

1. Agenda

Documents:

[8-21-18_PC_AGENDA.PDF](#)

2. Meeting Materials

Documents:

[CLEAR_VISION_STANARDS_08-14-18.PDF](#)
[LIGHT_INDUSTRIAL_AMENDMENT_3-6-18.PDF](#)
[COMP_LAND_USE_PLAN_08-21-18.PDF](#)
[ELK_MOUNTAIN_.PDF](#)
[07-17-18_PC_DRAFT_MINUTES.PDF](#)
[07-17-18_PC_DRAFT_WS_MINUTES.PDF](#)

3. Work Session Minutes

Documents:

[2018-08-21 PLANNING WS MINUTES.PDF](#)



CITY OF YACHATS

PLANNING COMMISSION MEETING

441 Hwy 101 N., Yachats Commons, Room 1

**TUESDAY, AUGUST 21, 2018: 2 PM WORK SESSION;
3 PM REGULAR MEETING**

WORK SESSION AGENDA

- A. Clear Vision Standards & Fences, Hedges and Wall Regulations

REGULAR MEETING AGENDA

- I. Announcements and Correspondence
- II. Minutes
 - A. Regular Meeting and Work Session – July 17, 2018
- III. Citizen's Concerns
- IV. Public Hearing
 - A. Case File #2-PAR-PC-18 2-Lot Partition Application – Elk Mountain Properties, LLC
 - B. Title 9 Zoning & Land Use Code Amendment – Light Industrial Uses
 - C. Title 9 Zoning & Land Use Code Amendment – Chapter 9.44 Signs
 - D. Title 9 Zoning & Land Use Code Amendment – Comprehensive Plan Goals & Policies
- V. Planner's Report
- VI. Other Business
 - A. From the Commission
 - B. From Staff

Commission meets the third Tuesday of each month.

Next scheduled meeting: September 18, 2018 at 2:00pm and 3:00pm.

This meeting is open to the public and all interested persons are invited to attend. This meeting will be audio taped. All items to be considered by the Commission must be submitted to City Hall no later than one week prior to the meeting. Minutes of all public meetings are available for review at City Hall, or on the City website at www.yachatsoregon.org.

In accordance with ORS 192.630, City of Yachats will make a good faith effort to provide accommodations for any person desiring to attend a public meeting, if the request is made at least 48 hours in advance of the meeting time. The meeting room is physically accessible to persons with mobility devices; a sign language or foreign language interpreter may be available, with advance notice. Call City Hall at 541-547-3565 or Oregon Relay 1-800-735-2900 (TDD).

Posted: August 15, 2018



August 14, 2018

To: Yachats Planning Commission

From: Larry Lewis, City Planner

Re: Clear Vision Standards & Fences, Hedges and Wall Regulations

This memorandum addresses possible amendments to clear vision standards and regulations regarding fences, hedges and walls. The Planning Commission had a discussion on these two items at the July 17, 2018 meeting.

The discussion on the clear vision standards primarily focused on the need to have clear vision standards at the intersection of a street and a driveway. Currently, the clear vision standards only apply to the intersection of two streets.

Regarding fence/hedge/wall regulations, the City Attorney recommended these regulations be taken out of the 'accessory use' section. This draft amendment removes fence/hedge/wall regulations from Section 9.52.030 General Provisions Regarding Accessory Uses and inserts the regulations into Section 9.64.010 Design Standards (under Street Construction and Design).

Section 9.52.030 General provisions regarding accessory uses.

An accessory use shall comply with all requirements for a principal use, except as this title specifically allows to the contrary, and shall comply with the following limitations:

- A. An accessory structure not used for human habitation and separated from the main building may be located in the required rear and side yard, except in the required street side yard of a corner lot, provided it is not closer than five (5) feet to a property line.
 - 1. The maximum height shall be one story or fifteen (15) feet, whichever is the lesser.
 - 2. Accessory buildings are not permitted in the front yard.
- ~~B. Fences, hedges and walls may be located within required yards, but shall not exceed three (3) feet in height in any required yard which abuts a street other than an alley. Higher screen may be allowed with proper setbacks for clear vision in accordance with Section 9.64.010. (Ord. 319, 2013; Ord. 267, 2007; Ord. 73E § 3.050, 1992)~~ (First sentence proposed to be moved to Chapter 9.64 – see below.)

Chapter 9.64 - Street Construction and Design

Section 9.64.010 Design standards.

Any street constructed within and dedicated to the City as a city street, or dedicated to the public for use as a street and constructed after the date of the ordinance codified in this title shall comply with Chapter 7.04. In addition, the following standards shall apply **to all streets, i.e. public streets and private streets**:

- A. Clear-Vision Areas. A clear-vision area shall be maintained on the corners of all property at the intersection of two (2) streets **and at the intersection of a street and a driveway.**
1. A clear-vision area shall consist of a triangular area, two (2) sides of which are lot lines measured from the corner intersection of the street lot lines for a distance specified in this regulation, or, where the lot lines have rounded corners, the lot lines extended in a straight line to a point of intersection and so measured, and the third side of which is a line across the corner of the lot joining the non-intersecting ends of the other sides.
 2. A clear-vision area shall contain no planting, fence, wall, structure, temporary or permanent obstruction exceeding 2.5 feet in height, measured from the top of the curb or, where no curb exists, from the established street center line grade, except that trees exceeding this height may be located in this area provided all branches and foliage are removed to a height eight feet above grade.
 3. For clear-vision areas, the minimum distance shall be fifteen (15) feet or, at intersections including an alley, ten (10) feet, except that when the angle of intersection between streets, other than an alley, is less than thirty (30) degrees, the distance shall be twenty-five (25) feet.
- B. Fences, hedges and walls may be located within required yards, but shall not exceed three (3) feet in height in any required yard which abuts a street other than an alley.**
- C. Street Intersections. Streets shall intersect one another at an angle as near to a right angle as is practical considering the topography of the area and previous adjacent layout. Intersections shall be designed so that no danger to the travelling public is created as a result of staggered intersections; and in no case shall intersections be offset less than one hundred (100) feet.
- D. Cul-De-Sacs and Turn-Arounds. In general, dead end (cul-de-sac) streets in urban subdivisions (average lot size under one acre) shall not exceed four hundred (400) feet in length and shall terminate in a turn-around with a minimum property line radius of forty-five (45) feet or other type of turn-around approved by the Planning Commission. Turn-arounds approved by the Planning Commission shall be provided on all dead-end streets.
- E. Easements.
1. Where alleys are not provided, easements of not less than five (5) feet in width shall be provided on each side of the rear line or side line for necessary utility lines, wires, conduits, storm and sanitary sewers, gas and water. Easements of the same or greater widths may be required along boundary lines or across lots or parcels where necessary for the extension of utility lines, waterways, and walkways, and to provide necessary drainage ways or channels.
 2. A private easement established without full compliance with these regulations may be approved by the Planning Commission provided it is the only reasonable method by which the rear portion of an unusually deep lot or parcel may be provided vehicular access.

- F. Blocks. No block shall be longer than one thousand two hundred (1,200) feet between street lines.
- G. Public Access Ways. When necessary for public convenience and safety, the Planning Commission may require the land divider to dedicate to the public access ways ten (10) to twenty (20) feet in width to connect to cul-de-sacs, to pass through oddly shaped or unusually long blocks, to provide access to schools, parks, beaches or other public areas, of such design and location as reasonably required to facilitate public use.
- H. Public Streets. If topography or other physical conditions make a street of the minimum required width impractical, the Planning Commission may modify this street regulation requirement provided the public and future owner's interests are adequately protected.
- I. The layout of streets shall give suitable recognition to surrounding topographical conditions in accordance with the purpose of this title.
- J. Variance. The standards for street construction may be varied by the City Council where topography, soil characteristics, or other factors indicate such variance would be in the best interest of the City. Any request for variance in the above standards must be made in writing and filed with the City Recorder when the application for construction is submitted. (Ord. 175, 1995; Ord. 73E § 8.010, 1992)

March 6, 2018

To: Yachats Planning Commission

From: Larry Lewis, City Planner

Re: Light Industrial Amendment

At the January 16, 2018 Planning Commission work session, the Commission reached consensus on draft amendment language regarding light industrial uses. The City Attorney reviewed and commented on the draft. The following language will be considered at public hearings with the Planning Commission and City Council.

Chapter 9.04 – General Provisions and Definitions

Section 9.04.030 Definitions

As uses in this title:

“Light industrial” means a business that manufactures, fabricates, or assembles goods and that occupies less than 6,000 square feet.

Chapter 9.28 – C-1 Retail Commercial Zone

Section 9.28.020 Conditional uses.

In a C-1 zone the following uses and their accessory uses may be permitted subject to the provisions of Chapters 9.44, 9.48, 9.52 and 9.72 where applicable:

T. Light industrial

Chapter 9.48 – Off-Street Parking and Loading

Section 9.48.010 General requirements.

L. Off-street parking space requirements:

14. Light industrial: one space for each six hundred (600) square feet of total floor area.

Chapter 9.72 – Conditional Uses

Section 9.72.050 Standards and procedures governing conditional uses.

G. Standards for Light industrial.

1. Manufacturing, fabricating, or assembling shall occur within an enclosed building.
2. Goods manufactured, fabricated, or assembled shall be offered for retail sale on the premises with dedicated retail space occupying a minimum 20% of the building.
3. Outdoor storage shall be on the side or rear of the building, and shall be screened with a sight-obscuring fence, hedge or wall.
4. Employee parking and loading area shall be located on the side or rear of the building.

Chapter 9.44 - Signs

Sections:

9.44.010	Scope.
9.44.020	Definitions.
9.44.030	Permits required.
9.44.040	Zone requirements.
9.44.050	Temporary signs.
9.44.060	Nonconforming signs.
9.44.070	Maintenance and appearance of signs.
9.44.080	Abandoned signs.
9.44.090	Variances.

9.44.010 Scope.

Every sign erected, altered or relocated within the City of Yachats shall conform to the provisions of this Chapter. It does not regulate traffic and street signs erected and maintained by a road authority as defined in ORS 801.445, trespass signs posted in accordance with ORS 164.245 to 164.270, holiday decorations, temporary interior window signs, or the display of the national or state flag.

9.44.020 Definitions.

"A-Frame sign" means a freestanding sign which is ordinarily in the shape of an "A" or some variation thereof, which is readily moveable, and is not permanently attached to the ground or any structure.

"Banner sign" means a ground-mounted or building-mounted banner, pennant, flag or similar type of sign on fabric or similar material.

"Building sign" means a wall, projecting/hanging, window or roof sign.

"Digital sign", also referred to as "LED sign" means a sign or portion thereof that uses light emitting diode technology or similar semiconductor technology to produce an illuminated image, picture, or message of any kind, regardless of whether the image, picture, or message is moving or stationary. This type of sign includes conventional (using discrete LEDs), surface mounted (otherwise known as individually mounted LEDs), transmissive, organic light emitting diodes (OLED), light emitting polymer (LEP), organic electro luminescence (OEL), or any similar technology.

"Free standing sign" means a sign which is supported by a separate independent structure and is not attached to or supported by any other building or structure.

"Monument sign" means a ground-mounted sign supported from grade with a solid base that is at least 75% of the width of the sign. A monument sign can also be supported with multiple architectural-designed posts. Single posts are prohibited.

"Nonconforming sign" means a sign which was erected legally but which does not comply with currently applicable sign restrictions and regulations.

"Off-premises sign" means any sign used for the purpose of displaying, advertising, identifying or directing attention to a business, service, activity or place, including products offered for sale or sold on premises other than on the premises where such sign is displayed.

"Open sign" means a sign referencing if the business is open or closed.

"Projecting sign" means a sign which is attached to the wall, overhang or awning of a building and which projects more than twelve (12) inches beyond the wall, overhang or awning of the building.

"Sign" means an identification, description, illustration, or device which is affixed to or represented, directly or indirectly, upon a building, structure or land, and which directs attention to a product, place,

activity, person, institution or business.

"Temporary sign" means any sign that is not permanently installed or affixed to any sign structure or building, and is accessory to an event, election, government or institutional sponsored activity, lease, rental, or sale. A temporary sign does not include an A-Frame sign as identified above.

"Size" means the aggregate area of all sign display surfaces located on a single structure, but excluding posts and base that are without attached identification, description or illustration. Two surfaces parallel and back to back on the same structure, e.g. a projecting sign or 2-sided monument sign, shall be considered a single display surface.

"Wall sign" means a sign attached to or painted on a wall of a building with a display surface which projects no more than twelve (12) inches from the surface of the wall and not higher than the lowest roof edge above the building wall to which it is attached.

