



AGENDA

Lincoln City Planning Commission
Tuesday, May 17, 2022, 6:00 PM
Council Chambers,
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 - May 3, 2022 6:00 PM
- 4. FINAL ORDERS, RESOLUTION, & WRITTEN COMMUNICATIONS**
 - 4.1. FO 2022-05 for CUP 2022-01 Resnikoff dock
 - 4.2. FR 2022-15 for ZOA 2022-08 Housing
- 5. PUBLIC HEARINGS/DELIBERATIONS**
 - 5.1. VAR 2022-03 Weston - continued to June 21, 2022
 - 5.2. CUP 2022-03 Taft HS Sign
 - 5.3. CUP 2022-02 Rainbow Villa
- 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
May 3, 2022**

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

Chair Blackerby called the May 3rd Lincoln City Planning Commission meeting to order at 6:03 PM, followed by the Pledge of Allegiance and calling of the roll.

Attendee Name	Title	Status	Arrived
Glenn Johnson	Commissioner	Present	
Mellissa Sumner	Commissioner	Excused	
Marci Baker	Commissioner	Late	6:43 PM
Robert Vincent	Commissioner	Present	
Kim Blackerby	Chair	Present	
Miles Schlesinger	Commissioner	Present	

2. AGENDA CHANGES OR REVISIONS

None.

3. MINUTES

3.1. Planning Commission - Regular Meeting - Apr 19, 2022, 6:00 PM

MOTION:	Approve the minutes of the April 19th meeting, as written
MOVER:	Vincent
SECONDER:	Schlesinger
AYES:	Johnson, Vincent, Blackerby, Schlesinger
ABSENT:	Baker
EXCUSED:	Sumner
RESULT:	Passed

4. FINAL ORDERS, RESOLUTION, & WRITTEN COMMUNICATIONS

Chair Blackerby introduced this agenda item and stated that per staff recommendation they would be considering each of the five final recommendations separately. He also requested that Commissioners use the exact language included in the packet when putting forward their motions.

4.1. Final Recommendation for CPA ZC 2022-02 Nesika Park

The Planning Commission voted 4-0 in favor of approving Final Recommendation 2022-10 for CPA ZC 2022-02 Nesika Park recommending approval of the comprehensive plan map amendment and zone change.

MOTION: Approve Final Recommendation for CPA ZC 2022-02 Nesika Park
MOVER: Vincent
SECONDER: Schlesinger
AYES: Johnson, Vincent, Blackerby, Schlesinger
ABSENT: Baker
EXCUSED: Sumner
RESULT: Passed

4.2. Final Recommendation for CPA ZC 2022-03 Park in Taft

The Planning Commission voted 4-0 in favor of approving Final Recommendation 2022-11 for CPA ZC 2022-03 Taft Park recommending approval of the comprehensive plan map amendment and zone change.

MOTION: Approve Final Recommendation for CPA ZC 2022-03 Park in Taft
MOVER: Schlesinger
SECONDER: Vincent
AYES: Johnson, Vincent, Blackerby, Schlesinger
ABSENT: Baker
EXCUSED: Sumner
RESULT: Passed

4.3. Final Recommendation for CPA ZC 2022-04 Taft Open Space

The Planning Commission voted 4-0 in favor of approving Final Recommendation 2022-12 for CPA ZC 2022-04 Taft Open Space recommending approval of the comprehensive plan map amendment and zone change.

MOTION: Approve Final Recommendation for CPA ZC 2022-04 Taft Open Space
MOVER: Blackerby
SECONDER: Schlesinger
AYES: Johnson, Vincent, Blackerby, Schlesinger
ABSENT: Baker
EXCUSED: Sumner
RESULT: Passed

4.4. Final Recommendation for CPA ZC 2022-05 Palisades Open Space

The Planning Commission voted 4-0 in favor of approving Final Recommendation 2022-13 for CPA ZC 2022-05 Palisades Open Space recommending approval of the comprehensive plan map amendment and zone change.

MOTION: Approve Final Recommendation for CPA ZC 2022-05 Palisades Open Space
MOVER: Johnson
SECONDER: Schlesinger
AYES: Johnson, Vincent, Blackerby, Schlesinger
ABSENT: Baker
EXCUSED: Sumner
RESULT: Passed

4.5. FR 2022-14 for CPA ZC 2022-06 Wildwoods

The Planning Commission voted 4-0 in favor of approving Final Recommendation 2022-14 for CPA ZC 2022-06 Wildwoods recommending approval of the comprehensive plan map amendment and zone change.

MOTION: Approve FR 2022-14 for CPA ZC 2022-06 Wildwoods
MOVER: Vincent
SECONDER: Johnson
AYES: Johnson, Vincent, Blackerby, Schlesinger
ABSENT: Baker
EXCUSED: Sumner
RESULT: Passed

5. PUBLIC HEARINGS/DELIBERATIONS

5.1. CUP 2022-01 Resnikoff dock

Chair Blackerby opened the public hearing at 6:11 PM, introduced the application, read the required statements, and explained the order of proceedings for the hearing. No Commissioners were excused for conflicts of interest, no challenges were offered. Director Skinner listed the applicable substantive criteria.

Director Skinner presented a summary of the staff report for the application. The owners of the property at 496 S Schooner Creek Rd, Nancy Hatley and Phil Resnikoff, are requesting a conditional use permit for a dock they have already constructed within an unnamed creek tributary to Schooner Creek. Comments were received from Oregon Department of State Lands, Oregon Department of Fish and Wildlife, and Adam Springer, an attorney representing the adjacent neighbor, Mr. Jeremy Cassel. Since the applicants' submittals did not include all needed information, Director Skinner recommended a total of 10 conditions that the Planning Commission include if it is determined that the request complies with the criteria.

Commissioner Baker joined the meeting at 6:43 PM.

Philip Resnikoff and Nancy Hatley gave a brief presentation to the Planning Commission in support of their application, and responded to questions from various Commissioners. They shared that they had met with Lincoln City staff and were led to believe that they would not need any permits. Mr. Resnikoff contended that he has not impacted his neighbor's use of the creek during high tide, and that at low tide the creek is not passable by anyone. He assured the Planning Commission that he would work with the appropriate regulatory agencies to meet the necessary conditions should the conditional use permit be approved.

Following a question from Commissioner Baker, Mr. Resnikoff stated that he felt he could meet the requirements, but was challenged as to how he could measure the water body at low tide, since at low tide there was no water in the creek. Chair Blackerby shared his frustration that the two neighbors were unable to work together to resolve the issue, as had been the Planning Commission's experience in a previous dock conditional use permit case.

Jeremy Cassel and his attorney Adam Springer spoke next. They maintained that the creek is too small to support the dock, and that passage is blocked in most instances, excepting very high tides. Mr. Springer encouraged the Planning Commission to deny the application due to the fact that the conditions would not be able to be met.

Director Skinner reminded the Planning Commission that the code states that "no pier, dock or similar facility shall extend into any watercourse more than five percent of the width thereof as measured perpendicular from the mean low water line on one side of the watercourse to the mean low water line on the opposite side." If a site plan cannot be provided that meets this requirement, the dock cannot be allowed.

There were no other members of the public requesting to speak at the public hearing.

Mr. Resnikoff was given an opportunity for rebuttal. He disagreed with his neighbor's description of the timeline, the characterization of the tides, and access to their property. He again asked how he can measure low water line when the creek is completely dry during low water times.

Responding to a question from Commissioner Johnson about the dock needing to be less than 5% of the low water, Mr. Resnikoff said he had not been aware of that rule until recently.

Commissioner Vincent moved and Commissioner Johnson seconded a motion to close the public hearing and the record. Chair Blackerby closed the public hearing at 7:37 PM, and began the deliberations. Commissioner Johnson stated that without additional information the applicants could not meet the 5% rule. Commissioner Baker made a motion to deny CUP 2022-01 because it fails to meet 17.77.060.D.1, 2, and 4 and 17.44.040.B.3.c.

City Attorney Appicello added that the Planning Commission's tentative decision would be brought back as a written document to accept at the next meeting.

MOTION:	Deny CUP 2022-01 Resnikoff dock because it fails to meet 17.77.060.D.1, 2, and 4 and 17.44.040.B.3.c
MOVER:	Baker
SECONDER:	Schlesinger
AYES:	Johnson, Baker, Vincent, Blackerby, Schlesinger
EXCUSED:	Sumner
RESULT:	Passed

5.2. ZOA 2022-08 Housing

Following a brief break, Chair Blackerby opened the public hearing for ZOA 2022-08 at 7:59 PM. Director Skinner presented the staff report which included an overview of the purpose for amending the code at this time, and a more detailed review of the specific code changes. Two

major factors triggered the amendment process, including recent Oregon legislative actions related to manufactured housing, emergency sheltering provisions, and child care facilities. The second trigger is direction from Lincoln City City Council to reduce impediments to development of housing and redevelopment of existing developed sites to the extent that it is practicable and reasonable. Examples include the reduction of required common open space in multi-unit dwellings; reduction of the minimum lot size within the Recreation Residential (R-R) zone; and requirements for public infrastructure improvements, landscaping, parking, and design review.

The Commissioners asked a number of clarifying questions, but overall were in support of the recommended changes. Commissioner Baker moved to recommend approval of ZOA 2022-08 with a revision to part 17.80.220 Emergency Shelters Part B.2 to include any recognized non-profit. The Commission unanimously voted to recommend approval of ZOA 2022-08 as amended.

MOTION:	Recommend approval of ZOA 2022-08 Housing with the addition to 17.80.220.B.2 to include any recognized non-profit
MOVER:	Baker
SECONDER:	Vincent
AYES:	Johnson, Baker, Vincent, Blackerby, Schlesinger
EXCUSED:	Sumner
RESULT:	Passed as Amended

6. OLD BUSINESS

Director Skinner reminded the Planning Commission that the public outreach process for the comprehensive plan update would be starting this week, with the first session scheduled for Wednesday, May 4th from 10:00 to 11:30 AM in the Community Room at the Driftwood Public Library. Associate Planner Andrea Riner distributed a copy of the community questionnaire that will be used to elicit community feedback relating to housing, transportation, parks and open space, and natural resource protection. Director Skinner also shared how the process is being shared via a range of media outlets, including the city's website, social media, and a recent press release.

7. NEW BUSINESS

None.

8. PLANNING COMMISSION TRAINING

None.

9. REPORTS AND COMMENTS

None.

10. FUTURE AGENDA ITEMS & NEXT MEETINGS

Director Skinner stated that the May 17th meeting would include consideration of two conditional use permit requests – one for a multi-unit residential development and one for a sign at Taft High School. The continued public hearing for the variance application for the Weston deck is also scheduled.

11. ADJOURN

Chair Blackerby adjourned the Planning Commission meeting at 8:52 PM.

Respectfully submitted,

Anne Marie Skinner
Planning & Community Dev. Director

Kim Blackerby
Chair

Planning Commission Communication

FO 2022-05 for CUP 2022-01 Resnikoff dock

Meeting Date: May 17, 2022 Primary Staff Contact: AnneMarie Skinner
Department: Planning Commission E-Mail: ASkinner@lincolncity.org
Secondary Dept: Secondary Contacts:
Approval: Estimated Time:

I move to approve the Final Order for CUP 2022-01 Resnikoff dock denying the request for a dock.

Attachments:

Final Order 2022-05 for CUP 2022-01 (DOC)

FINAL ORDER 2022-05
BEFORE THE PLANNING COMMISSION
CITY OF LINCOLN CITY, LINCOLN COUNTY, OREGON
May 17, 2022

In the Matter of Approval of a Conditional Use)
Permit Application [CUP 2022-01] for a dock) **FINDINGS OF FACT**
in the General Commercial (GC) Zone,) **CONCLUSIONS OF LAW**
located at 496 S Schooner Creek Rd, Lincoln City, Oregon) **AND ORDER**

I. NATURE OF PROCEEDINGS

This matter comes before the Planning Commission for the City of Lincoln City for *de novo* consideration of a Conditional Use Permit application for a dock at 496 S Schooner Creek Rd.

The application materials were received on March 29, 2022, and deemed complete on March 29, 2022.

Notification of the May 3, 2022, public hearing before the Planning Commission was mailed, pursuant to Chapter 17, Lincoln City Municipal Code to area property owners within 250 feet of the site on April 1, 2022. *The News Guard* published the public hearing notice on Tuesday, April 19, 2022.

On May 3, 2022, the Planning Commission conducted a public hearing and considered the oral and written testimony presented, the staff report, and the record as a whole. The hearing was closed, and the record was closed. Based on the evidence presented at the public hearing on May 3, 2022, including the staff report and all properly submitted evidence and argument, the Planning Commission voted to DENY the request.

Based upon the evidence in the record, the Commission makes the following findings of fact and conclusions of law:

II. FINDINGS OF FACT

1) The Nature of Proceedings (Section I) set forth above is true and correct and is specifically incorporated herein by this reference.

COMMISSION FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER
FO 2022-05 for CUP 2022-01

- 2) The subject of the above-referenced conditional use permit application is real property located within the City of Lincoln City ("City"), and described in the County Tax Assessor's maps as Tax Map 07-11-27-DA-00101-00 (Property). The street address of the Property is 496 S Schooner Creek Rd, Lincoln City, Oregon. The site is approximately 0.8 acre.
- 3) The Comprehensive Plan designation for the property is Commercial General District. The zoning classification of the site is General Commercial (GC) Zone.
- 4) The surrounding Land Uses and Zoning are as follows:
- North: S Schooner Creek Rd, undeveloped; R-1-5
 South: Houses; GC
 East: Houses; County zoning
 West: SE 51st St, houses; R-1-7.5
- 5) The applicants are:
- Nancy Hatley and Phil Resnikoff
 496 S Schooner Creek Rd
 Lincoln City, OR 97367
- 6) The Property is owned by:
- Nancy Hatley and Phil Resnikoff
 496 S Schooner Creek Rd
 Lincoln City, OR 97367
- 7) The relevant substantive criteria include the following:
- LCMC Chapter 17.32 General Commercial (GC) Zone
- LCMC Chapter 17.44 Marine Waterway (M-W) Zone
- LCMC Chapter 17.60 Conditional Uses
- LCMC Section 17.76.160 gives the Planning Commission authority to approve, approve with conditions, disapprove, or revoke conditional use permits subject to the provisions of LCMC Chapter 17.77.

8) The background in the staff report is incorporated herein and is accepted as true and correct.

III. FINDINGS APPLYING APPLICABLE CODE CRITERIA

1) The Planning Commission finds and determines that the relevant approval criteria are found or referenced in the Lincoln City Municipal Code, principally Title 17, Chapter 17.32 (General Commercial (GC) Zone), Chapter 17.44 (Marine Waterway (M-W) Zone), and Section 17.77.060 (Conditional Uses).

2) Chapter 17.32 (General Commercial (GC) Zone) Section 17.32.040.T lists docks as a conditional use subject to the provisions of 17.44.040.

3) Chapter 17.77 (Applications), Section 17.77.060 provides:

D. Approval Criteria. In order to grant any conditional use, the planning commission must find, based upon evidence, both factual and supportive, provided by the applicant, that:

1. The proposal is in compliance with the comprehensive plan;
2. The site for the proposed use is adequate in size and shape to accommodate the use and all required setbacks, common spaces, retaining walls, parking and loading areas, landscaping, and other features required by this title;
3. The site for the proposed use relates to streets and highways adequate in width and degree of improvement to handle the quantity and kind of vehicular traffic that would be generated by the proposed use;
4. The proposed use will have minimal adverse impact upon adjoining properties and the improvements thereon. In making this determination, the review authority shall consider, but not be limited to, the proposed location of the improvements on the site, vehicular egress/ingress and internal circulation, pedestrian access, setbacks, height and mass of buildings, retaining walls, fences, landscaping, screening, exterior lighting, and signage;
5. In areas designated as requiring preservation of historic, scenic or cultural attributes, proposed structures will be of a design complementary to the surrounding area.

E. Conditions of Approval. Pursuant to LCMC [17.76.120](#), the planning commission may impose, in addition to regulations and standards expressly specified in this title, other

conditions found necessary to protect the best interests of the surrounding properties or neighborhood, or the city as a whole. These conditions may include, but not be limited to, the following:

1. Increasing required lot size, setbacks, common open spaces, or screening and buffering areas;
2. Requiring fences, screening walls, landscaping, or screening/buffering where necessary to reduce noise and glare from the use and maintain the property in a character in keeping with the surrounding area;
3. Requiring landscaping and maintenance thereof;
4. Increasing street widths and/or controlling the location and number of vehicular access points to the property for ingress/egress;
5. Requiring means of pedestrian/bicycle pathways to serve the property;
6. Increasing the number of off-street parking and loading spaces required; surfacing and proper drainage of parking area;
7. Limiting size, location, and number of signs;
8. Limiting the location, coverage, or height of buildings because of obstruction to view and reduction of light and air to adjacent properties;
9. Limiting or prohibiting openings in sides of buildings or structures;
10. Enclosure of outdoor storage areas and limitation of outside displays and/or storage of merchandise;
11. Requiring maintenance of grounds;
12. Regulation of noise, vibration, odors, etc.;
13. Regulation of time for certain activities;
14. Establishing a time period within which the proposed use shall be developed;
15. The requirement of a bond for removal of such use within a specified period of time;

16. Increase the size, type, or capacity of any or all utility services, facilities, or appurtenances;

17. Requirements under which any future enlargement or alteration of the use shall be reviewed by the review authority and new conditions imposed;

18. Requirements for providing the city a performance bond with a contractual agreement to assure its share of the development of streets, curbs, gutters, sidewalks, water, sanitary sewers, storm sewers, or other necessary and essential public improvements to city standards; and/or

19. Any such other conditions that will make possible the development of the city in an orderly and efficient manner and inconformity with the intent and purposes set forth in this title and the comprehensive plan.

4) Chapter 17.44 (Marine Waterway (M-W) Zone), Section 17.44.040 provides:

B. Standards for Uses Involving Construction, Addition or Reconstruction of a Pier, Dock, Boat House or Similar Facility.

1. Evidence shall be provided that the applicant has complied with, or fully intends to comply with, all standards of the Department of Environmental Quality, the Division of State Lands, and all other agencies having interests or ordinances applicable to the property in question.

2. The facility or any use related to it shall not allow any water pollution to occur to any nearby tidelands, marshlands, rivers, streams or other waterways used for the raising, production or preservation of marine life or other natural resources.

3. The facility shall not substantially alter the course of any channel or the natural movement of any waters or result in increased flood hazards, or the formation of appreciable bottom or sludge deposits deleterious to marine life, and shall meet all of the following requirements:

a. No dock, pier or similar facility shall extend into any watercourse more than 25 feet from ordinary low water line nor 50 feet from ordinary high water line, unless it can be shown that such extension is necessary and will not increase flood hazards or create other problems such as the deterioration or destruction of marine life or wildlife habitat as a result of the extension.

- b. No dock, pier or similar facility shall extend into the navigable channel any distance greater than required for safe moorage and shall be designed so as to minimize potential flood hazard and loss of navigable waterway area.
 - c. No pier, dock or similar facility shall extend into any watercourse more than five percent of the width thereof as measured perpendicular from the mean low water line on one side of the watercourse to the mean low water line on the opposite side.
4. No plumbing facilities for the handling of domestic or industrial waste shall be part of the facility unless approved by the city manager or design.
 5. Application for a permit for a pier, dock, bulkhead, boat house, or similar facility shall include:
 - a. The source of the applicant's right to construct the facility;
 - b. The purpose of the facility;
 - c. The legal description of the area where the facility will be located;
 - d. A map and drawings, showing the plan for construction of the facility. Such plan shall include a vicinity map drawn to scale showing location and design of similar facilities and other development within 250 feet of the parcel upon which the improvement is proposed;
 - e. The time when the project is scheduled to begin and to be completed.
 6. Plans for a pier, dock, boat house, or similar facility shall meet the following requirements:
 - a. In new subdivisions considered by the planning commission following the adoption of the ordinance codified in this title, docks having less than 10 moorage spaces will be approved only in the instance that no other public or private means of launching or moorage is available or can be developed within 1,000 feet of the site in question.
 - b. Facilities being proposed in areas where it is likely that additional similar structures will be desired shall be designed to be combined into joint facilities whenever possible.

- c. The design of moorages must provide sheer logs or similar devices for fending debris. Such improvements need not be maintained during periods where there is no danger of flood water.
- d. Docks shall have the long dimension running parallel to the channel unless future development will result in pier construction or moorages being connected, necessitating facility design perpendicular to the channel. The width of those portions of such facilities shall be the minimum dimension required to provide safe access and moorage.
- e. One dock shall not be closer to another dock than the length of the shorter structure or 25 feet, whichever distance is greater.
- f. Additionally, docks allowed with conditional use approval in the GC, TVC, OS, P, RM, RC, and R1 zoning districts, must meet the following requirements and standards:
- i. Total area of dock on water must not exceed 144 square feet with a width not exceeding six feet and a length not exceed 24 feet.
 - ii. No part of the dock can be covered or enclosed, such as but not limited to boat houses, sheds, fish cleaning stations, kayaks, canoes, hot tubs, and/or benches.
 - iii. Docks must have at least 50 percent of the float surface composed of grating containing at least 60 percent open space surface.
 - iv. The ramp/gangway of the dock must be 100 percent grated to allow light to pass through. Ramp width must not exceed five feet. The ramp square footage is not included in the total dock area square footage.
 - v. Grated surfaces on the docks must not be used for storage (e.g., boats, benches, kayaks, fish cleaning stations, etc.) or other purposes that will reduce natural light penetration through the dock.
 - vi. Treated wood is not allowed as a construction material for docks or ramps. Treated wood is lumber, pilings, and other wood products preserved with alkaline copper quaternary (ACQ), ammoniacal copper arsenate (ACA), ammoniacal copper zinc arsenate (ACZA), copper naphthenate, chromated copper arsenate (CCA), pentachlorophenol, or creosote.

vii. Oregon law requires encapsulation of expanded polystyrene foam flotation used in state waters. Encapsulation methods and materials must be approved by the Oregon State Marine Board prior to installation of foam flotation.

viii. All pilings must be fitted with devices to prevent perching by piscivorous birds.

ix. All work must be completed in accordance with the Oregon Department of Fish and Wildlife Guidelines for Timing of In-Water Work to Protect Fish and Wildlife Resources.

x. There must be minimal disturbance to any buried, submerged, or floating woody debris removal during construction.

xi. For piling removal, dislodge the piling with a vibratory hammer, when possible, to avoid a pile break by twisting or bending. A floating surface boom may be necessary to capture floating surface debris. (Ord. 2019-23 § 1; Ord. 2010-05 § 3; Ord. 84-2 § 3.100(4))

5) The Commission finds that it has received all information necessary to make a decision based on the entire record, including the Staff Reports, exhibits, application materials, public hearing testimony, and other materials received. Except where conflicting findings are made herein, the Commission adopts and specifically incorporates the findings as articulated by the Planning Department staff report, as the basis for the decision on the requested conditional use permit.

6) The Commission finds and determines, and adopts as its own the following findings concerning the applicable criteria in Section 17.44.040:

- 1. Evidence shall be provided that the applicant has complied with, or fully intends to comply with, all standards of the Department of Environmental Quality, the Division of State Lands, and all other agencies having interests or ordinances applicable to the property in question;**

The written staff report provides:

DSL provided comments on April 19, 2022, indicating that the property owners need to contact both Carrie Landrum and Jennifer Miller at DSL for requirements and/or permits. DSL also

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noted that Schooner Creek is designated essential salmonid habitat and is a tidal water; therefore, it is under DSL ownership.

ODFW provided comments on March 30, 2022, with their residential dock guidelines. They use these guidelines to comment on all residential over water structures that require some type of permit from a local, state, or federal agency. At a minimum, the dock requires a conditional use permit from the city. It's possible that DSL will require permits as well.

The property owners provided no evidence in the submitted materials that they have contacted any agency for requirements. Accordingly, this requirement is not met.

The Planning Commission finds and determines that the findings of both the staff and the applicant concluding that this criterion is not met has not been subject to any adverse testimony.

- 2. The facility or any use related to it shall not allow any water pollution to occur to any nearby tidelands, marshlands, rivers, streams or other waterways used for the raising, production or preservation of marine life or other natural resources.**

The written staff report provides:

According to the property owners, no activities are proposed that will involve any water pollution to occur. Dock construction and materials will adhere to all requirements to avoid water pollution. The property owners will use the dock to place kayaks in the water. These activities do not create any water pollution. This requirement is currently met and will continue to be met with a condition of approval that any new construction must adhere to the requirements of LCMC Chapter 17.44.

Based upon the staff report and the evidence provided by the applicant, the Planning Commission finds and determines that this criterion is met.

- 3. The facility shall not substantially alter the course of any channel or the natural movement of any waters or result in increased flood hazards, or the formation of appreciable bottom or sludge deposits deleterious to marine life, and shall meet all of the following requirements: a. No dock, pier or similar facility shall extend into any watercourse more than 25 feet from ordinary low water line nor 50 feet from ordinary high water line, unless it can be shown that such extension is necessary and will not increase flood hazards or create other problems such as the deterioration or destruction of marine life or wildlife habitat as a result of the extension. b. No dock, pier or similar facility shall extend into the navigable channel any distance greater than required for safe moorage and shall be designed so as to minimize potential flood hazard and loss of navigable waterway area. c. No**

pier, dock or similar facility shall extend into any watercourse more than five percent of the width thereof as measured perpendicular from the mean low water line on one side of the watercourse to the mean low water line on the opposite side.

The written staff report provides:

The submitted site plan does not identify the ordinary low water line or the ordinary high water line. The submitted site plan also does not show the length of the dock or its placement in relation to either the ordinary low or ordinary high water line.

The submitted site plan does not provide enough details for staff to ascertain if the dock's location presents a loss of navigable waterway area.

The submitted site plan does not show the dimensions of the dock, the mean low water line, or the dimensions of the site.

The applicant did not provide any evidence in the initial submittal or in the public testimony showing the ordinary low or high water lines in relation to the length and placement of the dock. Opposing testimony stated that the placement of the dock was such that there is loss of navigable waterway area and the neighbor is unable to navigate kayaks around the dock in low tide. The applicant stated in testimony during the public hearing that it was not possible to place the dock such that it would not extend more than 5% of the width of the watercourse from mean low water line to mean low water line, thus admitting that this criterion is not met. The Planning Commission finds and determines (concurring with staff) that these criteria are not met.

4. No plumbing facilities for the handling of domestic or industrial waste shall be part of the facility unless approved by the city manager or design.

The written staff report provides:

The submitted materials don't show any plumbing facilities on the existing dock.

The Planning Commission finds that this criterion is met based upon the staff report and evidence submitted by the applicant.

5. Application for a permit for a pier, dock, bulkhead, boat house, or similar facility shall include: a) The source of the applicant's right to construct the facility; b) The purpose of the facility; c) the legal description of the area where the facility will be located; d) A map and drawings, showing the plan for construction of the facility.

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Such plan shall include a vicinity map drawn to scale showing location and design of similar facilities and other development within 250 feet of the parcel upon which the improvement is proposed; e) The time when the project is scheduled to begin and to be completed.

The applicant submitted: that the “dock is on our property;” that “the purpose of the dock is to get into and out of kayaks and canoes;” that the site is identified as 07-11-27-DA-00101-00; a map showing the existing dock, not drawn to scale or showing other development within 250 feet of the site, but a statement that there are no similar facilities within 250 feet of the dock; and a statement that the project was completed on April 4, 2017. The Planning Commission finds that these criteria were met.

7) The Planning Commission finds and determines, and adopts as its own, the following findings concerning the applicable criteria in Section 17.77.060:

1. The proposal is in compliance with the comprehensive plan;

The written staff report notes that the zoning code enacts the comprehensive plan and without compliance with the zoning code there is, therefore, no compliance with the comprehensive plan. As shown in the findings above, the request is not in compliance with several required criteria from Chapter 17.44. Opposing testimony provided during the public hearing stated that there is loss of navigable waterway due to the placement of the dock, which is a violation of one of the criterion. Planning Commission finds that this criterion is not met based upon the written and verbal staff reports and evidence submitted by the opposition.

