



PLANNING COMMISSION

Tuesday, May 09, 2023 at 6:00 PM
HYBRID: Council Chambers & Zoom (details below)

AGENDA

6:00 P.M. CALL TO ORDER & FLAG SALUTE

TOPICS FROM THE FLOOR (Not on Public Hearing Agenda): Limited to five minutes per topic

CONSENT AGENDA

- A. Planning Commission Minutes Dated April 11, 2023

PUBLIC HEARING AGENDA (times are earliest start time)

- B. 6:05 p.m. Variance and Minor Modification Site Development Review at 373 S Columbia River Hwy - 1771ColumbiaBlvd, LLC
- C. 6:30 p.m. Appeal of Sensitive Lands Permit SL.2.23 at N. 15th Street - Infinity Investments-Puget Sound, LLC

DISCUSSION ITEMS

- D. CUP.2.23, et. al., condition of approval 2.a.G
- E. Semi-Annual Planning Department Report
- F. Planning Commission Annual Report to Council
- G. Refine HB 3115 Recommendation

PLANNING DIRECTOR DECISIONS (previously e-mailed to the Commission)

- H. Sign Permit (x6) at 405 N Columbia River Hwy - Sign Craft (Burger King)
- I. Sign Permit at 115 N Columbia River Hwy - ES&A Sign & Awning
- J. Sign Permit at 420 Columbia Boulevard - St. Helens Liquor Store
- K. Sign Permit at 373 S Columbia River Hwy - Aman & Kulwinder, LLC (Skinny's)
- L. Temporary Use Permit at 2225 Gable Road - Shyla Kniffin (St. Hellions Grill)
- M. Site Development Review (Minor) at 71 Cowlitz Street - The Klondike Tavern
- N. Site Development Review at SW Corner of the Wyeth Street/US30 Intersection - Odom (Dairy Queen)

PLANNING DEPARTMENT ACTIVITY REPORT

- O. Planning Department Activity Report - April

PROACTIVE ITEMS

- P. Architectural Standards
- Q. New Proactive Items Proposals

FOR YOUR INFORMATION ITEMS**ADJOURNMENT****NEXT REGULAR MEETING: June 13, 2023****VIRTUAL MEETING DETAILS****Join:****<https://us06web.zoom.us/j/85298667999?pwd=UUFvYVRsazFpV3JkQytIK1hmdDJjUT09>****Meeting ID: 852 9866 7999****Passcode: 822835****Dial by your location: +1 253 215 8782 US (Tacoma)**

The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired or for other accommodations for persons with disabilities should be made at least 48 hours before the meeting to City Hall at 503-397-6272.

Be a part of the vision and get involved...volunteer for a City Board or Commission! For more information or for an application, go to www.sthelensoregon.gov or call 503-366-8217.



PLANNING COMMISSION

Tuesday, April 11, 2023, at 6:00 PM

DRAFT MINUTES

- Members Present:** Chair Steve Toschi
 Vice Chair Dan Cary
 Commissioner Jennifer Pugsley
 Commissioner Russ Hubbard
 Commissioner Charles Castner
 Commissioner Ginny Carlson
 Commissioner Russ Low
- Members Absent:** None
- Staff Present:** City Planner Jacob Graichen
 Associate Planner Jenny Dimsho
 Community Development Admin Assistant Christina Sullivan
 Councilor Mark Gundersen
- Others:** Brady Preheim
 Tina Curry
 Toni Loveland
 Robert Loveland
 Holcombe Waller
 Erin Salisbury

CALL TO ORDER & FLAG SALUTE

TOPICS FROM THE FLOOR (Not on Public Hearing Agenda): Limited to five minutes per topic

Preheim, Brady. Preheim was called to speak. He said that he watched the Special Session for the Planning Commission and that he liked some of the things they discussed. He still shared that he did not agree with the choice of making Steve Toschi the Chair of the Commission. He also suggested the Chair resign. He also said he would like to see more people on the committee for House Bill 3115 who were informed on homelessness and could help with the code development.

CONSENT AGENDA

A. Planning Commission Minutes Dated March 21, 2023

Motion: Upon Commissioner Carlson's motion and Commissioner Low's second, the Planning Commission unanimously approved the Draft Minutes dated March 21, 2023. Vice Chair Cary abstained due to his absence from this meeting. [AYES: Commissioner Carlson, Commissioner Castner, Commissioner Hubbard, Commissioner Pugsley, Commissioner Low; NAYS: None]

B. Planning Commission Special Retreat Minutes Dated March 22, 2023

Motion: Upon Commissioner Low's motion and Commissioner Carlson's second, the Planning Commission unanimously approved the Planning Commission Special Retreat Minutes dated March 22,

2023. Vice Chair Cary abstained due to his absence from that meeting. [AYES: Commissioner Carlson, Commissioner Pugsley, Commissioner Hubbard, Commissioner Pugsley, Commissioner Low; NAYS: None]

PUBLIC HEARING AGENDA (times are earliest start time)

C. 6:00 p.m. Annexation at 35046 Maple Street – May

Chair Steve Toschi opened the Public Hearing at 6:10 p.m. There were no ex-parte contacts, conflicts of interests, or bias in this matter.

Associate Planner Jenny Dimsho introduced the proposal as presented in the staff report dated April 4, 2023.

She showed that the property was currently on McNulty Water. She said in April 2022, the property had a failed septic and applied for a consent to annex to connect to sewer. They have since connected to City Sewer and staff recommended approval despite the conveyance issues that the City had with their sewer system. She mentioned the City had a four-year plan to fix the conveyance issues and the property was already developed with a detached single-family dwelling. She mentioned that, if in the future, they decided to partition the property, the Commission could require a fee to connect another dwelling to the City sewer if it was necessary. Dimsho also said the property is encumbered by floodplain, making it more difficult to divide.

She said there were two options for zoning in this area to be considered for annexation. She said one was Moderate Residential (R7) and the other was Suburban Residential (R10). She said there was a subdivision zoned R7 to the north of the property.

Chair Toschi asked if any conditions could be added to keep the property owners from partitioning the property until the sewer system was corrected. Dimsho said this type of condition would be challenged. Commissioner Low said that if the property owner decided to subdivide or partition, by the time they were ready to develop and connect to the system, it would be corrected.

In Favor

No one spoke in favor of the application.

Neutral

No one spoke as neutral testimony.

In Opposition

No one spoke in opposition of the application.

End of Oral Testimony

There were no requests to continue the hearing or leave the record open.

Close of Public Hearing & Record

Deliberations

Vice Chair Cary mentioned there was a pattern of lower density zoning near the outside of the City and in the inner parts have a denser zoning. City Planner Jacob Graichen mentioned there were other properties that they had recommended the R10 zoning based on this same.. Commissioner Pugsley agreed with this theory for choosing the zoning recommendation of R10 as well.

Motion: Upon Commissioner Low's motion and Commissioner Carlson's second, the Planning Commission unanimously recommended approval to City Council for Annexation with the recommendation that the property be zoned R10. [AYES: Vice Chair Cary, Commissioner Pugsley,

Commissioner Hubbard, Commissioner Carlson, Commissioner Low, Commissioner Castner; NAYS: None]

D. 6:15 p.m. Annexation at 35082 Maple Street - Jenkins

Chair Toschi opened the Public Hearing at 6:31 p.m. There were no ex-parte contacts, conflicts of interests, or bias in this matter.

Associate Planner Dimsho introduced the proposal as presented in the staff report dated April 4, 2023.

She mentioned this property was directly adjacent to the property they just looked at. She said this applicant also filed this annexation to connect to sewer. She said the lot currently has a detached single-family dwelling and there is a new single-family dwelling being built on the same property. She said the permit is through the County. The County told them they would have to be connected to City sewer instead of septic.

She shared that almost half of the property is covered encumbered by flood plain. She said this makes it very difficult for development or more structures to be added, which means that risk of additional connections to sewer would be minimal.

In Favor

No one spoke in favor of the application.

Neutral

No one spoke as neutral testimony.

In Opposition

No one spoke in opposition of the application.

End of Oral Testimony

There were no requests to continue the hearing or leave the record open.

Close of Public Hearing & Record

Deliberations

Since the recommendation for the adjacent property was R10 zoning, Dimsho said it makes sense for the Commission to recommend this property also be R10 zoning.

Motion: Upon Commissioner Carlson's motion and Commissioner Castner's second, the Planning Commission unanimously recommended approval to City Council for Annexation with the recommendation that the property be zoned R10. [AYES: Vice Chair Cary, Commissioner Pugsley, Commissioner Hubbard, Commissioner Carlson, Commissioner Low, Commissioner Castner; NAYS: None]

E. 6:30 p.m. Annexation at 58927 Firlok Park Street

Chair Toschi opened the Public Hearing at 6:42 p.m. There were no ex-parte contacts, conflicts of interests, or bias in this matter.

Associate Planner Dimsho introduced the proposal as presented in the staff report dated April 4, 2023.

She shared this applicant wanted to annex into the City for connection to the sewer in the future and they also wanted to use our development rules.

She shared this property was small and there was already a detached single-family dwelling and two accessory structures on the property as well. It is currently served by a septic, but in the future, there will be a public sewer line that would be easily accessible to the property.

She mentioned this property was designated Unincorporated Multi-family Residential in the Comprehensive Plan and currently abuts Apartment Residential on both sides.. She said when annexed, the only option for zoning would be Apartment Residential.

She said the property would not likely be developed any further because of the home and structures already on the property. She also mentioned that even though it did not have flood plain considerations, it did have upland protection zone considerations.

Loveland, Toni. Applicant. Loveland was called to speak. She said that her and her brother had just recently purchased the home and they hoped to hook up to the City sewer system eventually, as the septic system on the site was failing. She also said they considered building a smaller home on the property with a bathroom as well, so there would be a total of two bathrooms on the property..

Loveland, Robert. Applicant. Loveland was called to speak. He said they had no plans to split it up or add more other than a small 800 square-foot dwelling unit.

In Favor

No one spoke in favor of the application.

Neutral

No one spoke as neutral testimony.

In Opposition

No one spoke in opposition of the application.

End of Oral Testimony

There were no requests to continue the hearing or leave the record open.

Close of Public Hearing & Record

Deliberations

There was a small discussion about what could be developed on the property with the Apartment Residential zoning.

Motion: Upon Commissioner Carlson's motion and Vice Chair Cary's second, the Planning Commission unanimously recommended approval of the Annexation to City Council. [AYES: Vice Chair Cary, Commissioner Pugsley, Commissioner Hubbard, Commissioner Carlson, Commissioner Low, Commissioner Castner; NAYS: None]

DISCUSSION ITEMS

F. Architectural Review for 71 Cowlitz Street (The Klondike Tavern)

Associate Planner Dimsho presented the staff report. She shared the applicant was looking to do some structural, exterior modifications. They want to create a 682 square-foot porch addition, and then have a basement addition under it for storage. They said this will also allow them to do some foundational work to the footings of the building to stop the building from settling.

She also mentioned they would add an ADA lift and plan to tuck it behind the existing vestibule to make it less visible from the main street. She also shared a few additions of new doors.

There was a small discussion about the stairs to be included and access to the outdoor patio. There was also a small discussion about the railing, and it being enclosed.

Commissioner Carlson asked if the outdoor exterior would follow the historic siding recommendations and guidelines. The applicant said yes, they did plan to stay consistent with the way the building looked now.

Commissioner Pugsley said she liked the applicants' use of the turned posts.

The applicant also shared that the goal was to create more seating and space for customers, while giving more access and ease of service to the patio space.

There was a discussion about how they would shade the patio and recommendations on what to use.

There was also a discussion on the funding and how the proposed work would be funded. The applicant mentioned they received a Main Street Revitalization Grant for this project. They have a time frame to get this project finished. With the grant money, the project has to meet all the state restoration guidelines as well.

The Planning Commission agreed this was a great addition to the building and property and liked the ideas proposed by the applicant.

Motion: Upon Commissioner Castner's motion and Commissioner's second, the Planning Commission unanimously recommended approval as recommended by Staff. [AYES: Vice Chair Cary, Commissioner Pugsley, Commissioner Hubbard, Commissioner Carlson, Commissioner Low, Commissioner Castner; NAYS: None]

G. **HB 3115 Recommendations to Council**

Graichen presented the report that shared the different categories and the recommendations given by the Planning Commission Sub-committee and the recommendations from the staff and City Attorney. He highlighted the differences between the different recommendations.

He shared there was a variety of meetings to come to this consensus and now the Commission needs to recommend options to the City Council for legislation to be adopted.

The Commission went through each piece of the findings that were made in the report.

Chair Toschi shared his research on the area and the issues we have with homelessness. He talked about the different individuals that he interviewed to help the sub-committee come to the results they did for the proposal presented.

There was a discussion about the Finding and Purpose of this proposed law and the Commission agreed they should keep the words "dignity and respect" out of the description.

There was a discussion about the different places where camping, lying, and sleeping should not be allowed. There was also a discussion about the amount of feet or yardage that should be kept between a person camping and the areas they are not allowed to.

Commissioner Castner also mentioned that he felt it important to have some findings because the statute requires there be an objective and reasonable approach. The findings are what we are basing our ordinances on. We did not just pick these rules out of thin air.

There was a discussion on the police services to be rendered in these specific cases of camping and lying. Chair Toschi said the police needed to have a place to send these individuals to temporarily sleep, keep warm, and dry. Graichen asked if this was more of a performance measure or a finding? Chair Toschi said the police were already handling these situations this way, so he felt it needed to be in the ordinance, but that it did not matter where it was listed.

Chair Toschi shared the definitions of "established campsite." He also wanted to highlight the differences between the regular campsite and an "established campsite." There was also a discussion

on how long individuals can stay in one space and the appropriate documents and notifications to remove them humanely. Commissioner Carlson expressed concern about those individuals that may already have documents that show they are in the process of securing shelter and are working with the local Community Action Team. She did not feel it was humane to make them pack up and move if they were actively working on finding shelter. Chair Toschi said this would be up to law enforcement discretion.

Commissioner Castner also suggested that they consider a hybrid model. He said there should be a designation of where individuals can and cannot camp. He felt this took away the confusion of the ordinance and would make the law less objectionable. Vice Chair Cary said he agreed with some of these guidelines, but wanted to be sure that if locations were designated, they were places that a person experiencing homelessness would be able to easily access services. Chair Toschi advised that the City is not responsible for providing services to any of the individuals who are of sound mind and capable of taking care of themselves. Councilor Gundersen did mention that some of the places they were considering for places to camp are located near services that would benefit those experiencing homelessness.

There was a discussion about the time frame and when it is appropriate to ask those who are sleeping, lying, or camping, to move their stuff and themselves to a different location and what is objectively reasonable.

There was a discussion about providing bathrooms or porta-potties for those who need them and how to manage them.

There was a discussion on how to defend the City from extra homeless taking residency in the City and pushing them towards Cities that have more resources available to them.

There was also a discussion on abandoned vehicles, parking, and recreational vehicle camping. The rules differed on how long they could park different types of vehicles and the Commission discussed the rules for each one. Graichen mentioned they should rely on the vehicle chapter Chair Toschi said to leave it in, but Commissioner Castner said to put it in the correct chapter that it is being discussed in.

There was also a discussion about how to handle those who come into our City and are not from here.

To conclude, the Commission went through the draft proposal line by line and amended where they felt appropriate.

Motion: Upon Commissioner Carlson's motion and Vice Chair Pugsley's second, the Planning Commission unanimously approved the recommendation to Council for proposed HB3115 code. [AYES: Vice Chair Cary, Commissioner Pugsley, Commissioner Hubbard, Commissioner Carlson, Commissioner Low, Commissioner Castner; NAYS: None]

Chair Toschi also requested that the Planning Commission allow him to attend the City Council meeting on behalf of the Planning Commission to answer questions and present the decisions they made on this ordinance.

Motion: Upon Commissioner Pugsley's motion and Vice Chair Pugsley's second, the Planning Commission unanimously approved that Chair Steve Toschi, as the representative of the Planning Commission, to represent them to the Council. [AYES: Vice Chair Cary, Commissioner Pugsley, Commissioner Hubbard, Commissioner Carlson, Commissioner Low, Commissioner Castner; NAYS: None]

PLANNING DIRECTOR DECISIONS (previously e-mailed to the Commission)

- H. Partition at N. 12th Street - Hatfield
- I. Sensitive Lands Permit at N. 15th Street – LaGrand Townhomes, LLC

- J. Site Design Review at 475 N. 12th Street – 1771 Columbia Blvd, LLC
- K. Sign Permit at 270 Columbia Blvd – Columbia River Fire & Rescue

There was no discussion on the Planning Director Decisions.

PLANNING DEPARTMENT ACTIVITY REPORT

- L. Planning Department Activity Report – March

There was no discussion on the Planning Department Activity Report.

PROACTIVE ITEMS

- M. Architectural Standards
- N. New Proactive Item Proposals

There was no discussion on the Proactive Items.

FOR YOUR INFORMATION ITEMS

Dimsho said they are doing a Gateway Project at St. Helens Street and South First Street. She said they kicked off a design project with Lower Columbia Engineering. She said they were creating a stakeholder group to participate in the design project. She said it would consist of individuals from different entities, but they wanted to include a Planning Commissioner on the project.

Commissioner Carlson said she would like to see whoever is involved in this project has been exposed to every stage of this planning. Dimsho agreed that was a good idea. Dimsho also said that whoever participated needed to be able to attend all the meetings since there are only a total of three.

The Planning Commission agreed that Commissioner Russ Hubbard should be the representative for this project.

Dimsho also mentioned the CLG award changed from \$12,000 to \$17,000, and the letters were going out to all the eligible property owners to solicit applications.

ADJOURNMENT

There being no further business before the Planning Commission, the meeting was adjourned at 10:51 p.m.

Respectfully submitted,

*Christina Sullivan
Community Development Administrative Assistant*



CITY OF ST. HELENS PLANNING DEPARTMENT

LAND USE FILE BRIEF

TO: Planning Commission
 FROM: Jacob A. Graichen, AICP, City Planner
 FILE: Variance V.4.23 & Minor Modification Site Development Review SDRm.3.23
 DATE: May 1, 2023

This memo is not a substitute for the staff report or record of the file. It is a review aid.

The Skinny's parking lot addition when through all the right steps to get approved yet was not constructed to approved plans.

