

Agenda Bill 2024-04-15-xx

Date Prepared: April 4, 2024

For Meeting Date: April 15, 2024

To: Rory Bialostosky, Mayor
West Linn City Council

Through: John Williams, City Manager *JRW*

From: Darren Wyss, Planning Manager *DSW*

Subject: Appeal of DR-23-01

Purpose

To hold a public hearing and consider the appeal ([AP-24-01](#)) by Ian and Audra Brown of the Planning Commission approval of a Class II Design Review ([DR-23-01](#)) to construct a new commercial building at 1919/1949 Willamette Falls Drive.

Question(s) for Council:

Should the Council approve the appeal AP-24-01 or deny the appeal and uphold the Planning Commission approval of DR-23-01?

Public Hearing Required:

Yes

Background & Discussion:

The Applicant (Icon Construction and Development LLC) submitted an application on January 10, 2023 for a Class II Design Review ([DR-23-01](#)) to construct a new commercial building at 1919/1949 Willamette Falls Drive. Planning staff deemed the application complete on May 2, 2023.

The subject properties are zoned General Commercial and are also located within the Willamette Falls Drive Commercial Design District (WFDCDD). Decision-making authority is assigned to the Planning Commission (PC) by Community Development Code (CDC) Chapter 99.060.B.2(h), but only after a review and recommendation by the Historic Review Board (HRB) per CDC 99.060.D.2(c).

Procedural History

The HRB held a public 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 fiber cement 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.

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.

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. 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.

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.

Planning staff recommended the applicant withdraw the application and submit a new application to clean up the procedural history of the project. 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 a newly revised design, included with the letter, that eliminated the portion of the proposed building that was denied the Design Exception.

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. The conditions included the eight recommended by staff and two new conditions regarding the rooftop deck lighting plan and noise studies. The PC Final Decision and Order is found as Agenda Bill Attachment 2.

The Appellants submitted a timely appeal of the decision on March 11, 2024. The applicable criteria identified include CDC Chapter 58.080.C(3) and CDC Chapter 55.100(C-D) as the grounds for the appeal (see Agenda Bill Attachment 1).

The City received two written comments (see Attachment 4) prior to publication of the Agenda Packet. Additional comments will be sent as received.

The Applicant has submitted a series of 120-day clock extensions to accommodate revising the plans in response to HRB and PC discussions/decisions. Oregon Revised Statute 197.178(5) permits extending the period for a total of 245 days. The Applicant has utilized the allowed 245 days and the City must issue the final decision no later than May 1, 2024.

Appeal Hearing Responsibility

The City Council is assigned the responsibility of hearing an appeal of a Planning Commission decision by CDC 99.060.C(3).

Appeal Applicable Criteria

The applicable criteria for this appeal are CDC Chapters 19, 41, 46, 48, 55, 58, and 99.

Appeal Hearing Process

Appeal hearings in the City of West Linn are de novo, meaning new information can be submitted for consideration (CDC 99.280). An application for appeal also does not require the Appellant to identify the grounds for appeal or the applicable criteria that were misapplied. (CDC 99.250) These are the rules this appeal hearing must follow.

Budget Impact:

None

Sustainability Impact:

None

Council Goal/Priority:

Not related to a Council goal

Council Options:

1. Uphold the Planning Commission approval of DR-23-01 by denying the appeal (AP-24-01).
2. Modify the Planning Commission approval of DR-23-01 and deny the appeal (AP-24-01).
3. Overturn the Planning Commission approval of DR-23-01 by approving the appeal (AP-24-01), thus denying the proposal.

Staff Recommendation:

Staff recommends denial of the appeal (AP-24-01) based on the findings in the record for DR-23-01.

Potential Motion:

1. Move to tentatively deny the appeal AP-24-01 and **uphold** the Planning Commission approval of DR-23-01 and direct staff to bring back findings for adoption.
2. Move to tentatively deny the appeal AP-24-01 and **uphold** the Planning Commission approval of DR-23-01 with the following modifications (*list modifications*), and direct staff to bring back findings for adoption.

3. Move to make a tentative decision to approve the appeal AP-24-01, thereby **overturning** the Planning Commission approval of DR-23-01 for the following reasons (*list reasons*), and direct staff to bring back findings for adoption.

Attachments:

1. [Appellant application AP-24-01, dated March 11, 2024.](#)
2. [DR-23-01 Planning Commission Final Decision and Order, dated February 29, 2024](#)
3. [Planning Commission Meeting Notes for February 21, 2024 Public Hearing](#)
4. [Public Comments for Appeal Hearing Received by April 4, 2024](#)
5. AP-24-01 City Council Hearing Affidavit and Notice Packet.
6. [Staff Report to the Planning Commission for February 21, 2024 Public Hearing](#)
7. [DR-23-01 Project Page](#) (hyperlink)
 - a. Applicant Materials
 - b. Public Notices
 - c. Public Comments
 - d. Staff Reports
 - e. Recommendations
 - f. Final Decisions
8. Planning Commission Meeting Notes and Recordings
 - a. [October 4, 2023 Meeting Notes](#)
 - b. [October 4, 2023 Video](#)
 - c. [February 21, 2024 Meeting Notes](#)
 - d. [February 21, 2024 Video](#)
9. Historic Review Board Meeting Notes and Recordings
 - a. [June 13, 2023 Meeting Notes](#)
 - b. [June 13, 2023 Recording](#)
 - c. [November 14, 2023 Meeting Notes](#)
 - d. [November 14, 2024 Video](#)

ATTACHMENT 1 - APPELLANT APPLICATION

DEVELOPMENT REVIEW APPLICATION

For Office Use Only			
STAFF CONTACT	J. Floyd	PROJECT NO(S).	AP-23-01/DR-23-01
		PRE-APPLICATION NO.	
		n/a	
NON-REFUNDABLE FEE(S)	\$400	REFUNDABLE DEPOSIT(S)	n/a
		TOTAL	\$400

Type of Review (Please check all that apply):

- | | | |
|---|--|---|
| <input type="checkbox"/> Annexation (ANX)
<input checked="" type="checkbox"/> Appeal (AP)
<input type="checkbox"/> CDC Amendment (CDC)
<input type="checkbox"/> Code Interpretation (MISC)
<input type="checkbox"/> Conditional Use (CUP)
<input type="checkbox"/> Design Review (DR)
<input type="checkbox"/> Tree Easement Vacation (MISC)
<input type="checkbox"/> Expediated Land Division (ELD)
<input type="checkbox"/> Extension of Approval (EXT) | <input type="checkbox"/> Final Plat (FP) <u>Related File#</u>
<input type="checkbox"/> Flood Management Area (FMA)
<input type="checkbox"/> Historic Review (HDR)
<input type="checkbox"/> Lot Line Adjustment (LLA)
<input type="checkbox"/> Minor Partition (MIP)
<input type="checkbox"/> Modification of Approval (MOD)
<input type="checkbox"/> Non-Conforming Lots, Uses & Structures
<input type="checkbox"/> Planned Unit Development (PUD)
<input type="checkbox"/> Street Vacation | <input type="checkbox"/> Subdivision (SUB)
<input type="checkbox"/> Temporary Uses (MISC)
<input type="checkbox"/> Time Extension (EXT)
<input type="checkbox"/> Right of Way Vacation (VAC)
<input type="checkbox"/> Variance (VAR)
<input type="checkbox"/> Water Resource Area Protection/Single Lot (WAP)
<input type="checkbox"/> Water Resource Area Protection/Wetland (WAP)
<input type="checkbox"/> Willamette & Tualatin River Greenway (WRG)
<input type="checkbox"/> Zone Change (ZC) |
|---|--|---|

Pre-Application, Home Occupation, Sidewalk Use, Addressing, and Sign applications require different forms, available on the website.

Site Location/Address: 1919/1949 Willamette Falls Dr West Linn OR 97068	Assessor's Map No.: <hr/> Tax Lot(s): <hr/> Total Land Area:
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Brief Description of Proposal:
 appeal of Planning Commission decision approving DR-23-01

Applicant Name*: Ian Brown; Audra Brown Address: 1968 5 th Ave City State Zip: West Linn OR 97068	Phone: (503) 780-1982 Email: brownwestlinn@gmail.com itb@ianbrown.org
Owner Name (required): Ian Brown; Audra Brown Address: 1968 6 th Ave City State Zip: West Linn OR 97068	Phone: (503) 780-1982 Email: brownwestlinn@gmail.com itb@ianbrown.org
Consultant Name: Carrie Richter Address: 1000 SW Broadway, Suite 1900 City State Zip: Portland OR 97205	Phone: (503) 972-9903 Email: crichter@batemanseidel.com

1. Application fees are non-refundable (excluding deposit). Applications with deposits will be billed monthly for time and materials above the initial deposit. ***The applicant is financially responsible for all permit costs.**
2. The owner/applicant or their representative should attend all public hearings related to the propose land use.
3. A decision may be reversed on appeal. The decision will become effective once the appeal period has expired.
4. Submit this form, application narrative, and all supporting documents as a single PDF through the [Submit a Land Use Application](https://westlinnoregon.gov/planning/submit-land-use-application) web page: <https://westlinnoregon.gov/planning/submit-land-use-application>

The undersigned property owner authorizes the application and grants city staff the **right of entry** onto the property to review the application. Applications with deposits will be billed monthly for time and materials incurred above the initial deposit. The applicant agrees to pay additional billable charges.

Applicant's signature

Date

3/11/24

Owner's signature (required)

Date

3/11/24

NOTICE OF APPEAL

Appeal of Class II Design Review at 1919 and 1949 Willamette Falls Drive

Appellants: Ian and Audra Brown
1968 6th Ave
West Linn OR 97068

Appellants' Representative: Carrie Richter
Bateman Seidel
1000 SW Broadway #1910
Portland, Oregon 97205

West Linn File No: DR-23-01

Standing: Appellants Ian and Audra Brown testified orally and in writing before the Historic Review Board and the Planning Commission regarding this decision. They were provided notice of the Planning Commission's decision and have standing under CDC 99.140 to seek review by the City Council.

Grounds for Appeal: Acknowledging that Appellants do not have to identify all appeal issues in a de novo review, this appeal is likely to focus on the following:

- 1) The elevator lobby and the enclosed rooftop stairwell comprise a 3rd story in violation of CDC 58.080(C)(3). These areas will be used for "human occupancy" and as such, are not "projections" subject to the CDC 41.030 exception to the height limit. These elements need to be removed from the proposal.
- 2) The condition imposed by the Planning Commission to address noise buffering requirements in CDC 55.100(C) and (D) lacks clarity and is insufficient. The adopted condition triggering completion of a noise study at 50% occupancy of the building and not requiring any occupancy of the rooftop patio at the time of the study will not ensure that noise from the patio is buffered. Further, imposing a condition prohibiting use of the rooftop patio by commercial customers for the consumption of food or beverages is feasible and could be enforced.

