

**City of St. Helens**  
**Planning Commission**  
**July 14, 2015**  
**Agenda**

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1. **7:00 p.m. Call to Order and Flag Salute**
  2. **Consent Agenda**
    - a. Planning Commission Minutes dated June 9, 2015
  3. **Topics from the Floor:** Limited to 5 minutes per topic (Not on Public Hearing Agenda)
  4. **Public Hearing Agenda:** (times are earliest start time)
    - a. 7:00 p.m. Variance at 31 Cowlitz St. – Tater Rental, LLC
    - b. 7:30 p.m. Conditional Use Permit at 365 S. Columbia River Hwy – Jennifer Plahn & Bing Theobald
  5. **Planning Director Decisions:** (previously e-mailed to the Commission)
    - a. Accessory Structure Permit at 75 River Way – David & Susan Branch
    - b. Temporary Use Permit at 2295 Gable Rd. – TNT Fireworks on behalf of St. Helens Band Patrons
    - c. Sign Permit (Banner) at 2100 Block of Columbia Blvd. – Columbia County Fairgrounds
  6. **Planning Department Activity Reports**
    - a. June 30, 2015
  7. **For Your Information Items**
  8. **Next Regular Meeting: August 11, 2015**
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**Adjournment**

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# City of St. Helens

## Planning Commission Meeting

### June 9, 2015

### Minutes

#### **Members Present:**

Al Petersen, Chair  
Dan Cary, Vice Chair  
Greg Cohen, Commissioner  
Sheila Semling, Commissioner  
Audrey Webster, Commissioner  
Kathryn Lawrence, Commissioner  
Russell Hubbard, Commissioner

#### **Members Absent:**

None

#### **Staff Present:**

Jacob Graichen, City Planner  
Jennifer Dimsho, Assistant Planner & Planning Secretary

#### **Councilors Present:**

Ginny Carlson, City Council Liaison

#### **Others Present:**

David Branch  
Susan Branch  
Alisha Doaust  
Josh Doaust  
Larry Doaust  
Tess Bissell  
Mark Holcomb

The Planning Commission meeting was called to order by Chair Al Petersen at 7:00 p.m. Chair Petersen led the flag salute.

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### **Consent Agenda**

#### **Approval of Minutes**

The Commission discussed the symbols used with the "Motion" headers. They are confusing to the reader. They are likely caused by word processing software changes. Commissioner Semling moved to approve the minutes of the May 12, 2015 Planning Commission meeting. Vice Chair Cary seconded the motion. Commissioner Hubbard, Commissioner Cohen, Commissioner Semling, and Vice Chair Cary voted in favor. Commissioner Lawrence opposed. If there are multiple motions in one hearing, she would like each motion to have their own graphic notation in the minutes to allow the public to easily comprehend them. Chair Petersen did not vote as per operating rules. Motion carries.

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## **Topics From The Floor**

Chair Petersen discussed the success of the SHEDCO sponsored "Before I Die" wall project in the Columbia County plaza. Responses have been more positive than negative. He also noted that the SHEDCO sponsored Business Plan Competition judging is occurring right now. The competition has been narrowed down to three applicants who have the opportunity to win a three-year, no interest \$20,000 loan and a \$5,000 grant. Applicants also received business plan advice and consultation. Lastly, Chair Petersen showed the Commission the proposed St. Helens Post Office mural. The project is funded by the Arts & Cultural Commission.

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## **Public Hearing**

**David & Susan Branch**

**Variance / V.2.15**

**75 River Way**

It is now 7:12 p.m. and Chair Petersen opened the public hearing. There were three ex-parte contacts, conflicts of interest or bias in this matter. Commissioner Lawrence is in the same social circle as the applicant and therefore has bias in the matter. Commissioner Semling owns property near the applicant and has bias in the matter. Commissioner Webster has a bias in the matter and will not be voting. Commissioner Lawrence, Commissioner Semling, and Commissioner Webster will not be voting because they feel they cannot make a fair decision. Commissioner Hubbard has an ex-parte contact with the applicant, but feels he can be impartial in the decision.

City Planner Jacob Graichen entered the following items into the record:

- Staff report packet dated June 2, 2015 with attachments

Graichen discussed the history of the site with the Commission. Back in April 2013, the applicant applied for a Scenic Resource Site Design Review, which is a land use review for development in areas where scenic views may be impacted. The applicant wanted to build a structure larger than the 600 square feet gross floor area for accessory structures. To do this, the structure would have to be attached to the house with a breezeway in order to classify the structure as a building addition because additions do not have a maximum square footage requirement. In May 2013, the applicant applied for a building permit for the building addition. In January 2015, when the final inspection was called, it was discovered that there was no breezeway. The applicant was contacted and they decided the best course of action would be to apply for a variance. The applicant is requesting a variance to allow an accessory structure that exceeds the maximum size allowed because the installation of a breezeway, due to unforeseen construction issues, is not feasible. Graichen discussed the five criteria for granting a variance, as noted in the staff report.

Chair Petersen said he did some rough calculations of the gross floor area. Based on the front elevation, the actual usable floor area is more like 936 square feet, not 1,200 square feet as noted in the staff report. This is because some of the second floor space is not occupiable. Graichen said this was a good observation.

Vice Chair Cary clarified that the Commission was provided a drawing of the proposed garage location, not where the actual garage was located. Graichen said the garage is pretty much in the same place. Chair Petersen said by looking at the photos, it looks like it shifted two feet left of the proposed location.

Commissioner Cohen clarified that the structure in question has already been built. Graichen said yes, the Commission is deciding whether or not to grant a variance for something that has already been built.

## **IN FAVOR**

**Branch, David. Applicant.** Branch said there is a City sewer line that runs diagonally under their house. They did not know it was there until three or four years after buying the house. Before the garage project began, the City was doing work on the sewer line that required them to reconnect to the line. It was then that they discovered the connection was actually under their house. They were told by the City they would have to move their connection to the side yard, which they did. When they wanted to build the garage, they were told by the building official that they would need a piling on the front, right corner of the proposed garage. The piling would have to be placed below or at grade with the sewer line, but no closer than three feet in distance. This limited where they could place the garage. Then the contractor encountered rock while they were digging in the location of the proposed garage. Ultimately, Branch was unable to get the garage at the same elevation of the house. This made the construction of a breezeway near impossible. Branch is requesting to waive the breezeway requirement for their garage.

Branch was also under the impression based on discussions with City staff that the building footprint (625 square feet) was the square footage that mattered, not the second floor square footage. He didn't know the second floor, which is about 400 additional square feet, would count in the total square footage. The building inspector had already come out for a final inspection and did not mention the square footage on the second floor. Branch said he was not trying to ignore the size limitation; he just didn't know about it.

Chair Petersen asked for the width of the room upstairs. Branch said there are no walls. Commissioner Cohen asked if the accessory structure has water. Branch said no.

Branch also pointed out that there are no surrounding neighbors who can see the structure because of elevation and vegetation.

## **END OF ORAL TESTIMONY**

There were no requests to continue the hearing or leave the record open.

## **CLOSE PUBLIC HEARING & RECORD**

The applicant waived the opportunity to submit final written argument after the close of the record.

## **DELIBERATIONS**

Graichen said the code defines floor area measured from exterior walls and if there are no walls on the second floor, it is more like attic space. Therefore, the square footage could be defined at approximately 625 feet, rather than the 1,248 feet as calculated in the staff report. Chair Petersen said gross floor area is all horizontal area under the roof. He said the building code says (more or less) that spaces under five feet (possibly 4'6") are not considered occupiable. This is how he calculated 936 square feet as the gross area.

Chair Petersen said there were a number of things out of the control of the applicant, including the location of the sewer line. The applicant had communication with the City throughout the project and the topography proved to be an unexpected challenge. The applicant went into the project wanting to follow the development code. Chair Petersen does not think granting this variance would be a detriment to the intent of the code.

Commissioner Cohen feels that granting the variance would not set a precedence because the applicant did not have normal circumstances. Commissioner Hubbard added that as a neighbor, he doesn't see the



accessory structure as a visual disruption to the neighborhood. Commissioner Hubbard also pointed out that constructing the breezeway would actually add to the number of structures constructed over the City's sewer line.

## **MOTION**

Commissioner Cohen moved to approve the Variance Permit to allow an accessory structure that exceeds the maximum size allowed. Commissioner Hubbard seconded. All in favor; none opposed; motion carries.

Commissioner Cohen moved for Chair Petersen to sign the Findings and Conclusions once prepared. Commissioner Cary seconded. All in favor; none opposed; motion carries.

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## **Public Hearing**

**Creation Station Learning Center, LLC  
Conditional Use Permit / CUP.2.15  
35531 Firway Ln.**

It is now 8:05 p.m. and Chair Petersen opened the public hearing. There were no ex-parte contacts, conflicts of interest or bias in this matter.

Graichen entered the following items into the record:

- Staff report packet dated June 2, 2015 with attachments

Graichen said the applicant is applying for a Conditional Use Permit to allow a preschool in an existing highway commercial site. The preschool will have all day classes for children ages six weeks to 12 years old. Although the site has been used as a school in the past, the right to use the property as a school ended because the previous school use ceased years ago. Graichen discussed the suggested conditions of approval as noted in the staff report.

The Commission discussed potential parking strategies and proposed areas for pedestrian walkways. Commissioner Cohen asked if lighting for the parking area could be required. Graichen said yes, but recommended asking the applicant first where there is existing lighting on the site.

## **IN FAVOR**

**Doaust, Josh. Applicant.** Doaust is representing Creation Station Learning Center, LLC. Ten years ago, Doaust and his wife started a childcare facility in their home. It was called Daisy Daycare and on the first day they opened, they only had one child. After six years, they expanded to caring for 14 children and changed their business name to Creation Station. They are a learning center that offers a full day preschool curriculum focused on tailoring the learning technique to each individual child. In the last four years, their curriculum has expanded to offer not only the standard subjects, but also Spanish, sign language, and creative development. They wish to offer new services to the children currently enrolled and to offer their services to more children in the community. The only way to do this is to expand from their current location to a commercial location. This building would allow them to provide services to expand from 14 children to 38 children and offer employment to six learning professionals. Doaust would like the Commission to approve this Conditional Use Permit so they can continue to grow and expand the learning services they offer to the community.

Chair Petersen asked about the garage with a French door on the site plan. Doaust said that was the site plan for the previous preschool. The door has since changed to a garage door. The applicant's plan is to change the garage door to a standard 36 inch exterior door and a window.

Commissioner Cohen asked if they have received state certification. Doaust said they are certified for 14 children in their current home business, and they can apply for state certification for the new location once they receive land use approval and occupancy for the building.

Commissioner Cohen asked about lighting. Doaust said there is one standard exterior porch light and one flood light outside the garage. Commissioner Cohen asked if the applicant had any preferences about parking. Doaust said they haven't come up with a final parking plan at this point. He said since only eight spaces are required, they will have lots of room to shuffle around spaces for walkways and bike parking. Doaust said they have considered eliminating a few spaces to make room for a pedestrian walkway and bicycle parking.

Vice Chair Cary asked if a children drive-through drop off would be logistically better. Currently, Doaust said they only have two to three parents who show up at one time. With the new facility, they will be tripling the amount of children, so they could potentially have a larger group. However, they would not want to rely solely on a drive-through drop off. Chair Petersen asked if all six employees would be at the building at one time. Doaust said no. They have to meet a children-to-teacher ratio, so the number of employees will depend on the number of children in attendance at any given time.

**Holcomb, Mark. Property Owner.** Holcomb bought the building as a residence and developed it into a preschool in 2006. Holcomb clarified the property lines for the Commission. He said Graichen's condition about restriping the parking is reasonable because the stripes are fading.

Commissioner Cohen asked about the lighting. Holcomb said they talked to Columbia River PUD about installing a pole light in the parking lot about a year ago. Commissioner Cohen would like to see flood lighting on the corners of the building. Holcomb said the previous schools in this location never had lighting issues, but agrees that additional lighting is reasonable.

Holcomb also said the previous schools have also never had circulation or parking concerns. He noted there is a permanent access easement adjacent to their property.

**Doaust, Larry.** He is the father of Josh Doaust. He thinks this building is well-suited for this use and it is a great opportunity for the applicants to grow their business. He thinks approving this conditional use permit is a win-win.

## **END OF ORAL TESTIMONY**

There were no requests to continue the hearing or leave the record open.

## **CLOSE PUBLIC HEARING & RECORD**

The applicant waived the opportunity to submit final written argument after the close of the record.

## **DELIBERATIONS**

Commissioner Lawrence thinks this proposal is very reasonable, but would like to see lighting as a condition for entering and exiting the building. Chair Petersen said the condition for lighting will have to be careful to

address off-site glare. Commissioner Hubbard said the applicant could also just pursue the Columbia River PUD pole light, which would also solve the problem.

Chair Petersen said the applicant has not re-done the parking site plan since the previous County application. He asked if the Commission feels they should help the applicant along or if they should just require them to reconfigure it and provide the new parking plan themselves. Commissioner Webster said it seems like the most traffic they would see at any given time is six parents. Councilor Carlson agrees and said it only takes about 90 seconds to drop off or pick up children. Similar sized childcare facilities rarely have more than two parking spaces filled at any given time. Vice Chair Cary said that is probably why parking has not been an issue in the past with the previous school uses.

Commissioner Cohen, Commissioner Webster, and Vice Chair Cary agreed as long as the gist of the Commission's concerns and parking parameters were addressed, letting the applicant work out the specific parking plan with staff would be sufficient.