2. The site for the proposed use is adequate in size and shape to accommodate the use and all yards, spaces, wall and fences, parking, loading, landscaping and other features required by this title;

The written staff report provides:

The property owners request conditional use permit approval for a dock. It is unclear if all the requirements of LCMC Chapter 17.44, as detailed earlier in this report, are met. No setbacks, common spaces, retaining walls, parking and loading areas, or landscaping are required for a dock. Staff concludes that this criterion is not satisfied, but it can be with conditions of approval.

Testimony provided by the applicant and the opposition both state that the watercourse on the site is not wide enough to meet the requirement for the dock not extending more than 5% into the watercourse as measured from low water line to low water line. Accordingly, by testimony, the site for the proposed use is not adequate in size to accommodate the use. The Planning

COMMISSION FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER
FO 2022-05 for CUP 2022-01

Commission finds that this criterion is not met based upon the staff report and testimony given during the public hearing.

3. **The site for the proposed use relates to streets and highways adequate in width and degree of improvement to handle the quantity and kind of vehicular traffic that would be generated by the proposed use;**

The staff report provides:

The project proposes installation of a private dock at a private residence. The project will not generate any traffic over and above the traffic from the existing detached dwelling. This criterion is satisfied.

The Planning Commission finds that this criterion is met based upon the staff report and evidence submitted by the applicant.

4. **The proposed use will have minimal adverse impact upon adjoining properties and the improvements thereon. In making this determination, the commission shall consider, but not be limited to, the proposed location of the improvements on the site, vehicular egress/ingress and internal circulation, pedestrian access, setbacks, height and bulk of buildings, walls and fences, landscaping, screening, exterior lighting and signing;**

The staff report provides:

The placement of the dock on the site may or may not meet all the dock siting requirements of LCMC Chapter 17.44 as detailed earlier in this report. No buildings, retaining walls, fences, landscaping, screening, exterior lighting, or signage are proposed or required for the dock. No pedestrian access is required to the private dock on a private residence site. Vehicular egress/ingress and internal circulation is not needed for a private dock on a private residence site. The site itself is already existing and improved with a driveway and detached dwelling with associated required residential landscaping.

Based upon the staff report and testimony received during the public hearing regarding the width of the waterway in relation to the dock placement, the Planning Commission finds and determines that this criterion is not met.

5. **In areas designated as requiring preservation of historic, scenic or cultural attributes, proposed structures will be of a design complementary to the surrounding area.**

COMMISSION FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER
FO 2022-05 for CUP 2022-01

The subject site is not in one of these designated areas. This criterion is not applicable.

IV. ORDER

In sum, the Planning Commission for the City of Lincoln City finds and determines that the requested Conditional Use Permit Application does not meet the approval criteria in LCMC 17.77.060.D and in LCMC 17.44.040. Accordingly, based on the above Findings of Fact and Conclusions of Law, and based upon the evidence in the whole record, the Planning Commission hereby DENIES the requested Conditional Use Permit contained in CUP 2022-01.

Lincoln City Planning Commission

Kim Blackerby, Chair

Signature authorized and approved by the full Commission this 17th day of May, 2022.

Planning Commission Communication

FR 2022-15 for ZOA 2022-08

Meeting Date: May 17, 2022 Primary Staff Contact: AnneMarie Skinner
Department: Planning Commission E-Mail: ASkinner@lincolncity.org
Secondary Dept: Secondary Contacts:
Approval: Estimated Time:

I move to approve the Final Recommendation for ZOA 2022-08 Housing recommending approval of the code text amendment.

Attachments:

FR 2022-15 for ZOA 2022-08 (DOC)

**LINCOLN CITY
PLANNING COMMISSION**

IN THE MATTER OF

Amendments to Title 17, Zoning, concerning) Final Recommendation
Housing from State Legislation and) 2022-15
Removing Impediments to Development)

NATURE OF THE APPLICATION

ZOA 2022-08 amends the Lincoln City Municipal Code, Title 17 (Zoning), Chapters AMENDS 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), 17.20 (R-M), 17.24 (PC), 17.28 (RC), 17.29 (RCC), 17.32 (GC), 17.34 (NP), 17.36 (PI), 17.40 (RR), 17.42 (P), 17.43 (OS), 17.45 (TVC), 17.50 (OP), 17.52 (SUPPLEMENTARY REGULATIONS), 17.55 (LANDSCAPING STANDARDS), 17.56 (OFF-STREET PARKING AND LOADING), 17.64 (NONCONFORMING SITUATIONS), 17.74 (DESIGN STANDARDS), 17.77 (APPLICATIONS), And 17.80 (PROVISIONS APPLYING TO SPECIAL USES) to incorporate state-mandated legislation pertaining to housing, affordable housing, emergency shelters, hotel/motel conversions, child care, and manufactured dwellings and to remove impediments and obstructions to development and redevelopment.

FINAL RECOMMENDATION

Based on the evidence presented at the public hearing on May 3, 2022, including the staff report, the Planning Commission recommends on a 5-0 vote that the City Council approve the draft language (Exhibit A Findings follow). No written comments were received. No oral testimony was given.

APPROVED THIS 17th day of May, 2022.

Kim Blackerby
Planning Commission Chair

ATTEST:

Anne Marie Skinner
Planning & Community Development Director

EXHIBIT A – FINDINGS

Findings for Ordinance 2022-??

The above-referenced proposed ordinance was properly noticed pursuant to ORS 197.610. The ordinance will incorporate state-mandated legislation pertaining to housing, affordable housing, emergency shelters, hotel/motel conversions, child care, and manufactured dwellings, as well as removing impediments and obstructions to development and redevelopment. No zoning changes are being made, and no land uses are being removed, so a city-wide notice was not required. However, in an abundance of caution a Measure 56 city-wide mailing was mailed on April 12, 2022. Notice of the public hearings was published in the local newspaper on April 19, 2022, and again on April 26, 2022. Notice to DLCD was made on March 28, 2022.

No written or oral comments or testimony were received.

- 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. 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 amendments 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 of 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 directly relate to economic development and does not adversely affect opportunities for a variety of economic activities. The amendment does remove impediments and obstructions to redevelopment by reducing design standard requirements, parking requirements, landscaping requirements, and requirements for increasing conformity in certain nonconforming elements for redevelopment. The objective of reducing these requirements is to encourage redevelopment of vacant and/or blighted buildings. The amendment is consistent with Goal 9.

(10) Goal 10: Housing

"To provide for the housing needs of citizens of the state."

The amendment specifically relates to housing by incorporating state-mandated legislation requiring allowances for affordable housing, manufactured homes, family day care homes, emergency shelters, and conversions of hotels and motels to affordable housing. The amendment also decreases design standard requirements for multi-unit residential developments to encourage construction of such developments. The amendment is consistent with Goal 10.

(11) Goal 11: Public Facilities and Services

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

The 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. 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. In addition, 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) establishes conformance with this goal.

(3) Public Services and Utilities Goal

"To Plan and develop a timely, orderly, and efficient arrangement of public facilities and services, which 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 specifically relates to housing by incorporating state-mandated legislation requiring allowances for affordable housing, manufactured homes, family day care homes, emergency shelters, and conversions of hotels and motels to affordable housing. The amendment also decreases design standard requirements for multi-unit residential developments to encourage construction of such developments. The amendment is 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 proposed ordinance amendment does not directly relate to economic development and does not adversely affect opportunities for a variety of economic activities. The amendment does remove impediments and obstructions to redevelopment by reducing design standard requirements, parking requirements, landscaping requirements, and requirements for increasing conformity in certain nonconforming elements for redevelopment. The objective of reducing these requirements is to encourage redevelopment of vacant and/or blighted buildings for active, new businesses. The amendment is consistent with this goal.

(8) Aesthetic Goal

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

The amendment does not specifically relate to aesthetics. However, by reducing some of the requirements for redevelopment, the goal is to encourage the rehabilitation of

vacant and/or blighted buildings and sites that would have otherwise continued to sit vacant. This goal is met or is not applicable.

(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.

Planning Commission Communication

VAR 2022-03 Weston

Meeting Date:	May 17, 2022	Primary Staff Contact:	AnneMarie Skinner
Department:	Planning Commission	E-Mail:	ASkinner@lincolncity.org
Secondary Dept:		Secondary Contacts:	
Approval:		Estimated Time:	

The applicant requested to continue the public hearing for VAR 2022-03 to June 21, 2022, at 6:00 PM.

Planning Commission Communication

CUP 2022-03 Taft HS Sign

Meeting Date: May 17, 2022 Primary Staff Contact: AnneMarie Skinner
Department: Planning Commission E-Mail: ASkinner@lincolncity.org
Secondary Dept: Secondary Contacts:
Approval: Estimated Time:

Attachments:

CUP 2022-03 Staff Report Taft EDC (DOCX)
CUP 2022-03 Plans (PDF)
CUP 2022-03 GIS Site (BMP)
CUP 2022-03 GIS Natural Resources (BMP)
CUP 2022-03 GIS Zoning (BMP)
CUP 2022-03 Application Redacted (PDF)
CUP 2022-03 Narrative Redacted (PDF)

Conditional Use Permit Staff Report for Planning Commission Public Hearing on May 17, 2022 Case File CUP 2022-03 Taft 7-12 High School Electronic Display Center

Date: May 11, 2022

Case File: CUP 2022-03 Taft 7-12 High School Electronic Display Center

Property Owner: Lincoln County School District
PO Box 1110
Newport, OR 97365

Situs Address: 3780 SE Spyglass Ridge Dr

Location: Southeast corner of SE Spyglass Ridge Dr/SE High School Dr intersection

Tax Map and Lot: 07-11-27-AC-00500-00, 07-11-27-AC-00400-00, 07-11-27-A0-00305-00, 07-11-27-A0-00307-00

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

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

Site Size: 24.90 acres

Proposal: Request for a conditional use permit for an electronic display center

Surrounding Land Uses and Zones:
North: Houses; R-1-7.5
South: Taft Elementary School, houses; R-1-7.5
East: Open space; OS
West: Open space; OS

Authority: Section 17.76.160 of the Lincoln City Municipal Code (LCMC) gives the Planning Commission the authority to approve, approve with conditions, disapprove, or revoke conditional use permits subject to the provisions of LCMC Chapter 17.77.

Procedure: The Planning and Community Development Department mailed notice to the owners of all properties within 250 feet of the site on April 25, 2022. The *News Guard* published the public hearing notice on May 3, 2022.



Applicable	LCMC Chapter 17.32 General Commercial (GC) Zone
Substantive	LCMC Chapter 17.44 Marine Waterway (M-W) Zone
Criteria:	LCMC Section 17.77.060 Conditional Uses

BACKGROUND

The subject property (site) is addressed as 3780 SE Spyglass Ridge Dr and comprises four tax lots. The site contains a public high school building for grades 7 through 12, along with a sports field and parking. The site is bordered by a residential subdivision to the north, an elementary school and residential subdivision to the south, open space to the east, and SE Spyglass Ridge Dr and SE High School Dr to the west, with open space to the west of SE Spyglass Ridge Dr.

The site does not contain any bluff hazard erosion zones, aesthetic resource, floodway, or flood hazard areas. The easternmost portion of the site in the north corner contains a small area of natural resource overlay zone.

The property owner has made a request for conditional use permit approval to install an electronic display center at the site. The electronic display center will be part of a freestanding sign that will be 16 feet tall. The entire sign area will be 65 square feet, with 30% of the sign face containing the electronic display center.

COMMENTS

No comments were received.

ANALYSIS

*Chapter 17.16 Single-Family Residential (R-1) Zone
17.16.040 Conditional uses*

B. Public or private schools (kindergarten through 12th grade, educational institutions, nursery schools and day care centers)

Chapter 17.72 Signs

17.72.090 Permanent signs in the R-1-5, R-1-7.5, R-1-10, R-1-RE, R-M, R-R, VR, and NP-NCR zones

C. Changeable copy signs, electronic message centers, and signs that are internally illuminated are prohibited, except that changeable copy signs, electronic message centers, and signs that are internally illuminated may be approved with conditional use approval, and as accessory to a conditional use allowed in the zone, under LCMC 17.77.060, and subject to the following:

Finding: The proposed electronic message center will be accessory to the existing high school. A high school is a conditional use allowed in the R-1-7.5 zone (LCMC 17.16.040.B).

- 1. Compliance with provisions of LCMC 17.72.110*

Finding: Compliance with LCMC 17.72.110 is addressed in detail later in the staff report.

- 2. Compliance with provisions of LCMC 17.72.120;*

Finding: Compliance with provisions of LCMC 17.72.120 is addressed in detail later in the staff report.

- 3. Compliance with all required building and electrical code permitting;*

Finding: The building plans examiner will review the sign permit plans for compliance with the building and electrical codes as part of the structural and electrical permitting process once conditional use permit approval has been received and the structural and electrical permits have been requested. This requirement is met as far as it can be with the conditional use permit request, and approval shall be conditioned upon compliance with all required building and electrical code permitting.

4. *Animation is prohibited;*

Finding: The submitted materials show that no animation is being proposed. The submitted narrative states that animation is prohibited. This requirement is met.

5. *Light colors such as white and cream are prohibited. Lettering shall be on a black background. Red lettering is recommended.*

Finding: The submitted narrative states that white and cream colors are prohibited and that lettering shall be on a black background. The submitted plans show that the portion of the sign that contains the electronic messaging center will have a black background with red letters. The electronic messaging center does not show any white or cream colors or any other light colors. This requirement is met.

17.72.110 Illumination – General restrictions

A. No sign, light, lamp, bulb, tube, or device shall be used or displayed in violation of this section.

Finding: The lighting shall be reviewed as part of the structural and electrical permitting process.

B. No light source shall create an unduly distracting or hazardous condition to a motorist, pedestrian, or the general public.

Finding: The proposed sign will have internal LED lighting. No external lighting is proposed. The lighting must meet the standards of LCMC 17.72.120, and these standards are in place to ensure no light source is unduly distracting or hazardous. This shall be reviewed for continued compliance as part of the structural permitting process.

C. External light sources for a sign shall be directed and shielded to limit direct illumination of any object other than the sign.

Finding: The project does not proposed any external light sources for the sign.

D. The illumination of signs shall comply with the following:

1. Neon, LED, or incandescent illumination is allowed, subject to these standards.

Finding: The project proposes LED illumination.

2. Illumination is allowed either internally, externally, directly, or indirectly, subject to these standards.

Finding: The project proposes internal illumination.

3. No exposed reflective type bulb, par spot, nor incandescent lamp, which incandescent lamp exceeds 25 watts, shall be exposed to direct view from a travel way, but may be used for indirect light illumination of the display surface of a sign.

Finding: The project does not propose any exposed reflective bulb, par spot, or incandescent lamp. This shall be reviewed for continued compliance during the structural permitting process.

4. When neon tubing is employed for illumination, the capacity of such tubing shall not exceed 300 milliamperes rating for white tubing nor 100 milliamperes rating for any colored tubing.

Finding: The project does not propose the use of neon tubing.

5. When fluorescent tubes are used for interior illumination of a sign, such illumination shall not exceed illumination equivalent to 800 milliamperes rating tubing behind a sign face spaced at least nine inches, center to center.

Finding: This shall be reviewed for compliance as part of the structural permitting process.

17.72.120 Electronic display centers and changeable copy signs

A. All electronic display centers shall come equipped with automatic dimming controls that automatically adjust the display brightness based on ambient light conditions such as from day to night or on a cloudy day.

Finding: This shall be reviewed for compliance as part of the structural permitting process.

B. No electronic display center shall exceed a brightness level of 0.3 foot-candles above ambient light as measured using a foot-candle (LUX meter at a present distance depending on sign area). Measuring distance shall be determined using the square root of the product of the sign area and one hundred.

Finding: This shall be reviewed for compliance as part of the structural permitting process.

C. One electronic display center or changeable copy sign is allowed per legal lot of record provided the legal lot of record has at least 40 lineal feet of street frontage.

Finding: The project proposes one electronic display center for the site. The site has over 40 lineal feet of street frontage. This requirement is met.

D. The display in the electronic display center may not change or move more often than once every hour.

Finding: This shall be reviewed for compliance as part of the structural permitting process and ongoing compliance throughout the life of the electronic display center.

E. The images and messages displayed must be static, and the transition from one static display to another must be instantaneous without any special effects.

Finding: This shall be reviewed for compliance as part of the structural permitting process and ongoing compliance throughout the life of the electronic display center.

F. The electronic display center must be designed and equipped to freeze the element's display in one position if a malfunction occurs.

Finding: This is a requirement of issuance of the structural permit and is reviewed during the structural permitting process.

G. Sign area of the display portion of the electronic display center or changeable copy sign may not exceed 30 percent of the provided sign face.

Finding: The submitted materials show that the LED portion of the freestanding sign uses 1/3 of the sign face with the non-illuminated portion using the remaining 2/3 of the sign face. This requirement is met.

H. The electronic display center or changeable copy sign must be part of an attached sign or freestanding sign, is not allowed as a separate sign, and is included in the calculation of allowed attached or freestanding sign face area.

Finding: The submitted materials show that the electronic display center is part of a freestanding sign. This requirement is met.

I. Incorporation of electronic display centers and changeable copy signs:

1. Electronic display centers may be incorporated into either attached or freestanding signs, but not roof signs.

Finding: The proposed electronic display center is part of the proposed freestanding sign. This requirement is met.

2. Changeable copy signs may be incorporated into either attached or freestanding signs, but not roof signs.

Finding: This is not a request for a changeable copy sign.

3. Electronic display centers and changeable copy signs are only allowed as part of permanent attached or freestanding signs and may not be utilized as stand-alone permanent signs.

Finding: The proposed electronic display center is part of the proposed permanent freestanding sign. This requirement is met.

4. Electronic display centers and changeable copy signs are subject to the provisions of LCMC 17.72.110 and this section.

Finding: Compliance with the provisions of LCMC 17.72.110 will take place as part of the structural permitting process, and the structural and electrical permits will only be issued with submittal of compliant plans.

17.77.060 Conditional Uses

In order to grant any conditional use, the planning commission must find, based upon evidence, both factual and supportive, provided by the applicant, that:

1. The proposal is in compliance with the comprehensive plan;

Finding: The property owner requests conditional use permit approval for an electronic display center. As detailed earlier in this report, the submitted materials show compliance with LCMC Chapter 17.72. The zoning code enacts the comprehensive plan, so with compliance with LCMC Chapter 17.72 there is compliance with the comprehensive plan.

The City Council of Lincoln City adopted the Lincoln City Comprehensive Plan and its implementation measure, the Lincoln City Zoning Ordinance, after public hearing and has reviewed it on a periodic cycle to

take into account changing public policies and circumstances. The city provided opportunities for review and comment by citizens and affected governmental units during preparation, review, and revision. Review of the proposed is in accordance with applicable zoning ordinance provisions. Accordingly, the request is in conformance with the planning goal.

The city has developed a citizen involvement program. In addition, the public hearing process, with notice to the public and review of the request by the Planning Commission (a citizen board) establishes conformance with the citizen involvement goals. The public services and utilities goal, urbanization goal, natural hazard goal, housing goal, economy goal, transportation goal, energy goal, overall environmental goal, and ocean resources goal are not applicable to the request. By adhering to the requirements of LCMC 17.72 for sign size, dimensions, and display colors, the project is in keeping with the aesthetic goal. Staff finds that the request is consistent with the comprehensive plan.

2. The site for the proposed use is adequate in size and shape to accommodate the use and all yards, spaces, wall and fences, parking, loading, landscaping and other features required by this title;

Finding: LCMC 17.72.100 provides the size requirements for permanent signage. One freestanding sign is allowed per legal lot of record, provided the lot has 50 or more lineal feet of street frontage. The allowed area of a freestanding sign is one square foot of sign area per one lineal foot of street frontage, up to a maximum area of 100 square feet. The freestanding sign must be located outside of any clear-vision areas, may not be within 100 linear feet of another freestanding sign on the same legal lot of record, and may not exceed 20 feet in height. LCMC 17.72.120 provides the size requirements for the electronic display center. One electronic display center is allowed per legal lot of record provided the legal lot of record has at least 40 lineal feet of street frontage, the sign area of the display portion of the center may not exceed 30% of the provided sign face, and the center must be part of a freestanding sign.

The project proposes a 16-foot tall freestanding sign with a sign face of 65 square feet. 30% of the 65 square feet shall contain the electronic display center. The placement of the sign will be outside of the clear-vision areas on the site. The site has approximately 1,100 lineal feet of street frontage on SE Spyglass Ridge Rd and SE High School Rd. The site does not contain any other freestanding signs. Accordingly, the site is more than adequate to accommodate the requested electronic display center as part of the freestanding sign. This criterion is satisfied.

3. The site for the proposed use relates to streets and highways adequate in width and degree of improvement to handle the quantity and kind of vehicular traffic that would be generated by the proposed use;

Finding: The project proposes installation of an electronic display center in a freestanding sign. The project will not generate any traffic over and above the traffic from the existing school. This criterion is satisfied.

4. The proposed use will have minimal adverse impact upon adjoining properties and the improvements thereon. In making this determination, the commission shall consider, but not be limited to, the proposed location of the improvements on the site, vehicular egress/ingress and internal circulation, pedestrian access, setbacks, height and bulk of buildings, walls and fences, landscaping, screening, exterior lighting and signing;

Finding: The placement of the freestanding sign will be on private property and outside of any clear-vision areas. The proposed sign height is less than the maximum 20 feet of height that is allowed with a proposed 16 feet. The proposed sign is less than the maximum 100 square feet of sign area that is allowed with a proposed 65 square feet. No exterior lighting of the sign is proposed. The proposed interior illumination must meet the

standards of LCMC 17.72 for illumination and electronic display centers, as discussed earlier in this report, and compliance for most of those standards is reviewed as part of the structural and electrical permitting process. The standards of LCMC 17.72 were developed and adopted by the city to ensure minimum adverse impact from illuminated signs to adjoining properties. Compliance with the standards, then, equates to the proposal having minimal adverse impact on the adjoining properties. Additionally, the immediately adjacent properties are undeveloped or developed with uses that won't be impacted. For example, immediately west of the site is the street and west of that is open space. East of the site is open space. South of the site is the elementary school. North of the site is a developed residential subdivision; however, the sign will be located approximately 540 feet south of the nearest house to the north.

The submitted narrative states: "There are no homes within sight of our proposed sign. The nearest homes are on the north side of the Taft High School property and not visible from our proposed sign. There is a church and the Oregon Coast Community College on High School Drive to the west of where the sign will be placed, but neither structures are visible from the sign location due to dense trees and shrubs. There will be minimal to no adverse impact on adjoining properties, and our sign is following all of the requirements of the Lincoln City sign code. Therefore, our proposed sign meets this requirement."

Staff notes that, at the writing of the staff report, no written comments had been submitted by the public, no phone calls had been received regarding the request, and no one had visited the department regarding the request. The structural and electrical permit applications will be reviewed for compliance prior to issuance of permits, and continued compliance with the standards of LCMC 17.72 is inherent to installation of a structure. Staff concludes that this criterion is met.

5. In areas designated as requiring preservation of historic, scenic or cultural attributes, proposed structures will be of a design complementary to the surrounding area.

Finding: The site does not have any historic, scenic, or cultural attributes, so this requirement is not applicable.

RECOMMENDATION

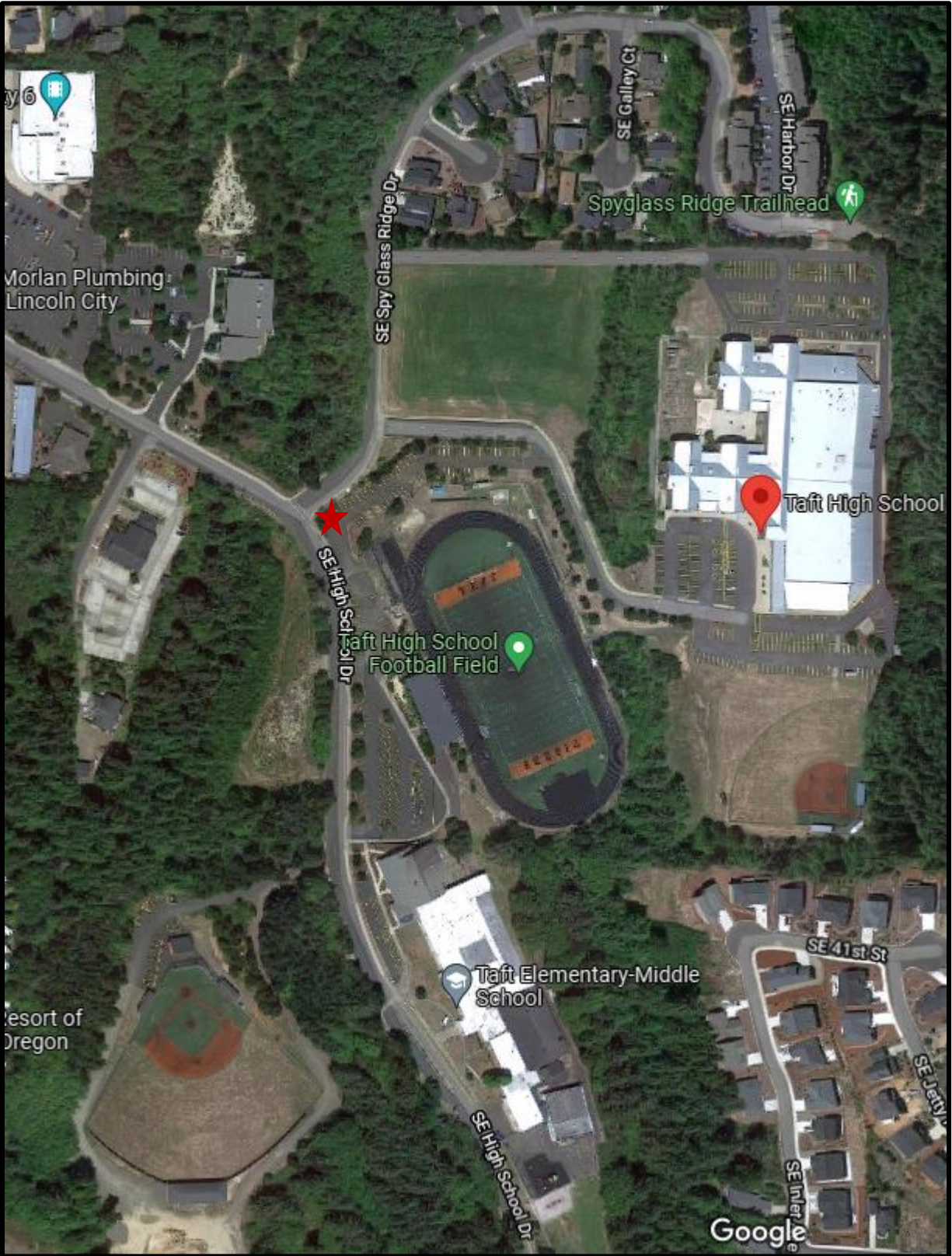
Staff recommends that the Planning Commission hold a public hearing on the proposed conditional use request, take public testimony, close the public hearing, deliberate, and determine whether the request complies with the criteria for granting approval of the request, complies with the criteria with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

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

1. Installation and continued operation of the electronic display center shall comply with all applicable city, state, and federal codes, rules, regulations, and permitting processes, including compliance with LCMC 17.72 and applicable building and electrical code requirements.

EMC Sign Site Plan Aerial Taft 7-12 High School

Our EMC Sign will be on school property at the corner of SE High School Drive and SE Spyglass Ridge Drive (see red star).



Sign Location Taft 7-12 High School

The sign will be positioned so it is visible coming from either direction on SE High School Drive. Two Coastal Pine Trees will need to be removed. There is an existing sign pole from a previous EMC sign that was located here. The sign will be positioned in this very area and adjusted to give the best viewing angle to drivers coming from either direction. The existing pole will need to be removed, however, there is electricity already running to it, so we will maximize the use of that for the new sign.



