludes that the applicant has not provided evidence to support the existence of an exceptional or extraordinary circumstance that applies to the site; therefore, this criterion is not met.

2. *The variance is necessary for the preservation of a property right of the applicant which is substantially the same as owners of other property in the same zone or vicinity possess;*

Finding: The applicant states that "the property right involved here is the right to build and occupy a detached dwelling on the property" and that the "house has been built but cannot be occupied because the final inspection revealed that it does not meet the setback requirement" and that the "variance is needed so that the house may be occupied."

Staff finds that a detached dwelling is an allowed use in the R-1-RE zone, per LCMC Chapter 17.17. This property right is enjoyed by all property owners in the R-1-RE zone. When a detached dwelling is constructed in accordance with the Oregon Residential Specialty Code (ORSC), occupancy of that dwelling is allowed. Again, this occupancy right is shared by all properties in the R-1-RE zone that meet the requirements of the ORSC. A building permit for a detached dwelling has been applied for and obtained. The construction of the dwelling is complete and is ready for the final building inspection by the building official. Provided the ORSC requirements are met and passed in the building official's final building inspection, the building official will issue the certificate of occupancy. Setback violations are not grounds for denying issuance of a certificate of occupancy. Specifically, ORSC R105.4 states that the building official is authorized to prevent occupancy or use of a structure where in violation of this (referring to the ORSC) code by withholding or revoking a certificate of occupancy. However, setback requirements are not part of the ORSC; therefore, meeting or not meeting a setback requirement is irrelevant to the issuance of the certificate of occupancy. This criterion is not met.

3. *The variance should not be materially detrimental to the purposes of this title, or to property in the zone or vicinity in which the property is located, or otherwise conflict with the objectives of any city planning policy;*

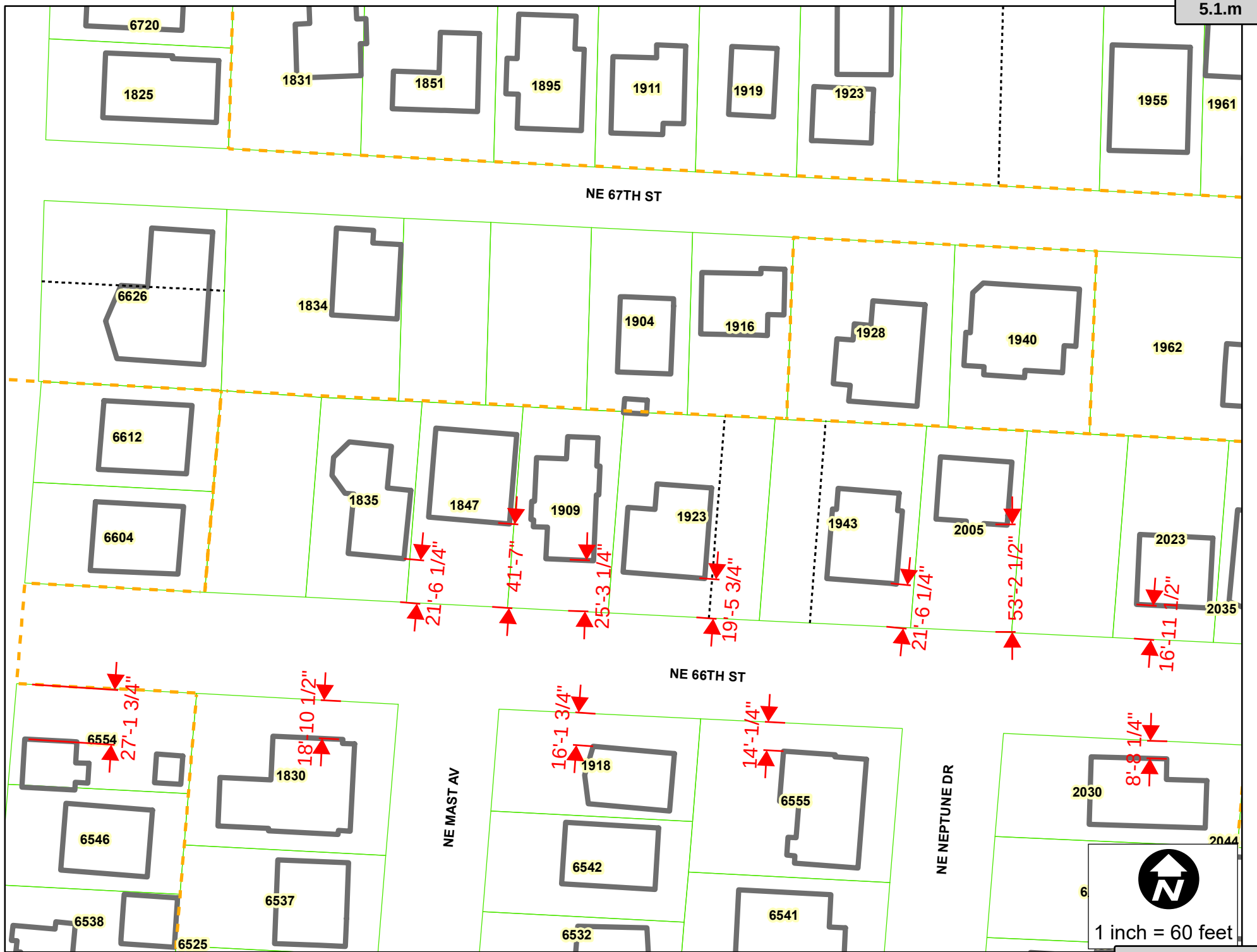
Finding: The site is in the R-1-5 zone. The site is surrounded on all sides by properties also in the R-1-5 zone. Surrounding properties either already contain detached dwellings or are planned for the future construction of detached dwellings. The existing dwelling on the southeast corner of the NE Logan Rd/NE 66th St exceeds the required 20-foot street side setback at approximately 27'-1 ¾". However, houses at 1830 NE 66th St, 1918 NE 66th St, 6555 NE Neptune Dr, and 2030 NE 66th St do not meet the required 20-foot street side setback at 18'-10 ½", 16'-1 ¾", 14'-1/4", and 8'-8 ¼", respectively. Additionally, it appears that two existing houses don't meet the required 20-foot front setback at 19'-5 ¾" for 1923 NE 66th St and 16'-11 ½" for 2023 NE 66th St. Having one more house not meeting a required setback in amongst the 6 houses in the vicinity that also don't meet a required setback will not be materially detrimental to the vicinity. Staff also notes that the R-1-RE zone is the only residential zone in the city that requires a minimum 20-foot street side setback and a minimum 20-foot front setback. The R-1-5, R-1-7.5, and R-1-10 zones only require a minimum 5-foot street side and front setback for single-story dwellings and a minimum 7.5-foot street side and front setback for two- or three-story dwellings. Staff concludes that this circumstance for granting a variance exists.

4. *The variance requested is the minimum variance which would alleviate the hardship.*

Finding: The required street side setback in this case is 16.38 feet, and what has been provided in the completed house construction is 10 feet. The request is the minimum necessary to alleviate the street side setback encroachment by allowing a variance to the minimum requirement from 16.38 feet to 10 feet. The hardship is that, since the house is constructed, there are three options to alleviate the encroachment: 1) obtain a 6.38-foot variance; 2) obtain a text amendment to change the minimum street side setback requirement in the R-1-RE zone; or 3) remove the southernmost 6.38 feet of the house to meet the required 16.38-foot-minimum setback from street side property line. The applicant states: "The minimum necessary to alleviate this hardship is varying the street-side setback from 16.38 feet to 10 feet." Staff concludes that this criterion is met.

RECOMMENDATION

Staff submits that the evidence presented in the submitted application materials, as concluded in the findings in this report, is not sufficient to show that every criterion is being met, and recommends denial of the request.



1 inch = 60 feet

Address	Tax lot	Approximate Street Side Setback
7614 NE Neptune Ave	06-11-27-DA-03400-00	18.2
7556 NE Logan Rd	06-11-27-DA-02000-00	23.4
1815 NE 74th	06-11-27-DD-02100-00	17.6
7346 NW Logan Rd	06-11-27-DD-10502-00	4.4
7248 NE 73rd	06-11-27-DD-10401-00	14.56
1819 NE 72nd	06-11-27-DD-09100-00	2.25
1816 NE 72nd st	06-11-27-DD-08900-00	15.4
7106 NW Logan Rd	06-11-27-DD-07400-00	26.2
7036 NE Logan Rd	06-11-27-DD-07300-00	14.2
7010 NE 70th	06-11-34-AA-04400-00	10.9
6938 NE Logan Rd	06-11-34-AA-04300-00	10.2
6910 NE Logan Rd	06-11-34-AA-04100-00	1.8
6806 NE 68th	06-11-34-AA-03700-00	2
6780 NE Logan Rd	06-11-34-AA-03601-00	14
1825 NE 67th St	06-11-34-AA-03500-00	12.8
6626 NE 67th	06-11-34-AA-03400-00	11.4
6554 NE Logan Rd	06-11-34-AA-03100-00	27
1815 NE 64th	06-11-34-AD-05100-00	6.7
1812 NE 64th	06-11-34-AD-05000-00	14
6104 NE Logan Rd	06-11-34-AD-03300-00	8
1835 NE 58th	06-11-34-DA-09100-00	28.5
1834 NE 58th	06-11-34-DA-06404-00	20.3
1850 NE 56th	06-11-34-DA-07500-00	23.1
5310 NE Neptune Ln	06-11-35-CC-00501-00	31.2
5276 NW 53rd	06-11-34-DD-04407-00	20.9
5230 NW 53rd	06-11-34-DD-04424-00	45.1
1819 NW 52nd	06-11-34-DD-04424-00	38.6
1795 NW 52nd	06-11-34-DD-04417-00	17.4
1794 NW 52nd	06-11-34-DD-04418-00	14.3
5020 NW Lee Ave	06-11-34-DD-05300-00	12.5
1785 NW 50th St	06-11-34-DD-05200-00	14.3
1707 NW 50th	06-11-34-DD-03400-00	17.4
5018 NW Jetty Ave	06-11-34-DD-03300-00	15.6
2055 NW 50th	06-11-35-CC-02300-00	12.7
2220 NW 50th St	07-11-02-BB-06000-00	32.5
5120 NW Bell Ct	06-11-35-CC-05900-00	28.6
1897 NW 51st	06-11-34-DD-06214-00	32
1867 NW 51st	06-11-34-DD-06209-00	22.8
1859 NW 51st	06-11-34-DD-06204-00	15.9
5233 NE 53rd Ct	06-11-35-CC-04800-00	20.4
5321 NE Port Ln	06-11-35-CC-04000-00	19.6
6148 NE Mast Ave	06-11-35-BC-14900-00	22.9
1910 NE 63rd	06-11-35-BC-06700-00	24.1
6344 NE Mast Ave	06-11-35-BC-03500-00	10.7
1929 NE 63rd	06-11-35-BC-03400-00	14
6415 NE Mast Ave	06-11-35-BC-15900-00	19.6

1918 NE 66th	06-11-35-BB-08500-00	17.8
6555 NE Neptune Ave	06-11-35-BB-08600-00	14.6
2030 NE 66th	06-11-35-BB-09600-00	9
2105 NE 64th	06-11-35-BC-09600-00	17.4
6330 NE Port Dr	06-11-35-BC-11700-00	17.1
1962 NE 67th	06-11-35-BB-05500-00	5.9
1961 NE 67th	06-11-35-BB-05300-00	3.11
1980 NE 68th	06-11-35-BB-03900-00	3.1
1947 NE 68th	06-11-35-BB-03800-00	20.2
6851 NE Neptune	06-11-35-BB-02300-00	4.4
1935 NE 69th	06-11-35-BB-02000-00	0
7015 NE Neptune Dr	06-11-27-DD-06300-00	0
1950 NE 72nd	06-11-27-DD-08100-00	10.25
7287 ne Netpune Ave	06-11-27-DD-09900-00	14.7
7421 NE Neptune Ave	06-11-27-DD-01700-00	5.6

Thank you, commissioners. My name is Roger. I've lived in Salem for the last 24 years. I've built our home on Logan Road over the last year, often having my son and daughter helping with cleanup or whatever they could.

They've been eager and are very excited to be able to use the home if I'm granted this variance. It's been a big job, and I've learned a lot.

I've been going to Roads End State Park for many years and have always taken guests there when they come and visit. To have the opportunity to be a part of that community and to find a lot that I could build on in that community has been a dream come true.

At the outset I'd like to reserve two minutes for rebuttal. And please if you any of you have any questions or concerns, please stop me and ask. I would love to be able to answer anything you might be wondering about, and I'm told I can't do that when you're deliberating.

I want to address a couple of things that I think the staff report got wrong.

Criteria 1. Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity and result from lot size or shape legally existing prior to the date of the ordinance codified in this title, topography, OR other circumstances over which the applicant has no control;

In the staff report it states the applicant has not provided evidence to support the existence of an exceptional or extraordinary circumstance that applies to the site. [There are several exceptional or extraordinary circumstances in play here. One is the fact that the planning staff and building staff all reviewed and approved my plans, issued permits, signed off on inspections all missing the setback error. Second, I have a completed](#)

home that was approved as meeting all code requirements, but now I'm in a quagmire of not being able to live in a house I have a certificate of occupancy for.

I took in all the information I could from the city's website and staff. And certainly 1 of those items was missed. From my years of building, I've learned staff know things and understand things I don't necessarily know about a certain area or city. Such as materials that should be used or the future plan of a site which is why we are the only section of sidewalk and curb on Logan Road.

That is not something easily understood by reading the code. That is why I rely on professional city staff that have a full time job of knowing and implementing these codes. And I did not find anyone in city staff who was unfriendly or unhelpful. They all answered all my questions, and offered help in any way possible. But now I cannot get a final occupancy because of the setback error that was not my fault.

As I said in my narrative, I have a home that is completely built and although I am able to possess a Certificate of Occupancy, I cannot occupy the home without consequence. I feel that the permit sign off's by staff, subsequent site inspections and approvals by staff, improper as they were, qualifies as an extraordinary circumstance. It certainly is for me. This has been a very stressful time for me. I could hardly breathe when Ms Skinner notified me about this circumstance back in January.

The very extraordinary circumstance that exists is that we have a completed home that cannot be occupied. This does not apply to others in the vicinity. Our family's home was fully constructed before anyone became aware of this issue and it cannot be lived in. That is unique. Is

there another home in Roads End that has this circumstance? It seems exceptional.

I know that a neighbor couldn't rebuild their deck because of setbacks. I understand The Roads End Improvement Association is concerned about this becoming "commonplace with new developments". I understand that.

I'm not trying to break any rules, or trying to disregard the effort put into making the neighborhood cohesive. I'm not negatively impacting the neighborhood as a whole. I'm asking for 6.38' And I've even added to the neighborhood by adding a paved parking area for access to the beach. I've added sidewalks, and curbs. I've built a nice looking home.

Over a year ago, I spoke with James White in planning, I spoke with the building department, I spoke with the public works department, and all before I even purchased the lots, then once again I spoke with planning and building and public works while developing and having plans reviewed, and again as I was finalizing the plans. I have not built anything in Lincoln City before and was unfamiliar with local codes and anything that may be specific to where I was planning to build. I did look at the website and the codes and rules, I simply missed this one thing. I don't have an office person or someone who takes calls. I am small builder and do all of these responsibilities myself.

I was given information about high wind areas, using stainless steel and aluminum because of the salt air. My plans were under review for about 6 weeks. I was advised we needed Occupational Tax Permits to work in

Lincoln City, so we got those. And Ultimately the plans were approved as drawn and we constructed the homes.

There were many notations on my plans. As I mentioned, I was required to install curbs for the street and expand 66th, and construct a 6' sidewalk along Logan Road, so there was no confusion about where I was building.

So we went on to build according to the plans submitted and approved, had our required inspections that were approved and the house was complete in early January.

What is extraordinary is that no one noticed or made anyone aware my home was not meeting the side street setback for a whole year.

In the staff report, staff have noted that I didn't provide evidence meeting Criteria #1. However, I believe I have provided substantial evidence to show that this is an exceptional or extraordinary circumstance. I have provided my written narrative, I have testified before you, and I have submitted all of the building plans that have the multiple reviews, notes, and sign off's by the Planning and Building staff on the review and approval of my home in the current location, which all show this is both exceptional and was not in my control.

I find the criteria of 1 and 2 somewhat vague. As Commissioner Smith expressed on May 18th, 2021 during a planning meeting that he had concern that there is a lack of definition in some of the requirements on criteria one and two.

Staff are mis-interpreting Criteria #1 in the response. It does not solely require that the exceptional or extraordinary circumstances apply to the property. . . and result from lot size or shape.

The “or” in this Criteria, allows Staff and you to consider “other circumstances over which the applicant has no control.” This is a catch all provision for those property owners who did not cause the situation they are now seeking relief from and don’t have unique property elements from size, shape, or topography. This last section of Criteria #1 is directly applicable to my situation and one which I qualify for and clearly meet.

Next I want to address criterion 2.

Criteria 2. The variance is necessary for the preservation of a property right of the applicant which is substantially the same as owners of other property in the same zone or vicinity possess;

In my narrative I said the property right to be preserved is the right to occupy my house. The staff report interpreted this to mean occupancy under the building code. But that is not what I am referring to. I’m talking about being able to occupy, to use, my house under the municipal code. The preservation of the property right would be to occupy the fully built dwelling without incurring any fine. I’ve been granted a certificate of Occupancy by the City of Lincoln City. But under LCMC 17.04.030 – which is about compliance with zoning requirements – construction and use of a house that does not meet setbacks is a violation of the municipal code. Under LCMC 17.84.020 – Enforcement – it is a class B violation, and each day of the violation is a separate offense. Under LCMC 1.16.070 a class B violation is subject to a \$1,000 fine. So even though I have a C of O I still have a violation of the code and a potential \$1,000/day fine. That's what keeps me from being able to occupy the house.

The other property owners enjoy the right to live in their homes without continuously violating an ordinance.

Mr Apicello gave the example on May 18, 2021 in a public hearing of “needing a variance to be able to build a home on your lot when everyone else is able to build. I need a variance to have a right like they have.”

So that is what I’m seeking, a variance to be able to build, keep and live in a home that many others have done in this same zone, 4 of which do not meet their side street setback and two that don’t meet their front street setback as noted in the staff finding for criteria number 3. Further the staff found “Having one more house not meeting a required setback in amongst the 6 houses in the vicinity that also don’t meet a required setback will not be materially detrimental to the vicinity.” And I’m asking for a mere 6.38’

I was very diligent in trying to comply with the code. Before I prepared plans, before I even purchased the lot, I asked the responsible city staff specifically about the setbacks after my own research. Based on what they told me and what I knew, I prepared plans that to the best of my knowledge complied with the setback requirements. I then submitted those plans for review by the responsible city staff and they approved the plans.

Based on that approval I put in the forms for the footings, and had responsible city staff come to the site to check the setbacks in the field, and they approved the setbacks. Only then did I build the house. I’ve invested hundreds of thousands of dollars in it. I did this in good faith. I wasn’t trying to get away with anything. I was trying to comply.

But I’ve ended up with a house that doesn't meet one of the standards, and now I’m not allowed to use it.

I even have a C of O, but I still can't use the house. I don't mention the city staff's mistakes to say that the setback standard shouldn't apply but to demonstrate that I've tried my very best to be diligent. I've sought to do what's right in every way possible. I've used aluminum and stainless steel everywhere outside because I was informed that's how it's done here with the salt air. I've talked with some of the neighbors and exchanged numbers so they could let me know if anything needs attention if I wasn't on site.

I have generally gotten along with my neighbors. The neighbor to the north even let us borrow power and water on occasion. Another neighbor who owns a surf shop asked for some wood pieces that I gave him. I believe this is a part of being a builder, making sure people have access to me and then taking care of their concern. It's part of the diligence I've tried to bring to building this home.

I'm not saying the city standard doesn't apply, but that I need relief from the standard via this variance process, a process that was designed to address exactly this kind of situation.

It's not a small matter for me at all. I'm not a big builder by any means. I'm not sure how it's been measured that I'm in some top tier of developers. I'm a home builder. I do not have any employees. I've borrowed the money to build this home, and these are the only 2 homes I've built this year. Mine and the one next to it. And now a finished home sits vacant and cannot be occupied.

I respectfully request you approve my variance application.

From: [City Recorder](#)
To: [Anne Marie Skinner](#)
Subject: FW: VAR2022-01 - 6604 NE Logan
Date: Wednesday, March 23, 2022 9:53:31 AM

From: kolob1@charter.net <kolob1@charter.net>
Sent: Tuesday, March 22, 2022 4:39 PM
To: City Recorder <cityrecorder@lincolncity.org>
Subject: VAR2022-01 - 6604 NE Logan

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Please add to record of VAR2022-01.

Tax lots 06-11-34-AA-03200 and 06-11-34-AA-03300 of Lincoln County, are both lack the required 5,000 square feet to build a home on. Neither lot should have homes built on NON - CONFORMING conditions.

Title 17 Zoning (R-1-RE): code 17.17.070.A. The minimum lot area shall be 5,000 square feet

Ekistics:

The side street Setback code is designed to satisfy the need of the public to have open corridors of ocean/beach vistas (basic RE zone ideal), to create consistent corner setbacks that respected the up street 20 feet setbacks for others. All working to provide consistent preservation of neighborhood value and flow.

The Lot size requirement is designed to prevent overcrowding feeling allowed in commercial and multifamily zones. That squeeze tight feeling of condos or apartments is opposite of that desired for residential living areas of local families.

The need to feel safe, secure, and a valuable part of this community by sacrificing our individual desire for more private space. Obeying a long existing standards of the R-1-RE zone ensures residents of the consistency and fairness of our fellow neighbors.

Stacey K. Baird

Hello Anne Marie and planning commission,

I wanted to address a few things while the record is still open in regard to this variance request.

One thing would be to address the idea of removing the deck and steps. This would destroy the architectural integrity of the home as I alluded to in the meeting on March 15th. It would have a substantially less attractive street view and really detract from the aesthetics in that area. It would leave lights and a hose bib and a natural gas line abandoned on the upper wall of the front exterior of the home.

My realtor has analyzed the value of the home and how it would be changed by removing the steps and deck and using the garage as an entrance. He concluded the value would be diminished by \$250,000. This would be a tremendous hardship for me and the financing of the home.

Regarding Commissioner Baker's question about whether I had assistance, I did - as this is extremely important to me and I consulted with both a land use attorney, a land use consultant, and several professional friends. They gave me a lot of information, including the information about the setbacks elsewhere in the city and the code that says you can't legally occupy the house..

Regarding those who oppose approving this variance, I didn't feel that they gave any evidence regarding the four variance criteria. Some of them mentioned how this variance would tend to degrade the character of Roads End with its special setback requirements that the people of Roads End spent many hours working on in 2015. I would say by going through this process, it demonstrates that the enforcement system is working. This will not create precedence. This will show a clear use of what a variance is used for, a very exceptional circumstance.

The character of Roads End comes in large part from the eclectic nature of residences. Roads End is not a conforming subdivision where every home is nearly the same. This is what lends to it's charming character.

Moreover, as Janet Knight said, no one was aware of the violation of my home until the city brought it to their attention. So it appears no one saw any problems with it as built. It fits the community well.

The house was under construction for about 8 months. The ten-foot setback was in plain sight from day one. No one raised any concerns with me or the city until after the house was finished. There was ample time to bring up any concerns over the setback. It seems unfair for no one to speak until the building was finished and then somehow claim it diminishes something in the neighborhood. Moreover, it seems to be evidence that the house does not adversely affect the character of Roads End.

Janet Knight said we "must be able to trust staff." (at -1:50:21 in the video) I agree with that and it's precisely what I did. That does not address the situation of there is a completed house that cannot legally be used.

I'm looking forward to having some of you as neighbors and sharing the community with the rest of you. I'm not trying to get away with anything. I've tried my level best to comply with the rules. I did what was asked of me by all the city staff and listened intently as they gave me guidance in the process. I tried to build homes that would fit well on the lot and in the community. There was just one mistake I made in good faith, quite openly and obviously.

RECEIVED VIA EMAIL ON March 21, 2022 at 3:37 p.m.

To: Planning Commission, Planning Director

From: Patti Kroen

Regarding: VAR 2022-01 Requested variance for 6604 Logan Road

Greetings,

The Planning Commission is responsible for making decisions not on emotional pleas but rather on findings based on the law as it pertains to each situation. The variance requested does not meet the requirements for approval as identified in LCMC 17.77.140C1 through C4. The applicant has failed to provide evidence and proof that the four circumstances exist and therefore the Planning Commission is required to deny the variance.

I am a full-time resident of Roads End and participated in the development of the zoning codes for the R-1-RE designation after annexation of the Roads End neighborhood. Prior to annexation, homes in Roads End were built to County code requirements and as such some may not meet the current R-1-RE requirements. The codes are easily accessible on the city website for anyone contemplating construction of a new home in the neighborhood. I was able to easily locate the Roads End building codes in less than 20 seconds.

The builder of the house at 6604 Logan Road, owner of a professional construction company with a long history of new builds in Oregon, would be aware of the need to confirm all requirements prior to development by examining the codes and would not rely on a telephone conversation with a planning department staff member. The builder did not complete due diligence and now is seeking approval of a variance from the City for his mistake. Why didn't a seasoned builder complete the due diligence? Unfortunately an explanation may be that this contractor in fact knew what he was doing. A quick Internet search reveals that this construction company owner has a history of ignoring regulations in Oregon with a substantial judgment against him by the state in 2018.

The staff report, while incorrectly identifying the property as in the R-1-5 zone (staff report findings, packet page 50) correctly finds that only one of the four circumstances is met and recommends denial of the variance. Simply put, you cannot CREATE an extraordinary circumstance and then claim to be a victim of that circumstance for a variance. I agree with the staff findings and request the Planning Commission deny this variance.

The larger setbacks included in the R-1-RE zoning in Roads End are the result of determinations by the residents and city planners collaboratively involved in their development after annexation that the Roads End neighborhood character should be protected and additional development within the zone should fit appropriately in the setting. This is one reason Roads End zoning requires a different setback than the rest of Lincoln City. While there is no provision for protection of view sheds in the city codes, the residents felt that these setbacks would maintain visual consistency with the neighborhood and prevent over development on the small lots in the neighborhood. Similarly, decks that overhang setbacks are not allowed to maintain sightlines for public safety and visual consistency. The setback requirements in Roads End should remain as approved and the city should enforce compliance.