The owner would like to keep the improvements as is and needs a Variance and modification of the original approval to minimize physical changes. This is what you are reviewing. Note that the number of parking spaces is moot from a compliance standpoint as they are all extra. The biggest victim of the "as-built changes" is the city's landscaping standards.

If denied, the owner would need to reconstruct some of the new parking. If approved in its entirety, minimum fixes would be getting the street tree right and fixing a too-small-parking-space issue. The next tier of approval would be as just described and additional curbing to island #1.

Note the report breaks down landscape area to islands #1-3 to help focus on details.

COMPARE THE ORIGINAL
 PLAN ON STAFF
 REPT PG #3
 TO THE
 APPLICANT'S
 REVISIONS
 PLAN

CITY OF ST. HELENS PLANNING DEPARTMENT STAFF REPORT

Variance V.4.23 & Minor Modification Site Development Review SDRm.3.23

DATE: May 2, 2023
TO: Planning Commission
FROM: Jacob A. Graichen, AICP, City Planner

APPLICANT: Wayne Weigandt
OWNER: 1771 COLUMBIA BLVD LLC

ZONING: Highway Commercial, HC
LOCATION: 4N1W-5DA-11900
PROPOSAL: Modification of approved plans associated with Site Development Review SDR.3.22 and Variance to certain landscaping standards.

SITE INFORMATION / BACKGROUND

This proposal is directly related to Site Development Review SDR.3.22. SDR.3.22 was to allow a vacant lot, formerly occupied by a detached single-family dwelling that burned approximately five years ago, to be developed as a parking lot expansion off Little Street.



Left: The subject property in June 2021 outlined. At this point, the burned single-family dwelling had been razed, but no parking lot improvements had occurred yet.

As far as meeting minimum requirements for this parking lot addition, main issues were adequate access (width of aisled between parking rows), minimum parking space dimension, and landscaping requirements. There was no minimum amount of parking required because all spaces were extra.

Upon inspection of finished construction staff observed many discrepancies between the approved plans and finished construction and sent a preliminary enforcement notice to the owner on March 20, 2023. After receipt of this correspondence, the owner and staff discussed the options, and one included this VAR/SDRm. The applicant wishes to use the landscaping areas as installed (without reconstruction), and this Variance is needed to do so.

PUBLIC HEARING & NOTICE

Public hearing before the Planning Commission: May 9, 2023

Notice of this proposal was sent to surrounding property owners within 100 feet of the subject property(ies) on April 17, 2023 via first class mail. Notice was sent to agencies by mail or e-mail on the same date.

Notice was published on in The Chronicle newspaper.

APPLICABLE CRITERIA, ANALYSIS & FINDINGS

Development code standards:

There are fewer parking spaces added than per approved plans. This is ok, all spaces are extra. However, this is important as off-street parking spaces could be sacrificed to achieve some compliance if this Variance is denied or only approved in part.

The applicant's plans help show some of the changes as does the original plan excerpt with notes regarding the discrepancies on the following page. Note #1-3 on that plan except, which corresponds with the discussion of each "landscape island."

A key provision is SHMC 17.72.140, which requires landscape islands with trees for parking lots exceeding 20 spaces. As a parking lot addition, the total sum exceeds 20 spaces, so this provision applies to this parking lot addition—the new row of parking spaces needs to comply, unless a Variance is granted. The approved plans for SDR.3.22 demonstrated compliance but was not honored and the as-built conditions do not comply.

The standards include rows of parking spaces are not to exceed 7 spaces, generally. The "islands" are required to be no less than 48 square feet in area and no dimension less than six feet. They are required to have a combination of groundcover and shrubs in addition to a tree, such that at least 50% of the island will be covered with living plants. They are also required to be protected from vehicular damage by some form of wheel guard or curb that is permanently fixed to the ground.

Item B.



Landscape island #1



Approved plans had this area at 17' between the sidewalk and curb. It also showed a curb on the opposite side of the sidewalk. It was only constructed with an approximate 13' length between the back of sidewalk and parking stall. No curb was installed. In addition, a street tree was installed with a dba of much less than the normal 2" minimum.

One reason for the extra width of this island (over the minimum 6') was to meet vision clearance standards. Parked cars violate

these standards so parking spaced immediately adjacent to the sidewalk would be inappropriate given the location of the driveway (partially visible in the lower right corner of the photo).

Planning Commission Considerations:

- Approve as is with reduced area, no curb and insufficient street tree
- Consider approval but the curb to be installed and street tree of the proper size
- The adjacent parking space needs to be designated compact or eliminated by non-parking markings such as diagonal lines or increasing the landscape island size

Landscape Island #2

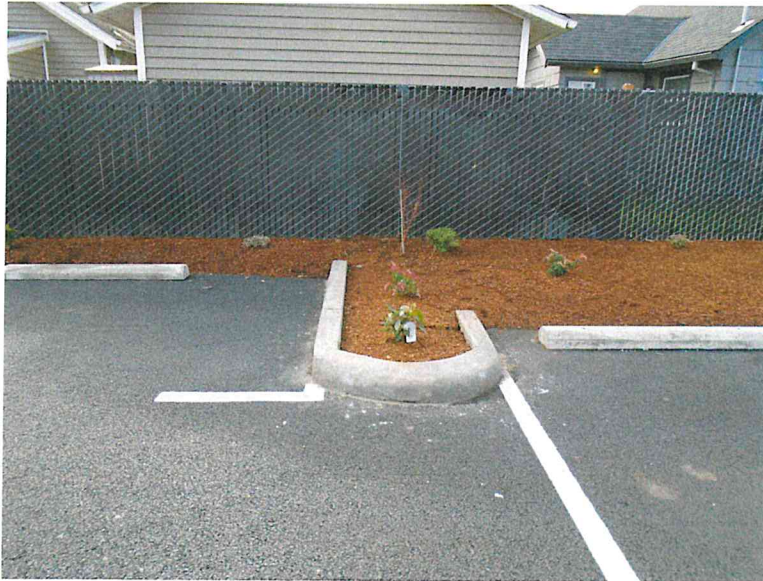


Approved plans showed an island width between curbs of 7 feet. It was constructed at 5' between the curbs. The minimum width is 6' between curbs. Being slightly off from the minimum and having a tree that more closely honored the 2" caliper identified on the approved plans, this is the least problematic of the three islands and is a fair representation of a typical landscape island not along a street.

Planning Commission Considerations:

- Approve as is with reduced area.
- If denied will need to be reconstructed which will impact 1 or 2 parking spaces.

Landscape Island #3



Approved plans showed an island width between curbs of 9' and a depth of 12' as measured from the landscape edge on the right side as seen in this photo (i.e., the short edge). Instead of the 9' x 12' dimension of the approved plan, this island was installed as 3' x 4' including the curb.

This is far less than the minimum 6' dimension exclusive of curbs and the landscape island tree, far below the 2" caliper per the approved plans, was planted behind the island due to

insufficient space. Though curb was installed, this may be the most egregious of the changes compared to the approved plan.

Planning Commission Considerations:

- Approve as is with reduced area and insufficient tree.
- If denied will need to be reconstructed which will impact 1 or several parking spaces—see next bullet point.
- Note that the parallel parking spaces to the left of this island are oversized as the minimum length of such space is 22 feet. The applicant identifies the as-built dimension as 25 feet. With three spaces, this is an extra 9 feet, which is what the proposed landscape island width was supposed to be.

CRITERIA:

SHMC 17.108.050 (1) – Criteria for granting a Variance

- The proposed variance will not be significantly detrimental in its consequence to the overall purposes of this code, be in conflict with the applicable policies of the comprehensive plan, to any other applicable policies and standards of this code, and be significantly detrimental in its consequence to other properties in the same zoning district or vicinity;

- (b) There are special circumstances that exist which are peculiar to the lot size or shape, topography or other circumstances over which the applicant has no control, and which are not applicable to other properties in the same zoning district;
- (c) The use proposed will be the same as permitted under this code and city standards will be maintained to the greatest extent that is reasonably possible while permitting some economic use of the land;
- (d) Existing physical and natural systems, such as but not limited to traffic, drainage, dramatic landforms, or parks, will not be adversely affected any more than would occur if the development were located as specified in the code; and
- (e) The hardship is not self-imposed and the variance requested is the minimum variance which would alleviate the hardship.

The Commission needs to find all these criteria **(a) – (e)** are met in order to approve the variances. If you think one of these is not met, we'll need to address why.

CONCLUSION & RECOMMENDATION

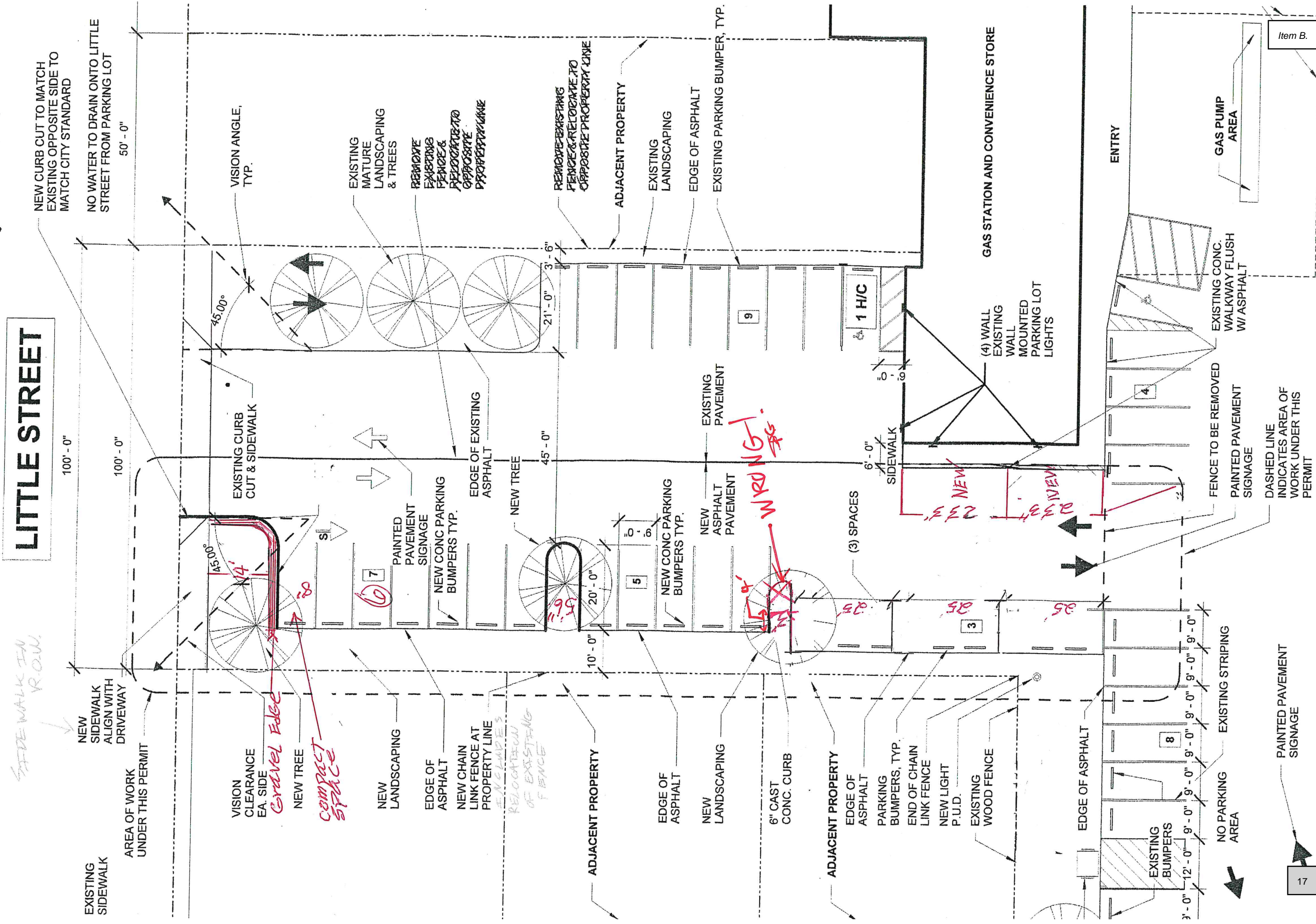
Based upon the facts and findings herein, staff recommends the Commission consider this situation carefully. We'll need to craft conditions based on the Commission's findings and determination.

If approved, here is the start of the condition list:

1. Variance approval is valid for a limited time pursuant to SHMC 17.108.040.
2. Owner/applicant and their successors are still responsible to comply with the City Development Code (SHMC Title 17), except for the Variance(s) granted herein.
3. **At an absolute minimum, the street tree issue (planted too small) should be fixed and the narrowed parking space should be marked "compact" or just eliminated. That could be a condition here.**

Attachment(s): ~~Final approved original plans with discrepancy notes by staff~~
Applicant revised plan (proposal)

APPLICANT'S REVISED PLAN





CITY OF ST. HELENS PLANNING DEPARTMENT

LAND USE FILE BRIEF

TO: Planning Commission
FROM: Jacob A. Graichen, AICP, City Planner
Jenny Dimsho, AICP, Associate Planner & Community Development Project Manager
FILE: Appeal, AP.1.23
DATE: May 2, 2023

This memo is not a substitute for the staff report or record of the file. It is a review aid.

This is an appeal of a Sensitive Lands permit for a tall (12' +/-) retaining wall. "Sensitive Lands" is based on manipulating a slope >25 grade. In this case with a wall.

The lot in question is the end of an attached single-family dwelling subdivision. This end is bordered by city-owned property, which is generally a slope down to wetlands that are significant to the city.

Owner of the adjacent property has appealed. There are several concerns expressed; please review those materials.

One important consideration is the original Sensitive Lands permit did not consider the wall being a "structure" for the purpose of applying basic yard (setback) rules. This is discussed more in the staff report of this appeal and reflected in the draft conditions. Remember, the general purpose of setbacks is to help preserve air, light and space.

**CITY OF ST. HELENS PLANNING DEPARTMENT
STAFF REPORT
Appeal, AP.1.23**

DATE: May 2, 2023
To: Planning Commission
FROM: Jennifer Dimsho, AICP, Associate Planner
 Jacob A. Graichen, AICP, City Planner

APPELLANT: Infinity Investments-Puget Sound, LLC
OWNER: LaGrande Townhomes, LLC

ZONING: General Residential (R5)
LOCATION: Lot 10 of Hanna Place Subdivision; 4N1W-4AC-6503
PROPOSAL: Appeal of Sensitive Lands Permit (SL.2.23) for the construction of a retaining wall of up to 12' in height

SITE INFORMATION / BACKGROUND

This is an appeal of a Sensitive Lands Permit (SL.2.23) which was administratively approved with conditions on March 27, 2023.

Lot 10 is an undeveloped lot of the Hanna Place Subdivision (SUB.1.17) located off N. 15th Street. To the north, there is a dedicated wetland Tract (Tract A) because it contains a portion of the upland protection zone of Wetland J-3. The City took ownership of Tract A. Lot 9 to the south of Lot 10 is another undeveloped lot of the Hanna Place Subdivision. There is a steep rock bluff which begins at the northwest corner of Lot 9 and bisects Lot 10.

PUBLIC HEARING & NOTICE

Public hearing before the Planning Commission: May 9 ,2023

Notice of this proposal was sent to surrounding property owners within 100' feet of the subject property(ies) on April 18, 2023, via first class mail. Notice was sent to agencies by mail or e-mail on the same date.

Notice was published on April 26, 2023, in The Chronicle newspaper.

APPLICATION COMPLETENESS

Based on the original submittal of SL.2.23 of March 6, 2023, the 120-day rule (ORS 227.178) for final action for this land use decision is **July 9, 2023**

AGENCY REFERRALS & COMMENTS

There are no relevant agency comments on this AP.1.23 staff report. There are City Engineering comments embodied in the original conditions of approval for the SL.2.23 approval.

APPLICABLE CRITERIA, ANALYSIS & FINDINGS

Important: This report is not a stand-alone document and is meant to be reviewed with the original Sensitive Lands decision (SL.2.23) and all other attachments.

SHMC 17.44.040 (1) (b) says that development with a SL approval will not result in adverse on-site and off-site effects to life or property. The appellant has concerns about adverse impacts to the property which abuts the proposed retaining wall. They reference required *setbacks* (also known as yards) for *structures* which are defined below.

SHMC 17.16.010 General and land use definitions

“Structure” means something constructed or built and having a fixed base on, or fixed connection to, the ground or another structure, and platforms, walks, and driveways more than 30 inches above grade and not over any basement or story below. Tents used for carports and/or other storage in excess of 15 consecutive days or 30 accumulative days in a calendar year shall be considered structures for purposes of this code.

“Yard” means an open space on a lot which is unobstructed from the ground upward, by buildings and structures for example, except as otherwise provided in this code. There are four types of yards: front, interior, rear, and side. When determining setback, “yard” does not include an access easement or street right-of-way.

Currently, there is 2’ to 25’ between the appellant’s property line and the rock bluff. This is currently open space, unobstructed from the ground upward by a structure (i.e., setback from the natural rock bluff). The proposed retaining wall has a proposed 0’ setback, bringing the structure into what is currently unobstructed open space. Therefore, this wall should be regulated as a “structure” subject to yard requirements established by the General Residential (R5) zoning district.

In the R5 zoning district, structures are required to have 10’ rear yards and 5’ side yards. It is recommended that a condition be added to require revisions to the plans that meet yard requirements. Alternatively, the applicant can receive a variance to the rear and side yard requirements.

Note that the original SL.2.23 condition 2a requires revisions to the plans to ensure the wall, outfall, and all related outfall infrastructure is located entirely on the subject property. This will require a minimum of 2’ along the side and rear yard for required stormwater rip rap, depending on the final approved plans for the stormwater outfall location. Final stormwater plans must be designed to prevent runoff onto neighboring properties and approved by City Engineering.

CONCLUSION & RECOMMENDATION

The Commission may affirm, reverse, or modify the decision subject to appeal.

