

**WEST LINN CITY COUNCIL
FINAL DECISION AND ORDER
FILE NOS. DR-23-01 AND AP-24-01**

**IN THE MATTER OF AN APPEAL OF A CLASS II DESIGN REVIEW AT
1919 & 1949 WILLAMETTE FALLS DRIVE.**

I. Overview

At its meeting on April 15, 2024, the West Linn City Council (the “Council”) held a public hearing to consider an Appeal (the “Appeal”) of the Planning Commission’s approval of a Class II Design review at 1919 & 1949 Willamette Falls Drive for Icon Construction & Development. The appeal was timely filed by Appellants Ian and Audra Brown. The approval criteria are found in Chapters 19, 41, 46, 48, 55, 58, and 99 of the Community Development Code (CDC). The hearing was conducted pursuant to the provisions of CDC Chapter 99. On April 22, 2024 the City Council reconvened to continue its deliberations on the Appeal and voted 5 to 0 to deny the Appeal and modify the Planning Commission’s decision, with clarifying revisions to Condition 10 (noise study).

The HRB held an initial evidentiary hearing on June 13, 2023, which was noticed in accordance with CDC Chapter 99, to consider the application with three Design Exceptions (CDC Chapter 58.090) for 1. Use of Brick in lieu of wood siding; 2. Use of Hardi-Plank in lieu of wood siding and trim; and 3. Use of support posts for the corner awning. After its discussion, the HRB provided a recommendation of approval, subject to five conditions of approval and a recommendation of “further analysis” of the mezzanine area (aka third-story) by the Planning Commission.

In response to testimony and deliberations at the HRB hearing, the Applicant submitted revised plans (August 15 and September 13, 2023) to reduce the visual impact of the third story and supplemental findings to support an additional Design Exception to exceed the two-story limit. Concurrent with that change was a redesign that removed the need for support pillars under the awning. At the October 4, 2023 PC public hearing, which was noticed in accordance with CDC Chapter 99, the hearing was opened, but testimony was not received, nor did deliberations begin at the recommendation of staff and the City Attorney. The Planning Commission voted to remand the new design exception back to the HRB so it could render a decision on the Design Exception to exceed the two-story limit.

The Applicant provided additional materials for the remand hearing before the HRB on October 23, 2023. The HRB held a second public hearing, which was noticed in accordance with CDC Chapter 99, to take up the matter of the added Design Exception to exceed the two-story height limit in the WFDCDD as remanded by the PC. After receiving testimony, the HRB closed

the public hearing, deliberated, and voted to DENY the Design Exception on the grounds it failed to satisfy the approval criteria of CDC Chapter 58.090.

The applicant submitted a letter on January 29, 2024 rescinding the request for a Design Exception to exceed the two-story height limit and stated the intent to move forward with an updated design that eliminated the proposed third story. The PC held a public hearing on February 21, 2024, which was noticed in accordance with CDC Chapter 99, to consider the Class II Design Review application. After receiving public testimony, the PC closed the public hearing, deliberated, and voted to APPROVE the application with 10 conditions of approval.

Appellants submitted a timely appeal of the decision on March 11, 2024. Consistent with CDC 99.270 and 99.280, the Council conducted a de-novo hearing, considered the entire record of the case before it, and did not limit issues on appeal to those stated in the notice of appeal. The Council did not consider arguments concerning issues not either raised in the notice of appeal or raised orally or in writing during the Appeal, because the Council cannot reasonably resolve issues that are not brought to its attention during the appeal proceedings.

Appellants' Attorney Carrie Richter and Appellant Ian Brown argued on behalf of Appellant. Architect Scot Sutton and Applicant's Attorney Garrett Stephenson argued on behalf of the Applicant. James Manning offered oral testimony in support of the Application. A number of opponents to the Application also testified orally, including Danny Schreiber, Kathie Halicki, Teri Cummings, and Karie Oakes. The Council also received written testimony both in support and opposition of the Application.

The arguments on appeal concerned the following issues:

- Potential for noise generated by the roof deck;
- Whether the City should prohibit certain uses of the roof deck;
- The extent to which buffering is required to protect nearby homes from potential noises;
- Whether the building satisfies the applicable height standards, including whether it is a two-story or three-story building;
- Whether certain architectural features are allowed to exceed the minimum 35-foot height;
- Whether the Applicant must propose particular uses as part of a Type II Design Review; and
- Whether the matter must be remanded to the Historic Review Board.

At the conclusion of its April 15 Special Meeting, the Council closed the public hearing and the record, and continued its deliberations to April 22, 2024.

During Council deliberations, it was noted that the quasi-judicial process followed by this application was appropriate and the Council did not hear any identified alternative process that the City was required to follow. It was also noted that Planning Commission had reviewed all items in the record for compliance with relevant standards and criteria, and Council had not identified anything other than noise which necessitated further review.

After deliberations a motion was made by Council President Baumgardner and seconded by Councilor Groner to deny the appeal of AP-24-01 and uphold the Planning Commission Approval of DR-23-01 with specified modifications to the Noise Study Condition and directed staff to bring findings for adoption on April 29th, 2024. The motion passed unanimously.

II. The Record

The record was finalized at the April 15, 2024, hearing. The record includes the entire file from DR-23-01 and AP-24-01.

III. 120-Day Period

The applicant extended the 120-day period in ORS 227.178(1) from August 30, 2023 to May 2, 2024 through five written extensions contained in the record. The City Council final decision was issued within the extended 120-day period.

IV. Findings of Fact and Conclusions of Law

- 1) The Overview set forth above is true and correct.
- 2) The applicant is Icon Construction and Development.
- 3) The Council finds that it has received all information necessary to make a decision based on the Staff Report and attached findings; public comment, if any; and the evidence in the whole record, including any exhibits received at the hearing.
- 4) The Council finds that it has received all information necessary to make a decision based on the Agenda Report; appeal application; the Appellant's oral and written argument; the Applicant's oral and written argument; oral and written argument by the public; and evidence in the whole record.
- 5) The Council hereby incorporates and adopts as part of its Findings of Fact and Conclusions of Law the Planning Commission's Decision (Exhibit 1) and Staff Reports (Exhibit 2), to the extent those findings are consistent with the Council's written Final Decision and Order and its supplemental findings. The Council also adopts the following supplemental findings responding to arguments on appeal:

I. Noise

The Council finds that the Application is a limited land use application as defined in ORS 197.015 and is therefore exclusively subject to the criteria and standards in the CDC. With respect to noise, those criteria and standards are as follows:

- CDC 55.070.D.2.h: “If staff determines before or during the pre-application conference that the land use is expected to generate noise that may exceed DEQ standards, the application shall include a noise study conducted by a licensed acoustical engineer that demonstrates that the application and associated noise sources will meet DEQ standards. Typical noise sources of concern include, but are not limited to, vehicle drive-throughs, parking lots, HVAC units, and public address systems.”
- CDC 55.100.D.3: “Structures or on-site activity areas which generate noise, lights, or glare shall be buffered from adjoining residential uses in accordance with the standards in subsection C of this section where applicable.”
- CDC 55.100.D.4: “Businesses or activities that can reasonably be expected to generate noise in excess of the noise standards contained in West Linn Municipal Code Section 5.487 shall undertake and submit appropriate noise studies and mitigate as necessary to comply with the code. If the decision-making authority reasonably believes a proposed use may generate noise exceeding the standards specified in the municipal code, then the authority may require the applicant to supply professional noise studies from time to time during the user’s first year of operation to monitor compliance with City standards and permit requirements.”

The Council finds that in a Design Review it has the authority to require a noise study at two points in the Design Review process. First, it can require one as part of a Design Review application if “staff determines before or during the pre-application conference that the land use is expected to generate noise that may exceed DEQ standards.” The Council finds that CDC 55.070.D.2.h is not an applicable criterion for the Application because it is a submittal requirement, and City staff did not determine before or during the pre-application that the land use is expected to generate noise that may exceed DEQ standards.

Second, the City can require noise studies as conditions of approval under CDC 55.100.D.4. This standard has two components. The first sentence provides that applicants for “businesses or activities” that can reasonably be expected to violate the City’s noise standards can be required to submit appropriate noise studies and, if necessary, provide mitigation measures. Given that inclusion of such a study within an application is required only under CDC 55.070.D.2.h, such a finding would result in one or more conditions of approval requiring a noise study or mitigation measures.

The Council declines to impose conditions under this section, for two reasons. First, no particular use or activity of the roof deck is proposed in the Application. Second, the City does not find that reasonably likely future uses, such as incidental use of the roof deck for employees or as accessory to a food and beverage use can “reasonably be expected to generate noise in excess of the noise standards.” Although the noise standards in WLMC 5.487 are not approval criteria (and therefore do not require interpretation by the City), the City observes that certain levels of noise generated by the potential uses at issue in the Appeal, are permissible. The City relies on a reasonable person standard as to what level of noise will be bothersome, meaning that any particular noise sensitivity of the Appellants is not sufficient to implicate this section.

There is also no *ban* on the outdoor use of “Radios, Televisions, Stereos, Musical Instruments and Similar Devices” and “Loudspeakers, Amplifiers, Public Address Systems, and Similar Devices.” Rather, their use is limited to a level below that which is “plainly audible to any person other than the player(s) or operator(s) of the device, and those who are voluntarily listening to the sound, and unreasonably disturbs the peace, quiet, and comfort of neighbors in residential areas,” and “the unreasonably loud and raucous use or operation” of these devices. For this reason, the Council rejects Appellants’ proposed condition prohibiting all sound amplification except for handheld bluetooth speakers.

Appellants have submitted evidence in the form of a study from the Acoustical Society of America which examines “noise dynamics in city nightlife.” While the study identifies the potential harm from noise from “pubs and bars,” much of the study focused on the harm caused by allowed late-night activities in those establishments. WLMC 5.487(4)(e), on the other hand, prohibits the “creation of noise in residential areas or in public places, between the hours of 9:00 p.m. and 7:00 a.m.” The study also suggests that loud noises from pubs, bars, and clubs can be disruptive to individuals living near them. The Council agrees, but does not believe the study constitutes evidence demonstrating that, for example, use of a roof deck as accessory to a restaurant (as opposed to a pub, bar, or club) is reasonably *likely* to generate noise in excess of the City’s noise standards. Balanced against this evidence is the separation between the proposed roof deck and nearby residences, the proposed location of the deck on the roof, the roof parapet and cornice along Knapps Alley, and the proposed metal panels and vegetated buffering. The Council also finds that oral testimony concerning the lack of complaints and enforcement problems with The Garage cart pod supports its conclusion.

Third, the second sentence of CDC 55.100.D.4. provides a means by which the City may require one or more the noise studies if it “reasonably believes a proposed use *may* generate noise exceeding the standards.” In such instance, the City may require the “applicant to supply professional noise studies from time to time during the user’s first year of operation to monitor compliance with City standards and permit requirements.”

Based on the evidence in the record, the Council agrees with the Planning Commission that there is the potential for one or more uses of the roof deck (which use has not been identified) to generate noise exceeding the standards. By way of distinction, while the Council disagrees that use of the roof deck by building tenants is “reasonably likely” to violate the noise standards, the Council finds that the lesser threshold—that unidentified uses of the roof deck *may* violate those standards—to be met. For this reason, the Council shall replace the current Condition 10 with the following condition of approval:

“The applicant shall submit a noise study prepared by a licensed, professional acoustical engineer as part of the first tenant improvement application for an eating and drinking establishment that takes into consideration the use of the rooftop deck for activities associated with the establishment. The noise study must identify and evaluate potential impacts that could violate the provisions of West Linn Municipal Code Chapter 5.487 and identify those mitigation steps necessary to avoid noncompliance. Design mitigations recommended in the noise study to address identified impacts shall be constructed with the tenant improvements and could include, but not be limited to, signage, physical barriers, plantings, noise reducing acoustical equipment, and follow-up studies. Subsequent to the first study, the applicant shall submit a follow-up study within one-year of occupancy of the eating and drinking establishment to be taken during a period of peak occupancy during evening business hours.”

Finally, the Council rejects Appellant’s argument that the above condition requiring one or more noise studies improperly defers a required finding such that a new hearing is required to evaluate the noise study when it is completed. As explained above, a noise study is required to be part of the Application if it is identified as a submittal requirement, which it was not here. The provisions in CDC 55.100.D.4, when read in context, allow the Council to require a noise study as a condition of approval but does not require a finding that such noise study meets particular criteria, because there are no stated criteria against which a noise study or mitigation measures must be judged. Rather, this section points to the question of whether a use can meet WLMC 5.487, the compliance with which is judged by the designated city staff responsible for monitoring noise standard compliance.

II. Permitted Uses

Appellants requested that the Council impose an additional condition of approval concerning a limitation on certain land uses. Appellant’s recommended condition is as follows:

“(1) The rooftop lounge shall not be used by retail customers for the consumption of food or beverages that is purchased onsite.”

The Council rejects the proposed condition. Land uses in the Design District are governed by CDC 58.050 which in relevant part, provides as follows:

“All uses permitted by the underlying General Commercial zone shall be allowed pursuant to CDC 19.030, 19.040, 19.050, and 19.060, and shall require the application of the standards of this chapter.”

CDC 19.030.14 allows outright “eating and drinking establishments,” “food and beverage retail sales,” and “general retail services.” The Council finds that while the Design District does limit the extent of certain uses in buildings within the District, such limitations only apply to residential uses as set forth in 58.050. As the Application is for a limited land use decision, the Council finds that, pursuant to ORS 197.195(1) it is constrained by the use allowances in the applicable sections of the CDC.

As explained above, the Council also finds that CDC 55.070.D.2.h, 55.100.D.3, and 55.100.D.4, along with buffering requirements in CDC 55.100.C, provide the exclusive approval criteria, standards, and factors concerning potential noise issues and provide the exclusive means for addressing potential noise issues as part of a Design Review, which measures do not include restrictions on otherwise permitted uses of a building.

III. Buffering

The Council finds that the proposed structure is anticipated to generate noise from mechanical equipment, which will be present regardless of use. Pursuant to CDC 55.100.C.3, the Applicant shall be required to screen all mechanical equipment, which the Applicant has proposed to do by fully enclosing the mechanical equipment within an equipment space attached to the main elevator. The Council finds that the above criterion is met for this reason.

The Council adopts Staff’s proposed findings concerning CDC 55.100.C.1 in its report for the February 21, 2024 Planning Commission meeting, which are as follows:

“Staff Finding 22: Staff adopts applicant findings for these standards. The project site is surrounded on all three sides by public-right-of way and all trash and storage are enclosed by building walls. Parking is to occur within an underground garage and associated entrance approved as part of DR-16-01, with the exception of a parallel parking area along Knapps Alley. A rooftop mechanical equipment enclosure is proposed for HVAC and other equipment. See also Staff Finding 43 regarding rear setback standards in the Willamette Commercial Design District. These standards are met.”

As Staff recommended, the Council also adopts the Applicant’s finding that CDC 55.100.C.1 is satisfied with respect to buffering by the abutting rights-of-way separating the building from nearby residential uses.

The Applicant has proposed a buffer treatment between the roof deck and nearby residential uses, and will be required to construct such buffer. However, in contrast to the clear requirement for buffering of mechanical equipment, the Council does not interpret CDC 55.100.C.1 to *require* a constructed buffer between the roof deck and nearby residential uses in this instance, given the separation between the proposed commercial building and nearby residents provided by Knapps Alley and the substantial distance between the roof deck and the building’s south facade.

Even if specific buffering of the roof deck itself *were* required, the Council finds the Application provides adequate buffering based on the following factors:

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

Finding: The purpose of the proposed buffer is primarily to screen any potential activities on the roof deck from nearby residential uses. The principle purpose of the buffer is to limit light and views from the nearby residential uses. A secondary purpose of the buffer is to reduce potential noise from the rooftop.

- b. *The size of the buffer required to achieve the purpose in terms of width and height.*

Finding: Physical buffering for rooftop activities is provided by two elements, as shown on the Applicant’s Jan. 29, 2024 supplemental materials, both of which equal or exceed the width of the roof deck. First,

the rooftop cornice adjacent to Knapps Alley extends approximately 6' 6" above the roofline. Second, an additional buffer effect is provided by the 5' 6" steel panel screenwall (shown in the same Applicant materials) and proposed decorative planter. The Council finds that the proposed buffer satisfies its primary purpose as shown in the line-of-sight drawings in the Applicant's Jan. 29, 2024 submittal. The proposed buffering, including the distance from residential uses noted above, serves its secondary purpose by placing physical barriers between any potential noise sources and nearby homes. The Council finds that the proposed metal and vegetated buffer will provide some reduction in noise despite the fact it is proposed to be 5' 6" tall.

c. The direction(s) from which buffering is needed.

Finding: These buffers are proposed between the roof deck and Knapps Alley, in the direction of the nearest residential uses.

d. The required density of the buffering.

Finding: Given the commercial nature of the area, the presence of Knapps Alley between the building and residential uses, and the placement of the roof deck closer to the Willamette Blvd. side of the building, the density of any single element of the buffer need not be great. This is reflected in the line-of-sight drawings in the Applicant's Jan. 29, 2024 submittal.

e. Whether the viewer is stationary or mobile.

Finding: The viewers could be stationary or mobile, but the line of sight drawings demonstrate that no person will be able to see activities occurring on the roof deck from the nearest dwelling.

In conclusion, the Council finds that the presence of the cornices, rooftop façade (false front), metal screen wall, vegetation, setback of the deck from the roof edge, and intervening alley will prevent visual impacts on nearby residences and is likely to decrease noise levels otherwise audible from the roof deck.

The Council rejects Appellant's argument that CDC 55.100.C and D.3 requires additional or modified buffering to decrease noise. Subsection (D)(3) provides that "Structures or on-site activity areas which generate noise, lights, or glare shall be buffered from adjoining residential uses *in accordance with the standards in subsection C of this section where applicable.*" Emphasis added. The phrase "in accordance with the standards" refers to the factors in CDC 55.100.C.1 and .3, discussed above. Contrary to Appellant's assertion, CDC 55.100.C is not just the "noise standards," but cover several elements of

compatibility, most of which were not at issue in the Appeal. The phrase “where applicable” similarly allows the City to determine whether certain types of buffering are required between uses, based on the provisions of CDC 55.100.C. As noted above, the Council finds that these standards are not directly applicable here because there are no residential uses directly adjacent to the roof deck – they are separated by an alley and a substantial portion of the roof. In the alternative, the City evaluated these factors and found that the proposed buffering is reasonably likely to reduce potential noise and visual impact, and no person testified during the appeal hearing that the city failed to evaluate any of these factors.

The Council rejects Appellant’s argument that any buffering proposed between the roof deck and nearby residential properties must be specifically designed to reduce noise or be acoustically-rated, because such a requirement is not stated in the CDC. ORS 197.195(1). The City has the authority to require specific acoustical analysis of proposed buffers prior to application approval if the need for that is identified under CDC 55.070.D.2.h, but that need was not identified here. If the conflict between uses is great, the Council finds that it has the authority to require acoustically-engineered buffers under CDC 55.100.C.1, but the potential conflict between the type of commercial building proposed here and nearby residential uses is not so great as to require such a measure, particularly given the separation between the roof deck and nearby residential uses. The Council also relies on testimony concerning the general lack of nuisance issues with The Garage cart pod.

IV. Height

The maximum height limit for the Design District is stated in 58.080.b.3, which limits buildings in the District to a maximum of 35 feet in height and two stories. CDC 41.005.A regulates how building height is measured in West Linn:

“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 not used for human habitation, as provided in CDC 41.030. 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 the proposed finished grade five feet out from the exterior wall at

the front of the building (Figure 1).”

On January 29, 2024, the Applicant submitted a revised set of plans (which plans were also dated for the Planning Commission hearing on Feb. 21, 2024), which demonstrate that the proposed building will meet the applicable height requirement.

The building is proposed to be two stories. City’s codified definition of “story” is as follows:

“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 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.”

This definition plainly means that the top floor must have a ceiling. The space enclosed by the building’s cornice, painted panels, and vertical pilasters does not constitute a third story because they are placed above the Building’s roof, and they *lack* a ceiling. The Building plainly meets the Design District’s limitation of building to two stories. Appellants argued that the building “reads” as three stories, but Appellants identified no design standard supporting a conclusion that such an appearance constitutes an additional story, as defined in the CDC.

Finally, the elevator shaft housing, vestibule, and mechanical equipment enclosure do not constitute a third story because they are located on top of the roof. Further, elevator shaft housings are specifically called out as “projections” in CDC 41.030, not stories. Finally, in order to be consistent with the Oregon Structural Specialty Code, the Council finds that an elevator vestibule is a projection similar to an elevator shaft housing, given that both are defined as “penthouses” and considered as part of the story below, pursuant to OSSC 1511.2.

V. Building Projections

The proposed features above 35 feet and/or two stories in height are permitted.

CDC 41.030 “Projections Not Used for Human Habitation” provides as follows: “Projections such as chimneys, spires, domes, elevator shaft housings, towers, aerials, flag poles, and other similar objects not used for human occupancy are not subject to the building height limitations of this code.” The 35-foot height limit and two story maximum are “height limits” stated in CDC 58.080.b.3. The only building elements exceeding 35 feet in height are the tops of certain decorative architectural features and the top of the elevator shaft. The Council finds that there is no relevant difference between the top of decorative architectural features and spires, domes, or towers. Therefore, these features are exempt from the 35-foot height limitation. All rooftop features are exempt from the two-story height limit because the building is proposed to be two stories, as noted above.

Finally, Appellants are incorrect that the panels, vertical pilasters, and cornices are subject to the standard in CDC 50.080.B.3, which provides that “a false front shall be considered as the peak of the building if it exceeds the gable roof ridgeline.” This standard does not apply because the Building does not have a gable roof, and therefore has no “gable roof ridgeline.”¹

VI. Whether the Applicant must propose particular uses as part of a Type II Design Review

At least one opponent appeared to argue that the Application should be remanded because a particular use for the building has not been proposed. No person identified a provision in the CDC that supports this argument, the Council finds that neither the submittal requirements nor the criteria for a Design Review require identification of particular future uses.

VII. Remand of the Application to the Historic Review Board

The Council declines to remand the Application to the Historic Review Board for several reasons. First, Appellants and opponents have not identified a requirement in the CDC that the Council do so. When considering a Design Review, the HRB is empowered to make an initial decision on formal Design Exceptions. Otherwise, the HRB is empowered to “make *recommendations* to the approval authority” on a Class I or II Design Review in the Design District, and is not the approval authority for these applications. CDC 99.060.B. As the Applicant removed the originally-proposed third story, there is no additional

¹ A gable roof is “double-sloping roof that forms a gable at each end.” Webster’s Third Int’l Dictionary, Unabridged (1993)

Design Exception that the HRB must address. Therefore, any further review it might conduct would result in a new *recommendation* to the Planning Commission.

Second, remand to the HRB is not required for the Council to deny the Appeal and approve the Application. As the hearing before the Planning Commission is not restricted solely to the record before the HRB, the Planning Commission has the discretion to decide whether revisions to an application to comply with HRB feedback – as were proposed here- constitute a new application. The Planning Commission did not find that removal of the third story constitutes a new application, and the Council agrees that, at least in this instance, it does not. The Council also finds that the maximum extension of the 120-day deadline has been granted (ORS 227.178(5)), which as a practical matter precludes further review by the HRC. The Application has gone through several hearings before the HRB and the Planning Commission, which provided adequate opportunities for all concerned parties to raise their concerns.

V. Order

For the reasons contained herein, the Council Hereby DENIES the Appeal (AP-24-01) and MODIFIES Condition 10 of the Planning Commission's approval of DR-23-01, thereby APPROVING the Application, subject to the following conditions:

1. Approved Plans. All alterations and improvements shall substantially conform to all submitted tentative plan sheets and supporting materials contained in Exhibit PC-01.
2. Engineering Standards. All public improvements and facilities associated with the approved site design, including but not limited to street improvements, driveway approaches, curb cuts, utilities, grading, onsite and offsite stormwater, street lighting, easements, easement locations, and connections for future extension of utilities are subject to conformance with the City Municipal Code and Community Development Code. These must be designed, constructed, and completed prior to final building certificate of occupancy. The City may partner with the applicant to fund additional improvements as part of the project.
3. Joint Access. Prior to final building certificate of occupancy, the applicant shall present an easement or other legal evidence of continued joint access and egress between the project site and 11th street through the existing underground parking garage and driveway onto 11th street to the east (1969 & 1993 Willamette Falls Drive), in compliance with CDC 48.020.E and 48.025.