9.44.030 Permits required.

- A. Except as herein provided, no sign shall be erected, replaced, altered or relocated without the business owner first obtaining a sign permit and the property owner (if different) granting permission for a sign permit, demonstrating that the sign is or will be in compliance with all provisions of this Chapter. A-Frame signs, and Banner signs, and one Open sign, as defined above, are exempt from sign permits.
- B. Permits are issued for specific property only. Permits may transfer with ownership provided the signage is not altered or moved except to bring it into compliance with this section.
- C. Fees for sign permits shall be established by resolution of the city council, and shall be paid prior to the sign being placed or altered.
- D. Signs conforming to the current code that are damaged by acts of nature, vandalism or accident shall not be assessed a new sign permit fee when repaired to the pre-damaged condition.
- E. A building permit shall be required for all free-standing signs as specified in the Oregon Structural Specialty Code, which shall be issued prior to sign placement, construction, or alteration.

9.44.040 Zone requirements.

- A. **In the R-1, R-2, and R-3 zones:** one (1) accessory sign shall be allowed and shall be limited to the following sizes and restrictions:
 - 1. Only wall signs are allowed in the R-1, R-2 and R-3 zones. The one exception is that free-standing address (house number) signs are permitted with a maximum size of four (4) square feet.
 - 2. A sign not exceeding two (2) square feet in size accessory to a single-family dwelling or a home occupation, or six (6) square feet for a bed and breakfast inn.
 - 3. A sign not exceeding twenty-four (24) square feet in size accessory to any other permitted or conditional use in the zone.
 - 4. No moving or flashing signs, lit signs, roof signs, A-Frame signs, or banner signs shall be allowed in the R-1, R-2 and R-3 zones.
 - 5. No sign shall be placed within ten (10) feet of any government-installed sign within a street right-of-way (stop signs, traffic control sign, etc.).

B. In the R-4, C-1, P-F, and S-P zones:

1. General sign requirements:

- a. No sign shall be placed within ten (10) feet of any government-installed sign within a street right-of-way (stop signs, traffic control signs, etc.)
- b. External light illuminating from a sign shall be directed away from a residential use or zone and shall not be located so as to distract motorists.
- c. No sign shall be of such intensity or brilliance as to impair the vision of a motor vehicle driver or interfere with the effectiveness of an official traffic sign, device, or signal.
- d. Where it can be demonstrated that directional signs are needed for directing or controlling vehicular access, or where such signs are required as a condition of approval for public safety, such signs may be permitted in addition to any other signs permitted by this section. Such signs shall be placed at each motor vehicle entrance or exit, shall not exceed nine (9) square feet in size and six (6) feet in height, and shall not restrict required sight distances or pedestrian and vehicular flow.

2. Sign types:

a. Building Signs.

- 1) Wall signs. A maximum 10% of a building façade is allowed to have signs. The maximum size of any one sign shall be limited to 10% of the façade (all of the allowable sign footage on the façade). A building façade is an exterior side of a building excluding the roof.
- 2) Window signs. Windows are part of a building façade. Therefore, window signs are included in the maximum 10% of a building façade described above.
- 3) The maximum amount of internally lit building signs shall be limited to a total of 24 square feet.
- 4) Projecting signs. Projecting signs may extend a maximum five (5) feet from a building. Projecting signs may extend over a sidewalk within the public right-of-way with a minimum clearance of 7.5 feet from the ground so as to not affect pedestrian traffic. Placement of projecting signs on Hwy 101 sidewalks are subject to agreement with the Oregon Department of Transportation.
- 5) Roof signs.
 - a) No signs shall be painted directly on a roof.
 - b) Roof signs shall not exceed 16 feet in height above the adjacent street grade nor exceed the peak of the roof.
 - c) A roof sign on a flat roof shall be limited to a maximum of 16 feet above the street grade but not more than 3 feet above the roofline.

b. Permanent free-standing signs.

- 1) No more than one free-standing sign is permitted per street frontage per property.
- 2) Single pole signs are prohibited.
- 3) Monument signs shall have a maximum of:
 - a. 8 feet in height as measured from the elevation of the centerline of the adjacent street.

- b. 5 feet in width and 32 square feet of area on lots having up to 300 linear feet of street frontage
 - c. 8 feet in width and 50 square feet of area on lots with more than 300 linear feet of street frontage.
- c. Banner signs.
 - 1) One freestanding banner sign is allowed per business.
 - 2) Banner signs shall not exceed 20 square feet.
 - 3) Ground-mounted banner signs may be placed on private property. Such signs shall not be mounted in or extend into public right-of-way. Ground mounted banner signs shall be setback 15 feet from the street at ingress/egress locations.
 - 4) Banners that are attached to a building and that extend over a public right-of-way shall have a minimum clearance of 7.5 feet from the ground.
 - 5) No banner, other than the American flag, shall be placed in flagpole holes along Hwy 101, and no banners shall be placed in the planters.
- d. Digital signs. Digital signs are prohibited.

9.44.050 Temporary signs.

In addition to the allowances for signs provided by this section, temporary signs are allowed on private property with the following standards:

- A. No more than one temporary sign is permitted per issue per property. Temporary signs are not permitted in the public right-of-way.
- B. Temporary signs shall be a maximum of eight (8) square feet.
- C. Temporary signs are allowed for not more than ninety (90) consecutive days or for any period of time during an election or event.
- D. Temporary real estate signs for property for sale or lease shall be removed within fifteen (15) days of the sale or lease.
- E. Temporary signs shall be secured so as not to be movable (pushed, pulled, blown, etc.).
- F. No objects shall be attached to temporary signs, e.g. balloons, banners, etc.
- G. Temporary A-Frame signs.
 - 1) Temporary A-frame signs are allowed for a maximum of three days in conjunction with a special occasion or unique event not related to an ongoing business.
 - 2) A-Frame signs may be placed on private property.
 - 3) A-Frame signs may be placed within the right-of-way on a sidewalk, however a minimum four (4) feet of lateral clearance shall be maintained on a sidewalk. A-Frame signs may not impede pedestrian access or opening of vehicle doors. Placement of A-Frame signs on Hwy 101 sidewalks are subject to agreement with the Oregon Department of Transportation.
 - 4) A-Frame signs shall be a maximum of six (6) square feet with maximum dimensions of two (2) feet wide by three (3) feet tall.

- 5) A-Frame signs shall be weighted and secured so as not to be movable (pushed, pulled, blown, etc.)
- 6) No objects shall be attached to A-Frame signs, e.g. balloons, banners, etc.
- 7) A-Frame signs are only permitted during business event hours and should be removed during periods of high winds.

9.44.060 Maintenance and appearance of signs.

All signs, together with all of their supports, braces, guys and anchors, shall be kept in good repair and maintained in a safe condition. All signs shall be maintained in a neat, clean and attractive condition.

9.44.070 Nonconforming signs.

Any sign deemed to be nonconforming at the time these sign regulations become effective shall be deemed to be in compliance if the sign was erected with an approved sign permit. In the event that a nonconforming sign is damaged or destroyed by any means to the extent of fifty (50) percent or more of its replaced value, the sign may not be rebuilt or used thereafter unless it conforms to all of the provisions of this title.

9.44.080 Abandoned signs.

- A. Any sign shall be removed when the associated business or event has been discontinued or completed, or when the sign is no longer properly repaired or maintained as required by this Chapter.
- B. Abandoned non-conforming signs shall be removed in their entirety.

9.44.090 Variances.

To provide for reasonable interpretation of this Chapter, and in certain instances where this Chapter will produce hardship, a business owner (with permission from the property owner, if different) may apply for a variance pursuant to Chapter 9.80 of this Code.

City Of Yachats
Comprehensive Land Use Plan

Adopted by City Council vote – _____, 2018
And Memorized by Ordinance _____, _____, 2018

I.	INTRODUCTION AND PURPOSE	3
II.	PLAN ORGANIZATION	5
III.	PLANNING GOALS AND POLICIES	6
	GOAL A. PROTECTION OF NATURAL RESOURCES.....	6
	GOAL B. PROTECTION OF ESTUARINE RESOURCES	8
	GOAL C. PROTECTION OF SHORELAND RESOURCES.....	9
	GOAL D. CONSERVATION OF ENERGY.....	11
	GOAL E. PROTECTION FROM NATURAL HAZARDS AND DISASTERS	11
	GOAL F. PROVIDING RECREATION OPPORTUNITIES.....	13
	GOAL G. CONTROL OF URBAN GROWTH AND FORM.....	14
	GOAL H. PROVIDE FOR ECONOMIC GROWTH	15
	GOAL I. PROVIDE ADEQUATE PUBLIC SERVICES	16
	GOAL J. MEETING HOUSING NEEDS.....	18
	GOAL K. PUBLIC INVOLVEMENT IN LAND USE PLANNING	19
	GOAL L. BEACHES	19
	GOAL M. TRANSPORTATION.....	20
IV.	PLAN MAPS	21
V.	DEFINITIONS.....	21

Attached:

- Plan Inventory
- Existing Planned Unit Developments In Yachats Approved Exceptions To The Yachats Comprehensive Plan And Yachats Zoning & Land Use Ordinance
- Summary from All Surveys – Graphs with Legend

I. Introduction and Purpose

In 1973, the State Legislature passed Senate Bill 100 (ORS 197) which established certain statewide requirements for land use planning. Each city and county in the state is required, under the statute, to prepare and adopt comprehensive plans consistent with the statewide planning goals approved by the Land Conservation and Development Commission. In response to this law, the City of Yachats has prepared this plan.

The Land Conservation and Development Commission initially acknowledged the Comprehensive Plan for compliance with the State Planning Goals in 1980. The Plan has been periodically reviewed by the City in coordination with the Department of Land Conservation and Development and updated to ensure that it continues to comply with these goals. The Comprehensive Plan has been drafted to reflect the needs of the residents of Yachats and has been reviewed to ensure consistency with other relevant plans from other jurisdictional agencies.

This 2008 update to the Comprehensive Plan has been developed by a public process that included staff, public, Planning Commission and City Council advisory committee reviews. A variety of public involvement opportunities were used, such as mail-back and a Web-based survey, open house and community discussions.

The City's comprehensive plan is intended to not only address statewide planning goals, but to take into account local land use planning needs and issues and responds to the desires, needs, and aspirations of the citizens of Yachats. The plan, once adopted, will serve as a guide to land use within and immediately adjacent to Yachats. It establishes policies and land use designations (maps) which will be implemented throughout the City's zoning and land use ordinance.

Land use policies procedures and applications shall complement the natural beauty of Yachats' location and its environment, which has led to Yachats' long-standing reputation as "The Gem of the Oregon Coast."

Land use policies, procedures and applications shall acknowledge certain economic characteristics of the City, namely, that retirement and tourism are major industries. Non-polluting commercial, professional and home businesses are also an important part of the economy.

The construction and maintenance of public, commercial, professional and residential buildings, their siting, design materials and landscaping, within reasonable variation,

shall enhance rather than detract from the quiet coastal ambiance of the City as noted above.

The Yachats Comprehensive Plan provides goals, guidelines and standards for decision makers, including City employees and officials, citizens, developers, community groups, and other local, state, regional, and federal agencies. The powers granted by the City through its charter shall be guided constructively by these principles. These principles shall guide the deliberations, interpretations, and judgments of the Council, the Commissions, City agents and employees.

Comprehensive city planning addresses a wide range of topics and issues related to the growth and development of a community. This plan includes background and analytic sections that support recommendations for the protection of natural resources, recreational opportunities, control of urban growth and form, and providing for economic growth, adequate public facilities, housing, transportation and other functions. The plan is comprehensive in scope and its goals and policies are intended to be supportive of one another.

The plan provides the basis for other plans, ordinances, and other implementing documents that set forth more detailed direction regarding specific activities and requirements. All City plans and implementing ordinances must be consistent with the Comprehensive Plan.

The Plan is organized around the Statewide Planning Goals and each chapter corresponds to a specific Statewide Goal. Some goals are not applicable to the City of Yachats and are not included in this plan. Specifically, the following goals are not included: Goal 3 (Agricultural Resources), since there are currently no commercial farming operations within City limits; Goal 4 (Forestry Resources), since there are currently no commercial forestry operations within City limits; and Goal 15 (Willamette Greenway).

II. Plan Organization

Adoption of the policy statements and plan maps included herein will help the City of Yachats to reach the above objectives. This will be possible by using the policies and maps to guide future decisions pertaining to land use in the City.

The Comprehensive Plan is organized around the Statewide Planning Goals and contains background information and findings that support City goals, policies, and recommended action measures.

The goals and policies contained within this plan have the force of law and the City is obligated to adhere to them in implementing the Plan. Additional background information about City goals, policies, and recommended action and implementation measures are articulated herein and within attached appendices.

Goal. A statement indicating a desired end or aspiration including the direction the City will follow to achieve that end. The City's goals must be consistent with the Statewide Planning Goals.

