

DEVELOPMENT REVIEW APPLICATION

For Office Use Only			
STAFF CONTACT Aaron Gudelj	PROJECT NO(S). DR-24-03	PRE-APPLICATION NO. PA-24-12	
NON-REFUNDABLE FEE(S) \$2,800	REFUNDABLE DEPOSIT(S)	TOTAL	\$2,800

Type of Review (Please check all that apply):

- | | | |
|---|--|--|
| <input type="checkbox"/> Annexation (ANX) | <input type="checkbox"/> Final Plat (FP) Related File # _____ | <input type="checkbox"/> Subdivision (SUB) |
| <input type="checkbox"/> Appeal (AP) | <input type="checkbox"/> Flood Management Area (FMA) | <input type="checkbox"/> Temporary Uses (MISC) |
| <input type="checkbox"/> CDC Amendment (CDC) | <input type="checkbox"/> Historic Review (HDR) | <input type="checkbox"/> Time Extension (EXT) |
| <input type="checkbox"/> Code Interpretation (MISC) | <input type="checkbox"/> Lot Line Adjustment (LLA) | <input type="checkbox"/> Right of Way Vacation (VAC) |
| <input type="checkbox"/> Conditional Use (CUP) | <input type="checkbox"/> Minor Partition (MIP) | <input type="checkbox"/> Variance (VAR) |
| <input checked="" type="checkbox"/> Design Review (DR) | <input type="checkbox"/> Modification of Approval (MOD) | <input type="checkbox"/> Water Resource Area Protection/Single Lot (WAP) |
| <input type="checkbox"/> Tree Easement Vacation (MISC) | <input type="checkbox"/> Non-Conforming Lots, Uses & Structures | <input type="checkbox"/> Water Resource Area Protection/Wetland (WAP) |
| <input type="checkbox"/> Expediated Land Division (ELD) | <input type="checkbox"/> Planned Unit Development (PUD) | <input type="checkbox"/> Willamette & Tualatin River Greenway (WRG) |
| <input type="checkbox"/> Extension of Approval (EXT) | <input type="checkbox"/> Street Vacation | <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: 4985/4999 Willamette Falls Drive & 5009-5015 Broadway Street West Linn, OR 97068	Assessor's Map No.: 22E30CD06400 <hr/> Tax Lot(s): 06400 <hr/> Total Land Area: 7,127 sf
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Brief Description of Proposal:

Building shell improvements to an existing mixed-use building. Improvements include new windows and modifications to existing windows, a new deck and awning, new 'Juliet' balconies at select upper windows, exterior stair fire and life safety improvements, exterior entrance ADA improvements and new siding


Applicant Name*: Broadway Creative, LLC Address: 502 7th Street, suite 208 City State Zip: Oregon city, OR 97045	Phone: Ryan Smith Email: 503-880-9138 flying.ryansmith@gmail.com
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Owner Name (required): Broadway Creative, LLC Address: 502 7th Street, suite 208 City State Zip: Oregon city, OR 97045	Phone: Ryan Smith Email: 503-880-9138 flying.ryansmith@gmail.com
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Consultant Name: Iselin Architects, PC Address: 1307 7th Street City State Zip: Oregon City, OR 97045	Phone: Jessica Iselin Email: 503-656-1942 jessica@iselinarch.com
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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.
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.

	5-15-24		5-15-24
Applicant's signature	Date	Owner's signature (required)	Date

DEVELOPMENT REVIEW CHECKLIST

The application form and supporting materials should be submitted electronically through <https://westlinnoregon.gov/planning/submit-land-use-application> as one (1) .pdf file. To create a single PDF file, go to [Adobe Acrobat Free Merge PDF](#) online tool. [Other free Acrobat PDF tools](#) like converting a file to PDF or reducing the file size are available on the Adobe website.

Supporting reports may be uploaded separately through this web form *if* the file size is too large. The separate submissions should be numbered (i.e., Submittal 1 of 2) and noted under transmittal contents. All plan set files **MUST** be flattened and reduced.

Submission requirement to upload through the web form:

- .pdf format.
- Individual file size no larger than 128 MB.
- Do not attach 'zip' files. Our server will reject all 'zip' files.
- Reduce and flatten all plan sets **BEFORE** uploading plan sets. The raster/vector settings should be optimized for printing.

A complete application must include the following:

- Development Review Application. Original signatures from all owners must be on the application form. **Do NOT use DocuSign.**
- A **project narrative** outlining the project's scope in detail, including the changes to the site, structure, landscaping, parking, land use, and lot consolidations.
- Complete written responses to identified approval criteria in the [Community Development Code \(CDC\)](#).
- A Service Provider Letter from Tualatin Valley Fire and Rescue - <https://www.tvfr.com/399/Service-Provider-Permit> Please contact Jason Arn at jason.arn@tvfr.com with any questions about TVF&R requirements.
- Vicinity Map showing the site within the City.
- Site Plan drawn to scale showing the:
 - Taxlot and address of the project,
 - Area of the site (acres or square feet),
 - Zoning and Neighborhood Association,
 - Location and dimensions of existing and proposed buildings, structures,
 - Location of existing and proposed on-site driveways and off-street parking,
 - Configuration and dimensions of all existing and proposed lots and tracts, including a proposed park, open space, and or drainage tracts or easements,
 - Location and width of existing and proposed easement for access, drainage, etc., and
 - Location of existing and proposed trees and other proposed landscaping.
 - Location of existing public and private utilities, easements, and 100-year floodplain,
 - Sensitive areas, including the location of on-site wetlands and riparian areas,
 - Location of existing off-site driveways across the street,
 - If applicable, internal circulation system, name, and location of existing and proposed roadways and roadway easements (private and public), and
 - Location and width of existing and proposed on-site pedestrian and bicycle facilities on-site.
- If applicable, a Utility Plan and Landscape plan, drawn to scale.
- If applicable, Building elevation drawings with exterior elevations for every side of each structure, height including building materials and floor levels, drawn to scale.
- If required, documentation of any required meeting with the respective City-recognized neighborhood association per CDC [99.038](#).
- Any other materials identified by city staff at the pre-application meeting.

For applications that the Planning Commission decides, the applicant or applicant's representative should present their proposal to the PC at the public hearing.

Application for
Class I Design Review

Broadway Creative Building

4985/4999 Willamette Falls Drive

&

5009-5015 Broadway Street

Tax Lot 22E30CD06400

West Linn, OR 97068

August 7, 2024

City of West Linn
22500 Salamo Road
West Linn, OR 97068

iAISELIN ARCHITECTS, P.C.

1307 Seventh Street Oregon City, OR 97045 p: 503-656-1942 f: 503-656-0658

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Project Information:

Property Owner: Broadway Creative, LLC
502 7th Street, suite 208
Oregon city, OR 97045

Contacts:
Graham Peterson, grahamcolepeterson@gmail.com
Ryan Smith, flying.ryansmith@gmail.com
Frank Jalili, fjalili@fortisre.com

Architect: Iselin Architects, P.C.
1307 Seventh Street
Oregon City, OR 97045
Contact: Jessica Iselin, jessica@iselinarch.com
503-656-1942

Project Description:

The project is limited to building shell improvements to an existing commercial building with residential units on the upper floor. Shell improvements will include:

- Storefront improvements including new and modified window and door openings
- Modified building entrances on Willamette Falls Drive to eliminate deep alcoves and provide accessible entry into this side of the building
- New overhead doors on the southeast building façade and a new partially covered deck to accommodate potential new tenants
- Small “Juliet” style balconies at select upper level residential units
- Reconstructed stairways at the main level southeast corner and the upper level northwest façade to improve safety and access to the building
- Expanded parapet at the southwest facade to provide a more clean and uniform building line
- New Skylight above upper level stairway landing

Minor site work to infill and level two vehicular curb cuts that are currently not or will not be utilized with proposed improvements will be completed. No interior remodeling is included in this scope of work.

Although a broad scope of potential improvements and uses was discussed at the initial pre-application meeting, it is the owner’s desire to address repairs and upgrades to the building shell only at this time, as clarified in the second pre-application meeting. It is their objective to improve the accessibility, function, aesthetic and marketability of the building. It is anticipated that the building use will remain as it has been in the past, with residential units on the upper floor and office and retail on the main level. Any changes to building occupancy, including the possible introduction of an eating/drinking establishment, will be addressed in a future application.

Project Information:

Zoning: GC, General Commercial

Site Area: (All properties owned by subject Owners)
7,127 sf Tax Lot 6400 (Mixed Use Building)
9,359 sf Tax Lot 6300 (Apartment Building)
4,633 sf Tax Lot 6200 (Parking)
10,162 sf Tax Lot 6100 (Parking & Cell Tower)

Building Area: 5,973 sf Main Level
3,524 sf Upper Level
9,497 sf Total

348 sf Proposed Deck Addition

Chapter 19
GENERAL COMMERCIAL, GC

Sections:

19.010 PURPOSE

19.020 PROCEDURES AND APPROVAL PROCESS

19.030 PERMITTED USES

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19.060 CONDITIONAL USES

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19.080 DIMENSIONAL REQUIREMENTS, CONDITIONAL USES

19.090 OTHER APPLICABLE DEVELOPMENT STANDARDS

19.010 PURPOSE

The purpose of this zone is to provide for the concentration of major retail goods and services at centers. The intent is to provide for the provision of a variety of goods and services and for comparison shopping, to accommodate new businesses and employment opportunities, to promote a suitable mix of commercial uses, to contribute to community identity and to assure that the commercial development is scaled to blend with nearby residential areas, and that the residential areas are protected from noise, glare of lights, traffic congestion and other possible adverse effects. This zone is intended to implement the policies and locational criteria set forth in the Comprehensive Plan. (Ord. 1745 § 1 (Exh. A), 2023)

19.020 PROCEDURES AND APPROVAL PROCESS

- A. A use permitted outright, CDC 19.030, is a use which requires no approval under the provisions of this code, except that some uses require design review pursuant to CDC 19.090(B). If a use is not listed as a use permitted outright, it may be held to be a similar unlisted use under the provisions of Chapter 80 CDC.
- B. A use permitted under prescribed conditions, CDC 19.050, is a use for which approval will be granted provided all conditions are satisfied, and:
1. The Planning Director shall make the decision in the manner provided by CDC 99.060(A)(2), Administrative Procedures, except that no notice shall be required; and
 2. The decision may be appealed by the applicant to the Planning Commission as provided by CDC 19.060.
- C. A conditional use, CDC 19.060, is a use the approval of which is discretionary with the Planning Commission. The approval process and criteria for approval are set forth in Chapter 60 CDC, Conditional Uses. If a use is not listed as a conditional use, it may be held to be a similar unlisted use under the provisions of Chapter 80 CDC.
- D. The following code provisions may be applicable in certain situations:
1. Chapter 65 CDC, Non-conforming Uses Involving a Structure.
 2. Chapter 66 CDC, Non-conforming Structures.
 3. Chapter 67 CDC, Non-conforming Uses of Land.
 4. Chapter 68 CDC, Non-conforming Lots, Lots of Record.
 5. Chapter 75 CDC, Variance. (Ord. 1745 § 1 (Exh. A), 2023)

19.030 PERMITTED USES

The following uses are permitted outright in this zone:

1. Agricultural sales.
2. Agricultural services.
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.
27. Extended-hour businesses that do not include the construction of a new building or expansion of an existing structure.
28. Transportation facilities (Type I).
29. Lodge, social, community center, and civic assembly within the commercial districts along Highway 43, Salamo Road or Blankenship Road.
30. Religious institutions within the commercial districts along Highway 43, Salamo Road, or Blankenship Road. (Ord. 1226, 1988; Ord. 1411, 1998; Ord. 1590 § 1, 2009; Ord. 1622 § 23, 2014; Ord. 1655 § 2, 2016; Ord. 1745 § 1 (Exh. A), 2023)

Previous and anticipated uses on the main level include retail, restaurant and offices uses, all of which are allowed in the zone.

19.040 ACCESSORY USES

1. *Manufacture or repackaging of goods for on-site sale.* (Ord. 1686 § 2, 2018; Ord. 1745 § 1 (Exh. A), 2023)

No accessory uses are proposed.

19.050 USES AND DEVELOPMENT PERMITTED UNDER PRESCRIBED CONDITIONS

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

1. Residential units above a permitted use or a commercial use or place of assembly authorized as a conditional use (e.g., children's day care center, superstore, amusement enterprise, transient lodging, religious institution, school, lodge or community center), and multiple-family units: as a mixed use in conjunction with commercial development, only above the first floor of the structure.
2. Animal sales and services: kennels, as prescribed with no exterior runs or storage.
3. Animal sales and services: veterinary (small animals), as prescribed with no exterior runs or storage.
4. Signs, subject to the provisions of Chapter 52 CDC.
5. Temporary use, subject to the provisions of Chapter 35 CDC.
6. Home occupations, subject to the provisions of Chapter 37 CDC.
7. Wireless communication facilities, subject to the provisions of Chapter 57 CDC. (Ord. 1192, 1987; Ord. 1385, 1996; Ord. 1565, 2008; Ord. 1613 § 3, 2013; Ord. 1638 § 3, 2015; Ord. 1736 § 1 (Exh. A), 2022; Ord. 1745 § 1 (Exh. A), 2023)

Existing residential units exist above the allowed main level commercial uses.

19.060 CONDITIONAL USES

The following are conditional uses which may be allowed in this zone subject to the provisions of Chapter 60 CDC, Conditional Uses:

1. Certified child care center.
2. Automotive and equipment:
 - a. Cleaning.
 - b. Repairs, heavy equipment.
 - c. Repairs, light equipment.
 - d. Sales/rentals, heavy equipment.
 - e. Sales/rentals, light equipment.

- f. Storage, recreation vehicles and boats.
- 3. Construction, sales and services.
- 4. Heliports.
- 5. Hospitals.
- 6. Light industrial, manufactured.
- 7. Light industrial, finished products.
- 8. Spectator sports facilities.
- 9. Vehicle fuel sales.
- 10. Utilities, major.
- 11. Wholesale storage and distribution:
 - a. Mini-warehouse.
 - b. Light.
- 12. All single-family homes, which were non-conforming structures and were damaged, whereby the cost of rebuilding the damaged portions would exceed 50 percent of the then current replacement cost of the entire building. Determination of rebuilding costs shall be per CDC 66.070(A).
- 13. Household hazardous waste depot.
- 14. Super stores.
- 15. Amusement enterprises.
- 16. Public agency administration.
- 17. Public safety facilities.
- 18. Public support facilities.
- 19. Recycle collection center.
- 20. Repealed by Ord. 1622.
- 21. Postal services.
- 22. Religious institutions not listed as permitted uses in CDC 19.030.
- 23. Schools (with under 200 students).
- 24. Transportation facilities (Type II). See CDC 60.090 for additional approval criteria.
- 25. Lodge, fraternal, community center and civic assembly not listed as permitted uses in CDC 19.030.
- 26. Extended hour businesses that include a new building or expansion of an existing structure. (Ord. 1192, 1987; Ord. 1339, 1992; Ord. 1463, 2000; Ord. 1523, 2005; Ord. 1590 § 1, 2009; Ord. 1604 §§ 16, 17, 2011; Ord. 1622 § 23, 2014; Ord. 1675 § 27, 2018; Ord. 1736 § 1 (Exh. A), 2022; Ord. 1745 § 1 (Exh. A), 2023)

No conditional uses are anticipated, but will be addressed under a separate application if required.

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.

Frontage length is 103' along Willamette Falls Drive and 83' along Broadway Street.

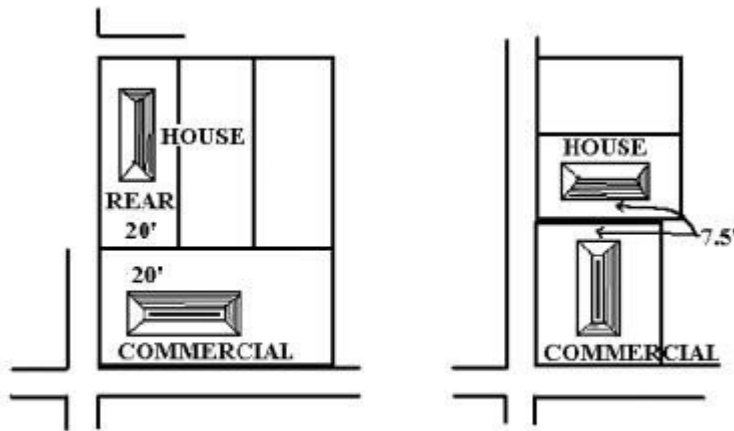
- 2. The average minimum lot width shall be 50 feet.

The non-uniform shape and multiple frontages of the lot makes measurement difficult, but the average lot width is approximately 98' (measured from the midpoint of the side property lines).

- 3. The average minimum lot depth shall not be less than 90 feet.

The average lot depth varies from 100' at the northwest property line to 35' at the southeast property line.

- 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.



**SETBACK OF ABUTTING HOUSE
DICTATES COMMERCIAL SETBACK**

The property does not abut any residential zones.

5. *The maximum lot coverage shall be 50 percent, except as provided in CDC 58.090(C)(1)(d).* The existing lot coverage for lot 06400 is 83.8% and is non-conforming. If the three contiguous lots (under the same ownership) of 06200, 06300 and 06400 are combined, they include 21,119 sf of area with 10,256 sf of building footprint for a total coverage of 48.6%. The process of consolidating these three lots has been initiated by the owners.

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.* The maximum building height is approximately 33.5' and is not located within 50' of any residential zones.

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.*

Willamette Falls Drive is considered a minor arterial per the city's Transportation System Plan. There is no setback of the primary building façade along WFD and the building actually extends over this property line by approximately 3'. Refer to Chapter 66, Non-conforming Structures.

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. (Ord. 1401, 1997; Ord. 1425, 1998; Ord. 1614 § 5, 2013; Ord. 1622 § 24, 2014; Ord. 1745 § 1 (Exh. A), 2023)*

The site is not within a PUD.

19.080 DIMENSIONAL REQUIREMENTS, CONDITIONAL USES

Except as may otherwise be established by this code, the appropriate lot or parcel size for a conditional use shall be determined by the approval authority at the time of consideration of the application based upon the criteria set forth in CDC 60.070(A) and (B). (Ord. 1636 § 15, 2014; Ord. 1745 § 1 (Exh. A), 2023)

Conditional use requirements are not applicable.

19.090 OTHER APPLICABLE DEVELOPMENT STANDARDS

A. *The following standards apply to all development including permitted uses:*

1. *Chapter 34 CDC, Accessory Structures, Accessory Dwelling Units, and Accessory Uses.*
2. *Chapter 35 CDC, Temporary Structures and Uses.*

3. Chapter 38 CDC, *Additional Yard Area Required; Exceptions to Yard Requirements; Storage in Yards; Projections into Yards.*
4. Chapter 41 CDC, *Building Height, Structures on Steep Lots, Exceptions.*
5. Chapter 42 CDC, *Clear Vision Areas.*
6. Chapter 44 CDC, *Fences.*
7. Chapter 46 CDC, *Off-Street Parking, Loading and Reservoir Areas.*
8. Chapter 48 CDC, *Access, Egress and Circulation.*
9. Chapter 52 CDC, *Signs.*
10. Chapter 54 CDC, *Landscaping.*

Chapter 42, Clear Vision Areas, Chapter 46 is addressed within this application.

B. The provisions of Chapter 55 CDC, Design Review, apply to all uses except detached single-family dwellings and approved conditional use applications pursuant to CDC 60.030(C). (Ord. 1590 § 1, 2009; Ord. 1635 § 14, 2014; Ord. 1675 § 28, 2018; Ord. 1736 § 1 (Exh. A), 2022; Ord. 1745 § 1 (Exh. A), 2023)
Chapter 55, Design Review is addressed within this application.

Chapter 42 CLEAR VISION AREAS

Sections:

42.020 CLEAR VISION AREAS REQUIRED, USES PROHIBITED

42.030 EXCEPTIONS

42.040 COMPUTATION; STREET AND ACCESSWAY 24 FEET OR MORE IN WIDTH

42.050 COMPUTATION; ACCESSWAY LESS THAN 24 FEET IN WIDTH

42.020 CLEAR VISION AREAS REQUIRED, USES PROHIBITED

A. A clear vision area shall be maintained on the corners of all property adjacent to an intersection as provided by CDC 42.040 and 42.050.

The property is adjacent to the intersection of Willamette Falls Drive and Broadway Street, although TL 06500 is technically between TL 06400 and the intersection on the south side.

B. A clear vision area shall contain no planting, fence, wall, structure or temporary or permanent obstruction (except for an occasional utility pole or tree) exceeding three feet in height, measured from the top of the curb, or, where no curb exists, from the street centerline grade, except that trees exceeding this height may be located in this area, provided all branches below eight feet are removed. (Ord. 1192, 1987)

A single tree is located between the building and the intersection; however, it is within the triangular section of the ROW, not on the development property.

42.030 EXCEPTIONS

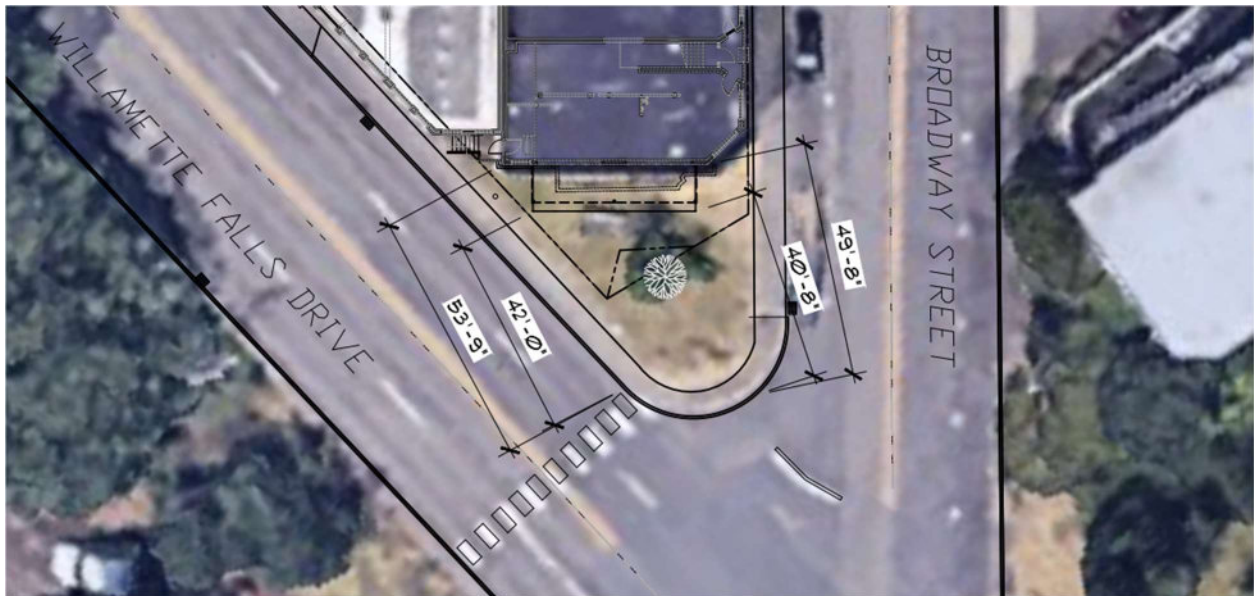
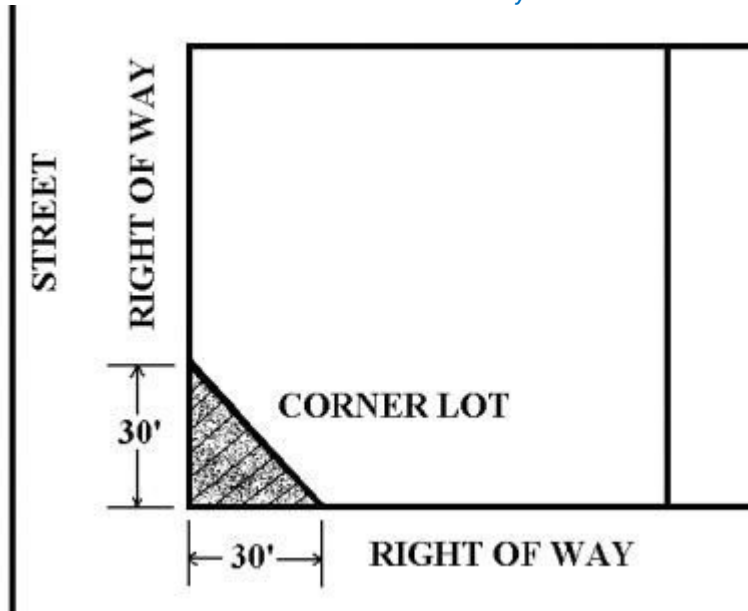
The following described area in Willamette shall be exempt from the provisions of this chapter. The units of land zoned General Commercial which abut Willamette Falls Drive, located between 10th and 16th Streets. Beginning at the intersection of Willamette Falls Drive and 11th Street on 7th Avenue to 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. (Ord. 1636 § 29, 2014)

No exceptions are applicable.