Appellants believe that these concerns can be resolved through revision of the conditions of approval.

ATTACHMENT 2 – DR-23-01 PLANNING COMMISSION FINAL DECISION
AND ORDER

**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.

ATTACHMENT 3 – DR-23-01 PLANNING COMMISSION MEETING NOTES
FEBRUARY 21, 2024



PLANNING COMMISSION
Meeting Notes of February 21, 2024

<u>Commissioners present:</u>	Gary Walvatne, Kevin Bonnington, Joel Metlen, David D. Jones, and Bayley Boggess (left early)
<u>Commissioners absent:</u>	John Carr and Tom Watton
<u>Applicant present:</u>	Scott Sutton, SGR Architecture
<u>Public Present:</u>	Audra Brown, Ian Brown, Yarrow Currie, Maria Blanc-Gonnet, James Estes, and Danny Schreiber
<u>Staff present:</u>	Planning Manager Darren Wyss, City Attorney Bill Monahan, Senior Planner John Floyd, and Administrative Assistant Lynn Schroder

The meeting video is available on the [City website](#).

Pre-Meeting Work Session

Senior Planner Floyd provided a brief procedural overview of DR-23-01 and answered process questions. Commissioner Walvatne asked about subsequent permit approvals. Commissioner Jones asked about process of the HRB's recommendation to the Planning Commission related the change in the application.

1. Call To Order and Roll Call

Vice Chair Metlen called the meeting to order at 6:30 pm. Planning Manager Wyss took roll.

2. Public Comment related to Land Use Items not on the Agenda

None.

3. Public Hearing (Quasi-Judicial): [DR-23-01, Class II Design Review for a proposed commercial building at 1919/1949 Willamette Falls Drive](#)

Vice Chair Metlen introduced DR-23-01, a Class II Design Review to construct a new commercial building at 1919 & 1949 Willamette Falls Drive. Metlen explained the hearing procedures and opened the public hearing.

City Attorney Monahan addressed legal standards and appeal rights. The substantive criteria that apply to the application are Community Development Code (CDC) Chapters 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.

City Attorney Monahan addressed Planning Commission (PC) conflicts of interest, ex-parte contacts, jurisdiction, and bias challenges. No member declared conflicts of interest or bias. Commissioner Jones declared that he had a conversation about the application with Danny Schreiber, a member of the Historic Review Board (HRB). Jones asked Schrieber for clarity about the November 2023 HRB hearing on the application. Jones stated that he did not learn anything that was not in the hearing record. Monahan asked if any audience member wished to challenge the PC's jurisdiction, impartiality, or ex-parte disclosures of any members of the PC. No challenges were made.

Senior Planner John Floyd presented the staff report. The applicant requests 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. The site is zoned General Commercial and is within the boundaries of the Willamette Falls Drive Commercial Design District Overlay (WFDCDD). The project backs up to R-7 zoning. The existing buildings to be demolished are not located within the Willamette Historic District, listed as a local historic resource, or listed on the National Register and are not historically protected under CDC 25.020(A).

The current scope of the project, as amended by the applicant on January 29, 2024, includes:

- 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, but they could eventually be tenanted with office, service, retail, and/or restaurant uses;
- Underground parking for 33 automobiles and 14 bicycles will be constructed at 1993/1969 Willamette Falls Drive, which will be accessed through an adjacent underground parking garage. Vehicular access would occur through the existing driveway fronting 11th Street to the east;
- An approximately 745 SF rooftop deck screened with decorative planters, a 5.5-foot-tall screening wall, and an approximately 605 SF mechanical screening room in the approximate roof center for 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:
 - Use of James Hardie fiber cement instead of wood siding and trim; and
 - Brick masonry is used in lieu of wood siding along selected portions of the façade.

Design features proposed in the original application that have been removed or replaced include the following:

- A Design Exception to allow support columns for an extended metal awning over the public sidewalk has been withdrawn, and the canopy has been 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. This area has been replaced by a 605 SF mechanical equipment space for screening and noise reduction located in the center of the rooftop to reduce visual impact; and
- Rooftop access has been reduced from an elevator and two stairwells to an elevator and a single stairwell.

Floyd presented the 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.

The HRB held the first evidentiary hearing on June 13, 2023. At that hearing, the building height issue 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 decide on the project’s compliance with the two-story height limit. The HRB chose to defer the matter to the PC 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 PC.

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 new 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 PC opened its first hearing on the project but did not take testimony. It was determined that only the HRB has authority to decide design exceptions in the WFDCDD. Because a new design exception was introduced after the HRB made its recommendation on June 13, the PC voted to remand the new design exception back to the HRB so they could decide on exceeding the two-story limit.

On November 14, 2023, the HRB considered the new design exception to exceed the two-story height limit in the WFDCDD. After receiving testimony and deliberation, the HRB denied the design exception because it failed to satisfy the approval criteria.

On January 29, 2024, the applicant rescinded their request for a design exception to exceed the two-story height limit, including associated materials submitted after the first HRB hearing on June 13, and stated their intent to move forward with a revised application that directly responded to feedback provided by the HRB and commenting parties at the June 13 HRB hearing and associated recommendation. Floyd noted that CDC lacks clear guidance on how to process modifications between HRB Recommendation and PC Decision.

Licensed Architect Scot Sutton presented on behalf of the applicant. In response to comments about the proposed building at previous hearings, the applicant made the following revisions:

- The ultimate tenant mix for the building has not been determined;
- Eliminate the roof level windows on 12th Street;
- Eliminate the rooftop lounge, second elevator and stair, and restrooms;
- Enclose the HVAC units to minimize noise from the units;
- Redesign the windows along Knapps Alley to reduce their size and match the size and spacing of those same windows from the 1969 building;
- Eliminate the canopy support columns at the request of the Engineering Department;
- Reduce the height of parapets to fall fully beneath the 35' height maximum in the zone; and
- the outdoor roof deck will be for general use by tenants and guests and will have a 5'-6" tall screen surround to reduce potential noise and light issues.

Vice Chair Metlen open public testimony. Audra Brown, Ian Brown, Yarrow Currie, Maria Blanc-Gonnet, James Estes, and Danny Schreiber testified in opposition to the proposed application. Some of the community concerns included:

- 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.
- The indeterminate future use of the rooftop deck, and potential noise impacts generated by use of this space.
- 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.
- 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.
- Whether the process standards of CDC Chapters 58 and 99 had been met in regard 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 Monahan provided staff rebuttal and answered questions from the PC.

There were no requests for continuances.

Vice Chair Metlen closed the public hearing. Deliberations were opened. The PC 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. Additionally, the PC 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. The PC considered additional conditions of approval to mitigate their new findings.

Vice Chair Metlen re-opened the public hearing to consider additional conditions of approval to address noise and light impacts. Scot Sutton, applicant representative, requested clarification of the lighting condition by replacing the word "features" with "fixtures." Sutton indicated the applicant had no objections to the noise condition. Ian Brown noted his concerns replacing the work "features" with "fixtures" because he is concerned about the glow from the rooftop deck. Audra Brown noted that she did not have adequate time to consider and respond to the proposed new conditions of approval.

Vice Chair Metlen closed the public hearing and re-opened deliberations. The PC found that with the imposition of a required lighting plan, the requirements of CDC 55.079.D.2(g) and 55.100.J(6) could be met. As the applicant could not confirm the ultimate tenant mix or future use of the rooftop deck, the PC found the future provision for noise studies would result in compliance with CDC 55.100.D.4.

Commissioner Walvatne moved to approve DR-23-01 with the eight conditions of approval recommended in the February 21, 2024 staff report and two additional conditions pertaining to light impacts and noise impacts:

1. Condition of Approval 9, Revised Lighting Plan showing: (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. The plan shall be submitted prior to building permits.
2. Condition of Approval 10, Required Noise Study for Rooftop Deck. 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.

Staff were directed to prepare a Final Decision and Order based on the findings in the February 21, 2024, hearing staff report and the February 21, 2024 PC hearing. Commissioner Bonnington seconded. **Ayes: Jones, Walvatne, Bonnington, and Metlen. Nays: None. Abstentions: None. The motion passed 4-0-0.** (Commissioner Boggess had left the hearing before consideration of approval).

4. Planning Commission Announcements

None.

5. Staff Announcements

Planning Manager Wys reviewed the upcoming Planning Commission schedule.

6. Adjourn

Vice Chair Metlen adjourned the meeting at 10:08 pm.



