



BEFORE THE PHOENIX PLANNING COMMISSION

STATE OF OREGON, CITY OF PHOENIX

IN THE MATTER OF PLANNING FILE NO. SP23-05, VAR23-01, FP23-)
01 AND LL23-02 LOCATED ON N MAIN ST. [MAP NO. 38-1W-09DA-) ORDER
3900 AND -4000], THE PHOENIX PLANNING COMMISSION FINDS)
THE FOLLOWING:)

1. The Planning Commission held a properly noticed public hearing on this matter on December 11, 2023;
2. The Planning Commission asked Planning Staff to present a staff report and a final order with findings and recommendations at the December 11, 2023 public hearing;
3. At the public hearing evidence was presented and the public was given an opportunity to comment;
4. The Planning Commission finds that the Site Design Review, Variance, Floodplain Development Review, and Lot Line Adjustment are allowed and are consistent with the intent of the R-3 High Density zoning district and approval criteria outlined in the Phoenix Land Development Code;
5. The Planning Commission finds that four of the five variance requests can be approved; the variance request to pedestrian access cannot be approved as requested.

NOW THEREFORE, the Phoenix Planning Commission approves the requested Site Design Review (SP23-05), Variance (VR23-01), Floodplain Development Review (FP23-01), and Lot Line Adjustment (LL23-02) application based on applicant's preliminary site design for a multi-family development with 18 dwelling units with the following Conditions of Approval:

GENERAL CONDITIONS OF APPROVAL:

1. Fence Height: fencing shall not exceed six (6) feet in height; or three (3) feet in vision clearance areas as de-fined by PLDC § 3.2.2(M)
2. Fence Material: any fencing proposed in the floodway shall be constructed of barbless wire, or open pipe/rail fencing unless shown using FEMA-approved engineering/modeling standards, to cause no-rise in BFE in accordance with PLDC § 3.7.3(H)(17).

PRIOR TO GRADING/SUBMITTAL FOR BUILDING PERMITS:

3. RVSS, Stormwater Management Plan: the applicant shall provide a copy of the storm-water management plan approved by Rogue Valley Sewer Services
4. Wetlands, DSL/USACE Authorization: the applicant shall provide documentation showing DSL and USACE authorization -or- waiver for the proposed project and any related grading.

5. Spring Water, Revised Civil Plans: the applicant shall provide revised civil plans showing spring waters draining cold and un-changed into Bear Creek and that none of the spring water will be captured or routed into the proposed stormwater detention facilities.
6. RVSS, Medium Storm Drain Protection Permit: the applicant shall provide a copy of the approved medium storm drain protection (erosion control) permit approved by Rogue Valley Sewer Services.

PRIOR TO SUBMITTAL FOR BUILDING PERMITS:

7. Elevations – Eyes on the Street: the applicant shall provide revised building elevations, showing (for each story) doors, porches, balconies, terraces and/or windows on a minimum of 60 percent of the front elevation, and on a minimum of 30 percent of the side and rear building elevations.
8. Revised Site Plan: the applicant shall provide a revised site plan that shows:
 - a. a driveway that directly connects the subject property with Highway 99, the driveway shall be between twenty-four (24) and thirty (30) feet wide.
 - b. method of pathway elevation or separation that demonstrates conformance with PLDC § 3.2.3(B)(1).
 - c. a landscape buffer and pathway between the parking area and the residential ground floor living space; the pathway shall measure no less than 6 ft and the landscape buffer shall measure no less than 2 ft.
 - d. no more than thirty-three (33) parking spaces, including ADA parking spaces.
 - e. a minimum of twenty (20) bicycle parking spaces.
 - f. the methods by which long-term bicycle parking is secured in accordance with PLDC § 3.4.4(B)(1) and (3)
 - g. underground utility easements.
 - h. the floodway and all existing and proposed fencing.
 - i. a six (6) foot wide pathway that directly connects the subject property with South Pacific Highway.
 - j. an area reserved for future pathway connection to the Bear Creek Greenway.
9. Lighting Plan: the plan will identify all outdoor lighting including required pathway lighting. Lighting specifications for outdoor lighting must be in accordance with PLDC § 3.12.7 and will be reviewed for compliance by Planning Staff.

PRIOR TO ISSUANCE OF BUILDING PERMITS:

10. Encroachment Permit: the applicant shall provide a copy of an approved Encroachment Permit that demonstrates compliance with the driveway apron standards of Chapter 3.2.2(J)(5) and Public Works Standard Details.
11. Screening, Mechanical Equipment: planning staff will review construction plans to ensure that all mechanical equipment has been screened from view
12. Electric Vehicle Charging: planning staff will review construction plans to ensure provisioning of electrical service for a minimum of 40% of all vehicle parking spaces.
13. Floodplain Development, Pre-Construction Documents: the applicant shall provide to the Floodplain Administrator pre-construction drawings and elevation certificates to ensure both residential structures have the lowest floor, including basement, elevated a minimum of one foot above the Base Flood Elevation.
14. Floodplain Development, Fully Enclosed Areas: the applicant shall submit designs that ensure fully enclosed areas below the lowest floor demonstrate compliance with PLDC § 3.7.3(H)(5)(b).
15. Floodplain Development, Crawl Spaces: the applicant shall provide to the Floodplain Administrator pre-construction drawings and elevation certificates to ensure crawl spaces comply with the provisions of PLDC § 3.7.3(H)(7).

16. Lot Line Adjustment, Recorded: the applicant shall record the Lot Line Adjustment Survey Map with Jackson County and submit a copy of the recorded survey map to the City.

PRIOR TO VERTICAL CONSTRUCTION

17. Floodplain Development, Under Construction: the permit holder shall provide to the Floodplain Administrator an under construction elevation certificate for both structures indicating the floor elevation or flood-proofing elevation level prepared and sealed by a registered surveyor or engineer.

PRIOR TO CERTIFICATE OF OCCUPANCY:

18. Driveways, Drive Aisles and Parking Areas, Improved: driveways, drive aisles and parking areas will be inspected to ensure they meet standards for surfacing, stormwater management and striping.
19. Driveway Apron, Improved: the driveway apron will be inspected to ensure conformance with the approved Encroachment Permit
20. Bicycle Parking, Installed: bicycle parking shall be installed in accordance with the revised Site Plan.
21. Floodplain Development, Finished Construction: the permit holder shall provide to the Floodplain Administrator a finished construction elevation certificate prepared and sealed by a registered surveyor or engineer.
22. Landscaping and Irrigation, Installed: landscaping and irrigation shall be installed, unless security equal to the cost of landscaping and installation is provided in accordance with PLDC § 4.2.7.
23. Outdoor Lighting, Installed: Outdoor Lighting shall be installed in accordance with the approved Lighting Plan.
24. Pathways, Installed: all pathways shall be installed in accordance with the approved site plan.
25. Bear Creek Greenway pathway connection, Installed: the Bear Creek Greenway trail connection shall be improved to the standards of § 3.2.3(B) -or- documentation shall be provided from the authoritative agency indicating that a request for connection to Bear Creek Greenway has been denied.

IT IS HEREBY ORDERED THAT the Phoenix Planning Commission approves the requested Site Design Review (SP23-05), Variance (VR23-01), Floodplain Development Review (FP23-01), and Lot Line Adjustment (LL23-02) application based on the information presented in the Staff Report and Findings of Fact below:

In the following, any text quoted directly from City codes appears in *italics*; staff findings appear in regular typeface.

In order to approve the request, findings must be made showing consistency with all applicable criteria. The Applicant submitted a narrative addressing the standards and criteria of Chapters 2.2, 3, 4.2, 4.3 and 5.2. Also provided: a stormwater feasibility memo, a transportation memo, a site plan, elevations, landscape plans, and concept civil plans. PLDC approval criteria for Site Design Variance, Floodplain Development and Lot Line Adjustment in relation to Applicant's submittal are summarized in the staff report and addressed in detail in the findings below.

CHAPTER 2 – LAND USE DISTRICTS

Chapter 2.2 – Residential Districts (R-1, R-2, R-3, HO)

2.2.1 – Purpose

A. *Intent:*

1. *Residential zones within the City of Phoenix are intended to provide the full range of “needed housing” to the residents of the City and the Region in accordance with Statewide Goal 10 and ORS Chapter 197. Residential Districts are also intended to promote the livability, stability, and improvement of the City’s neighborhoods. The City’s three residential zones vary primarily by the number of dwellings that shall be constructed per acre. Developers of new housing shall adhere to the minimum and maximum density standards for the appropriate zone, but need not be constrained by the type or tenure of housing they construct...*
- ...4. *The R-3 High Density Residential zone mandates a minimum density of 12 units per acre. At this density, single-family detached development is unlikely, giving way instead to common wall (townhouse/rowhouse) and multi-family projects which are more likely to include shared parking and common open space.*

FINDING: The subject properties total approximately 0.85 acres according to GIS measurements. Eighteen (18) dwelling units are proposed, which equals 21.2 dwelling units-per-acre. This is within the allowable range of the R-3 zone. **The standards are met.**

...2.2.2 – Permitted Land Uses

- A. *Permitted Uses. The land uses listed in Table 2.2.2 are permitted in Residential Districts, subject to the provisions of this Chapter. Only land uses specifically listed in Table 2.2.2 and land uses approved as similar to those in Table 2.2.2 may be permitted.*

FINDING: Table 2.2.2 prescribes dimensional standards for residential zones. The R-3 zone requires the following setbacks: Front: 10-20 ft, Side: 4 ft, Rear: 5 ft. The proposed site plan (A1.0, 9/14/23 revision) shows the front setback is 33 ft; side setback is 10 ft (north) and approximately 110 ft (south); and the rear setback is approximately 8 ft. The site plan also shows the front yard being oriented towards Bear Creek Greenway, instead of towards Highway 99. The applicant has requested a variance to the building and site orientation standards. Accordingly, this section is discussed in Chapter 5.2 findings herein below.

The maximum lot coverage is 75%; as proposed, the lot coverage is 22%.

There is no maximum structure height in the R-3 zone. **The standards are met subject to approval of Type-III Variance.**

2.2.7 – Building and Site Orientation

- A. *Purpose. The following standards are intended to orient buildings close to streets to promote human-scale development, slow traffic down, and encourage walking in neighborhoods. Placing residences and other buildings close to the street also encourages security and safety by having more “eyes on the street.”*
- B. *Applicability. This Section applies to single-family attached townhouses that are subject to Site Design Review (3 or more attached units); multi-family housing; neighborhood commercial buildings; and public and institutional buildings, except that the standard shall not apply to buildings that do not receive the public (e.g., buildings used solely for storage or for housing mechanical equipment, and similar uses.)*
- C. *Building orientation standards. All developments subject to this subsection shall be oriented toward a street when the lot is of sufficient size to allow for this. The building orientation standard is met when all of the following criteria are met:*
1. *Compliance with the setback standards in Table 2.2.2.*

2. *The primary façade of the primary structure shall be built parallel to the principal frontage line to the maximum extent possible.*
3. *All buildings shall have their primary entrances oriented toward the street. Multi-family and neighborhood commercial building entrances may include entrances to individual units, lobby entrances, or breezeway/courtyard entrances (i.e., to a cluster of units or commercial spaces). Alternatively, a building may have its entrance oriented to a side yard when a direct pedestrian walkway is provided between the building entrance and the street in accordance with the standards in Chapter 3.2 – Access and Circulation. In this case, at least one entrance shall be provided not more than 20 feet from the closest sidewalk or street.*
4. *Parking shall be located in the rear of the building unless lot configuration makes this impracticable. If parking is not located in the rear, it shall be located on the side of the building. Side parking shall be set back 20 feet from the street right-of-way and screened from view with landscaping.*

FINDING: (A) The site plan shows the development placed close to – within 10 ft of the driveway/access easement. (B) The proposal is for multi-family housing therefore this section applies. (C) The buildings are not oriented towards the street and parking is not oriented towards the side or rear. The applicant has requested a variance to the building and site orientation standards. Accordingly, this section is discussed in Chapter 5.2 findings herein below. **The standards are met subject to approval of Type-III Variance.**

2.2.8 – Architectural Standards

...B. Applicability. This section applies to all of the following types of buildings and shall be applied during Site Design Review:

...2. Multi-family housing;...