4. Street Improvements. Prior to final building certificate of occupancy, the applicant shall mitigate any impacts to existing right-of-way improvements along Willamette Falls Drive, 12th Street, and Knapps Alley. The mitigation will include replacement of impacted pavement, curbs, planter strips, street trees, street lights, sidewalks, pedestrian crossings, and street storm drainage.
5. Knapps Alley. The applicant shall improve, including repaving, the portion of Knapps Alley adjacent to the site. This must be completed prior to the issuance of the final building certificate of occupancy.
6. Vertical Breaks. Prior to issuance of building permits, the applicant shall submit building permit plans with revised western and southern elevations that demonstrate compliance with CDC 58.080.C.7 that requires strong vertical breaks or lines regularly spaced every 25 to 50 feet.
7. Entry Doors & Pedestrian Level Windows. Prior to issuance of building permits, the applicant shall submit building permit plans with revised elevations and door details that demonstrate compliance the glazing and panel ratios for entry doors in CDC 58.080.C.13, and minimum pedestrian level window sill heights within CDC 58.080.C.15.
8. Awning. Prior to issuance of building permits, the applicant shall submit building permit plans that demonstrate compliance with the 5-foot minimum awning depth as required in CDC 58.080.C.11.
9. Lighting Plan. The applicants lighting plan shall be revised to show: (1) the location and type of lights to be used to illuminate the rooftop deck, and no part of these fixtures will be visible from neighboring properties;(2) the use of full cutoff fixtures on the rooftop deck and the rear elevation that are directed down with an luminescence area that does not reach beyond the edge of Knapp's alley and includes glare guards that block glare from the sides; and (3) that a qualified lighting designer has reviewed the revised plan and concluded that, overall, the exterior lighting scheme will be less bright than the companion 1969 building.
10. Noise Study. The applicant shall submit a noise study prepared by a licensed, professional acoustical engineer as part of the first tenant improvement application for an eating and drinking establishment that takes into consideration the use of the rooftop deck for activities associated with the establishment. The noise study must identify and evaluate potential impacts that could violate the provisions of West Linn Municipal Code Chapter 5.487 and identify those mitigation steps necessary to avoid noncompliance. Design mitigations recommended in the noise study to address identified impacts shall be constructed with the tenant improvements and could include, but not be limited to, signage, physical barriers, plantings, noise reducing acoustical equipment, and follow-up studies. Subsequent to the first study, the applicant shall submit a follow-up study within one-year of occupancy of the eating and

drinking establishment to be taken during a period of peak occupancy during evening business hours.



RORY BIALOSTOSKY, MAYOR
CITY OF WEST LINN

4-30-2024

DATE

Mailed this 1 day of May, 2024.

Therefore, this decision becomes effective at 5 p.m., May 22, 2024.

**WEST LINN PLANNING COMMISSION
FINAL DECISION AND ORDER
FILE NO. DR-23-01**

**IN THE MATTER OF A PROPOSAL FOR A CLASS II DESIGN REVIEW AT
1919 & 1949 WILLAMETTE FALLS DRIVE.**

I. Overview

At its meeting on February 21, 2024, the West Linn Planning Commission (“Commission”) held a public hearing to consider a request by Icon Construction & Development to approve a Class II Design review at 1919 & 1949 Willamette Falls Drive. The approval criteria are found in Chapters 19, 41, 46, 48, 55, 58, and 99 of the Community Development Code (CDC). The hearing was conducted pursuant to the provisions of CDC Chapter 99.

As documented in the staff report and project record, the first evidentiary hearing was held by the Historic Review Board (“HRB”) on June 13, 2023. At that hearing, the issue of building height was a central point of deliberation, including the definition of “story” and whether a proposed rooftop lounge and restroom constituted a mezzanine or a third-story. The definition of story was significant as the Willamette Falls Drive Commercial Design District (WFDCDD) limits new construction to no more than two stories (CDC 58.080.B.3). After considering testimony and deliberations, the HRB could not come to a decision regarding the project’s compliance with the two-story height limit. It therefore chose to defer the matter to the Commission, and voted 3 to 2 to recommend approval of the project, subject to five conditions of approval and a recommendation of “further analysis” of the mezzanine area (aka third-story) by the Commission.

On August 15 and September 13, 2023, the applicant submitted revised plans and findings that reduced the size of the third story and requested a Design Exception to exceed the two-story height limit. These materials were later withdrawn and superseded by materials provided by the applicant on January 29, 2024.

On October 4, 2023, the Commission opened its first Public Hearing on the project, but testimony was not received, nor deliberations begun at the recommendation of staff and the City Attorney. As noted by Ian and Audra Brown in their written testimony, only the HRB may approve a Design Exception to the WFDCDD Standards, and a new Design Exception had been introduced after the HRB made their recommendation on June 13th. Therefore, the Planning Commission voted to remand the new design exception back to the HRB so they could render a decision on the Design Exception to exceed the two-story limit.

On November 14, 2023, the HRB took up the matter of the added Design Exception to exceed the two-story height limit in the WFDCDD. After receiving testimony and deliberation, the HRB denied the Design Exception on grounds it failed to satisfy the approval criteria.

On January 29, 2024, the applicant submitted a letter rescinding their request for a Design Exception to exceed the two-story height limit, including associated materials submitted after the first HRB hearing on June 13th, and stated an intent to move forward with a revised design that directly responded to feedback provided by the HRB and commenting parties at the June 13th HRB hearing and associated recommendation.

On February 21, 2024, the Commission hearing commenced with a staff report presented by John Floyd, Senior Planner. The presentation included a procedural history of the project, the HRB recommendations, an explanation of the design changes, and a summary and staff response to written testimony received after publication of the staff report. Written testimony included comments by the Oregon Department of Transportation, Ian and Audra Brown, and Yarrow Currie. These comments were conveyed to the Planning Commission in two separate transmittal memorandums dated February 16 and February 21, 2024.

Licensed Architect Scot Sutton presented on behalf of the applicant. Oral testimony in opposition to the proposal was submitted by Audra Brown, Ian Brown, Yarrow Currie, Maria Blanc-Gonnet, James Estes, and Danny Schreiber.

Some of the community concerns raised at the public hearing included:

1. Height of the structure, including concerns that the proposed elevator and stairwell for rooftop access were not in compliance with the two-story height standard, and whether they qualified for a height exemption as unoccupied space per CDC Chapter 41.020.
2. The indeterminate future use of the rooftop deck, and potential noise impacts generated by use of this space.
3. Potential light impacts associated with rooftop lighting and the bright conditions created by the existing building next door, whose design closely matches the proposed application.
4. Preserving the structure located at 1919 Willamette Falls Drive, to be demolished as part of the project, due to its age and association with figures of local historical significance.
5. Whether the process standards of CDC Chapters 58 and 99 had been met in regards to compliance with the WFDCDD, and whether the HRB had been provided adequate opportunity to provide a recommendation on the revised plans submitted on January 29, 2024.

Scot Sutton provided applicant rebuttal. John Floyd and City Attorney Bill Monaghan provided staff rebuttal and answered questions from the commission.

The public hearing was closed and the Commission entered into deliberations. The Commission re-opened the public hearing for the purpose of considering additional conditions of approval to address noise and light impacts. The applicant was invited to comment on the proposed conditions and Scot Sutton requested clarification of the lighting condition by replacing the word “features” with “fixtures.” Sutton indicated the applicant had no objections to the noise condition. The Commission invited the public to speak on the new conditions, whereupon Ian

Brown and Audra Brown gave additional testimony. The hearing was then closed and deliberations resumed.

After deliberations a motion was made by Commissioner Walvatne and seconded by Commissioner Bonnington to approve the application with a total of ten condition of approvals. These included the eight recommended by Staff in the February 21, 2024 Staff Report, and two additional conditions pertaining to light impacts and noise impacts. The motion passed 4-0. (Commissioners Jones, Walvatne, Bonnington, and Metlen), with Watton recused and Carr and Boggess absent.

II. The Record

The record was finalized at the February 21st, 2024, hearing. The record includes the entire file from DR-23-01.

III. Findings of Fact

- 1) The Overview set forth above is true and correct.
- 2) The applicant is Icon Construction and Development.
- 3) The Commission finds that it has received all information necessary to make a decision based on the Staff Report and attached findings; public comment, if any; and the evidence in the whole record, including any exhibits received at the hearing.

IV. Additional Planning Commission Findings

After review of the entire record of the proceedings, including the applicant submittal, HRB recommendation, staff report and findings, both oral and written public testimony, applicant rebuttal, staff rebuttal, and responses to Commission question by Planning staff and the City Attorney, the Planning Commission found the application to meet the applicable review criteria with ten (10) conditions of approval. Findings for conditions of approval one through eight are contained in the staff report for February 21, 2022. The Commission added two additional conditions of approval as part of the motion to approve, after receiving verbal confirmation from the applicant agreeing to the conditions. The two conditions and associated findings are:

1. Condition of Approval 9, Lighting Plan. The Commission found that the application did not meet the requirements of CDC 55.070.D.2(g) and 55.100.J(6) based upon the written and verbal testimony of Ian and Audra Brown and the lack of a lighting plan that included the rooftop area. The Commission found that with the imposition of this condition, the requirements of CDC 55.079.D.2(g) and 55.100.J(6) are met.
2. Condition of Approval 10, Noise Study for Rooftop Deck. The Commission found that the application did not meet the requirements of 55.100.D.4, which requires the preparation of a noise study when there are businesses that can reasonably be expected to generate noise in violation of Municipal Code Chapter 5.487. As the applicant could not confirm the ultimate tenant mix or future use of the rooftop deck, the Commission

found the future provision of noise studies as stipulated in the condition, would result in compliance with CDC 55.100.D.4.

V. Order

The Commission orders that DR-23-01 is approved based on the Record, Findings of Fact, and Findings above.

1. Approved Plans. All alterations and improvements shall substantially conform to all submitted tentative plan sheets and supporting materials contained in Exhibit PC-01.
2. Engineering Standards. All public improvements and facilities associated with the approved site design, including but not limited to street improvements, driveway approaches, curb cuts, utilities, grading, onsite and offsite stormwater, street lighting, easements, easement locations, and connections for future extension of utilities are subject to conformance with the City Municipal Code and Community Development Code. These must be designed, constructed, and completed prior to final building certificate of occupancy. The City may partner with the applicant to fund additional improvements as part of the project.
3. Joint Access. Prior to final building certificate of occupancy, the applicant shall present an easement or other legal evidence of continued joint access and egress between the project site and 11th street through the existing underground parking garage and driveway onto 11th street to the east (1969 & 1993 Willamette Falls Drive), in compliance with CDC 48.020.E and 48.025.
4. Street Improvements. Prior to final building certificate of occupancy, the applicant shall mitigate any impacts to existing right-of-way improvements along Willamette Falls Drive, 12th Street, and Knapps Alley. The mitigation will include replacement of impacted pavement, curbs, planter strips, street trees, street lights, sidewalks, pedestrian crossings, and street storm drainage.
5. Knapps Alley. The applicant shall improve, including repaving, the portion of Knapps Alley adjacent to the site. This must be completed prior to the issuance of the final building certificate of occupancy.
6. Vertical Breaks. Prior to issuance of building permits, the applicant shall submit building permit plans with revised western and southern elevations that demonstrate compliance with CDC 58.080.C.7 that requires strong vertical breaks or lines regularly spaced every 25 to 50 feet.
7. Entry Doors & Pedestrian Level Windows. Prior to issuance of building permits, the applicant shall submit building permit plans with revised elevations and door details that

demonstrate compliance the glazing and panel ratios for entry doors in CDC 58.080.C.13, and minimum pedestrian level window sill heights within CDC 58.080.C.15.

- 8. Awning. Prior to issuance of building permits, the applicant shall submit building permit plans that demonstrate compliance with the 5-foot minimum awning depth as required in CDC 58.080.C.11.
- 9. Lighting Plan. The applicants lighting plan shall be revised to show: (1) the location and type of lights to be used to illuminate the rooftop deck, and no part of these fixtures will be visible from neighboring properties;(2) the use of full cutoff fixtures on the rooftop deck and the rear elevation that are directed down with an luminescence area that does not reach beyond the edge of Knapp’s alley and includes glare guards that block glare from the sides; and (3) that a qualified lighting designer has reviewed the revised plan and concluded that, overall, the exterior lighting scheme will be less bright than the companion 1969 building.
- 10. Noise Study. The applicant shall submit a noise study upon 50% of the total floor area of the building being occupied. Subsequent to the first noise study the applicant shall submit a new noise study, not more than once per year, in response to a noise complaint associated with the rooftop deck. The noise study must address the provisions of West Linn Municipal Code Chapters 5.487(3) and be conducted in July or August.

Joel Metlen
Digitally signed by Joel Metlen
 Date: 2024.02.29 08:47:55 -08'00'

2/29/2024

JOEL METLEN, VICE-CHAIR
WEST LINN PLANNING COMMISSION

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.

Mailed this 29 day of February, 2024.

Therefore, this decision becomes effective at 5 p.m., March 14, 2024.



City of West Linn

STAFF REPORT FOR THE PLANNING COMMISSION

FILE NUMBER: DR-23-01

HEARING DATE: February 21, 2024

REQUEST: The applicant is requesting approval for the demolition of two existing structures, to be replaced with a two-story commercial building with underground parking and a rooftop deck at 1919 and 1949 Willamette Falls Drive.

APPROVAL CRITERIA: Community Development Code (CDC) Chapters 19, 41, 46, 48, 55, 58, and 99

STAFF REPORT PREPARED BY: John Floyd, Associate Planner

Planning Manager's Initials DSW

TABLE OF CONTENTS

STAFF ANALYSIS AND RECOMMENDATION

GENERAL INFORMATION	3
EXECUTIVE SUMMARY	4
PUBLIC COMMENTS.....	10
RECOMMENDATION.....	11
ADDENDUM	12

EXHIBITS

PC-1 APPLICANT SUBMITTAL	
A. SUPPLEMENTAL MATERIALS (DATED 01.29.24)	51
B. LETTER RESCINDING THIRD DESIGN EXCEPTION (DATED 01.29.24).....	65
C. SUPPLEMENTAL MATERIALS (DATED 10.18.23)	67
D. SUPPLEMENTAL MATERIALS (DATED 08.15.23 & 09.15.23).....	84

E. APPLICATION MATERIALS (DATED 05.02.23).....	97
PC-2 HISTORIC REVIEW BOARD RECOMMENDATIONS.....	
A. JUNE 13, 2023	345
B. NOVEMBER 14, 2023	349
PC-3 PUBLIC COMMENTS.....	355
PC-4 COMPLETENESS LETTER.....	448
PC-5 VICINITY MAPS.....	450
PC-6 AFFIDAVIT AND NOTICE PACKET	453

GENERAL INFORMATION

OWNER/APPLICANT: Icon Construction & Development
Attn: Darren Gusdorf
1969 Willamette Falls Drive, Suite 260
West Linn, OR 97068

CONSULTANTS: SG Architecture, LLC
Attn: Scot Sutton
10940 SW Barnes Road #364
Portland, OR 97225

Theta, LLC
Attn: Bruce Goldson
PO Box 1345
Lake Oswego, OR 97035

SITE LOCATION: 1919 & 1949 Willamette Falls Drive

LEGAL DESCRIPTION: Clackamas County Assessor's Map 31E02BA, Tax Lots 4300 & 4400
Lots 4 through 6, Block 10, Willamette Falls Tract

SITE SIZE: 15,000 square feet +/-

ZONING: GC, General Commercial
Willamette Falls Drive Commercial Design District

COMP PLAN DESIGNATION: Commercial

120-DAY PERIOD: This application became complete on May 2, 2023. The 120-day maximum application-processing period initially ended on August 30, 2023. The applicant has provided five extension requests that result in a maximum processing deadline of May 2, 2024

PUBLIC NOTICE: Public notice was mailed to the Willamette neighborhood association, parties of record, and affected property owners on February 1, 2024. The property was posted with a notice sign on February 8, 2024. The notice was published in the West Linn Tidings on February 7, 2024. The notice requirements of CDC Chapter 99 have been met.

the Willamette Historic District, is listed as a local historic resource, or listed on the National Register. Therefore, no historic protections apply per CDC 25.020(A).

Surrounding Land Use and Zoning:

The site is zoned General Commercial (GC) and is within the boundaries of the Willamette Falls Drive Commercial Design District Overlay (WFDCDD). The project site has been zoned GC at least as far back as 1983, and was included in the boundaries of the WFDCDD when the overlay was created in 1992. Adjacent zoning and land uses are described as follows:

Direction From Site	Zoning	Land Use
North (Across Willamette Falls Drive)	GC/WFDCDD	Commercial
East	GC/WFDCDD	Commercial
West (Across 12 th Street)	GC/WFDCDD	Religious Institution
South (across Knapps Alley)	R-5	Single-Family Residential

Project Description:

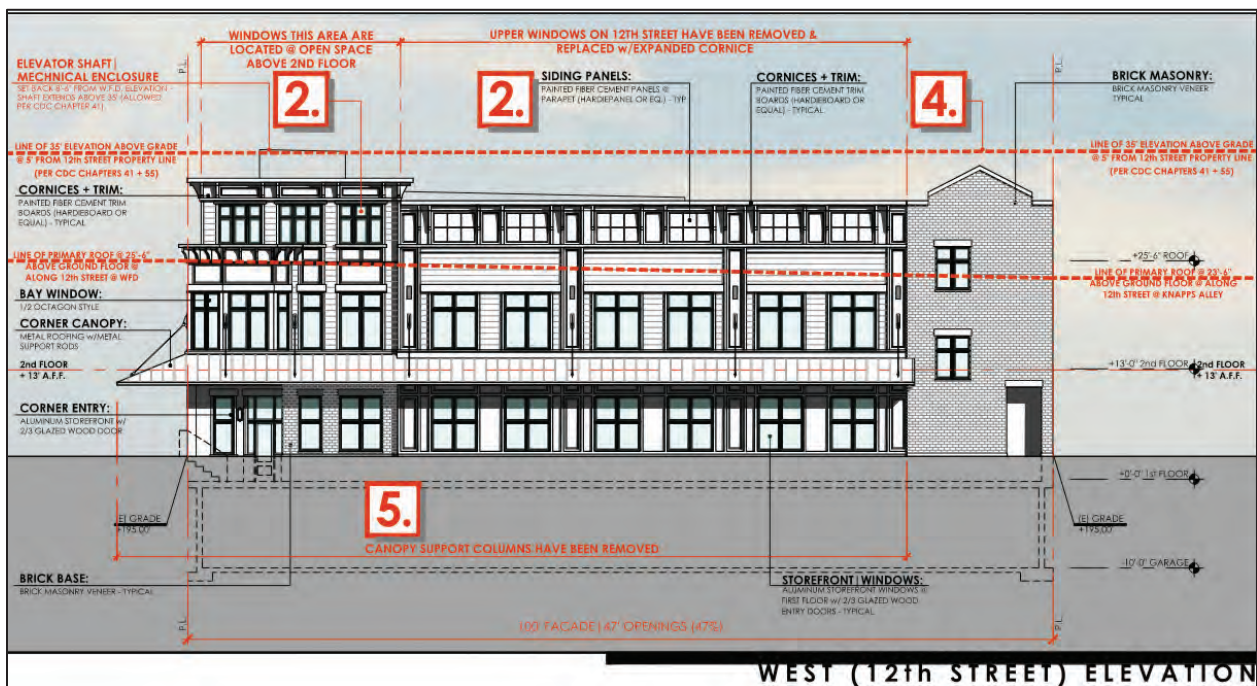
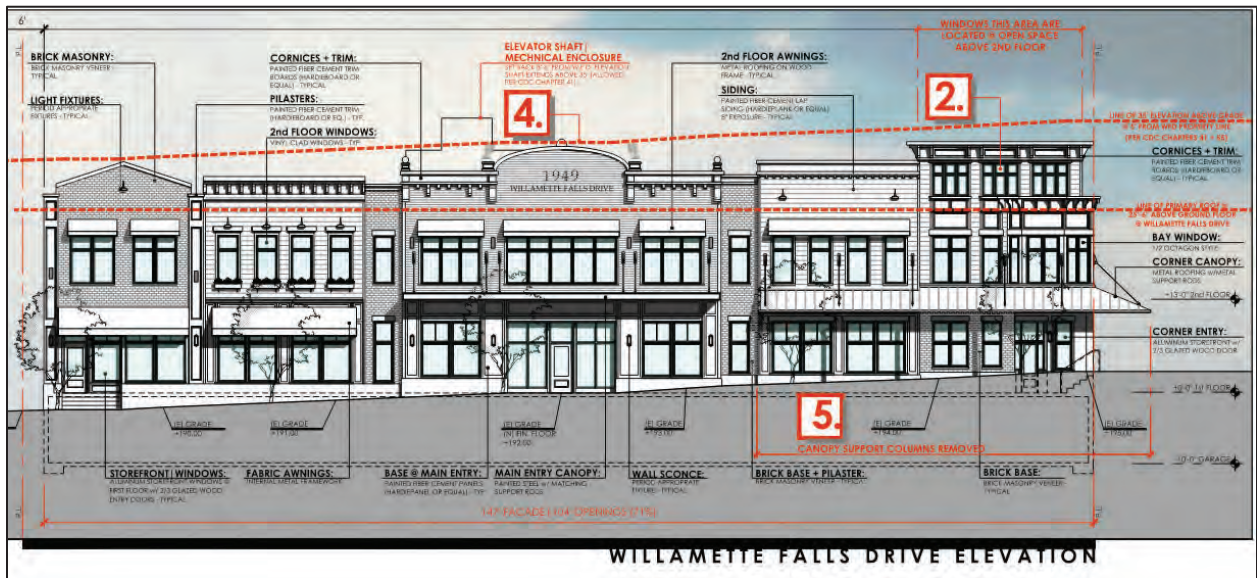
The project is similar in design and purpose to the adjacent commercial building to the east (1969 & 1993 Willamette Falls Drive), which was designed, permitted, and constructed by the same owner/applicant and design team under [DR-16-01](#) and [DR-18-02](#).

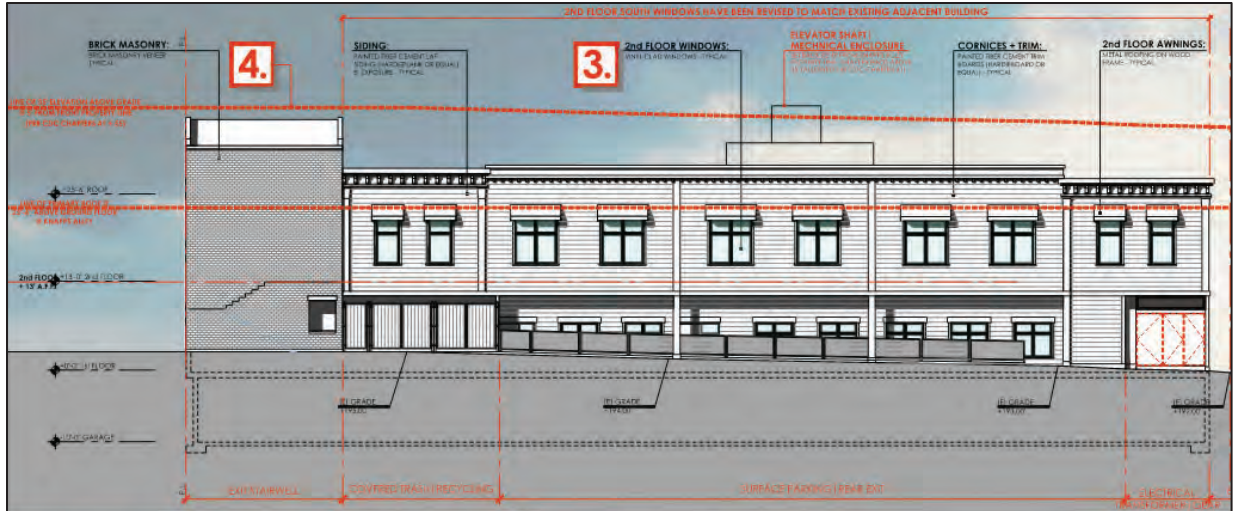
The current scope of the project, as amended by the applicant on January 29th of this year (Exhibit PC-1.A), includes the following:

- Demolition of two existing commercial structures
- Construction of a two-story commercial building with approximately 26,215 square feet of speculative commercial space. No specific uses or tenants are proposed at this time, but could eventually be tenanted with office, service, retail, and/or restaurant uses.
- Construction of underground parking for 33 automobiles and 14 bicycles, to be accessed through an adjacent underground parking garage located at 1993/1969 Willamette Falls Drive. Vehicular access would occur through the existing driveway fronting 11th street to the east.
- An approximately 745 SF rooftop deck, screened with decorative planters and a 5.5-foot-tall screening wall, and an approximately 605 SF mechanical screening room, located in the approximate center of the roof for the purposes of sound attenuation. The deck and rooftop area would be accessed from a stairwell and elevator.
- Frontage improvements along 12th Street and Knapps Alley, to include four parallel parking spaces along Knapps alley.
- Two Design Exceptions as approved by the Historic Review Board (PC-2.a):
 - Use of James Hardie fiber cement in lieu of wood siding and trim; and
 - Use of brick masonry in lieu of wood siding along selected portions of the façade.