CITY OF
**West
Linn**

Historic Review Board

Planning Commission

Icon Commercial Building
1919/1949 Willamette Falls Drive
DR-23-01

February 21, 2024

Project Site

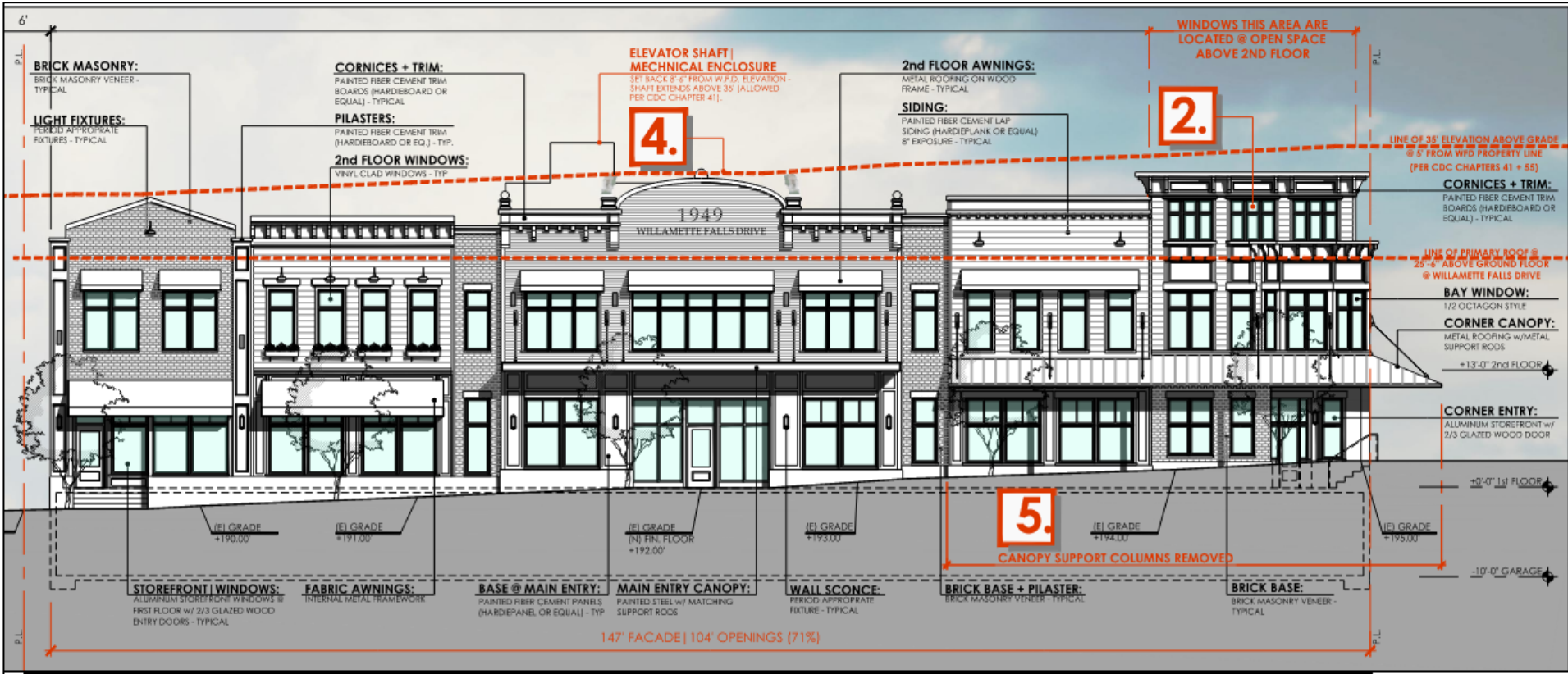


Proposal



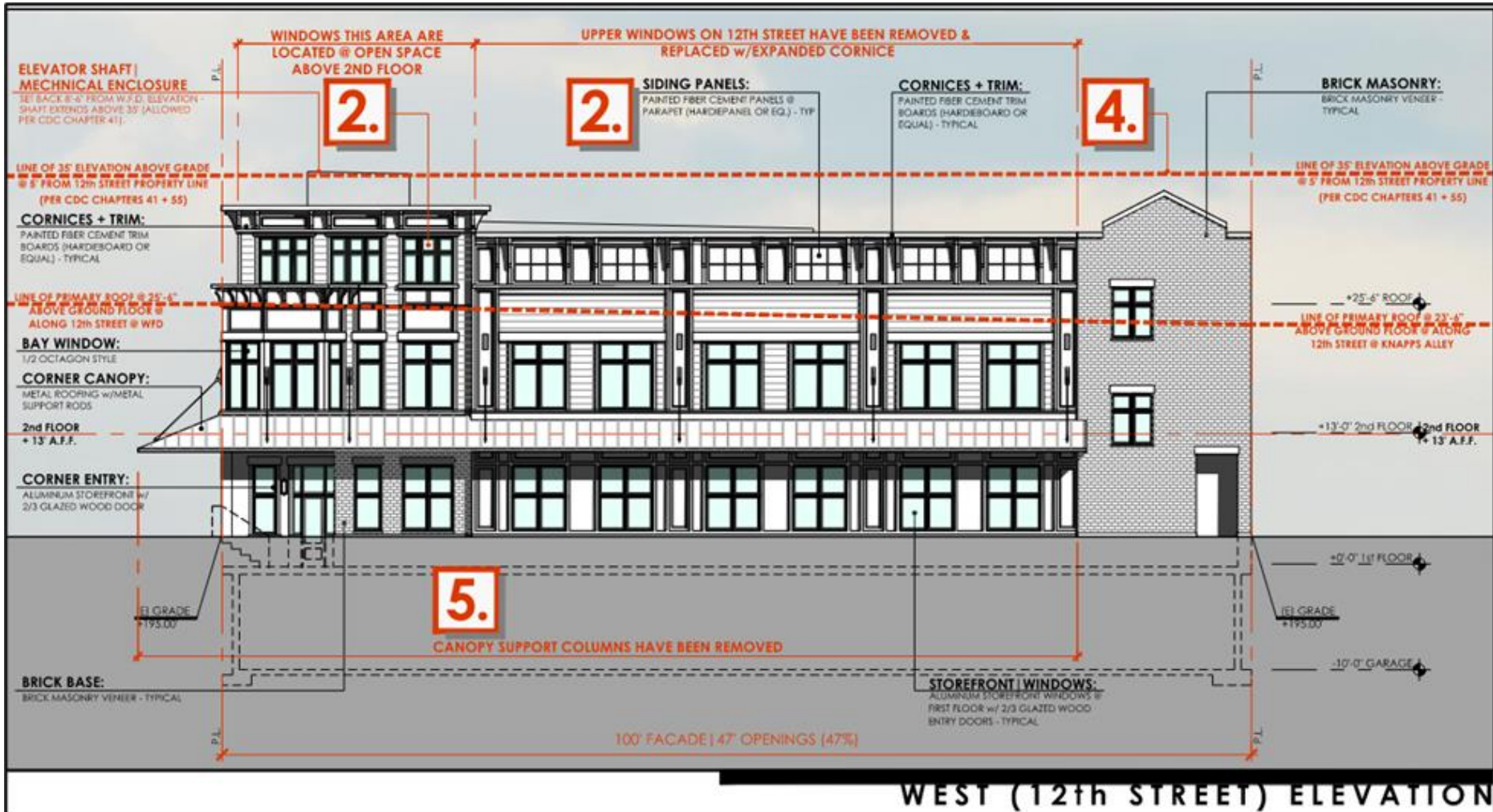
- 🍃 Demolition of two existing buildings
- 🍃 New 29,000 SF Commercial Building
 - Restaurant / Service / Retail
 - Rooftop Deck
- 🍃 Alley & Underground Parking (voluntary)
 - Access from existing garage on 11th Street
 - 33 automobiles / 14 bicycles