42.040 COMPUTATION; STREET AND ACCESSWAY 24 FEET OR MORE IN WIDTH

The clear vision area for all street intersections and street and accessway intersections (accessways having 24 feet or more in width) shall be that triangular area formed by the right-of-way or property lines

along such lots and a straight line joining the right-of-way or property line at points which are 30 feet distant from the intersection of the right-of-way line and measured along such lines.
 Clear vision area for corner lots and driveways 24 feet or more in width:

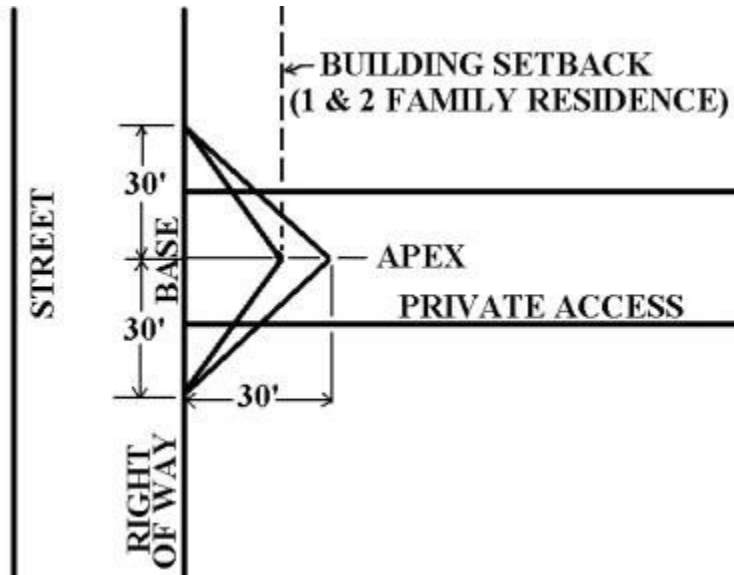


Due to the irregular lot and street configuration, the clear vision area is difficult to define. As represented in the diagram above, the building corners are well back of the stop line on Broadway Street and the striped pedestrian crossing on Willamette Falls Drive. Even with the proposed deck addition, there will be no obstructions to vehicles at this intersection.

42.050 COMPUTATION; ACCESSWAY LESS THAN 24 FEET IN WIDTH

The clear vision area for street and accessway intersections (accessways having less than 24 feet in width) shall be that triangular area whose base extends 30 feet along the street right-of-way line in both directions from the centerline of the accessway at the front setback line of a single-family and two-family residence, and 30 feet back from the property line on all other types of uses.

Clear vision area for corner lots and driveways less than 24 feet in width:



(Ord. [1291](#), 1990)

Chapter 46 **OFF-STREET PARKING, LOADING AND RESERVOIR AREAS**

No parking area modifications are proposed with this application. In addition, as noted in the Pre-Application Meeting Minutes, minimum parking mandates do not apply as the site is within ½ mile of a high frequency transit corridor.

Chapter 55 **DESIGN REVIEW**

Sections:

- 55.010 PURPOSE AND INTENT – GENERAL
- 55.020 CLASSES OF DESIGN REVIEW
- 55.025 EXEMPTIONS
- 55.030 ADMINISTRATION AND APPROVAL PROCESS
- 55.040 EXPIRATION OR EXTENSION OF APPROVAL
- 55.050 DESIGN REVIEW AMENDMENT TRIGGER
- 55.060 STAGED OR PHASED DEVELOPMENT
- 55.070 SUBMITTAL REQUIREMENTS
- 55.085 ADDITIONAL INFORMATION REQUIRED AND WAIVER OF REQUIREMENTS
- 55.090 APPROVAL STANDARDS – CLASS I DESIGN REVIEW – GENERAL/DISCRETIONARY
- 55.095 APPROVAL STANDARDS – CLASS I DESIGN REVIEW – RESIDENTIAL/CLEAR AND OBJECTIVE
- 55.100 APPROVAL STANDARDS – CLASS II DESIGN REVIEW – GENERAL/DISCRETIONARY
- 55.105 APPROVAL STANDARDS – CLASS II DESIGN REVIEW – RESIDENTIAL/CLEAR AND OBJECTIVE
- 55.110 SITE ANALYSIS
- 55.120 SITE PLAN

- 55.125 TRANSPORTATION ANALYSIS
- 55.130 GRADING AND DRAINAGE PLANS
- 55.140 ARCHITECTURAL DRAWINGS
- 55.150 LANDSCAPE PLAN
- 55.170 EXCEPTIONS TO UNDERLYING ZONE, YARD, PARKING, SIGN PROVISIONS, AND LANDSCAPING PROVISIONS
- 55.180 MAINTENANCE
- 55.190 SHARED OPEN SPACE
- 55.195 ANNEXATION AND STREET LIGHTS

55.010 PURPOSE AND INTENT – GENERAL

The purpose of the design review provisions is to establish a process and standards for the review of development proposals in order to conserve and enhance the appearance of the City and to promote functional, safe, and innovative site development. Attention will be paid to the proposal's scale, layout and design, its compatibility with the surrounding natural environment, and the character of the surrounding neighborhood or area. The intent is to ensure that there is general compatibility between adjoining uses, that private and common outdoor space is provided, that vehicular access and circulation are safe, and that areas of public use are made aesthetically attractive and safe. Also of concern are the needs of persons with disabilities.

Developers of multi-family, industrial, commercial, office, and public building projects are required to take steps to reduce reliance on the automobile by, in part, encouraging other modes of transportation such as transit, bicycles, and foot traffic, and through building orientation or location. (Ord. 1650 § 1 (Exh. A), 2016)

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, sculptures, 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.*
 10. *New development of a single-family detached dwelling (including a duplex, triplex, or quadplex), single-family attached dwelling (including a duplex, triplex, quadplex, or townhouse), or cottage cluster in the Willamette Neighborhood Mixed-Use Transitional Zone.*

The proposed development includes modifications to an existing commercial/residential mixed use building to improve the aesthetic and accessibility to the building. A proposed 348 sf deck addition represents approximately 3.7% of the existing building area. Based on this proposed scope of work, the development is subject to a Class I Design Review.

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). (Ord. 1547, 2007; Ord. 1604 § 50, 2011; Ord. 1622 § 20, 2014)

55.025 EXEMPTIONS

The following activities are exempt from the provisions of this chapter, except as indicated otherwise in the base zone or this chapter:

- A. Construction of new dwelling units, except for multiple family residential units, dwelling units that are part of a mixed-use building, manufactured home parks, and dwellings located within the Willamette Neighborhood Mixed Use Transitional Zone;*
- B. Accessory structures;*
- C. Architectural replacements in kind, or replacement of building materials that are equal or superior to existing materials (in terms of performance or quality) but that do not alter the architectural style of the structure. Retrofitted awnings, changes in color schemes, wall art, and freestanding statuary or art under five feet tall are exempt from design review, but shall be subject to Planning Director review under the provisions of CDC 99.060(A)(2), prescribed conditions, and the approval criteria of CDC 55.100(B)(6)(a) and (b). (Ord. 1408, 1998; Ord. 1604 § 51, 2011; Ord. 1675 § 43, 2018)*

The project includes two areas that qualify for DR exemption:

1. Improvements to the existing exterior wood awning, stairs and rails at the upper level apartments from the northwest side of the building. These will be replaced with a steel awning, concrete stairs and steel railings, which will provide increased strength, durability, weather protection and safety for residents and will be ADA compliant.
2. Improvements to the existing concrete stair at the south corner of the building. This new stair will be concrete and will include new steel railings as required by the building code and ADA. The existing stair projects into the ROW approximately 10 sf and the revised stair will reduce this projection to approximately 9 sf.

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.*
 - 2. A decision by the Planning Director may be reviewed by the City Council.*
- D. Substantial modifications made to the approved development plan will require reapplication (e.g., more or fewer lots, different architectural design, etc.). (Ord. 1474, 2001; Ord. 1597 § 14, 2010)*

PA 22-25 was held with the city on September 1, 2022 and a second pre-application meeting, PA 24-11 was held on June 6, 2024.

55.040 EXPIRATION OR EXTENSION OF APPROVAL

If substantial construction has not occurred within three years from the date of approval of the development plan, the approved proposal will be void, unless an extension is granted under CDC 99.325. (Ord. 1408, 1998; Ord. 1589 § 1 (Exh. A), 2010)

It is anticipated that construction will be completed within three years.

55.050 DESIGN REVIEW AMENDMENT TRIGGER

Amendments to design review shall be required when 10 percent or more of the housing type changes (e.g., from single-family units to multi-family units) from the tentatively approved design review plan, or when there is more than a 10 percent change in the number of units, or when the layout of streets and lots significantly changes, or adjusting more than 20 percent of the building footprint or site plan, or significant changes to the architecture that modify the style, mass, or result in elimination of significant design features. Changes in color or materials would not require an amendment unless the colors were non-earth tones and the materials were of poorer quality (for example, going from tile roof to composition roofing) than originally approved. Changes to the project/site plan to meet conditions of approval or legislative changes shall not trigger an amendment. (Ord. 1408, 1998)

It is understood that the extent of changes noted above would trigger a required DR revision.

55.060 STAGED OR PHASED DEVELOPMENT

The applicant may elect to develop the site in stages. Staged development shall be subject to the provisions of CDC 99.125.

The work included in this application will not be phased.

55.070 SUBMITTAL REQUIREMENTS

A. The design review application shall be initiated by the property owner or the owner's agent, or condemnor.

The application is being submitted by the property owners and authorized agent, Iselin Architects, PC.

B. A pre-application conference, per CDC 99.030(B), shall be a prerequisite to the filing of an application.

PA 22-25 was held with the city on September 1, 2022 and a second pre-application meeting, PA 24-11 was held on June 6, 2024.

C. Documentation of any required meeting with the respective City-recognized neighborhood association per CDC 99.038.

A Neighborhood meeting is not required.

D. The applicant shall submit a completed application form and:

1. The development plan for a Class I design review shall contain the following elements:

- a. A site analysis (CDC 55.110) only if the site is undeveloped;*
- b. A site plan (CDC 55.120);*
- c. Architectural drawings, including building envelopes and all elevations (CDC 55.140) only if exterior architectural construction, remodeling, or changes are proposed;*
- d. Tualatin Valley Fire & Rescue Service Provider Permit; and*
- e. Pursuant to CDC 55.085, additional submittal material may be required.*

One original application form must be submitted. One copy at the original scale and one copy reduced to 11 inches by 17 inches or smaller of all drawings and plans must be submitted. One copy of all other items must be submitted. The applicant shall also submit one copy of the complete application in a digital format acceptable to the City. When the application submittal is determined to be complete, additional copies may be required as determined by the Community Development Department.

All materials required for a Class I Design Review are included in the DR application package.

2. The development plan for a Class II design review shall contain the following elements:

- a. A site analysis (CDC 55.110);*
- b. A site plan (CDC 55.120);*
- c. A grading plan (CDC 55.130);*

- d. Architectural drawings, indicating floor plan and elevation (CDC 55.140);
- e. A landscape plan (CDC 55.150);
- f. A utility plan appropriate to respond to the approval criteria of CDC 55.100(I)(1) through (5) relating to streets, drainage, municipal water, sanitary sewers, solid waste, and recycling storage;
- g. A light coverage plan with photometric data, including the location and type of outdoor lighting, with specific consideration given to compliance with CDC 55.100(J) pertaining to crime prevention and, if applicable, CDC 46.150(A)(13) pertaining to parking lot lighting;
- 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; and
- i. Documents as required per the Tree Technical Manual.
- j. Tualatin Valley Fire & Rescue Service Provider Permit.

The application will be reviewed as a Class I Design Review.

- 3. A narrative, based on the standards contained in this code, which supports any requested exceptions as provided under CDC 55.170.

Narrative responses have been provided for all applicable code sections.

- 4. Submit full written responses to approval criteria of CDC 55.100 for Class II design review, or CDC 55.090 for Class I design review, plus all applicable referenced approval criteria.

Narrative responses have been provided for all applicable code sections.

- E. The applicant shall submit samples of all exterior building materials and colors in the case of new buildings or building remodeling.

An Exterior Building Materials Schedule with images and colors has been provided.

- F. The applicant shall pay the required deposit and fee. (Ord. 1401, 1997; Ord. 1408, 1998; Ord. 1442, 1999; Ord. 1613 § 11, 2013; Ord. 1621 § 25, 2014; Ord. 1622 § 14, 2014)

The required fee will be paid as directed by the city.

55.085 ADDITIONAL INFORMATION REQUIRED AND WAIVER OF REQUIREMENTS

- A. For applications subject to discretionary review, the Planning Director may require additional information as part of the application subject to the provisions of CDC 99.035(A).
- B. For applications subject to discretionary review, the Planning Director may waive any requirements for the application subject to the provisions of CDC 99.035(B) and (C).

The applicant will provide additional material as may be requested by city staff.

55.090 APPROVAL STANDARDS – CLASS I DESIGN REVIEW – GENERAL/DISCRETIONARY

The Planning Director shall make a finding with respect to the following criteria when approving, approving with conditions, or denying a Class I design review application:

- A. The provisions of the following sections shall be met:
 - 1. CDC 55.100(B)(1) through (4), Relationship to the natural and physical environment, shall apply except in those cases where the proposed development site is substantially developed and built out with no remaining natural physical features that would be impacted.
 - 2. CDC 55.100(B)(5) and (6), architecture, et al., shall only apply in those cases that involve exterior architectural construction, remodeling, or changes.
 - 3. Pursuant to CDC 55.085, the Director may require additional information and responses to additional sections of the approval criteria of this section depending upon the type of application.
 - 4. The design standards or requirements identified in the base zone shall apply.

Refer to responses to the applicable sections of CDC 55.100 below and responses to Chapter 19 – General Commercial zone previously addressed.

B. An application may be approved only if adequate public facilities, as defined in CDC 2.030 and pursuant to CDC 55.100(l), Public facilities, will be available to provide service to the property at the time of occupancy.

Refer to responses to 55.100 (l) below.

C. The Planning Director shall determine the applicability of the approval criteria in subsection A of this section. (Ord. 1408, 1998; Ord. 1544, 2007; Ord. 1675 § 44, 2018; Ord. 1745 § 1 (Exh. A), 2023)

55.100 APPROVAL STANDARDS – CLASS II DESIGN REVIEW – GENERAL/DISCRETIONARY

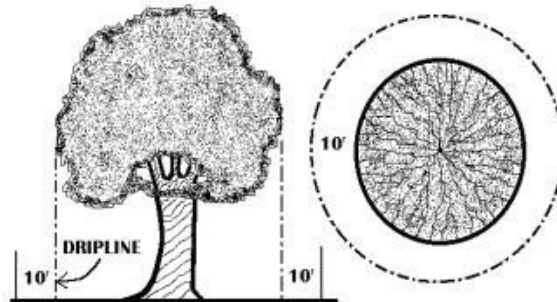
B. Relationship to the natural and physical environment.

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.

No heritage trees exist on the site.

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.

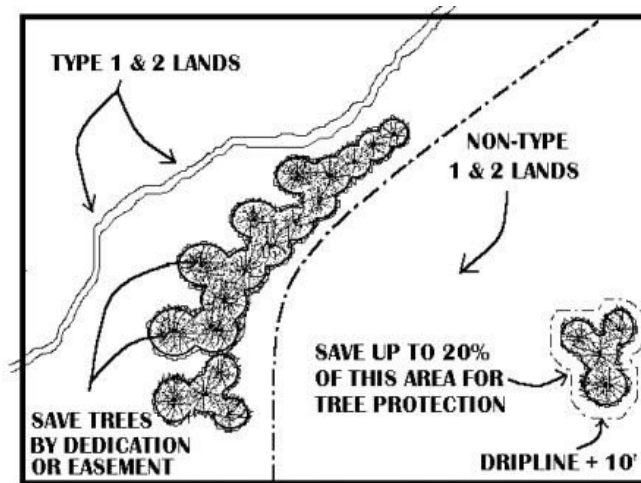
a. Non-residential and residential projects on Type I and II lands shall protect all heritage trees and all significant trees and tree clusters by limiting development in the protected area. The protected area includes the protected tree, its dripline, and an additional 10 feet beyond the dripline, as depicted in the figure below. Development of Type I and II lands shall require the careful layout of streets, driveways, building pads, lots, and utilities to avoid heritage trees and significant trees and tree clusters, and other natural resources pursuant to this code. The method for delineating the protected trees or tree clusters (“dripline plus 10 feet”) is explained in subsection (B)(2)(b) of this section. Exemptions of subsections (B)(2)(c), (e), and (f) of this section shall apply.



PROTECTED AREA = DRIPLINE + 10 FEET

b. Non-residential and residential projects on non-Type I and II lands shall set aside up to 20 percent of the protected areas for significant trees and tree clusters, plus any heritage trees. Therefore, in the event that the City Arborist determines that a significant tree cluster exists at a development site, then up to 20 percent of the non-Type I and II lands shall be devoted to the protection of those trees by limiting development in the protected areas. The exact percentage is determined by establishing the driplines of the trees or tree clusters that are to be protected. In order to protect the roots which typically extend further, an additional 10-foot measurement beyond the dripline shall be added. The square footage of the area inside this “dripline plus 10 feet” measurement shall be the basis for calculating the percentage (see figure below). The City Arborist will identify which tree(s) are to be protected. Development of non-Type I and II lands

shall also require the careful layout of streets, driveways, building pads, lots, and utilities to avoid significant trees, tree clusters, heritage trees, and other natural resources pursuant to this code. Exemptions of subsections (B)(2)(c), (e), and (f) of this section shall apply. Please note that in the event that more than 20 percent of the non-Type I and II lands comprise significant trees or tree clusters, the developer shall not be required to save the excess trees, but is encouraged to do so.



METHOD OF PERCENTAGE CALCULATION

E.G., DRIPLINE + 10 FT. AREA = 2,500 SQ. FT. OR 18% OF TOTAL NON-TYPE I AND II LAND DENSITY CALCULATIONS FOR THIS PARCEL WILL BE BASED ON REMAINING NET SQ. FOOTAGE OF SITE (EXCLUDING THE 2,500 SQ. FT.)

c. Where stubouts of streets occur on abutting properties, and the extension of those streets will mean the loss of significant trees, tree clusters, or heritage trees, it is understood that tree loss may be inevitable. In these cases, the objective shall be to minimize tree loss. These provisions shall also apply in those cases where access, per construction code standards, to a lot or parcel is blocked by a row or screen of significant trees or tree clusters.

d. For both non-residential and residential development, the layout shall achieve at least 70 percent of maximum density for the developable net area. The developable net area excludes all Type I and II lands and up to 20 percent of the remainder of the site for the purpose of protection of stands or clusters of trees as defined in subsection (B)(2) of this section.

e. For arterial and collector street projects, including Oregon Department of Transportation street improvements, the roads and graded areas shall avoid tree clusters where possible. Significant trees, tree clusters, and heritage tree loss may occur, however, but shall be minimized.

f. If the protection of significant tree(s) or tree clusters is to occur in an area of grading that is necessary for the development of street grades, per City construction codes, which will result in an adjustment in the grade of over or under two feet, which will then threaten the health of the tree(s), the applicant will submit evidence to the Planning Director that all reasonable alternative grading plans have been considered and cannot work. The applicant will then submit a mitigation plan to the City Arborist to compensate for the removal of the tree(s) on an "inch by inch" basis (e.g., a 48-inch Douglas fir could be replaced by 12 trees, each four-inch). The mix of tree sizes and types shall be approved by the City Arborist.

No heritage trees, clusters of trees or significant trees exist on the site.

3. The topography and natural drainage shall be preserved to the greatest degree possible.

The project is limited to building improvements. There will be no modifications or impacts to the existing topography or drainage patterns.

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.*

The site is identified as “moderate” for landslide susceptibility exposure on the city’s Natural Hazards Mitigation Plan. The building is existing and proposed structural foundation modifications are anticipated to be limited to spot footings as required to support the new deck and new footings and foundations at the new exterior stairways.

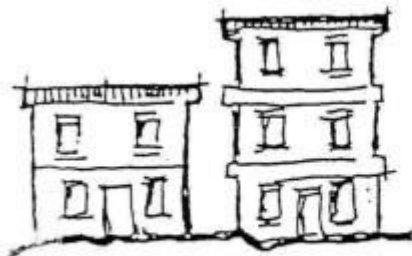
5. *There shall be adequate distance between on-site buildings and on-site and off-site buildings on adjoining properties to provide for adequate light and air circulation and for fire protection.*

The building sits approximately 2.5’ from the property line to the northwest and approximately 5.5’ from the apartment building on the adjacent lot. The only work proposed on this side of the building is the replacement of the existing exterior stairway accessing the residential units on the upper floor, the reason for which is to repair deteriorating materials and improve access and safety.

There are no other buildings adjacent to any other building facades.

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.*



contextual design



contrasting design

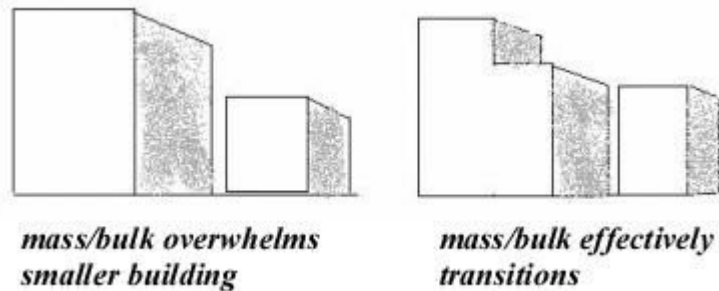
This building is significant based on it being part of the original West Linn city center, along with the historic city hall and apartments and small mixed use buildings adjacent to the bridge. The scale and character of all of these buildings is similar and representative of their original prominence as part of the commercial core. The apartment buildings adjacent to and across the street from the site, built roughly 40 years later as a single structure and subsequently broken into two separate buildings, are comparable in scale, but do not reflect similar character.