The applicant has failed to justify a variance by not meeting the four circumstances required for the Planning Commission to grant the variance and thus must deny this request.

Respectfully submitted,

Patti Kroen

Post Office Box 360, Lincoln City, OR

Planning Commission Communication

ZOA 2022-07 WITHDRAWN

Meeting Date:	April 5, 2022	Primary Staff Contact:	AnneMarie Skinner
Department:	Planning Commission	E-Mail:	ASkinner@lincolncity.org
Secondary Dept:		Secondary Contacts:	
Approval:		Estimated Time:	

Planning Commission Communication

VAR 2022-03 Weston (CONTINUED)

Meeting Date:	April 5, 2022	Primary Staff Contact:	AnneMarie Skinner
Department:	Planning Commission	E-Mail:	ASkinner@lincolncity.org
Secondary Dept:		Secondary Contacts:	
Approval:		Estimated Time:	

Planning Commission Communication

ZOA 2022-06 R1RE Front Setback

Meeting Date:	April 5, 2022	Primary Staff Contact:	AnneMarie Skinner
Department:	Planning Commission	E-Mail:	ASkinner@lincolncity.org
Secondary Dept:		Secondary Contacts:	
Approval:		Estimated Time:	

Question:

Should the Planning Commission conduct a public hearing on ZOA 2022-06 (R1RE front setback) and make a recommendation to the City Council?

Staff Recommendation:

Staff recommends the Planning Commission conduct a public hearing on the proposed amendment to the zoning code.

Authority:

Legal authority for text amendments is as follows:

17.76.060 Type IV (Legislative).

- A. General Description. Type IV procedures apply to "legislative" matters. Legislative decisions are made by the City Council and involve the adoption or amendment of policy by ordinance. Legislative decisions may also apply to applications involving a geographic area containing many properties. Type IV procedures require general public notice and a public hearing.*
- H. Recommendation Authority.*
 - 1. Following receipt of testimony and deliberation at the public hearing held before the Planning Commission, the Planning Commission shall provide a recommendation to the City Council for all Type IV applications. The Planning Commission shall recommend that the City Council approve or deny the proposed amendments, with or without changes.*
 - 2. Decision Authority. Upon receiving the Planning Commission's Final Recommendation, the City Council shall hold a public hearing on the Type IV application.*

Planning Commission Options:

1. Hold the public hearing; close the public hearing; make a recommendation.

Potential Motions:

1. I move to close the public hearing and the record for ZOA 2022-06.

Then:

2. I move to recommend approval to City Council of ZOA 2022-06 as written.

OR

3. I move to recommend approval to City Council of ZOA 2022-06 with the following changes:.....

OR

4. I move to recommend denial to City Council of ZOA 2022-06.

Attachments:

ZOA 2022-06 Application (PDF)

ZOA 2022-06 Proposed Amendment (DOCX)

ZOA 2022-06 Staff Report (PDF)

Comments Public Agency Fire 03_02_2022 (PDF)

Comments Combined (PDF)

AMENDMENT TO THE
☒ **ZONING ORDINANCE TEXT OR MAP**
☐ **COMPREHENSIVE PLAN TEXT OR MAP**
FOR PLANNING COMMISSION AND CITY COUNCIL APPROVAL

LCMC 17.88.010 Procedure: The zoning ordinance and/or the comprehensive plan map or text may be amended by changing the boundaries of districts or designations or by changing any other provisions thereof, whenever the public necessity and convenience and the general welfare requires such an amendment, by following the procedure of this article.

LCMC 17.88.020 Initiation of amendments: An amendment to the text of the zoning ordinance or to the zoning map and/or to the comprehensive plan map or text may be initiated by:

- A. Motion of the Planning Commission.
- B. Motion of the City Council.
- C. Application filed by an owner of record, a purchaser under a recorded land sale contract, or the holder of an option to purchase property which is the subject of the application for rezoning or comprehensive plan map re-designation.
- D. A Lincoln City resident requesting a change to the text of the comprehensive plan or zoning ordinance document(s).
- E. The Planning and Community Development Director.

THE FOLLOWING ATTACHMENTS SHALL ACCOMPANY THE FILING OF THIS APPLICATION:

1. A complete application form and all supporting documents and evidence;
2. Proof that the property affected by the application is in the exclusive ownership of the applicant, or that the applicant has the consent of all parties in ownership of the affected property;
3. A description of the property affected by the application and, in the case of a quasi-judicial map amendment, a legal description.

FINDINGS OF FACT:

In order for the city council to adopt an ordinance for an amendment to this zoning ordinance, findings must be made, and adopted as a part of said ordinance, that are adequate to support the amendment proposal. The findings must be factual and must be supported by substantial evidence submitted into the record. The burden is on the applicant to submit such evidence, responding to the following (*additional sheets may be attached*):

1. It must be found that the amendment complies with and conforms to the comprehensive plan goals, policies, and land use map.

See attached Narrative.

2. It may be further necessary to provide evidence that the proposed amendment is in conformance with statewide land use planning goals and policies when a more specific direction is provided by the goals than the comprehensive plan.

See attached Narrative.

This application is hereby submitted, and the statements and information are true and complete to the best of my/our knowledge.

APPLICANT'S VERIFICATION

I (We) hereby declare under penalty of perjury under the laws of the State of Oregon that the information in this application and its attachments is true, complete, and correct.



 Applicant _____ Date 1-28-2022

NOTE TO APPLICANT: Since the burden of presenting evidence to support the request rests with the applicant at the public hearing, your attendance and participation at this public meeting, or that of your representative, is respectfully requested.

Burden of proof: The specific findings made by the City Council, upon the recommendation of the Planning Commission, to adopt an ordinance for an amendment to this zoning ordinance, comprehensive plan text and/or map must be factual and supported by substantial evidence. The burden of producing substantial evidence to support the requisite findings is on the applicant seeking the amendment. If no evidence is produced concerning the requisite findings listed in LCMC 17.88.050 (D), the application may be denied based upon improper or inadequate findings. The evidence produced must be referenced in the final order and findings of fact adopted as a part of the ordinance adopting the amendment proposal.

NARRATIVE FOR APPLICATION FOR ZONING ORDINANCE TEXT AMENDMENT

Nature of Application

The applicants are requesting approval of a text amendment to section 17.17.070D in the Lincoln City Municipal Code ("LCMC").

The current text reads:

The minimum front yard shall be 20 feet. Except that the minimum setbacks from Logan Road need not exceed the average setbacks of buildings on all lots within 100 feet of the lot on which the proposed building is to be located and that abut Logan Road.

The proposed text, if approved, would read:

The minimum front yard shall be 20 feet. Except that the minimum setbacks from Logan Road need not exceed the average setbacks of buildings on all lots within 100 feet of the lot **on the same side of the street on which the proposed building is to be located and** that abut Logan Road. **The 20-foot front yard setback shall not apply to elevated decks that extend from the dwelling wall into the front yard setback provided that the lowest point of the elevated deck structure is a minimum of seven feet above grade and a minimum 15-foot setback is maintained. Permitted encroaching decks may be either cantilevered (i.e., supported by only the wall of the structure from which it projects), or supported by posts and beams if the posts and beams meet all building code requirements and the posts are within the minimum 15-foot setback.**

Background

The applicants recently acquired a property located at 6245 NW Logan Road. The lot was improved with a single-family dwelling that was constructed in about 1997, when the property was under the jurisdiction of Lincoln County. The house fronts on to NW Logan Road. As approved and constructed, the house had a raised deck that extended around the house. The western portion of the deck (rear of the house) was wide enough to accommodate chairs, tables, etc. The north, south and east side of the deck was narrow allowing only for walking/standing. We included copies of the elevations from the approved plan set and photographs that depicts the house as it was constructed. Other than the west portion, the deck was cantilevered.

In about 2015, the prior owner replaced and repaired sections of the deck. They removed the entire east (front) side and north side deck electing not to replace them. They removed the eastern portion of the south side deck. The prior owners either repaired or replaced the rear deck and some of the south side deck. The applicants were never told directly the specific reason for removal but understand sections of the deck had water damage and decay associated with the

cantilever design. In any event, because the decks were part of the approved construction and an important aesthetic feature of the house, the applicants restored the decks that had been removed. Subsequently, city employees advised the applicants that the setback standards in the R-1-RE zoning that the city adopted in October 2017, would not allow the decks and because they had been removed for more than two years, the restoration could not be considered a replacement of a non-conforming development. The city cited the applicants for zoning code violations.

In the course of the code compliance case, an issue arose over how to determine the front setback using the averaging text in section 17.17.070.D for lots on Logan Road. The applicants believed, and still believe, that using properties only on the west side of the street, the side where the front yard setback for their house applies, their front raised deck is compliant with the setback. Staff did not necessarily agree with the applicants' interpretation and made calculations using all lots within 100 feet of the applicants' lot on both sides of the street.

The applicants and city staff reached an agreement to resolve the citation and one component of the agreement was to allow the applicants until April 15, 2022, to process an application for a zoning ordinance text amendment. Staff was gracious enough to offer some suggested text that would allow raised decks in the R-1-RE zone to encroach into the 20-foot front yard setback as long as a minimum 15-foot front yard setback is maintained. Staff included a clarification on how the averaging of the front yard setback is to be calculated along NW Logan Road and a provision allowing raised decks supported by posts in addition to cantilevered decks. The proposed amendment does not relate to the side setbacks. However, the agreement also allowed the applicants time to apply for a variance to the side setbacks to allow some or all of the recently restored side deck to remain. The applicants are filing a separate variance application.

Staff (Planning Director and City Attorney) advised that they support the amendment to allow post supported decks. They have no objection to any of the proposed amendments.

Relevant Approval Criteria

Based upon the City's Zoning Ordinance Text Amendment Application and information on the city's website, the applicants believe the criteria for a zoning ordinance text amendment is that the proposed amendment must comply with, and conform to, the comprehensive plan goals, policies, and land use map.

Consistency with Comprehensive Plan:

Land Use Planning. The application is consistent with and conforms to the goals and policies of this element because the application is being made within a framework the city has adopted for making land use decisions of this nature. The applicants are submitting a formal application approved by the city and are addressing the relevant approval criteria within a recognized process. That will ensure that any decision is made considering the criteria and with findings.

Citizen Involvement. The application is consistent with the goals and policies of this element because the recognized process the city has to evaluate and decide the application is a public process, notice of which will be provided consistent with the city's municipal code provisions. That process will ensure public notice and the ability for participation.

Public Services and Utilities. The goals and policies of this element are not directly relevant to the application. The application, if approved, will not negatively impact the cities goals and policies for providing a timely, orderly, and efficient arrangement of public facilities.

Urbanization. The goals and policies of this element are also not directly relevant to the application. The property is already zoned for and developed as an urban use, which is consistent with the zoning map and appropriate for the land. If the proposed amendment is approved, it will have no negative impact on the city's urbanization goals or policies.

Natural Hazard. The proposed amendment will have no negative impact on any goal or policy related to natural hazards. Any development after the amendment will still undergo the review and observations necessary if it is proposed within a natural hazard area. The proposed amendment will not exempt any proposed development from such review.

Housing. The proposed amendment will not negatively impact the city's goal of providing or ability to provide housing. Housing developments otherwise approvable under the code will remain approvable with the minor amendment to the front setback standard in the R-1-RE zone. Thus, it is consistent with this element of the comprehensive plan.

Economy. The proposed amendment will not impact the city's goals and policies of its economy element. The amendment, if approved, will not negatively affect the city's desire to create a diversified economy incorporating tourism.

Aesthetics. The proposed amendment is consistent with this element of the comprehensive plan. Allowing raised encroachments such as decks, can, in many cases, achieve architectural detail that the city endorses in other code provisions. For example, LCMC 17.16.100 and LCMC 17.17.100 require at least two design features on the front of houses to create a better visual feel. The applicants believe their house is a good example. It was originally constructed with decks that are around the perimeter. The decks added a layer of depth to the design. On the front of the house, comparing the photographs before the original decks were removed and after makes this point. After the decks were removed the front façade had a monolithic look with no detail. A deck will add character and break that façade up.

Transportation. The goals and policies of this element are not directly relevant to the application. The proposed amendment, if approved, will not negatively impact the goal of providing safe and convenient rapid transportation to facilitate the movement of people.

Energy. The goals and policies of this element are not directly relevant to the application. The proposed amendment, if approved, will not negatively impact the goal of conserving energy.

Overall Environmental. The goals and policies of this element are not directly relevant to the application. The proposed amendment, if approved, will not negatively impact the goal of achieving a balance of the need to provide housing and services and the need to protect the environment.

Shoreland, Beaches, Dunes, Estuaries, & Ocean Resources. The goals and policies of this element are not directly relevant to the application. The proposed amendment, if approved, will not negatively impact any goals or policies related to protecting the resources listed because it applies to residential uses allowed in residential zones that are appropriate for such development.

Consistency with Statewide Planning Goals:

The subject property is within the UGB and city boundaries. Thus, the elements of the city's acknowledged comprehensive plan apply to this application and are more detailed than the statewide goals. The applicants do not believe the statewide goals are relevant approval criteria in this application.

Additional Support for Application

The requested amendment would create more consistency between the front yard setback provisions in the R-1 zone and the R-1-RE zone. As the code reads now, in the R-1 zone, the front yard setback is five feet of a single-story structure and 7.5 feet for a two-story structure, except when there is a garage opening facing the street. In that case, the front yard setback for the portion of the structure where the garage/carport opening is located is 20 feet. However, within those 20 feet, raised encroachments like decks are allowed. Lincoln City Municipal Code, section 17.16.070 (note 3).

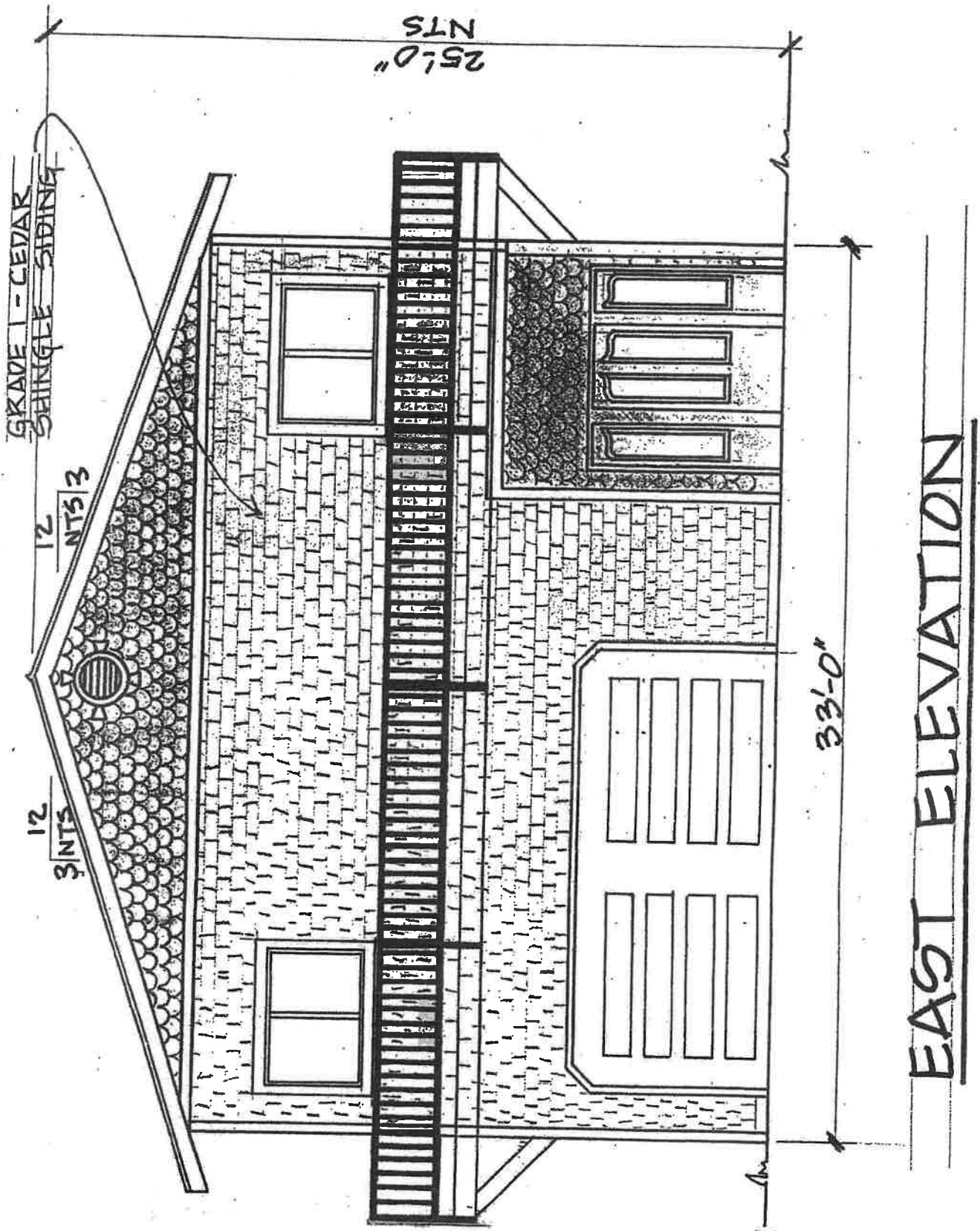
The applicants can think of no to have such vastly different front setback provision for essentially the same zone. There does not appear to be any rational reason to treat owners of properties in one discrete area of the R-1 zone so differently. The proposed amendment retains a reasonable front setback. In fact, the setback in the R-1-RE zone would still exceed the front setback in the R-1 zone in some instances. For portions of a structure in the R-1-RE zone that are not in front of a garage or carport, the base setback will remain 20 feet rather than 7.5; the only change will be that raised decks within the first five feet closest to the structure will be permitted.

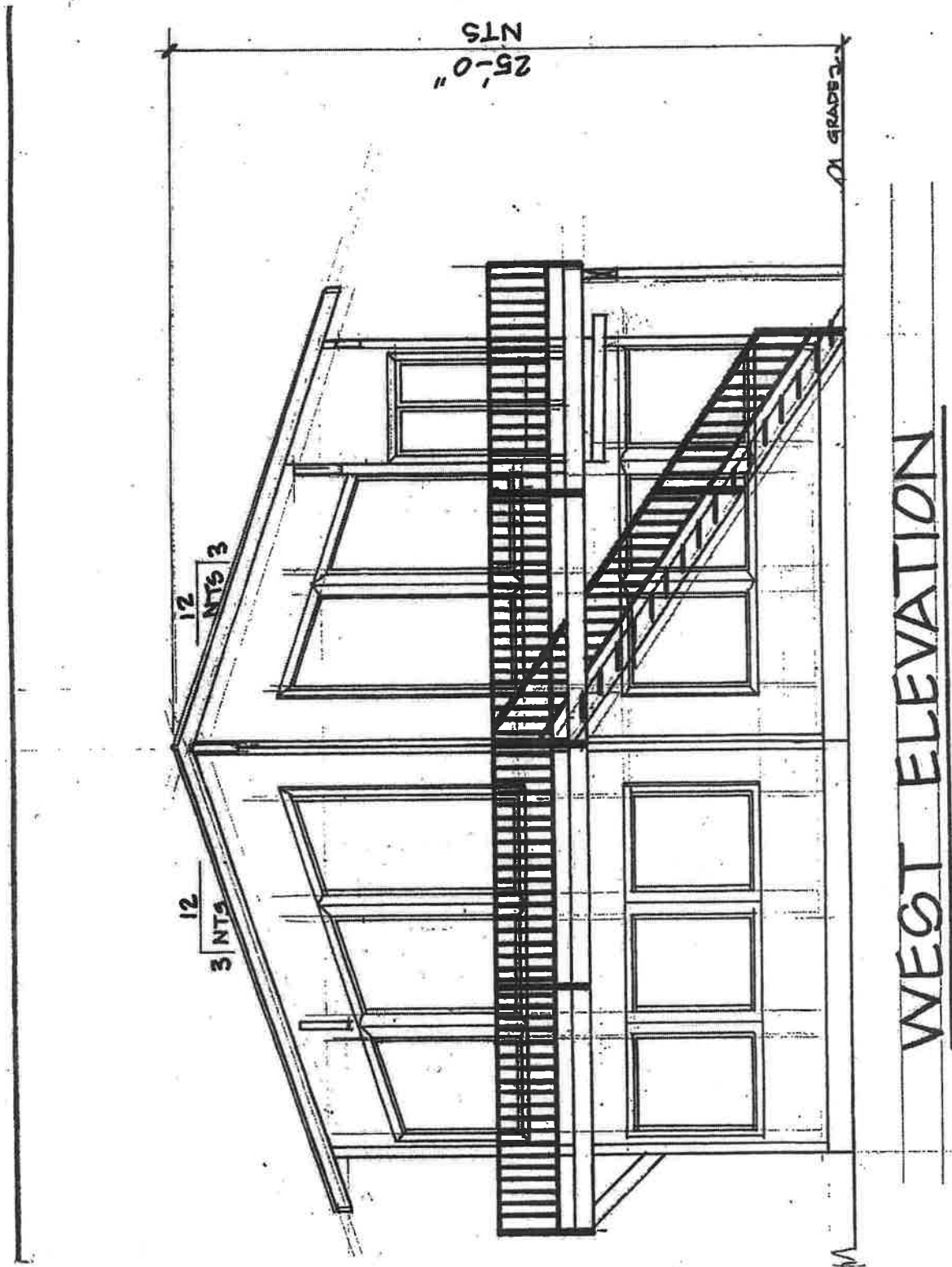
As the applicants noted above, the allowance of raised decks in that first five feet of the setback is consistent with other requirements in the R-1 zone. In both LCMC 17.17.100 and 17.16.100, the city mandates that single-family structures incorporate at least two design features to provide visual relief along the front of the house. While raised decks are not specifically listed, they

offer another option to accomplish the same desired objective. Comparing the photographs of the subject house as originally constructed with the decks and then later photographs after the removal illustrate that point.

Related Application

This application addresses only the front setback and the deck the applicants desire to retain in that location. The applicants understand that for the north and south side decks, they must apply for a variance and are doing so in a separate application.

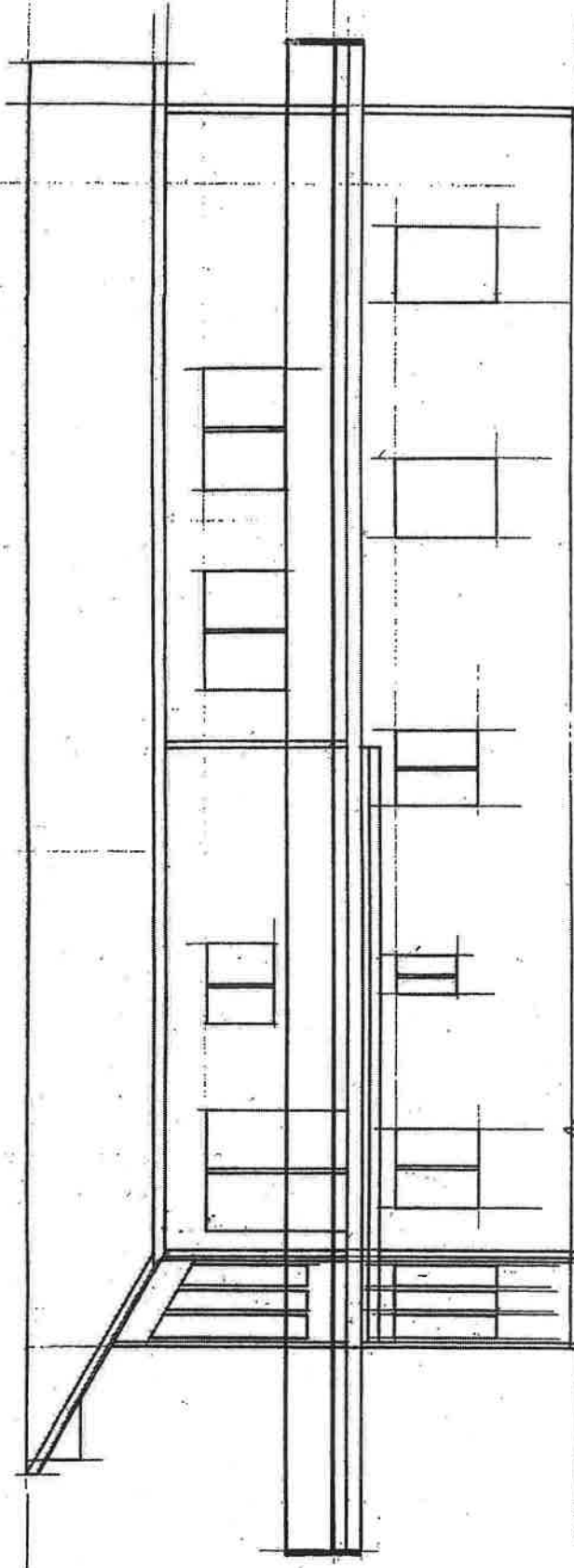




TAYLOR METAL-STANDING SEAM ROOF

62'-0"

NORTH ELEVATION



SOUTH ELEVATION

Industrial Systems Technology, Inc. P.O. Box 12-07 LINCOLN, CITY OR. 97367 (503) 394-2242		IST
VISTA CONSTRUCTION		
KENNEDY RESIDENCE 6245 LOGAN RD., OTTUMWA, OR.		
SCALE: 1/4" = 1'-0" DRAWN BY:	DATE: 11-10-96 CHECKED BY:	DATE:
SHEET NO. 096-5500-A1		TOTAL SHEETS 1