C. Standards. *All buildings subject to this section shall comply with all of the following standards. The graphics provided with each standard are intended to show examples of how to comply. Other building styles and designs can be used to comply so long as they are consistent with the text of this section. An architectural feature (i.e., as shown in the graphics) may be used to comply with more than one standard.*

1. *Building Form. The continuous horizontal distance of individual buildings, as measured from end-wall to end-wall, shall not exceed 80 feet. All buildings shall incorporate design features such as offsets, balconies, projections, window reveals, or similar elements to preclude large expanses of uninterrupted building surfaces, as shown in the above figure. Along the vertical face of a structure, such features shall occur at a minimum of every 40 feet, and on each floor shall contain at least two of the following features:*
 - a. *Recess (e.g., deck, patio, courtyard, entrance or similar feature) that has a minimum depth of four feet;*
 - b. *Extension (e.g., floor area, deck, patio, entrance, or similar feature) that projects a minimum of two feet and runs horizontally for a minimum length of four feet; and/or*
 - c. *Offsets or breaks in roof elevation of two feet or greater in height.*
2. *Eyes on the Street. All exterior walls visible from a street right of way shall provide doors, porches, balconies, windows, and/or other architectural features. A minimum of 60 percent of front (i.e., street-facing) elevations, and a minimum of 30 percent of side and rear building elevations, as applicable, shall meet this stand-*

- ard. Percent of elevation is measured as the horizontal plane (linear feet) containing doors, porches, balconies, terraces, and/or windows. The standard applies to each full and partial building story.*
3. *Detailed Design. All buildings shall provide consistency in architectural design treatment along all exterior walls (i.e., front, rear and sides). Detailed design shall be provided by using at least three of the following architectural features on all elevations, as appropriate for the proposed building type and style (may vary features on rear/side/front elevations):*
 - a. *Dormers*
 - b. *Gables*
 - c. *Recessed entries*
 - d. *Covered porch entries*
 - e. *Cupolas or towers*
 - f. *Pillars or posts*
 - g. *Eaves (min. 6-inch projection)*
 - h. *Off-sets in building face or roof (minimum 16 inches)*
 - i. *Window trim (minimum 4-inches wide)*
 - j. *Bay windows*
 - k. *Balconies*
 - l. *Decorative patterns on exterior finish (e.g., scales/shingles, wainscoting, ornamentation, and similar features)*
 - m. *Decorative cornices and roof lines (e.g., for flat roofs)*
 - n. *An alternative feature providing visual relief, similar to options “a”–“m.”*
 4. *Repetition of Residential Façades. Variability in design is encouraged. A detached single-family dwelling that has the same appearance or a mirrored reverse appearance as another detached single-family dwelling facing the same street may not be constructed adjacent to or across the street from that single-family dwelling. A different appearance for purposes of this section involves a different roof line and/or footprint.*

FINDING: (B) The application is for multi-family housing, therefore the provisions of this section are applicable. (C)(1) The continuous horizontal distance (length) of both structures exceed 80 feet. The applicant has requested a variance to the building length standard. Accordingly, this section is discussed in Chapter 5.2 findings herein below. (2) All elevations show a combination of doors, porches, balconies, terraces and/or windows. However, the standard applies to both stories, and requires 60% along the front, and 30% along the sides and rear. As a condition of approval, prior to submittal for building permits, the applicant shall provide revised building elevations, showing (for each story) doors, porches, balconies, terraces and/or windows on a minimum of 60 percent of the front elevation, and on a minimum of 30 percent of the side and rear building elevations. (3) Elevations show consistency in architectural design treatment between both buildings. Detailed. All elevations have eaves extending more than 6 inches, and decorative patterns on exterior finish (board and batten siding, belly boards and lap siding). Front elevations also have pillars, dormers, and window trim. Side elevations have gables and window trim. Rear elevations have covered porch entries and window trim. (4) Variability in design is provided through the use of variable sized dormers and breaking up the horizontal mass through a mix of lap siding with board and batten siding, and a mix of ground floor and second floor entries. **The standards are met subject to conditions -and- approval of Type-III Variance.**

2.2.9 – Special Standards for Certain Uses

This Section supplements the standards contained Sections 2.2.1 through 2.2. 8. It provides standards for the following land uses in order to control the scale and compatibility of those uses within the Residential District:...

...E. Multi-family housing. Multi-family housing means housing that provides more than three dwellings on an individual lot (e.g., multiplexes, apartments, condominiums, etc.). New multi-family developments shall comply with all of the following standards:

- 1. Building Mass Supplemental Standard. The maximum width or length of a multiple family building shall not exceed 150 feet (from end-wall to end-wall).*
- 2. Common open space standard. Inclusive of required setback yards, a minimum of 20 percent of the site area shall be designated and permanently reserved as common open space in all multiple family developments. The site area is defined as the lot or parcel on which the development is planned, after subtracting any required public land dedication and public and private streets. Sensitive lands and historic buildings or landmarks open to the public and designated by the Comprehensive Plan may be counted toward meeting the common open space requirements.*
- 3. Private open space standard. Private open space areas shall be required for ground-floor and upper-floor housing units based on all of the following standards:*
 - a. All ground-floor housing units shall have front or rear patios or decks measuring at least 48 square feet. Ground-floor housing means the housing unit entrance (front or rear) is within 5 feet of the finished ground elevation (i.e., after grading and landscaping);*
 - b. All upper-floor housing units shall have balconies or porches measuring at least 48 square feet. Upper-floor housing means housing units that are more than 5 feet above the finished grade;*
 - c. Private open space areas shall be oriented toward common open space areas and away from adjacent single-family residences, trash receptacles, parking and drives to the greatest extent practicable; and*
- 4. Exemptions. Exemptions may be granted when these developments are within a quarter mile (measured walking distance) of a public park and there is a direct, accessible (i.e., Americans With Disabilities Act-compliant), and maintained pedestrian trail or sidewalk between the site and the park. An exemption shall be granted only when the nearby park provides an active recreation area such as a ball field, children's play area, sports court, track, or similar facility.*
- 5. Trash receptacles. Trash receptacles and recycling areas shall be oriented away from adjacent residences and shall be screened with a solid masonry wall not less than 6 feet in height.*

FINDING: (E) The application is for more than three dwellings on an individual lot, therefore the provisions of this section are applicable. (1) The width/length of one structure, Building A, exceeds the 150 foot building mass supplemental standard. The applicant has requested a variance to the building length standard. Accordingly, this section is discussed in Chapter 5.2 findings herein below. (2) The applicant narrative states that the subject property measures 36,891 square feet, and the site plan shows that 8,654 square feet (24% of the site area) are proposed to be landscape areas. Landscape areas may be counted towards the common open space requirement. (3)(a & b) The submitted floor plans show ground floor housing units have rear patios measuring 48 square feet and upper-floor housing units having balconies measuring approximately 64 square feet. (c) The majority of private open space areas are oriented towards common open space areas and away from adjacent single-family residences and trash receptacles; however, the balconies face parking and drives. Given that 16 out of 18 units are oriented accordingly, staff

believes this meets the 'greatest extent practicable' criterion. (4) Exemptions have not been requested by the applicant. (5) The proposed site plan shows trash receptacles located away from the residences, and the applicant narrative indicates they will be screened with a solid masonry wall not less than 6' in height. **The standards are met subject to approval of Type-III Variance.**

CHAPTER 3 – DESIGN STANDARDS

Chapter 3.2 – Access and Circulation

3.2.2 - Vehicular Access and Circulation

C. *Traffic Study Requirements. The City or other agency with access jurisdiction may require a traffic study prepared by a licensed traffic engineer to determine access, circulation, and other transportation requirements. (See also, Chapter 3.5.2 – Transportation Standards.)*

FINDING: The applicant proposes to use an existing, paved access drive that ultimately connects to South Pacific Hwy. This application has been submitted with a Trip Generation Memo provided by Southern Oregon Transportation Engineering. It addresses the standards of 3.5.2(A)(5) in detail and indicates that a TIA/TIS will not be required for the proposed development. **The standard is met.**

E. *Access Options.*

1. *When new vehicle access is required for development, access shall be provided by one of the following methods (a minimum of 10 feet per lane is required). These methods are options to the developer/subdivider, unless one method is specifically required by Chapter 2 (i.e., under "Special Standards for Certain Uses")...*
 - ...b. *Option 2. Access is from a private street or driveway connected to an adjoining property that has direct access to a public street (i.e., shared driveway). A public access easement covering the driveway shall be recorded in this case to assure access to the closest public street for all users of the private street/drive.*

FINDING: New vehicle access is required for development. The applicant proposes to provide access using Option 2. Specifically, the proposal is to use an existing private driveway to serve the development. This private driveway is comprised of two access easements, OR 77-01991 traverses Tax Lot 3500, and OR 95-15350 traverses Tax Lot 90000. The driveway ultimately connects to Highway 99, and is shared with the Bear Creek Townhouses condominium to the north. **The standard is met.**

F. *Access Spacing. Access to and from off-street parking areas shall not permit backing onto a public street, with the exception of single-family driveway with access onto local streets only. Driveway accesses shall be separated from other driveways and street intersections in accordance with the following standards and procedures:*

1. *Minimum driveway spacing is measured from the edge of the driveway at the curb line to the edge of the next driveway at the curb line. Driveway separation from public street intersections is measured from the nearest edge of the driveway at the curb line to the intersecting street right-of-way.*

Table 6: 3.2.2.F – General Driveway/Intersection Spacing Standards

Street Classification	Minimum Driveway Spacing	Minimum Driveway Separation from Public Street Intersection
Arterial Street	400	400
Collector Street	150	150
Local Street	N.A.	75
State Highway	Reference OAR 734-051-0115, Access Management Spacing Standards for Approaches	

FINDING: The City Transportation System Plan (TSP) classifies Highway 99 as an ‘Arterial Street.’ According to Table 6, 3.2.2.F, Arterial Streets require access spacing of 400 feet. However, the proposed access is pre-existing, shared, and does not further reduce existing access spacing. **The standard is not applicable.**

- G. *Number of Access points... The number of street access points for multiple family, commercial, industrial, and public/institutional developments shall be minimized to protect the function, safety, and operation of the streets and sidewalks for all users. Shared access may be required, in conformance with Section H, below, in order to maintain the required access spacing, and minimize the number of access points.*
- H. *Shared Driveways. The number of driveway and private street intersections with public streets shall be minimized by the use of shared driveways with adjoining lots where feasible. The City shall require shared driveways as a condition of land division or site design review, as applicable, for traffic safety and access management purposes in accordance with the following standards:*
 - 1. *Shared driveways and frontage streets may be required to consolidate access onto a collector or arterial street. When shared driveways or frontage streets are required, they shall be stubbed to adjacent developable parcels to indicate future extension. “Stub” means that a driveway or street temporarily ends at the property line, but may be extended in the future as the adjacent parcel develops. “Developable” means that a parcel is either vacant or it is identified as redevelopable in the City’s Buildable Land Inventory.*
 - 2. *Access easements (i.e., for the benefit of affected properties) shall be recorded for all shared driveways, including pathways, at the time of final plat approval (Chapter 4.3 – Land Divisions and Lot Line Adjustments) or as a condition of site development approval (Chapter 4.2 – Development Review and Site Design Review).*

FINDING: The applicants propose to use one (1) pre-existing, shared driveway that ultimately connects with Highway 99. The related easements have been recorded and are referenced in subsection E, above. **The standard is met.**

- I. *Street Connectivity...*
 - ... 3. *In certain blocks, the City may require an easement or dedicated right-of-way through the block to accommodate utilities, drainage facilities, and pedestrian/bicycle connections. The dedication of pedestrian or bicycle connections, not less than five (5) feet wide for the travel way, may be required through a block or to connect to a cul-de-sac or where deemed necessary to provide circulation or access for non-motorized traffic.*