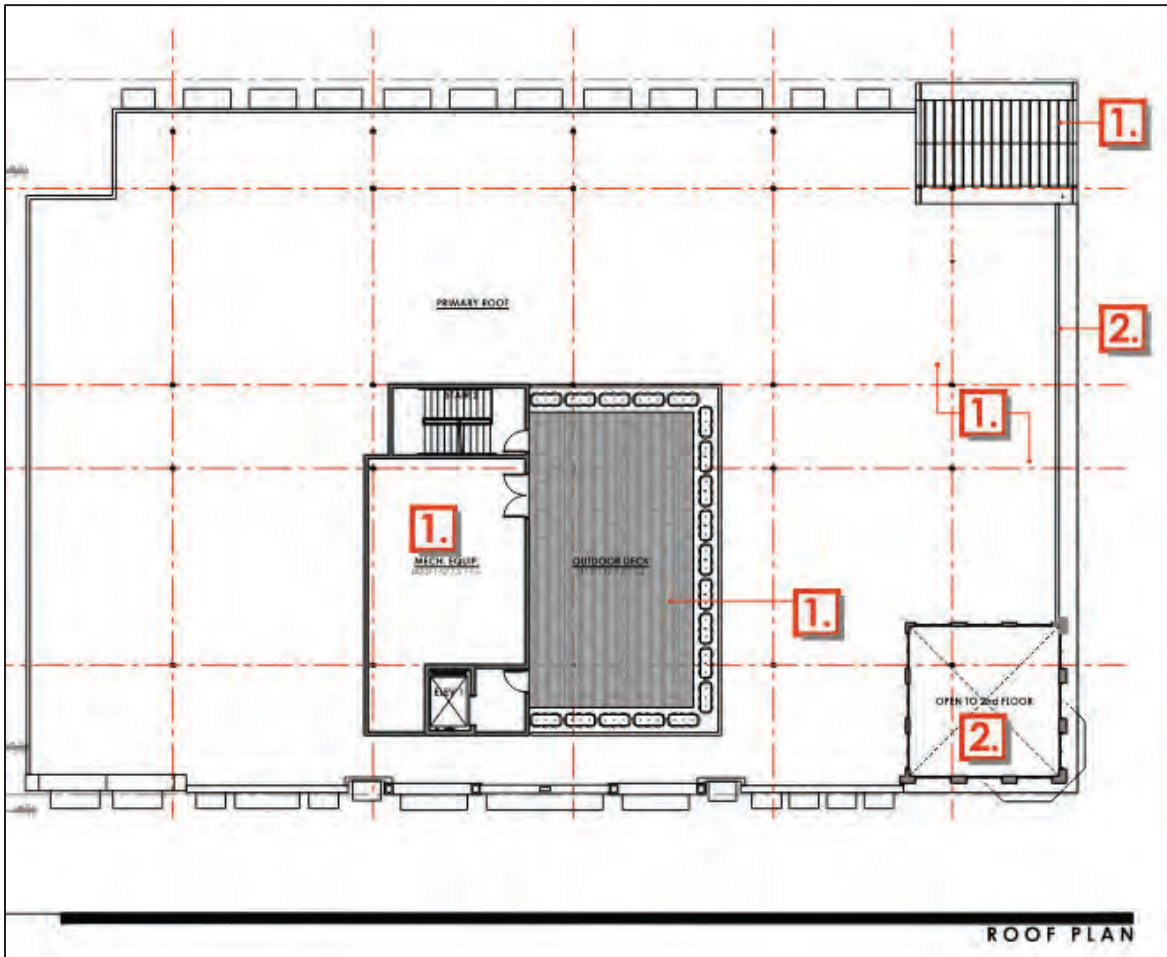
Design features proposed in the original application (Ehibit PC-1.E) that have been removed or replaced include the following:

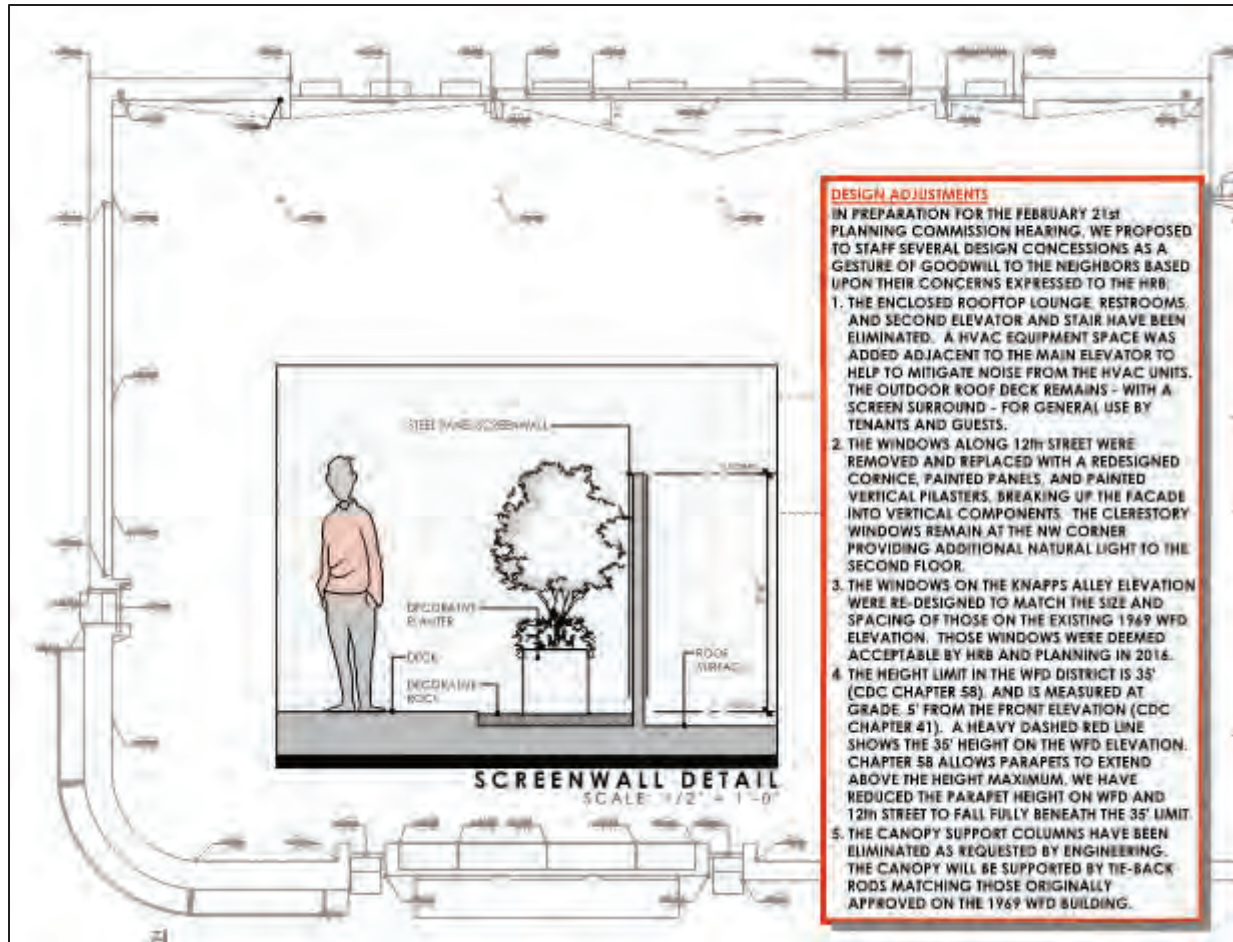
- A Design Exception to allow the use support columns for an extended metal awning over the public sidewalk has been withdrawn, and the canopy redesigned to be fully cantilevered from the building.
- A 2,235 SF lounge on the roof, described by the applicant as a “mezzanine” and defined in the CDC as a third-story, has been removed from the design. This area has been replaced by a 605 SF mechanical equipment space for purposes of screening and noise abatement, and is located in the center of the rooftop to reduce visual impact..
- Rooftop access has been reduced from an elevator and two stairwells, to an elevator and a single stairwell.





3 ROOF PLAN + KNAPPS ALLEY ELEVATION
 CONCEPTUAL PLANS + ELEVATIONS





Procedural History and Applicant Response:

June 13, 2023

Historic Review Board considered application for a new commercial building. The application included three design exceptions:

- Use of fiber cement in lieu of horizontal wood siding;
- Use of Hardi-plank in lieu of horizontal wood siding and trim; and
- Use of support posts for a metal awning over the public sidewalk at the corner of Willamette Falls Drive and 12th Street

The issue of building height was a central point of deliberation, including the definition of “story” and whether a proposed rooftop lounge and restroom constituted a mezzanine or a third-story. The definition of story was significant as the WFDCDD limits new construction to no more than two stories.

After substantial discussion, the HRB provided a recommendation of approval, subject to five conditions of approval and a recommendation of “further analysis” of the mezzanine area (aka third-story) by the Planning Commission (Exhibit PC-2a).

August 15 and September 13, 2023

In response to submitted testimony and deliberations of the June 13th HRB hearing, the applicant submitted revised plans to reduce the visual impact of the third story and supplemental findings to support an additional Design Exception to exceed the two-story limit. Concurrent with that change was a redesign that removed the need for support pillars under the awning (Exhibit PC-1.D). These materials have been withdrawn and superseded by materials provided by the applicant on January 29, 2024 (Exhibits PC-1.A & B)

October 4, 2023

The Planning Commission Public Hearing was opened, but testimony was not received, nor deliberations begun at the recommendation of staff and the City Attorney. As noted by Ian and Audra Brown in their written testimony (Exhibit PC-3), only the Historic Review Board (HRB) may approve a Design Exception to the WFDCDD Standards, and a new Design Exception had been introduced after the HRB made their recommendation on June 13th. Therefore, the Planning Commission voted to remand the new design exception back to the HRB so they could render a decision on the Design Exception to exceed the two-story limit.

October 23, 2023

On October 23rd, the applicant provided additional materials for the remand hearing before the Historic Review board (Exhibit PC-1.C). These materials have been withdrawn and superseded by materials provided by the applicant on January 29, 2024 (Exhibits PC-1.A & B)

November 14th, 2023

The Historic Review Board took up the matter of the added Design Exception to exceed the two-story height limit in the WFDCDD. After receiving testimony and deliberation, the HRB denied the Design Exception on grounds it failed to satisfy the approval criteria (Exhibit PC-2.B).

January 29th, 2024

Applicant submits a letter rescinding their application for a Design Exception to exceed the two-story height limit, including associated materials submitted under Exhibit PC-1.C and PC-1.D, and states an intent to move forward with a newly revised design included with the withdrawal letter (Exhibits PC-1.A and 1.B).

The revised design is a direct response to feedback provided by the Historic Review Board on their original application in the June 13th recommendation to the Planning Commission (Exhibit PC-2.A), and public testimony received then and at subsequent hearings described above (Exhibit PC-3).

Applicable Community Development Code Approval Criteria:

- Chapter 19, General Commercial
- Chapter 41, Building Height
- Chapter 46, Off-Street Parking
- Chapter 48, Access, Egress and Circulation
- Chapter 55, Design Review
- Chapter 58, Willamette Falls Drive Commercial Design District; and
- Chapter 99, Procedures for Decision Making: Quasi-Judicial.

Public Comments:

Public Comments were submitted by the following individuals and are included as Exhibit PC-3.

- Shannen Knight (05.24.23)
- Ian & Audra Brown / James Estes & Kristen Woofter (joint comment letter 06.13.23)
- Albert and Laura Secchi (06.13.23)
- Rachel Goebert (10.03.23)
- Ian & Audra Brown (10.03.23)
- Jason Hall (10.04.23)
- Dee Deatherage (10.04.23)
- Karie Oakes (10.05.23)
- Shannen Knight (09.23.23)
- Shannen Knight (10.26.23)
- Brenda Bless Russell (11.09.23)
- Robert Beegle (11.12.23)
- Karin Pappin-Obrien (11.13.23)
- Ian & Audra Brown (11.14.23)
- Nikki Hydes (11.14.23)

One party submitted testimony in support of the application (knight). The remainder of the letters were generally in opposition to the project, with the third story and noise being the principal points of concern and opposition. As described previously in this report and staff findings 46, the building height and number of stories has been reduced subsequent to the receipt of these comments to remove the need for a Design Exception.

As of the publication of this staff report, no additional public comments have been received for the Planning Commission.

RECOMMENDATION

Staff recommends the Planning Commission approve DR-23-01 based on: 1) the findings submitted by the applicant, which are incorporated by this reference, 2) supplementary staff findings included in the Addendum below, and 3) the addition of conditions of approval below. With these findings, the applicable approval criteria are met. The recommended conditions are as follows:

1. **Approved Plans.** All alterations and improvements shall substantially conform to all submitted tentative plan sheets and supporting materials contained in Exhibit PC-01.
2. **Engineering Standards.** All public improvements and facilities associated with the approved site design, including but not limited to street improvements, driveway approaches, curb cuts, utilities, grading, onsite and offsite stormwater, street lighting, easements, easement locations, and connections for future extension of utilities are subject to conformance with the City Municipal Code and Community Development Code. These must be designed, constructed, and completed prior to final building certificate of occupancy. The City may partner with the applicant to fund additional improvements as part of the project.
3. **Joint Access.** Prior to final building certificate of occupancy, the applicant shall present an easement or other legal evidence of continued joint access and egress between the project site and 11th street through the existing underground parking garage and driveway onto 11th street to the east (1969 & 1993 Willamette Falls Drive), in compliance with CDC 48.020.E and 48.025.
4. **Street Improvements.** Prior to final building certificate of occupancy, the applicant shall mitigate any impacts to existing right-of-way improvements along Willamette Falls Drive, 12th Street, and Knapps Alley. The mitigation will include replacement of impacted pavement, curbs, planter strips, street trees, street lights, sidewalks, pedestrian crossings, and street storm drainage.
5. **Knapps Alley.** The applicant shall improve, including repaving, the portion of Knapps Alley adjacent to the site. This must be completed prior to the issuance of the final building certificate of occupancy.
6. **Vertical Breaks.** Prior to issuance of building permits, the applicant shall submit building permit plans with revised western and southern elevations that demonstrate compliance with CDC 58.080.C.7 that requires strong vertical breaks or lines regularly spaced every 25 to 50 feet.

7. **Entry Doors & Pedestrian Level Windows.** Prior to issuance of building permits, the applicant shall submit building permit plans with revised elevations and door details that demonstrate compliance the glazing and panel ratios for entry doors in CDC 58.080.C.13, and minimum pedestrian level window sill heights within CDC 58.080.C.15.

8. **Awning.** Prior to issuance of building permits, the applicant shall submit building permit plans that demonstrate compliance with the 5-foot minimum awning depth as required in CDC 58.080.C.11.

ADDENDUM
PLANNING COMMISSION STAFF REPORT
MEETING DATE: OCTOBER 4, 2023

**STAFF EVALUATION OF THE PROPOSAL'S COMPLIANCE
WITH APPLICABLE CODE CRITERIA**

I. CHAPTER 19, GENERAL COMMERCIAL, GC

19.030 PERMITTED USES

The following uses are permitted outright in this zone:

[...]

- 3. Animal sales and services, grooming.*
- 4. Building maintenance services.*
- 5. Business equipment sales and services.*
- 6. Business support services.*
- 7. Communications services.*
- 8. Consumer repair services.*
- 9. Convenience sales and personal services.*
- 10. Eating and drinking establishments.*
- 11. Drive-through restaurants.*
- 12. Family day care.*
- 13. Financial, insurance and real estate services.*
- 14. Food and beverage retail sales.*
- 15. General retail services.*
- 16. Hotel/motel, including those operating as extended hour businesses.*
- 17. Laundry services.*
- 18. Senior center.*
- 19. Medical and dental services.*
- 20. Parking facilities.*
- 21. Participant sports and recreation, indoor.*
- 22. Personal service facilities.*
- 23. Professional and administrative services.*
- 24. Research services.*
- 25. Utilities, minor.*
- 26. Cultural exhibits and library services.*

[...]

Staff Finding 1: The application does not propose a specific tenant, but does anticipate a mixture of restaurant and office/retail uses. As the GC zone permits these and other possible tenants, and specific occupants will be reviewed for conformity with the permitted uses

above as part of regular building permit review and business license administration, this standard will be met.

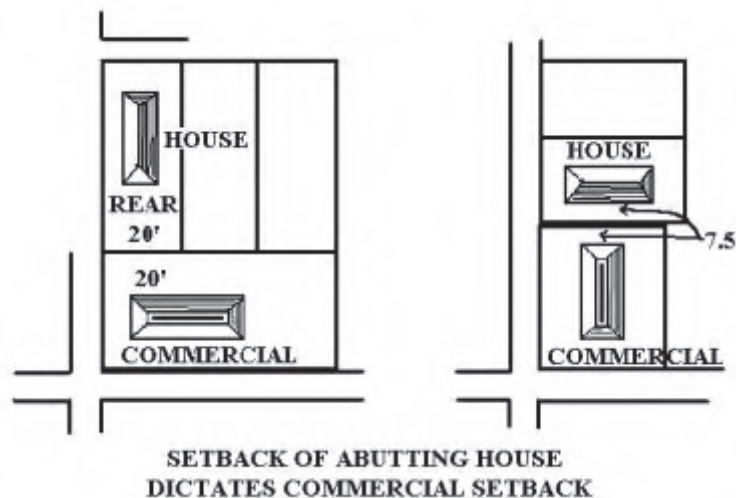
19.070 DIMENSIONAL REQUIREMENTS, USES PERMITTED OUTRIGHT AND USES PERMITTED UNDER PRESCRIBED CONDITIONS

A. Except as may be otherwise provided by the provisions of this code, the following are the 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 50 feet.
3. The average minimum lot depth shall not be less than 90 feet.

Staff Finding 2: The application does not propose the creation of new lots. These standards do not apply.

4. Where the use abuts a residential district, except as provided in CDC 58.090(C)(1), the setback distance of the residential zone shall apply.



5. The maximum lot coverage shall be 50 percent, except as provided in CDC 58.090(C)(1)(d).
 6. The maximum building height shall be two and one-half stories or 35 feet for any structure located within 50 feet of a low or medium density residential zone, and three and one-half stories or 45 feet for any structure located 50 feet or more from a low or medium density residential zone.
 7. For lot lines that abut an arterial, there shall be no minimum yard dimensions or minimum building setback area, and the maximum building setback shall be 20 feet. The front setback area between the street and the building line shall consist of landscaping or a combination of non-vehicular hardscape areas (covered with impervious surfaces) and landscaped areas. If there are not street trees within the public right-of-way, the front setback area shall include such trees per the requirements of the City Arborist.
- B. The requirements of subsections (A)(1) through (5) of this section may be modified for developments under the planned unit development provisions of Chapter 24 CDC.

Staff Finding 3: The application is located within the Willamette Falls Drive Commercial Design District, as described and set forth in CDC Chapter 58 and addressed in staff findings 37 through 66. The standards of this overlay zone establish lot coverage, setback, and height standards that supersede those of the base zone. Therefore, these standards do not apply.

CHAPTER 41, BUILDING HEIGHT, STRUCTURES ON STEEP LOTS, EXCEPTIONS

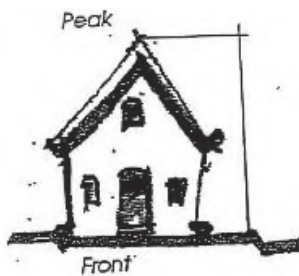
41.005 DETERMINING HEIGHT OF BUILDING

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.

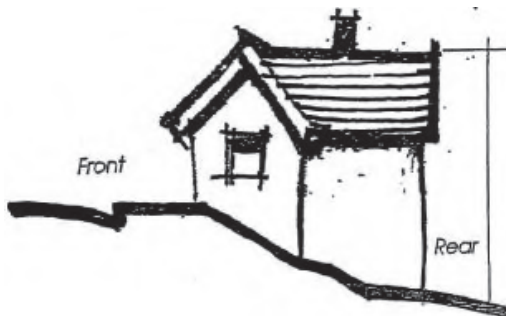
1. For relatively flat sites where there is less than a 10-foot difference in grade between the front and rear of the building, the height of the building shall be measured from grade five feet out from the exterior wall at the front of the building; or
2. For steeper lots where there is more than a 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.
3. Buildings on cross slopes or side slopes are measured at either the front or rear of the building using methods described in subsections (A)(1) and (2) of this definition only.

Even if the cross slope creates a tall elevation on the side, the method of determining height is not modified.

Figure 1.



Height of building on relatively flat lot is measured from grade at front of house to peak of roof.



Height of building on steep lots where there is more than a 10-foot difference in elevation between the front and rear of the building is measured from grade at a point five feet out from the front or rear exterior wall on the lowest side of the house to the peak of the building.



Height of building with a cross slope is still measured at either the front or rear by methods described in subsection (A)(1) or (2) of this definition.

41.030 PROJECTIONS NOT USED FOR HUMAN HABITATION

Projections such as chimneys, spires, domes, elevator shaft housings, towers, aerials, flag poles, and other similar objects not used for human occupancy are not subject to the building height limitations of this code.

Staff Finding 4: The application is located on a cross slope and within the Willamette Falls Drive Commercial Design District, as described and set forth in CDC Chapter 58 and addressed in staff findings 37 through 66. These standards include a maximum height limit of 35 feet and no more than two stories, to be measured using the methodology above.

The modified rooftop improvements included in PC-1A includes access facilities (stairwell and elevator) and a mechanical equipment enclosure to attenuate noise. None of these are intended for human occupancy and are similar in form and function to domes, elevator shaft housing, and towers and are therefore not subject to the building height limitations of the code as further discussed in Staff Finding 46. As this chapter addresses how height is measured and does not establish a standard, compliance with the maximum height limit is addressed in Staff Finding 46.

CHAPTER 42, CLEAR VISION AREAS
42.030 EXCEPTIONS

The following described area in Willamette shall be exempt from the provisions of this chapter. The units of land zoned General Commercial which abut Willamette Falls Drive, located between 10th and 16th Streets. Beginning at the intersection of Willamette Falls Drive and 11th Street on 7th Avenue to 16th Street; on 16th Street to 9th Avenue; on 9th Avenue to 14th Street to the Tualatin River; following the Tualatin River and Willamette River to 12th Street; on 12th Street to 4th Avenue; on 4th Avenue to 11th Street; on 11th Street to Willamette Falls Drive. This described area does not include the northerly side of Willamette Falls Drive.

Staff Finding 5: The application is located on property zoned General Commercial that abuts Willamette Falls Drive at the southeast corner of the intersection with 12th Street. Therefore, the project site is exempt from the Clear Vision Area standards of CDC Chapter 42.

CHAPTER 46, OFF-STREET PARKING, LOADING AND RESERVOIR AREAS

46.140 EXEMPTIONS TO PARKING REQUIREMENTS

To facilitate the design requirements of Chapter 58 CDC, properties in the Willamette Falls Drive Commercial Design District, located between 10th and 16th Streets, shall be exempt from the minimum parking and off-street loading requirements as identified in this chapter. Any off-street parking or loading spaces voluntarily provided shall be designed and installed per the dimensional standards of this code.

Staff Finding 6: The application proposes the use of alley and underground parking, to be accessed through an existing underground parking garage located at 1993/1969 Willamette Falls Drive, with driveway access onto 11th street to the east. As the project site is located within the Willamette Falls Drive Commercial Design District and across the Street from Bus Stop 9269 that serves as a stop for TriMet Bus Line 154, it is therefore exempt from providing off-site parking per CDC 46.140 above and OAR-660-0120-0440 (Parking Reform Near Transit Corridors). As described in the staff findings below, the off-street parking voluntarily provided will be installed per the dimensional standards of the code. This standard is met.

46.150 DESIGN AND STANDARDS

and circulation:

A. *Design standards.*

1. *“One standard parking space” means a minimum for a parking stall of eight feet in width and 16 feet in length. These stalls shall be identified as “compact.” To accommodate larger cars, 50 percent of the required parking spaces shall have a minimum dimension of nine feet in width and 18 feet in length (nine feet by 18 feet). When multifamily parking stalls back onto a main driveway, the stalls shall be nine feet by 20 feet. Parking for development in water resource areas may have 100 percent compact spaces.*
2. *Disabled parking and maneuvering spaces shall be consistent with current federal dimensional standards and subsection B of this section and placed nearest to accessible building entryways and ramps.*
3. *Repealed by Ord. 1622.*
4. *Service drives shall be designed and constructed to facilitate the flow of traffic, provide maximum safety of traffic access and egress, and maximum safety of pedestrians and vehicular traffic on the site.*
5. *Each parking and/or loading space shall have clear access, whereby the relocation of other vehicles to utilize the parking space is not required.*
6. *Except for single-family attached and detached residences, any area intended to be used to meet the off-street parking requirements as contained in this chapter shall have all parking spaces clearly marked using a permanent paint. All interior drives and access aisles shall be clearly marked and signed to show direction of flow and maintain vehicular and pedestrian safety. Permeable parking surface spaces may have an alternative delineation for parking spaces.*
7. *Except for residential parking, and parking for public parks and trailheads, at least 50 percent of all areas used for the parking and/or storage and/or maneuvering of any vehicle, boat and/or trailer shall be improved with asphalt or concrete surfaces according to the same*

standards required for the construction and acceptance of City streets. The remainder of the areas used for parking may use a permeable paving surface designed to reduce surface runoff. Parking for public parks or trailheads may use a permeable paving surface designed to reduce surface runoff for all parking areas. Where a parking lot contains both paved and unpaved areas, the paved areas shall be located closest to the use which they serve.

8. Off-street parking spaces for single-family attached and detached residences shall be improved with an asphalt or concrete surface, or a permeable parking surface designed to reduce surface runoff, to specifications as approved by the Building Official. Other parking facilities for single-family homes that are to accommodate additional vehicles, boats, recreational vehicles, and trailers, etc., need not be paved. All parking for multifamily residential development shall be paved with concrete or asphalt. Driveways shall measure at least 20 feet from the back of sidewalk to garage or the end of the parking pad to accommodate cars and sport utility vehicles without the vehicles blocking the public sidewalk.

