



# AGENDA

Lincoln City Planning Commission  
Tuesday, January 5, 2021, 6:00 PM  
Council Chambers,  
801 SW Highway 101 - 3rd Floor, Lincoln City, OR 97367

1. **CALL TO ORDER, PLEDGE OF ALLEGIANCE, & ROLL CALL**
2. **AGENDA CHANGES OR REVISIONS**
3. **MINUTES**
  - 3.1. Planning Commission - Regular Meeting - Dec 22, 2020 12:00 AM
4. **FINAL ORDERS, RESOLUTION, & WRITTEN COMMUNICATIONS**
5. **PUBLIC HEARINGS/DELIBERATIONS**
  - 5.1. Extension request for CUP 2019-04 Transitional Housing
6. **OLD BUSINESS**
7. **NEW BUSINESS**
  - 7.1. Election of Chair and Vice Chair
8. **PLANNING COMMISSION TRAINING**
9. **REPORTS & COMMENTS**
10. **FUTURE AGENDA ITEMS & NEXT MEETINGS**
11. **ADJOURN**

*All information for this meeting is available on the City of Lincoln City website at [www.lincolncity.org](http://www.lincolncity.org), and this meeting will be televised live on Charter Channel 4 Lincoln City and rebroadcast at various times. Planning Commission meetings are streamed live on the Internet through a link on the City of Lincoln City website, and can also be viewed following the meeting. The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired, for a hearing impaired device, or for other accommodations for persons with disabilities, should be made at least 48 hours in advance of the meeting to Cathy Steere, City Recorder, at 541-996-1203.*

**LINCOLN CITY PLANNING COMMISSION  
MINUTES  
December 22, 2020**

**1. CALL TO ORDER, PLEDGE OF ALLEGIANCE, & ROLL CALL**

Attendee Name	Title	Status	Arrived
Marci Baker	Commissioner	Present	
Kim Blackerby	Commissioner	Present	
Joshua Brainerd	Commissioner	Present	
Patti Kroen	Chair	Present	
Lenny Nelson	Commissioner	Present	
Miles Schlesinger	Commissioner	Absent	
MacNeale Smith	Commissioner	Present	

**2. AGENDA CHANGES OR REVISIONS**

Move both items for the request for extensions from Section 7 to Section 5 because they are advertised public hearings. No other changes or revisions.

**3. MINUTES**

Chair Kroen provided two edits. It was also pointed out that the motion to continue the hearing for PUD 2020-02 was not in the minutes but should have been.

**3.1. Planning Commission - Regular Meeting - Dec 1, 2020 6:00 PM**

**MOTION:**

**MOVER:** Lenny Nelson, Commissioner

**SECONDER:** MacNeale Smith, Commissioner

**AYES:** Baker, Blackerby, Brainerd, Kroen, Nelson, Smith

**ABSENT:** Miles Schlesinger

**RESULT:** Passed

**4. FINAL ORDERS, RESOLUTION, & WRITTEN COMMUNICATIONS**

None

**5. PUBLIC HEARINGS/DELIBERATIONS**

**5.1. Extension request for CUP 2020-01 NWN Lincoln City Resource Center**

Public participants were brought into the meeting from the waiting room. Planning Commission Chair Patti Kroen read the required statements.

No ex parte contacts, conflicts of interest, or biases were declared. No member of the audience challenged the jurisdiction of the Planning Commission or the qualifications of any of the commissioners.

Senior Planner Dave Mattison read the substantive criteria from Lincoln City Municipal Code, Section 17.60.080, and Chair Kroen summarized the order of proceedings.

Mr Mattison presented the staff report, described the original proposal and the site. There was a question about when the 1-year extension starts. City Attorney Richard Appicello responded that the effect of the 1-year extension is to add one year to the total timeline.

Chair Kroen asked whether the Planning Commission can put conditions on the extension. Mr Appicello replied that they can.

Commissioner Smith asked whether there is a definition of "diligently pursued." Mr Appicello replied that there is not one in the LCMC - just the common definitions of the words. He said that technically you define the terms when you make findings, and that a technical definition is not required.

Commissioner Blackerby asked whether there was anything in the code that takes into account extreme circumstances such as Covid. Mr Appicello replied that there has been no amendment to the land use code to accommodate COVID and not abiding by required timelines. Other jurisdictions have, but we do not.

Commissioner Nelson asked what happens if the Planning Commission cannot approve the request because the applicant does not meet the criteria. Do they have to start from scratch? Mr Appicello replied that the expiration is not until February, so there is time to make progress pursuing construction before the approval expires.

Mary Fierros-Bower, the applicant's representative, testified on behalf of Northwest Natural. Referring to the criteria, Ms Bower said the NWN is currently using the existing structure for storage, which she related to the activity being conducted on the premises. She said that because of the challenges this year, they have not gotten their plans finished, but that they are scheduled to have construction documents in April and to start construction in January 2022. She acknowledged that the code has requirements, and asked whether the existing use could be continued until they are able to build. Mr Appicello pointed out that the allowance for conducting the conditioned use in the criteria for extensions specifically says "if no construction, enlargement is required."

The applicant asked for a continuance to the January 19, 2021 Planning Commission.

<b>MOTION:</b>	<b>Extension request for CUP 2020-01 NWN Lincoln City Resource Center</b>
<b>MOVER:</b>	<b>Lenny Nelson, Commissioner</b>
<b>SECONDER:</b>	<b>Marci Baker, Commissioner</b>
<b>AYES:</b>	Baker, Blackerby, Brainerd, Kroen, Nelson, Smith
<b>ABSENT:</b>	Miles Schlesinger
<b>RESULT:</b>	<b>Motion to Continue - Passed</b>

**5.2. Extension request for CUP 2019-04 Transitional Housing**

Chair Kroen read the required statements. No ex parte contacts, conflicts of interest, or biases were declared. There were no challenges from the audience to the jurisdiction of the Planning Commission or the qualifications of any commissioner.

Mr Mattison read the applicable substantive criteria. He then presented the staff report, describing the original application to operate a transitional housing facility, the site, and the Final Order, which was approved on Dec 19th, 2019.

Commissioner Nelson asked Mr Appicello about the scope of the hearing. Mr Appicello replied that the applicable criteria is only LCMC 17.60.080 and whether an extension should be granted, and not about whether the conditional use permit should have been approved.

Elizabeth Gray with Helping Hands testified on behalf of the applicant. She said that work has commenced. That demolition has been completed. She said that during demolition, significant structural issues were found with one of the buildings. Building permits for one of the buildings have been issued, and building is supposed to begin Monday (12/28/2020) The applicant is diligently pursuing construction.

Patti Kroen said that when she originally signed the order (FO 2019-06), she was under the impression that there was not going to be a lot of work on the building itself - that permits were going to be pulled only to change the use. She asked whether that changed. Ms Gray replied that the north building does not require significant construction, but the west building was where significant structural issues were found.

The commissioners had no more questions for the applicant.

No written comments and no public testimony were received in favor of the application.

No written comments or public testimony were received neutral to the application.

Several written comments were received. One a letter from the Ashley Inn and signed by the hotel manager, was read to the Planning Commission. The letter asked the commissioners to deny the application for extension and requested that the conditional use be reapplied for. The letter also requested that the property be re-deeded to the City.

Written comments were received from Thomas Barnes, owner of the Lincoln Woods apartments, who was present and read them to the commissioners himself. He said:

*We strongly object to the extension of the CUP and request that the extension be denied and a new Cup be applied for if this project is to go forward, for the following reasons:*

*1. Procedural inconsistencies in the notification and wording of the public notices regarding the public hearing initially, resulting in the public being denied the opportunity to voice their objections.*

*2. The city did not question or survey any of the businesses or residents in the immediate area to gauge the sentiment of those immediately affected by this CUP. Had they done so, as a responsible government agency would do, to ensure that they were serving the interest of their community, they would have found that there is strong opposition to this project in this location. This project is not wanted in this location. It is located in the middle of the town, on Hwy 101, the gateway to Lincoln City, it is in the middle of the tourist district. in the middle of residential, commercial, and multi-family complexes.*

*3. The city's actions to allow this use at this location is irresponsible and will endanger the health and safety of the families and children of Lincoln Woods Apartment complex (approximately 100 families) which is located contiguous to this location. The immediate area comprises business and residential, as well as the public at large. The children must walk past this location daily to catch the school bus when school resumes and again when the bus brings them home.*

*4. There has been no action to date, no renovations have taken place etc., which violates one of the conditions of the CUP (in use, or diligently pursued during a 12 month period)*

*For these and many other objections we strongly urge the planning commission to deny this request for an extension and if this project is to proceed then a new CUP application process and new public hearings should take place.*

Written comments were also received by Byron Farley, who chose to address the commissioners directly. His several written comments were made available in the meeting packet. Mr Farley agreed with Mr Barnes' recommendation to allow Helping Hands to apply for a new conditional use permit, calling it wisdom and equitable. He argued that if there is no construction required, then the permitted use has to be carried out. He argued that no building or structures are proposed, and no changes were to be made to the building, so diligent pursuit of construction doesn't matter. The applicant needed to start the use. Mr Farley also argued that the applicant had not been forthright in their application. He said that there has not been any evidence that there has been any construction, but that even if there had been, there wasn't any construction needed. Therefore inviting the applicants to reapply would be fair and equitable. My Farley also said that he has not seen the deed that conveyed the property to Helping Hands, but for the sake of the record he would question whether Helping Hands has the authority to bring the application for extension.

The applicant offered some rebuttal, saying that Helping Hands were not the original applicants for the original conditional use permit - the permit was not filled out by Helping Hands. The property was deeded to Helping Hands, and they are the ones pursuing the extension.

Commissioner Nelson said that she recalled the Planning Commission putting several construction requirements on the project. Chair Kroen said that there were a couple of conditions, but that she doesn't recall them being associated with the building, per se. She said that she recalls the fence and some sort of playground equipment for children, but doesn't recall them discussing any construction in the buildings.

Mr Appicello asked if a copy of the final order was entered into the record. Chair Kroen submitted into the record Final Order 2019-06 for CUP 2019-04 Traditional Housing.

Mr Farley didn't object to the addition of the Final Order, saying that regardless of what is in the final order, his argument is unchanged.

Mr Appicello recommended closing the hearing and leaving the record open until Wednesday 12/30 at noon, and to continue deliberations until the meeting on January 5, 2021. Leaving the record open allows any party to offer additional evidence.

Ms Gray indicated that she wishes to submit final written argument, which must be submitted by 6 pm on January 5th, 2021.

**MOTION:**            **Extension request for CUP 2019-04 Transitional Housing**

**5.3.**

**MOTION:**            **Motion to close the hearing and leaving the record open until Wednesday, December 30, 2020 at noon, and to continue deliberations until the meeting on January 5, 2021**

**MOVER:**            **Lenny Nelson, Commissioner**

**SECONDER:**       **Joshua Brainerd, Commissioner**

**AYES:**             Blackerby, Brainerd, Kroen, Nelson, Smith

**NAYS:**             Marci Baker

**ABSENT:**          Miles Schlesinger

**RESULT:**          **Passed**

**6. OLD BUSINESS**

**7. NEW BUSINESS**

**8. PLANNING COMMISSION TRAINING**

The joint training meeting with the City Council is scheduled for the first Planning Commission meeting in February.

**9. REPORTS & COMMENTS**

None

**10. FUTURE AGENDA ITEMS & NEXT MEETINGS**

The next Planning Commission meeting is on January 5th, which will be the continuation of the extension request for the transitional housing conditional use permit.

The continuation of the NWN extension hearing and the continuation of Lincoln Palisades are scheduled for January 19th.

**11. ADJOURN**

Respectfully submitted,

\_\_\_\_\_  
James White  
Assistant Planner

\_\_\_\_\_  
Patti Kroen  
Chair



**PLANNING COMMISSION STAFF REPORT**  
**MEETING DATE: January 5, 2021**

**Report prepared by David Mattison, Senior Planner**

**Deliberations for extension request for CUP 2019-04 Transitional Housing**

Date: December 29, 2020

Case File: CUP 2019-04 Transitional Housing

**Applicant:**

Helping Hand Reentry Outreach Center c/o Alan Evans  
 PO Box 413  
 Seaside, OR 97138  
 503.440.9357  
 aevans@helpinghandsreentry.org

**Property Owner:**

Helping Hand Reentry Outreach Center c/o Alan Evans  
 PO Box 413  
 Seaside, OR 97138  
 503.440.9357  
 aevans@helpinghandsreentry.org

Situs Address: 3454 NE Hwy 101 and 2201 NE 34th Street

Location: NE corner of the intersection of NE Hwy 101 and NE 34th Street

Tax Map and Lot: 07-11-02-CC-00500  
 07-11-02-CC-00300

Comprehensive  
 Plan Designation: General-Commercial District (G-C)

Zoning District: General Commercial (GC)

Site Size: Total 30,599 sf (Tax Lot 500 = 9,784 sf plus Tax Lot 300 = 20,815 sf)

Proposal: Request for a one-year time extension for conditional use permit CUP 2019-04 to operate a transitional housing facility

Surrounding Land Uses North: house, offices; GC; Northeast: houses; R-1-7.5  
 South: hotel, businesses; GC

and Zones: East: apartments; GC

West: Highway 101, west of Highway 101 offices, residential; GC

Public Notice: The Planning and Community Development Department mailed notice to the owners of all properties within 250 feet of the site on December 2, 2020. The News Guard published the public hearing notice on December 9, 2020.

Authority: Section 17.60.080 of the Lincoln City Municipal Code (LCMC) gives the Planning Commission authority to extend a conditional use permit for an additional period of one year, subject to the requirements of this title.

Applicable

Substantive

Criteria: LCMC Chapter 17.60.080 Conditional Uses Time Limitations

17.60.080 Time limitation.

A conditional use permit shall become void one year after approval, or after such greater or lesser time as may be specified as a condition of approval, unless within that time the required building construction, alteration or enlargement has been commenced and diligently pursued or, if no such construction, alteration or enlargement is required, unless the permitted activity is being regularly conducted on the premises. The planning commission may extend a use permit for an additional period of one year, subject to the requirements of this title. No more than one such extension may be granted. (Ord. 92-3 § 2; Ord. 84-2 § 6.080)

## BACKGROUND

On December 16, 2020, an application for a time extension for Conditional Use Permit #CUP 2019-04 was submitted to the City from Helping Hand Reentry Outreach Centers.

On December 22, 2020, the City Planning Commission held a public hearing for the time extension request for Conditional Use Permit #CUP 2019-04. Comments were received in opposition to the time extension prior to the hearing as listed below in the COMMENTS RECEIVED.

The Planning Commission closed the public hearing on the night of the 22nd. The record was left open for comments until the 30th of December at noon.

On December 24, 2020, the applicant submitted additional materials to support the request as listed below in the COMMENTS RECEIVED.

On December 29, 2020, an additional letter of opposition was received from Byron Farley, Martinis and Hill, attorneys at law, via email in regard to the request as listed below in the COMMENTS RECEIVED.

Final written argument from the applicant, if any, is due on January 5, 2021 at 6:00 pm.

## COMMENTS RECEIVED / SUMMARY OF COMMENTS

Property owners within 250 feet of the subject site received notice of the requested time extension for conditional use permit for a transitional housing facility. Written comments were received from property owners within 250 feet. These comments are summarized below.

Comments (two (2) submittals) were received on December 22, 2020 from Byron Farley with Martinis and Hill, Attorneys at Law, on behalf of The Ashley Inn (3430 NE Hwy 101), Lincoln Woods Apartments (2306 NE 34th St.) Thomas Barnes and Jitesh Desai.

Mr. Farley is requesting,

‘The Opponents urge the Planning Commission to deny the application for the extension of the CUP’ and invite the applicant, Helping Hands, to reapply for the CUP. They have presented five separate objections and a conclusion to the current application for extension of the CUP.

Objection 1: Non-Compliance with Extension Criteria

Objection 2: A Full & Fair Opportunity to be Heard

Objection 3: Opportunity to Correct Inconsistencies in CUP

Objection 4: Terms of the Promissory Note & Deed of Trust

Objection 5: Economic Considerations for the City

Conclusion: Denying the CUP extension and inviting the Applicant to reapply is required under the applicable code provision and ultimately allows the public to be heard on the use, the Applicant to correct major underlying defects, and the City to properly evaluate its legal responsibilities and economic priorities. It should be noted that the Applicant has not improved the subject property at all and will suffer no meaningful or ascertainable monetary loss by having the CUP extension denied and being asked to reapply.