Building form and massing will not be significantly altered. Window openings will be enlarged primarily within the constraints of original masonry openings, along with minor modifications to other existing openings.

The introduction of the vertical wood siding to the single-story portion of the building is being proposed for multiple reasons. It will cover the uneven and poorly patched plaster finish, which is beyond adequate repair with just a skim coat of additional plaster. It will also replace the T1-11 wood panel siding currently installed at the gable wall sections on the northwest side of the building. The new siding will provide a clean, updated appearance to the building and will be installed over furring strips to provide a weather protective rainscreen to the envelope. The siding will be

complimentary to the wood sided apartment building on the adjacent lot and other residential buildings in the neighborhood.

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.



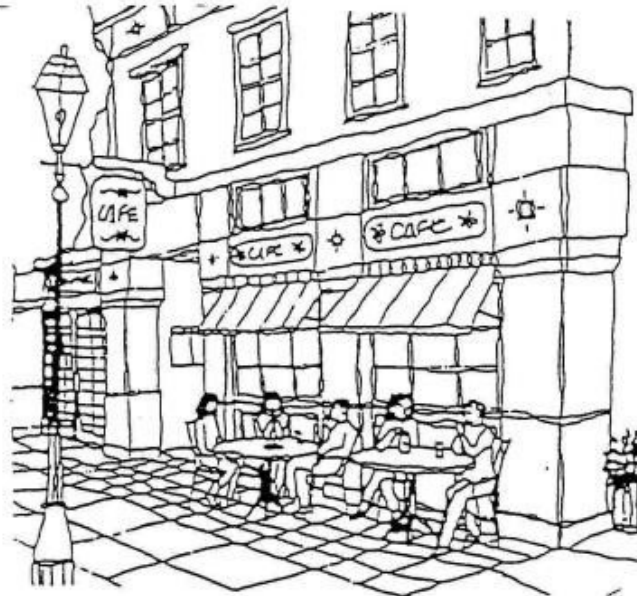
In addition to the building’s historic significance, it is unique and iconic in its placement on a sloped lot overlooking the Willamette River and Oregon City and prominent in its somewhat isolated location in the center of multiple streets, bridges and highways. The southeast façade is highly visible from the intersection of Willamette Falls Drive and Willamette Drive, but presents a mostly solid wall on the main level. The addition of the two glazed overhead door openings and deck will open the building on its most visible façade and provide exceptional views. The deck will also serve to step the building down to follow the natural slope of the property.

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.

Aside from the adjacent apartment, this building is separated from all other developments by substantial roadways and I-205, making it essentially independent. The proposed modifications will not significantly alter the architectural style.

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.

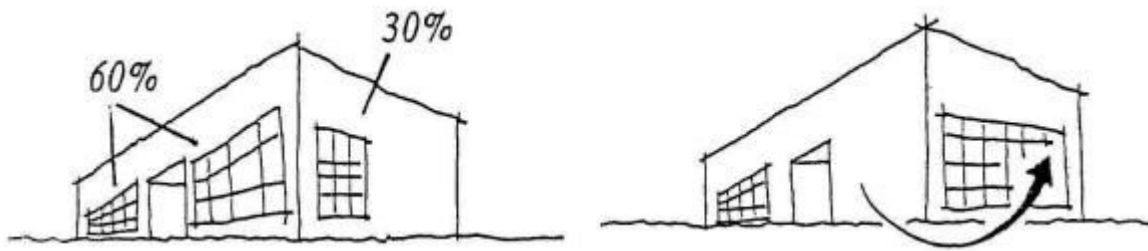
The human scale is enhanced by bringing the building and its main entrance up to the edge of the sidewalk. It creates a more dramatic and interesting streetscape and improves the “height and width” ratio referenced in this section.



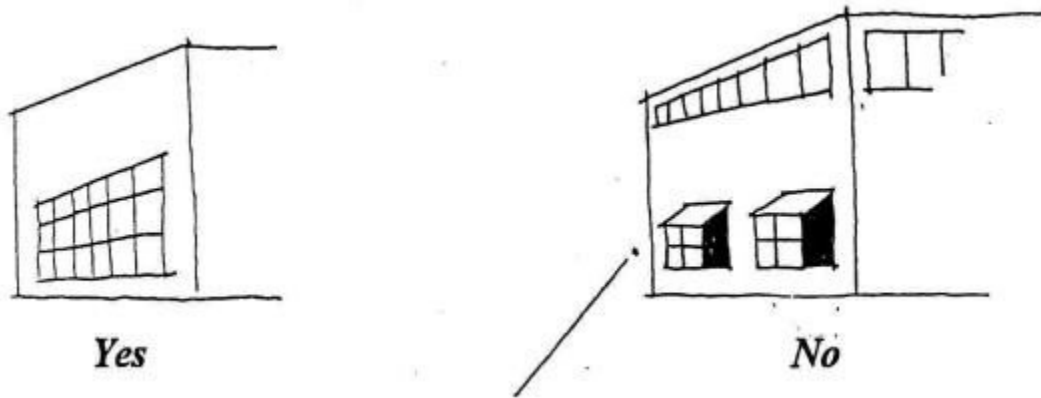
human scale is captured in this example

The new overhead doors, deck and awning will help to reduce the apparent mass of the southeast elevation and transition the building to a more human scale. The deck will provide an enhanced connection between the activity within the building and the sidewalks along both Willamette Falls Drive and Broadway Street. The new awning will reduce the apparent height of the building from approximately 33'-6" above grade to 19'.

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.



60 percent of lineal street facing or main elevation is windows. 30 percent of one side elevation is windows. You may transfer windows from the side to front, or vice versa.



(Windows not at eye level and/or not flush with building.)

On all facades, except for the northwest (facing the apartment building), the window area will be increased with the proposed improvements.

	<u>Existing</u>	<u>Proposed</u>
South:	53%	76%
Southeast:	21%	67%
Northeast:	69%	71%

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.

The roof line and depth/indentation of the building facades will not be altered as part of the proposed work. The maximum length of any building elevation is 100' and is located at the back of the building.

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.

New awnings will be added at the new deck and at the upper level entrance to the apartments. The awning at the deck will be 8' deep and will provide sun and rain protection for the deck and perimeter area within the building. The deck at the apartment entrance will remain 5' deep as it is limited due to the proximity of the adjacent apartment building, but will still provide weather protection.

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



trees, awnings, and building orientation enhance micro-climate

The increase in glazing area on the building facades and the addition of the deck, awnings and glazed overhead door openings will significantly improve the pedestrian connection to the building, helping to draw people into the businesses within. In addition, the revised exterior stairway at the southwest corner of the building will provide the potential for a direct connection from multiple tenant spaces to the sidewalk along Willamette Falls Drive.

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. No uses of the exterior sidewalks are proposed as part of this application; however, the addition of the deck will provide great potential for a future eating and drinking venue to expand to the exterior spaces.

1. Public facilities. An application may only be approved if adequate public facilities, as defined in CDC 2.030, will be available to provide service to the property prior to occupancy.

1. In situations where the level-of-service or volume-to-capacity performance standard for an affected City or State roadway is currently failing or projected to fail to meet the standard at a date determined within a Transportation Impact Analysis, and an improvement project is not programmed, the development shall avoid further degradation of the affected transportation facility. Mitigation must be provided to bring the facility performance standard to existing conditions at the time of occupancy.

The proposed application is for building shell improvements only and will have no impact on public facilities. Adequacy of existing roads and facilities will be addressed at the time building occupants are determined and permits are requested.

2. 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. In determining the appropriate sizing of the street in commercial, office, multi-family, and public settings, the street should be the minimum necessary to accommodate anticipated traffic load and needs and should provide substantial accommodations for pedestrians and bicyclists. Road and driveway alignment should consider and mitigate impacts on adjacent properties and in neighborhoods in terms of increased traffic loads, noise, vibrations, and glare.

The realignment or redesign of roads shall consider how the proposal meets accepted engineering standards, enhances public safety, and favorably relates to adjacent lands and land uses. Consideration should also be given to selecting an alignment or design that minimizes or avoids hazard areas and loss of significant natural features (drainageways, wetlands, heavily forested areas, etc.) unless site mitigation can clearly produce a superior landscape in terms of shape, grades, and reforestation, and is fully consistent with applicable code restrictions regarding resource areas. Streets shall be installed per Chapter 85 CDC standards. The City Engineer has the authority to require that street widths match adjacent street widths. Sidewalks shall be installed per CDC 85.200(A)(3) for commercial and office projects, and CDC 85.200(A)(16) and 92.010(H) for residential projects, and applicable provisions of this chapter. Where streets bisect or traverse water resource areas (WRAs) the street width shall be reduced to the appropriate "constrained" cross-section width indicated in the TSP or alternate configurations which are appropriate to site conditions, minimize WRA disturbance or are consistent with an adopted transportation system plan. The street design shall also be consistent with habitat friendly provisions of CDC 32.060(I). Based upon the City Manager's or Manager's designee's determination, the applicant shall construct or cause to be constructed, or contribute a proportionate share of the costs, for all necessary off-site improvements identified by the transportation analysis commissioned to address CDC 55.125 that are required to mitigate impacts from the proposed development. Proportionate share of the costs shall be determined by the City Manager or Manager's designee, who shall assume that the proposed development provides improvements in rough proportion to identified impacts of the development.

The proposed application is for building shell improvements only. No site modifications are proposed with the exception of the minor patching of the two vehicular curb cuts that are not currently or will not be utilized based on the proposed scope of work. Existing vehicular access, parking and sidewalk configuration will remain the same.

No building addition, other than the 348 sf deck, is proposed. The existing residential units will remain and the main level will likely continue to be utilized for some office and/or retail occupancies, resulting in no increase in the intensity of the use. Requirements necessitated by potential change in use will be addressed in a future application.

3. *Storm detention and treatment and geologic hazards. Per the submittals required by CDC 55.130 and 92.010(E), all proposed storm detention and treatment facilities must comply with the standards for the improvement of public and private drainage systems located in the West Linn Public Works Design Standards, there will be no adverse off-site impacts caused by the development (including impacts from increased intensity of runoff downstream or constrictions causing ponding upstream), and the applicant must provide sufficient factual data to support the conclusions of the submitted plan.*

Per the submittals required by CDC 55.130(E), the applicant must demonstrate that the proposed methods of rendering known or potential hazard sites safe for development, including proposed geotechnical remediation, are feasible and adequate to prevent landslides or other damage to property and safety. The review authority may impose conditions, including limits on type or intensity of land use, which it determines are necessary to mitigate known risks of landslides or property damage.

No stormwater improvements are proposed as there will be no increase in building area and the increase in impervious area will be limited to 284 sf of new awning. The deck will be constructed with spaced deck boards. No increased stormwater demand will be generated.

It is not clear if or where existing roof drains are connected to the public system, but there is a catch basin on adjacent lot 6300 and catch basins in the ROW along Willamette Falls Drive and Broadway Street, below the elevation of the building.

There are no geologic hazards identified on West Linn Maps or within the Comprehensive Plan, impacting the site.

4. 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.

City water service is provided from a main in Willamette Falls Drive and has been adequate for the previous commercial and residential uses. When new main level tenants are identified, the water usage needs will be evaluated and any necessary upgrades will be determined and designed by a civil engineer.

5. 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.

Sanitary sewer connects from the southwest corner of the building to the public system in Willamette Falls Drive. There are no known problems with the existing system based on the previous commercial and residential usage. When new main level tenants are identified, the sanitary sewer requirements will be evaluated and any necessary upgrades will be determined and designed by a civil engineer.

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

Currently, garbage collection is shared between the mixed use building and the apartment on the adjacent lot. A garbage dumpster of roughly three cubic yard capacity and multiple small recycle bins are located on lot 6200. When new main level tenants are identified, the garbage and recycling needs will be evaluated and an appropriately sized enclosure will be provided.

55.110 SITE ANALYSIS

The site analysis shall include:

- A. *A vicinity map showing the location of the property in relation to adjacent properties, roads, pedestrian and bike ways, transit stops and utility access.*
- B. *A site analysis on a drawing at a suitable scale (in order of preference, one inch equals 10 feet to one inch equals 30 feet) which shows:*
 1. *The property boundaries, dimensions, and gross area.*
 2. *Contour lines at the following minimum intervals:*
 - a. *Two-foot intervals for slopes from zero to 25 percent; and*
 - b. *Five- or 10-foot intervals for slopes in excess of 25 percent.*
 3. *Tables and maps identifying acreage, location and type of development constraints due to site characteristics such as slope, drainage and geologic hazards, including a slope analysis which identifies portions of the site according to the land types (I, II, III and IV) defined in Chapter 02 CDC.*
 4. *The location and width of adjoining streets.*
 5. *The drainage patterns and drainage courses on the site and on adjacent lands.*
 6. *Potential natural hazard areas including:*
 - a. *Floodplain areas pursuant to the site's applicable FEMA Flood Map panel;*
 - b. *Water resource areas as defined by Chapter 32 CDC;*
 - c. *Landslide areas designated by the Natural Hazard Mitigation Plan, Map 16; and*
 - d. *Landslide vulnerable analysis areas, designated by the Natural Hazard Mitigation Plan, Map 17.*
 7. *Resource areas including:*
 - a. *Wetlands;*
 - b. *Riparian corridors;*
 - c. *Streams, including intermittent and ephemeral streams;*
 - d. *Habitat conservation areas; and*
 - e. *Large rock outcroppings.*
 8. *Potential historic landmarks and registered archaeological sites. The existence of such sites on the property shall be verified from records maintained by the Community Development Department and other recognized sources.*

9. Identification information including the name and address of the owner, developer, project designer, lineal scale and north arrow.
10. Identify Type I and II lands in map form. Provide a table which identifies square footage of Type I and II lands also as percentage of total site square footage. (Ord. 1408, 1998; Ord. 1425, 1998; Ord. 1442, 1999; Ord. 1463, 2000; Ord. 1526, 2005; Ord. 1544, 2007; Ord. 1565, 2008; Ord. 1590 § 1, 2009; Ord. 1613 § 13, 2013; Ord. 1621 § 25, 2014; Ord. 1635 § 27, 2014; Ord. 1636 § 38, 2014; Ord. 1662 § 9, 2017)

An Existing Conditions Map is provided with the drawings and includes the information requested.

55.120 SITE PLAN

The site plan shall be at the same scale as the site analysis (CDC 55.110) and shall show:

- A. The applicant's entire property and the surrounding property to a distance sufficient to determine the relationship between the applicant's property and proposed development and adjacent property and development.
- B. Boundary lines and dimensions for the perimeter of the property and the dimensions for all proposed lot or parcel lines.
- C. Streams and stream corridors.
- D. Identification information, including the name and address of the owner, developer, project designer, lineal scale and north arrow.
- E. The location, dimensions, and names of all existing and proposed streets, public pathways, easements on adjacent properties and on the site, and all associated rights-of-way.
- F. The location, dimensions and setback distances of all:
 1. Existing and proposed structures, improvements, and utility facilities on site; and
 2. Existing structures and driveways on adjoining properties.
- G. The location and dimensions of:
 1. The entrances and exits to the site;
 2. The parking and circulation areas;
 3. Areas for waste disposal, recycling, loading, and delivery;
 4. Pedestrian and bicycle routes, including designated routes, through parking lots and to adjacent rights-of-way;
 5. On-site outdoor recreation spaces and common areas;
 6. All utilities, including stormwater detention and treatment; and
 7. Sign locations.
- H. The location of areas to be landscaped. (Ord. 1442, 1999; Ord. 1613 § 14, 2013; Ord. 1622 § 28, 2014; Ord. 1636 § 39, 2014)

An architectural Site Plan is provided and includes all of the general site information including new and existing site development, dimensions, property lines, parking and general information.

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). (Ord. 1584, 2008)

Because this application is for building shell upgrades only and no change in occupancy is incorporated, a Traffic Impact Analysis is not applicable.

55.130 GRADING AND DRAINAGE PLANS

The following requirements apply to Type I, II and III lands (refer to definitions in Chapter 02 CDC). A registered civil engineer must prepare a grading plan and a storm detention and treatment plan pursuant to CDC 92.010(E), at a scale sufficient to evaluate all aspects of the proposal, and a statement that demonstrates:

- A. The location and extent to which grading will take place indicating general contour lines consistent with CDC 55.110(B)(2), slope ratios, slope stabilization proposals, and location and height of retaining walls, if proposed.
- B. All proposed storm detention and treatment facilities comply with the standards for the improvement of public and private drainage systems located in the West Linn Public Works Design Standards.

- C. *There is sufficient factual data to support the conclusions of the plan.*
- D. *Per CDC 99.035, the Planning Director may require the information in subsections A, B and C of this section for Type IV lands if the information is needed to properly evaluate the proposed site plan.*
- E. *For Type I, II and III lands (refer to definitions in Chapter 02 CDC), the applicant must provide a geologic report, with text, figures and attachments as needed to meet the industry standard of practice, prepared by a certified engineering geologist and/or a geotechnical professional engineer, that includes:*
 - 1. *Site characteristics, geologic descriptions and a summary of the site investigation conducted;*
 - 2. *Assessment of engineering geological conditions and factors;*
 - 3. *Review of the City of West Linn's Natural Hazard Mitigation Plan and applicability to the site; and*
 - 4. *Conclusions and recommendations focused on geologic constraints for the proposed land use or development activity, limitations and potential risks of development, recommendations for mitigation approaches and additional work needed at future development stages including further testing and monitoring.*
- F. *Identification information, including the name and address of the owner, developer, project designer, and the project engineer. (Ord. 1463, 2000; Ord. 1613 § 15, 2013; Ord. 1622 § 28, 2014; Ord. 1662 § 10, 2017)*

No site development, grading or drainage alterations are included in this application.

55.140 ARCHITECTURAL DRAWINGS

Architectural drawings shall be submitted showing:

- A. *Building elevations and sections tied to curb elevation;*
- B. *Building materials: color and type; and*
- C. *The name of the architect or designer. (Ord. 1408, 1998; Ord. 1613 § 16, 2013)*

Architectural drawings and an Exterior Building Materials Schedule are provided.

55.150 LANDSCAPE PLAN

- A. *The landscape plan shall be prepared and shall show the following:*
 - 1. *Preliminary underground irrigation system, if proposed;*
 - 2. *The location and height of fences and other buffering of screening materials, if proposed;*
 - 3. *The location of terraces, decks, patios, shelters, and play areas, if proposed;*
 - 4. *The location, size, and species of the existing and proposed plant materials, if proposed; and*
 - 5. *Building and pavement outlines.*
- B. *The landscape plan shall be accompanied by:*
 - 1. *The erosion controls that will be used, if necessary;*
 - 2. *Planting list; and*
 - 3. *Supplemental information as required by the Planning Director or City Arborist. (Ord. 1408, 1998; Ord. 1613 § 17, 2013)*

No site development or landscape modifications are included in this application.

55.170 EXCEPTIONS TO UNDERLYING ZONE, YARD, PARKING, SIGN PROVISIONS, AND LANDSCAPING PROVISIONS

- A. *Applicability.* *The following exceptions are not available to applicants using the Residential/Clear and Objective Class I or II design review criteria in CDC 55.095 or 55.105. They are only available to applicants for residential development if electing to use the discretionary criteria contained in CDC 55.090 or 55.100.*
- B. *The Planning Director may grant an exception to the dimensional building setback or yard requirements in the applicable zone based on findings that the approval will satisfy the following criteria:*
 - 1. *A minor exception that is not greater than 20 percent of the required setback dimension.*
 - 2. *A more efficient use of the site.*
 - 3. *The preservation of natural features that have been incorporated into the overall design of the project.*
 - 4. *No adverse affect to adjoining properties in terms of light, air circulation, noise levels, privacy, and fire hazard.*
 - 5. *Safe vehicular and pedestrian access to the site and safe on-site vehicular and pedestrian circulation.*
- C. *The Planning Director may grant an exception to the off-street parking dimensional and minimum number of space requirements in the applicable zone so long as the following criteria are met:*

1. The minor exception is not greater than 10 percent of the required parking;
2. The application is for a use designed for a specific purpose which is intended to be permanent in nature (for example, a nursing home) and which has a low demand for off-street parking; or
3. There is an opportunity for sharing parking and there is written evidence that the property owners are willing to enter into a legal agreement; or
4. Public transportation is available to the site reducing the standards and will not adversely affect adjoining uses, and there is a community interest in the preservation of particular natural feature(s) of the site which make it in the public interest to grant an exception to parking standards.

D. The Planning Director may grant an exception to the sign dimensional requirements in the applicable zone when the following criteria are met:

1. The minor exception is not greater than 10 percent of the required applicable dimensional standard for signs;
2. The exception is necessary for adequate identification of the use on the property; and
3. The sign will be compatible with the overall site plan, the structural improvements, and with the structures and uses on adjoining properties.

E. The Planning Director may grant an exception to the landscaping requirements in the applicable zone based on findings that the following criteria will be met:

1. A minor exception that is not greater than 10 percent of the required landscaped area.
2. A more efficient use of the site.
3. The preservation of natural features that have been incorporated into the overall design of the project.
4. No adverse effect to adjoining property.

No exceptions are requested.

55.180 MAINTENANCE

All on-site improvements shall be the ongoing responsibility of the property owner or occupant.

All on-site improvements will be maintained by the property owners.

55.195 ANNEXATION AND STREET LIGHTS

As a condition of approval for design review for any project that is being annexed to the City, the developer and/or homeowners association shall pay for all expenses related to street light energy and maintenance costs until annexed into the City. The approval for any property annexed must state: "This approval is contingent on voter approval of annexation of the subject property." This means that no permit, final plat, or certificate of occupancy may be issued or approved until annexation is complete. (Ord. 1442, 1999; Ord. 1604 § 53, 2011)

The site is within the city limits and annexation is not required.

Chapter 66 NON-CONFORMING STRUCTURES

Sections:

66.010 PURPOSE

66.030 EXCEPTIONS

66.040 DETERMINATION OF STATUS

66.050 STATUS OF NON-CONFORMING STRUCTURES

66.060 DISCONTINUANCE OR CHANGE OF CONFORMING USE IN A NON-CONFORMING STRUCTURE

66.070 DESTRUCTION, MOVEMENT OF STRUCTURES

66.080 ENLARGEMENT OF OR ALTERATION TO A NON-CONFORMING STRUCTURE: PROCESS AND APPROVAL STANDARDS

66.090 NON-CONFORMING STRUCTURE UNSUITED FOR A CONFORMING USE

66.100 BUILDING PERMITS FOR AN APPROVED NON-CONFORMING STRUCTURE

66.010 PURPOSE

The zones applied within the City after the effective date of this code may cause some existing structures to become non-conforming in terms of meeting the zone lot coverage, setback, parking, building height, or landscaping requirements. The purpose of this chapter is to permit these non-conforming structures to be used until they are destroyed or made conforming.

66.030 EXCEPTIONS

- A. The provisions of this chapter do not apply to lawful pre-existing single-family dwellings except that the enlargement of or alterations to a single-family dwelling shall be as provided by CDC [66.080](#).*
- B. A structure for which a variance was granted under the zoning provisions in effect prior to the effective date of this code is not considered non-conforming solely due to the fact that the structure for which the variance was granted fails to comply with the requirements of this code. The existence of such a variance does not prevent the structure from being classified as non-conforming if some other characteristics of the use or structure fail to comply with the requirements of this chapter. (Ord. [1590](#) § 1, 2009)*

No exceptions apply.

