



CITY OF
West Linn

Memorandum

Date: December 5, 2018

To: Planning Commissioners

From: John Boyd, Planning Manager AICP, CFM *JB*

Subject: Information received after the preparation of the Staff Report

Following the completion of the Staff Report, Savana Oaks Neighborhood Association submitted the attached memo along with thirteen attachments.

The memo and attachments are provided for your review and preparation for the upcoming hearing on December 12, 2018.

Shroyer, Shauna

From: Savanna Oaks Neighborhood Association
Sent: Wednesday, December 05, 2018 11:54 AM
To: #Board - Planning Commission; Planning Commission (Public)
Cc: Williams, John; Boyd, John; Zak, Teresa; Mollusky, Kathy
Subject: SONA Memorandum re MISC-18-07
Attachments: Exhibit 6.pdf; Exhibit 7.pdf; Exhibit 8.pdf; Exhibit 9.pdf; Exhibit 10.pdf; Exhibit 11.pdf; Exhibit 12.pdf; Exhibit 13.pdf; Exhibit 1.pdf; Exhibit 2.pdf; Exhibit 3.pdf; Exhibit 4.pdf; Exhibit 5.pdf; PC Memorandum re MISC-18-07.pdf

Dear Planning Commissioners,

We understand that you will not be responding to this communication. Please consider the attached Memorandum to the Planning Commission for MISC-18-07 which has a hearing date of December 12, 2018. There are also 13 Exhibits attached on a total of 49 pages.

The Memorandum and Exhibits were approved by a vote of Savanna Oaks NA on December 4, 2018. There were 35 ayes, 0 no's, and 2 abstentions. Also included is a supplementary sheet with signatures of four West Linn citizens who live in Willamette NA and who attended the Savanna Oaks NA meeting, did not vote on the memorandum with Savanna Oaks NA members (because they are not SONA members), and who also concur with the memorandum.

Please add this entire submittal to the Public Record.

Ed Schwarz, President
Roberta Schwarz, Secretary

Savanna Oaks Neighborhood Association



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This e-mail is subject to the State Retention Schedule and may be made available to the public

MEMORANDUM TO THE PLANNING COMMISSION

12/04/2018

File No.: MISC-18-07

Hearing Date: 12/12/2018

We, the undersigned, submit this Memorandum to the Planning Commission in response to the application for interpretation of certain sections of the West Linn Community Development Code (CDC) made by the owners of the property located at 2444, 2422 and 2410 Tannler Drive.

In summary:

- (1) The Planning Commission should conclude that the applicant's Exhibit A does not utilize the entire first floor of the building for commercial use as required by 21.050(2); and
- (2) The Planning Commission should not engage in speculation as to which uses may be allowed or approved on the property.

PROCEDURES FOR DECISION MAKING

99.060(A)(3), provides that the Planning Director has the authority to make "initial interpretations" of the code, however, the Planning Director has referred this application for initial interpretation of the code to the Planning Commission.

In accordance with 99.140, any person or neighborhood association who has established standing in this matter may pursue an appeal pursuant to 99.170(G)(1). The City Council has jurisdiction to hear any such appeal under 99.240(A).

The City's final interpretation of its code must be affirmed by the Land Use Board of Appeals so long as the interpretation is plausible given the express language or purpose of the City's comprehensive plan or code, the purpose or underlying policy that provides the basis for the City's comprehensive plan or code and the interpretation is not contrary to State statute, rule or land use goals which the City's code is intended to implement. ORS 197.829(1); *Stafford Invs., LP v. Clackamas County*, __ Or LUBA __, __ (LUBA No. 2018-003, 10/26/2018) (Slip op at 14). LUBA will uphold a City's interpretation even if more than one interpretation is plausible.

**STAFF REPORT REFERENCE TO FINDINGS
SUBMITTED BY APPLICANT**

The Staff Report states that Staff's recommendations are based, in part, on "findings submitted by applicant, which are incorporated by this reference" however, no such proposed findings submitted by the applicant were made publicly available as of the date of the writing of this memorandum. If any such proposed findings were submitted by the applicant, we request

that they be made available immediately on the City's website, but we do not request a postponement or continuation of this hearing.

The Staff Report also refers to the applicant's "proposal," however, there is no pending development application or proposal submitted by the applicant of which the public has received notice. The applicant is merely asking for the City's interpretation of certain sections of the code as those sections would apply to the diagram marked as applicant's Exhibit A.

Historical Context of Applications for this Property

The owner has been trying to develop this property into high density multi-family housing for several years. We believe it is important for the Planning Commission to be aware of the history of some of the various development and zone change applications submitted by the property owner to give some context to this current request for code interpretation.

In 2013, ConAm Properties, LLC (ConAm), on behalf of the owner, attended a pre-application conference, PA-13-31, where many issues regarding the development of the property were discussed including the issue of what constitutes a "first story" under the code and the issue of visitor parking for multi-family dwellings. (Exhibit 1). Staff prepared a written memo regarding PA-13-31 and discussed the definitions of "Story" and "Story, first" in the code as they applied to a "tandem garage space" shown on "Sheet P6 with a maximum height of 10 feet." As of the date of this memo, Sheet P6 is not publicly available.

The tandem garage space on Sheet P6 apparently did not extend beyond the line representing 50% of the total perimeter of the proposed building because staff concluded it would not qualify as a "Story" as defined by the code. Staff also concluded the "first story" would be the "one above the tandem garage space." (Exhibit 1, page 2). Which meant that in order to comply with the code and requirements of the OBC zone, the owner could only develop multi-family housing above the tandem garage space.

Staff also noted the number of available visitor parking spaces for use with the multi-family development on Tannler Drive totaled 48 based on the then existing constraints set forth in the Staff memo. (Exhibit 1, page 3).

The results of the pre-application conference apparently spurred the owner and ConAm to apply for a zone change from OBC to R-2.1, ZC-14-01 and PLN-14-01, for the purpose of developing the property into 210 apartments. (Exhibit 2). ConAm argued that commercial uses on the first floor of buildings with multiple-family units was "highly unlikely" because of "the site's lack of visibility and topography," and due to "limited demand for additional commercial development in this area." (Exhibit 2, page 2). ConAm also argued that the OBC zone is "ambiguous about what kind of and how much commercial use is required in order to develop multi-family units." (Exhibit 2, page 2). The City Council disagreed with the owner and denied the request for zone change. (Exhibit 3). The Council meeting notes from 01/20/2015 reflect the statements of then Mayor John Kovash stating:

“Residents do not support higher density in West Linn; they have always been protective of the character of their neighborhoods. This is an issue affecting the welfare of the community. The applicant and staff cite the economic analysis and conclude the site is not suitable for the planned use [OBC] primarily due to low market demand for office space and topographical features common in West Linn. The lack of demand for office space is not the same as not being suitable for office space. * * * It was said there is 60 years of vacant land available for OBC, [I] am not sure that is true. The difference between the zone request [R-2.1] and the zone how it stands [OBC] is quite a bit of difference in commercial land. Citizens like the population density as it is. Having trouble finding commercial space and that there is less demand for office space does not mean the property is zoned incorrectly.” (Exhibit 3).

Undeterred by the denial of the application for a zoning change, on 07/08/2015, ConAm submitted development application DR-15-11, proposing to develop the site into 180 apartments in 7 buildings with the ground level providing 146 residential parking spaces and approximately 300 square feet of commercial space on the first floor of each building, for a total of just 1,973 square feet of commercial space. (Exhibit 4, page 3). The proposed diagrams of the buildings show that the buildings were designed to have the first floor extend beyond the 50% perimeter with dimensions designed to comply with the definitions of “Story” and “Story, first” but which essentially created a significant portion of unusable and undeveloped space on the first floor¹ given the topographical conditions of the property. (Exhibit 4, page 12).

Staff recommended the Planning Commission find that the application satisfied the conditions of 21.050(2). and find that the application proposed “residential dwelling units above a first floor commercial space.” (Exhibit 6).

Disagreeing with Staff’s recommendation, the Planning Commission denied the application because it did not meet the conditions of 21.050(2), specifically finding that the code requires commercial use on “the entire first floor” and the residential parking garages on the first floor were part of the multiple-family units and therefore not a commercial use and were prohibited on the first floor by the code. (Exhibit 7, page 2). Additionally, the Commission found the applicant’s reading of 21.050(2), that only “some” commercial use was required on the first floor, to be “inconsistent with the plain meaning of the text and it could lead to an absurd result. For example, under the Applicant’s interpretation the installation of a vending machine on the first floor would meet the prescribed condition that there is some commercial use on the first floor, but such a limited commercial use would not serve the purpose of the OBC zone. Therefore, the Commission finds that CDC 21.050(2) requires the entire first floor to be comprised of commercial use.” (Exhibit 7, page 2).

On 11/15/2015, the City Council upheld the denial of the ConAm application for the reasons stated by the Commission, AP-15-01. (Exhibit 8). The Council also stated:

¹ On 09/02/2015, in a letter to then Chair of the Planning Commission, Ryerson Schwark, the applicant conceded that: “The Planning Commission can find that “first story” is synonymous with “first floor” referenced in CDC 21.050.2.” (Exhibit 5, page 2).

“Second, the Council finds that requiring all components of the multiple-family units to be above the first floor of the structure is consistent with the purpose of the prescribed condition, which is to provide an opportunity for commercial development on the first floor of the structure. Moreover, prohibiting multiple-family units from being located on the first floor is consistent with the purpose of the OBC Zone, which is to “provide for groups of business and offices in centers” because it would allow a number of businesses to be located adjacent to one another on the first floor. It also provides opportunities for larger commercial spaces and a wider variety of commercial uses. If the Appellant’s interpretation of the prescribed condition is adopted, the result would essentially be a rezoning of the property to residential uses, which contradicts the purpose of the OBC Zone.

“The purpose statement for the OBC zone is not a separate criteria or approval standard, but it provides important context and a clear statement of intent that informs Council’s interpretation of the standards at issue. It might be that right now the market is not ideal for office and business centers, but the market will return and West Linn will need its limited OBC zoned lands to meet its longer term economic objectives.” (Exhibit 8, page 4).

On 09/22/2017, the owner submitted an application for a Development Agreement, MISC-17-09, which called for the rezoning of the majority of the property from OBC to R-2.1, the realignment of Tannler Drive and retention of OBC zoning for a portion of the property closest to Blankenship. The owner intended to develop the maximum number of multi-family units if the zone change was approved and to develop a large fitness center in the OBC portion. At its’ meeting on 12/14/2017, the Economic Development Committee voted unanimously to recommend to the City Council that the City maintain and preserve the property as OBC. (Exhibit 9). MISC-17-09 was scheduled to come before the City Council at the hearing set for 02/12/2018 under ORD 1666.

On 01/18/2018, the owner submitted an application for a proposed mixed-use development under the OBC zone standards and regulations which called for 216 multi-family units and 30,500 square feet of commercial space, PA-18-05. (Exhibit 10). However, the diagrams show that the proposed commercial space did not occupy more than 50% of the total perimeter of the proposed buildings and therefore would not have qualified as being on the first story/floor, making the first story the one directly above the area marked as commercial on the diagrams. (Exhibit 10, page 3). Like the owner’s application in PA-13-31, the first story which would need to be devoted entirely to commercial use in order to comply with the code would be the next story up, the first level identified in the owner’s diagrams as multi-family units. (Exhibit 10, page 3).

The owner withdrew MISC-17-09 and did not pursue PA-18-05.

On 09-11-2018, the owner requested a meeting with the Savanna Oaks Neighborhood Association (SONA) and submitted diagrams for two alternate proposed developments labeled Scheme L1 and Scheme L2. (Exhibit 11). A presentation was made at the SONA meeting on 10/02/2018 on behalf of the owner by Ms. Powers and Steve Mileham. (Exhibit 12, pages 2-3).

Scheme L1 is almost identical to the diagrams proposed in PA-18-05, but Scheme L1 contains slightly more commercial space, apparently because the owner recognized the issue with regard to failure to meet the definition of story in the previously proposed diagrams. Both Scheme L1 and L2 call for at least 70 visitor street parking spaces on Tannler in order to comply with the parking requirements for the multi-family portion of the proposed development, however, the assumption that 70 visitor street parking spaces are available on Tannler is inconsistent with Staff's previous calculation of the number of 48 available street parking spaces on Tannler Drive in PA-13-31. SONA members expressed their dissatisfaction with the proposed plans. (Exhibits 11 and 1, page 3).

On 10/19/2018, Ms. Powers sent a letter requesting the Planning Director's interpretation of the code to John Boyd, which is now designated MISC-18-07.

Applicant's Question 1
"On A Sloped Site, What Constitutes The "First Floor Of The Structure"?"

The applicant specifically asks for an interpretation of 21.050(2) as it would apply to the diagram identified as Exhibit A and attached hereto as Exhibit 13, and whether the commercial space in that exhibit utilizes the entire first floor. A response to this request requires consideration of the purpose of the OBC zone, set forth in 21.010, the definitions in the code and 21.050(2).

21.010 PURPOSE

The purpose of this zone is to provide for groups of business and offices in centers, to accommodate the location of intermediate uses between residential districts and areas of more intense development, to provide opportunities for employment and for business and professional services in close proximity to residential neighborhoods and major transportation facilities, to expand the City's economic potential, to provide a range of compatible and supportive uses, and to locate office employment where it can support other commercial uses. The trade area will vary and may extend outside the community. This zone is intended to implement the policies and criteria set forth in the Comprehensive Plan.

The code includes the following condition of use in an OBC zone:

21.050 USES AND DEVELOPMENT PERMITTED UNDER PRESCRIBED CONDITIONS

The following uses are allowed in this zone under prescribed conditions:

* * *

2. Multiple-family units only above the first floor of the structure, as a mixed use in conjunction with commercial development that utilizes **the entire first floor**. (Emphasis added).

21.050(2) was amended in 2016 by ORD 1647 following the denial of DR-15-11 and AP-15-01, in which the applicant proposed just a small portion of the first floor for commercial use, to expressly require the "entire first floor" be dedicated to commercial use.

The code contains the following definitions:

Basement. Any floor level below the first story in a building, except that a floor level in a building having only one floor level shall be classified as a basement unless such floor level qualifies as a first story as defined herein.

Story. That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level **directly above a basement** or unused under floor space is more than six feet above grade as defined herein for more than 50 percent of the total perimeter, or is more than 12 feet above grade as defined herein at any point, such basement or unused under floor space shall be considered as a story. (Emphasis added).

Story, first. The lowest story in a building which qualifies as a story, as defined herein, except that a floor level in a building having only one floor shall be classified as a first story, provided such floor level is not more than four feet below grade, as defined herein, for more than 50 percent of the total perimeter, or more than eight feet below grade, as defined herein, at any point. (Emphasis added).

The commercial space identified in the applicant's exhibit does not qualify as the first story/first floor for the following reasons:

1. The finished floor area **directly above** the commercial space does not comprise more than 50% of the total perimeter of the building, because the commercial space does not comprise more than 50% of the total perimeter of the building as required by the definition of "Story;" and
2. The commercial space is not the only floor level in the proposed building so the definition of the floor level in a building having only one floor that is not more than four feet below grade for more than 50% of the total perimeter, or more than eight feet below grade at any point, as specified in the definition of "Story, first," is inapplicable.