FINDING: The applicant has requested a variance to pathway connection requirements. Accordingly, this standard is discussed in Chapter 5.2 findings herein below. **The standard is met subject to approval of Type-III Variance.**

J. *Driveway Openings. Driveway openings shall be the minimum width necessary to provide the required number of vehicle travel lanes (10 feet for each travel lane). The following standards (i.e., as measured where the front property line meets the sidewalk or right-of-way) are required to provide adequate site access, minimize surface water runoff, and avoid conflicts between vehicles and pedestrians:...*

...3. *Multiple family uses with more than eight dwelling units, and off-street parking areas with 16 or more parking spaces, shall have a minimum driveway width of 24 feet, and a maximum width of 30 feet. These dimensions may be increased if the Planning Director determines that more than two lanes are required based on the number of trips generated or the need for turning lanes...*

FINDING: The proposal is for a multi-family use with eighteen (18) dwelling units and thirty-seven (37) parking spaces. As a condition of approval, prior to submittal for building permits, the applicant shall provide a revised site plan that shows a driveway that directly connects the subject property with Highway 99, the driveway shall be between twenty-four (24) and thirty (30) feet wide. **The standard is met with conditions.**

...5. *Driveway Aprons. Driveway aprons (when required) shall be constructed of concrete and shall be installed between the street right-of-way and the private drive. Driveway aprons shall conform to ADA standards for sidewalks and pathways, which require a continuous route of travel that is a minimum of three feet in width, with a cross slope not exceeding two percent.*

FINDING: The application does not address the driveway apron, aside from simply indicating one exists. As a condition of approval, prior to issuance of building permits, the applicant shall provide a copy of an approved Encroachment Permit that demonstrates compliance with the driveway apron standards of Chapter 3.2.2(J)(5). **The standard is met with conditions.**

K. *Fire Access and Parking Area Turn-arounds. Parking areas shall provide adequate aisles or turn-around areas for public safety, service, and delivery vehicles so that all vehicles may enter the street in a forward manner. (The City's Fire Chief may exempt turn-around requirements for fire trucks if compliance with the Fire Code is maintained.) For requirements related to cul-de-sacs, please refer to Chapter 3.5.2 – Transportation Standards, Section M.*

FINDING: Fire District #5 provided comment indicating that access is acceptable based on the proposed site plan. Staff finds the access drive and parking area drive aisles provide ample room for vehicles to enter Highway 99 in a forward manner. **The standard is met.**

M. *Vision Clearances. The vision clearance setback shall be measured from curb line or where no curb line exists, from edge of pavement. No signs, structures, or vegetation in excess of three feet in height shall be placed in vision clearance areas, as shown below. The Planning Director may increase the minimum vision clearance area upon finding that more sight distance is required (i.e., due to Police Department requirements, traffic speeds, roadway alignment, topography, etc.).*

FINDING: The proposed site design plan does not include the construction of structures or vegetation in excess of three feet in height within the clear vision area. **The standard is met.**

N. *Construction. The following development and maintenance standards shall apply to all driveways and private streets:*

1. *Surface Options. Driveways, parking areas, aisles, and turn-arounds may be paved with asphalt or concrete surfacing. Paving surfaces shall be subject to review and approval by the Building Official.*
2. *Surface Water Management. When a paved surface is used, all driveways, parking areas, aisles, and turn-arounds shall have on-site collection or infiltration of surface waters to eliminate sheet flow of such waters onto public rights-of-way and abutting property. Surface water facilities shall be constructed in conformance with City standards.*
3. *Driveway Aprons. When driveway approaches or aprons are required to connect driveways to the public right-of-way, they shall be paved with concrete surfacing. (See also, Section J.).*

FINDING: (1) The applicant narrative indicates that the driveway is paved to a width of 26 feet and the proposed site plan (9/14/23 revision) shows that the parking lot is also to be paved. As a condition of approval, prior to certificate of occupancy, driveways, drive aisles and parking areas will be inspected to ensure they meet standards for surfacing, stormwater management and striping. (2) Surface water management standards are addressed in separate Chapter 3.8 findings herein below. (3) The driveway apron is currently composed of asphalt and is not in a good state of repair. The application does not address the driveway apron, aside from simply indicating one exists. As a condition of approval, prior to issuance of building permits, the applicant shall obtain an encroachment permit, and provide a revised site plan that shows the driveway apron in conformance with § 3.2.2(J)(5) and Public Works Standard Details. As a condition of approval, prior to certificate of occupancy, the driveway apron will be inspected to ensure conformance with the approved Encroachment Permit. **The standard is met with conditions.**

3.2.3 - Pedestrian Access and Circulation

A. *Pedestrian Access and Circulation. To ensure safe, direct, and convenient pedestrian circulation, all developments except single-family detached housing on individual lots shall provide a continuous pedestrian and/or multi-use pathway system between residential areas and neighborhood activity centers (i.e., schools, shopping, transit stops, and employment centers). (Pathways only provide for pedestrian circulation. Multi-use pathways accommodate pedestrians and bicycles.) Pathways shall be located to minimize out-of-direction travel by pedestrians and may be designed to accommodate bicycles. The system of pathways shall be designed based on the standards in subsections 1-3, below:*

1. *Continuous Pathways. The pathway system shall extend throughout the development site, and connect to all future phases of development, adjacent trails, public parks and open space areas whenever possible. The developer may also be required to connect or stub pathways to adjacent streets and private property, in accordance with the provisions of Chapter 3.2.2 – Vehicular Access and Circulation and Chapter 3.5.2 – Transportation Standards.*
2. *Safe, Direct, and Convenient Pathways.*
 - a. *Reasonably direct. A route that does not deviate unnecessarily from a straight line or a route that does not involve a significant amount of out-of direction travel for likely users.*

- b. *Safe and convenient. Bicycle and pedestrian routes that are reasonably free from hazards and provide a reasonably direct route of travel between destinations.*
- c. *For commercial, industrial, mixed use, public, and institutional buildings, the primary entrance is the main public entrance to the building. In the case where no public entrance exists, street connections shall be provided to the main employee entrance.*
- 3. *Connections within Development. For all developments subject to Site Design Review, pathways shall connect all building entrances to one another. In addition, pathways shall connect all parking areas, storage areas, recreational facilities and common areas (as applicable), and adjacent developments to the site, as applicable...*
- 4. *Pathways shall have adequate lighting for safety purposes. The City may require lighting as a condition of development review.*
- 5. *Pathways (for pedestrians and bicycles) shall be provided at or near mid-block where the block length exceeds 400 feet in the City Center District, 600 feet in the Residential Districts, or 800 feet in the Industrial Districts. Pathways shall also be provided where cul-de-sacs or dead-end streets are planned, to connect the ends of the streets together, to other streets, and/or to other developments, as applicable. Pathways used to comply with these standards shall conform to all of the following criteria:*
 - a. *Multi-use pathways (i.e., for pedestrians and bicyclists) are no less than 10 feet wide (with 12 feet recommended in areas with high mixed-use) with a 3 foot (2 foot minimum) shy distance on both sides of the path for safe operation. This area should be graded level, flush to the path and free of obstructions to allow recovery by errant bicyclists. Where a path is parallel and adjacent to a roadway, there shall be a 5 foot or greater width separating the path from the edge of roadway, or a physical barrier of sufficient height should be installed. Pathways should be located within a right-of-way or easement that allows access for emergency vehicles*
 - b. *If the streets within the subdivision or neighborhood are lighted, the pathways shall also be lighted;*
 - c. *Stairs or switchback paths using a narrower right-of-way/easement may be required in lieu of a multi-use pathway where grades are steep;*
 - d. *The City may require landscaping within the pathway easement/right-of-way for screening and the privacy of adjoining properties;*

FINDING: (1, 2 & 5) The applicant has requested a variance to pathway connection requirements. Accordingly, this section is discussed in Chapter 5.2 findings herein below. (3) The proposed site plan (9/14/23 revision) shows an internal pathway system that connects all building entrances, parking areas, storage areas, recreational facilities and common areas together. (4) The applicant's narrative acknowledges that lighting must comply with the standards required in Chapter 3.12. However, the applicant's submittals do not include details on pathway lighting. As a condition of approval, prior to submittal for building permits, the applicant shall provide a lighting plan, the plan will identify all outdoor lighting including required pathway lighting. Lighting specifications for outdoor lighting must be in accordance with PLDC § 3.12.7 and will be reviewed for compliance by Planning Staff. **The standard is met with conditions.**

B. Design and Construction. Pathways shall conform to all of the standards...

1. *Vehicle/Pathway Separation. Where pathways are parallel and adjacent to a driveway or street (public or private), they shall be raised six inches and curbed, or separated from the driveway/street by a five-foot minimum strip with bollards, a landscape berm, or other physical barrier. If a raised path is used, the ends of the raised portions must be equipped with curb ramps.*
2. *Housing/Pathway Separation. Pedestrian pathways shall be separated a minimum of five feet from all residential living areas on the ground floor, except at building entrances. Separation is measured as measured from the pathway edge to the closest dwelling unit. The separation area shall be landscaped in conformance with the provisions of Chapter 3.3 – Landscaping, Street Trees, Fences, and Walls...*
3. *Crosswalks. Where pathways cross a parking area, driveway, or street, they shall be clearly marked with contrasting paving materials, humps/raised crossings, or painted striping. An example of contrasting paving material is the use of a concrete crosswalk through an asphalt driveway. If painted striping is used, it shall consist of thermo-plastic striping or a similar type of durable application. Crosswalks on state highway facilities shall be developed in coordination with the Oregon Department of Transportation (ODOT), shall be designed to state standards, and may require an Intergovernmental Agreement (IGA) to address maintenance responsibilities.*
4. *Pathway Surface. Pathway surfaces shall be concrete, asphalt, brick/masonry pavers, or other durable surface, at least six feet wide, and shall conform to ADA requirements. Multi-use paths shall be the same materials, at least 10 feet wide. (See also Chapter 3.5.2 – Transportation Standards for public, multi-use pathway standard.)*

FINDING: (1) The proposed site plan (A1.0, 9/14/23 revision) shows that sidewalks will be made of concrete, but does not identify method of vehicle/pathway separation. As a condition of approval, prior to submittal for building permits, the applicant shall submit a revised site plan, showing: method of pathway elevation or separation that demonstrates conformance with PLDC § 3.2.3(B)(1). (2) Sufficient pathway separation is provided in all areas not located near building entrances. (3) As a general condition of approval, where pathways cross a parking area, driveway, or street, they shall be clearly marked with contrasting paving materials, humps/raised crossings, or painted striping. (4) The site plan also indicates that sidewalks will be made of concrete, but they appear to measure only five (5) feet in width. As a condition of approval, prior to submittal for building permits, the applicant shall submit a revised site plan, showing: all pathways measuring a minimum of six (6) feet in width in conformance with PLDC § 3.2.3(B)(4). As a condition of approval, prior to occupancy, all pathways shall be installed in accordance with the approved site plan. **The standard is met with conditions.**

Chapter 3.3 – Landscaping, Street Trees, Fences, and Walls

3.3.3 - New Landscaping

- A. *Applicability. This Section shall apply to all developments requiring Site Design Review, and other developments with required landscaping.*
- B. *Landscaping Plan Required. A landscape plan is required. All landscape plans shall conform to the requirements in 4.2.5 – Site Design Review Application Submission Requirements, Section B.5 (Landscape Plans). All landscape and irrigation plans must be reviewed and approved by the Planning Director, unless the conditions of the project specifically require Planning Commission approval.*

- C. *Landscape Area Standards. The minimum percentage of required landscaping equals: 1. Residential Districts. 20 percent of the site. 2. City Center District. 10 percent of the site. 3. Commercial Districts. A minimum of 20 percent of the site shall be landscaped. 4. Industrial Districts. 20 percent of the site.*
- D. *Landscape Materials. Landscape materials include trees, shrubs, ground cover plants, non-plant ground covers, and outdoor hardscape features...*