Policy. A statement indicating a definitive course of action to implement City goals. A policy may not be the only action the City can take to implement the goals. The City must follow relevant policies when developing other plans or ordinances that affect land use, such as transportation and public facility plans, zoning, and development standards.

Proposed Actions. A statement outlining a specific City activity, action, project or standard, which if executed, would implement goals and policies. Recommended action measures also refer to courses of action the City desires other jurisdictions to take regarding specific issues, and help define the relationship the City desires to have with other jurisdictions and agencies in implementing the Comprehensive Plan. These statements are guidelines and recommendations to City decision-makers as ways to implement the goals and policies. Completion of projects, adoption of standards, or the creation of certain relationships or agreements with other jurisdictions and agencies will depend on a number of factors such as City priorities, finances, and staff availability.

III. Planning Goals and Policies

In March and April of 2006, the Planning Commission and City Council advisory committee members conducted community discussions on the core values of City residents. In May, the City conducted a mail-back and web-based survey, open to all City and surrounding area residents. The results of that survey, a June open house, subsequent Planning Commission work session, community discussions and public hearings are reflected in this comprehensive plan update.

Goal A. Protection of Natural Resources

In conjunction with county, state and federal agencies as well as area residents and landowners, The City shall work to protect and enhance its rich natural, scenic and historic resources. Forests, beaches and water areas, wetlands, air quality, fish and wildlife habitats, historical and archaeological sites, and, in particular, open space and scenic views all contribute to the high quality of the City's environment. These resources are Yachats' main assets in that they make it a beautiful place for people to live in and visit.

Policies

1. The City shall ensure that the quality of air, water and land resources is maintained.
2. The City shall protect significant marine habitats, as identified on the City's adopted Natural Resources map and inventory data, from proposed land uses that will, or might, modify their indigenous characteristics.
3. The City shall preserve existing open space and identify new areas appropriate for designation as open space.
4. The City shall encourage orderly development of land through zoning, land use codes and the timing and placement of public improvements in order to conserve natural resources.
5. The City shall assist the State and County in protecting the County Road 804 right-of-way and the prescriptive easements accepted by the Oregon Supreme Court as established by the Lincoln County Surveyor (Survey 11,905 12/18/87) from alterations that would prevent the establishment and maintenance of this segment of the Oregon Coast Hiking Trail within the public right-of-way.
6. The City shall concur with all pertinent and legally authorized agencies, both federal and state, in a mutual effort to retain the character of those natural qualities identified in the adopted Natural Resources Map and Inventory Data.
7. The City shall consider the quality of the resources areas as shown on the adopted Natural Resources Map and inventory data in adopting land use designations or in undertaking land use actions or decisions.

8. The City shall direct its growth so as not to encroach upon public or commercial forestlands.
9. The City shall protect significant archaeological and historic resources through survey identification, recordation and adoption of preservation codes, consistent with the standards of the State Historic Preservation Office (SHPO), affected tribes and federal laws. Specific sites for protection include, but are not limited to, the Little Log Church, Yachats Middens, Native American villages and other identified recorded or unrecorded archaeological or historic sites.
10. The City shall not support offshore oil and gas development and associated facilities due to potential conflicts with existing ocean fisheries, impacts on aesthetic and recreational values, and degradation of the marine environment. This includes leasing, exploration, and oil and gas extraction within the state territorial sea and federal waters.
11. Established trees contribute to the aesthetic and environmental quality of the City. Significant trees and groves of trees shall be protected through a tree protection ordinance or other voluntary mechanisms to ensure their health and retention.
12. View sheds and corridors are unique characteristics of the City. They contribute to the community identity and aesthetic values of City residents and visitors.
13. The City shall protect streams and creeks.
14. The City shall provide educational material regarding the responsible use of chemicals.

Proposed actions:

- a) The City shall incorporate soil capacity analysis into the land use code for protection of prime forest soils.
- b) The City shall develop a methodology to designate archaeological and historic properties to the City inventories.
- c) The City shall conduct archaeological and historic resource inventories consistent with Goal 5 and the SHPO and rank significant properties for protective measures. Priority sites shall be identified on the City's Natural Resources map or separate archaeological and historic resources map consistent with state law.
- d) The City shall explore actions to preserve trees and establish a tree protection ordinance.
- e) The City shall identify and rank significant view sheds and corridors.
- f) The City shall conduct a City wide urban growth boundary natural resources inventory and assessment.

- g) The City shall research view protection strategies. Those strategies may include, but not be limited to, overlay zones, tree trimming standards, and voluntary deed restrictions.
- h) The City shall explore actions that would improve air quality, such as City wide composting.
- i) The City shall develop an ordinance to protect inland stream and associated riparian areas.

Goal B. *Protection of Estuarine Resources*

In concert with adjacent property owners and relevant government agencies, the City shall protect its estuarine areas from development, dredging and fill. All estuarine areas within Yachats Urban Growth Boundary are classified as a natural management unit, and will be managed to conserve the natural habitats and wildlife therein.

Policies

- 1. The City shall cooperate with appropriate government agencies in the development of biological, aesthetic, recreational, and economic values and benefits of the Yachats River Estuary, subject to the availability of local funds and the individual commitment of local agencies and residents.
- 2. The City shall, in recognition of the unique and abundant qualities of the Yachats River estuary, work with Lincoln County and relevant special districts, the Department of State Lands, U.S. Army Corps of Engineers, and other state and federal agencies in the implementation of the comprehensive estuarine management plan for the Yachats River estuary within the Yachats urban growth boundary.
- 3. The City shall classify the Yachats River as a conservation estuary and be shown on the City's Natural Resource Map for purposes of resource management. All estuarine areas within the Yachats urban growth boundary shall be classified as a natural management unit, and shall be managed to preserve the natural habitats and wildlife therein.
- 4. The City shall protect the natural habitat areas and aesthetic values in all City decisions regarding land and/or water use actions in or affecting the estuary. The inventory information and the Natural Resources Map are sources of information regarding the aesthetic and natural values of the Yachats River estuary and the benefit derived therefrom to the City.
- 5. The City shall allow dredging and fill in estuarine areas only:
 - a. If required for navigation or other water dependent uses that require an estuarine location or for a use specifically allowed in the applicable estuary zone;

- b. If a need (i.e., a substantial public benefit) is demonstrated and the use or alteration does not unreasonably interfere with public trust rights; and
- c. If no feasible alternative upland locations exist; and
- d. If adverse impacts are minimized.

Other uses and activities which could alter the estuary shall be allowed if the requirements in (b), (c), and (d) are met.

- 6. Permitted uses in the natural estuary management unit are intended to be undeveloped low-intensity, water-dependent recreational uses; protection of wildlife and their habitat and nutrients, fish, wildlife and aesthetic resources; research and educational observation; navigation aids; vegetative shoreline stabilization; and passive restoration measures. Uses which are allowed where consistent with the resource capabilities of the area and the purposes of this management unit are active restoration of fish and wildlife habitat or water quality and estuarine enhancement; on-site maintenance and repair of existing structures or facilities; riprap for protection of uses existing as of October 7, 1977, unique natural resources, historical and archaeological values, and public facilities; temporary alterations, and pipelines, cables and utility crossings, including incidental dredging necessary for their installation, and bridge crossing support structures.
- 7. Snag and debris removal for the purpose of maintenance shall be allowed in the estuary as permitted by Federal and State Agencies.
- 8. Unless specifically exempted by the Director of the Department of State Lands under ORS 541.626 dredging or fill (including dredged material disposal) in intertidal or tidal marsh areas shall be mitigated by creation, restoration or enhancement of estuarine areas. The adequacy of a proposed mitigation project shall be determined by the Department of State Lands.
- 9. The City shall require a clear presentation of the impacts of the proposed alteration where a use could potentially alter the estuarine ecosystem.

Proposed Action

The City shall develop the City's Natural Resources Map. The map shall include access points along the shoreline and note the condition of accesses and if they are compliant with the Americans with Disabilities Act (ADA).

Goal C. *Protection of Shoreland Resources*

The City recognizes the environmental, social and economic values of the shorelands. The City shall coordinate with state agencies to protect its coastal shorelands from development through shoreline stabilization activities. Water-dependent/water-related uses are preferred in the shorelands. In order, then, to maintain the environmental, social and economical values of the shorelands, the City shall apply the following policies to its land use actions/ decisions:

Policies

1. The City shall cooperate with appropriate government officials in the protection of biological, aesthetic, recreational, and economic values and benefits of shorelands under public control.
2. The City shall reduce or mitigate adverse effects upon water quality and fish and wildlife habitat resulting from the use of shorelands.
3. In order to recognize, protect, and maintain the value of the Yachats River, a buffer shall be provided from the edge of the bank. The buffer will contribute to maintenance and enhancement of water quality, fish and wildlife habitat, recreation and aesthetics, and provide open space. The buffer will also help protect property from flooding and help manage stormwater drainage.
4. In order to recognize, protect, and maintain the value of the ocean, a buffer shall be provided from the top of the bank. Existing stabilizing native vegetation shall not be removed within the buffer in order to help stabilize the bluff and mitigate erosion. The buffer will also help protect adjacent property from flooding and erosion.
5. The City shall provide implementing ordinances in the Zoning & Land Use Code to protect, maintain, and stabilize the shoreline. Stabilization and erosion control methods shall be included in the Zoning & Land Use Code.
6. The City shall develop and implement programs for maintaining and improving public access to the estuary and ocean and pursuing adequate signage of existing access points. The City supports future public access sites to be accessible in conformance with the Americans with Disabilities Act (ADA).
7. The City shall permit structural shoreline stabilization only if:
 - a. There is a demonstrated need to protect property or existing structures that are threatened by erosion;
 - b. Impacts on adjacent property due to increased erosion and sedimentation are minimized;
 - c. Visual impacts are minimized;
 - d. Long-term or recurring costs to the public are avoided;
 - e. Riparian vegetation is preserved as much as possible; and
 - f. The proposed project will not restrict existing public access to publicly owned lands or interfere with the normal public use of fishery, recreation, or water resources.
8. The City shall coordinate with the Oregon Department of Parks and Recreation and the Department of State Lands in any review of beachfront protective structures.
9. Existing public ownerships, rights-of-way and similar public easements in estuary and ocean Shorelands which provide access to or along the estuary or ocean

shall be retained or replaced if sold, exchanged or transferred. Rights-of-way may be vacated to permit redevelopment of existing developed Shoreland areas, provided public access across the affected site is retained.

Proposed Action

- a) Where necessary, the City shall strengthen codes to protect shorelands.

Goal D. *Conservation of Energy*

The City supports the energy conservation efforts of its residents and business owners and encourages the use of energy-efficient procedures and the use of alternative, renewable energy sources.

Policies

1. The City shall encourage future developments to use energy efficient design, siting and construction.
2. The City shall encourage non-polluting alternative energy sources such as solar, wind and wave power.
3. The City shall seek and support programs that provide or subsidize alternate energy or energy efficient technology. These technologies may include insulation and weatherization of habitable building, installation or energy efficient water heating systems, or energy efficient heating systems.
4. The City shall encourage the use of modes of travel that contribute to clean air and energy efficiency.

Proposed Actions

- a) The City shall develop and/or make available educational materials about using alternative/renewable energy sources and following environmentally sustainable and energy efficient building practices for the public.
- b) The City shall demonstrate and use energy conservation principles and practices.
- c) The City shall investigate opportunities and assist development of alternate energy sources, such as wind and water, subject to reasonable safety, noise, and visual controls.
- d) The City shall develop guidelines and/or ordinances for using alternative/renewable energy sources and following environmentally sustainable and energy efficient remodeling and initial construction for both residences and business owners.

Goal E. *Protection from Natural Hazards and Disasters*

Through regulation of the location and type of development, the City shall work to protect life and property from natural disasters and hazards, such as landslides, fires, tsunamis and flooding. The City recognizes that with the reduction of wildland fuels, we move closer to achieving the goal of all structures surviving an on-coming fire. The City regulates activities in known areas of natural hazards and limits development that may affect the integrity of steep slopes or impact fire hazards.