Should the applicant contend that the commercial space if extended just beyond 50% of the total perimeter of the building, or to any distance less than the complete perimeter of the building, qualifies as a story, we submit that any such proposed development would not meet the condition of 21.050(2) which requires the **entire first floor** be dedicated to commercial space.

The policies of the Comprehensive Plan as it relates to mixed-use includes the encouragement of commercial development that creates "meaningful public gathering places that incorporate uses as entertainment and recreation venues, restaurants, and unique shopping opportunities to increase activity in surrounding areas" and which "integrates aesthetically pleasing commercial development with residential uses." Like the applicant's previous development proposals, the applicant's diagram does not meet the letter, spirit or intent of the code or comprehensive plan.

For the reasons set forth above, the Planning Commission should respond to the applicant's request by concluding that the applicant's configuration on the applicant's Exhibit A does not utilize the entire first floor of the building solely for commercial space as required by 21.050(2).

Applicant's Question 2
"What Constitutes A "Commercial" Use or Development"

The applicant is attempting to engage the Planning Commission in speculation with regard to potential proposed development on the property without actually submitting a detailed development proposal and going through the review process. Such speculation is not a proper use of the Planning Commission, or Staff, resources and should not be condoned or allowed.


The commercial uses allowed outright on OBC zoned property are clearly set forth in 21.030 and the conditional uses are clearly set forth in 21.050 and 21.060. The Planning Commission should not engage in speculation resulting in a potentially binding determination or decision of what would be allowed on the property based solely on a few paragraphs in a letter submitted to the City under the guise of a request for an "interpretation" by an applicant.

The Planning Commission should simply refer the applicant to 21.030, 21.050 and 21.060 and encourage the applicant to submit an actual development proposal if the applicant would like the City to consider and render a decision on the applicant's development plans in accordance with all required review, approval, hearing and appeal processes.

ADOPTION OF MEMORANDUM
BY SAVANNA OAKS NEIGHBORHOOD ASSOCIATION

WHEREFORE, having considered and voted on the matters set forth in the above Memorandum to the Planning Commission dated 12/04/2018 related to MISC-18-07 at its meeting on 12/04/2018, the Savanna Oaks Neighborhood Association hereby adopts the memorandum as its official position on MISC-18-07 and urges the Planning Commission to reach the conclusions set forth therein.

PASSED AND APPROVED THIS 4TH DAY OF DECEMBER 2018.


Ed Schwarz, SONA President

AYE: 35
NO: 0
ABSTAIN: 2

///

CONCURRENCE

We, the undersigned, concur with the matters set forth in the above Memorandum to the Planning Commission dated 12/04/2018 related to MISC-18-07 and urge the Planning Commission to reach the conclusions set forth herein.

Printed Name:

Signature:

Julia Simpson



Diana Curbage



Judy Hunter



~~Suzanne Chappuis~~ Belongs
to

~~Suzanne Oates NA~~

~~Chris Hobbs~~



Pre-Application Conference

Site: "Tannler West" at the northwest corner of Tannler Drive and Blankenship Road

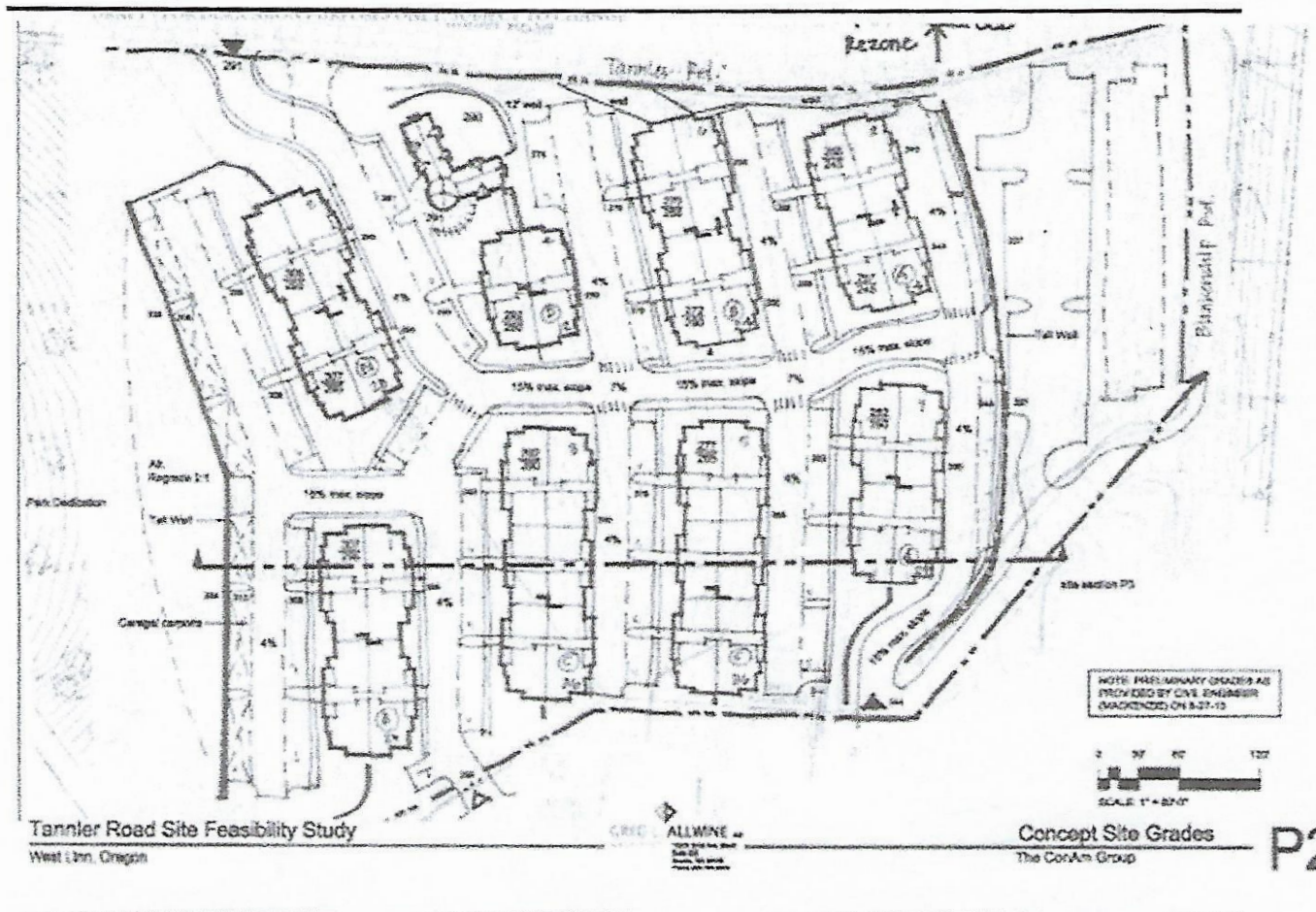
File No: PA-13-31

Date: December 5, 2013

Attendees: Rob Morgan, Mike Mahoney, Jeff Parker, Michael Robinson

Staff: Noah Brennan, Khoi Le, Peter Spir, Ken Worcester

Public: Kathie Halicki, Roberta Schwarz, Gail Holmes



Proposal: The total site area comprises 11.3 acres and is zoned OBC. Initially, the applicant would do a lot line adjustment (Planning Director decision) to move one existing lot line to a lower portion of the site and rezone the 10.1 acres north of the adjusted line from OBC to R-2.1. A zone change and comprehensive plan amendment would be required per Community Development Code (CDC) Chapter 105. (Planning Commission recommendation followed by City Council decision)

Question 5: Building Height methodology

A tandem garage space is shown on Sheet P6 with a maximum height of 10 feet. This space would NOT be considered a story so long as “the finished floor level directly above a basement or unused under floor space is more than six feet above grade as defined herein for more than 50 percent of the total perimeter, or is more than 12 feet above grade as defined herein at any point”.

By backfilling or use of natural grades along the side of the garage space, the requirement that no more than 50 percent of the perimeter can be exposed over six feet high can be met. The 10 foot height is also below the maximum 12 feet.

***Story.** That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement or unused under floor space is more than six feet above grade as defined herein for more than 50 percent of the total perimeter, or is more than 12 feet above grade as defined herein at any point, such basement or unused under floor space shall be considered as a story.*

The “first story” is the one above the tandem garage space:

***Story, first.** The lowest story in a building which qualifies as a story, as defined herein, except that a floor level in a building having only one floor shall be classified as a first story, provided such floor level is not more than four feet below grade, as defined herein, for more than 50 percent of the total perimeter, or more than eight feet below grade, as defined herein, at any point.*

The maximum height of a multi-family building in the R-2.1 zone per section 16.070(A) (5) is three and a half stories. A half story is defined as:

***Story, half.** A story under a gable, hip, or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than two feet above the floor of such story.*

Given that the top story has a hip roof, meeting the half story definition should be relatively easy.

The allowable height in the R-2.1 zone is three and a half stories per 16.070(A) (5) and three and a half stories or 45 feet per 16.070(F) (2). To measure the height of the structure 41.005 applies:

41.005 DETERMINING HEIGHT OF BUILDING

A. For all zoning districts, building height shall be the vertical distance above a reference datum measured to the highest point of a flat roof or to the deck line of a mansard roof or to the highest gable, ridgeline or peak of a pitched or hipped roof, not including projections above roofs such as cupolas, towers, etc. The reference datum shall be selected by either of the following, whichever yields a greater height of building.

1. For relatively flat sites where there is less than a 10-foot difference in grade between the front and rear of the building, the height of the building shall be measured from grade five feet out from the exterior wall at the front of the building; or

2. For steeper lots where there is more than a 10-foot difference in grade between the front and rear of the building, the height of the building is measured from grade at a point five feet out from the exterior wall on the lowest side (front or rear) of the building. One then measures vertically to the peak or ridgeline of the roof to determine the height.

The proposed structure meets the 45 foot and three and a half story limitation as shown on sheet P6.

Question 6: Sprinklers

Contact Ty Darby (TVFR Deputy Fire Marshal) at : 503-259-1409 Ty.Darby@tvfr.com

Question 7: Visitor Parking

To determine allowed visitor parking on Tannler Drive you would need to provide 18 feet per car and also take out those areas within 15 feet of the outer wings of the driveway curb cut or within 10 feet of the expected three fire hydrants. You would have to use those sections of Tannler Drive adjacent to the project. With 1000 feet of frontage on Tannler Drive, 75 feet would be taken off for the driveway and 60 feet for the three hydrants to yield 865 feet divided by 18 feet per car or 48 visitor parking spaces. For these to be functional spaces, pedestrian access would need to be provided at regular intervals from Tannler Drive into the multi-family site. Ideally some visitor spaces would be provided evenly throughout the site especially on the west side.

Question 8: Traffic Mitigation Costs offset by SDC's?

See Khoi Le

Question 9: Accessibility and Site Impracticality Test

See Dave Davies (Building Official (503-656-4211))

Question 10: FAR

Regarding allowable floor area ratios, the definition of FAR is as follows:

***Floor area ratio (FAR).** The FAR is that percentage of the total lot size that can be built as habitable space. A FAR of 0.45 means that the square footage of the lot is multiplied by 0.45 to yield the total habitable square footage of the house including accessory dwelling units. For example, on a 10,000-square-foot lot, an FAR of 0.45 will allow a 4,500-square-foot house ($10,000 \times 0.45 = 4,500$). The FAR does not include or apply to attached garages. The FAR does not apply to detached garages, accessory dwelling units and accessory structures except that these detached structures may not individually exceed the height or square footage of the principal dwelling. The FAR does not include basement areas that average less than 50 percent of the basement perimeter exposed above grade.*

Application by ConAm Properties, LLC for a Comprehensive Plan Map Amendment from “Commercial” to “Medium-High Density Residential” and Zoning Map Amendment from “OBC” to “R-2.1” on Approximately 11.3 Acres.

2. REASON FOR APPLICATION SUBMITTAL.

ConAm made this request because it wants to develop the property for multi-family uses. The evidence in the application shows that the site is unsuitable for office, hotel or retail development but is well-suited for multi-family development.

The OBC zone allows multi-family units with first floor commercial uses but because of the site's lack of visibility and topography, and because of limited demand for additional commercial development in this area, commercial development on this site is highly unlikely. Moreover, the OBC zone is ambiguous about what kind of and how much commercial use is required in order to develop multi-family units.

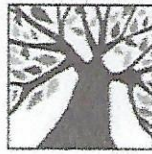
5. SITE INFORMATION.

The approximately 11.3 acre site consists of three (3) areas:

- Approximately 7.1 acres in the center of the site to be developed for multi-family housing. The development could contain about 210 dwelling units.
- Retention of 1.2 acres of OBC zoning on the north side of Blankenship Road.
- Retention of approximately 3.0 acres for open space retained on the north end of the site. This part of the site contains most of the significant trees on the site.
- The West Linn Parks and Recreation Advisory Board unanimously adopted a motion on January 9, 2014 to support setting aside this open space.

4. SITE MAP.





CITY OF
West Linn

22500 Salamo Road
West Linn, Oregon 97068
<http://westlinnoregon.gov>

**WEST LINN
CITY COUNCIL MEETING
NOTES
January 20, 2015**

Call to Order

Council

Present:

Mayor John Kovash, Council President Thomas Frank, Councilor Jenni Tan, City Manager Chris Jordan, Assistant City Manager Kirsten Wyatt, City Recorder Kathy Mollusky, Citizen Engagement Coordinator Lori Hall, and City Attorney Dan Olson.

Council

Excused:

Councilor Russ Axelrod, and Councilor Brenda Perry.

Staff

Present:

None.

Ordinance 1634, Amending the Comprehensive Plan and Zoning Map *Public Hearing Closed*

Mayor Kovash informed the audience Council is deliberating on application number ZC-14-01/PLN 14-01 for a recommendation to change the existing zone from Office Building Center to Single family and Multiple-family Residential, and change the Comprehensive Plan Map designation from Commercial to Medium-high Density Residential.

City Attorney Olson asked Council if they had any site visits or ex parte contacts since the last meeting.

Council President Frank stated he drives by the property frequently. He has not had any ex parte contact since the last meeting.

Neither Councilor Tan nor Mayor Kovash had any ex parte contact since the last meeting.

Council President Thomas Frank moved to tentatively approve application ZC-14-01/PLN 14-01 for a zone change from Office Business Center to Medium Single family and Multiple-family Residential and a change to the Comprehensive Plan Map designation from Commercial to Medium-high Density Residential; direct staff to prepare findings to support this decision; and continue the meeting to February 2, 2015, at 5:00 p.m. to adopt the findings. The motion did not receive a second and was lost.

Councilor Tan is conflicted. There have been a lot of good comments made and she requested more information from staff. She is basing her decision on 105.050 Quasi-judicial Amendments and Standards for Making Decision, Subsection (C)(2), which provides that the decision shall be based on consideration of if there is a public need for the change or the change can be demonstrated to be in the interest of the present and future community. The applicant stated the site may not be able to develop commercially immediately, but she recommends to preserve it for the opportunity. In looking at the zone map, there is not much Office Business Center (OBC), which is dark red, in West Linn. She is looking toward the future and would like to leave it zoned as is for possible future development.