## **MOTION**

Commissioner Cohen moved to approve the Conditional Use Permit with the conditions as outlined in the staff report and the additional condition that the applicant provide a lighting enhancement plan for pedestrian areas and that the revised site plan in Condition 1a. shows any easements and a revised parking plan. Commissioner Webster seconded. All in favor; none opposed; motion carries.

Commissioner Semling moved for Chair Petersen to sign the Findings and Conclusions once prepared. Vice Chair Cary seconded. All in favor; none opposed; motion carries.

□

## **Planning Director Decisions**

- a. Sign Permit (Banner) at 2100 Block of Columbia Blvd. - St. Kiwanis Club
- b. Sign Permit (Banner) at 2100 Block of Columbia Blvd. - The Amani Center
- c. Temporary Use Permit at 735 S. Columbia River Hwy. - Fireworks stand

There were no comments.

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## **Planning Department Activity Reports**

There were no comments.

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## **For Your Information Items**

The St. Helens Public Library is hosting the Oregon Humanities Conversation Project, "A City's Center" with Nan Laurence on September 10, 2015 at 7:00 p.m. The Commission is invited.

There is an Open House for the St. Helens Waterfront Redevelopment Project on Tuesday, June 23 from 5pm – 7pm. It will be held in the Muckle Building at 31 Cowlitz Street.

Graichen reported that the City Council voted unanimously to allow marijuana retailers and/or medical dispensaries in commercial areas (GC, HC, HBD, and RD). The decision was likely influenced by business owner testimony. Graichen said they kept the requirement for the conditional use process, eliminated the 200 foot park and residential buffer, and increased the buffer between each retailer and dispensary from 1,000 feet to 2,000 feet. Councilor Carlson said this is because the original concern was that there would be a marijuana retailer on every corner. The buffer between retailers was a way to ensure that wouldn't occur.

Graichen discussed the existing ban on residential units on the ground floor in the Houlton Business District. Because of the number of residential units in this area and the lack of commercial redevelopment demand, this ban could potentially cause urban blight. Based on recent testimony, City Council requested to start the process of changing the Development Code to allow already existing residential units on the ground floor.

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There being no further business before the Planning Commission, the meeting was adjourned at 9:18 p.m.

Respectfully submitted,

Jennifer Dimsho  
Planning Secretary

### 2015 Planning Commission Attendance Record

*P=Present A=Absent Can=Cancelled*

Date	Petersen	Hubbard	Lawrence	Cohen	Cary	Semling	Webster
01/13/15	P	P	P	P	P	P	P
02/10/15	P	P	P	P	P	P	P
03/10/15	P	P	A	P	P	P	P
04/14/15	CAN	CAN	CAN	CAN	CAN	CAN	CAN
05/12/15	P	P	P	P	P	P	P
06/09/15	P	P	P	P	P	P	P
07/14/15							
08/11/15							
09/08/15							
10/13/15							
11/10/15							
12/08/15							

**CITY OF ST. HELENS PLANNING DEPARTMENT  
STAFF REPORT  
Variance V.3.15 & Site Design Review SDRm.3.15**

**DATE:** July 7, 2015  
**TO:** Planning Commission  
**FROM:** Jacob A. Graichen, AICP, City Planner

**APPLICANT:** Carl Coffman; Tater Rental, LLC  
**OWNER:** Tater Rental, LLC

**ZONING:** Riverfront District, RD  
**LOCATION:** 31 Cowlitz Street  
**PROPOSAL:** Add a fourth floor to existing building to use for residential or commercial purposes.

**The 120-day rule (ORS 227.178) for final action for this land use decision is September 30, 2015.**

**SITE INFORMATION / BACKGROUND**

The site is developed with the Muckle Building (historic name), which encompasses most of the subject property. It is on a corner at the intersection of Cowlitz Street and The Strand (Strand Street), and both streets are developed. The history of the site *under the current ownership* is as follows:

- Site Design Review SDR.2.11: This was to establish uses in the Muckle Building which had been vacant for many years. Uses included commercial on the ground floor and residential units on the 2<sup>nd</sup> and 3<sup>rd</sup> floors. A building permit was obtained within the validity period of this permit and much work has occurred per it.
- Variance V.3.12: This was to allow the height of the building to exceed the maximum allowed in the Olde Towne St. Helens zoning district (now known as Riverfront District). A Building Permit was never obtained for this and the Variance expired.
- Site Design Review SDRm.6.14: This was to omit roof-top accommodation for the building's future residents. Building has commenced per this approval; this is still valid.

Per SHMC 17.24.090(2), the Planning Director may refer any application to the Commission. In the case all aspects are being referred to the Commission.

**PUBLIC HEARING & NOTICE**

Hearing dates are as follows: July 14, 2014 before the Planning Commission

Notice of this proposal was sent to surrounding property owners within 300 feet of the subject property(ies) on June 17, 2015 via first class mail. Notice was sent to agencies by mail or e-mail on the same date. Notice was published in the The Chronicle on June 24, 2015.

### **AGENCY REFERRALS & COMMENTS**

As of the date of this staff report, no agency referrals/comments have been received that are pertinent to the analysis of this proposal.

### **APPLICABLE CRITERIA, ANALYSIS & FINDINGS**

**This section is divided into three parts: 1) Variance, 2) Site Design Review, 3) Architectural Review**

#### **PART 1 – VARIANCE**

##### **SHMC 17.108.050 (1) – Criteria for granting a Variance**

- (a) The proposed variance will not be significantly detrimental in its consequence to the overall purposes of this code, be in conflict with the applicable policies of the comprehensive plan, to any other applicable policies and standards of this code, and be significantly detrimental in its consequence to other properties in the same zoning district or vicinity;
- (b) There are special circumstances that exist which are peculiar to the lot size or shape, topography or other circumstances over which the applicant has no control, and which are not applicable to other properties in the same zoning district;
- (c) The use proposed will be the same as permitted under this code and city standards will be maintained to the greatest extent that is reasonably possible while permitting some economic use of the land;
- (d) Existing physical and natural systems, such as but not limited to traffic, drainage, dramatic landforms, or parks, will not be adversely affected any more than would occur if the development were located as specified in the code; and
- (e) The hardship is not self-imposed and the variance requested is the minimum variance which would alleviate the hardship.

**Discussion:** The maximum height allowed in the RD zone is 45 feet. The applicant requests a height of 55 +/- feet if you include the elevator bump up noted on the plans. Note that SHMC 17.68.010 states that projections not used for human habitation such as elevator shaft housings are not considered buildings for the purposes of determining building height. Excluding the elevator accommodation, the height is >50 feet but <55 feet.

#### **Findings:**

**(a)** This criterion asks if there is a detrimental consequence as it relates to the overall purpose of the code, if the proposal would be in conflict with any Comprehensive Plan policies or any other aspects of law, or if it would result in detriment to other properties. *See applicant's narrative.*

The Commission needs to determine if this criterion is met.

**(b)** This criterion asks if there are special circumstances to justify the variance that are beyond the control of the applicant and not applicable to other properties in the same zoning district. *See applicant's narrative.*

The Commission needs to determine if this criterion is met.

**(c)** This criterion prohibits use variances and asks if City standards can be applied as much as possible, while permitting some economic use of land. A use variance is not proposed; such is prohibited.

The Commission needs to determine if this criterion is met.

**(d)** This criterion asks if grant this variance would result in an adverse impact to existing physical and natural systems. *See applicant's narrative.*

The Commission needs to determine if this criterion is met.

**(e)** This criterion asks if the hardship is self-imposed or not (it should not be for the purpose of approving a variance) and if the variance requested is the minimum variance which would alleviate the hardship. *See applicant's narrative.*

The Commission needs to determine if this criterion is met.

## **PART 2 – SITE DESIGN REVIEW**

### **SHMC 17.96.080 (3) – Minor Modification Site Development Review approval criteria**

- (3) A minor modification shall be approved, approved with conditions or denied following the director's review based on the finding that:
- (a) No code provisions will be violated; and
  - (b) The modification is not a major modification.

**Discussion:** Given previous Site Design Review history, this application builds off that. Not much has changed with regards to the code and this section will be brief, relying mostly on the past Site Design Reviews. The two past such decisions noted above are attached.

This section addresses new aspects based on this proposal. A significant change from the past is for the new floor to potentially be used for a commercial use with no relationship to the residential units.

**Finding(s):** An important factor for the Commission to consider is that in this zoning district, no additional or new on-site parking is required for sites with existing development footprint coverage in excess of 50% of the site area (change of use or remodeling without a change to the existing footprint of existing development are also exempt). Thus, even though a non-residential use separate from other uses in the building is possible for the proposed 4<sup>th</sup> floor, additional parking is technically not required.

One thing that needs to be considered given the potential of the “4<sup>th</sup> floor” to be used as a new use is traffic impact. Given historic uses of the building, any “new” use within is generally not more intensive than the building’s long history of use. However, the new floor is new area and thus, potentially new impact.



**Per Chapter 17.156 SHMC, the numeric threshold to require a traffic impact analysis is 250 average daily trips or more, or 25 or more weekday a.m. or p.m. peak hour trips.** Residential trip generation is based on number of dwelling units. Using the proposed 4<sup>th</sup> floor for residential tenant amenity doesn't increase the amount of dwelling units. An eating/drinking establishment is a potential non-residential use of the 4<sup>th</sup> floor. Looking at a few related categories from the Ninth Edition Trip Generation Manual (Institution of Transportation Engineers):

<u>USE TYPE</u>	<u>UNITS</u>	<u>WEEKDAY TRIPS</u>	<u>AM PEAK</u>	<u>PM PEAK</u>
• Quality Restaurant (931)	KSF <sup>2</sup>	89.95	0.81	7.49
• High turnover/sit down restaurant (932)	KSF <sup>2</sup>	127.15	10.81	9.85
• Fast food, w/o drive through (933)	KSF <sup>2</sup>	716	43.87	26.15

The proposed 4<sup>th</sup> floor will be approximately 800 square feet in size. This means you multiply the trip rates by 0.8 to determine if the traffic impact analysis requirement threshold is reached. In the three examples above, only the fast food category would require the analysis (e.g.,  $0.8 \times 716 = 572.8$  which is  $>250$ ). Generally, given the small size of the 4<sup>th</sup> floor, most non-residential uses wouldn't require a traffic impact analysis. Chapter 17.156 SHMC requires an analysis as part of a land use application if the requirement threshold is met. Such was not provided with this application and this SDR does not allow a use of the 4<sup>th</sup> floor that would trigger the analysis, because a new application would be required for that.

### **PART 3 – SITE DESIGN REVIEW**

#### **SHMC 17.32.070 (7) – Architectural Character Review**

##### **(7) Architectural Character Review.**

- (a) In the RD zone, permanent exterior architectural changes to buildings (including new construction and signs) and freestanding signs that are not designated landmarks or historic resources of statewide significance as defined and otherwise governed by Chapter 17.36 SHMC shall comply with the architectural design guidelines, attached to Ordinance No. 3164 as Attachment A, except:
  - (i) For ordinary maintenance not requiring a building permit.
  - (ii) Painting of buildings except when painting previously unpainted masonry or stone.

**Discussion:** The historic landmark commission (Planning Commission) shall advise the approving authority on the character of permanent exterior architectural changes to all buildings within the RD zone that are not designated landmarks or historic resources of statewide significance. As this decision has been referred to the Commission, the Commission is the review authority in this case.

The changes proposed at this time are: 1) a new fire escape, 2) new 4<sup>th</sup> floor.

**Findings:** Past recommendations from the Historic Landmarks Commission regarding this building that are relevant to this proposal include:

- Windows to be clear with no tint. This was in response to new windows on the first floor noted to have glazing. The guidelines recommend transparent windows.
- Colors used should be a non-reflective and from a traditional color palette. This was in response to zink color noted on past plans, which is also noted on the current plans.

Additional staff thoughts:

- Proposed face of 4<sup>th</sup> floor is to be board and batten siding. This differs from the brick of the rest of the building but is a type of siding that pre-dates the Muckle Building, built around 1909.
- The guidelines recommend that rooftop decks and other accessible areas on the roof should be set back from the edges so as to be not easily seen from the street. They should also be low profile. View deck is proposed.
- Windows with a vertical emphasis are preferred in the guidelines. Note that there are some horizontally oriented windows, which are part of overhead doors.
- The smaller size of the 4<sup>th</sup> floor helps to keep the bulk, height and scale of the Muckle building from getting too detracting from the surrounding buildings.

### **CONCLUSION & RECOMMENDATION**

**Based upon the facts and findings herein, staff recommends approval of this Variance with the following conditions:**

1. This Variance approval is valid for a limited time pursuant to SHMC 17.108.040.
2. This variance applies to this proposal only. This Variance allows an increase in maximum height of no more than requested, with an extent (footprint of proposed 4<sup>th</sup> floor) no greater than per plans submitted for this variance request.