These comments have been attached to the Time Extension Request packet and are part of the record for this application.

On December 22, 2020, comments were also received from Thomas and Leslie Barnes, owners of Lincoln Woods Apartments (2306 NE 34th). They are also in objection to the extension of CUP 2019-04.

They ‘strongly object to the extension of the CUP and request that the extension be denied and a new Cup be applied for if this project is to go forward,’ for the following reasons:

1. Procedural inconsistencies in the notification and wording of the public notices regarding the public hearing initially, resulting in the public being denied the opportunity to voice their objections.

2. The city did not question or survey any of the businesses or residents in the immediate area to gauge the sentiment of those immediately affected by this CUP.
3. The city's actions to allow this use at this location is irresponsible and will endanger the health and safety of the families and children of Lincoln Woods Apartment complex located contiguous to this location.
4. There has been no action to date, no renovations have taken place etc., which violates one of the conditions of the CUP.

For these and many other objections they ‘strongly urge the planning commission to deny this request for an extension and if this project is to proceed then a new CUP application process and new public hearings should take place.’

These comments have been attached to the Time Extension Request packet and are part of the record for this application.

On December 24, 2020, in response to the record being left open for comments from the applicant, Elizabeth Grey, Development Director for Helping Hands Reentry Outreach Centers, on behalf of the applicant, submitted 7 pictures of interior construction, a receipt of the approved City building permit, Permit Number 521-20-000180-STR, issued in September 2020, and City demolition permit, Permit Number 521-20-000121-DEMO, issued in April 2020, and architectural plans of the proposed building improvements.

These submittals have been attached to this Time Extension Request packet and are part of the record for this application.

On December 29, 2020, comments were received from Byron Farley with Martinis and Hill, Attorneys at Law, on behalf of The Ashley Inn (3430 NE Hwy 101), Lincoln Woods Apartments (2306 NE 34th St.) Thomas Barnes and Jitesh Desai.

Mr. Farley states that the submission is being offered since the record was left open after the hearing for additional argument and briefing after adopting and receiving into the record a copy of CUP 2019-04 Final Order. In summary he has stated that LCMC 17.60.080 requires that a CUP holder diligently pursue required construction in order to qualify for a CUP extension. The provision requires actual pursuit of the required tasks in order for the extension to be granted; and there is nothing on the record which shows that any of the conditions have begun. Therefore the CUP must lapse and the applicant may be invited to reapply for a new CUP.

This submittal has been attached to this Time Extension Request packet and is part of the record for this application.

### ANALYSIS

The specific findings made by the planning commission in granting a time extension for a conditional use permit for an additional period of one year must be based on LCMC 17.60.080.

The burden of producing substantial evidence to support the requisite findings is on the applicant seeking the approval of the conditional use time extension. The applicant has provided this information. Please see submissions provided by the applicant.

In order to grant a time extension for a conditional use, the planning commission must find, based upon evidence, both factual and supportive, provided by the applicant, that within that time one year after approval:

1. The required building construction, alteration or enlargement has been commenced and diligently pursued; or
2. If no such construction, alteration or enlargement is required, the permitted activity is being regularly conducted on the premises.

The planning commission may extend a use permit for an additional period of one year, subject to the requirements of this title. No more than one such extension may be granted.

### RECOMMENDATION

Staff recommends that the Planning Commission hold deliberations on the time extension request for the conditional use request, and determine whether the request complies with the criteria for granting approval of the request. Staff finds the submitted information provided by the applicant sufficient for the requested time extension.

If the Planning Commission finds that the request meets the criteria, the Planning Commission should make the necessary findings for approving the time extension request for the conditional use permit CUP-2019-04 for a transitional housing facility.

Conditional Use Permit Extension\_Helping Hands (PDF)  
 Request (PDF)  
 Letter (PDF)  
 Building permit east building (PDF)  
 Demo Permit (PDF)  
 Geotech Report Proposed Lincoln City Transitional Housing (PDF)  
 Lincoln City architectural drawings (PDF)  
 Transitional Housing -Supplemental Argument in Opposition (CUP 2019-04) (PDF)  
 FO 2019-06 - Transitional Housing (PDF)  
 DOC010 (PDF)

<b>OFFICE USE ONLY</b> Date Filed: _____ Amount/Fee: _____ Receipt No: _____ Received By: _____ 30 Days: _____ Deemed Incomplete: _____ Deemed Complete: _____ 120 Day Deadline: _____	  <b>LAND USE APPLICATION</b>	<b>OFFICE USE ONLY</b> Stamp Date Received _____  File No: _____
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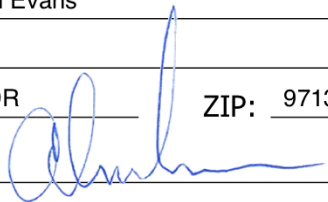
**APPLICATION TYPE**

<input type="checkbox"/> ANNEXATION	<input type="checkbox"/> LOT LINE ADJUSTMENT	<input type="checkbox"/> SITE PLAN REVIEW
<input type="checkbox"/> APPEAL OF PLANNING COMMISSION DECISION	<input type="checkbox"/> MINOR PARTITION	<input type="checkbox"/> SUBDIVISION
<input type="checkbox"/> APPEAL OF PLANNING DEPARTMENT DECISION	<input type="checkbox"/> NATURAL RESOURCE DEVELOPMENT REVIEW	<input type="checkbox"/> URBAN GROWTH BOUNDARY AMENDMENT
<input type="checkbox"/> COMPREHENSIVE PLAN & ZONING MAP AMENDMENT	<input type="checkbox"/> NATURAL RESOURCE DEVELOPMENT VARIANCE	<input type="checkbox"/> VACATION
<input type="checkbox"/> COMPREHENSIVE PLAN &/OR ZONING ORDINANCE TEXT AMENDMENT	<input type="checkbox"/> PLANNED UNIT DEVELOPMENT PRELIMINARY MASTER PLAN	<input type="checkbox"/> VARIANCE
<input checked="" type="checkbox"/> CONDITIONAL USE PERMIT	<input type="checkbox"/> PLANNED UNIT DEVELOPMENT FINAL MASTER PLAN	<input type="checkbox"/> OTHER _____

**NAME OF APPLICANT:** Helping Hands Reentry Outreach Centers c/o Alan Evans

**MAILING ADDRESS:** PO Box 413

**CITY:** Seaside **STATE:** OR **ZIP:** 97138

**DAYTIME PHONE:** 503-440-9357 **Signature:** 

**EMAIL (OPTIONAL):** a.evans@helpinghandsreentry.org

**OWNER OF RECORD (if other than applicant)**

**NAME:** \_\_\_\_\_

**MAILING ADDRESS:** \_\_\_\_\_

**CITY:** \_\_\_\_\_ **STATE:** \_\_\_\_\_ **ZIP:** \_\_\_\_\_

**DAYTIME PHONE:** \_\_\_\_\_ **Signature:** \_\_\_\_\_

**EMAIL (OPTIONAL):** \_\_\_\_\_

**APPLICANT AND/OR OWNER'S INTEREST IN PROPERTY SUBJECT TO REQUEST:**

AGENT,  FEE OWNER,  CONTRACT PURCHASER,  OPTION HOLDER,  LESSEE,  OTHER

**PROJECT LOCATION:** 3454 NE Hwy 101

**PROJECT ADDRESS:** \_\_\_\_\_

**ASSESSOR'S MAP NO.:** 7-11-02-CC **TAX LOT(S):** 500, 300

**AREA:** .69 **(acres)** **SQ. FT.:** 30,599 **ZONING:** GC

**James White**

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**From:** David Mattison  
**Sent:** Wednesday, December 16, 2020 4:06 PM  
**To:** James White  
**Subject:** FW: Extension for Helping Hands

For PC

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**From:** Elizabeth Grey <e.grey@helpinghandsreentry.org>  
**Sent:** Monday, November 30, 2020 1:09 PM  
**To:** David Mattison <dmattison@lincolncity.org>  
**Cc:** Alan Evans <a.evans@helpinghandsreentry.org>; Ronald Chandler <rhandler@lincolncity.org>  
**Subject:** Extension for Helping Hands

Hi David,

Due to Covid and other circumstances, we would like to file for an extension for the property located at 3454 NE Hwy 101 in Lincoln City. Please advise next steps.

Thank you!  
Elizabeth

--

Elizabeth Kotaich  
Development Director  
Helping Hands Reentry Outreach Centers  
503-265-9046  
[www.helpinghandsreentry.org](http://www.helpinghandsreentry.org)

**James White**

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**From:** David Mattison  
**Sent:** Wednesday, December 16, 2020 4:44 PM  
**To:** James White  
**Subject:** FW: CUP 2019-04 - Transitional Housing

[One more item...](#)

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**From:** Byron Farley [REDACTED]  
**Sent:** Wednesday, December 16, 2020 9:33 AM  
**To:** David Mattison <dmattison@lincolncity.org>  
**Cc:** Caeleigh Rogers [REDACTED]  
**Subject:** CUP 2019-04 - Transitional Housing

Mr. Mattison,

I represent several Lincoln City property owners with respect to their potential objections to the land use application referenced in the subject line. I understand an application was submitted by Helping Hands for an extension of the CUP. I reviewed the Lincoln City Planning and Community Development webpage links, but I was unable to find a link to the pending extension application. Could you please either e-mail me the link, or e-mail me a copy of the extension application and any/all related documentation?

Thank you in advance for your professional courtesies.

Sincerely,

Byron Farley  
Martinis & Hill  
[REDACTED]



801 SW Hwy 101, Suite 301  
PO Box 50  
Lincoln City, OR 97367  
541-996-2153

# Building Permit

## Commercial Structural

**Permit Number: 521-20-000180-STR**

IVR Number: 521043801488

Web Address: [www.lincolncity.org](http://www.lincolncity.org)

Email Address: [permits@lincolncity.org](mailto:permits@lincolncity.org)

**Permit Issued:** September 14, 2020

**Project:** Lincoln City Transitional Housing\_East Building

### TYPE OF WORK

**Structural Specialty Code Edition:** 2019

**Category of Construction:** Multi-family

**Type of Work:** Alteration

**Submitted Job Value:** \$181,665.00

**Description of Work:** Remodel/Alteration of Existing Building for a homeless shelter

### JOB SITE INFORMATION

**Worksite Address**

2201 NE 34TH ST  
Lincoln City, OR 97367

**Parcel**

07-11-02-CC-00300-00

**Owner:**

HELPING HANDS REENTRY  
OUTREACH CENTERS

**Address:**

ATTN: JAY BARBER  
240 EDGEWOOD  
SEASIDE, OR 97138

### LICENSED PROFESSIONAL INFORMATION

**Business Name**

Emmons, Stuart

**License**

Architect

**License Number**

3972

**Phone**

503-705-3050

### PENDING INSPECTIONS

**Inspection**

1999 Final Building  
1260 Framing  
1540 Gypsum Board/Lath/Drywall  
1600 Ceiling Grid

**Inspection Group**

Struct Com  
Struct Com  
Struct Com  
Struct Com

**Inspection Status**

Pending  
Pending  
Pending  
Pending

### SCHEDULING INSPECTIONS

Various inspections are minimally required on each project and often dependent on the scope of work. Contact the issuing jurisdiction indicated on the permit to determine required inspections for this project.

Schedule or track inspections at [www.buildingpermits.oregon.gov](http://www.buildingpermits.oregon.gov)

Call or text the word "schedule" to 1-888-299-2821 use IVR number: 521043801488

Schedule using the Oregon ePermitting Inspection App, search "epermitting" in the app store

**Permits expire if work is not started within 180 Days of issuance or if work is suspended for 180 Days or longer depending on the issuing agency's policy.**

**All provisions of laws and ordinances governing this type of work will be complied with whether specified herein or not. Granting of a permit does not presume to give authority to violate or cancel the provisions of any other state or local law regulating construction or the performance of construction.**

**ATTENTION: Oregon law requires you to follow rules adopted by the Oregon Utility Notification Center. Those rules are set forth in OAR 952-001-0010 through OAR 952-001-0090. You may obtain copies of the rules by calling the Center at (503) 232-1987.**

**All persons or entities performing work under this permit are required to be licensed unless exempted by ORS 701.010 (Structural/Mechanical), ORS 479.540 (Electrical), and ORS 693.010-020 (Plumbing).**

**PERMIT FEES**

Fee Description	Quantity	Fee Amount
Structural building permit fee		\$890.50
Structural plan review fee		\$578.83
State of Oregon Surcharge - Bldg (12% of applicable fees)		\$106.86
Commercial design review	1	\$250.00
CET - Lincoln County - Res Use		\$3,279.55
CET - Lincoln County - Admin Fee - Res Use		\$136.65
	<b>Total Fees:</b>	<b>\$5,242.39</b>

*Note: This may not include all the fees required for this project.*

**VALUATION INFORMATION**

Construction Type	Occupancy Type	Unit Amount	Unit	Unit Cost	Job Value
VB	R-2 multiple family	2,755.00	Sq Ft	\$112.76	\$310,653.80
				<b>Total Job Value:</b>	<b>\$310,653.80</b>



801 SW Hwy 101, Suite 301  
PO Box 50  
Lincoln City, OR 97367  
541-996-2153

# Building Permit

## Commercial Demolition

Permit Number: 521-20-000121-DEMO

IVR Number: 521060557109

Web Address: www.lincolncity.org

Email Address: permits@lincolncity.org

Permit Issued: April 09, 2020

Project: Demo

### TYPE OF WORK

Category of Construction: Commercial

Type of Work: Demolition

Submitted Job Value: \$0.00

Description of Work: Demo: interior

### JOB SITE INFORMATION

**Worksite Address**

3454 NE HWY 101  
Lincoln City, OR 97367  
2201 NE 34TH ST  
Lincoln City, OR 97367

**Parcel**

07-11-02-CC-00300-00  
07-11-02-CC-00500-00

**Owner:**

HELPING HANDS REENTRY  
OUTREACH CENTERS

**Address:**

ATTN: JAY BARBER  
240 EDGEWOOD  
SEASIDE, OR 97138

### LICENSED PROFESSIONAL INFORMATION

None Specified

### SCHEDULING INSPECTIONS

Various inspections are minimally required on each project and often dependent on the scope of work. Contact the issuing jurisdiction indicated on the permit to determine required inspections for this project.

Schedule or track inspections at [www.buildingpermits.oregon.gov](http://www.buildingpermits.oregon.gov)

Call or text the word "schedule" to 1-888-299-2821 use IVR number: 521060557109

Schedule using the Oregon ePermitting Inspection App, search "epermitting" in the app store

### PERMIT FEES

Fee Description	Quantity	Fee Amount
Demolition permit fee		\$10.00
<b>Total Fees:</b>		<b>\$10.00</b>

Note: This may not include all the fees required for this project.

### Demo permit approved with conditions:

1. Ensure no structural/bearing walls/structural components are removed without first obtaining an approved building permit.

2. No new construction work allowed until all permits are approved.

Permits expire if work is not started within 180 Days of issuance or if work is suspended for 180 Days or longer depending on the issuing agency's policy.

All provisions of laws and ordinances governing this type of work will be complied with whether specified herein or not. Granting of a permit does not presume to give authority to violate or cancel the provisions of any other state or local law regulating construction or the performance of construction.

ATTENTION: Oregon law requires you to follow rules adopted by the Oregon Utility Notification Center. Those rules are set forth in OAR 952-001-0010 through OAR 952-001-0090. You may obtain copies of the rules by calling the Center at (503) 232-1987.

All persons or entities performing work under this permit are required to be licensed unless exempted by ORS 701.010 (Structural/Mechanical), ORS 479.540 (Electrical), and ORS 693.010-020 (Plumbing).