66.040 DETERMINATION OF STATUS

- A. The Planning Director shall make a determination regarding non-conforming status without giving notice.*
- B. However, upon application and payment of fees, the determination by the Planning Director of the non-conforming status may be appealed to the Planning Commission sitting as a fact-finding body pursuant to CDC [103.040](#).*
- C. A petition for review by the Council sitting as a fact-finding body may be taken pursuant to CDC [103.090](#).*

The existing building is non-conforming due to a 3' encroachment over the Right of Way along Willamette Falls Drive and a 4" encroachment into the alley.

66.050 STATUS OF NON-CONFORMING STRUCTURES

A non-conforming structure may be maintained although it does not conform to the provisions of the applicable zone in which it is located subject to the provisions of CDC [66.060](#) through [66.100](#).

Refer to individual responses below.

66.060 DISCONTINUANCE OR CHANGE OF CONFORMING USE IN A NON-CONFORMING STRUCTURE

Should the owner or occupant discontinue or change the use of a non-conforming structure, it shall be unlawful and a violation of this code to begin or maintain such altered use until the off-street parking spaces and loading area requirements of Chapter [46](#) CDC and the access, egress, and circulation requirements of Chapter [48](#) CDC are met, or until the appropriate approval authority under Chapter [99](#) CDC has approved the change.

No change of use is proposed as part of this application. The current application is for building shell improvements only. Any potential change of use for the building would be addressed in a future application and would include any appropriate and required upgrades to the site and parking.

66.070 DESTRUCTION, MOVEMENT OF STRUCTURES

- A. If a non-conforming structure is damaged or destroyed by any means to the extent that the cost of rebuilding the damaged portions would exceed 50 percent of the then current replacement cost of the entire building, the rebuilding shall conform fully to City codes and standards. Determination of the rebuilding costs shall be made by the Building Official, who may utilize an appraisal to determine current replacement costs. If the damage is 50 percent or less, the rebuilding or reconstruction shall be commenced within one year of the date of damage or destruction, and shall be completed within two years. Under such circumstances, the reconstruction shall comply with the terms of this code.*
- B. Should such a structure be moved for any reason for any distance whatever, excluding elevating the structure to construct or replace the foundation, it shall thereafter conform to the regulations for the zone in which it is newly located.*

Demolition or relocation of the building is not proposed.

66.080 ENLARGEMENT OF OR ALTERATION TO A NON-CONFORMING STRUCTURE: PROCESS AND APPROVAL STANDARDS

A. *An enlargement of or alteration to a non-conforming structure containing a non-conforming use may be permitted subject to review and approval by the Planning Commission under the provisions of CDC 99.060(B) and CDC 65.120 through 65.140.*

The existing or previously existing uses within the building are allowed within the zone. The proposed application includes building shell improvements only and does not include any proposed change of use.

B. *An enlargement or alteration to a non-conforming structure containing a conforming use may be permitted subject to the following:*

1. *If the enlargement, in and of itself, meets all provisions of this code, the enlargement will be permitted. This exception does not preclude design review or other applicable provisions of this code.*
2. *If the enlargement, in and of itself, does not meet all provisions of the code, review and approval by the Planning Director for single-family structures, and by the Planning Commission for non-single-family structures under the provisions of CDC 99.060(B) is required subject to the following standards.*
 - a. *The enlargement or alteration will not change the non-conformity; and*
 - b. *All other applicable ordinance provisions will be met. (Ord. 1192, 1987)*

The proposed alteration of the single story exterior façade will include the addition of ¾” furring strips and ¾” wood siding over the existing concrete wall. This will result in an increase of approximately 1 ½” at the encroachment along Willamette Falls Drive. The use of the siding meets all other provisions of the code.

The proposed enlargement includes a new 348 sf deck to be constructed on the southeast elevation of the building. The deck meets the provisions of the code, with the exception of the lot coverage requirements, when calculated for the single lot 06400. If calculated for combined lots 06200, 06300 and 06400, the proposed deck is fully compliant.

66.090 NON-CONFORMING STRUCTURE UNSUITED FOR A CONFORMING USE

When a non-conforming use involving a structure is replaced by another use, the new use shall conform to this code unless the Planning Commission, after a public hearing held pursuant to Chapter 99 CDC, determines that such a structure is suitable only for another non-conforming use, so long as the new use is no more intense than the past use or other uses contemplated in the zone. The determination by the Planning Commission shall be based on findings of fact which support its determination of suitability. (Ord. 1287, 1990; Ord. 1604 § 62, 2011)

There are no existing or anticipated non-conforming uses within the building.

66.100 BUILDING PERMITS FOR AN APPROVED NON-CONFORMING STRUCTURE

The provisions of CDC 65.110 shall apply.

65.110 addresses building permits for non-conforming uses and is not applicable to this building or application.

**Chapter 96
STREET IMPROVEMENT CONSTRUCTION**

Sections:

- 96.010 CONSTRUCTION REQUIRED**
- 96.020 FEE-IN-LIEU**
- 96.030 STANDARDS**

96.010 CONSTRUCTION REQUIRED

- A. *Street improvements for residential construction are required when:*
- 1. Construction of a new single-family attached or detached structure (replacement of an existing structure is exempt); or*
 - 2. Replacement of a single-family home increases the square feet by 50 percent or greater; or*
 - 3. Construction of a new multifamily structure; or*
 - 4. Increase in dwelling unit density on site (accessory dwelling units are exempt).*

No new or replacement residential units nor residential density increase is proposed.

- B. *Street improvements for commercial construction are required when:*
- 1. Construction of a new commercial structure; or*
 - 2. Remodel of an existing commercial structure with an increase in floor area that requires additional parking; or*
 - 3. Change in use that requires additional parking; or*
 - 4. Construction that increases the dwelling unit density on site; or*
 - 5. Construction which requires a change in type, number, or location of accessways; or*
 - 6. Replacement of an existing structure that requires additional parking. (Ord. 1314, 1992; Ord. 1442, 1999; Ord. 1544, 2007; Ord. 1547, 2007; Ord. 1590 § 1, 2009; Ord. 1613 § 21, 2013; Ord. 1739 § 2 (Exh. B), 2022)*

The proposed building alterations will require street improvements based on item 5, as two existing vehicular accessways will be eliminated. The work along the frontage will be limited to the infill of the existing driveways and replacement of the sidewalk and curb in these locations.

Per the Pre-Application meeting, no additional frontage repairs are required based on the proposed scope of work.

96.020 FEE-IN-LIEU

- A. *An applicant may apply for a waiver of street improvements and the option to pay a fee-in-lieu (in accordance with the City's adopted fee structure) of constructing street improvements if one of the following are met:*
- 1. Located on a cul-de-sac with no existing curb and/or no existing sidewalk; or*
 - 2. Located on a street less than 1,320 linear feet in length and not planned as a through street; or*
 - 3. Located more than 1,320 linear feet from nearest street improvements on the same street or connecting street. (Ord. 1739 § 2 (Exh. B), 2022)*

Frontage improvements will be constructed at the time of the building improvements and no fee-in-lieu will be required.

96.030 STANDARDS

Street improvements shall be installed according to the City standards and shall be completed prior to the issuance of any occupancy permit for the new or remodeled structure or building. In unimproved areas of the City, the City Engineer may grant a time extension of the provisions of this section; provided the applicant submit sufficient security in an amount and quantity satisfactory to the City Attorney to assure payment of such improvement costs. (Ord. 1739 § 2 (Exh. B), 2022. Formerly 96.020.)

Frontage improvements will be designed and constructed per City standards. Drawings and specifications will be provided as part of the building and site permit submittal.

Chapter 99
PROCEDURES FOR DECISION MAKING: QUASI-JUDICIAL

Sections:

- 99.010 PURPOSE
- 99.030 APPLICATION PROCESS: WHO MAY APPLY, PRE-APPLICATION CONFERENCE, REQUIREMENTS, REFUSAL OF APPLICATION, FEES
- 99.033 FEES
- 99.035 ADDITIONAL INFORMATION REQUIRED, WAIVER OF REQUIREMENTS AND REPORT REQUIRED
- 99.038 NEIGHBORHOOD CONTACT REQUIRED FOR CERTAIN APPLICATIONS
- 99.040 DUTIES OF DIRECTOR
- 99.060 APPROVAL AUTHORITY
- 99.070 CONSOLIDATION OF PROCEEDINGS
- 99.080 NOTICE
- 99.090 CONTENTS OF NOTICE
- 99.100 MECHANICS OF GIVING NOTICE AND FAILURE TO RECEIVE NOTICE
- 99.110 DECISION-MAKING PROCESS OF APPROVAL AUTHORITY
- 99.120 AMENDMENTS
- 99.125 STAGED OR PHASED DEVELOPMENT
- 99.130 NOTICE OF FINAL DECISION
- 99.140 ESTABLISHING STANDING TO APPEAL
- 99.160 DECISION BY DIRECTOR
- 99.170 HEARING PROCEDURES
- 99.180 EX PARTE CONTACTS, IMPARTIALITY, DISQUALIFICATION, AND ABSTENTION
- 99.190 CONTINUATION OF HEARING – NOTICE
- 99.200 EVIDENCE
- 99.220 RECORD OF PROCEEDINGS
- 99.230 EFFECTIVE DATE OF DECISION – APPEAL OR REVIEW
- 99.240 AUTHORITY TO APPEAL OR SEEK REVIEW OF A DECISION – EXHAUSTION OF ADMINISTRATIVE REMEDIES
- 99.250 APPLICATION FOR APPEAL OR REVIEW
- 99.260 PERSONS ENTITLED TO NOTICE ON APPEAL – TYPE OF NOTICE
- 99.270 CONTENTS OF PUBLIC NOTICE OF APPEAL HEARING
- 99.280 TYPE OF APPEAL HEARING AND SCOPE OF REVIEW
- 99.290 ACTION ON APPEAL OR REVIEW – TIME LIMIT AND AUTHORITY TO CHANGE DECISION
- 99.300 PARTICIPATION BY MEMBERS OF APPROVAL AUTHORITY IN DECISION AND VOTING
- 99.320 DENIAL OF APPLICATION – RESUBMITTAL
- 99.325 EXTENSIONS OF APPROVAL
- 99.330 REVOCATION OF APPROVALS – FAILURE TO FULFILL CONDITIONS

99.010 PURPOSE

The purpose of this chapter is to establish procedures applicable to the Community Development Code for the consideration of development applications, for the consideration of quasi-judicial Comprehensive Plan amendments, and for the consideration of appeals or petitions for review of decisions. (Ord. 1474, 2001; Ord. 1568, 2008)

99.030 APPLICATION PROCESS: WHO MAY APPLY, PRE-APPLICATION CONFERENCE, REQUIREMENTS, REFUSAL OF APPLICATION, FEES

A. Who may apply.

1. Applications for approval required under this chapter may be initiated by:
 - a. The owner of the property that is the subject of the application or the owner's duly authorized representative;
 - b. The purchaser of such property who submits a duly executed written contract or copy thereof, which has been recorded with the Clackamas Clerk;

- c. *Provide technical data and assistance which will aid the applicant;*
 - d. *Identify other policies and regulations that relate to the application;*
 - e. *Identify other pertinent factors that relate to the application; and*
 - f. *Provide the applicant with a written description of all rights for appeal and provide access to all administrative procedures.*
6. *The failure of the Director to provide any of the information required by this section shall not constitute a waiver of the standards, criteria, or requirements of the application.*
7. *At least 10 days prior to the scheduled date of the conference, the City shall make the pre-application conference schedule available to the public. Within 10 days following the conference, the City shall make staff-prepared written notes summarizing the contents of the meeting available to the public. Failure to comply with this section due to technical or administrative problems is not a procedural defect entitling any party to a delay in the hearing process.*
8. *The Planning Director shall prepare administrative procedures designed to allow citizens to attend and participate in pre-application conferences for applications. Lack of neighborhood association participation in a pre-application conference is not a procedural defect entitling any party to a delay in the hearing process.*
9. *If the applicant is not the owner of the subject property, the applicant shall provide written evidence that the owner has consented to the pre-application conference prior to it being scheduled.*
- C. *The requirements for making an application.*
- 1. *The application shall be made on forms provided by the Director as provided by CDC 99.040(A)(1);*
 - 2. *The application shall be complete and shall contain the information requested on the form, shall address the appropriate submittal requirements and approval criteria in sufficient detail for review and action, and shall be accompanied by the deposit or fee required by CDC 99.033. No application will be accepted if not accompanied by the required fee or deposit. In the event an additional deposit is required by CDC 99.033 and not provided within the time required, the application shall be rejected without further processing or deliberation and all application materials shall be returned to the applicant, notwithstanding any determination of completeness. (Ord. 1527, 2005; Ord. 1568, 2008; Ord. 1590 § 1, 2009; Ord. 1599 § 6, 2011; Ord. 1614 § 14, 2013; Ord. 1622 § 30, 3014; Ord. 1635 § 36, 2014; Ord. 1636 § 60, 2014; Ord. 1638 § 3, 2015; Ord. 1675 § 55, 2018)*

PA 22-25 was held with the city on September 1, 2022 and a second pre-application meeting, PA 24-11 was held on June 6, 2024.

99.033 FEES

The Council shall adopt a schedule of fees reasonably calculated to defray the expenses of the administrative process. The Council may establish either a set fee or a deposit system in which the applicant pays a deposit and the City determines the total administrative cost at the end of the process and refunds any unused amount of the deposit to the applicant. No additional deposit shall be required for additional costs that are incurred because the matter is referred to or called up by a higher decision-making authority. The Council shall charge no fees for City-initiated land use applications or appeals filed by a recognized neighborhood association pursuant to the provisions of CDC 99.240. (Ord. 1527, 2005; Ord. 1568, 2008; Ord. 1604 § 70, 2011)

Required fees, as verified by the city, will be paid by the Applicant.

99.035 ADDITIONAL INFORMATION REQUIRED, WAIVER OF REQUIREMENTS AND REPORT REQUIRED

- A. *The Planning Director may require information in addition to that required by a specific chapter in the Community Development Code; provided, that:*
 - 1. *The chapter expressly authorizes that additional information may be required;*
 - 2. *The information is needed to properly evaluate the proposed site plan or proposal;*
 - 3. *The requirement for additional information is communicated to the applicant during the pre-application conference or prior to application submittal; and*
 - 3. *The need can be justified on the basis of a special or unforeseen circumstance.*
- B. *The Planning Director may waive a specific requirement for information or a requirement to address a certain approval standard subject to the provisions of subsection C of this section provided:*
 - 1. *The Planning Director finds that specific information is not necessary to properly evaluate the application; or*

2. The Planning Director finds that a specific approval standard is not applicable to the application.
- C. Where a requirement is waived, the Planning Director shall cite in the staff report on the application the specific requirements waived and the reasons for the waiver. The decision of the Planning Director to waive the requirement is subject to review and denial by the approval authority or the appeal authority. (Ord. 1568, 2008)

Additional information that may be requested by the city will be provided by the Applicant.

99.038 NEIGHBORHOOD CONTACT REQUIRED FOR CERTAIN APPLICATIONS

Prior to submittal of an application for any subdivision, conditional use permit, multi-family project, planned unit development of four or more lots, non-residential buildings over 1,500 square feet, or a zone change that requires a Comprehensive Plan amendment, the applicant shall contact and discuss the proposed development with any affected neighborhood as provided in this section. Although not required for other or smaller projects, contact with neighbors is highly recommended. The Planning Director may require neighborhood contact pursuant to this section prior to the filing of an application for any other development permit if the Director deems neighborhood contact to be beneficial.

A. Purpose. The purpose of neighborhood contact is to identify potential issues or conflicts regarding a proposed application so that they may be addressed prior to filing. This contact is intended to result in a better application and to expedite and lessen the expense of the review process by avoiding needless delays, appeals, remands, or denials. The City expects an applicant to take the reasonable concerns and recommendations of the neighborhood into consideration when preparing an application. The City expects the neighborhood association to work with the applicant to provide such input.

B. The applicant shall contact by letter all recognized neighborhood associations whose boundaries contain all or part of the site of the proposed development and all property owners within 500 feet of the site.

C. The letter shall be sent to the president of the neighborhood association, and to one designee as submitted to the City by the neighborhood association, and shall be sent by regular mail to the other officers of the association and the property owners within 500 feet. If another neighborhood association boundary is located within the 500-foot notice radius, the letter shall be sent to that association's president, and to one designee as submitted to the City by the neighborhood association as well. The letter shall briefly describe the nature and location of the proposed development, and invite the association and interested persons to a meeting to discuss the proposal in more detail. The meeting shall be scheduled at the association's regularly scheduled monthly meeting, or at another time at the discretion of the association, and not less than 20 days from the date of mailing of the notice. If the meeting is scheduled as part of the association's regular monthly meeting, the letter shall explain that the proposal may not be the only topic of discussion on the meeting agenda. The letter shall encourage concerned citizens to contact their association president, or their association designee, with any questions that they may want to relay to the applicant. Neighborhood contact shall be initiated by the applicant by mailing the association president, and to one designee as submitted to the City by the neighborhood association, a letter, return receipt requested, formally requesting, within 60 days, a date and location to have their required neighborhood meeting. The 60 days shall be calculated from the date that the applicant mails this letter to the association. If the neighborhood association does not want to meet within the 60-day timeframe, or if there is no neighborhood association, the applicant shall hold a public meeting during the evening after 6:00 p.m., or on the weekend no less than 20 days from the date of mailing of the notice. All meetings shall be held at a location open to the public within the boundaries of the association or at a public facility within the City of West Linn. If the meeting is held at a business, it shall be posted at the time of the meeting as the meeting place and shall note that the meeting is open to the public and all interested persons may attend.

D. On the same date the letters described in subsections A through C of this section are mailed, the applicant shall provide and post notice on the property subject to the proposed application. The notice shall be posted at a location visible from the public right-of-way. If the site is not located adjacent to a through street, then an additional sign shall be posted on the nearest through street. The sign notice shall be at least 11 inches by 17 inches in size on durable material and in clear, legible writing. The notice shall state that the site may be subject to a proposed development (e.g., subdivision, variance, conditional use) and shall set forth the name of the applicant and a telephone number where the applicant can be reached for additional information. The site shall remain posted until the conclusion of the meeting.

E. An application shall not be accepted as complete unless and until the applicant demonstrates compliance with this section by including with the application:

1. A copy of the certified letter to the neighborhood association with a copy of return receipt;
2. A copy of the letter to officers of the association and to property owners within 500 feet, including an affidavit of mailing and a copy of the mailing list containing the names and addresses of such owners and residents;
3. A copy of the required posted notice, along with an affidavit of posting;
4. A copy of the minutes of the meetings, produced by the neighborhood association, which shall include a record of any verbal comments received, and copies of any written comments from property owners, residents, and neighborhood association members. If there are no minutes, the applicant may provide a summary of the meeting comments. The applicant shall also send a copy of the summary to the chair of the neighborhood association. The chair shall be allowed to supplement the summary with any additional comments regarding the content of the meeting, as long as such comments are filed before the record is closed;
5. An audiotape of the meeting; and
6. In the event that it is discovered by staff that the aforementioned procedures of this section were not followed, or that a review of the audio tape and meeting minutes show the applicant has made a material misrepresentation of the project at the neighborhood meeting, the application shall be deemed incomplete until the applicant demonstrates compliance with this section. (Ord. 1425, 1998; Ord. 1474, 2001; Ord. 1568, 2008; Ord. 1590 § 1, 2009; Ord. 1613 § 23, 2013; Ord. 1635 § 37, 2014)

The scope of this project does not trigger the requirements for a neighborhood meeting.

99.040 DUTIES OF DIRECTOR

A. The Director shall:

1. Prepare application forms made pursuant to the standards contained in the applicable State law, Comprehensive Plan and implementing ordinance provisions;
2. Accept all development applications that comply with the provisions of CDC 99.030;
3. After accepting an application pursuant to this chapter:
 - a. Determine whether an application is complete, and comply with State statutes governing the completeness determination for applications. The determination of the Director is subject to review by the approval authority in its deliberation on the application;
 - b. Give notice as provided by CDC 99.080 and 99.090;
 - c. Prepare a staff report which shall include findings as to whether or not the application meets the approval criteria of the applicable Community Development Code sections as presented in the application, and whether or not the criteria can be met with conditions;
 - d. Make the application, all documents or evidence relied upon by the applicant and applicable criteria available at least 20 days prior to the hearing or date of the Director's decision. Make the staff report available at least 10 days prior to the scheduled date of the public hearing(s);
 - e. Act on the development application pursuant to CDC 99.060(A) and 99.160 or cause a hearing to be held pursuant to CDC 99.060(B) through (D) and CDC 99.170 through 99.230, unless the applicant has requested or consented to a delay;
4. Administer the hearings process pursuant to CDC 99.170 through 99.230;
5. Maintain a register of all applications that have been filed for a decision. The register shall at all times identify at what stage the application is in the process. The register shall be posted on the City website unless technical problems prevent this;
6. File notice of the final decision in the records of the Community Development Department and mail a copy of the notice of the final decision to the applicant and all parties with standing. The notice of the final decision shall contain the information set forth under CDC 99.130(B);
7. Maintain and preserve the file for each application. The file shall include, as applicable, a list of persons required to be given notice and a copy of the notice given pursuant to CDC 99.080 and the accompanying affidavits; the application and all supporting information; the staff report; the final decision including the findings, conclusions, and conditions, if any; all correspondence; the minutes of any meetings at which the application was considered; and any other exhibit(s), information, or documentation which was considered by the hearing body with respect to the application; and
8. Administer the appeals and review process pursuant to CDC 99.240 through 99.320. (Ord. 1474, 2001; Ord. 1568, 2008; Ord. 1621 § 25, 2014)

99.060 APPROVAL AUTHORITY

This section explains the authority of the Planning Director, Planning Commission, City Council, and Historic Review Board as it relates to quasi-judicial and legislative action.