**Based upon the facts and findings herein, staff recommends approval or denial of this Site Design Review with the following conditions:**

1. All conditions of SDR.2.11 and SDRm.6.14 shall still apply with the additional conditions:
  - a. This Site Design Review does not allow a use of the proposed 4<sup>th</sup> floor that would meet the threshold to require a Traffic Impact Analysis per Chapter 17.156 SHMC.
  - b. <<???? Any architectural review conditions ????>>

**Attachment(s):** Applicant's plans  
Applicant's narrative  
SDR.2.11 F&C  
SDRm.6.14 F&C

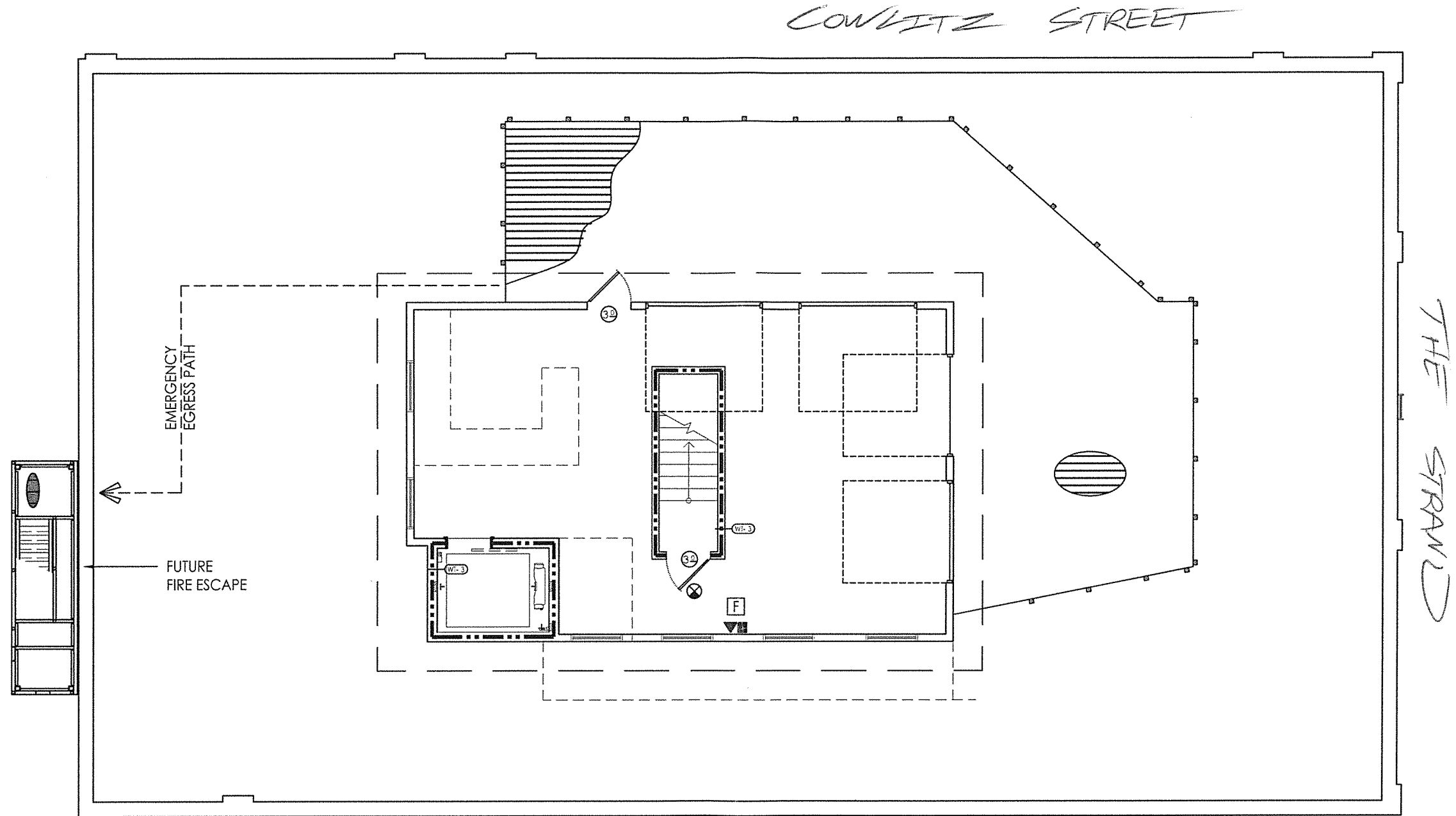
6/2/2015 6:22 AM

1  
SK1

# OVERALL ROOF PLAN

11251-ARCH SHEETS.DWG

N.T.S.



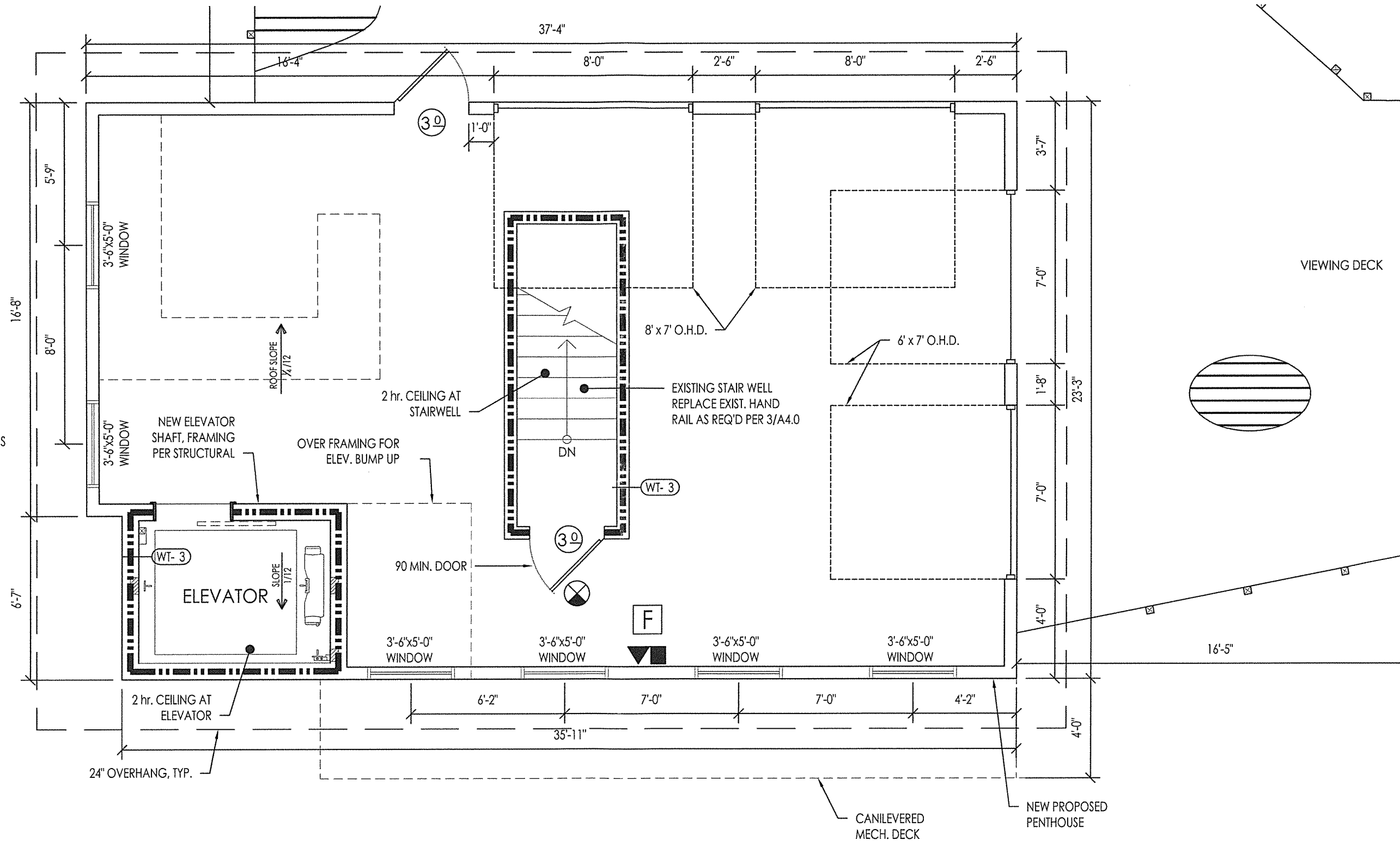
## PROJECT:

MUCKLE BUILDING  
31 COWLITZ, STREET  
SAINT HELENS, OREGON

**HAYDEN**  
Consulting Engineers  
STRUCTURAL ENGINEERING  
12480 SW 68th. Ave., Tigard, Oregon 97223  
Phone: (503) 968-9994 / Fax: (503) 968-8444  
WWW.HAYDEN-ENGINEERS.COM

JOB No.	11251
DRAWN	CHECKED
DLM	
DATE	06.01.2015
SHEET	SK1 OF 5

NOTE:  
ALL PENTHOUSE WINDOWS  
ARE TO BE SINGLE HUNG  
STYLE TO MATCH EXIST.  
WINDOWS.



1  
SK2

## PENTHOUSE PLAN

11251-ARCH SHEETS.DWG

1/4" = 1'-0"



## PROJECT:

MUCKLE BUILDING  
31 COWLITZ, STREET  
SAINT HELENS, OREGON

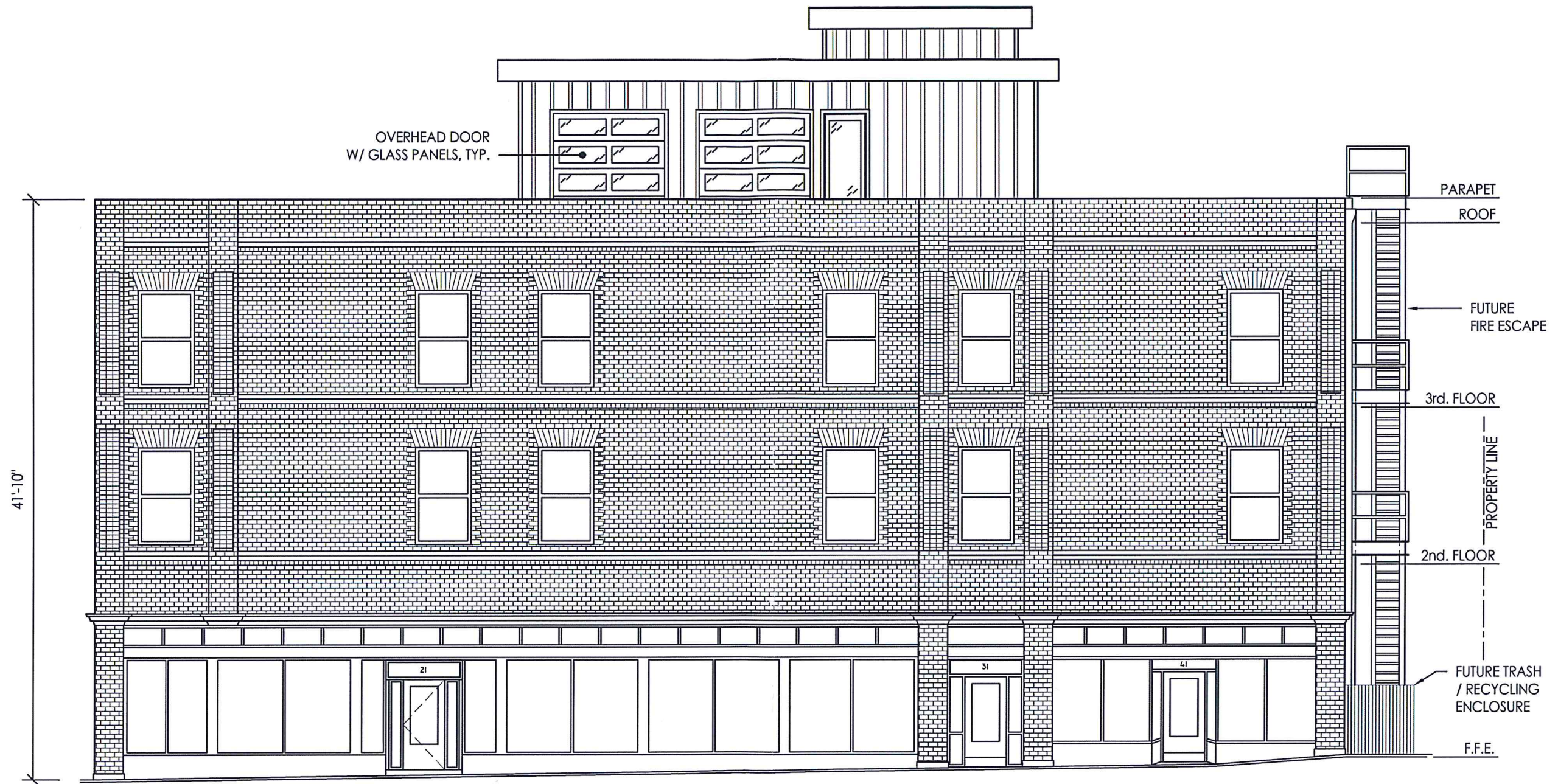
**HAYDEN**  
Consulting Engineers  
STRUCTURAL ENGINEERING

12480 SW 68th. Ave., Tigard, Oregon 97223  
Phone: (503) 968-9994 / Fax: (503) 968-8444  
WWW.HAYDEN-ENGINEERS.COM

JOB No.	11251
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DATE	06.01.2015
SHEET	SK2 OF 5

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# NORTH ELEVATION - PROPOSED