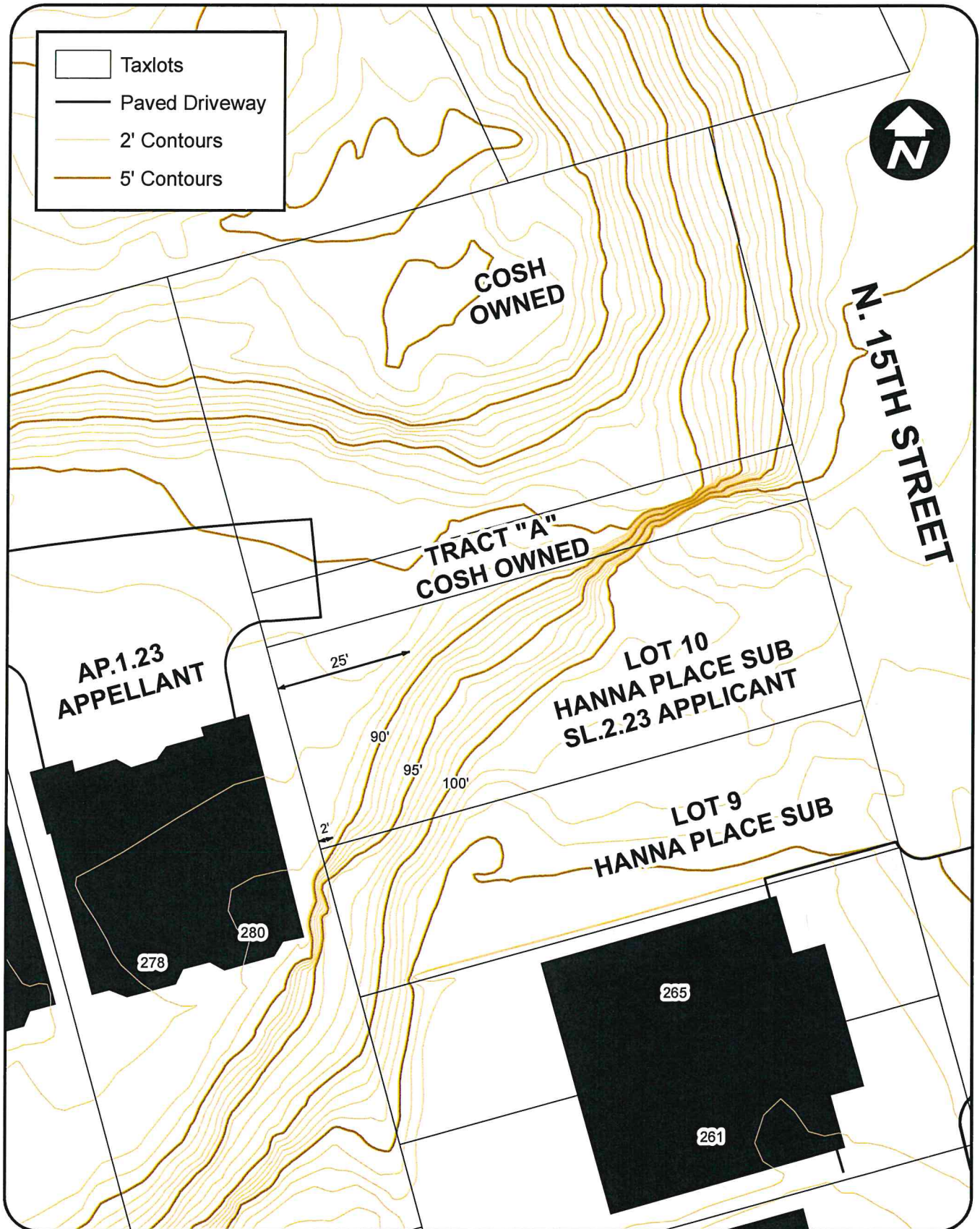
Based on the facts and findings herein, if the Planning Commission modifies the Sensitive Lands Permit, staff recommends at least the following condition in addition to all conditions of approval included in the SL.2.23 staff report (attached):

1. Condition 2.a shall be revised to also include relocation of the retaining wall so that it meets the required yard (setback) requirements for the R5 zoning district unless variance(s) is/are granted to allow less.
2. << Anything else from the Commission to be added? >>

NOTE: Additional conditions must be related to the SHMC 17.44.040 Approval Standards included in the SL.2.23 staff report.

Attachments: Topography Map Exhibit
Sensitive Lands Permit (SL.2.23) Staff Report & Attachments
Appellant Application (6 pages)
Applicant's SL.2.23 Narrative (2 pages)

AP.1.23 (SL.2.23) Topography Map Exhibit





265 Strand Street
St. Helens, Oregon
97051

NOTICE OF ADMINISTRATOR'S LIMITED LAND USE DECISION March 27, 2023

RE: Sensitive Lands Permit SL.2.23

You are receiving this notice of a decision by the City of St. Helens Planning Administrator because you are entitled to it by law. A&E Builders LLC submitted an application to build a retaining wall up to approximately 12' in height on property located at Lot 10 of the Hanna Place Subdivision (Vacant Lot on N. 15th Street north of 265 N. 15th Street). The site is also known as Columbia County Assessor Map No. 4N1W-4AC-6503. The City Planning Administrator is authorized by the City of St. Helens Development Code (SHMC Title 17) to review Sensitive Lands Permit applications and approve, deny or approve them with conditions.

Attached is a complete report of the proposal, which includes the criteria and evaluation to approve or deny the proposal, and the decision. Comments are invited and acceptable **no later than 14 days following the date of this notice**. Any issues which may provide the basis for an appeal must be raised prior to the expiration of the comment period. Issues must be raised with sufficient specificity to enable the decision-maker to respond to the issue. In order to be considered, comments pertaining to this decision should be directed to:

**City of St. Helens Planning Department
265 Strand Street
St. Helens, OR 97051**

If there are any agency or citizen comments that would affect the decision at the end of the comment period, the City will send another notice of the final decision to all that submitted evidence and/or comments. The final decision can be appealed or amended by those entitled to do so in accordance with SHMC 17.24.290. If no comments are received during the comment period or comments are received that don't warrant a revised decision, this decision will become final subject to an appeal period of **ten (10) calendar days from the date the comment period ends**. If no revised decision is made, there will not be any additional notice for the appeal period.

The application and details are on file at City Hall and are available for review during normal business hours. Copies are available for a nominal charge.

If you have any questions, please contact this office.

**CITY OF ST. HELENS PLANNING DEPARTMENT
ADMINISTRATIVE STAFF REPORT**

File Number: Sensitive Lands Permit, **SL.2.23**

Proposal: Sensitive lands are lands potentially unsuitable for development because of their location within area identified by SHMC 17.44.010. Sensitive land areas are designated as such to protect health, safety, and welfare of the community.

This proposal includes construction of a retaining wall up to approximately 12' high and related stormwater infrastructure.

This impacts at least the following sensitive land types known to be on the subject property:

- Steep slopes of 25% or greater and unstable ground.
- Remediation of impacts to wetland protection zone

Location: Lot 10 of the Hanna Place Subdivision (N. 15th Street)

Map/Taxlot: 4N1W-4AC-6503

Applicant: A&E Builders, LLC

Owner: LaGrande Townhomes, LLC

Zoning: General Residential (R5)

* * * * *

CONCLUSION & DECISION

Based upon the facts and findings herein, the City Planning Administrator **APPROVES** this **Sensitive Lands Permit** with conditions as detailed in the next section of this report.



Jacob A. Graichen, AICP, City Planner

MARCH 27, 2023

Date

* * * * *

CONDITIONS OF APPROVAL

Please note that the requirements of other City of St. Helens departments (e.g., Building, Engineering, and Administration) and other agencies (local, state and/or federal) may apply to this proposal. This **local land use approval** decision does not exempt and is not a substitute for those requirements.

The following conditions apply to the *local land use approval* aspect of this proposal:

1. This **Sensitive Lands Permit** approval is valid for a limited time (to establish use or conduct activity) pursuant to SHMC 17.44.030. This Sensitive Lands Permit approval is valid for 1.5 years. A 1-year extension is possible but requires an application and fee. If the approval is not vested within the initial 1.5 year period or an extension (if approved), this is no longer valid and a new application would be required if the proposal is still desired. See SHMC 17.44.030.
2. **The following shall be required before any development or building permit issuance for the proposed wall or before any commence of wall construction:**
 - a. Revised wall plans to ensure the wall, outfall, and all related outfall infrastructure is located entirely on Lot 10 (the subject property). Note that per condition 2c, the wall must be set back from property line to contain outlet protection rip rap.

- b. Additional wall profile and edge conditions to detail how the wall will tie into the existing rock bluff to ensure all rock/fill will be contained on Lot 10 (the subject property).
- c. Outfall and related infrastructure shall match the Outlet Protection Rip Rap & Rip Rap Details attached. In addition, stormwater infrastructure shall not be designed to encourage runoff onto existing pavement below which is along the west side of Lot 10's north lot line. The final outfall drainage plan shall be reviewed and approved by City Engineering.
- d. Plans detailing how removal of rock and fill dumped onto City-owned property will be removed **and** how the wall and outfall will be installed without causing additional impact to the wetland and upland protection zone to be approved by City staff.

Applicant shall attest in writing that they understand further impacts to the upland protection zone will result in additional permitting and/or enforcement.

3. The following shall be required before any development or building permit issuance to develop Lots 9 and 10 with dwellings:

- a. The proposed wall shall be completed and approved with all requirements met. This includes written confirmation from the registered professional engineer who designed the wall that they have personally and physically inspected it and acknowledge that it has been constructed per the final approved plans.
 - b. All previous unpermitted impacts to wetlands or wetland protection zones shall be abated.
 - c. Any new impacts to wetlands or wetland protection zones shall be resolved including any necessary permitting. This condition does not indicate this SL permit allows such. See condition 4.
 - d. Revegetation of all areas where natural vegetation has been removed due to grading on Lot 9 and Lot 10 of the Hanna Place Subdivision.
 - e. Plans for development shall specify revegetation of bare earth as a specific requirement of completion of the dwelling(s).
4. This SL permit does not allow any new impacts to wetlands or wetland protection zones. It does require previous unapproved impacts to be abated.
5. Owner/Developer shall be solely responsible for obtaining all approvals, permits, licenses, and authorizations from the responsible Federal, State and local authorities, or other entities, necessary to perform land clearing, construction and improvement of the subject property in the location and manner contemplated by Owner/Developer. City has no duty, responsibility or liability for requesting, obtaining, ensuring, or verifying Owner/Developer compliance with the applicable State and Federal agency permit or other approval requirements. This land use approval shall not be interpreted as a waiver, modification, or grant of any State or Federal agency or other permits or authorizations.
6. Owner/applicant is still responsible to comply with the City Development Code (SHMC Title 17).

* * * * *

APPLICABLE CRITERIA, ANALYSIS & FINDINGS

Permitting History: Lot 10 is an undeveloped lot of the Hanna Place Subdivision (SUB.1.17). To the north, there is a dedicated wetland Tract (Tract A) because it contains a portion of the upland protection zone of Wetland J-3. The City took ownership of Tract A. Lot 9 to the south of Lot 10 is another undeveloped lot of the Hanna Place Subdivision. There is a steep rock bluff which begins at the northwest corner of Lot 9 and bisects Lot 10.

In January 2023, an enforcement issue occurred on the site that resulted in the application of a grade/fill permit (Permit No. 749-23-000041-SD). The enforcement was to address rock and fill which was dumped onto the City's property (Tract A). See before/after photos below.



The applicant is proposing to build an engineered retaining wall of approximately 12' in height and related stormwater drainage infrastructure along the western and northern property lines of Lot 10 as part of the development of Lot 9 and Lot 10.

* * *

SHMC 17.44.015(4)(a) ~~¶~~ Sensitive Lands Permits issued by the Director

(4) Sensitive Lands Permits Issued by the Director.

(a) The director shall have the authority to issue a sensitive lands permit in the following areas:

- (i) Drainageways;
- (ii) Slopes that are 25 percent or greater or unstable ground; and
- (iii) Wetland areas.

(b) Sensitive lands permits shall be required for the areas in subsection (4)(a) of this section when any of the following circumstances apply:

- (i) Ground disturbance(s) or landform alterations;
- (ii) Repair, reconstruction, or improvement of an existing structure or utility, the cost of which equals or exceeds 50 percent of the market value of the structure prior to the improvement or the damage requiring reconstruction;
- (iii) Residential and nonresidential structures intended for human habitation; and
- (iv) Accessory structures.

Findings: The proposal involves constructing a retaining wall up to approximately 12' in height in an area with a slope that is greater than 25 percent and unstable ground.

* * *

SHMC 17.44.040 ~~¶~~ Approval standards

(1) The appropriate approval authority shall approve or approve with conditions an application request for a sensitive lands permit on slopes of 25 percent or greater or unstable ground in SHMC 17.44.015(2) and (4) based upon findings that all of the following criteria have been satisfied:

- (a) The extent and nature of the proposed landform alteration or development will not create site disturbances to an extent greater than that required for the use;
- (b) The proposed landform alteration or development will not result in erosion, stream sedimentation, ground instability, or other adverse on-site and off-site effects or hazards to life or property;
- (c) The structures are appropriately sited and designed to ensure structural stability and proper drainage of foundation and crawl space areas for development with any of the following soil conditions: wet/high-water table; high shrink-swell capability; compressible/organic; and shallow depth-to-bedrock; and
- (d) Where natural vegetation has been removed due to landform alteration or development, the areas not covered by structures or impervious surfaces will be replanted to prevent erosion in accordance with Chapter 17.72 SHMC.

Findings:

(a) One aspect of this proposal is an enforcement issue which created impacts on the city-owned wetland protection area, Tract A. The applicant must demonstrate how removal of rock and fill dumped onto city-owned property will be removed **and** how the wall and outfall will be installed without causing additional impact to the wetland and upland protection zone to be approved by city staff.

(b) There are two potential off-site impacts related to this proposal: erosion of fill onto adjacent properties and stormwater runoff. For erosion control, a condition requiring additional wall profile and edge conditions to detail how the wall will tie into the existing rock bluff to ensure all rock/fill will be contained on Lot 10 is needed. For stormwater runoff, the wall location must be revised to show that the stormwater outfall and related infrastructure are located entirely on Lot 10. This will require shifting the wall back from the property line to

accommodate the required outlet rip rap protection shown in the attached details. In addition, the location of where the outfall daylight cannot be designed to encourage runoff onto existing pavement below (located along the northwest side of the lot). The final outfall drainage plan to be reviewed and approved by City Engineering.

The proposal could impact the location and design of the private sanitary sewer lateral that will connect the development of the lot to the sanitary sewer main. As there is no building permit to develop Lot 9 and 10 yet, there is no approved lateral.

Note because the Hannah Place subdivision is an attached single-family development and there are only two lots that are undeveloped (with no abutting attached dwelling) they have to be developed in tandem. This is why some conditions apply to Lot 9.

(c) Final outfall drainage plan to be reviewed and approved by Engineering Department to ensure this is met.

(d) Revegetation of all areas where natural vegetation has been removed due to grading on Lot 9 and Lot 10 of the Hanna Place Subdivision is required.

* * * * *

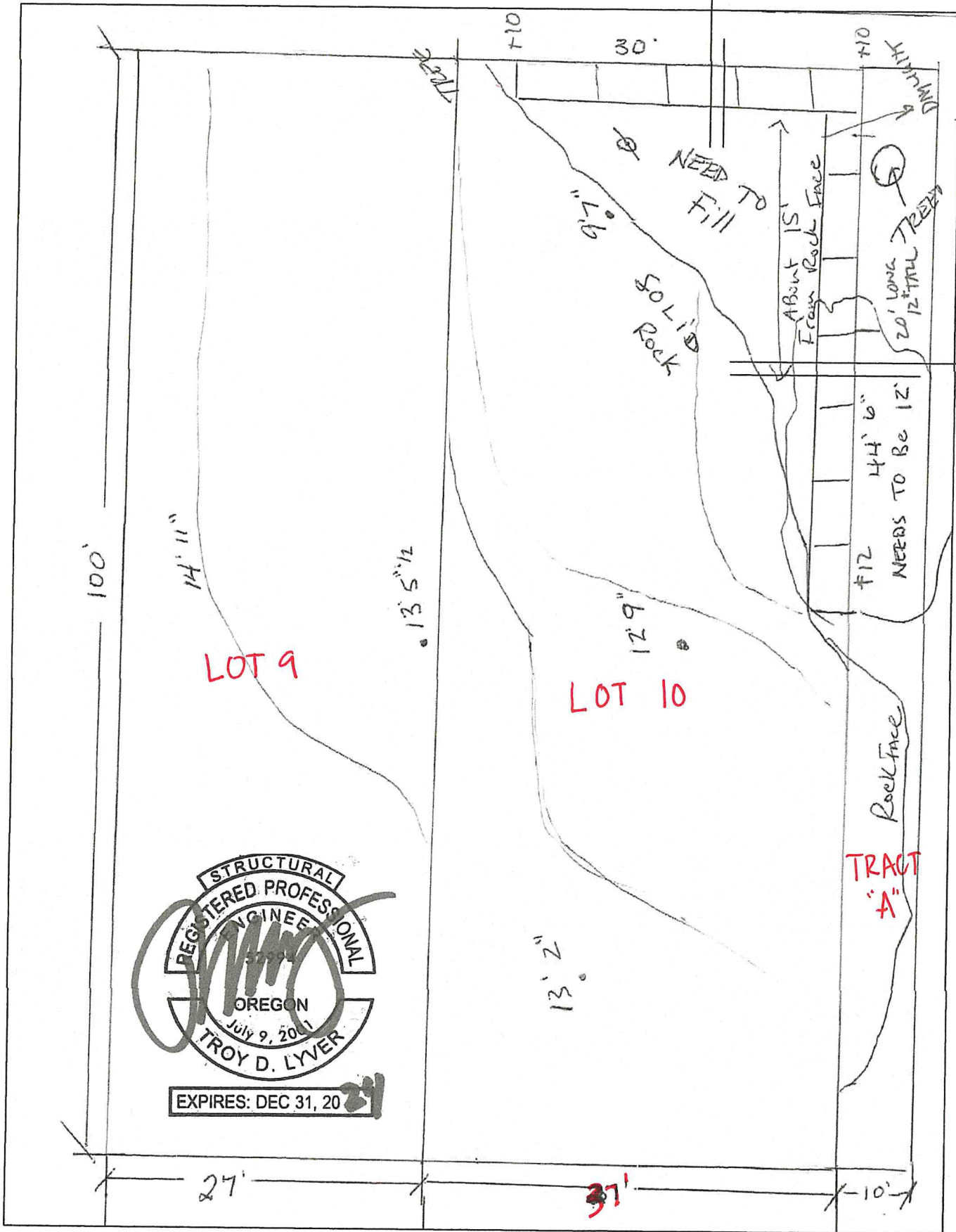
ATTACHMENTS

- Site Plan
- Outlet Protection Rip Rap
- Rip Rap Details
- “Ultra Block” Segmental Retaining Walls Engineering Plans

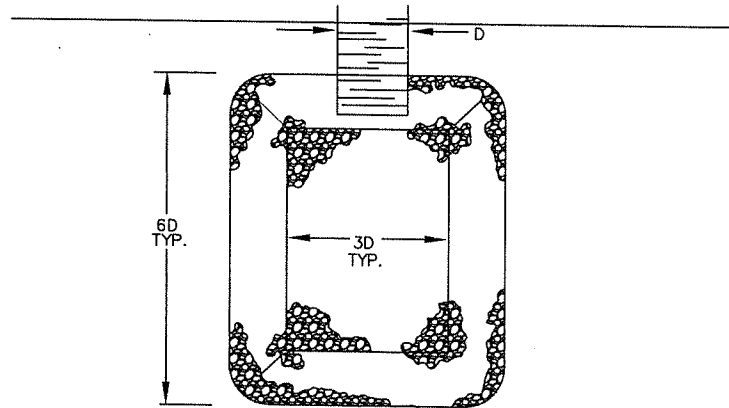
NTS

1
S1

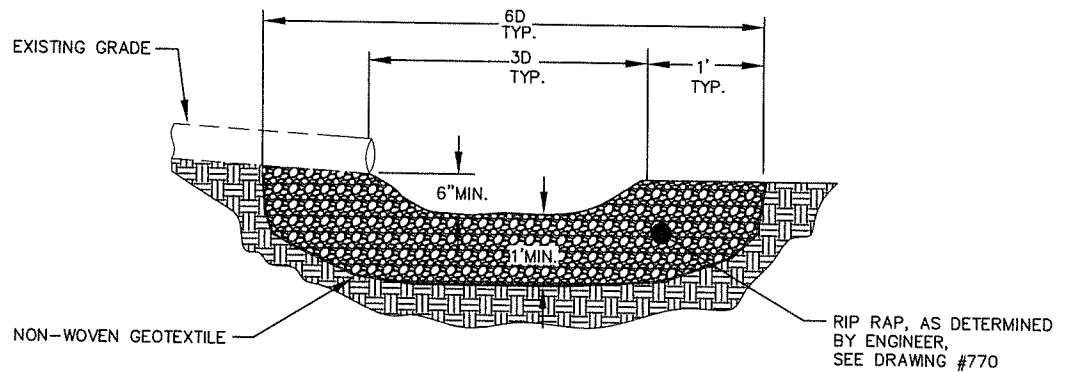
Item C.