Façade from Willamette Falls Drive

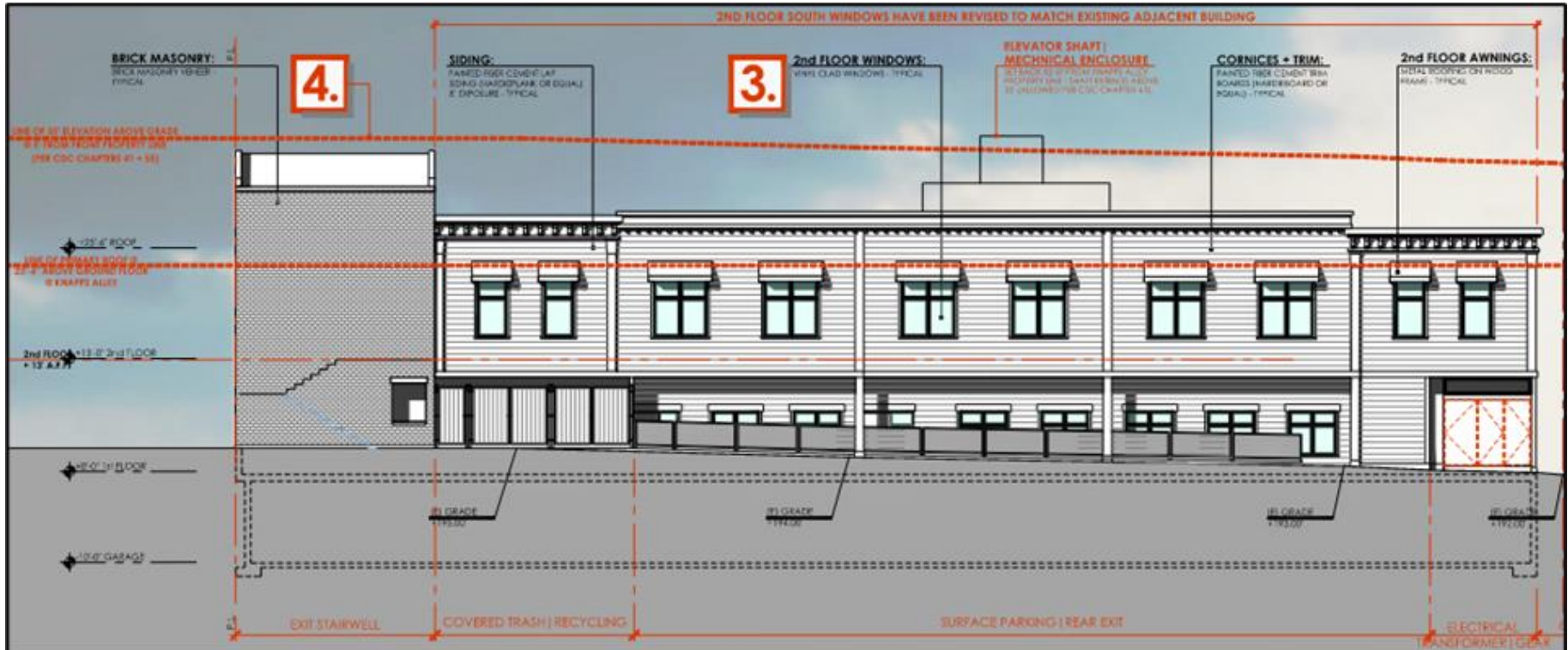


WILLAMETTE FALLS DRIVE ELEVATION

Façade from 12th Street



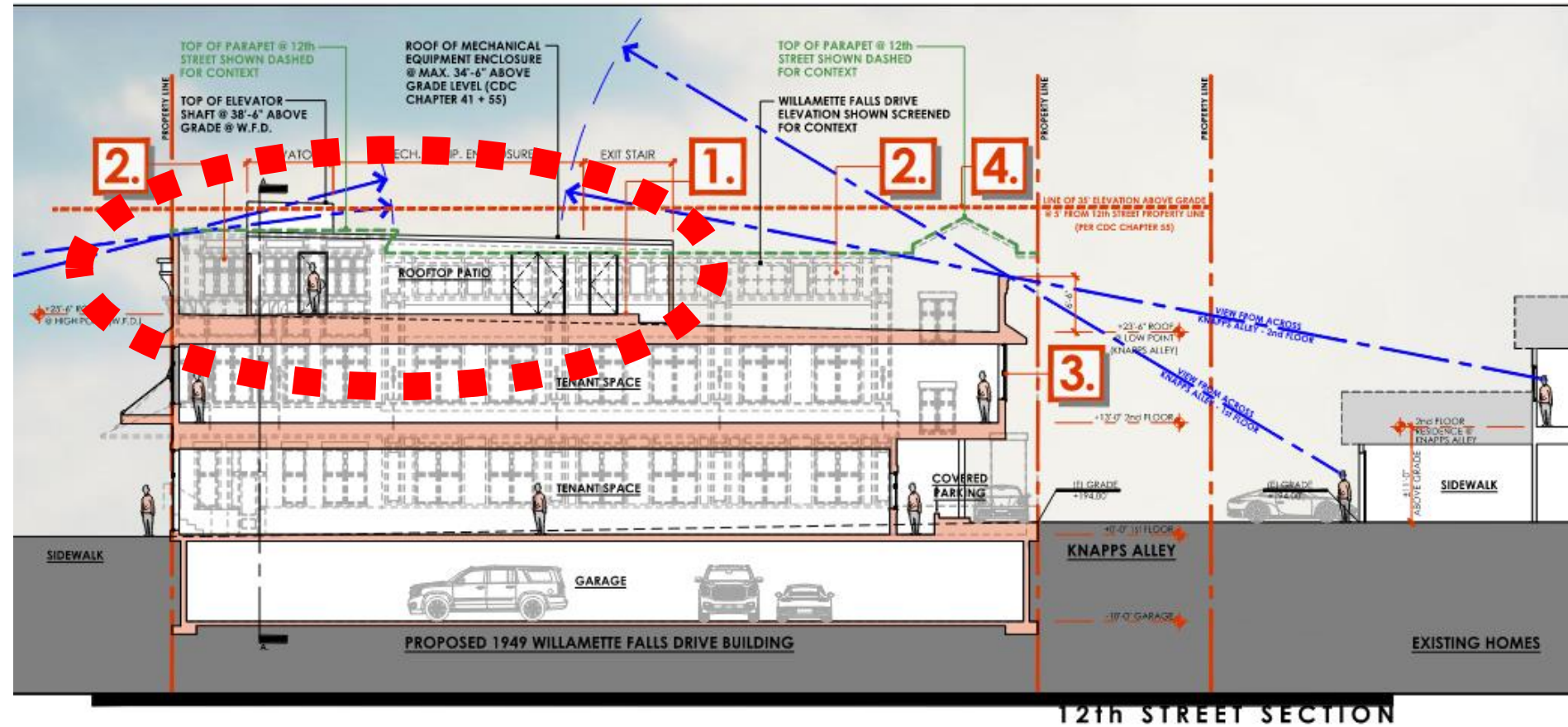
Façade from Knapps Alley



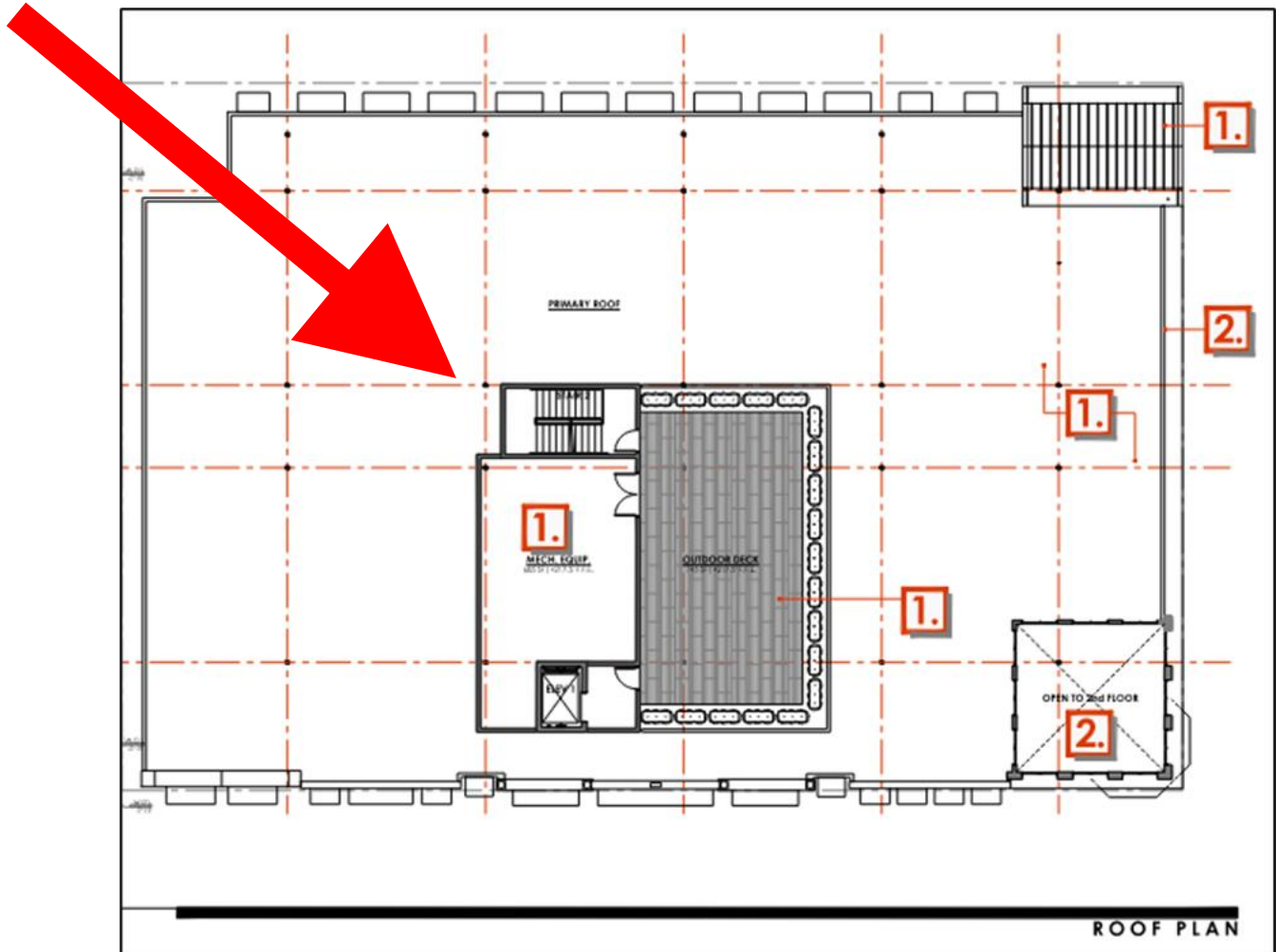
3 ROOF PLAN + KNAPPS ALLEY ELEVATION

CONCEPTUAL PLANS + ELEVATIONS

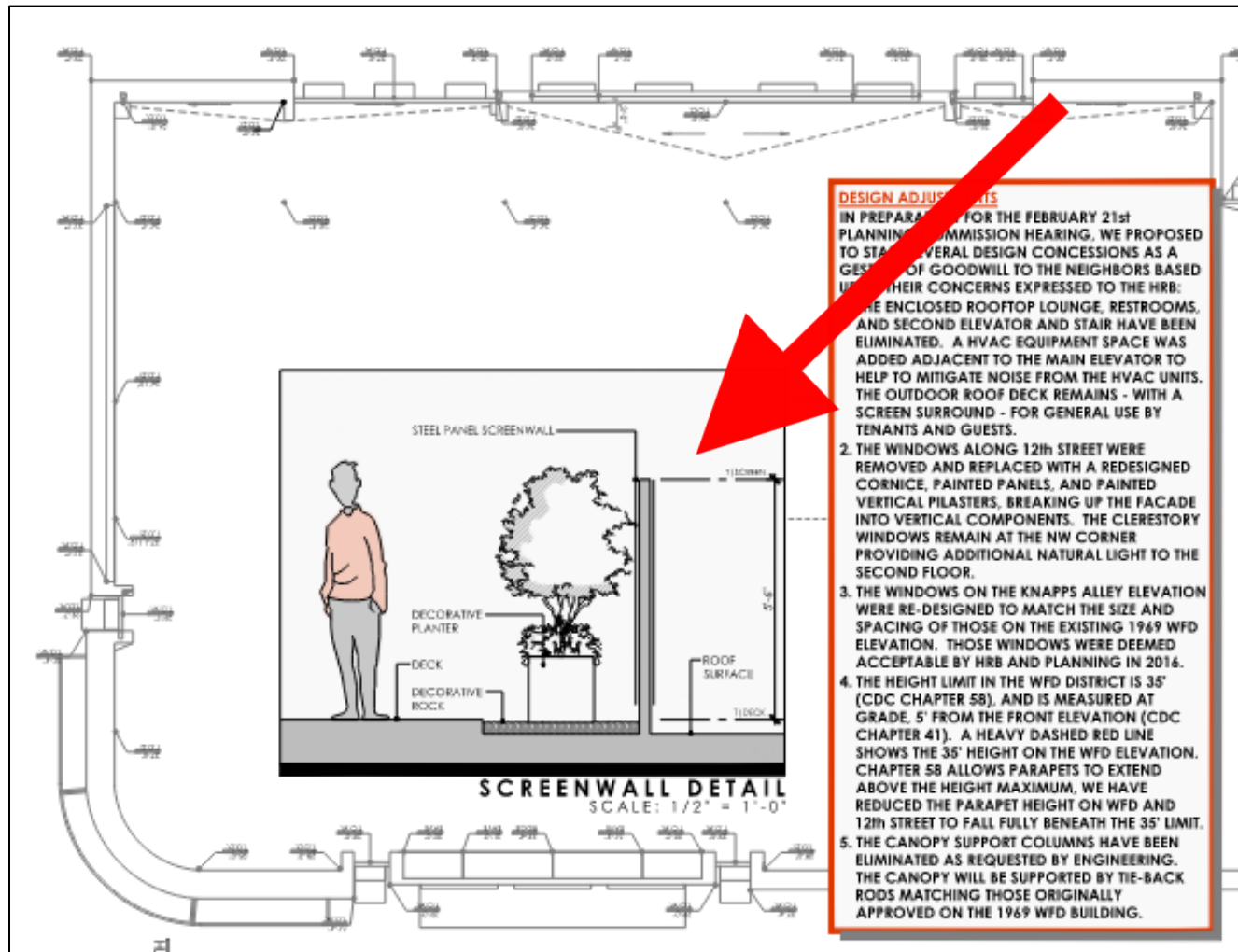
Building Cross Section



Current Proposal for Rooftop



Deck Screenwall



Knapps Alley from 11th Street



Procedural Requirements



- 🍃 Class II Design Review
- 🍃 Historic Review Board (HRB)
 - Provide recommendation to Planning Commission for Class II Design Reviews within WFDCDD (99.060.D)
 - Final Authority for Design Exceptions in WFDCDD
- 🍃 Planning Commission (PC)
 - Approval Authority (99.060.B.2)

Core CDC Standards



- 🍃 **Chapter 19:** General Commercial
- 🍃 **Chapter 41:** Building Height
- 🍃 **Chapter 55:** Design Review
- 🍃 **Chapter 58:** Willamette Falls Drive Commercial Design District
 - Two-Story height limit (CDC 58.080B.3)

Iterative Design Modifications



- Three Prior Hearings / Three Supplemental Applications
 - **June 13** – Historic Review Board
 - **Aug 15 / Sep 13** – First Applicant Revision
 - **Oct 4** – Planning Commission
 - **October 23** – Supplemental Materials from Applicant
 - **Nov 14** – Historic Review Board
 - **Jan 29** – Second Applicant Revision

CDC Silence



- ❖ CDC lacks clear guidance on how to process modifications between HRB Recommendation and PC Decision
- ❖ Guidance limited to modification of approved projects (CDC 55.030, 55.050, 99.120)
- ❖ Planning Staff encouraged applicant to withdraw and resubmit to simplify the record