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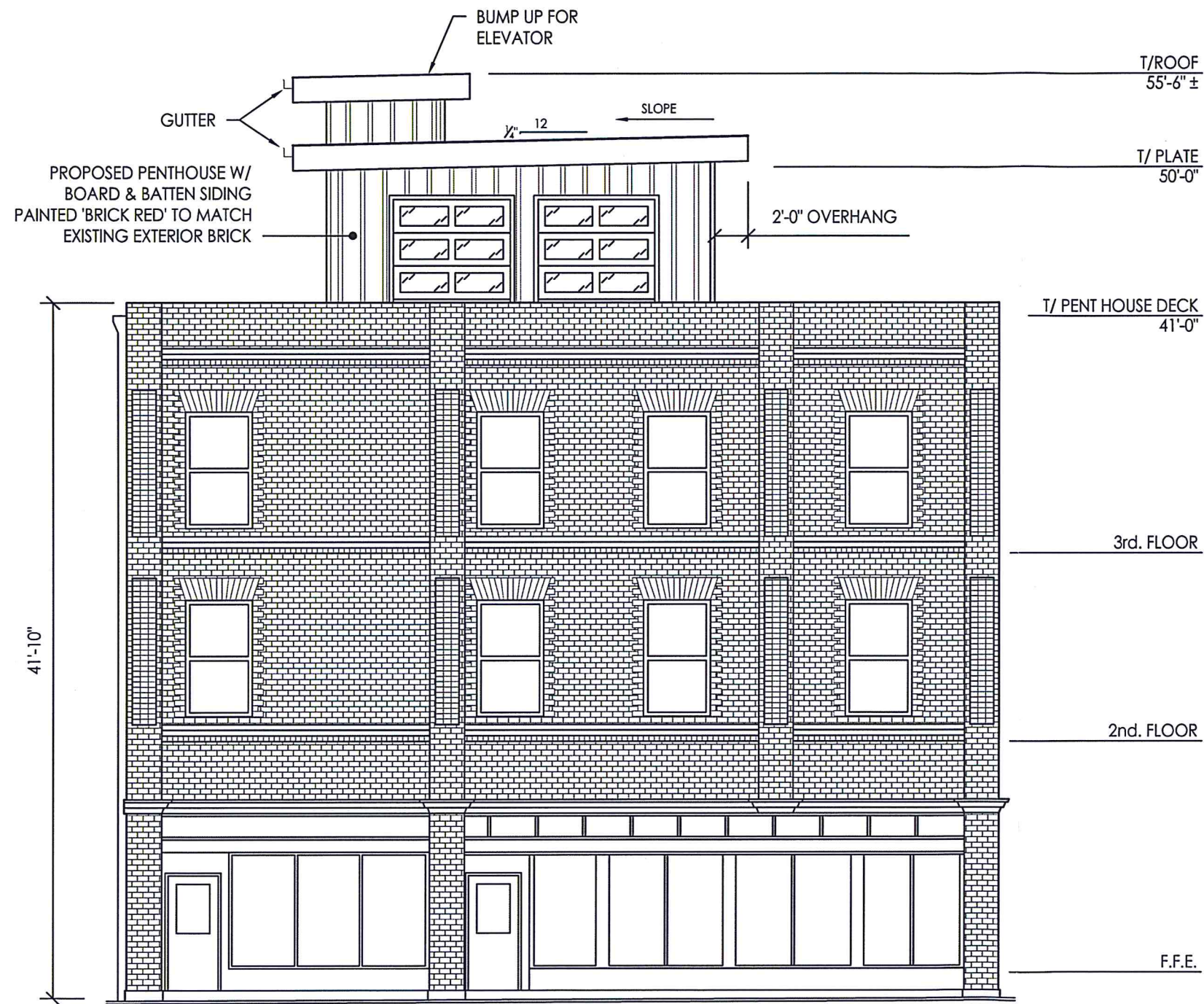
## PROJECT:

MUCKLE BUILDING  
31 COWLITZ, STREET  
SAINT HELENS, OREGON

**HAYDEN**  
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12480 SW 68th. Ave., Tigard, Oregon 97223  
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JOB No.	11251
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SHEET	SK3 OF 5





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SK4

EAST ELEVATION - PROPOSED

11251-ARCH SHEETS.DWG

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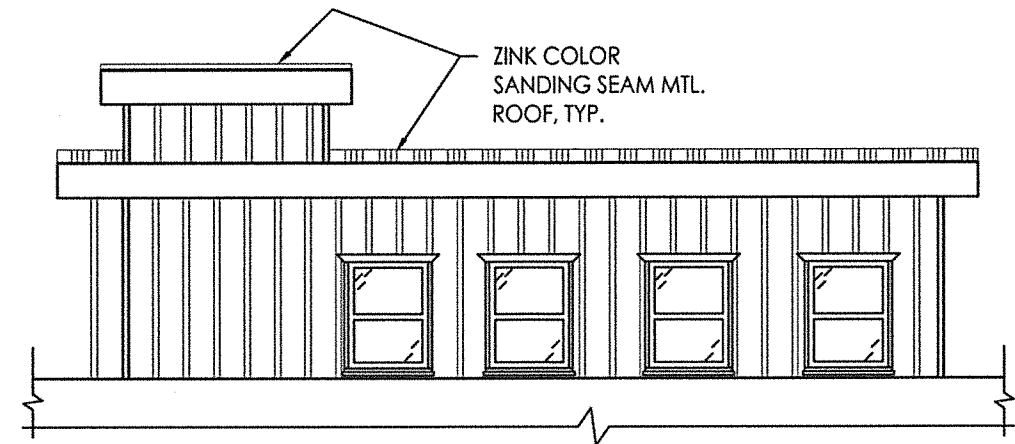
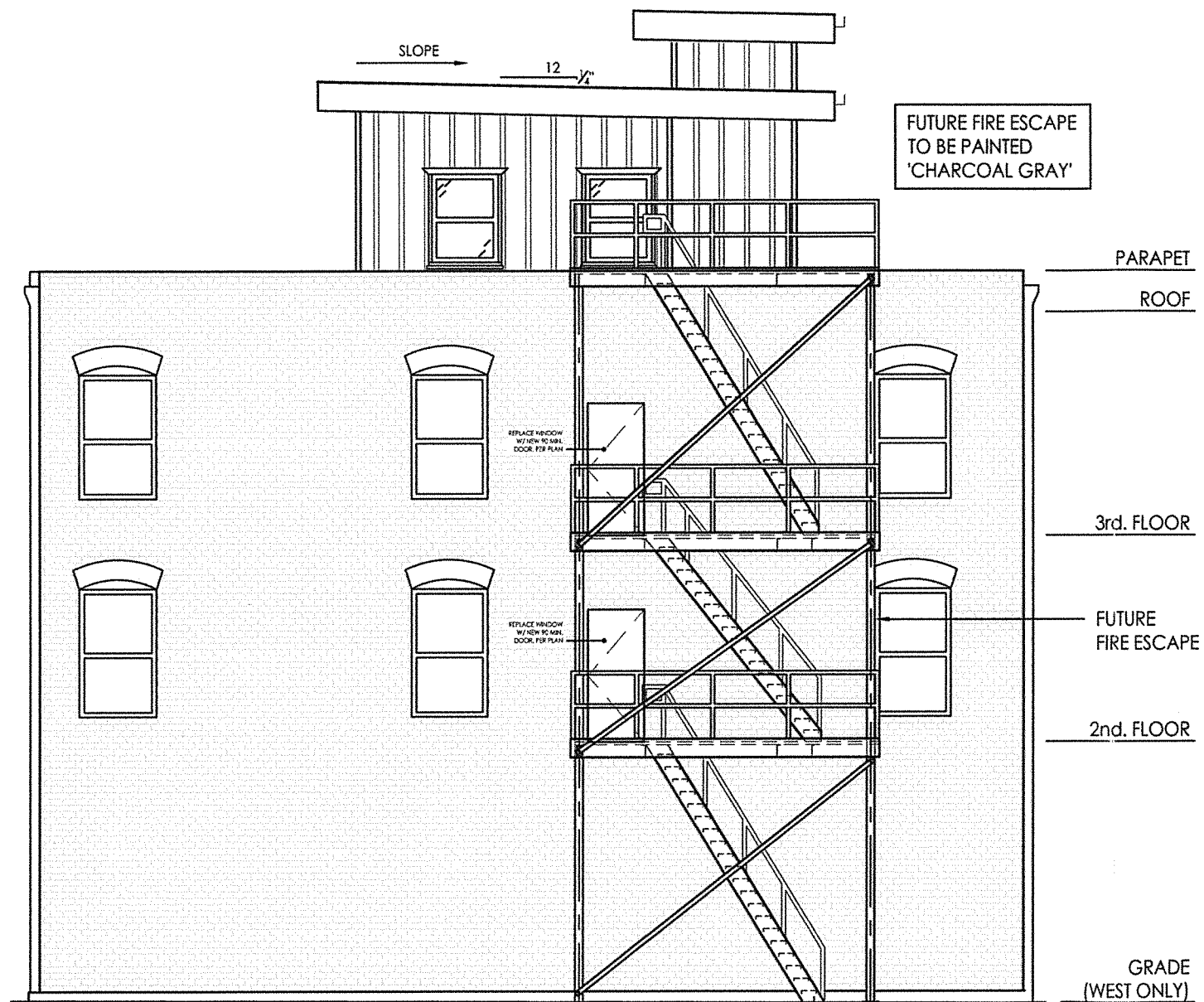
PROJECT:

MUCKLE BUILDING  
31 COWLITZ, STREET  
SAINT HELENS, OREGON

**H HAYDEN**  
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DATE	06.01.2015
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2  
SK5  
PENTHOUSE  
SOUTH ELEVATION - PRPOSED  
11251-ARCH SHEETS.DWG

N.T.S.

1  
SK5  
WEST ELEVATION - PROPOSED  
11251-ARCH SHEETS.DWG

N.T.S.

## PROJECT:

MUCKLE BUILDING  
31 COWLITZ, STREET  
SAINT HELENS, OREGON

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DATE	06.01.2015
SHEET	SK5 OF 5



## Tater Rentals

Oregon City, Oregon

Variance request for:  
Muckle Building  
31 Cowlitz Street  
St. Helens, Or. 97015

May 21, 2015

This is the second request for the same height variance. The first one anticipated a rooftop communal area created with the idea that it would attract residential tenants to the Muckle Building. That variance was approved at the Planning Commission Meeting on Sept. 11, 2012 and has now expired.

With continued review of the mixed use and downtown market, it has become apparent that the roof top use must be altered. The residents will have ample nearby outside areas and parks which are available. (they will also benefit from the immediate availability of this rooftop area during business hours) However, the commercial areas of the building do not provide enough of a draw as a destination without also providing the wow factor that is available for the public at the top of the building. The rebuilding of the Muckle building into a mixed use complex has always aimed at developing a 'buzz' to ignite both a desire for 'market rate' tenants to live in old town and to create a destination shopping / dining area to attract shoppers and other merchants to the area. It is our belief that the award winning views that are available at the top of this building will help to insure the continual success of the merchants who occupy the commercial space and provide joy to the tenants who occupy the residential spaces.

Therefore, a new 800 sq. ft. Penthouse and 800 sq. ft. roof top deck is proposed for the Muckle Building. This new area is to be used as a commercial business (wine bar or bistro, etc) while offering the building tenants an additional common area to gather. Old style garage doors are proposed on the north and the east side of the building in order to allow for the full use of all areas during the summer and for restricted but sheltered space during winter months. The garage doors will be glass in order to afford best possible views from inside during winter months.

An elevator is proposed to be installed for use to all floors including the penthouse. Access controls will limit the private spaces only to the residents of the building.

A variance is requested due to height limitation and the use of an (exterior) fire escape.

Per 17.108.050 SHMC

- a. The proposed variance will not be significantly detrimental in its consequence to the overall purposes of this code, be in conflict with the applicable policies of the comprehensive plan, to any other applicable policies and standards of this code, and be significantly detrimental in its consequence to other properties in the same zoning district or vicinity.*

The proposed Penthouse is set back from the roof and only adds approximately 10' of additional height to the building and 14' to the elevator shed area (mechanical area). The penthouse is designed to fit the



squared volume of Muckle building, to be appropriate in scale and is set back so as to not drastically change the street view of the existing building. This area will serve as a commercial destination in order to draw shoppers to the area in an effort to support the old town shopping core and the businesses in the ground floor of the Muckle Building. Tenants will certainly have ready access to this space and the accommodations of the merchant occupying it.

The original (exterior) fire escape was removed from the front of the building and is being reconstructed at the rear of the building. One of the apartments on each floor was significantly altered so tenants could have appropriate independent access to this new fire escape. There is also an existing stairwell inside the building which is being modified to create a two hour corridor which, once entered, will lead individuals to the exit. And lastly, the building will be sprinkled as part of the development plan.

- b. There are special circumstances that exist which are peculiar to the lot size or shape, topography, or other circumstances over which the applicant has no control, and which are not applicable to the other properties in the same zoning district.*

The existing building covers the full lot other than a small area on the west side of the building that has historically been used for garbage storage. The building includes an attic area that is integral to the original structure. Were this project started from scratch the attic area could be eliminated and the roof top area would be correspondingly lower. This would make the variance request unnecessary. This building is over 100 years old and although it has been extensively upgraded for seismic protection and fire egress, the historic roof configuration creates a circumstance which requires this variance to the height limit.

The original exterior fire escape is being relocated to the west side of the building and is being constructed just behind and above the garbage and utility area. It is also being extended to the roof in order to allow secondary egress to any customers or tenants.

There is no logical way to incorporate other internal stairwells into the building other than the access that has already been created to the planned 'exterior' fire escape. When complete the fire measures include egress pathway lighting, interior stairwell with two hour assemblies, fire sprinklers, exterior fire escape and for non fire emergencies, an elevator which can hold a stretcher.