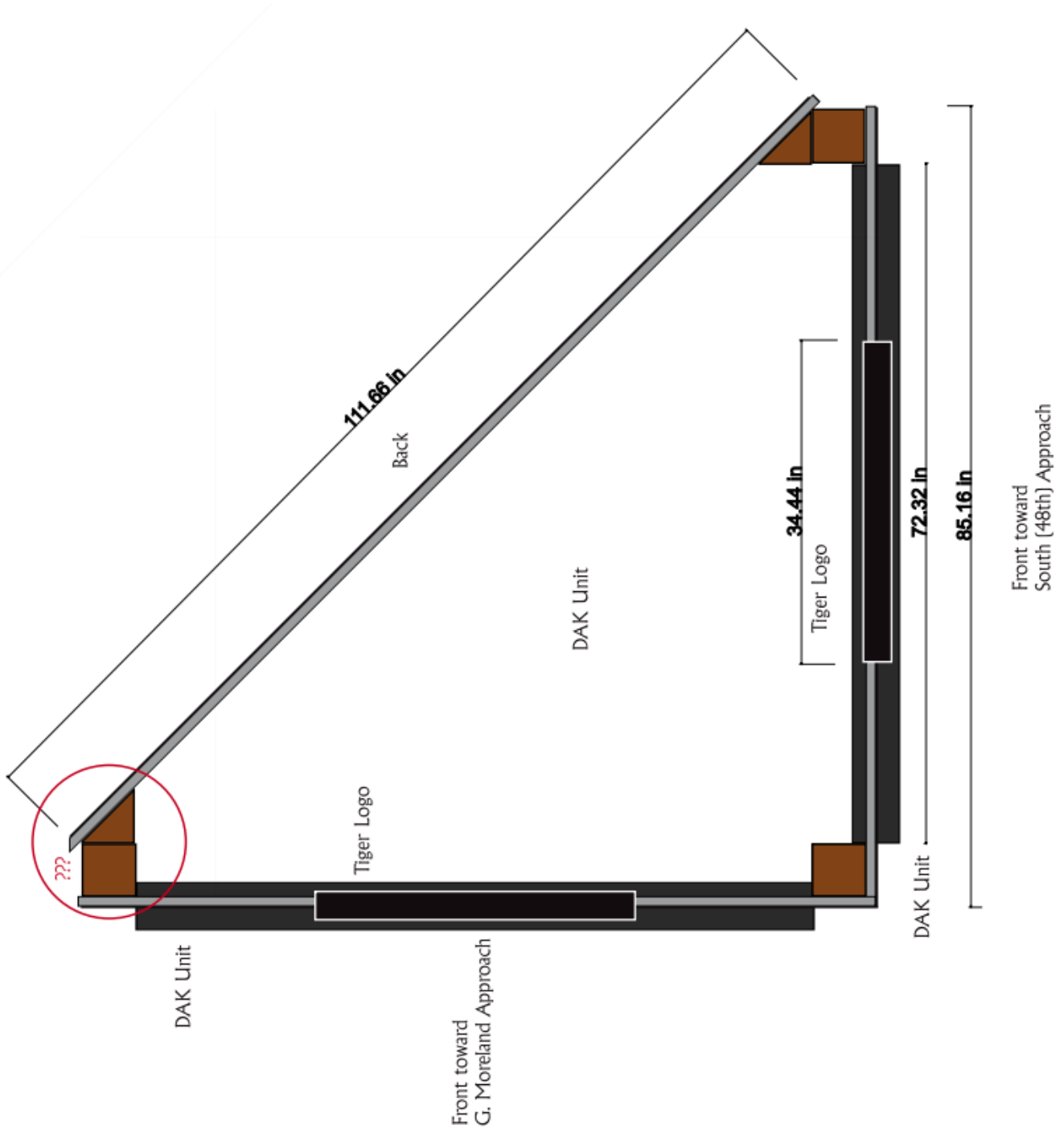
Sign Mockup & Dimensions Taft 7-12 High School

The actual sign is 65 square feet overall. The LED portion of the sign takes up 1/3 of the sign face while the non-illuminated sections comprise 2/3 of the sign. The sign along with the poles supporting it stand 16 feet tall from the ground up, at its highest point. Newport Signs is building the non-illuminated sections of the sign and the support structure. Daktronics is providing the LED portion. The arrow by the school's address will be adjusted to point the opposite direction for the side of the sign coming from the other direction.



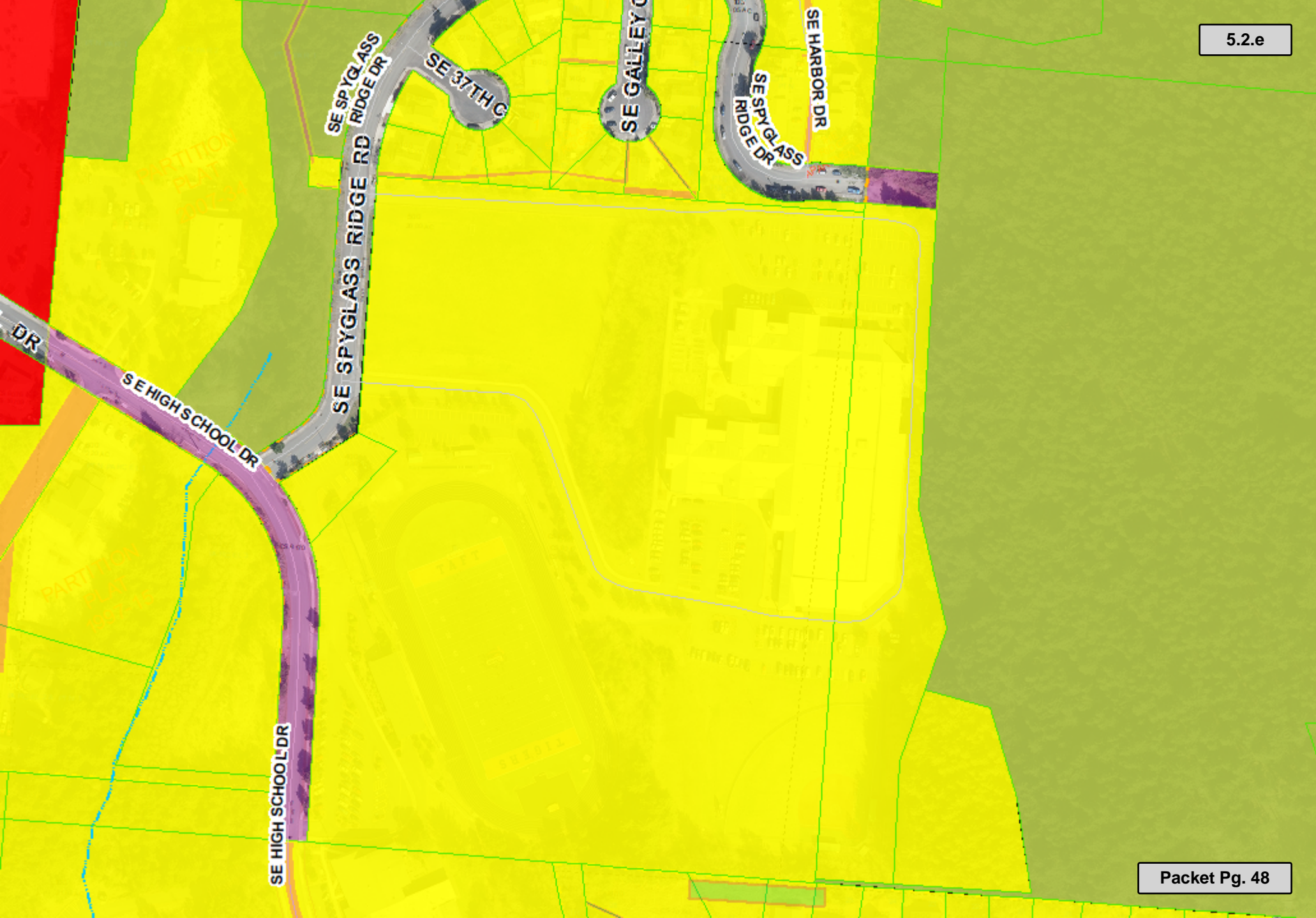
Sign Support Structure Taft 7-12 High School

The overall support structure for the sign (including the diagonal back support) is under 100 square feet. See dimensions on the mock-up below. We plan to add a diagonal back support to further strengthen the sign, improve the sign's strength in the wind, and visually tidy up the view from the parking lot area. Notice the red circle in the picture below – we do not have the exact dimensions of these corner attachment pieces. The structure is designed so that our families and students can see it no matter what direction they are coming from on SE High School Drive.









Conditional Use 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: Lincoln County School District

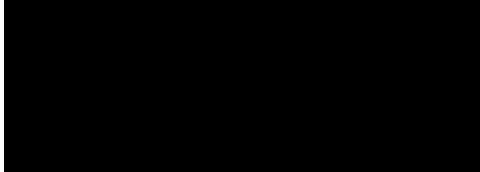
ADDRESS:  _____

PHONE: _____

E-MAIL: _____

APPLICANT:

NAME: Lincoln County School District

ADDRESS:  _____

PHONE: _____

E-MAIL: _____

SITE INFORMATION:

ZONING DISTRICT: R.1.7.5 Residential

TAX MAP AND LOT: 07-11-27-AC-00500-00 and 07-11-27-AC-00400-00

SITE ADDRESS: 3780 SE Spyglass Ridge Dr

REQUESTED CONDITIONAL USE:

Cite the code section of the proposed conditional use: LCMC 17. Section 17.72.090

TO GRANT ANY CONDITIONAL USE, THE PLANNING COMMISSION MUST FIND, BASED UPON EVIDENCE BOTH FACTUAL AND SUPPORTIVE THAT IS PROVIDED BY THE APPLICANT, THAT ALL THE FOLLOWING ARE TRUE:



LCMC 17.77.060.D.1 – *The proposal is in compliance with the comprehensive plan;*

LCMC 17.77.060.D.2 – *The site for the proposed use is adequate in size and shape to accommodate the use and all required setbacks, common spaces, retaining walls, parking and loading areas, landscaping, and other features required by this title;*

LCMC 17.77.060.D.3 – *The site for the proposed use relates to streets and highways adequate in width and degree of improvement to handle the quantity and kind of vehicular traffic that would be generated by the proposed use;*

LCMC 17.77.060.D.4 – *The proposed use will have minimal adverse impact upon adjoining properties and the improvements thereon. In making this determination, the review authority shall consider, but not be limited to, the proposed location of the improvements on the site, vehicular egress/ingress and internal circulation, pedestrian access, setbacks, height and mass of buildings, retaining walls, fences, landscaping, screening, exterior lighting, and signage; and*

LCMC 17.77.060.D.5 – *In areas designated as requiring preservation of historic, scenic or cultural attributes, proposed structures will be of a design complementary to the surrounding area.*

A detailed narrative must be prepared and submitted, along with this completed application form, that provides detailed evidence and proof that the proposal meets and complies with each criterion listed above. Each criterion must be discussed and thoroughly addressed. The narrative must also give a detailed description of the proposed conditional use.

REQUIRED SUBMITTAL ITEMS:

1. Completed Conditional Use Application form
2. Detailed written narrative
3. Completed Online Direct Pay Authorization Agreement for Credit/Debit Cards
4. Existing Conditions Plan (if applicable)
5. Site Plan
6. Landscape Plan (if applicable)
7. Building Elevations (for new construction, additions, or exterior remodels)
8. Phasing Plan (if phasing is proposed)
9. Traffic Impact Study (if required)
10. Other reports, studies, plans, or documents identified by staff as being applicable and required
11. Dock conditional use requests shall also include:
 - Detailed explanation in the written narrative describing compliance with LCMC 17.44.040.B

- Plan of the proposed dock showing location and all dock dimensions that are compliant with LCMC 17.44.040.B
- Description and/or materials cut sheets of the proposed materials of the dock that are compliant with LCMC 17.44.040.B

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 or any application materials shall be a violation and grounds to deny the application and void any approvals.

SIGNATURES:



(signature required)

4-14-22
Date

Applicant (signature required)

4-14-22
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.*



LINCOLN COUNTY SCHOOL DISTRICT

Dr. Karen Gray
Superintendent

District Office | Teaching & Learning Center
1212 NE Fogarty Street, Newport, OR 97365
PO Box 1110, Newport, OR 97365
T 541-265-9211 | F 541-265-3059
www.lincoln.k12.or.us

Taft 7-12 High School EMC Conditional Use Permit Narrative

Lincoln County School District is requesting a Conditional Use Permit in order to install a permanent electronic message center sign at Taft 7-12 High School. The sign will support communications for Taft 7-12 High School's students, staff, families, and the community.

Electronic Message Centers are beneficial for many reasons. They provide visual communications of upcoming events, time sensitive safety messages, and the opportunity to celebrate student achievements. They increase awareness of the location of a school, and promote pride in, ownership of, and a sense of belonging to the school community. EMC's provide communication to large volumes of people just by being consistently visible in the daily lives of the community who pass through the area.

Site Plan: The school is located at 3780 SE Spyglass Ridge Drive, but most of the vehicles going to the school come from either direction on SE High School Drive. Thus, our school sign will be located on the corner of SE High School Drive and SE Spyglass Ridge Drive (see red star). Lincoln County School District owns the land where the proposed sign will be installed. In fact, an electronic message center sign for Taft High School previously existed in this exact location, and the sign pole is still in place.



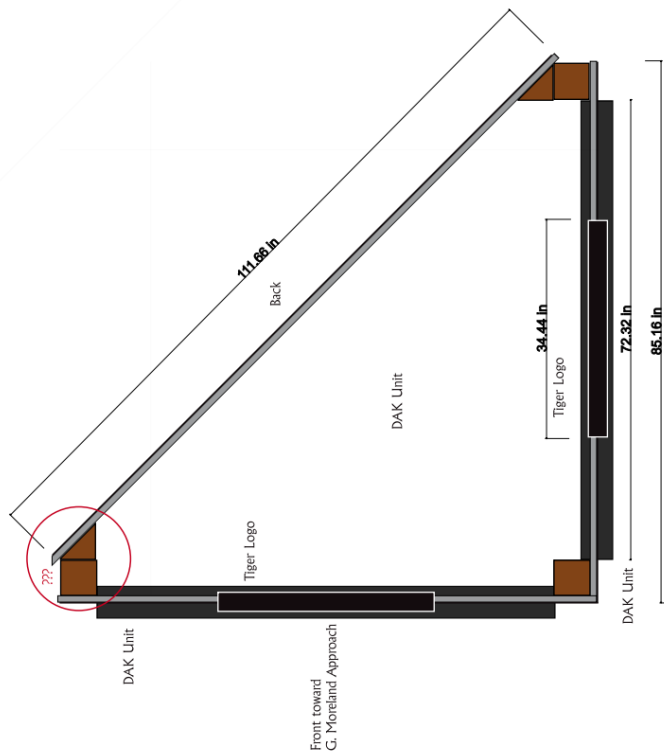


LINCOLN COUNTY SCHOOL DISTRICT

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Sign Design & Dimensions: We are proposing a two-sided sign so that our families and students can see it no matter what direction they are coming from on SE High School Drive. Once our Conditional Use Permit has been issued, we will submit a Zoning Sign Permit Application. In the meanwhile, here is the mock-up of our proposed sign, with all of the dimensions for both the sign and the structure supporting the sign.



This sign meets all of the requirements and limitations for the city’s regulations regarding an electronic message center sign, including:

- 100 sq feet max.
- 20’ high max.
- 30% max of sign can be the electronic display portion.
- Animation is prohibited.
- Light colors such as white and cream are prohibited.
- Lettering shall be on a black background. Red lettering is recommended but not required.

Landscape Plan: Once our Conditional Use Permit has been issued, we will submit a tree removal permit for the two Coastal Pine Trees that need to be removed in order for the sign to be installed and visible.



LINCOLN COUNTY SCHOOL DISTRICT

Dr. Karen Gray
Superintendent

5.2.g

District Office | Teaching & Learning Center
1212 NE Fogarty Street, Newport, OR 97365
PO Box 1110, Newport, OR 97365
T 541-265-9211 | F 541-265-3059
www.lincoln.k12.or.us

Compliance with LMC: We are in compliance with all applicable LMC requirements, as indicated below:

LMC 17.77.060 D.1. *The proposal is in compliance with the comprehensive plan;*

Section 17 of Lincoln City's Sign Regulations is in compliance with the comprehensive plan. Our proposed sign is in compliance with Section 17 of the Sign Regulations. Therefore, our proposal is indeed in compliance with the comprehensive plan.

LMC 17.77.060 D.2. *The site for the proposed use is adequate in size and shape to accommodate the use and all required setbacks, common spaces, retaining walls, parking and loading areas, landscaping, and other features required by this title;*

According to section 17.72.100, the sizing requirements for a freestanding sign allow for one square foot of sign per one lineal foot of street frontage, up to a maximum area of 100 square feet. We have more than 100 lineal foot of street frontage, with adequate size and shape, and therefore, our proposed sign meets this requirement.

LMC 17.77.060 D.3. *The site for the proposed use relates to streets and highways adequate in width and degree of improvement to handle the quantity and kind of vehicular traffic that would be generated by the proposed use;*

Not applicable.

LMC 17.77.060 D4. *The proposed use will have minimal adverse impact upon adjoining properties and the improvements thereon. In making this determination, the review authority shall consider, but not be limited to, the proposed location of the improvements on the site, vehicular egress/ingress and internal circulation, pedestrian access, setbacks, height and mass of buildings, retaining walls, fences, landscaping, screening, exterior lighting, and signage;*

There are no homes within sight of our proposed sign. The nearest homes are on the north side of the Taft High School property and not visible from our proposed sign. There is a church and the Oregon Coast Community College on High School Drive to the west of where the sign will be placed, but neither structures are visible from the sign location due to dense trees and shrubs. There will be minimal to no adverse impact on adjoining properties, and our sign is following all of the requirements of the Lincoln City sign code. Therefore, our proposed sign meets this requirement.

LCMC 17.77.060.D.5 – *In areas designated as requiring preservation of historic, scenic or cultural attributes, proposed structures will be of a design complementary to the surrounding area.*

Not applicable.



LINCOLN COUNTY SCHOOL DISTRICT

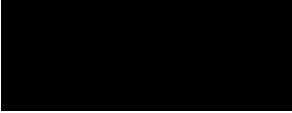
Dr. Karen Gray
Superintendent

5.2.g

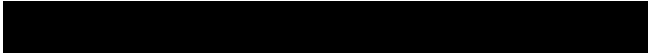
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www.lincoln.k12.or.us

Thank you for considering our request for a Conditional Use Permit to install an Electronic Message Center Sign at Taft 7-12 High School.

Sincerely,



Sue Graves
Safety Coordinator, MA Security Studies
Lincoln County School District



Planning Commission Communication

CUP 2022-02 Rainbow Villa

Meeting Date: May 17, 2022 Primary Staff Contact: AnneMarie Skinner
Department: Planning Commission E-Mail: ASkinner@lincolncity.org
Secondary Dept: Secondary Contacts:
Approval: Estimated Time:

Attachments:

CUP 2022-02 Application Redacted (PDF)
CUP 2022-02 Additional Materials Redacted (PDF)
CUP 2022-02 Narrative Redacted (PDF)
CUP 2022-02 Plans and Elevations(PDF)
CUP 2022-02 GIS Site (BMP)
CUP 2022--02 GIS Zoning (BMP)
CUP 2022-02 STAFF REPORT Rainbow Villa (DOCX)

Conditional Use 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: 4 OWNERS ; SEE SHT 4

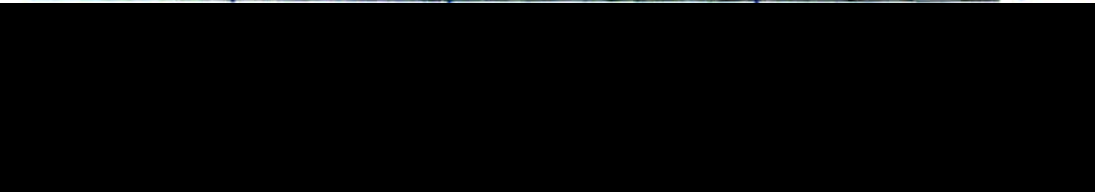
ADDRESS: SEE "

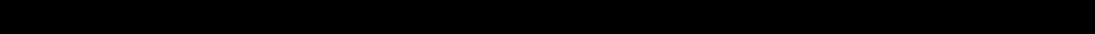
PHONE: SEE "

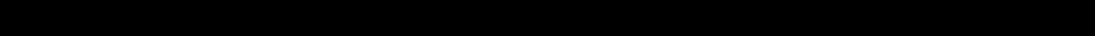
E-MAIL: SEE "

APPLICANT:

NAME: GENE PFEIFER, MANAGER, DESIGN BUILD

ADDRESS: 

PHONE: 

E-MAIL: 

SITE INFORMATION:

ZONING DISTRICT: CG

TAX MAP AND LOT: 07-11-27-CA-00600-00

SITE ADDRESS: 4250 SE HWY 101

REQUESTED CONDITIONAL USE:

Cite the code section of the proposed conditional use: LCMC 17. 76.050

RM USE IN A CG ZONE

TO GRANT ANY CONDITIONAL USE, THE PLANNING COMMISSION MUST FIND, BASED UPON EVIDENCE BOTH FACTUAL AND SUPPORTIVE THAT IS PROVIDED BY THE APPLICANT, THAT ALL THE FOLLOWING ARE TRUE:



City of Lincoln City 800 999 Highway 204 PO Box 11 Lincoln City, OR 97267 503.536.3153
 Planning & Community Development www.lincolncity.org planning@lincolncity.org

EXHIBIT
1/4

LCMC 17.77.060.D.1 – *The proposal is in compliance with the comprehensive plan;*

LCMC 17.77.060.D.2 – *The site for the proposed use is adequate in size and shape to accommodate the use and all required setbacks, common spaces, retaining walls, parking and loading areas, landscaping, and other features required by this title;*

LCMC 17.77.060.D.3 – *The site for the proposed use relates to streets and highways adequate in width and degree of improvement to handle the quantity and kind of vehicular traffic that would be generated by the proposed use;*

LCMC 17.77.060.D.4 – *The proposed use will have minimal adverse impact upon adjoining properties and the improvements thereon. In making this determination, the review authority shall consider, but not be limited to, the proposed location of the improvements on the site, vehicular egress/ingress and internal circulation, pedestrian access, setbacks, height and mass of buildings, retaining walls, fences, landscaping, screening, exterior lighting, and signage; and*

LCMC 17.77.060.D.5 – *In areas designated as requiring preservation of historic, scenic or cultural attributes, proposed structures will be of a design complementary to the surrounding area.*

A detailed narrative must be prepared and submitted, along with this completed application form, that provides detailed evidence and proof that the proposal meets and complies with each criterion listed above. Each criterion must be discussed and thoroughly addressed. The narrative must also give a detailed description of the proposed conditional use.

REQUIRED SUBMITTAL ITEMS:

1. Completed Conditional Use Application form
2. Detailed written narrative
3. Completed Online Direct Pay Authorization Agreement for Credit/Debit Cards
4. Existing Conditions Plan (if applicable)
5. Site Plan
6. Landscape Plan (if applicable)
7. Building Elevations (for new construction, additions, or exterior remodels)
8. Phasing Plan (if phasing is proposed)
9. Traffic Impact Study (if required)
10. Other reports, studies, plans, or documents identified by staff as being applicable and required
11. Dock conditional use requests shall also include:
 - Detailed explanation in the written narrative describing compliance with LCMC 17.44.040.B

cu,
2/4

- Plan of the proposed dock showing location and all dock dimensions that are compliant with LCMC 17.44.040.B
- Description and/or materials cut sheets of the proposed materials of the dock that are compliant with LCMC 17.44.040.B

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 or any application materials shall be a violation and grounds to deny the application and void any approvals.

SIGNATURES:

SEE SHIT 4 (4 OWNERS)

Property Owner/Contract Purchaser (signature required)

Date

Applicant (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.

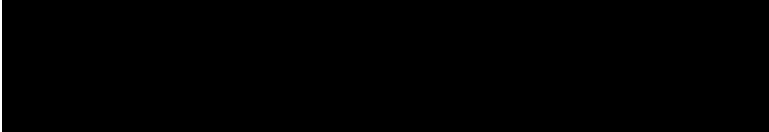
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C.U.
3/4

OWNERS INFORMATION:

Name : FARZANA FORHAD



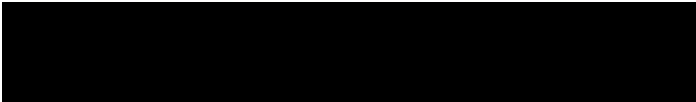
Name : BASHIR UDDIN MAHMUD



Name : SHAFIUL CHOWDHURY



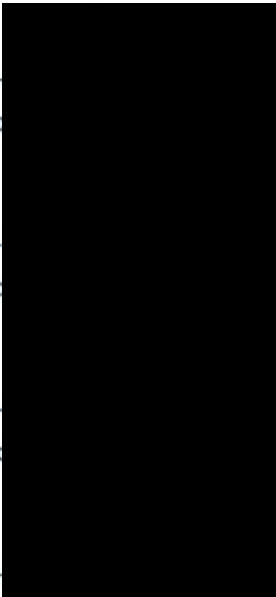
Name : SAZZADUR RAHMAN



OWNER'S SIGNATURES:

Property Owner/Contract Purchaser (signature required)

Date 3/31/2022



Pro...urchaser (signature required)

Date 3/30/2022

Pro...urchaser (signature required)

Date 3/30/2022

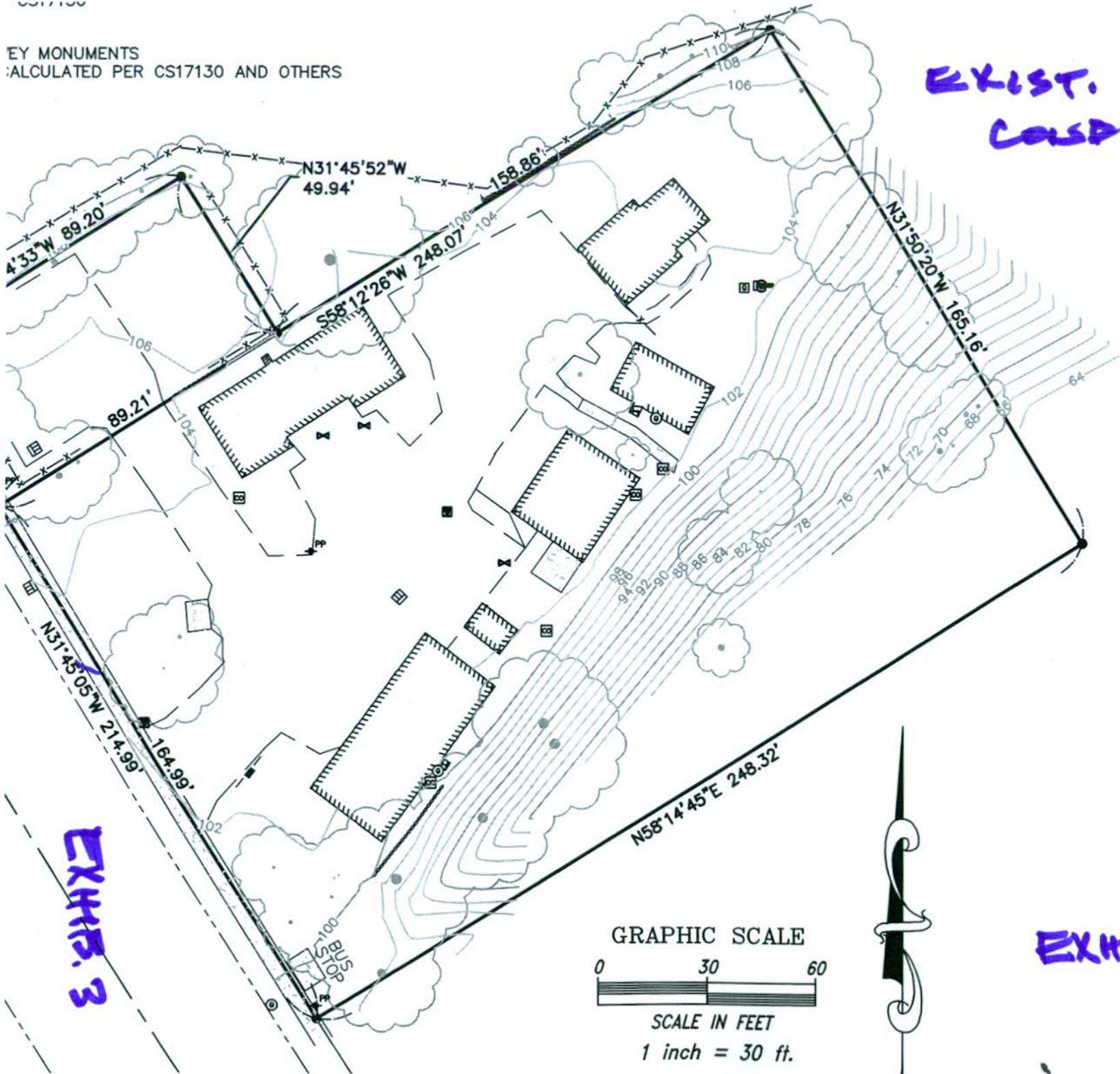
Pro...urchaser (signature required)

Date 3/30/2022

cu.
4/4

KEY MONUMENTS
CALCULATED PER CS17130 AND OTHERS

EXIST.
CONDITIONS



EXHIB. 3

EXHIB. 3

gene@innovdc.com

From: Frederick Ulrich [REDACTED]
Sent: Friday, April 1, 2022 5:06 PM
To: gene [REDACTED]
Subject: RE: Rainbow Villa/ Site Study: 16 Units: 4250 SE US Highway 101, Lincoln City, Oregon

Gene,

Thank you for your patience on this.