Policies

1. Developments subject to damage or that could result in loss of life shall not be planned nor located in known areas of natural hazards without appropriate effective mitigation strategies. Such strategies shall be attested to by a State of Oregon certified engineering geologist.
2. New construction or substantial improvements in identified flood hazard areas shall have the lowest floor level elevated to or above the 100-year flood level.
3. Low density and open space uses that are least subject to loss of life or property damage shall be preferred uses in flood-prone and steep-sloped areas.
4. The density of development shall be no greater than the slope can safely accommodate.
5. The City shall follow recommendations in the Lincoln County Natural Hazards Mitigation Plan.
6. Developments adjacent to the Yachats River shall be planned to minimize any aggravation of the turbidity and seasonal low-flow situation.
7. The City shall convey concerns regarding adverse forest activities to the Oregon Department of Forestry.
8. The City shall participate in Community Emergency Response Team (CERT) Programs and will help or take the lead to inform its residents and business owners about preparedness measures.
9. The City shall develop a citywide storm water management infrastructure.
10. The City is committed to supporting the fire district in its fire protection efforts.
11. The City shall support the Lincoln County Community Wildfire Protection Plan (CWPP).
12. The City shall access and utilize federal and other grant dollars to implement measures to protect against natural hazards and disaster.
13. The City shall set realistic expectations to reduce wildland fire risk, prepare for, respond to, and suppress wildland and structural fires.

Proposed Actions

- a) The City shall amend the City codes as necessary to reflect best practices related to natural hazard and disaster prevention and mitigation.
- b) The City shall prepare and distribute tsunami preparedness information to all residents, property owners and business owners in the City. The City shall make the information available at tourist accommodations (vacation rentals) and points of interest.
- c) The City shall participate in emergency preparedness training drills on a regular basis with other agencies and jurisdictions.
- d) Applications for subdivisions, and Planned Unit Developments, and building permits shall include plans for storm water management.
- e) Requests for building permits shall include plans for storm water management.

Goal F. *Providing Recreation Opportunities*

The City provides access to a range of recreational opportunities for its residents and visitors. The City shall enhance existing facilities and expand services as necessary.

Policies

- 1. The City shall encourage the development of diverse recreational and cultural opportunities to meet the needs of Yachats.
- 2. The City shall encourage the state to maintain its parks and beach access areas for the benefit of residents and visitors. Changes in park use or creation of new park facilities shall be reviewed by the City as specified in the Zoning and Land Use Ordinance.
- 3. The City shall encourage the Oregon Department of Transportation to improve Highway 101 for pedestrian and bicycle use.
- 4. The City shall support the identification of existing parks and development of additional parks and open spaces.
- 5. The City shall support and encourage the development of recreation centers for youth and seniors.
- 6. The City shall encourage the State Fish and Wildlife Department to maintain sufficient stocks of fish in the Yachats River and its tributaries for recreational purposes.
- 7. The City shall support the continued use of the Yachats Commons and the Community Park to provide for recreational, educational, and open space needs.
- 8. The City shall maintain and encourage affordable public facilities for recreation.

9. The City shall develop and maintain hiking, walking, and biking trails throughout the community to provide recreation and exercise.

Proposed Actions

- a) The City shall maintain a consistent, identifiable logo and signage program for recreational facilities.
- b) The City shall require State Park sanitary facilities to be connected with the City sewer and water systems.

Goal G. Control of Urban Growth and Form

The City shall ensure that growth and development within the City's Urban Growth Boundary (UGB) will be orderly and efficient, and consistent with adopted land use plans.

Policies

1. The City shall contain future urban development within the adopted Urban Growth Boundary.
2. The City shall affirmatively establish, through City Council action, the capability and desire of the City to provide necessary public services to the area before additional lands are considered for annexation to the City or for inclusion in the Urban Growth Boundary.
3. Annexation will require concurrent Comprehensive Plan and Urban Growth Boundary Amendment and a zone change to reflect the action taken.
4. Annexations shall be governed by Oregon Revised Statutes, Chapter 222 and the Yachats City Charter. Council decisions shall consider such factors as the City's capacity to provide services and the compatibility with the character of the area.
5. The City recognizes the Lincoln County Board of Commissioners' responsibility under Oregon Revised Statutes, Chapter 215, for all planning and zoning decisions in the unincorporated areas of the County. The City reserves the right to request specific information in order to obtain facts on sites outside the City UGB Urban Growth Boundary but located within adjacent unincorporated areas.
6. The City shall, through development regulations, ensure that new development shall be of an appropriate scale to retain and enhance the small-town, ocean side character of the Yachats community.
7. The City shall encourage improvement of the community's visual character.
8. The City shall support the preservation of open space on private land through such means as set back standards and limiting lot coverage and encourage the preservation of open space when new subdivisions and planned unit developments are considered for approval.

9. The City shall preserve public views of wetland areas, beaches and stream corridors.
10. The City shall protect the valuable views from Yachats of the ridgelines and forests.
11. The City shall actively pursue the acquisition of additional open space, to include property within the urban growth boundary and also property visible from Yachats.
12. The City shall seek external funding for acquisition of open space.

Proposed Actions

- a) The City shall review the sign ordinance.
- b) The City shall develop a procedure for accepting donations of private land for public use.
- c) The City shall provide regulations, which will limit the building of structures that protrude above primary and secondary ridgelines, or will mitigate the appearance of such structures if prevention is not possible.
- d) The City shall develop criteria for the design of unified open space system, rather than a collection of interesting yet unrelated parcels. The development process will include community input.
- e) The City shall seek community consensus to implement site and building design standards and the use of other tools such as incentives and grants.

Goal H. *Provide for Economic Growth*

The City supports and protects businesses that serve the needs of residents and tourists, especially businesses that are locally owned. The City seeks to accomplish this by ensuring the availability of areas to accommodate economic growth and employment at appropriate locations that stimulate a vibrant, distinct and attractive downtown core. To this end, the following policies shall be followed:

Policies

1. The City shall maintain and enhance the economic stability of the City without diminishing the livability of the area.
2. The City shall provide adequate and suitable opportunities for economic growth.
3. The City shall permit home-based businesses that are compatible with residential neighborhood character.
4. The City shall, through development regulations, ensure that new businesses shall be of an appropriate scale to retain and enhance the small-town, ocean side character of the Yachats community.

5. Casino gambling shall not be allowed since it is incompatible with the character of the community.
6. The City shall increase public parking in the downtown area.
7. Activities to improve the visual character of downtown Yachats such as the undergrounding of utilities, face improvement, incentive programs, and encouraging off-street, behind building parking shall be encouraged.

Proposed Action

The City shall review standards for home occupations as a permitted use in residential areas.

Goal I. *Provide Adequate Public Services*

The City provides efficient essential public facilities and services to accommodate future growth including water and sewer services; storm drainage, public safety; and emergency services.

Policies

1. The City shall provide sufficient quantities of high quality water at adequate pressures to meet the needs of the community. Water quality shall be maintained at a level that meets or exceeds all State and Federal water quality standards.
2. The City shall provide a reliable supply of water to the community through the development and maintenance of an alternate source(s) for use during emergencies or periods of extremely high demand.
3. The City shall promote water saving strategies and techniques. The City shall accomplish this through education, encouragement and, in some cases, requirements for the application of water saving technology.
4. The City shall develop a citywide storm water management infrastructure.
5. The City shall promote a logical, direct, and connected street system through the development of street plans.
6. The City shall identify opportunities to extend and connect streets, provide direct public right-of-way routes, and limit the use of cul-de-sac and other closed-end street designs.
7. The City shall assure that roads and footpaths can be used safely by providing, improving and maintaining effective and efficient street lighting and illuminated traffic signs that contribute to improved environmental standards and community safety.

8. The City shall encourage the formation of local improvement districts (LIDs) for the construction of transportation infrastructure, which may include streets, curbs, or other structures; pedestrian or bicycle facilities and drainage.
9. The City shall require that development projects acknowledge existing conditions and/or hazards which may pose a threat to residents—such as proximity to physical hazards—and the responsibility to mitigate such threats through appropriate site planning, buffering, and other physical design approaches.
10. The City shall encourage utility providers to strengthen, relocate, or take other appropriate measures to safeguard pipelines, underground utilities, transmission lines, and other utility infrastructure in areas subject to elevated natural hazard risk.
11. The City shall maintain an efficient maintenance program to control long-term costs and to establish the most efficient operation of public services.
12. The City shall plan, develop, implement and monitor a comprehensive emergency preparedness and disaster response plan in cooperation with appropriate emergency agencies.
13. The City shall place a high priority on the rapid and effective identification of properties by public safety personnel and emergency response agencies.
14. The City shall require emergency access routes in the approval of developments and subdivisions.
15. The City shall encourage its residents to accept some responsibility for personal safety through emergency medical training in first aid, cardiopulmonary resuscitation (CPR), and similar methods.
16. The City shall investigate the feasibility and desirability of increasing the number of public restrooms.
17. Any current, new or amended water, wastewater or storm water plans shall be incorporated into the Yachats Comprehensive Plan.

Proposed Actions

- a) The City shall continue to upgrade the water collection, filtration, storage, and distribution system, through the efforts of the Public Works Department and an engineer.
- b) The City shall explore methods of funding storm water management infrastructure, such as System Development Charges.
- c) The City shall coordinate with Lincoln County Emergency Services and their public safety policies and procedures.
- d) The City shall provide CERT training to City staff and volunteers.
- e) The City shall develop an emergency incident plan based on the National Incident Management System (NIMS).

Goal J. Meeting Housing Needs

The City encourages a variety of housing choices in appropriate locations to accommodate a range of needs and incomes. The City finds that providing opportunities for affordable housing to meet the needs of people of all income levels as a necessary and desirable goal.

Policies

1. The City shall ensure that sufficient vacant and redevelopable buildable land shall be designated for residential uses to accommodate the projected increases in year-round and part-time populations and to provide a choice of housing location, type and price, to meet the needs of the community.
2. Housing development within the City and Urban Growth Boundary shall proceed at a rate commensurate with the City's ability to provide water and sewer service.
3. The City shall encourage participation in available government and private loan or other programs in order to provide for the housing needs of all income levels.
4. The City shall actively encourage opportunities to create affordable housing.
5. The City recognizes that the private sector, as well as the public sector, contributes to and shares in the responsibility of providing adequate housing opportunities for all segments of the population.
6. Yachats currently has only 25 units of government assisted housing. A recent market study determined that the Yachats-Waldport competitive market area needs 156 additional apartment units for persons earning at or under 60% of area median income ("AMI").

The existing 25 units of government assisted housing at Fisterra Gardens Apartments fill a need for senior housing and housing for disabled persons whose income is at or under 60% of AMI. But participants in the local workforce do not reside there now and historically have not due to the 100 person wait list.

At least 80-90 local workers in Yachats earning at or under 60% of AMI have no government assisted housing available to them – the only housing they can afford. Our current supply of government assisted housing is not meeting the needs of the local workforce earning at or under 60% of AMI.

The City strongly encourages developers to make government assisted housing units available to income eligible persons who are employed in the local area workforce on a preferential basis to the extent allowed by law.

Proposed Actions

- a) The City shall develop procedures for accepting property or funds dedicated to affordable housing.
- b.) The City shall develop an informational pamphlet for distribution to developers illustrating the needs/benefits of affordable housing in Yachats and encouraging them to participate.

Goal K. *Public Involvement in Land Use Planning*

The City encourages the public to participate in governmental decision-making processes by providing policies and procedures and access to public information.

Policies

- 1. The City shall institute a program that enables the community to identify and comprehend relevant issues, obtain public information and participate in public hearings and other forums on issues related to the growth and development of the City.
- 2. The City shall review its comprehensive plan, inventory data information and applicable ordinances, and determine what revisions and/or additions, if any, are appropriate at least every five years. Review through a public process shall be initiated by the City Planning Commission.
- 3. The comprehensive plan for the City shall be filed in the City Office and shall be made available to the public at the City Hall, the online document library, and the Yachats Public Library.
- 4. The City shall follow the notice and procedural requirements of the Oregon Public Meetings law.
- 5. The City shall encourage opportunities for public involvement and networking.

Proposed Action

The City shall continue to use the adopted public involvement plan.

Goal L. *Beaches*

The City shall work to enhance existing access points to its beaches and protect its beaches from erosion and other degradation.

Policy

1. The City shall, in conjunction with applicable County, State and Federal agencies, prohibit residential, commercial and industrial buildings or development on beaches and along waters of the state.
2. The City shall improve public access to the beach and river shores by acquiring land and easements.
3. The City shall consider donations and dedications of land and easements for public access, open space, and habitat protection.
4. The City shall identify appropriate sites for emergency and public access to the beach.
5. The City shall investigate a diverse range of beach access types (pedestrian, official vehicular, view) and a range of amenities (parks, walkways/boardwalks, street ends) while maintaining a balance between resource protection and human use.

Goal M. *Transportation*

The City shall ensure that automobiles, bicyclists and pedestrians can move safely and efficiently to destinations within and beyond Yachats.

Policies

1. The City shall ensure that designated parking areas are maintained in the downtown core.
2. The City shall maintain all City streets to ensure safe passage and emergency access.
3. The City shall require future developments to provide safe, well-marked pedestrian ways that do not conflict with vehicular traffic.
4. The City shall require future developments to provide adequate off-street parking.
5. The City shall require streets created by land divisions to tie into existing and anticipated road systems to provide for cross-circulation.
6. The City shall cooperate with the Oregon Department of Transportation in the development and implementation of their Highway Improvement Program for projects within the Yachats urban growth boundary.
7. The City shall explore options to increase public parking.
8. The City shall explore options to improve traffic flow.
9. The City shall encourage and support alternative transportation where safe passage can be maintained.