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

The penthouse and roof top deck will be available for the residents, as well as the public pleasure and the use is permitted under the code. The need to police litter and monitor nuisance that might be caused by strictly private use will be ameliorated by the fact that a business will be operating on this rooftop location.

The permitted (outside) fire escape will be extended up only one floor to provide a secondary stair well for the roof top area. An elevator will be installed and the building will be sprinkled.

- d. Existing physical and natural systems, such as but not limited to traffic, drainage, dramatic landforms, or parks, will not be adversely affected any more than would occur if the development were located as specified in the code.*

The penthouse and rooftop deck will not affect any of the areas mentioned above. The roof area will stay the same due to the fact that the foot print of the building is not changed.

- e. The hardship is not self-imposed and the variance requested is the minimum variance which would alleviate the hardship.*

The proposed penthouse and deck is providing an economic incentive for merchants and an attraction to the downtown core and the Muckle Building. The existing conditions of the site which is over 100 years old are causing the need for the height variance and the variance requesting the use of a (exterior) fire escape for egress.

Respectfully Submitted,

Carl Coffman, Owner

**CITY OF ST. HELENS PLANNING DEPARTMENT  
PLANNING ADMINISTRATOR REVIEW  
SDR.2.11**

**PROPOSAL:** Remodel existing 3 story building and establish use therein  
**LOCATION:** 31 Cowlitz Street; Tax Assessor Map No. 4N1W-3BD-100  
**ZONING:** Olde Towne St. Helens, OTSH  
**STANDARDS:** SHMC 17.96.180  
**NOTICE:** Sent to surrounding property owners as required by the SHMC

**\*THE DECISION AND CONDITIONS OF THIS SDR BEGINS ON PG 7\***

**APPLICABLE CRITERIA, ANALYSIS & FINDINGS**

**SHMC 17.96.180 – Site Development Review approval standards**

- (1) Provisions of the following chapters:
- (a) Chapter 17.44 SHMC, Sensitive Lands;
  - (b) Chapter 17.60 SHMC, Manufactured/Mobile Home Regulations;
  - (c) Chapter 17.56 SHMC, Density Computations;
  - (d) Chapter 17.124 SHMC, Accessory Structures;
  - (e) Chapter 17.64 SHMC, Additional Yard Setback Requirements and Exceptions;
  - (f) Chapter 17.68 SHMC, Building Height Limitations – Exceptions;
  - (g) Chapter 17.72 SHMC, Landscaping and Screening;
  - (h) Chapter 17.76 SHMC, Visual Clearance Areas;
  - (i) Chapter 17.80 SHMC, Off-Street Parking and Loading Requirements;
  - (j) Chapter 17.84 SHMC, Access, Egress, and Circulation;
  - (k) Chapter 17.88 SHMC, Signs;
  - (l) Chapter 17.132 SHMC, Tree Removal;
  - (m) Chapter 17.152 SHMC, Street and Utility Improvement Standards; and
  - (n) Chapter 17.156 SHMC, Transportation Impact Analysis.

**Discussion:** SHMC Chapter 17.44 – n/a

**SHMC Chapter 17.56** – n/a per the OTSH zone

**SHMC Chapter 17.60** – n/a

**SHMC Chapter 17.64** – n/a

**SHMC Chapter 17.68** – n/a

**SHMC Chapter 17.72** – The property has more than 100 feet of street frontage, thus street trees are required. Sidewalk and curb are already in place. Along The Strand, the curb is adjacent to the sidewalk, but along Cowlitz Street there is an approximate 6 foot

landscape strip between the curb and sidewalk. However, this is only currently grass. Street trees shall be planted in this area prior to occupancy.

Due to overhead power, trees shall be a small species per this Chapter. Before building permit issuance a tree plan shall be submitted for review and approval by the City in accordance with this Chapter.

Per 17.72.110(2) and (4):

(2) Screening of Service Facilities. Except for single-dwelling units and duplexes, service facilities such as gas meters and air conditioners which would otherwise be visible from a public street, customer or resident parking area, any public facility or any residential area shall be screened from view by placement of a solid wood fence or masonry wall between five and eight feet in height or evergreens already to correct height minimums. All refuse materials shall be contained within the screened area.

(4) Screening of Refuse Containers Required. Except for one- and two-unit dwellings, any refuse container or refuse collection area which would be visible from a public street, parking lot, residential or commercial area, or any public facility such as a school or park shall be screened or enclosed from view by placement of a solid wood fence, masonry wall or evergreen hedge.

Any new such service facility that is visible shall be screened per this provision. Moreover, trash related to any use of the subject building shall be screened per this chapter. Means of screening shall be approved by the City and shall be in place prior to occupancy.

**SHMC Chapter 17.76** – n/a per the OTSH zone.

**SHMC Chapter 17.80** – n/a per the OTSH zone.

**SHMC Chapter 17.84** – No new access is proposed. Public sidewalk provides pedestrian access.

**SHMC Chapter 17.88** – There is no existing sign on the building. Any new sign will require a sign permit per this Chapter.

**SHMC Chapter 17.124** – No accessory structure proposed.

**SHMC Chapter 17.132** – There are no trees proposed to be removed.

**SHMC Chapter 17.152** – If mailboxes are proposed outside the building, they shall be clustered (not separate) and are subject to City and USPS approval. Such mailbox structure shall be placed adjacent to roadway curbs.

**SHMC Chapter 17.156** – The proposal doesn't warrant a Traffic Impact Analysis.

**Finding:** The provisions of these chapters are met or met with conditions.

(2) Relationship to the Natural and Physical Environment.

**Discussion:** No building additions are proposed that would impact this.

**Finding:** This criterion is met.

(3) Exterior Elevations.

**Discussion:** The building is existing and is not practical to meet this criterion. No substantial external changes are proposed.

**Finding:** This criterion is met.

(4) Buffering, Screening, and Compatibility between Adjoining Uses (See Figure 13, Chapter 17.72 SHMC).

**Discussion:** The surrounding zoning is the same and no use buffer is warranted. However per SHMC 17.96.180(4)(b):

On-site screening from view from adjoining properties of such things as service areas, storage areas, parking lots, and mechanical devices on rooftops (e.g., air cooling and heating systems) shall be provided and the following factors will be considered in determining the adequacy of the type and extent of the screening:

- (i) What needs to be screened;
- (ii) The direction from which it is needed;
- (iii) How dense the screen needs to be;
- (iv) Whether the viewer is stationary or mobile; and
- (v) Whether the screening needs to be year-round;

Service facility and trash enclosure requirements are addressed above. Any new rooftop mechanical device shall be placed such that it is not visible from the ground, otherwise, screening (e.g. increased parapet) will be required.

**Finding:** This criterion is met with conditions.

(5) Privacy and Noise.

**Discussion:** No ground floor units are proposed. The proposal utilizes an existing building.

**Finding:** This criterion is met.

(6) Private Outdoor Area – Residential Use.

**Discussion:** This criterion requires private open space for use by individual dwelling units. Because of the existing circumstances of the building (existing footprint and almost complete lot coverage) providing individual unit open area is problematic. This

provision allows private open space to include roofed or enclosed structures (i.e. not "attached" to the respective unit).

Applicant intends on meeting this by a roof-top common area, which includes a roof top building and open area. The building addition to the roof is complicated by height restrictions. However, some reasonable access to the roof for residents should be provided, as there is no other option.

**Finding:** This criterion is met with conditions.

(7) Shared Outdoor Recreation Areas – Residential Use.

**Discussion:** This criterion requires shared outdoor recreation areas at an amount of 200 square feet per unit. Applicant proposes 14 dwelling units, which equates to 2,800 square feet of required shared outdoor recreation area.

Public space can satisfy this requirement. Columbia View Park is about 200 feet away and exceeds one acre in size.

**Finding:** This criterion is met.

(8) Demarcation of Public, Semipublic, and Private Spaces – Crime Prevention.

**Discussion:** Existing conditions and required screening provide a boundary between public and private space that a reasonable person could recognize.

**Finding:** This criterion is met.

(9) Crime Prevention and Safety.

**Discussion:** Proximity to street lighting should meet this requirement.

**Finding:** This criterion is met.

(10) Access and Circulation.

**Discussion:** The site already has direct street and sidewalk access.

**Finding:** This criterion is met.

(11) Distance between Multiple-Family Residential Structure and Other.

**Discussion:** Existing conditions make this infeasible.

**Finding:** This criterion is met.

- (12) Parking. All parking and loading areas shall be designed in accordance with the requirements set forth in SHMC 17.80.050 and 17.80.090; Chapter 17.76 SHMC, Visual Clearance Areas; and Chapter 17.84 SHMC, Access, Egress, and Circulation;

**Discussion:** No parking required (see below). No access changes proposed are warranted.

**Finding:** This criterion is met.

- (13) Landscaping.

**Discussion:** No parking area is proposed or required.

**Finding:** n/a

- (14) Drainage. All drainage plans shall be designed in accordance with the criteria in the most current adopted St. Helens master drainage plan;

**Discussion:** No additional hard surface is proposed, but this shall apply in the normal course of permitting beyond this land use permit.

**Finding:** This criterion is met.

- (15) Provision for the Handicapped. All facilities for the handicapped shall be designed in accordance with the requirements pursuant to applicable federal, state and local law;

**Discussion:** The Building Official will address this provision with regards to the building itself. As no off-street parking is required, disabled parking needn't be addressed.

If there will be an outdoor mailbox, those shall meet the accessibility standards adopted under Oregon's accessibility statutes.

**Finding:** This criterion is met with Building Official requirements (and permits) and conditions.

- (16) Signs. All sign placement and construction shall be designed in accordance with requirements set forth in Chapter 17.88 SHMC;

**Discussion:** Any new signage shall comply with the Development Code including the obtainment of permits.

**Finding:** This criterion is met with conditions.

- (17) All of the provisions and regulations of the underlying zone shall apply unless modified by other sections of this code (e.g., the planned development, Chapter 17.148 SHMC; or a variance granted under Chapter 17.108 SHMC; etc.). (Ord. 2875 § 1.128.180, 2003)

**Discussion:** The zoning is OTSH per SHMC 17.32.170.

The applicant proposes multiple dwelling units on the second and third floor, and restaurant or retail and other business on the ground level. This is permitted in the OTSH zone. Exact nature of businesses on the ground floor is not entirely known. This does not allow any conditionally permitted use of the OTSH zone, as that requires a Conditional Use Permit.

Maximum building height allowed is 45 feet. Existing building is currently approximately 42 feet in height. Applicant proposes a rooftop structure, which would increase the total height to 54 feet. This is only possible with a variance.

Maximum lot coverage is 90%, which includes all impervious surface. The existing lot is 5,500 square feet in size and the building's footprint is about 53' x 90' or 4,680. The remaining area is paved or in an area not easily visible to the public. However, no footprint increase is proposed.

As no footprint change is proposed, yard requirements (setbacks) will remain as-is.

Minimum open space is 10%. As described above, this property is short of that, however, no existing open space will be lost. Loss of additional open space would require review by the City. This does not allow any additional loss of open space from current conditions.

No additional or new on-site parking is required for this site as it has a lot coverage exceeding 50% of the site.

Except for a "designated landmark" per Chapter 17.36 SHMC, residential use is prohibited on the first (ground) floor. The building is not listed as a "designated landmark."

Residential density above permitted uses shall be based on the standard of one dwelling unit for each full 500 interior square feet of non-residential use provided. Outdoor dining areas and similar permitted outdoor uses may only be included in the calculation when such areas are not located within a right-of-way. The applicant proposes 7 dwelling units on the second and third floor, each, for a total of 14. Thus, at least 7,000 square feet of non-residential use area is required to achieve this density. The combined floor area of the lot (5,500) and the common area of the 2<sup>nd</sup> and 3<sup>rd</sup> floors (approximately 729 each) is 6,958 (more-or-less 7,000 to meet the intent of the code). In addition, some common area is also proposed on the roof that would increase this.



Outdoor storage of goods and materials must be screened. This shall be a condition. And that any such screening requires review and approval by the City prior to installation.

Per SHMC 17.32.170(7): The Historic Landmarks Commission as established by Chapter 17.36 SHMC shall advise the approving authority on the character of permanent exterior architectural changes to all buildings within the OTSH zone that are not designated landmarks or historic resources of statewide significance as defined and otherwise governed by Chapter 17.36 SHMC. This building is neither and a couple of exterior changes are proposed: new entry way and new building addition on the roof. These constitute "permanent exterior architectural changes" and will require review by the Historic Landmarks Commission prior to Building Permit Issuance to ensure architectural compatibility. At that time, detailed architectural plans demonstrating proposed appearance shall be submitted to the Planning Department for that process. This should be done before building permit submittal so the appropriate changes can be made and be reflected with the building permit submittal.