**GEOTECHNICAL ENGINEERING REPORT  
PROPOSED LINCOLN CITY TRANSITIONAL HOUSING  
WEST BUILDING  
3454 NE HIGHWAY 101  
LINCOLN CITY, OREGON 97367**

**Prepared for:**

**Alan Evans, CEO  
Helping Hands Reentry Outreach Centers  
PO Box 413, Seaside, OR 97138**

**November 3, 2020  
Project No. 970-001**

**TERRA DOLCE CONSULTANTS, INC.**

**TERRA DOLCE CONSULTANTS, INC.  
4706 NE 75<sup>TH</sup> AVE  
PORTLAND, OREGON 97218  
503-502-5114**

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November 3, 2020  
Project No. 970-001

**Alan Evans, CEO  
Helping Hands Reentry Outreach Centers  
PO Box 413, Seaside, OR 97138**

**GEOTECHNICAL ENGINEERING REPORT  
PROPOSED LINCOLN CITY TRANSITIONAL HOUSING  
WEST BUILDING  
3454 NE HIGHWAY 101  
LINCOLN CITY, OREGON 97367**

Dear Alan:

Terra Dolce Consultants, Inc. (TDC) is pleased to present our report summarizing the site subsurface conditions and providing geotechnical recommendations for the proposed transitional housing on the referenced property. Our project work included field exploration, engineering analyses, and preparation of our report. Our work was completed in general accordance with our proposal dated September 16, 2020. TDC understands that Stuart Emmons, of Emmons Design, Astoria, Oregon has prepared the design drawings for the project.

#### **SITE DESCRIPTION**

The referenced property is located in Lincoln City (see Figure 1). The 0.68-acre property comprises two lots, Lot 500 (0.2 acre) and Lot 300 (0.48 acre). In 1947, the property was developed with the 6,669-square-foot West Building and the 2,755-square-foot East Building. The West Building will be renovated into the proposed transitional housing.

The West Building is an unreinforced masonry (URM) building that is supported in on a continuous footing around the perimeter and continuous footings within the interior. The northside of the building is supported with an 8-foot-high URM retaining wall, which is right on the northern property line. Over the years, the URM retaining wall has rotated towards the south, causing the building to lean to the south as well. The east end of the wall has a series of ramparts, on approximately 10-foot-centers, were installed to stabilize the wall. Overall, the condition of the wall is very poor.

#### **PROJECT DESCRIPTION**

TDC understand that Helping Hands Reentry Outreach is planning to convert the West Building on the referenced property into transitional housing. The project consists of gutting the building and converting the space into emergency living areas, staff areas, and communal dining. In order to renovate the building, the existing northern retaining wall need to be stabilized and new foundations footings will need to be constructed throughout the building.

## **GEOLOGIC CONDITIONS**

Geologic maps of the area indicate the site is underlain with the 50-million-year-old marine mudstones of the Elkhorn-Yamhill Group. The mudstone is typically massive, with little bedding throughout the formation.

## **FIELD INVESTIGATIONS**

On October 14, 2020, TDC conducted a site investigation at the referenced site. The following observations were made.

**Surface Conditions.** The West Building completely covers Lot 500 (see Figure 2). On the northside of the building is the URM wall that is failing, on the west side of the building is sidewalk and landscaping, on the southside of the building is NE 34<sup>th</sup> Ave, and on the eastside of the building a slope up to the East Building on Lot 300.

### **Subsurface Conditions**

TDC observed the drilling of three (3) borings (B-1 through B-3) adjacent to the existing building (see Figures 2 and 3 and Attached Boring Logs). Boring B-1 was drilled to 9 feet below ground surface (bgs), B-2 to 23 feet bgs, and B-3 to 19 feet bgs. The shallow depths were due to drilling refusal.

The boring soil samples were collected at 2.5-foot-intervals from 0 to 10 feet bgs and 5-foot intervals from 10 feet to 25 feet bgs. The samples were collected using the Standard Penetration Test (ASTM 1587), which involves driving an 18-inch-long split-spoon sampler with a 140-pound hammer. The number of blows required to drive the sampler 18 inches are recorded in 6-inch intervals. The last two blow counts are added together to determine the blows per foot (bpf). The blows per foot are used to determine the in-place consistency of the soil. The following subsurface conditions were encountered in the borings (see Attached Boring Logs):

**Weathered Siltstone (0 to 23 feet bgs).** Weathered Siltstone was encountered in all of the borings. The Siltstone was grey, stiff to hard, and massive.

**Groundwater.** Groundwater was encountered in B-2 and B-3 at 12 feet bgs and 15 feet bgs, respectively.

## SEISMIC CONSIDERATION

The site is located in Lincoln City. The latitude and longitude for the site is 44.99044 and -124.0056, respectively.

The seismically induced acceleration values at the rock interface, and the coefficients used to estimate ground surface response adjusted for Site Class C – Very Dense Soil and Soft Rock, for the MCE at the site are presented below:

Seismic Parameters	Value
Mapped Peak Ground Acceleration, ASCE7-10, Fig. 22-7, $PGA$	0.652g
Peak Ground Acceleration adjusted for site effects, $PGA_M$	0.783g
MCE Bedrock Spectral Acceleration, 0.2 second period, $S_s$	1.318g
MCE Bedrock Spectral Acceleration, 1.0 second period, $S_1$	0.683g
Short-Period Site Factor, $F_a$	1.2
Long-Period Site Factor, $F_v$	1.4
Soil MCE Spectral Acceleration, 0.2 second period, Site Class D, $S_{MS}$	1.581g
Soil MCE Spectral Acceleration, 1.0 second period, Site Class D, $S_{M1}$	0.956
Soil Design Spectral Acceleration, 0.2 second period, Site Class D, $S_{DS}$	1.054g
Soil Design Spectral Acceleration, 1.0 second period, Site Class D, $S_{D1}$	0.637

## CONCLUSIONS AND RECOMMENDATIONS

The conclusions and recommendations in this report are based on the information provided to us, results of the site investigation, and professional judgment. We have observed only a small portion of the pertinent soil and groundwater conditions. The recommendations are based on the assumptions that the soil conditions do not deviate appreciably for those encountered during our site visit.

### Conclusions

It is our opinion that the site is geotechnically sound for the renovation of the existing building. The renovation, however, shall include stabilizing the northern retaining wall and installing new foundations. Our opinion is based on the assumption that the recommendations in this report are followed.

### Wet Weather or Wet Soil Construction

During wet weather or soil conditions, the exposed soils may be disturbed with construction traffic. Such disturbance will structurally weaken the soil and render it unsuitable for uses in foundation bearing.

If construction occurs during wet weather, the exposed soils should be protected with at least 3 inches of  $\frac{3}{4}$ -inch-minus crushed rock. In addition, care should be taken to minimize disturbance of native soil, which may become “pumped” and weakened by repeated loading and vibratory compaction and wheeled equipment. Should soils become disturbed, the soils should be removed to firm native subgrade

and replaced with compacted  $\frac{3}{4}$ -inch-minus gravel structural fill placed in accordance with the above recommendations.

#### **Site Clearing and Preparation.**

In the area of the new retaining wall and the new foundations, the existing slab-on-grade and underlying baserock shall be removed from the site. If areas of soft soils or undocumented fill are encountered, then the material shall be overexcavated to firm, non-yielding soils.

#### **Excavation**

TDC does not anticipate deep excavations for the proposed renovation. If the proposed design changes, then we shall be contacted for excavation recommendations.

#### **Structural Fill**

If required, structural fill shall consist of  $\frac{3}{4}$ -inch to 1  $\frac{1}{2}$ -inch minus with less than 10 percent fines. The Structural Fill shall be compacted in 12-inch lifts to 95 percent of standard Procter (ASTM D698). The fill shall be free of organics and other deleterious materials. The subgrade for the proposed structural fill shall be firm, non-yielding native soil. Soft areas shall be overexcavated and replaced with Structural Fill.

#### **Allowable Bearing Capacity**

TDC recommends an allowable bearing capacity for the new foundations of 3,000 pounds per square foot (psf). The allowable bearing capacity can be increased by one-third for seismic and other transitory loads.

#### **Foundation Subgrade**

The foundation subgrade shall be neat cut and consists of non-yielding native soils with no organics or other deleterious material. If organics or soft areas are encountered, then the soft material shall be overexcavated and replaced with Structural Fill, as described above.

At least 6 inches of crushed  $\frac{3}{4}$ -inch rock shall be placed below the footing to protect the subgrade during construction and will provide a higher coefficient of friction, as discussed below.

#### **Total and Differential Settlement**

Total and differential settlement were evaluated for the site. Results indicate that the total settlement for the allowable bearing capacities listed above is less than 1 inch. Differential settlement should be half of the total settlement.

**Foundation Lateral Resistance.** It is assumed that the proposed foundation system will include continuous footings and isolated footings. The lateral resistance of the foundation shall include a coefficient of friction 0.5 on six inches of crushed  $\frac{3}{4}$ -inch rock and an allowable passive equivalent fluid weight of 300 pounds per cubic foot (pcf). For the passive earth pressure, the top one foot of soil in front of the footing shall be ignored.

### **North Retaining Wall Replacement Recommendations**

The existing retaining wall along the northside of the building has failed and needs to be replaced. One major issue in replacing the retaining wall is that it is situated right on the property line and the access to the wall is limited to the interior of the building. TDC recommends that the retaining wall be replaced with a new pile wall. The piles will be drilled inside of the building and the shotcrete lagging will act as the building wall. The new pile retaining wall shall be designed with the following parameters:

**Allowable Active Earth Pressures.** Unrestrained walls are those that are allowed to rotate at least  $0.001H$  (where  $H$  equals the retained height of the wall in feet) at the top of the wall, whereas restrained walls are not allowed to move.

The unrestrained wall shall be designed for an allowable equivalent fluid weight of 45 pounds per cubic foot (pcf).

**Allowable Passive Earth Pressures.** An allowable passive equivalent fluid weight should be 300 pcf. These pressures assume that the wall is well drained and that no hydrostatic pressures build up behind the walls.

**Seismic Load.** TDC recommends that the retaining wall be designed for a seismic load of  $18H$ , where  $H$  is the total height of the wall. The load shall be applied at  $H/3$  from the bottom of the wall.

### **Soldier Pile Wall Recommendations.**

Based on the results of the calculations, TDC recommends that the soldier pile wall consist of W14x43 wide-flanged pile that are up to 25 feet long (see Attached Shoring Calculations). The piles along the north wall will be on 6-foot spacing. The piles shall be set in 24-inch borings that are drilled a minimum 17 feet below the bottom of the finished floor elevation (see Figure 3). The borings shall be backfilled to the bottom of the excavation with 4,000 psi concrete.

### **Retaining Wall Drainage**

If required, drainage of retaining walls is paramount to the design loads. TDC recommends that a 2-foot-wide composite drain mats (Amerdrain or Equivalent) shall be installed behind the lagging. The drain mat shall extend below the toe of the wall and into an 18-inch-trench and have positive contact with a 4-inch-diameter perforated smooth-walled pipe. The pipe should be surrounded with at least 6 inches of drain rock around it to assist in the drainage. There should be positive drainage on the drainpipe.

### **Retaining Wall Reinforced Shotcrete Lagging**

TDC understands that the lagging for the retaining wall shall consist of reinforced shotcrete lagging. The lagging shall be designed by the Structural Engineer.

### **Slab-on-Grade Recommendations**

The slab-on-grade floor should be designed for an allowable subgrade reaction modulus of approximately 150 pounds per cubic inch. The subgrade soils must be

in a firm, non-yielding conditional at the time of slab construction. Soft areas encountered during the preparation of the slab subgrade should be overexcavated and replaced with structural fill.

For wet weather conditions, care must be taken to reduce the potential of rainwater ponding on the slab-on-grade rock section. In the areas where covered with moisture-sensitive flooring, an additional 4-inch thick lift of ¼-inch to ¾-inch, open graded, angular drain rock placed below the capillary break.

It is our experience that concrete slab-on-grade commonly exhibit shrinkage cracks despite the presence of steel reinforcing or fiber strands. This cracking can be reduced by using a low-slump concrete, properly designed and constructed joints and by properly curing the concrete.

### **REVIEW AND CONSTRUCTION MONITORING**

TDC shall review final plans and specifications for the new building and access road. This review will allow us to examine the documents to determine whether the intent of our recommendations presented in this report was incorporated into the report.

TDC should provide construction monitoring during the foundation construction activities. The purpose of our field monitoring services is to confirm that the site conditions are as anticipated and to provide field recommendations as required based on the conditions encountered. TDC should observe the following:

- Site Preparation;
- Subgrade for New Foundations; and
- Retaining Wall Drilling and Pile Installation.

**If structural fill is required, then a Materials Testing Firm, such as ACS Testing, shall be hired by owner to provide laboratory and field compaction testing.**

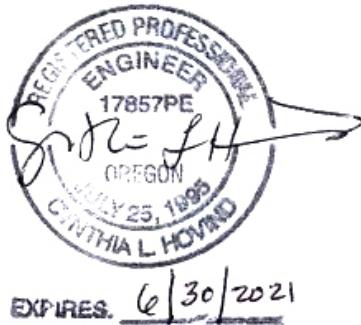
### **LIMITATIONS**

Geotechnical review is of paramount importance in engineering practice. The poor performance of many foundations has been attributed to inadequate construction review. On-site grading and earthwork should be observed and, where necessary, tested by a qualified engineering firm to verify the compliance with the recommendations contained in this report. Foundation excavation should also be observed to compare the generalized site conditions assumed in this report with those found on the site at the time of construction. If the plans for site development are changed, or if various or undesirable geotechnical conditions are encountered during construction, the geotechnical engineer should be consulted for further recommendations.

This report is issued with the understanding that it is the responsibility of the Client to ensure that the recommendations are incorporated in the plans and the necessary steps are taken to see that the contractor and subcontractors carry out such recommendations in the field. Geotechnical engineering is characterized by a certain degree of uncertainty. Professional judgments presented are based partly on our understanding of the proposed construction and partly on our general experience. Our engineering work and judgments rendered meet current professional standards; no other warranties, either expressed or implied are made. This report is subject to review and should not be relied upon after a period of 3 years.

It has been a pleasure providing you the geotechnical services for this project. If you have any questions, please call at 503.502.5114.

Sincerely,  
Terra Dolce Consultants, Inc.



Cynthia L. Hovind, P.E., G.E.  
Professional Geotechnical Engineer, OR-17857PE

#### **Attachments**

**Figure 1 – Vicinity Map**

**Figure 2 – Site Plan**

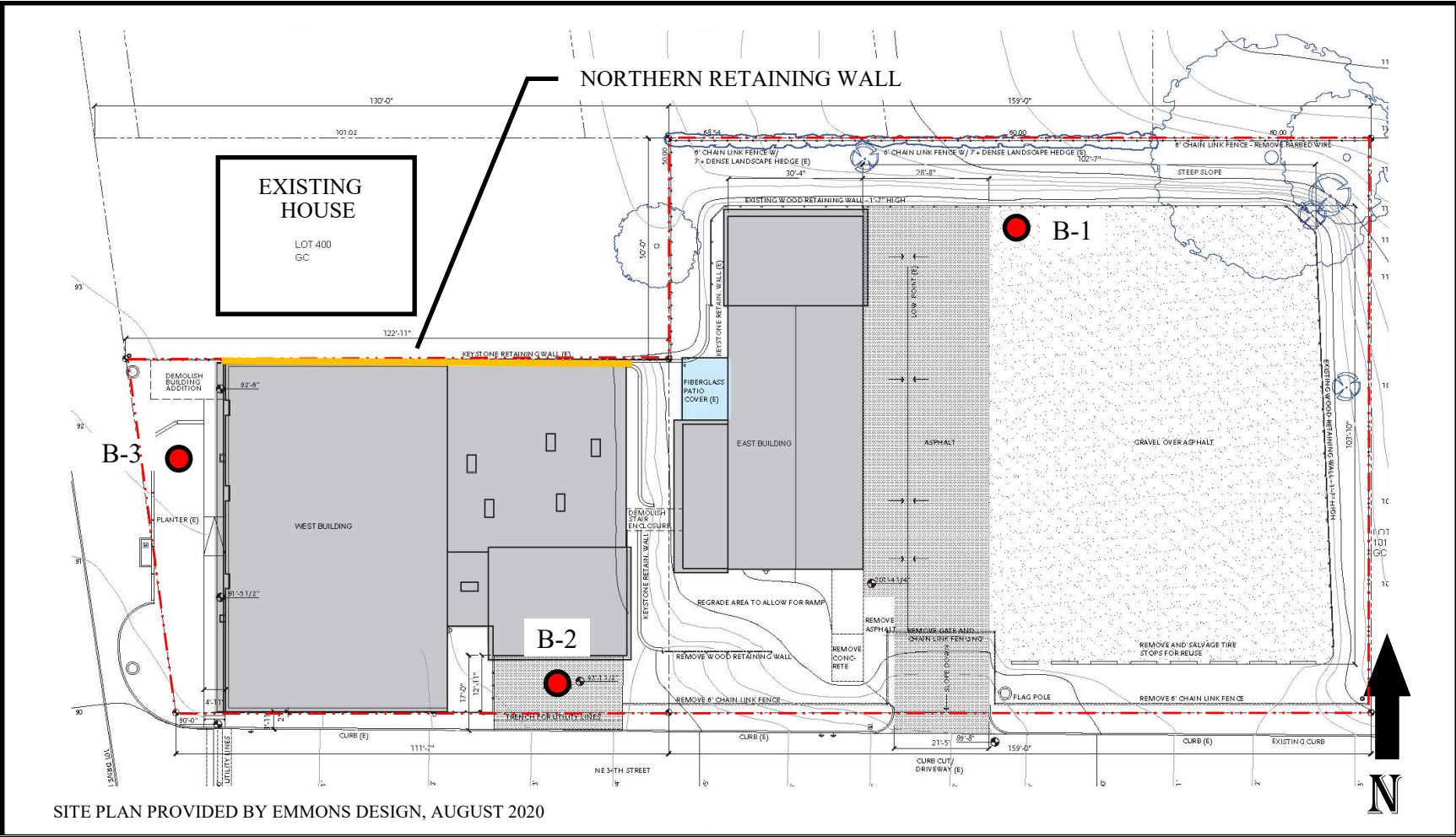
**Figure 3 – Proposed Development**

**Boring Logs**

**Shoring Calculations**



<p><b>Terra Dolce Consultants, Inc.</b>          4706 NE 75th Ave          Portland, Oregon 97218          Phone 503.502.5114          Fax 503.206-5114</p>	<p>Proposed Lincoln City Transitional Housing          3454 NE HWY 101          Lincoln City, Oregon</p>		
<p><b>Project No. 970-001</b></p>	<p><b>November 3, 2020</b></p>	<p><b>Vicinity Map</b></p>	<p><b>Figure 1</b></p>