10. The current Village Circulation plan and any new or amended plans are incorporated into the Yachats Comprehensive Plan.

IV. Plan Maps

The attached maps depict the preceding policies through identification of land use designations. The City shall use the maps along with the policies to guide decisions pertaining to land use and development within the Urban Growth Boundary. The maps establish long-range land use patterns for the City and represent the City Council's best attempt to accommodate residents' and landowners' input.

V. Definitions

Affordable Housing. As defined by the U.S Department of Housing and Urban Development (HUD).

Coastal Shorelands. Those areas immediately adjacent to the ocean, all estuaries and associated wetlands, and all coastal lakes.

Development. The result of bringing about growth; of constructing or altering a structure, conducting a mining operation, making a physical change in the use or appearance of land, dividing land into parcels; or of creating or terminating rights of access, vegetation removal and/or any construction or placement of facilities on that site.

Estuary. A body of water semi-enclosed by land, connected with the open ocean, and within which salt water is usually diluted by fresh water derived from the land. The estuary includes; (a) estuarine waters (b) tidelands (c) tidal marshes and (d) submerged lands. Estuaries extend upstream to the head of tidewater. In Yachats, all of the waters of the Yachats River within the City limits and urban growth boundary are defined as estuary.

- a. **Natural Estuary.** Estuaries lacking maintained jetties or channels without adjacent urban areas that have altered shorelines (shorelines with bulkheads, riprap or other physical structures). Shorelands around natural estuaries are generally used for agriculture, forest, recreation and other rural uses. They usually have little developed area for residential, commercial or industrial uses.
- b. **Conservation Estuary.** Estuaries lacking maintained jetties or channels but which are within, or adjacent to, urban areas which have altered shorelines adjacent to the estuary.

Low Density Residential. Residential units at a concentration of less than one unit per two acres.

Management Unit. A discrete geographic area, defined by biophysical characteristics and features, within which particular uses and activities are promoted, encouraged, protected or enhanced and others are discouraged restricted or prohibited.

Natural Hazards. Natural events are known to result in death or endanger the natural or built environment. These may include river and ocean flooding, weak foundation soils, landslides, erosion, etc.

Open-space: Open-space Land is any parcel or area of land or water that is essentially unimproved and devoted to an open-space use as following:

- a. Open space for the preservation of the natural resources including, but not limited to, areas required for the preservation of plant and animal life, including habitat for fish and wildlife species; areas required for ecologic and other scientific study purposes; rivers, streams, bays, and estuaries; and coastal beaches, banks of rivers and streams, and watershed lands.
- b. Open space used for the managed production of resources.
- c. Open space for outdoor recreation, including but not limited to, areas of outstanding scenic, historic, and cultural value; areas particularly suited for park and recreation purposes, including access to beaches, and rivers and streams; and areas that serve as links between major recreation and open-space reservations, including utility easements, banks of rivers and streams, trails, and scenic highway corridors.
- d. Open space for public health and safety, including, but not limited to, areas which require special management or regulation because of hazardous or special conditions such as earthquake fault zones, unstable soil areas, flood plains, watersheds, areas presenting high fire risks, areas required for the protection of water quality and water reservoirs, and areas required for the protection and enhancement of air quality.

Overstory. The canopy is the uppermost level of a forest, formed by the tree crowns. Canopy trees refers to the trees in a forest which form the canopy. The uneven layers of the canopy is formed by both dominant and co-dominant trees.

Public Facilities & Services. Projects, activities and facilities that the City determines to be necessary for the public health, safety and welfare. These can include water and sewer service, streets, storm drains, police protection, parks and open space, library services, etc....

Understory: The area of a forest which grows in the shade of the emergent or canopy forest canopy. Plants in the understory consist of a mixture of seedlings and sapplings of canopy trees together with understory shrubs and herbs.

Seasonal low-flow. Minimum flow in a river during the dry periods of the year.

Turbidity. The cloudiness or haziness of a fluid caused by individual particles (suspended solids) that are generally invisible to the naked eye.

Urban Growth Area. That area between the City limits and the Urban Growth Boundary.

Urban Growth Boundary. The geographical limits within which urban growth will be contained.

View Shed. A view shed is an area of land, water and other environmental elements that is visible from a fixed vantage point. The term is used widely in such areas as urban planning, archaeology, and military science. In Urban Planning, for example, view sheds tend to be areas of particular scenic or historic value that are deemed worthy of preservation against development or other change. The preservation of view sheds is a goal in the designation of open space areas, green belts and community separators.

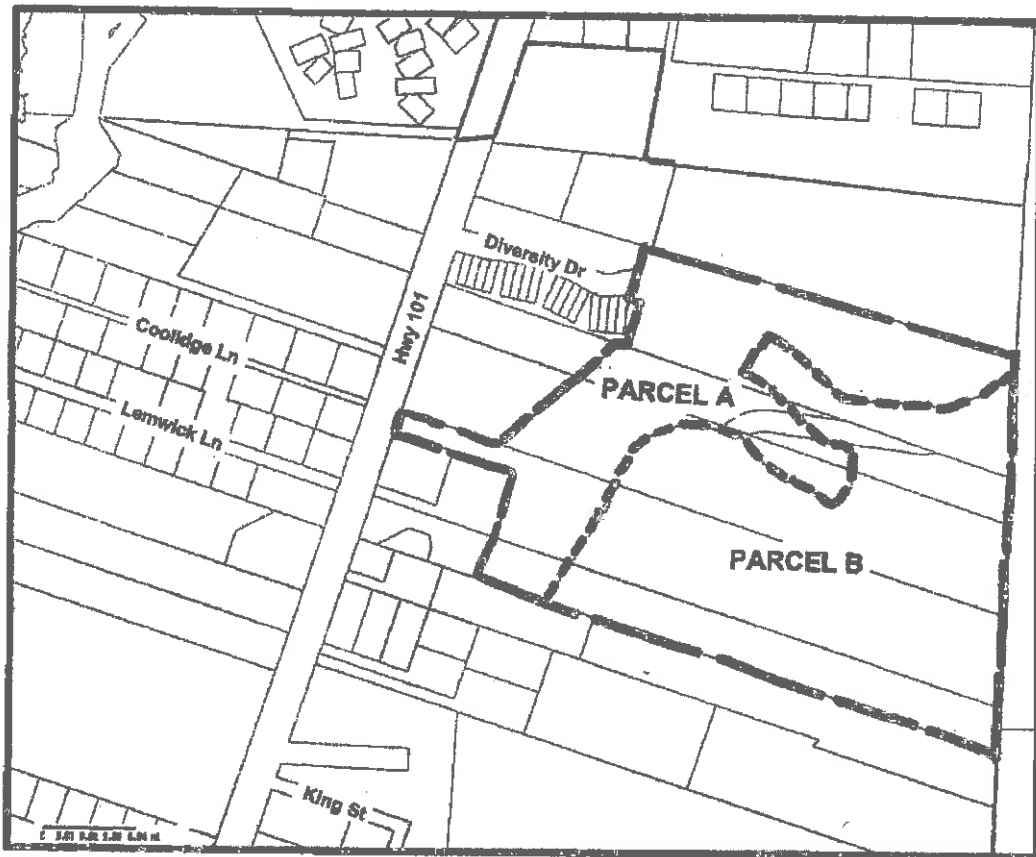
STAFF REPORT

2-Lot Partition Application

OWNER/APPLICANT: Elk Mountain Properties, LLC

A. REPORT OF FACTS

1. Applicant's Request: The applicant proposes to convert seven (7) existing parcels totaling 22.82 acres into two (2) parcels. Proposed Parcel A (northerly lot) totals 8.45 acres and proposed Parcel B (southerly lot) totals 12.37 acres.



2. Property Location: The subject site is located in the northeast portion of Yachats. The site is east of Highway 101 and the Sea-Aire Assisted Living Facility, west of the Siuslaw National Forest, and north of the Yachats Memorial Cemetery, and further identified on Lincoln County Assessors Map #14-12-23CC as tax lots 3100, 1101, 1102, 1103, 1300, 1400, and 1900.
3. Zoning: Residential Zone R-3
4. Plan Designation: Residential

5. Lot Size: The existing lot totals 22.82 acres.
6. Existing Structures: None.
7. Surrounding Land Use: The Fistera Garden Apartments, and Fistera Townhomes (under construction) are located northwest of the subject property. The Sea-Aire Assisted Living Facility and some single family dwellings are located west of the property on the east side of Hwy. 101. The Siuslaw National Forest is located west of the site and undeveloped residential zoned land is located south of the site.
8. Existing Utilities:
Water & Sewer: City of Yachats
Electricity: Central Lincoln PUD
9. Development Constraints: Steep slopes.

B. EVALUATION OF REQUEST

1. Applicant's Proposal: The applicant submitted the application form and fee, and the following material:
 - Narrative including Background, Introduction, The Partitioned Parcels, Fistera PUD, Elements Required for Partition, Surveyor/Civil Engineer, and Conclusion
 - Partial Reconveyance
 - Alta Survey with Legal Description
 - Assessor Parcel Map
 - Proposed Partition Map
 - Access and Utility Easement Map
 - Table with Area Calculations and Approved Dwelling Unit Densities
 - Final Order for Fistera Planned Unit Development

2. Relevant Code Standards:

Yachats Municipal Code Chapter 9.16.020 R-3 Residential Zone Standards

A. Lot Size and Dimensions

1. The minimum lot area shall be six thousand (6,000) square feet for a one-family dwelling; seven thousand five hundred (7,500) square feet for a two-family dwelling; six thousand (6,000) square feet for the first dwelling unit and two thousand five hundred (2,500) square feet for each additional unit in a multifamily dwelling when a lot is served by both a public water supply and public sewage disposal system. However, the maximum density in the R-3 zone shall not exceed twelve (12) dwelling units per acre.
2. (Not applicable)
3. The minimum lot width at the front building line shall be 50 feet for an interior lot and 55 feet for a corner lot when the lot is served by both a public water supply and public sewage system.
4. (Not applicable)
5. The minimum lot depth shall be 80 feet.
6. (Not applicable)
7. (Not applicable)

- B. Yards.** The minimum yard requirements in the R-3 zone shall be as follows:
1. Front yard shall be a minimum of twenty (20) feet.
 2. Each side yard shall be a minimum of either five feet or one foot for each three feet of building height, whichever requirement is greater. Corner side yards shall not be used for clothes lines, incinerators, permanent storage of trailers, boats and recreational vehicles nor shall said yard be used for the regular or constant parking of automobiles or other vehicles.
 3. The street side yard shall be a minimum of twenty (20) feet.
 4. The rear yard shall be a minimum of ten (10) feet, except that on a corner lot it shall be a minimum of either five feet or one foot for each three feet of building height, whichever requirement is the greater.
- C. Building Height.** No building in the R-3 zone shall exceed a height of thirty (30) feet from finished grade or from natural grade see Chapter 9.52.180.
- D. Lot Coverage.** Structures, including, but not limited to buildings, porches and decks shall not occupy more than forty (40) percent of the total lot area.
- E. Off-Street Parking.** Residential dwellings shall have at least two permanent parking spaces per dwelling unit. Such a parking space, garage or carport shall provide for the ingress and egress of a standard size automobile. Each parking space must be at least twenty (20) feet long and nine feet wide. Regular off-street parking shall not be permitted within the required yards adjacent to a street.
- F. General Criteria.** The vehicle and pedestrian access to the site can be safely and efficiently provided and the necessary utility systems and public facilities are available with sufficient supply and distribution capacity. If not provided by the city, it shall be the responsibility of the developer to insure these standards are met.

Yachats Municipal Code Chapter Section 9.56.020 General Requirements and Minimum Standards of Design and Development for Partitions and Subdivisions

The following are the minimum requirements and standards to which partitions and subdivisions must conform before approval:

- A. Conformity to the Comprehensive Plan.** All partitions and subdivisions shall conform with all adopted portions of the comprehensive plan, zoning ordinance and all other adopted plans. Major streets, parkways, parks and recreation areas, community and neighborhood facilities should be placed in approximately the same locations designated by the comprehensive plan.
- B. Access.** The partitioning and subdividing of land shall provide each lot or parcel, by means of a public or private road or street, satisfactory vehicular access to an existing street.
- C. Relation to Adjoining Street System.** A partition or subdivision shall provide for the continuation of the major and secondary streets existing in the adjoining subdivisions or partitions and for their proper projection when the adjoining property is not subdivided. If the planning commission adopts a plan for a neighborhood of which the partition or subdivision is a part, the partition or subdivision shall conform to such adopted neighborhood or area plan. If, in the opinion of the planning commission, topographic conditions make such continuation or conformity impractical, exceptions may be made.