**Finding:** This criterion can be met with conditions.

#### CONCLUSION & DECISION

Based upon the facts and findings herein, the City Planning Administrator approves of this **Major Site Development Review**, with the following conditions:

1. This **Site Development Review** approval shall be valid for a one year period from the date of approval pursuant to SHMC 17.96.040.
2. The following shall be required prior to development/building permit issuance:
  - a. Street tree plan shall be submitted for review and approval along Cowlitz Street. In addition to other provisions of Chapter 17.72 SHMC, trees shall be a "small" species.
  - b. Refuse container or refuse collection area shall be identified on a plan for review and approval as to its location, function and means of screening.
  - c. Building permit plans shall include reasonable roof-top accommodation for private outdoor area for the building's residents subject to City review and approval. Note Condition 7. *NO LONGER REQUIRED PER SDRM. 6.14.*
  - d. See condition 10.
3. The following shall be required prior to Certificate of Occupancy or final inspection (if no Certificate of Occupancy is required) by the City Building Official:
  - a. Street trees per approved plan shall be installed.
  - b. Any new service facilities such as gas meters and air conditioners which would otherwise be visible from a public street, customer or resident parking area, any public facility or any residential area shall be screened as approved by the City, **regardless if such screening is absent on any plan reviewed by the City.**

Moreover, any new rooftop mechanical device shall be placed such that it is not visible from the ground, otherwise, screening (e.g. increased parapet) will be required.

- c. Any refuse container or refuse collection area visible from a public street, parking lot, residential or commercial area, or any public facility (e.g. school or park) shall be screened as approved by the City.
  - d. Mailboxes shall be addressed per Condition 4.
4. If mailboxes are proposed outside the building, they shall be clustered (not separate) and are subject to City and USPS approval. Such mailbox structure shall be placed adjacent to roadway curbs and shall meet the accessibility standards adopted under Oregon's accessibility statutes.
  5. Any new sign requires a sign permit prior to installation, pursuant to Chapter 17.88.
  6. This does not allow any conditionally permitted use of the OTSH zone, as that requires a Conditional Use Permit.
  7. Building height may only exceed the maximum allowed 45 foot height limit with a variance. This does not substitute for or guarantee approval of such.
  8. This does not allow any additional loss of open space from current conditions.
  9. No outdoor storage is allowed unless screened, subject to City review and approval.
  10. Prior to building permit submittal any permanent exterior architectural changes to the subject building shall be reviewed by the Historic Landmarks Commission to review architectural compatibility in the OTSH zoning district. Examples include but are not limited to new entry, vertical building additions, new parapets, and signs. Detailed architectural plans demonstrating proposed appearance shall be submitted to the Planning Department for that process. Necessary changes to ensure compatibility shall be incorporated into the plans submitted to the Building Department for Building Permit(s).
  11. Owner/applicant is still responsible to comply with the City Development Code (SHMC Title 17). In addition, this approval does not exempt the requirements of or act as a substitute for review of other City departments (e.g. Building and Engineering) or other agencies.

JAN. 4, 2012  
Date

  
\_\_\_\_\_  
Jacob A. Graichen, AICP, City Planner

**Attachment(s):** plans as submitted with application

**CITY OF ST. HELENS PLANNING DEPARTMENT  
PLANNING ADMINISTRATOR REVIEW  
SDRm.6.14**

**PROPOSAL:** Modification of SDR.2.11 to omit residential roof-top accommodation and other changes  
**LOCATION:** 31 Cowlitz Street; Tax Assessor Map No. 4N1W-3BD-100  
**ZONING:** Olde Towne St. Helens, OTSH  
**STANDARDS:** SHMC 17.96.080 (3)  
**NOTICE:** None required

**APPLICABLE CRITERIA, ANALYSIS & FINDINGS**

**SHMC 17.96.080 (3) – Minor Modification Site Development Review approval criteria**

- (3) A minor modification shall be approved, approved with conditions or denied following the director's review based on the finding that:
- (a) No code provisions will be violated; and
  - (b) The modification is not a major modification.

**Discussion:** The site is developed with an existing building (commonly known as the Muckle Building). Site Design Review SDR.2.11 was a proposal to remodel this existing 3 story building and establish use therein. This included roof-top accommodation for private outdoor area for the building's residents. **This proposal is to omit this roof-top accommodation.**

SHMC 17.96.180(6) requires private open space for use by individual dwelling units. In SDR.2.11 the applicant intended on meeting this by a roof-top common area. As such, a condition of SDR.2.11 stated that:

*"Building permit plans shall include reasonable roof-top accommodation for private outdoor area for the building's residents subject to City review and approval."*

Per SHMC 17.108.080(3):

(3) The director may grant an exception or deduction to the private outdoor area and shared outdoor recreation areas requirements, provided the application is for a use designed for a specific purpose which is intended to be permanent in nature (for example, senior citizen housing) and which can demonstrate a reduced demand for a private outdoor recreational area based on any one or more of the following findings:

- (a) There is direct access by a pedestrian path, not exceeding one-quarter mile, from the proposed development to public open space or recreation areas which may be used by residents of the development;
- (b) The development operates a motor vehicle which is available on a regular basis to transport residents of the development to public open space or recreation areas; or
- (c) The required square footage of either the private outdoor area or the shared outdoor recreation area may be reduced if together the two areas equal or exceed the combined standard for both.

COPY

**Finding(s):** The existing building takes up most of the land it sits on, limiting options. In addition, the building is nearly 42' feet in height and the maximum building height in this zoning district is 45 feet, which is an obstacle. In addition, this building was built in 1909 and is within the St. Helens Downtown Historic District as "contributing" to the significance of the district as listed in the National Register of Historic Places. Thus, it has certain cultural importance and being occupied by a use will improve the probability of its preservation (as opposed to neglect and/or demolition due to lack of use and financial liability to current and future owners).

Columbia View Park is about 200 feet away across Strand Street (The Strand), which is an improved public street. This public park is about 1 acre in size and includes access to public docks situated on the Columbia River.

Given these circumstances, Columbia View Park can accommodate the private outdoor area requirement.

**Discussion:** The number of residential units proposed with SDR.2.11 was 14 and this is being reduced to 12. This reduces necessary residential accommodation (e.g., the amount of private outdoor area as described above) and is within the allowed residential density as described in SDR.2.11.

**Finding:** 12 residential units instead of 14 as originally proposed is acceptable.

**Discussion:** Overhead power along Cowlitz Street has been removed. Overhead power restricted the type of street trees allowed along Cowlitz Street.

**Finding:** Street trees along Cowlitz Street may be larger given the absence of overhead power.

**Finding:** Per SHMC 17.96.040, Site Development Review approval is valid for one year. However, as this is a modification of SDR.2.11, the validity period of SDR.2.11 shall remain. Note, multiple building permits have been obtained since SDR.2.11 and work has been progressing.

**Finding:** This proposal does not meet the threshold for a major modification pursuant to SHMC 17.96.070(2).

#### CONCLUSION & DECISION

Based upon the facts and findings herein, the City Planning Administrator approves of this **Minor Modification Site Development Review** with the following conditions:

1. This SDRm does not change the validity period of SDR.2.11 (SHMC 17.96.040).
2. All conditions of SDR.2.11 shall remain unchanged except as follows:
  - Street trees along Cowlitz Street needn't necessarily be a "small" species.
  - Private outdoor area for the building's residents is not required.

DEC. 4, 2014  
Date

  
\_\_\_\_\_  
Jacob A. Graichen, AICP, City Planner



**CITY OF ST. HELENS PLANNING DEPARTMENT  
STAFF REPORT  
Conditional Use Permit CUP.3.15**

**DATE:** July 7, 2015  
**TO:** Planning Commission  
**FROM:** Jacob A. Graichen, AICP, City Planner

**APPLICANT:** Jennifer Plahn & Bing Theobald  
**OWNER:** Judith Ann Weigandt

**ZONING:** Highway Commercial, HC  
**LOCATION:** 365 S. Columbia River Highway; 4N1W-5DA-12600  
**PROPOSAL:** Establish a medical marijuana dispensary in an existing suite.

**The 120-day rule (ORS 227.178) for final action for this land use decision is Oct. 16, 2015.**

**SITE INFORMATION / BACKGROUND**

The site is fully developed with multiple businesses. One of suites is a real estate office; this is the proposed location of the medical marijuana dispensary.



Front and side view of subject suite.



Back and side view of subject suite.

**PUBLIC HEARING & NOTICE**

Hearing dates are as follows: July 14, 2015 before the Planning Commission

Notice of this proposal was sent to surrounding property owners within 300 feet of the subject property(ies) on June 24, 2015 via first class mail. Notice was sent to agencies by mail or e-mail on the same date. Notice was published in the The Chronicle on July 1, 2015.

**AGENCY REFERRALS & COMMENTS**

As of the date of this staff report, the following agency referrals/comments have been received that are pertinent to the analysis of this proposal:

**City Police Chief:** According to the St. Helens Municipal Code:

The city may deny or revoke a license upon finding that:

- (a) The applicant fails to meet the requirements of this chapter, or is doing business in violation of this chapter, zoning regulations, or applicable federal, state, county, or local law.

It suffices to say that if the City cannot issue a business license, I see no reason for the planning commission to entertain this proposal.

It is my opinion that a rush to authorize dispensaries in this community, in advance of new legislation is foolish. Let other communities be the test market for this. I ask that St. Helens lead the way on this issue rather than follow our neighbors down a road that may lead us to disaster.

#### **APPLICABLE CRITERIA, ANALYSIS & FINDINGS**

##### **SHMC 17.100.040(1) - CUP Approval standards and conditions**

(1) The planning commission shall approve, approve with conditions, or deny an application for a conditional use or to enlarge or alter a conditional use based on findings of fact with respect to each of the following criteria:

- (a) The site size and dimensions provide adequate area for the needs of the proposed use;
- (b) The characteristics of the site are suitable for the proposed use considering size, shape, location, topography, and natural features;
- (c) All required public facilities have adequate capacity to serve the proposal;
- (d) The applicable requirements of the zoning district are met except as modified by this chapter;
- (e) The supplementary requirements set forth in Chapter [17.88](#) SHMC, Signs; and Chapter [17.96](#) SHMC, Site Development Review, if applicable, are met; and
- (f) The use will comply with the applicable policies of the comprehensive plan.

**(a) This criterion requires that the site size and dimensions provide adequate area for the needs of the proposed use.**

**Finding(s):** There is no evidence to the contrary. This site operates as a multiple suite/business property.

**(b) This criterion requires that the characteristics of the site be suitable for the proposed use.**



**Finding(s):** See analysis of SHMC 17.100.150(3)(p) below, specifically pertaining to marijuana retailers and/or medical marijuana dispensaries. Other than that, there is no evidence to the contrary.

The Commission may consider off-street parking (see below).

**(c) This criterion requires that public facilities have adequate capacity to serve the proposal.**

**Finding(s):** There is no evidence that public facilities are inadequate for this proposal.

**(d) This criterion requires that the requirements of the zoning district be met except as modified by the Conditional Use Permit (CUP) chapter.**

**Finding(s):** The property is zoned Highway Commercial. “Marijuana retailer and/or medical marijuana dispensary” is listed as a conditionally permitted use in this zoning district.

See analysis of SHMC 17.100.150(3)(p) below, specifically pertaining to marijuana retailers and/or medical marijuana dispensaries.

**(e) This criterion requires analysis of the sign chapter and site design review chapter.**

**Finding(s): With regards to signs,** any new sign or modified sign shall require a sign permit per Chapter 17.88 SHMC

**With regards to site development review standards,** as the site is developed and there are no substantial proposed improvements to the site to accommodate the proposed use (e.g., new development), many aspects don’t apply. The noteworthy aspects are as follows:

The subject property is within an identified sensitive land: the 100-year floodplain per the Federal Emergency Management Agency (FEMA). This is also known as the Special Flood Hazard Area (SFHA) as identified by FIRM Map No. 41009C0456D and more specifically address in Chapter 17.46 SHMC.

No watercourse is proposed to be altered nor is the development within a floodway. A building subject to improvement is required to meet the applicable flood standards if it falls within the definition of a “substantial improvement” per Chapter 17.46 SHMC:

“Substantial improvement” means reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed...

As this will not involve new construction but only tenant improvement work, this proposal would not constitute a substantial improvement.

**With regards to off-street parking** the site has approximately 40 off-street parking spaces on the subject property. There are multiple businesses on the property now: gas station and related market with food and beverage, Columbia Hearing Center, a drive-through coffee business (separate building) and a real estate office. The proposed use will take over the real estate office.

All structures together do not appear to exceed 8,000 square feet in area.  $8,000/40 = 200$ , or in other words, there is about one space per 200 square feet of building. Generally, 1 space per 200 square feet equals or exceeds the amount required for each use. However, this doesn't include parking for employees (required by some off-street parking categories) or a shared parking agreement (Instrument 2008-8600 and 2008-8601 as recorded with the County Clerk) with and to the adjoining property (4N1W-4CB-2700).

The proposed use will likely have a greater off-street parking demand compared to an office use. Whether or not the available off-street parking will be able to absorb the proposed use is a key question. Generally, what is available can be assumed to be sufficient, but if there is a problem now, this proposal would likely increase that problem. **The Commission should see if there is any public testimony about current off-street parking problems, to help consider this issue.**

The site has some landscaping. This proposal doesn't warrant additional vegetation/pervious area.

**(f) This criterion requires compliance with the applicable policies of the Comprehensive Plan.**

**Discussion:** The proposal does not appear to be contrary to any Comprehensive Plan policy.

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**SHMC 17.100.150(3)(p) – Additional requirements for conditional use types**

(p) Marijuana retailer and/or medical marijuana dispensary.

(i) No marijuana retailer and/or medical marijuana dispensary shall be permitted to locate within 1,000 feet of any public or private: child care facility; preschool; elementary school; or junior, middle, or high school that lawfully exists at the time the Conditional Use Permit application is deemed complete.