HRB Recommendation - 6.21.23



- Deliberations focused on definition of story vs mezzanine, rear window design, and the use of support columns for awnings
- Recommendation defers height issue to Planning Commission
 - “Recommend Approval of DR-23-01, as presented, with a recommendation of further analysis of the ‘mezzanine area’ by the Planning Commission.”
- Approval on 3-2 Vote (Watton recused)

First Applicant Modifications



- ◆ Plans revised in response to HRB feedback:
 - Modification of rear window design
 - Removal of support pillars in sidewalk
 - **New Design Exception to exceed two-story limitation**
 - **Replacement of third-story lounge & restrooms with two rooms for building storage / mechanical equipment**
 - Replacement of third-story windows with opaque panels

Planning Commission – 10.4.23



- Application remanded back to Historic Review Board in response to written testimony
- CDC grants sole approval authority to HRB

HRB Denial – 11.14.23



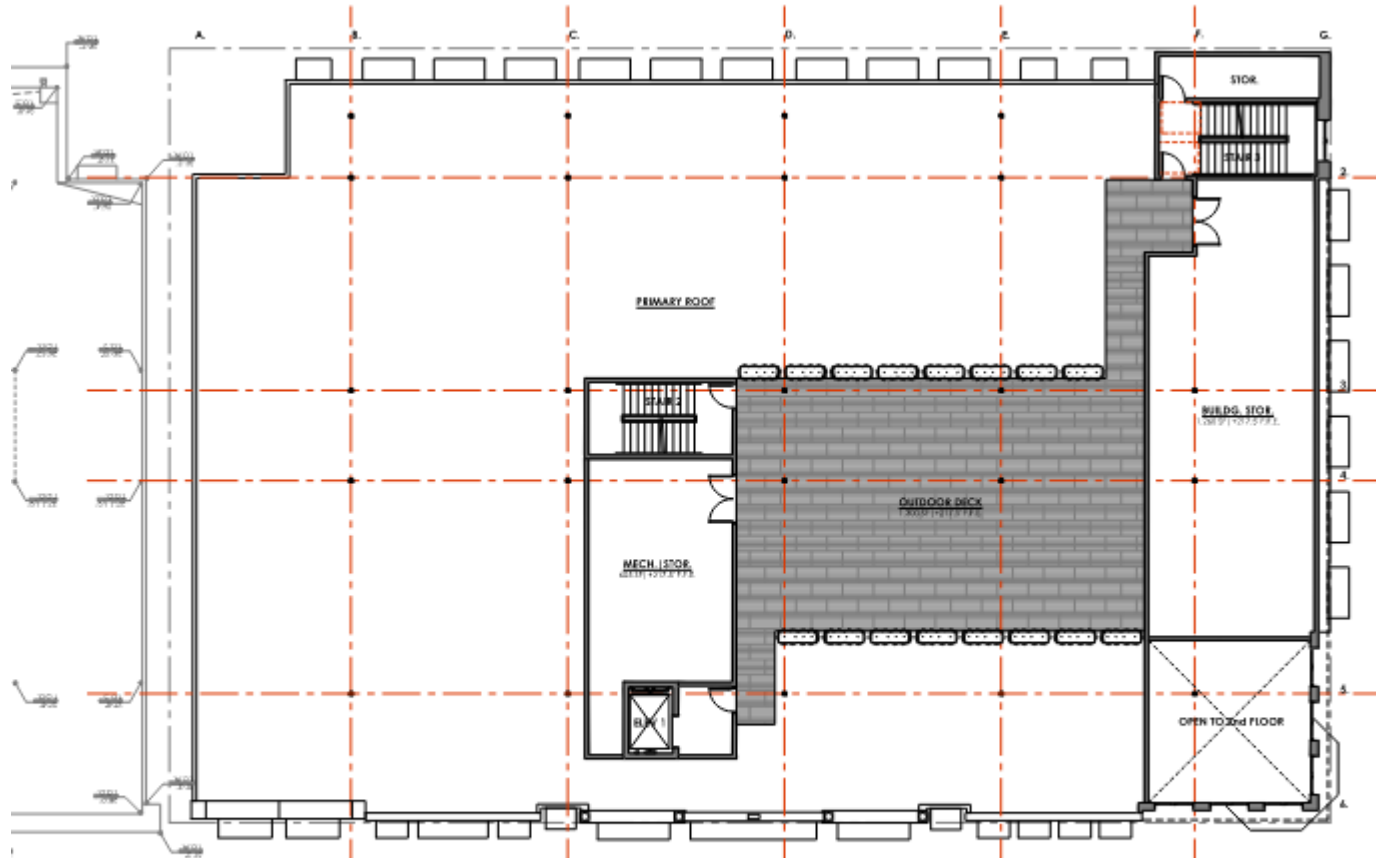
- HRB considered revised design and denied Design Exception to exceed two stories:
 - Approval criterion 58.090.A not satisfied - historical precedence had not been demonstrated for the proposed deviation.
 - Approval Criterion 58.090.B not satisfied - the proposed design did not incorporate exceptional 1880-1915 architecture that demonstrated superior design, detail, or workmanship to a degree that overcompensated for the height deviation.

Modifications of 01.29.24



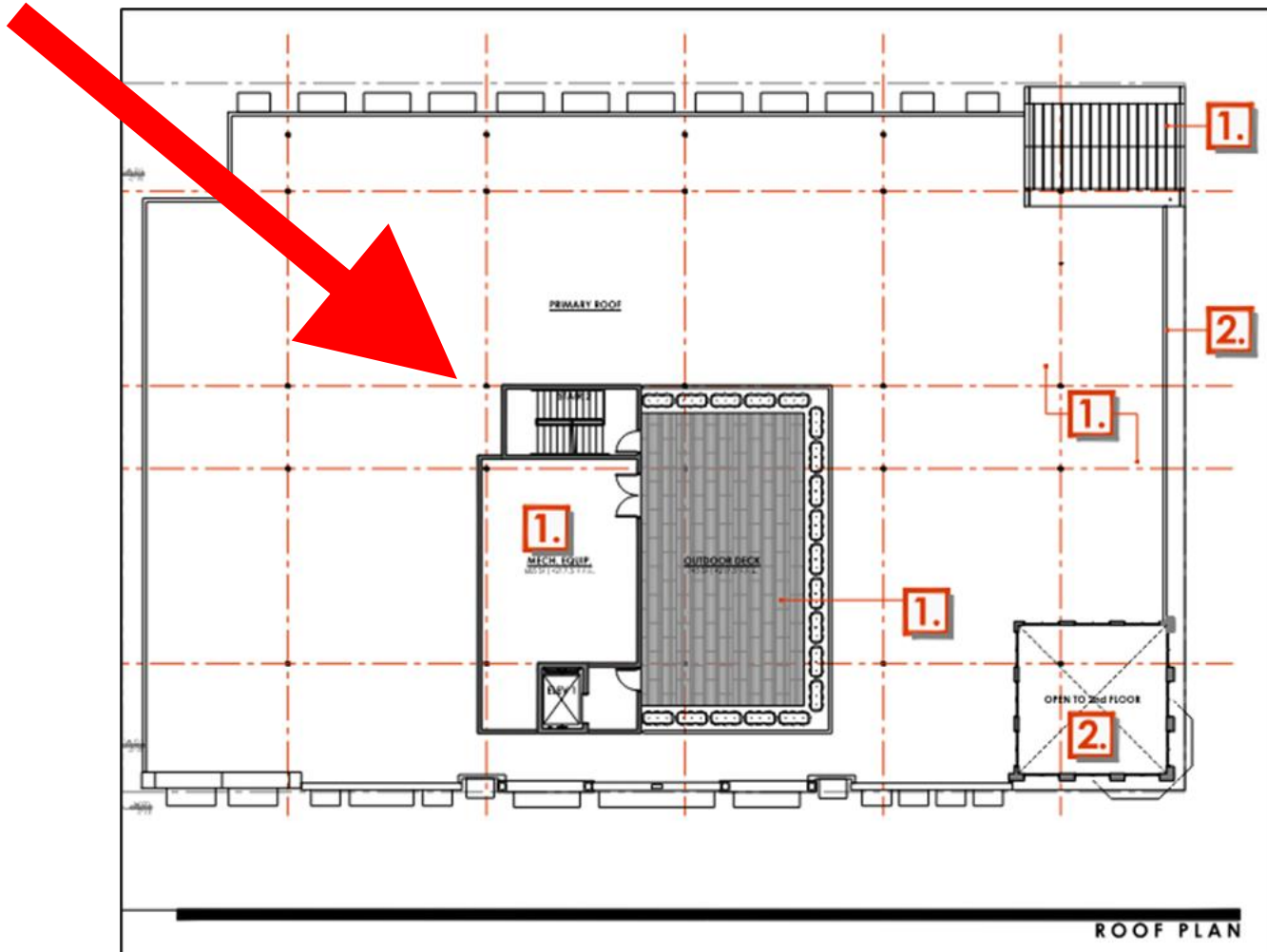
- Applicant withdraws Design Exception to exceed two-stories
- Additional Revisions:
 - Elimination of Lounge/Storage Rooms (third story)
 - Rooftop deck is reduced and relocated away from homes
 - Enclosed Mechanical Equipment Area remains
 - Access reduced to a single stairwell and elevator with lobby