Google Maps 6245 NE Logan Rd

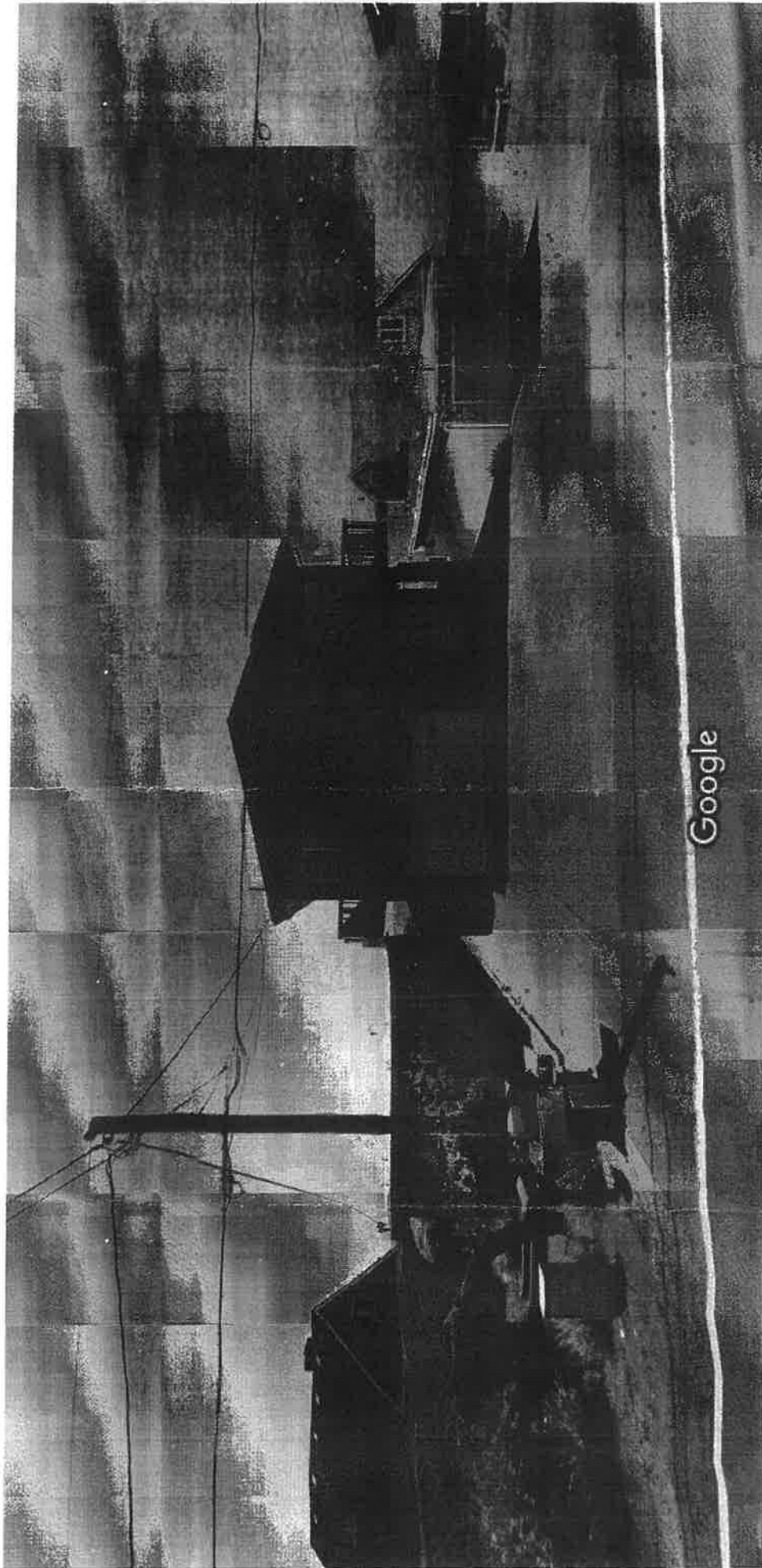


Image capture: Jul 2012 © 2021 Google

Lincoln City, Oregon



Street View

The
Thun

6248 NE Logan Rd

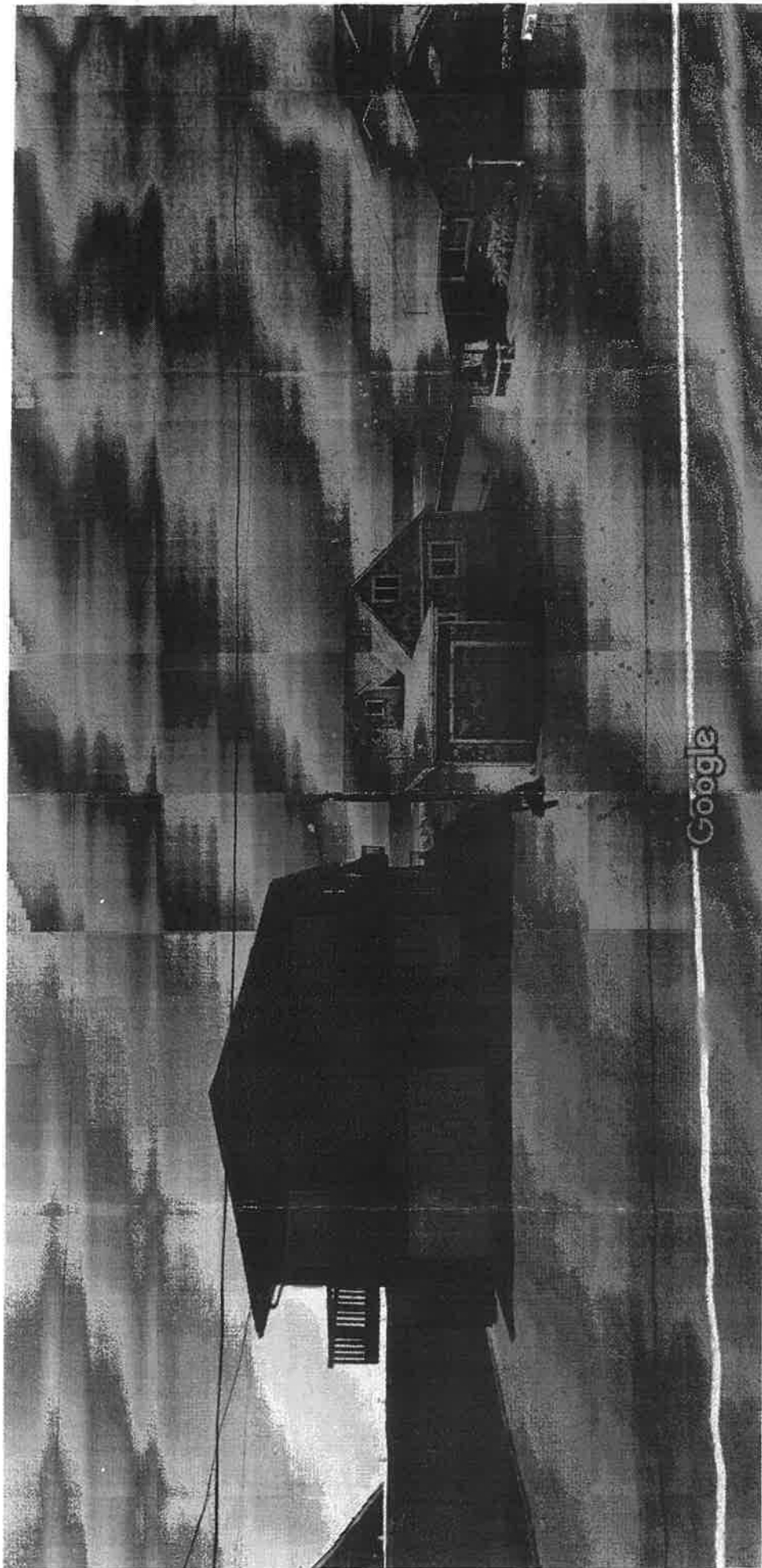


Image capture: Jul 2012 © 2021 Google

Lincoln City, Oregon



Street View

The
Thun

Exhibit B-1

RECORDING REQUESTED BY:



9755 SW Barnes Road, Ste 105
Portland, OR 97225

AFTER RECORDING RETURN TO:

Order No.: 902001360-KH

Jay B. Weston and Helen Weston, as tenants by the entirety
6245 NW Logan Road
Lincoln City, OR 97367

SEND TAX STATEMENTS TO:

Jay B. Weston and Helen Weston
6245 NW Logan Road
Lincoln City, OR 97367

APN: R352288

Map: 06 11 34 AD 01600

6245 NW Logan Road, Lincoln City, OR 97367

Lincoln County, Oregon

08/28/2020 03:04:02 PM

DOC-WD

2020-08854

Cnt=1 Pgs=4 Stn=20

\$20.00 \$11.00 \$10.00 \$60.00 \$7.00

\$108.00

I, Dana W. Jenkins, County Clerk, do hereby certify that the
within instrument was recorded in the Lincoln County Book
of Records on the above date and time. WITNESS my
hand and seal of said office affixed.

Dana W. Jenkins, Lincoln County Clerk



SPACE ABOVE THIS LINE FOR RECORDER'S USE

STATUTORY WARRANTY DEED

William R. Davis and Rosemari J. Davis, as tenants by the entirety, Grantor, conveys and warrants to Jay B. Weston and Helen Weston, as tenants by the entirety, Grantee, the following described real property, free and clear of encumbrances except as specifically set forth below, situated in the County of Lincoln, State of Oregon:

Lot 49, FIRST ADDITION TO ROADS END, County of Lincoln and State of Oregon, according to the official plat thereof recorded April 7, 1932 in Plat Book 7, page 49, Plat Records.

THE TRUE AND ACTUAL CONSIDERATION FOR THIS CONVEYANCE IS ONE MILLION AND NO/100 DOLLARS (\$1,000,000.00). (See ORS 93.030).

Subject to:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

STATUTORY WARRANTY DEED
(continued)

IN WITNESS WHEREOF, the undersigned have executed this document on the date(s) set forth below.

Dated: 8/25/2020

William R. Davis
William R. Davis

Rosemari J. Davis
Rosemari J. Davis

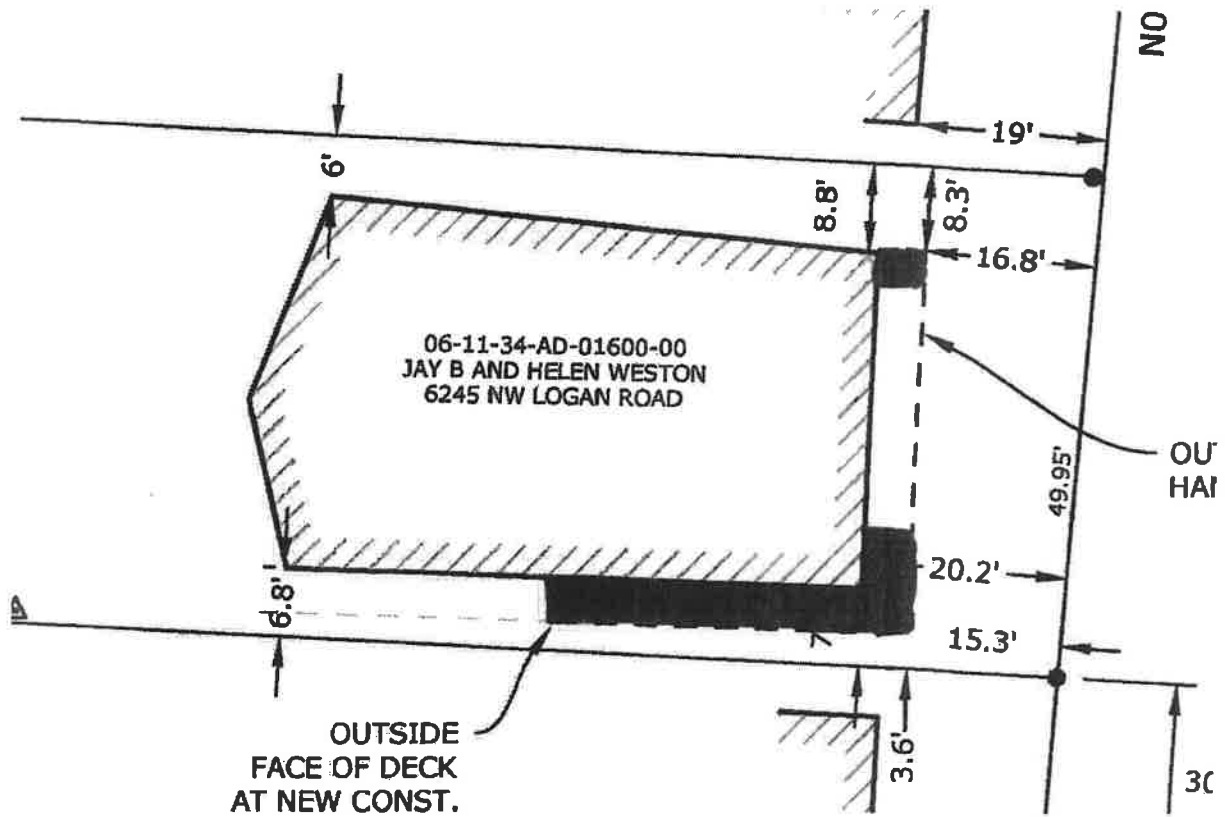
State of OR
County of Yamhill

This instrument was acknowledged before me on 25 August 2020 by William R. Davis and Rosemari J. Davis.

[Signature]
Notary Public - State of Oregon

My Commission Expires: 11-21-23





ORDINANCE NO. 2022- __

**AN ORDINANCE AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 17, (ZONING),
AMENDING CHAPTER 17.17 (SINGLE-FAMILY RESIDENTIAL, ROADS END), SECTION
17.17.070 (LOT REQUIREMENTS), PARAGRAPH D, TO REVISE THE LANGUAGE FOR THE
FRONT SETBACK**

*Annotated to show deletions and additions to the code sections being modified. Deletions are **~~lined through~~** and additions are **bold underlined**.*

The City Council finds:

- A. The amendments to the Lincoln City Municipal Code are in conformance with the Statewide Planning Goals and Lincoln City Comprehensive Plan goals as addressed in attached Exhibit "A"; and
- B. The amendments are in conformance with the Zoning Ordinance, including, but not limited to, required initiation, processing and noticing requirements; and
- C. The City duly notified the Oregon Department of Land Conservation and Development pursuant to ORS 197.610, of its consideration of the proposed amendment(s) on March 2, 2022; City staff determined the the amendment does not remove uses from any zone and accordingly did not require a city-wide mailing under ORS 227.186(4); and
- D. The Planning Commission, on April 5, 2022, held a public hearing and considered the amendments contained within this ordinance. On April 5, 2022, the Planning Commission voted to transmit the amendments to the City Council with a recommendation that the ordinance be adopted; and
- E. The City Council conducted the public hearing on May 9, 2022, closed the hearing, closed the record, and deliberated on the proposed amendments on May 9, 2022 and provided direction to staff to return with an Ordinance for adoption; and
- F. All persons were given an opportunity to provide written and/or oral testimony on the proposed ordinance amendments.

THE CITY OF LINCOLN CITY ORDAINS AS FOLLOWS:

SECTION 1. Chapter 17.17 (*Single-Family Residential, Roads End (R-1-RE Zone)*), Section 17.17.070 (*Lot requirements*), Paragraph D, is hereby amended to read as follows:

Applicant's Proposed Language:

D. The minimum front yard shall be 20 feet. Except that the minimum setbacks from Logan Road need not exceed the average setback of buildings on all lots within 100 feet of the lot on the same side of the street which the proposed building is to be located and that abut Logan Road. The 20-foot front setback shall not apply to elevated decks that extend from the dwelling wall into the front setback provided that the lowest point of the elevated deck structure is a minimum of seven feet above grade and a minimum 15-foot setback is maintained. Permitted encroaching decks may be either cantilevered (i.e., supported by only the wall of the structure from which it projects), or supported by posts and beams if the posts and beams meet all building code requirements and the posts are within the minimum 15-foot setback.

Staff's Proposed Language:

D. The minimum front ~~yard setback~~ shall be 20 feet. ~~Except that the minimum setbacks from Logan Road need not exceed the average setback of buildings on all lots within 100 feet of the lot on which the proposed building is to be located and that abut Logan Road. The 20-foot front setback shall not apply to elevated decks that extend from the dwelling wall into the front setback provided that the lowest point of the elevated deck structure is a minimum of seven feet above grade and a minimum 15-foot setback is maintained. Permitted encroaching decks may be either cantilevered or supported by posts and beams if the posts and beams meet all building code requirements and the posts and beams are within the minimum 15-foot setback.~~

SECTION 2. Findings Adopted. The findings contained in the Whereas Clauses of this ordinance, together with the Findings set forth in Exhibit A, as well as the competent substantial evidence in the whole record of this legislative proceeding are incorporated into this section by reference as if fully set forth herein, and are adopted in support of this legislative action.

SECTION 3. Severability. The sections, subsections, paragraphs and clauses of this ordinance are severable. The invalidity of one section, subsection, paragraph, or clause shall not affect the validity of the remaining sections, subsections, paragraphs and clauses.

SECTION 4. Ordinance Effective Date. Pursuant to Chapter IX, Section 9.3, this ordinance takes effect 30 days after the date of its adoption.

SECTION 5. Codification. Provisions of this Ordinance shall be incorporated in the City of Lincoln City Municipal Code and the word "ordinance" may be changed to "code", "article", "section", "chapter" or another word, and the sections of this Ordinance may be renumbered, or re-lettered, provided that any Whereas clauses and boilerplate provisions (i.e. Sections 2-5) need

1 not be codified and the City Recorder is authorized to correct any cross-references and any
2 typographical errors.

3
4 The foregoing ordinance was distinctly read by title only in accordance with Chapter IX, Section
5 9.2 of the City of Lincoln City Charter on the 9th day of May, 2022 (First Reading) and on the 9th
6 day of May, 2022 (Second Reading).

7
8 PASSED AND ADOPTED by the City Council of the City of Lincoln City this 9th day of May,
9 2022.

10
11
12
13
14 _____
SUSAN WAHLKE, MAYOR

15 ATTEST:

16
17 _____
18 JAMIE YOUNG, CITY RECORDER

19
20 APPROVED AS TO FORM:

21
22 _____
23 RICHARD APPICELLO, CITY ATTORNEY
24
25

Code Text Amendment

Staff Report for Planning Commission Public Hearing

Case File ZOA 2022-06

Date:	March 29, 2022
Case File:	ZOA 2022-06 R1RE Front Setback
Applicant:	Jay and Helen Weston PO Box 362 Eagle Creek, OR 97022
Property Owner:	Not applicable
Situs Address:	Not applicable
Location:	Not applicable
Tax Map and Lot:	Not applicable
Comprehensive Plan Designation:	Not applicable
Zoning District:	Not applicable
Site Size:	Not applicable
Proposal:	Amend Lincoln City Municipal Code (LCMC 17.17.070.F to clarify averaging and decrease the minimum front setback requirement from 20 feet to 15 feet for decks
Surrounding Land Uses and Zones:	Not applicable
Authority:	LCMC 17.76.050.G states that Table 17.76.020-1 identifies the decision authority for each application. Table 17.76.020-1 of LCMC Chapter 17.76 identifies a text amendment as a Type IV application with the decision authority given to the City Council. Per LCMC 17.77.130.A, text amendments are subject to the Type IV procedure, as described in LCMC 17.76.060.
Procedure:	The Planning and Community Development Department mailed notice to the owners of all properties in the R-1-RE zone on within 250 feet of the site on March 15, 2022. The <i>News Guard</i> published the public hearing notice on March 22, 2022 and March 29, 2022.



**Applicable
Substantive
Criteria:**

Relevant goals and policies of the Lincoln City Comprehensive Plan
Relevant statewide planning goals

BACKGROUND

The applicants, Jay and Helen Weston, submitted a request for a code text amendment on February 25, 2022. The applicants are requesting approval of a text amendment to the front setback requirements in the R-1-RE zone, specifically LCMC 17.17.070.D. The current text reads:

The minimum front yard shall be 20 feet. Except that the minimum setbacks from Logan Road need not exceed the average setbacks of buildings on all lots within 100 feet of the lot on which the proposed building is to be located and that abut Logan Road.

The applicants are proposing the following text:

The minimum front yard shall be 20 feet. Except that the minimum setbacks from Logan Road need not exceed the average setbacks of buildings on all lots within 100 feet of the lot on the same side of the street on which the proposed building is to be located and that abut Logan Road. The 20-foot front yard setback shall not apply to elevated decks that extend from the dwelling wall into the front yard setback provided that the lowest point of the elevated deck structure is a minimum of seven feet above grade and a minimum 15-foot setback is maintained. Permitted encroaching decks may be either cantilevered (i.e., supported by only the wall of the structure from which it projects), or supported by posts and beams if the posts and beams meet all building code requirements and the posts are within the minimum 15-foot setback.

COMMENTS

Public agency comments were received from North Lincoln Fire & Rescue District #1. No other public agencies provided comments.

Citizen comments were received from Michael and Bronwyn Alleman, Margaret Harvey, David Hulme, David Jamieson, Russell Karow, REIA Board of Directors, Kim Kolbow, Patti Kroen, Ryan Lafrenz, Laurel Begnoche, Charlotte Lehto, Shannon Loch, Victoria McOmie, Ken and Eileen Mergentime, Terry Newhouse, Debbie Newhouse, Ann Painter, Jayne Robinson, Cindy Thompson, Lynn Thompson, Bruce and Linda Thorson, Elaine Walsh, and Richard Williams.

Copies of all comments received at the date of the written staff report are included in the public hearing packet.

ANALYSIS

- 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 the proposal (amendment) were made available for public review and/or purchase, and were posted on the city’s website. Staff was available to interpret and explain the technical information. The local newspaper published hearing notices in accordance with notice requirements. Property owners in the R-1-RE zone were mailed the required notice of public hearings. The planning commission and city council each held a public hearing at which citizens were invited to participate. Therefore, the amendment is 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 revisions of the plan and implementing ordinances. The City Council considered the proposed amendment to the Lincoln City Zoning Ordinance in accordance with the process and based on the criteria provided in the Municipal Code. Therefore, the amendment is consistent with Goal 2.

(3) Goal 3: Agricultural Lands

“To preserve and maintain agricultural lands.”

The area affected by the proposed zoning ordinance amendment is located within the city’s urban growth boundary. The city is currently designated and zoned for urban development. There is no agricultural land in Lincoln City. The amendment does not affect agricultural lands. 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 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 amendment only affects areas intended for urban development. The amendment by itself does not permit development in any areas of protected natural resources, scenic or historic areas, or open spaces. 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 amendment will not adversely affect the quality of the air or water. The amendment by itself does not permit development that might affect water or air quality. The existing ordinances and plan requirements relating to water and air quality will continue to apply to all properties that might be affected. Therefore, the amendment is consistent with Goal 6.

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

“To protect people and property from natural hazards.”

The amendment by itself does not allow development within any natural hazard area. The existing ordinances and plan requirements relating to natural hazards will continue to apply to all properties that might be affected by natural hazards. Therefore, the amendment 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.”

The proposed ordinance amendment does not relate to recreation as that term is used in this goal and does not adversely affect the provision or ability to site recreational areas in the city. The amendment 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 ordinance amendment does not relate to economic development as that term is used in this goal and does not adversely affect the provision or ability to site economic activities in the city. The amendment is consistent with Goal 9.

(10) Goal 10: Housing

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

The amendment does not directly relate or pertain to the housing needs of Lincoln City, except that the clarification and reduction in a minimum requirement may encourage new development. Accordingly, Goal 10 is met.

(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 amendment does not relate directly to public facilities and services. Goal 11 is not applicable.

(12) Goal 12: Transportation

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

The amendment does not relate directly to the development of the city’s transportation system. Goal 12 is not applicable.

(13) Goal 13: Energy Conservation

“To conserve energy.”

The amendment does not relate directly to energy conservation. Goal 13 is not applicable.

(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.”

The amendment does not directly relate or pertain to the urbanization of Lincoln City, except that the clarification and reduction in a minimum requirement may encourage new development. Accordingly, Goal 14 is met or is not applicable.

(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 amendment on its own does not allow development in areas adjacent to the city’s designated estuarine resource (i.e., Siletz Bay). All development in such areas is already controlled by existing ordinances and comprehensive plan standards. The amendment, therefore, is consistent 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 city’s coastal shorelands include all land west of Highway 101, land within 500 feet of the ordinary high-water elevation of Devils Lake and Spring Lake, and land within 1,000 feet of the shoreline mean higher-high-water elevation of Schooner Creek, Drift Creek, and Siletz Bay estuaries. All development in such areas is controlled by existing ordinances and comprehensive plan standards. The amendment, therefore, is consistent with Goal 17.

(18) Goal 18: Beaches and 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.”

Lincoln City has a large amount of coastal beach. Inventory maps show active dunes and deflation plains on the Salishan spit, but not within Lincoln City, with the possible exception of a few isolated spots in Cutler City. For Roads End, inventory maps show older, stabilized dunes. The amendment does not, by itself, allow

any development in or near beach and dune areas. All development in such areas is controlled by existing ordinances and comprehensive plan standards. The amendment is consistent with Goal 18.

(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 amendment does not, on its own, affect an ocean resources. Therefore, the amendment is consistent with Goal 19.

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 preparation, review, and revision. Review of the proposed amendment was in accordance with the Lincoln City Comprehensive Plan and the applicable zoning ordinance provisions. Accordingly, the amendment is 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 that includes the public hearing process, with notice to the public through publication in the local newspaper and review of the amendment by the Planning Commission (a citizen board) and the City Council (elected citizen representatives). This goal is met.

(3) Public Services and Utilities Goal

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

The proposed amendment does not directly relate to public services and utilities. Accordingly, this goal is not applicable.

(4) Urbanization Goal

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

The amendment does not relate directly to urbanization, so this goal is not applicable.

(5) Natural Hazard Goal

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

The amendment on its own does not allow development in hazardous areas. Development in such areas is controlled by existing comprehensive plan and zoning ordinance standards, as well as building code requirements. The amendment is consistent with this goal.

(6) Housing Goal

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

The amendment does not directly relate or pertain to the housing needs of Lincoln City citizens. However, this amendment is intended to address and remedy code provisions for minimum requirements that are in need of clarity. By improving the clarity and reducing the minimum requirement, the city hopes to encourage new development for housing in the city. This amendment is, therefore, consistent with this 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 amendment does not relate or pertain to the economic needs of Lincoln City citizens. This goal is not applicable.

(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 amendment does not directly relate to aesthetics. However, the applicants’ narrative provides the following:

“The proposed amendment is consistent with this element of the comprehensive plan. Allowing raised encroachments such as decks, can, in many cases, achieve architectural detail that the city endorses in other code provisions.”

The narrative also notes that decks add a layer of depth to the design, add character, and break up the façade. Accordingly, the requested amendment to reduce the minimum setback for decks provides greater opportunity for deck construction, which in turn provides greater opportunity for the aforementioned architectural detail and addition of character to the structure. This goal is met.