(A) Distance shall be measured in a straight line, without regard to intervening structures, objects or roads, from the closest point of the structure or portion of structure containing the proposed marijuana retailer and/or medical marijuana dispensary, to the closest property line of the property upon which the other uses specified in subsection (3)(p)(i) of this section is listed.

(ii) No marijuana retailer and/or medical marijuana dispensary shall be permitted to locate within 2,000 feet of any other marijuana retailer and/or medical marijuana dispensary that lawfully exists at the time the Conditional Use Permit application is deemed complete.

(A) Distance shall be measured in a straight line, without regard to intervening structures, objects or roads, from the closest point of the structure or portion of structure



containing the proposed marijuana retailer and/or medical marijuana dispensary, to the closest point of the structure or portion of structure containing the existing marijuana retailer and/or medical marijuana dispensary.

(B) If multiple Conditional Use Permit applications are submitted for locations within the distance specified in subsection (3)(p)(ii) of this section but are not yet legally established, the valid Conditional Use Permit submitted first shall take precedence for the purpose of this subsection.

(iii) No marijuana retailer and/or medical marijuana dispensary shall be allowed as a temporary use and shall be located in a permanent building.

(iv) Any marijuana retailer and/or medical marijuana dispensary shall have refuse containers or refuse collection areas that are secure from entry outside the facility.

(v) Any marijuana retailer and/or medical marijuana dispensary shall comply with all applicable state and local laws.

**(i) This criterion requires a separation of 1,000 feet from child day care and schools from pre to high.**

**Finding(s):** Using the prescribed method of measurement, the closest known day care or school as listed per SHMC 17.100.150(3)(p)(i), is at 174 Sunset Boulevard, a distance of approximately 1,100 feet.

**(ii) This criterion requires a separation of 2,000 feet from other marijuana retailers and/or medical marijuana dispensaries.**

**Finding(s):** There are no other known retailers or dispensaries within the St. Helens city boundary or St. Helens' urban growth area.

Using the prescribed method of measurement, there is a CUP application for the same use at 1809 Columbia Boulevard, a distance of approximately 2,400 square feet. Thus, no distance conflict between the two applications. There is also a CUP application for 31 Cowlitz, much further away.

**(iii) This criterion requires the use be located in a permanent building and not a temporary use.**

**Finding(s):** The subject suite is part of a permanent building and a temporary use is not being sought.

**(iv) This criterion requires refuse containers or refuse collection areas that are secure from entry outside the facility.**

**Finding(s):** not addressed

**(v) This criterion requires compliance with applicable state and local laws.**

**Finding(s):** This shall be a condition of approval in additional to overall compliance with the Development Code.

In regards to the comments from the Police Chief (see Agency Comments section above), the City addresses business licenses in Chapter 5.04 SHMC. This chapter requires a business license for most businesses conducting business within city limits. Here is a quick summary of this chapter:

- All business licenses are issued by the city recorder after a finding by the city administrator that the applicant has met all requirements of Chapter 5.04.
- There are certain license requirements that apply, including that businesses abide by all federal, state and local laws, zoning regulations, and provisions of Chapter 5.04.
- The City may deny or revoke a license for several reasons, which includes but is not limited to failing to meet the requirements of Chapter 5.04; or doing business in violation of Chapter 5.04, zoning regulations, or applicable federal, state, county or local law.

According to current federal law, Marijuana is not a legal substance.

The CUP and Business License are separate issues. The Commission has no authority over business licenses. Conditional Use Permits can remain valid for a year-and-a-half, with a potential one year extension (with an approved application for such). It's possible that within the validity time period of the CUP (up to 2.5 years), the business license issue gets resolved separately. If it doesn't the CUP conditions are not met and the approved use cannot commence (if the CUP is approved). In short, the business license clause matters for a use authorized by the CUP to operate, but isn't necessarily basis for CUP denial.

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#### **SHMC 17.100.040(3) - CUP Approval standards and conditions**

(3) The planning commission may impose conditions on its approval of a conditional use, which it finds are necessary to ensure the use is compatible with other use in the vicinity. These conditions may include, but are not limited to, the following:

- (a) Limiting the hours, days, place, and manner of operation;
- (b) Requiring design features which minimize environmental impacts such as noise, vibration, air pollution, glare, odor, and dust;
- (c) Requiring additional setback areas, lot area, or lot depth or width;
- (d) Limiting the building height, size or lot coverage, or location on the site;
- (e) Designating the size, number, location, and design of vehicle access points;
- (f) Requiring street right-of-way to be dedicated and the street to be improved;
- (g) Requiring landscaping, screening, drainage and surfacing of parking and loading areas;
- (h) Limiting the number, size, location, height, and lighting of signs;
- (i) Limiting or setting standards for the location and intensity of outdoor lighting;



- (j) Requiring berming, screening or landscaping and the establishment of standards for their installation and maintenance;
- (k) Requiring and designating the size, height, location, and materials for fences; and
- (l) Requiring the protection and preservation of existing trees, soils, vegetation, watercourses, habitat areas, and drainage areas.

**Discussion:** These are items the Commission may consider for this proposal. There are dwellings adjacent to the site to the NW, but the ones along the south side of Little Street are within the HC zone and considered existing non-conforming.

**Findings:** <<as per the commission, if any>>

### CONCLUSION & RECOMMENDATION

**Based upon the facts and findings herein, staff recommends approval of this Conditional Use Permit with the following conditions:**

1. This **Conditional Use Permit** approval is valid for a limited time pursuant to SHMC 17.100.030.
2. The following shall be required prior to Certificate of Occupancy, final inspection (if no Certificate of Occupancy is required) by the City Building Official, or commencement of the proposal:
  - a. Proof that the facility is licensed by the appropriate State agencies shall be submitted to the City.
  - b. Any marijuana retailer and/or medical marijuana dispensary shall have refuse containers or refuse collection areas that are secure from entry outside the facility. Applicant shall submit plans for approval to the City for review and approval demonstrating how this will be addressed.
3. The proposal shall comply with the applicable state and local laws.
4. Owner/applicant is still responsible to comply with the City Development Code (SHMC Title 17). In addition, this approval does not exempt the requirements of or act as a substitute for review of other City departments (e.g. Building and Engineering) or other agencies.

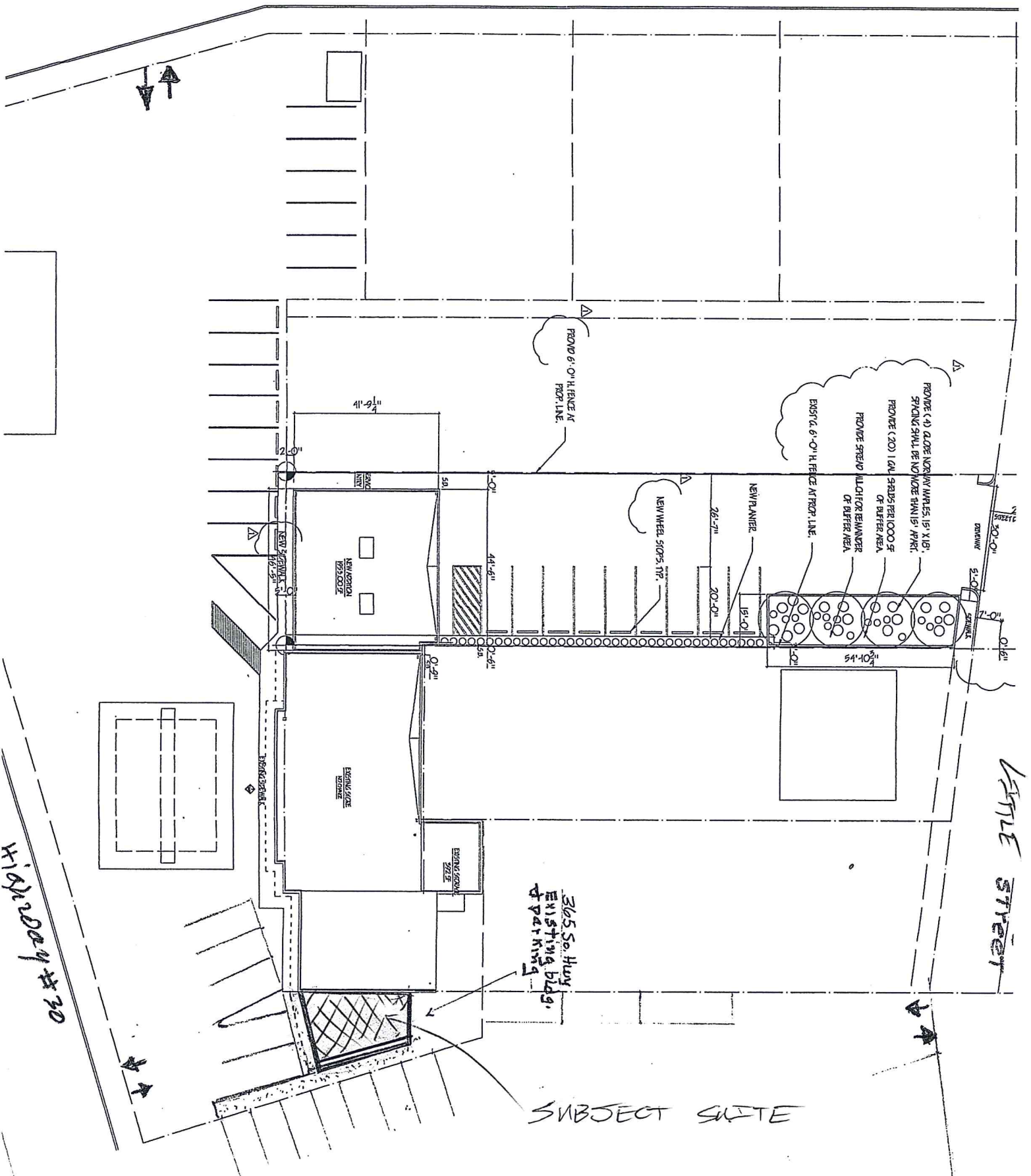
**Attachment(s):** Site Plan

Floor plans (existing and proposed)

Pictures of subject suite (2)

Map of ingress, egress and parking easements (from file LLA.8.08)

Veronia Rd.



applicant  
Jennifer Plahn  
Bing Theobald  
344 N 2nd St  
St Helena

Sheet Name

00113  
Project Number

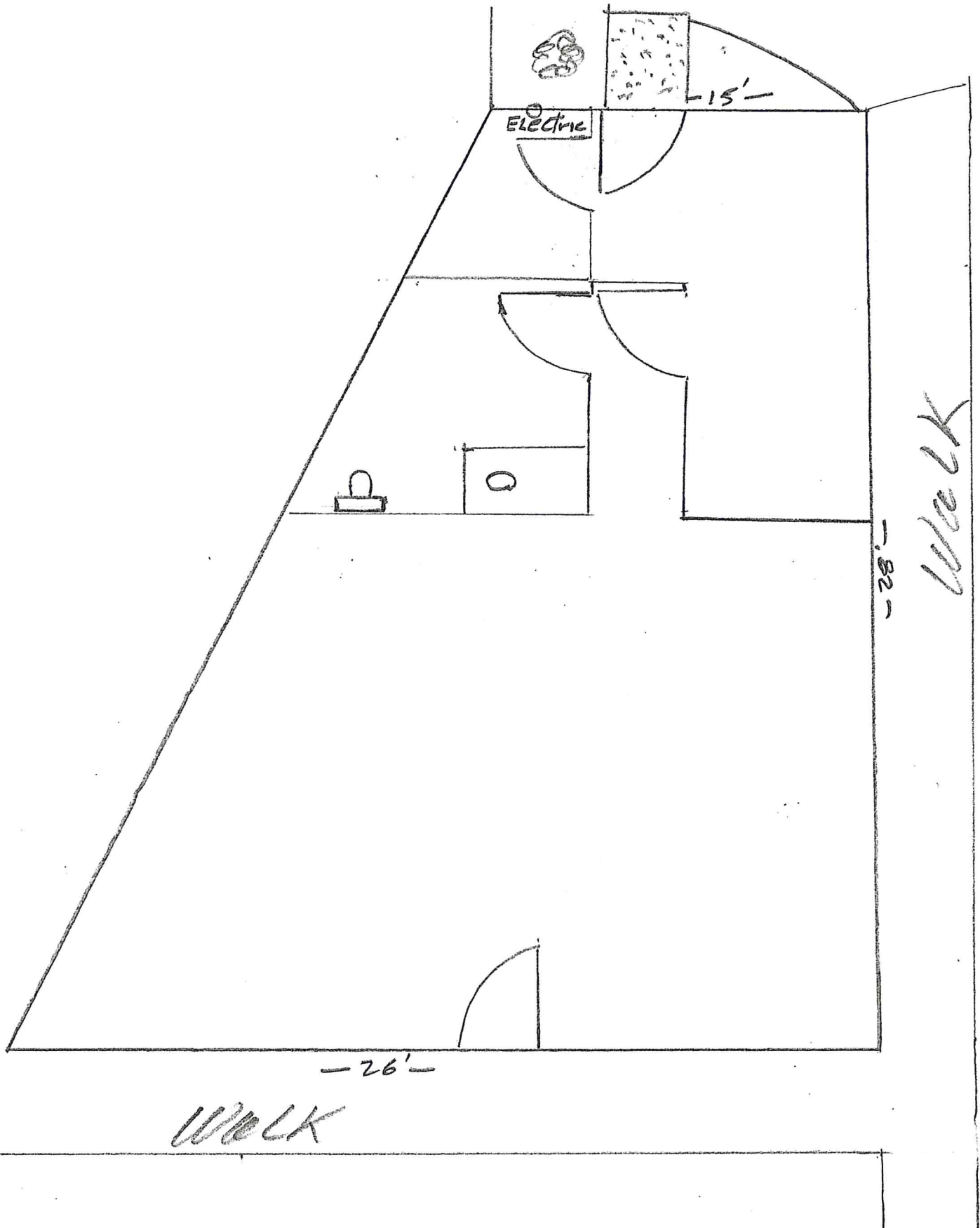
6/15/10

OLIVER  
Judi / WAYNE WEIGANDT  
365 SO. COLUMBIA RIVER HWY.  
ST. HELENS, OR 97051

[illegible]