Revised Proposal Denied by HRB



ROOF PLAN

Current Proposal for Rooftop



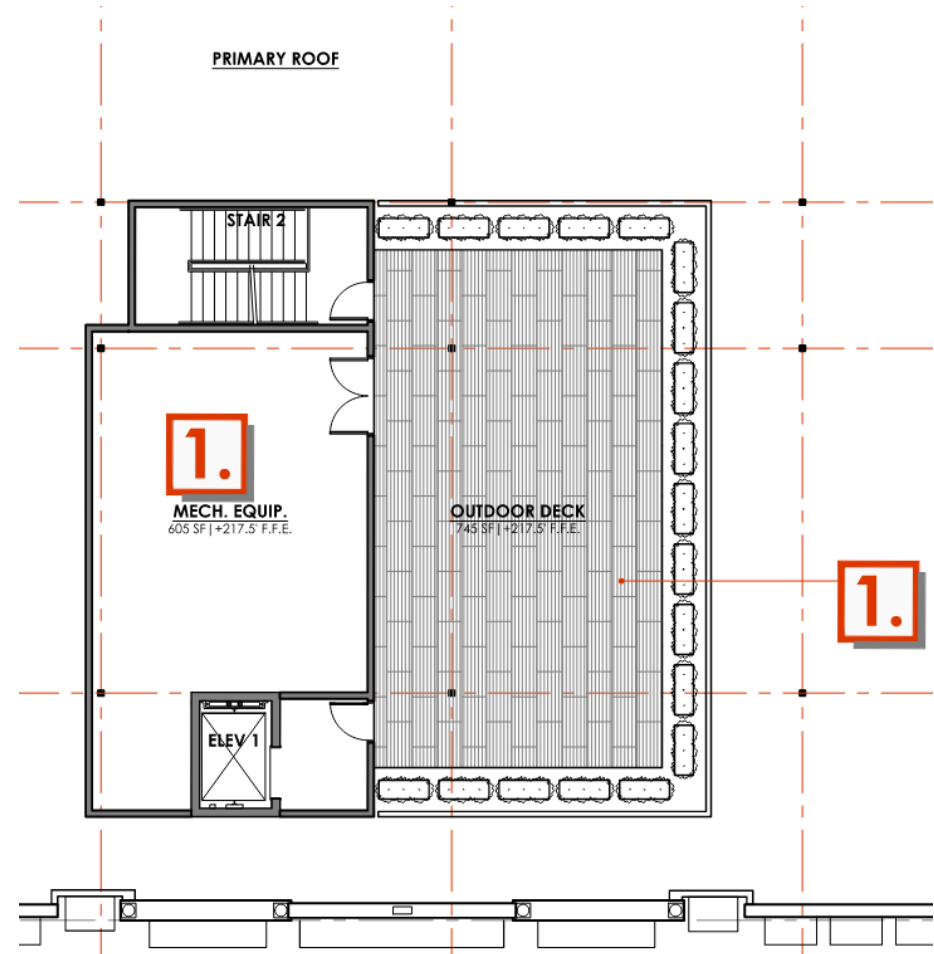
Modifications of 01.29.24



DESIGN ADJUSTMENTS

IN PREPARATION FOR THE FEBRUARY 21st PLANNING COMMISSION HEARING, WE PROPOSED TO STAFF SEVERAL DESIGN CONCESSIONS AS A GESTURE OF GOODWILL TO THE NEIGHBORS BASED UPON THEIR CONCERNS EXPRESSED TO THE HRB:

1. THE ENCLOSED ROOFTOP LOUNGE, RESTROOMS, AND SECOND ELEVATOR AND STAIR HAVE BEEN ELIMINATED. A HVAC EQUIPMENT SPACE WAS ADDED ADJACENT TO THE MAIN ELEVATOR TO HELP TO MITIGATE NOISE FROM THE HVAC UNITS. THE OUTDOOR ROOF DECK REMAINS - WITH A SCREEN SURROUND - FOR GENERAL USE BY TENANTS AND GUESTS.





Projections not for human habitation

- 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.

- “Human Occupancy” not defined in CDC

- Staff Finding 4 (page 16)

Public Comments



- ❖ ODOT
 - No Significant Impacts to State highway facilities
- ❖ Yarrow Currie
 - Opposes three stories and rooftop deck for noise
- ❖ Ian & Audra Brown
 - Proposed six conditions of approval to address height, noise, and light

Brown Proposed Conditions - Height



- Disagrees with Staff Finding 4 (building height)
- Proposes following conditions:

To ensure conformance with CDC 50.080.B.3, we request the following conditions of approval:

- (1) The elevator lobby shall be removed.
- (2) Except for that portion of the elevator shaft housing housing cables and motorized equipment, no portion of the stairwell, parapet, or other portion of the building may exceed 35 feet above grade.

Brown Comments - Noise



- ❖ Disagrees with Staff Finding 23 (Privacy and Noise)
- ❖ Outdoor seating generally permitted in WFDCDD
- ❖ Effective setback of 61 feet from residential properties (20' alley + 3' building setback + 38' deck setback from parapet)
- ❖ 55.100.D.4 authorizes Planning Commission to require noise study in first year of operation

Brown Proposed Conditions - Noise



- (3) The rooftop deck will be used solely for the use by tenants and their guests and in no case will the deck be used by the general public in furtherance of any commercial retail, service or restaurant uses.
- (4) Sometime during the first summer that the building is fully occupied by tenants, the owner must supply a professional noise study conducted when the deck is fully occupied and if that study shows that the City's noise standards are not satisfied, make modifications, including modifying the screen wall to include additional noise baffling measures, to mitigate any excessive noise.



Brown Proposed Condition - Light

- States the application does not include a plan for rooftop lighting

- Proposes following condition:

(5) 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 features will be visible from neighboring properties; (2) the use of full cut off 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.

Additional Staff Recommendations



- Staff Report recommends 8 Conditions of Approval
- Staff recommends one additional for a total of 9
 - “Prior to final inspection and occupancy of the building, the applicant shall consolidate the multiple lots on the project site into a single lot.”

Conclusion



🍃 Questions?

Definition of Story



- ◆ CDC Definition is expansive:

*“**Story.** That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above...”*

Design Exception Language



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.*

Design Exception Precedents



1949 Willamette Falls Drive Proposed Commercial Mixed Use Building

Willamette Falls Drive & 12th Street, West Linn, Oregon



NAME:
L. ADAMS DEPARTMENT STORE

LOCATION:
OREGON CITY

DATE OF CONSTRUCTION:
1912

USE:
DEPARTMENT STORE

PRIMARY MATERIALS IN SUPPORT OF EXCEPTION:
BRICK MASONRY



NAME:
WENHARD BUILDING

LOCATION:
802 MAIN STREET, OREGON CITY

DATE OF CONSTRUCTION:
1895

USE:
DEPARTMENT STORE

PRIMARY MATERIALS IN SUPPORT OF EXCEPTION:
BRICK MASONRY



NAME:
TWR STATION No. 59

LOCATION:
1840 WILLAMETTE FALLS DRIVE

DATE OF CONSTRUCTION:
2010

USE:
FIRE STATION

PRIMARY MATERIALS IN SUPPORT OF EXCEPTION:
BRICK MASONRY



NAME:
WILLAMETTE CENTER IV

LOCATION:
1949 WILLAMETTE FALLS DRIVE, WEST LINN

DATE OF CONSTRUCTION:
2019

USE:
MIXED USE COMMERCIAL

PRIMARY MATERIALS IN SUPPORT OF EXCEPTION:
BRICK MASONRY

DESIGN EXCEPTION | BRICK

December 2022 | Design Review Application | Section 86.000 Design Exceptions

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1949 Willamette Falls Drive Proposed Commercial Mixed Use Building

Willamette Falls Drive & 12th Street, West Linn, Oregon



NAME:
M&F ORIGINAL STORE

LOCATION:
SW FRONT & SW AMHILL STREETS, PORTLAND

DATE OF CONSTRUCTION:
1837

USE:
DEPARTMENT STORE

PRIMARY MATERIALS IN SUPPORT OF EXCEPTION:
DECORATIVE CANOPY COLUMNS



NAME:
O.F.O. SALOON

LOCATION:
OAK & STARK STREETS, PORTLAND

DATE OF CONSTRUCTION:
1876

USE:
SALOON

PRIMARY MATERIALS IN SUPPORT OF EXCEPTION:
DECORATIVE CANOPY COLUMNS



NAME:
COMMUNITY OF FAITH CHURCH

LOCATION:
1889 WILLAMETTE FALLS DR, WEST LINN

DATE OF CONSTRUCTION:
UNKNOWN

USE:
CHURCH

PRIMARY MATERIALS IN SUPPORT OF EXCEPTION:
DECORATIVE CANOPY COLUMNS



NAME:
LL COOPERTOWN GRILL

LOCATION:
1817 WILLAMETTE FALLS DRIVE, WEST LINN

DATE OF CONSTRUCTION:
UNKNOWN

USE:
RESTAURANT

PRIMARY MATERIALS IN SUPPORT OF EXCEPTION:
DECORATIVE CANOPY COLUMNS

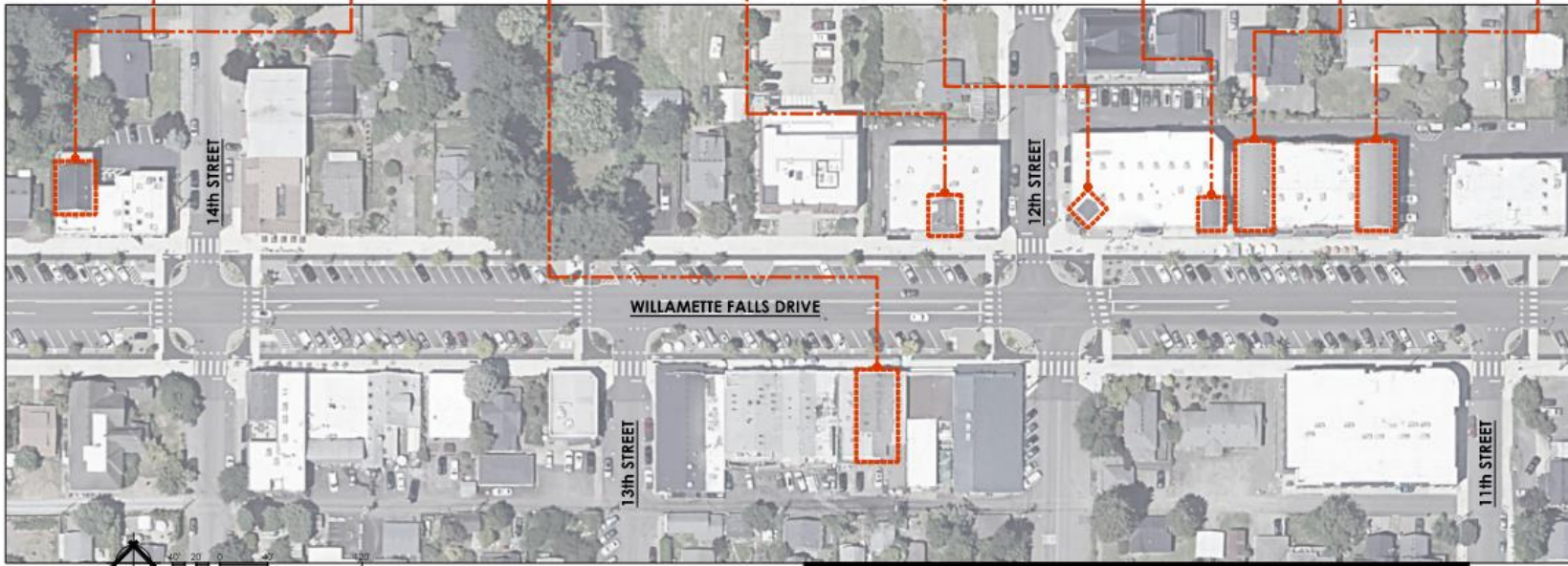
DESIGN EXCEPTION | CANOPY COLUMNS

December 2022 | Design Review Application | Section 86.000 Design Exceptions

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Design Exception Precedents



ENCLOSED ROOF SPACES

**EX
01**

1949 WILLAMETTE FALLS DRIVE
WEST LINN, OREGON



ICON
CONSTRUCTION
AND DEVELOPMENT

01 WILLAMETTE FALLS DRIVE - ROOFSCAPE

Proposed Colors/Materials



1949 Willamette Falls Drive
DR-23-01
Color and Materials Board
(Physical Samples Delivered to Planning Office)



Proposed Colors/Materials



1949 Willamette Falls Drive Proposed Commercial Mixed Use Building

Willamette Falls Drive & 12th Street, West Linn, Oregon

NOTE: THE COLOR PALETTES SHOWN BELOW ARE REPRESENTATIVE ONLY. SELECTED FROM THE AMERICA'S HERITAGE HISTORICAL COLORS COLLECTION BY SHERWIN WILLIAMS. ACTUAL BUILDING COLORS WILL BE SELECTED FROM THE FULL LINE OF THIS COLLECTION.