FOR FURTHER INFORMATION
ON DESIGN CRITERIA SEE
CHAPTER 4 OF CLEAN WATER
SERVICES EROSION PREVENTION
AND SEDIMENT CONTROL
PLANNING AND DESIGN MANUAL.



PLAN VIEW



PROFILE

NOTE:

1. ADDITIONAL BMP'S ARE REQUIRED WHEN DISCHARGING SEDIMENT LADEN WATER.

OUTLET PROTECTION RIP RAP

DRAWING NO. 820

REVISED 10-31-19

CleanWater  Services

RIPRAP:

- ROCK FOR RIPRAP SHALL BE ANGULAR IN SHAPE.
- THICKNESS OF A SINGLE ROCK SHALL NOT BE LESS THAN ONE-THIRD ITS LENGTH.
- ROUNDED ROCK WILL NOT BE ACCEPTED UNLESS APPROVED BY THE DISTRICT.

RIPRAP INSTALLATION:

- EXCAVATE BELOW FINISH GRADE TO DEPTH & DIMENSIONS SHOWN ON APPROVED PLANS.
- INSTALL WOVEN GEOTEXTILE FABRIC.
- PLACE RIP RAP TO FINISH GRADE.

- GRADE RIPRAP SHALL BE THE CLASS AND SIZE OF ROCK ACCORDING TO THE FOLLOWING:

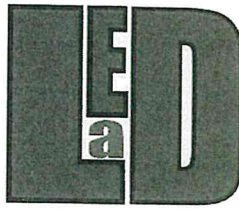
| CLASS | CLASS | CLASS | CLASS | CLASS | |
|----------------------|--------|---------|---------|-----------|------------------------|
| 50 | 100 | 200 | 700 | 2000 | |
| WEIGHT OF ROCK (LBS) | | | | | PERCENT (BY WEIGHT) |
| 50-30 | 100-60 | 200-140 | 700-500 | 2000-1400 | 20 |
| 30-15 | 60-25 | 140-80 | 500-200 | 1400-700 | 30 |
| 15-2 | 25-2 | 80-8 | 200-20 | 700-40 | 40 |
| 2-0 | 2-0 | 8-0 | 20-0 | 40-0 | 10 |

RIP RAP DETAILS

DRAWING NO. 790

REVISED 10-31-19


CleanWater Services



LYVER ENGINEERING AND DESIGN

7950 SE 106th, Portland, Oregon 97266

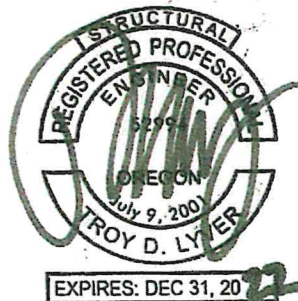
Ph: 503.705.5283 Fax: 503.482.7449 TroyL@Lyver-EAD.com www.Lyver-EAD.com

Design for;
A&E Builders

"ULTRA BLOCK"
SEGMENTAL RETAINING WALLS
271 and 275 North 15th Street
St. Helens, Oregon

These calculations are for the design and detailing of a new ULTRA BLOCK segmental retaining walls at the project listed. All other information is by others and is outside the scope of these calculations. The soils values used are from the code minimums and review of on-site conditions without a provided geotechnical report.

The information contained is for the sole use of A&E Builders and their agents to construct the wall as described.

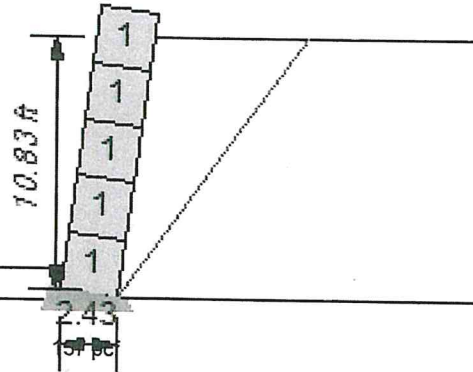


Job Number 22-155
August 12, 2022

RECEIVED
JAN - 6 2023
CITY OF ST. HELENS

UltraWall

Project: 271 and 275 North 11th Street
 Location: St. Helens, Oregon
 Designer: TDL
 Date: 8/12/2022
 Section: Section 1
 Design Method: NCMA_09_3rd_Ed, Ignore Vert. Force
 Design Unit: UltraBlock



SOIL PARAMETERS

| | ϕ | coh | γ |
|------------------|--------|-------|----------|
| Retained Soil: | 30 deg | 0 psf | 120 pcf |
| Foundation Soil: | 30 deg | 0 psf | 120 pcf |
| Leveling Pad: | 40 deg | 0 psf | 135 pcf |
| Crushed Stone | | | |

GEOMETRY

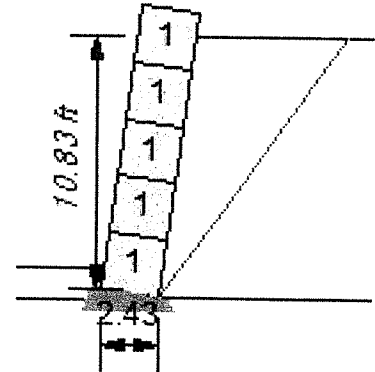
| | | | |
|------------------------------|----------------|-------------------|---------|
| Design Height: | 10.83 ft | Live Load: | 0 psf |
| Wall Batter/Tilt: | 0.00/ 8.00 deg | Live Load Offset: | 0.00 ft |
| Embedment: | 0.83 ft | Live Load Width: | 0 ft |
| Leveling Pad Depth: | 0.50 ft | Dead Load: | 0 psf |
| Slope Angle: | 0.0 deg | Dead Load Offset: | 0.0 ft |
| Slope Length: | 0.0 ft | Dead Load Width: | 0 ft |
| Slope Toe Offset: | 0.0 ft | D.L. Embedment: | 0 ft |
| Leveling Pad Width: | 3.46 ft | | |
| Vert δ on Single Dpth | | | |

FACTORS OF SAFETY

| | | | |
|----------|------|-------------|------|
| Sliding: | 1.50 | Overturing: | 1.50 |
| Bearing: | 2.00 | | |

RESULTS

FoS Sliding: 2.28 (lvlpd) FoS Overturning: 1.56
 Bearing: 1613.00 FoS Bearing: 3.68



| Name | Elev.[dpth] | ka | Pa | PaT | FSsl | FoS OT | %D/H |
|------|--------------|-------|------|------|-------|--------|------|
| 1 | 9.71[1.12] | 0.244 | 18 | 18 | >100 | -- | 220% |
| 1 | 7.28[3.55] | 0.244 | 185 | 185 | 27.72 | 31.16 | 69% |
| 1 | 4.84[5.99] | 0.244 | 524 | 524 | 11.18 | 4.33 | 41% |
| 1 | 2.41[8.42] | 0.244 | 1038 | 1038 | 6.40 | 2.38 | 29% |
| 1 | -0.02[10.85] | 0.244 | 1725 | 1725 | 2.28 | 1.56 | 23% |

Column Descriptions:

ka: active earth pressure coefficient

Pa: active earth pressure

Paq: live surcharge earth pressure

Paq2: live load 2 surcharge earth pressure

Paqd: dead surcharge earth pressure

(PaC): reduction in load due to cohesion

PaT: sum of all earth pressures

FSsl(lvl Pad): factor of safety for sliding at each layer. (FS sliding below the leveling pad)

FSot: factor of safety of overturning about the toe.

RETAINING WALL UNITS

STRUCTURAL PROPERTIES:

N is the normal force [or factored normal load] on the base unit

The default leveling pad to base unit shear is $0.8 \tan(\phi)$ [AASHTO 10.6.3.4] or may be the manufacturer supplied data. ϕ is assumed to be 40 degrees for a stone leveling pad.

CALCULATION RESULTS

OVERVIEW

UltraWall calculates stability assuming the wall is a rigid body. Forces and moments are calculated about the base and the front toe of the wall. The base block width is used in the calculations. The concrete units and granular fill over the blocks are used as resisting forces.

EARTH PRESSURES

The method of analysis uses the Coulomb Earth Pressure equation (below) to calculate active earth pressures. Wall friction is assumed to act at the back of the wall face. The component of earth pressure is assumed to act perpendicular to the boundary surface. The effective δ angle is δ minus the wall batter at the back face. If the slope breaks within the failure zone, a trial wedge method of analysis is used.

EXTERNAL EARTH PRESSURES

Effective δ angle (2/3 retained ϕ)

$\delta = 20.0$ deg

Coefficient of active earth pressure

$k_a = 0.244$

External failure plane

$\rho = 53$ deg

Effective Angle from horizontal

$\theta = 98.00$ deg

Coefficient of passive earth pressure: $k_p = (1 + \sin(\phi)) / (1 - \sin(\phi))$

$k_p = 0.00$

$$k_a = \frac{\sin^2(\theta + \phi')}{\Gamma[\sin^2 \sin(\theta - \delta)]}$$

in which:

$$\Gamma = \left[1 + \frac{\sin(\phi' + \delta) \sin(\phi - \beta)}{\sin(\theta - \delta) \sin(\theta + \beta)} \right]^2$$

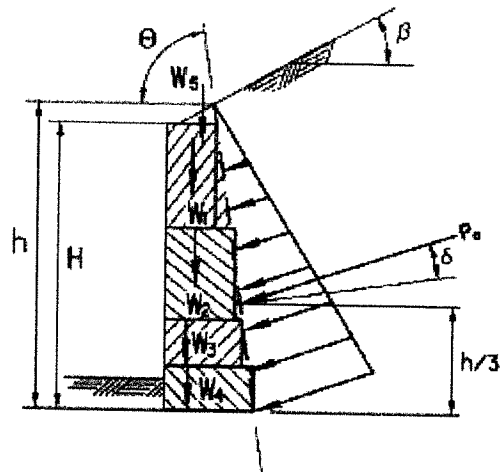
where :

δ = friction angle between fill and wall (degrees)

β = angle of fill to the horizontal (degrees)

θ = angle of bck face of wall to the horizontal (degrees)

ϕ' = effective angle of internal friction (degrees)



FORCE DETAILS

The details below shown how the forces are calculated for each force component. The values shown are not factored. All loads are based on a unit width (ppf / kNpm).

| Layer | Block Wt | Soil Fill Wt | Soil Wt |
|-------|----------|--------------|---------|
| 1 | 846 | 0 | |
| 2 | 846 | 0 | |
| 3 | 846 | 0 | |
| 4 | 846 | 0 | |
| 5 | 846 | 0 | |

Block Weight (Force v (Block Wt + Infill Soil)) = 4230 ppf X-Arm = 2.07 ft

Soils Block Weight (Force v) = 0 ppf X-Arm = 0.00 ft

Active Earth Pressure $P_a = 1725$ ppf

P_{a_h} (Force H) = $P_a \cos(\delta - \text{batter}) = 1725 \times \cos(20.0 - (8.0)) = 1687$ ppf
Y-Arm = 3.73 ft

P_{a_v} (Force V) = $P_a \sin(\delta - \text{batter}) = 1725 \times \sin(20.0 - (8.0)) = 359$ ppf
X-Arm = 2.88 ft

FORCES AND MOMENTS

The program resolves all the geometry into simple geometric shapes to make checking easier. All x and y coordinates are referenced to a zero point at the middle of the base block for eccentricity calculations.

LOADS FOR OVERTURNING ABOUT THE TOE

| Name | Force (V) | Force (H) | X-len | Y-len | Mo | Mr |
|-----------------|-----------|-----------|-------|---------|------|------|
| Face Blocks(W1) | 4230 | -- | 2.07 | -- | -- | 8768 |
| Pa_h | -- | 1687 | -- | 3.73 | 6296 | -- |
| Pa_v | 359 | -- | 2.88 | -- | -- | 1034 |
| Sum V / H | 4589 | 1687 | | Sum Mom | 6296 | 9802 |

W0: stone within units

W1: facing units

W2: soil wedge behind the face

X-Len: is measured from the center of the base (+) Driving, (-) Resisting.

Pa_h: horizontal earth pressure

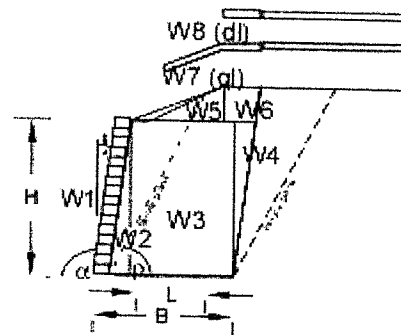
Pa_v: vertical earth pressure

Pq_h: horizontal surcharge pressure

Pq_v: vertical surcharge pressure

BEARING LOADS: NCMA

| Name | Force (V) | Force (H) | X-len | Y-len | Mo | Mr |
|-----------------|-----------|-----------|-------|---------|------|-------|
| Face Blocks(W1) | 4230 | -- | -0.86 | -- | -- | -6814 |
| Pa_h | -- | 1687 | -- | 3.73 | 6296 | -- |
| Pa_v | 359 | -- | -1.67 | -- | -- | -786 |
| Sum V / H | 4589 | 1687 | | Sum Mom | 6296 | -7600 |



BASE SLIDING

Sliding at the base is checked at the block to leveling pad interface between the base block and the leveling pad.

Forces Resisting sliding = $W1 + Pav$
 $4230 + 359$

$N = 4589$ ppf

Resisting force at pad = $(N * 0.8 * \tan(\text{slope}) + \text{intercept} * L)$
 $4589 * 0.8 * \tan(40.0) + 0.0$

$Rf = 3,851$

Driving force is the horizontal component of
 Pah
 1687

$Df = 1,687$

$FSsl = Rf / Df$

$FSsl = 2.28$

OVERTURNING ABOUT THE TOE

Overturning at the base is checked by assuming rotation about the front toe by the block mass and the soil retained on the blocks. Allowable overturning can be defined by eccentricity (e/L). For concrete leveling pads eccentricity is checked at the base of the pad.

Moments Resisting Overturning = $M1 + MPav$
8768 + 1034

$Mr = 9802\text{ft-lbs}$

Moments causing Overturning = $MPah$
6296

$Mo = 6296\text{ft-lbs}$

$FSot = Mr / Mo$
 $FSot = 9802 / 6296$

$FSot = 1.56$

ECCENTRICITY AND BEARING

Eccentricity is the calculation of the distance of the resultant away from the centroid of mass. In wall design the eccentricity is used to calculate an effective footing width.