SITE PLAN PROVIDED BY EMMONS DESIGN, AUGUST 2020

**Terra Dolce Consultants, Inc.**  
 4706 NE 75th Ave  
 Portland, Oregon 97218  
 Phone  
 GOOGLE MAP, 2020

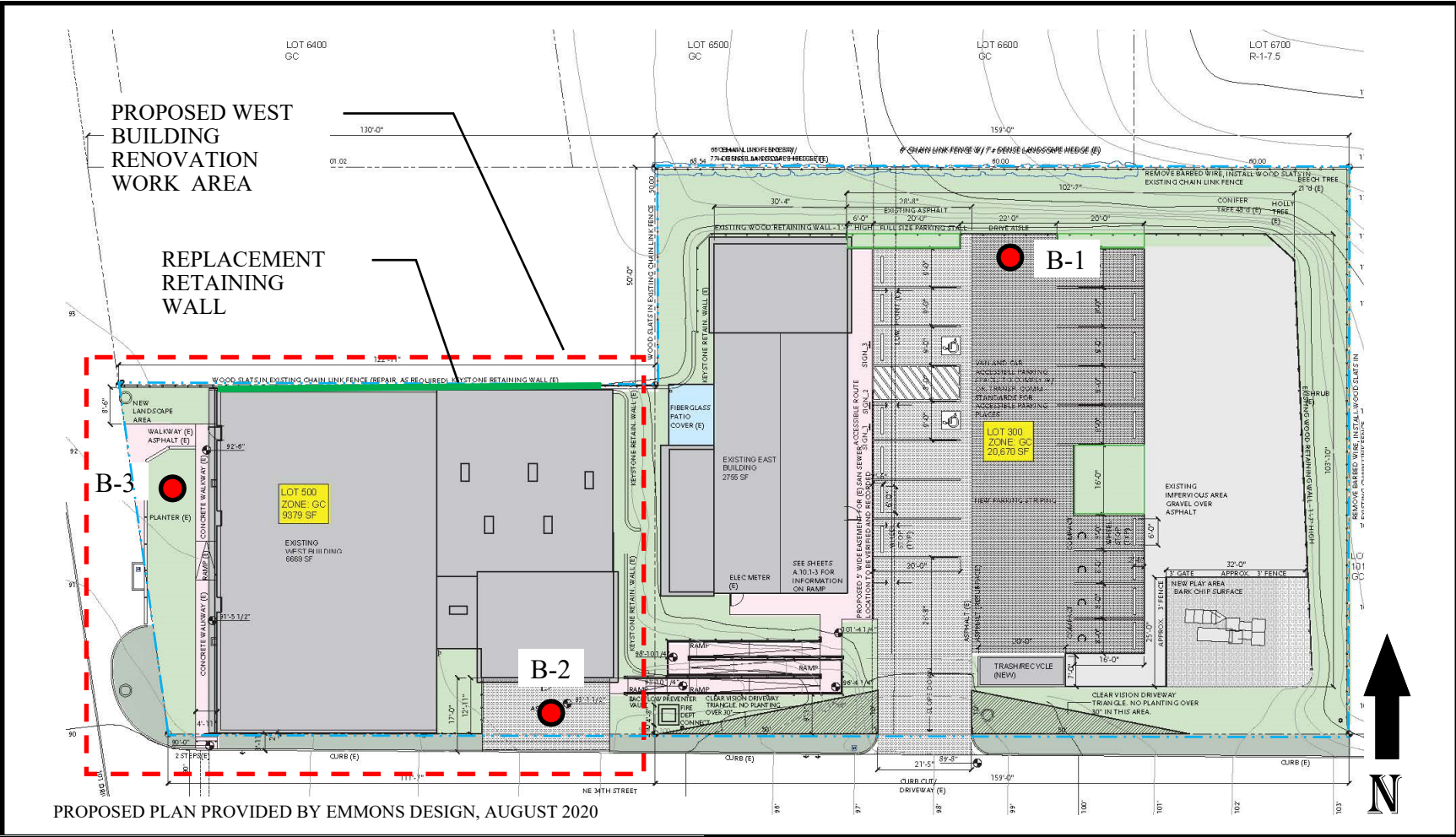
Proposed Lincoln City Transitional Housing  
 3454 NE HWY 101  
 Lincoln City, Oregon

Project No. 970-001

November 3, 2020

Site Plan

Figure 2



PROPOSED PLAN PROVIDED BY EMMONS DESIGN, AUGUST 2020

**Terra Dolce Consultants, Inc.**  
 4706 NE 75th Ave  
 Portland, Oregon 97218  
 Phone 503.502.5114  
 Fax 503.206-5114

**Proposed Lincoln City Transitional Housing**  
 3454 NE HWY 101  
 Lincoln City, Oregon

**Project No. 970-001**

**November 3, 2020**

**Proposed Development**

**Figure 3**

## **BORING LOGS**

Terra Dolce Consultants, Inc

# Boring Log No. B-1

## Proposed Lincoln City Transitional House

Location: 3454 NE Hwy. 101 Lincoln City, OR

WO#: 970-001

Method: Solid Stem Auger 4"

Ground EL: N/A

Hammer: Safety Hammer

Hammer weight (lb): 140

Hole depth (ft): 9

Sampler: Split Spoon Sampler 2"

Drop (in): 30

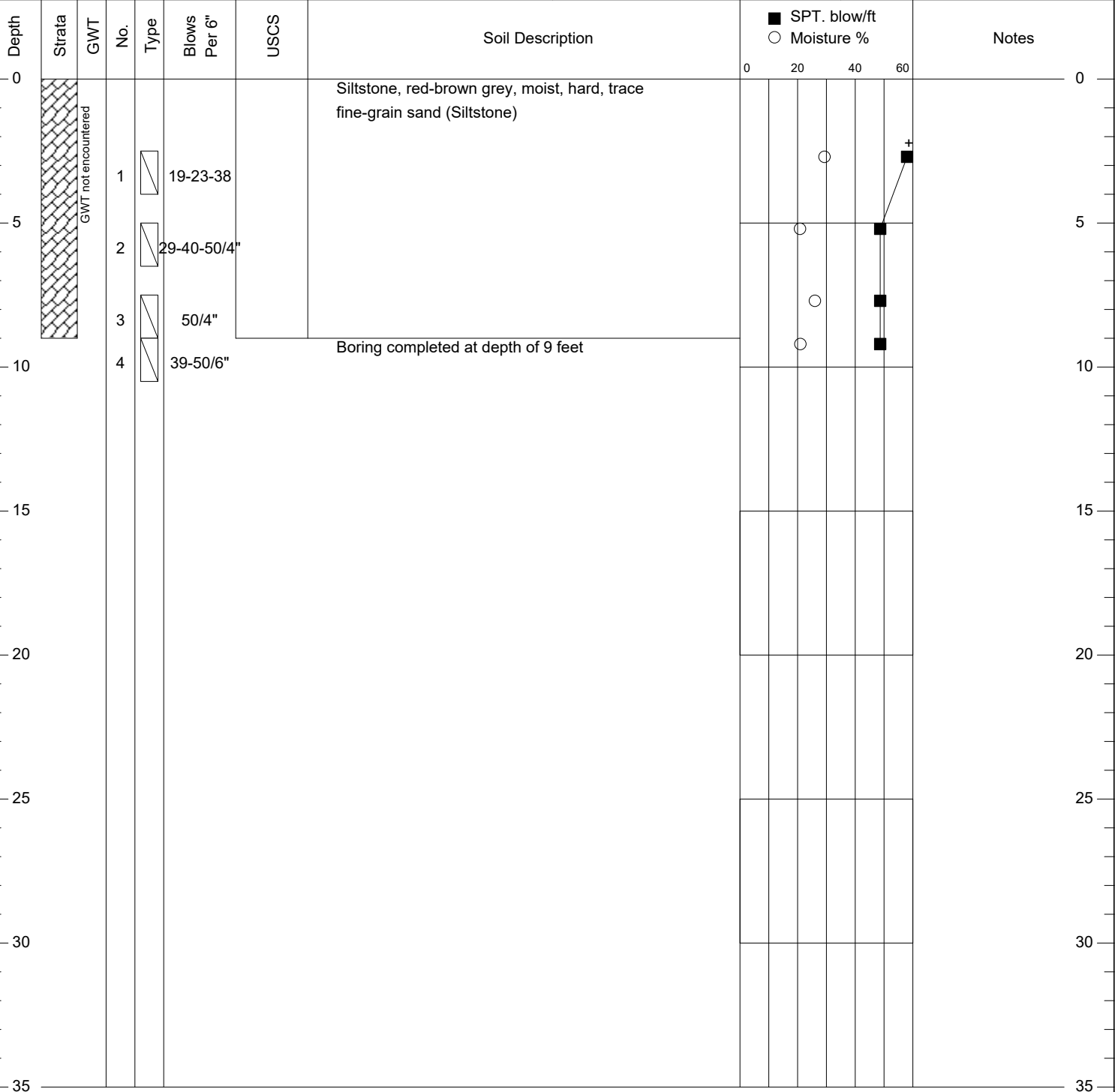
G.W.T. @ Drilling (ft): N/A

Sampled by: AS

Driller: Dan J. Fischer Excavating

Drill Date: 10/14/20

Logged by: AS



Remarks:

SuperLog CivilTech Software, USA www.civiltech.com File: L:\Users\Cindy\Documents\TDC Projects\970 Lincoln City Transitional House\Fieldwork\proposed lincoln city transitional housing.log Date: 10/28/2020

Terra Dolce Consultants, Inc

# Boring Log No. B-2 Proposed Lincoln City Transitional House

Location: 3454 NE Hwy. 101 Lincoln City, OR

WO#: 970-001

Method: Solid Stem Auger 4"

Ground EL: N/A

Hammer: Safety Hammer

Hammer weight (lb): 140

Hole depth (ft): 23.5

Sampler: Split Spoon Sampler 2"

Drop (in): 30

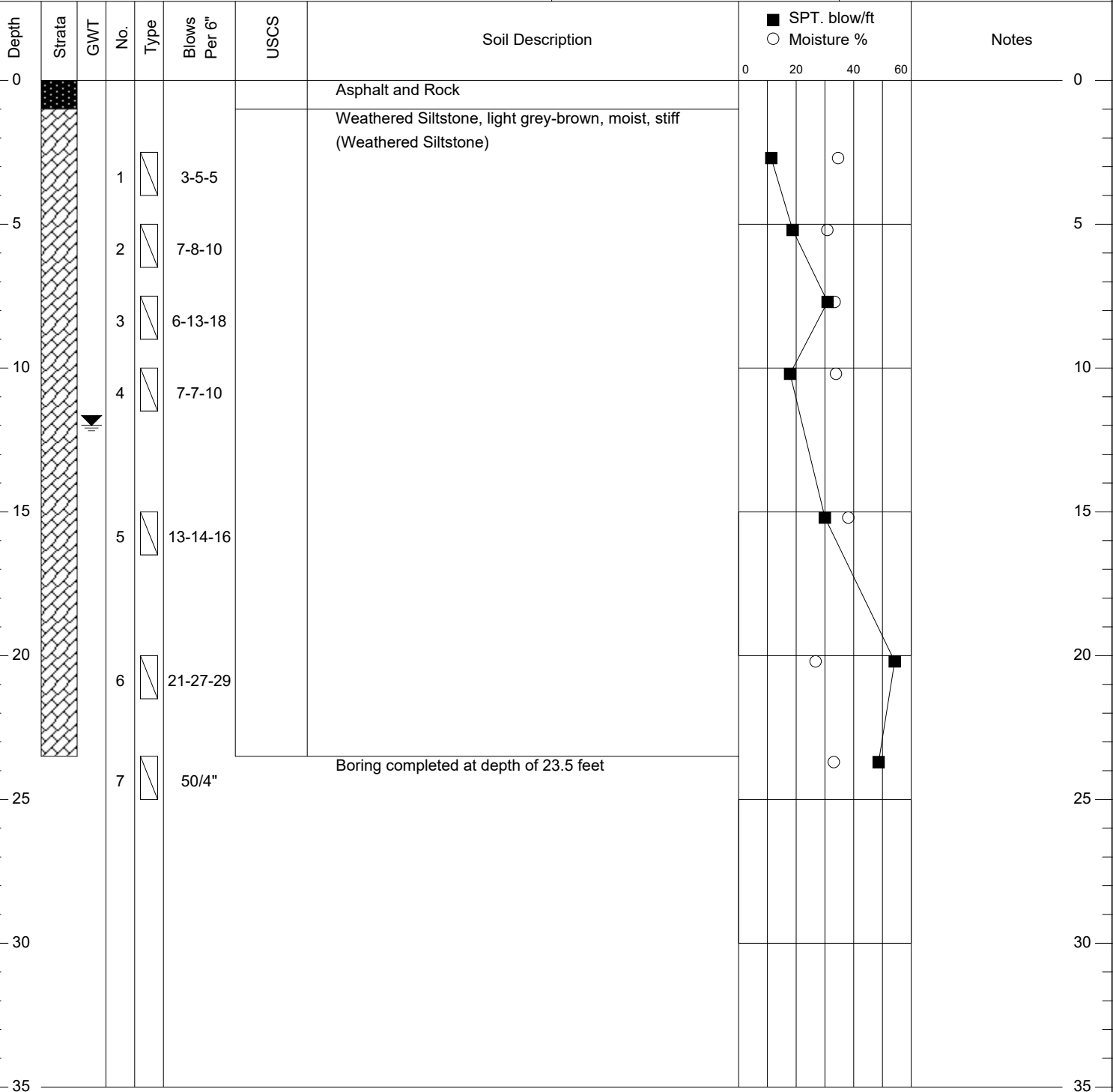
G.W.T. @ Drilling (ft): 12

Sampled by: AS

Driller: Dan J. Fischer Excavating

Drill Date: 10/14/20

Logged by: AS



Remarks:

Date: 10/28/2020 File: L:\Users\Cindy\Documents\TDC Projects\970 Lincoln City Transitional House\fieldwork\proposed lincoln city transitional housing.log SuperLog CivilTech Software, USA www.civiltech.com

Terra Dolce Consultants, Inc

# Boring Log No. B-3

## Proposed Lincoln City Transitional House

Location: 3454 NE Hwy. 101 Lincoln City, OR

WO#: 970-001

Method: Solid Stem Auger 4"

Ground EL: N/A

Hammer: Safety Hammer

Hammer weight (lb): 140

Hole depth (ft): 19

Sampler: Split Spoon Sampler 2"