9. Access drives from the street to off-street parking or loading areas shall be designed and constructed to facilitate the flow of traffic and provide maximum safety for pedestrian and vehicular traffic on the site. The number of access drives shall be limited to the minimum that will allow the property to accommodate and service the anticipated traffic. Access drives shall be clearly and permanently marked and defined through use of rails, fences, walls, or other barriers or markers on frontage not occupied by service drives.

10. Access drives shall have a minimum vision clearance as provided in Chapter 42 CDC, Clear Vision Areas.

11. Parking spaces along the boundaries of a parking lot or adjacent to interior landscaped areas or sidewalks shall be provided with a wheel stop at least four inches high located two feet back from the front of the parking stall. Such parking spaces may be provided without wheel stops if the sidewalks or landscaped areas adjacent the parking stalls are two feet wider than the minimum width.

12. Off-street parking and loading areas shall be drained in accordance with plans and specifications approved by the City Engineer. Storm drainage at commercial sites may also have to be collected to treat oils and other residue.

13. Artificial lighting on all off-street parking facilities shall be designed to deflect all light downward away from surrounding residences and so as not to create a hazard to the public use of any road or street.

14. Directional arrows and traffic control devices which are placed on parking lots shall be identified.

[...]

16. Visitor or guest parking must be identified by painted "GUEST" or "VISITOR."

17. The parking area shall have less than a five percent grade. No drainage across adjacent sidewalks or walkways is allowed.

18. Commercial, office, industrial, and public parking lots may not occupy more than 50 percent of the main lot frontage of a development site. The remaining frontage shall comprise buildings or landscaping. If over 50 percent of the lineal frontage comprises parking lot, the landscape strip between the right-of-way and parking lot shall be increased to 15 feet wide and shall include terrain variations (e.g., one-foot-high berm) plus landscaping. The defensible space of the parking lot should not be compromised.

Staff Finding 7: Staff incorporates applicants’ findings for these standards. The application includes alley parking for four vehicles with minimum dimensions of 8 feet by 29 feet, and a basement level garage that includes a mixture of standard and compact spaces that meet the minimum dimensional standards of width and depth. Two accessible parking spaces are located adjacent to the elevator, and a 23-foot-wide drive aisle will facilitate a safe and comprehensible traffic pattern for vehicles and pedestrians through the use of a one-way traffic pattern. All spaces will be on a concrete surface and marked with clear access and boundaries through the use of paint and architectural features such as support columns. As the lot is interior to the building, standards regarding stormwater, lighting, landscaping, and frontage do not apply. These standards are met.

B. Accessible parking standards for persons with disabilities. If any parking is provided for the public or visitors, or both, the needs of the people with disabilities shall be based upon the following standards or current applicable federal standards, whichever are more stringent:

1. Minimum number of accessible parking space requirements (see following table):

MINIMUM REQUIRED NUMBER OF TOTAL PARKING SPACES	TOTAL NUMBER OF ACCESSIBLE SPACES	NUMBER OF VAN-ACCESSIBLE SPACES REQUIRED, OF TOTAL	SPACES SIGNED “WHEELCHAIR USE ONLY”
[...]			
26 – 50	2	1	–
[...]			

2. Location of parking spaces. Parking spaces for the individual with a disability that serve a particular building shall be located on the shortest possible accessible circulation route to an accessible entrance to a building. In separate parking structures or lots that do not serve a particular building, parking spaces for the persons with disabilities shall be located on the shortest possible circulation route to an accessible pedestrian entrance of the parking facility.

3. Accessible parking space and aisle shall meet ADA vertical and horizontal slope standards.

4. Where any differences exist between this section and current federal standards, those standards shall prevail over this code section.

5. One in every eight accessible spaces, but not less than one, shall be served by an access aisle 96 inches wide.

6. Van-accessible parking spaces shall have an additional sign marked “Van Accessible” mounted below the accessible parking sign. A van-accessible parking space reserved for wheelchair users shall have a sign that includes the words “Wheelchair Use Only.” Van-accessible parking shall have an adjacent eight-foot-wide aisle. All other accessible stalls shall have a six-foot-wide aisle. Two vehicles may share the same aisle if it is between them. The vertical clearance of the van space shall be 96 inches.

Staff Finding 8: The application includes alley parking for approximately 4 vehicles and a basement level garage for 33 parking spaces, resulting in a total of 37 total vehicles. Per the table above, at least two accessible spaces must be provided. In compliance with this standard, the applicant proposes two spaces adjacent to the elevator which provides the shortest possible accessible circulation route to the building. One van accessible space with an 8 foot (96 inch wide) is identified on the plans. All spaces will be checked for compliance with federal ADA standards during normal building permit review. These standards are met.

F. (See Figures 1 and 2 below.)

FIGURE 1. MINIMUM STANDARDS FOR PARKING LOT LAYOUT

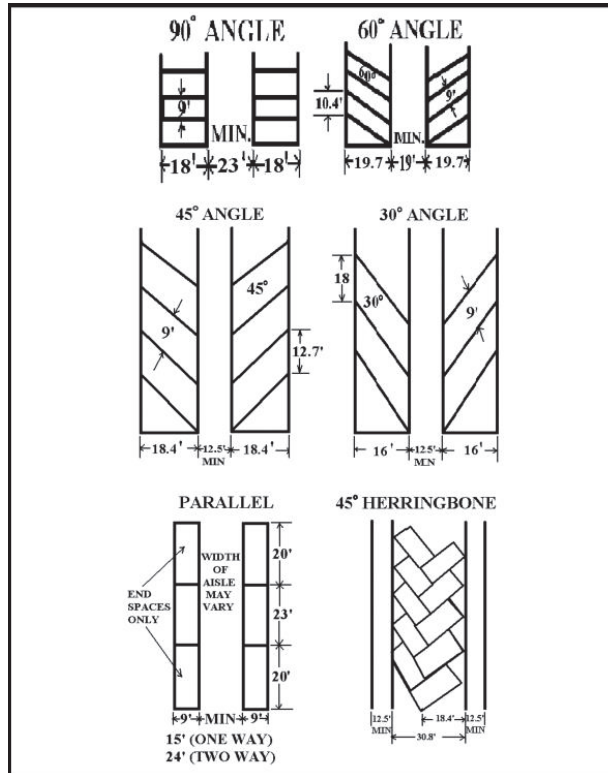
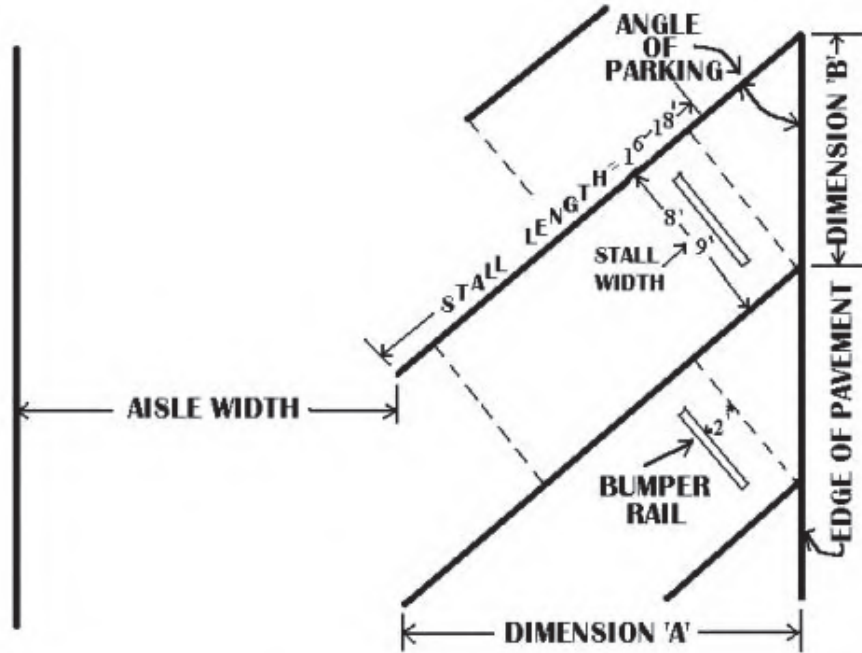


Figure 2. MINIMUM DISTANCE FOR PARKING STALLS



ANGLE OF PARKING	DIRECTION OF PARKING	AISLE WIDTH		DIMENSION 'A'		DIMENSION 'B'	
		STALL WIDTH		STALL WIDTH		STALL WIDTH	
		9.0'	8.0'	9.0'	8.0'	9.0'	8.0'
30°	DRIVE-IN	12.5'	12.5'	16.8'	13.8'	18.0'	16.0'
45°	DRIVE-IN	12.5'	12.5'	19.1'	17.0'	12.7'	11.3'
60°	DRIVE-IN	19.0'	18.0'	20.1'	17.8'	10.4'	9.2'
60°	BACK-IN	17.0'	17.0'	20.1'	17.8'	10.4'	9.2'
90°	DRIVE-IN	23.0'	23.0'	18.0'	16.0'	9.0'	8.0'
90°	BACK-IN	22.0'	22.0'	18.0'	16.0'	9.0'	8.0'

Staff Finding 8: The application includes a basement level garage that includes a mixture of standard and compact spaces located at a 90-degree angle from the drive aisle. As discussed previously in this report, all standard stalls will meet the 9 by 18-foot minimum dimension, and all compact spaces the 8 by 16-foot minimum dimensions. The proposed drive aisle width is 23 feet, which is the minimum required above. Four additional parallel spaces are located along Knapps Alley. These require a 15-foot drive aisle and have a 20-foot drive aisle (Knapps Alley). These standards are met.

CHAPTER 48, ACCESS, EGRESS AND CIRCULATION
 48.020 APPLICABILITY AND GENERAL PROVISIONS

- A. *The provisions of this chapter do not apply where the provisions of the Transportation System Plan or land division chapter are applicable and set forth differing standards.*
- B. *All lots shall have access from a public street or from a platted private street approved under the land division chapter.*
- C. *No building or other permit shall be issued until scaled plans are presented to the City and approved by the City as provided by this chapter, and show how the access, egress, and circulation requirements are to be fulfilled. Access to State or County roads may require review, approval, and permits from the appropriate authority.*
[...]
- E. *Owners of two or more uses, structures, lots, parcels, or units of land may agree to utilize jointly the same access and egress when the combined access and egress of both uses, structures, or parcels of land satisfies the requirements as designated in this code; provided, that satisfactory legal evidence is presented to the City Attorney in the form of deeds, easements, leases, or contracts to establish joint use. Copies of said instrument shall be placed on permanent file with the City Recorder.*
[...]

Staff Finding 9: As shown on scaled plans, the project site fronts three public right of ways (Willamette Falls Drive, 12th Street, and Knapps Alley). Pedestrian Access is provided by all three frontages. Vehicular access to on-site parking is proposed via Knapps Alley and an existing parking garage entrance on 11th Street, that will be connected to the underground parking proposed with this project. While the applicant owns both the project site and the existing structure through which underground garage access will be provided, the application does not include legal evidence of continued access. Therefore, city staff are proposing Condition 3 that requires the presentation of legal evidence of joint access and use prior to final inspection. As conditioned, this standard is met.

48.025 ACCESS CONTROL

- A. *Purpose. The following access control standards apply to public, industrial, commercial and residential developments including land divisions. Access shall be managed to maintain an adequate level of service and to maintain the functional classification of roadways as required by the West Linn Transportation System Plan.*
- B. *Access control standards.*
 1. *Traffic impact analysis requirements. The City or other agency with access jurisdiction may require a traffic study prepared by a qualified professional to determine access, circulation and other transportation requirements. (See also CDC 55.125, Transportation Impact Analysis.)*
 2. *The City or other agency with access permit jurisdiction may require the closing or consolidation of existing curb cuts or other vehicle access points, recording of reciprocal access easements (i.e., for shared driveways), development of a frontage street, installation of traffic control devices, and/or other mitigation as a condition of granting an access permit, to ensure the safe and efficient operation of the street and highway system. Access to and from off-street parking areas shall not permit backing onto a public street.*
 3. *Access options. When vehicle access is required for development (i.e., for off-street parking, delivery, service, drive-through facilities, etc.), access shall be provided by one of the following*

methods (planned access shall be consistent with adopted public works standards and TSP). These methods are “options” as approved by the City Engineer.

a) Option 1. Access is from an existing or proposed alley or mid-block lane. If a property has access to an alley or lane, direct access to a public street is not permitted.

b) Option 2. Access is from a private street or driveway connected to an adjoining property that has direct access to a public street (i.e., “shared driveway”). A public access easement covering the driveway shall be recorded in this case to assure access to the closest public street for all users of the private street/drive.

c) Option 3. Access is from a public street adjacent to the development lot or parcel. If practicable, the owner/developer may be required to close or consolidate an existing access point as a condition of approving a new access. Street accesses shall comply with the access spacing standards in subsection (B)(6) of this section.

[...]

6. Access spacing.

a. The access spacing standards found in the adopted Transportation System Plan (TSP) shall be applicable to all newly established public street intersections and non-traversable medians. Deviation from the access spacing standards may be granted by the City Engineer if conditions are met as described in the access spacing variances section in the adopted TSP.

b. Private drives and other access ways are subject to the requirements of CDC 48.060.

7. Number of access points. For single-family (detached and attached), two-family, and duplex housing types, one street access point is permitted per lot or parcel, when alley access cannot otherwise be provided; except that two access points may be permitted corner lots (i.e., no more than one access per street), subject to the access spacing standards in subsection (B)(6) of this section. The number of street access points for multiple family, commercial, industrial, and public/institutional developments shall be minimized to protect the function, safety and operation of the street(s) and sidewalk(s) for all users. Shared access may be required, in conformance with subsection (B)(8) of this section, in order to maintain the required access spacing, and minimize the number of access points.

8. Shared driveways. The number of driveway and private street intersections with public streets shall be minimized by the use of shared driveways with adjoining lots where feasible. The City shall require shared driveways as a condition of land division or site design review, as applicable, for traffic safety and access management purposes in accordance with the following standards:

a. Shared driveways and frontage streets may be required to consolidate access onto a collector or arterial street. When shared driveways or frontage streets are required, they shall be stubbed to adjacent developable parcels to indicate future extension. “Stub” means that a driveway or street temporarily ends at the property line, but may be extended in the future as the adjacent lot or parcel develops. “Developable” means that a lot or parcel is either vacant or it is likely to receive additional development (i.e., due to infill or redevelopment potential).

b. Access easements (i.e., for the benefit of affected properties) shall be recorded for all shared driveways, including pathways, at the time of final plat approval or as a condition of site development approval.

c. Exception. Shared driveways are not required when existing development patterns or physical constraints (e.g., topography, lot or parcel configuration, and similar conditions) prevent extending the street/driveway in the future.

Staff Finding 10: As discussed and conditioned in Staff Finding 9, evidence of continued underground parking access is required prior to final inspection. These standards will be met.

C. Street connectivity and formation of blocks required. In order to promote efficient vehicular and pedestrian circulation throughout the City, land divisions and large site developments shall produce complete blocks bounded by a connecting network of public and/or private streets, in accordance with the following standards:

- 1. Block length and perimeter. The maximum block length shall not exceed 800 feet or 1,800 feet along an arterial.*
- 2. Street standards. Public and private streets shall also conform to Chapter 92 CDC, Required Improvements, and to any other applicable sections of the West Linn Community Development Code and approved TSP.*
- 3. Exception. Exceptions to the above standards may be granted when blocks are divided by one or more pathway(s), in conformance with the provisions of CDC 85.200(C), Pedestrian and Bicycle Trails, or cases where extreme topographic (e.g., slope, creek, wetlands, etc.) conditions or compelling functional limitations preclude implementation, not just inconveniences or design challenges.*

Staff Finding 11: No new blocks are proposed with the application. The existing block length is approximately 1,100 feet based upon the centerline of Willamette Falls Drive, 12th Street, Knapps Alley, and 11th Street. As the project fronts Willamette Falls Drive, classified as an Arterial. The applicant is not required to make any improvements to Willamette Falls Drive, but is proposing the construction of a new 8 foot sidewalk and curb along 12 Street, and the paving of Knapps Alley. The applicant is required to construct these and mitigate any impacts to public right-of-way infrastructure, per Conditions 1, 2, 4, and 5. As conditioned, these standards will be met.

CHAPTER 54, LANDSCAPING

54.010 PURPOSE

The purpose of this chapter is to provide for the design, selection, installation, and maintenance of landscaping. The landscaping is intended to provide an attractive natural balance to built areas, to reduce runoff, to provide shade, to screen or buffer uses, and to frame or complement views. The chapter also encourages the selection of plant materials that will provide long-term growth, a balance of year-round coverage and greenery, and a variety of species for a more healthy, disease-resistant plant inventory.

Staff Finding 12: The application is located within the Willamette Falls Drive Commercial Design District (WFDCDD), as described and set forth in CDC Chapter 58 and addressed in Staff Findings 37 through 66. Projects within the WFDCDD are exempt from landscaping standards per CDC 58.080.C.2. Therefore, landscaping standards do not apply.

CHAPTER 55, DESIGN REVIEW

55.020 CLASSES OF DESIGN REVIEW

A. *Class I Design Review. The following are subject to Class I Design Review:*

1. *Modification of an office, commercial, industrial, public or multi-family structure for purposes of enhancing the aesthetics of the building and not increasing the interior usable space (e.g., covered walkways or entryways, addition of unoccupied features such as cupolas, clock towers, etc.).*
2. *Significant road realignment (when not part of a subdivision or partition plat process). "Significant" shall be defined by the length of the realignment and/or extent of redesign, and/or the natural features or human-made structures that will be impacted or removed.*
3. *Addition or reduction of less than five percent of total square footage of a commercial, office, public, multi-family, or industrial building.*
4. *Modification of a landscape plan (including water features, ponds, pergolas, arbors, artwork, sculptings, etc.).*
5. *Minor modifications and/or upgrades of pump stations, reservoirs, and storm detention facilities.*
6. *Americans with Disability Act compliance that significantly alters the exterior of the building (ramps are exempt).*
7. *Freestanding art and statuary over five feet tall.*
8. *Other land uses and activities may be added if the Planning Director makes written findings that the activity/use will not increase off-site impacts and is consistent with the type and/or scale of activities/uses listed above.*
9. *No design review is required if the applicant proposes to repair or replace one of the listed items. The Planning Director shall make the determination of whether an applicant is proposing a repair or replacement. However, Class I design review applies when one of the following improvements is part of a minor redesign or remodel.*
 - a. *Sidewalks on private property.*
 - b. *Loading docks.*
 - c. *Addition or reduction of parking stalls.*
 - d. *Revised parking alignment.*
 - e. *Revised circulation.*
 - f. *Revised points of ingress/egress to a site.*
 - g. *Heating, ventilation, and air conditioners (HVAC) that are visible from the public right-of-way.*

B. *Class II Design Review. Class II design review applies to all uses/activities except those uses/activities listed under Class I design review, and the exemptions of CDC 55.025. Class II design review applies to the proposed improvements listed in this section when the proposed improvement (e.g., new sidewalk) is part of a major commercial, office, industrial, public, or multi-family construction project (e.g., a new shopping center).*

Staff Finding 13: The application is for a new commercial structure, and is therefore subject to a Class II Design Review. This application is for a Class II Design Review. This standard is met.

55.030 ADMINISTRATION AND APPROVAL PROCESS

- A. *A pre-application conference is required before submitting a development plan application for design review as provided by CDC 99.030(B).*
 - B. *The application shall be submitted by the record owner(s) of the property, authorized agent, or condemnor.*
 - C. *Action on the development plan application shall be as provided by Chapter 99 CDC, Procedures for Decision-Making: Quasi-Judicial, and the following:*
 - 1. *The Planning Director for Class I design review applications, or Planning Commission for Class II design review applications, shall approve, approve with conditions, or deny the application based on findings related to the applicable criteria set forth in CDC 99.110 and this chapter.*
- [...]

Staff Finding 14: A pre-application was held on May 5, 2022. The application for the Class II Design Review was made by SG Architecture, and bears the signature of Icon Construction & Development who owns the property. These standards are met.

55.100 APPROVAL STANDARDS – CLASS II DESIGN REVIEW

- B. *Relationship to the natural and physical environment.*
 - 1. *The buildings and other site elements shall be designed and located so that all heritage trees, as defined in the municipal code, shall be saved. Diseased heritage trees, as determined by the City Arborist, may be removed at their direction.*
 - 2. *All heritage trees, as defined in the municipal code, all trees and clusters of trees (“cluster” is defined as three or more trees with overlapping driplines; however, native oaks need not have an overlapping dripline) that are considered significant by the City Arborist, either individually or in consultation with certified arborists or similarly qualified professionals, based on accepted arboricultural standards including consideration of their size, type, location, health, long term survivability, and/or numbers, shall be protected pursuant to the criteria of subsections (B)(2)(a) through (f) of this section. In cases where there is a difference of opinion on the significance of a tree or tree cluster, the City Arborist’s findings shall prevail. It is important to acknowledge that all trees are not significant and, further, that this code section will not necessarily protect all trees deemed significant.*
- [...]

Staff Finding 15: No heritage trees are located on the project site, and the city arborist did not identify any significant trees on the project site. These standards do not apply.

- 3. *The topography and natural drainage shall be preserved to the greatest degree possible.*
- 4. *The structures shall not be located in areas subject to slumping and sliding. The Comprehensive Plan Background Report’s Hazard Map, or updated material as available and as deemed acceptable by the Planning Director, shall be the basis for preliminary determination.*

Staff Finding 16: Staff adopts applicant findings. The site is largely flat with a slope of less than 5% from southwest to northeast. The proposed building footprint will cover 82% of the project site, or 100% if inclusive of the underground parking garage, as permitted by the Willamette Falls Drive Commercial Design District Standards. The proposed building will maintain the gentle slope to the east and the buildings will step down in height to that direction. This standard is met.

5. There shall be adequate distance between on-site buildings and on-site and off-site buildings on adjoining properties to provide for adequate light and air circulation and for fire protection.

Staff Finding 17: Staff adopts applicant findings: “On the north, west, and south property boundaries, the proposed building faces onto public ways. On the east property boundary, a 3’-0” setback has been provided (no side yard setback is required in the district), per section 38.020. There will be adequate distance between buildings on adjoining properties to provide adequate light and air circulation and for fire protection.” This standard is met.

6. Architecture.

a. The proposed structure(s) scale shall be compatible with the existing structure(s) on site and on adjoining sites. Contextual design is required. Contextual design means respecting and incorporating prominent architectural styles, building lines, roof forms, rhythm of windows, building scale and massing of surrounding buildings in the proposed structure. The materials and colors shall be complementary to the surrounding buildings.

b. While there has been discussion in Chapter 24 CDC about transition, it is appropriate that new buildings should architecturally transition in terms of bulk and mass to work with, or fit, adjacent existing buildings. This transition can be accomplished by selecting designs that “step down” or “step up” from small to big structures and vice versa (see figure below). Transitions may also take the form of carrying building patterns and lines (e.g., parapets, windows, etc.) from the existing building to the new one.

c. Contrasting architecture shall only be permitted when the design is manifestly superior to adjacent architecture in terms of creativity, design, and workmanship, and/or it is adequately separated from other buildings by distance, screening, grade variations, or is part of a development site that is large enough to set its own style of architecture.

d. Human scale is a term that seeks to accommodate the users of the building and the notion that buildings should be designed around the human scale (i.e., their size and the average range of their perception). Human scale shall be accommodated in all designs by, for example, multi-light windows that are broken up into numerous panes, intimately scaled entryways, and visual breaks (exaggerated eaves, indentations, ledges, parapets, awnings, engaged columns, etc.) in the facades of buildings, both vertically and horizontally.

The human scale is enhanced by bringing the building and its main entrance up to the edge of the sidewalk. It creates a more dramatic and interesting streetscape and improves the “height and width” ratio referenced in this section.

e. The main front elevation of commercial and office buildings shall provide at least 60 percent windows or transparency at the pedestrian level to create more interesting streetscape and window shopping opportunities. One side elevation shall provide at least 30 percent transparency. Any additional side or rear elevation, which is visible from a collector road or greater classification, shall also have at least 30 percent transparency. Transparency on other elevations is optional. The transparency is measured in lineal fashion. For example, a 100-foot-long building elevation shall have at least 60 feet (60 percent of 100 feet) in length of windows. The window height shall be, at minimum, three feet tall. The exception to transparency would be cases where demonstrated functional constraints or topography restrict that elevation from being used. When this exemption is applied to the main front elevation, the square footage of transparency that would ordinarily be required by the above formula shall be installed on the remaining elevations at pedestrian level in addition to any transparency required by a side elevation, and vice versa. The rear of the building is not required to include transparency. The transparency must be flush with the building elevation.

f. Variations in depth and roof line are encouraged for all elevations.