	<p>PALETTE: ANTIQUE WHITE</p> <p>BODY: SW 9119 ANTIQUE WHITE TRIM: SW 2842 ROYCROFT SLUEDE ACCENT 1: SW 7032 CREAMY ACCENT 2: SW 9348 BUNGLEHOUSE BLUE</p>
	<p>PALETTE: COLONIAL REVIVAL GREEN STONE</p> <p>BODY: SW 3826 COLONIAL REVIVAL GREEN STONE TRIM: SW 2842 ROYCROFT SLUEDE ACCENT 1: SW 7032 CREAMY ACCENT 2: SW 9348 BUNGLEHOUSE BLUE</p>
	<p>PALETTE: COLONIAL REVIVAL STONE</p> <p>BODY: SW 2827 COLONIAL REVIVAL STONE TRIM: SW 2829 CLASSICAL WHITE ACCENT 1: SW 6358 WICKORN BLACK ACCENT 2: SW 2826 ROCKWOOD RED</p>
	<p>PALETTE: DOWNING SLATE</p> <p>BODY: SW 2819 DOWNING SLATE TRIM: SW 2813 DOWNING SLATE ACCENT 1: SW 2814 ROCKWOOD ANTIQUE GOLD ACCENT 2: SW 2807 ROCKWOOD MEDIUM BROWN</p>
	<p>PALETTE: DOWNING STONE</p> <p>BODY: SW 2821 DOWNING STONE TRIM: SW 2851 SAGE GREEN LIGHT ACCENT 1: SW 2844 ROYCROFT BRONZE GREEN ACCENT 2: SW 9335 CLASSIC LIGHT BUFF</p>
	<p>PALETTE: NEEDLEPOINT NAVY</p> <p>BODY: SW 9332 NEEDLEPOINT NAVY TRIM: SW 9335 CLASSIC LIGHT BUFF ACCENT 1: SW 9353 NEW COLONIAL YELLOW ACCENT 2: SW 0045 ANTIQUARIAN BROWN</p>
	<p>PALETTE: RENWICK ROSE BEIGE</p> <p>BODY: SW 3804 RENWICK ROSE BEIGE TRIM: SW 2805 RENWICK BEIGE ACCENT 1: SW 9323 PEWTER TANKARD ACCENT 2: SW 2838 POLISHED MAN-OF-WAR</p>
	<p>PALETTE: ROYCROFT MIST BEIGE</p> <p>BODY: SW 2844 ROYCROFT MIST BEIGE TRIM: SW 2821 DOWNING STONE ACCENT 1: SW 7034 EXTRA WHITE ACCENT 2: SW 2801 ROCKWOOD DARK RED</p>
	<p>PALETTE: SHERATON SAGE</p> <p>BODY: SW 0214 SHERATON SAGE TRIM: SW 2822 DOWNING SAND ACCENT 1: SW 2814 ROCKWOOD ANTIQUE GOLD ACCENT 2: SW 2836 PARKNA BROWN</p>

1949 Willamette Falls Drive Proposed Commercial Mixed Use Building

Willamette Falls Drive & 12th Street, West Linn, Oregon

NOTE: THE BRICK BLENDS & AWNING FABRICS SHOWN BELOW ARE REPRESENTATIVE ONLY. THEY ARE DRAWN FROM MUTUAL MATERIALS' HISTORICAL BLEND SELECTIONS, AND FROM THE SUNBRELLA FABRIC CATALOG. BRICK BLENDS FOR THE BUILDING WILL BE SELECTED FROM THE FULL RANGE OF HISTORICAL BLENDS AVAILABLE FROM MUTUAL MATERIALS. AWNING FABRIC COLORS WILL BE SELECTED FROM THE FULL RANGE OF SUNBRELLA SELECTIONS.

BRICK BLENDS:		AWNING FABRICS:
BRICK BLEND: CEDAR SPRINGS	BRICK BLEND: MUTUAL USED	AWNING FABRIC: SLATE
BRICK BLEND: CLASSIC USED	BRICK BLEND: OLD UNIVERSITY	AWNING FABRIC: FERN
BRICK BLEND: HOMESTEAD USED	BRICK BLEND: PACIFIC HANDMOLD	AWNING FABRIC: MAHOGANY
BRICK BLEND: MADRONA SPRINGS	BRICK BLEND: VANCOUVER USED	AWNING FABRIC: MANHATTAN DUNE

COLOR & MATERIAL SCHEDULE | PAINT

December 2022 | Design Review Application | Section SS.080.25

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SGA

SG ARCHITECTURE, LLC

COLOR & MATERIAL SCHEDULE | BRICKS & AWNING FABRICS

December 2022 | Design Review Application | Section SS.080.25

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SGA

SG ARCHITECTURE, LLC

Planning Commission Request to Speak

Any information provided may be considered public record and subject to disclosure.
Each agenda item requires a separate testimony form.

I request to speak during **General Public Comments** – (3 minutes/5 minutes for Neighborhood Association):
Please specify topic (*required*):

I request to testify on **DR-23-01, a Class II Design Review for the construction of a new commercial building within both the General Commercial Zone and Willamette Falls Drive Commercial Design District.** (5 minutes for all speakers).

In Support

Neither for nor against

In Opposition

Failure to raise an issue by written comment or at the hearing, or failure to provide sufficient specificity to respond to the issue, precludes raising the issue on appeal before the Land Use Board of Appeals. Parties with standing may appeal this decision to the West Linn City Council pursuant to the provisions of Chapter 99 of the Community Development Code and any other applicable rules and statutes. Failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval with sufficient specificity to allow the city or its designee to respond to the issue precludes an action for damages in circuit court.

I do not wish to speak however; I would like to **have standing on DR-23-01.**

In Support

Neither for nor against

In Opposition

REQUIRED INFORMATION TO HAVE STANDING FOR DR-23-01. PLEASE PRINT:

Name: Yarrow Currie

Name of Organization (if applicable): _____

Address: 1541 11th St

City: West Linn State OR Zip 97068

Email (optional): yarrowcurrie@yahoo.com



Planning Commission Request to Speak

Any information provided may be considered public record and subject to disclosure.
Each agenda item requires a separate testimony form.

NO
 I request to speak during **General Public Comments** – (3 minutes/5 minutes for Neighborhood Association):
Please specify topic (*required*):

Yes
 I request to testify on **DR-23-01, a Class II Design Review for the construction of a new commercial building within both the General Commercial Zone and Willamette Falls Drive Commercial Design District.** (5 minutes for all speakers).
 In Support Neither for nor against In Opposition

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I do not wish to speak however; I would like to **have standing on DR-23-01.**

In Support Neither for nor against In Opposition

REQUIRED INFORMATION TO HAVE STANDING FOR DR-23-01. PLEASE PRINT:

Name: Andra Brown
Name of Organization (if applicable): neighbor
Address: 1968 6th Ave
City: WL State OR Zip 97068
Email (optional): audra.brown@comcast.net

Planning Commission Request to Speak

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Each agenda item requires a separate testimony form.

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Please specify topic (*required*):

I request to testify on **DR-23-01, a Class II Design Review for the construction of a new commercial building within both the General Commercial Zone and Willamette Falls Drive Commercial Design District.** (5 minutes for all speakers).

In Support

Neither for nor against

In Opposition

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I do not wish to speak however; I would like to **have standing on DR-23-01.**

In Support

Neither for nor against

In Opposition

REQUIRED INFORMATION TO HAVE STANDING FOR DR-23-01. PLEASE PRINT:

Name: Ian Brown

Name of Organization (if applicable): _____

Address: 1968 6th Ave

City: West Linn State OR Zip 97068

Email (optional): itb@ianbrown.org



Planning Commission Request to Speak

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Please specify topic (required):

I request to testify on **DR-23-01, a Class II Design Review for the construction of a new commercial building within both the General Commercial Zone and Willamette Falls Drive Commercial Design District.** (5 minutes for all speakers).

In Support

Neither for nor against

In Opposition

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I do not wish to speak however; I would like to **have standing on DR-23-01.**

In Support

Neither for nor against

In Opposition

REQUIRED INFORMATION TO HAVE STANDING FOR DR-23-01. PLEASE PRINT:

Name: BLANC-GOWNET, MAIZIA

Name of Organization (if applicable): _____

Address: 2057 WILLAMETTE FALLS DR.

City: WEST LINN State OR Zip 97068

Email (optional): LUISABLANC3@YAHOO.COM

Planning Commission Request to Speak

Any information provided may be considered public record and subject to disclosure.
Each agenda item requires a separate testimony form.

I request to speak during **General Public Comments** – (3 minutes/5 minutes for Neighborhood Association):

Please specify topic (required):

DR-23-01

I request to testify on **DR-23-01, a Class II Design Review for the construction of a new commercial building within both the General Commercial Zone and Willamette Falls Drive Commercial Design District.** (5 minutes for all speakers).

In Support

Neither for nor against

In Opposition

Failure to raise an issue by written comment or at the hearing, or failure to provide sufficient specificity to respond to the issue, precludes raising the issue on appeal before the Land Use Board of Appeals. Parties with standing may appeal this decision to the West Linn City Council pursuant to the provisions of Chapter 99 of the Community Development Code and any other applicable rules and statutes. Failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval with sufficient specificity to allow the city or its designee to respond to the issue precludes an action for damages in circuit court.

I do not wish to speak however; I would like to **have standing on DR-23-01.**

In Support

Neither for nor against

In Opposition

REQUIRED INFORMATION TO HAVE STANDING FOR DR-23-01. PLEASE PRINT:

Name: Danny Schreiber

Name of Organization (if applicable): _____

Address: 1870 6th Ave

City: West Linn State OR Zip 97068

Email (optional): danny.nicole.schreiber@gmail.com

Planning Commission Request to Speak

Any information provided may be considered public record and subject to disclosure.
Each agenda item requires a separate testimony form.

- I request to speak during **General Public Comments** – (3 minutes/5 minutes for Neighborhood Association):
Please specify topic (*required*):

- I request to testify on **DR-23-01, a Class II Design Review for the construction of a new commercial building within both the General Commercial Zone and Willamette Falls Drive Commercial Design District.** (5 minutes for all speakers).

In Support

Neither for nor against

In Opposition

Failure to raise an issue by written comment or at the hearing, or failure to provide sufficient specificity to respond to the issue, precludes raising the issue on appeal before the Land Use Board of Appeals. Parties with standing may appeal this decision to the West Linn City Council pursuant to the provisions of Chapter 99 of the Community Development Code and any other applicable rules and statutes. Failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval with sufficient specificity to allow the city or its designee to respond to the issue precludes an action for damages in circuit court.