Drop (in): 30

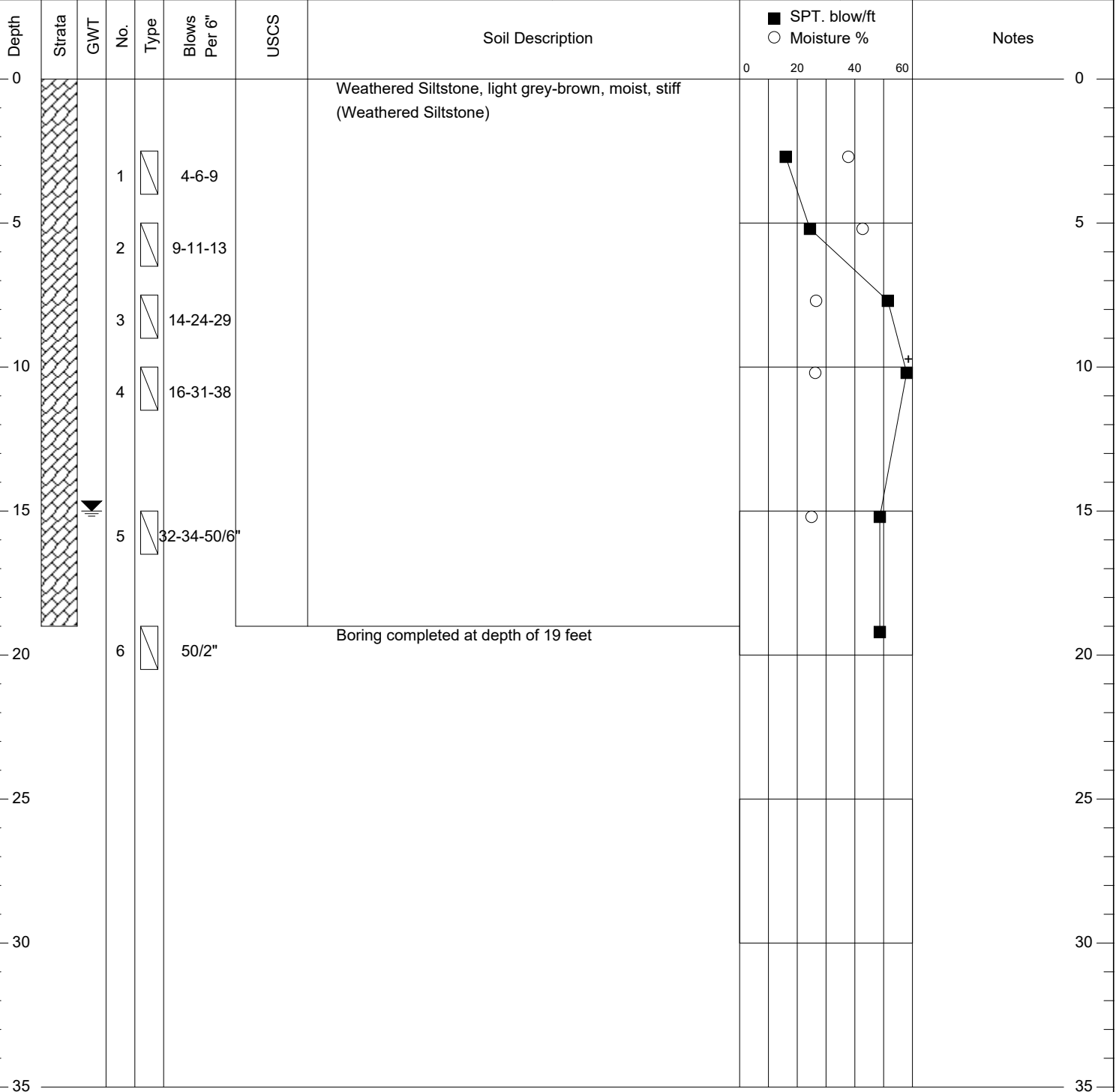
G.W.T. @ Drilling (ft): 15

Sampled by: AS

Driller: Dan J. Fischer Excavating

Drill Date: 10/14/20

Logged by: AS



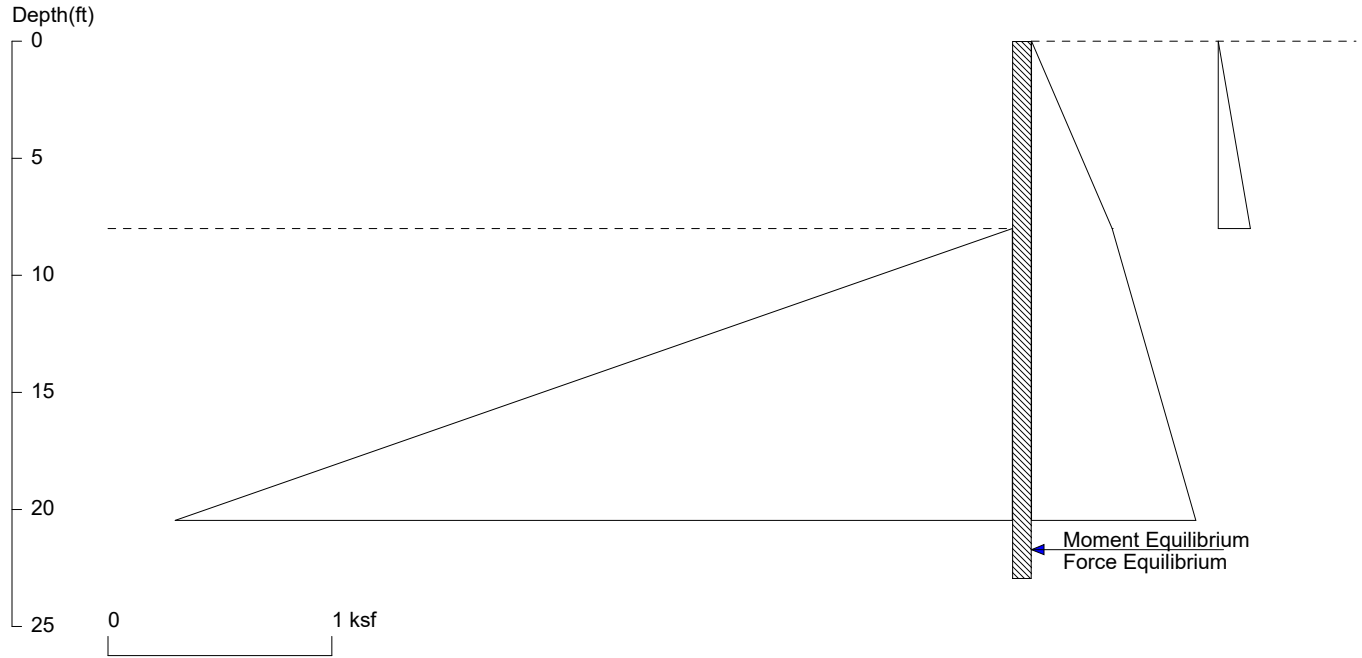
Remarks:

Date: 10/28/2020  
File: L:\Users\Cindy\Documents\TDC Projects\970 Lincoln City Transitional House\Fieldwork\proposed lincoln city transitional housing.log  
SuperLog CivilTech Software, USA www.civiltech.com

## RETAINING WALL CALCULATIONS

# Lincoln City Transitional Housing

## N Wall 8 ft high



<ShoringSuite> CIVILTECH SOFTWARE USA www.civiltech.com

Licensed to CLH Terra Dolce Consultants, Inc.

Date: 11/3/2020

File: L:\Users\Cindy\Documents\tdc\TDC Projects\970 Lincoln City Transitional House\Shoring\8 ft high North Wall.sh8

Wall Height=8.0      Pile Diameter=2.0      Pile Spacing=6.0      Wall Type: 2. Soldier Pile, Drilled

PILE LENGTH: Min. Embedment=14.96    Min. Pile Length=22.96 (in graphics and analysis)

MOMENT IN PILE: Max. Moment=92.38 per Pile Spacing=6.0 at Depth=14.78

#### PILE SELECTION:

Request Min. Section Modulus = 51.3 in<sup>3</sup>/pile=840.99 cm<sup>3</sup>/pile, F<sub>y</sub>= 36 ksi = 248 MPa, F<sub>b</sub>/F<sub>y</sub>=0.60

W14X43 has Section Modulus = 62.6 in<sup>3</sup>/pile=1025.83 cm<sup>3</sup>/pile. It is greater than Min. Requirements!

Top Deflection = 0.51(in) based on E (ksi)=29000.00 and I (in<sup>4</sup>)/pile=428.0

#### DRIVING PRESSURES (ACTIVE, WATER, & SURCHARGE):

Z1	P1	Z2	P2	Slope
0	0	8	0.360	0.045
8	0.360	40	1.200	0.03
*EQ				
0	0	8	0.144	0.018

#### PASSIVE PRESSURES: Pressures below will be divided by a Factor of Safety =1.5

Z1	P1	Z2	P2	Slope
8	0	40	9.600	0.3

#### ACTIVE SPACING:

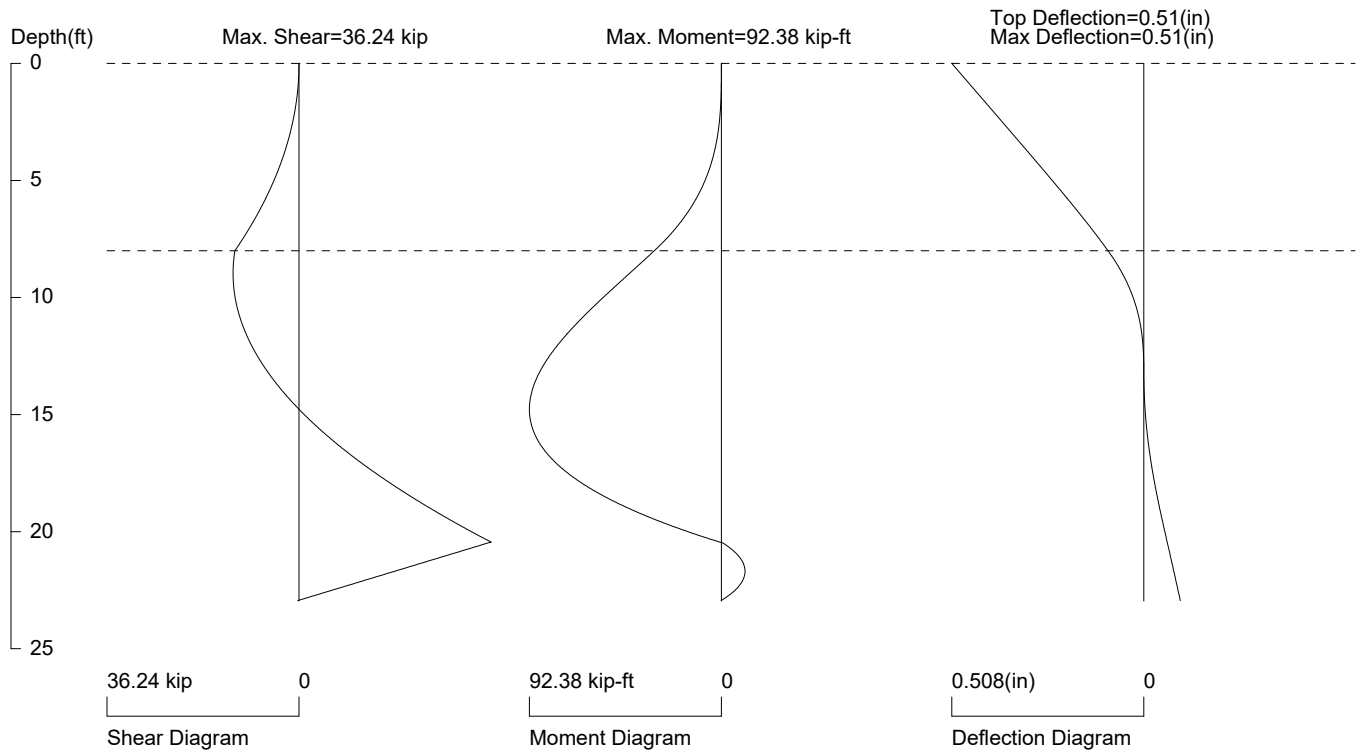
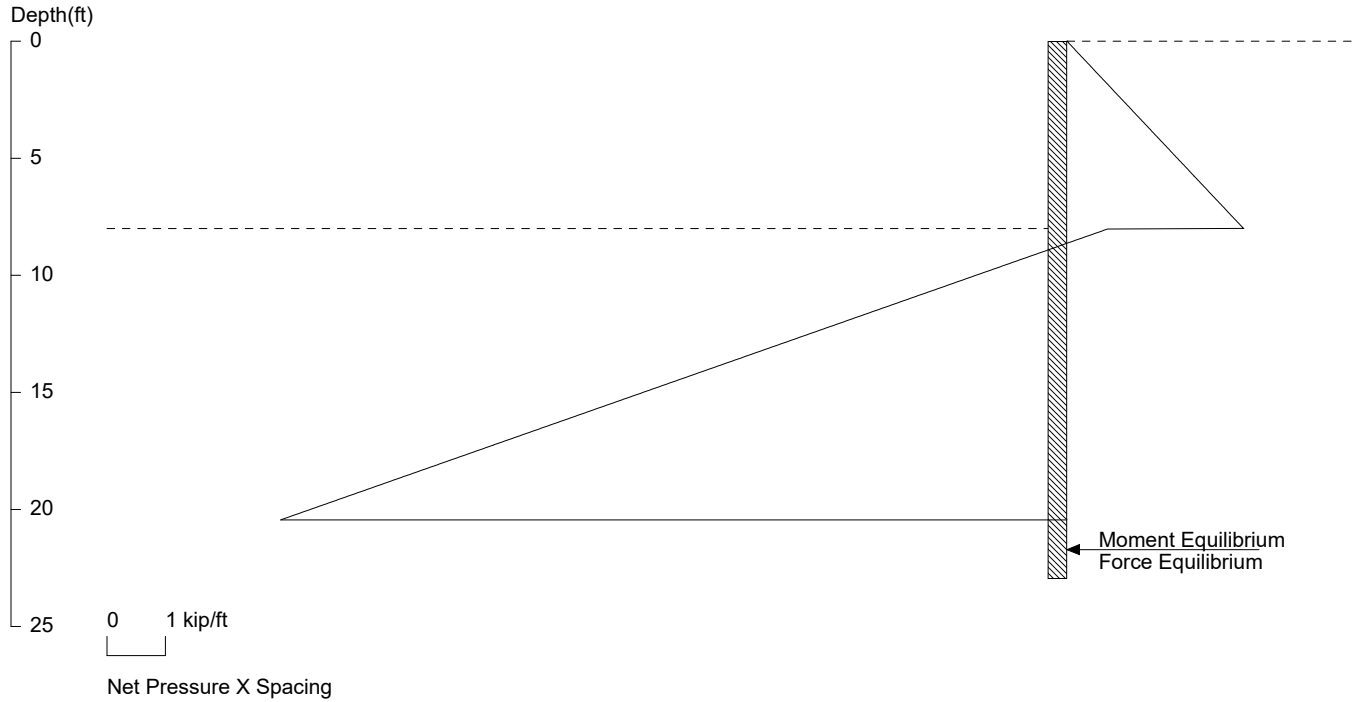
No.	Z depth	Spacing
1	0.00	6.00
2	8.00	2.00

#### PASSIVE SPACING:

No.	Z depth	Spacing
1	8.00	4.00

UNITS: Width, Spacing, Diameter, Length, and Depth - ft; Force - kip; Moment - kip-ft  
Friction, Bearing, and Pressure - ksf; Pres. Slope - kip/ft<sup>3</sup>; Deflection - in