To vary the otherwise blank wall of most rear elevations, continuous flat elevations of over 100 feet in length should be avoided by indents or variations in the wall. The use of decorative brick, masonry, or stone insets and/or designs is encouraged. Another way to vary or soften this elevation is through terrain variations such as an undulating grass area with trees to provide vertical relief.

g. Consideration of the micro-climate (e.g., sensitivity to wind, sun angles, shade, etc.) shall be made for building users, pedestrians, and transit users, including features like awnings.

h. The vision statement identified a strong commitment to developing safe and attractive pedestrian environments with broad sidewalks, canopied with trees and awnings.

Staff Finding 18: Staff adopts applicant findings for these standards. Per CDC 58.020, the standards of the West Linn Commercial Design District pre-empt those of Chapter 55 (Design Review) when there is a conflict. In this case, implementation of the standards of Chapter 58 will ensure contextual compatibility, appropriate architectural transition, variations in depth and roofline, prevent contrasting architecture except in cases of superior design, and ensure human scale and micro-climate. As detailed in Staff Findings 37 through 66, these standards are met.

i. Sidewalk cafes, kiosks, vendors, and street furniture are encouraged. However, at least a four-foot-wide pedestrian accessway must be maintained per Chapter 53 CDC, Sidewalk Use.

Staff Finding 19: Staff adopts applicant findings for these standards. This standard is met.

7. *Transportation. The automobile shall be shifted from a dominant role, relative to other modes of transportation, by the following means:*

a. *Commercial and office development shall be oriented to the street. At least one public entrance shall be located facing an arterial street; or, if the project does not front on an arterial, facing a collector street; or, if the project does not front on a collector, facing the local street with highest traffic levels. Parking lots shall be placed behind or to the side of commercial and office development. When a large and/or multi-building development is occurring on a large undeveloped tract (three plus acres), it is acceptable to focus internally; however, at least 20 percent of the main adjacent right-of-way shall have buildings contiguous to it unless waived per subsection (B)(7)(c) of this section. These buildings shall be oriented to the adjacent street and include pedestrian-oriented transparencies on those elevations...*

[...]

c. *Commercial, office, and multi-family projects shall be built as close to the adjacent main right-of-way as practical to facilitate safe pedestrian and transit access. Reduced frontages by buildings on public rights-of-way may be allowed due to extreme topographic (e.g., slope, creek, wetlands, etc.) conditions or compelling functional limitations, not just inconveniences or design challenges.*

Staff Finding 20: Staff adopts applicant findings for these standards. The proposed building is oriented towards Willamette Falls Drive with multiple entrances and windows facing thereto, with the building contiguous to the right-of-way. The proposed parking area is located along Knapps Alley to the rear and in a basement parking garage accessed from 11th street. This standard is met.

d. *Accessways, parking lots, and internal driveways shall accommodate pedestrian circulation and access by specially textured, colored, or clearly defined footpaths at least six feet wide. Paths shall be eight feet wide when abutting parking areas or travel lanes. Paths shall be separated from parking or travel lanes by either landscaping, planters, curbs, bollards, or raised surfaces. Sidewalks in front of storefronts on the arterials and main store entrances on the arterials identified in CDC 85.200(A)(3) shall be 12 feet wide to accommodate pedestrians, sidewalk sales, sidewalk cafes, etc. Sidewalks in front of storefronts and main store entrances in commercial/OBC zone development on local streets and collectors shall be eight feet wide.*

e. *Paths shall provide direct routes that pedestrians will use between buildings, adjacent rights-of-way, and adjacent commercial developments. They shall be clearly identified. They shall be laid out to attract use and to discourage people from cutting through parking lots and impacting environmentally sensitive areas.*

f. *At least one entrance to the building shall be on the main street, or as close as possible to the main street. The entrance shall be designed to identify itself as a main point of ingress/egress.*

g. Where transit service exists, or is expected to exist, there shall be a main entrance within a safe and reasonable distance of the transit stop. A pathway shall be provided to facilitate a direct connection.

h. Projects shall bring at least part of the project adjacent to or near the main street right-of-way in order to enhance the height-to-width ratio along that particular street. (The “height-to-width ratio” is an architectural term that emphasizes height or vertical dimension of buildings adjacent to streets. The higher and closer the building is, and the narrower the width of the street, the more attractive and intimate the streetscape becomes.) For every one foot in street width, the adjacent building ideally should be one to two feet higher. This ratio is considered ideal in framing and defining the streetscape.

[...]

Staff Finding 21: Staff incorporates applicant findings for these standards. As the building is constructed on the property line along the Willamette Falls Drive and 12th Street frontages, pedestrian access to the building is through public sidewalks recently upgraded to current city standards as part of the Willamette Falls Drive streetscape project. No internal paths will be present on site as the lot is almost entirely taken up by the building footprint. A main entrance to the building will be located at the corner of Willamette Falls Drive and 12th Street, directly across the street from TriMet bus stop 9269. Building height is limited to 35 feet per Chapters 19 and 58. These standards are met.

C. Compatibility between adjoining uses, buffering, and screening.

1. In addition to the compatibility requirements contained in Chapter 24 CDC, buffering shall be provided between different types of land uses; for example, buffering between single-family homes and apartment blocks. However, no buffering is required between single-family homes and duplexes or single-family attached units. The following factors shall be considered in determining the adequacy of the type and extent of the buffer:

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

b. The size of the buffer required to achieve the purpose in terms of width and height.

c. The direction(s) from which buffering is needed.

d. The required density of the buffering.

e. Whether the viewer is stationary or mobile.

2. On-site screening from view from adjoining properties of such things as service areas, storage areas, and parking lots shall be provided and the following factors will be considered in determining the adequacy of the type and extent of the screening:

a. What needs to be screened?

b. The direction from which it is needed.

c. How dense the screen needs to be.

d. Whether the viewer is stationary or mobile.

e. Whether the screening needs to be year-round.

3. *Rooftop air cooling and heating systems and other mechanical equipment shall be screened from view from adjoining properties.*

Staff Finding 22: Staff adopts applicant findings for these standards. The project site is surrounded on all three sides by public-right of way and all trash and storage are enclosed by building walls. Parking is to occur within an underground garage and associated entrance approved as part of DR-16-01, with the exception of a parallel parking area along Knapps Alley. A rooftop mechanical equipment enclosure is proposed for HVAC and other equipment. See also Staff Finding 43 regarding rear setback standards in the Willamette Commercial Design District. These standards are met.

D. *Privacy and noise.*

[...]

3. *Structures or on-site activity areas which generate noise, lights, or glare shall be buffered from adjoining residential uses in accordance with the standards in subsection C of this section where applicable.*

4. *Businesses or activities that can reasonably be expected to generate noise in excess of the noise standards contained in West Linn Municipal Code Section 5.487 shall undertake and submit appropriate noise studies and mitigate as necessary to comply with the code. (See CDC 55.110(B)(11) and 55.120(M).)*

If the decision-making authority reasonably believes a proposed use may generate noise exceeding the standards specified in the municipal code, then the authority may require the applicant to supply professional noise studies from time to time during the user's first year of operation to monitor compliance with City standards and permit requirements.

Staff Finding 23: The proposed structure is similar in form and use to other commercial buildings along Willamette Falls Drive. A rooftop deck is proposed as part of this building, but is not expected to generate noise in excess of other uses and street level activities permitted within the Willamette Falls Drive commercial corridor. The design of the rooftop desk is intended to minimize any noise and light impacts as it is centered in the roof, away from the edge of the building and behind 5.5 foot steel panel screenwall and decorative planners, as demonstrated in the project plans contained in PC-1.a. Moreover, activity on the deck is anticipated to be seasonal in nature. These standards are met.

H. *Public transit.*

1. *Provisions for public transit may be required where the site abuts an existing or planned public transit route. The required facilities shall be based on the following:*

a. *The location of other transit facilities in the area.*

b. *The size and type of the proposed development.*

c. *The rough proportionality between the impacts from the development and the required facility.*

2. *The required facilities shall be limited to such facilities as the following:*
 - a. *A waiting shelter with a bench surrounded by a three-sided covered structure, with transparency to allow easy surveillance of approaching buses.*
 - b. *A turnout area for loading and unloading designed per regional transit agency standards.*
 - c. *Hard-surface paths connecting the development to the waiting and boarding areas.*
 - d. *Regional transit agency standards shall, however, prevail if they supersede these standards.*
3. *The transit stop shall be located as close as possible to the main entrance to the shopping center, public or office building, or multi-family project. The entrance shall not be more than 200 feet from the transit stop with a clearly identified pedestrian link.*
4. *All commercial business centers (over three acres) and multi-family projects (over 40 units) may be required to provide for the relocation of transit stops to the front of the site if the existing stop is within 200 to 400 yards of the site and the exaction is roughly proportional to the impact of the development. The commercial or multi-family project may be required to provide new facilities in those cases where the nearest stop is over 400 yards away. The transit stop shall be built per subsection (H)(2) of this section.*

Staff Finding 24: Staff adopts applicant findings for these standards. An existing transit stop is located across the street from the proposed structure, less than 200 feet from the nearest entrance, and was recently installed as part of the Willamette Falls Drive Streetscape Project. The stop is clearly marked and contains a bench but not shelter. TriMet was notified of the proposed project but did not comment on the application. This standard is met.

1. *Public facilities. An application may only be approved if adequate public facilities will be available to provide service to the property prior to occupancy.*
 1. *Streets. Sufficient right-of-way and slope easement shall be dedicated to accommodate all abutting streets to be improved to the City's Improvement Standards and Specifications. The City Engineer shall determine the appropriate level of street and traffic control improvements to be required, including any off-site street and traffic control improvements, based upon the transportation analysis submitted. The City Engineer's determination of developer obligation, the extent of road improvement and City's share, if any, of improvements and the timing of improvements shall be made based upon the City's systems development charge ordinance and capital improvement program, and the rough proportionality between the impact of the development and the street improvements...*

Staff Finding 25: The subject property is bordered by Willamette Falls Drive, an arterial classification, and 12th Street, a collector classification. The existing right-of-way width for Willamette Falls Drive is 120 feet and 12th Street is 80 feet. The required cross-section design for an arterial requires 102 feet of right-of-way. The cross-section design for a collector street with parking on both sides requires 68 feet of right-of-way. No additional right-of-way is needed. As a result of recent streetscape work, the project frontages for Willamette Falls Drive currently meets city standards. The applicant is proposing the construction of a new 8

foot sidewalk and curb along 12 Street, and the paving of Knapps Alley. Conditions of approval are included to ensure this work meets city standards. These standards are met.

[...]

3. *Municipal water. A registered civil engineer shall prepare a plan for the provision of water which demonstrates to the City Engineer's satisfaction the availability of sufficient volume, capacity, and pressure to serve the proposed development's domestic, commercial, and industrial fire flows. All plans will then be reviewed by the City Engineer.*

Staff Finding 26: Water is available in 12th Street and Knapps Alley to serve the proposed building. The applicant has submitted a plan prepared by a registered civil engineer and will take water access from Knapps Alley. The City Engineer has confirmed the water system has sufficient water volume and pressure to serve the new building. An existing fire hydrant is located in the public right of way immediately northwest of the site, as noted on the TVF&R Service Provider Permit. This standard is met.

4. *Sanitary sewers. A registered civil engineer shall prepare a sewerage collection system plan which demonstrates sufficient on-site capacity to serve the proposed development. The City Engineer shall determine whether the existing City system has sufficient capacity to serve the development.*

Staff Finding 27: The applicant has submitted a plan prepared by a registered civil engineer that will gravity flow to the existing sanitary sewer line in Knapps Alley. The system will be built to appropriate standards. The City Engineer has confirmed the sanitary sewer line and system will have sufficient capacity to service the proposal. This standard is met.

5. *Solid waste and recycling storage areas. Appropriately sized and located solid waste and recycling storage areas shall be provided. Metro standards shall be used.*

Staff Finding 28: The applicant proposal provides a screened solid waste and recycling area along Knapps Alley that meets Metro standards. This standard is met.

J. *Crime prevention and safety/defensible space.*

1. *Windows shall be located so that areas vulnerable to crime can be surveyed by the occupants.*

2. *Interior laundry and service areas shall be located in a way that they can be observed by others.*

3. *Mailboxes, recycling, and solid waste facilities shall be located in lighted areas having vehicular or pedestrian traffic.*

Staff Finding 29: The proposed building provides adequate windows along the three facades adjacent to the public rights-of-way for surveying by occupants. No interior laundry is proposed, mailboxes will be in the lobby, and recycling/solid waste facilities are located along Knapps Alley and well lit per the lighting plan in PC-1. These standards are met.

4. *The exterior lighting levels shall be selected and the angles shall be oriented towards areas vulnerable to crime.*
5. *Light fixtures shall be provided in areas having heavy pedestrian or vehicular traffic and in potentially dangerous areas such as parking lots, stairs, ramps, and abrupt grade changes.*
6. *Fixtures shall be placed at a height so that light patterns overlap at a height of seven feet which is sufficient to illuminate a person. All commercial, industrial, residential, and public facility projects undergoing design review shall use low or high pressure sodium bulbs and be able to demonstrate effective shielding so that the light is directed downwards rather than omni-directional. Omni-directional lights of an ornamental nature may be used in general commercial districts only.*

Staff Finding 30: The applicant has provided a proposed lighting plan that illuminates all areas vulnerable to crime. The parking areas and primary pedestrian walkways are fully lighted and meet the seven foot overlap provision. The light fixtures will comply with bulb standards and be directed downward. These standards are met.

7. *Lines of sight shall be reasonably established so that the development site is visible to police and residents.*
8. *Security fences for utilities (e.g., power transformers, pump stations, pipeline control equipment, etc.) or wireless communication facilities may be up to eight feet tall in order to protect public safety. No variances are required regardless of location.*

Staff Finding 31: Staff incorporates applicant findings. These standards are met.

- K. Provisions for persons with disabilities.*
1. *The needs of a person with a disability shall be provided for. Accessible routes shall be provided between all buildings and accessible site facilities. The accessible route shall be the most practical direct route between accessible building entries, accessible site facilities, and the accessible entry to the site. An accessible route shall connect to the public right-of-way and to at least one on-site or adjacent transit stop (if the area is served by transit). All facilities shall conform to, or exceed, the Americans with Disabilities Act (ADA) standards, including those included in the Uniform Building Code.*

Staff Finding 32: Staff incorporates applicant findings. These standards are met.

L. Signs.

- 1. Based on considerations of crime prevention and the needs of emergency vehicles, a system of signs for identifying the location of each residential unit, store, or industry shall be established.*
- 2. The signs, graphics, and letter styles shall be designed to be compatible with surrounding development, to contribute to a sense of project identity, or, when appropriate, to reflect a sense of the history of the area and the architectural style.*
- 3. The sign graphics and letter styles shall announce, inform, and designate particular areas or uses as simply and clearly as possible.*
- 4. The signs shall not obscure vehicle driver's sight distance.*
- 5. Signs indicating future use shall be installed on land dedicated for public facilities (e.g., parks, water reservoir, fire halls, etc.).*
- 6. Signs and appropriate traffic control devices and markings shall be installed or painted in the driveway and parking lot areas to identify bicycle and pedestrian routes.*

Staff Finding 33: Staff incorporates applicant findings. These standards are met.

M. Utilities. The developer shall make necessary arrangements with utility companies or other persons or corporations affected for the installation of underground lines and facilities. Electrical lines and other wires, including but not limited to communication, street lighting, and cable television, shall be placed underground, as practical. The design standards of Tables 1 and 2 above, and of subsection 5.487 of the West Linn Municipal Code relative to existing high ambient noise levels shall apply to this section.

Staff Finding 34: Staff incorporates applicant findings. These standards are met.

[...]

O. Refuse and recycling standards.

- 1. All commercial, industrial and multi-family developments over five units requiring Class II design review shall comply with the standards set forth in these provisions. Modifications to these provisions may be permitted if the Planning Commission determines that the changes are consistent with the purpose of these provisions and the City receives written evidence from the local franchised solid waste and recycling firm that they are in agreement with the proposed modifications.*
- 2. Compactors, containers, and drop boxes shall be located on a level Portland cement concrete pad, a minimum of four inches thick, at ground elevation or other location compatible with the local franchise collection firm's equipment at the time of construction. The pad shall be designed to discharge surface water runoff to avoid ponding.*
- 3. Recycling and solid waste service areas.*
 - a. Recycling receptacles shall be designed and located to serve the collection requirements for the specific type of material.*

- b. The recycling area shall be located in close proximity to the garbage container areas and be accessible to the local franchised collection firm's equipment.*
- c. Recycling receptacles or shelters located outside a structure shall have lids and be covered by a roof constructed of water and insect-resistive material. The maintenance of enclosures, receptacles and shelters is the responsibility of the property owner.*
- d. The location of the recycling area and method of storage shall be approved by the local fire marshal.*
- e. Recycling and solid waste service areas shall be at ground level and/or otherwise accessible to the franchised solid waste and recycling collection firm.*
- f. Recycling and solid waste service areas shall be used only for purposes of storing solid waste and recyclable materials and shall not be a general storage area to store personal belongings of tenants, lessees, property management or owners of the development or premises.*
- g. Recyclable material service areas shall be maintained in a clean and safe condition.*
- 4. Special wastes or recyclable materials.*
 - a. Environmentally hazardous wastes defined in ORS 466.005 shall be located, prepared, stored, maintained, collected, transported, and disposed in a manner acceptable to the Oregon Department of Environmental Quality.*
 - b. Containers used to store cooking oils, grease or animal renderings for recycling or disposal shall not be located in the principal recyclable materials or solid waste storage areas. These materials shall be stored in a separate storage area designed for such purpose.*
- 5. Screening and buffering.*
 - a. Enclosures shall include a curbed landscape area at least three feet in width on the sides and rear. Landscaping shall include, at a minimum, a continuous hedge maintained at a height of 36 inches.*
 - b. Placement of enclosures adjacent to residentially zoned property and along street frontages is strongly discouraged. They shall be located so as to conceal them from public view to the maximum extent possible.*
 - c. All dumpsters and other trash containers shall be completely screened on all four sides with an enclosure that is comprised of a durable material such as masonry with a finish that is architecturally compatible with the project. Chain link fencing, with or without slats, will not be allowed.*
- 6. Litter receptacles.*
 - a. Location. Litter receptacles may not encroach upon the minimum required walkway widths.*
 - b. Litter receptacles may not be located within public rights-of-way except as permitted through an agreement with the City in a manner acceptable to the City Attorney or their designee.*
 - c. Number. The number and location of proposed litter receptacles shall be based on the type and size of the proposed uses. However, at a minimum, for non-residential uses, at least one external litter receptacle shall be provided for every 25 parking spaces for first 100 spaces, plus one receptacle for every additional 100 spaces.*

Staff Finding 35: Staff incorporates applicant findings. The applicant proposes a covered solid waste enclosures along Knapps Alley. The recycling center will be covered, gated, and located on the west end of the rear façade along Knapps Alley. Both are located at ground level and will be kept in a clean and safe condition. The franchised collection firm has access from Knapps Alley. Tualatin Valley Fire and Rescue has approved the location and design under SPP-2023-0010. These standards are met.

55.125 TRANSPORTATION ANALYSIS

Certain development proposals required that a Traffic Impact Analysis (TIA) be provided which may result in modifications to the site plan or conditions of approval to address or minimize any adverse impacts created by the proposal. The purpose, applicability and standards of this analysis are found in CDC 85.170(B)(2).

Staff Finding 36: The applicant submitted a traffic impact analysis prepared by a professional traffic engineer (Exhibit PC-1). The report concluded that the intersection of 10th Street at Willamette Falls Drive is projected to operate acceptably once the roundabout construction is completed, which is expected to occur prior to completion of the proposed building. The intersection of 10th Street at 8th Avenue/8th Court is projected to operate better with completion of the planned roadway improvements and the addition of site trips from the proposed development than under existing conditions, and further mitigation will be provided in conjunction with future redevelopment within the properties where a future easement for connection to Willamette Falls Drive will be placed. Based on the detailed analysis, payment of Transportation System Development Charges is projected to be sufficient to offset the impacts of the proposed mixed-use commercial development. No other operational mitigations are necessary or recommended in conjunction with the proposed development. The Oregon Department of Transportation (ODOT) was notified of this project and did not submit comments. This standard is met.

VIII. CHAPTER 58, WILLAMETTE FALLS DRIVE COMMERCIAL DESIGN DISTRICT

58.010 PURPOSE

- A. Implement the goals and policies of the economic element of the Comprehensive Plan relating to the rehabilitation and revitalization of the Willamette Commercial District.*
- B. Enhance the historic and aesthetic quality of the Commercial District.*
- C. Increase the attractiveness of the commercial areas to tourists, customers, tenants, business owners, and City residents.*
- D. Reinforce the commitment to existing commercial buildings of the 1880 – 1915 period and complement the adjacent residential historic district.*
- E. Encourage a sense of historic identity for the Willamette area and West Linn as a whole.*

Staff Finding 37: This section is a purpose statement describing the intent of the regulations and does not directly regulate a new structure. No finding is required.

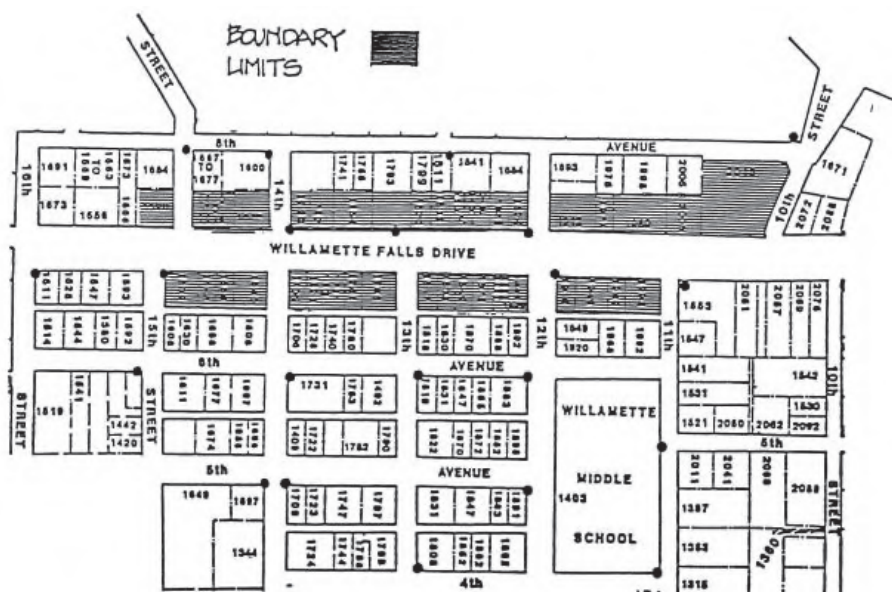
58.030 APPLICABILITY

A. The provisions of this chapter shall apply to all new commercial construction, alterations, and remodels on Willamette Falls Drive between 10th and 15th Streets. Properties that are historic resources shall comply with the provisions of Chapter 25 CDC, as applicable. Failure to obtain a permit shall constitute a Class A violation pursuant to CDC 106.050.

B. The type of design review application required is defined in Chapter 25 CDC for properties identified on the West Linn Historic Resource Map and defined in Chapter 55 CDC for all other properties.

C. Boundary limits. The affected area shall be as delineated in Figure 1. Generally, the area is along Willamette Falls Drive between 10th Street and 15th Street.

Figure 1



Staff Finding 38: The project site is for new construction within the boundaries of the Willamette Falls Drive Commercial Design District, as delineated in Figure 1 above. Therefore, this chapter applies. The applicant has requested a Class II Design Review and provided materials and written findings of compliance with the standards. As documented in this report and attached exhibits, these standards are met.

58.050 PERMITTED USES

All uses permitted by the underlying General Commercial zone shall be allowed pursuant to CDC 19.030, 19.040, 19.050, and 19.060 and shall require the application of the standards of this chapter. Residential use of the second floor and the rear portion only of the ground floor, with no access onto Willamette Falls Drive, is permitted by application through this chapter. Residential use may only

comprise 50 percent or less of the total square footage of the building combined. Commercial uses shall dominate the first floor. (Ord. 1401, 1997; Ord. 1735 § 4 (Exh. C), 2022)

Staff Finding 39: The application has not identified a specific tenant in the application, and is proposing a speculative building for retail, service, and restaurant uses. Compliance with use standards in CDC Chapter 19 will occur as part of normal building permit review of future tenant improvements and associated business license review. No residential uses are proposed with the application, and commercial uses will occupy 100% of the first floor. This standard will be met.

58.080 STANDARDS

A. Standards are needed to provide a clear and objective list of design elements that are needed to bring new construction and remodels into conformance with 1880 – 1915 architecture. Buildings of the period saw relatively few deviations in design. Consequently, the Historic Review Board will require conformance with the standards. Deviations or deletions from the standards are addressed in the design exception procedure of this chapter.

Staff Finding 40: Deviations from these standards is addressed in findings pertaining to the specified design exceptions described in Staff Finding 66. As modified through the design exception process, the standards of this chapter will be met.

B. The use of neo-designs or simply contextual designs which only attempt to capture the basic or generalized elements such as building line, massing and form, etc., is not acceptable.

Staff Finding 41: As demonstrated in the applicant’s materials included in Exhibit PC-1, the proposed design does not use neo or simply contextualized design. This standard is met.

C. The following standards shall apply to new construction and remodels.

1. Dimensional standards.

a. Front: zero-foot setback. Building may not be set back from the property line unless it is consistent with predominant building line.

b. Side and side street: zero-foot setback. Building may not be set back from the side property line except for side passageway, accessway, or stairway unless fire codes dictate otherwise. The setback shall not exceed six feet.