- A. Planning Director authority.** *The Planning Director shall have the authority to:*
- 1. Approve, deny, or approve with conditions the following applications:*
 - a. A temporary use or structure application for a period no more than 120 days, including all extensions (Chapter 35 CDC), and not associated with another land use approval.*
 - b. A home occupation application (Chapter 37 CDC).*
 - c. Access restrictions (Chapter 48 CDC).*
 - d. A minor partition (Chapter 85 CDC).*
 - e. A final subdivision plat (Chapter 89 CDC).*
 - f. A final partition plat (Chapter 89 CDC).*
 - g. A lot line adjustment (Chapter 85 CDC).*
 - h. Enlargement or alteration of a non-conforming single-family structure containing a conforming use (Chapter 66 CDC).*
 - i. Decide applications for a determination of unlisted parking requirements (Chapter 46 CDC).*
 - j. Repealed by Ord. 1735.*
 - k. Parks Design Review, Class I (Chapter 56 CDC).*
 - l. Design Review, Class I (Chapter 55 CDC).*
 - m. A sign application (Chapter 52 CDC).*
 - n. Sidewalk use permit (Chapter 53 CDC).*
 - o. Flood management area permit (Chapter 27 CDC).*
 - p. Repealed by Ord. 1622.*
 - q. Tualatin River protection permit (Chapter 28 CDC).*
 - r. Water resource area permit (Chapter 32 CDC).*
 - s. Class I variance (Chapter 75 CDC).*
 - t. Willamette River Greenway permit (Chapter 28 CDC).*
 - u. Extensions of approval when the Planning Director acted as the initial decision-making authority.*
 - v. Class I Historic Design Review (Chapter 25 CDC).*
 - w. A demolition permit for a non-contributing or not in period primary structure or an accessory structure (Chapter 25 CDC).*
 - 2. Approve a use permitted under prescribed conditions provided all of the conditions are satisfied.*
 - 3. Make initial interpretations of the provisions of the code.*
 - 4. Make the initial determination regarding the status of the following:*
 - a. Non-conforming structure (Chapter 66 CDC).*
 - b. Non-conforming structure involving a non-conforming use (Chapter 65 CDC).*
 - c. Non-conforming use of land (Chapter 67 CDC).*
- B. Planning Commission authority.** *The Planning Commission shall have the authority to:*
- 1. Make a recommendation to approve, deny, or approve with conditions to the Council:*
 - a. A quasi-judicial Comprehensive Plan Map amendment (Chapter 105 CDC).*
 - b. A quasi-judicial zone change application pursuant to Chapter 105 CDC, excluding applications requesting the designation or removal of a designation for a historic resource.*
 - 2. Approve, deny, or approve with conditions the following applications:*
 - a. A temporary use or structure application (Chapter 35 CDC) for a minimum of 121 days to no more than one year, or an application associated with another land use approval.*
 - b. A conditional use (Chapter 60 CDC).*
 - c. Enlargement of a non-conforming use or alteration for a structure containing a non-conforming use (Chapter 66 CDC).*
 - d. Enlargement or alteration of a non-single-family residential non-conforming use (Chapter 66 CDC).*
 - e. Class II variance or special waiver (Chapter 75 CDC).*
 - f. Subdivision (Chapter 85 CDC).*
 - g. Planned unit development (Chapter 24 CDC).*
 - h. Design review, Class II (Chapter 55 CDC).*
 - i. Parks design review, Class II (Chapter 56 CDC).*

3. Appeals of the Planning Commission decision on an expedited land division shall be reviewed pursuant to Chapter 197 ORS. (Ord. 1442, 1999; Ord. 1463, 2000; Ord. 1474, 2001; Ord. 1510, 2004; Ord. 1525, 2005; Ord. 1545, 2007; Ord. 1547, 2007; Ord. 1565, 2008; Ord. 1568, 2008; Ord. 1589 § 1 (Exh. A), 2010; Ord. 1597 §§ 17, 18, 2010; Ord. 1613 § 24, 2013; Ord. 1614 § 15, 2013; Ord. 1622 §§ 9, 28, 2014; Ord. 1635 § 38, 2014; Ord. 1638 § 3, 2015; Ord. 1655 § 9, 2016; Ord. 1735 § 5 (Exh. D), 2022)

It is understood that this Class I Design Review application will be subject to approval by the Planning Director.

99.070 CONSOLIDATION OF PROCEEDINGS

A. When an applicant requests more than one approval, and more than one approval authority is required to decide the applications, the proceedings shall be consolidated so that one approval authority shall decide all applications in one proceeding. In such cases, the hearings shall be held by the approval authority having original jurisdiction over one of the applications under CDC 99.060, in the following order of preference: City Council, Planning Commission or Historic Review Board, or the Planning Director.

1. However, expedited land division applications shall be processed as described in Chapter 197 ORS, regardless of the number of approvals requested.

B. When an applicant requests to undertake preliminary work, for site preparation or analysis, the Director may allow decisions within the Director's authority to precede the subsequent decision required for review by the decision-making body. (Ord. 1474, 2001; Ord. 1568, 2008; Ord. 1635 § 39, 2014)

A single approval, for Class I Design Review, is requested.

99.080 NOTICE

Notice shall be given in the following ways:

A. Class A Notice. Notice of proposed action or a development application pursuant to CDC 99.060 shall be given by the Director in the following manner:

1. At least 20 days prior to the scheduled hearing date notice shall be sent by mail to:

a. The applicant or the applicant's agent, and the property owner of record on the most recent property tax assessment roll where such property is located.

b. All property owners of record on the most recent property tax assessment roll where such property is located within 500 feet of the site.

c. Any affected governmental agency which has entered into an intergovernmental agreement with the City which includes provision for such notice; plus, where applicable, the Oregon Department of Transportation, Tri-Met, neighboring local jurisdictions, Clackamas County Department of Transportation and Development, and Metro.

d. The affected recognized neighborhood association or citizens advisory committee.

e. For a hearing on appeal or review, all parties and persons with standing described in CDC 99.140 to an appeal or petition for review.

2. At least 10 days prior to the hearing or meeting date, notice shall be given in a newspaper of general circulation in the City. An affidavit of publication shall be made part of the administrative record.

a. Decisions pursuant to CDC 99.060(A), Planning Director authority, are exempt from the requirements of this subsection.

3. At least 10 days prior to the hearing or meeting date, the Planning Director shall cause a sign to be placed on the property which is the subject of the decision or, if the property does not have frontage on a public street, adjacent to the nearest public street frontage in plain view and shall state, "This property is the subject of a land use decision," with the type of use or request indicated. If the application is not located adjacent to a through street, then an additional sign shall be posted on the nearest through street.

4. At least 10 days but no more than 40 days prior to hearing of a proposed zone change for manufactured home parks, notice shall be given to the respective manufactured home park residents.

5. The Director shall cause an affidavit of mailing of notice and posting of notice to be filed and made part of the administrative record.

6. At the conclusion of the land use action the signs shall be removed.

B. Class B Notice. Notice of a proposed action on a development application pursuant to CDC 99.060 shall be given by the Director in the following manner:

1. At least 14 days prior to the decision date, a notice shall be sent by mail to:

- a. The applicant or their agent;
 - b. The affected recognized neighborhood association or citizens advisory committee; and
 - c. All property owners of record within 300 feet of the site perimeter;
2. At least 10 days prior to the earliest date that the approval authority can take action on the application, the applicant shall place a sign, provided by the Community Development Department, on the subject property in plain view. The sign shall state, "This property is the subject of a land use decision," with the type of use or request indicated.
 3. The Director shall cause an affidavit of mailing of notice and posting of notice to be filed and made part of the administrative record.
 4. At the conclusion of the land use action the signs shall be removed.
- C. Notice for expedited and division applicants shall comply with the requirements of Chapter 197 ORS.
- D. Notice for a boundary change application shall comply with the requirements of ORS 197.763, Chapter 222 ORS, and the Metro Code.
- E. Table of notices. The following notice summary identifies the appropriate type of notice for the various land use applications of CDC 99.060.

Land Use Action	Type of Notice
<i>Design Review:</i>	
Class I	B
Class II	A

****Plus COE/DSL is notified**

*****Plus DLCD notice**

(Ord. 1425, 1998; Ord. 1474, 2001; Ord. 1545, 2007; Ord. 1547, 2007; Ord. 1565, 2008; Ord. 1568, 2008; Ord. 1589 § 1 (Exh. A), 2010; Ord. 1613 § 25, 2013; Ord. 1614 § 16, 2013; Ord. 1621 § 25, 2014; Ord. 1635 § 40, 2014; Ord. 1636 § 61, 2014)

It is acknowledged that this Class I Design Review will be subject to Type B notification.

99.090 CONTENTS OF NOTICE

- A. Notices mailed pursuant to this code shall comply with applicable provisions of the Oregon Revised Statutes (ORS). Except for expedited land division review, for which Chapter 197 ORS shall apply, notice given to persons entitled to mailed or published notice pursuant to CDC 99.060 shall:
1. Explain the type of application and what proposed uses could be authorized.
 2. List the applicable criteria from the ordinance and plan.
 3. Set forth street address (if existing) and other easily understood geographical reference of the subject property.
 4. State the date, time, and location of hearing or, for the Planning Director's decisions, the earliest date upon which the Director will make a decision.
 5. State that 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 LUBA on that issue.
 6. Include the name of government contact and phone number.
 7. State that the application, all documents or evidence relied upon by the applicant and applicable criteria are available for inspection at no cost, and copies at reasonable cost.
 8. State that a copy of the staff report will be available for inspection at no cost at least 10 days prior to the hearing, and copies at reasonable cost.
 9. A statement that public and written testimony are invited, and including a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings.
- B. In addition to the ORS requirements, the notice shall identify the following:
1. The type of land use action proposed (e.g., "four-lot subdivision").
 2. Community Development Department file number. (Ord. 1474, 2001; Ord. 1568, 2008; Ord. 1621 § 25, 2014)

Notification content is acknowledged.

99.100 MECHANICS OF GIVING NOTICE AND FAILURE TO RECEIVE NOTICE

- A. *The notification list used for giving notice required by this code under CDC 99.080 shall be compiled from the most recent property tax assessment roll.*
- B. *The failure of a property owner to receive notice shall not invalidate the action provided a good faith attempt was made to notify all persons entitled to notice.*
- C. *Personal notice is deemed given when the notice is deposited with the United States Postal Service. Published notice is deemed given on the date it is published.*
- D. *In computing the length of time that notice was given, the first date notice is given shall be excluded and the day of the hearing or decision by the Director shall be included. (Ord. 1401, 1997; Ord. 1568, 2008)*

The notification process is acknowledged.

99.110 DECISION-MAKING PROCESS OF APPROVAL AUTHORITY

- A. *The decision shall be based on proof by the applicant that the application fully complies with:*
 - 1. *The applicable standards of any provision of this code or other applicable implementing ordinance.*
- B. *Consideration may also be given to:*
 - 1. *A mistake or inconsistency in the Comprehensive Plan or Zoning Map as it relates to the property which is the subject of the development application; and*
 - 2. *Factual oral testimony or written statements from the parties, neighborhood plans, other persons and other governmental agencies relevant to the existing conditions or factors in subsection A or (B)(1) of this section.*
- C. *In all cases, the decision shall include a statement in a form which includes findings as to whether or not the application meets the approval criteria of the applicable Community Development Code sections.*
- D. *The approval authority may:*
 - 1. *Adopt the findings and conclusions contained in the staff report;*
 - 2. *Adopt the findings and conclusions of a lower approval authority;*
 - 3. *Adopt its own findings and conclusions;*
 - 4. *Adopt the findings and conclusions submitted by any party; or*
 - 5. *Adopt the findings and conclusions from another source, either with or without modifications, having made a tentative decision and having directed the staff to prepare findings for review and to provide an opportunity for all parties to comment upon them.*
- E. *The decision may be for denial, approval, or approval with conditions, pursuant to CDC 99.160 and 99.170, where such conditions are necessary to satisfy the applicable standards of any provision of this code or other applicable implementing ordinance.*
- F. *The final decision shall be a decision which is in writing and which has been:*
 - 1. *Formally adopted by the decision-making authority and filed with the Director within 14 working days of the formal adoption of the decision; or*
 - 2. *Signed by the Director in the case of a decision by the Director and filed as a final decision within 14 working days of the signed decision; or*
 - 3. *Formally adopted by the Council and signed by the Mayor or the president of the Council in the case of an appeal. (Ord. 1474, 2001; Ord. 1568, 2008)*

99.120 AMENDMENTS

This section explains how amendments to projects subject to the quasi-judicial decision making process are processed.

- A. *An amendment application shall be required if the Planning Director determines that the proposed revisions will change the project by a factor greater than 10 percent in a quantifiable manner (e.g., number of proposed lots, square footage of proposed buildings, number of parking spaces, relocation of building footprints). Non-quantifiable changes shall also require an amendment if they result in significant differences between the approved project and the revised project, or if the changes call into question compliance with a relevant approval criterion.*
- B. *Amendments shall be reviewed by the initial decision-making authority. For example, if the Planning Commission heard the application initially, then it would hear the amendment application.*
- C. *Rather than provide full submittal, the Planning Director shall identify the parameters of the submittal appropriate to the amendment and applicable approval criteria. For example, if the applicant only requests to redesign the architecture of a building, but not increase square footage or building mass, then*

the submittal of a site plan, architectural elevations, material/color board, and narrative specific to the architecture and relevant design review approval criteria would be appropriate. Conversely, no new landscaping, grading plans, etc., would be necessary since no changes are proposed for those items. The submittal should be comprehensive and sufficient to provide the decision-making authority with all necessary information while not being redundant and requiring information which is already part of the record of the original application.

D. If the proposed revisions will change the project by a factor greater than 25 percent in a quantifiable manner, or if the land area upon which the project is proposed changes, then a new application shall be required. (Ord. 1568, 2008)

The decision-making process is acknowledged.

99.125 STAGED OR PHASED DEVELOPMENT

An applicant may elect to develop a proposed project in phases. The timing of each development phase shall be set forth in the application and subject to approval by the appropriate approval authority. Each phase shall meet all applicable development standards individually (e.g., access, parking, landscaping, utilities, etc.) without having to rely upon subsequent phases. Each phase shall also install all necessary improvements to serve the development within that phase. (Ord. 1474, 2001; Ord. 1568, 2008)

Approval based on staged or phased development is not requested.

99.130 NOTICE OF FINAL DECISION

A. The final decision by the Planning Director shall be filed in the records of the Community Development Department after the decision is signed by the Planning Director, and notice thereof shall be mailed to the applicant, all parties to the matter as established under CDC 99.140, and those persons who requested copies of such notice.

B. The final decision by the Planning Commission, Historic Review Board, or City Council shall be filed in the records of the Community Development Department, and notice thereof shall be mailed to the applicant, all parties to the matter as established under CDC 99.140, and those people requesting copies of such notice.

C. Notice of a final decision shall conform to applicable provisions of the Oregon Revised Statutes.

D. The appeal period is as provided in CDC 99.230. (Ord. 1474, 2001; Ord. 1568, 2008; Ord. 1590 § 1, 2009; Ord. 1621 § 25, 2014)

Notice of Final Decision process is acknowledged.

99.140 ESTABLISHING STANDING TO APPEAL

A. Any person or recognized neighborhood association with standing may pursue an appeal or seek review of any land development decision. Standing is established in the following way:

B. The person or recognized neighborhood association appeared before an approval authority other than the Director, either orally or in writing, and provided their name and address; signed the testimony form provided at the hearing; or submitted comments to the Director, in writing, and provided their name and address to the Director regarding a decision. Neighborhood association standing can only be established by a person identifying, either in testimony or in writing, that they represent a specific neighborhood association. (Ord. 1474, 2001; Ord. 1568, 2008; Ord. 1622 § 8, 2014)

Establishment of standing to appeal is acknowledged.

99.160 DECISION BY DIRECTOR

A. Pursuant to CDC 99.060(A), the Director is authorized to make certain decisions, and no hearing shall be held except where the Director has an interest in the outcome of the decision, due to some past or present involvement with the applicant or other interested persons or in the property or surrounding property, and cannot render an impartial decision. In such cases, the application shall be reviewed by the Director's designee, and in the event the designee cannot render a decision, the application shall be subject to the jurisdiction of the Planning Commission.

B. A decision made by the Director shall be made in accordance with the provisions of CDC 99.110, and a record shall be made which shall include:

- 1. A copy of the application and all supporting information, plans, exhibits, graphics, etc.;*
- 2. All correspondence relating to the application;*
- 3. All information considered by the Director in making the decision;*
- 4. The staff report of the Director prepared under CDC 99.040(A)(3)(c);*
- 5. A list of the conditions, if any are attached, to the approval of the application;*

6. A copy of the notice which was given pursuant to CDC 99.080(A), and accompanying affidavits, and a list of all persons who were given mailed notice; and
 7. A signed statement by the Director stating the nature of any past or present involvement with the applicant, other interested persons or the property if the Director makes a decision, and if there could reasonably be expected to be a challenge to the fairness of the decision.
- C. A decision made by the Director shall be final as provided by CDC 99.230 unless:
1. A party to the action files a written appeal with the Director within 14 days of the final decision pursuant to CDC 99.240; or
 2. A majority of the members of the Commission or the Council order a review within 14 days of the final decision pursuant to CDC 99.240.
- D. No Director's decision may modify the request from that set out in the notice given under CDC 99.080 and 99.090, unless new notice be given, except that conditions may be attached to the approval. (Ord. 1568, 2008; Ord. 1622 § 6, 2014; Ord. 1635 § 41, 2014)
- The Director's decision making authorization is acknowledged.

99.170 HEARING PROCEDURES

- A. The Planning Commission, City Council, and Historic Review Board shall conduct a public hearing on all matters over which the Board, Commission, or Council has original jurisdiction pursuant to CDC 99.060; and:
1. Determine who qualifies as a party.
 2. Regulate the course, sequence, and decorum of the hearing. The sequence of the hearing shall also include the right to establish procedures for continuances of hearings.
 3. Dispose of procedural requirements or similar matters.
 4. Rule on offers of proof and relevancy of evidence and testimony.
 5. Impose reasonable limitations on the number of witnesses heard and set reasonable time limits for oral presentation, cross-examination of witnesses and rebuttal testimony.
 6. Take such other action appropriate for conduct commensurate with the nature of the hearing.
 7. Approve or deny applications or approve with conditions pursuant to CDC 99.110.
- B. At the commencement of the hearing, a statement shall be made to those in attendance that:
1. Lists the applicable substantive criteria (by chapter) that apply to the application before the hearing body.
 2. States that testimony, arguments and evidence must be directed toward the applicable substantive criteria which the person testifying believes to apply to the decision.
 3. States that failure to raise an issue accompanied by statements or evidence sufficient to afford the decision maker and the parties an opportunity to respond to the issue precludes an appeal to the State Land Use Board of Appeals based on that issue.
- C. Unless otherwise provided in rules of procedure adopted by the Council, the following rules shall apply to the general conduct of the hearing:
1. The approval authority may ask questions at any time prior to the final decision; however, the answers shall be limited to the substance of the question and if new evidence is admitted after the close of the hearing, upon request, rebuttal shall be allowed;
 2. Parties or the Director must receive approval from the approving authority to submit directly questions to other parties or witnesses or the Director;
 3. A reasonable amount of time shall be given to persons to respond to questions;
 4. No person shall testify without first receiving recognition from the approval authority and stating a full name and address;
 5. The approval authority may require that testimony be under oath or affirmation;
 6. Audience demonstrations such as applause, cheering and display of signs or other conduct disruptive of the hearing shall not be permitted. Any such conduct may be cause for expulsion of a person or persons from the hearing, termination or continuation of the hearing, or other appropriate action determined by the presiding officer; and
 7. No person shall be disorderly, abusive, or disruptive of the orderly conduct of the hearing.
- D. The Planning Commission or Historic Review Board may refer any matter for Council action on the record made before it.
- E. Prior to the conclusion of the initial evidentiary public hearing on the application, any participant may request an opportunity to present additional evidence, arguments, or testimony regarding the application. The request shall be granted through one of the following means:

1. Continuation of the public hearing to a date, time, and place certain at least seven days from the date of the initial evidentiary public hearing. An opportunity shall be provided at the continued hearing for persons to present and rebut new evidence, arguments or testimony. If new written evidence is submitted at the continued hearing, any person may request prior to the conclusion of the continued hearing that the record be left open for at least seven days to submit additional written evidence, arguments, or testimony for the purpose of responding to the new written evidence.
 2. Leaving the record open for at least seven days for the presentation of additional written evidence, arguments, or testimony. At the conclusion of this period, any participant may file a request for an opportunity to respond to any additional written evidence, arguments, or testimony. Such a request shall be granted with an additional seven days (at minimum) to file such a written response.
- F. If requested, an applicant shall be granted an additional period of at least seven days after the record is closed to all other parties to submit final written arguments in support of the application. The applicant's final submittal shall be considered part of the record, but shall not include any new evidence. Any such time period granted to the applicant shall not be subject to the time limit provisions of Chapter 227 ORS regarding local government hearing procedures found in ORS 227.170 for quasi-judicial applications.
- G. A decision made by the Planning Commission or Historic Review Board shall be final as provided by CDC 99.230 unless:
1. A party to the action files a written appeal with the Director within 14 days of the final decision pursuant to CDC 99.240;
 2. A majority of the Council order a review within 14 days of the final decision pursuant to CDC 99.240; or
 3. It is an expedited land division application for which the provisions of Chapter 197 ORS shall apply.
- H. If a Planning Commission or a Historic Review Board decision for a project that requires a decision by both bodies is appealed, both decisions shall be automatically appealed and will be reviewed in a combined hearing. (Ord. 1474, 2001; Ord. 1568, 2008; Ord. 1597 § 19, 2010; Ord. 1604 § 71, 2011; Ord. 1622 § 7, 2014; Ord. 1675 § 56, 2018)

Hearing procedures are acknowledged.

99.180 EX PARTE CONTACTS, IMPARTIALITY, DISQUALIFICATION, AND ABSTENTION

- A. Ex parte contacts. The general public has a right to have hearing body members free from pre-hearing or ex parte contacts on the matter to be heard. It is recognized that an equal public right is free access to public officials on any matter.
1. Therefore, hearing body members shall reveal any significant pre-hearing or ex parte contacts with regard to any matter at the commencement of the public hearing on the matter. "Ex parte contacts" are defined as meetings, conversations, or communication outside of the City hearing process between the decision-making authority (e.g., Planning Commission member) and any person concerning the substance of the application. Essentially, both sides of the issue are not fairly represented. An ex parte contact does not compel abstention, but if such contacts have impaired the members' impartiality or ability to vote on the matter, the member shall so state and shall abstain from voting.
 2. In addition, parties who had the communication with the member have the right to rebut the substance of the communication, or the subject to which the communication relates, with the member at the commencement of the public hearing on the matter.
 3. All ex parte contacts shall be reported on the record.
 4. This section shall not apply to Director decisions made under CDC 99.060(A).
 5. Members of the City Council, Planning Commission, and Historic Review Board shall be governed by the relevant provisions of Chapters 227 and 244 ORS and the provisions of this section. Where inconsistencies exist, the ORS shall prevail.
- B. Challenges to impartiality.
1. An affected party or a member of a hearing body may challenge the qualifications of a member of the hearing body to participate in the hearing and decision. The challenge shall state the facts relied upon by the challenger relating to a person's bias, pre-judgment, personal interest, or other facts from which the challenger has concluded that the member of the hearing body cannot participate in an impartial manner.
 2. The challenged person shall have an opportunity to respond orally to the challenge. The challenge shall be incorporated into the record of the hearing.

3. Any challenge shall require that the hearing body vote on the challenge pursuant to subsection E of this section.

C. Disqualification. No member of a hearing body may participate in a discussion of the proposal or vote on the proposal when any of the following conditions exist:

1. Any of the following have a direct or substantial financial interest in the proposal: the member or member's spouse, brother, sister, child, parent, father-in-law, mother-in-law, any business in which the member is then serving or has served within the previous two years, or any business with which the member is negotiating for or has an arrangement or understanding concerning prospective partnership or employment.

2. For any other valid reason, the member has determined that participation in the hearing and decision cannot be in an impartial manner.

D. Participation by interested officers or employees. No officer or employee of the City who has a financial or other private interest in a proposal may participate in discussion with, or give an official opinion to, the hearing body on the proposal without first declaring for the record the nature and extent of such interest.

E. Abstention or disqualification. Disqualification for reasons other than the member's own judgment may be ordered by a majority of the members of a hearing body present and voting. The member who is the subject of the motion for disqualification may not vote on the motion but shall be allowed to participate in the deliberation of the hearing body on that motion.