FINDING: (A & B) The proposed development is subject to Site Design Review. A Landscape Plan (L0.0-L1.2, 10/18/23 revision) has been submitted as part of this application. (C) The development, being in a residential district, requires a minimum of 20% landscaping. The site measures approximately 36,891ft². As proposed, 8,318 ft² -or- 22.5% of the site is landscaped. (D) According to L1.0 and L1.1, Landscape materials include a mix of trees, shrubs, ground cover plants, non-plant ground covers, and outdoor hardscape features. **The standards are met.**

- E. *Landscape Design Standards.*
 - 1. *Yard Setback Landscaping. Landscaping shall satisfy the following criteria:*
 - a. *Use shrubs and trees as windbreaks, as appropriate;*
 - b. *Retain natural vegetation, as practicable;*
 - c. *Define pedestrian pathways and open space areas with landscape materials;*
 - d. *Provide focal points within a development, such as signature trees (i.e., large or unique trees), hedges and flowering plants;*
 - e. *Use trees to provide summer shading within common open space areas, and within front yards when street trees cannot be provided;*
 - f. *Use a combination of plants for yearlong color and interest;*
 - g. *Use landscaping to screen outdoor storage and mechanical equipment areas, and to enhance graded areas such as berms, swales, and detention/retention ponds.*
 - h. *If the applicant is able to prove that the view shed is impaired, the shrubs may be used instead of trees.*
 - 2. *Parking areas. A minimum of eight percent of the combined area of all parking areas, as measured around the perimeter of all parking spaces and maneuvering areas, shall be landscaped. Such landscaping shall consist of an evenly distributed mix of shade trees with shrubs and/or ground cover plants. "Evenly distributed" means that the trees and other plants are distributed around the parking lot perimeter and between parking bays to provide a partial canopy. At a minimum, one tree per five parking spaces total shall be planted to create a partial tree canopy over and around the parking area. All parking areas with more than 20 spaces shall include landscape islands with trees to break up the parking area into rows of not more than 12 contiguous parking spaces. All landscaped areas shall have minimum dimensions of eight feet by 19 feet and all tree wells shall have minimum dimensions of four feet by four feet to ensure adequate soil, water, and space for healthy plant growth. Trees planted within parking areas shall be a minimum of 2-inch caliper trees, unless the landscape plan includes a dense planting of varying sized trees.*
 - 3. *Buffering and Screening Required. Buffering and screening are required under the following conditions:*
 - a. *Parking/Maneuvering Area Adjacent to Building. Where a parking or maneuvering area, or driveway, is adjacent to a building, the area shall be separated from the building by a raised pathway, plaza, or landscaped*

buffer no less than eight feet in width. Raised curbs, bollards, wheel stops, or other design features shall be used to protect buildings from being damaged by vehicles. When parking areas are located adjacent to residential ground-floor living space, a landscape buffer is required to fulfill this requirement.

- b. Screening of Mechanical Equipment, Outdoor Storage, Service and Delivery Areas, and Automobile-Oriented Uses. All mechanical equipment, outdoor storage and manufacturing, and service and delivery areas, shall be screened from view from all public streets and Residential districts.*

FINDING: (1) The Proposed Landscape Plan (L0.0-L1.2, 10/18/23 revision) provides sufficient landscaping to meet the criteria of subsection A-H. (2) Neither the applicant's narrative nor the proposed Landscape Plan indicate the parking area perimeter and portion that is landscaped. However, a GIS analysis of the proposed parking area (parking spaces and maneuvering areas) indicates a parking area perimeter of approximately 1,000 ft. Of that, approximately 38% -or- 380 ft contain an evenly distributed mix of shade trees with shrubs and/or ground cover plants. The proposed Site Plan (A1.0, 9/14/23 revision) shows thirty-seven (37) parking spaces, which calls for a minimum of eight (8) trees; L1.1 shows that twenty-two (22) trees are proposed. The Site Plan and Landscape Plan reflect the presence of a landscape island, which is necessary to break up parking areas with more than 20 spaces. The proposed landscape island measures approximately 13 ft by 19 ft and the landscape plan includes a dense planting of varying sized trees. (3)(a) Because parking and maneuvering areas are proposed to be adjacent to ground floor living space, a landscape buffer is required between the parking area and the building. The pathway and landscape buffer combined, must measure no less than eight (8) ft in width. As a condition of approval, prior to submittal for building permits, the applicant shall submit a revised site plan and landscape plan that shows a landscape buffer and pathway between the parking area and the residential ground floor living space; the pathway shall measure no less than 6 ft and the landscape buffer shall measure no less than 2 ft. (b) Details on mechanical equipment have not been provided in the applicant's submittal. All mechanical equipment will need to be screened from view from all public streets and residential districts. As a condition of approval, prior to issuance of permits, planning staff will review construction plans to ensure that all mechanical equipment has been screened from view. **The standards are met with conditions.**

3.3.4 – Street Trees

Street trees shall be planted for all developments that are subject to Land Division or Site Design Review. Requirements for street tree planting strips are provided in Chapter 3.5.2 – Transportation Standards. Planting of unimproved streets shall be deferred until the construction of curbs and sidewalks.

FINDING: The subject property does not abut a street. Therefore, Street Trees will not be required. **The standard is not applicable.**

3.3.5 – Fences and Walls

B. Dimensions

- 1. In residential zones, the maximum allowable height of fences and walls is six feet as measured from the highest grade at the base of the wall or fence, except that retaining walls and terraced walls may exceed six feet when permitted as part of a site development approval or as necessary to construct streets and sidewalks. Bufferwalls (e.g., sound walls or other screens provided between noncompatible uses) may exceed six feet when permitted as part of a site development approval.*

A building permit shall be obtained when required by the Building Code as amended...

- ...7. *Fences and walls shall comply with the vision clearance standards of Chapter 3.2.2 – Vehicular Access and Circulation, Section M.*

FINDING: The applicant narrative indicates fences are proposed to be six (6) feet tall. As a general condition of approval, fencing shall not exceed six (6) feet in height; or three (3) feet in vision clearance areas as defined by PLDC § 3.2.2(M). **The standard is met with conditions.**

Chapter 3.4 – Vehicle and Bicycle Parking

3.4.3 – Vehicle Parking Standards

- A. *Number of Spaces Required. The minimum number of required off-street vehicle parking spaces (i.e., parking that is located in parking lots and garages and not in the street right-of-way) shall be determined based on the standards in Table 3.4.3.A.*
- B. *Parking Location and Shared Parking.*
1. *Location. Vehicle parking is allowed only on approved parking shoulders (streets), within garages or carports (no temporary or tarp carports are allowed), or on drive-ways or parking lots that have been developed in conformance with this code. Specific locations for parking are indicated in Chapter 2 for some land uses (e.g., the requirement that parking be located to side or rear of buildings, with access from alleys, for some uses). (See also, Chapter 3.2 – Access and Circulation).*
- C. *Maximum Number of Parking Spaces. The number of parking spaces provided by any particular use in ground surface parking lots shall not exceed the required minimum number of spaces provided by this Section by more than 5%.*
- D. *Parking Stall Standard Dimensions and Compact Car Parking. All off-street parking stalls shall be improved to conform to City standards for surfacing, stormwater management, and striping. Standard parking spaces shall conform to the dimensions in Figure 3.4.3.E.*
- E. *Disabled Person Parking Spaces. The following parking shall be provided for disabled persons, in conformance with the Americans with Disabilities Act. Disabled parking is included in the minimum number of required parking spaces in Section A, above.*

FINDING: (A) Per recent changes to state law (OAR 660-012-0440), the City is no longer permitted to require parking within one-half mile of 'frequent transit corridors.' Therefore, the minimum parking standards of Table 7 are not enforceable. However, standards related to vehicle parking location, maximums, and dimensions are still regulated. (B) The Proposed Site Plan (9/14/23 revision) shows that a location for parking is proposed. The applicant has requested a variance to the parking location standard. Accordingly, this section is discussed in Chapter 5.2 findings herein below. (C & E) The application is for eighteen (18) two-bedroom dwelling units, which calls for 1.75 parking spaces per dwelling unit for thirty-one (31) parking spaces. With an additional 5%, the maximum parking spaces permitted, including ADA parking spaces, would be thirty-three (33). As a condition of approval, prior to submittal for building permits, the applicant shall provide a revised site plan showing no more than thirty-three (33) parking spaces, including ADA parking spaces. (D) Regarding parking dimensions and infrastructure, the site plan shows that parking stalls will measure 9' x 19' which meets the minimum dimensional requirement for 90 degree-in parking. The site plan also shows the parking lot is to be surfaced with asphalt, and supplemental documentation from Construction Engineering Consultants indicates that a stormwater facility will meet the requirements of the Rogue Valley Stormwater Design Manual. Furthermore, the applicant narrative acknowledges OAR 660-012-0410 which requires multi-family developments of five (5) or more dwelling units to make provisions for electrical service capacity (as defined in ORS

455.417) to serve 40 percent of all vehicle parking spaces. As a condition of approval, prior to issuance of building permits, planning staff will review construction plans to ensure provisioning of electrical service for a minimum of 40% of all vehicle parking spaces. As a condition of approval, prior to certificate of occupancy, drive aisles and parking areas will be inspected to ensure they meet standards for surfacing, stormwater management and striping. **The standards are met subject to conditions -and- approval of Type-III Variance.**

3.4.4 – Bicycle Parking Requirements

All uses that are subject to Site Design Review shall provide bicycle parking...

A. **General Bicycle Parking Requirement.** Bicycle parking shall be provided for all new multi-family residential developments (4 units or more), commercial, industrial and institutional uses, in the following manner:

1. The minimum number of required bicycle parking spaces is listed in Table 3.4.4.

Table 3.4.4 Minimum Bicycle Parking Space Requirements		
Use	Minimum Number of Required Bicycle Parking Spaces	Short / Long Term Bicycle Parking Requirements
Residential Use Categories		
Household Living	None required, except: For a multifamily dwelling containing four or more dwelling units: 1.1 spaces per dwelling unit	25% ST 75% LT

FINDING: The proposed multi-family development is subject to Site Design Review, therefore, bicycle parking is required. At 1.1 spaces per dwelling unit, the eighteen (18) unit development will require twenty (20) bicycle parking spaces; 5 short-term, and 15 long-term. Although the exact quantity of bicycle parking spaces is not provided on the site plan or the narrative, staff finds it feasible for the applicant to provide twenty (20) bicycle parking spaces. As a condition of approval, prior to submittal for building permits, the applicant shall provide a revised site plan that shows a minimum of twenty (20) bicycle parking spaces. As a condition of approval, prior to issuance of certificate of occupancy, bicycle parking shall be installed in accordance with the revised Site Plan. **The standard is met with conditions.**

B. **Bicycle Parking Design Standards.** Required bicycle parking shall comply with the following standards:

1. Standards for all bicycle parking. These standards ensure that required bicycle parking is designed so that bicycles may be securely locked without undue inconvenience and will be reasonably safeguarded from intentional or accidental damage.

a. Where required bicycle parking is provided in lockers, the lockers must be securely anchored.

b. Required bicycle parking may be provided in floor, wall, or ceiling racks. Where required bicycle parking is provided in racks, the racks must meet the following standards:

i. The bicycle frame and one wheel can be locked to the rack with a high security, U-shaped shackle lock if both wheels are left on the bicycle. Staple-design steel racks are recommended.

ii. A bicycle six feet long can be securely held with its frame supported so that the bicycle cannot be pushed or fall in a manner that will damage the wheels or components.

iii. The rack must be securely anchored.