Staff Finding 42: Staff incorporates applicant findings contained in PC-1. This standard is met.

c. Rear: 20-foot setback. Setbacks between zero and 20 feet are permitted only if the applicant can demonstrate that they can successfully mitigate any impacts associated with the building in current and future uses as they would relate to abutting residential and other properties.

Staff Finding 43: Staff incorporates applicant findings contained in PC-1 which state the following:

“The eastern 80% of the South (rear) elevation is set back 5’ from the property line, with the remainder set on the property line, all fronting on Knapps Alley. The setback was done on the 1969 building also in an agreement with the residential neighbors across the alley. While the neighbor situation is not the same for the 1949 building, this setback maintains a consistent line along the Alley. The alley provides the separation from adjacent properties to mitigate the impact of this project. Access to employee parking and the trash enclosure will occur from Knapp’s Alley as well.”

The Knapp’s alley right of way is 20 feet in width, making for a 25-foot effective setback when combined with the five-foot setback along the rear of the proposed building, which exceeds the 20 foot minimum above. This standard is met.

d. *Lot coverage: up to 100 percent of lot may be developed depending upon ability to mitigate impacts upon abutting residential and other uses.*

Staff Finding 44: Staff incorporates applicant findings contained in PC-1 which states the following:

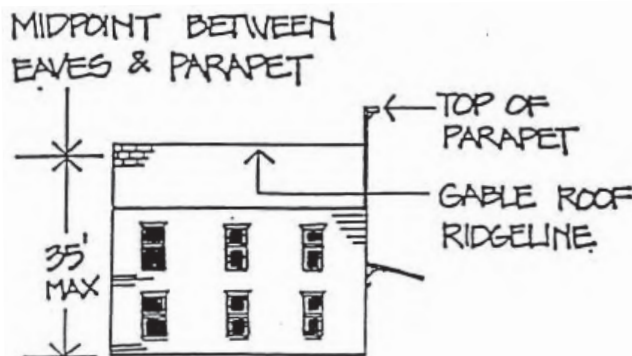
“The proposed lot coverage based on the street level ground floor occupied area is 82%. Based upon the entire built area (building, parking, and service area) the proposed lot coverage is 100%.”

This standard is met.

2. Minimum landscaping required. Sites in this district are exempt from landscaping requirements as identified in Chapter 54 CDC, Landscaping, with the exception of parking areas.

Staff Finding 45: Staff incorporates applicant findings contained in PC-1. No landscaping is proposed nor required. This standard is met.

3. Building height limitations. Maximum building height shall be 35 feet (as measured by this code), and two stories. A false front shall be considered as the peak of the building if it exceeds the gable roof ridgeline.



Staff Finding 46: Revised plans submitted on January 29, 20204 (Exhibit PC-1.A) include revised elevations that demonstrate parapet heights and floorplans in compliance with the 35 foot height standard (see Sheets 1 through 4 and Sheet G, prepared for the February 21, 2024 Planning Commission hearing).

Sheet 3 of the same set identifies rooftop improvements that include an unroofed outdoor deck centered in the middle of the rooftop, an elevator, a mechanical equipment area, and a stairwell.

As the rooftop deck does not have a ceiling or roof, it does not qualify as a third story per CDC 02.030 which defines a story as *“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 above.”*

The elevator and stairwell are proposed for rooftop access, and the mechanical equipment shelter is proposed to attenuate noise from HVAC equipment for the structure. As discussed in Staff Finding 4, staff finds these improvements to exempt from the two-story height standard per CDC 41.030 which states *“Projections such as chimneys, spires, domes, elevator shaft housings, towers, aerials, flag poles, and other similar objects not used for human occupancy are not subject to the building height limitations of this code.”* Stairwells and mechanical rooms are similar in purpose and form as an elevator shaft, and are normal and usual parts of commercial structures, and could therefore be reasonably interpreted as falling within the intent and purview of this exemption. Furthermore, as discussed in Staff Finding 22, CDC 55.100.C3 requires the applicant to screen HVAC and other mechanical equipment from view, and the proposed equipment enclosure serves that purpose.

Therefore, height standards are met.

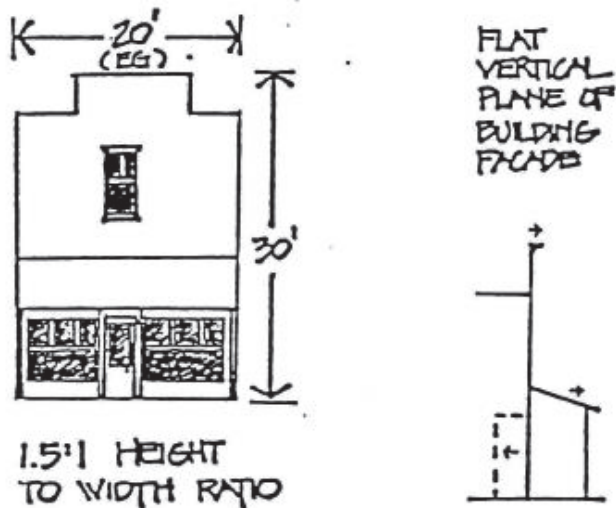
4. *External ground level or first story minimum height. Ten feet to allow transoms.*

Staff Finding 47: Staff incorporates applicant findings which states, *“The ground level first story height is 13'0" A.F.F to allow for window transoms.”* This standard is met.

5. *Roof form. Flat or pitched roofs. Pitched roof ridgeline shall run from the front of the building to the back.*

Staff Finding 48: Staff incorporates applicant findings contained in PC-1 which states *“All proposed flat sloped roofs run from front to back of the building.”* This standard is met.

6. *Building form, scale and depth. Building shall emphasize the vertical through narrow, tall windows (especially on second floor), vertical awning supports, engaged columns, and exaggerated facades creating a height-to-width ratio of 1.5:1. Building depth shall be flat, only relieved by awning and cornice projections and the indented doorway.*



Staff Finding 49: Staff incorporates applicant findings contained in PC-1 which states the following:

“The proposed exterior elevations emphasize many vertical elements using tall windows, cornices, and awnings. The second floor has been provided with many windows that align with the main floor below that enhance the "verticality" of each building elevation. Building reliefs have been incorporated throughout the overall design by off- setting the building footprint and providing awnings and cornice projections.”

This standard is met.

7. Visual building breaks. Strong vertical breaks or lines should be regularly spaced every 25 to 50 feet.

Staff Finding 50: Staff incorporates applicant findings contained in HRB-01 which states the following:

“Appropriate spacing and vertical breaks in the building vernacular, have been incorporated into all the building elevations. No vertical spacing exceeds 50'-0" in length (see elevation sheet).

The longest façade plane along Willamette Falls Drive without a vertical break is approximately 45 feet per the conceptual elevations in PC-1. As the primary façade, this is where the variation is most important for maintaining streetscape continuity. Side and rear elevations exceed this standard at 58 feet on the western façade facing 12th street, and 83 feet facing Knapps Alley. To ensure compliance with this standard, a condition of approval has been added requiring the submission of revised plans at the building permit stage that demonstrate compliance with this standard. As conditioned, this standard will be met.

8. Facades. No gables, hipped, or pitched roofs shall be exposed to the street at the front. The “Western false front” shall be the preferred style although variations shall be allowed through a design exception.

Staff Finding 51: Staff incorporates applicant finding which states: “All roofs are ‘flat’ for the entire building and are concealed by “Western False Front” facades (see elevations sheet).” This standard is met.

9. Cornice. Cornices shall be broad and may include regularly spaced supporting brackets. A cornice is not required, but preferred.

Staff Finding 52: Staff incorporates applicant finding which states: “The cornices along the north elevation are enhanced with supporting brackets. All other cornices are enhanced with framed panel decoration (see elevations & wall section sheets.)” This standard is met.

10. Building materials and orientation. Horizontal wood siding in one-inch by eight-inch dimensions shall be used, unless brick or other materials are permitted by a design exception obtained only under CDC 58.090.

Staff Finding 53: Staff incorporates applicant findings. The applicant has applied for relief from this standard through a design exception discussed in Staff Finding 66. Proposed primary building materials include the following:

- Primary walls: 1x8 horizontal fiber cement siding (Hardiplank) - painted
- Other walls: Brick masonry
- Base/Wainscot: Brick masonry
- Cornices/trim: Fiber cement trim (Hardieboard) - painted

With approval of the design exception, this standard will be met.

11. Awnings. All buildings shall have awnings extending out from building face. Awnings are preferred for micro-climate benefits. Ideally, the building will have both transom and awnings, although transoms are not required. Awnings shall be either canvas or vinyl, or similar approved material, supported by an internal metal framework or metal or wood supported by a curved metal support attached to the building.

Awnings shall extend a minimum of five feet from the facade and along 80 percent of a street facing facade to provide appropriate pedestrian coverage and shall meet ADA requirements. The pitch of the awning shall be 10 to 40 degrees. No “bubble-type” awnings are permitted. No backlit awnings are permitted. Canvas or matte-finish vinyl, or similar approved material awnings, may be one color or striped and shall have a free-hanging plain or crenelated valance. Canvas or matte-finish vinyl, or similar approved material awnings, should not be shared between two structures. Each structure should have its own awning.

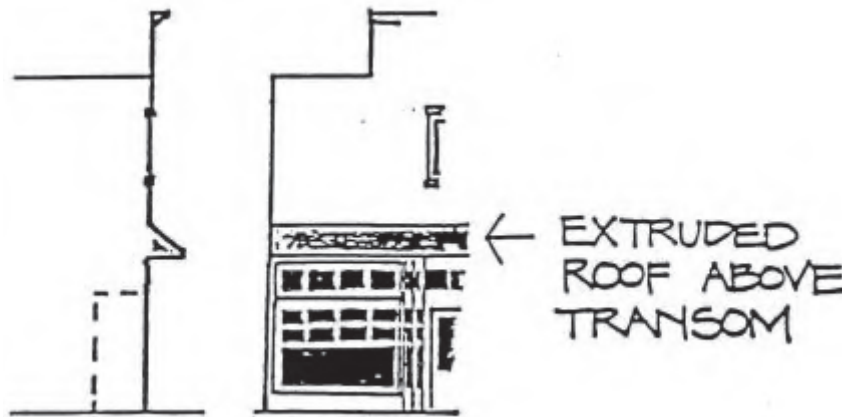
Staff Finding 54: Staff incorporates applicant findings which state the following:

“Building awnings will be a combination of self-supporting fabric awnings on

the eastern portion of the building, and a self-supporting steel canopy at the central main entry. These awnings and canopy extend approximately 4 feet from the face of the building. A deeper, canopy with metal roofing and decorative columns wraps the western corner and extends south along 12th Street. This canopy will extend out from the building approximately 8-1/2 feet to allow for outdoor seating/dining. All canopies and awnings will be at least 7 feet above the sidewalk.

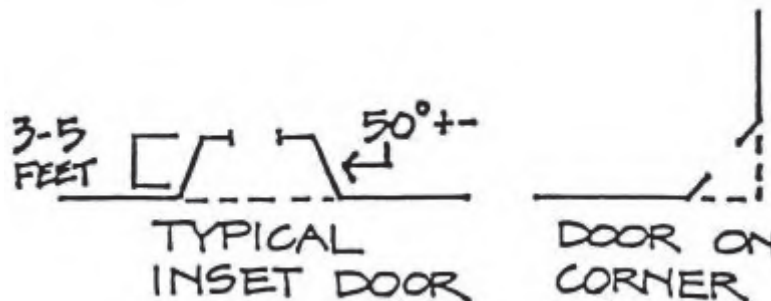
As the minimum awning standard is five feet in depth, Condition 8 has been included to ensure compliance. As conditioned, this standard is met.

12. Extruded roofs. As a substitute for an awning, extruded roofs have a 10- to 40-degree pitch and extend one to two feet from the building face just above the transom windows where the first and second stories meet. The roof runs along the entire building frontage. Standard roofing materials are used. Transoms are required with extruded roofs.



Staff Finding 55: No extruded roofs are proposed. This standard does not apply.

13. Doors and entryways. The entryway shall be centered in the middle of the building at grade. The buildings on street corners may position their doors on the corner at an angle as depicted in the illustration. The doors may be single or double doors. The doors shall be recessed three to five feet back from the building line. Doors shall have glazing in the upper two-thirds to half of the door. Panels should decorate the lower portions. The entryway shall have windows all the way around at the same level as the other display windows. Wood doors are preferable although alternatives with a dark matte finish may be acceptable.



Staff Finding 56: Staff incorporates applicant findings contained in HRB-01 which states the following:

“Recessed double entrance doors have been provided at the center of the building along with additional recessed entry doors at each end of the building (see elevation and floor plan). The door styles will be full glass light style and will meet the intent of the code.

To ensure the doors meet the design standards above, a condition has been added to require a panel on the lower portion of the entry doors. As conditioned, this standard will be met.

14. Glazing. Clear glass only. No mirrored or tinted glass. No films applied to glass. Lettering on glass is permitted.

Staff Finding 57: The applicant has proposed clear glass with no glazing for all windows and doors. This criterion is met.

15. Display or pedestrian level windows. Shall extend across at least 80 percent of building front. The windows shall start one and one-half to two and one-half feet above grade to a height of seven to eight feet, and shall be level with the top of the height of the adjacent entryway area, excluding transom. A single sheet of glass is not permitted. The window shall be broken up into numerous sections, also known as lights. From 1880 onwards, the number of lights was generally no more than six in a pedestrian-level window. The frames may be wood or vinyl-clad wood, or other materials so long as a matte finish is possible.



MULTI-PANED
PEDESTRIAN
LEVEL WINDOWS

Staff Finding 58: Staff incorporates applicant findings contained in HRB-01 as follows:

“The proposed street level windows and storefronts extend across the entire front elevation (see elevation sheet). On the east end of the building, where the level of the floor is above the sidewalk, the windows are placed close enough to the floor level to allow pedestrians to view into the building, thereby meeting the intent of the Code to the extent possible.”

Windows are broken up into multiple lights and match the top of the adjacent doorway. To ensure minimum sill heights above grade are met, Condition 7 has been added requiring

minimum sill heights be specified on the building permit drawings. As conditioned, this standard will be met.

16. Second floor and other windows. Double- and single-hung windows proportionately spaced and centered should be used. Smaller square shaped windows may be permitted (one and one-half feet to two feet per side). A typical window should have a 3:1 height to width ratio for the glass area. There should be a minimum of two lights: "one over one" of equal size. "Two over one" or "four over one" is appropriate.



Staff Finding 59: Staff incorporates applicant findings contained in HRB-01 which states: *"The proposed upper level windows have a double-hung appearance, and are provided individually and in groups in sizes to meet the 3:1 standard."* This standard is met.

17. Wainscotting. Wainscotting shall be consistent with primary material of the building, typically wood.

Staff Finding 60: Staff incorporates applicant findings contained in HRB-01. The applicant has applied for relief from this standard through a design exception discussed later in this report, to include alternate brick masonry wainscotting instead of the primary Hardie material proposed for the building. This alternative provides for a more durable building base, and is consistent with other buildings along Willamette Falls Drive. With approval of the design exception, this standard will be met.

18. Shutters. Shutters are not allowed.

19. Balconies. No balconies are permitted except on rear of building.

20. Exterior stairs. Simple stairs are permitted on the rear or side of the building only.

Staff Finding 61: None of the above features exist are proposed and all stairs are enclosed. These standards are not applicable.

21. Roof mounted mechanical equipment. Equipment shall be screened from view on all sides by normal and consistent architectural features of the building. CDC [55.100\(D\)](#), Privacy and noise, shall apply.

22. Air conditioning. No window types on avenue or street side are permitted. Window-mounted air conditioners are not allowed at rear where abutting residential.

Staff Finding 62: All air conditioning units are proposed for rooftop mounting, and will be located in a mechanical storage room located in the approximate center of the roof and set back from the parapet wall. These standards are met.

23. *Exterior lighting fixtures.* Any lighting fixtures that can be traced to 1880 – 1915 period are permitted. Simple modern fixtures that are screened and/or do not attract attention are acceptable. Overly ornate fixtures of the Victorian era are to be discouraged.

Staff Finding 63: Staff incorporates the applicant’s findings contained in Exhibit HRB-01 that states: *“All exterior light fixtures will meet the intent of the code “period fixtures 1880-1915”. A cutsheet of the light fixture [has been] provided to the city for review.”* This standard is met.

24. *Transoms.* Transom windows are required with extruded roofs and optional with awnings. Transom windows shall cover the front of the building above, but not beyond, the main display windows and the entryway area. Transoms should be broken up into sections every six inches to three feet in a consistent and equal pattern. Height should not exceed three feet. Transoms may or may not open. False ceilings are allowed behind the transoms.

Staff Finding 64: Staff incorporates applicant findings contained in HRB-01 as follows:

“The storefront windows proposed will have a metal canopies or fabric awnings above their entire width. No upper separate transom windows are proposed, however the window style will have transom influence by the use of grids and mullions. All window sizes will meet the intent of the code (see elevations).”

This standard is met.

26. *Paint colors.* Body color typically included white, cream, or a light, warm color of low intensity. Accents, trims, windows, etc., should be dark-colored. A palette or color wheel, submitted by the applicant, of acceptable 1880 – 1915 period colors shall be the basis for color selection. Colors shall be similar to or consistent with existing buildings within the Willamette Commercial District to establish streetscape continuity.

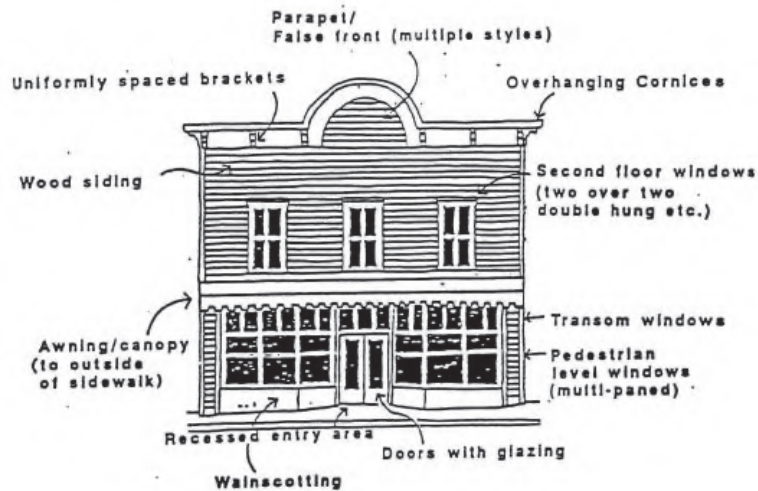
Staff Finding 65: Staff incorporates applicant findings contained in HRB-01 as follows: *“A material and color board is included with this application. Selected colors will be submitted for review prior to installation.”* This standard is met.

58.090 DESIGN EXCEPTION PROCEDURES

In those circumstances where a design proposal cannot meet the standards, or proposes an alternative to the standard, the Historic Review Board may grant a design exception in those cases where one of the following criteria is met:

A. *The applicant can demonstrate by review of historical records or photographs that the alternative is correct and appropriate to architecture in the region, and especially West Linn, in 1880 – 1915.*

B. The applicant is incorporating exceptional 1880 – 1915 architecture into the building which overcompensates for an omission, deviation, or use of non-period materials. The emphasis is upon superior design, detail, or workmanship.



C. The application is for the restoration or alteration of an existing, out-of-period structure where it can be demonstrated that applicant cannot reasonably comply with the standard due to existing building setbacks, orientation, roof forms, materials, architectural style, functional design, or other existing conditions; and where the exception would further the purpose of this chapter as set forth in CDC 58.010. This exception does not apply when the structure is demolished. (Ord. 1735 § 4 (Exh. C), 2022. Formerly 58.100)

Staff Finding 66: Staff incorporates the applicant’s findings contained in Exhibit PC-01.

RESPONSE: Design Exceptions are requested for the following:

1. Item: James Hardie (or equal) fiber cement products to substitute for wood siding and trim.

Criteria A: *The proposed materials are designed to accurately represent the appearance of the wood they are replacing. Available in wood grained or smooth textures, when painted they provide high quality wood look.*

Criteria B: *The proposed fiber cement products are a significant upgrade in quality from natural wood, which makes it a superior design choice. Wood checks, twists, splits, and otherwise fails, necessitating near continuous maintenance. This can cause the building to almost always have portions that have unsightly blemishes and defects. Wood will typically require replacement after approximately 10 years. The requested substitute is straight and true, without defects, requires no maintenance beyond regularly scheduled painting, and has a lifespan of more than 25 years.*

2. Item: Brick masonry for the eastern segment of the building, vertical pilasters, the lower portion of the western segment, and portions of the building base/wainscot.

Criteria A: *Brick was a fairly common material in the 1880-1915 time period, and is well represented in the District, appearing on the fire station, the 2008 building*

across the street from the project, the Community of Faith Church at the corner of 12th Street and Willamette Falls Drive, and the 1969 Willamette Falls Drive building adjacent to the project.

Criteria B: Brick is a superior material to wood in terms of durability, longevity, and appearance. Its use on this project helps to emphasize the vertical distinctions in a way that adds interest and human scale while elevating the level of detailing of the façade. In addition, at the base of the building it also provides a more durable surface where the building meets the sidewalk and is at greatest risk of damage from passersby, bicycles, delivery carts, and the like.

With the HRB granting approval of these design exceptions on June 13, 2023 (Exhibit PC-3), the Planning Commission can approve the deviations. These standards are met.

99.060 APPROVAL AUTHORITY

*B. Planning Commission authority. The Planning Commission shall have the authority to:
[...]*

2. Approve, deny, or approve with conditions the following applications:

(...)

h. Design review, Class II

(...)

D. Historic Review Board authority. The Historic Review Board shall review an application for compliance with Chapters 25 and 58 CDC, as applicable. The Historic Review Board shall have the authority to:

(...)

2. Make recommendations to the approval authority specified in this section regarding the following:

(...)

c. Class I or Class II design review on a property within the Willamette Falls Drive Commercial Design District that is not a historic landmark or within the Willamette Historic District;

(...)

Staff Finding 67: The application was presented to the Historic Review Board on June 21, 2023 for a recommendation of compliance with CDC Chapter 58. The applicant return to the HRB for a second time on November 14, 2023 to request a Design Exception to exceed the two-story height limit. That exception was denied by the HRB and the applicant subsequently withdrew the denied Design Exemption for height from the application. A copy of the recommendation is included as Exhibit PC-2 for consideration as art of the Planning Commission’s consideration of the Class II Design Review. This standard is met.

99.080 NOTICE

Notice shall be given in the following ways:

A. Class A Notice. (...)

Staff Finding 68: The applicant proposal has been properly noticed by the City per Exhibit PC-6 below. These criteria are met.

EXHIBIT PC-1.A: APPLICANT SUBMITTAL



SG ARCHITECTURE, LLC

29 January, 2024

DESIGN REVIEW APPLICATION | DESIGN ADJUSTMENTS

JOHN FLOYD
Associate Planner
Community Development Department | Planning
22500 Salamo Road
West Linn, OR 97068
p: 503-742-6058
e: jfloyd@westlinnoregon.org

SGA PROJECT NO. 20-119
Design Review Application DR-23-01
Design Adjustments in Response to
Comments from June 13th, 2023 HRB Meeting

DEAR MR. FLOYD,

Please find the following written narrative description of design changes we are proposing in response to comments received at the June 13th Historic Review Board Meeting. (In a separate letter, we have requested that our November 14th request to the HRB for a Design Exception be rescinded.)

The concerns from the June 13th HRB meeting were expressed by members of the HRB, as well as neighbors and the City Engineering Department. These concerns are paraphrased in gray below, with our narrative responses following each comment in black. We have attached plans, elevations, and sections which graphically illustrate our revisions.

Per our email discussion we would appreciate your adding this narrative and the attendant drawings to the original drawings as part of your submittal package to the Planning Commission. We have attached both the original June 13th exhibits with the revised drawings for your convenience.

COMMENTS:

- 1. CONCERN: While the IBC does not consider a mezzanine to be a separate floor, the HRB was not clear if the Willamette Falls Drive Commercial Design District Code (Chapter 58) (WFDCD) would allow for a mezzanine level above the second floor as shown in the 6/13 presentation. Further, the upper row of windows along 12th Street in the original presentation was seen by some as an indication of a 3rd floor that would not be permitted under the standards.

DESIGN RESPONSE:

- 1. The windows along 12th street have been removed and replaced with a redesigned cornice, painted panels, and painted vertical pilasters, breaking up the facade into vertical components. The clerestory windows remain at the corner providing additional natural light to the second floor (See Elevations, Exhibit EL05.2).
2. The enclosed rooftop lounge, restrooms, second elevator, and stair have been eliminated (See Roof Plan, Exhibit EL05.3).
3. The outdoor roof deck remains for general use by tenants and guests - with a 5'-6" tall screen surround to reduce potential noise and light issues for our residential neighbors (See Screenwall Detail, Exhibit EL05.3).