Calculation of Eccentricity

SumV = + W1 + Pav

+ 4230 + 359

Moment Resisting

Moment Driving

SumV = 4589

Mr = -7600

Md = 6296

$e = (\text{SumMr} + \text{SumMd})/(\text{SumV})$

$e = (-1304 / 4588.98)$

$e = 0.000 \text{ ft}$

BEARING

Bearing Capacity Factors [Foundation]

$$N_c = 30.14$$

$$N_q = 18.40$$

$$N_g = 22.40$$

Shape Factors [Foundation]

$$S_c = 1.06$$

$$S_q = 1.06$$

$$S_g = 0.96$$

Modified Bearing Capacity Factors [Foundation]

$$N_{cm} = N_c \times S_c = 31.98$$

$$N_{qm} = N_q \times S_q \times df = 21.29$$

$$N_{gm} = N_g \times S_g = 21.51$$

Depth Correction Factor

$$df = 1.09$$

Water Correction Factor

$$C_{wq} = 1.00$$

$$C_{wg} = 1.00$$

Base width at foundation, Bf

$$B_f = W_u + \text{height of leveling pad}$$

$$B_f = B - 2e$$

$$2.96 - 2 \times 0.00$$

$$B' = 2.96 \text{ ft}$$

Calculation of Bearing Pressures on Foundation

$$q_n = (c \times N_{cm} + q \times N_{qm} \times C_{wq} + 0.5 \times \gamma \times B' \times N_{gm} \times df \times C_{wq})$$

$$[(0.00 \times 31.98) + (100 \times 21.29 \times 1.00) + (0.5 \times 120 \times 2.96 \times 21.51 \times 1.09 \times 1.00)]$$

$$q_{ult} = 5938 \text{ psf}$$

Nbrg = Bearing at Foundation Level

$$N_{Brg} = 4772 \text{ psf}$$

Calculate Ultimate Bearing, qult

$$q_{ult} = 5938 \text{ psf}$$

Bearing Pressures (σ)

$$N_{brg}/B_f = 1613 \text{ psf}$$

Calculated Factor of safety for bearing

$$q_{ult}/\sigma = 3.68$$


City of St. Helens

Application for Appeal of Land Use Decision

| | |
|--|---|
| Appellant Name(s): <u>ALAN VERDY</u> Infinity Investments-Puget Sound LLC | File No. of Land Use Decision being Appealed: <div style="text-align: center; font-size: 1.5em;">SL. 2. 23</div> <div style="text-align: center; font-weight: bold; font-size: 1.2em;">RECEIVED</div> <div style="text-align: center;">APR 10 2023</div> <div style="text-align: center;">CITY OF ST. HELENS</div> |
| A A | Appellant E-mail Address: _____ |

APPEAL INFORMATION

| | |
|--|---|
| Subject Property Assessor's Map & Tax Lot No.: Lot 10 and 11, Hanna Subdivision | Subject Property Site Address: <i>Street name if # not assigned</i> 15th Street, St Helens, OR |
| Type of Land Use Decision being Appealed: <u>Administrative Decision Regarding Retaining Wall Design/Construction</u> | |
| Statement as to how appellant qualifies to appeal (pursuant to Development Code): Affected adjacent property owner (letter sent to owner by City of St. Helens, dated March 27, 2023). | |
| Grounds for Appeal: <i>Include specific reference(s) to Development Code and/or Comprehensive Plan provisions which form the basis for the appeal.</i> <ol style="list-style-type: none"> 1. The City of St. Helens requires detailed construction documents, including detailed plan and elevation views, in order to permit a construction project. The submission circulated for public review does not meet this basic standard. 2. The minimum back yard requirement is 10 feet from the lot line. This wall is technically part of the improvement and proposed building construction. Using an administrative tool instead of a reinforced concrete wall construction method, this decision negates the back yard set-back rule for adjacent properties and appears to place a retaining wall on the property line. This violates the intent of the set back policy and places a large, 12-foot tall structure to create a "tunnel" effect for adjacent properties. The intent of the rear-yard set-back policy is therefore nullified. Additionally, the City of St. Helens places a height limit on back yard fences. This 12-foot wall is at least four feet higher than the fencing requirement and creates a "permanent fence" on the property line that violates city policy. 3. The city code requires that buildings should be "Located to preserve existing trees, topography, and natural drainage in accordance with other sections of this code." This approval violated several of the provisions listed above. First, a mature tree on the edge of the property was cut without consultation or building permit. It provided shade and ground stability near a designated wetland and was not in the path of any construction. Second, the proposed 12-foot wall does not preserve the existing topography. Third special drainage provisions appear to be required (although plans are not sufficiently detailed regarding this matter). 4. The city code requires that building and presumably the 12-foot barrier walls are "Located in areas not subject to ground slumping or sliding." This area continues to be subject to erosion and settling, therefore not in keeping with the code. 5. (see page 2) | |

| | |
|--|---------------|
|  Managing Director | April 3, 2023 |
| Appellant(s) Signature | Date Signed |

| FOR OFFICE USE ONLY | |
|--|-------------------------------|
| Pre-Application Conference Date: <u>NA</u> | Fee Amount Paid: <u>\$250</u> |
| Date Received: <u>4/10/23</u> | Receipt No.: <u>5027</u> |
| Application Type: <u>AP. 1. 23</u> | File No.: <u>AP. 1. 23</u> |

Page Two

5. The City code requires that “ Buffering shall be provided between different types of land uses (for example, between single-dwelling units and multi-dwelling units residential, and residential and commercial), and the following factors shall be considered in determining the adequacy of the type and extent of the buffer:

(i) The purpose of the buffer, for example to decrease noise levels, absorb air pollution, filter dust, or to provide a visual barrier.” In this case the provisionally approved 12-foot wall decision makes no provision for buffering between the 15th street development and the multifamily development on 16th Street. At a minimum a landscape plan should be included in the decision to approve any structure of such significance that is placed on or close to the property line.

See the attached letter, which provides more information and examples of what was previously required for the 16th street property development.

Infinity Investments Puget Sound LLC

March 31, 2023

City of St. Helens
Planning Department
265 Strand Street
St. Helens, OR 97051

Attn: Jacob Graichen
Appeal Lot 10 of Hanna Place Subdivision

Dear Mr. Graichen:

This is a response to your letter dated March 27, 2023 and serves as a request for reconsideration of the administrative decision contained in that letter.

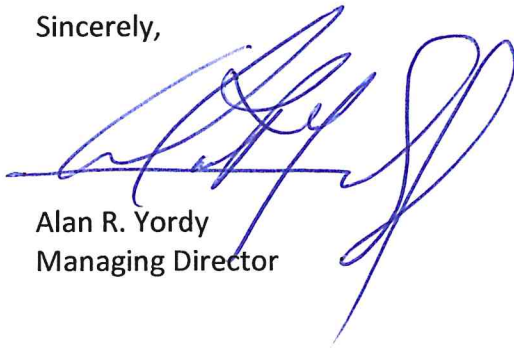
There are at least six issues that require additional information and requirements:

1. There are no complete, professionally drafted plan and elevation views attached to the order showing the exact location and height of the proposed retaining walls in context of lot lines and adjacent properties, including building setbacks. This should be the minimum requirement for further consideration. The hand-drawn plan provided insufficient detail to evaluate the proposed wall.
2. There does not appear to be a provision in the city code for construction of high walls in close proximity to an adjacent property. The proposed material for these walls appears to be concrete construction barriers. No other example of high walls using this material exists in this area of St. Helens. The design in previously approved for existing construction required use of such single construction barriers for safety with natural landscaped slopes. (see diagram) The buildings then used concrete, steel reinforced walls with natural slopes to address challenging topography. Therefore, the Planning Commission and City Council should address the type and appearance of material before this plan is approved. Not only is there a potential safety issue, but the current design fundamentally changes the natural surroundings and aesthetic of existing properties that were built under a code which made no provision for creating high-rise artificial walls, rather than using concrete retaining walls and natural grades and slope to accommodate construction in challenging typography. With the letter, I request that the Planning Commission consider a code revision and/or adoption so that there is a consistent design standard in challenging topographic areas of the city.
3. If a plan for high retaining walls is considered and approved by the City for Lots 9 and 10, the following issues should be addressed:
 - a. The setback from the adjacent property behind Lot 9 and 10 is not specified in requirement 12.a. Such set back should be clearly specified in code and potential danger from settling of the extraordinarily high walls evaluated with an engineering study.

- b. There is no provision for either City of property owner indemnification of adjacent property owners. This is a difficult site located adjacent to a wetland that has a history of settling. With the adjacent duplexes developed, the City required that concrete barriers be installed for safety. Those barriers have settled over the years and the walls subject to this code action could have the same issue. Some form of long-term protection for settling should be provided.
- c. The Planning Commission as recently as 2021 has discussed the need to preserve large trees adjacent to wetland areas. A large, mature oak was recently cut by either the city or adjacent property owner without consultation with any adjacent owners and has never been cleaned up. The tree should never have been cut as it was not involved in close proximity to any of the proposed improvements to Lot 10, and was providing shade and ground stability in an area near the wetland. As part of this action, there should be a requirement to replace this tree with a large-as-possible tree or trees of similar species.
- d. A landscape plan to provide a reasonable appearance from adjacent properties should be required.

Please provide additional information regarding the appeal process, and steps that will be taken to ensure no long-term impact to adjacent properties.

Sincerely,



Alan R. Yordy
Managing Director

Enclosures

1. Planning Commission Meeting

loss of the **trees**, but the Commission can choose to charge a fine for **cutting** down healthy **trees** within ... APPROVED 10/10/17 Page 6
Commission Webster asked if the fine for **cutting** down the healthy **trees** should ... decision during a public hearing. Graichen discussed the District's mistake of removing of healthy **trees** ... proposed over that wetland to preserve it. Multiple large diameter **trees** recently **cut** on the east side of ... despite requirements for such. At least one large diameter **tree** was recently **cut** on the west side of ... occurred. **Trees** that are inventoried on the plans submitted that are at least within wetland J-3's upland ...

06/28/2021 - 2:29pm



As to Code 17.44.040

Section (A) This wall is to maintain the ground from sliding or shifting onto other properties and eliminate any damage that could arise in the future. This is a Ecology Block wall that is engineered.

Section (B) As to the design of ecology block wall by engineering, This wall has to be inbedded into the ground to keep it stable it will require a base rock of 3/4 minus rock 6" deep with compaction and 18" of block inbedment into the ground, there must also be a perforated pipe behind the wall for drainage this pipe will require 3/4 minus clean drain rock over the top of pipe with a fabric paper so as to keep all dirt from entering the pipe to prevent plugging the drain.

As per plan the drain pipe will discharge on the north side of wall toward the creek. (Note when home is placed on lot all water from roof and footing drain goes to the storm drain in

front of lot) this will help with ground water issues .

Section (C) As to the fill there should be enough native soil on site to us for back fill behind ecology block wall. (Note soils are mostly rock with little dirt) This will require lifts of no more 2 feet and compaction on each lift behind ecology block wall to enure stability.

Section (D) There will be a yard planted when home is built on lot .

Appeal of Site Development Recommendation: Lots 9 and 10, Hanna Subdivision

(Supplemental material for Land Use Appeal
Application, filed April 3, 2023)

Submitted by:
Infinity Investments-Puget Sound LLC
(An Oregon limited liability company)

Background

- A letter to adjacent property owners was received on March 30, 2023, which provided details regarding the staff findings and proposed Site Development Plan.
- A letter was sent to city planning staff on March 31, 2023, indicating a number of issues with the determination and asking for an appeal to the determination.
- A formal appeal was filed on April 3, 2023.
- A communication to Mr. Jake Graichen requesting all information relating to this Site Development Application was sent via e-mail on April 13, 2023. Mr. Graichen responded that there “been no amendments to the plan or anything since the initial application,” which was included in the initial mailing. Additionally, there is no filing from the applicant on the City website.
- The appeal hearing was scheduled for May 9, 2023
- NOTE: *All items in italics* are quoted from St Helens Municipal Code.

Basis for Appeal

1. The proposed plan is a Site Development Proposal in a Sensitive Land area. Therefore, it is subject to two Chapters of the SHMC – 17.44 and 17.96. The material provided does not meet the basic standards for submission of a Site Development contained in SHMC 17.96.120 attached as Exhibits A and B. Additionally, the submission is subject to SHMC 17.44.050 through 17.44.100. No detailed plans and elevations are provided to clearly describe the proposed site revisions and meet the criteria of SHMC listed above. Based on these deficiencies, staff should have rejected the application until such time that all required materials were submitted.
2. The plan appears to show a 12-foot wall constructed of prefabricated concrete barriers, which are inconsistent with SHMC 17.96.180 and SHMC 17.44.040 1.(a),(d) 2.(a),(d). The wall construction goes well beyond what is necessary for building construction. No landscape plan is included in the submittal. In fact, a tree conforming to requirements of this section and providing ground stability was cut without site plan approval, diminishing the views and aesthetic of the adjoining property.

Basis for Appeal

3. The proposed revision is in within 100 feet of a wetland/drainage stream, which has exhibited evidence of soil instability. SHMC 17.96.180 requires that buildings (and associated site development structures) be “Located in areas not subject to ground slumping or sliding...”
4. SHMC 17.96.180 (4) requires *“Buffering shall be provided between different types of land uses (for example, between single-dwelling units and multi-dwelling units residential, and residential and commercial), and the following factors shall be considered in determining the adequacy of the type and extent of the buffer:*
 - (a) *The purpose of the buffer, for example to decrease noise levels, absorb air pollution, filter dust, or to provide a **visual barrier**;*

Additionally. 2 (a) iii requires that buildings (and structures) be:

- (iii) **Located to provide adequate distance between adjoining buildings for adequate light, air circulation, and fire fighting;***

No buffering plan or setback data are included in any documents that were provided to the appellant.

Basis for Appeal

5. This Site Development Application is in an active wildlife area. SHMC 17.44.040 4. (2) requires that approvals *create minimal site disturbance*. This Site Development Proposal creates a large and impassable barrier that fundamentally disturbs the existing landscape and topography and does not comply with this provision of SHMC.

Appeal #1

- SHMC Chapter 17.96 Requirement: The site development plan, data, and narrative shall include the following:
 - (a) ***An existing site conditions analysis, SHMC 17.96.110;***
 - (b) *A site plan, SHMC 17.96.120;*
 - (c) ***A grading plan, SHMC 17.96.130;***
 - (d) ***A landscape plan, SHMC 17.96.150;***
 - (e) ***Architectural elevations of all structures, SHMC 17.96.140;***
 - (f) *A sign plan, SHMC 17.96.160*; and*
 - (g) ***A copy of all existing and proposed restrictions or covenants. (Ord. 2875 § 1.128.090, 2003)****

The **highlighted applicable requirements** are missing from the application.

*A driveway and shared parking easement was filed on January 14, 2021, which is not disclosed in the application.

Appeal #1

- SHMC 19.44.050 has similar requirements to 19.96. These include:
 - (1) All applications for uses and activities identified in SHMC [17.44.015](#)(2) through (5) shall be made on forms provided by the director and shall be accompanied by:
 - (a) **Copies of the sensitive lands permit proposal and necessary data or narrative which explains how the proposal conforms to the standards (number to be determined at the preapplication conference) and:**
 - (i) The scale for the site plan(s) shall be a standard engineering scale; and
 - (ii) All drawings or structure elevations or floor plans shall be a standard architectural scale, being one-fourth-inch or one-eighth-inch to the foot.
 - (b) The required fee.
 - (2) The required information may be combined on one map.
 - (3) The site plan(s), data and narrative shall include the following:
 - (a) **An existing site conditions analysis, SHMC [17.44.070](#);**
 - (b) A site plan, SHMC [17.44.080](#);
 - (c) **A grading plan, SHMC [17.44.090](#); and**
 - (d) **A landscaping plan, SHMC [17.44.100](#). (Ord. 3031 Att. A, 2007; Ord. 2875 § 1.092.050, 2003)**

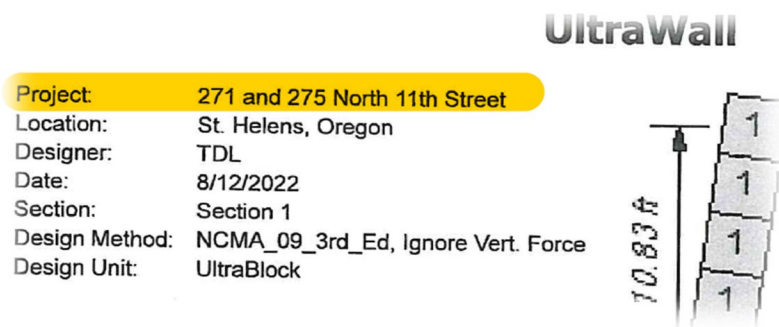
The **highlighted applicable requirements** were not included in the application packet.

Appeal #1 Issues

- Due to the incomplete data included in the application, it was necessary to interpret from the documentation and staff narrative basic terms of the applicant's proposal. At a minimum, the following issues created significant limitation in understanding the proposal:
 - The hand-drawn site plan is not to scale as required and does not provide clear setback information regarding lot lines and adjacent buildings as required by SHMC.
 - The hand-drawn site plan appears to be in conflict with the elevations provided. For instance, the site plan shows a vertical wall. The wall detail appears to show a tilting "UltraWall."
 - No detailed elevation drawings are provided for each of the lot affected by the proposal.
 - No building structures are shown on any detail.

Appeal Issues #1

- No wetland setbacks are shown to demonstrate that the subject development complies with state and federal law, and the 2021 St. Helens Stormwater Plan, sections 5 and 6.
- The “UltraWall” shown in the submission is for a different project (271-275 N. 11th), unrelated to the 15th Street Site Development Plan. The proposed wall for this project application should be shown. There is no evidence of any tilted walls in the vicinity of this project.



Appeal Issues #1

- Due to the lack of clarity in the applicant's submittal, this wall may be part of the building structure and part of the site development plan or it may be considered a "wall" under SHMC 17.72.90. Under this portion of the code 2. (a) Fences or *walls may not exceed four feet in height in a required front yard along local or collector streets or six feet in all other yards and, in all other cases, shall meet vision clearance area requirements (Chapter 17.76 SHMC)*

Appeal #1 Solution

1. The applicant's plan should have been rejected on procedural grounds that it was incomplete and did not comply with SHMC requirements. Before any further consideration, a complete plan that complies with St Helens Municipal Code should be submitted. This includes:
 - a. Plans and elevations for the Site Development Plan for Lots 9-10, Hanna Subdivision (15th Street), showing setbacks from proposed and existing structures.
 - b. Copies of the sensitive lands permit proposal and necessary data or narrative which explains how the proposal conforms to SHMC standards.
 - c. An existing site conditions analysis, including a geotechnical study with soils analysis.
 - d. A grading plan.
 - e. A landscape plan.
 - f. A buffering plan.
 - g. Architectural elevations of all structures, including walls.

Appeal #2

- SHMC 17.96.180 (2) requires that:

Buildings (presumably related structures) shall be:

(i) Located to preserve existing trees, topography, and natural drainage in accordance with other sections of this code;

(ii) Located in areas not subject to ground slumping or sliding;

(iii) Located to provide adequate distance between adjoining buildings for adequate light, air circulation, and fire fighting; and

(iv) Oriented with consideration for sun and wind; and

(b) Trees having a six-inch DBH (as defined by Chapter [17.132 SHMC](#)) or greater shall be preserved or replaced by new plantings of equal character.

Appeal #2 Issues

- Additionally, any approval of the proposed Site Development is subject to SHMC 17.44.040 1.(a),(d) 2.(a),(d). These sections require in areas of significant slope and potentially unstable ground to:
 - *(a) The extent and nature of the proposed landform alteration or development will not create site disturbances to an extent greater than that required for the use; and*
 - *(d) Where natural vegetation has been removed due to landform alteration or development, the areas not covered by structures or impervious surfaces will be replanted to prevent erosion in accordance with Chapter 17.72 SHMC.*

The Site Development Plan as proposed does not comply with provision (a) above. It is not possible to tell if the applicant's proposal complies with (d) above because no landscape plan was included in the submittal.