When a tract is partitioned or subdivided into lots of an acre or more, the planning commission may require an arrangement of lots and streets such as to permit a later repartitioning or resubdivision in conformance with the street requirements and other requirements contained in these regulations.

D. Easements.

1. Where alleys are not provided, easements of not less than five feet in width shall be provided on each side of the rear line or side line for necessary utility lines, wires, conduits, storm and sanitary sewers, gas and water. Easements of the same or greater widths may be required along boundary lines or across lots or parcels where necessary for the extension of utility lines, waterways and walkways, and to provide necessary drainage ways or channels.
2. A private easement established without full compliance with these regulations may be approved by the planning commission provided it is the only reasonable method by which the rear portion of an unusually deep lot or parcel may be provided vehicular access.

E. Public Access Ways. When necessary for public convenience and safety, the planning commission may require the land divider to dedicate to the public access ways ten to twenty (20) feet in width to connect to cul-de-sacs, to pass through oddly shaped or unusually long blocks, to provide for a network of public paths according to adopted plans or to provide access to schools, parks, beaches or other public areas, of such design and location as reasonably required to facilitate public use.

F. Lots and Parcels.

1. Every lot and parcel shall abut on a street and the frontage of each shall not be less than twenty-five (25) feet, unless the planning commission grants otherwise.
2. Each side line shall be as close to perpendicular to the adjacent street line or radial to a curved street line as possible.
3. Lots or parcels with double frontage shall not be permitted unless, in the opinion of the planning commission, an odd shaped tract or existing topography makes such lot or parcel unavoidable.
4. Lot and parcel sizes and dimensions shall conform to the requirements for lot size and area of the zoning classification in which the partition or subdivision is located.
5. Lots and parcels under twenty-five thousand (25,000) square feet in area must not exceed a depth to width ratio of two and one-half to one. Lots and parcels over twenty-five thousand (25,000) square feet in area must not exceed a depth to width ratio of three and one-half to one.

G. Performance Agreement. If all improvements required by the planning commission and this title are not completed according to specifications as required herein prior to the time the plat is duly submitted for consideration and approval, the planning commission may accept in lieu of the completion of improvements a performance agreement or bond executed by the partitioner or subdivider and his or her surety company with the city council conditioned upon faithful performance and completion of all such improvements within a period of time stated in such performance agreement and approved by the planning commission.

H. Water. All lots in partitions or subdivisions shall be served by a public water system. No

plat of a partition or subdivision shall be approved unless the city has received and accepted:

1. A certification by the city water Director that water will be available from the nearest point of supply; or
2. A performance agreement, bond contract or other assurance that a water supply system will be installed by or on behalf of the subdivider to every lot or parcel depicted in the proposed partition or subdivision.

I. Sewer. No plat of a partition or subdivision shall be approved unless the city has received and accepted:

1. A certification by the city sewer Director that sewage service will be available at the nearest point of collection; or
2. A performance agreement, bond, contract or other assurance that sewage disposal lines will be installed by or on behalf of the partitioner or subdivider to the boundary line of each and every lot or parcel depicted in the proposed partition or subdivision;
3. Where no sewerage service is available, the Department of Environmental Quality or county health department shall approve the proposed method of sewage disposal adequate to support the proposed use of the land for the partition or subdivision. A statement that no sewerage service is available and that the proposed method of sewage has been approved will be provided to the purchaser of each lot or parcel in the proposed partition or subdivision. A copy of any such statement signed by the partitioner or subdivider and endorsed by the planning commission chair shall be filed by the partitioner or subdivider with the real estate commissioner.

Yachats Municipal Code Chapter Section 9.56.040 Partition Procedure for Dividing Land.

D. Submitting the Plat. Within one year after the approval of the preliminary plan becomes effective, a partition plat shall be submitted to the planning commission for approval which is in substantial conformity to the approved preliminary plan and conditions of approval.

The partition plat shall be prepared by a professional land surveyor who is licensed in the state of Oregon, and shall conform to the surveying requirements in ORS 92.050 through 92.080 and the Lincoln County surveyor's plat standards. In addition to the information as required on the preliminary plan, and the information required by ORS 92, the following information shall be provided:

1. A preliminary title report, lot book report, subdivision guaranty report or equivalent documentation of the ownership of the subject property, issued not more than thirty (30) days prior to the date that the partition plat is submitted for final approval. Such report shall also identify all easements of record;
2. The deed dedicating to the public all common improvements, including but not limited to streets and roads, the donation of which was made a condition of approval of the preliminary plan for the partition;
3. A copy of all protective deed restrictions proposed;
4. The certification, performance agreement, bond, contract or other assurances regarding the availability or installation of water and sewer services as provided in Section 9.56.020;

5. The location of the approved site for the septic system if applicable.

Yachats Municipal Code Chapter 9.56.64 Street Construction and Design, Section 9.64.020 Private Streets

A. General Requirements.

1. Private streets shall provide access only to abutting lots. No street providing access to other streets or to areas not abutting such streets shall be approved as private streets.
2. At such time as a preliminary plan is proposed which includes private streets, all adjacent property owners shall be notified of such proposal and the time and place of the planning commission hearing.
3. A private road shall be approved provided:
 - a. The planning commission is satisfied that such street is not presently needed as a public road;
 - b. It will never be extended through to adjacent property;
 - c. It will not be utilized for public road purposes in the normal growth area.
4. Modification of private street requirements and/or standards shall be approved only:
 - a. For street creation in areas where because of topographical or geological conditions full compliance or strict adherence to the standards and requirements would prevent reasonable access to the area; or
 - b. For access created to not more than three lots.
5. Yard setbacks shall be determined from the road right-of-way or access easement line in instances where private roads are considered.

B. Standards for Private Streets.

1. Private road right-of-way may be approved of less than fifty (50) feet in width except that the right-of-way width shall not be less than ten percent of the road length and in no instance shall the road right-of-way be less than thirty (30) feet except that a private road to two lots may be twenty (20) feet in width. In all instances where the road access is less than fifty (50) feet in width a ten foot utility easement on each side of the road right-of-way or easement shall be provided.
2. Improvements on private roads shall be the same as those for public roads providing access to similar development, and shall adhere to all provisions of Chapter 7.04.

3. **Public Testimony:** At the time this staff report was prepared, no written testimony was provided to the city.

C. STAFF ANALYSIS

1. **R-3 Standards.** The following table identifies the applicable R-3 standards and the proposed 2-lot partition.

Standard	Minimum Requirement	Proposed Parcel 1	Proposed Parcel 2
Lot Size	6,000 sq. ft.	8.45 acres (368,082 sq. ft.)	12.37 acres (538,837.2 sq. ft.)
Lot Width at front bldg. line	50 ft. for interior lot 55 ft. for corner lot	~725 ft.	~500 ft.
Avg. Lot Depth	80 ft.	~500 ft.	~1,000 ft.

The above table demonstrates the two proposed parcels meet the minimum R-3 lot size, lot width and lot depth standards.

2. Partitions. General Requirements and Minimum Standards of Design and Development for Partitions and Subdivisions

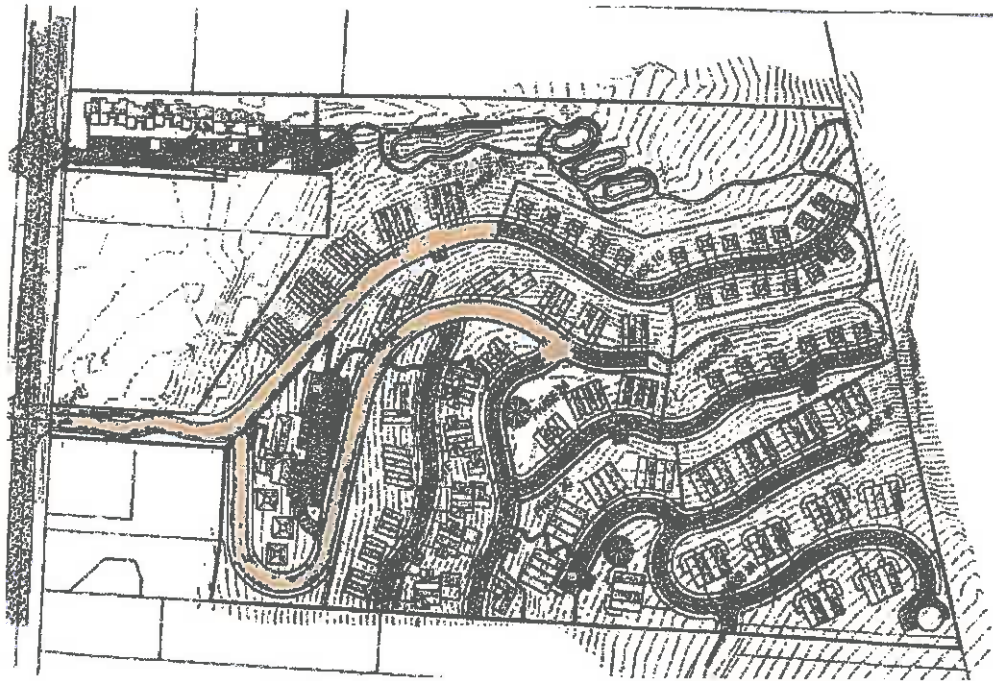
a. Conforms with the Comprehensive Plan and Zoning Ordinance.

Applicant Response: The City of Yachats Comprehensive Plan allows multifamily residential use on the Property and Property is currently zoned R-3. The Final Order granted modifications to certain of the R-3 requirements.

b. Access.

Applicant Response: Parcel A and the lower elevations of Parcel B have access from Highway 101 as shown on Exhibit B. The upper elevations of Parcel B have access from Elk Mountain Road over the Creekside subdivision, the Cemetery Property, and other properties between the Cemetery Property and the upper elevations of Parcel B, as shown on Exhibit B.

Staff Analysis: The access is consistent with the preliminary approval of the Planned Unit Development (PUD). Upon approval of this partition application, it is recommended to include a condition that the lower portion of Parcel B shall have legal access from Highway 101 through Parcel A as shown on the submitted plan. Item 'e. Easements' below provides the Applicant's proposal to grant an easement for access and utilities to Parcel B.



c. Relation to Adjoining Street System.

Applicant Response: The Final Order describes the relation of the Property to the adjoining street system and describes the interior streets proposed for the Property. In particular, Fistera PUD is required to include an alignment for Elk Mountain Road coming from the South which is designated as Diversity Drive on the approved Tentative Plan for Fistera but was changed to Elk Mountain Road as acknowledged in the Final Order.

d. Easements.

Applicant Response: Easements on Parcel A and Parcel B will include all those shown on the approved Tentative Plan for Fistera. In addition, as a condition of the Partition, Elk Mountain Properties will grant an easement for access and utilities over Parcel A to Larry Claussen and his principals for access to Phases 1C, 1E, 2A, and 2B.

e. Public Access Ways.

Applicant Response: There will be no changes to the provisions made in the Final Order for public accessways.

f. Lots and Parcels.

Applicant Response: Lots and Parcels on Parcel A and Parcel shall be as described and approved in the Final Order.

g. Performance Agreement.

Applicant Response: If any plat within the Property is to be recorded prior to construction of the required improvements, Applicants will post the required Performance Agreement.

h. Water and Sewer.

Applicant Response: Water and Sewer will be provided by the City subject to all the terms and conditions of the Final Order.

3. Conformance with Fistera PUD Preliminary Plan Approval.

Staff Analysis. City staff verifies that the proposed partition application is consistent with the 2016 preliminary approval of the Fistera PUD.

D. CONCLUSIONS

If the request is denied, the Planning Commission should state the general reasons and facts relied on, and direct staff to prepare findings for adoption at the next meeting. If the request is approved, staff offers the following recommended conditions of approval, which may be added to or amended at the Commission's discretion:

1. Within one year after the approval of this preliminary plan becomes effective, a partition plat shall be submitted to the City Planner for approval which is in substantial conformity to the approved proposed partition plat and conditions of approval. Any substantial change to the approved preliminary plan shall require a new application.