10940 SW Barnes Rd #364
Portland, OR 97225
503.201.0725

4. An enclosed HVAC equipment space was added between the elevator and stairs to help to mitigate noise from rooftop mechanical units (See Roof Plan, Exhibit EL05.3).
 - a. Section 55.100.C.3 of the CDC's Class II Design Review Approval Standards requires that "Rooftop air cooling and heating systems and other mechanical equipment shall be screened from view from adjoining properties". As is shown in Exhibit EL05.4 "Site Sections | View From Adjacent Lots", the building's perimeter parapets provide complete visual screening of rooftop equipment, thereby meeting the requirement of the Section.
 - b. Because some of the neighbors have raised concerns about noise, we are proposing the additional enclosed Mechanical Equipment space to further mitigate any noise that may come from equipment. To make the space as effective at reducing noise as possible, the space includes walls and a roof.
 - c. It is possible that an enclosed space with a roof will be considered to be a "third floor", because it has a floor and a roof as described in Section 02.030 "Story".
 - d. Our proposal takes no opinion on the question of whether the Mechanical Equipment space meets the requirements of a story as described in Section 02.030. We are offering, in a gesture of goodwill and at significant expense, to provide an enclosure intended to benefit the neighbors.
 - e. Should the Commission conclude that this space is not consistent with the spirit of the Community Development Code or the Willamette Falls Drive Commercial District, we would request a condition of approval – for the removal of the Mechanical Equipment enclosure - be placed on the proposal.
2. CONCERN: There was concern from the residential neighbors across Knapps Alley that the 2nd floor windows on the alley elevation were too large.

DESIGN RESPONSE:

1. The windows along the Knapps Alley elevation have been re-designed to match the size and spacing of those on the existing building (1969 Willamette Falls Drive). Those windows were found by the HRB and these same neighbors to be acceptable during the HRB and Planning Commission review for the 1969 building.
3. CONCERN: The Board was concerned that the drawing showing the Willamette Falls Drive elevation did not show clearly enough that the building elevation meets the 35' height limit required by the Standards. Per Section 41.005 "Determining Height of Building" and Section 58.080.C.3 of the WFDCD:

SECTION 41.005: "...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..."

SECTION 58.080.C.3: "Building height limitations. Maximum building height shall be 35 feet (as measured by this code), and two stories. A false front shall be considered as the peak of the building if it exceeds the gable roof ridge line."

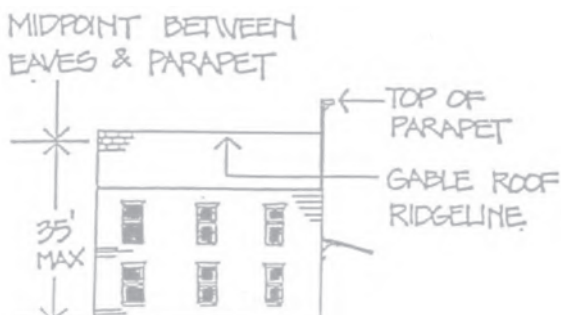


Figure from Section 58.080.C.3

DESIGN RESPONSE:

1. The height limit in the WFD district is 35' per CDC Section 58.080.B.3, and is measured at grade, 5' from the front elevation per CDC Section 41.005.A.1. Exhibit EL05.1 "Willamette Falls Drive Elevation", Exhibit EL05.2 "West (12th Street) Elevation", and Exhibit EL05.3 "Knapps Alley Elevation" show heavy dashed red lines indicating the 35' maximum height on those streets/elevations. Note that while 58.080.B.3 allows parapets to extend above the height maximum, we have nonetheless reduced the parapet heights to fall fully beneath the 35' dimension.
2. Like the parapets, the roof access stairwell and the screen at the mechanical equipment space also fall below the 35' height limit, as shown on Exhibit EL05.1. The ONLY portion of the building that extends above the 35' height limit is the elevator shaft, which is expressly allowed per CDC Section 41.030:
 - a. 41.030 PROJECTIONS NOT USED FOR HUMAN HABITATION
Projections such as chimneys, spires, domes, elevator shaft housings, towers, aerials, flag poles, and other similar objects not used for human occupancy are not subject to the building height limitations of this code. (Ord. 1604 § 44, 2011; Ord. 1745 § 1 (Exh. A), 2023) [Emphasis Added]
3. As shown, the proposal is in full compliance with the standards of Chapters 58 and 41.
4. CONCERN: *The City Engineering Department expressed concern that cast iron columns shown supporting the canopy that wraps the northwest corner of the building could conflict with utilities located beneath the sidewalk and could perhaps create an accessibility issue for pedestrians using the sidewalk.*

DESIGN RESPONSE:

1. The cast iron columns that were supporting the canopy at the northwest corner have been eliminated. In their place, tie-back rods connecting the top of the canopy to the building will be used to support the canopy. This design is the same as that which was approved by the HRB and neighborhood for the existing 1969 Willamette Falls Drive building.

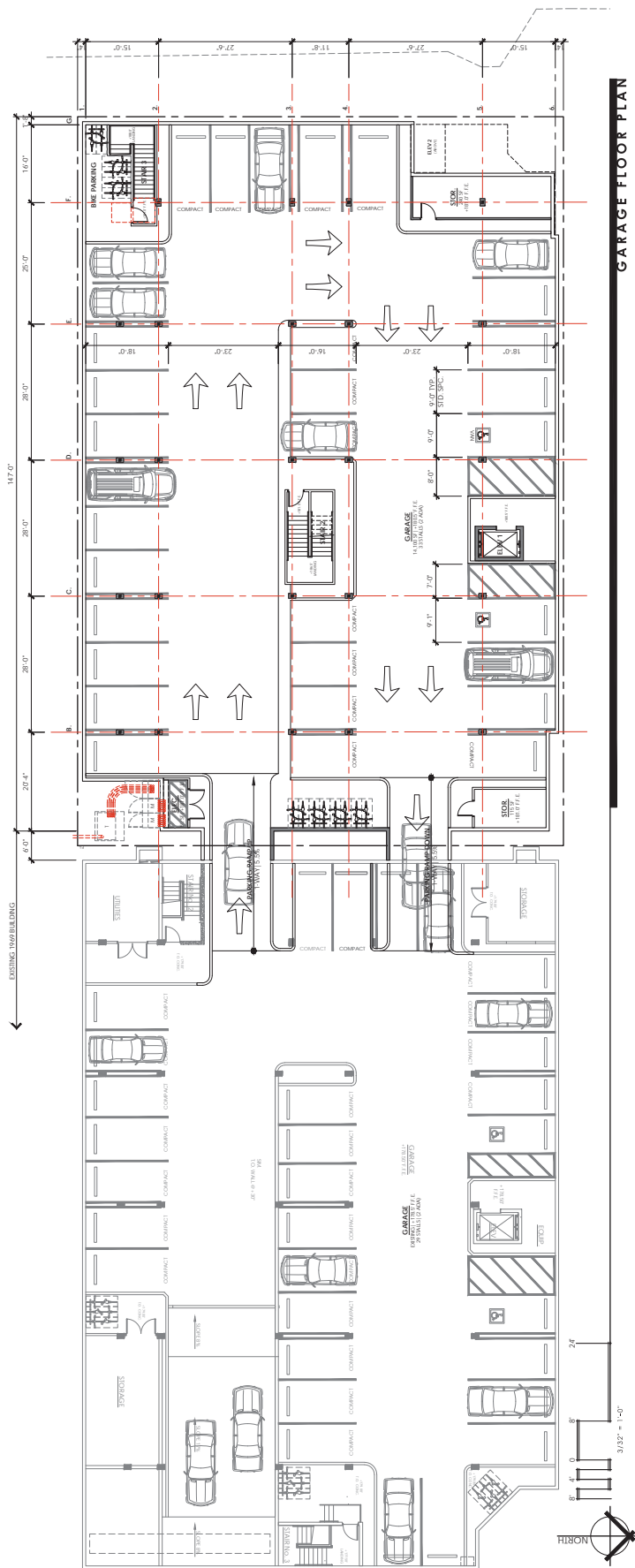
Please note that the color palette for the revised elevation is the same as what was originally approved by the HRB. Due to time constraints, it is necessary for us to submit our revisions in black and white rather than color renderings as originally presented. We would ask that the Commissioners refer to the original renderings to understand where colors will be applied on the building, including on the revised elevation.

John, thank you for your review and consideration, we look forward to any comments you may have. Please let me know if you have any questions, or if you need any additional information.

Sincerely,

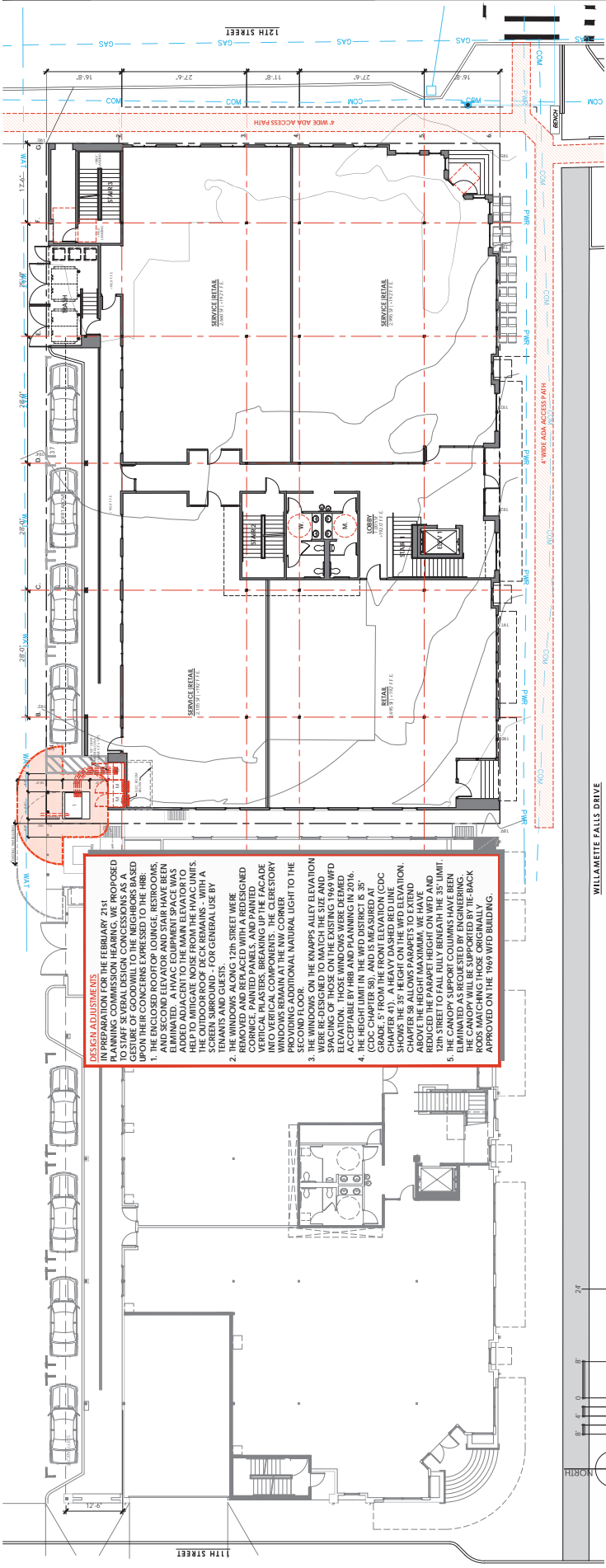


SCOT SUTTON | SG Architecture, LLC
503-347-4685 | ssutton@sg-arch.net



GARAGE FLOOR PLAN

G GARAGE FLOOR PLAN

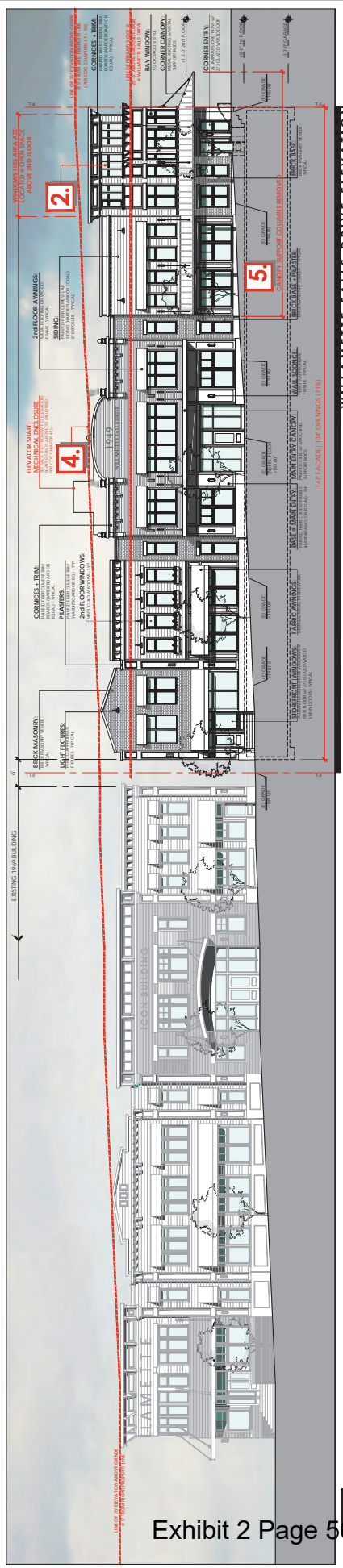


DESIGN ADJUSTMENTS

IN PREPARATION FOR THE FEBRUARY 21ST PLANNING COMMISSION HEARINGS, WE PROPOSED THE FOLLOWING ADJUSTMENTS TO THE CONCEPTUAL PLAN UPON THEIR CONCERNS EXPRESSED TO THE HRR:

1. THE ENCLOSED ROOFTOP LOUNGE, RESTROOMS, AND SERVICE BREAK ARE BEING ELIMINATED. A HVAC EQUIPMENT SPACE WAS ADDED ADJACENT TO THE MAIN ELEVATOR TO HELP TO MITIGATE NOISE FROM THE HVAC UNITS. THE SERVICE BREAK IS BEING RELOCATED TO A SCREEN SURROUND - FOR GENERAL USE BY TENANTS AND GUESTS.
2. THE WINDOWS ALONG 12TH STREET WERE REPLACED WITH HEAVY DASHED RED LINED VERTICAL PLASTERS, BREAKING UP THE FACADE AND PROVIDING ADDITIONAL NATURAL LIGHT TO THE SECOND FLOOR.
3. THE WINDOWS ON THE KNAPP'S ALLEY ELEVATION, THOSE ON THE EXISTING 1969 WFD ELEVATION, THOSE WINDOWS WERE DERIVED FROM THE 1969 WFD AND PLANNING IN 2016, AND IS MEASURED AS 5' FROM THE FRONT ELEVATION (CDC CHAPTER 41). A HEAVY DASHED RED LINE CANOPY WILL BE SUPPORTED BY THE BACK APPROVED ON THE 1969 WFD BUILDING.
4. (CDC CHAPTER 38), AND IS MEASURED AS 5' FROM THE FRONT ELEVATION (CDC CHAPTER 41). A HEAVY DASHED RED LINE CANOPY WILL BE SUPPORTED BY THE BACK APPROVED ON THE 1969 WFD BUILDING.
5. THE CANOPY SUPPORT COLUMNS HAVE BEEN ELIMINATED AS REQUESTED BY ENGINEERING.

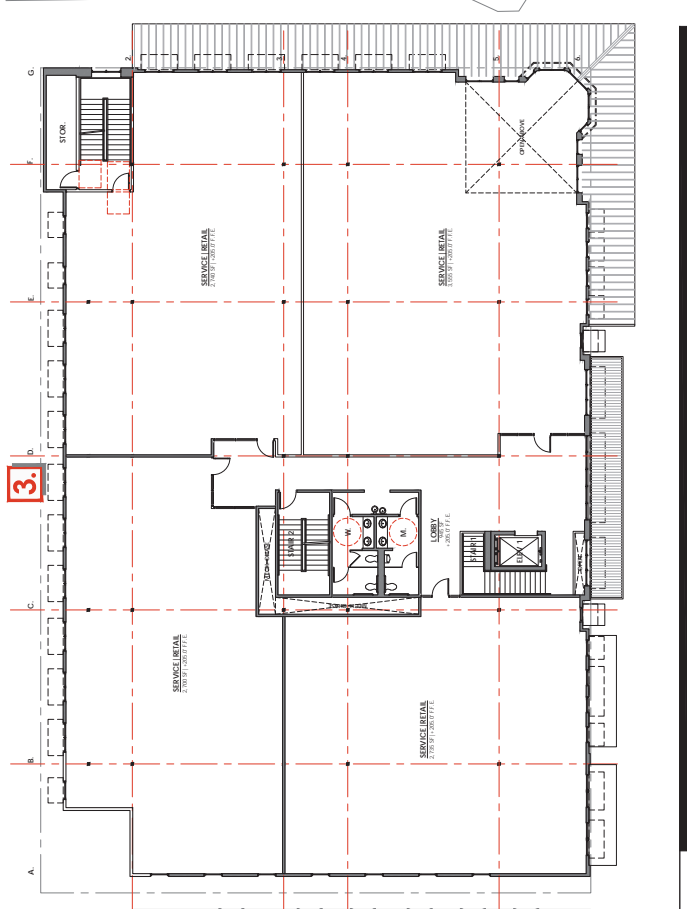
GROUND FLOOR PLAN



WILLAMETTE FALLS DRIVE ELEVATION

WILLAMETTE FALLS DRIVE ELEVATION

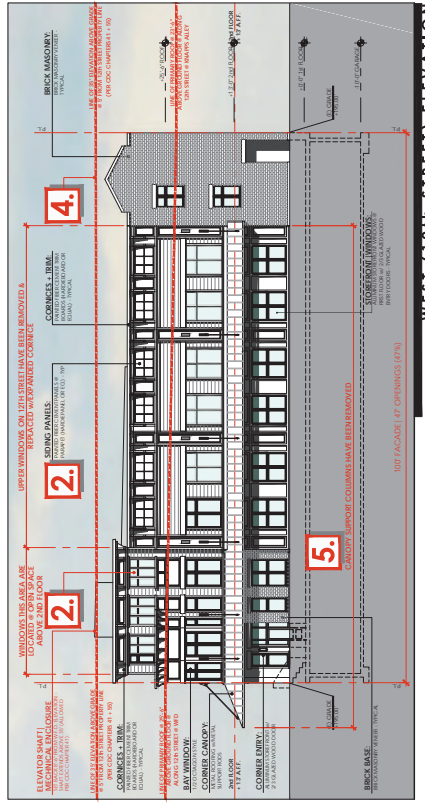
**1 GROUND FLOOR PLAN + WILLAMETTE FALLS DRIVE ELEVATION
CONCEPTUAL PLANS + ELEVATIONS**



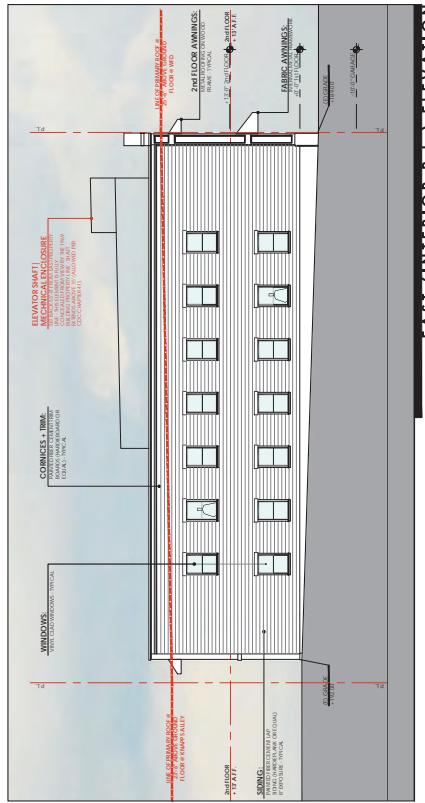
SECOND FLOOR PLAN

DESIGN ADJUSTMENTS
 IN PREPARATION FOR THE FEBRUARY 21st PLANNING COMMISSION HEARING, WE PROPOSED THE FOLLOWING ADJUSTMENTS TO THE DESIGN GESTURE OF GOODWILL TO THE NEIGHBORS BASED UPON THEIR CONCERNS EXPRESSED TO THE HRB:

1. THE ENCLOSED ROOFTOP LOUNGE, RESTROOMS, AND MEETING ROOMS WERE ELIMINATED. A HVAC EQUIPMENT SPACE WAS ADDED ADJACENT TO THE MAIN ELEVATOR TO HELP TO MITIGATE NOISE FROM THE HVAC UNITS, TO BE SCREENED BY A SCREEN SURROUND - FOR GENERAL USE BY TENANTS AND GUESTS.
2. THE WINDOWS ALONG 12th STREET WERE REDESIGNED TO INCLUDE CORNICE, PAINTED PANELS, AND PAINTED VERTICAL PLASTERS, BREAKING UP THE FACADE INTO VERTICAL COMPONENTS. THE CERESTORY WAS ELONGATED TO PROVIDE ADDITIONAL NATURAL LIGHT TO THE SECOND FLOOR.
3. THE WINDOWS ON THE KNAPS ALLEY ELEVATION WERE SPACED TO MATCH THE SPACING OF THOSE ON THE EXISTING 1969 WFD ELEVATION. THOSE WINDOWS WERE DERIVED FROM THE 1969 WFD ELEVATION AND ARE ACCEPTABLE BY HRB AND PLANNING IN 2016.
4. (CDC CHAPTER 98), AND IS MEASURED AS 5' FROM THE FRONT ELEVATION (CDC CHAPTER 41). A HEAVY DASHED RED LINE INDICATES THE LOCATION OF THE CANOPY. CHAPTER 98 ALLOWS PARAPETS TO EXTEND ABOVE THE HEIGHT MAXIMUM. WE HAVE REDUCED THE PARAPET HEIGHT ON WFD AS WELL AS THE CANOPY SUPPORT COLUMNS HAVE BEEN ELIMINATED AS REQUESTED BY ENGINEERING. THE CANOPY WILL BE SUPPORTED BY THE BACK APPROVED ON THE 1969 WFD BUILDING.