# Lincoln City Transitional Housing N Wall 8 ft high



## PRESSURE, SHEAR, MOMENT, AND DEFLECTION DIAGRAMS

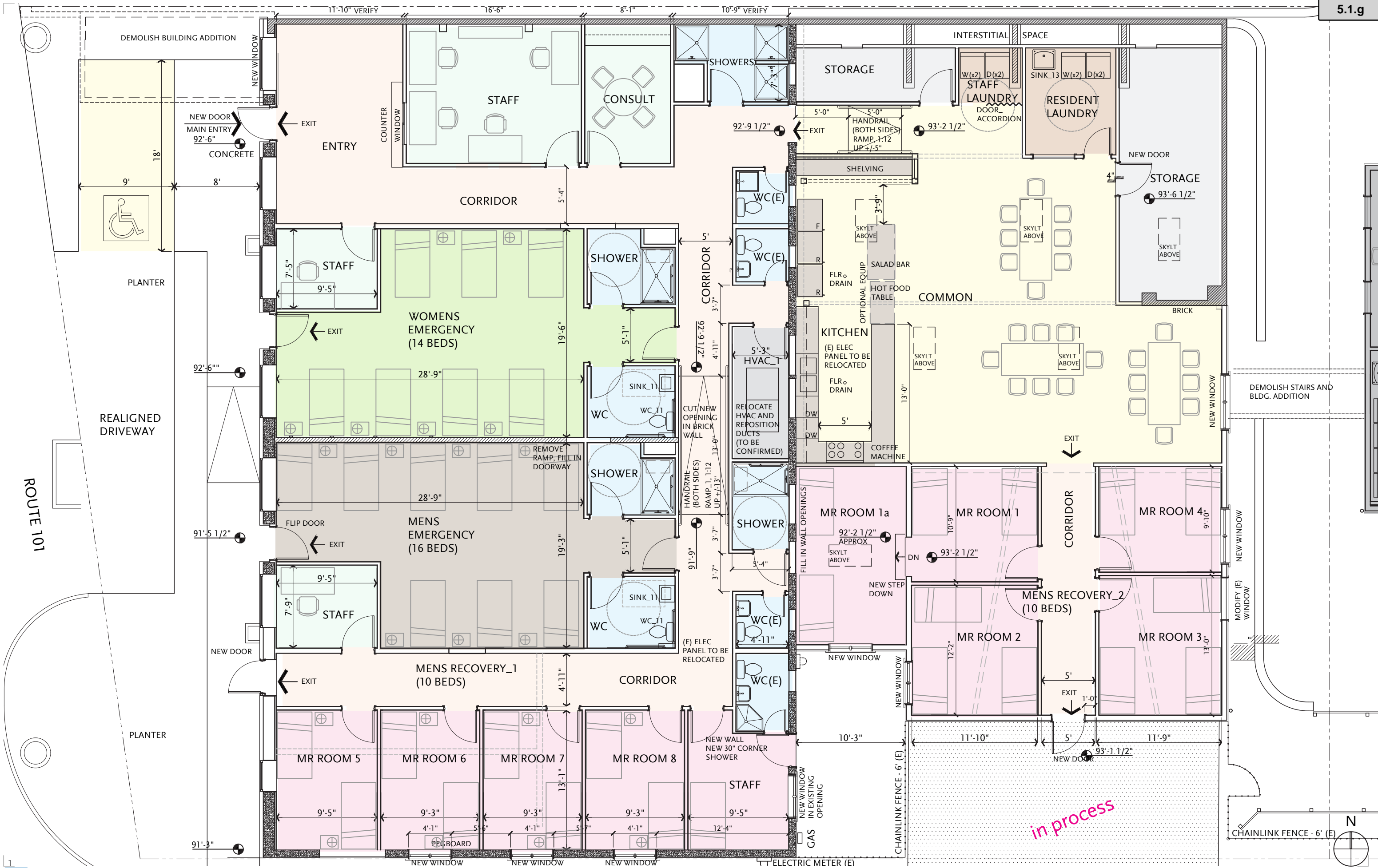
Based on pile spacing: 6.0 foot or meter

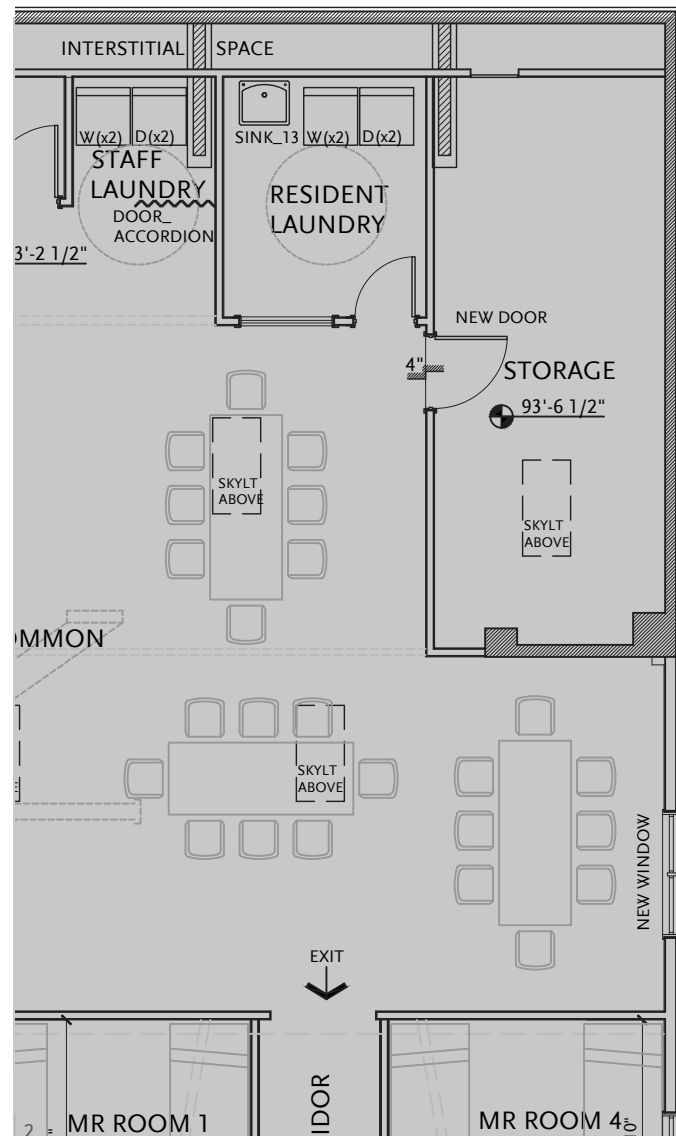
User Input Pile, W14x43: E (ksi)=29000.0, I (in<sup>4</sup>)/pile=428.0

File: L:\Users\Cindy\Documents\tdc\TDC Projects\970 Lincoln City Transitional House\Shoring\8 ft high North Wall.sh8

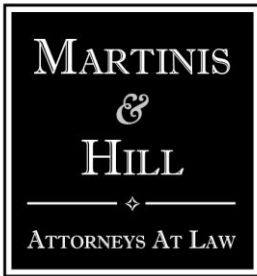
<ShoringSuite> CIVILTECH SOFTWARE USA www.civiltech.com

Licensed to CLH Terra Dolce Consultants, Inc.





*in process*



December 29, 2020

**Sent Via E-Mail**

Lincoln City Planning Commission  
801 SW Highway 101  
Lincoln City, OR 97367

Michael J. Martinis,  
Of Counsel

Wesley A. Hill

Byron T. Farley

Elena M. Farley

Legal Assistants:  
Rebecca Diaz  
Caeleigh Rogers

Receptionist:  
Kara Krantz

Mailing Address:  
P.O. Box 3938  
Salem, Oregon 97302

Physical Address:  
110 Madrona Avenue SE  
Salem, Oregon

Phone: 503.566.5800  
Fax: 503.566.6775

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Wesley A. Hill:  
wes@martinis-hill.com

Email for  
Byron T. Farley:  
byron@martinis-hill.com

Email for  
Elena M. Farley:  
elena@martinis-hill.com

Website:  
<http://martinis-hill.com>

Re: CUP 2019-04 Transitional Housing

Appearance

On behalf of: The Ashley Inn (3430 NE Hwy 101)  
Lincoln Woods Apartments (2306 NE 34<sup>th</sup> St.)  
Thomas Barnes  
Jitesh Desai

Dear Lincoln City Planning Commission:

This written submission is being offered on behalf of the above-named individuals and entities (collectively the “Opponents”) in regard to the above-referenced application for extension of the Conditional Use Permit 2019-04 (“CUP”). This submission is being offered following the public hearing held on December 22, 2020, during which time the Planning Commission ultimately decided to leave the record open for additional argument and briefing after adopting and receiving into the record a copy of the CUP 2019-04 Final Order.

***1. The CUP Extension Requires Diligent Pursuit of “Required” Construction and Alteration***

As City Attorney Richard Appicello noted, the applicable criteria for an extension of a CUP is found in Lincoln City Municipal Code (LCC) 17.60.080, which provides as follows:

A conditional use permit shall become void one year after approval, or after such greater or lesser time as may be specified as a condition of approval, unless within that time the **required** building construction, alteration or enlargement has been commenced and diligently pursued or, if no such construction, alteration or enlargement is required, unless the permitted activity is being regularly conducted on the premises. The planning commission may extend a use permit for an additional period of one year, **subject to the requirements of this title**. No more than one such extension may be granted.

As Mr. Appicello corrected stated, a party cannot simply sit on a CUP and “do nothing” with the CUP for an entire year. Rather the LCC requires that the CUP holder diligently pursue construction or alternation, if it is required by the CUP. If the CUP does not require construction, then the CUP holder must otherwise be operating the use on the land for the CUP to not expire.

It is not enough for the CUP holder to commence *any* construction. The LCC provision provides that the **required** construction be commenced and diligently pursued. For determination of whether construction was required, and if so, what construction was required, the Planning Commission must make reference to the Final Order.

Here, the Planning Commission adopted the recommendations contained in the Staff Report from the Planning Department and incorporated them as Conditions of Approval. Those conditions are as follows:

1. Prior to issuance of the certificate of occupancy for the transitional housing facility, install a 6-foot tall solid wood fence along the north property lines of Tax Lots 500 and 300 and the east property line of Tax Lot 300 to provide a buffer and screening between the uses to the north and east and the proposed use on site. The 6-foot tall solid wood fence shall also be installed on the north 50 feet of the west property line of Tax Lot 300.
2. Prior to issuance of the certificate of occupancy for the transitional housing facility, create a play area for use by the children of the families living at the facility.
3. For the safety of the residents, to ensure clear demarcation of parking spaces and drive aisles for facility employees and residents who have vehicles, and to enhance the aesthetic visibility of the site, the parking area shall be improved to meet all requirements of Chapter 17.56, excepting the number of spaces required, which shall be the number that can be provided while accommodating the spacing and drive aisle size requirements of Chapter 17.56.

The Planning Commission then added a fourth condition of approval:

4. Installation of landscaping on the south property line, excepting clear vision areas and driveway approach.

Accordingly, and in summary, the four (4) items listed in the CUP Final Order, which could potentially be deemed “required” construction, are: (1) a 6-foot tall solid wood fence; (2) a play area for use by children; (3) clear demarcation of the parking lot; and (4) installation of landscaping. These are the “required” construction and/or alteration conditions associated with the CUP.

Here, absolutely none of those four (4) required items have been completed. **In fact, absolutely none of the required construction/alterations have even begun.** The old, dilapidated fence remains. There have been no improvements to the parking lot. There is

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no play area for children. There have been no landscaping improvements made on the subject property.

The Applicant wishes to point to the “extensive” renovations and permits purportedly undertaken for the interior of the building. However, those are not “**required**” conditions of approval for the CUP. The criteria for an extension of the CUP expressly states that the “required” construction be diligently commenced. Anything undertaken by the Applicant thus far has not been “required” under the CUP. Here, absolutely no efforts have been made to pursue or complete (or even begin) the “required” conditions of the CUP. Pursuant to the express terms of LCC 17.60.080, the application for extension of the CUP must be denied.

Second, it should absolutely be noted that the application for the CUP expressly stated that the CUP location was developed site and that **no changes would be needed to the structures**. Had the Applicant been thorough in their application and disclosed the extensive repairs required to bring the property into use, the Planning Commission certainly would have taken such factors into consideration when approving the CUP the first time around. (The Applicant responds that it was the City, not Helping Hands, who completed the original CUP application. Nevertheless, it is the original Application which led to the CUP for which they are requesting be extended and, as a result, they are bound by the representations in that Application.) Ultimately, the Applicant applied for a CUP, claiming **no changes** were needed to the structures, and is now applying for an extension due to their inability to carry out the CUP use because of the “extensive” changes needed. Fortunately, the LCC extension provision and Final Order control here and require denial of the CUP extension application.

Finally, it should be considered that the Applicant can still reapply for reissuance of the CUP. Now that it has undertaken some due diligence, it can present a more thorough and complete picture of the changes required to accomplish the intended use.

It is important to note that the City spent \$400,000 to acquire this property on behalf of the Applicant and earmarked an additional \$350,000 in construction loans for the Applicant for this project, for a total of \$750,000 tied up in this project. Despite this massive investment by the City, the Applicant has sat on the CUP for over a year now, without even initiating the most basic, preliminary steps of complying with relatively modest conditions outlined in the CUP Final Order.

Alternatively, if the Planning Commission ultimately finds, as it may, that the conditions in the CUP Final Order do not constitute “construction or alteration,” then the applicable criteria for the CUP extension expressly requires that the use be conducted in the premises within that first year. Here, the transitional housing project has not been conducted on the premises (and, by all accounts, will not be conducted on the premises anytime in the relatively near future, as none of the CUP conditions have even begun).

In summary, LCC 17.60.080 requires that a CUP holder diligently pursue required construction in order to qualify for a CUP extension. Mr. Appicello correctly advised the

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Commission that the provision requires actual pursuit of the required tasks in order for the extension to be granted. Here, there is absolutely nothing on the record which shows that any of the required conditions, which are modest, have even begun (let alone been diligently pursued). As a result, the CUP must lapse by its own terms. The Applicant may be invited to reapply for a new CUP.

Sincerely,  
MARTINIS & HILL

*/s/ Byron Farley*

Byron Farley

**FINAL ORDER 2019-06**

**BEFORE THE PLANNING COMMISSION  
CITY OF LINCOLN CITY, LINCOLN COUNTY, OREGON  
December 17, 2019**

In the Matter of Approval of a Conditional Use Permit Application )  
[CUP 2019-04] for a Transitional Housing Facility in the GC ) **FINDINGS OF FACT**  
(General Commercial) Zone on Property Located at 3454 NE ) **CONCLUSIONS OF LAW**  
Hwy 101 and 2201 NE 34<sup>th</sup> St, Lincoln City, Oregon ) **AND ORDER**

Applicant: City of Lincoln City  
Owner: Hayden Peters, Trustee, for the Gary L. Peters Trust

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**I. NATURE OF PROCEEDINGS**

This matter comes before the Planning Commission for the City of Lincoln City for *de novo* consideration of a Conditional Use Permit application for operation of a transitional housing facility on property located at 3454 NE Hwy 101 and 2201 NE 34<sup>th</sup> St, Lincoln City, Oregon. The property subject to this application totals approximately 30,599 square feet.

The application materials were received on November 7, 2019, and deemed complete on November 8, 2019.

Notification of the December 3, 2019 public hearing before the Planning Commission was mailed, pursuant to Chapter 17, Lincoln City Municipal Code to area property owners within 250 feet of the site on November 12, 2019. The *News Guard* published the public hearing notice on November 20, 2019.

On December 3, 2019, the Planning Commission conducted a public hearing and considered the oral and written testimony presented, the staff report and the record as a whole. The hearing was closed, and the record was closed. Based on the evidence presented at the public hearing on December 3, 2019, including the staff report, all properly submitted evidence and argument, the Planning Commission voted to approve the application with conditions. Based upon the evidence in the record, the Commission makes the following findings of fact and conclusions of law:

**COMMISSION FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER**

## II. FINDINGS OF FACT

- 1) The Nature of Proceedings (Section I) set forth above is true and correct and is specifically incorporated herein by this reference.
- 2) The subject of the above-referenced conditional use permit application is real property located within the City of Lincoln City ("City"), and described in the County Tax Assessor's maps as Tax Map 07-11-02-CC-00500 and 07-11-02-CC-00300 (the "Property"). The street address of the Property is 3454 NE Hwy 101 and 2201 NE 34<sup>th</sup> St, Lincoln City, Oregon. The site consists of approximately 30,599 square feet and contains two existing buildings, square footages unknown.
- 3) The Comprehensive Plan and Zoning designation for the property is of General Commercial (G-C) and a zoning classification of General Commercial (GC).
- 4) The surrounding Land Uses and Zoning are as follows:
  - North: house, offices; GC; northeast: houses; R-1-7.5
  - South: hotel, businesses; GC
  - East: apartments; GC
  - West: Highway 101, west of Highway 101 offices, residential; GC
- 5) The applicant is:
  - City of Lincoln City
  - 801 SW Hwy 101
  - Lincoln City, OR 97367
- 6) The Property is owned by:
  - Peters, Gary L. Trustee Estate
  - PO Box 909
  - Neskowin, OR 97149
- 7) The relevant substantive criteria include the following:
  - LCMC Chapter 17.32 General Commercial (GC) Zone
  - LCMC Chapter 17.60 Conditional Uses

## COMMISSION FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

LCMC Section 17.60.020 gives the Planning Commission authority to approve, approve with conditions, disapprove, or revoke conditional use permits subject to the provisions of LCMC Chapter 17.60.