- c. *Each required bicycle parking space must be accessible without moving another bicycle.*
 - d. *There must be an aisle at least 5 feet wide behind all required bicycle parking to allow room for bicycle maneuvering. Where the bicycle parking is adjacent to a sidewalk, the maneuvering area may extend into the right-of-way.*
 - e. *The area devoted to bicycle parking must be hard surfaced...*
- ...3. *Additional standards for long-term bicycle parking. Long-term bicycle parking provides employees, students, residents, commuters and others who generally stay at a site for several hours, a secure and weather-protected place to park bicycles. Although long-term parking does not have to be provided on-site, the intent of these standards is to ensure bicycle parking is within a reasonable distance in order to encourage bicycle use. Required long-term bicycle parking shall meet the following standards in addition to the standards in Subsection (a) above*
- a. *Long-term bicycle parking must be provided in racks or lockers.*
 - b. *Long-term bicycle parking must be located on the site or in an off-site area where the closest point is within 500 feet of the site. If provided off-site, the standards of Subsection 133.070 shall be met.*
 - c. *At least 50 percent of required long-term bicycle parking shall be covered. Covered bicycle parking can be provided inside buildings, under roof overhangs or awnings, in bicycle lockers, or within or under other structures. Where required covered bicycle parking is not within a building or locker, the cover shall be:*
 - i. *Permanent.*
 - ii. *Designed to protect bicycles from rainfall.*
 - iii. *At least 7 feet above the floor or ground.*
 - d. *To provide security, long-term bicycle parking shall be in at least one of the following locations:*
 - i. *A locked room or storage container.*
 - ii. *An area that is enclosed by a fence with a locked gate. The fence shall be either 8 feet high, or be floor-to-ceiling.*
 - iii. *Within view of an attendant or security guard.*
 - iv. *Within 100 feet of an attendant or security guard.*
 - v. *An area that is monitored by a security camera.*
 - vi. *An area that is visible from employee work areas.*
 - e. *Required long-term bicycle parking spaces must be available for employees, students, residents, commuters, and others who stay at the site for several hours.*

FINDING: The applicant's narrative indicates that short-term bicycle parking will be facilitated with a u-rack near the parking lot, and that long-term bicycle parking will be provided within the covered porch of each unit. The method by which long-term bicycle parking will be secured (locker or rack) has not been indicated in findings or on the site plan. Nor have long-term bicycle parking security measures been addressed. As a condition of approval, prior to submittal for building permits, the applicant shall provide a revised site plan showing the methods by which long-term bicycle parking is secured in accordance with PLDC § 3.4.4(B)(1) and (3). **The standard is met with conditions.**

Chapter 3.5 – Street and Public Facilities Standards

3.5.2 – Transportation Standards

- A. *Development Standards. No development shall occur unless the development has frontage or approved access to a public street, in conformance with the provisions of Chapter 3.2 – Access and Circulation, and the following standards are met:*
- ...3. *New streets, alleys and drives connected to a collector or arterial street shall be paved; and*
 4. *The purpose of this subsection is to coordinate the review of land use applications with roadway authorities and to implement Section 660-012-0045(2)(e) of the State Transportation Planning Rule, which requires the City to adopt a process to apply conditions to development proposals in order to minimize impacts and protect transportation facilities. The following provisions also establish when a proposal must be reviewed for potential traffic impacts; when a Traffic Impact Analysis must be submitted with a development application in order to determine whether conditions are needed to minimize impacts to and protect transportation facilities; the required contents of a Traffic Impact Analysis; and who is qualified to prepare the analysis.*
 5. *When a Traffic Impact Analysis is Required. The City or other road authority with jurisdiction may require a Traffic Impact Analysis (TIA) as part of an application for development, a change in use, or a change in access. A TIA shall be required where a change of use or a development would involve one or more of the following:*
 - a. *A change in zoning or a plan amendment designation;*
 - b. *The road authority indicates in writing that the proposal may have operational or safety concerns along its facility(ies);*
 - c. *An increase in site traffic volume generation by 200 Average Daily Trips (ADT) or more;*
 - d. *An increase in peak hour volume of a particular movement to and from a street or highway by 10 percent or more; or*
 - e. *An increase in use of adjacent streets by vehicles exceeding the 20,000 pound gross vehicle weights by 10 vehicles or more per day;*
 - f. *The location of an existing or proposed approach or access connection does not meet minimum spacing or sight distance requirements or is located where vehicles entering or leaving the property are restricted, or such vehicles are likely to queue or hesitate at an approach or access connection, creating a safety hazard;*
 - g. *A change in internal traffic patterns may cause safety concerns; or*
 - h. *A TIA is required by ODOT pursuant with OAR 734-051.*

FINDING: (3) The applicant proposes to use an existing, paved access drive that ultimately connects to South Pacific Hwy. (4 & 5) This application has been submitted with a Trip Generation Memo provided by Southern Oregon Transportation Engineering. It addresses the above standards in detail and indicates that a TIA/TIS will not be required for the proposed development. **The standards are met.**

3.5.4 – Sanitary Sewer and Water Service Improvements

- A. *Sewers and Water Mains Required. Sanitary sewers and water mains shall be installed to serve each new development and to connect developments to existing mains in accordance with the City's construction specifications and the applicable Comprehensive Plan policies.*

- B. Sewer and Water Plan approval. Development permits for sewer and water improvements shall not be issued until the City Engineer has approved all sanitary sewer and water plans in conformance with City standards.
- C. Over-sizing. Proposed sewer and water systems shall be sized to accommodate additional development within the area as projected by the Comprehensive Plan. The developer shall be entitled to system development charge credits for the over-sizing.
- D. Permits Denied. Development permits may be restricted by the City where a deficiency exists in the existing water or sewer system which cannot be rectified by the development and which if not rectified will result in a threat to public health or safety, surcharging of existing mains, or violations of state or federal standards pertaining to operation of domestic water and sewerage treatment systems. Building moratoriums shall conform to the criteria and procedures contained in ORS 197.505.

FINDING: Sanitary Sewer service is provided by Rogue Valley Sewer Services (RVSS). They have provided comment indicating that service for the proposed development can be had by a new tap connection to the Bear Creek Interceptor that runs along the east property line.

City water infrastructure has been installed along the nearest public right-of-way (South Pacific Highway). According to concept civil plans submitted by Construction Engineering Consultants, the subject property will be served from a new water lateral that connects to an existing water line on Tax Lot 90000, to the north. **The standard is met.**

3.5.5 – Utilities

- A. *Easements. Easements shall be provided for all underground utility facilities.*

FINDING: The Proposed Site Plan (9/14/23 revision) does not show underground utility easements. As a condition of approval, prior to submittal for building permits, the applicant shall provide a revised site plan showing underground utility easements. **The standard is met with conditions.**

Chapter 3.7 – Environmental Constraints

3.7.3 – Flood Damage Prevention Regulations

E. Administration

- 1. *Development Permit Required. A Floodplain Development Permit shall be obtained before any development begins within any Areas of Special Flood Hazard. A permit application shall be made on forms provided by the City, and may include but not be limited to scaled plans showing the nature, location, dimensions, elevations of the subject property, existing or proposed structures, fill material, storage of materials or equipment, and drainage facilities.*

Finding: According to the FEMA National Flood Hazard Layer (NFHL), a small portion of the subject property (along the southeast property line) is within the Floodway of Bear Creek; to the northwest, there are small portions outside of the mapped floodplain altogether. The majority of the property, however, is within the 100-year floodplain, also known as the Special Flood Hazard Area (SFHA). A Floodplain Development application has been made on forms provided by the City. **The standard is met.**

- b. *Construction Stage*

- i. Provide copies of all necessary permits from other governmental agencies from which approval is required by Federal or state law must be provided prior to start of construction.
- ii. Development activities shall not begin without an approved Development Permit.
- iii. For all new construction and substantial improvements, the permit holder shall provide to the Floodplain Administrator an as-built certification of the floor elevation or flood-proofing level immediately after the lowest floor or flood-proofing is placed and prior to further vertical construction.
- iv. Any deficiencies identified by the Floodplain Administrator shall be corrected by the permit holder immediately and prior to work proceeding. Failure to submit certification or failure to make the corrections shall cause for the Floodplain Administrator to issue a stop-work order for the project.

FINDING: As a condition of approval, prior to vertical construction, the permit holder shall provide to the Floodplain Administrator an under construction elevation certificate for both structures indicating the floor elevation or flood-proofing elevation level prepared and sealed by a registered surveyor or engineer. **The standard is met with conditions.**

- c. **Certificate of Occupancy**
 - i. In addition to the requirements of the Specialty Codes pertaining to certificate of occupancy, prior to final inspection the owner or authorized agent shall submit the following documentation that has been prepared and sealed by a registered surveyor or engineer:
 - i. For elevated buildings and structures in Areas of Special Flood Hazard (A zones), the as-built elevation of the lowest floor, including basement or where no Base Flood Elevation is available, the height above highest adjacent grade of the lowest floor;
 - ii. For buildings and structures that have been flood proofed, the elevation to which the building or structure was flood proofed.
 - ii. Failure to submit certification or failure to correct violations shall be cause for the Floodplain Administrator to withhold a certificate of occupancy until such deficiencies are corrected.
- d. **Expiration of Floodplain Development Permit –** A floodplain development permit shall become invalid unless the work authorized by such permit is commenced within 180 days after its issuance, or if the work authorized is suspended or abandoned for a period of 180 days after the work commences. Extensions for periods of not more than 180 days each shall be requested in writing.

FINDING: As a condition of approval, prior to issuance of certificate of occupancy, the permit holder shall provide to the Floodplain Administrator a finished construction elevation certificate prepared and sealed by a registered surveyor or engineer.

- H. **Provisions For Flood Hazard Reduction.** In all areas of special flood hazards these standards apply:
 - 1. **Site Improvements and Subdivisions**
 - a. All plans and permits for proposed new site improvements, subdivisions, and manufactured home parks shall be consistent with the need to minimize flood damage and ensure that building sites will be reasonably safe

from flooding. The test of reasonableness is a local judgment and includes historical data, high water marks, photographs of past flooding, etc.

- b. Building lots shall have adequate buildable area outside of regulatory floodways.*
- c. Where base flood elevation data has not been provided or is not available from another authorized source, it shall be generated for subdivision proposals and other proposed developments which contain at least 50 lots or 5 acres, whichever is less.*
- d. Site improvements, subdivisions, and manufactured home parks shall have public utilities and facilities such as sewer, gas, electric and water systems located and constructed to minimize or eliminate damage and infiltration of floodwaters. Replacement public utilities and facilities such as sewer, gas, electric and water systems, likewise shall be sited and designed to minimize or eliminate damage and infiltration of floodwaters.*
- e. New and replacement on-site waste disposal systems and sanitary sewerage systems shall be located and constructed to avoid functional impairment, or discharges during flooding.*

FINDING: (a) The proposed development reasonably minimizes flood damage by orienting the buildings as far as practical from, and parallel with Bear Creek. (b) Less than 5% of the subject property is encumbered by regulatory floodway. (c) Base Flood Elevation data is available in this area. According to the FIRM, the Base Flood Elevation (BFE) is 1476 ft. (d & e) much of the infrastructure to support this development is already in place. **The standards are met.**

3. *Building Design and Construction Standards*

- a. New construction and substantial improvements shall be constructed with flood resistant materials and utility equipment resistant to flood damage, using methods and practices designed to minimize flood damage.*
- b. New construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.*
- c. All mechanical and electrical equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during flooding.*

FINDING: The standards contained within this section are informational and will be reviewed for compliance with state building code at time of building plan review.