F. Rights of abstaining or disqualified member of the hearing body.

1. An abstaining or disqualified member of the hearing body shall be counted for purposes of forming a quorum. A member who represents a personal interest at a hearing may do so only after making full disclosure for the record of the hearing, abstaining from voting on the proposal, and vacating the seat on the hearing body.

2. If sufficient members of a hearing body abstain or are disqualified, that renders the hearing body unable to take action on the application consistent with the applicable authority of the hearing body, then the application shall be reviewed as follows:

a. Planning Director disqualified – referred to Planning Director's designee, or if no alternatives are available, referred to the Planning Commission for hearing and decision.

b. Historic Review Board disqualified – referred to Planning Commission for hearing and decision.

c. Planning Commission disqualified – referred to City Council for hearing and decision.

d. City Council disqualified – City Council will hear it and make a decision if the disqualified member's vote is required to achieve a quorum and reach a decision on the matter, and no other person can act in the place of the disqualified person.

e. City Council acting as appellate hearing authority disqualified – decision of the original authority becomes the final City decision.

3. Council members who appear as a party in another hearing process on an application, such as testifying before the Planning Commission in a case that is then appealed to the City Council, shall be disqualified from Council consideration of that application.

4. Council members of a hearing body who participate in a meeting, such as a neighborhood association or a Chamber of Commerce meeting, etc., wherein they state their support or opposition to an application that appears before the City Council, shall be disqualified from the hearing body consideration of that application.

G. A member absent during the presentation of evidence in a hearing may not participate in the deliberations or decision unless the member has reviewed the evidence received. (Ord. 1474, 2001; Ord. 1568, 2008; Ord. 1604 §§ 72, 73, 2011; Ord. 1635 § 42, 2014)

Requirements regarding Ex parte contacts, impartiality, disqualification and abstention are acknowledged.

99.190 CONTINUATION OF HEARING – NOTICE

An approval authority may continue the hearing from time to time to gather additional evidence, to consider the application fully, to comply with State statutes, or to give notice to additional persons. Unless otherwise provided by the approval authority, no additional notice need be given of the continued hearing if the matter is continued to a date certain. (Ord. 1568, 2008)

Continuation of hearing potential is acknowledged.

99.200 EVIDENCE

- A. *All evidence offered and not objected to may be received unless excluded by the approval authority.*
- B. *Evidence received at any hearing shall be of the quality that reasonable persons rely upon in the conducting of their everyday affairs.*
- C. *No person shall present irrelevant, immaterial, or unduly repetitious testimony or evidence.*
- D. *Formal rules of evidence, as used in courts of law, shall not apply. (Ord. 1474, 2001; Ord. 1568, 2008)*

Rules of evidence are acknowledged.

99.220 RECORD OF PROCEEDINGS

- A. *A verbatim record of the proceeding shall be made by video recording, or other available means. It shall not be necessary to transcribe testimony. The minutes and other evidence of the proceedings shall be part of the record and the basis for deciding a decision on review. Inadvertent loss of a verbatim record due to technical or mechanical problems unforeseen by the City shall not be grounds for invalidating a public hearing or decision.*
- B. *All exhibits received shall be marked so as to provide identification upon review and shall be part of the record.*
- C. *The official record shall include:*
 - 1. *All materials, pleadings, memoranda, stipulations, and motions submitted by any party to the proceeding and recorded or considered by the hearings authority as evidence;*
 - 2. *All materials submitted by the Director to the approval authority with respect to the application;*
 - 3. *The verbatim record made by video recording or other available means, the minutes of the hearing, and other evidence of the proceedings before the hearings body;*
 - 4. *The written findings, conclusions, decision and, if any, conditions of approval of the approval authority;*
 - 5. *All visual displays, both in paper form and in electronic form, presented as part of the proceedings;*
 - 6. *All correspondence relating to the application; and*
 - 7. *A copy of the notice which was given as provided by CDC 99.080, accompanying affidavits and list of persons who were sent mailed notice.*
- D. *The record of the proceedings for a hearing on appeal or review by the City Council shall consist of all the above items and all similar items presented during the Council proceedings. (Ord. 1568, 2008)*

Record of proceeding requirements are acknowledged.

99.230 EFFECTIVE DATE OF DECISION – APPEAL OR REVIEW

- A. *Any Planning Director or Planning Commission decision made under the provisions of this chapter shall become effective at 5:00 p.m. on the fourteenth day from the date of mailing the notice of the final decision, unless a local appeal or review is taken pursuant to CDC 99.240. If the fourteenth day falls on any legal holiday or on a Saturday or Sunday, then the effective date and time shall be at 5:00 p.m. on the next business day.*
- B. *City Council decisions are final upon the date of the signature on the decision. The effective date shall be 21 days from the date that the final, signed decision is mailed. If the twenty-first day falls on any legal holiday or on a Saturday or Sunday, then the effective date and time shall be at 5:00 p.m. on the next business day. (Ord. 1474, 2001; Ord. 1568, 2008; Ord. 1590 § 1, 2009)*

Date of Decision regulations are acknowledged.

99.240 AUTHORITY TO APPEAL OR SEEK REVIEW OF A DECISION – EXHAUSTION OF ADMINISTRATIVE REMEDIES

The Oregon Revised Statutes require that prior to filing an appeal at the State Land Use Board of Appeals (LUBA), an appellant must first utilize the appeal opportunities provided by the City. A case cannot be brought before LUBA unless an appeal or petition for review is first filed with the appropriate City review body. It is the purpose of this section to provide parties information about possible remedies prior to litigation. To that end, the filing of an appeal or petition for review is a condition precedent for further administrative or judicial review.

- A. *Any decision made by the Planning Director pursuant to CDC 99.160, or the Planning Commission or Historic Review Board (except for expedited land divisions) on a development application as provided by CDC 99.170, may be appealed to the City Council pursuant to CDC 99.160(C)(1) or 99.170(G)(1) or may be reviewed by the City Council pursuant to CDC 99.160(C)(2) or 99.170(G)(2).*

- B. Any decision made by the Historic Review Board or Planning Commission under CDC 99.170 may be reviewed by the Council if the matter is referred under CDC 99.170(D) to the Council, upon closure of the hearing, when the case presents a policy issue which required Council deliberation and determination.*
- C. Formally recognized neighborhood associations may appeal land use decisions to the appropriate bodies without cost if the Planning Director finds:*
- 1. The Community Development Code appeal procedures are followed.*
 - 2. A member of the association must have established standing on behalf of the association. The member must have explicitly identified themselves, in writing or in testimony, as representing the association.*
 - 3. The association submits a copy of the meeting minutes and vote taken supporting the appeal.*
 - 4. The neighborhood association appeal is related to the property within the association's recognized boundaries, or an application outside the association's boundaries that shall have significant impacts upon the association's neighborhood.*
 - 5. The neighborhood association may appeal without cost on behalf of an individual or group with standing who is not represented by a recognized association if subsections A, B and C of this section are met and the neighborhood association finds the issue(s) are of City-wide concern related to the West Linn Comprehensive Plan or the West Linn CDC.*
- D. The Planning Commission shall have standing in all Historic Review Board decisions and may appeal such decisions, following Community Development Code appeal procedures, without cost.*
- E. The Historic Review Board shall have standing in all Planning Commission decisions involving property or structures within a historic district or designated as a landmark and may appeal such decisions, following Community Development Code appeal procedures, without cost. (Ord. 1474, 2001; Ord. 1568, 2008; Ord. 1597 § 20, 2010)*
- Authority to appeal or seek review is acknowledged.

99.250 APPLICATION FOR APPEAL OR REVIEW

- A. The notice of appeal shall contain:*
- 1. A reference to the application sought to be appealed; and*
 - 2. A statement explaining how the petitioner qualifies as a party of standing, as provided by CDC 99.140.*
- B. The appeal application shall be accompanied by the required fee.*
- C. The hearing on the appeal or review shall be de novo; however, all evidence presented to any lower approval authority shall be made part of the record and shall be considered and given equal weight as evidence presented on appeal.*
- D. The appeal or review application may state grounds for appeal or review. (Ord. 1474, 2001; Ord. 1568, 2008; Ord. 1622 § 5, 2014; Ord. 1663 § 1, 2017)*
- Requirements for application for appeal are acknowledged.

99.260 PERSONS ENTITLED TO NOTICE ON APPEAL – TYPE OF NOTICE

Upon appeal, notice shall be given by the Director to all persons having standing as provided by CDC 99.140 to notice as required by CDC 99.080. (Ord. 1568, 2008; Ord. 1622 § 5, 2014)

Appeal notice requirements are acknowledged.

99.270 CONTENTS OF PUBLIC NOTICE OF APPEAL HEARING

Notice given to persons entitled to mailed notice under CDC 99.260 shall:

- A. Reference the application sought to be appealed;*
 - B. List the date, time, and location of the hearing;*
 - C. State the appellant or petitioner name(s);*
 - D. List any grounds for appeal or review stated in the application for appeal or review, but state that the appeal or review is not limited to the stated grounds for appeal or review and that all relevant issues may be considered;*
 - E. State that the hearing on appeal shall be de novo; however, evidence presented to the lower approval authority shall be considered and given equal weight as evidence presented on appeal;*
 - F. Include the name of government contact and phone number; and*
 - G. State that the application and record are available for inspection at no cost, and copies at a reasonable cost. (Ord. 1382, 1995; Ord. 1474, 2001; Ord. 1547, 2007; Ord. 1568, 2008; Ord. 1622 § 5, 2014; Ord. 1663 § 2, 2017)*
- Appeal notice contents are acknowledged.

99.280 TYPE OF APPEAL HEARING AND SCOPE OF REVIEW

- A. All appeals and reviews shall be de novo.
 - 1. The record of the previous application, hearing, and decision shall be incorporated and considered as evidence in the appeal procedure.
 - 2. If any party requests a continuance of the appeal hearing, the City Council may grant a continuance to allow a further hearing or may allow only written submissions. The City Council may limit the scope of any additional testimony or argument after the initial hearing on appeal. (Ord. 1474, 2001; Ord. 1568, 2008; Ord. 1622 § 5, 2014; Ord. 1663 § 3, 2017)

Type of appeal and scope of review requirements are acknowledged.

99.290 ACTION ON APPEAL OR REVIEW – TIME LIMIT AND AUTHORITY TO CHANGE DECISION

- A. The approval authority shall act upon the appeal or review within 120 days of the application being deemed complete, unless the applicant consents to an extension of time; and
- B. The approval authority may affirm, reverse, or modify the decision which is the subject of the appeal; however, the decision shall be made in accordance with the provisions of CDC 99.110; or
- C. The approval authority may remand the matter if it is not satisfied that testimony or other evidence could not have been presented or was not available at the hearing. In deciding to remand the matter, the approval authority shall consider and make findings and conclusions regarding:
 - 1. The prejudice to parties;
 - 2. The convenience or availability of evidence at the time of the initial hearing;
 - 3. The surprise to opposing parties;
 - 4. The date notice was given to other parties as to an attempt to admit; or
 - 5. The competency, relevancy, and materiality of the proposed testimony or other evidence. (Ord. 1474, 2001; Ord. 1568, 2008)

Action on appeal requirements are acknowledged.

99.300 PARTICIPATION BY MEMBERS OF APPROVAL AUTHORITY IN DECISION AND VOTING

- A. The provisions of CDC 99.180 apply and, in addition:
 - 1. A majority of the qualified voting members of the approval authority must vote affirmatively to affirm, affirm with conditions, or reverse or remand the decision. If no majority is in favor of any motion, then the previous decision shall be considered affirmed.
- B. Unless a decision be deferred, in the event of a tie, the decision which is the subject of appeal or review shall stand. (Ord. 1474, 2001; Ord. 1568, 2008)

Participation in decision and voting is acknowledged.

99.320 DENIAL OF APPLICATION – RESUBMITTAL

An application which has been denied and, if appealed, has not been reversed by a higher authority, including the Land Use Board of Appeals, the Land Conservation and Development Commission, or the courts, may not be resubmitted for the same or a substantially similar proposal, or for the same or substantially similar action, for a period of at least 12 months from the date the final decision is made denying the application. (Ord. 1568, 2008; Ord. 1590 § 1, 2009)

Denial of application resubmittal requirements are acknowledged.

99.325 EXTENSIONS OF APPROVAL

- A. An extension may be granted by the original decision-making body by an additional two years from the effective date of approval pertaining to applications listed in CDC 99.060(A), (B), (C), (D) or (E), as applicable, upon finding that:
 - 1. The applicant has demonstrated that the application is in conformance with applicable CDC provisions and relevant approval criteria enacted since the application was initially approved; and
 - 2. There are no demonstrated material misrepresentations, errors, omissions, or changes in facts that directly impact the project, including, but not limited to, existing conditions, traffic, street alignment and drainage; or
 - 3. The applicant has modified the approved plans to conform with current approval criteria and remedied any inconsistency with subsection (A)(2) of this section, in conformance with any applicable limits on modifications to approvals established by the CDC.
- B. Repealed by Ord. 1675.
- C. Repealed by Ord. 1675.

D. Repealed by Ord. 1635.

E. Extension procedures.

1. The application for extension of approval with modifications to the original approval may be submitted only after a pre-application meeting under CDC 99.030(B). If no modifications are made to the original approval, a pre-application conference is not required.
2. The application for extension of approval with modifications to the original approval shall satisfy the neighborhood meeting requirements of CDC 99.038 for those cases that require compliance with that section. If no modifications are made to the original approval, no neighborhood meeting is required.
3. Applications for extensions must be submitted along with the appropriate deposit to the Community Development Department.
4. Notice of the decision shall be issued consistent with CDC 99.080.
5. The decision shall not become effective until resolution of all appeal periods, including an opportunity for City Council call-up pursuant to this chapter. (Ord. 1589 § 1 (Exh. A), 2010; Ord. 1621 § 25, 2014; Ord. 1635 § 43, 2014; Ord. 1675 § 57, 2018)

Requirements for extensions of approval are acknowledged.

99.330 REVOCATION OF APPROVALS – FAILURE TO FULFILL CONDITIONS

A. Conditions of approval shall be fulfilled within the time limit set forth in the decision, or by specific provisions in this code or, if no time limit is set forth, within three years unless an extension is granted per CDC 99.325. Failure to fulfill any condition of approval within the time limitations provided will be grounds for revocation of approval after notice and an opportunity to be heard as an administrative action as provided in this section. Alternately, the Planning Director shall pursue compliance through Chapter 106 CDC.

B. Substantial changes, alterations, or amendments to the substance of the conditions of approval shall be processed as a new administrative action per CDC 99.120.

1. Substantial changes in an application made after approval, but without applicant seeking approval under CDC 99.120, shall result in revocation of approval after notice and opportunity to appeal revocation order.
2. Director determination of what does or does not constitute substantial changes, alterations, or amendments is appealable to the City Council by anyone having standing in the original land use decision.

C. The conditional approval may require the owner of the property to sign within a time certain or, if no time is designated, within a reasonable time, a contract with the City for enforcement of the conditions. The Council shall have the authority to execute such contracts on behalf of the City. If a contract is required by a conditional approval, no building permit shall be issued for the use covered by the applications until the executed contract is recorded in the real property records of the County and filed in the County records. Such contracts shall be enforceable against the signing parties, their beneficiaries, successors, and assigns by the City by appropriate action in law or suit in equity for the benefit of public health, safety, and welfare.

D. A performance bond or other type of surety in a form acceptable to the Director, or upon appeal or review by the appropriate approval authority, or a cash deposit from the property owners or contract purchases in such an amount as will assure compliance with the conditions imposed pursuant to this section may be required. Such bond, surety, or deposit shall be posted prior to the issuance of a building permit for the use covered by the application.

E. The hearings authority may, after a hearing conducted pursuant to this chapter, modify or revoke any approval granted pursuant to this chapter for any of the following reasons:

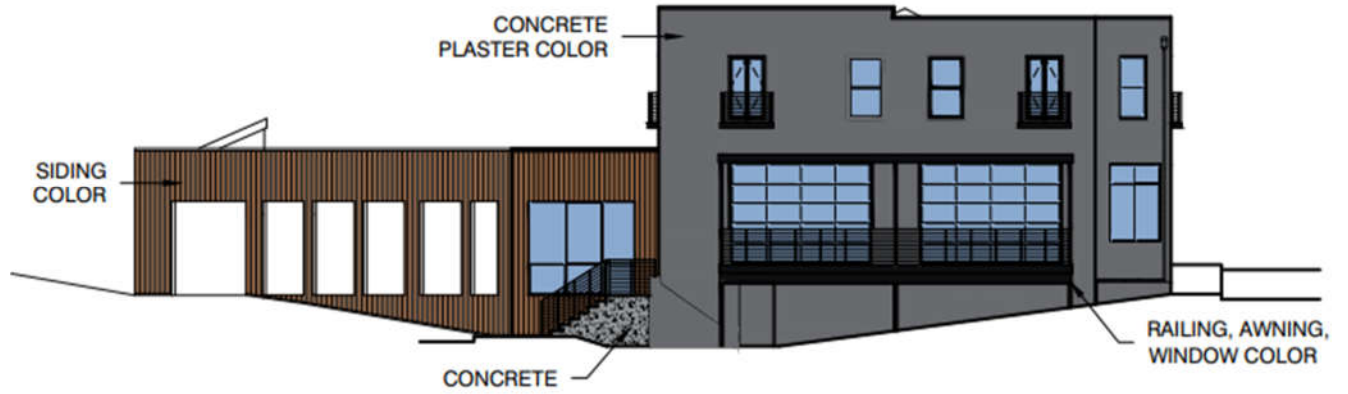
1. A material misrepresentation or mistake of fact made by the applicant in the application or in testimony and evidence submitted, whether such misrepresentation be intentional or unintentional; or
2. A failure to comply with the terms and conditions of approval; or
3. A failure to use the premises in accordance with the terms of the approval; or
4. A material misrepresentation or mistake of fact or policy by City in the written or oral report regarding the matter, whether such misrepresentation be intentional or unintentional.

F. In the event that a revocation hearing is deemed appropriate, per subsection A of this section, the hearing shall be conducted by the decision-making authority that granted the final City approval. The Planning Director or the approval authority with jurisdiction may initiate revocation proceedings. For the Planning Director's decisions made without a public hearing, the Planning Commission shall hold a

public hearing on the proposed revocation. (Ord. 1474, 2001; Ord. 1568, 2008; Ord. 1589 § 1 (Exh. A), 2010)

Requirements for revocation of approvals and failure to fulfill conditions are acknowledged.

BROADWAY CREATIVE EXTERIOR BUILDING MATERIALS SCHEDULE



**VERTICAL WOOD SIDING – NATURAL STAINED
RAILINGS, AWNINGS, WINDOWS - BLACK**



**CONCRETE PLASTER COLOR –
Miller 0508 Midnight Magic**

FIRE CODE / LAND USE / BUILDING REVIEW APPLICATION



North Operating Center
11945 SW 70th Avenue
Tigard, OR 97223
Phone: 503-649-8577

South Operating Center
8445 SW Elligsen Rd
Wilsonville, OR 97070
Phone: 503-649-8577

REV 6-30-20

Project Information

Applicant Name: Iselin Architects, PC Jessica Iselin
Address: 1307 7th Street Oregon City, OR 97045
Phone: 503-656-1942
Email: jessica@iselinarch.com
Site Address: 5015 Broadway Street
City: West Linn
Map & Tax Lot #: 22E30CD06400
Business Name: Broadway Creative
Land Use/Building Jurisdiction: West linn
Land Use/ Building Permit # PA-24-11

Choose from: Beaverton, Tigard, Newberg, Tualatin, North Plains, West Linn, Wilsonville, Sherwood, Rivergrove, Durham, King City, Washington County, Clackamas County, Multnomah County, Yamhill County

Project Description

Building shell improvements only to an existing commercial building with six apartments above. No interior tenant improvements, no work to residential units and no site work (limited sidewalk repair only) proposed as part of this work.

Permit/Review Type (check one):

- X Land Use / Building Review - Service Provider Permit
Emergency Radio Responder Coverage Install/Test
LPG Tank (Greater than 2,000 gallons)
Flammable or Combustible Liquid Tank Installation (Greater than 1,000 gallons)
Exception: Underground Storage Tanks (UST) are deferred to DEQ for regulation.
Explosives Blasting (Blasting plan is required)
Exterior Toxic, Pyrophoric or Corrosive Gas Installation (in excess of 810 cu.ft.)
Tents or Temporary Membrane Structures (in excess of 10,000 square feet)
Temporary Haunted House or similar
OLCC Cannabis Extraction License Review
Ceremonial Fire or Bonfire (For gathering, ceremony or other assembly)

For Fire Marshal's Office Use Only

TVFR Permit # 2024-0077
Permit Type: SPP West Linn
Submittal Date: 6-6-24
Assigned To: DFM Arn
Due Date: NA
Fees Due: 0
Fees Paid: 0

Approval/Inspection Conditions

(For Fire Marshal's Office Use Only)