(9) Transportation Goal

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

The amendment does not directly relate to transportation. This goal is not applicable.

(10) Energy Goal

“To conserve energy.”

The amendment does not pertain to energy conservation, so this goal is not applicable.

(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.”

By itself, the amendment does not allow development in sensitive natural resource areas. The existing ordinances and plan requirements relating to protection the natural environment will continue to apply to all properties with natural resource areas. This amendment will contribute to this goal.

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

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

The amendment on its own does not allow development in areas adjacent to the city’s designated estuarine resource (i.e. Siletz Bay), in the city’s coastal shorelands, beach and dune areas, or in ocean resource areas. The existing ordinances and comprehensive plan standards apply to any areas impacted by this amendment, thereby protecting these resources. The amendment is consistent with this goal.

RECOMMENDATION

Staff recommends approval of the request, with the change to the request to completely remove the averaging allowance. The averaging allowance, even with the clarification, is impossible for staff to accurately determine and verify without obtaining a survey from a licensed surveyor for all the properties within 100 feet of a given site. Accordingly, staff recommends the following language:

The minimum front setback shall be 20 feet. The 20-foot front setback shall not apply to elevated decks that extend from the dwelling wall into the front setback provided that the lowest point of the elevated deck structure is a minimum of seven feet above grade and a minimum 15-foot setback is maintained. Permitted encroaching decks may be either cantilevered or supported by posts and beams if the posts and beams meet all building code requirements and the posts and beams are within the minimum 15-foot setback.

From: [Frederick Ulrich](#)
To: [Anne Marie Skinner](#)
Cc: [Brandon Zipser](#)
Subject: RE: ZOA 2022-06 request for comments
Date: Wednesday, March 2, 2022 10:21:48 AM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Anne Marie,

I believe this proposed amendment, arising from the unique circumstances at 6245 NW Logan Road, over-reaches creating a potential safety hazard.

The setback encroachment that previously existed can be seen in the Google Maps ground view of this property. The image is identified by Google as having been captured in July, 2012.



The encroaching deck on the east side of the structure, the parking side, is of a cantilever design.

The proposed amendment would allow posts to support a deck like this in the direct area where vehicle impact might occur, compromising the integrity of the deck, and the safety of persons and property located on the deck.

I oppose allowing posts to support a deck in the vicinity of areas intended for vehicle use. Only cantilevered designs should be permitted in these areas.

Alternately, the 2019 OFC Section 312 offers language to mitigate the potential safety hazard of unprotected deck posts within the setback encroachment zone:

SECTION 312 VEHICLE IMPACT PROTECTION

312.1 General.

Vehicle impact protection required by this code shall be provided by posts that comply with Section 312.2 or by other *approved* physical barriers that comply with Section 312.3.

312.2 Posts.

Guard posts shall comply with all of the following requirements:

1. Constructed of steel not less than 4 inches (102 mm) in diameter and concrete filled.
2. Spaced not more than 4 feet (1219 mm) between posts on center.
3. Set not less than 3 feet (914 mm) deep in a concrete footing of not less than a 15-inch (381 mm) diameter.
4. Set with the top of the posts not less than 3 feet (914 mm) above ground.
5. Located not less than 3 feet (914 mm) from the protected object.

312.3 Other barriers.

Barriers, other than posts specified in Section 312.2, that are designed to resist, deflect or visually deter vehicular impact commensurate with an anticipated impact scenario shall be permitted where *approved*.

Thank you for the opportunity to offer input into this proposal.



Phone: 541-996-2233
Cell: 541-921-9024
Fax: 541-996-5344
Email: fulrich@nlfr.org

Frederick (Ed) Ulrich
Fire Marshal

North Lincoln Fire & Rescue
District #1

Administrative Offices
Bob Everest Station 14
PO Box 200
2525 NW Highway 101
Lincoln City, OR 97367

From: Anne Marie Skinner <askinner@lincolncity.org>

Sent: Monday, February 28, 2022 9:19 PM

To: Department Heads <Department_Heads@lincolncity.org>; Brian.S.NELSON (Brian.S.NELSON@odot.state.or.us) <Brian.S.NELSON@odot.state.or.us>; BROWN Jevra * DSL <Jevra.BROWN@dsl.oregon.gov>; Clara Taylor (clara.taylor@dsl.oregon.gov) <clara.taylor@dsl.oregon.gov>; Daniel Wentz <dwentz@lincolncity.org>; Devils Lake Water Improvement District (lake.manager@dlwid.org) <lake.manager@dlwid.org>; director.nlchm (director.nlchm@gmail.com) <director.nlchm@gmail.com>; duane.j.liner (duane.j.liner@odot.state.or.us) <duane.j.liner@odot.state.or.us>; Frederick Ulrich <fulrich@nlfr.org>; Jason Rucker <ncrdad@gmail.com>; Joshua.Lee (Joshua.Lee@PacifiCorp.com) <Joshua.Lee@PacifiCorp.com>; Katharine.A.Mott2@usace.army.mil; Lon French (lfrench@northlincolnsanitary.com) <lfrench@northlincolnsanitary.com>; Onno Husing <ohusing@co.lincoln.or.us>; pamelal (pamelal@ctsi.nsn.us) <pamelal@ctsi.nsn.us>; PHIPPS Lisa * DLCD (Lisa.PHIPPS@dlcd.oregon.gov) <Lisa.PHIPPS@dlcd.oregon.gov>; Ryan Parker (ryan.parker@opr.oregon.gov) <ryan.parker@opr.oregon.gov>; Schurter, Andrew <Andrew.Schurter@nwnatural.com>; Scott Branchfield <sbranchfield@co.lincoln.or.us>; SPANGLER John J * ODFW <John.J.SPANGLER@odfw.oregon.gov>; surveys@co.lincoln.or.us; UNITIS Matthew * DSL (Matthew.UNITIS@dsl.oregon.gov) <Matthew.UNITIS@dsl.oregon.gov>; WILSON Derek R * ODFW <Derek.R.WILSON@odfw.oregon.gov>

Subject: ZOA 2022-06 request for comments

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you know the content is safe.

Hello,

Attached is an application that has been received for a citizen-initiated zoning code text amendment. Please email me any comments no later than March 11, 2022, for consideration in the staff report.

If you do not have any comments, it is not necessary to reply to this email. The assumption is that no reply to the email is equivalent to having no comments.

Thank you,
Anne Marie Skinner



Anne Marie Skinner
DIRECTOR

City of Lincoln City | Planning & Community Development
801 SW Hwy 101 | PO Box 50 | Lincoln City, OR
P: 541.996.1228
E: askinner@LincolnCity.org | W: LincolnCity.org

From: [Michael Alleman](#)
To: [Anne Marie Skinner](#)
Subject: Roads End zoning proposal
Date: Sunday, March 27, 2022 7:57:53 AM

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Anne Marie,

Please postpone the meeting and give our Roads End residents an opportunity to discuss and voice opinion on the proposed zoning changes.

Michael & Bronwyn Alleman, permanent residents.

Sent from [Outlook](#)

From: [Laurel](#)
To: [Anne Marie Skinner](#)
Cc: [Nicholas King](#)
Subject: Roads End Proposed Zoning Change
Date: Saturday, March 26, 2022 7:07:56 PM

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Dear Anne, it has come to my attention that a proposed zoning change is being considered to decrease the decks/building setbacks for the Roads End area. I am a Roads End resident at 6820 NE Neptune Drive and am against this proposal. I formally request that the residents be allowed to provide their input before this is voted or passed as a revision. Please work with REIA to schedule a date to meet with the residents to review this proposal, take our feedback, then make an informed decision based upon that feedback.

Please postpone the hearing scheduled for April 5 until after you meet with the residents. Do not go forward with this hearing until you get the tax paying residents input on this very important change that will affect our neighborhood where we live. Our VRD saturation rate is 28%, I do not need the tourists hanging over my back yard because I suddenly have a deck jutting up to my property line.

I would also like it recorded that Laurel Begnoche, resident, is against this proposal.

Warm regards,
Laurel Begnoche
Roads End resident

Sent from my iPad

From: [Margaret Harvey](#)
To: [Anne Marie Skinner](#)
Subject: Rezoning Roads Roads
Date: Saturday, March 26, 2022 2:10:21 PM

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Dear Ms. Skinner,

I am writing you in regards to the upcoming Planning Commission hearing on April 5th.

As a resident for over 20 years in Roads End it is very disconcerting that a proposal to rezone Roads End without input from its property owners is overstepping the Lincoln City Council bounds.

I am therefore requesting postponement of April 5th meeting and scheduling a meeting with the Roads End neighborhood to explain and discuss proposed zoning changes.

Thank-you,
Margaret Harvey
7470 NE Neptune
Sent from my iPhone

From: [David Hulme](#)
To: [Susan Wahlke](#); [Elaine Starmer](#); [Mitch Parsons](#); [Anne Marie Skinner](#)
Cc: [catherine Wetterling](#); [Alan Hulme](#)
Subject: Zoning Change Request on April 5th; ZOA 2022-06 R-1-RE Front Setback
Date: Monday, March 28, 2022 12:22:03 PM

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Dear City Leadership & Planning Team,

On Tuesday, April 5th the City of Lincoln City Council will consider a request to change the zoning code (ZOA 2022-06) R-1-RE for Roads End.

The Roads End community worked with the City Council to establish this zoning code during the transition of the Roads End annex to the City.

The Roads End community needs to meet with the City Council to discuss why this code needs to be changed for two property owners, one that has owned the property for approximately one year (6245 NW Logan Rd). Is this even a "reasonable" request for the property?

I personally do not respect, therefore do not trust the property owners of 6245 NW Logan Road. Less than a year ago, the owner trespassed on my property, 6267 NW Logan Road, with posted signs of "Private Property" and "No Trespassing". He removed the sign and drove a backhoe on my property tearing up the lawn and potentially damaging city water lines and drainage pipes from the weight of the vehicle. Also, he used the backhoe to create beach access without any authorization. The State, City and Police were not able to rectify the damage to my property or the beach. The Police could not do anything, they told me I had to invest time and resources into a civil claim ... decided to invest in a fence instead, less costly than legal pursuit and certain it would work. The owner of 6245 NW Logan Road never, ever, contacted me through written or verbal communication. Now he wants to change code that took the community and city many hours of time to meet and establish the current zoning.

I suggest that the City Council postpone the meeting on Tuesday, April 5th until after the City Council meets with the Roads End community and explain, ask questions and discuss what the impact is to the current zoning and why it is even necessary to make this change.

Thank you for hearing my concerns and anxiously await your comments and direction.

Best regards, David T Hulme, 6267 NW Logan Rd.

From: [David Jamieson](#)
To: [Anne Marie Skinner](#)
Cc: [Mitch Parsons](#); [Elaine Starmer](#)
Subject: Proposed Zoning Changes in Roads End
Date: Sunday, March 27, 2022 10:44:53 AM

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Director Skinner,

Per the potential zoning changes in Roads End, I have two requests:

1. Please postpone the Planning Commission hearing scheduled for April 5th, 2022, until a neighborhood meeting has been held to discuss the zoning changes and their impact as is stated goal in the city's Comprehensive Plan from October 1998 (page 17, Citizen Involvement) encouraging citizen involvement in Land Use planning/decisions.
2. Please work with the Roads End Improvement Association (REIA) leadership to set up a time for a neighborhood meeting to explain these changes in more depth and receive feedback from the residents who will be impacted by these changes.

As it stands today, I am opposed to:

- **ZOA 2022-06** to amend the Lincoln City Municipal Code Section 17.17.070.D to modify the front-setback requirements in the R-1-RE zone to allow elevated decks within the front setback.
- **ZOA 2022-07** that modifies the street side-setback requirement in R-1-RE zone to a minimum of 10 feet from the current 20-foot minimum/averaging requirement.

Both of these changes stand to alter the character of the Roads End area substantially. After annexation, the city worked closely with Roads End to establish the R1-RE zoning. That zoning allowed the Roads End area to continue with its long established structure height, placement on the lot, and other characteristics unique to the area. Please do not change this.

VAR 2022-03 for 6245 NW Logan Road - my understanding is this homeowner made a choice to build non-compliant decks without a permit then requested a zoning change to make them legal. This behavior is repugnant. The non-compliant additions must be removed. Rewarding lawless behavior encourages more of it.

Thank you,

David Jamieson
 1915 NE 69th St., Lincoln City, OR. 97367

From: [Russell Karow](#)
To: [Anne Marie Skinner](#)
Subject: Postpone Apr 5 planning commission discussion of Roads End Changes
Date: Saturday, March 26, 2022 5:08:55 PM

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Director Skinner - like many other homeowners in Roads End, we would like more information and a neighborhood conversation prior to the zoning changes for the Roads End area being considered. It is unclear to us why the changes are needed for the entire area. From what we understand, the proposed changes could change the look of the community. Please consider a delay to allow for greater communication and input. Russ and Marla Karow - homeowners in Roads End and Lincoln City community supporters since 2000

From: [Janet Knipe](#)
To: [Anne Marie Skinner](#)
Cc: [Susan Wahlke](#); [Mitch Parsons](#); [Elaine Starmer](#); [Sydney Kasner](#); [Riley Hoagland](#); [Judy Casper](#); [Rick Mark](#)
Subject: Request for postponement of public hearings ZOA 2022-06 and ZOA 2022 - 07
Date: Saturday, March 26, 2022 3:31:35 PM

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March 26, 2022

TO: Director Anne Marie Skinner, Planning and Community Development Department

RE: Request for Public Hearing ZOA 2022-06 and ZOA 2022-07 Postponement

The Roads End Improvement Association (REIA) is formally requesting a postponement of the April 5, 2022 Planning Commission public hearing and the May 9, 2022 City Council public hearing for ZOA 2022-06 and ZOA 2022-07 because there has not been sufficient consideration of the impact of these changes on the citizens living in Roads End. The city has not met Comprehensive Plan Goal 1 – public involvement. REIA is already hearing from neighborhood residents who are outraged that this kind of a major change in the zoning code would occur without significant input from the neighborhood in the form of community meetings that are separate from the public hearing itself.

As stated in the 1998 *Lincoln City Comprehensive Plan*:

CONCLUSION: Lincoln City recognizes that citizen involvement is necessary in making wise and legitimate land use decisions.

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

There have been no community meetings on these proposed code changes. In fact, there was only a brief mention in passing of the proposed amendments in your presentation to the REIA membership meeting on March 12, 2022. It was clearly a missed opportunity to introduce these amendments, explain the proposed changes, and solicit community input.

Citizen Involvement Policies

1. Lincoln City shall develop multimedia informational programs on the planning process and procedure, such as television and radio talk shows, newsletter, slide and discussion panels.

Time could have been allotted for a complete presentation and discussion on ZOA 2022-06 and ZOA 2022-07 at the March 12, 2022 REIA meeting, but no materials were presented and no discussion was generated. Instead, REIA has had to take responsibility for quickly researching these changes and alerting our neighbors.

2. Lincoln City shall assure that a reasonable effort is made to encourage the opportunity for citizens to attend public meetings.

Beginning in 2013, REIA and the Lincoln City Planning Department worked together collaboratively for more than a year on the creation of a special zone for Roads End, R-1-RE. During that time there were multiple neighborhood meetings in which Roads End residents participated. For these current proposed changes, there has not been one public meeting.

4. Lincoln City shall strive to establish a better liaison with other community groups and senior citizens.

With REIA's invitations to address our Policy Committee in November 2021, and at the March 12, 2022 general membership meeting, we have operated in good faith to establish an effective,

collaborative working relationship with the City Planning Department. It is deeply troubling that the proposed changes were not brought forward to us for formal community input.

As stated in the *Purpose 17.17.010*, the R-1-RE code is:

To retain and maintain the historic and traditional nature of the Roads neighborhood, to promote and encourage a suitable environment for family living, and stabilize the residential characteristics of the area.

We believe the proposed code changes run counter to this stated *Purpose* and thus warrants the involvement of REIA as a city-recognized neighborhood association. Therefore, as stated, on behalf of the Roads End neighborhood, REIA is formally requesting:

- 1) A postponement of both the April 5 and May 9, 2022 public hearings until such time that as there is meaningful community involvement; and
- 2) Meetings with neighborhood residents be held as soon as possible.

Thank you for your consideration.

Respectfully,

REIA Board of Directors

Cc: Mayor Wahlke; Councilor Parsons; Councilor Starmer; Councilor Kasner; Councilor Hoagland; Councilor Casper; Councilor Mark

--

Janet Knipe

From: [kim.kolbow](#)
To: [Anne Marie Skinner](#)
Cc: [Elaine Starmer](#)
Subject: ZOA 2022-06 & 07 Zoning code amendment (opposition)
Date: Monday, March 28, 2022 2:46:35 PM

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

I want to go on record and voice my opposition to both the citizen and city initiated zoning amendment discussions (ZOA 2022-06 and ZOA 2022-07) for several Roads End properties located on Logan Road.

Zoning rules and regulations are based on a cities comprehensive plan and are designed to:

- Protect the value and enjoyment of properties by allowing a property its most appropriate land use given its location and surrounding land uses AND minimize potential negative impacts.

The property located @ approximately 62nd & Logan Road is attempting to circumvent our zoning laws due to their own failure to perform due diligence in several key areas by:

- 1) Not educating themselves and/or ignoring multiple zoning ordinances that were in place PRIOR to closing on their home.
- 2) Not pulling the proper permits and/or ignoring the cities permit process prior to beginning construction on the new deck they've already added.

I firmly believe that providing a variance and/or an amendment to the existing zoning regulations in Roads End for these properties will have a negative impact on our Roads End community, undermines the cities intent and opens our community up to a plethora of additional requests for variances based on the poor decisions of certain homeowners. Bad behavior should not be rewarded.

I respectfully request that you deny these requests.

Sincerely,
Kim Kolbow (Roads End Full-time resident)

Sent from my iPad

From: [Patti Kroen](#)
To: [Anne Marie Skinner](#)
Cc: [Susan Wahlke](#)
Subject: Zoning amendments
Date: Saturday, March 26, 2022 12:41:17 PM

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Greetings Anne Marie,

As you know, Roads End has an active neighborhood association that has been in existence since the mid-1970s (getting ready to celebrate 50 years!). The association has been very involved in the improvement of the neighborhood well before the city annexed the area. After annexation, many neighbors participated with city officials in crafting a collaborative code for zoning in Roads End that did what the city promised they would do (preserve the unique character of the neighborhood after annexation).

Now, I learn that a citizen and the city have both applied to have the zoning rules regarding setbacks for Roads End changed. While it appears clear that the resident is acting as an individual for his own personal benefit, it is unclear what the city is trying to accomplish with this change. I was a little surprised that the city proposal was not a discussion point from you with the REIA membership during your recent presentation on Saturday. Such a change would represent back-pedaling by the city to change rules that were developed over a long period of time and agreed to in good faith by all parties. I think at the very least, such a proposal deserves a full vetting to the neighborhood and not simply a one-off public hearing before the Planning Commission and City Council. For this reason, I am respectfully requesting a postponement of the hearings until the neighborhood has a chance to discuss these changes with you and can understand why the city now feels this change is necessary.

Thanks for your consideration, Patti Kroen

--

Do not mistake activity for achievement. John Wooden

From: [Ryan Lafrenz](#)
To: [Anne Marie Skinner](#)
Cc: [Margaret Lafrenz](#); [Chris Lafrenz](#); [Jessica Anderson](#); [Andy Lafrenz](#); [Lauren Tsai](#); [Megan Filly](#); [Adam Filly](#); [Katie Lafrenz](#); [Rasool Rahmanian](#)
Subject: URGENT - Planning Commission Meeting Re: Roads End Zoning Changes
Date: Monday, March 28, 2022 10:56:25 AM
Attachments: [6245 NW Logan - overhead view.png](#)

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Anne Marie -

It has recently come to my family's attention that the Lincoln City Planning Commission (and at a later date, the Town Council) will be meeting to discuss proposed zoning ordinance changes within the Roads End area. For full transparency, my mother (Margaret Lafrenz) owns the property at 6257 NW Logan Road.

Our immediate concern is that the Town did NOT consult with the neighborhood or its inhabitants prior to moving forward with scheduling official meetings (i.e., the requirement of public involvement has not been met).

Beyond that, our concerns are many and perhaps most acute as the northern neighbor of the subject property at 6245 NW Logan Road. If a property owner is able to build structures and / or decks closer to or up until the property lines, residents would have significant privacy, access and safety concerns that are inconsistent with the Roads End neighborhood. Furthermore, a more "built" environment with the aforementioned privacy / safety concerns may result in a negative impact to property values as well - view corridors would be obstructed for neighboring houses and the general public who wish to enjoy this beautiful neighborhood and its beaches. To get a better understanding of how little room there is between properties, please see the attached image.

I urge you to postpone any meetings discussing the proposed zoning changes and first meet with the Roads End (and beyond) community. I know our opinions are shared by many who have not been able to attend meetings or write letters / emails (or are simply unaware because of the lack of public involvement thus far).

Thank you for your continued service and support of our communities.

Best regards,

Ryan

PS - I have cc'd all of Margaret's children and their spouses, as we all want what is best and most sustainable for the Roads End community.



Sold: \$1,000,000 (4 beds, 3 baths, 3,354 Square Feet)

\$386

From: [Charlotte Lehto](#)
To: [Anne Marie Skinner](#)
Cc: [Jayne Robinson](#)
Subject: Roads Ends Zone Change
Date: Sunday, March 27, 2022 3:40:42 PM

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Hello Anne Marie,

My name is Charlotte Lehto and I am a long-time resident of Lincoln City and Roads End. I understand there has been a formal request to the City to change the zoning in Roads End, revising the property setbacks. This change will result in the ability of a property owner to build closer to the property line and/or add a deck which comes closer to the legal property line, thereby impinging on neighbors.

We in Roads End have worked very hard to build and maintain the character and integrity of our neighborhood, the result of which is no structure over-crowding and property values which have not been affected by hap-hazard construction.

I understand the City Planning Commission is scheduled to hold a hearing on this matter April 5, 2022. I also understand the Planning Commission **did not** consult with the neighborhood prior to moving forward with this meeting. This means that Comprehensive Plan Goal 1 - which is public involvement - has not been met by the Commission.

As a Roads End resident, I request that the Planning Commission schedule a meeting with the neighborhood to explain and discuss the proposed zoning change. It is the Commissions' obligation to schedule this meeting, and we in Roads End wish to add our voices to this very important decision which affects our neighborhood.

Sincerely,

Charlotte R. Lehto
Christopher N. Jackson
6450 NE Port Drive
Lincoln City, OR. 97367

From: [Shannon Loch](#)
To: [Anne Marie Skinner](#)
Subject: Proposed Changes to R-1-RE Zone and April 5th Hearing
Date: Monday, March 28, 2022 9:48:43 AM

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Dear Anne Marie,

I am writing in regard to the proposed ordinance changes to Roads End, which are scheduled for a hearing at the Planning Commission meeting on April 5, 2022. I was surprised to learn about this thru the neighborhood grapevine, rather than from the City. Now there isn't enough time for a proper review of the request by the Roads End community.

I was one of many citizens who participated in creating the R-1-RE. The zone was crafted to preserve the scale of development to match the existing neighborhood. Set backs and building heights are centerpieces of this zone. Roads End was never intended to mimic Lincoln City's zoning codes for set backs and heights. That shouldn't change now.

We worked for over a year with a broad coalition of residents to craft the R-1-RE zone to capture the character of the neighborhood and promote those characteristics as the last lots are built up. Any proposed changes should come under thoughtful consideration with all stakeholders at the table, and not rushed without proper public participation.

I respectfully ask that you postpone the hearing on April 5, 2022, and schedule a time to meet with the Roads End community to explain what is being proposed.

Sincerely,

Shannon Loch
7477 NW Logan Road
POB 996
Neotsu, Oregon
97364

From: [Victoria M](#)
To: [Anne Marie Skinner](#)
Subject: Roads End zoning proposals
Date: Saturday, March 26, 2022 9:11:08 PM

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Hello Anne Marie, We are writing to comment on the requests to make changes to Roads End zoning that you described in the last REIA meeting. Neither proposal merits changes to the zoning. It is unfortunate that one of the proposals is a result of city mistakes. The other proposal for changing the zoning for a deck should not be allowed. A deck is a building boundary line. It's an obstruction not a setback.

Thank you,

Victoria McOmie
Robert Crouch
6451 NE Port Drive
Lincoln City, OR 97367

From: [Mergentime](#)
To: [Anne Marie Skinner](#)
Subject: Proposed Code Changes in Roads End
Date: Sunday, March 27, 2022 10:27:55 AM

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To: Anne Marie Skinner, Planning Director, Lincoln City
From: Ken & Eileen Mergentimne, full-time Roads End residents

Dear Ms Skinner,

When you did your presentation to Roads End residents at a recent Roads End Improvement Association (REIA) meeting on March 12, you made mention (in passing), of some code changes that would be considered for Roads End (R-1-RE), but provided no detail.

Now I find that these code change proposals are being considered now, at your next meeting, and without proper input from Roads End residents. I understand the desire to get codes in line with City and State codes, but it must be considered in full daylight with local citizen input.

Please slow this process down so that it can move through the proper channels that had already been agreed on in the Lincoln City Comprehensive plan. I'd like to ensure that changes to the building codes also help to retain and maintain the historic and traditional nature of the Roads End neighborhood.

Please postpone the upcoming April 5 and May 9th meetings until Roads End residents have a chance to fully reflect on any proposed building code changes.

Sincerely,
Ken & Eileen Mergentime

From: [Debbie Newhouse](#)
To: [Anne Marie Skinner](#)
Subject: Roads End Zoning
Date: Saturday, March 26, 2022 12:05:26 PM

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Please do not change zoning before you have spoken to the residents and their representatives.
This community has worked hard to retain it's personality and sense of community with existing zoning.
Please be considerate of this community's
charm.

Kind regards,
Debbie Newhouse
1828 NE 71st Street
Roads End-Lincoln City

From: dtgnewhousefamily@gmail.com
To: [Anne Marie Skinner](#)
Subject: Roads end zoning changes
Date: Saturday, March 26, 2022 12:03:58 PM

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Before you change zoning in Roads End, please talk with the community and their representatives.

We bought our second home here because of the character of the community. Changes in zoning laws will change this character.