FLOOR PLAN (EXISTING)

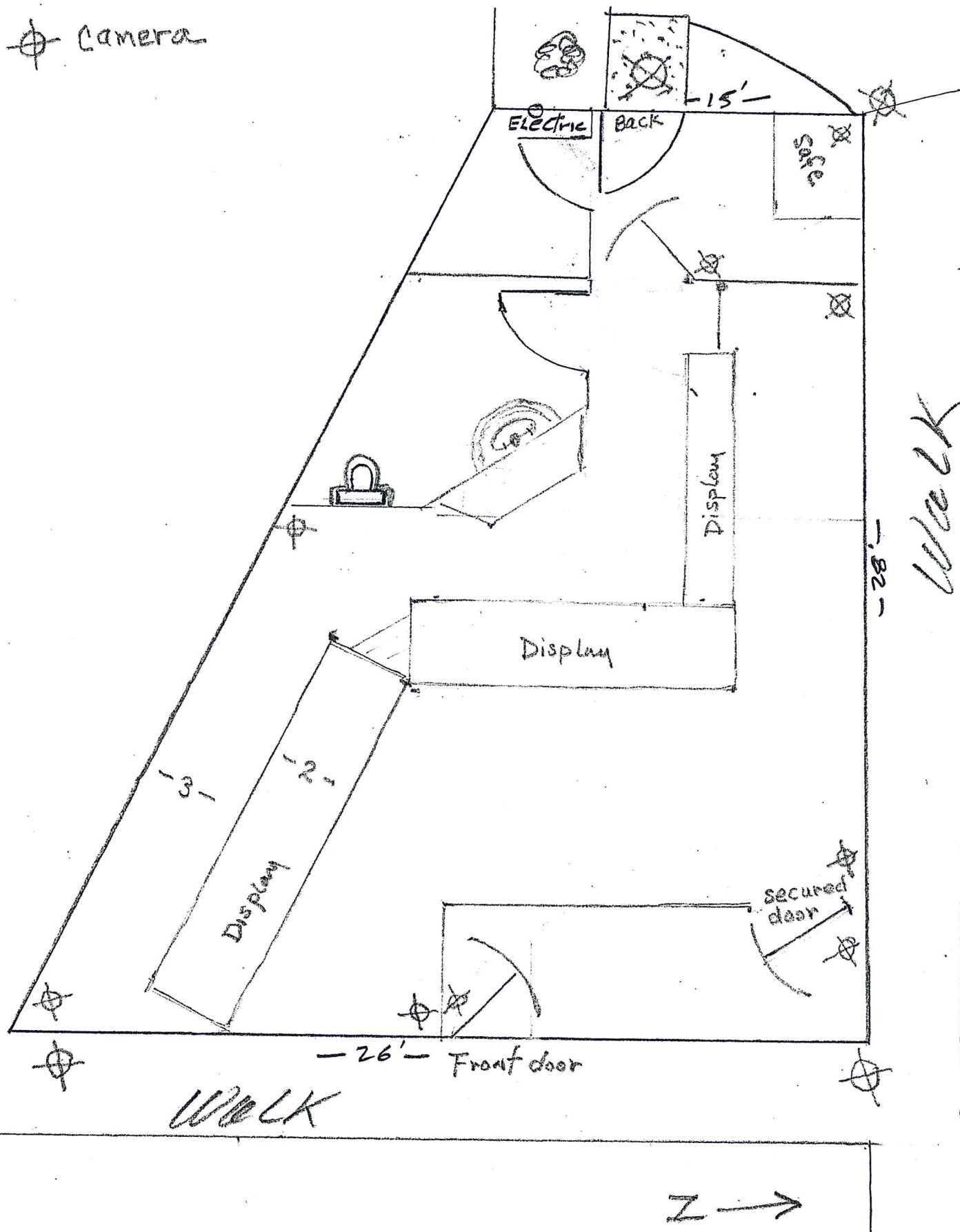
365 So. Hwy 30  
ST. HELENS, OR



# FLOOR PLAN (PROPOSED)

365 So. Hwy 30  
St. Helens, OR

⊕ Camera











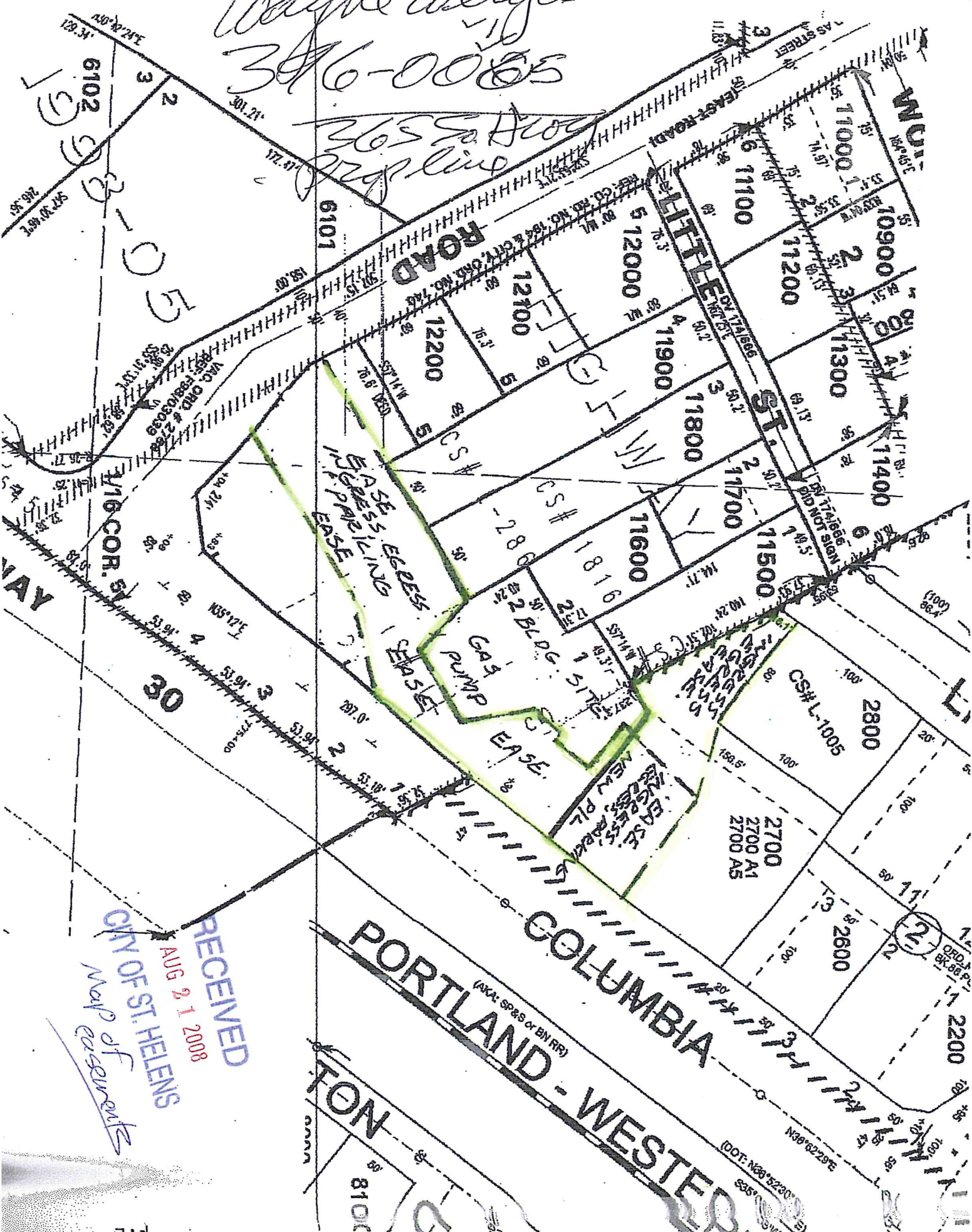
**NOTICE**  
THIS AREA IS  
UNDER 24  
HOUR VIDEO  
SURVEILLANCE

365

Ray Reigan  
397-225



Wayne Weigand  
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2655 Ave  
Portland



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CITY OF ST. HELENS  
Map easements

PORTLAND - WESTER  
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# **CITY OF ST. HELENS PLANNING DEPARTMENT ACTIVITY REPORT**



**To:** City Council

**Date:** 06.30.2015

**From:** Jacob A. Graichen, AICP, City Planner

This report does not indicate all *current planning* activities over the past report period. These are tasks, processing and administration of the Development Code which are a weekly if not daily responsibility. The Planning Commission agenda, available on the City's website, is a good indicator of *current planning* activities. The number of building permits issued is another good indicator as many require Development Code review prior to Building Official review.

## **PLANNING ADMINISTRATION**

As is typical for this time of year, staff is extra busy answering questions and other tasks as people look at summer projects.

Assisted the Columbia County Board of Realtors in their efforts to create a guide to sign codes of cities within Columbia County (via email).

Assisted with review of the draft of ORD 3192 regarding property maintenance requirements and vacant registration.

The Oregon Court of appeals has affirmed LUBA's decision to deny the permit to excavate a large quantity of rock for alleged residential development. This is the fourth denial of this permit (1-staff, 2-Planning Commission, 3-LUBA, and now 4-the Oregon Ct. of Appeals) for this case, S. St. Helens LLC v. City of St. Helens. The case could potentially be appealed to the Oregon Supreme Court.

Consulted a citizen on the premises at 115 S. 19<sup>th</sup> about property line issues/concerns.

Attended a pre-application meeting for a potential Columbia County land use application at 2225 Gable Road.

## **DEVELOPMENT CODE ENFORCEMENT**

Staff continues to work the attorney representing the property owner at 34666 Snow Street for a civil compromise for a long time unauthorized driveway issue as discussed in last month's department report. However, the owner sent a letter to the Council and multiple staff in the latter half of this month with content that leaves one wondering whether or not they still retain legal counsel.

## **PLANNING COMMISSION (& *acting* HISTORIC LANDMARKS COMMISSION)**

June 9, 2015 meeting (outcome): Two public hearings were held: One for a Variance at 75 River Way and another for a Conditional Use Permit 35531 Firway Lane. Both were approved with conditions.

July 14, 2015 meeting (upcoming): Two public hearings are anticipated: One for a Variance/Site Design Review at 31 Cowlitz Street, and the second for a Conditional Use Permit at 365 Columbia River Highway.

## **HISTORIC PRESERVATION**

CLG annual report provided to the National Parks Service this month, per NPS request.

### **GEOGRAPHIC INFORMATION SYSTEMS (GIS)**

The City now has a GIS specifically intended for public access! This can be used to view various land use and property data. See <http://webgis.metroplanning.com/sainthelensgis>

I whipped up a map (last minute) for the Kiwanis parade for Ashley Baggett who has some organizational role with the parade.

### **MAIN STREET PROGRAM**

I met with Chamber of Commerce representatives to touch base with their potential involvement with the next staff person for SHEDCO.

We have once again been selected to host a Resource Assistance of Rural Environments (RARE) AmeriCorps participant. The city used this program last year for the Main Street Program Coordinator position for SHEDCO's benefit. Staff submitted a full application this month after receiving the acceptance notice from RARE. Interviews are anticipated in mid-July.

### **MISC.**

Planning Dept. staff attended driver safety class on June 4, 2015. Staff also attended the Regards to Rural Conference towards the end of June.

**ASSISTANT PLANNER**—*In addition to routine tasks, the Assistant Planner has been working on:*

**See attached.**

## **Jacob Graichen**

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**From:** Jennifer Dimsho  
**Sent:** Monday, June 22, 2015 12:18 PM  
**To:** Jacob Graichen  
**Subject:** June Department Report

Here are my additions for the June Planning Department Report.

1. Compiled property information for Portland Community College's Request for Information (RFI) for potential St. Helens locations for a new educational facility
2. Helped prepare and distribute outreach materials, including updating the City's website for the Integrated Planning Grant (IPG) Open House on June 23 from 5pm-7pm
3. Facilitated final adoption of the Parks & Trails Master Plan (2015) and updated website materials
4. Updated the 3rd round of the Walk & Shop Mainstreet Map
5. Scheduled and prepared for final (#4) IPG Advisory Committee meeting
6. Collected CLG Historic Preservation Grant applications (Deadline: June 29).
7. Submitted CLG Interim Grant Program Report (Deadline: June 30).
8. Attended Regards 2 Rural Conference: June 26-27 in Bend, Oregon
9. Researched grant eligibility (2 webinars) and submitted a LOI for the APA/APHA RFP for the Plan4Health Grant Program (Final Deadline: July 31)

This month, I also answered more questions from residents and processed more applications than any other month this year.

**Jennifer Dimsho**  
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