Appeal #2 Issues

- SHMC 17.96.180 2.(b) states that: *Trees having a six-inch DBH (as defined by Chapter 17.132.030 SHMC) or greater shall be preserved or replaced by new plantings of equal character.* The approved wall structures do not maintain “*trees, natural topography and natural drainage.*” A mature oak of more than 27” in diameter was cut without permit or notice. The natural topography is fundamentally changed in an area near a wetland. Additionally, this tree and other vegetation that were removed provided slope stability.

BEFORE CUTTING



AFTER CUTTING



Appeal #2 Solution

1. Require a landscape plan, which takes advantage of the existing topography and creates minimal impact as required by SHMC.
Unfortunately, it is too late to preserve “*Trees having a six-inch DBH* (as defined by Chapter 17.132 SHMC) or greater” as required by code.
Mitigation for this failure to follow city code should be required, including plantings for slope stabilization and replacing the illegally cut tree with new trees of similar type (Oak) at least 15-20 feet in height.
2. Under SHMC a civil penalty may be imposed for cutting this trees without a permit.

Appeal #3

- City code SHMC 17.96.180 requires that the:
 - 2) “Relationship to the Natural and Physical Environment” be considered
 - (a) *Buildings (presumably associate structures) shall be:*
 - (i) *Located to preserve existing trees, topography, and natural drainage in accordance with other sections of this code;*
 - (ii) **Located in areas not subject to ground slumping or sliding;**
 - (iii) *Located to provide adequate distance between adjoining buildings for adequate light, air circulation, and fire fighting;*
- The proposed wall is clearly within an area subject to ground movement, especially during a catastrophic earthquake or extraordinary event.

Appeal #2 Issues

- The proposed wall is located in an area that is prone to “*ground slumping or sloping.*” A city provided or required barrier has been sliding down an adjacent slope next to the end of a public street.

Existing concrete barriers at the end of City street sliding toward wetland due to unstable slope, located within 15 feet of proposed structure.



Proposed wall location

Appeal #3 Solution

1. Require a geotechnical study, including soils analysis to verify stability of the area related to the site development. This will assure adjacent property owners have assurance that any buildings or other structures with such significant proposed wall and fill structure will not settle and/or fail in an earthquake or other catastrophic event.

Appeal #4

- Buffering between properties is required by SHMC 17.96.180 4.(a).

Buffering shall be provided between different types of land uses (for example, between single-dwelling units and multi-dwelling units residential, and residential and commercial), and the following factors shall be considered in determining the adequacy of the type and extent of the buffer:

*(a) The purpose of the buffer, for example to decrease noise levels, absorb air pollution, filter dust, or **to provide a visual barrier**;*

- “*Relationship to the Natural and Physical Environment*” be considered

2(a) Buildings (presumably associate structures) shall be:

(i) Located to preserve existing trees, topography, and natural drainage in accordance with other sections of this code;

(ii) Located in areas not subject to ground slumping or sliding;

*(iii) Located to **provide adequate distance between adjoining buildings for adequate light, air circulation, and fire fighting**;*

Additionally, SHMC 17.44.070 5 (b) requires that “All requirements of a full site development review have been met” including the buffering requirements in 17.96.180.

Appeal #4 Issues

- No provision for such buffering are shown in any of the Site Development documents. Lots 9 and 10 are designed to be owner-occupied separately deeded properties. The adjacent property is multi-family rental property. No buffering is shown or proposed, including any landscaping that may be part of the buffering.
- It is also likely that the distance between the wall and existing building is inadequate for firefighting and/or rescue during such events describe above, assuming the wall does not deteriorate or collapse during such an event.

Appeal Issues #4

- While it is difficult to determine actual concrete wall setbacks from the documentation provided in the application, the property marker that was replaced after being dislocated due to the tree felling is 9' 2" from the foundation of the existing building on the adjacent property. SHMC 17.32.070 4.(d) requires that side yards shall be "10 feet for multi-dwelling structures. Corner lots shall have a minimum exterior side yard of 10 feet." The adjacent structure is both a duplex and a corner lot. Furthermore, the 10-foot minimum does not provide adequate circulation for emergency equipment should it be needed to access the rear of the adjacent property. This is the only vehicle access point for the rear of the adjacent properties.

9' 2" measured from existing foundation



Issue #4 Solution

1. Require that a buffering plan be submitted as part of a complete Site Development Plan packet.
2. If a development solution is not adopted other than a 12-foot concrete wall, require a minimum setback from the property line of at least twenty feet to accommodate emergency vehicle and equipment access to existing buildings.

Appeal #5 Issue

- This Site Development Application is in an active wildlife area. SHMC 17.44.040 4. (2) requires that *“the extent and nature of the proposed landform alteration or development will not create site disturbances to an extent greater than the minimum required for the use.”* The proposed 12-foot wall creates a major impediment to wildlife migration, frequently seen in the area.
- Although the Site Development Plan shows no building structures as required by SHMC, current practice and existing buildings demonstrate that a habitable structure can be built without a 12-foot retaining wall, using foundations that are contoured to the topography.

Wildlife migrate from Lot 10 to drainage



Appeal #5 Issues

- There is a clear precedent in the area for development that minimized impact near wetlands and does not require the use of a **12-foot wall** constructed of concrete barriers. The proposed construction method substantially changes the topography and existing natural landscape. The precedent is at 287 N. 16th Street and demonstrates that a foundation contoured to the topography is possible, while maintaining the integrity of the surrounding terrain. No precedent exists for extraordinary site disturbance that a 12-foot wall constructed of concrete barriers with backfill creates. (See example of alternate construction method the complies with SHMC on next pages.)

Use of 10-foot stem wall
contoured to topography

Item C.



10+-foot slope with contoured foundation





Alternate Construction using short concrete stem walls with wood building wall.

Appeal #5 Solution

1. Require construction methods that have been used in surrounding structures, which do not require massive wall structures and are in compliance with the St. Helens Municipal Code related to minimal topography and wildlife impact. A compatible landscape plan that provides buffering and soil stabilization should be part of this plan.

Conclusion and Recommendations

There are no precedents for the scale and type of major wall construction, grading and fill proposed by the land use action in this neighborhood of St Helens where significant number of buildings have been built on challenging slopes. There is a precedent on the adjacent property for grading and use of construction techniques that respect the existing topography, vegetation and wildlife. Therefore, the following solution is offered in compliance with St Helens Municipal Code (SHMC):

1. Use construction methods that incorporates steel reinforced stem walls for building construction that contour to the existing topography. This will eliminate the need for unsightly and potentially unstable retaining walls.
2. Before further consideration, require the applicant to submit a complete Site Development Plan as required by SHMC so that the impacts can be properly evaluated.

Conclusion and Recommendations, Cont.

3. A geotechnical study, including soils analysis should be conducted and made part of the applicant's Site Development Plan submission to ensure soil and slope stability in the event of an earthquake or other major catastrophic event.
4. Since a mature oak tree was cut without an approved site plan permit and soil grading was done without permit, a detailed landscape and buffering plan should be submitted that includes adequate setbacks for emergency access and the replanting of vegetation and trees of the similar type and species to provide buffering with the adjacent property and ground stability.

Finally, there is a simple commonsense question to consider: Would any of us want a 12-foot wall made of concrete barriers, a wall taller than the first floor of the homes, in Seismic Zone 5 (most potential hazard) to be constructed less than ten feet away from the back or side of the place we live?

Request to Keep Record Open

- Following the hearing, this is a formal request to keep the record open for seven days through May 16, 2023 to respond to any questions or new information that is provided during the hearing.

Exhibit A – SHMC 17.96.180

- **17.96.180 Approval standards.**

The director shall make a finding with respect to each of the following criteria when approving, approving with conditions, or denying an application:

(1) Provisions of all applicable chapters of the Community Development Code per SHMC [17.04.010](#).

(2) Relationship to the Natural and Physical Environment.

(a) Buildings shall be:

(i) Located to preserve existing trees, topography, and natural drainage in accordance with other sections of this code;

(ii) Located in areas not subject to ground slumping or sliding;

(iii) Located to provide adequate distance between adjoining buildings for adequate light, air circulation, and fire fighting; and

(iv) Oriented with consideration for sun and wind; and

(b) Trees having a six-inch DBH (as defined by Chapter [17.132](#) SHMC) or greater shall be preserved or replaced by new plantings of equal character;

(3) Exterior Elevations. Along the vertical face of single-dwelling units – attached and multi-dwelling unit structures, offsets shall occur at a minimum of every 30 feet by providing any two of the following:

(a) Recesses (decks, patios, entrances, floor area, etc.) of a minimum depth of eight feet;

(b) Extensions (decks, patios, entrances, floor area, etc.) of a minimum depth of eight feet, and maximum length of an overhang shall be 25 feet; and

(c) Offsets or breaks in roof elevations of three or more feet in height;

Exhibit A Cont.

(4) Buffering, Screening, and Compatibility between Adjoining Uses (See Figure 13, Chapter [17.72](#) SHMC).

(a) Buffering shall be provided between different types of land uses (for example, between single-dwelling units and multi-dwelling units residential, and residential and commercial), and the following factors shall be considered in determining the adequacy of the type and extent of the buffer:

- (i) The purpose of the buffer, for example to decrease noise levels, absorb air pollution, filter dust, or to provide a visual barrier;*
- (ii) The size of the buffer required to achieve the purpose in terms of width and height;*
- (iii) The direction(s) from which buffering is needed;*
- (iv) The required density of the buffering; and*
- (v) Whether the viewer is stationary or mobile;*

Exhibit B – SHMC 17.44.080

- *The proposed site development plan shall be at the same scale as the site analysis plan and shall include the following information:*
 - (1) The proposed site and surrounding properties;*
 - (2) Contour line intervals (see SHMC [17.44.070\(3\)](#));*
 - (3) The location, dimensions, and names of all:*
 - (a) Existing and platted streets and other public ways and easements on the site and on adjoining properties; and*
 - (b) Proposed streets or other public ways and easements on the site.*
 - (4) The location and dimension of:*
 - (a) Entrances and exits on the site;*
 - (b) Parking and traffic circulation areas;*
 - (c) Loading and services areas;*
 - (d) Pedestrian and bicycle facilities;*
 - (e) Outdoor common areas; and*
 - (f) Utilities.*
 - (5) The location, dimensions, and setback distances of all:*
 - (a) Existing structures, improvements, and utilities which are located on adjacent property and are permanent in nature; and*
 - (b) Proposed structures, improvements, and utilities on the site.*
 - (6) The location of areas to be landscaped;*
 - (7) The concept locations of proposed utility lines; and*
 - (8) The method for mitigating any adverse impacts upon wetland, riparian, or wildlife habitat areas. (Ord. 3031 Att. A, 2007; Ord. 2875 § 1.092.080, 2003)*

Exhibit B - 17.44.090 Grading plan

- *The site plan shall include a grading plan which contains the following information:*
 - (1) *Requirements in SHMC [17.44.070](#) and [17.44.080](#);*
 - (2) *The identification and location of the benchmark and corresponding datum;*
 - (3) *Location and extent to which grading will take place indicating contour lines, slope ratios, and slope stabilization proposals; and*
 - (4) *A statement from a registered engineer supported by factual data substantiating:*
 - (a) *The validity of the slope stabilization proposals;*
 - (b) *That other off-site impacts will not be created;*
 - (c) *Stream flow calculations;*
 - (d) *Cut and fill calculations; and*
 - (e) *Channelization measures proposed. (Ord. 3031 Att. A, 2007; Ord. 2875 § 1.092.090, 2003)*

Exhibit B - 17.44.100 Landscape plan

(1) The landscape plan shall be drawn at the same scale as the site analysis plan, or a larger scale if necessary, and shall indicate:

- (a) Location and height of fences, buffers, and screenings;*
- (b) Location of terraces, decks, shelters, play areas, and common open spaces where applicable; and*
- (c) Location, type, and size of existing and proposed plant materials.*

(2) The landscape plan shall include a narrative which addresses:

- (a) Soil conditions; and*
- (b) Erosion control measures that will be used. (Ord. 3031 Att. A, 2007; Ord. 2875 § 1.092.100, 2003)*



CITY OF ST. HELENS PLANNING DEPARTMENT

M E M O R A N D U M

TO: Planning Commission
 FROM: Jacob A. Graichen, AICP, City Planner
 RE: Columbia Blvd/N. 6th Street Mixed Use Building proposal
 CUP.2.23, V.1.23, V.2.23, and V.3.23 conditional of approval 2.a.G
 DATE: May 2, 2023

This proposal is for Mixed use development consisting of 9 dwelling units and up to three commercial suites, all within a single three-story building at the NW corner of Columbia Boulevard/N. 6th Street intersection.

The Planning Commission approved this proposal at the March 2023 meeting with several conditions. This memo pertains to condition 2.a.G:

2. The following shall be required prior to any development or building permit issuance:

a. Final plans as submitted with any development or building permit(s) shall comply with the plans submitted with this Conditional Use Permit/Variations with the following additions and/or corrections:

G. The architectural features and design of the proposed building must reflect those of the neighborhood. **The Commission shall have an opportunity to review and comment on final plans in this regard with plans updated accordingly.**

The applicant has provided a revised set of plans to honor this condition for Planning Commission review and comment at your May 9, 2023 meeting. **See attached for revised plans and accompanying narrative.**

For comparison, the **original elevations** that condition 2.a.G was based on are **below**.

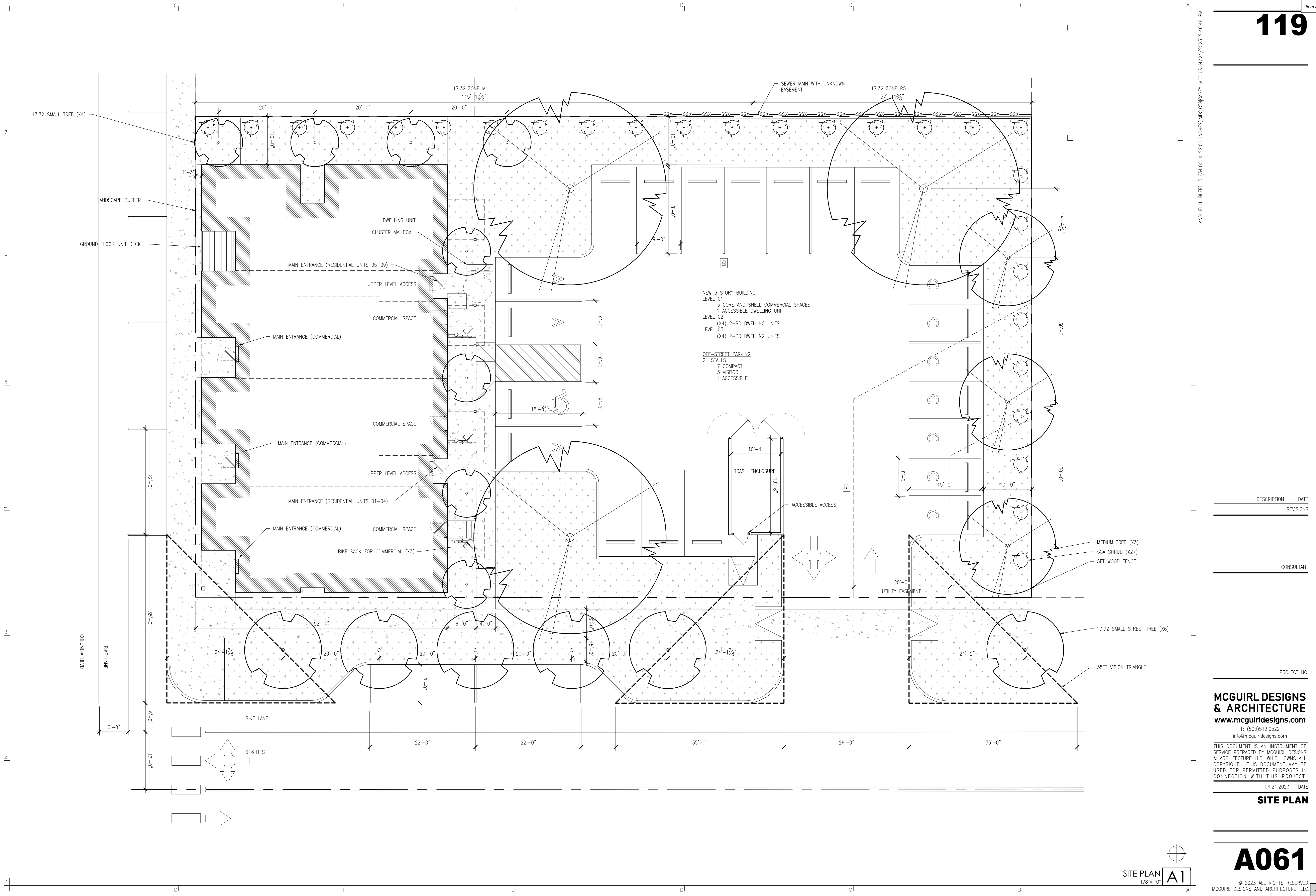


BUILDING ELEVATION - SOUTH D4



BUILDING ELEV





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CONSULTANT

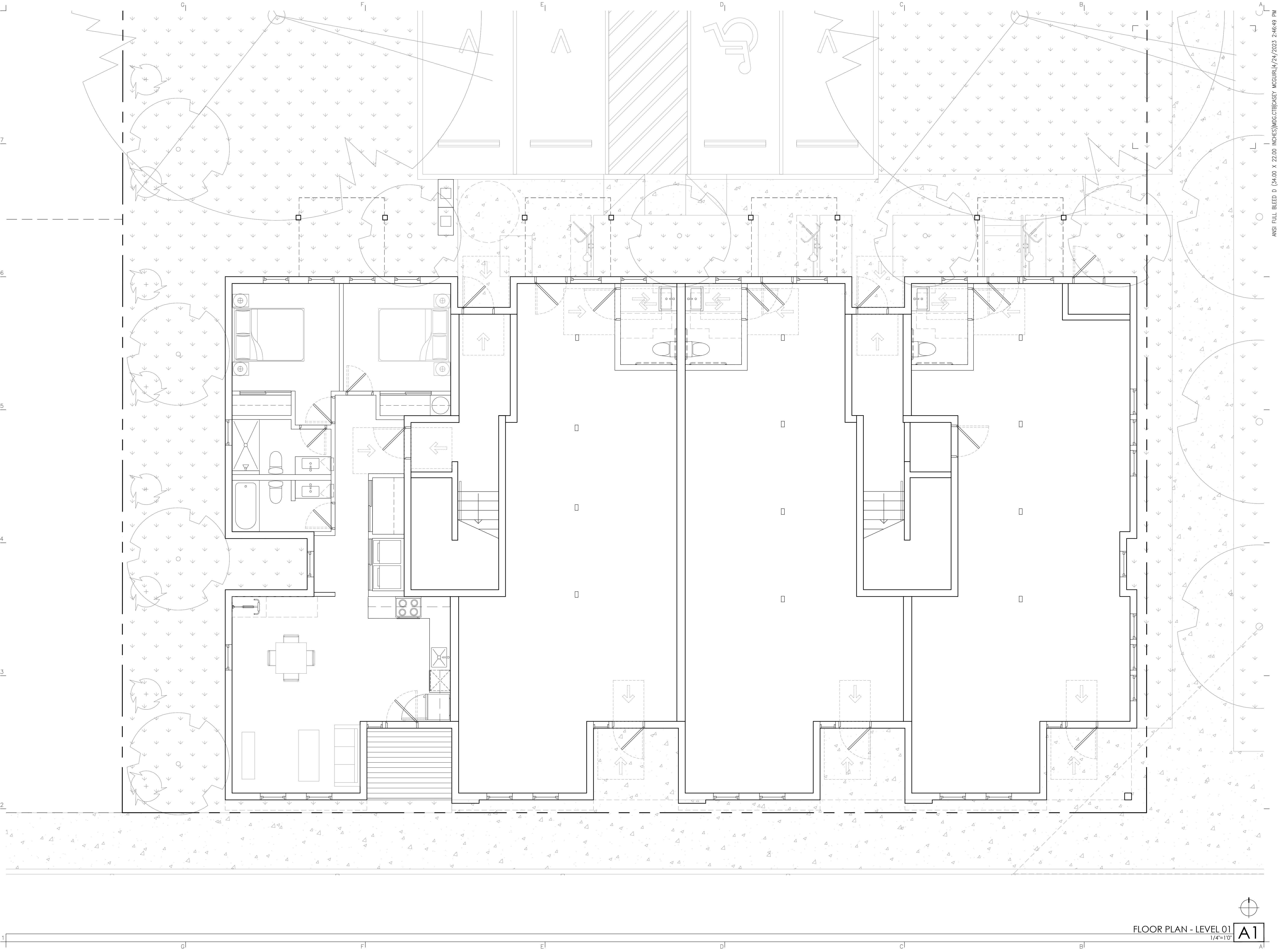
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04.24.2023 DATE