Regards
Terry Newhouse
1828 NE 71st street
Sent from my iPhone

From: [Ann and Jay Painter](#)
To: [Anne Marie Skinner](#)
Subject: Roads End zoning change!
Date: Saturday, March 26, 2022 12:03:46 PM

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Dear Ms Skinner,

As a property owner for over 40 years I am concerned about the hearing you have scheduled without holding meetings with the Roads End Neighborhood Association! This change affects the character of our community and I am opposed to the change!

But, most of all I am requesting that you postpone the hearing until you have met the legal and community requirements of holding a meeting with the Association.

Sincerely,

Ann Painter
6517 N Logan Road

From: [Jayne Robinson](#)
To: [Anne Marie Skinner](#)
Subject: Planning Commission April 5 hearing
Date: Saturday, March 26, 2022 3:24:48 PM

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

I am writing to ask you to please postpone this hearing so you can meet with Roads End neighborhood residents to explain and discuss this proposed zoning change. Thank you.

Jayne Robinson

From: [Lynn Thompson](#)
To: [Anne Marie Skinner](#); [Planning](#); [Susan Wahlke](#); [Elaine Starmer](#); [Mitch Parsons](#)
Subject: Zoning Code Amendments and Variance Application
Date: Saturday, March 26, 2022 9:25:50 AM

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Dear City Planning Director Skinner, Mayor Wahlke, and City Councilors Parsons and Starmer;

I am writing regarding proposed Zoning Code Amendments 2022-06 and 2022-07 and Variance Application 2022-03. My husband and I are relatively new residents of Lincoln City having purchased a home here less than three years ago. Before purchasing, we drove around Lincoln City looking at the different neighborhoods and chose to purchase in Roads End in significant part because of the open feel of the area. Other areas of Lincoln City felt closed-in and of higher density. Changing the zoning setback regulations would negatively impact Roads End.

Secondly, I have concerns that granting the variance for 6245 NW Logan Road would set a negative precedent while denying it creates an educational opportunity. The circumstances surrounding VAR 2022-01 are quite different and based on the circumstances, I am in favor of granting that variance.

Sincerely,

Lynn Thompson

From: [Linda Thorson](#)
To: [Anne Marie Skinner](#)
Subject: Re: Notice of Application Administrative Adjustment AA2021-01
Date: Sunday, March 27, 2022 8:01:00 PM

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Director Skinner

I am responding to your recent mailings regarding upcoming public hearings on Zoning Code Amendments ZOA2022-06 and 07.

My wife and I reside at 6626 NE Logan Rd and are well aware of zoning code issues with the property adjacent to us (south of our property and bordered by 66 Avenue NE). Both of the new houses south of us are involved with setback issues, and it would appear from recent notices of code change proposals for the entire Roads End area, that the proposed changes would resolve the current setback violations for these properties. Code changes would also remedy code violations for another property at 6245 NW Logan Rd.

It appears from a recent Zoom meeting regarding the Griswold properties that both the owner/contractor and The City Planning Dept. did not fully understand and properly execute well defined codes regarding setbacks and both parties signed off and approved of the construction.

I believe that the probability of such egregious errors by both the owner and the City Planners being repeated are remote at best and as such should not constitute a valid reason to change property set back codes for Roads End.

To treat this event as anything more than a one off error by two parties (that should be resolved by the owner and the city without code changes) would be a mistake.

We concur with the REIA position that neighborhood meetings with your involvement should be held so that RE residents can better understand the implications of proposed changes. We also concur with REIA that the current building codes for Roads End have produced a very desirable neighborhood that should be maintained.

Thanks,
 Bruce and Linda Thorson

Sent from my iPhone

On Jan 23, 2022, at 7:47 PM, Anne Marie Skinner <askinner@lincolncity.org> wrote:

Thank you. I will add your comments to the file.

<image001.png>

Anne Marie Skinner

DIRECTOR

City of Lincoln City | Planning & Community Development

801 SW Hwy 101 | PO Box 50 | Lincoln City, OR

P: 541.996.1228

E: askinner@LincolnCity.org | W: LincolnCity.org

From: Bruce & Linda Thorson <thorson@bmi.net>

Sent: Friday, January 21, 2022 5:48 PM

To: Planning <Planning@lincolncity.org>

Subject: Notice of Application Administrative Adjustment AA2021-01

Please see attached response.

From: [A](#)
To: [Anne Marie Skinner](#)
Cc: [Susan Wahlke](#)
Subject: ZOA 2022-06 and ZOA 2022-07
Date: Monday, March 28, 2022 11:52:38 AM

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Good morning Anne Marie,

We support the REIA request for postponements of the April 5, 2022 Planning Commission hearing and the May 9, 2022 City Council public hearing for ZOA 2022-07. More public involvement is needed to assure resident input of the proposed changes are heard and included in this proposal.

We, and many other Roads End residents, were very involved in 2013 discussions with city officials and the Planning Department, as we worked together in creating a special zone for Roads End, R-1-RE. All parties agreed that in light of the unique scenic characteristics of the Roads End area, that a special zone would be created and different from the city's R-1-A zone.

The R-1-RE zone was designed to retain the traditional setting and enhance the scenic qualities of building structures within Roads End. We wanted to prevent beachfront properties from forming structures which form monolithic barriers to the view of those homes further up from the beach front. Thus, setbacks and building height were created to support this intent. This zoning plan was adopted by the City Council and there was never an intent for the R-1-A and the R-1-RE to be the same.

In closing Anne Marie, we want to say that in our past discussions with you as a city official, we have often found you to be responsive to Roads End resident concerns, deliberative in your process, and supportive of citizen input.

We ask that you support REIA's proposed request for postponement, in order to engage more public input from Roads End residents. Such actions both recognize and support the City's Comprehensive Plan to "involve citizens in making wise and legitimate land use decisions."

Respectfully,

Cindy Thompson
Elaine Walsh
.

From: [williams](#)
To: [Anne Marie Skinner](#)
Subject: April 5th Planning Commission Meeting
Date: Sunday, March 27, 2022 5:53:24 PM

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Anne Marie Skinner,
Planning Director

Ms. Skinner

I am sure that you have already been contacted by numerous Roads End residents like myself regarding the proposed zoning changes. We do demand that we get our face-to-face report out prior to this subject meeting where we get an opportunity to voice our opinion on these matters. Lincoln City is not Salem or Portland, but a small community that deserves the respect of this committee in letting us provide our opinions and input into something that affects us all in so many ways too numerous to list, but may surprise you if you were to give us our due with a meeting.

When I moved here in 2012, I was informed that the Lincoln City annexation of Roads End would ensure that among other benefits it would ensure a uniform building code which the resident would assist in preparing, which I did participate in developing. What currently exists was what we all bought into with height of structures and easement distances to ensure a reliable real estate development that would protect our investment and ambiance of a coastal community.

When we agreed on the current code, we accepted that current grandfathered violations would be tolerated as long as the buildings existed, but new structures on these lots would be brought into conformity

One item you may not be as sensitive to is this acceptance of annexation came with a property tax increase of 175% of what it was when I closed on my property. We have all paid for what your committee wishes to ignore, so please

The companies developing these last vacant lots are pushing the limits of good neighborhood development. More square feet more money for them, but the results being ugly boxes.

We want to be herd and our wishes either accepted or be given a reason why they will not be included.

Richard D. Williams
6461 NE Port Dr
Lincoln City, OR 97367

Planning Commission Communication

ZOA 2022-05 Code Corrections

Meeting Date:	April 5, 2022	Primary Staff Contact:	AnneMarie Skinner
Department:	Planning Commission	E-Mail:	ASkinner@lincolncity.org
Secondary Dept:		Secondary Contacts:	
Approval:		Estimated Time:	

Question:

Should the Planning Commission conduct a public hearing on ZOA 2022-05 (code corrections) and make a recommendation to the City Council?

Staff Recommendation:

Staff recommends the Planning Commission conduct a public hearing on the proposed amendment to the zoning code.

Authority:

Legal authority for text amendments is as follows:

17.76.060 Type IV (Legislative).

- A. General Description. Type IV procedures apply to "legislative" matters. Legislative decisions are made by the City Council and involve the adoption or amendment of policy by ordinance. Legislative decisions may also apply to applications involving a geographic area containing many properties. Type IV procedures require general public notice and a public hearing.*
- H. Recommendation Authority.*
 - 1. Following receipt of testimony and deliberation at the public hearing held before the Planning Commission, the Planning Commission shall provide a recommendation to the City Council for all Type IV applications. The Planning Commission shall recommend that the City Council approve or deny the proposed amendments, with or without changes.*
 - 2. Decision Authority. Upon receiving the Planning Commission's Final Recommendation, the City Council shall hold a public hearing on the Type IV application.*

Planning Commission Options:

1. Hold the public hearing; close the public hearing; make a recommendation.

Potential Motions:

1. I move to close the public hearing and the record for ZOA 2022-05.

Then:

2. I move to recommend approval to City Council of ZOA 2022-05.

Attachments:

ZOA 2022-05 DRAFT Ordinance Planning Commission (PDF)

ORDINANCE NO. 2022-15

AN ORDINANCE OF THE CITY OF LINCOLN CITY AMENDING THE LINCOLN CITY MUNICIPAL CODE, TITLE 17 (ZONING), CHAPTERS 17.04 (GENERAL PROVISIONS), 17.08 (DEFINITIONS), 17.16 (R-1), 17.17 (R-1-RE), 17.18 (VR), 17.24 (PC), 17.28 (RC), 17.29 (RCC), 17.32 (GC), 17.36 (PI), 17.40 (RR), 17.42 (P), 17.46 (NR), 17.52 (SUPPLEMENTARY REGULATIONS), 17.64 (NONCONFORMING SITUATIONS), 17.74 (DESIGN STANDARDS), 17.76 (PROCEDURES), 17.77 (APPLICATIONS), 17.80 (PROVISIONS APPLYING TO SPECIAL USES) and TITLE 16 (SUBDIVISIONS), CHAPTER 16.08 (PROCEDURE) TO MAKE CORRECTIONS.

*Annotated to show deletions and additions to the code sections being modified. Deletions are **~~bold lined through~~** and additions are **bold underlined**.*

WHEREAS, Chapter 2, Section 2.1 and 2.2., of the City of Lincoln City Charter provides:

2.1 Powers of the City

The city has all powers which the constitutions, statutes and common law of the United States and of this state expressly or impliedly grant or allow municipalities as fully as though this charter specifically enumerated each of those powers.

2.2 Construction of Charter

In this charter no mention of a particular power shall be construed to be exclusive or to restrict the scope of the powers which the city would have if the particular power were not mentioned. The charter shall be liberally construed to the end that the city may have all powers necessary or convenient for the conduct of its municipal affairs, including all powers that cities may assume pursuant to state laws and to the municipal home rule provisions of the state Constitution; and

WHEREAS, the above referenced grant of power has been interpreted as affording all legislative powers home rule constitutional provisions reserved to Oregon Cities. *City of Beaverton v. International Ass'n of Firefighters, Local 1660, Beaverton Shop*, 20 Or. App. 293; 531 P 2d 730, 734 (1975); *LaGrande/Astoria v. PERB*, 281 Or 137, 142 (1978), *aff'd on reh'g* 284 Or 173 (1978); and

WHEREAS, the amendments to the Lincoln City Municipal Code are in conformance with the Statewide Planning Goals and Lincoln City Comprehensive Plan goals as addressed in attached Exhibit "A"; and

WHEREAS, the proposed amendments are in conformance with the Zoning Ordinance, including, but not limited to, required initiation, processing and noticing requirements; and

WHEREAS, on March 2, 2022, the City duly notified the Oregon Department of Land Conservation and Development pursuant to ORS 197.610, of its consideration of the proposed amendment(s); and

WHEREAS, City staff has determined the proposed amendment does not require individual notice to property owners under Measure 56, accordingly no ORS 227.186(4) notice was sent to property owners; and

WHEREAS, the Planning Commission hearing initially scheduled for March 15, 2022 was continued to April 5, 2022. On April 5, 2022, the Planning Commission held a public hearing and considered the amendments contained within this ordinance. On April 19, 2022, the Planning Commission voted to transmit the amendments to the City Council with a recommendation that the ordinance be adopted; and

WHEREAS, the City Council held a public hearing on May 9, 2022. On May 9, 2022, Council closed the record and deliberated on the proposed amendments. All persons were given an opportunity to provide written and/or oral testimony on the proposed ordinance. After deliberation, Council provided direction that an ordinance be returned for required readings.

THE CITY OF LINCOLN CITY ORDAINS AS FOLLOWS:

SECTION 1. Chapter 17.04 (*General Provisions*), Section 17.04.030 (*Compliance*) is hereby amended, as follows:

17.04.030 Compliance.

Except as provided in Chapter 17.64 LCMC, no building or other structure shall be constructed, improved, altered, enlarged or moved, nor shall any use or occupancy of premises within the city be changed, nor shall any condition of or upon real property be caused or maintained, after the effective date of the ordinance codified in this title, except in conformity with conditions prescribed for each of the several zones established hereunder.

It is unlawful for any person to erect, construct, establish, move into, alter, enlarge, use, or cause to be used, any building, structure, improvement or use of premises located in any zone described in this title contrary to the provisions of this title. Where this title imposes greater restrictions than those imposed or required by other rules or regulations or ordinances, the provisions of this title shall control.

The issuance or granting of any City permit or license, or the review or approval of any application, shall not be construed to be a permit or license for, or an approval of, any violation of any of the provisions of this title. Permits, licenses, or approvals (whether by mistake or by design) purporting to waive or cancel the

mandatory provisions of this title shall not be valid. Participants in local land use proceedings must ascertain for themselves, from the local code, what they must do to protect their rights. Estoppel cannot arise from an action of a city official who purports to waive the provisions of a mandatory ordinance or otherwise exceeds their authority. The issuance of a permit or license, or the approval of an application, based on documents, plans, and other data shall not prevent the director from requiring correction of errors in the documents, plans, and other data.

SECTION 2. Chapter 17.08 (*General Provisions*), Section 17.08.010 (*Definitions*) is hereby amended, with the following revised definitions inserted in alphabetical order, as follows:

17.08.010 Definitions.

"Building height" means see LCMC Sections 17.52.190 and 17.52.200. means the vertical distance from the average of the finished ground level at the center of all walls of the building to the highest point of the roof, exclusive of chimneys. (The City Charter of Lincoln City, Oregon, Section 5a(b), January 19, 1971.)

"City" means the city of Lincoln City, Oregon.

"Common open space" means an area improved for active or passive recreational uses or gardening that all property owners in a development own and maintain in common through a homeowners' association, condominium association, or similar mechanism.

"Cottage" means a detached single-unit dwelling that is part of a cottage housing development and that contains 1,000 square feet or less of gross floor area.

"Cottage cluster" means a group of four to 12 cottages, arranged a common open space.

"Cottage housing development" means cottage clusters developed under a single land development plan, or as a part of another land development plan.

"Four-flat dwelling" means a structure designed to resemble a single-unit dwelling, but that contains four individual dwelling units and appears to have no more than two (with at least one of the two entrances located in the front of the structure) exterior entrances opening onto a common hallway(s) providing access to the four individual units within the structure.

Grade, Ground Level. "Ground level grade" means the average of the finished ground level at the center of all walls of a building. Where the walls are parallel to

1 ~~and within five feet of a sidewalk, the ground level shall be measured at the~~
 2 ~~sidewalk.~~

3
 4 **"Gross floor area" means the area within the exterior walls, but excluding any**
 5 **space where the floor to ceiling height is less than six feet.**

6
 7 "Hotel" means a facility offering ~~transient~~ lodging accommodations for compensation
 8 **for temporary occupants** and which may or may not include additional facilities and
 9 services, such as restaurants, meeting rooms, entertainment, personal services, and
 10 recreational facilities., ~~and where no cooking facilities are provided in any lodging~~
 11 ~~rooms or suites.~~

12
 13 "Impervious surface/area" means any surface that does not allow for the infiltration of
 14 water directly into the underlying earth. Types of impervious surfaces include rooftops
 15 and eaves, asphalt and concrete parking lots other than those surfaced with pervious
 16 materials, driveways, roads, sidewalks and pedestrian plazas, and standing water. Note:
 17 Uncovered, slatted decks are considered pervious. Gravel surfaces are considered
 18 pervious unless they cover impervious surfaces, ~~or are compacted.~~

19
 20 **"Mini warehouse" See Self-storage facility.**

21
 22 **"Mobile food pod" means more than one singular mobile food unit located on the**
 23 **same lot or parcel.**

24
 25 **"Mobile food unit" means a wheeled mobile unit that meets state, county, and**
 26 **Department of Motor Vehicles requirements for licensing, registration, and**
 27 **operation as a unit utilized to provide commercial food preparation and serving to**
 28 **the general public. Food may be prepared or processed on the unit, and said**
 29 **prepared or processed food is sold and dispensed to the ultimate consumer from**
 30 **the unit.**

31
 32 "Multi-unit dwelling" means a structure containing three or more dwelling units: ~~where~~
 33 ~~the~~ **The** land underneath the structure is not divided into separate lots ~~or parcels.~~

34
 35 "Planned ~~unit~~ development" means a development in which the applicable subdivision
 36 and zoning restrictions apply to the development as a whole rather than to each
 37 individual lot. ~~Under this procedure, detailed project plans must be approved by the~~
 38 ~~planning commission.~~

39
 40 **"Planning Commission" means the city of Lincoln City Planning Commission.**
 41

“Self-storage facility” means a building or group of buildings containing separate, individual, and private storage spaces of varying sizes available for lease or rent for varying periods of time; mini-warehouse.

“Tiny house” means a standalone dwelling with a floor area of 400 square feet or less, excluding lofts. “Tiny house” does not mean a trailer, residential trailer, or a recreational vehicle.

“Tiny house development” means a site designed to contain at least three tiny houses and designed and operated under a single land development plan, or as part of another land development plan such as a planned development or a cottage cluster development.

“Undeveloped Lot(s) or Parcel(s). A lot or parcel is undeveloped unless: (1) lawful business operations are conducted on the lot in good faith; and (2) the lot either contains development that has been approved through **development site plan** review pursuant to city code or contains development that would not have been required to go through **development site plan** review if **development site plan** review, or its equivalent, had existed at the time the development occurred.

“Usable open space” means

“Visitor Information Center” means an establishment primarily engaged in marketing and distributing information on community resources and facilities to businesses and leisure travelers through a range of activities, including but not limited to assisting organizations in locating meeting and convention sites; providing maps and travel information on area attractions, events, indoor and outdoor recreational opportunities, lodging accommodations, restaurants, and available group tours of local historical, recreational, and cultural attractions.

“Buildable area” means the area of a property outside of the natural resource overlay zone and all required setback areas.

“Goal 17 planning area” means all lands west of Highway 101, all lands within 500 feet of the ordinary high water mark of Devils Lake or Spring Lake, and all lands within 1,000 feet of the mean higher high water elevation of the Schooner Creek, Drift Creek, and Siletz Bay estuaries.

“Native riparian vegetation” means plants historically found in wet and streamside areas of the Pacific Northwest. “Flora of the Pacific Northwest” (1973) by Hitchcock and Cronquist is a primary reference for native plant determinations.

1 "Natural resource overlay zone" means the overlay zone comprising the land that is
2 shown as significant natural resources on the adopted significant natural resources maps
3 in the comprehensive plan.

4
5 "Ordinary high water mark" means a line delineating the highest water level that has been
6 maintained for a sufficient period of time to leave evidence upon the landscape, such as a
7 clear, natural line impressed upon the bank, shelving, changes in the character of the
8 soil, change from predominantly aquatic to predominantly terrestrial vegetation, or the
9 presence of organic litter or debris.

10
11 "Qualified professional" means an individual who has proven expertise and experience in
12 a given natural resource field.

13
14 "Responsible party" means the property owner and any party acting on behalf of or for
15 the benefit of the property owner including construction contractors and subcontractors.

16
17 "Riparian area" means the area adjacent to a river, lake, or stream, consisting of the area
18 of transition from an aquatic ecosystem to a terrestrial ecosystem.

19
20 "Riparian area, significant" means a riparian area that is shown as significant on the
21 adopted significant natural resources maps in the comprehensive plan.

22
23 "Significant natural resource" means wetlands, riparian areas, and wildlife areas shown on
24 the adopted significant natural resources maps in the comprehensive plan.

25
26 "Stream" means a channel such as a river or creek that carries flowing surface water,
27 including perennial streams and intermitten streams with defined channels, and excluding
28 artificial irrigation and drainage channels.

29
30 "Water area" means the area between the banks of a lake, pond, river, perennial or fish-
31 bearing intermitten stream, excluding artificial farm ponds.

32
33 "Water-dependent use" means a use or activity which can be carried out only on, in, or
34 adjacent to water areas because the use requires access to the water body for waterborne
35 transportation, recreation, or energy production, or as a source of water.

36
37 "Wetland" means an area that is inundated or saturated by surface water or groundwater
38 at a frequency and duration to support, and that under normal circumstances does
39 support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

40
41 "Wetland, significant" means a wetland shown on the adopted significant resources maps
42 in the comprehensive plan.

“Wildlife area” means an area upon which wildlife depend in order to meet their requirements for food, water, shelter, and reproduction. Examples include wildlife migration corridors, big game winter range, and nesting and roosting sites.

“Wildlife area, significant” means a wildlife area shown on the adopted significant natural resources maps in the comprehensive plan. Where a significant wildlife area includes a significant riparian area, the extent of the significant wildlife area is the same as the extent of the significant riparian area.

SECTION 3. Chapter 17.16 (*Single ~~Family Unit~~ Residential (R-1) Zone*), Section 17.16.020 (*Permitted Uses*), Paragraph A, (Residential), Numbered Paragraph 2, is hereby amended, as follows:

2. Attached single-family unit dwellings; ~~if attached to no more than one other single-family dwelling;~~

SECTION 4. Chapter 17.16 (*Single ~~Family Unit~~ Residential (R-1) Zone*), Section 17.16.020 (*Permitted Uses*), Paragraph A, (Residential), Numbered Paragraph 9, is hereby amended, as follows:

9 Attached single-unit dwellings developments, subject to the provisions of LCMC 17.20.050;

SECTION 5. Chapter 17.16 (*Single ~~Family Unit~~ Residential (R-1) Zone*), Section 17.16.070 (*Lot Requirements*), is hereby amended, as follows:

17.16.070 Lot requirements.

The map designations R-1-5, R-1-7.5 and R-1-10 create separate single-unit 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								
Zone	Lot Area	Lot Width	Lot Depth	Front <u>Setback</u> <u>Yard</u> ⁽³⁾	Side <u>Setback</u> <u>Yard</u>	Street Side <u>Setback</u> <u>Yard</u> ⁽³⁾	Rear <u>Setback</u> <u>Yard</u>	Maximum <u>Lot Building</u> Coverage ⁽⁵⁾
R-1-5	5,000 sq. ft.;	50' detached;	70'	5'^(1) 7-1/2'^(2)	5'^(1) 7-1/2'^(2)	5'^(1) 7-1/2'^(2)	5'^(1) 7-1/2'^(2)	35%^(4)

REQUIRED MINIMUMS								
		35' attached			or 0' for common wall of attached dwellings			
R-1-7.5	7,500 sq. ft.;	70' detached; 35' attached	80'	same as above				35% ⁽⁴⁾
R-1-10	10,000 sq. ft.	80'	80'	same as above				35% ⁽⁴⁾

(1) For one-story structures.

(2) For structures more than one story.

(3) The front and street side **setbacks yards** shall be increased to a minimum of 20 feet in front of a garage/carport and/or driveway entrance to a garage/carport. The increase in setback shall not apply to portions of the dwelling that are below or to the side of the garage/carport or driveway entrance. The increase in setback shall not apply to any portion of the dwelling above the garage/carport that is cantilevered (i.e., supported only by the wall of the structure from which it projects), provided the lowest point of the cantilever is a minimum of seven feet above grade. On corner lots, the clear-vision area requirement of LCMC 17.52.060 and 17.52.070 shall apply.

(4) For existing lots between 3,000 sq. ft. and 4,000 sq. ft., maximum ~~lot~~ **building** coverage shall be 40 percent. For existing lots less than 3,000 sq. ft., maximum ~~lot~~ **building** coverage shall be 50 percent.

(5) **See definition of Building Coverage in Chapter 17.08 LCMC. Includes accessory buildings (garages and outbuildings).**

SECTION 6. Chapter 17.16 (*Single ~~Family Unit~~ Residential (R-1) Zone*), Section 17.16.100 (*Other required conditions*), is hereby amended, as follows:

17.16.100 Other required conditions.

All single-~~unit~~ **family** dwellings (site-built, modular and manufactured homes) to be constructed or located in ~~residential zones shall an R-1- zone are encouraged to~~ use at least two of the following design features to provide visual relief along the front of the **dwelling home**:

SECTION 7. Chapter 17.17 (*Single ~~Unit Family~~ Residential, Roads End (R-1-RE) Zone*), Section 17.17.050 (*Restrictions*), Paragraph C, is hereby amended, as follows:

C. Fencing may not exceed three and one-half feet in height in a required front setback area yard or required street side setback area side yard, or more than six feet in any other required setback area; yard;

SECTION 8. Chapter 17.17 (*Single Unit Family Residential, Roads End (R-1-RE) Zone*), Section 17.17.070 (*Lot requirements*), is hereby amended, as follows:

17.17.070 Lot requirements.

Lot requirements shall be as follows:

D. The minimum front yard setback shall be 20 feet. Except that the minimum setbacks from Logan Road need not exceed the average setback of buildings on all lots within 100 feet of the lot on which the proposed building is to be located and that abut Logan Road.

E. The minimum interior side yard setback shall be seven and one-half feet for single-story buildings and 10 feet for buildings with more than one story.

F. The minimum street side yard setback shall be 20 feet, except that it may be one foot less for each two feet of front yard setback over the minimum, but not to less than 10 feet.

G. On corner lots, the clear-vision area requirement of LCMC 17.52.060 and 17.52.070 shall apply.

H. The minimum rear yard setback shall be seven and one-half feet for single-story buildings and 10 feet for buildings with more than one story. In no case shall the distance between residential structures on the same lot or on adjacent lots be less than 10 feet.