- 8) The background in the staff report is incorporated herein and is accepted as true and correct.

### III. FINDINGS APPLYING APPLICABLE CODE CRITERIA

- 1) The Planning Commission finds and determines that the relevant approval criteria are found in or referenced in the Lincoln City Municipal Code, principally Title 17, Chapter 17.60 (Conditional Uses), and LCMC 17.32 (General Commercial) Zone.
- 2) Chapter 17.32 (General Commercial Zone) Section 17.32.040.S lists emergency shelter as a conditional use. Emergency shelter is defined as:

**“Emergency shelter” means a facility consisting of dwelling units, dormitories and/or yurts which provides necessary counseling services for 50 or fewer homeless persons for a period not to exceed 180 days per person and which includes associated cooking and sanitation facilities necessary to accommodate the maximum occupancy of the facility. [LCMC 17.08.010]**

- 3) Title 17 does not define transitional housing, nor list it as permitted or conditionally permitted. The proposed definition put forth in a pending zoning ordinance amendment is:

**“Transitional housing” means a facility that is designed to provide housing and assist with obtaining appropriate supportive services, such as social or psychological therapy or vocational rehabilitation, to homeless persons to facilitate movement to independent living; wherein the facility manager or supervisor determines the length of housing term for each individual on a case-by-case basis in accordance with the terms of that facility’s program.”**

- 4) A director’s interpretation administrative decision issued on October 21, 2019 determined that the proposed use of a transitional housing facility must receive conditional use permit approval, finding that the proposed use is similar to the conditional use of an emergency shelter in the GC zone.
- 5) Notice of the director’s interpretation administrative decision was mailed to property owners within 250 feet on October 21, 2019 and again on October 24, 2019. No appeals were received on the decision.
- 6) The request for a transitional housing facility in the GC zone as a conditional use is proceeding based upon the director’s interpretation administrative decision.

### COMMISSION FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

3) Chapter 17.60 (Conditional Uses), Section 17.60.050 provides:

**17.60.050 Action by planning commission.**

**A. Within 60 days after the filing of the application, a public hearing shall be held and the commission shall render its decision. The decision of the planning commission shall be final unless appealed to the city council.**

**B. The planning commission may approve, approve with conditions or disapprove the conditional use permit application by the entry of a planning commission order, in open meeting, which order shall describe the basis for the decision and state the specific circumstances, findings of fact and evidence presented requiring the application of conditions to the approval.**

**C. Findings of Fact. In order to grant any conditional use, the planning commission must find, based upon evidence, both factual and supportive, provided by the applicant, that:**

- 1. The proposal is in compliance with the comprehensive plan;**
- 2. The site for the proposed use is adequate in size and shape to accommodate the use and all yards, spaces, walls and fences, parking, loading, landscaping and other features required by this title;**
- 3. The site for the proposed use relates to streets and highways adequate in width and degree of improvement to handle the quantity and kind of vehicular traffic that would be generated by the proposed use;**
- 4. The proposed use will have minimal adverse impact upon adjoining properties and the improvements thereon. In making this determination, the commission shall consider, but not be limited to, the proposed location of the improvements on the site, vehicular egress/ingress and internal circulation, pedestrian access, setbacks, height and bulk of buildings, walls and fences, landscaping, screening, exterior lighting and signing;**
- 5. In areas designated as requiring preservation of historic, scenic or cultural attributes, proposed structures will be of a design complementary to the surrounding area.**

**D. Conditions of Approval. In permitting a conditional use, the planning commission may impose, in addition to regulations and standards expressly specified in this title, other conditions found necessary to protect the best interests of the surrounding property or neighborhood, or the city as a whole. These conditions may include, but not be limited to, the following:**

- 1. Increasing required lot size, yard dimensions, open spaces or buffer areas;**

**COMMISSION FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER**

2. Requiring fences, walls or landscape screening and/or buffering where necessary to reduce noise, glare and maintain the property in a character in keeping with the surrounding area;
3. Requiring landscaping and maintenance thereof;
4. Increasing street widths, controlling the location and number of vehicular access points to the property for ingress/egress;
5. Requiring means of pedestrian/bicycle access pathways to serve the property;
6. Increasing the number of off-street parking and loading spaces required; surfacing and proper drainage of parking areas;
7. Limiting size, location and number of signs;
8. Limiting the location, coverage or height of buildings because of obstruction to view and reduction of light and air to adjacent property;
9. Limiting or prohibiting openings in sides of buildings or structures;
10. Enclosure of storage areas and limitation of outside display and/or storage of merchandise;
11. Requiring maintenance of grounds;
12. Regulation of noise, vibration, odors, etc.;
13. Regulation of time for certain activities;
14. Establishing a time period within which the proposed use shall be developed;
15. The requirement of a bond for removal of such use within a specified period of time;
16. Increase the size, type or capacity of any or all utility services, facilities or appurtenances;
17. Requirements under which any future enlargement or alteration of the use shall be reviewed by the planning commission and new conditions imposed;
18. The planning commission may require that an applicant furnish the city a performance bond with a contractual agreement to assure its share of the

## COMMISSION FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

**development of streets, curbs, gutters, sidewalks, water, sanitary sewers, storm sewers or other necessary and essential public improvements to city standards;**

**19. The planning commission may also require that site plan committee review and approval is necessary in any particular situation to accomplish the purposes and objectives of this title;**

**20. And such other conditions as will make possible the development of the city in an orderly and efficient manner and in conformity with the intent and purposes set forth in this chapter. (Ord. 92-3 § 2; Ord. 84-2 § 6.050)**

To address the applicable criteria, the LCMC 17.60.030 requires, among other things:

**F. Statement and supportive evidence indicating the precise manner of conformance with each of the applicable provisions of this title together with any other data pertinent to the findings prerequisite to the granting of a conditional use permit as listed in LCMC 17.60.050(C);**

The burden is on the applicant [17.60.070]:

**The specific findings made by the planning commission in granting a conditional use permit must be factual and supported by substantial evidence. The burden of producing substantial evidence to support the requisite findings is on the applicant seeking the approval of the conditional use. If no evidence is produced concerning any of the findings listed in LCMC 17.60.050(C), the application may be denied based upon improper or inadequate findings. All evidence produced must be recited in the findings for approval of any conditional use permit application.**

4) The Commission finds that it has received all information necessary to make a decision based on the entire record, including the Staff Reports, exhibits, application materials, public hearing testimony, and other materials received. Except where conflicting findings are made herein, the Commission adopts and specifically incorporates the findings as articulated by the Planning Department staff report, as the basis for the decision on the requested conditional use permit.

5) The Commission finds and determines, and adopts as its own the following findings concerning the applicable criteria:

**1. The proposal is in compliance with the comprehensive plan;**

The written Staff report provides:

*The City of Lincoln City Comprehensive Plan (Comprehensive Plan) provides a general commercial district for a wide range of commercial, retail, professional offices, and*

**COMMISSION FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER**

*personal services at a compatible scale. The City of Lincoln City (City) adopted the Zoning Ordinance (Title 17) in compliance with the Comprehensive Plan. Within Title 17 is the GC zone. The general commercial zone (GC) accommodates a wide range of retail commercial uses...as well as convenience service/retail uses...also permitted as conditional uses...and other limited service facilities as listed. Emergency shelters are among the uses allowed in the GC zone as a conditional use. A director's interpretation administrative decision issued on October 21, 2019 determined that transitional housing is similar to emergency shelters. Staff concludes, therefore, once approved as a conditional use and operating in conformance with all conditions, that the transitional housing facility complies with the Comprehensive Plan. This criterion is satisfied. Staff concludes, therefore, once approved as a conditional use and operating in conformance with all conditions, that the emergency shelter complies with the Comprehensive Plan. This criterion is satisfied.*

The Applicant's "statement and supporting evidence" states the city will notice property owners within 250 feet of the site and will publish notice of the hearing in the paper, continuing with noting the site is connected to sewer and water and a stormwater system. The Applicant notes the site is within the City's school district, public library system, and is serviced by the Police Department and North Lincoln Fire & Rescue District #1. The Applicant continues by citing Housing Policy 1 which states the City shall encourage a wide range of housing types. The Applicant also references the Economic Opportunities Analysis and Housing Needs Analysis of April 2017 for Lincoln City which lists housing objectives to encourage the development of affordable and workforce housing and that ORS 197.307 cites "needed housing" as including government-assisted housing. The Applicant's program is a non-profit program operating with government assistance.

The Planning Commission finds and determines that both the Staff's and the Applicant's findings that this criterion is met has not been subject to any adverse testimony. Staff is correct in that once an approval is granted with conditions, the Plan's implementation mechanism (the Code) is fully met. Staff, however, stated in the verbal staff report at the hearing that the Comprehensive Plan contains no directly applicable policies which can be applied directly to the proposed use. Accordingly, the Planning Commission finds and determines that the Comprehensive Plan contains no directly applicable policies which can be applied directly to the proposed use. Accordingly, this criterion is met or is not applicable.

**2. The site for the proposed use is adequate in size and shape to accommodate the use and all yards, spaces, wall and fences, parking, loading, landscaping and other features required by this title;**

The Staff report provides:

**COMMISSION FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER**

*Maximum occupancy is determined by the building and fire code through the building permit process. The applicant has not stated the number of individuals proposed in each facility, so it is assumed the maximum occupancy allowed by building and fire code will be utilized. Accordingly, the size of the buildings will be adequate as maximum occupancy requirements will be followed. Both buildings are existing. No new construction or additions to the buildings are proposed. A building permit will be required, however, to change the occupancy classification to the applicable classification required by the building and fire code.*

*There are no requirements for spaces, walls or fences in the GC zone.*

*The site has an existing gravel parking lot that can be utilized for parking. Section 17.56.040 requires off-street parking spaces shall be provided and maintained at the time a new building is erected; an existing building is enlarged to the extent that the cost of construction exceeds 50 percent of the market value of the building or to the extent that the building's capacity is increased by more than 50 percent in terms of units listed in LCMC 17.56.050; or the use of an existing building is changed and the building enlarged. In this case, no new buildings are being erected nor are the existing buildings being enlarged. Accordingly, the off-street parking space requirement is not applicable.*

*Landscaping requirements in LCMC 17.52.100 apply when previously developed lots are improved by 50 percent or more of the assessed value of the existing improvements. In this case, the assessed value of Tax Lot 500 is \$335,920. If the project valuation for the improvements to Tax Lot 500, as determined by the building code, are \$167,960 or more, then landscaping will need to be installed to satisfy LCMC 17.52.100. The assessed value of Tax Lot 300 is \$207,890. If the project valuation for the improvements to Tax Lot 300, as determined building code, is \$103,945 or more, then landscaping will need to be improved to meet the requirements of LCMC 17.52.100.*

*LCMC 17.64.040 requires upgrading elements of nonconforming development that affect the appearance of a site. Subject to the other provisions of Chapter 17.64, when the owner of a use or structure located on a commercially-zoned lot that contains nonconforming site development elements converts to a different use, the owner also shall alter the nonconforming site development elements to conform to standards in LCMC Chapter 17.74 at 25 percent of the project value. The following elements shall be made compliant with commercial design standards in LCMC Chapter 17.74: pedestrian circulation; materials and colors; pedestrian spaces; screening and parking area landscaping; water quality; exterior lighting; transparency; and landscaping.*

*In addition to the code requirements of landscaping improvements and upgrading nonconforming elements, the planning commission may impose conditions found*

**COMMISSION FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER**

*necessary to protect the best interests of the surrounding property or neighborhood, or city as a whole. With application of the code requirements as well as conditions of approval from the planning commission, this criterion is, or can be, met.*

The Applicant's "statement and supporting evidence" provides:

*The site is in the General Commercial zone which does not have any yard setback requirements unless the site is abutting a residential zone. In this case, the only portion of the site abutting a residential zone is the northeast corner of Tax Lot 300. Accordingly, all structures must be at least 10 feet from the portions of the property lines abutting residential. No new structures are proposed. The existing structure is approximately 69 feet from the southwest property corner of Tax Lot 300. Walls and fences aren't required for this use. No common area or open spaces are required for this use. No loading is required for this use. The site contains a paved parking lot to meet the parking requirement. The site contains mature landscaping. No site plan review is required since there will be no expansion of the buildings, no change to on-site traffic circulation, and no addition of parking spaces. No design review is required since no site plan review is required.*

*The buildings for the residents are existing. No changes will need to be made to the buildings except a building permit for a change of occupancy classification from commercial to residential. Each building will contain bedrooms, a kitchen, a living room, a laundry room, and bathrooms. The west building will also contain three offices – one for the facility manager, one for the case manager, and one for the crisis manager. The west building is 6,396 square feet in area. The east building is 2,296 square feet in area. Both buildings are large enough to accommodate the future residents as well as the three offices in the west building.*

The applicant does not indicate the number of residents proposed, but does note the necessity for a building permit to change occupancy classification. Staff notes that the proposed use must meet building and fire code requirements.

The Planning Commission finds and determines that the staff analysis correctly identifies the fact that the code lacks specific standards like "yard" or "area" requirements for the proposed use, but only mentions in passing that a conditional use relies on the Planning Commission's imposition of site and use specific conditions to protect the best interests of the surrounding property or neighborhood.

#### **COMMISSION FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER**

The Planning Commission finds and determines that the proposed site comprising 30,599 square feet, is only made adequate with the building and fire code requirements for a change in occupancy classification. The site area must also include a play area for children of families living at the facility, as such an area is necessary to mitigate adverse impacts on the neighborhood (see conditions of approval).

The Planning Commission finds and determines that with the imposition of conditions (see paragraph 4 below), this criterion is met.

**3. The site for the proposed use relates to streets and highways adequate in width and degree of improvement to handle the quantity and kind of vehicular traffic that would be generated by the proposed use;**

The Staff report provides:

*The proposed transitional housing facility likely will not add a significant amount of vehicular traffic. The residents typically do not have vehicles. The site has an existing gravel parking lot to accommodate the parking of employees and the few residents who may have vehicles. The site has access from NE 34<sup>th</sup> Street, via Highway 101. Should the project value exceed 50 percent of the assessed value, LCMC 17.52.230 requires infrastructure improvements. This criterion is satisfied with application of the code requirements.*

Similarly, the Applicant's statement indicates vehicular access is adequate.

The Planning Commission finds and determines that the streets and highways are of adequate width to handle the vehicular traffic to the facility. This criterion is met.