Your drawing meets the 2019 OFC requirements for access and water supply (location of hydrants). A supervised hydrant flow test will still be needed to verify adequate water supply for the fire sprinkler system for the building.

I hope this message is satisfactory for your needs.



Frederick (Ed) Ulrich
 Fire Marshal

North Lincoln Fire & Rescue
 District #1

Administrative Officer

From: gene [REDACTED]
Sent: Friday, April 01, 2022 10:55 AM
To: Frederick Ulrich [REDACTED]
Cc: [REDACTED]
 <sa [REDACTED]>
Subject: FW: Rainbow Villa/ Site Study: 16 Units: 4250 SE US Highway 101, Lincoln City, Oregon

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

Good morning, Ed-

Thank you for your helpfulness previously.

Attached is the site plan you discussed with me previously, now drawn to scale. The 28 feet radius for the turn around has worked out well.

EXHIB. 11

Rainbow Villa : LEGAL

5.3.b

RECORDING REQUESTED BY:

Western

3469 NW Highway 101
Lincoln City, OR 97367

AFTER RECORDING RETURN TO:

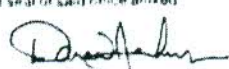

Order No.: WT0217890-CAS
Shafiu Azam Chowdhury
13630 NW Trevino St
Portland, OR 97229

SEND TAX STATEMENTS TO:

Shafiu Azam Chowdhury
13630 NW Trevino St
Portland, OR 97229

APN: R245476
R247956
Map: 07-11-27-CA-00600
07-11-27-CA-00700

Lincoln County, Oregon
 08/30/2021 03:32:01 PM
 DOC WD
 \$20.00 \$11.00 \$10.00 \$60.00 \$7.00
 2021-08490
 Cnt=1 Pgs=4 Sln=12
 \$108.00
 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

Kathleen Johnson Roff, Trustee of The Kathleen Johnson Roff Living Trust, dated June 19, 2016, Grantor, conveys and warrants to Shafiu Azam Chowdhury, as an undivided 40% interest and Bashir Uddin Mahmud, as an undivided 15% interest and Farzana Forhad, as an undivided 20% interest and Sazzadur Rahman, as an undivided 25% interest, 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:

PARCEL I:

That portion of Section 27, Township 7 South, Range 11 West, Willamette Meridian, described as follows:

Beginning at a point that is North 1855.2 feet and East 404.2 feet from the 1/32 section corner that is set 660 feet West from the quarter section corner between Sections 27 and 34, Township 7 South, Range 11 West, Willamette Meridian; thence North 34° 15' west 45 feet to the most Westerly corner of the McCready tract described in Deed recorded in Book 108, page 617, Deed Records, which corner is the true point of beginning of the tract herein to be described; thence North 34° 15' West along the Easterly right of way line of the Oregon Coast Highway 165 feet, more or less, to the most Southerly corner of the Currier tract described in Deed recorded in Book 114, page 325, Deed Records; thence North 55° 45' East along the Southerly line of said Currier tract and along the Southerly line of Rogen tract, 259.40 feet; thence South 34° 15' East, 165 feet to the Northerly line of aforesaid McCready tract; thence South 55° 45' West along said Northerly line, 259.46 feet, more or less, to the true point of beginning.

PARCEL II:

That portion of Section 27, Township 7 South, Range 11 West, Willamette Meridian, described as follows:

Beginning at a point 2016.4 feet North and 295.6 feet East of the 1/32 corner which is 660 feet West of the quarter corner between Sections 27 and 34, Township 7 South, Range 11 West, Willamette Meridian, in Lincoln County, Oregon, which is an iron pipe; thence North 34° 15' West 15 feet to the true point of beginning of this tract; thence North 34° 15' West 50 feet; thence North 55° 45' East 100 feet; thence South 34° 15' East 50 feet; thence South 55° 45' West 100 feet to the place of beginning.

EXMB 12

LAND MARKERS SURVEYING
 4068 HUDSON AVE. NE
 SALEM, OR 97301
 OFFICE (503) 581-0911

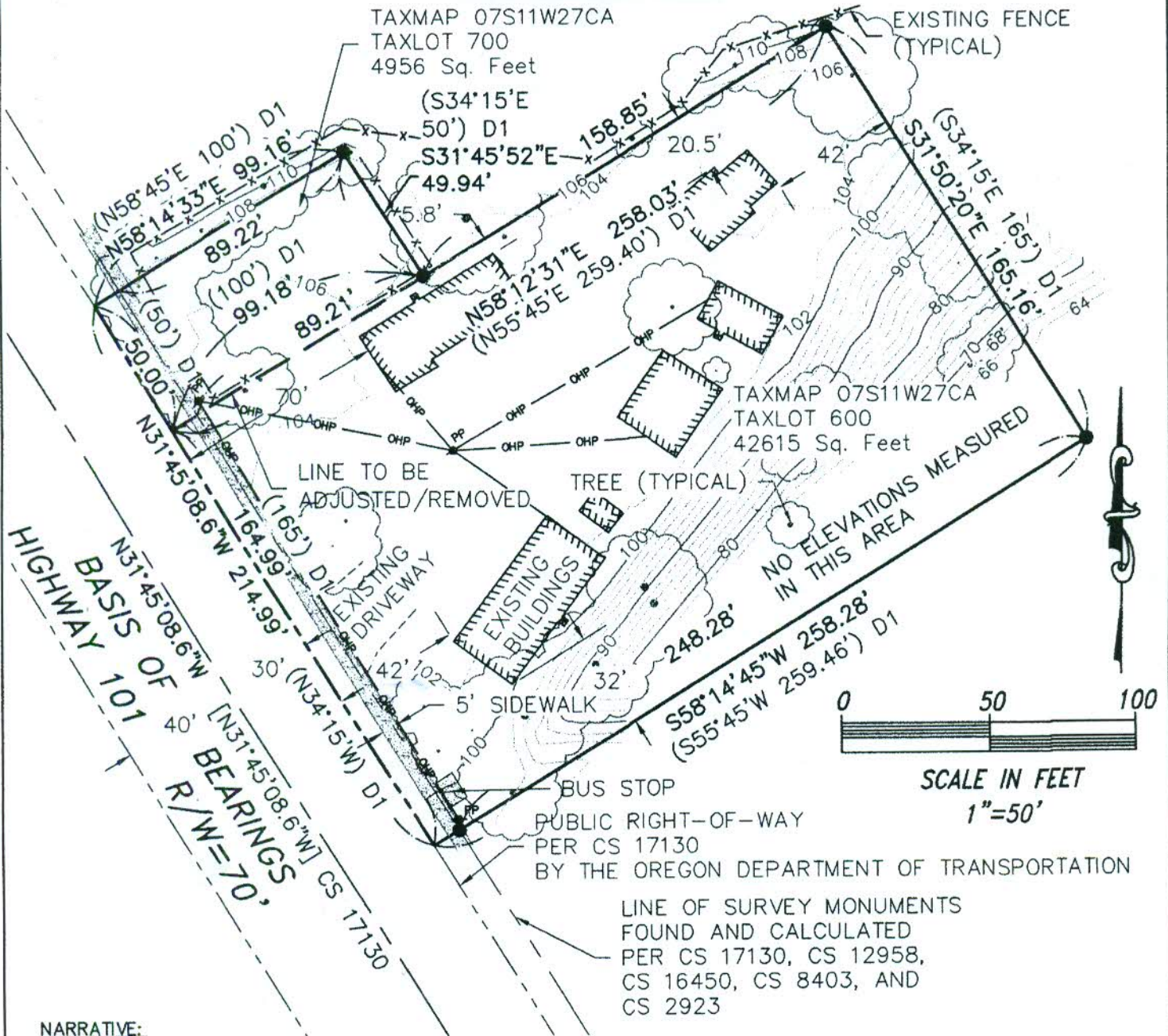


SITE PLAN

PREPARED FOR: GENE PFEIFER JOB #22-003

DATE: MARCH 16, 2022

LOCATED IN THE SOUTHWEST QUARTER OF SECTION 27,
 TOWNSHIP 7 SOUTH, RANGE 11 WEST, WILLAMETTE MERIDIAN,
 LINCOLN CITY, LINCOLN COUNTY, OREGON



NARRATIVE:

The purpose of this map is to illustrate a proposed property line adjustment on that property described in Document 2021-08790. No monuments were set for this map. Basis of Bearing for this project was from said Lincoln County Survey 17130. Book 75, Page 59, Lincoln County Deed Records notes a Water Main easement with no description of location.

LEGEND:

- R/W - RIGHT OF WAY
- D1 - DOCUMENT 2021-08790, LINCOLN COUNTY DEED RECORDS
- CS - LINCOLN COUNTY SURVEY
- - FOUND SURVEY MONUMENT
- OHP - OVER HEAD POWER LINE
- PP - POWER POLE

NOTE:

ALL BOUNDARY INFORMATION SHOWN HEREON IS RECORD INFORMATION FROM DOCUMENT 2021-08790

REGISTERED
 PROFESSIONAL
 LAND SURVEYOR

OREGON
 JANUARY 10, 2006
 TROY E. PETERSEN
 61408

EXPIRES: 12/31/22

SIGNED: 03/18/22

EXHIB. 13

April 4, 2022

P. 1 of 9

**NARRATIVE for LINCOLN CITY PLANNING COMMISSION
RAINBOW VILLA CONDITIONAL USE REQUEST
4250 U.S. HIGHWAY 101, LINCOLN CITY, OREGON 97367**

PART ONE: GENERAL DESCRIPTION and INTENDED USE:

Current property is now approximately 1.1 acre and zoned CG. RM use is allowed as conditional use. No zone change is requested because Applicants believe that their proposal will be beneficial to the City of Lincoln City and its Citizens within the requirements of the Residential Multiple code, which must be applied.

The property is mainly flat with a general slope, north to south on its plateau from 108.0 to 102.0 feet. Thence the property drops off on a steep grade to the south east providing a natural setting with significant trees. The natural zone will continue to be a wildlife corridor, providing access from Highway 101 to the east, where there is an existing large preserve of forest. It also provides access for wildlife across to the west of 101 to an internal smaller corridor that runs north to south.

The existing non-conforming use is RM; however poorly planned from decades ago with only nine scattered units, causing a hardship to provide proper density for a well-located service point for midrange apartments.

To accommodate density and additionally preserve the natural space, the designer, well experienced with cantilevered designs, has illustrated that with a proper foundation to the south, valuable land space may be utilized which will not remove any of the tall, significant trees. This work will be under the overview and direction of Geotechnical Geologists and Structural Engineers.

The result will be that the occupants will enjoy the view of the trees and the accompanying rich ground cover; enhanced with a bird population and probable passage of small carnivores, squirrels and deer. Additionally, the trees will provide sound absorption of the 101 traffic.

The public benefits from this botanic growth that has survived this urban setting over decades will be sustained and the dominant view for motorists coming north on 101.

Notably, vistas will be viewed from the proposed, larger than normal, garden patio for each apartment, providing personal open space, room for seating and a table, and planters with herbs, tomatoes and peppers.

All the units will provide 36-inch doors as a standard, and full accessibility. There will be no steps into the building and the use of an elevator, making every part of the building accessible, including the roof patio and walking surface.

The elevator will go all the way to the roof level where there will be open space for all the tenants to enjoy the view of the Ocean and the sea breeze; and be possible to do walking in private, safe space, and foster congregate gardening.

PART TWO: REVIEW OF PRE-APP NOTES:

City notes:

Lot line adjustment and survey conclusions: The surveyor has checked the property leaps and bounds. A lot line adjustment is being applied for today. The property legal goes into the 101 right-of-way. There are public improvements, including the public sidewalk, on this property deed. The applicants propose to deed all the property to the west of the east edge of the existing public sidewalk to the public; and agree to make this a condition of approval.

Reflected in the site plan parking, all the north, west to east, compact parking spaces plus one full size fit because the surveyor concludes that the measurement to the east edge of the public sidewalk is 89.22 feet plus 4.05 feet on the north of the property. Additionally, the east west measurement 50 feet farther to the south is 89.21 feet plus 2.76 feet. The survey proof of this will be a condition of approval, and be recorded to the public.

Parking spaces: Required parking spaces have been satisfied. There are 26, 9x20 full size spaces and 24, 8x16 compact, 50 total. 49 spaces are required for the 46 units.

Parking area: Landscape in parking vicinity is 20 percent of the open-air parking.

Parking is no longer in the front of the building. There is now a 10 foot landscape strip between the 101 R.O.W. and parking. It is not possible to maximize the use of the land, and questionable that parking be reconfigured to the rear, when open and natural space may be sustained otherwise.

Parking lighting: A plan to code will be submitted.

P. 3 of 9

Bicycle parking: There is a 3.5 feet wide strip in the parking structure its entire length. Several bays will be reserved for bicycles only.

Clear highway vision: We are blessed with a location where vision is clear 560 feet to the north and 1300 feet to the south. The driveway is level and one foot higher than the highway.

Utilities: All utilities will be underground; and are present.

Solid waste area: The waste and recycle area is about 200 feet east of the 101 sidewalk. It will be enclosed.

Mechanical equipment: HVAC units will be roof mounted in the midspan of the roof, and not be visible to the public. Electric meters will be screened, or within the building envelope.

Trees: The plan is not to remove any significant trees.

Standards: The setbacks have been met. The 40 feet maximum height has also been met in the drawings. With the main floor 4 inches above the driveway, the total height to the top of the stair structure is 39.95 feet. Since the elevator shaft is about in the center of the roof, east to west, we will apply that exception, and perhaps be at 43 feet, but not close to the view of a vertical wall. The building percent of coverage to the entire property is 25.5 percent. Common area is about 40 percent of the total, or 19,000 square feet. The grade of a trail in the bottom of the draw of the nature area is about 14 percent, and leads to spacious forest areas. Additional common area will be on the roof patio. Gross roof area is about 12,000 sq feet; but may not be 100 percent roof patio. A small structure is being considered to the benefit of a roof patio, and for viewing the Ocean or getting out of the rain. Its height may not exceed 40.0 feet. There will be a tenant ground level deck in the trees on the east end of the building.

Pfeifer notes:

Fire Marshall: Noted that the building height exceeded 34 feet; therefore, wanted proper driveway for apparatus. Also, that the access to the building exceeded 150 feet; so, a turn around with a 28 feet radius would be required. Email, 4/1/2022, exhibit from Fire Marshall, Frederick

Ulrich, confirms that the current driveway plan meets the standards, and will be part of the conditions.

PART THREE: CONDITIONAL USE APPLICATION REQUIREMENTS:

LCMC 17.77.060.D.1, Compliance with the comprehensive plan:

That of the City of Lincoln City, Oregon:

- 1. Land Use Planning:** The expectation is that the comprehensive plan needs to be implemented with factual information. It also needs to recognize that there may be exceptions when the literal perfection of a goal cannot or should not be applied to a particular area or situation. We believe that with the sustainable feature of the natural area and its direct benefits to the occupants and the vista of the citizens at large, that this application is such a case.
- 2. Citizen Involvement:** This proposal is being presented to the local planning commission, members from the citizens at large. Their task is to determine if this application is the best interest of the general atmosphere and wellbeing of the City and its Citizens.
- 3. Public Facilities and Services:** Having already been an active, yet non-conforming apartment use, all the City services are present. However, the water and sanitary sewer services need to be enlarged. The services in the highway being adequate, the request to extend them should be reasonable. The Fire Department has deemed it reasonable to be supportive.
- 4. Urbanization:** The subject property is already within the city limits of Lincoln City. The area of land it represents is poorly utilized. As such, it is a field ready to be planted and fertilized without conflict with an UGB issue.
- 5. Natural Disasters and Hazards:** By the size of the significant trees, we realize that this property has had its personality profile for many decades. It is not clear why there is an escarpment on the south side because there is no current source of water which would have started the obvious historical erosion that had run to the east. Upon review, the elevation from Highway 101 flows to the west. What is clear is the slope is

stable because the trees indicate so. Proper science and registered professionals will be determining the soil compression and the necessary concrete grade beam to prevent the structure from moving to the south east. Any additional storm water generated by the new impervious area, will be retained from immediate entry into the City's storm system, and not able to flow randomly to the sloped area. The roof water is all flowing to the north to be controlled. Additionally, the blanket of existing vegetation ground cover and tree roots will remain undisturbed.

- 6. Housing:** It is clear that additional varieties of housing are needed in Lincoln City. Our design will be affordable, yet provide some exterior enjoyable space that tenants normally will not find in an apartment complex. The interior bicycle parking will be dry and more secure than most. It is also in a prime location for employees, in either direction.
- 7. Economy:** Providing more diversity in housing helps the employees be more confident in locating in Lincoln City. Thus, local businesses get more competent and happy employees.
- 8. Esthetics:** Lincoln City is known for its support of art, not just in its retail outlets; but displayed on its streets as well. The design presented for the front of this building is intended to emulate the name of the Villa. The sloping feature on the front represents a rainbow of color. Not garish, but a tone on tone of color in pastels. Just like a rainbow. And a large price of art. The tall trees being preserved, also help picture frame this art in a complimentary way. The large projecting garden patios make an interesting disappearing perspective. The plan proposes to place, another form of art, a full driftwood tree on the siding wall above our "green roof" on the west end of the building
- 9. Transportation:** The property already provides a bus stop. The encouragement of dry parking for bicycles encourages their presence without the need of wheeling them into their apartments only to clutter space. Handy location encourages more use. Otherwise, this proposal does not hamper the existing ongoing mass of traffic on 101.

10. Energy: The probable HVAC will be a ductless heat system to the units. There is better control of rooms that need various temperatures, rather than one thermostat controlling all areas. Also, the simple box building design avoids excess perimeters which creates more heat gain and heat loss. Certainly, the encouragement of man propelled transportation saves energy. Finally, the projected nature of the proposed garden patios will prevent excessive sun from entering the apartments in the summer months.

11. Overall Environmental: The box design with exterior appendages for esthetics provides a good example of conservation and sustainability. It has more energy efficient shell, uses less materials, takes less labor, saves time, saves funds, saves natural resources. “True sustainability releases funds for priorities”. The mature trees that are being saved will continue to release oxygen. Birds and animals have a sustaining environment. Location, walking and bicycles save energy. The HVAC is more efficient. Excess summer sun is actually shaded. Visual open space is improved; without crowding the street with buildings. We will be incorporating a green roof on the west end lower roof.

ALMC 17.77.060.D.2: .The proposed site is adequate. The setbacks work; there is common space, both natural and manufactured; a special foundation design is successful; parking and loading areas are to code expectations; landscaping exceeds code; the building is esthetically and artistically pleasing; urban land area is being saved and utilized, yet preserving natural assets; the City tax base is benefited.

LCMC 17.77.060.D.3: A major arterial is increasing its efficiency, handling more traffic volume. The same driveway is being utilized.

LCMC 17.77.060. D.4: Minimal adverse impact on adjoining properties. All the adjoining properties on the east side of 101 are the same CG zone. The property to the north is an RV park. The grade drops down from the RV Park vertically 4 to 8 feet, acting much like a landscape car light screen. This north development will have little impact. The property to the south is bare and appears to be farmed for hay. The natural tree setting will continue to be a screen. The property to the east is a small forest. There are no conflicts.

P. 7 of 9

LCMC 17.77.060. D5: The subject property is not a historic area. What it is is a natural setting with mature trees that will be preserved. That natural setting will screen the view of the building; and provide a symbiotic long-term relationship, trees and building; nature and man.

PERT FOUR: CONDITIONS OF APPROVAL: LCMC 17.76.120:

1. **Good intentions:** The applicants have reviewed the list of potential requests that the planning commission may impose. Effort has diligently been made and disclosed to properly address concerns that may arise. Concerns not limited to the list published in 17.76.120 have been considered to make this project be long term successful and desirable for the owners, the tenants, the City and the Citizens of Lincoln City. We pray that our preliminary plans and narrative provide testimony to that conclusion.
2. **Docks:** Docks are not applicable regarding LCMC 17.44.040.B; being far from water.

PART FIVE: REQUIRED SUBMITTAL ITEMS:

1. Completed Conditional Use Application is attached and signed by all owners.
2. The narrative is complete.
3. The direct pay fees are being completed today.
4. The Existing Conditions Plan is in the exhibits.
5. The proposed site plan is in the exhibits.
6. The Landscape areas are marked on the site plan; but not detailed.
7. Proposed Building Elevations are in the exhibits.
8. A phasing plan is not applicable.
9. There is no Traffic Impact Study. A letter could be readily available.
10. Other reports are in the exhibits.
11. Dock use is not applicable.

PART SIX: CLOSING STATEMENT:

P. 8 of 9

Our proposed project has mid-sized apartments in a mid-range of rental expense. Our intent is to supply needed inventory that will supply passive amenities and answer concerns for a natural setting beyond the average. An unusual structural approach has been enabled us to sustain and afford that goal, presenting a design that is perpendicular to the street with parking to the side. The number of units then becomes affordable per economy of scale; yet provides open space and the guarantee of a long-term setting with large trees complimenting the architecture. Open space and the actual feeling of openness to those who pass on the highway will be permanently sustained for the Citizens of Lincoln City and for your many reoccurring visitors.

Thank you for the opportunity.

Respectfully submitted,


Gene Pfeiffer

Applicant

Seasoned design build specialist
Manager, Design Build Associates, LLC
"True Sustainability Releases Funds for Priorities"

PART SEVEN: EXHIBITS:

1. Conditional Use Application
2. Confirmation of Payment
3. Existing Conditions
4. Proposed Site Plan
5. Green Space and Landscaping Footprint
6. Front building Elevation

7. 3D Perspectives
8. Tentative Floor Plans
9. Computer Cross Section
10. Pfeifer Cross Section: Foundation and Actual Height
11. Fire Marshall Approval
12. Warrantee Deed
13. Signed Survey
14. Property Line Adjustment Application
15. Pre-App Documents

END

HIGHWAY 101 R/W=70'

BASIS OF BEARINGS
[N31°45'08.6"W] CS17130
N31°45'08.6"W



Area Calculations
 Landscape Area 3072.64 (20.7% of Asphalt area)
 Parking (open to sky) 5044.0684 Sft
 Parking (structure) 3185.1757 Sft
 Total Asphalt Area 14810.8 Sft

Driveway Area 9443.1 Sft
 Green Area 16907.96 Sft
 Building footprint Area 12758.5 Sft

PROJECT:
**RAINBOW VILLA
 MULTIFAMILY
 APARTMENT COMPLEX**
 Lincoln City

PARTICULARS OF LAND:

4250 SE HWY 101
Lincoln City

CLIENT:
FUSION LODGING LLC

ADDRESS:
1500 NW Bethany Blvd. STE 200,
Beaverton, Portland, OR - 97006

DD DWG	13/12/2016
CD DWG	23/12/2016
TD DWG	23/01/2017
CD DWG	28/01/2018

Seal Of Approval:

DESIGN CONSULTANT:

Gene Pfeiffer



SURVEY DRAWING

LEVEL -1

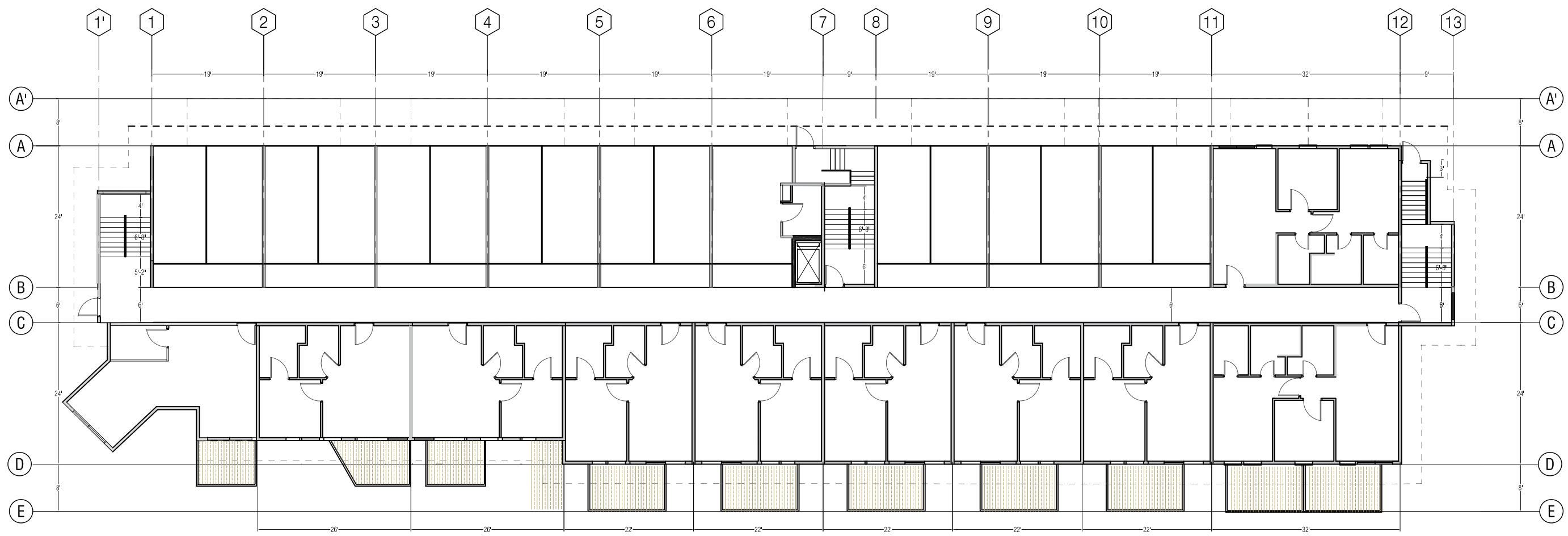
Apt area 5226.1
Common Area 2163.02
Patio Area 741.3

PROJECT:
**RAINBOW VILLA
MULTIFAMILY
APARTMENT COMPLEX**
Lincoln City

PARTICULARS OF LAND:
4250 SE HWY 101
Lincoln City

CLIENT:
FUSION LODGING LLC

ADDRESS:
1500 NW Bethany Blvd. STE 200,
Beaverton, Portland, OR 97006



DD DWG	13/12/2016
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CD DWG	28/01/2018

Seal Of Approval :