5. *Specific Building Design and Construction Standards for residential Construction (A Zones) – In addition to Section 3.7.3.H.3:*

- a. New construction and substantial improvement of residential structures shall have the lowest floor, including basement, elevated a minimum of one foot above the Base Flood Elevation or three feet above highest adjacent grade where no BFE is defined, and*
- b. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must be either certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:*

- i. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;
- ii. The bottom of all openings shall be no higher than one foot above grade; and
- iii. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters. Exception: openings with engineering design.\
- c. Attached garages may be constructed with the garage floor slab below the Base Flood Elevation (BFE) in riverine flood zones, if the following requirements are met:
 - i. If located within a floodway the proposed garage must comply with the requirements of section 3.7.3.H.12.
 - ii. The floors are at or above grade on not less than one side;
 - iii. The garage is used solely for parking, building access, and/or storage;
 - iv. The garage is constructed with flood openings in compliance with section 3.7.3.H.5.b to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwater.
 - v. The portions of the garage constructed below the BFE are constructed with materials resistant to flood damage;
 - vi. The garage is constructed in compliance with the standards in section 3.7.3.H; and
 - vii. The garage is constructed in compliance with the standards in section 3.7.3.H; and
 - viii. The garage is constructed in compliance with the standards in section 3.7.3.H; and
 - ix. The garage is constructed with electrical, and other service facilities located and installed so as to prevent water from entering or accumulating within the components during conditions of the base flood.
- d. Detached garages must be constructed in compliance with the standards for accessory structures in section 3.7.3.H.14 or non-residential structures in section 3.7.3.H.6 depending on the square footage of the garage.

FINDING: (a) The Proposed Site Plan (9/14/23 revision) notes that the finish floor will be elevated a minimum of 1 foot above flood plain. As a condition of approval, prior to issuance of building permits, the applicant shall provide to the Floodplain Administrator pre-construction drawings and elevation certificates to ensure both residential structures have the lowest floor, including basement, elevated a minimum of one foot above the Base Flood Elevation. (b) The applicant's narrative indicates that foundation venting is proposed to reduce the hydro static pressure of the water with Smart Vents that provide one-square inch of venting 'per 100 square feet' of crawlspace or building footprint. This does not meet the code requirement of one square inch of opening per one square foot of building footprint. As a condition of approval, prior to issuance of building permits, the applicant shall submit designs that ensure fully enclosed areas below the lowest floor demonstrate compliance with PLDC § 3.7.3(H)(5)(b). (c & d) Garages are not proposed. **The standards are met with conditions.**

6. *Specific Building Design and Construction Standards for Non- residential Construction...*

FINDING: Non-residential construction has not been proposed in this application. **The standards are not applicable.**

7. *Below-grade Crawl Spaces...*

FINDING: Crawl Space details have not been provided in the applicant's submittal. As a condition of approval, prior to issuance of building permits, the applicant shall provide to the Floodplain

Administrator pre-construction drawings and elevation certificates to ensure crawl spaces comply with the provisions of PLDC § 3.7.3(H)(7). **The standard is met with conditions.**

17. *Fences – A new or replacement fence or wall located in an area of special flood hazard requires a floodplain development New and replacement fencing shall be designed to collapse under conditions of the base flood, or to allow the passage of water by having flaps or openings in the areas at or below the Base Flood Elevation sufficient to allow flood water and associated debris to pass freely.*

Fence or Wall Type	Fencing or Wall Allowed?			
	Floodway Fringe (Riverine)	Regulatory Floodway (Riverine)	Shallow/Sheet Flow/Ponding Zones	Coastal Velocity Zones
A	Yes			
B	Yes	Yes, with limited cross channel fencing	Yes	Yes
C	Design Review Required ¹			
D	Yes, if open at base to BFE	No ²	Yes, if open at base to BFE	Yes, if installed parallel to shore, otherwise Design Review required.
E	Yes, if open at base to BFE	No ²	Yes, if open at base to BFE	Yes, if installed parallel to shore, otherwise Design Review required.
F	Yes, if adequate openings at base to BFE	No ²	Yes, if adequate openings at base to BFE	Design Review required ³
G	Yes, if adequate openings at base to BFE	No ²	Yes, if adequate openings at base to BFE	Design Review required ³
H	Yes, if adequate openings at base to BFE	No ²	Yes, if adequate openings at base to BFE	No

¹ Ensure fence will collapse under anticipated base flood conditions. Debris impacts must be considered.

² Unless shown, using FEMA-approved engineering/modeling standards, to cause no-rise in BFE

³ Fences and walls in V zone must be analyzed for their effects on flood conditions, including ramping effects on adjacent buildings and effects of debris during flood events (TB 5)

FINDING: The applicant’s narrative indicates that boundary fencing is proposed, but that it is not to be located within the Floodway. Contrarily, the Preliminary Map of Floodplain Development shows a fence within the Floodway, leaving it unclear where the fence is truly proposed to be. As a condition of approval, the applicant shall provide a revised site plan, showing the floodway and all existing and proposed fencing. As a general condition of approval, any fencing proposed in the floodway shall be constructed of barbless wire, or open pipe/rail fencing unless shown using FEMA-approved engineering/modeling standards, to cause no-rise in BFE in accordance with PLDC § 3.7.3(H)(17). It should also be noted, masonry walls are proposed to visually shield the trash/recycling facilities on site. These walls are within the SFHA (not floodway) and are allowed because there are adequate openings. **The standard is met with conditions.**

Chapter 3.8 – Storm and Surface Water Management Standards

3.8.1 – Purpose and Applicability

- B. *Applicability. No permit for construction of new development or tenant improvements that result in impervious cover greater than 500 square feet within the city and urban growth boundary shall be issued until effects on stormwater management are evaluated. The level of review varies according to the affected area:*

3. 5000+ square feet. A comprehensive stormwater study that conforms to the stormwater management manual shall be submitted for approval.
4. Areas smaller than 500 square feet may require review, and a greater level of review for properties between 500 and 4999 square feet may be necessary when the site is identified as having especially sensitive conditions, including but not limited to wetlands and steep slopes.

FINDING: (3) The proposed site design plan includes the development of more than 5,000 square feet of new impervious surface and the construction of a stormwater quality facility. As the Phase II Permit holder for the City of Phoenix, the stormwater management plan shall be reviewed and approved by Rogue Valley Sewer Services prior to construction or issuance of building permits. The applicant's Engineer has indicated that stormwater management is feasible but has not demonstrated that the development is in compliance with the city's current MS4 permit and the Rogue Valley Stormwater Quality Design Manual. As a condition of approval, prior to submittal for building permits, the applicant shall provide a copy of the stormwater management plan approved by Rogue Valley Sewer Services. (4) A greater level of review is required for this property because comment from Oregon Department of State Lands (DSL) indicates that a *wetland delineation report was approved by DSL under file # WD2022-0425. Five wetlands and two ditches were determined to be jurisdictional to the state Removal-Fill Law, and several of these features were impacted by fill in 2021.* DSL has requested that the applicant consult with the Aquatic Resource Coordinator for Jackson County to obtain DSL authorization for the project. The agency comments conclude by adding that federal permits may also be required. As a condition of approval, prior to grading/submittal for building permits, the applicant shall provide documentation showing DSL and USACE authorization -or- waiver for the proposed project and any related grading. **The standard is met with conditions.**

3.8.4 – Surface Water Conveyance Standards

...E. *It shall be the responsibility of the owner that the new drainage system shall not negatively impact any natural water conditions. The owner is responsible for providing a drainage system for all surface water, springs, and groundwater on site and for water entering the property as well as management of springs and groundwater that surface during construction.*

FINDING: Oregon Department of Fish and Wildlife indicate that the subject property has several springs present. Directing spring water into stormwater facilities may negatively impact the natural water conditions for fish habitat by increasing the water temperature. As a condition of approval, prior to grading/submittal for building permits, the applicant shall provide revised civil plans showing spring waters draining cold and unchanged into Bear Creek and that none of the spring water will be captured or routed into the proposed stormwater detention facilities. **The standard is met with conditions.**

Chapter 3.9 – Erosion Prevention and Sediment Control

3.9.1 – Applicability and Purpose

- B. *Applicability. An erosion prevention and sediment control plan shall be required and approved by the city engineer under any of the following circumstances:*
2. *Prior to Site Design Review, in accordance with Chapter 4.2 – Development Review and Site Design Review.*
 3. *Prior to approval of any building or grading permit that results in: a. Disturbance of 500 square feet or more of land surface.*

Nothing in this Section shall relieve any person from the obligation to comply with the regulations or permits of any federal, state, or local authority.

FINDING: The proposed development includes the disturbance of more than 500 square feet of land surface and requires Site Design Review in accordance with Chapter 4.2. As the Phase II Permit holder for the City of Phoenix, processing of erosion control permits for properties over 7,000 square feet, but under 1 acre in size shall be administered and approved by Rogue Valley Sewer Services prior to onsite construction or the disturbance of any land surface. Approval of the required medium storm drain protection permit meets the standards of this section. As a condition of approval, prior to grading/issuance of building permits, the applicant shall provide a copy of the approved medium storm drain protection (erosion control) permit approved by Rogue Valley Sewer Services. **The standard is met with conditions.**

Chapter 3.12 – Outdoor Lighting

3.12.7 – Standards for residential lighting...

FINDING: The applicant's narrative acknowledges that lighting must comply with the standards required in Chapter 3.12, but lighting details have not yet been provided. As a condition of approval, prior to submittal for building permits, the applicant shall provide a lighting plan, the plan will identify all outdoor lighting including required pathway lighting. Lighting specifications for outdoor lighting must be in accordance with PLDC § 3.12.7 and will be reviewed for compliance by Planning Staff. As a condition of approval, prior to issuance of certificate of occupancy, Outdoor Lighting shall be installed in accordance with the approved Lighting Plan. **The standard is met with conditions.**

CHAPTER 4 – APPLICATIONS AND REVIEW PROCEDURES

Chapter 4.2 – Development Review and Site Design Review

4.2.6 – Site Design Approval Criteria

The Planning Director shall make written findings with respect to all of the following criteria when approving, approving with conditions, or denying an application:

A. *The application is complete, as determined in accordance with Chapter 4.1 – Types of Applications and Review Procedures and Chapter 4.2.5 – Site Design Review Application Submission Requirements, above.*

FINDING: The applicant's proposal was deemed complete on October 12, 2023. **The standard is met.**

B. *The application complies with the all of the applicable provisions of the underlying Land Use District (Chapter 2), including: building and yard setbacks, lot area and dimensions, density and floor area, lot coverage, building height, building orientation, architecture, and other special standards as may be required for certain land uses;*

FINDING: The applicant's proposal either meets, or can meet with conditions, the provisions of the underlying Land Use District (Chapter 2) if the requested variance to: the building orientation standard (PLDC § 2.2.2) parking location standard (PLDC § 2.2.7) building length standard (PLDC

§ 2.2.8 and 2.2.9) are approved. The requested variance to these standards is discussed in Chapter 5.2 findings herein below. **The standard is met subject to conditions -and- approval of Type-III Variance.**

- C. *The applicant shall be required to upgrade any existing development that does not comply with the applicable land-use district standards, in conformance with Chapter 5.3 – Non-Conforming Uses and Developments;*

FINDING: The applicant's proposal is located on vacant land with no existing structures or utilities that are considered non-conforming. **The standard is not applicable.**

- D. *The application complies with the Design Standards contained in Chapter 3. All of the following standards shall be met:*
- *Chapter 3.2 – Access and Circulation*
 - *Chapter 3.3 – Landscaping, Street Trees, Fences, and Walls*
 - *Chapter 3.4 – Vehicle and Bicycle Parking*
 - *Chapter 3.5 – Street and Public Facilities Standards*
 - *Chapter 3.6 – Signs*
 - *Chapter 3.7 – Environmental Constraints*
 - *Chapter 3.8 – Storm and Surface Water Management Standards*
 - *Chapter 3.9 – Erosion Prevention and Sediment Control*
 - *Chapter 3.10 – Other Design Standards*

FINDING: The applicant's proposal either meets, or can meet with conditions, the provisions of the Design Standards contained in Chapter 3. **The standard is met with conditions.**

- E. *Conditions required as part of a Land Division (Chapter 4.3 – Land Divisions and Lot Line Adjustments), Conditional Use Permit (Chapter 4.4 – Conditional Use Permits), Planned Unit Developments (Chapter 4.5 – Planned Unit Developments), or other approval shall be met.*

FINDING: This development application was submitted concurrently with a request for lot line adjustment. The requested lot line adjustment is discussed in section 4.3.12 findings herein below. **The standard is met with conditions.**