Council President Frank explained that serving on the Council, they have many roles. Tonight the role is as a quasi-judicial decision maker. They have to look at the record and make a decision based on fact, the code, and applicable laws. This property was zoned OBC in 1984. In 2006 and 2010 it was approved for office development; however, this land has sat vacant. The applicant argued the original zoning was a mistake. In reviewing the Johnson Economic Report, between the two corporate office structures, there is a combined vacancy of 28 percent on 145,000 developed square feet. Adding nearly 300,000 square feet would only add to the existing oversupply of inventory for office use. Office usage is changing. Companies are becoming decentralized and the need for a large office presence is not needed. This proposal has the ability to generate 170 construction related jobs. Those jobs will have a positive impact to our local economy through direct and indirect spending. Once the site is occupied there will be a lasting positive economic impact to our local economy. We have a need for multi-family housing. The application will not adversely affect the welfare of the community; there are current public

facilities in place. Residents would be able to walk to nearby shopping and even utilize the park across Tannler. The lower commercial area embraces this development as an increased and sustainable customer base for their tenants. The zone does not generate traffic; it reduces the number of vehicle trips and decreases the overall impact to our transportation system. Mitigation would still be required by any further application submitted for this site. He is in favor of rezoning the property.

Mayor Kovash acknowledges this is a difficult issue. 76 percent of developable land is single family housing. Residents do not support higher density in West Linn; they have always been protective of the character of their neighborhoods. This is an issue affecting the welfare of the community. The applicant and staff cite the economic analysis and conclude the site is not suitable for the planned use primarily due to low market demand for office space and topographical features common in West Linn. The lack of demand for office space is not the same as not being suitable for office space. The traffic analysis cannot be discerned until an application is before you that tells you what kind of business it will be. General studies show this type of residential results in less traffic. It was said there is 60 years of vacant land available for OBC, he is not sure that is true. The difference between the zone request and the zone how it stands is quite a bit of difference in commercial land. Citizens like the population density as it is. Having trouble finding commercial space and that there is less demand for office space does not mean the property is zoned incorrectly.

Councilor Jenni Tan moved to tentatively deny application ZC-14-01/PLN 14-01 for a zone change from Office Business Center to Medium Single family and Multiple-family Residential and a change to the Comprehensive Plan Map designation from Commercial to Medium-high Density Residential; direct staff to prepare findings to support this decision; and continue the meeting to February 2, 2015, at 5:00 p.m. to adopt the findings. Mayor John Kovash seconded the motion.

Council President Frank still supports the zone change. The property has been zoned OBC since 1978. In 2006 and 2010, it was approved for office development. It is still vacant; there is no development in site. The original zone was an error. The surrounding businesses support the zone change. It will create construction jobs which will have positive impact in community. After the site is developed, there will be additional residents to support our businesses; this site is important to economic development. Office demand is down; offices are being decentralized, distributed in homes, other work spaces, etc. There is no need to have large office buildings.

Ayes: Mayor John Kovash, and Councilor Jenni Tan.

Nays: Council President Thomas Frank.

The motion carried 2 - 1

DEVELOPMENT REVIEW APPLICATION

For Office Use Only		
STAFF CONTACT: <i>Zach Pelz</i>	PROJECT NO(S): <i>DR-15-11 / LLA-15-01</i>	
NON-REFUNDABLE FEE(S): <i>1100-</i>	REFUNDABLE DEPOSIT(S): <i>\$19,700-</i>	TOTAL: <i>20,800-</i>

Type of Review (Please check all that apply):

- | | | |
|--|---|--|
| <input type="checkbox"/> Annexation (ANX) | <input type="checkbox"/> Historic Review | <input type="checkbox"/> Subdivision (SUB) |
| <input type="checkbox"/> Appeal and Review (AP) * | <input type="checkbox"/> Legislative Plan or Change | <input type="checkbox"/> Temporary Uses * |
| <input type="checkbox"/> Conditional Use (CUP) | <input checked="" type="checkbox"/> Lot Line Adjustment (LLA) */** <i>\$800</i> | <input type="checkbox"/> Time Extension * |
| <input checked="" type="checkbox"/> Design Review (DR) <i>\$19,700</i> | <input type="checkbox"/> Minor Partition (MIP) (Preliminary Plat or Plan) | <input type="checkbox"/> Variance (VAR) |
| <input type="checkbox"/> Easement Vacation | <input type="checkbox"/> Non-Conforming Lots, Uses & Structures | <input type="checkbox"/> Water Resource Area Protection/Single Lot (WAP) |
| <input type="checkbox"/> Extraterritorial Ext. of Utilities | <input type="checkbox"/> Planned Unit Development (PUD) | <input type="checkbox"/> Water Resource Area Protection/Wetland (WAP) |
| <input type="checkbox"/> Final Plat or Plan (FP) | <input type="checkbox"/> Pre-Application Conference (PA) */** | <input type="checkbox"/> Willamette & Tualatin River Greenway (WRG) |
| <input type="checkbox"/> Flood Management Area | <input type="checkbox"/> Street Vacation | <input type="checkbox"/> Zone Change |
| <input type="checkbox"/> Hillside Protection & Erosion Control | <i>Inspection \$300</i> | |

Home Occupation, Pre-Application, Sidewalk Use, Sign Review Permit, and Temporary Sign Permit applications require different or additional application forms, available on the City website or at City Hall.

Site Location/Address: NORTHWEST CORNER OF BLANKENSHIP ROAD AND TANNER DRIVE	Assessor's Map No.: 21E35C
	Tax Lot(s): 100, 102, 200
	Total Land Area: approx. 10.1 acres

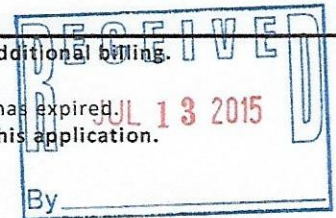
Brief Description of Proposal: Class II Decision Review for a seven (7) structure mixed use development, including accessory uses, with 192 multiple-family dwelling units and seven (7) commercial spaces as allowed by CDC 21.050(2); property line adjustment to reconfigure three (3) lots.

Applicant Name: CON AM PROPERTIES, LLC, C/O ROB MORGAN <small>(please print)</small>	Phone: 858-614-7378
Address: 3990 RUFFIN RD, SUITE 100	Email: rmorgan@conam.com
City State Zip: SAN DIEGO, CA 92123	

Owner Name (required): JEFFERY I. PARKER AND WILLIAM S. WILT <small>(please print)</small>	Phone: (503) 742-1942
Address: 1800 BLANKENSHIP RD. #200	Email: jeff@parkerdev.com
City State Zip: WEST LINN, OR 97068	

Consultant Name: OTAK <small>(please print)</small>	Phone:
Address: 806 SW THIRD AVENUE, SUITE 300	Email:
City State Zip: PORTLAND, OR 97209	

- All application fees are non-refundable (excluding deposit). Any overruns to deposit will result in additional billing.
- The owner/applicant or their representative should be present at all public hearings.
- A denial or approval may be reversed on appeal. No permit will be in effect until the appeal period has expired.
- Three (3) complete hard-copy sets (single sided) of application materials must be submitted with this application.
One (1) complete set of digital application materials must also be submitted on CD in PDF format.
If large sets of plans are required in application please submit only two sets.



* No CD required / ** Only one hard-copy set needed

The undersigned property owner(s) hereby authorizes the filing of this application, and authorizes on site review by authorized staff. I hereby agree to comply with all code requirements applicable to my application. Acceptance of this application does not infer a complete submittal. All amendments to the Community Development Code and to other regulations adopted after the application is approved shall be enforced where applicable. Approved applications and subsequent development is not vested under the provisions in place at the time of the initial application.

<u><i>See attached</i></u> Applicant's signature	_____ Date	<u><i>[Signature]</i></u> Owner's signature (required)	<u><i>7/8/15</i></u> Date
		<u><i>William S. Wilt</i></u> Personal representative:	<u><i>7/8/15</i></u> Exhibit <u><i>4</i></u>
			Page <u><i>1</i></u> of <u><i>12</i></u>

Tannler Drive Mixed-Use Development

West Linn, Oregon

Request for
Class II Design Review Approval
and
Property Line Adjustment Approval

Prepared for
ConAm Properties, LLC

Prepared by
Otak, Inc.



HanmiGlobal Partner

Otak Project No. 17122
Submitted July 13, 2015
Updated and resubmitted August 5, 2015

D. Emergency Services

The project site is served by the Tualatin Valley Fire and Rescue District (TVFRD). The nearest TVFRD station is Station 58 located at 1860 Willamette Falls Drive. City of West Linn Police Department is located at 22825 Willamette Drive. Both the Fire and Police stations are located within approximately one-half mile of the site.

E. Parks

The project site is adjacent to the City of West Linn-owned White Oak Savanna Park to the east across Tannler Drive. The White Oak Savanna Park has trails, overlook areas, and natural areas. The project site is located within one-quarter mile of the developed North Willamette Neighborhood Park which is located to the northwest. The North Willamette Park includes two play structures, a tennis court, a basketball court, picnic areas, and trails.

F. Schools

The area of the site is served by the West Linn High School (located at 5464 West "A" Street); the Rosemont Ridge Middle School (located at 20001 Salamo Road); and the Willamette Primary School (located at 1403 12th Street).

G. Transit

TriMet Route 154 travels east-to-west along Blankenship Road to the south of the project site. The closest transit stop is located in front of the Willamette 205 commercial office project, approximately 200-foot walking distance south of the southwestern corner of the proposed development site. Route 154 provides hourly transit service to the Oregon City Transit Center and to Highway 43 from 6:30 AM to 7:00 PM Monday through Friday. Connections to other transit routes from Route 154 can be made at the Oregon City Transit Center and to Highway 43.

III. PROPOSED DEVELOPMENT PLAN

The proposed development plans include seven multi-purpose commercial spaces and 180 multi-family residential dwelling units within seven buildings. Commercial spaces and covered parking will occupy the south sides of the ground levels of all seven buildings. Residential units will occupy the second, third, and fourth floors of the buildings. Proposed buildings #1, #2, #3, and #7 will appear as four-stories in height when viewed from the southern or lower side of the buildings. Buildings #4, #5, and #6 will appear to be three-story buildings when viewed from the south due to a different roof form on these buildings. All of the buildings will appear as three-story buildings when viewed from the uphill northern sides of the buildings.

Commercial Uses

Together, the seven buildings will contain 1,973 square feet of leasable commercial space in seven different ground level spaces which will be available for use by any of the permitted use in the OBC zoning district (West Linn Community Development Code, the "CDC", Section 21.030), and any use allowed as a conditional use in that zone if a conditional use permit is first obtained from the City of West Linn (CDC 21.060). Each of the commercial spaces will have its

own ground level entrance conveniently located near parking spaces and internal site walkways.

Residential Uses

In addition, the seven multi-use buildings will provide 22 three-bedroom units, 97 two-bedroom units, and 61 one-bedroom residential dwelling units. All residential unit types are dispersed throughout all buildings. Like units generally stack from floor to floor. The residential units will be accessed by breezeway stair towers. All residential units will have private decks. Internal storage spaces are available on the ground level of each building. Storage spaces may be rented by any tenant.

The general appearance of the proposed multi-family residential buildings is a craftsman inspired style with gable roof forms, decorative trim and vertically oriented windows. A wainscot and column bases of cultured stone provide a distinguishable base element that provides texture to the pedestrian zone. A color palette of neutrals and earth-tones make up the main body of the buildings, while accent colors at bay windows and balconies provide dynamic elements that are scattered throughout the site.

The clubhouse (approximately 3,800 square feet) and pool are of a complimentary style to the buildings. The use of gables, porches and dormers create a scale that provides a warmth and welcoming entry element. Being centrally located, the clubhouse and large pool area are an integral part to the entire complex helping to encourage a sense of community by providing both indoor and outdoor gathering places for activity.

Access and Parking

A total of 322 parking spaces are proposed within the project site. Covered parking spaces will be provided on the ground levels of all seven multi-use buildings and within five freestanding garage buildings throughout the site. A total of 176 covered parking spaces will be provided. Six disabled person accessible parking spaces are included within the covered parking space total. In addition, 148 surface parking spaces will be provided. Surface parking provided will include ten additional disabled accessible parking spaces. All parking spaces for commercial tenants and customers/clients are considered to be included in the designated visitor parking spaces on the site. These visitor spaces are included as part of the total surface parking spaces. An estimated 20 additional on-street parking spaces are provided on Tannler Drive adjacent to the proposed development site to serve visitors and guests.

Site Utilities

The Preliminary Composite Utility Plan for the project is included as Sheet P4.0. The site will be served by the public sanitary sewer line in Tannler Drive. The sewer line is located on the west side of Tannler and has adequate depth and capacity to serve the site. A connection is proposed near the south end of the proposed development.

The project site is on the border between the City of West Linn's water system's Bland zone above the site and the Willamette zone below the site. The development of the site will be best served from the Bland zone above as recommended by the City's Engineering Department in the following comments received by the project team on June 30, 2015:

For any application requiring design review approval, which includes parking areas, the applicant shall submit, within the design review package, a plan drawn to scale showing all the elements necessary to indicate that the requirements of Chapter 55 CDC are met and it shall include but not be limited to:

- A. The delineation of individual parking and loading spaces and their dimensions;
- B. The identification of compact parking spaces;
- C. The location of the circulation area necessary to serve spaces;
- D. The access point(s) to streets, alleys, and properties to be served;
- E. The location of curb cuts;
- F. The location and dimensions of all landscaping, including the type and size of plant material to be used, as well as any other landscape material incorporated into the overall plan;
- G. The proposed grading and drainage plans and the slope (percentage) of parking lot;
- H. Specifications as to signs and bumper guards;
- I. Identification of disabled parking spaces;
- J. Location of pedestrian walkways and crossings; and
- K. Location of bicycle racks.

Response: The proposed plan set includes plans which show all of the information requested above, but not all on one plan. Most of the information is shown on the site plan and the landscaping plan.

46.090 MINIMUM PARKING SPACE REQUIREMENTS

3. Multi-family residences:

- a. 500 square feet or less. 1 off-street space for each unit.
- b. 1 bedroom apartment. 1.25 off-street spaces for each unit. Stacking one car behind the other is permitted only when the parking spaces are allocated to specific apartments.
- c. 2 bedroom apartments. 1.5 off-street spaces for each dwelling unit. Stacking one car behind the other is permitted only when the parking spaces are allocated to specific apartments.
- d. 3 (or more) bedroom apartment. 1.75 off-street spaces for each dwelling unit. Stacking one car behind the other is permitted only when the parking spaces are allocated to specific apartments.
- e. Visitor parking for multi-family residences. 1 off-street space for every 3 apartment units evenly distributed throughout the complex. These spaces shall be clearly identified and signed as visitor spaces only. This number may be reduced by 1 space for every 18 feet of project abutting public street frontage where on-street parking is allowed.

Response: Required parking for the 180 proposed multi-family units is as follows:

On-Site Parking Spaces Required for Residential Units

Parking Spaces Required per MFR Unit	Number of Units Proposed	Auto Parking Spaces Required
1.25 spaces/1-bedroom unit	61	76.25, or 77
1.5 spaces/2-bedroom unit	97	145.5 or 146
1.75 spaces/3-bedroom unit	22	38.5 or 39

Subtotal	180 units	262
1 visitor parking space per every 3 units	180 x 0.33	60
Total MFR Units/ Parking Spaces Required	180 units	322 spaces

Required parking for the 1,963 square feet of gross leasable area for various commercial uses is as follows. The assumption is made that the application should assume the highest parking space ratio of reasonably assumable commercial uses to occupy the commercial spaces, or one parking space per 200 square feet of gross leasable area – which is the standard which would apply if all of the commercial spaces were to be occupied by some sort of small take-out restaurant or coffee shop or some sort of service or repair use.