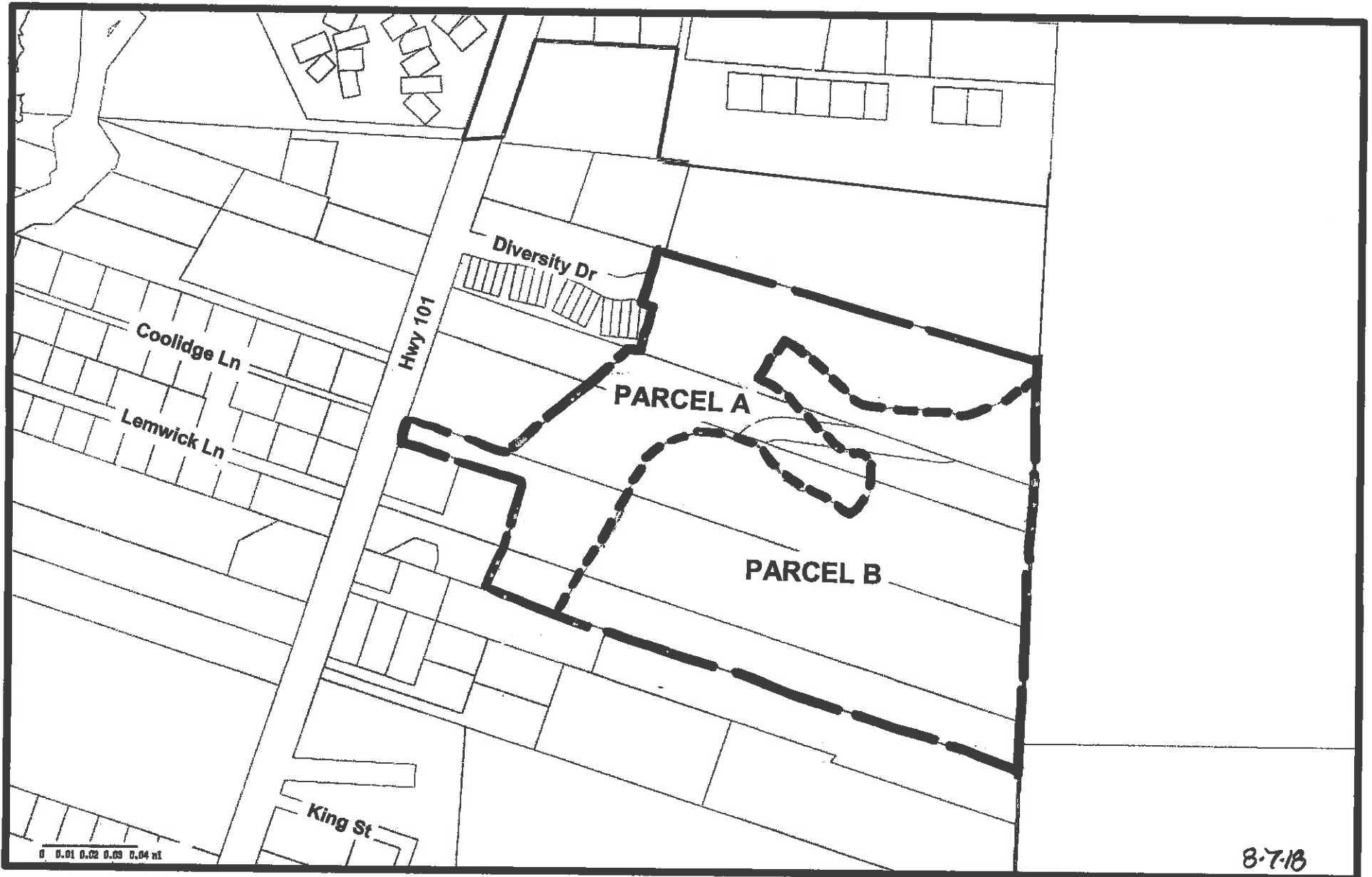
The partition plat shall be prepared by a professional land surveyor who is licensed in the state of Oregon, and shall conform to the surveying requirements in ORS 92.050 through 92.080 and the Lincoln County surveyor's plat standards.

2. Parcel B shall have access and utility easements from Highway 101 through Parcel A as shown on the submitted partition plan. The easements shall be shown on the partition plat.

Submitted by,

Larry Lewis
City Planner

Enclosures: Vicinity Map
Applicant's Partition Application



8-7-18

Printed 07/31/2018

Lincoln County government use only. Use for any other purpose is entirely at the risk of the user. This product is for informational purposes and may not have been prepared for, or be suitable for legal, engineering, or surveying purposes. Users should review the primary information sources to ascertain their usability.



**CITY OF YACHATS
PLANNING COMMISSION**

June 28, 2018

PARTITION APPLICATION

ELK MOUNTAIN PROPERTIES LLC

**K. Layne Morrill
P.O. Box 108
Yachats, Oregon 97498-0108
541-547-3108
541-547-3408 (Facsimile)
klaynemorrill@gmail.com**

**8857 N. 63rd Place
Paradise Valley, Arizona, 85253
602-432-6291
480-584-3157 (Facsimile)
klaynemorrill@gmail.com**

TABLE OF CONTENTS

BACKGROUND	1
INTRODUCTION	1
THE PARTITIONED PARCELS	2
FISTERRA PUD	2
ELEMENTS REQUIRED FOR PARTITION	2
SURVEYOR/CIVIL ENGINEER.....	4
CONCLUSION.....	4

BACKGROUND

This Partition Application relates to approximately 20.82 acres (906,919.20 square feet) of real property located in the City of Yachats (the "Property"). All of the Property is located in Map 14-12-23-CC and the Property consists of Assessor Parcels -03100, -01101, -01102, -01103, -01300, -01400, and -01900.

The Property is currently owned by Elk Mountain Properties, LLC, an Oregon limited liability company. One portion of the property (the "Released Property") has been released from a seller carryback Trust Deed by Partial Reconveyance recorded on October 5, 2015, as Instrument No. 2015-10001 of the records of Lincoln County. One objective of this Partition Application is to consolidate the Released Property into a single parcel (the "Released Parcel").

The remainder of the property (the "Unreleased Property") is still subject to a seller carryback Trust Deed (the "Seller Carryback") recorded on October 24, 2006 as Instrument No. 2006-16260, as modified by Amended and Restated Trust Deed recorded April 6, 2009 at Instrument No. 2009-04002, as partially assigned by Assignment of Beneficial Interest recorded December 27, 2012 as Instrument No. 2012-12503, as modified by Modification to Restated Trust Deed recorded August 18, 2015 at Instrument No. 2015-08364 (collectively the "Seller Carryback"). The other objective of this Partition Application is to consolidate the Unreleased Property in a single parcel ("Parcel B") which Elk Mountain Properties LLC will convey to the holders of the Seller Carryback in exchange for cancellation of the non-recourse debt secured by the Seller Carryback.

After the Partition and conveyance, seven parcels will have become two parcels – Parcel A owned by Elk Mountain Properties LLC and Parcel B, owned by Larry Claussen and his principals.

Pursuant to Section 9.56.040A of the Yachats City Code, Applicant and Larry Claussen had a preliminary conversation with Larry Lewis, Planning Director, concerning the proposed Partition in January 2018.

INTRODUCTION

The Property that will become Parcel A is described in the recorded Partial Reconveyance, a copy of which is attached hereto as **Exhibit A**.

The Property that will become Parcel B is described as the entire Property except Parcel A. Attached as **Exhibit B** is a copy of an Alta Survey which contains the legal description of the entire Property (as well as some other parcels previously sold). An Assessor parcel map on which are outlined in blue the Assessor Parcels making up the Property is attached as **Exhibit C**.

On **Exhibit D**, Parcel A is highlighted in yellow, and Parcel B is highlighted in pink.

The area over which the owner of Parcel B will be granted easements for access and utilities over Parcel A is highlighted in orange on **Exhibit E**.

A copy of the completed City of Yachats Partition/Subdivision Form is attached as **Exhibit F**.

THE PARTIONED PARCELS

The entire Property, according to the Survey, contains approximately 20.82 acres (906,919.20 square feet). This is the sum of the area for Phase 1B, 1C, 1D, 1E, 2A, 2B, 3A, 3B, and 3C shown on **Exhibit D**. (Phase 1A on the approved preliminary plan was previously sold to a third party and is owned by Fisterra Gardens Apartments Limited Partnership.)

Parcel A will contain approximately 8.45 acres (368,082 square feet). This is the sum of the area for Phase 1B and 1D shown on **Exhibit D**.

Parcel B will contain approximately 12.37 acres (538,837.20 square feet). This is the Property total less the area of Parcel A.

Exhibit G summarizes the areas and approved dwelling unit densities of the portions of the Property making up Parcel A and Parcel B.

FISTERRA PUD

The Property is currently part of the Fisterra PUD (Case File #1-PD-PC-07 (mod#3 9-27-16) (the "Findings and Order") along with other lands that are not part of the Property. The Final Order contains approval for a total of 178 dwelling units in the Fisterra PUD, subject to the terms and conditions set forth therein. A copy of the Final Order is attached as **Exhibit H**.

Land that is part of Fisterra PUD but is not part of the Property has 46 approved dwelling units (25 units in Fisterra Gardens Apartments north of Diversity Drive and 21 units in Fisterra Gardens Townhomes currently under construction south of Diversity Drive.) As a result of the completed construction of Fisterra Garden Apartments and the construction in progress at Fisterra Gardens Townhomes, Elk Mountain Properties LLC's right to develop the Property in accordance with the Final Order has become a vested property right.

Total density allowed for the Property under the Final Order is 132 (178 minus 46).

Of the remaining approved density of the Property, 50 dwelling units are allocable to Parcel A and 82 dwelling units are allocable to Parcel B.

ELEMENTS REQUIRED FOR PARTITION APPLICATION

Section 9.56.020 of the Yachats City Code sets forth the general requirements and minimum standards that must be addressed for approval of a Partition. Each of these is addressed below:

1. Conformity to the Comprehensive Plan and Zoning Ordinance.

The City of Yachats Comprehensive Plan allows multifamily residential use on the Property and the Property is currently zoned R-3. The Final Order granted modifications to certain of the R-3 requirements.

2. Access.

Parcel A and the lower elevations of Parcel B have access from Highway 101 as shown on Exhibit B. The upper elevations of Parcel B have access from Elk Mountain Road over the Creekside subdivision, the Cemetery Property, and other properties between the Cemetery Property and the upper elevations of Parcel B, as shown on Exhibit B.

3. Relation to Adjoining Street System.

The Final Order describes the relation of the Property to the adjoining street system and describes the interior streets proposed for the Property. In particular, Fisterra PUD is required to include an alignment for Elk Mountain Road coming from the South which is designated as Diversity Drive on the approved Tentative Plan for Fisterra but was changed to Elk Mountain Road as acknowledged in the Final Order.

4. Easements.

Easements on Parcel A and Parcel B will include all those shown on the approved Tentative Plan for Fisterra. In addition, as a condition of the Partition, Elk Mountain Properties will grant an easement for access and utilities over Parcel A to Larry Claussen and his principals for access to Phases 1C, 1E, 2A, and 2B.

5. Public Accessways.

There will be no changes to the provisions made in the Final Order for public accessways.

6. Lots and Parcels.

Lots and Parcels on Parcel A and Parcel B shall be as described and approved in the Final Order.

7. Performance Agreement.

If any plat within the Property is to be recorded prior to construction of the required improvements, Applicants will post the required Performance Agreement.

8. Water and Sewer.

Water and Sewer will be provided by the City subject to all the terms and conditions of the Final Order.

SURVEYOR/CIVIL ENGINEER

Upon Planning Commission Approval of the Partition, Applicant will engage Peter Seaders of MSS, Inc., in Corvallis to prepare the final partition plat.

CONCLUSION

Applicants have undertaken the actions and submitted the information necessary for approval of this Partition Application. Applicants therefore request that the Planning Commission approve this Partition Application.

EXHIBITS

Tab A	Recorded Partial Reconveyance Instrument No. 2015-1001
Tab B	Alta Survey of the Property (and Phase 1A on the preliminary plan)
Tab C	Assessor Parcel Map
Tab D	Assessor Parcel Map with Parcel A (Yellow) and Parcel B (Pink)
Tab E	Assessor Parcel Map with easements for access and utilities (orange)
Tab F	City of Yachats Partition/Subdivision Form
Tab G	Table of Areas Making Up Parcels A and B and Related Densities
Tab H	Final Order

Recorded by First American
Title Insurance Co.
Order # 15-0316

First American Title Accommodates
Recording Assumes No Liability

AFTER RECORDING RETURN TO:

K. Layne Morrill
Morrill & Aronson, P.L.C.
One E. Camelback Road, Suite 340
Phoenix, Arizona 85012

Lincoln County, Oregon
10/05/2015 01:31:14 PM
DOC-PR/REC

2015-10001

Cnt=1 Pgs=8 Stn=20

\$40.00 \$11.00 \$20.00 \$10.00 \$7.00 - Total=\$88.00



00110812201500100010080082

I, Dana W. Jenkins, County Clerk, do hereby certify
that the within instrument was recorded in the Lincoln
County Book of Records on the above date and time.
WITNESS my hand and seal of said office affixed.