**4. The proposed use will have minimal adverse impact upon adjoining properties and the improvements thereon. In making this determination, the commission shall consider, but not be limited to, the proposed location of the improvements on the site, vehicular egress/ingress and internal circulation, pedestrian access, setbacks, height and bulk of buildings, walls and fences, landscaping, screening, exterior lighting and signing;**

The Staff report provides:

*The site is a developed site with existing improvements consisting of two vacant buildings, a vehicular approach, an existing gravel parking lot, and mature landscaping. The applicant notes that the existing buildings, landscaping, and parking area will remain, but any barbed wire fencing will be removed. The applicant states that no changes are needed to the current vehicular egress/ingress and internal circulation, pedestrian access, fences,*

**COMMISSION FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER**

*landscaping, screening, exterior lighting, or signage other than removing all existing signage and all existing barbed wire fencing.*

*The site has previously been used for commercial uses, and is now vacant. This request is not adding any new buildings or improvements to the site that don't already exist. No new construction or additions are proposed. The site is in the GC zone. The sites to the south, east, west, and northwest are also in the GC zone. The only portion of the site that is adjacent to Single-Family Residential R-1-7.5 is the east 59 feet of the north property line of Tax Lot 300. The nearest portion of the existing building on Tax Lot 300 to the R-1-7.5-zoned lot is 69 feet from the building's northeast corner to the southwest property corner of the R-1-7.5-zoned lot to the northeast. The existing use to the east is an apartment complex. The proposed use includes residential housing.*

*Property owners within 250 feet of the subject site received notice of the requested conditional use permit for a transitional housing facility. No written comments were received from property owners within 250 feet. However, comments were received from North Lincoln Fire & Rescue District #1 and the Lincoln City Public Works Department.*

*North Lincoln Fire & Rescue District #1*

*Re: Question 2, "If the application is complete for conditional use permit review (not building permit review), please reply to this email indicating the application is complete."*

*Applicant's statements acknowledge that a building permit will be require "a change of occupancy classification from commercial to residential." (Page 5 of 16)*

*An on-site review of the structure(s) suggests that egress requirements for the building(s) may be insufficient for the number of occupants and the amenities proposed. Only bona fide remodeling plans, approved by the building official, will determine egress requirements. Therefore, it may be premature to draw the same conclusion as the applicant: "The only thing that is changing is the specific use inside the buildings, which doesn't trigger or necessitate any changes to the exterior set-up of the site." (Page 7 of 16)*

*Lincoln City Public Works Department*

*See Lincoln City Public Works comments below in regards to permitting the proposed conditional use.*

- (1) The Conditional Use Permit Application notes that the parking lot is paved with Asphalt Concrete. This is inaccurate as the parking area is currently ~80% gravel. The parking area need to be paved to address Conditional Use Requirement 17.60.050 (D)(6)*
- (2) Storm water system is noted as "existing". There is no known storm water system for the building, nor for the unpaved area. Current roof drainage exits to the curblin on NE 34th. The parking area and roof will require paving & drainage to the fronting storm water system per Conditional Use Requirement 17.60.050 (D)(6). City standards for water quality and detention will apply to any new impervious parking area.*

**COMMISSION FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER**

- (3) *Sidewalks should be installed along NE 34<sup>th</sup> St to address the pedestrian & public transit access requirements put forward in 17.60.050 (D)(5). Construction should tie into the planned sidewalk improvements along HWY 101. See draft construction drawings attached.*
- (4) *Existing water and sewer facilities were not constructed for the use being described. Applicant is responsible for verifying that water and sewer service meets current requirements for the increased occupancy and fixture count.*

The applicant states the site is a developed site, that the existing buildings and landscaping will remain, and that no new buildings or structures are proposed. The applicant states existing barbed wire fencing will be removed, but no changes are needed to the current vehicular egress/ingress and internal circulation, pedestrian access, fences, landscaping, screening, exterior lighting, or signing other than removing all existing signs and existing barbed wire fencings. The applicant further indicates

Property owners within 250 feet of the subject site received notice of the requested conditional use permit for a transitional housing facility. No written comments from property owners were received as a result of the mailings.

In addition to conditions deemed prudent by the Planning Commission, staff suggests some conditions of approval as follows:

1. Prior to issuance of the certificate of occupancy for the transitional housing facility, install a 6-foot tall solid wood fence along the north property lines of Tax Lots 500 and 300 and the east property line of Tax Lot 300 to provide a buffer and screening between the uses to the north and east and the proposed use on the site. The 6-foot tall solid wood fence shall also be installed on the north 50 feet of the west property line of Tax Lot 300.
2. Prior to issuance of the certificate of occupancy for the transitional housing facility, create a play area for use by the children of the families living at the facility.
3. For the safety of the residents, to ensure clear demarcation of parking spaces and drive aisles for facility employees and residents who have vehicles, and to enhance the aesthetic visibility of the site, the parking area shall be improved to meet all requirements of Chapter 17.56, excepting the number of spaces required, which shall be the number that can be provided while accommodating the spacing and drive aisle size requirements of Chapter 17.56.

The applicant relies heavily on the surrounding commercial uses to conclude that there will be no adverse impact.

The Planning Commission finds and determines that the staff analysis correctly identifies conditions of approval (with some modification) for the proposed shelter use which will mitigate some of the adverse impacts on the surrounding properties and neighborhood.

#### **COMMISSION FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER**

The Planning Commission finds and determines that the following additional condition is necessary to mitigate adverse impacts on the surrounding property and neighborhoods:

4. Installation of landscaping on the south property line, excepting clear vision areas and the driveway approach.

With the imposition of conditions listed above or incorporated herein, the Planning Commission finds and determines (concurring with staff) that this criterion can be met.

5. **In areas designated as requiring preservation of historic, scenic or cultural attributes, proposed structures will be of a design complementary to the surrounding area.**

The subject site is not in one of these designated areas. This criterion is not applicable.

#### V. ORDER

In sum, the Planning Commission for the City of Lincoln City finds and determines that the requested Conditional Use Permit Application meets the approval criteria in LCMC 17.60.050.C. but only with the imposition of conditions referenced or incorporated herein. Accordingly, based on the above Findings of Fact and Conclusions of Law, and based upon the evidence in the whole record, the Planning Commission hereby APPROVES the requested Conditional Use Permit contained in CPA 2019-04, with the conditions set forth or referenced herein.

#### Lincoln City Planning Commission

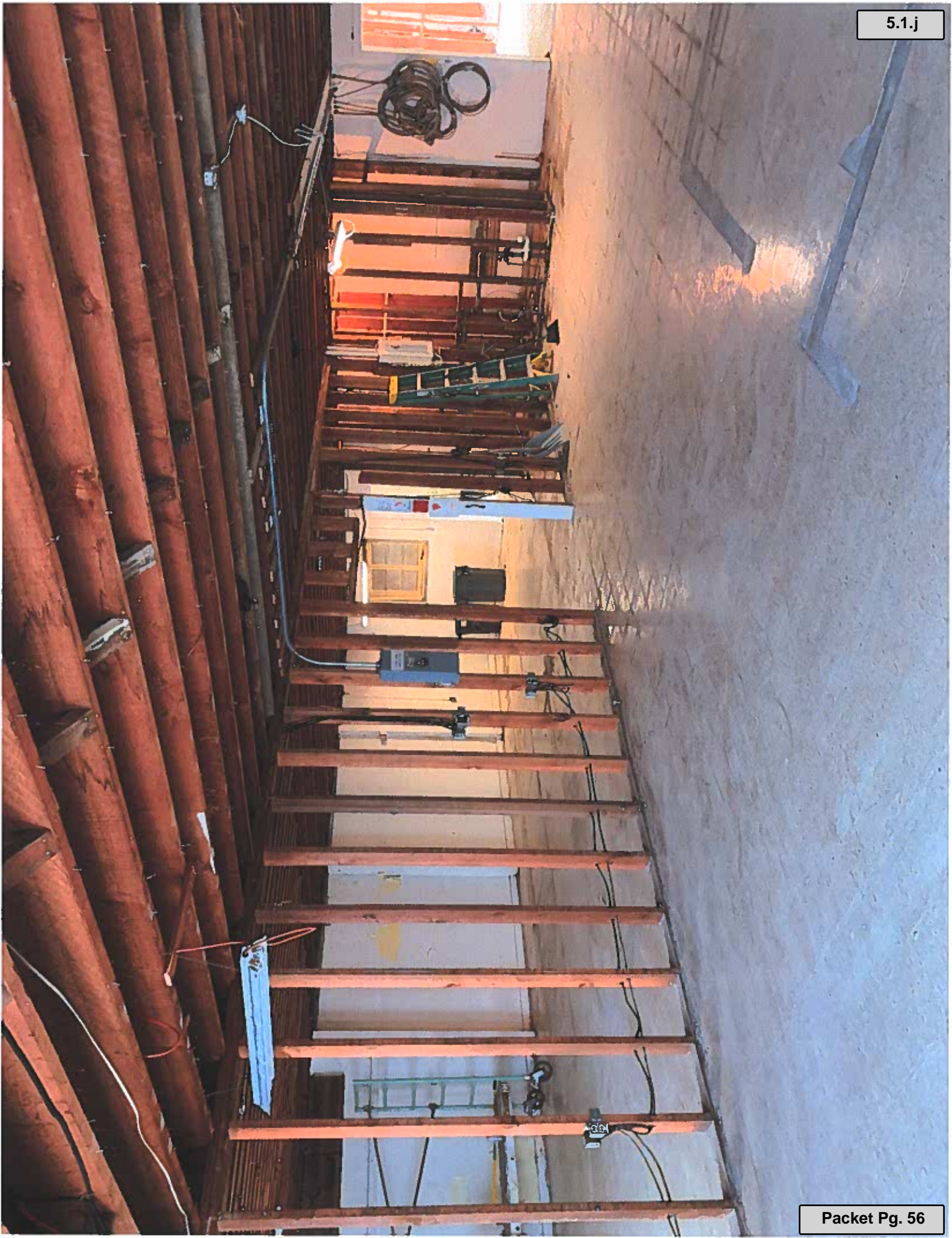


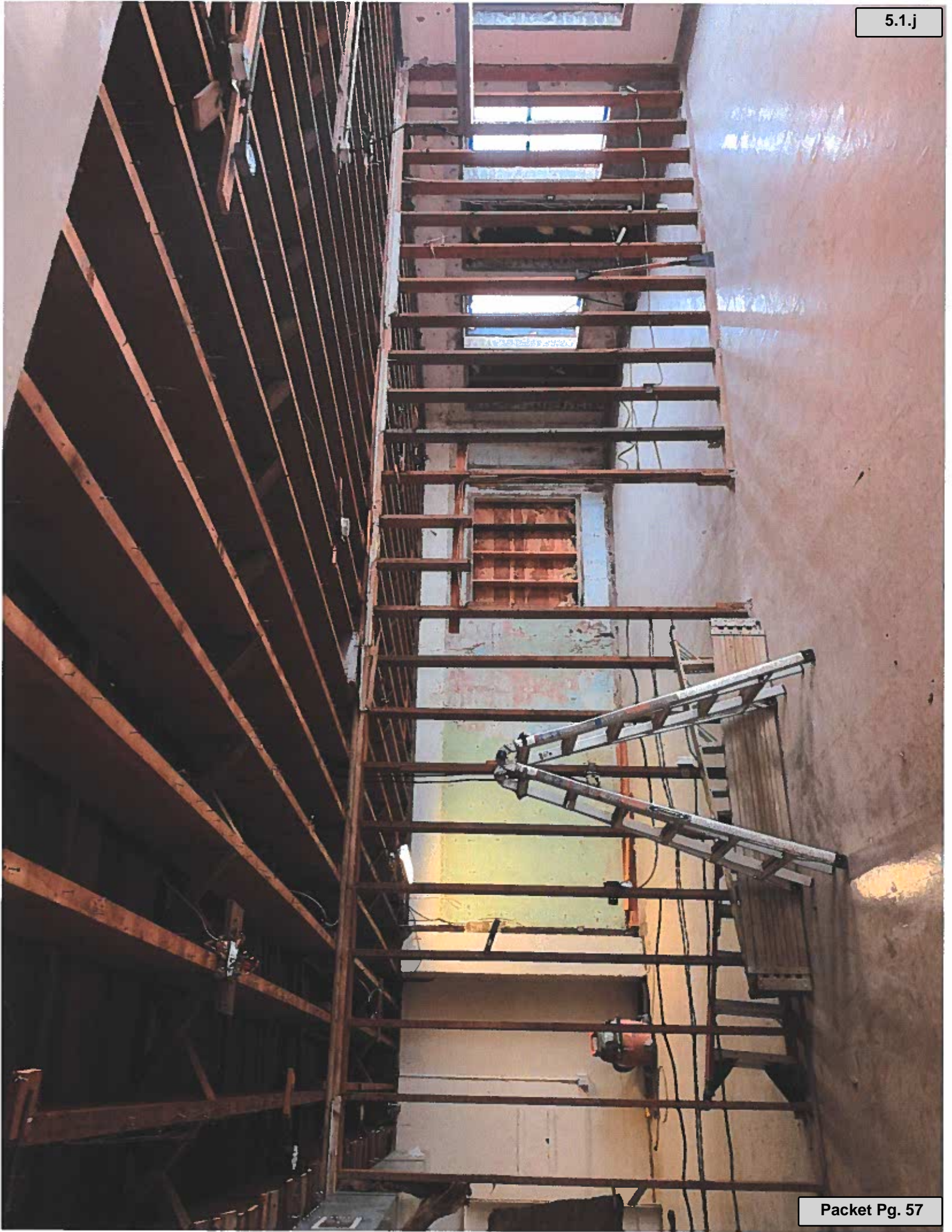
Patti Kroen, Chair

Signature authorized and approved by the full Commission this 17th day of December, 2019.

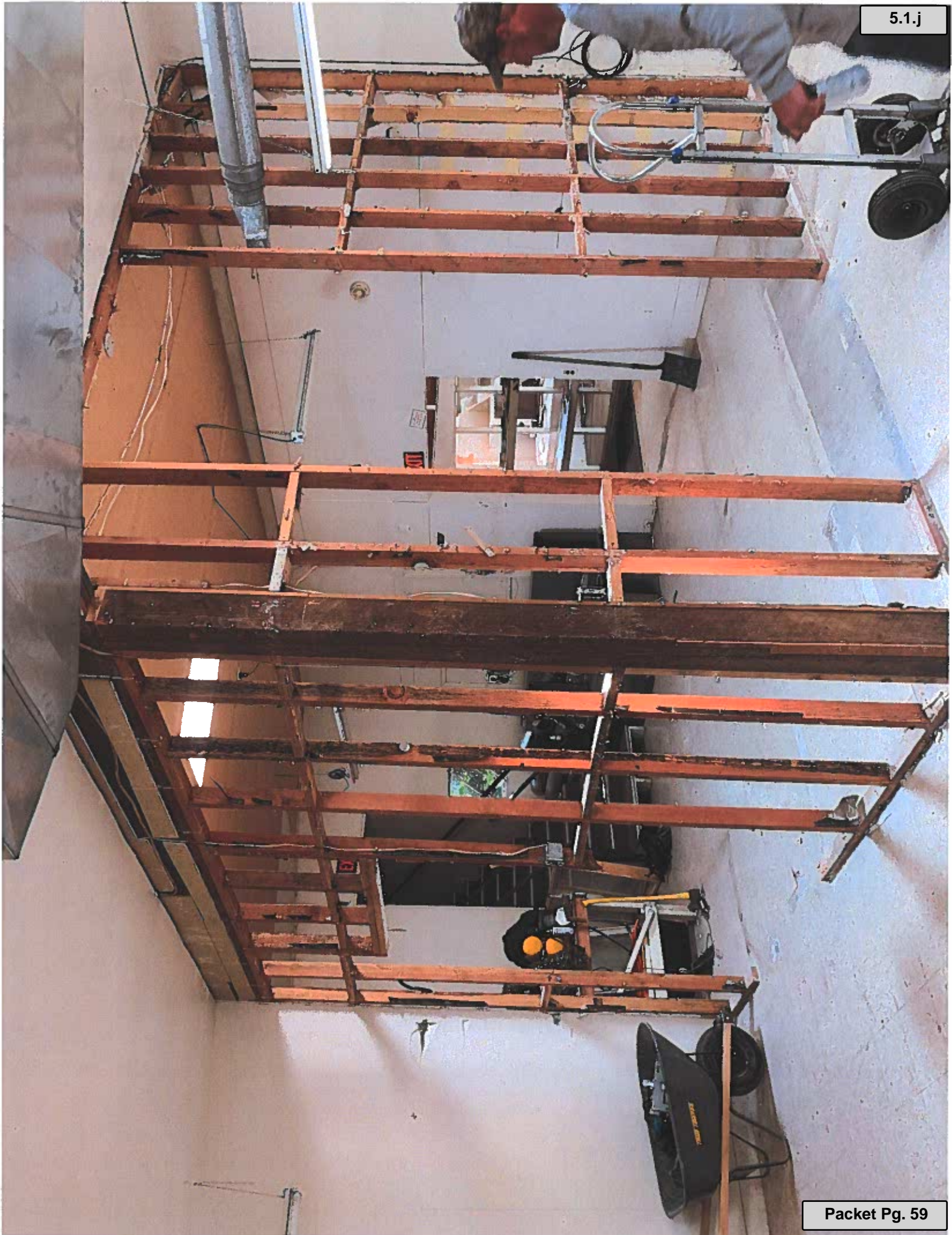
COMMISSION FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER















**PLANNING COMMISSION STAFF REPORT**  
**MEETING DATE: January 5, 2021**

**Report prepared by David Mattison, Senior Planner**

**Election of Chair and Vice Chair**

Entertain nominations for Chair and Vice Chair for 2021

**STAFF RECOMMENDATION**

Motion, second, and vote for Chair for 2021

Motion, second, and vote for Vice Chair for 2021