On-Site Parking Spaces Required for Commercial Uses

Parking Spaces Required per Representative Commercial Use Type		Parking Spaces Required
Small take out restaurant, coffee shop	1 space per 200 sq. ft. GFA	
General retail store	1 space per 240 sq. ft. GFA	
Service and repair shops	1 space per 200 sq. ft. GFA	
Professional offices	1 space per 250 sq. ft. GFA	
Medical/dental/day surgery	1 space per 250 sq. ft. GFA	
Unlisted uses –	TBD by City according to Section 46.100.A	
Total GLA of Commercial Space = 1,963 sq. ft.	At 1 space per 200 sq. ft. GFA	10 spaces

Combined, the proposed commercial and multi-family uses proposed within the Tannler Drive Mixed- Use project is required to provide 332 parking spaces.

The proposed mixed-use development will be provided with a total of 322 on-site parking spaces as described below:

On-Site Parking Spaces Provided

Type of Parking Space	Onsite Parking Spaces Provided
Surface parking – larger than standard-sized spaces	106
Surface visitor spaces	42
Single stall garage spaces	28
Covered – larger than standard-sized spaces	146
Total On-site Parking Spaces Provided	322 On-site Parking Spaces

In addition, an estimated 20 on-street parking spaces will be provided on the west side of Tannler Drive adjacent to tax lots 100 and 102. A ten parking space reduction in the number of required visitor parking spaces is requested based upon this on-street parking adjacent to the site as allowed by CDC Section 46.090A.e. Together, the proposed on-site and on-street parking will satisfy the required 332 parking space parking requirement for the proposed uses within the mixed-use project.

46.120 DRIVEWAYS REQUIRED ON SITE

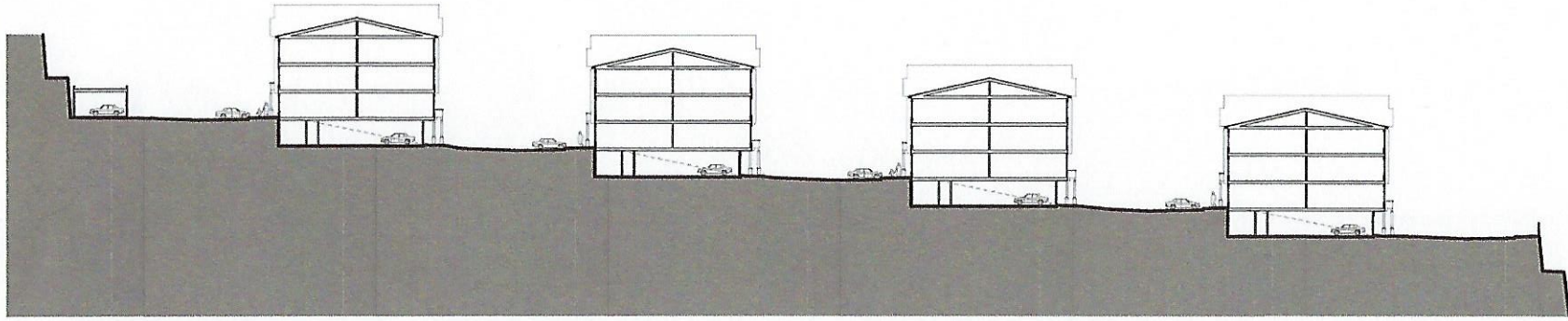
Any school or other meeting place which is designed to accommodate more than 25 people at one time shall provide a 15-foot-wide driveway designed for continuous forward flow of passenger vehicles for the purpose of loading and unloading passengers. Depending on functional requirements, the width may be increased with Planning Director approval.

Response: The proposed mixed-use development will not include any schools or other meeting places designed to accommodate more than 25 people at one time. Therefore, this standard is not applicable to the current request.

46.130 OFF-STREET LOADING SPACES

Buildings or structures to be built or substantially altered, which receive and distribute material or merchandise by truck, shall provide and maintain off-street loading and maneuvering space. The dimensional standard for loading spaces is a minimum of 14 feet wide by 20 feet long or proportionate to accommodate the size of delivery trucks that typically serve the proposed use as follows:

<i>Land Use</i>	<i>Gross Floor Area</i>	
	<i>At Which First Berth Is Required</i>	<i>At Which Second Berth Is Required</i>
<u>Industrial:</u>		
<i>Manufacturing</i>	<i>5,000 sq. ft.</i>	<i>40,000 sq. ft.</i>
<i>Warehouse</i>	<i>5,000</i>	<i>40,000</i>
<i>Storage</i>	<i>10,000</i>	<i>100,000</i>
<u>Commercial:</u>		
<i>Wholesale</i>	<i>10,000</i>	<i>40,000</i>
<i>Retail</i>	<i>10,000</i>	<i>20,000</i>
<i>Service establishments</i>	<i>10,000</i>	<i>40,000</i>
<i>Comm. recreational (incl. bowling alley)</i>	<i>10,000</i>	<i>100,000</i>
<i>Restaurants</i>	<i>5,000</i>	<i>25,000</i>
<i>Laundry</i>	<i>10,000</i>	<i>25,000</i>
<i>Office building</i>	<i>10,000</i>	<i>100,000</i>
<i>Hotel</i>	<i>10,000</i>	<i>100,000</i>
<u>Institutional:</u>		
<i>Schools</i>	<i>10,000</i>	<i>100,000</i>



SITE SECTION A
SCALE: 1" = 20'-0"



SITE SECTION B
SCALE: 1" = 20'-0"



Page 1 of 12
Exhibit 4

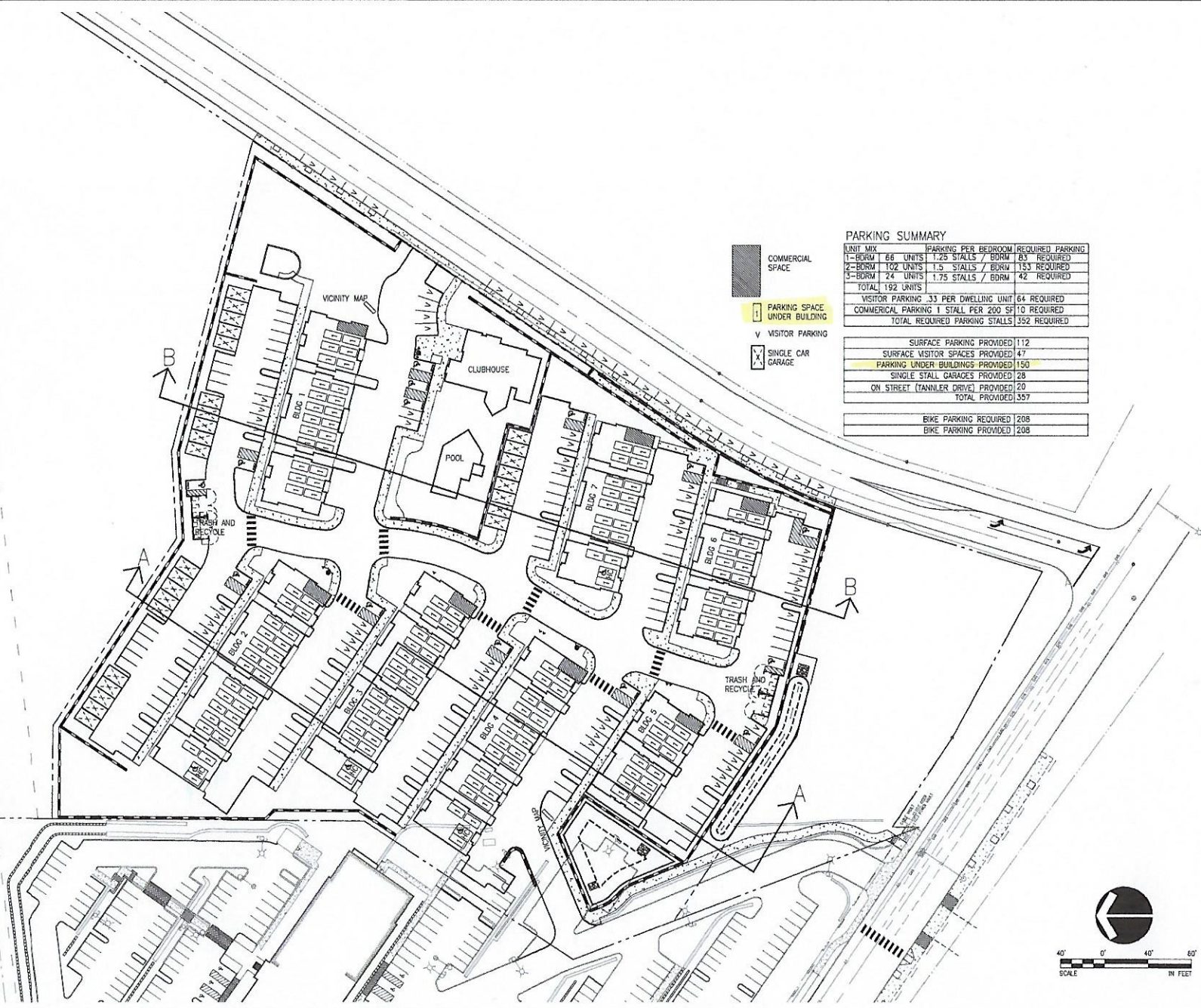
DATE	BY	REVISED	COMMENTS

ConAm Properties, LLC
 3300 RUFFIN ROAD, SUITE 100
 SAN DIEGO, CA 92123
 PHONE: (619) 214-7200
 FAX: (619) 614-1949

LAND USE SUBMITTAL 7/10/2015 - NOT FOR CONSTRUCTION
 WEST LINN MIXED USE DEVELOPMENT
 WEST LINN, OREGON
 SITE SECTIONS

otak
 Otak Inc. NOV 2014
 HenryGlobal Partner
 805 SW 3rd Ave, Ste 200
 Portland, OR 97204
 Phone: (503) 597-8800
 Fax: (503) 415-2284
 www.otak.com

1/1/22
 Project No. Drawing No.
 A1.1
 Sheet No. Otak, Inc.
 2013



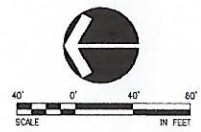
- COMMERCIAL SPACE
- PARKING SPACE UNDER BUILDING
- VISITOR PARKING
- SINGLE CAR GARAGE

PARKING SUMMARY

UNIT MIX	PARKING PER BEDROOM	REQUIRED PARKING
1-BDRM 166 UNITS	1.25 STALLS / BDRM	83 REQUIRED
2-BDRM 102 UNITS	1.5 STALLS / BDRM	153 REQUIRED
3-BDRM 24 UNITS	1.75 STALLS / BDRM	42 REQUIRED
TOTAL 192 UNITS		
VISITOR PARKING .33 PER DWELLING UNIT		64 REQUIRED
COMMERCIAL PARKING 1 STALL PER 200 SF		10 REQUIRED
TOTAL REQUIRED PARKING STALLS		352 REQUIRED

SURFACE PARKING PROVIDED	112
SURFACE VISITOR SPACES PROVIDED	47
PARKING UNDER BUILDINGS PROVIDED	150
SINGLE STALL GARAGES PROVIDED	28
ON STREET (TANNER DRIVE) PROVIDED	20
TOTAL PROVIDED	357

BIKE PARKING REQUIRED	208
BIKE PARKING PROVIDED	208



NO.	DATE	BY	REVISION COMMENTS

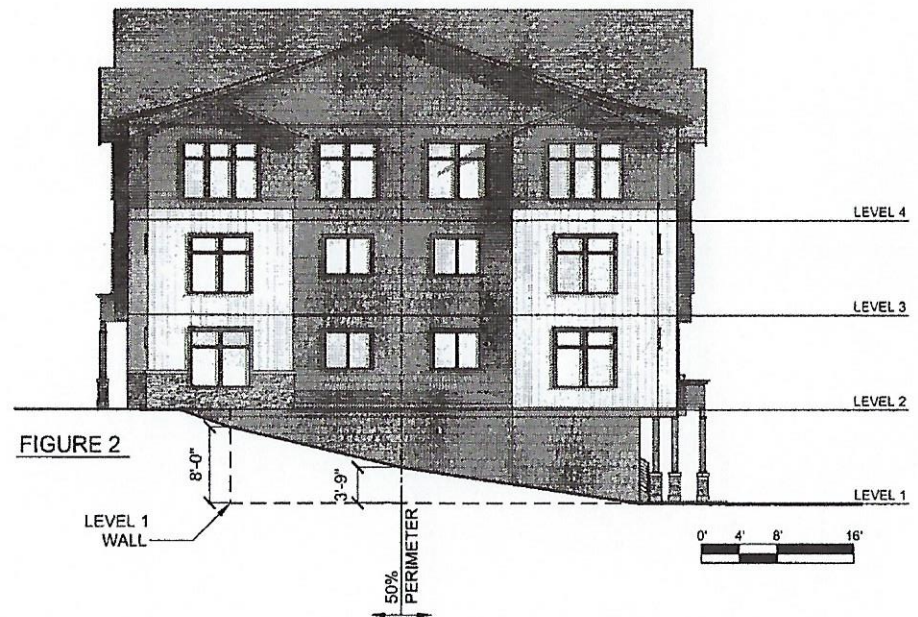
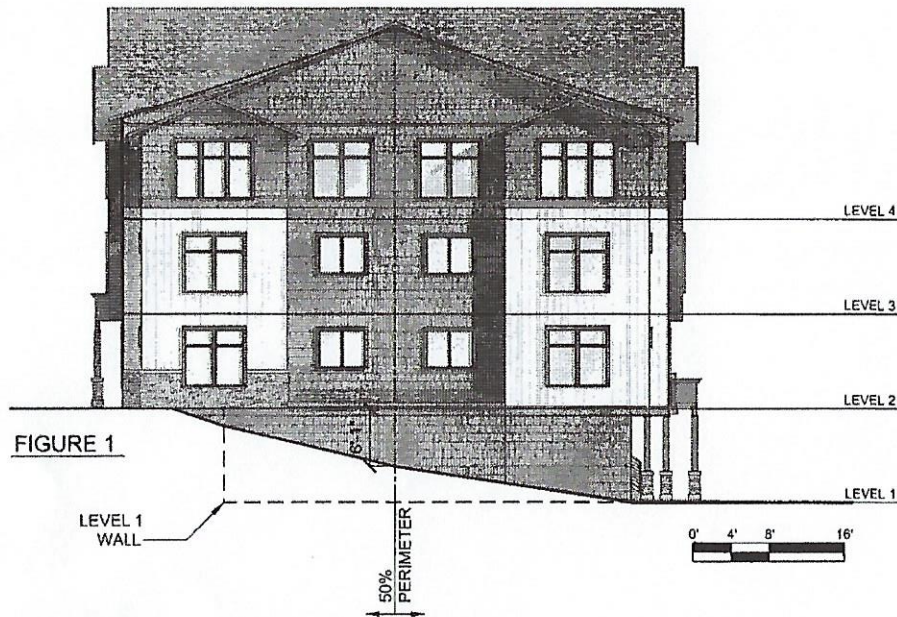
Design Drawn (Checked) Date (Issue) Issue Date (Date)
 MAP1 SUR 1 BS 15/15

PRELIMINARY

ConAm Properties, LLC
 3885 RUFFENROAD, SUITE 100
 SAN DIEGO, CA 92133
 PHONE: (619) 514-7228
 FAX: (619) 514-1618

LAND USE SUBMITTAL 7/10/2015 - NOT FOR CONSTRUCTION
TANNER DRIVE MIXED-USE DEVELOPMENT
 WEST LINN, OREGON
 ARCHITECTURAL SITE PLAN

otak
 Datum: NAD83
 17122 P17122P21
 Project No. Drawing No.
A1.0
 Sheet No.
 © Otak, Inc 2015



West Linn CDC - Chapter 2 Definitions

Basement. Any floor level below the first story in a building, except that a floor level in a building having only one floor level shall be classified as a basement unless such floor level qualifies as a first story as defined herein.