SITE PLAN



FLOOR PLAN - LEVEL 01
1/4"=1'-0"

A1

Item D.

119

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04.24.2023

DATE

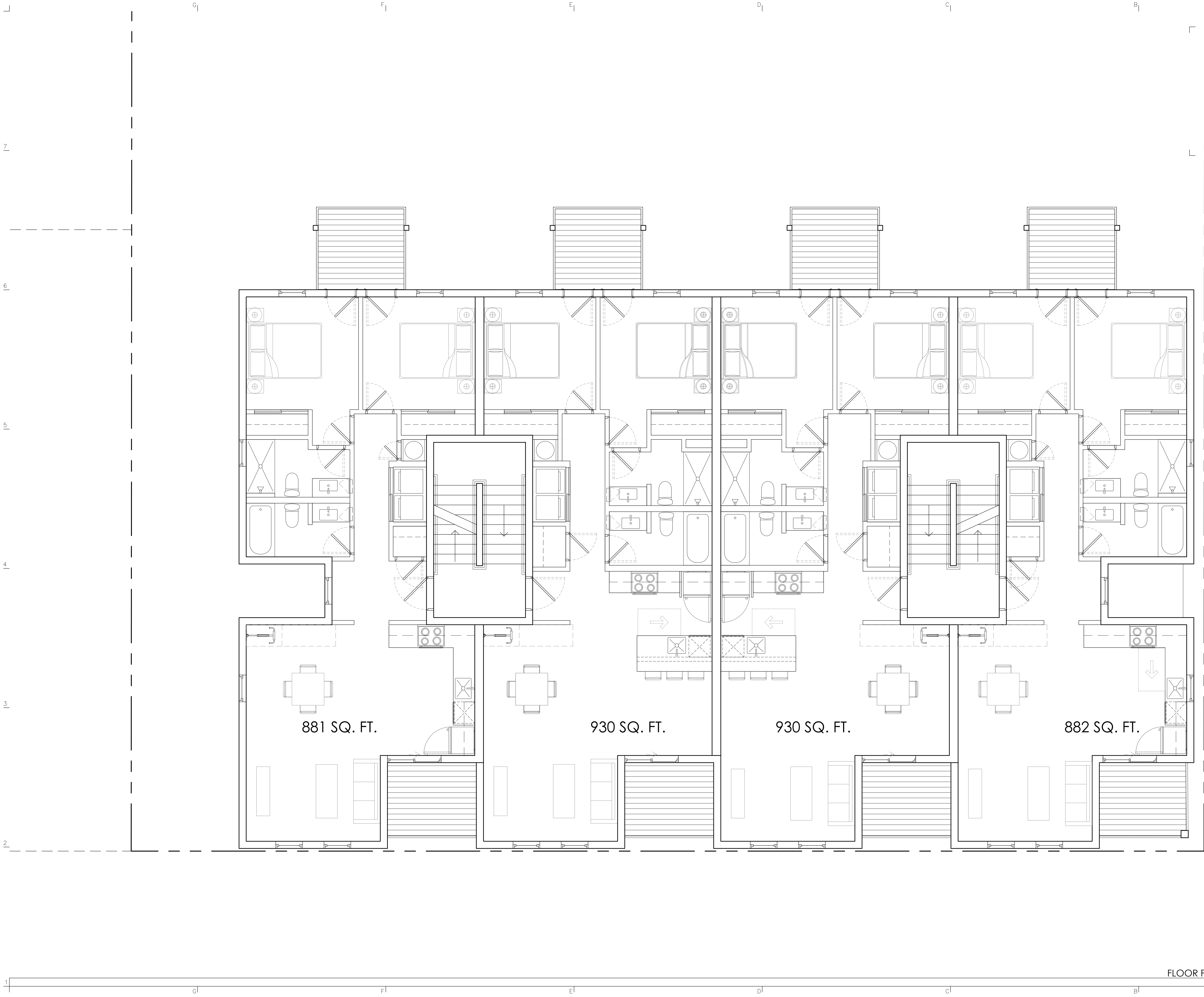
FLOOR PLAN - LEVEL 01

A101

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04.24.2023 DATE

**FLOOR PLAN -
LEVEL 02 & 03**



Item D.

119

| DESCRIPTION | DATE |
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| 04.24.2023 | DATE |
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| BUILDING ELEVATIONS I | |

A201

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01



MCGUIRL DESIGNS & ARCHITECTURE
811 E Burnside #211 | Portland, OR 97214

May 1, 2023

MDA CUP Desicion Responsive Narrative

| | |
|---|---|
| City of St. Helens 265 Strand Street St. Helens, OR 97051 | Project Address: NWC/ 6 th Street & Columbia Blvd St. Helens, OR 97051 |
|---|---|

Hi Jacob,

Please find attached our narrative of responses to the Conclusion and Decision of the Conditional Use Application we submitted. If any additional information is needed, please let me know.

ITEM 2AB. TRASH ENCLOSURE DETAILS

Elevations added to the conditional use permit. Details will be added for the building permit application.

ITEM 2AC. EACH DWELLING UNIT WITH BICYCLE SPACE

Each dwelling unit has a bicycle rack located within each dwelling unit.

ITEM 2AD. STRIPING PLANS

Striping plan will be provided by civil engineer with permit applications.

ITEM 2AE. RESIDENTIAL UNITS TO BE CONNECTED VIA WALKWAYS

All residential units are accessed via the walkway to the north of the building. This walkway connects to 6th Avenue as well as the areas to the north including the parking area.

ITEM 2AF. BUILDING HEIGHT TO NOT EXCEED 40 FEET.

Adjustment to the roof lines by providing a flat roof has decreased the overall height of the building significantly. The roof surface and parapet walls are both under 40FT as measured from the low point on the northeast corner of the building.

ITEM 2AG. ARCHITECTURAL FEATURES TO REFLECT THE NEIGHBORHOOD

With the immediate surrounding of this area, we observed the following:

North and West, consisted of single-family structures. Predominately, single story with gable roof lines and lap siding.

Immediately South, is a single story commercial building. A flat roof with an awning running across the front facade and made of brick and glass.

To the Southwest, is a 3-story structure, with gable/flat roof lines. Materials are lap siding and brick.

To the immediate East, is the church with a high-pitched gable roof line, indicative of it's programmatic use. Materials are stucco with some exposed wood elements

Further east two blocks along Columbia, several commercial structures are taller single story structures, with a street presence of flat roofs using parapet walls. Some of which have minor articulations. Materials range significantly including stone base, stucco, metal siding, lap siding, and wood siding.

MCGUIRL DESIGNS & ARCHITECTURE**811 E Burnside #211 | Portland, OR 97214**

Along the south facade, we provided a brick base with larger fiber cement board panels (in lieu of stucco) at the commercial areas and lap siding with the residential areas. We believe these materials are consistent with our findings of the surrounding areas along Columbia Boulevard. Along the remaining facades, we've provided lap siding which is consistent with the materials found in the surrounding areas not facing Columbia Boulevard.

Windows for the commercial space are larger in nature than the rest of the building to provide a greater visual connection with the sidewalk and streetscape. Windows for the residential areas reflect the proportions and functionality seen on the surrounding residential houses.

The rooflines have been adjusted to be flat with parapets. We believe this works for the size of the building, and keeps the overall height of the structure lower, to help with any potential solar envelope concerns.

ITEM 2AH. MAILBOXES

Cluster mailboxes shown at the end of the on site sidewalk along the north side of the building. Per our communications with USPS, they did not want to see individual mailboxes for the commercial spaces.

ITEM 2AI. LANDSCAPING PLANS

Landscaping plans to be provided with building permits.

ITEM 2AJ. LIGHTING PLANS

Lighting plans to be provided with building permits.

ITEM 2BA. STREET FRONTAGE IMPROVEMENTS

Submission will comply with notes.

ITEM 2BB. STREET FRONTAGE IMPROVEMENTS

Parking stall dimensions updated. Final plans to confirm sizes

ITEM 2C-G. SITE CONDITIONS

Submission requirements and fees acknowledged. City will need to assist specifically with Item 2f once unknown utilities have been located.

ITEM 3. CERTIFICATE OF OCCUPANCY

Acknowledged

ITEM 4. SERVICE FACILITIES

Acknowledged. While not shown on site plan, electric meters planned for placement on West Facade.

ITEM 5. SIGNAGE

Acknowledged. We have made provisions in the design for signage placement, but no signs at this time.

ITEM 6. PARKING

Acknowledged.

ITEM 7. UTILITIES

Acknowledged.

ITEM 8. DEQ

Acknowledged.

MCGUIRL DESIGNS & ARCHITECTURE**811 E Burnside #211 | Portland, OR 97214****ITEM 9. FIRE MARSHALL**

Acknowledged.

ITEM 10. PLAN CONTRADICTIONS

Acknowledged.

ITEM 11. CITY DEVELOPMENT CODE (SHMC 17)

Acknowledged.

ADDITIONAL ITEMS: NOT IN DECISION, BUT DISCUSSED DURING PLANNING COMMISSION

Ground Floor Residential Unit

- Added guard to exterior area facing Columbia and included a narrow strip of landscaping to buffer the sidewalk from this unit.
- Pulled this area back from the sidewalk a few more inches to assist with landscaped area
- Adjusted the architecture of the building to help designate the materiality of this unit from the commercial spaces while maintaining a overall consistent look to the building



CITY OF ST. HELENS PLANNING DEPARTMENT

M E M O R A N D U M

TO: City Council
 FROM: Jacob A. Graichen, AICP, City Planner
 RE: Planning Commission Annual Report
 DATE: May 9, 2023

DRAFT FOR PC REVIEW

This report covers Planning Commission activities from June 2022 through May 2023. The Planning Commission discussed this report at their May 9, 2023, meeting.

- **Number of meetings: 15 (last year 12)**

12 meetings are usual based on the last several years. In this last year, the Commission added 3 meetings: a Special Session in March 2023 for a “Planning Commission Retreat” and two Joint City Council Meetings (December 2022 and March 2023) which were outside of normal meeting dates. Because the joint meetings are quarterly now, what is usual will be different next year.

- **Number of Public Hearings (a continued hearing is counted separately): 19 (last year 18)**

- **Planning Director Decisions: 56 (last year 35, *including last year’s acceptance agenda items)**

For administrative land use actions (e.g., Site Development Review, Home Occupations, Sign Permits, Temporary Use Permits, and others), the items from the last month are included on the agenda to facilitate discussion and query usually for clarification purposes or to address concerns.

***NOTE:** At the December 14, 2022 meeting, it was decided to move the “Acceptance Agenda” items into the “Planning Director Decisions.” From January 2023 and beyond, the “Planning Director Decisions” item included **all** administrative decisions.

- **Discussion Items: 35 (last year 15)**

Regular meeting items included (in the order they were reviewed): Recommendation for Street Vacation at N. 1st Street, N & S. River Street, and Columbia Blvd – Locke, Dillard, Williamson Trust, and Jones; Proactive Planning Commission Framework Discussion; Emails & Quorums; Chair Signature for Columbia Commons Subdivision Final Plat; ACSP Update; Conex Box 8-Plex Ground Lease; Order and Conduct of Public Hearings; Planning Commission Start Time; Oregon’s Measure 109 related to Psilocybin and Land Use Implications; PC Term Expirations; Council Reports Land Use Matters to PC; Discussion of a Joint PC/CC Meeting in 2022; Discussion of Comstock Decision; Semi-Annual Planning Department Report to Council; PC Interview Committee Recommendations; Recommendation for Street Vacation at N. 9th Street – Murphy & Bellar; 2023-2024 CLG Historic Preservation Grant Program; Chair/Vice Chair Selection; 2022 Year End Summary Report; Practical Councilor Liaison Attendance; Vision Sharing for a Future Meeting; Renaming of “Mill Street” in the Riverfront District; Discussion of the PC’s Vision & Future of St. Helens; HB 3115 Recommendations to Council; Semi-Annual Planning Department Report; PC Annual Report to Council.

DRAFT FOR PC REVIEW

Joint and special meeting items included (in the order they were reviewed): Meeting Basics, Hellos and Goodbyes, 2023 Quarterly Joint Meetings Scheduling, Planning Division To-Do List Overview, Waterfront Update, House Bill 3115 and the City's Role, Sanitary Sewer Capacity, Planning Commission as a Resource for the City Council, House Bill 3115, Commission's Vision and Future of St. Helens

- **Architectural Review: 6 (last year 0)**

Certain proposals within the Riverfront District require architectural review. We had a significant uptick in development in the Riverfront District which warranted architectural review.

- **Proactive Items:**

As part of the proactive resolve, in June 2022, the Planning Commission adopted the Planning Commission Proactive Procedures which dictate how "Proactive Items" are included on agendas. All PC agendas now include Proactive Items as a permanent agenda heading.

Proactive items sometimes include a non-quorum subcommittee, which can meet outside of normal meeting hours to discuss the item. The Proactive Items which were voted by a quorum to be taken on by the Commission during the last reporting period include:

1. **HB 3115** – This item was included for discussion on 8 separate agendas. Text amendments must be adopted by the City Council by July 2023 to comply with House Bill 3115.
2. **Architectural Standards** – This item was included on 3 separate agendas, although there has not been adequate time at meetings to discuss it for any length of time.

- **Future Projects/Plans:**

Finish HB3115 recommendation efforts, the commission's first adopted proactive item, in the short term. This has consumed much commission and staff time, hindering other efforts and goals.

Architectural standards, the latest adopted proactive item, will probably start getting traction in the next year as HB3115 becomes less time consuming.

Aiding in city-led projects as they may occur in the upcoming year such as the Economic Opportunity Analysis and Transportation Systems Plan efforts.

- **What can the Council do to support the Commission?**

The Commission discussed the following ways Council can continue to support the Commission for last year's (2022) report, which may still be relevant to you:

1. The Commission recommends an **Associate Planner** for the upcoming fiscal year.
2. The Commission desires more involvement on city-led projects. And, generally, they desire more inclusion. Staff thinks this message is loud and clear now, but if you want to keep this as part of the message to council, that's ok.
3. Anything else from the Commission?



CITY OF ST. HELENS PLANNING DEPARTMENT

M E M O R A N D U M

TO: Planning Commission
FROM: Jacob A. Graichen, AICP, City Planner
RE: HB3115, et. al. – code amendment proposal and Planning Commission recommendation
DATE: May 1, 2023

After the City Council considered the Planning Commission recommended draft at their April 19, 2023 work session for consideration and input, staff sought legal counsel review of it.

Attached are the Planning Commission's recommendations following post April 19, 2023 efforts. Legal counsel suggested changes and comments are in red and staff changes/comments are in blue.

Attached: Planning Commission recommended code amendments with edits/comments

[editor's note: formatting will need to change to be incorporated into the current Chapter 12.20 SHMC. Some terms like "title" will need to change. For the reader, the important aspect of this Planning Commission approved draft is the legislative content, not final fit and finish.]

Title 12
Chapter 12.20

SLEEPING AND CAMPING ON PUBLIC PROPERTY

12.20.??? Findings and Purpose.

A. The City of St. Helens hereby adopts the provisions of this section regulating sleeping, lying, camping and keeping warm and dry on public property. Pursuant to ORS 195.530, and ORS 195.500, the City of St. Helens recognizes the social nature of the problem of homeless individuals camping on public property and implements the following laws as part of its policies to ensure the most humane treatment for removal of homeless individuals from camping sites on public property per ORS 195.500, 195.505, and 195.530;

B. The City of St. Helens finds as follows:

- (a) The use of public property for sleeping, keeping warm and dry that is within 400 feet of any privately owned or rented property that is not in conformance with places, manners, and time described herein necessarily affects the health and safety of the public, the quiet enjoyment of the persons owning or renting property, whether it be for residential or business purposes;

[editor's note: 400' is based on one of the "affected area" provisions of right-of-way vacations per ORS Chapter 271. Other distance basis possible.]