SECTION 9. Chapter 17.18 (*Vacation Rental (VR) Zone*), Section 17.18.020 (*Permitted uses*), Paragraph B, is hereby amended, as follows:

B. Attached single-unit dwellings or attached single-unit dwellings developments ~~Attached single-family dwellings~~ when developed in accordance with the attached single-unit dwellings or attached single-unit dwellings developments standards, respectively, specified in LCMC ~~17.52.260; 17.20.050;~~

SECTION 10. Chapter 17.18 (*Vacation Rental (VR) Zone*), Section 17.18.070 (*Lot/yard other requirements*), is hereby amended, as follows:

17.18.070 Lot/yard setback other requirements.

The minimum requirements for the VR district shall be as follows:

REQUIRED MINIMUMS								
Zone	Lot Area	Lot Width	Lot Depth	Front <u>Setback</u> Yard ⁽³⁾	Side <u>Setback</u> Yard	Street Side <u>Setback</u> Yard ⁽³⁾	Rear <u>Setback</u> Yard	Maximum Building Lot Coverage ⁽⁵⁾
VR	5,000 sq. ft.;	50' detached; 35' attached	70'	5' ⁽¹⁾ 7-1/2' ⁽²⁾	5' ⁽¹⁾ 7-1/2' ⁽²⁾ or 0' for common wall of attached dwellings	5' ⁽¹⁾ 7-1/2' ⁽²⁾	5' ⁽¹⁾ 7-1/2' ⁽²⁾	35% ⁽⁴⁾

(1) For one-story structures.

(2) For structures more than one story.

(3) The front and street side **setbacks yards** shall be increased to a minimum of 20 feet in front of a garage/carport and/or driveway entrance to a garage/carport. The increase in setback shall not apply to portions of the dwelling that are below or to the side of the garage/carport or driveway entrance. The increase in setback shall not apply to any portion of the dwelling above the garage/carport that is cantilevered (i.e., supported only by the wall of the structure from which it projects), provided the lowest point of the cantilever is a minimum of seven feet above grade. On corner lots, the clear-vision area requirement of LCMC 17.52.060 shall apply.

(4) For existing lots between 3,000 sq. ft. and 4,000 sq. ft. maximum **building lot** coverage shall be 40 percent. For existing lots less than 3,000 sq. ft., maximum **building lot** coverage shall be 50 percent.

(5) **See definition of Building Coverage in Chapter 17.08 LCMC. Includes accessory buildings (garages and outbuildings).**

SECTION 11. Chapter 17.24 (*Professional Campus (PC) Zone*), Section 17.24.050 (*Setback requirements*), is hereby amended, as follows:

17.24.050 Setback requirements.

A. Front **Setback Yard**. The minimum front **setback yard** shall be 20 feet.

B. Side, **Street Side**, and Rear **Setback Yard**. The minimum side and rear **setback yard** shall be at least five feet., ~~except that if~~ The street side **setback yard** shall be a minimum of 15 feet. The side, **street side**, and rear **setbacks yards** shall be increased by one-half foot for each foot by which the building height exceeds 15 feet.

C. For **special additional** setback requirements, see Chapter 17.52 LCMC, Supplementary Regulations and Exceptions.

SECTION 12. Chapter 17.24 (*Professional Campus (PC) Zone*), Section 17.24.090 (*Other required conditions*), is hereby amended, as follows:

17.24.090 Other required conditions.

~~**A. Landscaping.** Landscaping shall be provided in accordance with LCMC 17.52.100.~~

A. B-Restrictions. No development shall occur in the PC zone unless all city services (sewer and water) are available to serve such development.

SECTION 13. Chapter 17.28 (*Recreation-Commercial (RC) Zone*), Section 17.28.020 (*Permitted uses*), Paragraph H, is hereby amended, as follows:

H. Attached single-unit dwellings or attached single-unit dwellings developments ~~**Attached single-family dwellings**~~ when developed in accordance with the **attached single-unit dwellings or attached single-unit dwellings developments** standards, **respectively**, specified in LCMC ~~**17.52.260**~~; **17.20.050**;

SECTION 14. Chapter 17.28 (*Recreation-Commercial (RC) Zone*), Section 17.28.050 (*Setback requirements*), Paragraphs A and B, are hereby amended, as follows:

A. Front **Setback Yards**. The minimum front **setback yard** shall be five feet.

B. Side, ~~**Street Side**~~, and Rear **Setback Yard**. The minimum side and rear ~~**yard setback**~~ shall be at least five feet. ~~**, except that the**~~ ~~The street side **yard setback** shall be a~~ minimum of five feet. The side, ~~**street side**~~, and rear **setbacks yard** shall be increased by one-half foot for each foot by which the building height exceeds 15 feet.

C. For special setback requirements, see Chapter 17.52 LCMC, Supplementary Regulations and Exceptions.

SECTION 15. Chapter 17.29 (*Resort Community Commercial (RCC) Zone*), Section 17.29.040 (*Standards applicable to all uses in the RCC district.*), Paragraph C and Paragraph E, are hereby amended, as follows:

C. Front **setback yard**. The required front **setback yard** shall be negotiable.

E. Landscaping shall generally comply with LCMC ~~**17.52.100**~~ **17.55**, except that landscaping requirements may be varied when agreed to in the development agreement.

SECTION 16. Chapter 17.29 (*Resort Community Commercial (RCC) Zone*), Section 17.29.080 (*Specific authorization for phased commercial development.*), is hereby amended, as follows:

17.29.080 Specific authorization for phased commercial development.

Notwithstanding any other provision of this title, a statutory development agreement implementing the RCC zone may authorize the use of a multi-phase commercial preliminary master plan. The multi-phase commercial preliminary master plan may include multiple discrete phases identified in an associated timetable of development and consistent with the time limitations established in the negotiated statutory development agreement. Multi-phase commercial preliminary and final master plans are approved through the development review process. site plan design review process.

SECTION 17. Chapter 17.32 (*General Commercial (GC) Zone*), Section 17.32.020 (*Uses permitted*), Paragraph O, is hereby amended, as follows:

O. Mini-warehouses, if existing on or if development review approval site plan approval

SECTION 18. Chapter 17.32 (*General Commercial (GC) Zone*), Section 17.32.050 (*Setback requirements*), is hereby amended, as follows:

17.32.050 Setback requirements.

A. Front Setback. Yard. None, except when the front property line yard is abutting or across the street from a property parcel in a residential zone and then the front setback yard shall be that the front yard required in the contiguous residential zone. However, the provisions of LCMC 17.52.060 and 17.52.070 shall apply.

B. Side, Street Side and Rear Setback. Yard. None, except when the side, street side or rear property line yard is abutting or across the street from a property parcel in a residential zone, and then the side, street side or rear setback yard shall be a minimum of 10 feet. The required side, street side or rear setback yard shall be increased by one-half foot for each foot by which the building height exceeds 15 feet. However, the provisions of LCMC 17.52.060 and 17.52.070 shall apply.

SECTION 19. Chapter 17.32 (*General Commercial (GC) Zone*), Section 17.32.110 (*Other required conditions*), Paragraph B, (*Outdoor Sales Displays*) is hereby amended, as follows:

B. Outdoor Sales Displays. Outdoor sales displays are allowed, but shall not be located in any setback area yard, landscaped area, or off-street parking or loading area which is required by this title.

SECTION 20. Chapter 17.36 (*Planned Industrial (PI) Zone*), Section 17.36.040 (*Setback requirements*), Paragraphs A and B, are hereby amended, as follows:

A. Front Setback Yard. The minimum front setback yard shall be five feet.

B. Side, Street Side and Rear Setback. Yard. The minimum side, street side and rear setback yard shall be at least five feet. The side and rear yard shall be increased by one-half foot for each foot by which the building height exceeds 15 feet.

C. For **special additional** setback requirements, see Chapter 17.52 LCMC, Supplementary Regulations and Exceptions.

SECTION 21. Chapter 17.36 (*Planned Industrial (PI) Zone*), Section 17.36.080 (*Other required conditions*), is hereby amended, as follows:

17.36.080 Other required conditions.

B. All operations, activities and storage may be maintained outside a building in a side or rear **setback yard**; provided, that such storage is separated from all **rights-of-way public streets** and other property by a sight-obscuring fence, wall or vegetative hedge at least six feet in height.

SECTION 22. Chapter 17.40 (*Recreation Residential (R-R) Zone*), Section 17.40.020 (*Permitted uses*), is hereby amended, as follows:

- A. Single-~~unit~~**family** dwelling;
- B. Manufactured home, **subject to the provisions of LCMC 17.52.250;**

SECTION 23. Chapter 17.40 (*Recreation Residential (R-R) Zone*), Section 17.4.050 (*Restrictions*), is hereby amended, as follows:

No development shall occur unless all city services (**sewer and water**) are available **to serve such development.** ~~however, existing lots of record, which do not front on a public sewer line but which will be connected to a public water line, may be developed utilizing an approved subsurface sewerage disposal system, provided a deferred improvement agreement is executed and recorded by the owner of record consenting to the establishment of a local improvement district to participate in future public sewer system extensions and connections.~~

SECTION 24. Chapter 17.40 (*Recreation Residential (R-R) Zone*), Section 17.40.060 (*Standards*), is hereby amended, as follows:

In an R-R zone, the following standards shall apply:

- A. Front **Setback. The minimum front setback shall be 10 feet.** ~~Yard. There shall be a front yard having a minimum depth of 10 feet.~~
- B. Side **and Street Side Setback. The minimum side and street side setback shall be five feet for single-story structures. The minimum side and street side setback shall be seven and one-half feet for structures greater than one story in height.** ~~Yard. There shall be side yards having a minimum width of five feet. For structures greater than one story in height, there shall be side yards of seven and one-half feet.~~
- C. Rear **Setback. The minimum rear setback shall be five feet.** ~~Yard. There shall be a rear yard with a minimum depth of five feet.~~

I. Landscaping shall be provided in accordance with Chapter 17.55 LCMC.

J. Recreational vehicles shall be placed on a concrete or asphaltic concrete pad or a maintained crushed rock surface (minimum compacted depth of four inches of one and one-half inches to zero inches covered with minimum compacted depth of two inches of three-fourths inch to zero inches).

~~I. Manufactured homes and recreational vehicles sited on individual lots shall comply with the following requirements:~~

~~1. All manufactured homes shall be skirted or placed on foundations.~~

~~2. The manufactured home shall be provided with gutters and down spouts to direct surface water into storm drains or as approved by the planning director or designee.~~

~~3. If the manufactured home is removed from its foundation, the owner of the property shall agree in writing to remove the foundation and all additions to the manufactured home and to permanently disconnect and secure all utilities. This agreement authorizes the jurisdiction to perform the work and place a lien against the property for the cost of the work in the event the owner fails to accomplish the work within 30 days from the date the manufactured home is removed from its foundation. This condition shall not apply in the event that the manufactured home is replaced on the original foundation, or the original foundation as modified, by another approved manufactured home within 90 days of the removal of the original manufactured home.~~

~~4. Landscaping shall be provided in accordance with Chapter 17.55 LCMC.~~

~~5. Manufactured homes and recreational vehicles shall be placed on concrete or asphaltic concrete pad or maintained crushed rock surface (minimum compacted depth of four inches of one and one-half inches to zero inches covered with minimum compacted depth of two inches of three-fourths inch to zero inches).~~

SECTION 25. Chapter 17.42 (*Park (P) Zone*), Section 17.42.020 (*Permitted uses*), is hereby amended to amend Paragraph H and add a new Paragraph N as follows:

H. Public parking and/or surface parking lots for park, open space, and/or public trail use;

N. Visitor Information Center.

SECTION 26. Chapter 17.46 (*Natural Resource Overlay (NR) Zone*), Section 17.46.010 (*Purpose*), is hereby amended as follows:

The purpose of the natural resources overlay zone ~~(NR)~~ is to conserve, protect, where appropriate develop, and where appropriate restore the resources and benefits of ~~coastal~~

~~shorelands, natural resources, and scenic areas,~~ recognizing their value for protection and maintenance of water quality, fish and wildlife habitat, water-dependent uses, economic resources, recreation, and aesthetics.

SECTION 27. Chapter 17.46 (*Natural Resource Overlay (NR) Zone*), Section 17.46.020 (*Definitions*) is hereby deleted as follows:

~~“Buildable area” means the area of a lot or parcel exclusive of all applicable setbacks or areas within restrictive overlay zones.~~

~~“Goal 17 planning area” means all lands west of the Oregon Coast Highway (Highway 101), all lands within 500 feet of the ordinary high water mark of Devils Lake or Spring Lake, and all lands within 1,000 feet of the mean higher high water elevation of the Schooner Creek, Drift Creek, and Siletz Bay estuaries.~~

~~“Native riparian vegetation” means plants historically found in wet and streamside areas of the Pacific Northwest. “Flora of the Pacific Northwest” (1973) by Hitchcock and Cronquist is a primary reference for native plant determinations.~~

~~“Ordinary high water mark” means a line delineating the highest water level that has been maintained for a sufficient period of time to leave evidence upon the landscape, such as a clear, natural line impressed upon the bank, shelving, changes in the character of the soil, change from predominantly aquatic to predominantly terrestrial vegetation, or the presence of organic litter or debris.~~

~~“Qualified professional” means an individual who has proven expertise and experience in a given natural resource field. A qualified professional conducting a wetland delineation must have the delineation approved by the Oregon Division of State Lands.~~

~~“Responsible party” means the property owner and any party acting on behalf of or for the benefit of the property owner including construction contractors and subcontractors.~~

~~“Riparian areas” means the area adjacent to a river, lake, or stream, consisting of the area of transition from an aquatic ecosystem to a terrestrial ecosystem.~~

~~“Riparian area, significant” means a riparian area that is shown as significant on the significant natural resources maps in the comprehensive plan.~~

~~“Significant natural resource” means wetlands, riparian areas, and wildlife areas within the urban growth boundary and shown on the significant natural resources maps in the comprehensive plan.~~

~~“Stream” means a channel such as a river or creek that carries flowing surface water, including perennial streams and intermitten streams with defined channels, and excluding artificial irrigation and drainage channels.~~

~~“Water area” means the area between the banks of a lake, pond, river, perennial or fish-bearing intermitten stream, excluding artificial farm ponds.~~

~~“Water dependent use” means a use or activity which can be carried out only on, in, or adjacent to water areas because the use requires access to the water body for waterborne transportation, recreation, or energy production, or as a source of water.~~

~~“Water-oriented use” means a use whose attraction to the public is enhanced by a view of or access to coastal waters.~~

~~“Water-related use” means a use which is not a water dependent use, but which provides goods or services that are directly associated with a water dependent use or waterway use, and which if not located adjacent to water, would reslt in a loss of quality in the goods or services offered, affecting a significant proportion of the public.~~

~~“Wetland” means an rea that is inundated or saturated by surface water or groundwater at a frequency and duration to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands are mapped in the city’s local Wetland Inventory (January 12, 1996).~~

~~“Wetland, significant” means a wetland shown on the significant resources maps in the comprehensive plan.~~

~~“Wildlife area” means an area upon which wildlife depend in order to meet their requirements for food, water, shelter, and reproduction. Examples include wildlife migration corridors, big game winter range, and nesting and roosting sites.~~

~~“Wildlife area, significant” means a wildlife area shown on the significant natural resources maps in the comprehensive plan. Where a significant wildlife area includes a significant riparian area, the extent of the significant wildlife area is the same as the extent of the significant riparian area.~~

SECTION 26. Chapter 17.46 (*Natural Resource Overlay (NR) Zone*), Section 17.46.030 (*Application*), is hereby amended as follows:

A. ~~The natural resource overlay zone consists of the land identified in the city comprehensive plan as “significant natural resource areas,” including significant riparian areas, significant wetlands, and significant wildlife areas.~~

B. ~~A.~~ These provisions of Chapter 17.46 LCMC are to be applied in conjunction with the provisions of the underlying zone. Where the provisions of the natural resource NR

overlay zone conflict with those of the underlying zone, the more restrictive provisions must be applied.

- C. **B.**-Limitation on Extent of Significant Riparian Areas. The significant riparian area extends a certain distance upland from the ordinary high water mark and includes everything within the area between the ordinary high water mark and the upper edge of the significant riparian area, to a maximum distance of 50 feet. If the area of transition extends less than 50 feet from the ordinary high water mark, then the significant riparian area will be less than 50 feet in width. The significant riparian area may be more than 50 feet if the significant riparian area is adjacent to a significant wetland **or wetland**, in which case the maximum 50-foot distance is to be measured from the upland edge of the wetland **or significant wetland**. If it is necessary, for purposes of an application, to determine the extent of a significant riparian area, the property owner is responsible for having a qualified professional conduct a delineation to determine the **riparian area or** significant riparian area boundaries.

SECTION 26. Chapter 17.46 (*Natural Resource Overlay (NR) Zone*), Section 17.46.040 (*Uses allowed*), is hereby amended to amend Paragraph B as follows:

B. In the Natural Resource Overlay Zone. All development is excluded from the natural resource overlay zone, with the following exceptions:

1. ~~Structures and uses Development~~ for which a natural resources development variance has been obtained through the provisions of LCMC 17.77.112. the natural resource exclusion has been reduced through the provisions of LCMC 17.46.060.

2. Development that will occur on a portion or portions of the property that are in the natural resource overlay zone but that do not contain any wetlands, riparian areas, or wildlife areas, as proven in a current (within six months of submitting a natural resources development review application) delineation report as follows:

a. Within six months prior to submitting a natural resources development review application, the entire site must be studied and included in a delineation report prepared by a qualified professional. All wetlands, riparian areas, and wildlife areas on the property must be identified in the report with locations and boundaries mapped. The delineation report must be submitted to Oregon Department of State Lands, and a valid concurrence from Oregon Department of State Lands must accompany the natural resources development review application.

b. The qualified professional shall recommend a buffer as part of the delineation report and compliance with the buffer shall be required as part of the natural resources development review.

~~2.3.~~ The following uses are allowed outright:

- a. Uses not involving a structure and which do not impede **native riparian** vegetation growth, result in removal of **native riparian** vegetation, alter hydrology, introduce sediment, lead to erosion, or involve ground disturbance or impervious surfaces.
- b. Mowing of lawns existing on the effective date of the ordinance codified in this chapter (but not expansion of lawns into significant natural resources), and other cutting necessary for hazard prevention.
- c. Pedestrian footbridge, provided installation and maintenance do not disturb the natural resource function and do not involve removal of riparian vegetation, require development below the ordinary high water mark, or result in sedimentation or erosion.
- d. Riparian restoration activities limited to the planting of native riparian vegetation and the removal of non-native understory species. Removal of non-native understory species must be accompanied by replanting with native riparian vegetation or maintenance of remaining vegetation such that bare soil is not exposed and non-native species are not allowed to establish themselves.
- e. Trimming and pruning of ~~willows and similar~~ vegetation in a way that does not reduce the survivability or root strength of the vegetation.
- 3. 4.** The following uses are allowed subject to compliance with the following activity standards. Failure to comply with the activity standards may result in fines and mandatory mitigation requirements.

SECTION 27. Chapter 17.46 (*Natural Resource Overlay (NR) Zone*), Section 17.46.050 (*Natural resources development review*) is hereby amended, as follows:

17.46.050 Natural resources development review.

A. A property owner must apply for a natural resources development (**NRD**) review prior to the commencement of any development on property within the **natural resource NR** overlay zone. ~~For purposes of this section, "development" means any construction, alteration of landforms, or removal of vegetation.~~ If the **NR natural resource** overlay zone applies to a portion of a parcel, ~~an NRD a natural resources development~~ review is required only for that portion of a development located inside the **natural resource NR** overlay zone. **If the natural resource overlay zone applies to a portion of a parcel and no development is proposed within the natural resource overlay zone, then a natural resources development review is not required. No development may take place until the director completes the NRD review and authorizes the development. No development within the natural resource overlay zone may occur until the natural resources development review has been approved.**

~~B. The director will review all reports submitted, including but not limited to delineations and environmental reviews, to determine if the development complies with the requirements of this chapter. Within 10 days of the filing of the reports,~~

the director must prepare a written statement with findings authorizing, denying, or conditionally approving the development. Findings must be consistent with the provisions of this chapter, the comprehensive plan and statewide planning goals. C. The written statement of the director must be published in the next available edition of the newspaper. Notices of the action must be mailed to all property owners within 250 feet of the exterior boundary of the property where the development is to take place. Required notices must be mailed by regular first class mail and must be postmarked no later than the date of publication in the newspaper. The director also must mail a notice of the action to the following public agencies, as appropriate: the Oregon Department of Fish and Wildlife, Oregon Division of State Lands, Oregon Department of Land Conservation and Development, U.S. Fish and Wildlife Service, Environmental Protection Agency, and U.S. Army Corps of Engineers.

D. All permit applications for development on parcels located within or adjacent to the NR overlay zone must identify the location of each significant natural resource area on the site plan. The director must review all development permit applications to verify compliance with the requirements of the NR overlay zone. Development permit applications not in compliance with the requirements of the NR overlay zone must be denied.

E. Emergency Waivers. The director may waive the NRD review if he or she determines that there is an immediate threat to life or property. Emergency waivers must be conditioned on the property owner applying for NRD review for all work performed under the emergency authorization within five days of issuance of the waiver. Emergency waivers must be further conditioned on the property owner, if the application for NRD review is not approved, restoring the site to its original condition within 30 days of final action on the NRD review. Waivers must be in writing and a record of waivers must be kept on file at the department.

SECTION 27. Chapter 17.46 (*Natural Resource Overlay (NR) Zone*), Section 17.46.060 (*Natural resources development variance*), is hereby amended, as follows:

A. A natural resources development variance must be granted per the provisions of **LCMC 17.77.112 Chapter 17.68 LCMC** for all permitted uses not specified in LCMC 17.46.040, prior to any development occurring within the natural resource overlay zone. ~~The planning commission must determine that the variance request meets all the following criteria in addition to those found in LCMC 17.68.020:~~

1. ~~Strict adherence to the natural resource overlay zone standards would effectively preclude a use of the lot or parcel that reasonably could be expected to occur in the zone, and the the property owner would be precluded a substantial property right enjoyed by the majority of the landowners in the vicinity; and~~

~~2. The variance requested, of the possible variances necessary to create a buildable area outside of the natural resource overlay zone, has the least impact to the natural resource functions; and~~

~~3. The proposed development, including actions to mitigate impacts to natural resource functions, can be accommodated without substantial negative impact to the applicable natural resource functions.~~

~~B. Development Guidelines. Variances for proposed development within the natural resource overlay zone will be considered only when the following development guidelines are met:~~

~~1. The yard setback opposite the natural resource area may be reduced by up to one-half of the standard setback, but not to less than three feet.~~

~~2. The allowed reduction must be the minimum necessary to site the proposed use. At most, exclusions may be reduced to create a buildable area of no more than 1,750 square feet.~~

SECTION 28. Chapter 17.46 (*Natural Resource Overlay (NR) Zone*), Section 17.46.090 (*Claims of map error*), is hereby deleted, as follows:

~~A responsible party may request to be excused from compliance with the requirements of this chapter if the proposed development area was mapped as a significant natural resource in error. If the request is approved, then the significant natural resources map will be amended to remove the proposed development area from the map. In the case of wetlands, the claim of map error must be confirmed by the Oregon Division of State Lands.~~

SECTION 29. Chapter 17.46 (*Natural Resource Overlay (NR) Zone*), Section 17.46.100 (*Plan amendment option (ESEE)*), is hereby amended, as follows:

17.46.100 Plan amendment option (ESEE).

Any owner of property on which development otherwise would be limited by the natural resource overlay zone may apply for a **quasi-judicial Type III** comprehensive plan **map** amendment. The amendment must be based on a specific development proposal. The effect of the amendment would be to remove the **mapped** natural resource overlay zone from all or a portion of the property. The applicant must demonstrate that an amendment is justified by completing an environmental, social, economic, and energy (ESEE) consequences analysis in accordance with Oregon Department of Land Conservation and Development administrative rules (OAR 660-23-040). If the application is approved, then the ESEE analysis will be incorporated by reference into the city comprehensive plan and the significant natural resources map will be amended to remove the significant natural resource **and the natural resource** overlay zone from the **map and** inventory. If the application is approved, the city at its discretion may impose conditions on any resulting development approval in order to ensure that the development is consistent with the ESEE analysis. The ESEE analysis must comply with the following requirements:

A. The ESEE analysis must demonstrate that the adverse economic consequences of not allowing the conflicting use are sufficient to justify the loss, or partial loss, of the resource.

B. The ESEE analysis must demonstrate why the use cannot be located on buildable land outside of the significant natural resource and that no other sites within the city can meet the specific needs of the proposed use.

C. For resources located within the Goal 17 planning area, in addition to the above requirements, the ESEE analysis also must address the Goal 2 exception process as set out in OAR Chapter 660, Division 004.