Grade. The finished ground level adjoining the building at all exterior walls.

Story. That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement or unused under floor space is more than six feet above grade as defined herein for more than 50 percent of the total perimeter, or is more than 12 feet above grade as defined herein at any point, such basement or unused under floor space shall be considered as a story.

Story, first. The lowest story in a building which qualifies as a story, as defined herein, except that a floor level in a building having only one floor shall be classified as a first story, provided such floor level is not more than four feet below grade, as defined herein, for more than 50 percent of the total perimeter, or more than eight feet below grade, as defined herein, at any point.

OTAK, INC.
9.1.2015

TANLER DRIVE - MIXED USE
WEST LINN, OR

September 2, 2015

Michael C. Robinson
MRobinson@perkinscoie.com
D. +1.503.727.2264
F. +1.503.346.2264

VIA EMAIL TO SSHROYER@WESTLINNOREGON.GOV

Ryerson Schwark, Chair
West Linn Planning Commission
c/o West Linn Planning Department
22500 Salamo Road
West Linn, OR 97068

Re: **Applications for Tannler Drive Mixed-Use Development**
City File Nos. DR-15-11 and LLA-15-01
Applicant's Rebuttal

Dear Chair Schwark and Members of the West Linn Planning Commission:

This office represents Con Am Properties, LLC ("Applicant"), the applicant requesting approval of the Design Review II and Lot Line Adjustment applications to allow development of multi-family residential, commercial, and open space uses ("Project") identified in City File Nos. DR-15-11 and LLA-15-01 ("Applications") on the property located at 2410, 2422, and 2444 Tannler Drive ("Property"). This letter constitutes the Applicant's rebuttal to issues raised by opponents of the Applications. I have asked City staff to place a copy of this letter in the official record for this matter and to place a copy before you. Please review this letter and its enclosures before making a final decision on the Applications.

I. Executive Summary.

For the following reasons, the Planning Commission should deny each of the opponents' arguments and should approve the Applications:

- Applicant will mitigate the traffic impacts associated with the Project consistent with the requirements of the West Linn Community Development Code ("CDC")
- The proposed mix of residential and commercial uses is allowed in the OBC zone based upon the plain language of the CDC, the legislative history of CDC Chapter 21, and applicable case law.

“2. Multiple-family units, as a mixed use in conjunction with commercial development, only above the first floor of the structure.”

CDC 21.050.2.

Applicant’s proposed development consists of seven primary buildings, with ground-floor commercial uses in each building and a total of 180 apartments on Floors 2, 3, and 4 of the buildings. These commercial uses are located on the ground floor of the buildings, labeled Level 1 and illustrated in Exhibit 2. As Figure 1 of this exhibit illustrates, Level 1 meets the definition of “story” in CDC 2.030 for two alternative reasons. First, it is a “story” because it is the portion of the building included between the upper surface of Level 1 and the upper surface of Level 2. Second, and in the alternative, even if Level 1 were a basement or unused floor area, it would be a “story” for purposes of CDC 2.030 because the finished floor of the second floor is more than six feet above the grade for more than 50% of the building’s perimeter, again as illustrated in Figure 1.

For two reasons, Level 1 also constitutes the “first story” as illustrated in Figure 2 of Exhibit 2. First, because Level 1 is the lowest “story” in the building and the building has multiple stories, Level 1 meets the definition of “first story” in CDC 2.030. Alternatively, to the extent the last clause of that definition is applicable, Level 1 still qualifies as a “first story” because it is not more than four feet below grade for more than 50% of the total perimeter nor is the finished floor area more than eight feet below grade at any point. Because there are no levels below Level 1, which is the “first story,” Level 1 does not meet the definition of “basement” in CDC 2.030. Therefore, the commercial uses are located on the “first story” of the buildings on the Property. The Planning Commission can find that “first story” is synonymous with “first floor” referenced in CDC 21.050.2.

Locating residential uses above commercial uses will enhance the viability of these commercial uses by providing a ready market for their goods and services. Further, Applicant has testified that it believes that these commercial spaces are viable and may be utilized by accountants, real estate agents, attorneys, or others who currently work from home. See letter from Applicant in Exhibit 3. Therefore, the proposed residential uses will be developed “in conjunction with commercial development” and “above the first floor.”

**ADDENDUM
PLANNING COMMISSION STAFF REPORT
AUGUST 26, 2015
STAFF EVALUATION OF THE PROPOSAL'S COMPLIANCE
WITH APPLICABLE CODE CRITERIA**

Finding No. 1: Staff adopts and incorporates the ConAm Properties, LLC application ("application"), including specifically 1) the application narrative and plans dated August 5, 2015, the Supplementary Submittal dated July 20 together containing 346 pages and 2) the Traffic Impact Analysis dated July 20, 2015 and containing 331 pages, as the City's findings for the applicable code criteria. Where there is a conflict between the incorporated documents and these findings, these findings shall control. Staff finds that the facts and determinations in the application demonstrate that the criteria are met, unless otherwise noted below.

21.050 USES AND DEVELOPMENT PERMITTED UNDER PRESCRIBED CONDITIONS

The following uses are allowed in this zone under prescribed conditions:

- ...
2. Multiple-family units, as a mixed use in conjunction with commercial development, only above the first floor of the structure.
- ...

Finding No. 2: The applicant proposes seven structures comprising multi-family residential dwelling units above a first floor commercial space. The Applicant also proposes accessory structures, including garages, an outdoor swimming pool and a community clubhouse and leasing office. The accessory structures are responded to later in this report.

21.070 DIMENSIONAL REQUIREMENTS, USES PERMITTED OUTRIGHT AND USES PERMITTED UNDER PRESCRIBED CONDITIONS

- A. Except as may be otherwise provided by the provisions of this code, the following are requirements for uses within this zone:
 1. The minimum front lot line length or the minimum lot width at the front lot line shall be 35 feet.
 2. The average minimum lot width shall be 35 feet.
 3. *Repealed by Ord. 1622.*
 4. The yard dimensions or building setback area from the lot line shall be:
 - a. Interior side yard, a minimum of seven and one-half feet.
 - b. Side yard abutting a street, no minimum.
 - c. Rear yard, a minimum of 25 feet.

WEST LINN PLANNING COMMISSION

FINAL DECISION AND ORDER

DR-15-11, LLA-15-01

IN THE MATTER OF A CLASS II DESIGN REVIEW FOR A MULTI-USE DEVELOPMENT OF 180 MULTI-FAMILY DWELLING UNITS WITH COMMERCIAL SPACE AND A PROPERTY LINE ADJUSTMENT

I. Overview

CON AM Properties, LLC (Applicant), filed its application in July 2015, and it was deemed complete on July 20, 2015. The approval criteria for the applications are found in Community Development Code (CDC) Chapters 21, 34, 38, 41, 42, 44, 46, 48, 52, 54, 55, and 85. The hearings were conducted pursuant to the provisions of CDC Chapter 99.

The Planning Commission (Commission) held the initial evidentiary hearing on August 26, 2015. The hearing commenced with a staff report presented by John Boyd AICP, Planning Manager. Rob Morgan, CON AM Properties, LLC; Michael C. Robinson, Perkins Coie LLP; and Brent Ahrend, Mackenzie; presented for the applicant. The initial hearing was continued to September 2, 2015, for additional evidence and public testimony. At its September 2 hearing the Commission left the written record open until September 9, 2015, at noon, and it continued the hearing to September 9, 2015, for rebuttal and deliberations. The Commission heard public testimony from approximately 50 individuals over the course of the first two meetings and accepted many written submissions. The vast majority of the testimony was opposed to the application.

The hearing was closed on September 9, 2015, and a motion was made by Commissioner Knight and seconded by Commissioner Walvatne to deny the applications and direct staff to prepare a Final Decision and Order adopting findings consistent with the Commission's decision that specifically addressed the issue of mixed use under CDC 21.050. The motion passed unanimously to deny the application for the Class II Design Review of the seven structure mixed use development consisting of multiple-family dwelling units and commercial units and the property line adjustment.

II. The Record

The record was finalized at the September 9, 2015, hearing. The record includes the entire file for DR-15-11 and LLA-15-01, including submissions received by noon on September 9.

III. Findings of Fact

- 1) The Overview set forth above is true and correct.
- 2) The applicant is CON AM Properties, LLC.
- 3) The Commission finds that it has received all information necessary to make a decision based on the Staff Report; application; public comment; and the evidence in the whole record, including any exhibits received at the hearings.

IV. Findings

The Commission is denying DR-15-11/LLA-15-01 because the development does not meet the prescribed conditions for mixed use in the Office Business Center Zone (OBC Zone). CDC 21.050 sets forth uses and developments permitted in the Office Business Center Zone under prescribed conditions. The Commission finds that the prescribed conditions in CDC 21.050(2) are not met for two reasons: 1) the CDC requires commercial use on the entire first floor and part of the first floor contains residential parking garages, and 2) residential parking garages are part of the multiple-family units, which are prohibited on the first floor.

First, the Commission finds that CDC 21.050(2) requires the entire first floor to be used for commercial purposes. CDC 21.050(2) allows “[m]ultiple-family units, as a mixed use in conjunction with commercial development, only above the first floor of the structure.” This is an unambiguous requirement. Moreover, requiring the entire first floor to be retained for commercial use is consistent with the purpose of the OBC Zone, which is to “provide for groups of business and offices in centers” because it would result in a number of businesses located adjacent to one another on the first floor. It also provides opportunities for larger commercial spaces and a wider variety of commercial uses.

The Commission understands the Applicant’s reading of CDC 21.050(2) to be that some commercial space on the first floor satisfies the condition that multiple-family units are “only above the first floor”. However, the Commission disagrees with this reading of the prescribed condition because it is inconsistent with the plain meaning of the text and it could lead to an absurd result. For example, under the Applicant’s interpretation the installation of a vending machine on the first floor would meet the prescribed condition that there is some commercial use on the first floor, but such a limited commercial use would not serve the purpose of the OBC zone. Therefore, the Commission finds that the CDC 21.050(2) requires the entire first floor to be comprised of commercial space.

The application proposes to build seven mixed use structures, each containing multiple-family dwellings above the first floor; the application only reserves a small portion, approximately 300 square feet, of the first floor of each of the seven mixed used buildings for commercial uses. The remainder of the first floor consists of residential parking garages, which are not a commercial use. The Commission finds that the application does not meet the requirement that the entire first floor is reserved for commercial use because a majority of the first floor

consists of residential parking garages, and residential parking garages are not a commercial use.

Second, in the alternative, the Commission finds that the application fails to meet the prescribed condition that multiple-family units are allowed "only above the first floor of the structure" because the residential parking garages serve the multiple-family units; therefore, the residential parking garages are essentially part of the multiple-family units, and the garages cannot be located on the first floor of the structure.

The Commission finds that either one of the reasons stated above is sufficient to deny this application for failure to meet the prescribed conditions in CDC 21.050(2). The Commission finds that the application cannot be conditioned to be approved because requiring the Applicant to provide commercial space on the entire first floor would substantially change the application because parking would have to be relocated and the trip generation counts would be different due to the increase in commercial space.

V. Order

The Commission concludes that DR-15-11 and LLA-15-01 are denied based on the Record, Findings of Fact and Findings above.



RYERSON SCHWARK, CHAIR
WEST LINN PLANNING COMMISSION

09/16/2015

DATE

This decision may be appealed to the City Council pursuant to the provisions of Chapter 99 of the Community Development Code and any other applicable rules and statutes. This decision will become effective 14 days from the date of mailing of this final decision as identified below. Those parties with standing may appeal this decision to the West Linn City Council within 14 days of the mailing of this decision pursuant to the provisions of Chapter 99 of the Community Development Code. Such appeals would require a fee of \$400 and a completed appeal application form together with the specific grounds for appeal to the Planning Director prior to the appeal-filing deadline.

Mailed this 17th day of September, 2015.

Therefore, this decision becomes effective at 5 p.m., October 1, 2015.

**WEST LINN CITY COUNCIL
FINAL DECISION AND ORDER
AP 15-01**

**IN THE MATTER OF AN APPEAL OF THE PLANNING COMMISSION'S
DENIAL OF A CLASS II DESIGN REVIEW FOR A MULTI-USE
DEVELOPMENT OF 180 MULTI-FAMILY DWELLING UNITS WITH
COMMERCIAL SPACE AND A PROPERTY LINE ADJUSTMENT**

I. Overview

CON AM Properties, LLC (Appellant or Applicant), filed its application in July 2015, and it was deemed complete on July 20, 2015. The approval criteria for the applications are found in Community Development Code (CDC) Chapters 21, 34, 38, 41, 42, 44, 46, 48, 52, 54, 55, and 85. The hearings were conducted pursuant to the provisions of CDC Chapter 99.

The Planning Commission (Commission) held the initial evidentiary hearing on August 26, 2015. The hearing commenced with a staff report presented by John Boyd AICP, Planning Manager. Rob Morgan, CON AM Properties, LLC; Michael C. Robinson, Perkins Coie LLP; and Brent Ahrend, Mackenzie; presented for the Applicant. The initial hearing was continued to September 2, 2015, for additional evidence and public testimony. At its September 2 hearing the Commission left the written record open until September 9, 2015, at noon, and it continued the hearing to September 9, 2015, for rebuttal and deliberations. The Commission heard public testimony from approximately 50 individuals over the course of the first two meetings and accepted many written submissions.

The hearing was closed on September 9, 2015, and a motion was made by Commissioner Knight and seconded by Commissioner Walvatne to deny the applications and direct staff to prepare a Final Decision and Order adopting findings consistent with the Commission's decision that specifically addressed the issue of mixed use under CDC 21.050. The motion passed unanimously to deny the application for the Class II Design Review of the seven structure mixed use development consisting of multiple-family dwelling units and commercial units and the property line adjustment.

The Appellant, also the Applicant, filed an appeal of the Planning Commission's decision on September 30, 2015. The appeal hearing was held on November 16, 2015. The Appellant presented oral argument, followed by oral argument from the public, and it concluded with rebuttal by the Appellant. The appeal hearing was closed on November 16, 2015, and Councilor Frank made a motion to make a tentative decision to overturn the Planning Commission's decision to deny LLA-15-01, the lot line adjustment. Councilor Tan seconded the motion, and the motion passed unanimously; thereby approving the lot line adjustment. Councilor Frank then made a motion to make a tentative decision to uphold the Planning Commission's decision

to deny DR-15-11, which was the design review application. Councilor Perry seconded the motion, and the motion passed unanimously.