This section is for application approval only

Jason Arn 6-7-24
Fire Marshal or Designee Date
Conditions: Approved

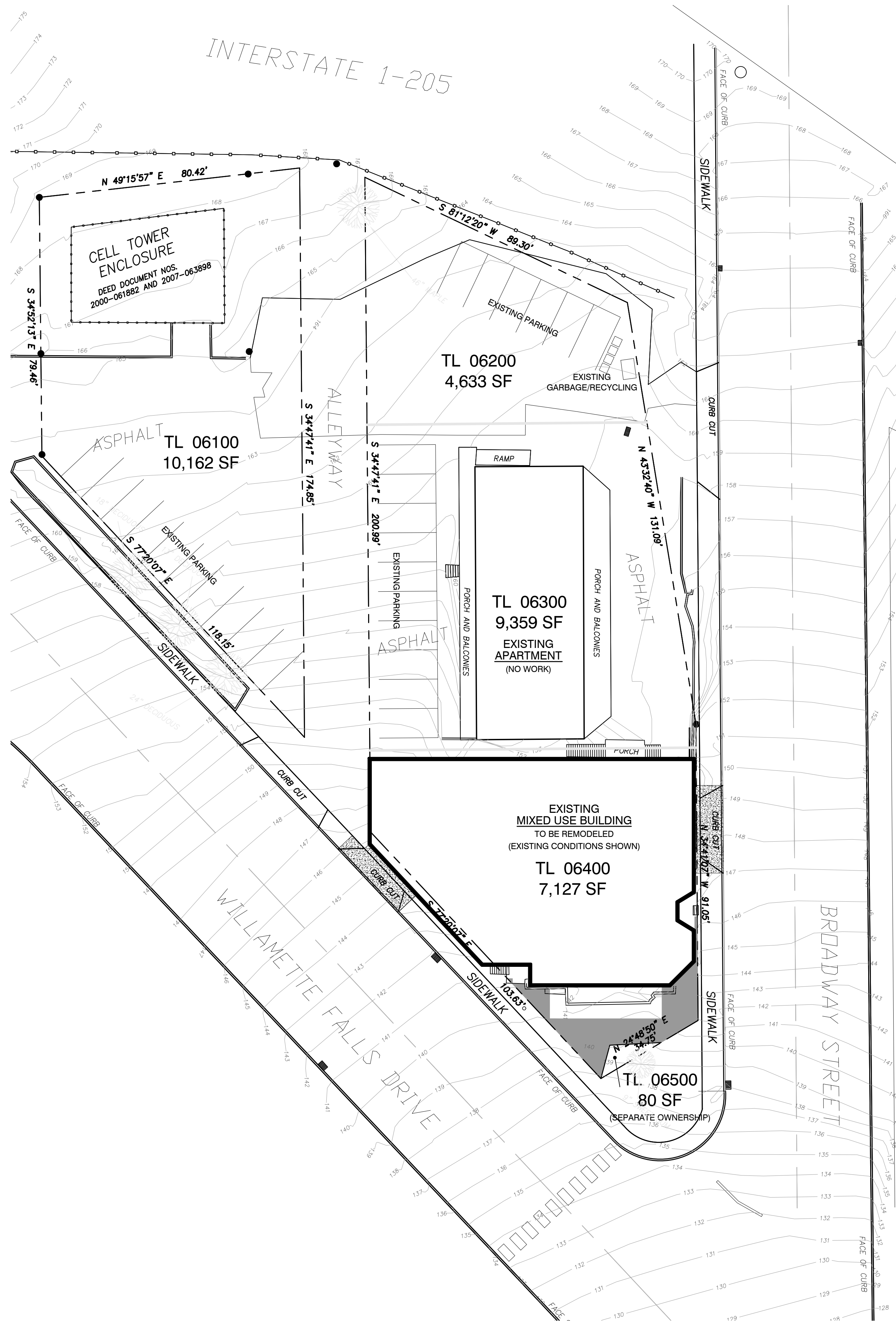
See Attached Conditions: Yes No

Site Inspection Required: Yes No

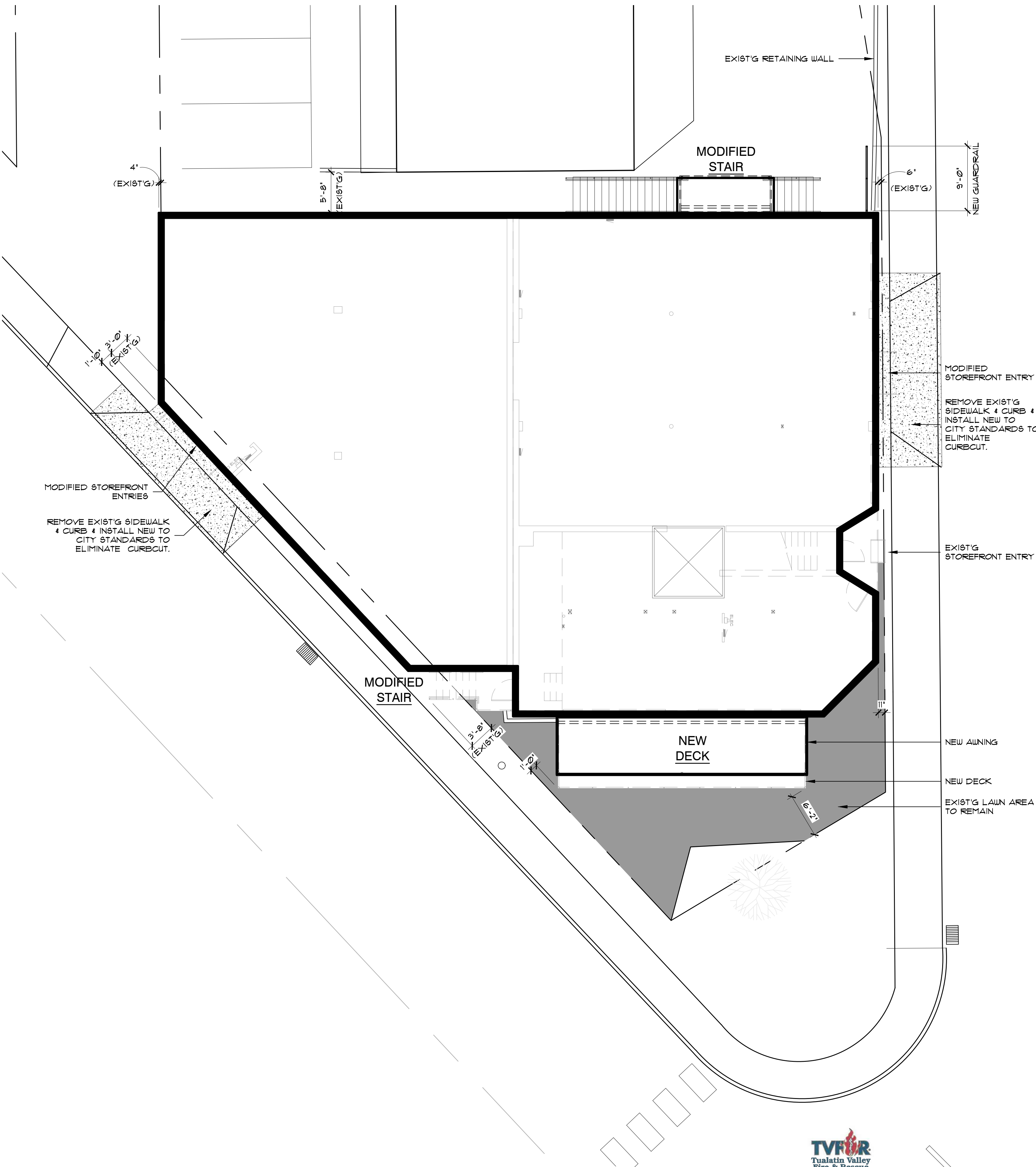
This section used when site inspection is required

Inspection Comments:

Final TVFR Approval Signature & Emp ID Date



FULL SITE PLAN
 ALL TAX LOTS UNDER SAME OWNERSHIP 1" = 20'



PARTIAL SITE PLAN
 TAX LOT 06400 1/8" = 1'-0"



1307 Seventh Street
 Oregon City, OR 97045
 503-656-1942
 www.iselinarchitects.com

NOT FOR
 PRELIMINARY
 CONSTRUCTION

**DESIGN
 REVIEW**

Building Shell Improvements
BROADWAY CREATIVE BUILDING

5015 Broadway St.
 West Linn, OR, 97068

PROJ. NO. : 2350
 FILE : A-SIT
 DATE : 5/16/2024

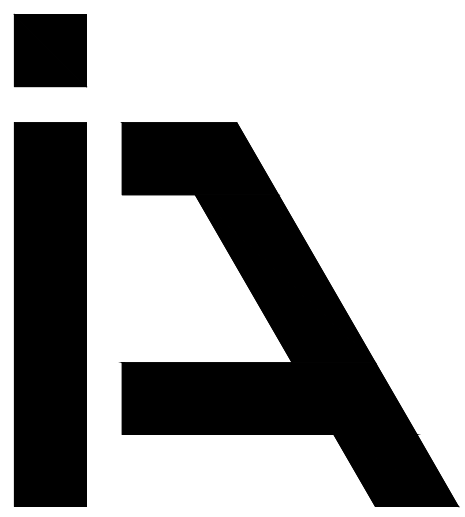
SHEET #
FS1

FIRE SERVICE SITE PLAN



APPROVED PLANS
APPROVAL OF PLANS IS NOT AN APPROVAL OF OMISSIONS OR OVERSIGHTS.
 Jason O...
 Deputy Fire Marshal

TVFR Permit#2024-0077



**ISELIN
ARCHITECTS
P.C.**

1307 Seventh Street
Oregon City, OR 97045
503-656-1942
www.iselinarchitects.com

NOT FOR
PRELIMINARY
CONSTRUCTION

**DESIGN
REVIEW**



SOUTH ELEVATION (WILLAMETTE FALLS DR)

1/4" = 1'-0"



SOUTHEAST ELEVATION

1/4" = 1'-0"

Building Shell Improvements
BROADWAY CREATIVE BUILDING

5015 Broadway St.
West Linn, OR, 97068

PROJ. NO. : 2350
FILE : A-ELV
DATE : 5/16/2024

SHEET #

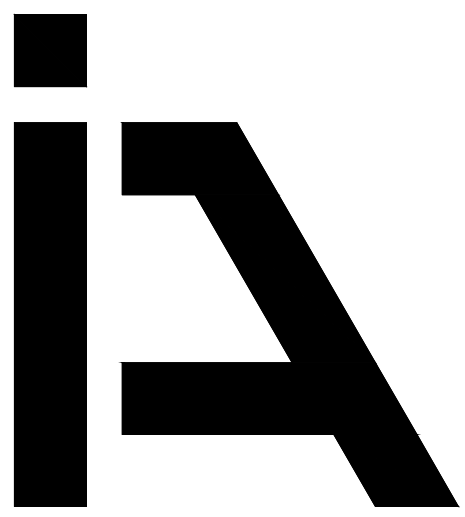
FS2

ELEVATIONS



APPROVED PLANS
APPROVAL OF PLANS IS NOT AN APPROVAL
OF OMISSIONS OR OVERSIGHTS
Jason A. [Signature]
Deputy Fire Marshal II

TVF&R Permit#2024-0077



ISELIN ARCHITECTS P.C.

1307 Seventh Street
Oregon City, OR 97045
503-656-1942
www.iselinarchitects.com

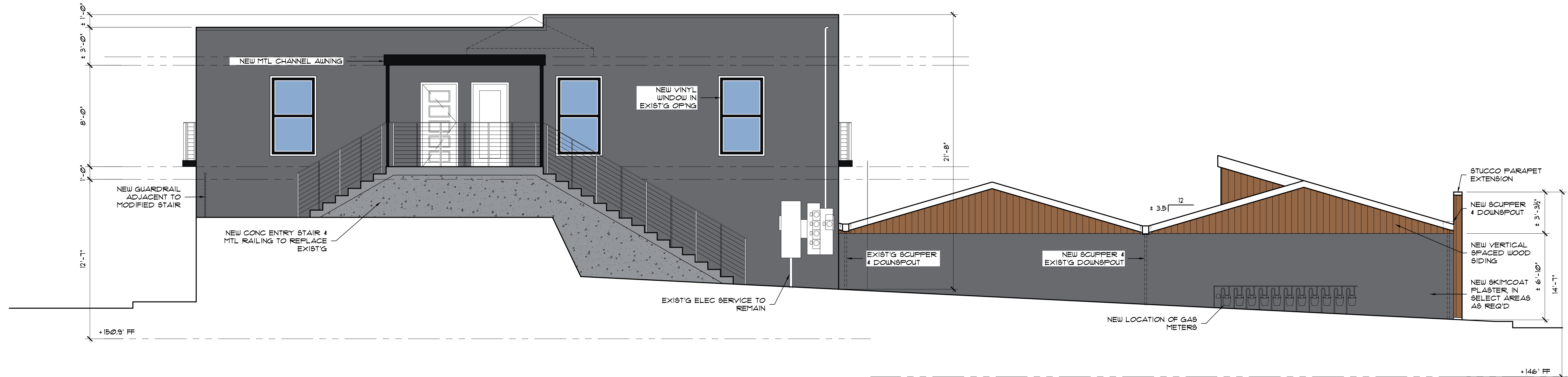
NOT FOR PRELIMINARY CONSTRUCTION

DESIGN REVIEW



NORTHEAST ELEVATION (BROADWAY ST)

1/4" = 1'-0"



NORTHWEST ELEVATION (PARKING LOT)

1/4" = 1'-0"

Building Shell Improvements
BROADWAY CREATIVE BUILDING

5015 Broadway St.
West Linn, OR, 97068

PROJ. NO. : 2350
FILE : A-ELV
DATE : 5/16/2024

SHEET #

FS3

ELEVATIONS



APPROVED PLANS

APPROVAL OF PLANS IS NOT AN APPROVAL OF OMISSIONS OR OVERSIGHTS

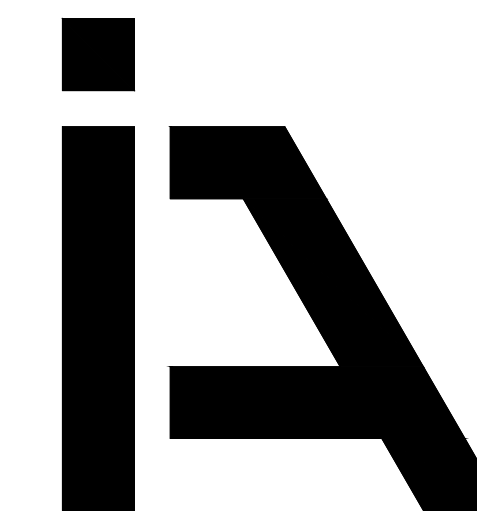
Jason Ann
Deputy Fire Marshal II

TVFR Permit#2024-0077



SOUTHWEST ELEVATION (WILLAMETTE FALLS DR)

1/4" = 1'-0"



**ISELIN
ARCHITECTS
P.C.**

1307 Seventh Street
Oregon City, OR 97045
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NOT FOR
PRELIMINARY
CONSTRUCTION

**DESIGN
REVIEW**

Building Shell Improvements
BROADWAY CREATIVE BUILDING

5015 Broadway St.
West Linn, OR, 97068

PROJ. NO. : 2350
FILE : A-ELV
DATE : 5/16/2024

SHEET #

FS4

ELEVATIONS



APPROVED PLANS

APPROVAL OF PLANS IS NOT AN APPROVAL
OF OMISSIONS OR OVERSIGHTS

Jason Ann Jember
Deputy Fire Marshal II

TVF&R Permit#2024-0077

BROADWAY CREATIVE BUILDING



1307 Seventh Street
Oregon City, OR 97045
503-656-1942
www.iselinarchitects.com

NOT FOR
PRELIMINARY
CONSTRUCTION

**DESIGN
REVIEW**

PROJECT INFORMATION

PROJECT DESCRIPTION
BUILDING SHELL IMPROVEMENTS TO AN EXISTING COMMERCIAL BUILDING WITH RESIDENTIAL UNITS ON THE UPPER FLOOR. SHELL IMPROVEMENTS WILL INCLUDE:

- STOREFRONT IMPROVEMENTS INCLUDING NEW AND MODIFIED WINDOW AND DOOR OPENINGS
- MODIFIED BUILDING ENTRANCES ON WILLAMETTE FALLS DRIVE
- NEW OVERHEAD DOORS ON THE SOUTHEAST BUILDING FAÇADE AND A NEW PARTIALLY COVERED DECK
- SMALL BALCONIES AT SELECT UPPER LEVEL RESIDENTIAL UNITS
- RECONSTRUCTED STAIRWAYS AT THE MAIN LEVEL SOUTHEAST CORNER AND THE UPPER LEVEL NORTHWEST FAÇADE
- EXTENDED PARAPET AT THE SOUTHWEST FAÇADE
- NEW SKYLIGHT ABOVE UPPER LEVEL STAIRWAY LANDING

PROPERTY LOCATION	TAX LOT 22E30CD06400
ADDRESS	4985/4999 WILLAMETTE FALLS DRIVE & 5009-5015 BROADWAY STREET WEST LINN, OR 97068
COUNTY	CLACKAMAS
ELEVATION	149'
SITE AREA	7,127 SF
ZONE OCCUPANCY	GC, GENERAL COMMERCIAL B, OFFICE M, MERCANTILE R-2, APARTMENTS

BUILDING SQUARE FOOTAGE	
EXISTING MAIN LEVEL FLOOR AREA	5,973 SF
EXISTING UPPER LEVEL FLOOR AREA	3,524 SF *
<i>*(6) UNITS TOTAL BTWN 426 SF - 597 SF EA</i>	
TOTAL	9,497 SF
NEW DECK	348 SF

DRAWING INDEX

DESIGN REVIEW SUBMITTAL PACKAGE

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- A1.3 UPPER LEVEL FLOOR PLAN
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- A2.0 EXISTING BUILDING ELEVATIONS
- A2.1 BUILDING ELEVATIONS
- A2.2 BUILDING ELEVATIONS
- A2.3 BUILDING ELEVATIONS

CONTACT INFORMATION

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BROADWAY CREATIVE, LLC
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STRUCTURAL ENGINEER
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PORTLAND, OR 97223
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kevin@millier-se.com
(503) 246-1250



VICINITY MAP

Building Shell Improvements
BROADWAY CREATIVE BUILDING
 5015 Broadway St.
 West Linn, OR, 97068

PROJ. NO. : 2350
FILE : A-COV
DATE : 5/16/2024

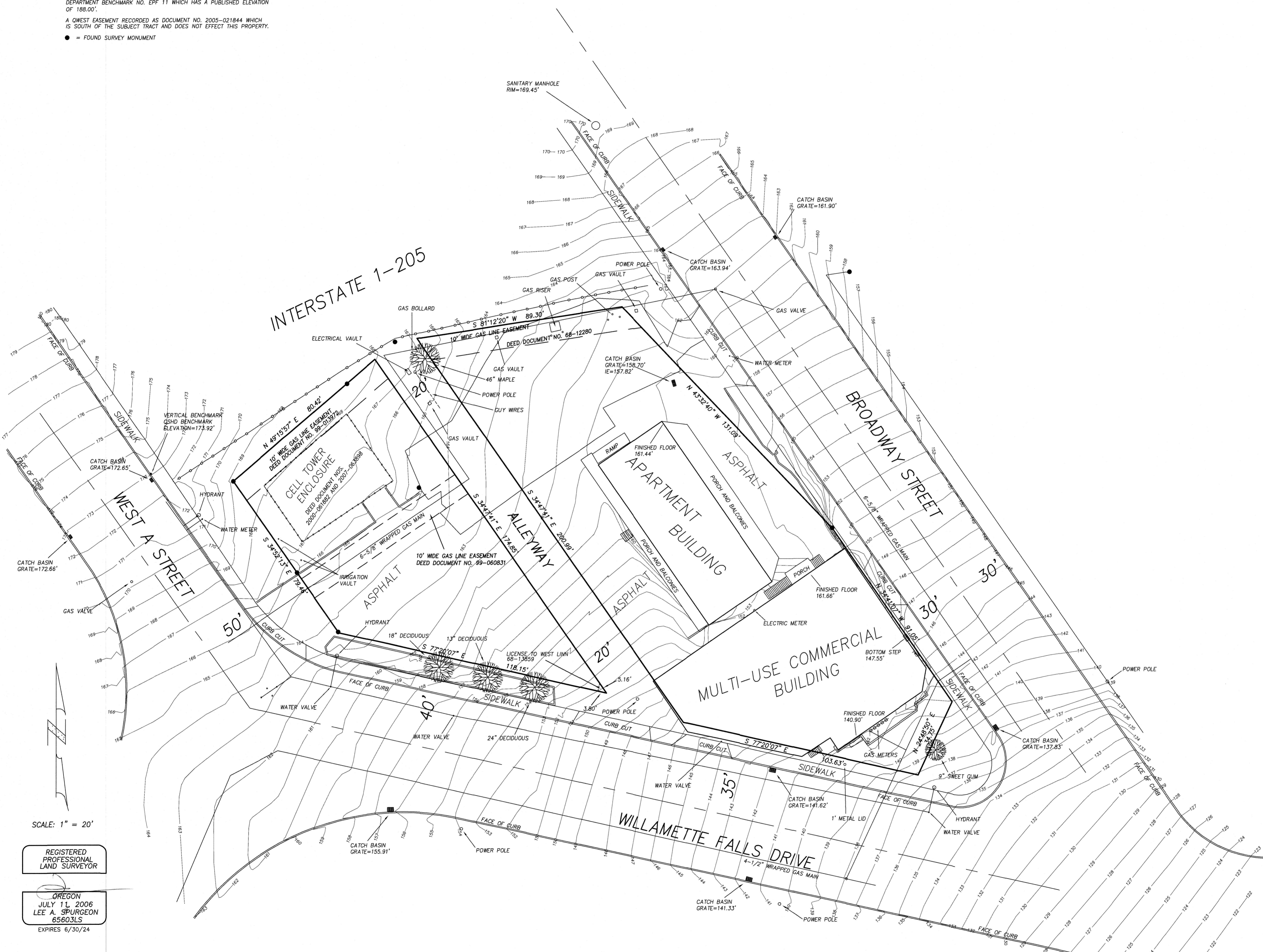
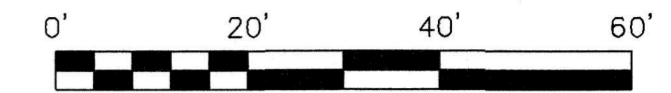
SHEET #
COV

GENERAL INFORMATION

NTS

NOTES:

CONTOUR INTERVALS ARE EVERY FOOT.
 THE VERTICAL DATUM IS BASED UPON THE OREGON STATE HIGHWAY
 DEPARTMENT BENCHMARK NO. EPF 11 WHICH HAS A PUBLISHED ELEVATION
 OF 188.00'.
 A QWEST EASEMENT RECORDED AS DOCUMENT NO. 2005-021844 WHICH
 IS SOUTH OF THE SUBJECT TRACT AND DOES NOT EFFECT THIS PROPERTY.
 ● = FOUND SURVEY MONUMENT

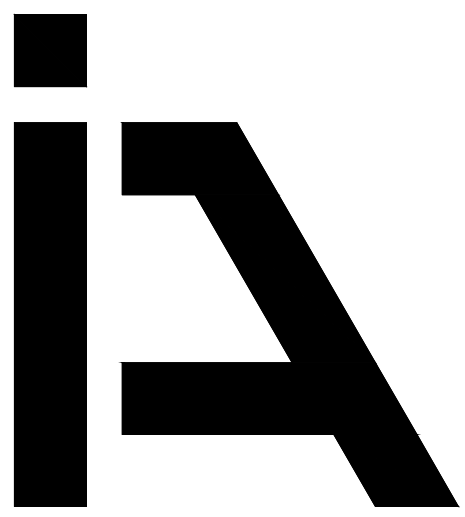


SCALE: 1" = 20'

REGISTERED
 PROFESSIONAL
 LAND SURVEYOR

OREGON
 JULY 14, 2006
 LEE A. SPURGEON
 65603LS
 EXPIRES 6/30/24

PROJECT: SITE MAP AND TOPOGRAPHY	
LOCATION: 4985 WILLAMETTE DRIVE SW 1/4 OF SECTION 30, T.2S., R.2E., W.M. CITY OF WEST LINN, CLACKAMAS COUNTY, OREGON	
CLIENT: BROADWAY CREATIVE GROUP	JOB No.: 24-7818
DATE: FEBRUARY 22, 2024	
SCALE: 1" = 20'	
TOWNSHIP LAND SURVEYS, LLC 1415 WASHINGTON STREET, OREGON CITY, OR 97045 (503) 656-4915 info@townshipsurveys.com	