SECTION 30. Chapter 17.52 (*Supplementary Regulations and Exceptions*), Section 17.52.100 (*Landscaping*), is hereby deleted, as follows:

Chapter 17.52

SUPPLEMENTARY REGULATIONS AND EXCEPTIONS

Sections:

17.52.100 ~~Landscaping.~~ **Repealed.**

~~17.52.100 — Landscaping.~~

~~A. Purpose.~~ ~~Landscaping is important to the community for its aesthetic value and environmental benefits, such as controlling erosion and functioning as part of the natural hydrologic cycle. By requiring landscaping for all new development and substantial improvements, the aim of this section is to maximize both benefits. Landscaping for each new development shall satisfy the following requirements.~~

~~B. Applicability.~~ ~~Landscaping requirements in this section apply to:~~

~~1. Newly developed lots.~~

~~2. Previously developed lots whenever improved by 50 percent or more of the assessed value of the existing improvements.~~

~~C. Landscape Plan.~~ ~~A landscape plan shall be submitted with any building permit for new construction, as applicable under this section.~~

~~1. Single-Family Residences and Duplexes.~~

~~a. Preliminary Landscape Plan.~~ ~~The plan shall be drawn to scale and shall include the location of buildings, impervious surfaces, and pervious surfaces. Approved plans shall indicate the amount of minimum planted area required.~~

~~b. Final Landscape Plan.~~ ~~Prior to a request for final inspection, a final landscape/site plan shall be submitted and shall indicate the following:~~

~~i. The location and number of proposed plantings. Materials in the plan shall not be installed until the plan has been approved.~~

~~ii. The degree and direction of finished slopes of all landscape areas. Degree of slope shall be measured and indicated by category as per subsection (F)(1)(a) of this section.~~

~~2. Uses other than single-family homes and duplexes.~~

a. ~~Landscape plan shall be submitted with the site plan and shall be drawn to scale and shall include the location of buildings, impervious surfaces, and pervious surfaces. Plans must indicate the location, species, and number of proposed plantings and how the landscaped area will be irrigated.~~

b. ~~Landscaping shall be located in at least three separate and distinct areas of the lot, one of which must be located in the front and another in one of the side areas. In all developments, the areas between buildings on the lot must be landscaped.~~

c. ~~Materials in the plan shall not be installed until the plan has been approved.~~

D. Impervious Surface Limits. ~~The following limits on impervious surface apply to all lots:~~

1. Single-Family Dwellings and Duplexes. ~~Maximum coverage of a lot in impervious surfaces shall be limited to a percentage of the lot, according to zone, as listed in the table below.~~

R-1*	R-M	NCR	R-R	OPD I-M	OPD OF	NBMU	NBD
55%	55%	55%	65%	75%	80%	90%	90%

***R-1 standards applicable in G-C, R-C, and TVC zones.**

Exemptions and adjustments:

a. ~~Flag lot access ways (i.e., the "flagpole") shall not be included in the calculation for determining impervious surface limits.~~

b. ~~Recorded, legal access easements shall not be included in the calculation for determining impervious surface limits.~~

c. ~~Eco-roofs, installed or inspected and approved by a certified professional, shall not be included in the calculation for determining impervious surface limits.~~

d. ~~For existing lots between 3,000 square feet and 4,000 square feet, maximum impervious surfaces shall be an additional five percent above the limit listed in the table above.~~

e. ~~For existing lots less than 3,000 square feet, maximum impervious surfaces is an additional 15 percent above the limit listed in the table above or 100 percent, whichever is less.~~

2. All Development Other Than Single-Family Dwellings and Duplexes. ~~Impervious surface shall be limited in accordance with Chapter 17.56 LCMC, Off-Street Parking and Loading Regulations, and subsection (E) of this section, and the applicable zoning designation.~~

E. Planted Area – Minimum Requirements. ~~For the purposes of this chapter, a planted area is any area designed to accommodate live vegetation. It includes the non-living ground cover that is distributed amongst and between the plants for erosion control, soil fertility, and beautification.~~

1. Single-Family Dwellings and Duplexes.

a. At a minimum, planted area shall be a percentage of single-family and duplex lots based on zone, as listed in the table below.

R-1*	R-M	NCR	R-R	OPD I-M	OPD OF	NBMU	NBD
20%	20%	20%	15%	10%	10%	10%	10%

*R-1 standards applicable in G-C, R-C, and TVC zones.

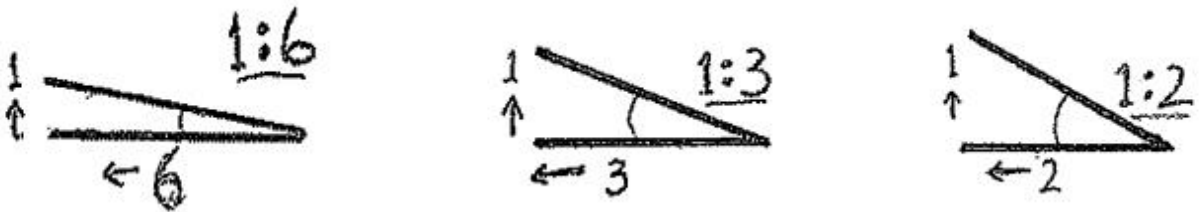
b. A minimum of 25 percent of the front yard shall consist of one or more planted areas, which shall count towards total required planted area for the lot.

2. All Development Other Than Single-Family Dwellings and Duplexes. Except as modified by other sections of the zoning ordinance, a minimum of 15 percent of the total lot area shall be landscaped with plants and groundcover, as described in this section.

F. Groundcover Required. All exposed ground, such as soils, clay, sand, etc., shall be landscaped with groundcover, either living or non-living, as described in the following:

1. Living Groundcover. Living groundcover must be evenly distributed throughout areas required by subsection (F)(1)(a) of this section.

a. Coverage of Living Groundcover. The slope of the planted area shall determine the required coverage of living groundcover. For the purposes of this section, slope is the ratio of vertical distance to horizontal distance on a surface. For example, a slope of one vertical foot (rise) over two horizontal feet equals a 1:2 ratio, as shown in the illustration below at right.



The minimum coverage of living groundcover shall be determined based on the maximum slope of an individual planted area in the following categories:

Category 1: For gradual slopes of 0 up to and including 1:6, living groundcover shall cover a minimum of 25% of the required planted area.

Category 2: For slopes greater than 1:6 up to and including 1:3,

~~groundcover shall cover a
minimum of 50% of the
required planted area.~~

Category 3: ~~For slopes greater than 1:3
up to and including 1:2,
groundcover shall cover a
minimum of 75% of the
required planted area.~~

Category 4: ~~Steep slopes greater than 1:2
shall meet requirements set
out in Chapter 12.08 LCMC,
Grading and Erosion Control.~~

~~b. Groundcover Size. Groundcover plants shall be sized and spaced so that
they grow together to cover the minimum required area in subsection
(E)(1)(a) of this section within three years of planting. Until new plants
have grown to cover the required area, bare ground between plants shall
be protected from erosion with non-living groundcover, as specified in
subsection (F)(2) of this section. Wattle, bio-bags, or similar methods
approved by the city engineer shall be used in conjunction with organic,
non-living groundcover to prevent erosion on slopes greater than 1:6.~~

~~2. Non-Living Groundcover. Depth of mulch shall be the minimum necessary
(i.e., a two- to three-inch thick layer) to ensure effective erosion control and to
avoid leaching of excessive nutrients. Mulch between plantings shall consist of
any of the following materials:~~

~~a. Organic materials. Examples include wood mulch and wood nuggets that
are a minimum diameter of one inch, straw, and well-aged compost and
leaves.~~

~~i. Mulch shall be weed-free.~~

~~ii. Mulching with manure that has not been composted or aged is
prohibited.~~

~~b. Non-organic materials, such as loose (not compacted) small river gravel,
river rock, and pumice.~~

G. Additional Required Vegetation.

~~1. Single-Family Dwellings and Duplexes. For single-family dwellings and
duplexes, one plant unit must be planted and maintained for every 500 square
feet of required planted area. One plant unit equals 10 points in any
combination according to the values listed below:~~

~~10 one large tree (over 20 feet in
points: height at maturity)~~

~~5 points: one small tree (20 feet in
height or less when mature)~~

2 points: one native species or drought-tolerant shrub

1 point: one native species or drought-tolerant perennial

Exception: If the percentage of living groundcover in a planted area is 100 percent, additional vegetation requirements may be reduced by 50 percent.

2. All Development Other Than Single-Family Dwellings and Duplexes. All areas to be landscaped and buffered shall be planted with a minimum of the following:

- a. One large tree or two small trees per 20 feet of lot perimeter; and**
- b. One deciduous or evergreen shrub per five feet of lot perimeter.**
- c. Plantings shall not be higher than five feet if they would block the view of any shoreline of the Pacific Ocean, Siletz Bay or Devils Lake.**

H. Standards for Plant Materials.

1. Size.

- a. Large trees shall be a minimum of one-inch caliper or six feet in height at time of planting.**
- b. Small trees shall be a minimum of one-gallon size or two years old at time of planting.**
- c. Shrubs shall be a minimum of one-gallon size when planted.**
- d. Perennials shall be a minimum of four-inch pot size.**

2. Species and Practices.

- a. Use of native and drought-tolerant species is advised generally, and required in subsection (G)(1) of this section for shrubs and perennials.**
- b. Invasive and noxious plants as defined in LCMC 8.12.010 or by the Oregon Department of Agriculture are prohibited.**
- c. For all development other than single-family dwellings and duplexes, plant materials shall achieve balance between low-lying and vertical shrubs and trees.**
- d. High fertilizer hydro-seeding is prohibited.**

3. Condition. All selections must be healthy and disease-free.

I. Additional Pervious Surface. For areas of a lot not covered with impervious surfaces or required planted areas, any of the following is permitted:

- 1. Pervious off-street parking surfaces.**
- 2. Pervious hardscape features, i.e., patios, decks, sidewalks and pathways, etc.**
- 3. Non-organic groundcover (e.g., rock) with or without vegetation.**
- 4. Organic groundcover with vegetation as per subsection (F) of this section (i.e., additional planted areas).**

J. Generally.

1. Time of Installation. All required landscaping shall be installed prior to issuance of a certificate of occupancy or, in relation to development for which a certificate of occupancy is not required, prior to commencement of use.

a. Agreement to Delay Installation. If all required landscaping has not been satisfactorily completed prior to application for issuance of a certificate of occupancy or prior to a proposed commencement of use, and if the director determines that a delay in completion of the landscaping is appropriate because there has not been a reasonable amount of time for the completion of the landscaping or for other reasons, then the director may require, as a condition of such issuance or use, a landscaping agreement signed by the owner, in a form satisfactory to the director. A landscaping agreement shall:

i. Identify all landscaping to be completed and establish a time period, not to exceed 120 days, within which the owner shall complete the landscaping;

ii. Provide that if the owner does not complete the identified landscaping within the established time period, then the city may complete the landscaping and recover the full cost and expense of completion from the owner;

iii. Require the owner to hold harmless, defend, and indemnify the city and its mayor and council members, officers, boards, commissioners, and employees from claims of any nature arising or resulting from the performance of any acts required to be done by the owner under the agreement.

b. Financial Security Required for Delayed Installation. An owner entering into a landscaping agreement under this subsection shall file with the city, as a condition to city acceptance of the agreement, financial security to assure the full and faithful performance of the agreement by the owner. The financial security shall be in an amount equal to 110 percent of the owner's estimated cost to complete the landscaping, as approved by the director, which amount shall be subject to reduction from time to time in the sole discretion of the director as satisfactory installation of the landscaping is completed. The financial security required under this subsection shall be in a form approved by the director and may be one or more of the following:

i. A surety bond executed by a surety company authorized to transact business in the state of Oregon;

ii. Cash; or

iii. An irrevocable standby letter of credit or similar financial security instrument.

2. Maintenance. The owner of a lot is responsible for continuous maintenance of the landscaping required by this chapter, including necessary irrigation,

1 ~~weeding, pruning and, if necessary, replacing, in a substantially similar manner~~
2 ~~as originally approved. The lot owner is responsible for keeping the required~~
3 ~~planted areas free from weeds and litter. Failure to maintain the landscaping in~~
4 ~~accordance with this chapter shall be considered a Class B violation.~~

5 ~~3. Landscaping shall be in conformance with the general visibility requirements~~
6 ~~set out in LCMC 17.52.260.~~

7 ~~4. Any constructed earth berms shall be between three feet and four feet in~~
8 ~~height, and topped with ground cover and shrubbery.~~

9 ~~5. Uses within a development that might provide objectionable views, such as~~
10 ~~garbage and trash collection stations, and laundry areas in multifamily~~
11 ~~developments, shall be landscaped with screen plantings, or landscaped~~
12 ~~masonry wall or fencing.~~

13 ~~6. Drainage pipes and appurtenances located on an ocean front parcel shall be~~
14 ~~secured and screened with landscaping to the extent feasible, and the~~
15 ~~discharge shall be placed to limit erosion.~~
16

SECTION 31. Chapter 17.52 (*Supplementary Regulations and Exceptions*), Section 17.52.190 (*building height limitations*), Paragraph C, is hereby amended as follows:

3. For the purposes of this subsection, "approved grade" means:

a. The existing grade, meaning one of the following:

i. The ground level before any human disturbance as shown by survey or other reliable evidence; or

ii. The ground level shown on the city's ~~2018~~ 2009-LIDAR data (which is available from the ~~planning and community development department~~); or

SECTION 31. Chapter 17.52 (*Supplementary Regulations and Exceptions*), Section 17.52.220 (*Tree Protection and Removal*), Paragraph C, (*Definitions*), is hereby amended to amend the definition of "Development" as follows:

"Development" means grading, excavation, fill, or construction on a site requiring ~~development review, site plan review~~

SECTION 32. Chapter 17.52 (*Supplementary Regulations and Exceptions*), Section 17.52.220 (*Tree Protection and Removal*), Paragraph F, Numbered paragraph 2, Paragraph a. subparagraph vi, subparagraph (A) is hereby amended as follows:

(A) The city has approved a ~~site plan, development review~~, subdivision, planned ~~unit~~ development or building permit; and

SECTION 33. Chapter 17.52 (*Supplementary Regulations and Exceptions*), Section 17.52.220, (*Tree Protection and Removal*), Paragraph F, Numbered paragraph 3, (Review Process) is hereby amended as follows:

3. If part of a project that requires subdivision review, ~~development site plan~~ review, or a conditional use permit, the permit for tree removal shall be processed as part of development or conditional use permit review. Other tree removal applications shall be reviewed by the director of planning and community development, who may require an erosion control plan to determine conformance with Chapter 12.08 LCMC, Grading and Erosion Control, and rules issued by the public works department.

SECTION 34. Chapter 17.52 (*Supplementary Regulations and Exceptions*), Section 17.52.220 (*Tree Protection and Removal*), Paragraph G, (*Replacement of Trees lawfully removed*), Numbered paragraph 1, (*Applicability*) is hereby amended as follows:

1. Applicability. The standards of this section apply to trees removed with a permit required by subsection (F) of this section that are more than 100 feet from a building subject to ~~site plan development~~ review, or conditional use approval, or that are removed to allow development of parking in excess of the amount of

required parking, or that are removed for purposes other than compliance with a governmental requirement. If the tree being removed is dead, dying, diseased or dangerous to life or property, replacement is encouraged, but not required, unless the tree is a protected tree, in which case replacement is required.

SECTION 35. Chapter 17.52 (*Supplementary Regulations and Exceptions*), Section 17.52.220 (*Tree Protection and Removal*), Paragraph I, (*Tree protection and Replacement Plan Required*), Numbered paragraph 1, (*Applicability*) is hereby amended as follows:

1. Applicability. Requirements of this subsection apply to any lot, parcel or combination of lots or parcels for which an application for a subdivision, **site plan development** review, planned unit development or conditional use is filed if the proposed project will involve tree removal.

SECTION 36. Chapter 17.52 (*Supplementary Regulations and Exceptions*), Section 17.52.260 (*Standards for Attached Single Family Dwelling Development*), is hereby deleted, as follows:

~~17.52.260 Standards for attached single-family dwellings development.~~

~~A. There are no minimum lot area or setback standards for individual lots in an attached single-family housing development; provided, that the attached housing development as a whole meets the density, parking, height and landscaping requirements for the underlying zone.~~

~~B. Perimeter Setback Requirements. The front, street side, side and rear yards around the perimeter of an attached single-family housing development are those of the underlying zone.~~

~~C. Land Coverage. The maximum land coverage by buildings and structures for an attached single-family housing development shall not exceed 45 percent of the total land area.~~

~~D. Special yards and distances between buildings shall be provided as follows:~~

- ~~1. The distance between a principal building and any accessory building shall be a minimum of 10 feet.~~**
- ~~2. An inner court providing access to double row dwelling groups shall be a minimum of 20 feet in width.~~**
- ~~3. The distance between principal buildings shall be at least one-half the sum of the height of both buildings; provided, however, that in no case shall the distance be less than 15 feet. This requirement shall also apply to portions of the same building separated from each other by a court or other open space.~~**
- ~~4. The supplementary regulations and exceptions provisions of this chapter relating to setback requirements may also be applicable.~~**

~~E. Maximum Building Height. Maximum building height shall be 35 feet except as provided in LCMC 17.52.200.~~

F. Recreation Area. A minimum of 250 square feet of recreation area shall be provided for each living unit. The recreation area may be in one or more locations in the attached single-family housing development. Recreation buildings may be considered as part of these requirements.

G. Storage Area. Storage space (for boats, campers, etc.) shall be provided at the rate of one 10-foot by 20-foot space in size for every four living units. Adequate maneuvering room shall be provided; storage space shall be fenced with a six-foot-high sight-obscuring fence, hedge or wall.

H. Restrictions. No development of attached single-family dwellings or attached single-family housing developments may occur unless all city services (sewer and water) are available to serve such development.

I. Design Features. All attached single-family dwellings shall utilize at least two of the following design features to provide visual relief along the front of the dwelling:

1. Dormers;
2. Gables;
3. Recessed entries;
4. Covered porch entries;
5. Cupolas;
6. Pillars or posts;
7. Bay or bow windows;
8. Eaves (minimum six inches projection);
9. Off-sets on building face or roof (minimum 16 inches).

SECTION 37. Chapter 17.64 (*Nonconforming Situations*), Section 17.64.040, (*Nonconforming commercial site development*), is hereby deleted, as follows:

17.64.040 — Nonconforming commercial site development.

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

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

B. The following elements shall be made compliant with the provisions as outlined below, or, as approved by the review authority, as close to compliant as possible within the cost limitation defined in subsection (A) of this section.

1. Pedestrian spaces as set out in LCMC 17.74.080;

2. Materials and colors as set out in LCMC 17.74.100(J);

3. Pedestrian shelters and weather protection as set out in LCMC 17.74.100 (I);

4. Exterior lighting as set out in LCMC 17.52.150; and

5. Windows/transparency as set out in LCMC 17.74.100(H).

SECTION 38. Chapter 17.74 (*Design Standards*), Section 17.74.040 (*Standards versus guidelines*), Paragraph B, (*Burden of Proof*) and Paragraph C, (*Adjustments and Modifications*) are hereby amended, as follows:

B. Burden of Proof. The submitted application and associated materials must demonstrate how the proposal meets all the applicable standards contained in this chapter and other applicable city regulations. Through adjustment **or modification** requests, the application and associated materials must also provide evidence of why a standard is not relevant given the context of the site and proposed use.

C. Adjustments **and Modifications**. Adjustments to **or modifications of** the standards in this chapter are not variances. **The procedures and criteria for variances are addressed in Chapter 17.68 LCMC.** The review authority may approve requests for adjustments to **or modifications of** the standards in this chapter provided the applicant demonstrates the following:

1. The character types and guiding principles, as contained in LCMC 17.74.050, and the intent statement(s) under the standard to be adjusted **or modified** can be better met through the proposed alternative design solution; or
2. Necessary characteristics of the allowed use present practical difficulties in meeting a standard. In such cases, the submitted materials must provide alternative features to meet the intent of the standard, along with an explanation of how the alternative features meet the intent of the standard being adjusted. **or modified**

SECTION 39. Chapter 17.76 (*Procedures*), Section 17.76.020 (*Summary of Procedure Types*), Table 17.76.020-1 table entries, are hereby amended, as follows:

<u>Lot Property</u> line adjustment	Type II	Director
Natural resources development review	Type II	Director
<u>Natural resources development variance</u>	<u>Type III</u>	<u>Planning Commission</u>
Planned unit development		

SECTION 40. Chapter 17.76 (*Procedures*), Section 17.76.040 (*Type II procedure*), Paragraph E, (*Public Notice of Application and Comment Period*), Numbered paragraph 3, is hereby amended, as follows:

3. The failure of a property owner to receive notice does not invalidate the land use action if the notice was sent. An affidavit of mailing of the public notice of receipt of a complete application shall be prepared with the mailing date noted and the list of parties to whom the notice was mailed attached to the affidavit, along with the notice itself.

SECTION 41. Chapter 17.76 (*Procedures*), Section 17.76.040 (*Type II procedure*), Paragraph H, (*Appeal*), Numbered paragraph 4, is hereby amended, as follows:

4. The appeal shall follow the requirements and procedures of LCMC 17.76.180, and shall be a hearing de novo. The appeal shall not be limited to the application materials, evidence and other documentation, and specific issues raised in the review leading up to the Type III decision, but may include other relevant evidence and arguments. The hearing appeal body may allow additional evidence, testimony, or argument concerning any applicable standard, criterion, condition, or issue.

SECTION 42. Chapter 17.76 (*Procedures*), Section 17.76.050 (*Type III procedure*), Paragraph E, (*Notice of Public Hearing*), Numbered paragraph 1, subparagraph c, is hereby amended, as follows:

c. Property owners of record within **500 250** 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;

SECTION 43. Chapter 17.76 (*Procedures*), Section 17.76.050 (*Type III procedure*), Paragraph F, is hereby amended, as follows:

F. Public notices for Type III applications shall be mailed a minimum of 20 days prior to the first evidentiary public hearing. **The failure of a property owner to receive notice does not invalidate the land use action if the notice was sent. Notice of the public hearing for Type III applications shall also be published in a newspaper of general circulation in the city, at least 10 days but not more than 21 days before the first scheduled public hearing on the proposal.**

SECTION 44. Chapter 17.76 (*Procedures*), Section 17.76.050 (*Type III procedure*), Paragraph J, (*Appeal*), Numbered paragraph 2, is hereby amended, as follows:

2. The appeal shall follow the requirements and procedures of LCMC 17.76.180, **and shall be a hearing de novo. The appeal shall not be limited to the application materials, evidence and other documentation, and specific issues raised in the review leading up to the Type III decision, but may include other relevant evidence and arguments. The hearing appeal body may allow additional evidence, testimony, or argument concerning any applicable standard, criterion, condition, or issue.**

SECTION 45. Chapter 17.76 (*Procedures*), Section 17.76.060 (*Type IV procedure(legislative)*) Paragraph E. (Mailed Notice of Public Hearing), Numbered Paragraph 3, is hereby deleted, as follows:

~~3. For each mailing of notice, the department shall prepare an affidavit of mailing.~~

SECTION 46. Chapter 17.76 (*Procedures*), Section 17.76.140 (*Expiration of Decision*), Paragraph A, Numbered paragraph 4, is hereby amended, as follows:

4. A copy of the recorded final plat has been submitted to the department within **two years one year** of approval of a partition or subdivision or a copy of the recorded survey map has been submitted to the department within **two years one year** of approval of the **property lot** line adjustment.

SECTION 47. Chapter 17.76 (*Procedures*), Section 17.76.160 (Public hearings), Paragraph E, (*Compliance with Notice Requirements*) is hereby amended, as follows:

E. Compliance with Notice Requirements. Mailed notice shall be deemed to have been provided upon the date the notice is deposited in the mail. **The failure of a property owner to receive notice does not invalidate the land use action if the notice was sent.** ~~Failure of the addressee to receive such notice shall not invalidate the proceedings if it can be demonstrated by affidavit that such notice was given.~~

SECTION 48. Chapter 17.76 (*Procedures*), Section 17.76.160 (Public hearings), Paragraph M, (*Action by Review Authority Following Public Hearing*) Numbered Paragraph 2, is hereby amended, as follows:

2. Findings in support of any decision shall be made in accordance with the review authority's adopted rules of procedure and with applicable state law. **The findings must be factual and must be supported by substantial evidence submitted into the record.**

a. For the city council to adopt an ordinance for an amendment to this title, comprehensive plan document, and/or map, findings must be made and adopted as part of said ordinance that are adequate to support the proposed amendment. The amendment must comply with and conform to the comprehensive plan and comprehensive plan map. For amendments to the comprehensive plan,

comprehensive plan map, zoning map, and/or this title, proposals must be consistent with provisions in the Oregon Transportation Planning Rule, OAR 660-012-0060. If statewide planning goals provide a more specific direction than is provided by the city's comprehensive plan, then the findings must provide evidence that the proposed amendment is in conformance with statewide planning goals.

SECTION 49. Chapter 17.76 (*Procedures*), Section 17.76.160 (Public hearings), Paragraph N, (*Record*) Numbered Paragraph 2, is hereby amended, as follows:

2. An interested party may request a verbatim transcript of the recorded proceedings before the review authority on the matter. **Requests for verbatim transcripts shall be accompanied by the fee for a verbatim transcript, as specified in the adopted fee schedule. Requests for transcripts shall be accompanied by a deposit separate from the appeal fee, as specified in the adopted fee schedule. The city shall maintain an accurate record of the costs of the transcript preparation, and any unexpended portion of the deposit or additional amount due shall be refunded to or payable by the interested party.**

SECTION 50. Chapter 17.77 (*Applications*), Section 17.77.005 (*Administrative adjustment*), Paragraph A, (*Scope and Authority*) is hereby amended, as follows:

A. Scope and Authority. Requests for administrative adjustments are applicable only to required **setbacks yards (setbacks)** and building height in all zoning districts. An administrative adjustment permits a minor encroachment into a required **setback yard**, or maximum height, not to exceed six inches, in addition to any other relief granted by the applicable code. **Administrative** adjustments may not be requested

for any other portion of the code other than the items noted above as being eligible for **an administrative** adjustment.

SECTION 52. Chapter 17.77 (*Applications*) is hereby amended as, as follows, to add Section 17.77.112 (*natural resources development variance*):

17.77.112 Natural Resources Development Variance

A. Procedure. Natural resources development variance applications are subject to the Type III procedure, as described in LCMC 17.76.050.

B. Submittal Requirements. Type III application submittal requirements are set forth in LCMC 17.76.050 and more specific submittal requirements are provided on application forms and checklists as authorized in LCMC 17.76.110.

C. Approval Criteria. To approve a natural resources development variance, the planning commission shall make findings of fact, based on evidence provided, that all of the following circumstances exist:

1. Strict adherence to the natural resource overlay zone standards of Chapter 17.46 LCMC would effectively preclude a use of the property that reasonably could be expected to occur in the zone, and that the property owner would be precluded a property right which is substantially the same as owners of other property in the same zone or vicinity;

2. The proposed development can be accommodated, including actions to mitigate impacts to natural resource functions, without substantial negative impact to the property's significant wetland, significant riparian, and/or significant wildlife habitat areas.

3. The variance should not be materially detrimental to the purposes of this title, or to property in the zone or vicinity in which the property is located, or otherwise conflict with the objectives of any city planning policy;

4. The variance requested, of the possible variances necessary to create a buildable area outside of a significant wetland, significant riparian, and/or significant wildlife habitat

area, has the least impact to the functions of any significant wetland, significant riparian, and/or significant wildlife habitat areas on the property.

D. Appeal of a Decision. Refer to LCMC 17.76.180.

E. Expiration of a Decision. Refer to LCMC 17.76.140.

F. Extension of a Decision. Refer to LCMC 17.76.150

SECTION 53. Chapter 17.80 (*Provisions Applying to Special Uses*), Section 17.80.040 (*Standards for mobile home parks, recreational vehicle parks, and tiny house developments*)red conditions), Paragraph C, (*Tiny House Developments*) is hereby amended, as follows:

C. Tiny House Developments.

~~1. Definitions. The following definitions apply to this section:~~

~~a. "Tiny house" means a standalone dwelling with a floor area of 400 square feet or less, excluding lofts. For purposes of this section, "tiny house" does not mean a trailer or a recreational vehicle.~~

~~b. "Tiny house development" means a site designed to contain at least four tiny houses and designed and operated under a single land development plan, or as a part of another land development plan such as a planned unit development or a cottage cluster development.~~

~~1.2.~~ Tiny houses are allowed in a tiny house development at a density of one tiny house for each 1,200 square feet of land area.