II. The Record

The appeal hearing originally was scheduled for October 26. The Appellant, however, requested to extend the date of the hearing to accommodate its attorney's schedule (Michael Robinson). The City granted the request and the hearing was rescheduled to November 16, 2015. Prior to the hearing, the Appellant submitted additional written argument and rebuttal on November 9, 2015. Jeffrey Kleinman, attorney for Concerned Citizens of West Linn, objected orally to the inclusion of the Appellant's November 9, 2015, submission for the reasons stated in his November 10, 2015, letter to the Council.

At the November 16 hearing, Councilor Frank made a motion to include the Appellant's November 9, 2015, submission as part of the record, which was seconded by Councilor Tan; however, the motion did not carry and the November 9, 2015, submittal by the Appellant was excluded from the record. Mayor Axelrod noted that it was his understanding that the agreement to extend the hearing date to November 16, was granted solely for the schedule, and not to submit additional testimony to the on-the-record hearing. He noted also that the November 9, submittal may contain additional information which exceeded the scope of the original appeal. On the advice of the City Attorney, Dan Olsen, Appellant's November 9, 2015, submission was included in the record solely for purposes of preserving the issue of whether the exclusion of the submittal was proper if an appeal to the Land Use Board of Appeals is filed, but the submittal is excluded from consideration by the Council on the merits of the appeal. The Council clarified that the Appellant, represented by counsel for ConAm, could present any and all argument orally at the hearing and only the written statement was excluded.

The record was finalized at the November 16, 2015, appeal hearing. The record includes the entire file for AP-15-01, DR-15-11 and LLA-15-01, excluding the November 9, 2015, submittal by the Appellant.

III. Procedural Issues and Scope of Review

The Appellant, through its attorney Michael Robinson, agreed that the scope of the hearing was limited to the issues on appeal. Mr. Robinson stated that the appeal statement, not any summarization of it, forms the basis of the appeal, and he made a standing objection to any argument that may arise that is beyond the scope of the Appellant's appeal application. Mr. Robinson also took exception to the Council's decision not to admit Appellant's November 9, 2015, letter into the record.

The Council reviews the Planning Commission's decision to determine if: 1) there is substantial evidence in the record to support the Planning Commission's decision, or 2) errors of law were committed. CDC 99.280(D).

IV. Findings of Fact

- 1) The Overview set forth above is true and correct.
- 2) The Appellant and Applicant is CON AM Properties, LLC.
- 3) The Council finds that it has received all information necessary to make a decision based on the Agenda Report; appeal application; the Applicant's oral argument; oral argument by the public; and the evidence in the whole record.

V. Findings

A. DR-15-11 – Design Review Application

The Council upholds the Planning Commission's denial of DR-15-11 because the development does not meet the prescribed conditions for mixed use in the Office Business Center Zone (OBC Zone). CDC 21.050 sets forth uses and developments permitted in the Office Business Center Zone under prescribed conditions. The Council finds that the prescribed conditions in CDC 21.050(2) are not met for two reasons: 1) residential parking garages are part of the multiple-family units, which are prohibited on the first floor in the OBC zone, and 2) the CDC requires commercial use on the entire first floor and part of the first floor contains residential parking garages.

1) *Residential parking garages are part of the multiple-family units.*

The Council finds that the prescribed conditions in CDC 21.050(2) are not met because residential parking garages are part of the multiple-family units, which are prohibited on the first floor. First, the Council finds that the express language of CDC 21.050(2) allows "[m]ultiple-family units, as a mixed use in conjunction with commercial development, *only* above the first floor of the structure." (emphasis added). This is a clear and unambiguous requirement. The CDC defines "multiple family residential units" as "[a] *structure* containing three or more attached dwelling units in any vertical or horizontal arrangement." CDC 2.030 (emphasis added). The CDC does not state that multiple family units are "a structure containing three or more attached dwelling units in any vertical or horizontal arrangement, [excluding parking for the residential units that are in the structure]." To interpret the CDC to include words that are not in the definition would contradict the express language of the regulation.

Residential parking garages for the multiple-family units are located on the first floor of the multiple family residential unit structure. Parking in this instance is not a separate use; it is simply a component of the multiple-family units. Each one of the Applicant's seven multiple family residential unit structures violates the prescribed condition by including part of the multiple-family units on the first floor. The combined square footage of the first floor parking garages ranges from approximately 2,200 square feet, for the smallest building to 5,400 square feet for the largest multiple-family structure. This large area devoted to parking, and the sheer number of parking garages, combined with the closed garage doors, demonstrates that the residential parking garages are part of the multiple-family units and are not intended to serve the small (less than 300 square feet) commercial space allocated to each building.

The Council finds that the prescribed condition in CDC 21.050(2) is not met because multiple-family units are allowed “only above the first floor of the structure”; therefore, garages, as part of the multiple-family units, are *not* allowed on the first floor. (emphasis added). Further, the garages proposed by the Appellant are not “parking facilities,” which are a permitted use in the OBC Zone, because the garages are not separate freestanding garages or lots providing “parking services.”

The Council understands the Appellant’s reading of CDC 21.050(2) to be that parking on the first floor satisfies the condition that multiple-family units are “only above the first floor” because parking is not part of the multiple family units. However, the Council disagrees with this reading of the prescribed condition because it is inconsistent with the plain meaning and the intent of the text as explained above.

Second, the Council finds that requiring all components of the multiple-family units to be above the first floor of the structure is consistent with the purpose of the prescribed condition, which is to provide an opportunity for commercial development on the first floor of the structure. Moreover, prohibiting multiple-family units from being located on the first floor is consistent with the purpose of the OBC Zone, which is to “provide for groups of business and offices in centers” because it would allow a number of businesses to be located adjacent to one another on the first floor. It also provides opportunities for larger commercial spaces and a wider variety of commercial uses. If the Appellant’s interpretation of the prescribed condition is adopted, the result would essentially be a rezoning of the property to residential uses, which contradicts the purpose of the OBC zone.

The purpose statement for the OBC zone is not a separate criteria or approval standard, but it provides important context and a clear statement of intent that informs Council’s interpretation of the standards at issue. It might be that right now the market is not ideal for office and business centers, but the market will return and West Linn will need its limited OBC zoned lands to meet its longer term economic objectives.

Third, the Council finds the prescribed condition to be consistent with the Comprehensive Plan, which provides the underlying policy basis for the prescribed condition, as well as all of the City’s other land use regulations. Prohibiting multiple-family units on the first floor of the structure is consistent with Comprehensive Plan Goal 9, Economic Development, Goal 4, to “[m]ake the most efficient use of our existing commercial and industrial lands.” The prescribed condition makes efficient use of land in the OBC zone by ensuring that residential uses will not displace limited office and business spaces on the first floor. Preserving space on the first floor for offices and businesses provides convenient access for customers, which in turn should increase the economic viability of the businesses. There is no evidence in the record of any other approvals authorizing multi-family residential units or residential parking on the first floor of commercially zoned development in lieu of commercial uses on the first floor as is required in the OBC zone.

Appellant interprets the prescribed condition to mean that parking is allowed on the first floor of the structure because parking is not a residential use. However, the Appellant’s

interpretation of the prescribed condition leads to a lack of commercial space on the first floor that makes it difficult for the Appellant's interpretation to be consistent with the Comprehensive Plan. Appellant cites Goal 2, Land Use Planning, Goal 1, which mentions developing mixed use districts and increasing housing choices to support its interpretation. This one Comprehensive Plan goal cannot be considered in isolation. The very next goal states that "development of commercial and office facilities in West Linn that will increase employment opportunities, reduce dependence on services outside of the City, and promote energy-efficient travel and land use patterns" should be considered. Comprehensive Plan, Goal 2, Land Use Planning, Goal 2. The small commercial spaces that result from the Appellant's interpretation are unlikely to be very effective at increasing employment opportunities, reducing the dependence on services outside the City, or reducing travel.

The Council upholds the Planning Commission's denial of the application and finds that the application fails to meet the prescribed conditions in CDC 21.050(2) because multiple-family units are located on the first floor of the structure. The Council's determination is consistent with the plain meaning of the CDC, the purpose of the OBC zone to "provide for groups of business and offices in centers", and the underlying Comprehensive Plan policies that provide the basis for the prescribed conditions.

2) The CDC requires commercial use on the entire first floor.

The Council adopts the Planning Commission's findings regarding the scope of commercial use of the first floor. First, the Council finds that CDC 21.050(2) requires the entire first floor to be used for commercial purposes. CDC 21.050(2) allows "[m]ultiple-family units, as a mixed use in conjunction with commercial development, only above the first floor of the structure." This is an unambiguous requirement. Moreover, requiring the entire first floor to be retained for commercial use is consistent with the purpose of the OBC Zone, as stated above. Further, the Comprehensive Plan policies noted above demonstrate that the Council's conclusion regarding the language of the prescribed condition is consistent with the Comprehensive Plan.

The Council understands the Appellant's reading of CDC 21.050(2) to be that some commercial space on the first floor satisfies the condition that multiple-family units are "only above the first floor". However, the Council disagrees with this reading of the prescribed condition because it is inconsistent with the plain meaning of the text and it could lead to an absurd result. For example, under the Appellant's interpretation the installation of a vending machine on the first floor would meet the prescribed condition that there is some commercial use on the first floor, but such a limited commercial use would not serve the purpose of the OBC zone. Therefore, the Council finds that the CDC 21.050(2) requires the entire first floor to be comprised of commercial space. Council notes that having one small, single, isolated commercial space in each building does not comport with the purpose of the zone to "to provide groups of businesses and offices in centers."

The application proposes to build seven mixed use structures, each containing multiple-family dwellings above the first floor; the application only reserves a small portion, 300 square feet or less, of the first floor of each of the seven mixed used buildings for commercial uses. The remainder of the first floor consists of residential parking garages, which are not a commercial use. As noted above, the square footage of residential parking garage space completely dwarfs the single miniscule 300 square feet of commercial space provided for in each multi-family structure. The Council finds that the application does not meet the requirement that the entire first floor is reserved for commercial use because the overwhelming majority of the first floor consists of residential parking garages with only 300 square feet or less of commercial space.

The Council upholds the Planning Commission's denial of the application and finds that the application fails to meet the prescribed conditions in CDC 21.050(2) because the entire first floor is not used for commercial purposes. This is consistent with the plain meaning of the CDC, the purpose of the prescribed condition, and the underlying Comprehensive Plan policies that provide the basis for the prescribed condition.

The Council finds that either one of the reasons stated above is sufficient to deny this application for failure to meet the prescribed conditions in CDC 21.050(2).

B. LLA-15-01 – Lot Line Adjustment

The Council overturns the Planning Commission's denial of the lot line adjustment and finds that there is substantial evidence in the record to demonstrate that all of the criteria for approval of the lot line adjustment were satisfied by the Appellant's initial application for LLA-15-01 and applicable analysis in the August 26, 2015, Staff Report. The Appellant's narrative responding to CDC 85.210 is attached as Exhibit A and incorporated by this reference. The August 26, 2015, Staff Report, and all other exhibits, plans, or maps, submitted as part of LLA-15-01, are also incorporated by this reference. The Council adopts staff's and the Applicant's responses to CDC 85.210 as its findings approving the lot line adjustment.

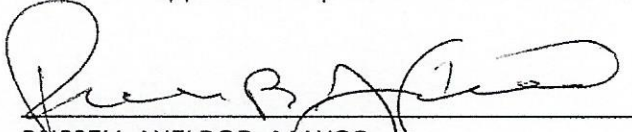
VI. Order

The Council concludes that AP-15-01 is upheld in part and overturned in part. The Council upholds the Planning Commission's denial of DR-15-11 based on the entire Record, Findings of Fact, and Findings above.

The Council overturns the Planning Commission's denial and approves LLA 15-01 based on the entire Record, Findings of Fact, the Findings above, and the following condition of approval from the August 26, 2015, Staff Report:

1. Property Line Adjustment. The final Property Line Adjustment Map shall be submitted to the City of West Linn for approval prior to recording. This map shall substantially conform to the property line adjustment as shown on Sheet P1.2.

Staff shall approve and process LLA 15-01 consistent with this Final Decision and Order.



RUSSELL AXELROD, MAYOR
WEST LINN CITY COUNCIL

November 23, 2015
DATE

This decision may be appealed to the Land Use Board of Appeals in accordance with the applicable rules and statutes.

Mailed this 24th day of November, 2015.

Therefore, this decision becomes effective at 5 p.m., December 14, 2015.

Mollusky, Kathy

From: Morgan, John
Sent: Wednesday, December 20, 2017 12:10 PM
To: Boyd, John
Cc: Williams, John; Stein, Eileen; #Committee - Economic Development
Subject: Tannler Development Agreement - EDC comments

At its December 14, 2017 meeting, the West Linn Economic Development Committee discussed the Tannler Development Agreement. The Committee unanimously passed the following motion and asked it be entered into the public hearing record on this matter:

EDC moves to recommend to the City Council, relative to the Tannler Development Agreement, the OBC zoned land be retained as there is a limited supply of commercially zoned land in the city.

Let me know if you have questions.

John

John Morgan
Special Projects
Planning
[#6059](#)



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WEST LINN ECONOMIC DEVELOPMENT COMMITTEE

Agenda

January 11, 2018
6:30 PM
Willamette Room, City Hall

1. Election of Officers for 2018
2. Review of Agenda
3. Approval of Minutes
December 14, 2018
4. Old Business
 - a. Mixed Use Task Force – report from first meeting
 - b. Waterfront Project/WLPC Mill update
 - c. Old City Hall/Tourism update
5. New Business
 - a. West Linn Chamber activities
 - b. 2018 County Tourism Grants
 - c. EDC strategic planning retreat
6. Other items of interest:
 - a. From EDC members (5 minutes)
 - b. From Council or Staff liaisons (5 minutes)
7. Public comments on Economic Development matters not on the agenda (3 minutes per speaker)
8. Announcement of next meeting
Next regular meeting 6:30pm, February 8, 2018
9. Adjourn

Please help us to accommodate citizens who are chemically sensitive to fragrances and other scented products. Thank you for not wearing perfume, aftershave, scented hand lotion, fragranced hair products, and/or similar products.

WEST LINN

ECONOMIC DEVELOPMENT COMMITTEE

Meeting Minutes

December 14, 2017

Call to Order

6:32 Call to order by Gail Holmes

Members Present

Kazi Ahmed
Bev Burke
Jennifer Harmon
Shannen Knight
Russel Williams
Rachael Vidin
Richard Sakelik City Councilor

Members Absent

None

Staff

John Morgan

Guest

David Baker

Review of Agenda

Gail Holmes, add to new business OBC Land issue

Minutes

Approval of minutes of November 9, 2017; Shannen Knight motioned to accept as written; Jennifer Harmon, motion passed as approved with corrections, one abstain by Gail Holmes:

Page 1 - Waterfront: remove the word "investment"

Page 3 - strike "Shannen Knight agreed"

Page 4 - Inaudible - should be Jennifer Harmon

Adjournment at 8:30

Committee Structure:
Dropped from the agenda

EDC Webpage:

The webpage seems to be out of date and does not contain current information. John Morgan will update and Kazi Ahmed listing achievements and tying the documents to the list.