- (b) Public places, roads, parks, trails, rights of way, the waterfront and public property being clean, and safe are vital for the health, safety, and wellbeing of the public;
- (c) The dangers of unlawful use of public property to the public health, safety and welfare are the same regardless of the economic circumstances of the persons violating the law;
- (d) Persons "experiencing homelessness" ~~generally~~ are homeless for the following reasons: wide variety of reasons that include, but are not limited to:
 - i. Insufficient funds to afford stable housing;
 - ii. Mental illness;
 - iii. Drug addiction, including alcohol addiction to drugs and/or alcohol;
 - iv. Persons purposefully homeless or without funds for housing due to lifestyle choice(s); ~~Personal preferences and lifestyle choices;~~
 - v. Persons who do not have sufficient funds to afford housing;
 - v. Any and all of the above.

- (e) The City of St. Helens cannot reasonably care for and house ~~whether it be in shelter or campgrounds, persons from outside of St. Helens~~ who are experiencing homelessness other than on a temporary basis;

Commented [AH1]: The beginning portion of this "whether it be in shelter or campgrounds" I would recommend deleting, but it more of a style choice than because of the substance. The second part, "persons from outside St. Helens" should be deleted, because it suggests a factor that would be illegal (a preference for locals over those not from St. Helens).

12.20.010 Definitions.

- (A) "Campsite" means any place where there is a tent, or any structure or assembly of materials consisting of a top or roof or any other upper covering and enclosed on one or more sides, that is of sufficient size for a person to fit underneath or inside. Resting or sleeping in a vehicle is not a campsite. Resting or sleeping in a vessel in a waterway pursuant to Chapter 8.28 SHMC is not a campsite.
- (B) "To camp" means to set up, or to remain in or at, a campsite.
- (C) "Established campsite" means an area on public property where one or more persons have kept their belongings, erected a shelter, tent, or other structure which has remained for more than 7 days in any 30 days without a documented request by a law enforcement or code enforcement officer to vacate the area and move to a location where camping is allowed following a documented discussion with law enforcement consistent with the policies of this Title.
- ~~(D) "Sleeping" means being asleep on public property in places and at times not allowed by this Title;~~

Commented [AH2]: This language is problematic for a few reasons: (1) the 7 days in any 30 days suggests that days would not need to be continuous and creates additional complications with ever being able to enforce this; (2) camping is allowed for up to 5 days in one of the draft code sections below (12.20.040) and this inconsistency creates additional confusion and enforcement issues; I am also concerned about the "documented request" and "documented discussion" language. Overall, I would suggest cleaning this up and it still seems much cleaner to me to simply designate a number of hours when a campsite becomes an "established campsite" such as 24 or 48 hours.

12.20.020 Where Sleeping and Camping on Public Property is Not Allowed.

- (A) It is unlawful for any person to sleep in a time place and manner or camp in or on the following areas of public property within the City of St. Helens:

- i. Anywhere that is not a place described in SHMC 12.20.020(B).

- (B) The places where sleeping, keeping warm and dry and camping may occur, and are an exception to subsection A above, shall be:

- i. An area identified on the backside of the recreation facility on Old Portland Road, subject to the time and manner restrictions herein; ~~and shall be limited to a maximum of 8 persons at this location;~~

[editor's note: this will need to be described better in a final draft, perhaps with a depicting exhibit]

Commented [JG3]: At their April 19, 2023 work session, the council was uncomfortable with listing specific sites, but was ok keeping the power to do so in the Ordinance. Per legal, we need to list a specific site or sites if you go the "places where you can camp" route.

- ii. An area identified as down Kaster Road subject to the time and manner restrictions herein ~~and shall be limited to a maximum of 7 persons at this location;~~

Commented [JG4]: Sand Island and McCormick Park are already addressed per this Chapter. Better to just reference chapter.

Commented [JG5]: Note additional reference to water vessels under 12.20.010(A). Similar to vehicles.

Commented [AH6]: If you adopt the language under 12.20.010(A) that sleeping in a vehicle is not "camping" then I would remove this from this list.

[editor's note: if a secondary site is determined this will need to be described better in a final version, perhaps with a depicting exhibit]

- iii. Sand Island upon paying the appropriate fees and per the rules of Sand Island City Parks per Chapter 8.24 SHMC;
- iv. The City Docks per the St. Helens Municipal Code Title 9;
- v. Public streets with an RV or vehicle under Title 10;

- vi) Places allowed by the City Administrator, but only following the City Administrator's or the Mayor's public declaration of an emergency, and only for a maximum of 30 days. The express approval of the City Council is required to extend the time allowed to camp in areas due to a declaration of emergency beyond 30 days.

12.20.30 Manner.

- (a) Any Person Camping or Sleeping under this title must follow the rules and regulations of the particular camping site where they are located, other portions of the St. Helens Municipal Code, and State Law. If there are no such rules or regulations applicable to the particular camping site, these rules apply.
- (b) No Person Camping or Sleeping may use an open fire or flame ~~to keep warm~~;
- (c) No Person may occupy more than a 12-foot by 12-foot area to camp;
- ~~(d) No person may camp beyond the time allowed in this Title or in Titles referenced in this Title;~~
- ~~(e)(d)~~ The person will maintain the area where they are sleeping in a clean condition, and upon vacating the site;
- ~~(f)(e)~~ Any dumping of wastewater, or grey water other than in an approved receptacle is ~~considered littering, and punishable under Oregon State Law, and any applicable laws and regulations for unlawfully dumping such waste;~~
- ~~(g)(f)~~ "Established campsites" and campsites created by a declaration of emergency under Section 12.20.020(B)(v) shall be removed per ORS 195.505 and after a declaration that the emergency no longer exists. ~~All other campsites or sleeping sites which violate this Title may be removed by law enforcement immediately after a documented discussion consistent with the policies of this Title;~~

- ~~(h) Littering within a site is prohibited.~~

Commented [JG7]: At their April 19, 2023 work session, the council expressed a desire for law enforcement to have some time extension authority. I noted this to legal and this is the only resulting change. This issue assumes the 5-day limit to specifically designated sites, which legal counsel questions as well (see below). Challenge is city leadership normally has this kind of power, not law enforcement personnel. Law enforcement is not law creation.

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12.20.040 Time.

- (a) Camping may occur for a maximum of 5 continuous days at the locations listed in 12.20.020(B).
- (b)** For RV's and vehicles upon the City Streets, up to 5 days at any location within the City of St. Helens in any 60-day period.

Commented [AH8]: What is the expectation of what the person does when the 5 days is up and they are still homeless? My understanding of what you are trying to do here is have camping take place only on the two locations above. If that is the case, and they can just move back and forth between those two locations (which are right by each other) than that would probably be fine, but if the expectation is that they leave town or something, this is subject to being challenged.

Commented [JG9]: "any location" was a matter of concern discussed with the council at the April 19, 2023 work session.

Commented [AH10]: If you adopt the language under 12.20.010(A) that sleeping in a vehicle is not "camping" then I would remove this from this list.

[editor's note: this provision should be coordinated with Title 10, Vehicles and Traffic. Could be an amendment to the appropriate Chapter in Title 10 and a reference to that work?]

12.20.050 Removal.

Property seized during removal of persons sleeping and camping in violation of this ordinance shall be disposed of ~~per~~ pursuant to ORS 195.500 and ORS 195.505.

12.20.060 Violation.

- (a) Upon encountering a person who seeks to sleep, camp, or keep warm and dry upon public property in a place, manner, or time that is inconsistent with this

Title, law enforcement personnel and/or public services personnel shall use their best judgment concerning the individual circumstances of such person and direct them to available City services, County Services, State Services, or non-profit service agencies, and locations within and/or outside the City where a person may find services to help them, ~~and where they may lawfully sleep, camp, keep warm and dry upon public property.~~

- (b) A First Violation of this Title shall be an infraction punishable by a fine of a documented warning;
- (c) A Second Violation of this Title within one year of the first violation shall be an infraction punishable by a fine of up to \$25.00;
- (d) A Third Violation of this Section within one year of the first violation shall be considered a misdemeanor punishable by confinement in the County Jail for up to 30 days, civil forfeiture to the City of St. Helens of property facilitating the offence, and payment of a fine of up to \$500.

[editor's note: perhaps include flexibility language for a judge's or similar person's consideration?]

- (d) ~~Violation by Persons under this Title does not limit additional prosecution of Persons under State Law, or other Titles of the St. Helens Municipal Code.~~

Commented [AH11]: Ramping up the violation amounts is fine, but I don't think the current state of the law allows you to ramp this up to a misdemeanor. Even if that were technically allowed I would highly recommend against having that provision in this for St. Helens. Let someone else get sued. Where you do not have an acute problem, this language creates an unnecessary risk that I would strongly advise against. I suggest making a third violation a violation with a fine of \$500 or less. I also recommend some of the language from the last couple of paragraphs of the Rainier example below be considered to offer some incentives for those being cited to engage with service providers and to further document those that refuse to do so.

Commented [AH12]: See below

The following is an example of something I have been working on with the City of Rainier for consideration of a couple of aspects. In particular, they are going with the lawful except where prohibited approach as opposed to where you are headed which is prohibited except where permitted. There are some benefits to each approach, and it appears you have made some decisions, but it is worth looking at. As to the editor's note and my note to 12.20.060(d), the last couple of paragraphs offer some ideas related to giving the judge discretion over the charges and some incentives that can be put in place.

ORDINANCE NO. 1089
AN ORDINANCE OF THE CITY OF RAINIER PROHIBITING CAMPING AT CERTAIN PUBLIC PROPERTIES

Section 1. Definitions.

For purposes of this section, the following words and phrases shall mean:

- a. To "Camp" means to occupy a Campsite for over 24 hours.
- b. "Campsite" means a location upon City Property where Camping Materials are placed.

CITY OF
RAINIER
EXAMPLE
BELOW

- c. "Camping Materials" include, but are not limited to, tents, huts, awnings, lean-tos, chairs, tarps, collections of personal property and/or similar items that are, or reasonably appear to be, arranged and/or used as camping accommodations.
- d. "City Property" includes, but is not limited to, parks, rights of way, parking lots, easements, or other land owned, leased, controlled, or managed by the City.
- e. "Personal Property" means any item that can reasonably be identified as belonging to an individual and that has apparent value or utility.
- f. "Relocate" means to move off of City Property or to a different City Property. This definition does not include moving to another portion of the same City Property.

Section 2. Camping Prohibited Upon City Property

1. It is unlawful for any person to Camp upon City Property unless otherwise authorized by law or by declaration of the City Administrator.
2. Unless otherwise authorized by law or by declaration of the City Administrator, it is unlawful to establish a Campsite for any period of time at the following locations:
 - a. City Hall and adjacent sidewalks, 106 W B Street;
 - b. Senior Center and adjacent sidewalks, 48 W 7th Street;
 - c. City of Rainier Marina and adjacent parking lot, 107 W C. Street;
 - d. Riverfront Park and Trail;
 - e. Sewer Treatment Plant, 690 W A Street; and
 - f. Water Treatment Plant, 650 E Rainier Blvd.
3. At least once every 24 hours an individual that has placed a Campsite, Camping Materials or Personal Property on City Property must Relocate.
3. The City shall only remove individuals and unclaimed Personal Property from a Campsite as provided by ORS 195.505.
4. Violation of this section is punishable by a fine of not more than \$125. The amount imposed shall be at the discretion of the judge.
5. If the City refers a service provider to an individual who is cited for a violation of this Section and the individual demonstrates they meaningfully engaged with that or another similar service provider after receiving the citation and before the hearing, the fine is eligible to be reduced or eliminated at the discretion of the judge.

CITY OF ST. HELENS PLANNING DEPARTMENT ACTIVITY REPORT



To: City Council
From: Jacob A. Graichen, AICP, City Planner
cc: Planning Commission

Date: 04.24.2023

This report does not indicate all *current planning* activities over the past report period. These are tasks, processing and administration of the Development Code which are a weekly if not daily responsibility. The Planning Commission agenda, available on the City's website, is a good indicator of *current planning* activities. The number of building permits issued is another good indicator as many require Development Code review prior to Building Official review.

ASSOCIATE PLANNER/PROJECT MANAGER—*In addition to routine tasks, the Associate Planner/Community Development Project Manager has been working on: See attached.*

PLANNING ADMINISTRATION—MISC.

Broadleaf Arbor (Gable Road apartments) conducted final inspection for Building E. D, the community building (no residential units) inspected previously. E is the 2nd of 10 buildings and the first one with families moving into the site.

Helping City Engineering with review of their CAD standards manual. The intent of this is to standardize the electronic data received for projects.

Conducted annual performance evaluation for Associate Planner/Community Development Project Manager.

Prepared and conducted semi-annual report to the City Council.

PLANNING COMMISSION (& acting HISTORIC LANDMARKS COMMISSION)

April 11, 2023 meeting (outcome): The Commission recommended approval of three annexations, which will go before the Council soon. The Commission also spent much time hammering out their recommendation to the Council to address Oregon HB 3115. They also selected who will represent the Commission for the gateway project at 1st and St. Helens Street.

As the Historic Landmarks Commission, they reviewed proposed changes to the Klondike Tavern at 71 Cowlitz.

May 9, 2023 meeting (upcoming): The Commission will have two public hearings: one for an appeal of a Sensitive Lands Permit for a large retaining wall and a Site Development Review modification/Variance for the Skinny's Texaco complex parking lot addition.

The Commission will also consider its annual report to the Council and possibly review of the architectural changes to the mixed-use building proposal on the corner of N. 6th Street and Columbia Boulevard to meet a condition of approval.

Also possible, more Oregon HB3115 review, depending on how quick legal counsel review occurs and the outcome of that.

COUNCIL ACTIONS RELATED TO LAND USE

The Council considered the Planning Commission recommendations to address Oregon HB 3115 and, generally, agreed with the approach with a couple considerations as we move closer to the final draft, including not specifying designated camping sites in the ordinance itself (but retaining the ability to designate sites) and giving law enforcement the latitude to allow longer camping stays instead of that being a burden falling squarely on the council. More to come with legal counsel review.

GEOGRAPHIC INFORMATION SYSTEMS (GIS)

Annual software license renewals for Planning and Engineering this month.

2020 – received original electronic wetland data for the SHIBP delineations. **March 2023** – after working with the data more closely (due to workload this was the first opportunity since 2020) noted some errors. Reached out to firm who did the work and received revised data.

April 2023 – edited raw data for use in the city's GIS system. Done 😊.

From: [Jennifer Dimsho](#)
To: [Jacob Graichen](#)
Subject: April Department Report
Date: Monday, April 24, 2023 9:22:11 AM

Here are my additions to the April Planning Department Report.

GRANTS

1. **Safe Routes to School - Columbia Blvd. Sidewalk Project** – Culvert project (County) will be a separate project than the sidewalks project. Will process a sensitive lands permit for this work as soon as property owner signs application. Construction on sidewalk to begin June 2023. County working through acquiring construction/slope easements for affected property owners.
2. **Business Oregon – Infrastructure Finance Authority** – Low-interest loan for Streets & Utilities Project and Columbia View Park improvements that are not covered by grants and Parks SDCs. Will submit 1st reimbursement request design work is complete for Riverwalk project.
3. **Riverwalk Project (OPRD Grants x2)** – Submitted 2 Quarterly Project Reports for each LGGP and LCWF grant. Submitted time extension for LGGP. Prepared for Council presentation on 4/5 to review updated stage rendering. Given notice to proceed into final design which should be completed by May 5. Attended 2 interpretive signage review meetings, compiled feedback for signage content in coordination with the CCMA. Compiled City feedback on the Mayer/Reed Bid Assistance/Construction Mgmt scope of work for final approval on 5/3 Council meeting.
4. **Community Development Block Grants (CDBG)** – Submitted application for \$2.5 million for a design-only project to fund sanitary sewer design/engineering/permitting. CDBG apps include over 30 attachments/narrative/budget/etc. Coordinated initial review of application with state prior to the deadline of 4/30.
5. **Certified Local Government Historic Preservation Grant Program** – Received our contract for 17k in funding. Mailed announcement letters to 93 eligible property owners. Updated project materials on website and coordinated social media outreach. Began answering questions from property owners about potential projects.
6. **DLCD Technical Assistance Program** – Grant cycle will likely open in August and closes in October. DLCD Regional Rep thinks updating our Economic Opportunities Analysis (EOA) could be funded. Compiled resources to assist with scoping our EOA update and writing our grant application this August.
7. **Veterans Memorial Grant Program** - In partnership with the local VFW, we submitted a grant to fund a flag/monument expansion at the McCormick Park veterans memorial. Grant was due March 31. Request was for \$33k, with a match \$28k of in-kind labor/management/VFW donations.

PROJECTS & MISC

8. **Riverfront Streets/Utilities Project** – Attending weekly check-ins to stay in tune with project schedule and any construction delays/issues. Attending a joint utility coordination meeting for all franchise utilities and to discuss undergrounding project as it relates to the project. Reviewed 50% design and cost estimate for Undergrounding utilities.

9. **S. 1st Street & St. Helens St. Gateway Project** – Created a stakeholder group based on Council feedback. Coordinated and attended internal kickoff meeting with LCE. Prepared for and coordinated stakeholder group kickoff meeting on 4/28 (first of 3 total design meetings). Prepared project schedule with LCE. Anticipated completion date of design is 7/10.
10. **St. Helens Industrial Business Park (SHIBP) Public Infrastructure Design** – 30% design for Phase I infrastructure & permitting/grading work for Phase II with Mackenzie. Mackenzie revised footprint to accommodate feedback from Cascades regarding use of the existing mill buildings. PGE said no further reduction in size is possible for the sub-station, so we are moving forward with design as presented. Kicked off Phase II grading work effort.
11. **Warrior Rock Lighthouse Replica Project** – Restoration of the warrior rock lighthouse replica on County-property near Columbia View Park. Councilor Sundeen was able to locate original Warrior Rock lighthouse plans! Coordinated a meeting with SHPO to discuss the 2023 Oregon Heritage grant opportunity which opens this August 2023. This could potentially fund the design and cost of materials for the replica, a kiosk, and signage. Work would be completed in-house by Public Works staff.

Jenny Dimsho, AICP

Associate Planner / Community Development Project Manager

City of St. Helens

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