4.2.7 – Bonding and Assurances

- C. *Completion of Landscape Installation. Landscaping and irrigation shall be installed prior to issuance of occupancy permits, unless security equal to the cost of the landscaping and installation as determined by the Planning Director or a qualified landscape architect is filed with the City Recorder assuring such installation within six months after occupancy. If the installation of the landscaping is not completed within the six-month period, the security may be used by the City to complete the installation.*

FINDING: Although the application narrative and Landscape Plan shows plans for landscaping, a timeline has not been provided. As a condition of approval, prior to certificate of occupancy, landscaping and irrigation shall be installed, unless security equal to the cost of landscaping and installation is provided in accordance with PLDC § 4.2.7. **The standard is met with conditions.**

Chapter 4.3 – Land Divisions and Lot Line Adjustments

4.3.12 – Lot Line Adjustments

- C. *Approval Criteria. The Planning Director shall approve or deny a request for a lot line adjustment in writing based on findings that all of the following criteria are satisfied:*
1. *No additional parcel or lot is created by the lot line adjustment; however, the number of lots or parcels may be reduced.*
 2. *Lot standards. All lots and parcels comply with the applicable lot standards of the land use district (Chapter 2) including lot area and dimensions.*
 3. *Access. All lots and parcels comply with the standards or requirements of Chapter 3.2 – Access and Circulation.*
 4. *Setbacks. The resulting lots, parcels, tracts, and building locations comply with the standards of the land use district (Chapter 2).*

FINDING: (1) According to the applicant's narrative, the subject property originated as two larger parent parcels, they were brought to their current configuration through the approval of the Bear Creek Townhome condominiums by Phoenix City Council, recorded as Survey # 7605 on 1/25/1979. As shown on the Preliminary Property Line Adjustment Map, the applicant proposes to reconfigure the parcels such that Parcel 1 encompasses all of the north apartment building, and Parcel 2 encompasses all of the south apartment building. No change in the number of parcels is proposed. (2 & 4) These standards can be met subject to the approval of the variance to building and site orientation standards (PLDC § 2.2.7) due to proposed front yards in excess of 20ft. Accordingly, that section is discussed in Chapter 5.2 findings herein below (3) The access standards of PLDC Chapter 3.2 are met, or can be met with conditions of approval. **The standards are met subject to approval of Type-III Variance.**

D. *Recording Lot Line Adjustments*

1. *Recording. The applicant shall record the lot line adjustment survey map with Jackson County within 60 days of signature, and submit a copy of the recorded survey map to the City, to be filed with the approved application.*
2. *Time limit. The applicant shall submit the copy of the recorded lot line adjustment survey map to the City within 15 days of recording and prior to the issuance of any building permits on the re-configured lots.*

FINDING: Because the current property lines interfere with the location/placement of the north structure, the Lot Line Adjustment must be recorded prior to development. As a condition of approval, prior to issuance of building permits, the applicant shall record the Lot Line Adjustment Survey Map with Jackson County and submit a copy of the recorded survey map to the City. **The standard is met with conditions.**

CHAPTER 5 – EXCEPTIONS TO CODE STANDARDS

Chapter 5.2 – Variances

5.2.1 – Purpose

- A. *Purpose. The Planning Director, through an administrative review or the Planning Commission with a Public Hearing may grant a variance from strict compliance with standards contained in this Code in cases where documented evidence proves that it is impossible or impractical to comply with the standard for one or more of the reasons set forth in the following Subsections.*

- B. *Applicability. The facts and conclusions relied upon to grant a variance from a particular standard shall clearly be set forth in the FINAL ORDER of the Administrative Review or the review by the Planning Commission.*
1. *The variance standards are intended to apply to individual platted and recorded lots only, and in the case of signs, the applicant may be the business agent with a written letter of consent from the property owner.*
 2. *An applicant who proposes to vary a specification standard for lots yet to be created through a subdivision process may only utilize the Type II or Type III variance procedure.*
 3. *A variance shall not be approved which would vary the permitted uses of a land use district (Chapter 2).*
 4. *Exceptional or extraordinary conditions applying to the subject property which do not apply generally to other properties in the same zone or vicinity, which conditions are a result of lot size or shape, topography, or other circumstances over which the applicant has no control make strict compliance impossible or impractical; or,*
 5. *A Variance from the design standard for reasons set forth, will result in equal or greater compatibility with the architectural and/or site planning style and features that exist in adjacent and nearby buildings; or the proposed design is a functional requirement of the proposed use.*

FINDING: (1) The application proposes to vary five standards to an individual development project on an individual tract of land. These specific standards are addressed in separate findings herein below. (2) The application does not propose to vary specification standards for lots yet to be created. (3) The application does not propose to vary the permitted uses of the R-3 district. (4) The applicant's narrative cites the presence of exceptional/extraordinary conditions applying to the subject property that make strict compliance with select standards of the PLDC impractical/impossible. These conditions include: the irregular shape of the site (long/linear), the presence of the FEMA floodplain and Bear Creek on the east, the lack of street frontage, the topography, and unique characteristics of the zoning patterns of the surrounding area. (5) The agent's finding indicates *"the variance from the design standards will result in compatibility with multi-family architecture. The proposed design standard variance allows for a structure that will be more functional. The variance allows for a multi-family structure to be similar in scale and mass as the predominate zoning of adjacent properties which is commercial with only a minor exception in the total allowed building length. The proposed wall length is less than a three percent increase in the standard. The variance to the location of the parking in the "front" yard area and between the building and the street is unavoidable. The lot dimensions, location without street frontage and accessed via only a shared access easement prevent orientation to a public street."* Staff generally agrees with the applicant's finding. **The criteria are met with conditions.**

5.2.2 – Type II Variances

- A. *Type II variances. Due to their discretionary nature, the following types of variances shall be reviewed using a Type II administrative procedure, in accordance with Chapter 4.1.4 – Type II Procedure (Administrative):*
3. *Variance to Chapter 3.2 – Access and Circulation. Where vehicular access and circulation cannot be reasonably designed to conform to Code standards within a particular parcel, shared access with an adjoining property shall be considered. If shared access in conjunction with another parcel is not feasible, the Planning Director may grant a variance to the access requirements after finding the following:...*

FINDING: The applicant narrative indicates a variance is being requested to the pedestrian pathway connection standards found in PLDC § 3.2.3 utilizing the variance criterion cited above. Staff finds that this criterion applies only to vehicle access and circulation. However, staff finds it feasible for the applicant to facilitate safe and convenient pathway connections subject to conditions of approval contained in separate findings herein below. **The criterion is not applicable.**

5.2.3 – Type III Variance

A. *Purpose. The purpose of this Section is to provide standards for variances that exceed the Types II variance review procedure.*

B. *Approvals Process and Criteria*

1. *Type III variances shall be processed using a Planning Commission review procedure, as governed by Chapter 4.1.5 – Type III Procedure (Quasi-Judicial), using the approval criteria in subsection 2, below. In addition to the application requirements contained in Chapter 4.1.5, the applicant shall provide a written narrative or letter describing the proposed variance, from which standards the variance is requested, why it is required, alternatives considered, and findings showing compliance with the criteria in subsection 2.*

FINDING: (A) The applicant has requested a variance to five standards, all of which exceed the parameters for which a Type-II variance process might offer relief. (B)(1) The applicant has provided a written narrative covering the relevant information. The applicant is requesting a variance from the following standards:

- PLDC § 2.2.7(C)(1, 3 & 4): Building setbacks, building and site orientation, parking location
- PLDC § 2.2.8 and 2.2.9: Building mass/length
- PLDC § 3.2.3(A): pedestrian pathway connections

The criteria are met.

2. *The Planning Commission shall approve, approve with conditions, or deny an application for a variance based on finding that all of the following criteria are satisfied:*
 - a. *The proposed variance will not be materially detrimental to the purposes of this Code, to any other applicable policies and standards, and to other properties in the same land use district or vicinity;*

FINDING: Staff finds the requested variance to the below standards will not be materially detrimental to the purposes of the code or other city policies and are addressed in greater detail in separate findings herein below.

- PLDC § 2.2.7(C)(1, 3 & 4): Building setbacks, building and site orientation, parking location
- PLDC § 2.2.8 and 2.2.9: Building mass/length

Regarding § 3.2.3(A) on pedestrian pathway connections:

As shown on the Proposed Site Plan (9/14/23 revision), pathway connections between buildings and the parking lot are included, but a variance to the off-site pathway connection standards of (1, 2 and 5) are proposed and no off-site pathway connections are shown on the site plan.

Staff finds the requested variance to the above standard will be materially detrimental to the purposes of the code and policies within the Phoenix Comprehensive Plan (Transportation Element) that consistently call for interconnectivity of multi-modal transportation networks. Chapter 3.2.3 makes it clear that developments must provide continuous pathways to connect to future phases

of development (such as the commercial lots to the west, and residential lots to the north), and adjacent trails, public parks and open space areas whenever possible (Bear Creek Greenway). The code further states that pathways within developments shall provide safe, reasonably direct, and convenient connections between primary building entrances and all adjacent streets.

On 11/21/23, staff conducted a site visit. Aside from the sidewalk along South Pacific Highway and Bear Creek Greenway, pathways are non-existent in this general area. Additionally, the block length is massive, far larger than the 600' threshold for midblock pathways required by § 3.2.3(A)(5).

Pedestrian access can be greatly improved in the area through the creation of a six (6) foot wide pathway that connects to existing pedestrian and bicycle facilities along South Pacific Highway. As a condition of approval, prior to submittal for building permits, the applicant shall provide a revised site plan that shows a six (6) foot wide pathway that directly connects the subject property with South Pacific Highway.

Furthermore, the applicant narrative requests variance to the standard requiring connection to Bear Creek Greenway. As it *“would require approval of the Oregon Department of Transportation (ODOT), and access is not guaranteed and a separate application to that agency will be necessary.”* Staff finds the provisions of § 3.2.3(A)(1) require connections to adjacent trails and open space areas *“whenever possible.”* And that the applicant making a good faith effort to make connection to the Bear Creek Greenway could easily satisfy the intent of this provision. Therefore, as a condition of approval, prior to submittal for building permits, the applicant shall provide a revised site plan showing: an area reserved for future pathway connection to the Bear Creek Greenway. As a condition of approval, prior to issuance of certificate of occupancy, the Bear Creek Greenway trail connection shall be improved to the standards of § 3.2.3(B) -or- documentation shall be provided from the authoritative agency indicating that a request for connection to Bear Creek Greenway has been denied.

As a result of these findings and conclusions, staff recommends that four of the five variance requests be approved; the variance request to pedestrian access [PLDC § 3.2.3(A)] cannot be approved as proposed. **The criterion is met with conditions.**



Site Visit 11/21/23 from the north, looking south.

- b. *A hardship to development exists which is peculiar to the lot size or shape, topography, or other similar circumstances related to the property over which the applicant has no control, and which are not applicable to other properties in the vicinity (e.g., the same land use district);*

FINDING: Regarding PLDC § 2.2.7(C)(1, 3 & 4) on building and site orientation, the applicant narrative indicates the following hardships/circumstances exist:

- *the property does not have public street frontage which typically defines resulting setbacks, orientation and access location*
- *the property is below the grade of the street...*
- *physical constraints of the floodplain, floodway and Bear Creek Greenway along one side of the property, a steep slope on the opposite side of the property*
- *access from an easement on one side of the property*
- *and a very narrow dimension on the opposite side of the property.*

Subsection 3 calls for properties to have buildings front the nearest street, in this case that street would be South Pacific Highway. As proposed, re-orienting the apartment buildings to front Bear Creek helps to resolve the topographical (hillslope) and lot size/shape hardships to development based on this criterion.