DESIGN CONSULTANT :
Gene Pfeifer

 LEVEL -01

LEVEL -2

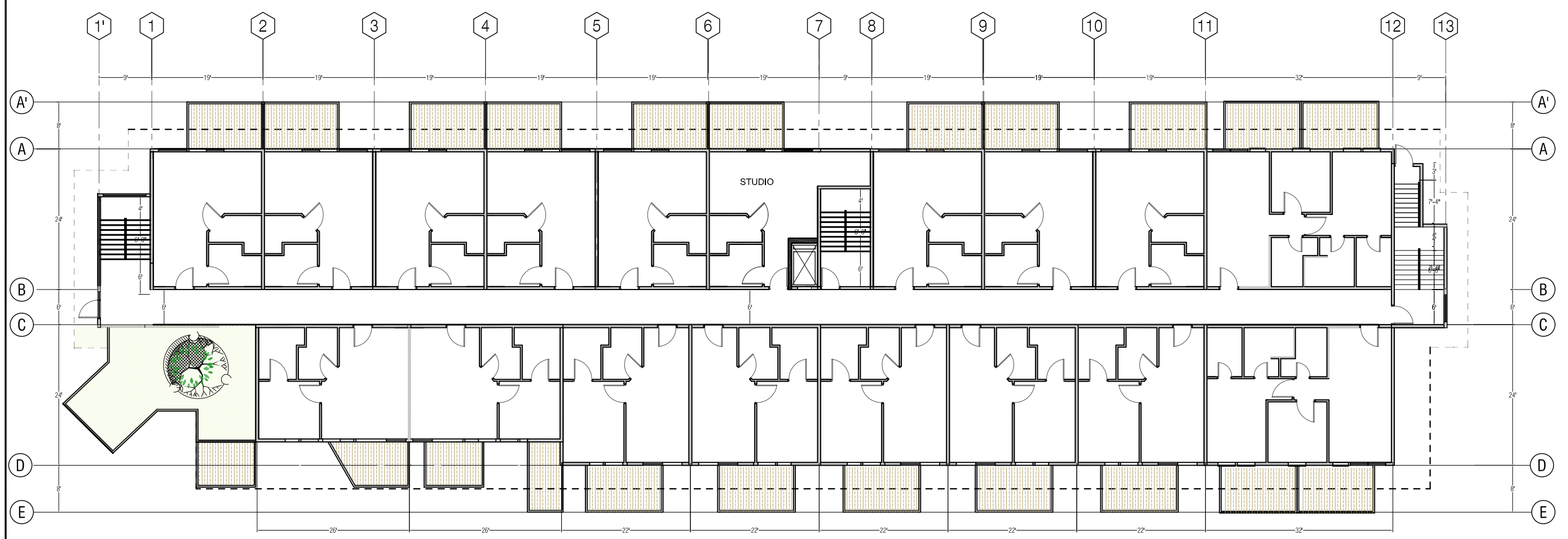
Apt Area 9572.66
 Common Area 2050.6782
 Patio Area 1886.7

PROJECT:
**RAINBOW VILLA
 MULTIFAMILY
 APARTMENT COMPLEX**
 Lincoln City

PARTICULARS OF LAND:
 4250 SE HWY 101
 Lincoln City

CLIENT:
 FUSION LODGING LLC

ADDRESS:
 1500 NW Bethany Blvd. STE 200.
 Beaverton, Portland, OR. 97006



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CD DWG	28/01/2018

Seal Of Approval:

DESIGN CONSULTANT:
 Gene Pfeifer

 **LEVEL -02**
 SCALE -1/16" = 1'0"

LEVEL -3

Apt Area 9572.66
Common Area 2050.6782
Patio Area 1886.7

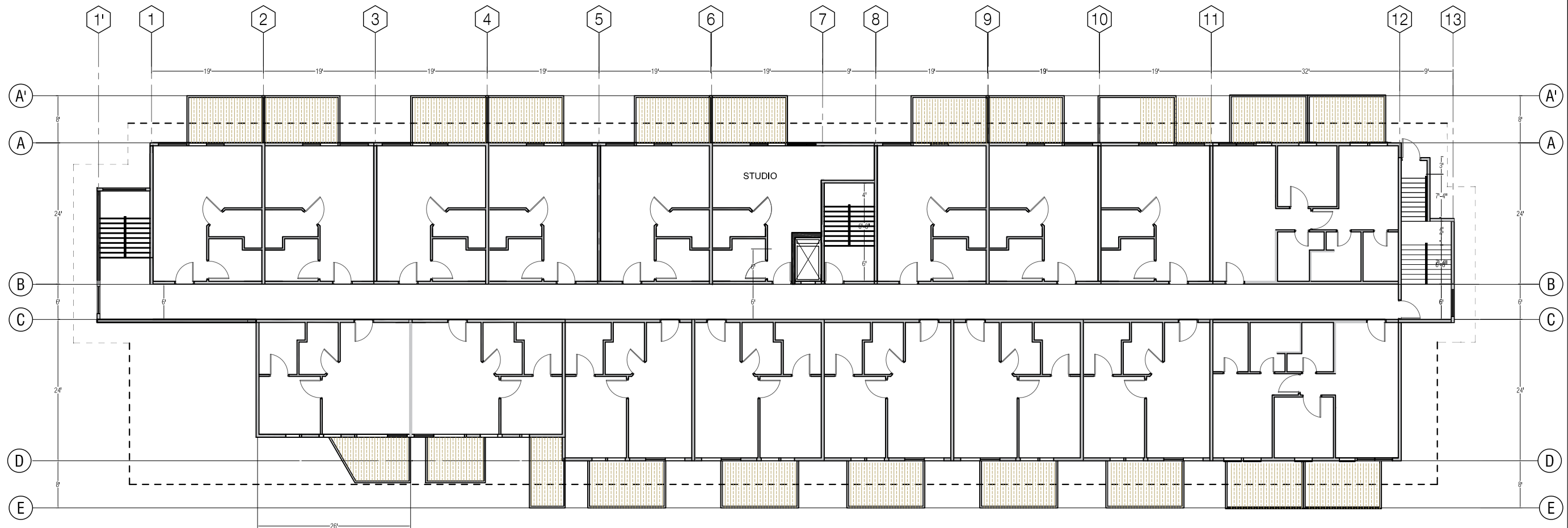
PROJECT:
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MULTIFAMILY
APARTMENT COMPLEX**
Lincoln City

PARTICULARS OF LAND:

4250 SE HWY 101
Lincoln City

CLIENT:
FUSION LODGING LLC

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Beaverton, Portland, OR 97006



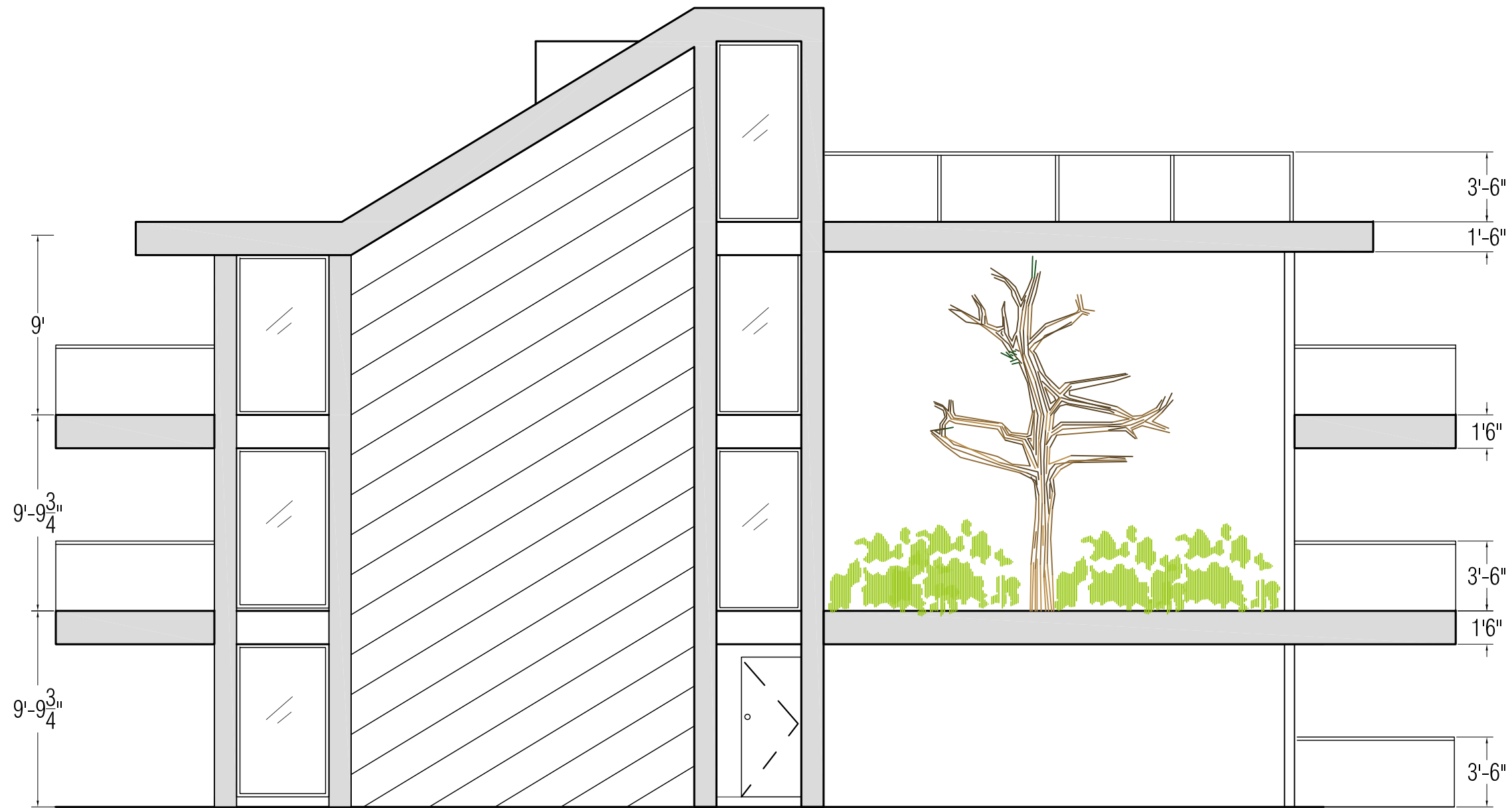
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CD DWG	28/12/2016
TD DWG	23/01/2017
CD DWG	28/01/2018

Seal Of Approval :

DESIGN CONSULTANT :

Gene Pfeifer

 **LEVEL -03**
SCALE -1/16" = 1'0"



WEST ELEVATION

PROJECT :

**RAINBOW VILLA
MULTIFAMILY
APARTMENT COMPLEX
Lincoln City**

PARTICULARS OF LAND :

4250 SE HWY 101
Lincoln City

CLIENT :

FUSION LODGING LLC

ADDRESS :

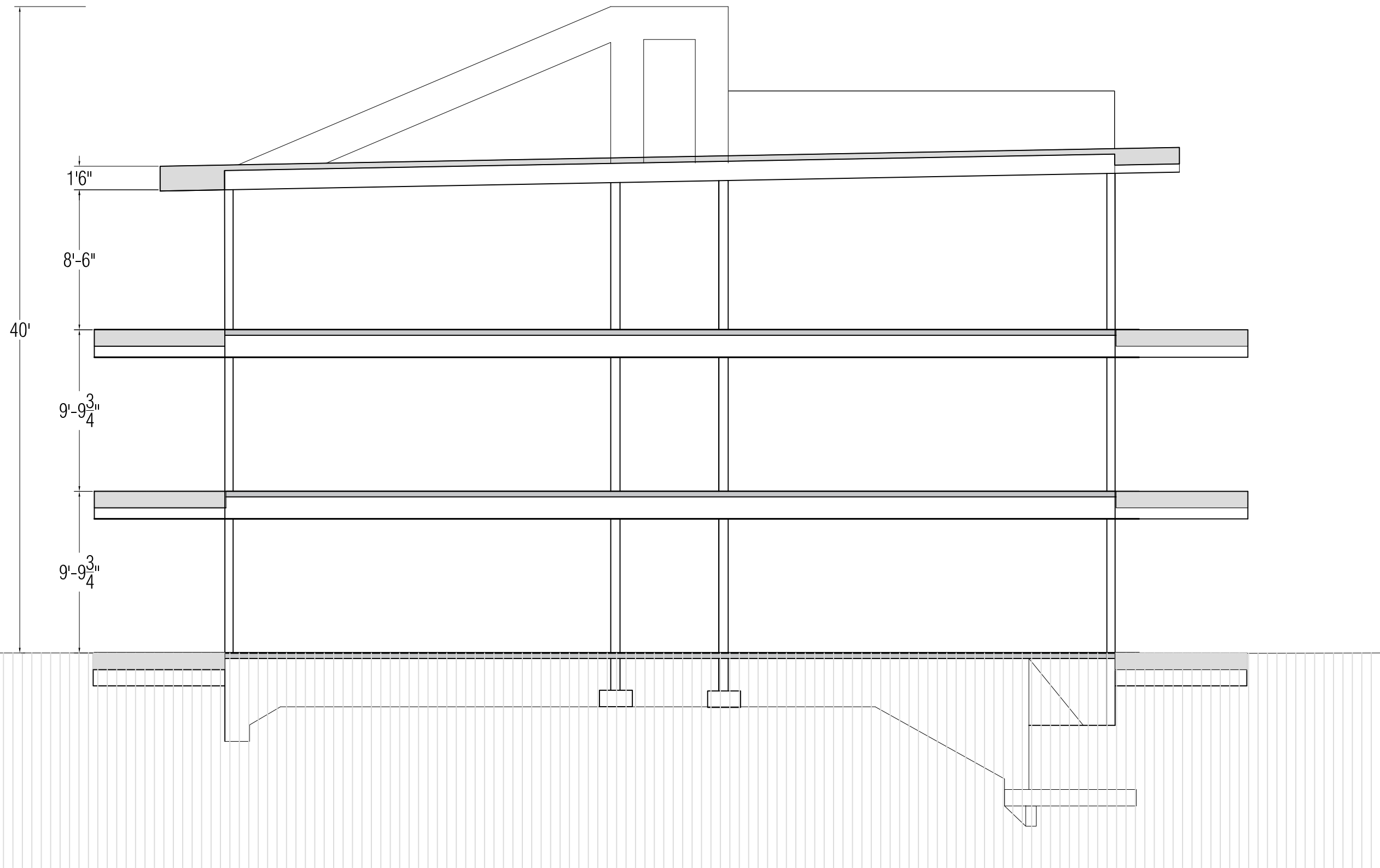
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Beaverton, Portland, OR - 97006

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CD DWG	28/12/2016	
TD DWG	23/01/2017	
CD DWG	28/01/2018	

Seal Of Approval :

DESIGN CONSULTANT :

Gene Pfeifer



Cross Section

PROJECT :

**RAINBOW VILLA
MULTIFAMILY
APARTMENT COMPLEX
Lincoln City**

PARTICULARS OF LAND :

4250 SE HWY 101
Lincoln City

CLIENT :

FUSION LODGING LLC

ADDRESS :

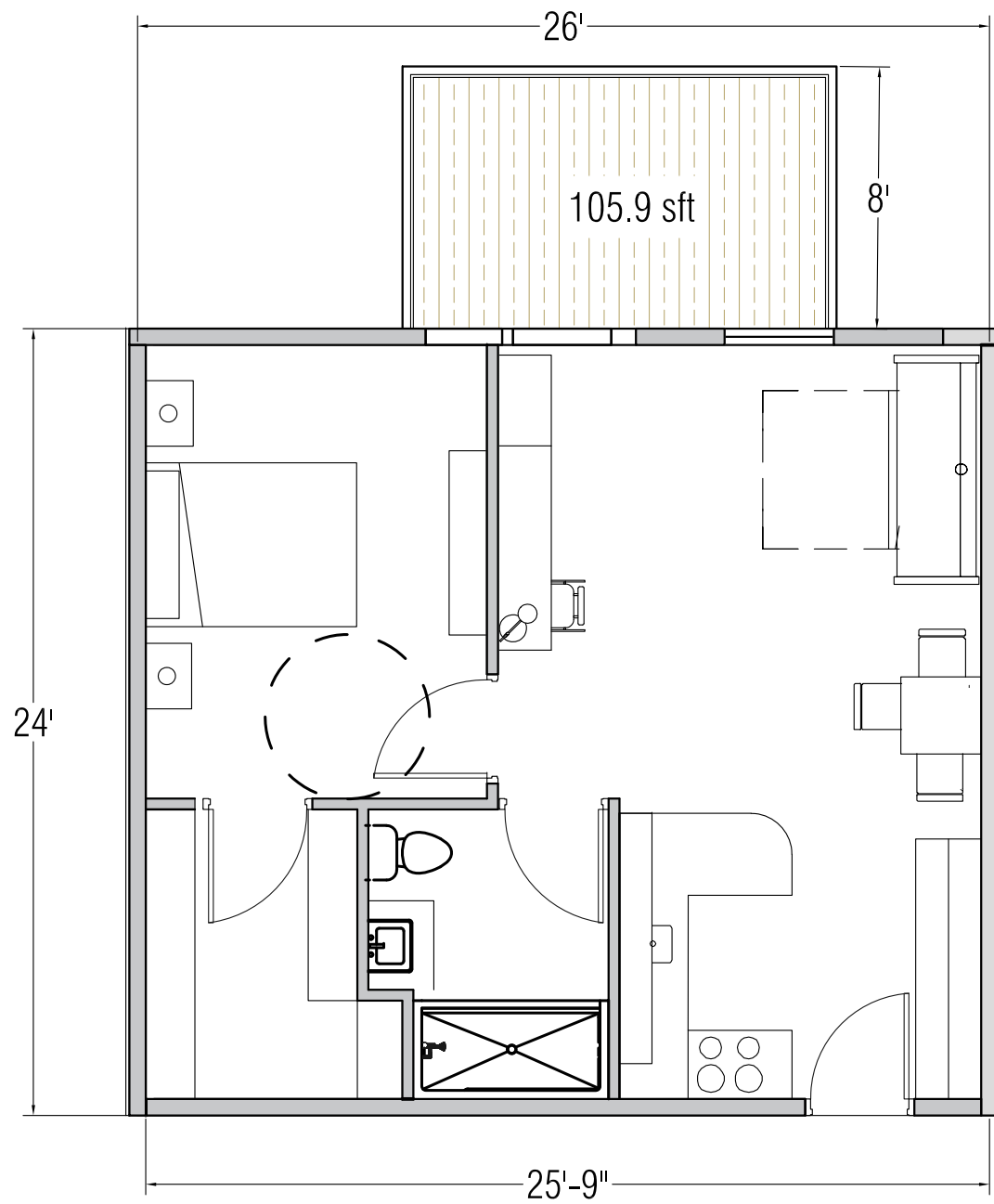
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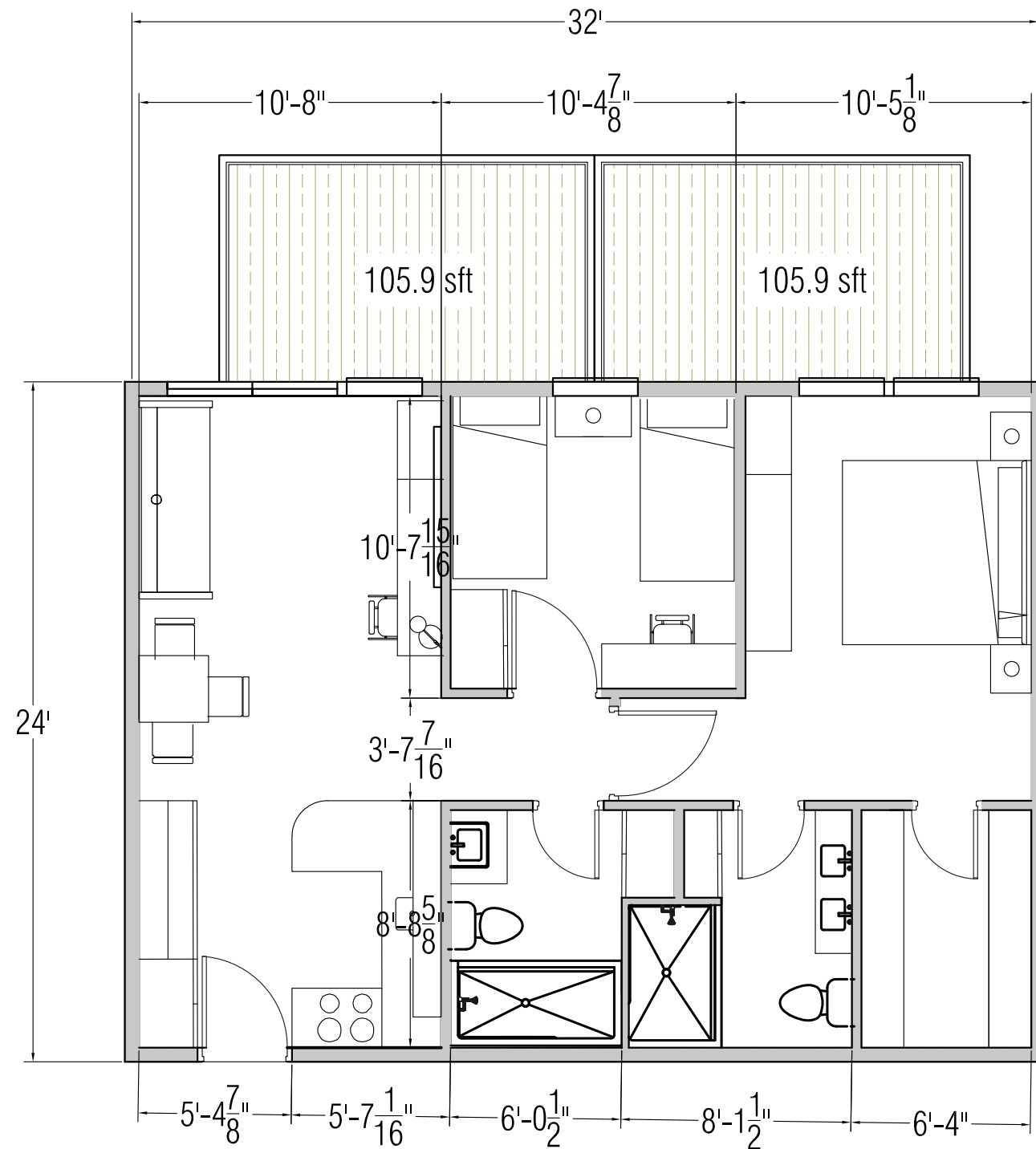
Seal Of Approval :

DESIGN CONSULTANT :

Gene Pfeifer



1 Bed Room Apartment
638 sft



2 Bed Room Apartment
780.0 sft

PROJECT:

**RAINBOW VILLA
MULTIFAMILY
APARTMENT COMPLEX
Lincoln City**

PARTICULARS OF LAND:

4250 SE HWY 101
Lincoln City

CLIENT:

FUSION LODGING LLC

ADDRESS:

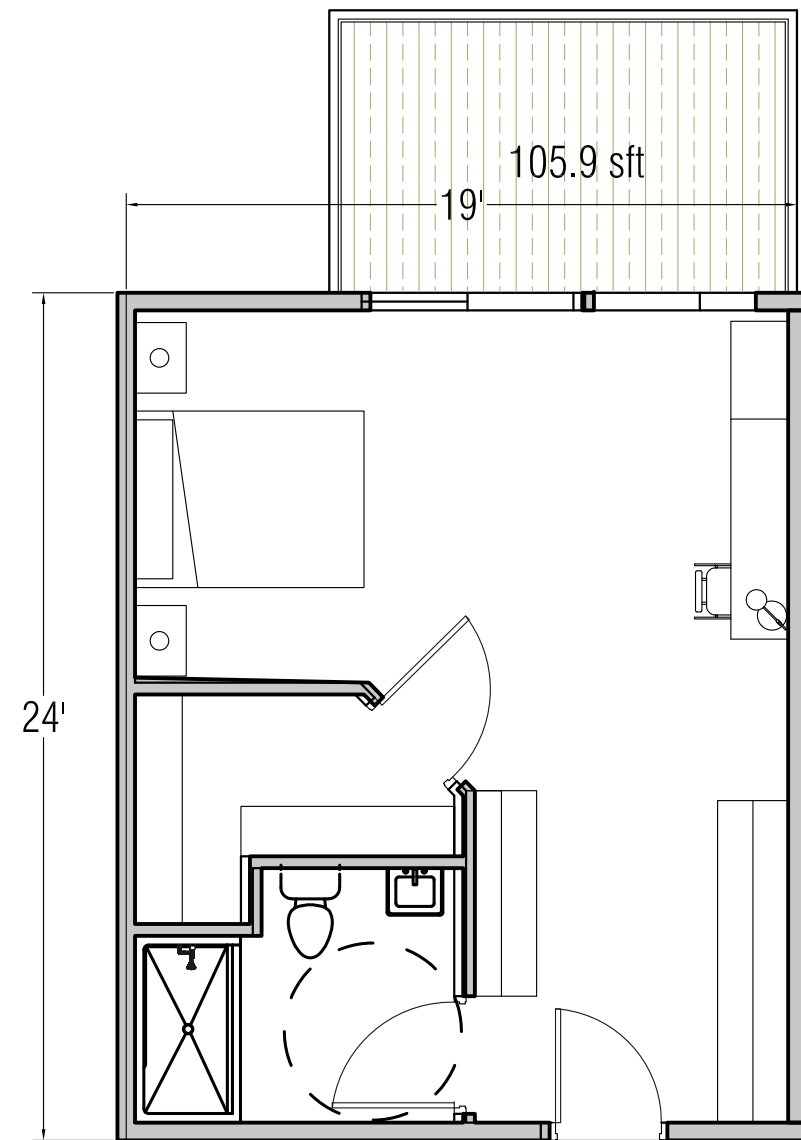
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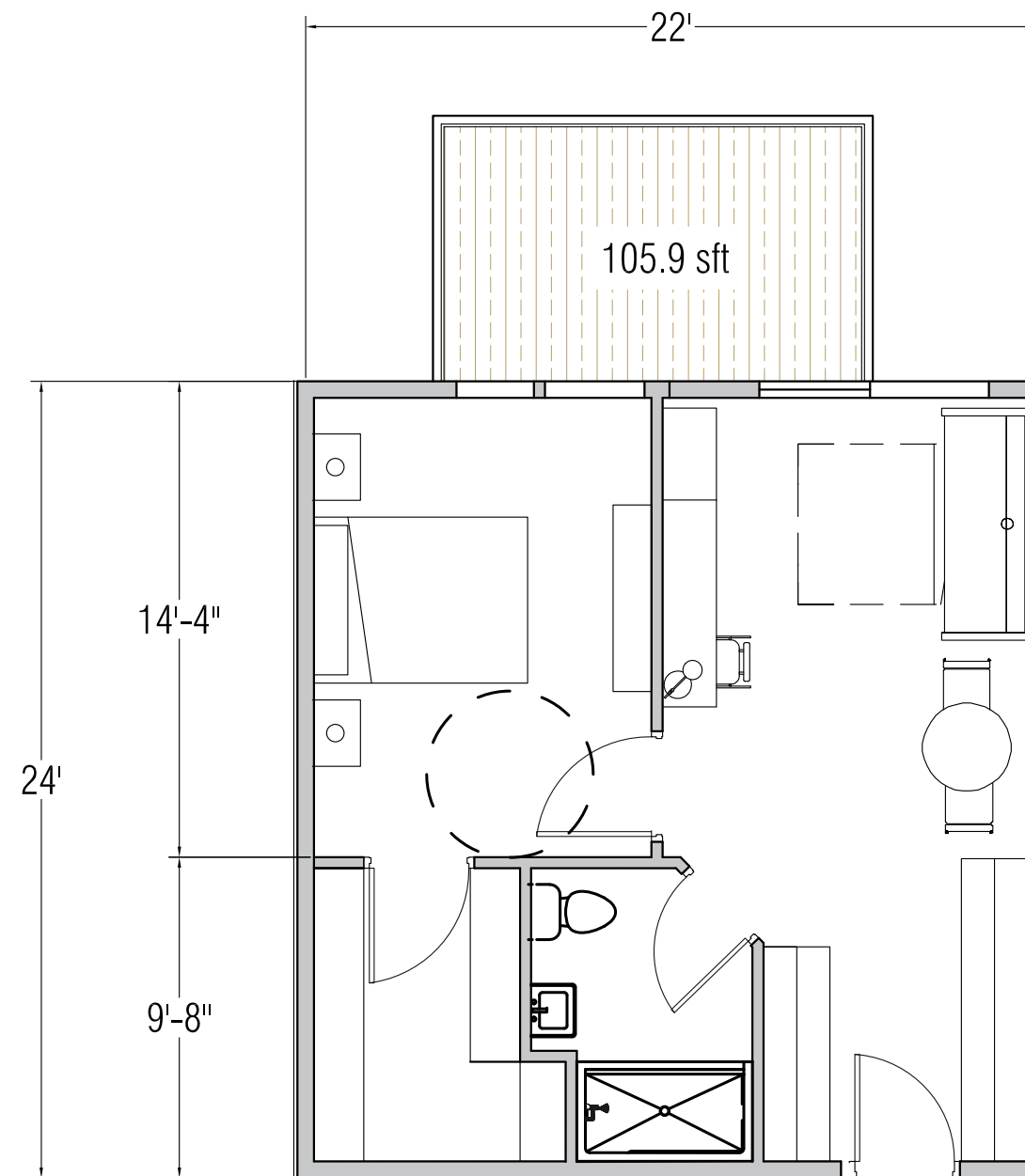
Seal Of Approval:

DESIGN CONSULTANT:

Gene Pfeifer



1 Bed Room Suite
462.0 sft



1 Bed Room Apartment
542.6 sft

PROJECT :

**RAINBOW VILLA
MULTIFAMILY
APARTMENT COMPLEX
Lincoln City**

PARTICULARS OF LAND :

4250 SE HWY 101
Lincoln City

CLIENT :

FUSION LODGING LLC

ADDRESS :

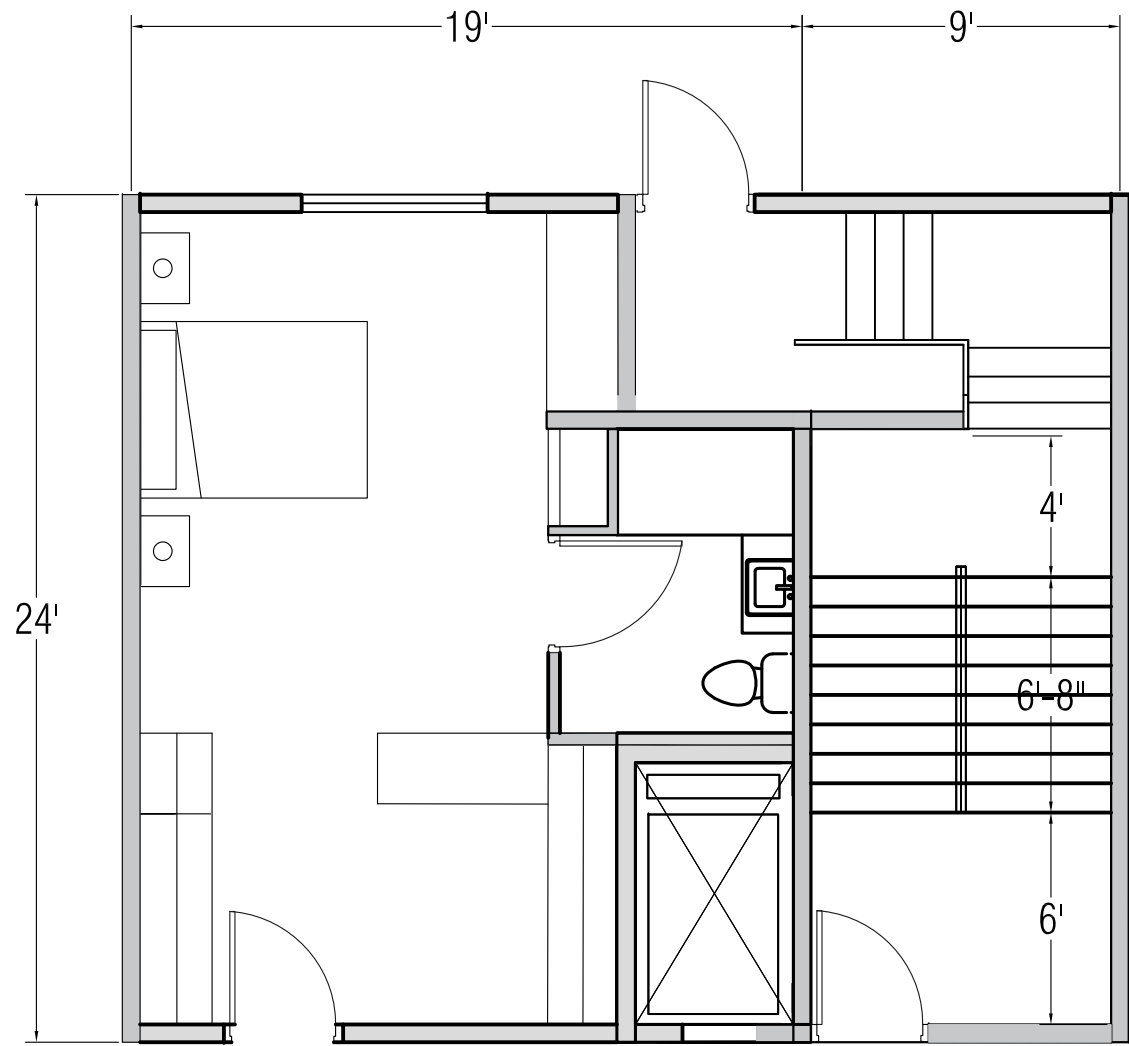
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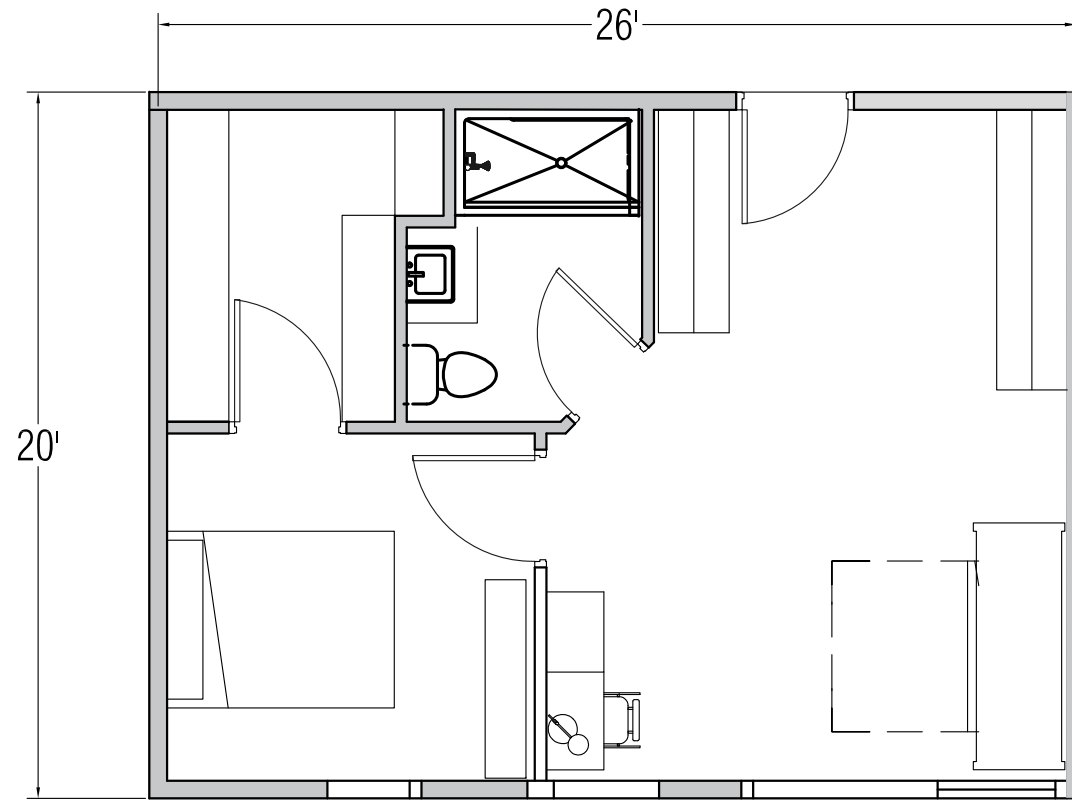
Seal Of Approval :

DESIGN CONSULTANT :

Gene Pfeifer



1 Bed Room suite
426.2 sft



1 Bed Room Apartment
520 sft

PROJECT:
**RAINBOW VILLA
MULTIFAMILY
APARTMENT COMPLEX
Lincoln City**

PARTICULARS OF LAND:

4250 SE HWY 101
Lincoln City

CLIENT:
FUSION LODGING LLC

ADDRESS:
1500 NW Bethany Blvd. STE 200,
Beaverton, Portland, OR - 97006

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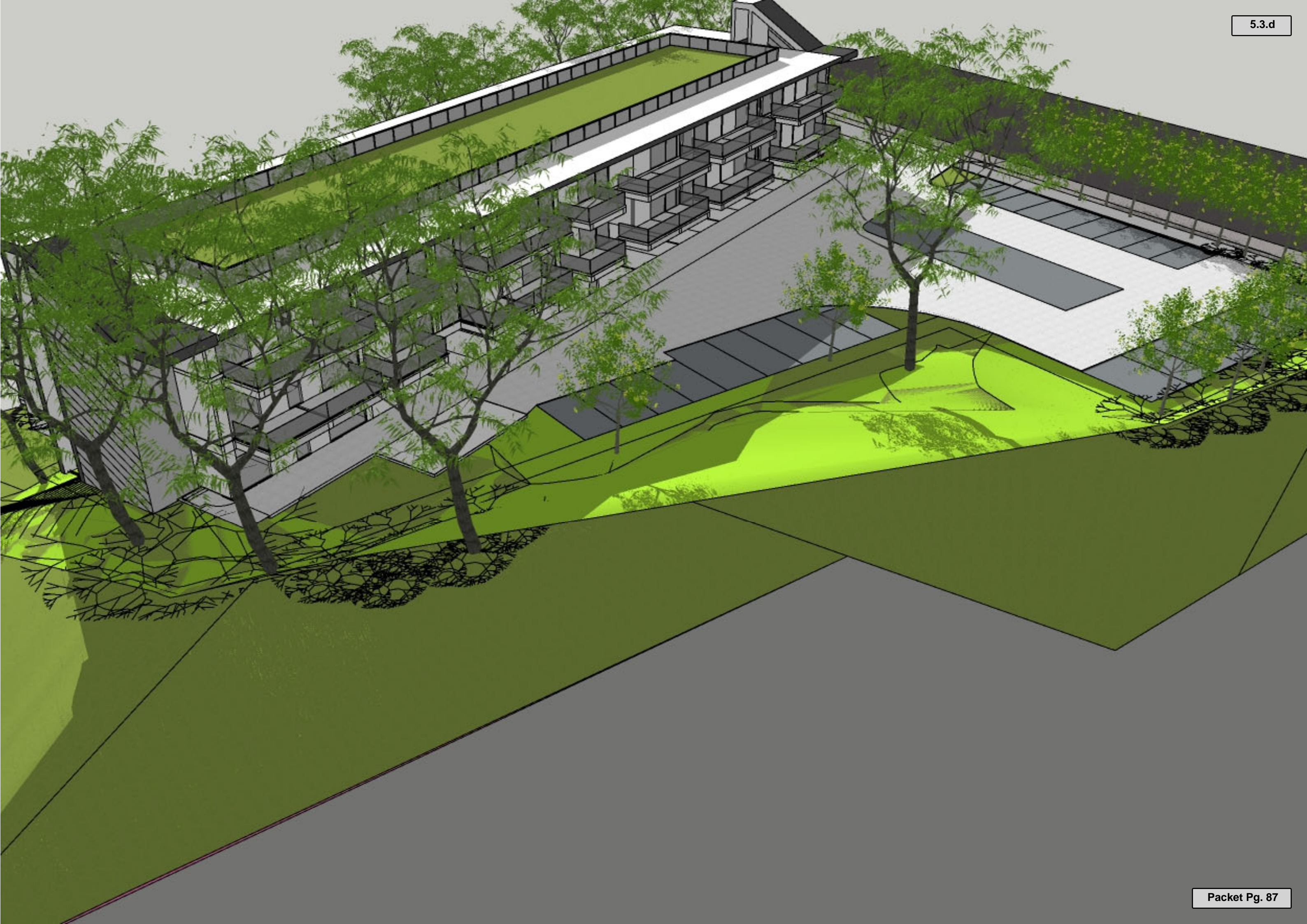
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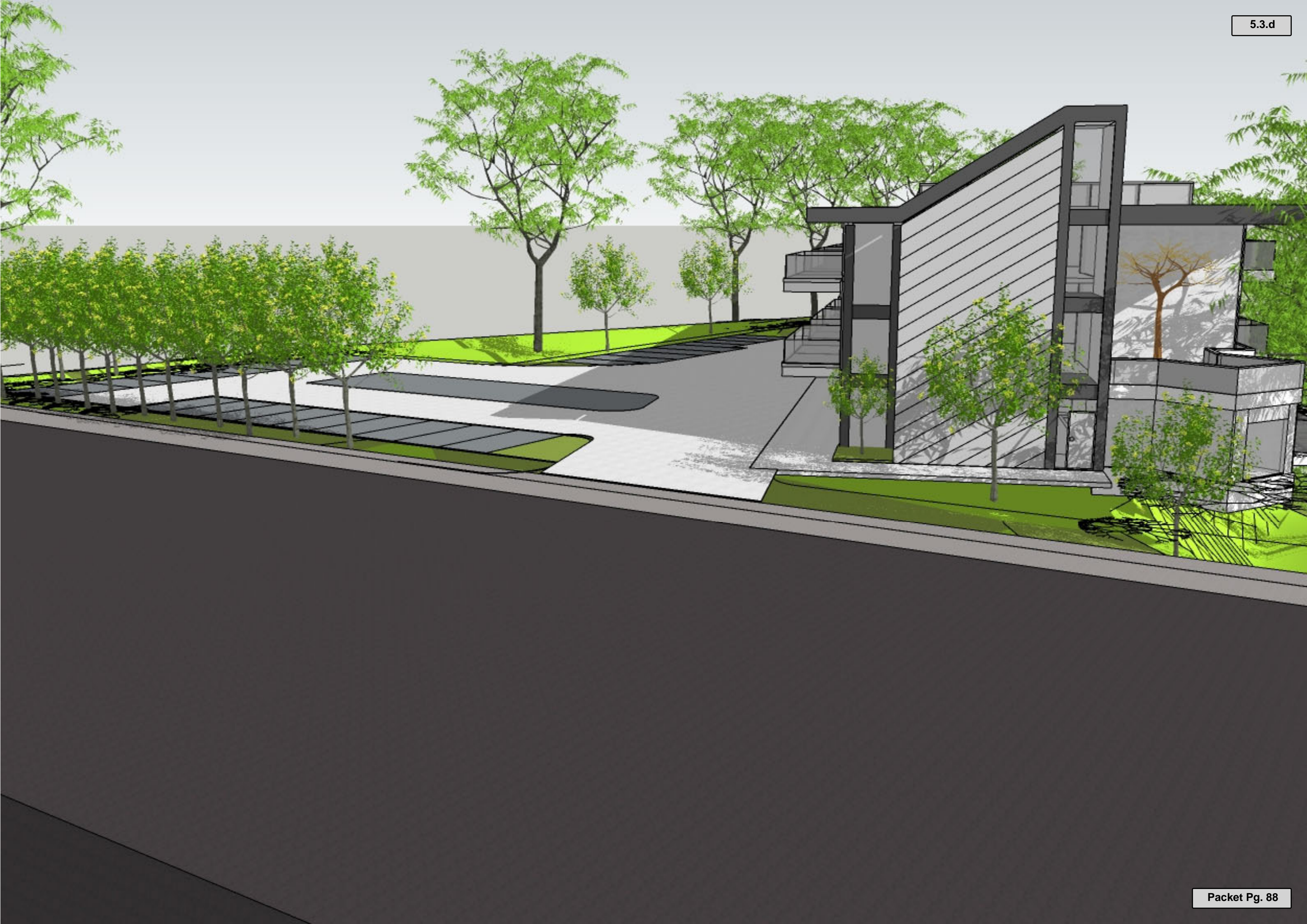
DESIGN CONSULTANT:

Gene Pfeifer



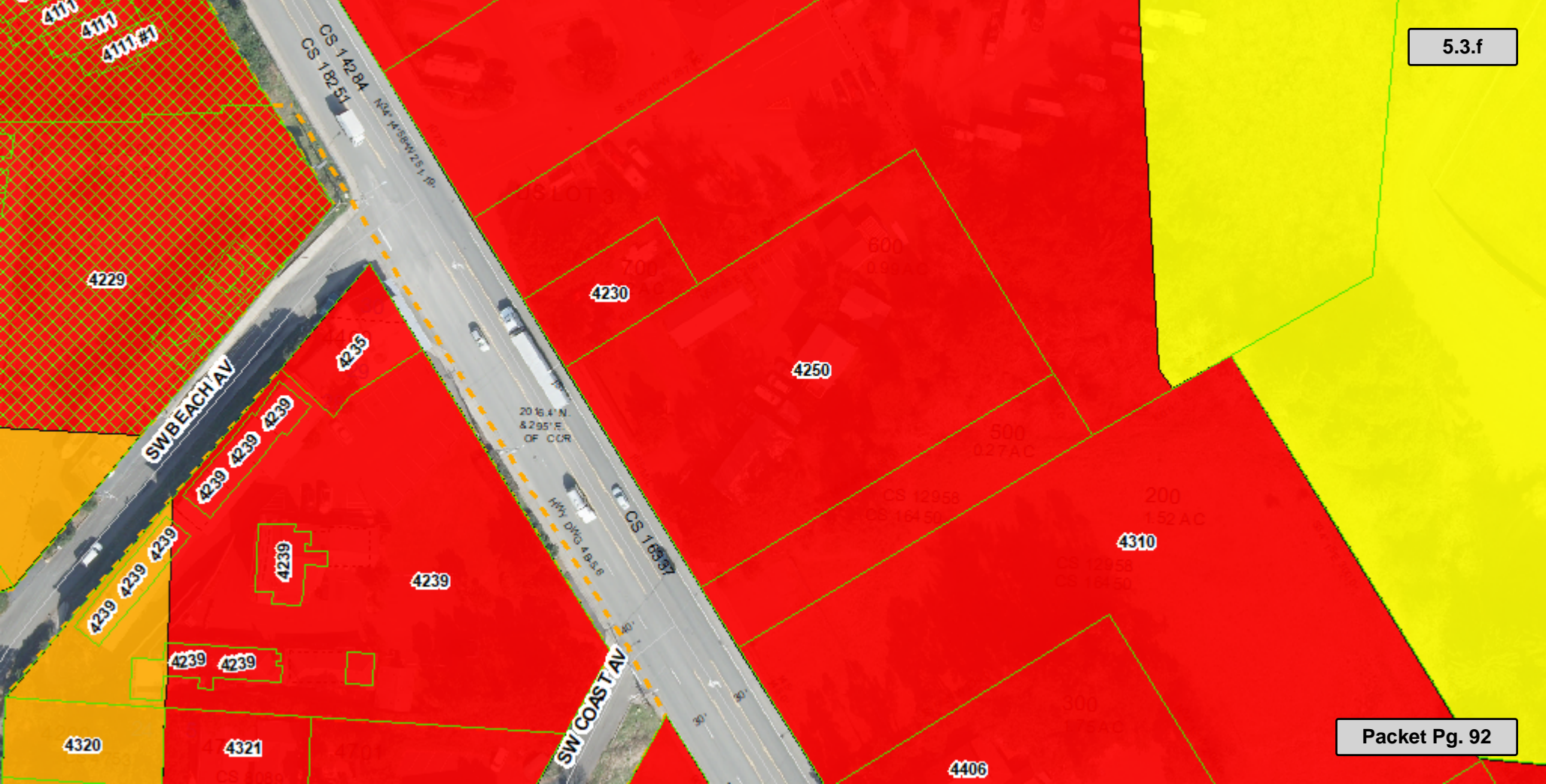












5.3.f

Packet Pg. 92

Conditional Use Permit Staff Report for Planning Commission Public Hearing on May 17, 2022 Case File CUP 2022-02

Date: May 11, 2022

Case File: CUP 2022-02 Rainbow Villa

Applicant: Gene Pfeifer
Design Build Associates, LLC

Property Owners: Shafiul Azam Chowdhury
Bashir Uddin Mahmud
Farzana Forhad
Sazzadur Rahman

Situs Address: 4250 and 4230 SE Hwy 101

Location: East side of Hwy 101 and SW Coast Ave/Hwy 101 intersection

Tax Map and Lot: 07-11-27-CA-00600-00 and 07-11-27-CA-00700-00

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

Zoning District: General Commercial (GC) Zone

Site Size: 47,571 square feet (per the submitted survey map)

Proposal: Request for conditional use permit for a multi-unit residential development

Surrounding Land Uses and Zones: North: Premier RV Resort; GC
South: Undeveloped; GC
East: Premier RV Resort; GC
West: Hwy 101, Wickliffe Apartments; GC

Authority: Section 17.76.160 of the Lincoln City Municipal Code (LCMC) gives the Planning Commission the authority to approve, approve with conditions, disapprove, or revoke conditional use permits subject to the provisions of LCMC Chapter 17.77.

Procedure: The application was received on April 4, 2022. The application was deemed complete on April 5, 2022. On April 25, 2022, pursuant to LCMC 17.76.050.E, the Planning and Community Development Department mailed a notice of public hearing to property owners within 250 feet of the subject property. The *News Guard* published the public hearing notice on May 3, 2022.



Applicable LCMC Chapter 17.32 General Commercial (GC) Zone
Substantive LCMC Chapter 17.76 Procedures
Criteria: LCMC Chapter 17.77 Applications

BACKGROUND

The subject property (site) comprises two individual tax lots identified as 07-11-27-CA-00600-00 (4250 SE Hwy 101) and 07-11-27-CA-00700-00 (4230 SE Hwy 101). The submitted survey map shows the site as containing 47,571 square feet. The site is developed as a nine-unit residential development with existing water service, existing sanitary sewer service, and an existing driveway approach directly off of Hwy 101.

The site does not contain any bluff erosion hazards, aesthetic resource, floodway, flood hazard areas, or natural resource overlays. The site is largely flat, with a gentle slope from north to south and a steep drop-off towards the southeast portion of the site. The southeast portion of the site contains mature trees and vegetation.

Premier RV Resort surrounds the site to the north and east. Hwy 101 borders the site on the west, and west of Hwy 101 is an apartment complex called Wickliffe Apartments. The two properties immediately to the south are undeveloped.

The applicant proposes demolition of the existing development and replacing it with the proposed three-story, 46-unit residential structure. The southeast portion of the site will remain undisturbed with retention of as many mature trees and vegetation as possible. The project proposes 50 parking spaces with 16 of those included as part of the building, and the garbage enclosure at the northeastern portion of the site.

COMMENTS

No comments were received from surrounding property owners.

Comments were received from Oregon Department of Transportation (ODOT), via email, on April 12, 2022, stating the following: “The application narrative indicates that “The applicants propose to deed all the property to the west of the east edge of the existing public sidewalk to the public; and agree to make this a condition of approval.” If the City requires any frontage improvements such as but not limited to a wider sidewalk or a separated sidewalk, would then recommend the deeded property include the proposed new or future back of walk.”

A list of recommended conditions of approval was received from Public Works, via email, on April 15, 2022, and the list is included in the conditions of approval at the end of the staff report.

Comments were received from North Lincoln Sanitary Service, via email, on April 19, 2022, stating the following: “I just got off the phone with you a bit ago, and I’m sending over information on your garbage and recycling needs. There is a Word doc that details info about your site as well as ideas to build the enclosure. There are some drawings that are referred to in the Word doc, and then there is an Excel (basic) drawing of a suggested enclosure idea. My biggest concern is the location of the enclosure next to a parking spot. We would need some sort of protection to keep the container from rolling in to a parked car when we wheel them out, or we would need the enclosure moved a bit to get us away from the stall.”

ANALYSIS

Chapter 17.32 General Commercial (GC) Zone
17.32.040 Conditional uses permitted

Finding: Multi-unit dwellings are listed as a conditional use (17.32.040.K - multi-unit dwellings developed under the standards and requirements for multi-unit dwellings in Chapter 17.20 LCMC and Article III of Chapter 17.74 LCMC). The application proposes construction of new multi-unit dwellings.

Chapter 17.20 Multiple-Unit Residential (R-M) Zone
17.20.050 Development standards

		Required	Provided
	Min. lot width	25 feet	214.99
	Min. lot area (square feet)	2,500	47,571
	Min. density	15 dwelling units per net acre = $1.09 \times 15 = 16.4$ or 16	46
	Max. building height		
a.	Primary buildings	40 feet	40
b.	Accessory buildings, structures, uses	25 feet	None proposed
	Min. building setbacks		
a.	Front porch	0 feet	Not applicable
b.	Front wall	0 feet	Not applicable
c.	Side interior	5 feet	North side – approximately 18 feet South side – approximately 18 feet
d.	Side street	0 feet	Not applicable
e.	Rear	15 feet	15 feet
	Min. setbacks for garage/carport entrances	Varies	No garages/carports provided
	Max. building coverage	$65\% = 47,571 \times 0.65 = 30,921.15$	15,944 square feet
	Common area	$250 \text{ square feet/unit} = 250 \times 46 \text{ units} = 11,500 \text{ square feet}$	16,908 square feet
	Vehicle storage space	None required	None provided, none required

Finding: The site meets the minimum lot width and lot size requirements for the proposed development as shown on the submitted site plan. The minimum density requirement of 16 units is being met and exceeded with the proposed 46 units. The submitted site plan shows the 15-foot rear setback requirement and the minimum 5-foot side setbacks are being met. There are no front or street side setback requirements. The submitted materials don't show any proposed accessory buildings or structures, nor are any garages or carports proposed. The maximum building coverage allowance for the site is 30,921.15 square feet, and the project only proposes 15,944 square feet of building coverage. The submitted site plan shows the 16,908-square-foot green area as the required common area. Vehicle storage space is not required, and none is being provided.

The submitted site plan shows that construction of the building will take place on the south tax lot of the site, along with a portion of the required parking spaces and the common area. The remaining parking spaces are located on the north tax lot of the site. The two tax lots need to be combined so that all portions of the development are contained on one tax lot and not split between the two tax lots. The applicant has submitted a

separate application for a property line adjustment lot consolidation, which is in process as PLA 2022-03. A condition of approval shall be requiring recording of the deed reflecting the property line adjustment lot consolidation prior to submitting the structural permit application.

- i. *Common area must be designed for passive or active recreational use and may include usable floor area in the development's recreation building or club house. Common area must be located outside of required setbacks and required parking areas. The common area requirement is allowed to count toward the minimum landscape percentage requirement in Chapter 17.55 LCMC.*

Finding: The common area appears to be designed for passive recreational use, which is allowed. No recreation building or club house is proposed as part of the project.

The submitted site plan does not provide the dimensions of the common area such that it can be ascertained if any portion of the common area is within the rear or side setbacks. It appears that both the rear and side setback areas are included in the common area square footage, but the provided common area square footage of 16,908 is substantially more than the required 11,500. A revised site plan shall be submitted with the structural permit application clearly depicting the dimensions of the common area and showing all square footage of the required 11,500 square feet of common area as being outside of, and not including, any setback or parking area.

- ii. *Common area must be available, accessible, and free for use by occupants and their guests without leaving the development.*

Finding: The submitted site plan shows that the common area is on the site, with no obstructions barring occupants or their guests from use.

- iii. *Common area must be connected to primary building entrances by an ADA-accessible walkway that is at least five feet wide. The square footage area of ADA-accessible walkways can count towards the minimum common area square footage requirement if they provide at least one connection to each other, connection to other common areas, or connection to public right-of-way or the parking area for the development.*

Finding: The submitted site plan does not depict the required ADA-accessible walkways from the common area to the primary building entrances, but this can be modified to be clearly shown on the plan submitted with the structural permit application.

- iv. *All required common areas must include at least one amenity for users including seating, trash/recycling bins, dog waste stations, or play equipment – all of which must coordinate with and complement the development. If a common area has direct connection to an ADA-accessible walkway, then that connection and ADA-accessible walkway can count as the amenity for that particular common area. Common areas provided over and above the minimum requirement do not need to provide any amenities.*

Finding: The submitted materials don't provide any indication that any amenities are being provided. This requirement is not met, but it can be with a revised site plan submitted as part of the structural permit application showing the location and type of required amenities.

*17.20.060 Landscaping**Landscaping shall be provided in accordance with Chapter 17.55 LCMC.*

Finding: A detailed landscape plan was not included with the application package for the conditional use permit. However, the site plan does show that landscaping is proposed around the perimeter of the site and the parking areas for a total square footage of 3,073 square feet, plus the 16,908 square feet of common area. 15% of the site must be landscaped, which equates to 7,135.65 (47,571 x 0.15). By showing that the required area of landscaping is being provided, the details of what will be planted is not necessary in order to conclude that compliance with the requirements of Chapter 17.55 can be met with submittal of a detailed landscape plan showing the proposed numbers and types of plantings.