OBC Discussion:

Councilor Sakelik left the room for this discussion. Shannen Knight wanted to bring up so there was not a situation like the Police Station where they did not know anything until after the fact when it was too late to do anything. Jeff Parker met with some community members to discuss property across from Albertsons and proposing 1 or 2 acres for OBC and the rest for apartments; we would be losing a lot of OBC land. February 12th the will go to City Council and will try to have meetings with WNA and SONA. The intersection there is a concern already and is an F, we don't have businesses to keep supporting our infrastructure. Jeff Parker is proposing a development agreement with the City and the Council has just begun to look at it. When they do come to an agreement, it would have to go through the public process. Kazi moves to have the EDC recommend to the Council preserve as much OBC as possible in the Tannler application and in any chase where commercial zoning may be lost.

Kazi Ahmed moves Rachael Vidin seconds to recommend to the Council Due to the limited quantity of OBC zoned property in WL, EDC recommends the Council maintain and preserve the property in said development agreement to remain zoned as OBC property.
Passes unanimously.

Councilor Sakelik returns to the meeting. Testimony on tis has been moved to February 12th Council meeting. Jeff Parker will continue to do more community outreach, and needs to attend a Willamette NA meeting.

Other items of interest

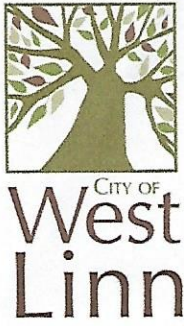
EDC Members

Shannen Knight - Ray Gordon - new Main Street Program Manager.

Rachael Vidin - talked to Transportation Advisory Board about the Waterfront plans. They should be approached and will be topic of discussion.

Kazi Ahmed - Robinwood Station is moving forward towards becoming a full community center and discussed what has been happening there and how beautiful the community garden is.

Jennifer Harmon - Do we want to hold a Commercial Broker summit - yes consensus - Jennifer



LAND USE PRE-APPLICATION CONFERENCE

Thursday, February 1, 2018

City Hall
22500 Salamo Road

Bolton Conference Room

11:00 am Proposed mixed use development comprised of apartments with ground floor commercial.

Applicant: Tannler Properties, Liz Edmonds

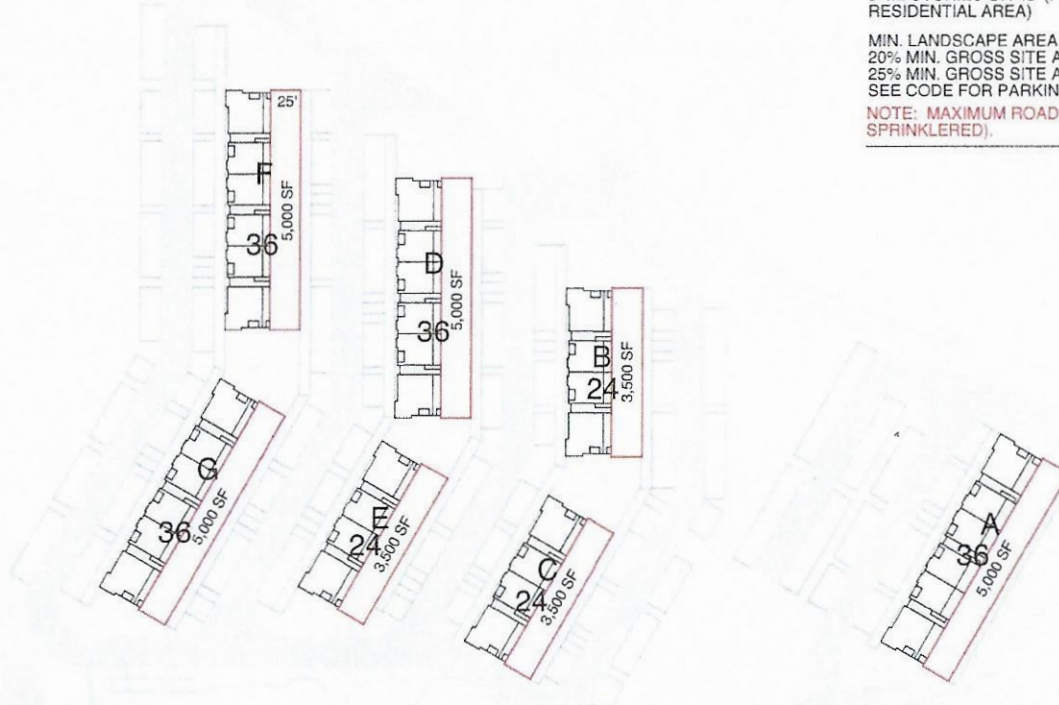
Subject Property Address: 2410, 2422 and 2444 Tannler Drive

Neighborhood Assn: Willamette

Planner: Peter Spir

Project #: PA-18-05





SITE SUMMARY / PARKING SUMMARY

UNIT TYPES	NUMBER	PARKING RATIO	MIN. PARKING	PARKING PROVIDED
2 BR UNITS	84 UNITS	1.5/ UNIT	126 STALLS	
1 BR UNITS	132 UNITS	1.25/ UNIT	165 STALLS	
SUBTOTAL	216 UNITS		291 STALLS	
COMMERCIAL	30,500 SF	1/ 370 SF	83 STALLS	
TOTAL			374 STALLS	374 STALLS

ZONING ISSUES (OBC ZONE)

MAX. HEIGHT:
 3-1/2 STORIES OR 45' (FOR BUILDINGS OVER 50' FROM A LOW OR MEDIUM DENSITY RESIDENTIAL AREA)

MIN. LANDSCAPE AREA: (NOT CHECKED)
 20% MIN. GROSS SITE AREA FOR RESIDENTIAL (NON-SINGLE FAMILY)
 25% MIN. GROSS SITE AREA FOR COMMERCIAL
 SEE CODE FOR PARKING LOT LANDSCAPE REQUIREMENTS

NOTE: MAXIMUM ROAD SLOPE FOR EMERGENCY VEHICLES 12% (OR 15% IF BUILDINGS SPRINKLERED).

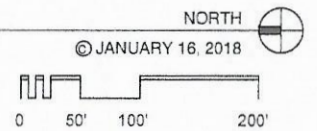
SITE PLAN - SCHEME K2 COMMERCIAL SPACE LAYOUT

BLACKHAWK DEVELOPMENT, LLC

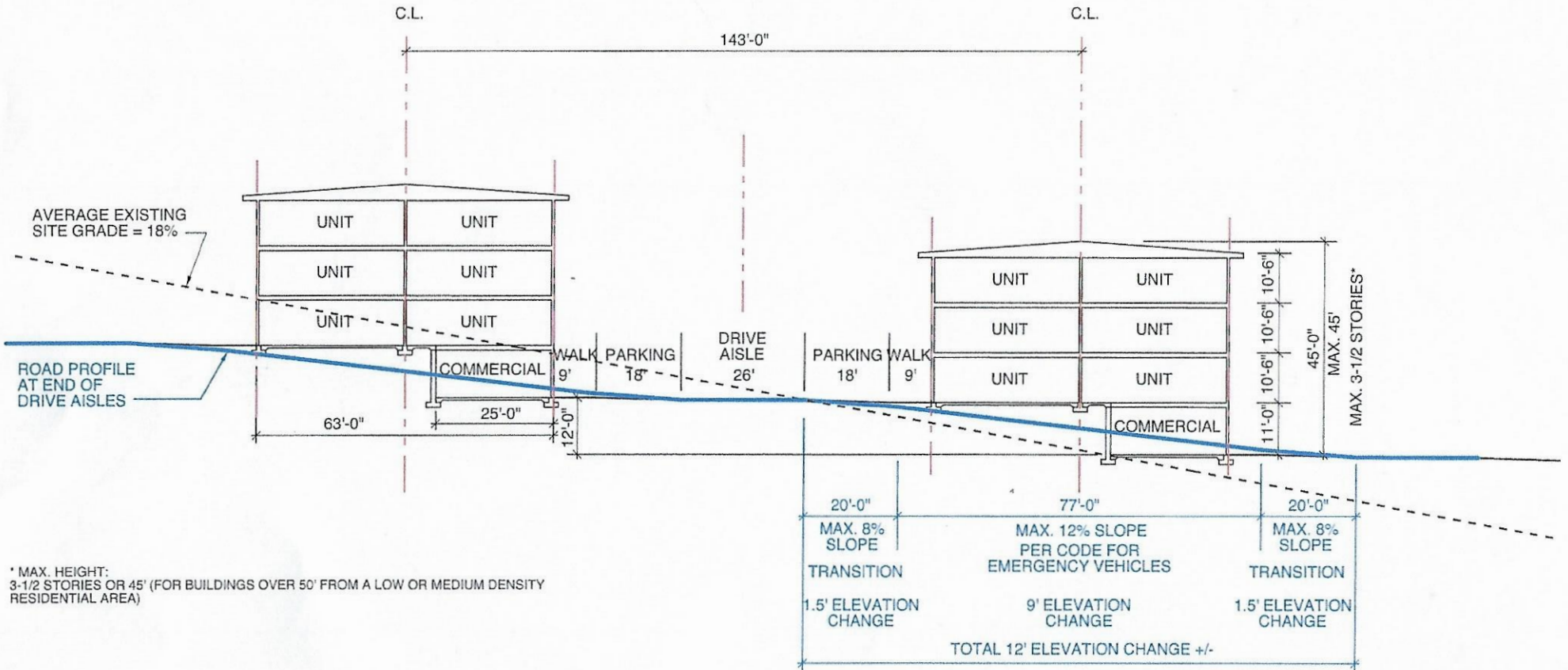
WEST LINN, OREGON



SCALE: 1" = 100'



© JANUARY 16, 2018



* MAX. HEIGHT:
3-1/2 STORIES OR 45' (FOR BUILDINGS OVER 50' FROM A LOW OR MEDIUM DENSITY RESIDENTIAL AREA)

SCHEME K2
SITE SECTION AT BUILDINGS

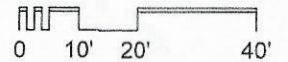
SCALE: 1" = 20'

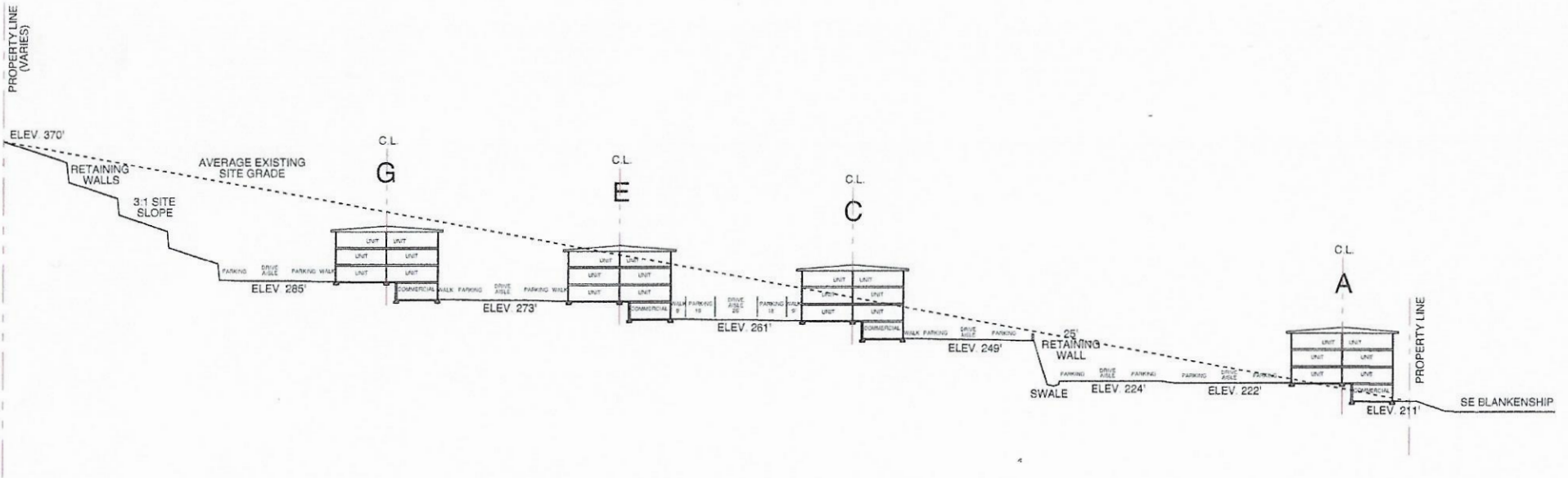
BLACKHAWK DEVELOPMENT, LLC

WEST LINN, OREGON



© JANUARY 16, 2018





NOTE: SITE SECTION IS DIAGRAMMATIC ONLY AND NOT EXACT

SITE SUMMARY / PARKING SUMMARY				
UNIT TYPES	NUMBER	PARKING RATIO	MIN. PARKING	PARKING PRO
2 BR UNITS	84 UNITS	1.5/ UNIT	126 STALLS	
1 BR UNITS	132 UNITS	1.25/ UNIT	165 STALLS	
SUBTOTAL	216 UNITS		291 STALLS	
VISITOR PARKING	216	1/3 UNITS*	72 STALLS*	
STREET PARKING REDUCTION		1/ 18'	-72 STALLS*	
SUBTOTAL			291 STALLS	
<hr/>				
CLUB HOUSE	2,400 SF	1/ 230 SF	11 STALLS	
COMMERCIAL	31,875 SF	1/ 370 SF	87 STALLS	
<hr/>				
TOTAL			389 STALLS	396 STALLS

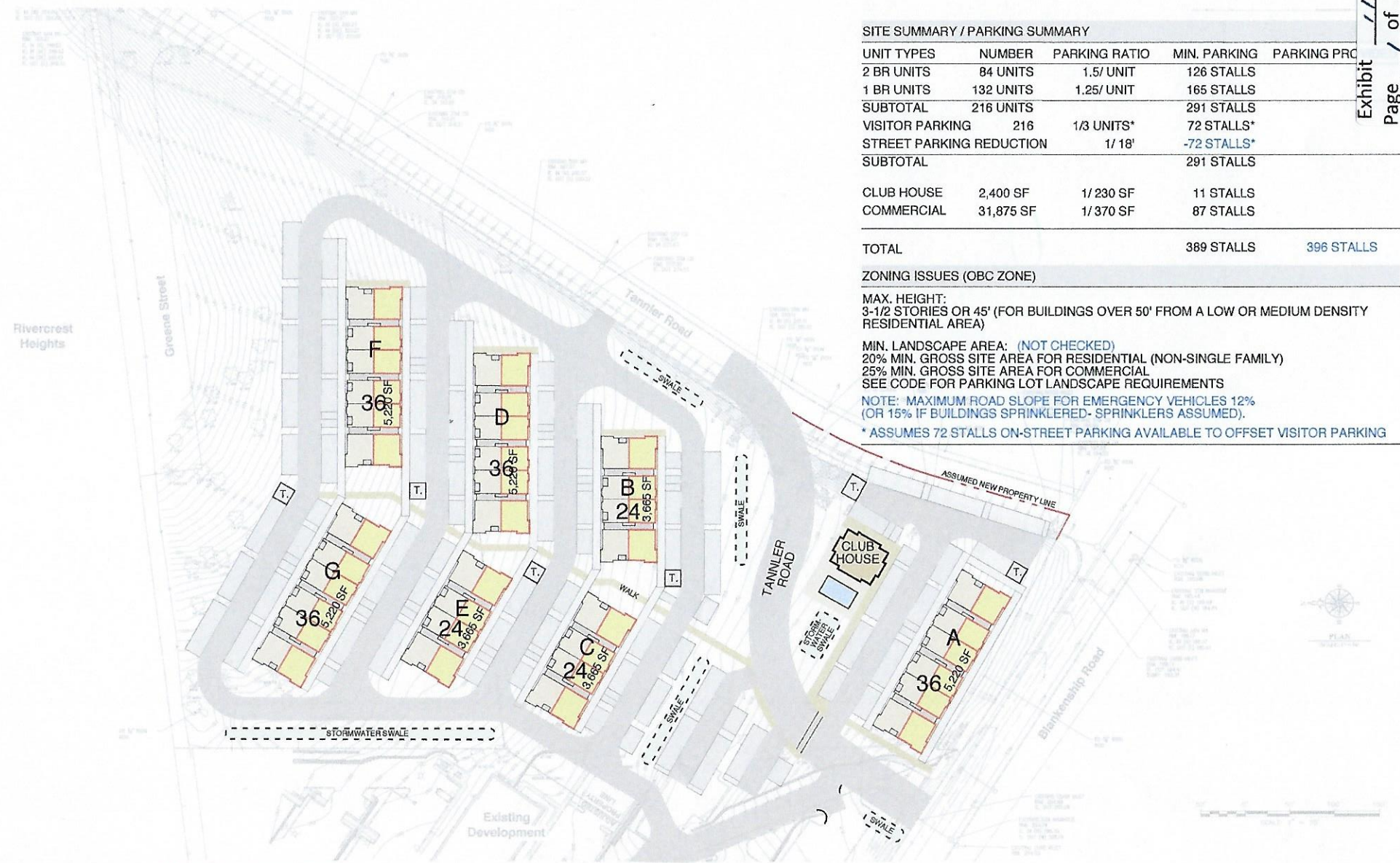
ZONING ISSUES (OBC ZONE)