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**DESIGN
REVIEW**

Building Shell Improvements
BROADWAY CREATIVE BUILDING

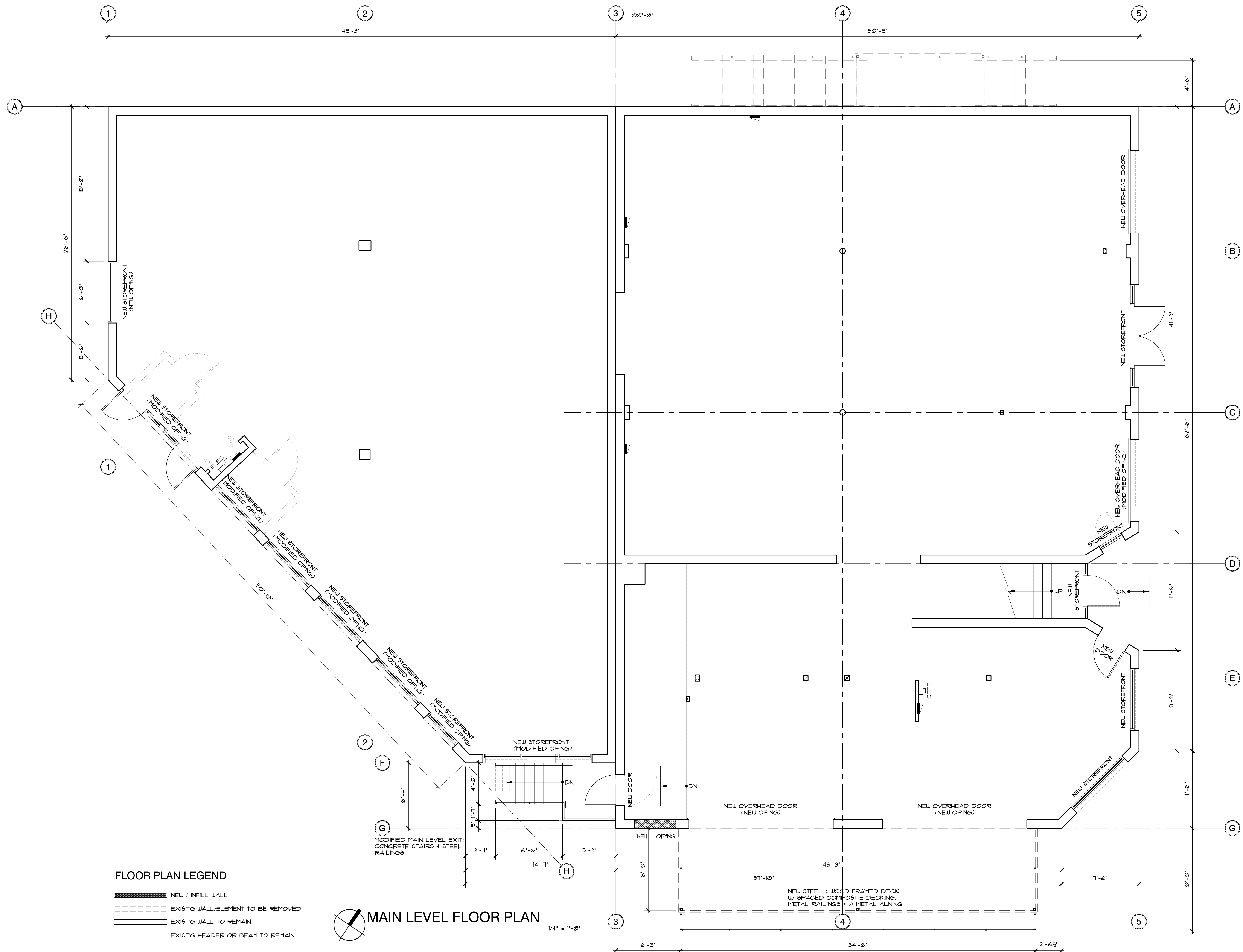
5015 Broadway St.
West Linn, OR, 97068

PROJ. NO. : 2350
FILE : A-ELV
DATE : 5/16/2024

SHEET #

A1.2

MAIN LEVEL FLOOR PLAN

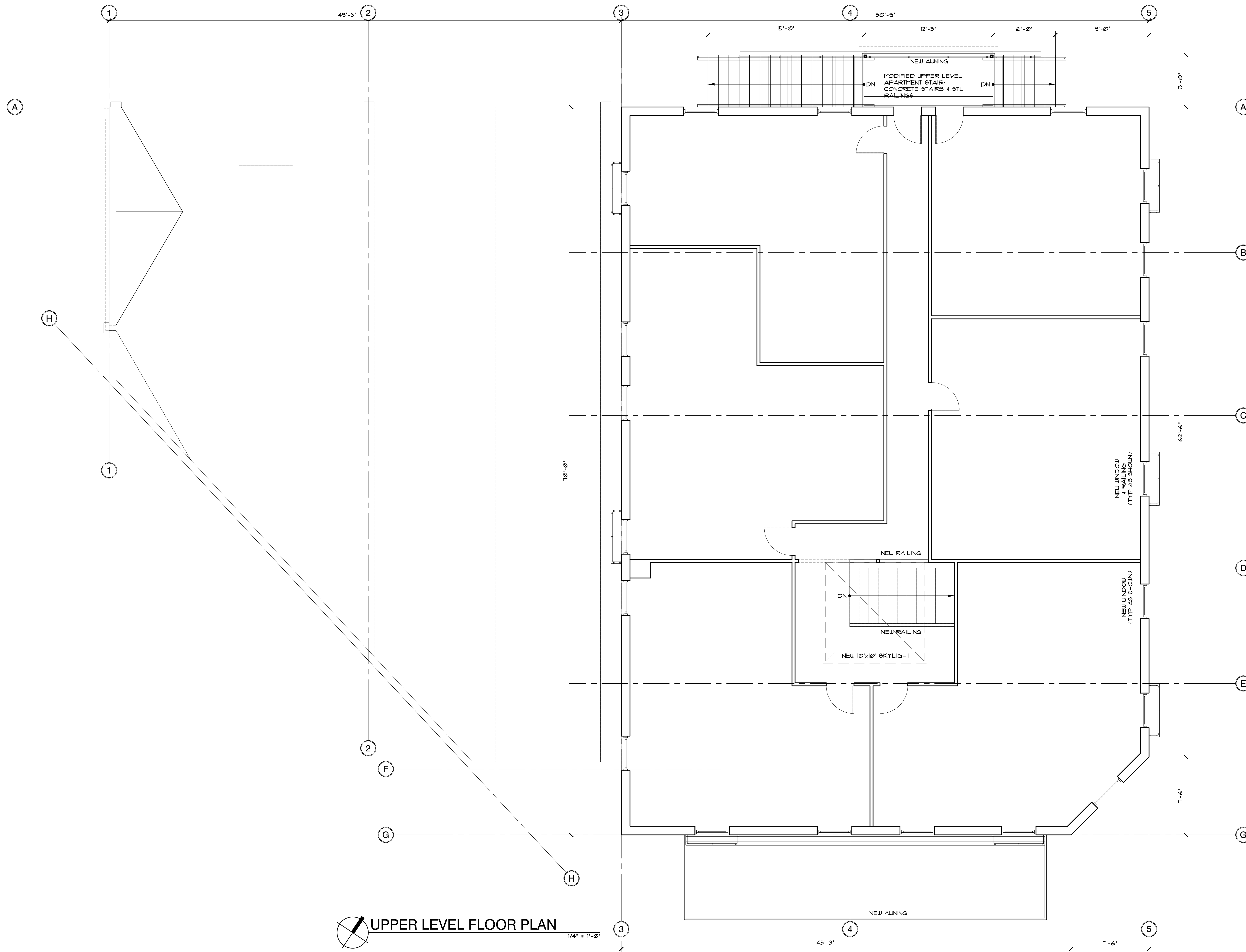


FLOOR PLAN LEGEND

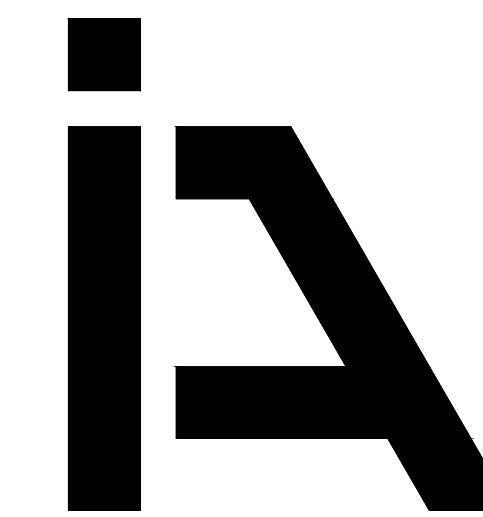
- NEW / INFILL WALL
- EXIST'G WALL/ELEMENT TO BE REMOVED
- EXIST'G WALL TO REMAIN
- EXIST'G HEADER OR BEAM TO REMAIN

MAIN LEVEL FLOOR PLAN

1/4" = 1'-0"




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



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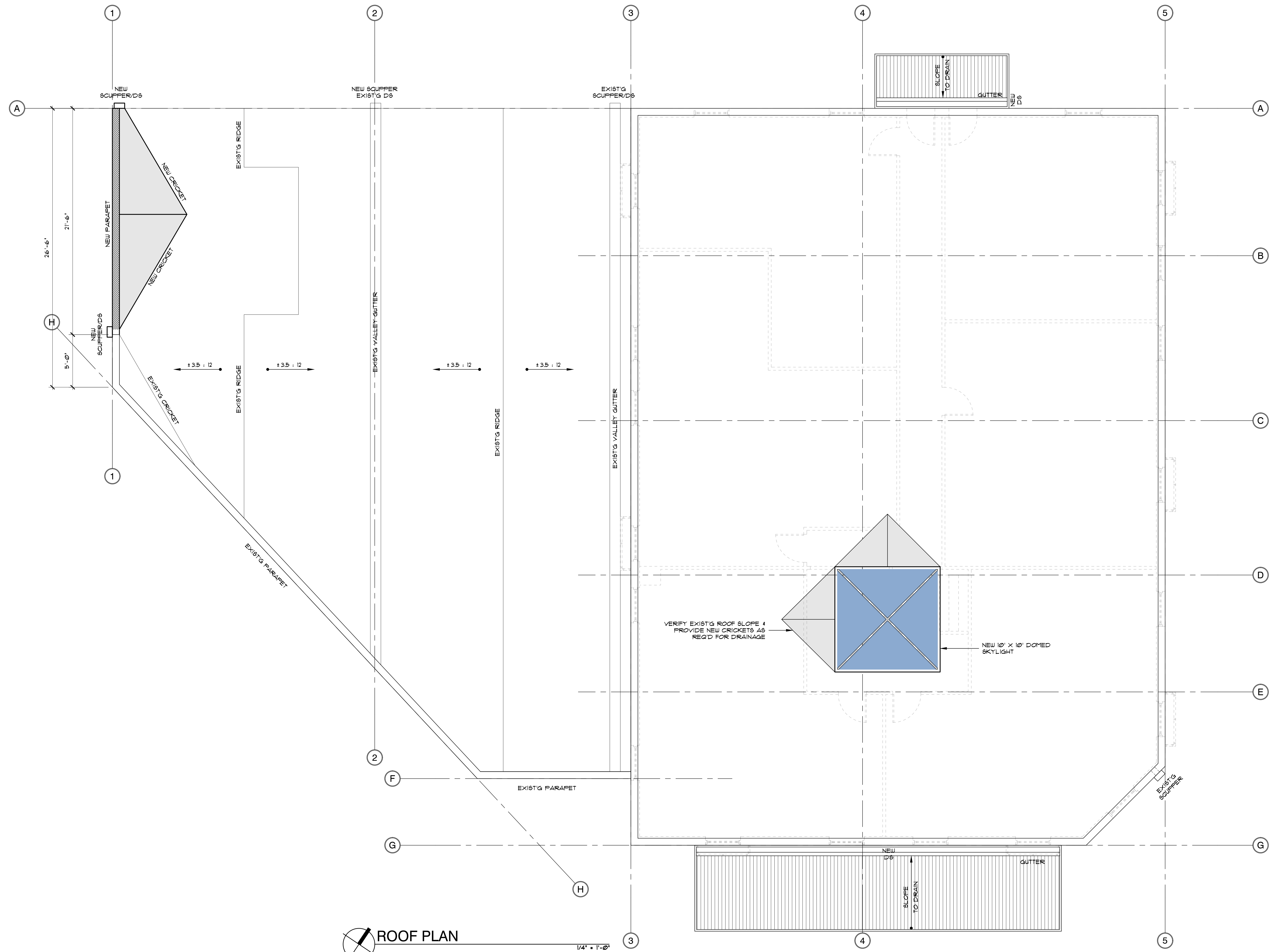
Building Shell Improvements
BROADWAY CREATIVE BUILDING

5015 Broadway St.
 West Linn, OR, 97068

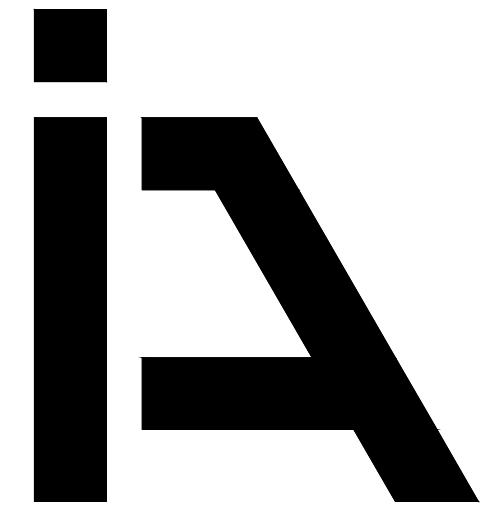
PROJ. NO. : 2350
 FILE : A-FP
 DATE : 5/16/2024

SHEET #
A1.3

UPPER LEVEL FLOOR PLAN



 **ROOF PLAN**
1/4" = 1'-0"



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PROJ. NO. : 2350
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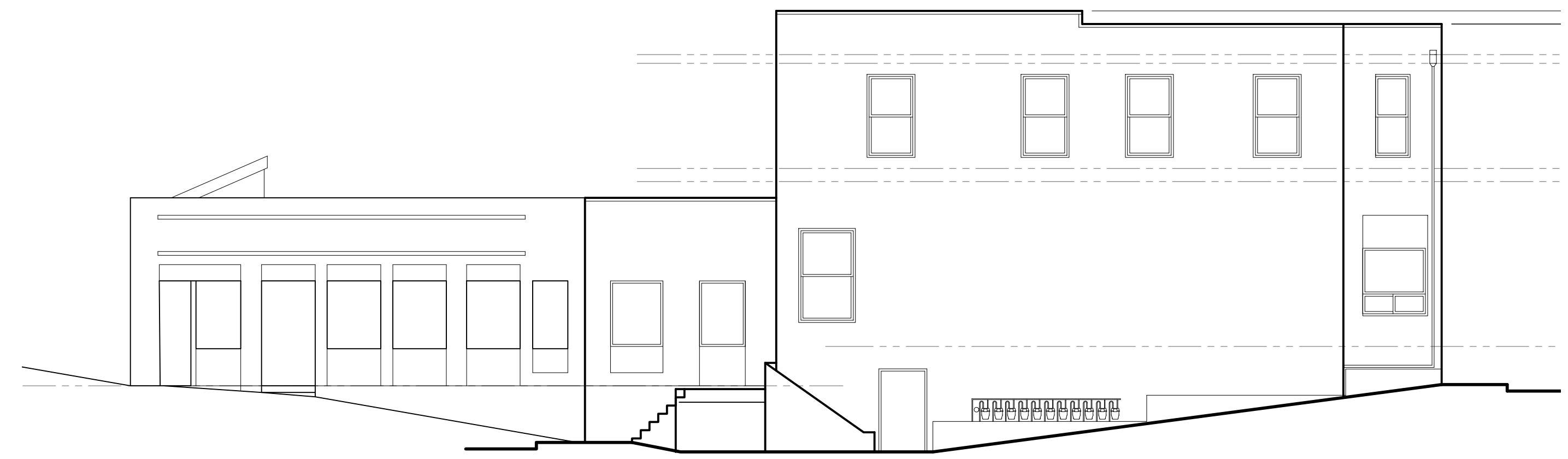
SHEET #
A1.4

ROOF PLAN



EXISTING SOUTH ELEVATION

1/8" = 1'-0"



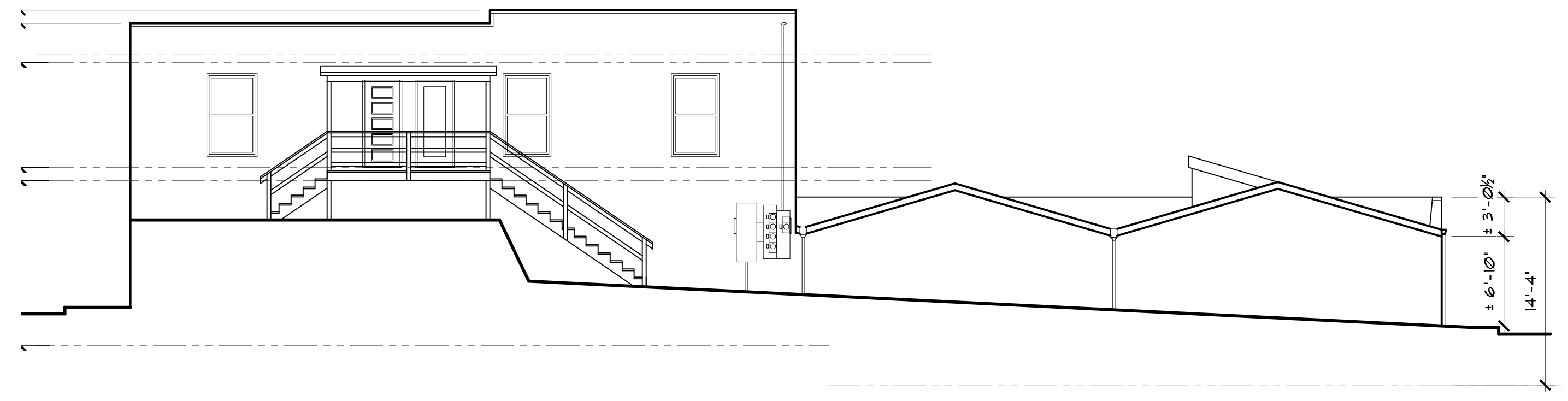
EXISTING SOUTHEAST ELEVATION

1/8" = 1'-0"



EXISTING NORTHEAST ELEVATION

1/8" = 1'-0"



EXISTING NORTHWEST ELEVATION

1/8" = 1'-0"



EXISTING SOUTHWEST ELEVATION

1/8" = 1'-0"



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**DESIGN
REVIEW**

Building Shell Improvements
BROADWAY CREATIVE BUILDING

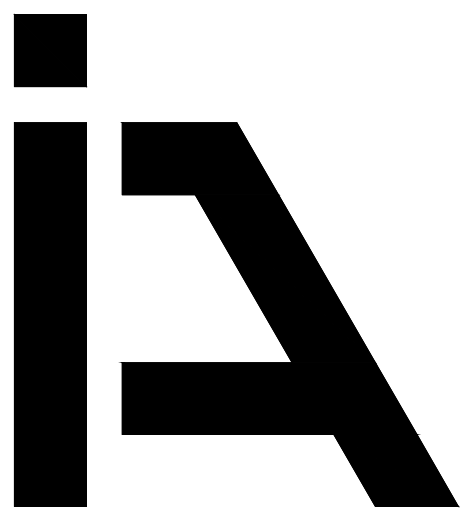
5015 Broadway St.
West Linn, OR, 97068

PROJ. NO. : 2350
FILE : XABELV
DATE : 5/16/2024

SHEET #

A2.0

EXISTING BUILDING
ELEVATIONS



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SOUTH ELEVATION (WILLAMETTE FALLS DR)

1/4" = 1'-0"



SOUTHEAST ELEVATION

1/4" = 1'-0"

Building Shell Improvements
BROADWAY CREATIVE BUILDING

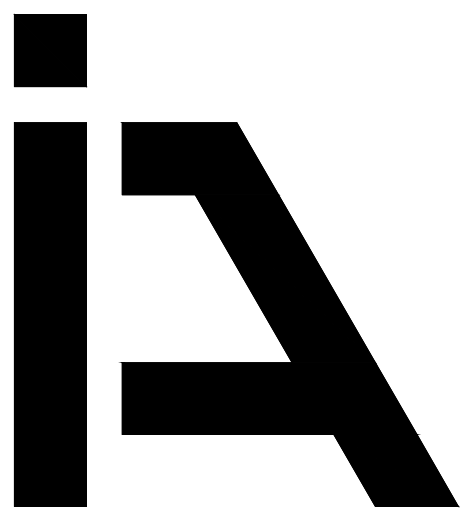
5015 Broadway St.
West Linn, OR, 97068

PROJ. NO. : 2350
FILE : A-ELV
DATE : 5/16/2024

SHEET #

A2.1

ELEVATIONS



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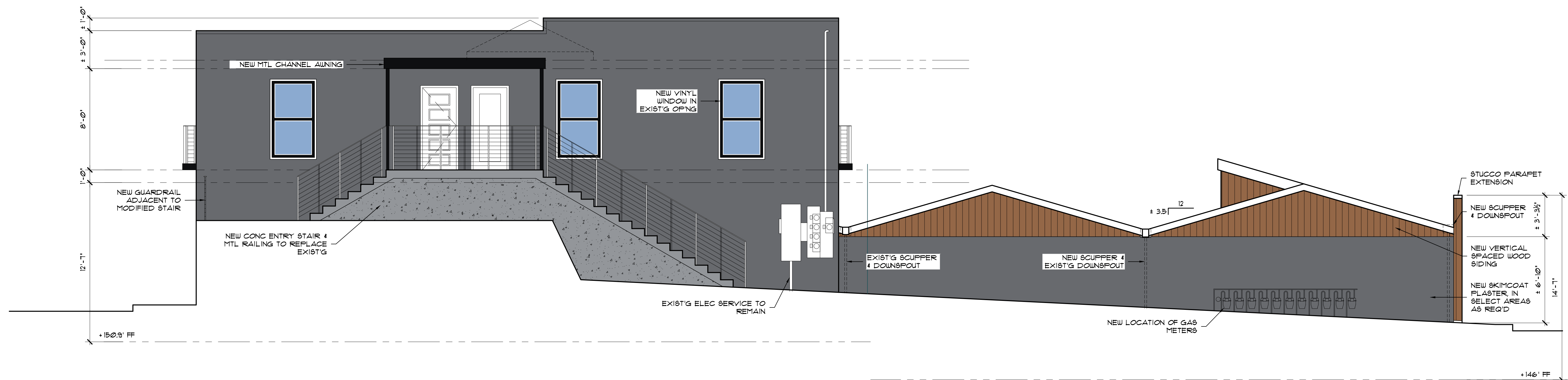
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REVIEW**



NORTHEAST ELEVATION (BROADWAY ST)

1/4" = 1'-0"



NORTHWEST ELEVATION (PARKING LOT)

1/4" = 1'-0"

Building Shell Improvements
BROADWAY CREATIVE BUILDING

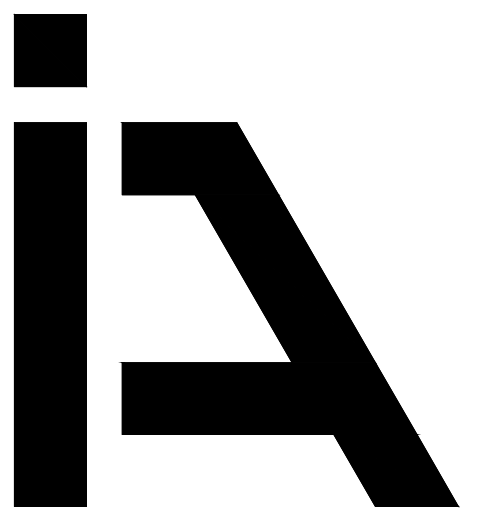
5015 Broadway St.
West Linn, OR, 97068

PROJ. NO. : 2350
FILE : A-ELV
DATE : 5/16/2024

SHEET #

A2.2

ELEVATIONS



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5015 Broadway St.
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PROJ. NO. : 2350
FILE : A-ELV
DATE : 5/16/2024

SHEET #
A2.3

ELEVATIONS



SOUTHWEST ELEVATION (WILLAMETTE FALLS DR)

1/4" = 1'-0"