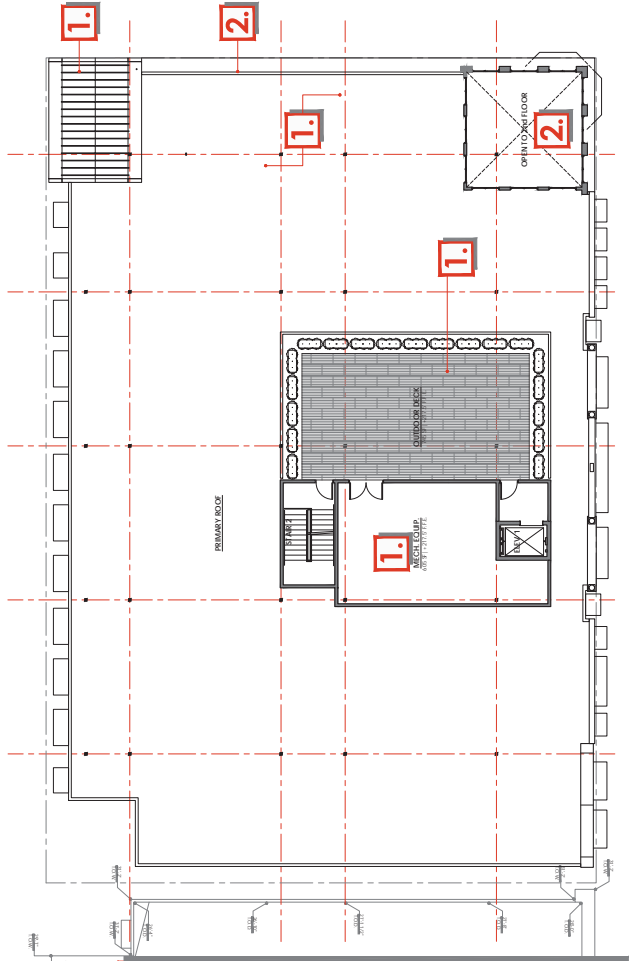
WEST (12th STREET) ELEVATION



EAST (INTERIOR P.L.) ELEVATION

2 SECOND FLOOR PLAN + EAST & 12th STREET ELEVATIONS

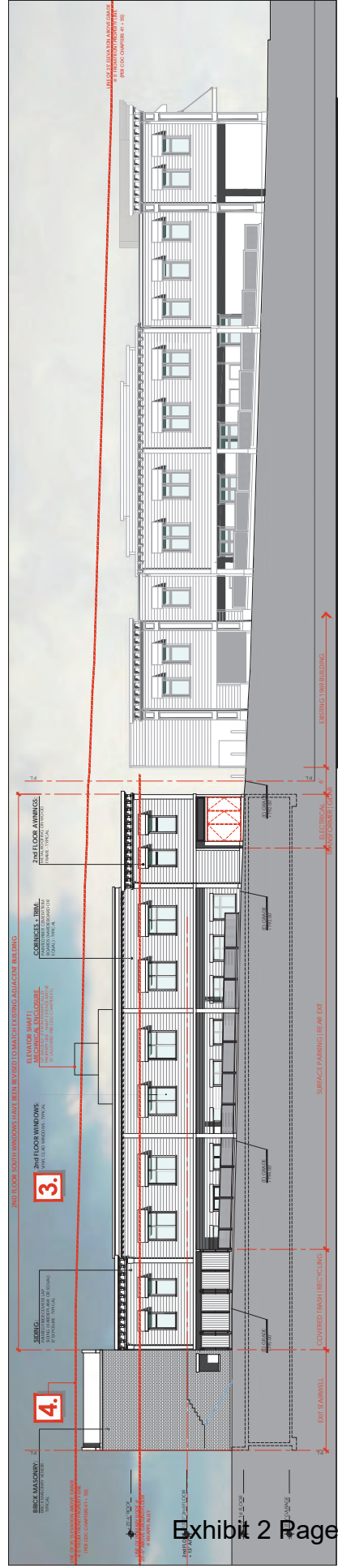
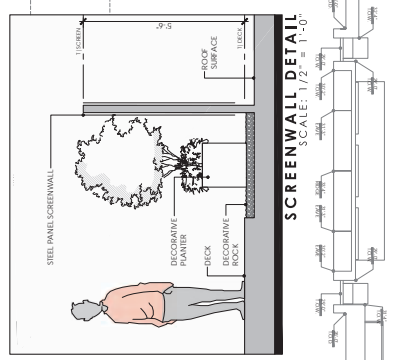
CONCEPTUAL PLANS + ELEVATIONS



ROOF PLAN

DESIGN ADJUSTMENTS: AS APPROVED BY THE FEBRUARY 21ST PLANNING COMMISSION HEARING, WE PROPOSED TO STAFF SEVERAL DESIGN CONCESSIONS AS A GESTURE OF GOODWILL TO THE NEIGHORS BASED ON THE COMMENTS RECEIVED FROM THE COMMISSION:

1. THE ENCLOSED ROOFTOP LOUNGE RESTROOMS AND SECOND ELEVATOR AND STAIR HAVE BEEN ELIMINATED. A HVAC EQUIPMENT SPACE WAS ADDED TO THE ROOFTOP LOUNGE TO PROVIDE HELP TO MITIGATE NOISE FROM THE HVAC UNITS. THE OUTDOOR ROOF DECK REMAINS - WITH A SCREEN SURROUND - FOR GENERAL USE BY THE BUILDING OCCUPANTS.
2. THE WINDOWS ALONG 12th STREET WERE REMOVED AND REPLACED WITH A REDESIGNED CORNICE, PAINTED PANELS, AND PAINTED GLAZING. THE CORNICE AND PANELS WILL BE MADE INTO VERTICAL COMPONENTS. THE GLEZTERY WINDOWS REMAIN AT THE NW CORNER PROVIDING ADDITIONAL NATURAL LIGHT TO THE BUILDING.
3. THE WINDOWS ON THE KNAPPS ALLEY ELEVATION WERE RE-DESIGNED TO MATCH THE SIZE AND SPACING OF THOSE ON THE EXISTING 1949 WFD BUILDING. THE CORNICE AND PANELS WILL BE MADE ACCEPTABLE BY HRB AND PLANNING IN 2016.
4. THE HEIGHT LIMIT IN THE WFD DISTRICT IS 35' (CDC CHAPTER 5B), AND IS MEASURED AT THE TOP OF THE CORNICE. THE NEW CORNICE (CDC CHAPTER 41), A HEAVY DASHED RED LINE SHOWS THE 35' HEIGHT ON THE WFD ELEVATION. CHAPTER 5B ALLOWS PARAPETS TO EXTEND ABOVE THE HEIGHT LIMIT. THE NEW CORNICE REDUCED THE PARAPET HEIGHT ON WFD AND 12th STREET TO FALL FULLY BENEATH THE 35' LIMIT.
5. THE CANOPY SUPPORT COLUMNS HAVE BEEN REDESIGNED TO MATCH THE EXISTING BUILDING. THE CANOPY WILL BE SUPPORTED BY THE BRACKS MATCHING THOSE ORIGINALLY APPROVED ON THE 1949 WFD BUILDING.



KNAPPS ALLEY ELEVATION

3 ROOF PLAN + KNAPPS ALLEY ELEVATION

CONCEPTUAL PLANS + ELEVATIONS

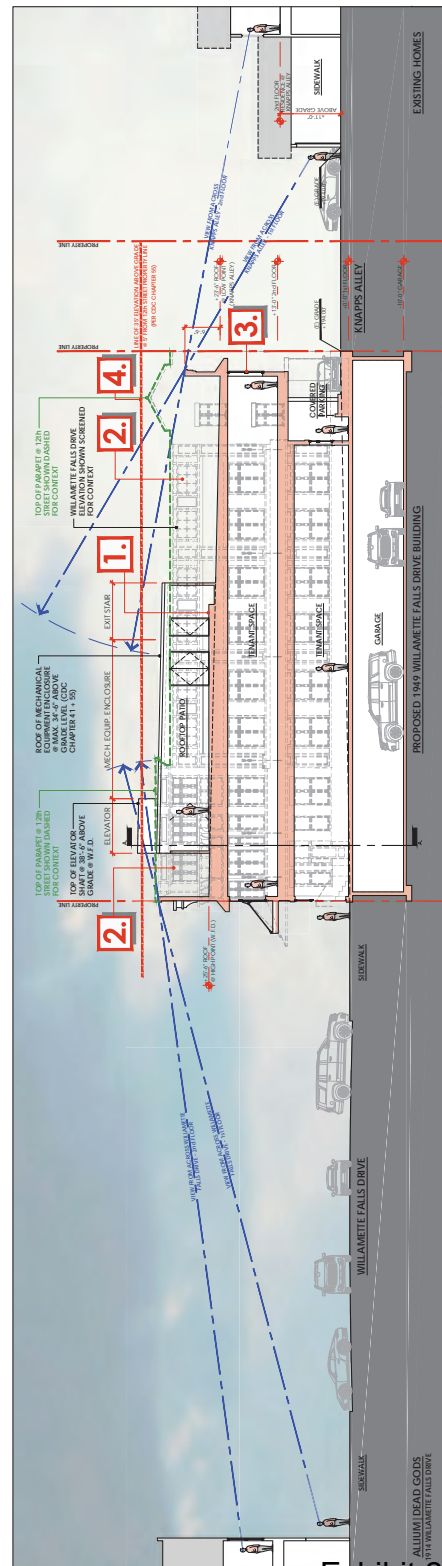
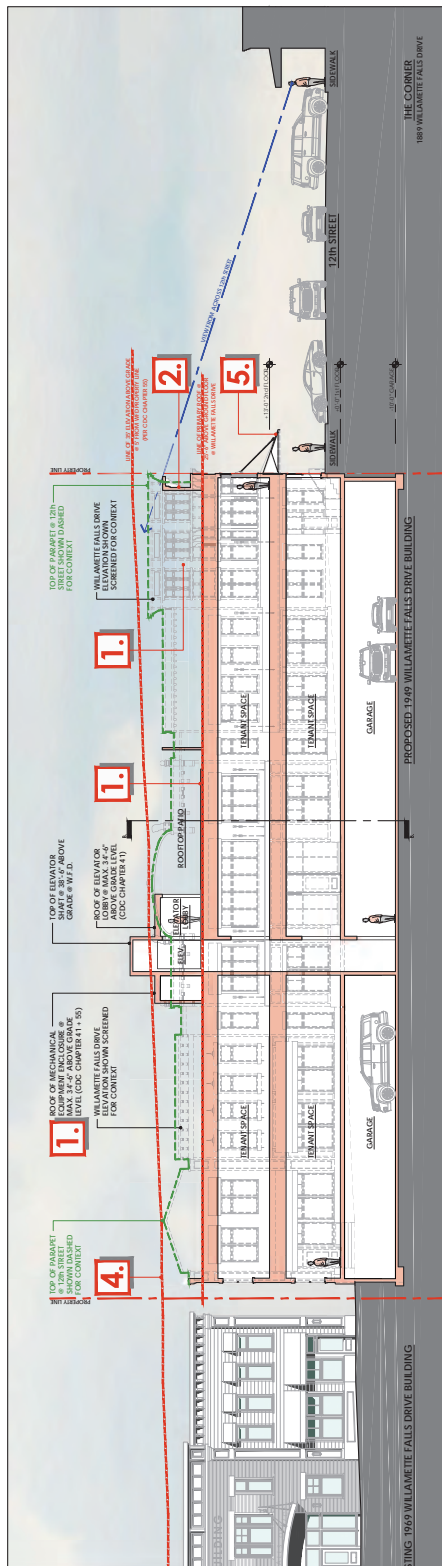
REVISED SUBMISSION FOR PLANNING COMMISSION
FEBRUARY 21, 2024

REVISED SUBMISSION FOR PLANNING COMMISSION



REVISED FOR PLANNING COMMISSION
FEBRUARY 21, 2024

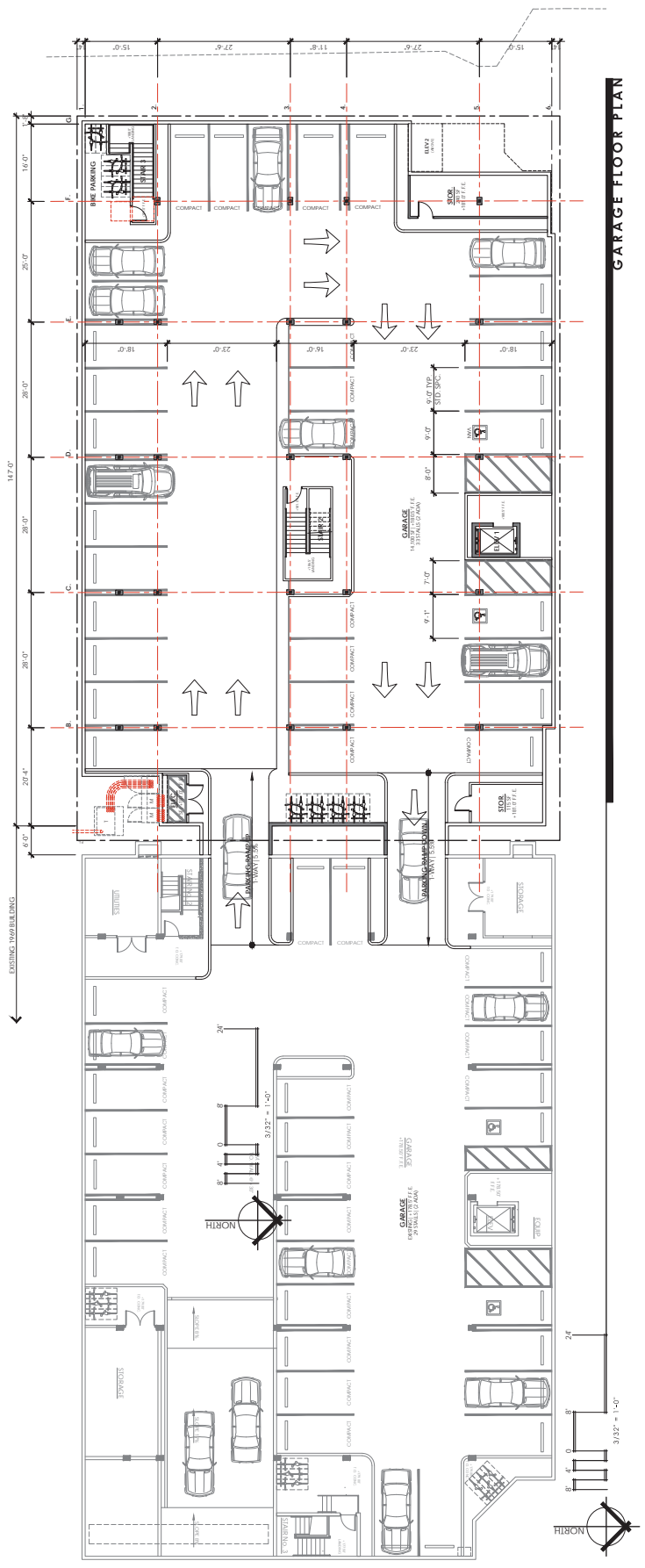
REVISED SUBMISSION FOR PLANNING COMMISSION



DESIGN ADJUSTMENTS

- IN PREPARATION FOR THE FEBRUARY 21ST PLANNING COMMISSION MEETING, THE FOLLOWING DESIGN ADJUSTMENTS WERE PROPOSED TO STATE SEVERAL DESIGN CONCESSIONS AS A GESTURE OF GOODWILL TO THE NEIGHBORS BASED UPON THEIR CONCERNS EXPRESSED TO THE HRR:
1. THE ROOF OF MECHANICAL EQUIPMENT ENCLOSURE @ LEVEL (CDC CHAPTER 11.55) WILLAMETTE FALLS DRIVE ELEVATION SHOWN SCREENED FOR CONTEXT.
 2. THE ROOF OF MECHANICAL EQUIPMENT ENCLOSURE @ GRADE #11.00 ABOVE GRADE LEVEL (CDC CHAPTER 41) WILLAMETTE FALLS DRIVE ELEVATION SHOWN SCREENED FOR CONTEXT.
 3. THE TOP OF PARAPET @ 12TH STREET SHOWN DASHED FOR CONTEXT.
 4. THE TOP OF PARAPET @ 12TH STREET SHOWN DASHED FOR CONTEXT.
 5. THE CANOPY SUPPORT COLUMNS HAVE BEEN ELIMINATED AS REQUESTED BY ENGINEERING. RODS MATCHING THOSE ORIGINALLY APPROVED ON THE 1949 WFD BUILDING.

4 SITE SECTIONS | VIEWS FROM ADJACENT LOTS
CONCEPTUAL PLANS + ELEVATIONS

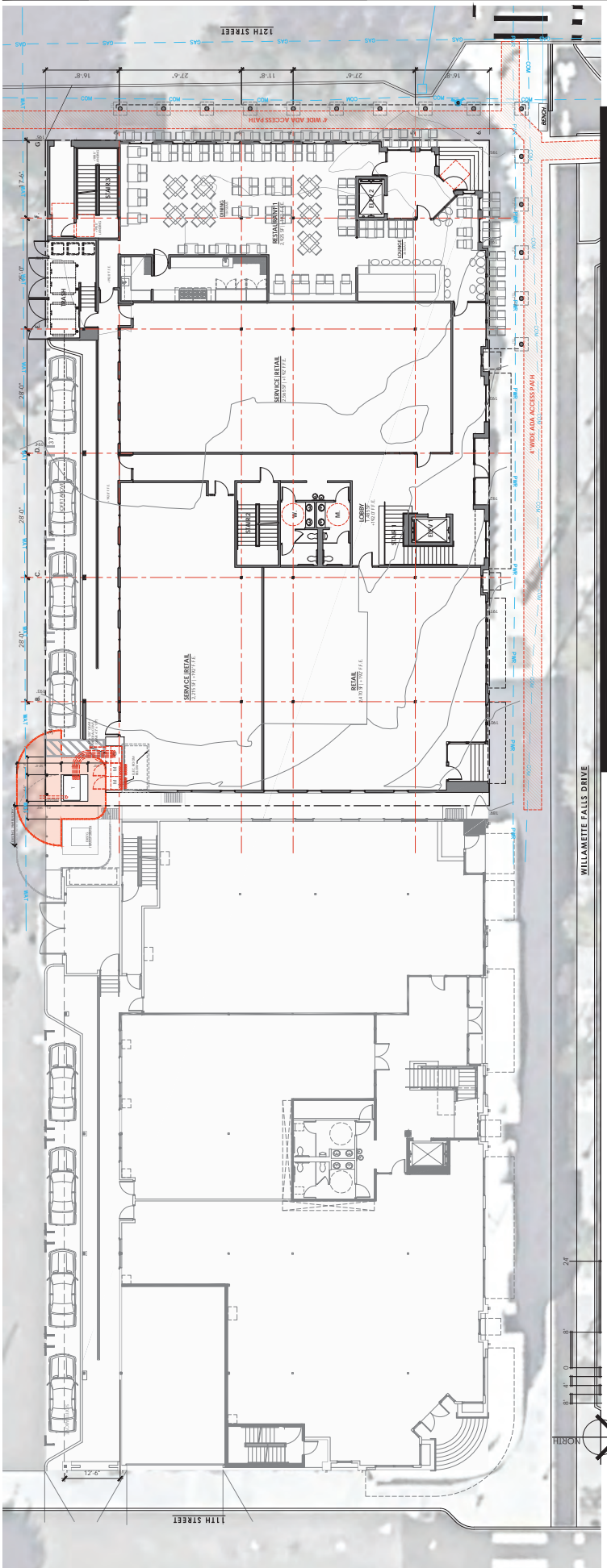


GARAGE FLOOR PLAN

G GARAGE FLOOR PLAN

CONCEPTUAL PLANS + ELEVATIONS

JULY 13th, 2022
REVISED APRIL 20, 2023



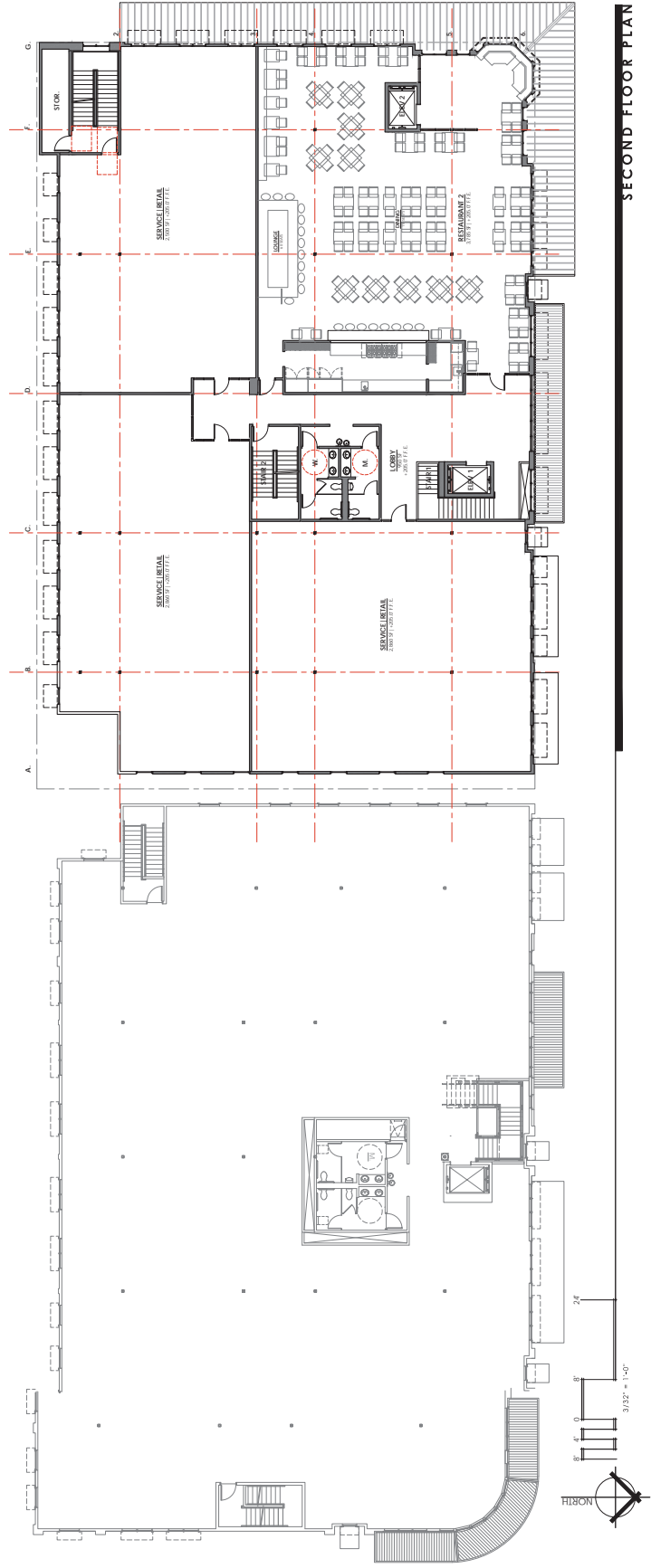
GROUND FLOOR PLAN



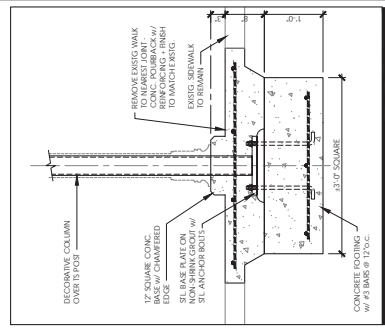
WILLAMETTE FALLS DRIVE ELEVATION

GROUND FLOOR PLAN + WILLAMETTE FALLS DRIVE ELEVATION

CONCEPTUAL PLANS + ELEVATIONS



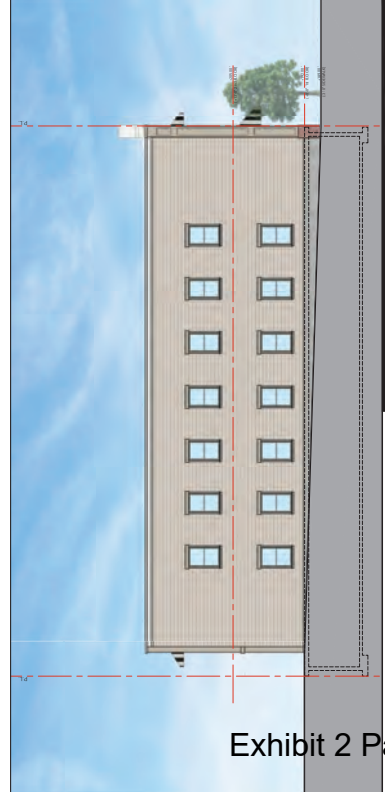
SECOND FLOOR PLAN



DECORATIVE COLUMN DETAIL
1" = 1'-0"

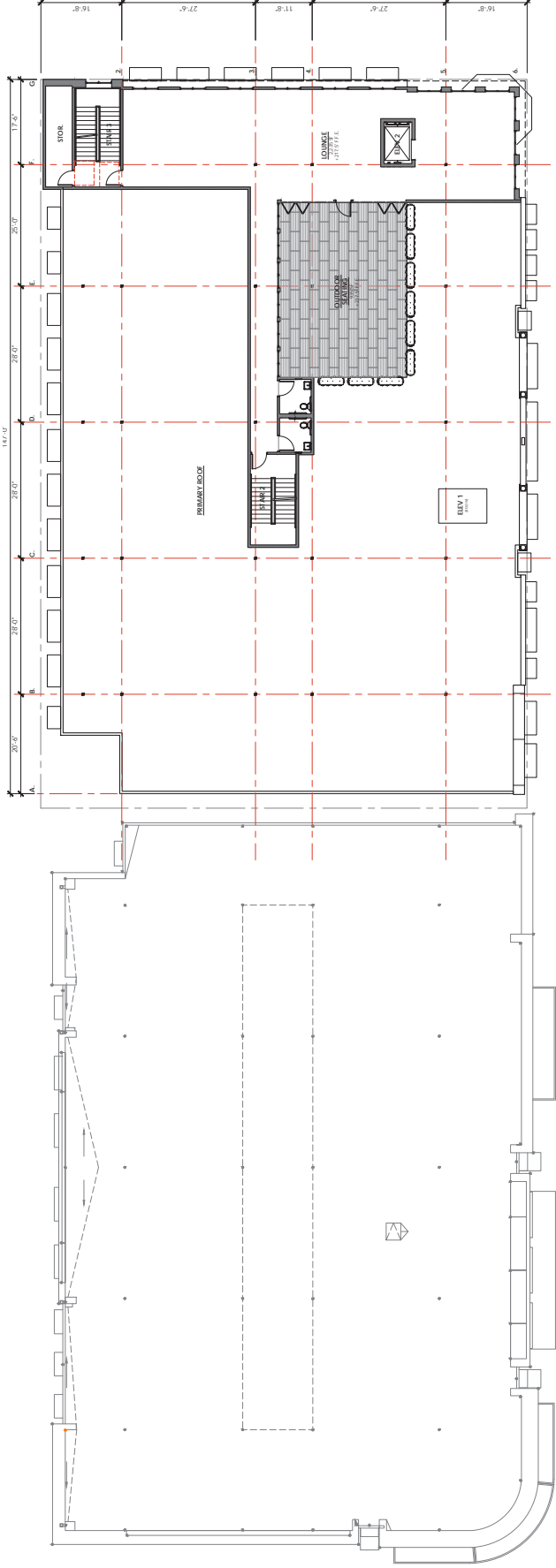


WEST (12TH STREET) ELEVATION



EAST (INTERIOR P.L.) ELEVATION

2 SECOND FLOOR PLAN + EAST & 12th STREET ELEVATIONS



3/32" = 1'-0"



3 MEZZANINE FLOOR PLAN | ROOF PLAN + KNAPPS ALLEY ELEVATION

CONCEPTUAL PLANS + ELEVATIONS



VIEW FROM 12TH + WFD

4 VIEW FROM INTERSECTION OF 12th + WILLAMETTE FALLS DRIVE

CONCEPTUAL PLANS + ELEVATIONS

ARCHITECTURE
PLANNING
DESIGN

SGA
SUTTON GODWIN
ARCHITECTURE, LLC

DECEMBER 2022

903.347.8666 | 903.201.0725
www.sg-arch.net

EL 05

1949 WILLAMETTE FALLS DRIVE
WEST LINN, OREGON