MAX. HEIGHT:
 3-1/2 STORIES OR 45' (FOR BUILDINGS OVER 50' FROM A LOW OR MEDIUM DENSITY RESIDENTIAL AREA)

MIN. LANDSCAPE AREA: (NOT CHECKED)
 20% MIN. GROSS SITE AREA FOR RESIDENTIAL (NON-SINGLE FAMILY)
 25% MIN. GROSS SITE AREA FOR COMMERCIAL
 SEE CODE FOR PARKING LOT LANDSCAPE REQUIREMENTS

NOTE: MAXIMUM ROAD SLOPE FOR EMERGENCY VEHICLES 12% (OR 15% IF BUILDINGS SPRINKLERED- SPRINKLERS ASSUMED).

* ASSUMES 72 STALLS ON-STREET PARKING AVAILABLE TO OFFSET VISITOR PARKING

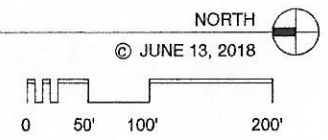


SITE PLAN - SCHEME L1 COMMERCIAL SPACE LAYOUT

BLACKHAWK DEVELOPMENT, LLC

SCALE: 1" = 100'

WEST LINN, OREGON



SITE SUMMARY / PARKING SUMMARY

UNIT TYPES	NUMBER	PARKING RATIO	MIN. PARKING	PARKING PRO
2 BR UNITS	84 UNITS	1.5/ UNIT	126 STALLS	
1 BR UNITS	126 UNITS	1.25/ UNIT	158 STALLS	
SUBTOTAL	210 UNITS		284 STALLS	
VISITOR PARKING	210	1/3 UNITS*	70 STALLS*	
STREET PARKING REDUCTION		1/ 18'	-70 STALLS*	
SUBTOTAL			284 STALLS	

CLUB HOUSE	2,400 SF	1/230 SF	11 STALLS
COMMERCIAL	31,875 SF	1/370 SF	87 STALLS

TOTAL 382 STALLS 389 STALLS

ZONING ISSUES (OBC ZONE)

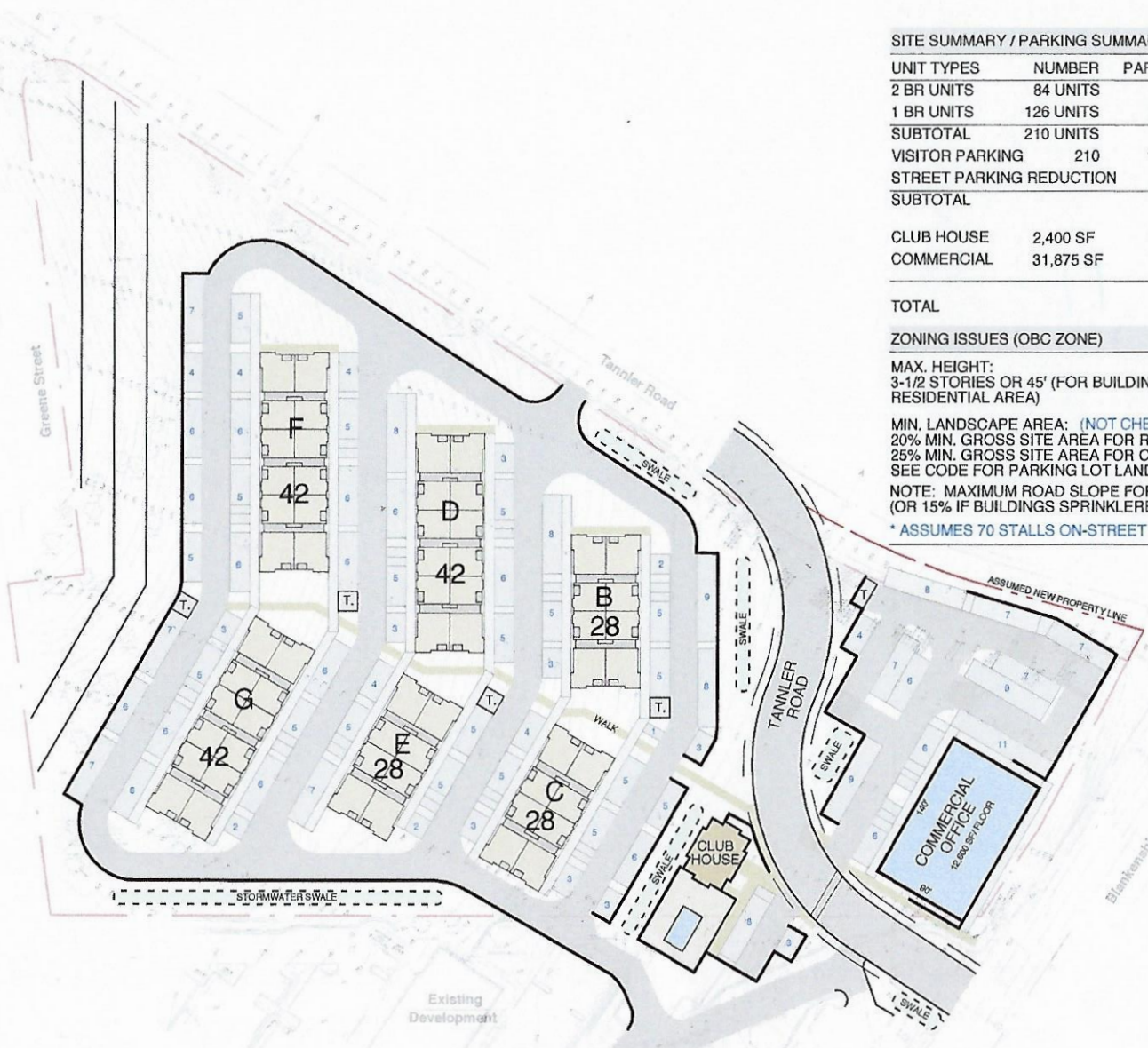
MAX. HEIGHT:
3-1/2 STORIES OR 45' (FOR BUILDINGS OVER 50' FROM A LOW OR MEDIUM DENSITY RESIDENTIAL AREA)

MIN. LANDSCAPE AREA: (NOT CHECKED)
20% MIN. GROSS SITE AREA FOR RESIDENTIAL (NON-SINGLE FAMILY)
25% MIN. GROSS SITE AREA FOR COMMERCIAL
SEE CODE FOR PARKING LOT LANDSCAPE REQUIREMENTS

NOTE: MAXIMUM ROAD SLOPE FOR EMERGENCY VEHICLES 12% (OR 15% IF BUILDINGS SPRINKLERED- SPRINKLERS ASSUMED).

* ASSUMES 70 STALLS ON-STREET PARKING AVAILABLE TO OFFSET VISITOR PARKING

Rivercrest Heights



COMMERCIAL OFFICE BUILDING SUMMARY

THIRD FLOOR	12,600 SF
SECOND FLOOR	12,600 SF
FIRST FLOOR	6,675 SF
TOTAL	31,875 SF

SITE PLAN - SCHEME L2

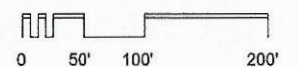
SCALE: 1" = 100'

BLACKHAWK DEVELOPMENT, LLC

WEST LINN, OREGON



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Savanna Oaks Neighborhood Association Meeting

October 2nd, 2018 at 7:00 PM

Minutes

Meeting was called to order at 7:00 pm by SONA President, Ed Schwarz.

In attendance were forty-one people. Thirty-one were members of SONA. Seven were guests from the Willamette Neighborhood Association. One was a speaker from Emerio Design who presented information on a 12-home development proposal for 22870 Weatherhill Rd. Two were speakers from LSW Architects and Radler White Parks & Alexander LLP who came to make an informal presentation about the possibility of 210-unit apartment complex with 31,800 feet of commercial space on the property at the corner of Blankenship and Tannler.

Meeting minutes from the September 2018 meeting were approved with a unanimous vote.

It was reported by President Schwarz that the current SONA balance is \$4,730.64.

Old Business:

1. Roberta Schwarz gave an update that the Park Director, Ken Worcester, recently emailed that the construction of the Natural Play Area in the lower acres of the White Oak Savanna should be done next summer. It has been difficult to get bids because construction companies are busy in the Portland Metro area. There are going to be 220 4th and 5th graders walking up to the Savanna to plant native species on October 19th and the 26th. On October 20th the Savanna will be one of the stops for a Parks and Rec sponsored activity which will be a Treasure Hunt. One of the SONA members, Patty H., volunteered to help Roberta that day.

New Business:

1. A presentation was made by Steve Miller, Senior Planner/Project Manager from Emerio Design, regarding a proposed development of approximately 12 homes at 22870 Weatherhill Dr. Several questions were asked and answered. Note: there were several new residents from the new homes recently built off Weatherhill who had come to discuss the insufficient width of their new streets. Their concerns included the following: 1. They were not told when they bought their homes that they could not park on the street. 2. The curbs are not painted red and there are not "no parking" signs posted. 3. Recently a family with a special needs child called for emergency medical assistance and the fire engine had a difficult time getting to that child. 4. Many of the neighbors do park on the street because they have recently moved in and their garages do not have space available for their cars. They have only 2 car garages. 5. Several of the neighbors said they wouldn't have moved to their homes if they had known of this parking restriction. 6. They are concerned about parking for guests if they have their families over in the future. The new neighbors asked what mechanism was available to voice these concerns. It was suggested by the President that they attend a Planning Commission Meeting and speak during the "Community Comments" section of the meeting. The Secretary said that she would advise people of the date when that information became available. Note: October 3rd was determined to be the next meeting date and the people who had made known their interest by placing an asterisk

next to their names on the sign in sheet were notified by email immediately. The owner of the property, Bob S., and the Senior Planner, Steve M., were both interested in attending as well and were also notified of the date and time.

2. It was also discussed that several people were not able to be at the September presentation on the 11-home development proposal for 22864 Weatherhill, which is right next door to the property being discussed tonight. It was determined that there was a miscommunication about the starting time, so several people had come at 7:30 and the presentation took place at 7:00. Note: the day after this October SONA meeting the Secretary emailed the presenters from the September meeting and asked if they would come to the November SONA meeting so that these neighbors could hear about that development and ask any questions that they might want to have addressed. There is a tentative "yes" with a confirmation coming.
3. Steve Mileham and Zoe Powers of the above referenced group made an informal presentation about preliminary plans for what was labeled "The Tannler Dr and Blankenship Rd Project". They stated the following: 1. The site is zoned for OBC (Office Business Center). 2. There are geographic challenges because of the steepness of the property. 3. It already has an approval for a parking garage and three office buildings. 4. Mixed use is permissible under certain conditions. The new plans would call for a variance so that there would be 210 apartment units located in six buildings going up the hill and 31,875 sq. ft of commercial space located in one building at the corner of the property next to the White Oak Savanna. It was determined by the neighbors that this would be what amounts to a zoning change. A second option discussed would be 216 apartments located on the top two floors of seven buildings with commercial located on the bottom floor of all seven buildings. The height would be 45 ft. in either case. It was discussed that Tannler Dr might be diverted through this property so that it let out across the street from the second Albertson's driveway. If this were to occur, one half of the ROW (Right of Way) of the vacated lower part of Tannler Dr would be given to the owners of the property in exchange for the land used for the new diverted bottom of Tannler Dr. The owner of the property is Mr. Jeff Parker. He also has partners who the representatives did not name when asked who owned the property now. Issues discussed included 1. The frustration felt by the neighbors in having had similar proposals for this property presented on numerous previous occasions through the past several years which necessitated the neighbors paying their private money to hire attorneys and experts to defeat these proposals. 2. Mr. Parker having asked for suggestions from the neighbors in the past about what would be a good use for the site and then apparently not listening to these ideas which were well researched and included contacts for the appropriate people at Kaiser Permanente. 3. Traffic from what would be approximately 500 people living in these units would equal, at ten car trips per day, 2,160 additional trips in our neighborhood. 4. No green space being given as previous proposed plans had allowed. 5. The necessity for new school(s) because of additional children moving into the area. 6. The residents at Summerlinn and on Falcon having 45 ft tall buildings next to their homes. 7. Many significant and stately Oak trees being felled. 8. The White Oak Savanna losing parking spaces just as the Natural Play Area is about to be built which will attract lots of West Linn families. Parking at the Savanna will be negatively impacted because the extra cars will go to Tannler to park as per the plans. 9. Insufficient parking being offered for the residents of the apartments and the customers of the commercial. 10. The City will have given almost \$1,000,000 towards the acquisition of the Savanna park land and the construction of the Natural Play Area. This proposal will undermine that taxpayer

funding and the fourteen years of hard work devoted by the neighbors for the White Oak Savanna to become a park and for its restoration with over 15,500 hours of their hard-physical labor. 11. Access to the park will become limited. 12. There was no guarantee given that a signal will be paid for by the developer even though, with 2,160 additional car trips, it would be sorely needed. 13. There was no information given about who would build the units, how much they would rent for, how they would be maintained, and how their construction would not lower the current values of the single-family homes currently in the neighborhood. 14. The West Linn Economic Development Committee assigned this buildable land as commercial. If the primary use become residential that will not be in keeping with this designation and the tax base of West Linn will be negatively affected. The representatives said that they would inform their clients of the details from their discussion with the neighbors at the SONA meeting and would share their suggestions and the concerns. They were thanked for coming to the SONA meeting on an informal basis before considering what, if any, proposals might be planned.

4. Ed Schwarz, seeing no further business, adjourned the meeting at 9:20 pm.

EXHIBIT A
"First Floor of the Structure"