Subsection 1 addresses setbacks and 4 regulates parking lot location. The R-3 zone calls for front setbacks ranging from 10-20 feet, as proposed, the re-oriented front setback would exceed 30 feet for both buildings. However, this configuration allows the applicant to make practical use of the space most vulnerable to flood for landscaping, parking and waste storage. Siting the building footprints near the west property line allows the applicant to mitigate unnecessary flood risk by maximizing spatial separation from Bear Creek, while maintaining dwelling densities at levels commensurate with the R-3 zone at 21 units-per-acre. Furthermore, staff finds the intention/purpose behind that front yard setback distance standard can be met by having the parking lot (being an extension of the driveway/street) located in 'front' of the apartment buildings.

Regarding PLDC § 2.2.8 and 2.2.9 on Building mass/length, the applicant narrative indicates the following hardships/circumstances exist:

- *The properties between the subject property and the public street are zoned for commercial development with large scale building potential.*
- *The property is in the Floodplain*
- *the area of physical development area is limited by the long, linear shape of the property.*

The architectural standard of § 2.2.8(C)(1) requires a maximum building length of 80 feet but the multi-family housing standard of § 2.2.9(E)(1) requires a maximum building length of 150 feet. Where there are conflicts like this in our code, PLDC § 1.4.1(B) indicates that the most restrictive requirements apply. Therefore, the maximum building length should be 80 feet. However, according to the applicant's narrative, the proposed north building would measure 154'4" and the proposed south building would measure 102'6".

Staff agrees with the agent's findings. The parcel is long/linear and further constrained between the creek floodplain and hillslope. Upon conducting a site visit, it appears the building forms will be largely hidden from view from the right-of-way, both by future commercial development, and by the substantial hillslope along the west property line. Furthermore, the purposeful design of building forms that parallel the creek should help reduce blocking of flood waters.

Regarding § 3.2.3(A) on pedestrian pathway connections.

The applicant narrative indicates the following hardships/circumstances exist:

- *inadequate physical space*
- *portion of the easement is for parking for the property at 600 N Main (north side of shared easement)*
- *the multi-family development to the north was not required to install a sidewalk during the rebuild*
- *the access has a grade change*

Staff cannot find the above requested variance is caused by things over which the applicant has no control. The existing access easements measure 30' in width, and per § 3.2.2(J)(3) the minimum driveway size is 24', leaving 6' remaining; pathways only need to be developed to 6' in width. The agent contends that space has been reserved on the drive aisle for parking, however, a review of the easement document (OR 95-15350) indicates that so long as alternative parking is provided elsewhere (such as the parking lot proposed by the applicant), the area is available for use.

The multi-family development to the north (Bear Creek Townhome Condominiums) is not new development, but rather, it was redeveloped shortly after the 2020 Alameda Drive Fire utilizing pre-existing non-conforming provisions within PLDC § 5.3.3(B). Those standards cannot be applied to new development as is this case with this application.

The applicant has not provided documentation demonstrating that the access cannot meet the pathway design requirements of § 3.2.3(B).

On 11/21/23, staff conducted a site visit. Aside from the sidewalk along South Pacific Highway and Bear Creek Greenway, pathways are non-existent in this general area. And the block length is massive, far larger than the 600' threshold for midblock pathways re-quired by § 3.2.3(A)(5).

Pedestrian access can be greatly improved in the area through the creation of a six (6) foot wide pathway that connects to existing pedestrian and bicycle facilities along South Pacific Highway. As a condition of approval, prior to submittal for building permits, the applicant shall provide a revised site plan that shows a six (6) foot wide pathway that directly connects the subject property with South Pacific Highway.

Furthermore, the applicant narrative requests variance to the standard requiring connection to Bear Creek Greenway. As it would "require approval of the Oregon Department of Transportation (ODOT), and access is not guaranteed and a separate application to that agency will be necessary." Staff finds the provisions of § 3.2.3(A)(1) require connections to adjacent trails and open space areas "whenever possible." And that the applicant making a good faith effort to make connection to the Bear Creek Greenway could easily satisfy the intent of this provision. Therefore, as a condition of approval, prior to submittal for building permits, the applicant shall provide a revised site plan showing: an area reserved for future pathway connection to the Bear Creek Greenway. As a condition of approval, prior to issuance of certificate of occupancy, the Bear Creek Greenway trail connection shall be improved to the standards of § 3.2.3(B) -or- documentation shall be provided from the authoritative agency indicating that a request for connection to Bear Creek Greenway has been denied.

As a result of these findings and conclusions, staff recommends that four of the five variance requests be approved; the variance request to pedestrian access [PLDC § 3.2.3(A)] cannot be approved as proposed. **The criterion is met with conditions.**

- c. *The use proposed will be the same as permitted under this title and City standards will be maintained to the greatest extent that is reasonably possible while permitting reasonable economic use of the land;*

FINDING: The subject property is zoned R-3. The proposed use is multi-family which is permitted in the R-3 zone. The proposed Site Plan layout allows the applicant to mitigate unnecessary flood risk by maximizing spatial separation from Bear Creek, while maintaining dwelling densities at levels commensurate with the R-3 zone at 21 units-per-acre. Staff finds that with conditions as outlined herein, City standards will be maintained to the greatest extent that is possible while permitting reasonable economic use of the land. **This criterion is met with conditions.**

- d. *Existing physical and natural systems, such as but not limited to traffic, drainage, natural resources, and parks will not be adversely affected any more than would occur if the development occurred as specified by the subject Code standard;*

FINDING: The proposed variance relates to standards that address architectural details, the general site layout and pedestrian access. Standards in place to protect existing physical and natural systems are not proposed to be changed by the requested variance and have been fully addressed in the Chapter 3 findings herein above. **This criterion is met.**

- e. *The hardship is not self-imposed;*

FINDING: Staff finds the requested variance to the below standards are from hardship that is not self-imposed:

- PLDC § 2.2.7(C)(1, 3 & 4): Building setbacks, building and site orientation, parking location
- PLDC § 2.2.8 and 2.2.9: Building mass/length

The hardship is in the form of floodplains, topography, no direct frontage, and lot shape.

Regarding § 3.2.3(A) on pedestrian pathway connections, the applicant narrative indicates the following hardships exist:

- *inadequate physical space*
- *portion of the easement is for parking for the property at 600 N Main (north side of shared easement)*

Staff cannot find the above requested variance is from a hardship that is not self-imposed. There are no provisions in subsection 1 and 2 that provide relief to pedestrian access connections if existing access conditions are insufficient. To the contrary, PLDC § 3.2.2(l)(3) even allows the City to require easements or dedicated right-of-way to accommodate pedestrian/bicycle connections. Furthermore, alternatives have not been addressed in the applicant's narrative. All properties to the west of the subject property are largely vacant, and the applicant has not demonstrated that alternative pathway access through one of these properties is infeasible.

On 11/21/23, staff conducted a site visit. Aside from the sidewalk along South Pacific Highway and Bear Creek Greenway, pathways are non-existent in this general area. And the block length is massive, far larger than the 600' threshold for midblock pathways re-required by § 3.2.3(A)(5).

Pedestrian access can be greatly improved in the area through the creation of a six (6) foot wide pathway that connects to existing pedestrian and bicycle facilities along South Pacific Highway. As a condition of approval, prior to submittal for building permits, the applicant shall provide a revised site plan that shows a six (6) foot wide pathway that directly connects the subject property with South Pacific Highway.

Furthermore, the applicant narrative requests variance to the standard requiring connection to Bear Creek Greenway. As it “would require approval of the Oregon Department of Transportation (ODOT), and access is not guaranteed and a separate application to that agency will be necessary.” Staff finds the provisions of § 3.2.3(A)(1) require connections to adjacent trails and open space areas “whenever possible.” And that the applicant making a good faith effort to make connection to the Bear Creek Greenway could easily satisfy the intent of this provision. Therefore, as a condition of approval, prior to submittal for building permits, the applicant shall provide a revised site plan showing: an area reserved for future pathway connection to the Bear Creek Greenway. As a condition of approval, prior to issuance of certificate of occupancy, the Bear Creek Greenway trail connection shall be improved to the standards of § 3.2.3(B) -or- documentation shall be provided from the authoritative agency indicating that a request for connection to Bear Creek Greenway has been denied.

As a result of these findings and conclusions, staff recommends that four of the five variance requests be approved; the variance request to pedestrian access [PLDC § 3.2.3(A)] cannot be approved as proposed. **The criterion is met with conditions.**

f. The variance requested is the minimum variance that would alleviate the hardship.

FINDING: In summary, the applicant has requested variance to five standards. They are as follows:

- PLDC § 2.2.7(C)(1, 3 & 4): Building setbacks, building and site orientation, parking location
- PLDC § 2.2.8 and 2.2.9: Building mass/length
- PLDC § 3.2.3(A): pedestrian pathway connections

Regarding § 2.2.7(C)(1, 3 & 4) on building setbacks, orientation, and parking location.

The proposed Site Plan layout allows the applicant to mitigate unnecessary flood risk by maximizing spatial separation from Bear Creek, while maintaining dwelling densities at levels commensurate with the R-3 zone at 21 units-per-acre. Lesser variance to the standards may result in reductions in dwelling density below that required by the R-3 zone and may impact the economic viability of the project and the land.

Regarding § 2.2.8 and 2.2.9: Building mass/length:

According to the applicant’s narrative, the proposed north building would measure 154’4” and the proposed south building would measure 102’6”. Staff has performed a brief review of large apartment buildings in the City using GIS, and found eight, with sizes ranging from 90’ to 145’ and an average of 120’ – this means that the building lengths proposed here would not be entirely out of character with what exists elsewhere throughout town.

Regarding § 3.2.3(A) on pedestrian pathway connections:

Staff cannot find that the variance request to include no off-site pathway connections is the minimum required to alleviate the hardship. The applicant has not provided evidence demonstrating pursuit of alternative pathway connections. Nor has evidence been provided which demonstrates that existing pathways in the general area are sufficient to compensate for connections lacking in the proposed Site Plan.

On 11/21/23, staff conducted a site visit. Aside from the sidewalk along South Pacific Highway and Bear Creek Greenway, pathways are non-existent in this general area. And the block length is massive, far larger than the 600' threshold for midblock pathways re-quired by § 3.2.3(A)(5).

Pedestrian access can be greatly improved in the area through the creation of a six (6) foot wide pathway that connects to existing pedestrian and bicycle facilities along South Pacific Highway. As a condition of approval, prior to submittal for building permits, the applicant shall provide a revised site plan that shows a six (6) foot wide pathway that directly connects the subject property with South Pacific Highway.

Furthermore, the applicant narrative requests variance to the standard requiring connection to Bear Creek Greenway. As it *"would require approval of the Oregon Department of Transportation (ODOT), and access is not guaranteed and a separate application to that agency will be necessary."* Staff finds the provisions of § 3.2.3(A)(1) require connections to adjacent trails and open space areas "whenever possible." And that the applicant making a good faith effort to make connection to the Bear Creek Greenway could easily satisfy the intent of this provision. Therefore, as a condition of approval, prior to submittal for building permits, the applicant shall provide a revised site plan showing: an area reserved for future pathway connection to the Bear Creek Greenway. As a condition of approval, prior to issuance of certificate of occupancy, the Bear Creek Greenway trail connection shall be improved to the standards of § 3.2.3(B) -or- documentation shall be provided from the authoritative agency indicating that a request for connection to Bear Creek Greenway has been denied.

As a result of these findings and conclusions, staff recommends that four of the five variance requests be approved; the variance request to pedestrian access [PLDC § 3.2.3(A)] cannot be approved as proposed. **The criterion is met with conditions.**

This approval shall become final 14 days from the date this decision and supporting findings of fact are signed by the Chair of the Phoenix Planning Commission, below. A Planning Commission decision may be appealed to the City Council within 14 days after the final order has been signed and mailed. An appeal of the City Council's decision must be submitted to the Land Use Board of Appeals within 21 days of the Hearing Officer's decision becoming final.

Failure of the applicant to raise constitutional or other issues relating to proposed conditions of approval with sufficient specificity to allow the City to respond to the issue precludes an action for damages in circuit court.

Planning Commission Chair

Date

ATTEST

Jeff Wilcox
Associate Planner

Date

DRAFT