*17.20.070 Signs**Signs shall be allowed in accordance with Chapters 9.34 and 17.72 LCMC.*

Finding: The application does not include any requests for signs.

*17.20.080 Supplementary regulations and exceptions**Supplementary regulations and exceptions shall be adhered to in accordance with Chapter 17.52 LCMC.*

Finding: Compliance with Chapter 17.52 is addressed later in this staff report.

17.20.090 Off-street parking and loading

Finding: Compliance with off-street parking and loading requirements is addressed later in this report under Chapter 17.56.

*17.20.110 Restrictions**No development shall occur in the R-M zone unless all city services (sewer and water) are available to serve such development.*

Finding: The site currently has both sewer and water city services. Public Works has reviewed the preliminary plans and provided conditions of approval. This requirement is met for purposes of conditional use.

*Chapter 17.52 Supplementary Regulations and Exceptions**17.52.060 Clear-vision area requirement*

- A. *Requirement to Provide Clear Vision. For public safety purposes, all properties shall have triangular clear-vision areas (aka clear-vision triangles) where streets (public or private) intersect with other streets, commercial alleys and commercial driveways. Clear-vision triangles shall be also be provided for street intersections with commercial driveways as provided herein. Clear-vision areas at local intersections shall meet the requirements in this section, which are meant to be adequate to allow drivers and pedestrians who are stopped or approaching with caution to see intersecting traffic in time to avoid collisions. Clear-vision areas at intersections with Highway 101 must meet with Oregon Department of Transportation approval and comply with the requirements of this section.*

Finding: The project does not propose streets intersecting with other streets, commercial alleys, or commercial driveways. The project does not have any street intersections with commercial driveways, because the project does not have any commercial driveways. The project is a residential project, not a commercial project. The clear-vision area requirements are not applicable.

17.52.120 Utilities

- B. In all zones, all electrical, telephone and cable television utility service installations or connections made as part of new construction of a building or structure shall be placed underground in accordance with city standards.*

Finding: The project proposes new construction, so all electrical, telephone, and cable television utility service installations or connections made as part of the new construction shall be placed underground. The submitted narrative states that all utilities will be underground. This shall be reviewed for compliance as part of the structural permit application and construction process. This requirement is met for purposes of the conditional use.

17.52.150 Exterior lighting.

Artificial exterior lighting shall not be designed to shine or create glares in any residential zone or residential use, adjacent dwelling unit or in a public right-of-way.

- A. Light poles must not exceed a height of 20 feet.*
- B. All lighting must be shielded to avoid glare, light pollution (night sky), and light spillover onto residential properties. Shielding must be integral to the light fixture and direct light downward.*
- C. Luminance at the property line, or no more than five feet over the property line, must be zero.*
- D. Maximum initial luminance of outdoor sales displays, outdoor storage areas, service station canopies, and similar areas must not exceed 20 foot-candles.*
- E. Maximum initial luminance of parking lots must not exceed four foot-candles.*
- F. Up-lighting is prohibited. The maximum illumination limits for wall washing are one foot-candle for dark colored surfaces and one-half foot-candle for light colored surfaces.*
- G. Pedestrian ways and building entrances not otherwise illuminated by building-mounted lights or streetlights must provide between one and two foot-candles of light from bollards, step lights, or other low-profile fixtures that are appropriate for walkways and plazas.*
- H. The manufacturer's data or measurement must demonstrate conformance with this section. Cut sheets, a photometric plan analysis, and an exterior lighting plan showing the locations, types, sizes, and heights of all exterior lighting fixtures shall be included with the applicable application submittal.*

Finding: The submitted materials do not provide any exterior lighting information. However, submitting the exterior lighting plan and photometric analysis can be deferred to the structural permitting process, and the applicant's narrative states that the exterior lighting plan submittal is being deferred. As a condition of approval, an exterior lighting plan showing compliance with LCMC 17.52.150 shall be submitted with the structural permit application and shall include a photometric analysis and cut sheets of the proposed exterior lighting fixtures.

17.52.170 Solid waste, garbage, trash, recycling, and composting receptacle storage areas.

All solid waste, garbage, trash, recycling, and composting receptacles shall be located within a building or within an enclosure that is at least 20 feet or more from any pedestrian space which screens the receptacle from the view of neighboring property, pedestrian space, or from right-of-way, except those receptacles associated with a detached single-unit dwelling, attached single-unit dwelling, duplex, or manufactured dwelling.

Finding: The submitted site plan shows the location of the solid waste enclosure approximately 200 feet east of the site's Hwy 101 frontage. The narrative states the solid waste area will be enclosed but no details are provided. The project is residential in nature, so a pedestrian space is not required.

Comments were received from North Lincoln Sanitary Service, via email, on April 19, 2022, stating the following: "I just got off the phone with you a bit ago, and I'm sending over information on your garbage and

recycling needs. There is a Word doc that details info about your site as well as ideas to build the enclosure. There are some drawings that are referred to in the Word doc, and then there is an Excel (basic) drawing of a suggested enclosure idea. My biggest concern is the location of the enclosure next to a parking spot. We would need some sort of protection to keep the container from rolling in to a parked car when we wheel them out, or we would need to enclosure moved a bit to get us away from the stall.”

Details of the type and height of enclosure, showing compliance with LCMC 17.52.170 and approval from North Lincoln Sanitary Service, shall be included with the structural permit application. This requirement is met for purposes of conditional use.

17.52.180 Placement and screening of mechanical equipment

- A. *Any heating, air conditioning, or other mechanical equipment installed on or near a building to be used to serve the building or a function performed therein, and any propane tanks, shall be screened from the ground level view from adjacent properties, pedestrian spaces, and from public right-of-way, and shall not be located within 20 feet of pedestrian space.*
- B. *Rooftop mechanical units shall not be visible from any public right-of-way and shall not exceed the allowable building height.*
- C. *Ground-mounted mechanical units shall be limited to the sides or rears of buildings and screened from view from adjacent properties and from public right-of-way.*
- D. *Standpipes, meters, vaults, and similar equipment shall not be placed on a front elevation when other alternative locations exist.*

Finding: The submitted narrative states that HVAC units will be mounted on the roof in the mid-span of the roof and thus not be visible to the public. The narrative further states that electric meters will be screened, or within the building envelope. Staff notes that the front elevation is the west elevation, not the north elevation. Accordingly, standpipes, meters, vaults, and similar equipment shall not be placed on the west elevation when other alternative locations exist (such as the north, south, or east elevations). This requirement is met for the purposes of this application, and will be reviewed for continued compliance during the permitting and construction processes.

17.52.220 Tree protection and removal

Finding: The narrative states that significant trees will not be removed. Staff notes that the site does not contain any trees designated by the city as being significant or an aesthetic resource. A detailed tree protection and removal plan was not included with the submitted materials but shall be submitted with the structural permit application and shall clearly show the tree protection method to be utilized during construction. This requirement is met for purposes of conditional use.

17.52.230 Public infrastructure improvements

Finding: Public Works reviewed the submitted plans and provided conditions of approval.

17.52.300 Traffic impact study (TIS) requirements

A TIS shall accompany a land use application at the request of the city engineer, if the proposal involves one or more of the following:

1. *An amendment to the Lincoln City comprehensive plan or zoning map;*
2. *A new direct property approach road to US 101;*
3. *Likely generation of 50 or more p.m. peak-hour trips on US 101, or 100 or more p.m. peak-hour trips on the local transportation system, according to the Institute of Transportation Engineers (ITE) Trip Generation Manual;*

4. *If use on any street or direct property approach road intersecting with US 101 increases by 10 vehicles or more per day that exceed 20,000 pounds gross vehicle weight;*
5. *An existing or proposed access driveway that does not meet minimum spacing or sight distance requirements, or a driveway located where vehicles entering or leaving the property are restricted, or such vehicles are likely to queue or hesitate at an approach or access connection, thereby creating a safety hazard; or*
6. *A change in internal traffic patterns that may cause safety problems, such as back-up onto the highway or traffic crashes in the approach area.*

Finding: The project is not an amendment to the comprehensive plan or the zoning map. The project does not propose a new direct property approach to Hwy 101. The project will not generate 50 or more p.m. peak-hour trips on Hwy 101. The use will not generate 10 vehicles or more per day that exceed 20,000 pounds gross vehicle weight. The project meets the minimum spacing and sight distance requirements. There will be no changes in internal traffic patterns that may cause safety problems. The city engineer did not request a TIS for the project. A TIS is not required for this project.

Chapter 17.55 Landscaping

17.55.040 Landscaping requirements for all development other than detached single-unit dwellings, attached single-unit dwellings, manufactured dwellings, and duplexes.

- A. *Landscaping is required on all portions of the site not covered by buildings, structures, or impervious surfaces.*

Finding: The submitted site plan shows all portions of the site that are not covered by the building, asphalt, or concrete as being landscaped.

- B. *Fifteen percent of the total gross area of the site shall be landscaped with live vegetation according to the standards contained within this chapter. Existing plants and trees that are healthy and noninvasive count towards the 15 percent live vegetation requirement, provided they will be protected during development adequately enough to ensure future preservation.*

Finding: The submitted site plan shows that more than 15% of the site will be landscaped. Submittal of a complete and detailed landscape plan that clearly shows complete compliance with Chapter 17.55 shall be required as part of the structural permit application package.

1. *At a minimum, the site shall contain three distinct and separate landscape area, containing an overall total of the following spaced and/or grouped according to best planting practices and aesthetics:*
 - a. *One tree per 20 feet of total lot perimeter; and*
 - b. *One shrub per 10 feet of total lot perimeter; and*
 - c. *Living ground cover.*

Finding: The number of trees and shrubs is not indicated in the submitted materials. However, a detailed landscape plan can and shall be included with the structural permit application showing the numbers and locations of existing and proposed trees, shrubs, and living ground cover to meet this requirement.

2. *If islands are required in parking areas, each island must contain at least one tree, sized appropriately for the area of the island. The remainder of the island must be covered with shrubs and/or living or nonliving ground cover, subject to the standards set out in subsection (C) of this section and LCMC 17.55.050. Islands count towards both the parking landscaping requirement and the 15-percent landscaping requirement.*

Finding: The submitted site does not show any islands.

C. Ground Cover and Mulch

1. *Ground cover used as mulch between plantings shall be placed at a minimum two- to three-inch-thick layer to ensure effective erosion control and to avoid leaching of excessive nutrients*
2. *Acceptable mulch materials are straw, well-aged compost and leaves, wood mulch or bark dust, or wood nuggets that are a minimum diameter of one inch. Mulching with manure that has not been composted or aged is prohibited.*
3. *Nonliving ground cover materials such as noncompacted pea gravel, river rock, pumice, stones, boulders, bark dust, and cedar chips are acceptable ground cover.*
4. *Standards for living ground cover are those set out in LCMC 17.55.050.*

Finding: The types of ground cover and mulch are not indicated in the submitted materials. However, a detailed landscape plan can and shall be included with the structural permit application showing compliance with the ground cover and mulch standards.

17.55.050 Selection, preparation, and installation for all landscaping

A. Selection of Materials

1. *Invasive and noxious plants as defined in LCMC 8.12.010 or by the Oregon Department of Agriculture are prohibited.*

Finding: The submitted materials do not show the planting of any invasive and noxious plants, but neither do they show any plantings. Submittal of a complete and detailed landscape plan that clearly shows complete compliance with Chapter 17.55 is required as part of the structural permit application package.

2. *Hydro-seeding is prohibited.*

Finding: The submitted site plan does not show any hydro seeding, but neither does it show any plantings. Submittal of a complete and detailed landscape plan that clearly shows complete compliance with Chapter 17.55 is required as part of the structural permit application package.

3. *All selections must be healthy at the time of planting.*

Finding: The submitted landscaping plan does not show any plantings. Submittal of a complete and detailed landscape plan that clearly shows complete compliance with Chapter 17.55 is required as part of the structural application package.

4. Sizes of Plantings.

- a. *Deciduous trees must be a minimum of one and one-half caliper inches at the time of planting.*
- b. *Conifer trees must be a minimum of five feet in height at the time of planting.*
- c. *Ground cover plants must be at least four-inch pot size.*
- d. *Shrubs must be at least three-gallon size at the time of planting, unless three-gallon sizes are not available for purchase at the time of planting for the particular shrub selected. In those instances, one- or two-gallon size is allowed.*
- e. *Plantings at their mature height 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.*
- f. *All plantings must be one, or a combination of, the following: native to the Pacific Northwest; selected from the City of Lincoln City Guide to Landscape Selections; or suitable for the site conditions as certified by a written and signed statement from a landscape architect licensed in the state or Oregon or a landscape nursery person.*

Finding: The submitted plans do not show any plantings. Submittal of a complete and detailed landscape plan that clearly shows complete compliance with Chapter 17.55 is required as part of the structural permit application package.

17.55.060 Irrigation and maintenance

- A. *Irrigation. The intent is to ensure that plants will survive the critical establishment period when they are most vulnerable due to lack of watering. Irrigation systems shall be provided for all planted areas for a period of at least two years, or until it is demonstrated that new plants have become naturalized.*

Finding: The submitted materials do not provide any information pertaining to irrigation. Submittal of a complete and detailed landscape plan that clearly shows complete compliance with Chapter 17.55 is required as part of the structural permit application package.

17.55.070 Clear-vision requirements.

Landscaping shall be in conformance with the clear-vision area requirements set out in LCMC 17.52.060.

Finding: Clear-vision requirements are not applicable to this residential development as it does not contain any commercial driveways or street intersections.

17.55.080 Living landscaping as screening

- A. *When screening is required, the applicant may choose to use vegetation as the screening method. If so, the following standards must be met:*
1. *Screening shall be in the form of a hedge.*
 2. *The hedge shall consist of evergreen shrubs and shall be native to the Pacific Northwest and suitable for the site conditions as certified by a nursery person or a landscape architect licensed in the state of Oregon or selected from the City of Lincoln City Guide to Landscape Selections.*
 3. *Selected shrubs must have a mature height of at least six feet.*
 4. *Shrubs must be of sufficient size and number to provide solid sight obstruction, at a minimum of six feet in height, at the time of planting.*

Finding: No living landscaping as screening is proposed.

Chapter 17.56 Off-street Parking and Loading Regulations

17.56.030 Number of off-street parking spaces required

- A. *The number of off-street parking spaces required shall be as set forth in Table 17.56.030-1.*

Finding: The project proposes a 46-unit apartment building. A breakdown of the number of bedrooms in each unit is not given, but the narrative states that 49 parking spaces are required. Table 17.56.030-1 states that multi-unit dwellings containing three or more units have an off-street parking requirement of one space per one-bedroom unit and 1.5 spaces per two-bedroom unit. Without a breakdown of the number of bedrooms in each unit, staff cannot determine if the off-street parking space requirement is met.

- B. *Exceptions to the Number of Off-Street Parking Spaces Required. One or more exceptions may apply to a development.*
1. *There are no off-street parking requirements for commercial uses, commercial buildings, or the commercial portion of mixed use buildings located within the boundaries of any of the pearls (Wecoma, Oceanlake, DeLake, Taft, Nelscott, Cutler City), said boundaries as identified on the city's adopted zoning map.*

Finding: This requirement is not applicable to this project since it is not located in Wecoma, Oceanlake, DeLake, Taft, Nelscott, or Cutler City.

2. *The number of off-street parking spaces may be reduced by 10 percent of the off-street parking requirement for every five bicycle parking spaces provided over and above the standard requirement for bicycle parking spaces.*

Finding: The applicant is not requesting a reduction in the off-street parking requirement.

3. *The number of off-street parking spaces may be reduced by 10 percent of the off-street parking requirement by preserving at least two mature and healthy trees. To receive this credit, a licensed Oregon arborist must certify the trees to be preserved are health, and the grading plan must show enough protection and lack of disturbance around the roots (again, as certified by a licensed Oregon arborist) that the trees will be protected and preserved throughout construction and thereafter.*

Finding: The applicant is not requesting a reduction in the off-street parking requirement.

17.56.040 Number of off-street loading spaces required

- A. *Every building hereafter erected or established, for a use other than residential, having a gross floor area of 10,000 square feet or more shall provide and maintain at least one off-street loading space plus one additional off-street loading space for each additional 20,000 square feet of gross floor area.*
- B. *Each loading space shall be not less than 10 feet wide by 25 feet in length and 14 feet in height.*

Finding: The proposed project is residential in use, so this requirement is not applicable.

17.56.050 Joint use of off-street parking and loading spaces

- A. *Off-street parking and loading requirements may be satisfied by the same parking or loading space used jointly to the extent that it can be shown by the owners or operators of the uses, structures, sites, or developments that their operations and parking needs do not overlap in point of time.*
- B. *If the uses, structures, sites, or developments are under separate ownership, the right to joint use of off-street parking or loading spaces must be evidenced by a deed, lease, contract, or other appropriate written document establishing the terms of the joint use, and submitted to the department.*

Finding: The project will accommodate the off-street parking requirement on the site.

17.56.060 More than one use in a building or on a development

Finding: This requirement is not applicable to this project. The only use proposed is residential, and it is solely contained on the site in one building.

17.56.080 Development standards for off-street parking and loading areas for all uses other than detached single-unit dwellings, attached single-unit dwellings, and duplexes

- A. *Location*
 1. *Off-street parking and loading shall be located on the same lot or parcel as the use or on a separate lot or parcel not farther than 1,000 feet from the building or use they are intended to serve, measured in a straight line from nearest property corner to nearest property corner.*
 2. *Area in a public right-of-way or an alley shall not be used as fulfilling any part of the off-street parking or loading requirements.*

Finding: The submitted materials show that the off-street parking is located on the same lot as the use. This requirement is met.

3. *Off-street parking and loading spaces shall be located above, beneath, to the rear, or to the side of buildings.*

Finding: The west elevation of the building is the front of the building. The submitted materials show that the required off-street parking spaces are located to the north of the building.

4. *Parking and loading spaces must be outside of required building setback areas.*

Finding: The submitted materials show that the parking spaces along the north boundary are within the required five-foot building setback area by approximately one foot. Accordingly, the parking spaces will need to shift one foot to the south for compliance with this requirement.

5. *Parking and loading spaces must be at least 10 feet from public right-of-way, and the space between the public right-of-way and the parking and loading spaces must be landscaped according to the standards in Chapter 17.55 LCMC.*

Finding: The submitted materials show that the off-street parking spaces are 10 feet from Hwy 101. The required landscaping to meet the standards of Chapter 17.55 is not shown on site plan, but submittal of a complete and detailed landscape plan showing compliance with Chapter 17.55 is required as part of the structural permit application submittal package.

6. *In no case shall any parking area or parking or loading space be located between the front of the building and the front property line.*

Finding: The front property line is the west property line. The submitted site plan clearly shows that there are no parking spaces between the west property line and the west (front) wall of the building.

7. *Parking and loading spaces must be located such that there are no backing movements or other maneuvering within public right-of-way. Backing movements or other maneuvering within alleys or private streets is allowed, however.*

Finding: The submitted site plan shows proposed drive aisles such that no backing movements or other maneuvering will take place within Hwy 101.

B. Surfacing

1. *Parking spaces, parking areas, and driveways shall have permanent, dust-free surfaces and shall be constructed to support use by solid waste vehicles and firefighting apparatus.*
2. *Surfaces shall consist of one or more of the following materials:*
 - a. *Concrete or asphalt;*
 - b. *Block pavers of concrete, stone, brick, or similar material. This surface is considered impervious unless, through consultation with the city engineer, the spacing and installation are determined to be sufficient to count as an allowable pervious surface;*
 - c. *Pervious concrete or asphalt; or*
 - d. *Other materials, as approved by the city engineer.*

Finding: The submitted site plan shows parking spaces and drive aisles being surfaced with asphalt.

- C. *Redevelopment. Site design shall incorporate the conversion of existing parking areas located in front of buildings to pedestrian spaces as properties redevelop.*

Finding: Pedestrian spaces are not required for residential developments.

D. Installation and Maintenance.

1. *Materials shall be installed and maintained adequately for all-weather use, including proper drainage so as to avoid flow of water across sidewalks and any property line.*

Finding: The drainage plan shall be submitted as part of the structural permit application package and shall be reviewed for compliance by Public Works.

2. *All pervious surfaces shall be designed, installed, and maintained to ensure proper storm water infiltration.*

Finding: It does not appear from the submitted materials that any pervious surfaces are proposed for parking areas.

E. Maximum Impervious Surface. All parking spaces, parking areas, and loading spaces in excess of the minimum required amount shall be surfaced with pervious materials as approved by the city engineer.

Finding: As discussed earlier in this staff report, staff is unable to calculate the required number of parking spaces without a breakdown of the number of bedrooms in each unit. During the structural permit process if it is shown that more parking spaces are being provided than what is required, the plans will need to be altered to show the required pervious material before the permit will be issued.

F. Curbing and Wheel Stops

1. *Parking spaces shall be contained by a curb or wheel stop so placed to prevent a vehicle from extending into an adjacent property, public right-of-way, private street, sidewalk, or landscaping area.*
 2. *Curbing shall be a minimum of four inches in height and width.*
 3. *Wheel stops shall be a minimum of four inches in height and width, and six feet in length; shall be firmly attached to the ground, and so constructed as to withstand normal wear.*
 4. *Parking spaces having curbing or wheel stops may be reduced in length by two feet, allowing for overhang of the vehicle parked in that space, provided the curbing or wheel stops are placed two feet back from the front of the parking space.*
- G. Marking. All off-street parking and loading spaces shall be permanently and clearly marked, and such marking shall be replaced regularly, so as to remain clearly visible at all times.*

Finding: Compliance with these requirements is reviewed as part of the structural permitting process.

H. Landscaping

1. *In all instances except the following when occurring on individual lots and except in the R-1-5, R-1-7.5, R-1-10, R-1-RE, and VR zones, parking areas shall include landscaping to cover not less than 10 percent of the area devoted to parking spaces and areas, which area is computed as a part of the required landscaping of the total gross area pursuant to Chapter 17.55 LCMC.*

Finding: The submitted site plan does not specifically address the required parking area landscaping. This requirement will be reviewed for compliance as part of the structural permitting process.

2. *Surface parking lots must have perimeter buffer strip landscaping of not less than four feet in depth (see Figure 17.56.080-1) landscaped in accordance with Chapter 17.55 LCMC.*

Finding: The submitted site plan shows the required four-foot-wide perimeter buffer landscape strip.

3. *Screening. Any off-street parking area providing five or more parking spaces shall be screened from view by a screening hedge or a six-foot-tall, sight-obscuring fence on each side that adjoins property situated in the R-1-5, R-1-7.5, R-1-10, R-1-RE, R-M, R-R, or NCR zones or the premises of any school. Screening hedges are subject to the provisions of Chapter 17.55 LCMC.*

Finding: The site does not adjoin the premises of any school, nor does it adjoin any residential zones.

J. Lighting of Parking Areas

1. *If provided, light poles in parking areas shall not exceed a height of 20 feet.*
2. *Any provided lighting in parking areas shall be shielded or provided with cut-offs to avoid glare, light pollution (night sky) and light spillover onto residentially used properties.*
3. *Maximum initial luminance of lighting provided in parking areas shall not exceed four foot-candles, with zero foot-candles at property lines.*

Finding: The submitted narrative indicates that the property owner is deferring submittal of the exterior lighting plan to the structural permit application.

- K. Accessible Parking. Parking areas shall meet all applicable accessible parking requirements of federal, state, and local codes.*

Finding: The required ADA-accessible parking must be shown on the plan submitted with the structural permit application.

L. Parking Area Layout and Dimensions

1. *A minimum of 50 percent of the required number of parking spaces must be designed as standard sized spaces with a minimum space width of nine feet and length of 20 feet.*
2. *No more than 50 percent of the required number of parking spaces may be designed as compact sized spaces with a minimum space width of eight feet and length of 16 feet.*
3. *A clear pedestrian circulation route from parking stalls to the primary building entrance, or a pedestrian area immediately adjacent to the primary building entrance, must be provided.*
4. *Parking areas shall be designed as follows:*

Finding: The applicant's narrative states that the project is providing 26 standard spaces at 9x20 and 24 compact spaces at 8x16. The revised plan submitted with the structural permit application shall show the typical dimensions for the parking spaces, as well as the width of the drive aisles.

M. Parking Rows

1. *Surface parking lots containing more than 20 parking spaces must have rows of not more than 12 continuous parking spaces and shall include one planting island between every 12 parking stalls.*

Finding: The submitted site plan shows there are no rows of parking spaces containing 12 continuous parking spaces.

2. *The perimeter of parking lots or the outer parking aisles must contain at least a four-foot-wide landscaping/drainage swale or landscape buffer (see Figure 17.56.080-1) landscaped pursuant to the provisions of Chapter 17.55 LCMC. The perimeter landscaping buffer counts towards the interior parking lot landscaping requirement of subsection (H)(1) of this section.*

Finding: The submitted site plan shows the required perimeter landscape buffer.

- N. RV, Motorhome, and Bus Parking. Developments with 50 or more required off-street parking spaces shall provide the following minimum number of off-street parking spaces sized and designated for the parking of RVs, motorhomes, and buses:*

Finding: The applicant's narrative states that the project requires 49 off-street parking spaces. Staff is unable to calculate the off-street parking requirement without the breakdown of numbers of bedroom per unit. Should the required number of off-street parking spaces be 50 or more, then the required RV, motorhome, and bus parking space shall be provided with review for compliance as part of the structural permitting process.

- O. Structured Parking. Where structured parking is provided in a stand-alone structure that...*

Finding: A review of the submitted plans shows that the project is not providing any stand-alone structured parking.

17.56.090 Bicycle parking

- A. Number of Bicycle Parking Spaces Required. One bicycle parking space, as defined in subsection (D) of this section, is required for every 20 vehicle parking spaces required in LCMC 17.56.030.*
- B. Access. An unobstructed walkway of at least five feet in width shall connect each bicycle parking area to the primary entrance or the pedestrian area in front of the primary entrance.*
- C. Location. All bicycle parking areas shall be within a well-lighted area within 100 feet of, or clearly visible from the primary building entrance or public right-of-way. Where necessary, a sign shall direct users to the bicycle parking area.*
- D. Dimensions. Each bicycle parking space shall be at least two feet by six feet with a vertical clearance of six feet.*
- E. Security. Bicycle parking facilities shall be either a lockable enclosure for storing bicycles or a stationary object (i.e., a rack) to which bicyclists can lock their bicycles.*

Finding: The narrative states that there is a 3.5-foot wide strip in the parking structure with several bays reserved for bicycles. Additional details are not given. The plans do not provide the exact location and dimensions. Compliance with bicycle parking requirements shall be reviewed during the structural permitting process.

Chapter 17.74 Design Standards

Chapter 17.74 Design Standards

17.74.130 Building design

- A. Intent.*
- B. Building Stepback.*
- 1. Upper Floor Stepback. The upper elevations of building facades facing a public right-of-way or pedestrian space must step back above 25 feet or above the second story, whichever is the lesser height (Figure 17.74.130-1). The following options are acceptable to meet this standard:

 - a. The top floor must step back at least 10 feet; or*
 - b. Progressive stepbacks of several upper floors must total at least 10 feet.**

Finding: The only façade that faces public right-of-way is the west façade. The submitted elevations do not provide enough dimensions or measurements to determine if this is being met to the letter of the code, but it is apparent from the picture that there are varying levels of the floors on the west elevation.

Staff notes that the guiding principles of the design standards include the following:

Enhance the street front by providing visual interest through site design and building articulation.

The applicant's submitted materials clearly depict a street-facing elevation with a lot of visual interest, as well as articulation. There are three different roof heights in the west elevation, windows, different types of exterior materials, and contrasting trim and main body colors proposed. Accordingly, in lieu of providing the full stepback requirement, the applicant is providing alternatives to meet the intent of visual interest along the street. Staff concludes that the intent of the stepback requirement is met.