~~2.3.~~ Tiny house developments shall not be used as vacation rentals.

~~3.4.~~ Tiny houses must be separated from each other and from other structures by at least 10 feet, and at the perimeter of the development must comply with the setback requirements of the R-1 zone.

~~4.5.~~ A tiny house development must provide at least one off-street parking space for each tiny house. Parking spaces may be clustered and need not be located immediately adjacent to the individual tiny houses they serve.

~~5.6.~~ All tiny houses in a tiny house development must comply with all applicable Oregon building code requirements.

~~6.7.~~ A tiny house development is subject to **development review in LCMC 17.77.070.**
~~the site plan approval process of LCMC 17.52.240.~~

SECTION 52. Chapter 17.80 (*Provisions Applying to Special Uses*), Section 17.80.050 (*Vacation rental dwelling use criteria*), Paragraph B, (*Vacation Rental Dwelling Standards*), Numbered Paragraph 5, (*Landscaping*) Paragraph a, (*Residential Zones and the VR Zone*) and Paragraph b, (*Commercial Zones*) are hereby amended, as follows:

a. Residential Zones **(R-1-5, R-1-7.5, R-1-10, R-1-RE, R-M, R-R)** and the VR Zone.
The owner must landscape **~~all yards~~** in accordance with the standards of LCMC

17.55.030. 17.52.100. Additionally, a minimum of 50 percent of the front setback area yard ~~(the area between the side lot lines, the front lot line, and the front of the dwelling)~~ must be landscaped. For oceanfront properties constrained by a need to be set back from the bluff edge due to geological hazards, landscaping may be reduced in order to accommodate required parking.

b. Commercial Zones **(NBD, NBMU, TVC, OP-OF, OP-IM, OP-MSH, RC, and GC).** The owner shall install and maintain ~~landscaping to the landscaping as shown in the approved site plan for the commercial use or mixed-use application. If the approval does not include a site plan then the landscaping, at a minimum, must~~ meet the landscaping standards of LCMC **17.55.030. 17.52.100.**

SECTION 53. Chapter 17.80 (*Provisions Applying to Special Uses*), Section 17.80.050 (*Vacation rental dwelling use criteria*), Paragraph B, (*Vacation Rental Dwelling Standards*), Numbered Paragraph 6, (*Signs*) is hereby amended, as follows:

6. Signs. In **any of the zones, both residential and commercial zones,** any sign on the property shall be in compliance with the sign requirements for ~~the use in~~ the R-1 zone, as established in LCMC 17.72.060(B).

SECTION 54. Chapter 17.80 (*Provisions Applying to Special Uses*), Section 17.80.050 (*Vacation rental dwelling use criteria*), Paragraph C, (*Application and Review*), Numbered Paragraph 1, (*Application Requirements*), Paragraph c, is hereby amended, as follows:

c. The applicant shall certify that the person identified as the owner on the application does not own other property in the city that is used as a vacation rental dwelling or is approved by the city for vacation rental dwelling use, if the application is for a vacation rental dwelling in a residential **(R-1-5, R-1-7.5, R-1-10, R-1-RE, R-M, R-R)** zone.

SECTION 55. Chapter 17.80 (*Provisions Applying to Special Uses*), Section 17.80.050 (*Vacation rental dwelling use criteria*), Paragraph C, (*Application and Review*), Numbered Paragraph 2, (*Administrative Review and Decision*), is hereby amended, as follows:

2. Type II Procedure. Administrative Review and Decision.

a. The application shall be processed as a Type II procedure, pursuant to LCMC 17.76.040

a. Notice of Receipt of Application. After receipt of a vacation rental dwelling land use approval application, the department shall provide written notice of the application to:

i. Owners of property within 250 feet of the property for which the application is submitted. The list of property owners shall be compiled from the most recent property tax assessment roll. Where 50 percent or more of

~~the number of properties in the area subject to notice are owned by the same person, as defined in this section, the notice area shall be expanded until the number of properties owned by the same person constitutes 20 percent or less of the properties in the notice area.~~

~~ii. Any neighborhood association recognized by the city whose boundaries include the site.~~

~~b. The written notice of the application shall include the following information:~~

~~i. The date, time, and place where comments are due, if a person wishes to have the comments considered during the review process. The due date shall be 14 days after the date of the notice.~~

~~ii. A statement that the criteria governing the land use approval decision are the requirements of subsection (B) of this section.~~

~~iii. The street address or another easily understood geographical reference to the property.~~

~~iv. A statement that the land use application and any other file materials are available for review at the department and that copies can be obtained at cost.~~

~~v. The name and phone number of a department contact person.~~

~~c. The planning and community development director shall review an application for VRD in any zone under the applicable standards of subsection (B) of this section and shall issue an administrative decision on the application.~~

~~d. Notice of administrative decision shall be provided as required in LCMC 17.76.020 and mailed at applicant's expense to all owners of property of record as indicated on the most recently available tax assessment roll, located within 250 feet of the exterior boundary of the property for which the application is made. Where 50 percent or more of the number of properties in the area subject to notice are owned by the same person, as defined in this section, the notice area shall be expanded until the number of properties owned by the same person constitutes 20 percent or less of the properties in the notice area. The notice shall contain the information required by LCMC 17.76.020(A) and allow any person opportunity to appeal the decision within 20 days of mailing of the notice. The mailed notice shall state that if tenants or lessees are in possession of the property, the city requests the owner to provide a copy of the notice to each tenant or lessee.~~

~~b. e. The authorization for VRD land use approval or VRD nonconforming use shall remain valid provided the use is conducted lawfully, under a valid revocable vacation rental dwelling license issued under Chapter 5.14 LCMC, and in compliance with Chapter 3.04 LCMC, Transient Room Tax. If a property owner who has received a VRD land use authorization fails to apply for and receive a VRD license under Chapter 5.14 LCMC within one year of having received the VRD land use authorization, or having received a VRD license under Chapter 5.14 LCMC, fails to renew it within the license grace period, the city will consider the VRD authorization~~

abandoned and the ~~planning and community development~~ director will declare the authorization void. For a legal nonconforming use in the R-1-RE zone, discontinuance, abandonment, sale or transfer, as specified in subsection (B)(2)(d) of this section, triggers termination of the nonconforming use. The ~~planning and community development~~ director will mail a written notice of the decision to declare the VRD land use authorization null and void or declare the VRD nonconforming use terminated to the property owner. The property owner may appeal the ~~planning and community development~~ director's decision as provided in LCMC 17.76.180.

SECTION 56. Chapter 17.80 (*Provisions Applying to Special Uses*), Section 17.80.050 (*Vacation rental dwelling use criteria*), Paragraph C, (*Application and Review*), Numbered Paragraphs 3 (*Appeal*) and 4 (*Fees*) are hereby amended, as follows:

3. Appeal. The decision of the planning and community development director on an application for vacation rental dwelling land use may be appealed as provided in LCMC 17.76.180. Appeal of the ~~director's~~ decision ~~of the planning and community development director~~ shall be in the form of an evidentiary hearing before the planning commission. The planning commission decision shall be final and is not subject to further appeal.

4. Fees. The city is authorized to adopt fees in an amount established by resolution to recover the actual costs of processing and reviewing an application for vacation rental dwelling land use including fees for appeals of such decisions.

SECTION 57. Chapter 17.80 (*Provisions Applying to Special Uses*), Section 17.80.060 (*Bed and breakfast accommodation standards*), Paragraph E, is hereby amended, as follows:

E. Bed and breakfast accommodations must maintain the landscaping requirements of LCMC 17.55.030. ~~the residential lawn nature of front and side yards.~~

SECTION 58. Chapter 17.80 (*Provisions Applying to Special Uses*), Section 17.80.070 (*Essential emergency communications and warning facilities*), Paragraph B, is hereby amended, as follows:

B. Essential emergency communications, early warning and associated emergency facilities are not required to comply with the requirements, guidelines, or standards of either LCMC ~~17.77.070~~ ~~17.52.240~~ or Chapter 17.74 LCMC, or any other development review site plan or design standards, guidelines, or requirements contained in this code.

SECTION 59. Chapter 17.80 (*Provisions Applying to Special Uses*), Section 17.80.080 (*Animals and gardens*), Paragraph B, (*Gardens*), are hereby amended, as follows:

1 B. Gardens. Gardens are permitted in all zones as an accessory use to any principal use
 2 permitted outright or to a permitted conditional use, in each case subject to the standards
 3 of this section.

4 1. Personal Gardens. Personal gardens are allowed as an accessory use on any lot.
 5 Personal gardens may be used to meet part or all of any landscaping requirement set
 6 out in this code. Personal gardens may include structures such as cold frames,
 7 greenhouses, and hoop houses in any **yard area of the site** other than a required front
 8 **yard** or street side **yard setback area** and do not count against the **allowed maximum**
 9 building coverage in any zone, even if the structure requires a building permit. To the
 10 extent such structures require a building permit they may not be located closer than
 11 three feet to any property line.

12 2. Community Gardens. Community gardens, including those allowed as a principal use
 13 under the regulations of any zone, may include structures such as cold frames,
 14 greenhouses, and hoop houses. If the community garden is a use accessory to a principal
 15 use involving a building, such structures may be located in any **area of the site yard**
 16 other than a required front **yard** or street side **yard setback area** and do not count
 17 against the **allowed maximum** building coverage in any zone, even if the structure
 18 requires a building permit. To the extent such structures require a building permit they
 19 may not be located closer than three feet to any property line (five feet in a residential
 20 zone). Community gardens may include a tool house or other storage building not
 21 exceeding 10 feet by 10 feet or 10 feet in height and not located closer than three feet to
 22 any property line. No off-street parking spaces are required for a community garden.

23 3. Market Gardens. Market gardens, including those allowed as a principal use under the
 24 regulations of any zone, may include structures such as cold frames, greenhouses, and
 25 hoop houses. If the market garden is a use accessory to a principal use involving a
 26 building, such structures may be located in any **area of the site yard** other than a
 27 required front **yard** or street side **yard setback area** and do not count against the
 28 **allowed maximum** building coverage in any zone, even if the structure requires a
 29 building permit. To the extent such structures require a building permit they may not be
 30 located closer than three feet to any property line (five feet in a residential zone). Market
 31 gardens may include a tool house or other storage building not exceeding 10 feet by 10
 32 feet or 10 feet in height and not located closer than three feet to any property line. No
 33 off-street parking spaces are required for a market garden that is accessory to a principal
 34 use that requires parking. If a market garden is a principal use at least one parking space
 35 must be provided for the first 5,000 square feet of garden area or portion thereof, and
 36 for each 5,000 square feet of garden area beyond the first 5,000 square feet. Market
 37 gardens are not subject to the home occupation requirements of LCMC 17.52.010. (E).

Operators of market gardens are subject to the occupation tax requirements of Chapter 5.04 LCMC.

SECTION 60. Chapter 17.80 (*Provisions Applying to Special Uses*), Section 17.80.110 (*Accessory dwelling unit standards*), Paragraph B., (*Standards*) paragraphs 5 through 10, are hereby amended, as follows:

~~5. Occupancy. No one may occupy an accessory dwelling unit until the planning and community development department has issued a certificate of completion for the unit.~~

~~6. Design. An accessory dwelling unit shall comply with the following standards:~~

~~a. Roofs. Roofs of detached accessory dwelling units shall be the same shape, pitch and material as the main house, and shall include the same type of architectural embellishments, if any (e.g., dormers, gables, and eave trim).~~

~~b. Facades. A street-facing facade of the accessory dwelling unit shall include the same exterior of materials and windows and molding shall be of the same size, style, and orientation as the main house.~~

~~c. Color. The exterior color of the accessory dwelling unit shall be of the same color as the main house.~~

~~5. 7.~~ Unity of Ownership. An accessory dwelling unit shall not in any way be segregated in ownership from the principal dwelling unit.

~~6. 8.~~ Primary Entrance. If the accessory dwelling unit's primary entrance is not the same as that for the principal dwelling unit it shall be less visible from the street view of the principal dwelling unit than the main entrance of the principal dwelling unit. If the accessory dwelling unit is accessed via a stairway, the stairway may not be constructed on the front of the principal dwelling unit.

~~7. 9.~~ Vacation Rental. Neither the accessory dwelling unit nor the principal dwelling unit may be used as a vacation rental dwelling.

~~8. 10.~~ Sewer Connection. Both the principal dwelling unit and the accessory dwelling unit must be connected to the city sewer system. Neither the accessory dwelling unit nor the principal dwelling unit may use a septic system.

SECTION 62. Chapter 17.80 (*Provisions Applying to Special Uses*), Section 17.80.120 (*Cottage housing developments*), Paragraph B, (*Definitions*), is hereby deleted, as follows:

B. Definitions. The following definitions apply to this section:

~~1. "Common open space" means an area improved for recreational use or gardening that all owners in the cottage cluster own and maintain in common through a homeowners' association, condominium association, or similar mechanism.~~

~~2. "Cottage" means a detached, single-family dwelling unit that is part of a cottage housing development and that contains 1,250 square feet or less of gross floor area.~~

~~3. "Cottage cluster" means a group of four to 12 cottages, arranged around a common open space.~~

- 1 ~~4. "Cottage housing development" means one or two clusters of cottages developed~~
 2 ~~under a single land development plan, or as a part of another land development plan.~~
 3 ~~5. "Footprint" means the gross floor area of a cottage's ground-level story.~~
 4 ~~6. "Gross floor area" means the area within the exterior walls, but excluding any space~~
 5 ~~where the floor to ceiling height is less than six feet.~~

7 **SECTION 63.** Chapter 17.80 (*Provisions Applying to Special Uses*), Section 17.80.120 (*Cottage*
 8 *housing developments*), Paragraph C, (*Applicable Zoning Districts*), is hereby amended, as follows:

10 C. Applicable ~~Zones. Zoning Districts.~~ **Cottage housing developments are allowed only**
 11 **in the single-unit residential (R-1), recreation residential (R-R), and multiple-unit**
 12 **residential (R-M) zones. Cottage housing development are allowed only in the single-**
 13 **family residential (R-1), recreation residential (R-R), and multiple-family (R-M) zoning**
 14 **districts.**

16 **SECTION 61.** Chapter 17.80 (*Provisions Applying to Special Uses*), Section 17.80.120 (*Cottage*
 17 *housing developments*), Paragraph E, (*Site Plan*), is hereby amended, as follows:

19 E. Site Plan **Development** Review Required. Cottage housing developments require
 20 approval through the ~~site-plan development~~ review process of LCMC **17.77.070.**
 21 **17.52.240.**

23 **SECTION 62.** Chapter 17.80 (*Provisions Applying to Special Uses*), Section 17.80.120 (*Cottage*
 24 *housing developments*), Paragraph F, (*Standards*), Numbered paragraph 6, (*Common Open*
 25 *Space*), subparagraph e, is hereby amended, as follows:

27 e. Parking areas, required **setback areas yards**, private open space, and driveways do not
 28 qualify as common open space.

30 **SECTION 63.** Chapter 17.80 (*Provisions Applying to Special Uses*), Section 17.80.140 (*Temporary*
 31 *emergency operations uses during declared emergency*), Paragraph B, is hereby amended, as
 32 follows:

34 B. Temporary emergency operations uses are not required to comply with the requirements
 35 of **development review in LCMC 17.77.070. 17.52.240 (Site plan review).**

37 **SECTION 64.** Chapter 17.80 (*Provisions Applying to Special Uses*), Section 17.80.150 (*Four-flat*
 38 *dwellings*), Paragraph A and B, are hereby amended, as follows:

40 17.80.150 Four-flat dwellings.

41 **A. Definition. A "four-flat dwelling" is a structure designed to resemble a single-family**
 42 **dwelling, containing four individual dwelling units and appearing to have no more**

~~than two (one in front) exterior entrances opening onto a common hallway(s) providing access to the four individual units within the structure.~~

A.B. Standards. Four-flat dwellings are subject to the following standards:

1. Minimum Lot Size. A four-flat dwelling may be located on a lot of at least 10,000 square feet.
2. Parking. Each four-flat dwelling must have a minimum of six off-street parking spaces.
3. Setbacks. Each four-flat dwelling must meet the single-~~familyunit~~ dwelling setback requirements of the zone in which it is located.
4. **Building Lot** Coverage. Each four-flat dwelling must meet the maximum **building lot** coverage requirements of the zone in which it is located.
5. Vacation Rentals. Four-flat dwellings shall not be used as vacation rentals in any zone.
6. Height Requirement. Four-flat dwellings must comply with the height requirement of the zone in which they are located.
7. **Site-plan Development** review per LCMC ~~17.52.240~~ **17.77.070** is not required for four-flat dwellings.

SECTION 65. Chapter 17.80 (*Provisions Applying to Special Uses*), Section 17.80.160 (*Accessory uses- Places of worship*), Paragraph A, numbered Paragraph 1, and Paragraph B, numbered Paragraph 1, are hereby amended, as follows:

17.80.160 Accessory uses – Places of worship.

A. In the general commercial (GC) ~~zone district~~, Nelscott ~~pPlan~~ (NP) district (business district and ~~bBeachside~~ mixed use), Taft Village Core (TVC), and Oceanlake ~~pPlan~~ (OP) district (~~mMain sStreet~~, interior ~~MU~~ and ~~oOceanfront~~), the following accessory uses, customarily associated with the practices of the religious activity, are allowed:

1. Subject to compliance with **site-plan development** review (**LCMC 17.52.240 LCMC 17.77.070**) and availability of adequate public facilities, an approved and constructed place of worship shall be allowed the reasonable use of the subject real property for accessory use activities, including those uses and limitations identified in ORS 227.500 as that section exists on the effective date of the ordinance codified in this section. In addition, temporary sheltering of individuals and families in building and fire code compliant facilities is authorized (temporary use), not to exceed 50 persons, with a minimum of 35 square feet per person required. Strict compliance with Oregon Fire Code TA No. 14-12, adopted herein by this reference and on file in the Lincoln City planning department, is required. The fire district shall be notified when such temporary sheltering use is requested. **Development review is not required for such temporary sheltering use.**

B. In the single-~~familyunit~~ residential (R-1) ~~zone district~~, single-~~unitfamily~~ residential roads-end (R-1-RE) ~~zone district~~, vacation rental (VR) ~~zone district~~, the **multiple-unit multifamily** residential (R-M) ~~zone district~~, the recreation residential (R-R) ~~zone district~~, **and** Nelscott ~~pPlan~~ (NP) district (cottage residential) the following accessory uses, customarily associated with the practices of the religious activity, are allowed:

1. Subject to compliance with ~~site plan development~~ review (~~LCMC 17.52.240 LCMC 17.77.070~~) and availability of adequate public facilities, an approved and constructed place of worship shall be allowed the reasonable use of the subject real property for accessory use activities, including those uses and limitations identified in ORS 227.500 as that section exists on the effective date of the ordinance codified in this chapter. In addition, temporary sheltering of individuals and families in building and fire code compliant facilities is authorized (temporary use), not to exceed 25 persons, with a minimum of 35 square feet per person required. Strict compliance with Oregon Fire Code TA No. 14-12, adopted herein by this reference and on file in the Lincoln City planning department, is required. The fire district shall be notified when such temporary sheltering use is requested. **Development review is not required for such temporary sheltering use.**

SECTION 66. Chapter 17.80 (*Provisions Applying to Special Uses*), Section 17.80.170 (*Mobile food units and mobile food unit pods*), Paragraph A (*Definitions*), is hereby deleted, as follows:

A. Definitions.

~~“Mobile food pod” is more than one singular mobile food unit located on the same lot or parcel.~~

~~“Mobile food unit” is a wheeled mobile unit that meets state, county, and Department of Motor Vehicles requirements for licensing, registration, and operation as a unit utilized to provide commercial food preparation and serving to the general public. Food may be prepared or processed on the unit, and said prepared or processed food is sold and dispensed to the ultimate consumer from the unit.~~

SECTION 67. Chapter 17.80 (*Provisions Applying to Special Uses*), Section 17.80.170 (*Mobile food units and mobile food unit pods*), Paragraph B (*Standards*) numbered paragraph 11, is hereby amended, as follows:

11. State, County, City Requirements. Applicants must obtain any required state, county, and city licenses and permits including food handling, **Serve-Safe**, and annual city mobile food unit license pursuant to Chapter 5.30 LCMC.

SECTION 68. Chapter 17.80 (*Provisions Applying to Special Uses*), Section 17.80.170 (*Mobile food units and mobile food unit pods*), Paragraph D (*Application requirements*), is hereby amended as follows:

D. Land Use Approvals and Licensing.Application Requirements. Land use approval **for mobile food units** must be obtained prior to **the city’s issuance of the required mobile food unit license for each mobile food unit. Land use approval is required for each separate address at which an individual mobile food unit**

desires to operate, with a separate mobile food unit license being issued for each separate address once land use approval has been obtained, all requirements have been met, and all required city fees have been paid. Applying for the city mobile food unit license. The land use application submittal shall include the following:

1. The land use approval process for mobile food units is a Type I procedure as outlined in LCMC 17.76.030.
1. ~~Completed application form provided by the department, which includes the applicant's name, mailing address, phone number and signature, as well as the names, addresses, phone numbers, and signatures of all property owners of the subject site;~~
2. ~~Applicable fee for the land use application;~~
3. ~~Site plan containing at least the following:~~
 - a. ~~North arrow, scale, and date of drawing;~~
 - b. ~~Property boundaries and dimensions;~~
 - c. ~~Location of existing structures;~~
 - d. ~~Proposed location of mobile food unit with distances from all property lines and all structures;~~
 - e. ~~Parking lot layout, drive aisles, access, and pedestrian and vehicular circulation pattern with dimensions;~~
4. ~~Explanations and/or pictures or other evidence of how all fire and life safety, state, and county requirements are being met;~~
5. ~~Explanations and/or pictures or other evidence of how the site will remain free of trash, litter, and food waste.~~

SECTION 69. Chapter 17.80 (*Provisions Applying to Special Uses*), Section 17.80.180 (*Wireless communications facilities*), Paragraph A (*Review Authority Action*) numbered paragraphs 5 through 7 are amended, as follows:

5. ~~Notice. When mailed notice of a public hearing or an administrative action relating to a wireless communications facility is required by LCMC 17.76.050, such notice shall be sent to the applicant and to owners of record of property on the most recent property tax assessment roll where such property is located within 250 feet from the exterior boundary of the subject property.~~
6. 5. Administrative Approval of Co-Location Requests. Application. Requests to co-locate by placing antennas or other transmission and reception devices on an existing tower, building, or other structure, shall be processed as a development review request, pursuant to LCMC 17.77.070. If an applicant wishes to co-locate by placing antennas or other transmission and reception devices on an existing tower, building, or other structure, the director may approve the co-location application, or approve it with conditions.

7- 6. Planning Commission Action. In addition to the findings required by LCMC 17.77.060 (D), in order to grant approval, or approval with conditions, of a conditional use permit for a wireless communications facility, the planning commission must find, based upon evidence provided by the applicant, that:

a. For applications proposing the siting of wireless communications facilities through means other than co-location, that higher priority alternatives for providing the specific, proposed wireless service are not feasible.

b. The proposed facility/tower will not unreasonably interfere with the view from any public park, natural scenic vista, historic building or district, or significant aesthetic resource.

c. The height and mass of the facility/tower does not exceed that which is essential for its intended use and public safety.

d. The owner of the wireless communications facility has agreed to permit other persons/providers to attach antennas or other communications apparatus that do not interfere with the primary purpose of the facility.

e. The proposed facility/tower is not to be constructed in such a manner as to result in needless height or mass.

f. The finish of the proposed facility/tower will be of a tone or color that minimizes the tower's visual impact.

SECTION 70. Chapter 16.08, (*Procedure*), Section 16.08.050 (*Approval authority*), is hereby amended, as follows:

16.08.050 Approval authority.

B. Subdivision plats shall be approved by the planning commission in accordance with these regulations. ~~A subdivision with land area greater than two acres or 10 lots shall be processed as a planned unit development.~~ All partition plats and property line adjustment maps shall be approved by the city staff in accordance with these regulations. The city council delegates its authority to the planning commission, and to the city staff, respectively, to approve or disapprove the subdivision, partition of land and property line adjustments, except for appeals.

SECTION 71. Findings Adopted.

The findings contained in the Whereas Clauses of this Ordinance, and Exhibit A, as well as the competent substantial evidence in the whole record of this legislative proceeding are incorporated into this section by reference as if fully set forth herein, and are adopted in support of this legislative action.

SECTION 72. Severability.

The sections, subsections, paragraphs and clauses of this ordinance are severable. The invalidity of one section, subsection, paragraph, or clause shall not affect the validity of the remaining sections, subsections, paragraphs and clauses.

SECTION 73. Ordinance Effective Date.

This ordinance shall be effective in thirty days as provided by Chapter IX, Section 9.3 of the City Charter.

SECTION 74. Codification.

Provisions of this Ordinance shall be incorporated in the City of Lincoln City Municipal Code and the word "ordinance" may be changed to "code", "article", "section", "chapter" or another word, and the sections of this Ordinance may be renumbered, or re-lettered, provided that any Whereas clauses and boilerplate provisions (i.e. Sections 65-68) need not be codified and the City Recorder is authorized to correct any cross-references and any typographical errors. The City Attorney is specifically authorized to work with Code Publishing to correct all cross-references to the procedures chapters impacted by this amendment regardless of where they occur in the municipal code.

The foregoing ordinance was distinctly read by title only in accordance with Chapter IX, Section 9.2 of the City of Lincoln City Charter on the 9th day of May 2022 (First Reading) and on the 9th day of May, 2022 (Second Reading).

PASSED AND ADOPTED by the City Council of the City of Lincoln City this 9th day of May, 2022.

SUSAN WAHLKE, MAYOR

ATTEST:

JAMIE YOUNG CITY RECORDER

APPROVED AS TO FORM:

1 _____
2 RICHARD APPICELLO, CITY ATTORNEY
3