- I do not wish to speak however; I would like to **have standing on DR-23-01.**

In Support

Neither for nor against

In Opposition

REQUIRED INFORMATION TO HAVE STANDING FOR DR-23-01. PLEASE PRINT:

Name: James Ester

Name of Organization (if applicable): _____

Address: 1992 6th Ave

City: West Linn State OR Zip 97068

Email (optional): jimmyester@outlook.com

ATTACHMENT 4 – AP-24-01 PUBLIC COMMENTS

Wyss, Darren

From: Mollusky, Kathy
Sent: Tuesday, April 2, 2024 3:29 PM
To: Wyss, Darren; Floyd, John
Subject: FW: New Icon building.

-----Original Message-----

From: Katie Hunter <[REDACTED]>
Sent: Tuesday, April 2, 2024 3:01 PM
To: Mollusky, Kathy <kmollusky@westlinnoregon.gov>
Subject: New Icon building.

[You don't often get email from [REDACTED]. Learn why this is important at <https://aka.ms/LearnAboutSenderIdentification>]

CAUTION: This email originated from an External source. Do not click links, open attachments, or follow instructions from this sender unless you recognize the sender and know the content is safe. If you are unsure, please contact the Help Desk immediately for further assistance.

I object to the proposed 3 story building that Icon is planning. I love the "Old" historic feel of old Willamette. The exception to the standing restrictions will be just the first step in changes that could destroy the heart of West Linn.

Thanks,
Katherine Hunter
Resident of West Linn for 26 years.

Kathy Mollusky
City Recorder
Administration

#6013<ciscotel://6013>

[https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwestlinnoregon.gov%2Fsites%2Fall%2Fthemes%2Faha_responsive_2016%2Fflogo.png&data=05%7C02%7Cdwys%40westlinnoregon.gov%7C060b1f0781f14cfcef7908dc53644ffe%7C10a0cb315f98400fbaf49eb21e6a413f%7C0%7C0%7C638476937543937538%7CUnknown%7CTWFpbGZsb3d8eyJWljojMC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTiI6IjEhaWwiLCJXVCi6Mn0%3D%7C0%7C%7C%7C&sdata=Q1JbFnq%2BeM672HIJDIGSY%2Fs4kRJ6RmP1HHaxKkd0Yzg%3D&reserved=0]<[https://gcc02.safelinks.protection.outlook.com/?url=htt](https://gcc02.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwestlinnoregon.gov%2F&data=05%7C02%7Cdwys%40westlinnoregon.gov%7C060b1f0781f14cfcef7908dc53644ffe%7C10a0cb315f98400fbaf49eb21e6a413f%7C0%7C0%7C638476937543944724%7CUnknown%7CTWFpbGZsb3d8eyJWljojMC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTiI6IjEhaWwiLCJXVCi6Mn0%3D%7C0%7C%7C%7C&sdata=MF0orJ2FBI6jtXDhp1k6ATIK7k7mkaWmouiGo%2FSDagM%3D&reserved=0)

Please consider the impact on the environment before printing a paper copy of this email.
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Wyss, Darren

From: Mollusky, Kathy
Sent: Tuesday, April 2, 2024 3:43 PM
To: Wyss, Darren; Floyd, John
Subject: FW: Written Testimony in Support of Class II Design Appeal of DR-23-01 (1919 and 1948 Willamette Falls Dr

From: Roberta Schwarz <[REDACTED]>
Sent: Tuesday, April 2, 2024 3:29 PM
To: City Council <citycouncil@westlinnoregon.gov>; Mollusky, Kathy <kmollusky@westlinnoregon.gov>
Cc: Schwarz, Ed <[REDACTED]>
Subject: Written Testimony in Support of Class II Design Appeal of DR-23-01 (1919 and 1948 Willamette Falls Dr

You don't often get emails from [REDACTED]. [Learn why this is important](#)

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Appeal of Class II Design Review at 1919 and 1949 Willamette Falls Drive DR-23-01

Please enter this into the Public Record for the City Council hearing on April 15, 2024, as written testimony in Support of the Appeal of the Planning Commission's Class II Design Review of 1919 and 1949 Willamette Falls Dr.

1) The elevator lobby and the enclosed rooftop stairwell comprise a 3rd story in violation of CDC 58.080(C)(3). These areas will be used for "human occupancy" and as such, are not "projections" subject to the CDC 41.030 exception to the height limit. These elements need to be removed from the proposal.

2) The condition imposed by the Planning Commission to address noise buffering requirements in CDC 55.100(C) and (D) lacks clarity and is insufficient. The adopted condition triggering completion of a noise study at 50% occupancy of the building, and not requiring any occupancy of the rooftop patio at the time of the study, will not ensure that noise from the patio is buffered. Further, imposing a condition prohibiting use of the rooftop patio by commercial customers for the consumption of food or beverages is feasible and could be enforced.

Please uphold the appeal and send the application back to the Historic Review Board and Planning Commission for further consideration.

Submitted by Ed and Roberta Schwarz

Kathy Mollusky
City Recorder
Administration

[#6013](#)



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

ATTACHMENT 5 – AP-24-01 AFFIDAVIT AND NOTICE PACKET



**AFFIDAVIT OF NOTICE
CITY COUNCIL DECISION**

We, the undersigned, certify that, in the interest of the party (parties) initiating a proposed land use, the following took place on the dates indicated below:

PROJECT

File No.: **AP-24-01** Applicant's Name: **Ian & Audra Brown**
Development Address: **1919/1949 Willamette Falls Drive**
City Council Hearing Date: **April 15, 2024**

MAILED NOTICE

Notice of Upcoming CC Hearing was mailed at least 20 days before the hearing, per Section 99.080 of the CDC to:

Ian & Audra Brown, applicant	3/26/24	<i>Lynn Schroder</i>
Carrie Richter, applicant representative	3/26/24	<i>Lynn Schroder</i>
Icon Construction, property owner	3/26/24	<i>Lynn Schroder</i>
Property owners within 500ft of the site perimeter	3/26/24	<i>Lynn Schroder</i>
Willamette Neighborhood Association	3/26/24	<i>Lynn Schroder</i>

EMAILED NOTICE

Notice of Upcoming CC Hearing was emailed at least 20 days before the hearing date to:

All Neighborhood Associations	3/26/24	<i>Lynn Schroder</i>
Ian & Audra Brown, applicant	3/26/24	<i>Lynn Schroder</i>
Carrie Richter, applicant consultant	3/26/24	<i>Lynn Schroder</i>

WEBSITE

Notice of Upcoming CC Hearing was posted on the City's website at least 20 days before the hearing.

3/26/24	<i>Lynn Schroder</i>
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TIDINGS

Notice of Upcoming CC Hearing was posted in the West Linn Tidings at least 10 days before the hearing, per Section 99.080 of the CDC.

4/3/24	<i>Lynn Schroder</i>
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SIGN

A sign for the Upcoming CC Hearing was posted on the property at least 10 days before the hearing, per Section 99.080 of the CDC.

4/4/24	<i>Darren S. Wyss</i>
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STAFF REPORT

The staff report was posted on the website and provided to the applicant and City Councilors at least 10 days before the hearing, per Section 99.040 of the CDC.

	<i>Lynn Schroder</i>
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FINAL DECISION

Notice of Final Decision was mailed to the applicant, all parties with standing, and posted on the City's website, per Section 99.040 of the CDC.

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**CITY OF WEST LINN CITY COUNCIL
PUBLIC HEARING NOTICE
FILE NO. AP-24-01**

The West Linn City Council will hold a hybrid public hearing on **Monday, April 15, 2024 at 6:00 pm** in the Council Chambers of City Hall, 22500 Salamo Road, West Linn, to consider an appeal by Ian and Audra Brown of DR-23-01, a Planning Commission decision to approve a Class II Design Review for the construction of a new commercial building at 1919 & 1949 Willamette Falls Drive.

The appellant stated grounds for appeal pertain to height standards in the Willamette Falls Drive Commercial Design District (CDC Chapter 58) and a condition of approval intended to mitigate potential noise impacts.

The City Council will decide the appeal based on applicable criteria in Community Development Code (CDC) Chapters 19, 41, 46, 55, 58, and 99. The CDC approval criteria are available for review on the City website <http://www.westlinnoregon.gov/cdc> or at City Hall and the library.

The appeal is a de novo hearing and not limited to the stated grounds for the appeal. City Council may consider all relevant issues. All evidence presented to the lower authority shall be considered and given equal weight as evidence presented on appeal. City Council may affirm, reverse, or modify the decision which is the subject of the appeal.

You have been notified of this appeal as required by CDC Chapter 99.140 and 99.260.

The appeal is posted on the City's website, <https://westlinnoregon.gov/projects>. The appeal application and record are available for inspection at City Hall at no cost. Copies may be obtained at a reasonable cost. The staff report will be posted on the website and available for inspection at no cost, or copies may be obtained at a reasonable cost, at least ten days before the hearing.

The hearing will be conducted according to CDC Section 99.170 in a hybrid format with some Councilors, staff, presenters, and members of the public attending remotely via Webex and others attending in-person at City Hall. The public can watch the meeting online at <https://westlinnoregon.gov/meetings> or on Cable Channel 30.

Anyone wishing to present written testimony for consideration shall submit all material before 12:00 pm on April 15, 2024. Written comments may be submitted to dwyss@westlinnoregon.gov or mailed to City Hall.

Those who wish to participate remotely should complete the speaker form at <https://westlinnoregon.gov/citycouncil/meeting-request-speak-signup> before 4:00 pm on the meeting day to receive an invitation to join the meeting. Virtual participants can log in through a computer, mobile device, or call in.

It is important to submit all testimony in response to this notice. All comments submitted for consideration of this appeal should relate specifically to the applicable criteria. Failure to raise an issue in a hearing, in person, or by letter, or failure to provide sufficient specificity to afford the decision-maker an opportunity to respond to the issue, precludes appeal to the Oregon Land Use Board of Appeals based on that issue.

For additional information, please contact Darren Wyss, Planning Manager, City Hall, 22500 Salamo Rd., West Linn, OR 97068, 503-742-6064 or dwyss@westlinnoregon.gov.



Scan this QR Code to go to Project Web Page:

Mailed: March 26, 2024



**NOTICE OF UPCOMING
CITY COUNCIL PUBLIC HEARING**

**PROJECT # AP-24-01
MAIL: 3/26/2024 TIDINGS: 4/3/2024**

CITIZEN CONTACT INFORMATION

To lessen the bulk of agenda packets and land use application notice, and to address the concerns of some City residents about testimony contact information and online application packets containing their names and addresses as a reflection of the mailing notice area, this sheet substitutes for the photocopy of the testimony forms and/or mailing labels. A copy is available upon request.