- C. Building Form. All buildings must incorporate elements to preclude blank building elevations facing a public right-of-way or pedestrian space. Along the façade of the structure, such features must occur at a minimum of every 30 lineal feet, with each floor containing at least two of the following features:*
- 1. Roof line offset of at least two feet from the top surface of one roof to the top surface of the other;*
 - 2. An offset on the building face of at least eight inches from one exterior wall to the other;*
 - 3. A section of the facade, at least four feet in width, that is either recessed or bumped out by at least one foot deep from the front wall plane;*
 - 4. A recessed building entry at least two feet deep, as measured horizontally from the face of the main building facade, and at least four feet wide;*
 - 5. A balcony at least four feet deep and eight feet wide, that is accessible from at least one interior room;*
 - 6. A covered porch at least two feet deep (measured horizontally from the face of the main facade) and at least four feet wide;*
 - 7. Recess with a minimum depth of four feet; or*
 - 8. Extension projecting a minimum of two feet and running horizontally a minimum of four feet.*

Finding: The submitted materials appear to show that the west elevation proposes to provide features 1, 2, 3, and/or 7. This shall be confirmed with the structural permit application with clear dimensions and labels of each provided feature.

D. Roof Form.

- 1. Sloped roofs are required for buildings with a front façade width less than 50 feet.*

Finding: The front façade width is greater than 50 feet.

- 2. Sloped roofs are the preferred roof form for buildings with a front façade width 50 feet or greater. Flat roofs should be avoided.*

Finding: While a sloped roof is the preferred roof form, it is not required. The applicant proposes a flat roof to accommodate the eco- and environmentally-friendly green roof.

- 3. Sloped roofs must have a pitch between 6:12 and 12:12. Mono-pitch (shed) roofs must have a pitch of at least 4:12.*

Finding: The applicant proposes an eco- and environmentally-friendly green roof, which needs to be flat.

- 4. In instances where sloped roofs are not practicable and a flat roof is the only option, the flat roof must have projecting cornices to create a prominent edge when viewed against the sky. Cornices must be made of a different material and color than the predominate siding of the building, except that brick siding may include matching brick cornices.*

Finding: The project is providing a sloped roof on each end of the building to provide visual interest and create a prominent edge when viewed against the sky.

5. *Dual-pitched or hipped “mansard” and A-frame roof forms are not permitted.*

Finding: The project is not proposing any dual-pitched, hipped mansard, or A-frames.

E. Building Entrances.

1. *Porches. Usable porches and stoops are recommended to form a predominant motif of the building design and should be located on the front and/or side of the building to respond to the climatic conditions and the character of nearby residential uses.*

Finding: Porches are a recommendation and not a requirement. In this instance, the project is utilizing garden patios to form the predominant motif of the building design. The garden patios are located on the north side of the building.

2. *Primary Entrances. Buildings must have clearly defined primary entrances that provide a weather protection shelter for a depth of not less than five feet extending from the building entry.*

Finding: It is unclear from the submitted materials if the required weather protection shelter is being provided. This can be addressed through the structural permitting process with clear identification of the primary entrance to each unit and/or an adjustment request.

3. *Accessibility. Each building must have at least one ADA-compliant entrance connecting required parking to the building.*

Finding: It is unclear from the submitted materials which entrance of each building is the ADA-compliant entrance. As a condition of approval, revised plans shall be submitted that clearly label and identify the required ADA-compliant entrance.

F. Building Windows.

1. *Facades Facing a Public Right-of-Way. At least 15 percent of the area of each façade that faces a public right-of-way must have, and maintain, clear and transparent windows or main entrance doors. Windows or doors contributing to this standard must allow views from inside the building to the street. Glass block does not meet this standard. Windows in garage doors do not count toward meeting this standard, but windows in garage walls do count toward meeting this standard. Only transparency in doors at the main entrance and facing the street property line counts toward this standard.*

Finding: The submitted materials do not provide the percentage of transparent windows proposed for the west elevation. As a condition of approval, revisions shall be made to the west elevation sheet to clearly depict and label the required 15% of transparent windows.

2. *Garage Windows. Garages with a side or rear wall that faces the street must have a window on the street-facing wall that is a minimum of six square feet in area.*

Finding: The project is not proposing any garages.

- G. *Building Materials. Exterior walls of all buildings and structures, including accessory, must be primarily clad in wood clapboard, cementitious fiber board, wood shingle, wood drop siding, primed board, wood board and batten, brick, stone, or architectural-grade synthetic materials. Natural materials or natural stain or unfinished wood is the preferred primary cladding.*

Finding: The submitted materials do not indicate the type of exterior building materials, but this can be addressed through the structural permitting process.

H. Building Colors.

Finding: The submitted materials do not indicate the proposed exterior colors, but this can be addressed through the structural permitting process.

I. Garage Requirements.

Finding: The project does not propose any garages.

Chapter 17.76 Procedures

17.76.050 Type III procedure

- A. General Description. Type III procedures apply to quasi-judicial permits and applications. Decisions on quasi-judicial permits and applications are made by either the planning commission or city council, and require substantial exercise of discretion and judgment in applying approval criteria. Type III procedures require public notice and one or more public hearings.*
- B. When Applicable. Table 17.76.020-1 identifies Type III applications. Applications not listed in Table 17.76.020-1 may be identified as Type III by the director based on the general description in this section.*
- C. Pre-Application Conference. A pre-application conference is not required prior to application submittal of a Type III application, but is strongly encouraged. Guidelines for pre-application conferences are set forth in LCMC 17.76.090.*

Finding: The applicant had a pre-application conference for the request prior to submitting the application for conditional use.

D. Application Requirements. Type III applications shall:

- 1. Be submitted on application forms provided by the department and shall include all information, exhibits, plans, reports, and signatures requested on the application forms.*
- 2. Be accompanied by the required fee as adopted by city council resolution.*
- 3. Be subject to the completeness review procedure set forth in LCMC 17.76.110(D) and (E).*

Finding: The required application forms and materials were submitted, along with the required fee. The application was deemed complete in accordance with LCMC 17.76.110.D and E.

E. Notice of Public Hearing.

- 1. After a Type III application has been accepted as completed under LCMC 17.76.110(E), the department shall mail a written public notice to the following:*
 - a. The applicant and applicant's representative;*
 - b. Owner of record of the subject property;*
 - c. Property owners of record within 250 feet of the perimeter property line of the property or properties subject to the application, using the most recently provided property tax assessment roll of the Lincoln County assessor's office as provided to the city to determine property owners of record; and*
 - d. Any neighborhood or community organization or association recognized by the governing body and whose boundaries include the site.*
 - e. At the discretion of the application, the department also shall provide notice to the Oregon Department of Land Conservation and Development.*

Finding: The Planning and Community Development Department mailed the written public notice to the parties noted in LCMC 17.76.050.E.1.a through e.

2. *The notice of public hearing shall include the following:*
 - a. *A brief description of the request;*
 - b. *A list of the applicable criteria from the ordinance and the comprehensive plan that apply to the application at issue;*
 - c. *The street address or other easily understood geographical reference to the subject property;*
 - d. *The date, time, and location of the hearing;*
 - e. *A statement that failure of an issue to be raised in a hearing, in person or by letter, or failure to provide statements or evidence sufficient to afford the decision maker an opportunity to respond to the issue precludes appeal to the Board based on that issue;*
 - f. *The name of a department staff member to contact and the telephone number where additional information may be obtained;*
 - g. *A statement that a copy of the application, all documents and evidence submitted by or on behalf of the applicant, and applicable criteria are available for inspection at no cost and will be provided at reasonable cost;*
 - h. *A statement that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and will be provided at reasonable cost; and*
 - i. *A general explanation of the requirements for submission of testimony and the procedure for conduct of hearings.*

Finding: The public notice of hearing mailed by the Planning and Community Development Department included all the required information.

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

Finding: The public hearing date is May 17, 2022. The public notice was mailed on April 25, 2022.

Chapter 17.77 Applications

17.77.060 Conditional use permit

- A. *Purpose. In all zones, conditional uses listed in that zone may be permitted subject to the granting of a conditional use permit. Because of their unusual characteristics, or the special characteristics of the area in which they are to be located, conditional uses require special consideration so that they may be properly located with respect to the objectives of this title and their effect on surrounding properties.*
- B. *Procedure. Conditional use permit requests are subject to the Type III procedure, as described in LCMC 17.76.050.*
- C. *Submittal Requirements.*
 1. *Type III application submittal requirements are set forth in LCMC 17.76.050. Specific submittal requirements are provided on application forms and checklists as authorized in LCMC 17.76.110.*

Finding: The required documents were submitted.

2. *At a minimum, an application for a conditional use shall include the following:*
 - a. *An application form signed by the applicant and every current property owner of record as shown on the most current recorded deed;*
 - b. *Full payment of the application fee, based on the fee schedule in effect on the date of submittal;*

- c. Existing conditions plan;
- d. Site plan;
- e. Landscape plan;
- f. Building elevations (for new construction);
- g. Phasing plan (if phasing is proposed);
- h. Traffic impact study pursuant to LCMC 17.52.300; and
- i. Narrative addressing compliance with each criterion and applicable standard.

Finding: The completed and signed application form was submitted, along with a copy of the current recorded deed. The submitted materials also included an existing conditions plan, site/landscape plan, building elevations, and narrative. No phasing is proposed, and a traffic impact study is not required.

D. Approval Criteria. In order to grant any conditional use, the planning commission must find, based upon evidence, both factual and supportive, provided by the applicant, that:

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

Finding: The property owners request conditional use permit approval for a multi-unit residential development in the GC zone. As detailed earlier in this report, the submitted materials either show compliance or can show compliance with conditions of approval with the applicable portions of LCMC Title 17, which is the zoning code. The zoning code enacts the comprehensive plan, so with compliance with LCMC Title 17 there is compliance with the comprehensive plan.

The City Council of Lincoln City adopted the Lincoln City Comprehensive Plan and its implementation measure, the Lincoln City Zoning Ordinance, after public hearing and has reviewed it on a periodic cycle to take into account changing public policies and circumstances. The city provided opportunities for review and comment by citizens and affected governmental units during preparation, review, and revision. Review of the proposed is in accordance with applicable zoning ordinance provisions. Accordingly, the request is in conformance with the planning goal.

The city has developed a citizen involvement program. In addition, the public hearing process, with notice to the public and review of the request by the Planning Commission (a citizen board) establishes conformance with the citizen involvement goal.

The site is a developed site that already utilizes city water and city sanitary sewer services. The project will necessitate changes to the existing services, and Public Works has provided recommended conditions of approval to ensure compliance with Lincoln City Public Works Design Standards. The site is served by Lincoln City Police and North Lincoln Fire & Rescue District #1. Compliance with the current Oregon Fire Code is ensured through the structural permitting process. As presented and with conditions, the project conforms to the public facilities and services goal.

The urbanization goal is not applicable since the site is already within city limits. The natural hazard goal is not applicable to the site since it does not contain any bluff hazard erosion zones, floodway, or flood hazard areas.

The housing goal is to provide for the housing needs of all citizens. The project is consistent with the housing goal because it will be providing 46 new, code-compliant housing units to the citizens of Lincoln City in place of the nine existing older units. This is an increase of 37 housing units to assist in providing for the housing needs of all citizens.

The economy goal is either not applicable or is met. The project is a housing project, but construction of the project will require workers so jobs will be provided in the project's development. Additionally, structural

permit fees and system development charges will be assessed and collected. The submitted narrative states that “providing more diversity in housing helps the employees be more confident in locating in Lincoln City. Thus, local businesses get more competent and happy employees.”

The project must comply with the landscaping standards and design standards. Applicability of and compliance with these standards ensures an aesthetically-pleasing development. The aesthetics goal is met through adherence to LCMC Title 17.

The site is accessed from Hwy 101, which is an existing street. No new streets are proposed. Required street frontage improvements will take place as part of the project. The site contains an existing bus stop, which will remain. The transportation goal is met.

Design and construction of the structure must be in compliance with the state-adopted energy requirements. The applicant’s narrative states that “the probably HVAC will be a ductless heat system” to provide better control of room temperature. Additionally, the building has been designed to avoid excess perimeters that create heat gain and heat loss, and the projected nature of the garden patios will prevent excessive sun from entering the units in the summer months. The energy goal is met.

The applicant’s narrative states: “The box design with exterior appendages for esthetics [sic] provides a good example of conservation and sustainability. It has more energy efficient shell, uses less materials, takes less labor, saves time, saves funds, saves natural resources. The mature trees that are being saved will continue to release oxygen. The HVAC is more efficient. Excess summer sun is actually shaded. Visual open space is improved; without crowding the street with buildings. We will be incorporating a green roof on the west end lower roof.” Staff notes that the submitted materials show a proposed green roof and retention of mature trees. Staff also notes that the proposed project is not occurring within coastal shorelands, flood plains, waterway shorelands, scenic corridors, scenic viewpoints, or any are of historical significance. The environmental goal is either met or not applicable.

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

Criterion 1 is met.

2. *The site for the proposed use is adequate in size and shape to accommodate the use and all required setbacks, common spaces, retaining walls, parking and loading areas, landscaping, and other features required by this title;*

Finding: The submitted site plan shows the proposed building outside of the required 15-foot rear and 5-foot side setback areas. The submitted site shows a proposed common space that exceeds the minimum requirement. The submitted site plan shows all areas of the site not covered by the building or impervious surface as landscaped areas. The submitted materials either show or provide explanations to incorporate most of the other features required by this title, as described throughout this staff report. As noted in the staff report, those items not addressed in the current submittal will have to be addressed as part of the structural permit application submittal. By showing the required setback areas, common space square footage, off-street parking spaces, and landscaped areas, it is clear that the size and shape of the site is more than adequate to accommodate the proposed 46-unit multi-unit residential development. Other required features that aren’t shown can be addressed with conditions of approval and through the review of the structural permit application.

Criterion 2 is met.

3. *The site for the proposed use relates to streets and highways adequate in width and degree of improvement to handle the quantity and kind of vehicular traffic that would be generated by the proposed use;*

Finding: The site is accessed from the existing and improved Hwy 101. Any required street frontage improvements to the site's frontage shall be completed as part of the development. ODOT reviewed the application and had no comments other than a recommendation that any deeded property to increase right-of-way include the proposed new or future back of walk. Public Works provided recommended conditions of approval. The project does not reach the threshold of requiring a traffic impact study.

Criterion 3 is met.

4. *The proposed use will have minimal adverse impact upon adjoining properties and the improvements thereon. In making this determination, the review authority shall consider, but not be limited to, the proposed location of the improvements on the site, vehicular egress/ingress and internal circulation, pedestrian access, setbacks, height and mass of buildings, retaining walls, fences, landscaping, screening, exterior lighting, and signage;*

Finding: The site is bordered by an RV park to the north and east, which is a form of residential development. Additionally, there is a grade drop down from the RV park to naturally provide a buffer between the proposed apartment complex and the existing RV park. South of the site is undeveloped, and west of Hwy 101 is an apartment complex similar to what is being proposed. Exterior lighting will have to meet the lighting standards of LCMC Title 17. The mature trees and vegetation will be retained to the extent practicable, which provides a natural screen to the future development of the south properties. With the similarities between the existing surrounding development and the type of proposed development, the grade drop, the natural screening provided by existing trees, and adherence to LCMC Title 17, staff finds that the proposed project will have minimal adverse impact upon adjoining properties.

Regarding pedestrian access, however, staff notes that the proposed facility increases the density of housing from nine units to 46 units. Beach accesses, restaurants, shopping, and continuous sidewalk exist on the west (opposite of the project) side of Hwy 101. The increased residential density will also increase pedestrian use and potentially increase crossings of an uncontrolled portion of Hwy 101, with the closest controlled pedestrian crossing over 2,000 feet to the south at SE 48th and Hwy 101. Rectangular rapid flashing beacons (RRFBs) have become a precedent for safer highway crossings through Lincoln City. The site's frontage is identified in the Lincoln City Transportation System plan as a location for an RRFB with exact placement subject to ODOT design requirements. Staff recommends installation of an RRFB along or adjacent to the property's Hwy 101 frontage

Criterion 4 is met with a condition of approval to install an RRFB along or adjacent to the property's Hwy 101 frontage and subject to ODOT design requirements.

5. *In areas designated as requiring preservation of historic, scenic or cultural attributes, proposed structures will be of a design complementary to the surrounding area.*

Finding: The site does not have any historic, scenic, or cultural attributes, so this requirement is not applicable. Criterion 5 is not applicable.

- E. *Conditions of Approval. Pursuant to LCMC 17.76.120, the planning commission may impose, in addition to regulations and standards expressly specified in this title, other conditions found necessary to protect the best interests of the surrounding properties or neighborhood, or the city as a whole. These conditions may include, but not be limited to, the following:*
 1. *Increasing required lot size, setbacks, common open spaces, or screening and buffering areas;*

2. *Requiring fences, screening walls, landscaping, or screening/buffering where necessary to reduce noise and glare from the use and maintain the property in a character in keeping with the surrounding area;*
3. *Requiring landscaping and maintenance thereof;*
4. *Increasing street widths and/or controlling the location and number of vehicular access points to the property for ingress/egress;*
5. *Requiring means of pedestrian/bicycle pathways to serve the property;*
6. *Increasing the number of off-street parking and loading spaces required; surfacing and proper drainage of parking area;*
7. *Limiting size, location, and number of signs;*
8. *Limiting the location, coverage, or height of buildings because of obstruction to view and reduction of light and air to adjacent properties;*
9. *Limiting or prohibiting openings in sides of buildings or structures;*
10. *Enclosure of outdoor storage areas and limitation of...*
11. *Requiring maintenance of grounds;*
12. *Regulation of noise, vibration, odors, etc.;*
13. *Regulation of time for certain activities;*
14. *Establishing a time period within which the proposed use shall be developed;*
15. *The requirement of a bond for removal of such use within a specified period of time;*
16. *Increase the size, type, or capacity of any or all utility services, facilities, or appurtenances;*
17. *Requirements under which any future enlargement or alteration of the use...*
18. *Requirements for providing the city a performance bond with a contractual agreement to assure its share of the development of streets, curbs, gutters,...*
19. *Any such other conditions that will make possible the development of the city in an orderly and efficient manner and in conformity with the intent and purposes set forth in this title and the comprehensive plan.*

Finding: Staff's recommended conditions of approval are included at the end of the staff report.

Chapter 17.77 Applications

17.77.070 Development review

- A. *The purpose of development review is to establish a coordinated process to ensure that new development is in compliance with the requirements of this title prior to the submittal of structural permit applications, or in instances where structural permit application are not necessary prior to the commencement of any development. The development review application shall demonstrate that the proposed development will comply with all of the applicable requirements of this title, and that...*
- B. *Applicability. Except as exempted in subsection (C) of this section, development review approval is required before any structural permit is issued authorizing development and before any outdoor storage area or parking lot development commences in the R-M, PC, RC, GC, PI, M-W, P, OS, TVC, NP, and OP zones, and before any nonresidential structural permit is issued authorizing development and before any nonresidential outdoor storage area or parking lot development commences in any other zone.*
- C. *Exemptions. The activities, development and construction projects listed below are exempt from development review:*
- D. *Procedure. Development review applications are subject to the Type II procedure as described in LCMC 17.76.040, unless any of the following circumstances apply:*
 1. *The applicant chooses to submit as a Type III procedure; or*
 2. *A Type III application is necessary to approve one or more of the uses proposed in the development, in which case the development review application shall be processed concurrently with the Type III application as a Type III procedure.*

- E. Submittal Requirements. Type II application submittal requirements are set forth in LCMC 17.76.040 and more specific submittal requirements are provided on application forms and checklists as authorized in LCMC 17.76.110.*

Finding: The required documents were submitted by the property owner. Since a Type III application (conditional use permit application) is necessary to approve the proposed use of a multi-unit residential development, the development review is being processed concurrently with the conditional use request.

- F. Concurrent Applications for Adjustments. Requests for adjustments to standards required in Chapter 17.74 LCMC shall be processed concurrently with the development review application.*

Finding: Requests for adjustments were not made per se, but adjustment requests are obvious in the proposed elevations and roof form, as detailed above in Chapter 17.74.

- G. Approval Criteria. To approve an application for development review, the review authority must find that the development, as described in the submitted application, either complies with all of the requirements of this title or will comply with all of the requirements of this title subject to conditions that shall ensure compliance with all of the requirements of this title.*

Finding: Based on an analysis of the submitted application and accompanying materials against the requirements of this title and as detailed throughout this staff report, the project as submitted either complies with all of the requirements of this title or will comply with all of the requirements of this title subject to the conditions of approval that ensure compliance with all requirements of this title.

RECOMMENDATION

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

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

General

1. The applicant/property owner/developer shall be responsible for full compliance with all applicable city, state, and federal codes, rules, regulations, and standards.

Planning

1. The property line adjustment lot consolidation shall be recorded prior to submitting the structural permit application.
2. A site plan showing the size and location of, and garbage hauler access to, the trash enclosure shall be signed and dated by North Lincoln Sanitary Services signifying their approval of the size, location, and access. This signed and dated site plan shall be submitted with the structural permit application materials through ePermitting as part of the structural permit process.
3. The site plan shall be modified to show the required common area square footage outside of, and not including, any setback or parking area. Common area dimensions shall be clearly depicted as separate from setback and parking areas. The revised site plan shall also show the type and location of the required common area amenities. The revised site plan shall be submitted with the structural permit application materials through ePermitting as part of the structural permit process.
4. A complete and detailed landscape plan that shows full compliance with LCMC Chapter 17.55 and 17.56 shall be submitted with the structural permit application materials through ePermitting as part of the structural permit process.

5. An exterior lighting plan showing compliance with LCMC 17.52.150 shall be submitted with the structural permit application, along with cut sheets of the proposed exterior lighting fixtures and a photometric analysis showing compliance with LCMC 17.52.150. These items shall be submitted through ePermitting as part of the structural permit process.
6. Revised plans shall show compliance with the LCMC Chapter 17.52.
7. The plans shall be modified to show the breakdown of the number of units with one bedroom and the number of units with two bedrooms, along with the required number of off-street parking spaces, with none encroaching into the side setback areas.
8. Plans shall be modified to show any provided off-street parking spaces in excess of what is required to be surfaced with pervious materials.
9. Plans shall be revised to show compliance with all applicable requirements of LCMC Chapter 17.56.
10. The west elevation shall be revised to clearly show and label compliance with LCMC 17.74.130.C., or an adjustment shall be requested as part of the structural permit application process.
11. The plans shall be revised to clearly show and label compliance with LCMC 17.74.130.E, or an adjustment shall be requested as part of the structural permit application process.
12. The west elevation shall be revised to clearly show and label compliance with LCMC 17.74.130.F.
13. The proposed exterior building materials shall be included with the submitted structural permit application package and shall show compliance with LCMC 17.74.130.G.
14. The proposed color scheme shall be included with the submitted structural permit application package and shall show compliance with LCMC 17.74.130.H.
15. Prior to issuance of any certificate of occupancy, installation of an RRFB along or adjacent to the property's Hwy 101 frontage and subject to ODOT design requirements shall be completed.

Fire

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

Public Works

Engineering:

1. The applicant/developer/property owner shall submit digital copies of civil engineering plans for all public improvements and site development to Lincoln City Public Works (LCPW) for review and approval either as submitted or as modified in accordance with requirements of Lincoln City's city engineer (City Engineer). The plans must clearly delineate existing and proposed conditions on a single sheet. The City Engineer's review and any required modifications shall be for the purpose of assuring that the improvements shall be consistent with LCPW Design Standards and the provisions of this condition of approval.
2. All public infrastructure construction, including sanitary sewer connections, new domestic and fire water service construction, storm sewer, and roadway construction shall be designed and stamped by a licensed professional engineer.
3. A Combined Public Works Permit application shall be completed and submitted through ePermitting as part of the building permit application materials. All right-of-way work shall be noted on the approved plans and performed as shown. The approved plan set and permits shall be kept on the site, at all times, until construction is complete and all final inspections have been passed. All materials and construction shall adhere to LCPW Design Standards. Submittals and testing to verify compliance with LCPW Design Standards shall be submitted to LCPW as requested.
4. The applicant shall be responsible for obtaining and adhering to ODOT permits and associated state agency design/permit requirements and inspections.
5. All public utility, roadway, and stormwater management improvements shall be completed in accordance with the approved civil engineering plans, LCPW Design Standards, and the project's

conditions of approval within 18 months of the structural permit issue date. Per the Lincoln City Municipal Code, final permit approval from LCPW shall not be issued until all improvements have been completed in accordance with the approved plans and applicable standards.

6. Within 30 days after construction, field-verified, stamped as-built drawings for all public improvements, including relevant survey data, shall be provided to the LCPW in AutoCAD format. All discovered utilities and changes to the approved plans shall be noted with callouts indicating location, depth, and material. The record drawings shall be established in model space using the state plane coordinate system, Oregon North Zone 3601, with horizontal survey control of NAD 83 and vertical control of NAVD 88.
7. Actual costs incurred by Lincoln City for review and/or construction services shall be assessed as additional fees in accordance with Lincoln City Municipal Code 12.12.030. A deposit shall be invoiced at structural permit issuance in accordance with adopted fee schedules. Additional costs for city inspection and/or construction services beyond the deposit amount shall be due prior to final approval of the subject permit.

Erosion Control:

1. The submitted plans shall include erosion control plans in accordance with LCMC 12.08 for review and approval by the city engineer. Approved soil erosion control measures must be in place and inspected by LCPW prior to any construction activities. Erosion control plans must be prepared by a registered professional engineer, landscape architect, engineering geologist, or certified professional in erosion sediment and control.
2. If disturbing one or more acres of land during construction activity the applicant is responsible for application, acquisition, and compliance with Oregon DEQ 1200-C stormwater permit.

Street Improvements:

1. Sidewalk, curb, and necessary pavement repair shall be completed along street frontage in compliance with LCMC 17.52.230.
2. This shall include improvement of non-compliant existing sidewalk along the development's frontage to meet current standards and ADA requirements. This shall include but not be limited to: a minimum 6-foot sidewalk width, ADA-compliant sidewalk clearance, an ADA-compliant driveway apron, and minimum design criteria required by ODOT.
3. All right-of-way work planned shall be noted on the approved plan set, meet applicable design standards, and be performed as shown.
4. Acquisition of any state permits shall be the responsibility of the applicant. As mentioned above, required Highway 101 roadway improvements shall incorporate minimum design criteria requirements put in place by ODOT. Highway 101 roadway design should incorporate additional recommendations put forward by ODOT.
5. The clear vision triangle, 50'Lx10'W visibility at highway access, shall be maintained in site plan layout in accordance with LCMC 17.52.060.
6. All materials and construction shall adhere to LCPW Design Standards. Submittals and testing to verify compliance with standards shall be submitted to LCPW as requested

Storm Water:

1. All new impervious paving and pollutant generating surfaces shall be treated according to LCPW Design Standards. Treatment shall be sized according to 50% of the 2-year, 24-hour rain event.
2. All increase from the existing site's total impervious area shall be detained according to LCPW Design Standards: 2-year, 10-year, 25-year, 24-hour rain event
3. A stormwater report, demonstrating proposed drainage facilities compliance with LCPW Design Standards, or (for detention) a downstream analysis demonstrating no impacts, shall be submitted with the structural permit application.

Water and Sewer:

1. The applicant/development/property owner is responsible for determining the desired fire and domestic service size and ensuring the presence of adequate flow and pressure. The applicant/developer/property owner shall be responsible for conducting any flow tests required to establish pertinent pressure and flow information. The applicant/developer/property owner shall give both Lincoln City Public Works and North Lincoln Fire & Rescue District #1 at least 48 hours advance notice of any flow testing to be performed. A water distribution staff member from Lincoln City and an applicable representative of North Lincoln Fire & Rescue District #1 shall be at the site at the time of flow testing.
2. All sanitary sewer and water construction shall adhere to LCPW Design Standards and/or applicable state or industry standards.
3. The applicant is responsible for the verification of existing private infrastructure proposed for use and/or any repairs required.
4. Any water connections, 1" or smaller requested to be completed by the city shall be noted on submitted plans with size and location. Requested work to be completed by the city shall be invoiced the standard permit fee. Water connections larger than 1" shall be completed by the applicant per the approved plans.

Right-of-Way and/or Easement Dedication:

1. Roadway, public access, stormwater, utility, and/or other easements as necessary for existing or proposed encroachment shall be dedicated for public facilities on the site and shall be noted on the approved plans. The recorded easement document shall be submitted to LCPW prior to requesting the final inspection by LCPW.
2. The applicant shall be responsible for easement and/or right-of-way coordination with ODOT.