Dana W. Jenkins, Lincoln County Clerk



PARTIAL RECONVEYANCE

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, Trustee under that certain Trust Deed Recorded October 24, 2006 at Document No. 2006-16260, as modified by Amended and Restated Trust Deed recorded April 6, 2009 at Document No. 2009-04002, as partially assigned by Assignment of Beneficial Interest recorded December 27, 2012 as Document No. 2012-12503, as modified by Modification to Restated Trust Deed recorded August 18, 2015 at Document No. 2015-08364 (the "Modification"), Records of Lincoln County, Oregon (collectively, the "Trust Deed") executed and delivered by Elk Mountain Properties, LLC, an Oregon limited liability company, as Grantor and in which Larry Claussen and others are named as Beneficiary, having received from the Grantor under the Trust Deed, a written request accompanied by the evidence required for a partial release under Section 6.17(2) of the Trust Deed (as reflected in the Modification), to reconvey a portion of the real property covered by the Trust Deed (the "Property"), does hereby, for value received, grant, bargain, sell and convey, but without any covenant or warranty, express or implied, to the person or persons legally entitled thereto, all of the estate held by the undersigned in and to the following described portion of the Property, to-wit:

See Exhibits A and B attached hereto which by this reference are incorporated herein.

The remaining Property shall continue to be held by the Trustee under the terms of the Trust Deed. This partial reconveyance is made without affecting the liability of any person for payment of the indebtedness secured by the Trust Deed.

IN WITNESS WHEREOF, the undersigned Trustee has executed this document; if the undersigned is a corporation, it has caused its name to be signed and seal affixed by an officer duly authorized thereto by order of the Board of Directors.

DATED: ~~August~~ ^{October} 5, 2015

FIRST AMERICAN TITLE INSURANCE
COMPANY OF OREGON

By: Lamin D. Dawarun
Its: authorized representative

STATE OF OREGON)
)
County of Lincoln)

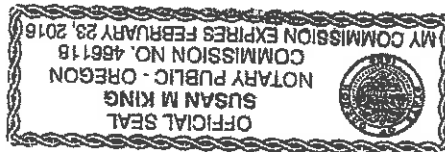
This document was acknowledged before me on October 5, 2015, by Laurie D. Garbarino, the authorized representative of First American Title Company of Oregon.



Notary Public

My Commission Expires:

February 23, 2016



STATE OF OREGON)
)
County of Lincoln)

This document was acknowledged before me on October 5, 2015, by Laurie D. Garbano, the authorized representative of First American Title Company of Oregon.



Notary Public

My Commission Expires:

February 23, 2016

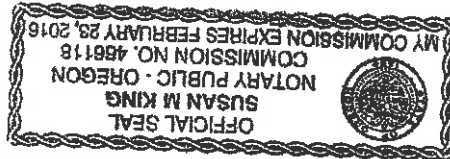


EXHIBIT A
(Legal Description of Fistera Phase 1B)

EXHIBIT A

Description of Fistera PUD
(Yachats Planning Commission No. 1-PD-PC-07)
Phase 1B

An area of land further described as follows:

COMMENCING at the West 1/16 corner between Section 23 and Section 26, Township 14 South, Range 12 West of the Willamette Meridian as being marked by a set 2-1/2" Brass cap dated 1966 per Lincoln County Survey C.S. 3137;
Thence along the East line of the Southwest Quarter of the Southwest Quarter of said Section 23, Township 14 South, Range 12 West, North 00°02'34" West, 295.46 feet to a point;
Thence continuing along said East line North 00°02'34" West, 129.18 feet to a point;
Thence continuing along said East line North 00°02'34" West, 129.71 feet to a point;
Thence continuing along said East line North 00°02'34" West, 222.20 feet to the POINT OF BEGINNING;

Thence South 56°02'12" West, 137.69 feet to a point;
Thence North 89°47'19" West, 250.91 feet to a point;
Thence North 54°30'25" West, 226.30 feet to a point;
Thence South 33°07'53" West, 103.78 feet to a point;
Thence along a 180.00 foot radius curve to the left, an arc distance of 76.65 feet (the long chord bears North 86°33'38" West, 76.07 feet) to a point;
Thence South 81°14'25" West, 9.05 feet to a point;
Thence South 08°32'16" East, 13.00 feet to a point;
Thence South 81°14'25" West, 20.00 feet to a point;
Thence North 08°58'51" West, 13.00 feet to a point;
Thence South 81°14'25" West, 30.10 feet to a point;
Thence along a 230.00 foot radius curve to the left, an arc distance of 107.76 feet (the long chord bears South 67°49'03" West, 106.78 feet) to a point;
Thence South 54°23'42" West, 260.93 feet to a point;
Thence South 59°41'21" West, 69.53 feet to northeast corner of Parcel 2 Lincoln County Partition Plat 1998-12 being marked by a 5/8" iron rod with yellow plastic cap inscribed "John Hanna RLS 306";
Thence along the northerly boundary of said Partition Plat 1998-12, North 74°14'45" West, 289.71 feet to the easterly margin of Highway 101 being marked by a 5/8" iron rod with yellow plastic cap inscribed "John Hanna RLS 306";
Thence northerly along said easterly margin North 15°46'56" East, 50.13 feet to a 5/8" iron rod with yellow plastic cap inscribed "John Hanna RLS 306";
Thence leaving said easterly margin South 74°12'56" East, 234.77 feet to a 5/8" iron rod with yellow plastic cap inscribed "Nyhus LS 2515";
Thence North 46°36'43" East, 232.51 feet to a 5/8" iron rod with yellow plastic cap inscribed "Nyhus LS 2515";

EXHIBIT A

Description of Fistera PUD
(Yachats Planning Commission No. 1-PD-PC-07)
Phase 1B

An area of land further described as follows:

COMMENCING at the West 1/16 corner between Section 23 and Section 26, Township 14 South, Range 12 West of the Willamette Meridian as being marked by a set 2-1/2" Brass cap dated 1966 per Lincoln County Survey C.S. 3137;
Thence along the East line of the Southwest Quarter of the Southwest Quarter of said Section 23, Township 14 South, Range 12 West, North 00°02'34" West, 295.46 feet to a point;
Thence continuing along said East line North 00°02'34" West, 129.18 feet to a point;
Thence continuing along said East line North 00°02'34" West, 129.71 feet to a point;
Thence continuing along said East line North 00°02'34" West, 222.20 feet to the POINT OF BEGINNING:

Thence South 56°02'12" West, 137.69 feet to a point;
Thence North 89°47'19" West, 250.91 feet to a point;
Thence North 54°30'25" West, 226.30 feet to a point;
Thence South 33°07'53" West, 103.78 feet to a point;
Thence along a 180.00 foot radius curve to the left, an arc distance of 76.65 feet (the long chord bears North 86°33'38" West, 76.07 feet) to a point;
Thence South 81°14'25" West, 9.05 feet to a point;
Thence South 08°32'16" East, 13.00 feet to a point;
Thence South 81°14'25" West, 20.00 feet to a point;
Thence North 08°58'51" West, 13.00 feet to a point;
Thence South 81°14'25" West, 30.10 feet to a point;
Thence along a 230.00 foot radius curve to the left, an arc distance of 107.76 feet (the long chord bears South 67°49'03" West, 106.78 feet) to a point;
Thence South 54°23'42" West, 260.93 feet to a point;
Thence South 59°41'21" West, 69.53 feet to northeast corner of Parcel 2 Lincoln County Partition Plat 1998-12 being marked by a 5/8" iron rod with yellow plastic cap inscribed "John Hanna RLS 306";
Thence along the northerly boundary of said Partition Plat 1998-12, North 74°14'45" West, 289.71 feet to the easterly margin of Highway 101 being marked by a 5/8" iron rod with yellow plastic cap inscribed "John Hanna RLS 306";
Thence northerly along said easterly margin North 15°46'56" East, 50.13 feet to a 5/8" iron rod with yellow plastic cap inscribed "John Hanna RLS 306";
Thence leaving said easterly margin South 74°12'56" East, 234.77 feet to a 5/8" iron rod with yellow plastic cap inscribed "Nyhus LS 2515";
Thence North 46°36'43" East, 232.51 feet to a 5/8" iron rod with yellow plastic cap inscribed "Nyhus LS 2515";

Thence continuing North 46°36'43" East, 116.28 feet to a 5/8" iron rod with yellow plastic cap inscribed "Nyhus LS 2515" marking the southerly boundary of Lincoln County Fistera Planned Unit Development Phase I being recorded as Book 18 Page 25, Lincoln County, Oregon Plat Records;

Thence following along the southern and eastern boundary of said Planned Unit Development the following courses:

South 74°12'56" East, 22.22 feet to a 5/8 inch iron rod with yellow plastic cap inscribed "John Hanna RLS 306";

Thence North 15°47'55" East, 99.94 feet to a 5/8 inch iron rod with yellow plastic cap inscribed "John Hanna RLS 306";

Thence North 74°12'27" West, 25.99 feet to a 5/8 inch iron rod with yellow plastic cap inscribed "77369LS";

Thence North 13°10'49" East, 125.66 feet to the northeast corner of said Planned Unit Development being marked by a 5/8 inch iron rod with yellow plastic cap inscribed "77369LS";

Thence leaving the boundary of said Planned Unit Development, South 76°49'11" East, 868.02 feet, more or less, to a 5/8 inch iron rod with yellow plastic cap inscribed "John Hanna RLS 306" marking said East line of the Southwest Quarter of the Southwest Quarter of Section 23;

Thence along said East line South 00°02'34" East, 60.96 feet to the POINT OF BEGINNING;

all being within the Southwest Quarter of the Southwest Quarter of Section 23 and the Southeast Quarter of the Southeast Quarter of Section 22, Township 14 South, Range 12 West, Willamette Meridian, Lincoln County, Oregon.

Containing: 5.14 Acres

Basis of Bearing: Lincoln County Survey C.S. 17936



David H. Wellman

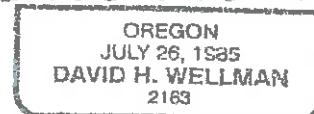


EXHIBIT B
(Legal Description of Fistera Phase 1D)

EXHIBIT B
(Legal Description of Fistera Phase 1D)

EXHIBIT B

Description of Fistera PUD
(Yachats Planning Commission No. 1-PD-PC-07)
Phase 1D

An area of land further described as follows:

COMMENCING at the West 1/16 corner between Section 23 and Section 26, Township 14 South, Range 12 West of the Willamette Meridian as being marked by a set 2-1/2" Brass cap dated 1966 per Lincoln County Survey C.S. 3137;
Thence along the East line of the Southwest Quarter of the Southwest Quarter of said Section 23, Township 14 South, Range 12 West, North 00°02'34" West, 295.46 feet to a point;
Thence continuing along said East line North 00°02'34" West, 129.18 feet to a point;
Thence continuing along said East line North 00°02'34" West, 129.71 feet to a point;
Thence South 89°10'16" West, 342.86 feet to the POINT OF BEGINNING;

Thence South 20°40'04" West, 82.84 feet to a point;
Thence North 63°52'15" West, 34.44 feet to a point;
Thence North 80°22'19" West, 50.42 feet to a point;
Thence along a 172.06 foot radius non-tangent curve to the right, an arc distance of 86.77 feet (the long chord bears North 65°44'46" West, 85.85 feet) to a point;
Thence North 42°54'48" West, 62.18 feet to a point;
Thence along a 180.00 foot radius curve to the left, an arc distance of 112.70 feet (the long chord bears North 61°44'57" West, 110.87 feet) to a point;
Thence continuing along a 180.00 foot radius curve to the left, an arc distance of 234.81 feet (the long chord bears South 62°56'38" West, 218.51 feet) to a point;
Thence South 25°34'24" West, 248.14 feet to a point;
Thence South 25°34'24" West, 88.95 feet to a point;
Thence North 74°16'54" West, 185.97 feet to the southeast corner of Parcel 1 Lincoln County Partition Plat 1999-5 being marked by a 5/8" iron rod with yellow plastic cap inscribed "John Hanna RLS 306";
Thence northerly along easterly boundary of said plat North 21°56'28" East, 100.55 feet to the northeast corner of said Parcel 1 and further being the southeast corner of Parcel 2 of Lincoln County Partition Plat 1998-12, being marked by a 5/8" iron rod with yellow plastic cap inscribed "John Hanna RLS 306";
Thence along the easterly boundary of said Partition Plat 1998-12, North 15°45'19" East, 149.94 feet to the northeast corner of Parcel 2 Lincoln County Partition Plat 1998-12 being marked by a 5/8" iron rod with yellow plastic cap inscribed "John Hanna RLS 306";
Thence North 59°41'21" East, 69.53 feet to a point;
Thence North 54°23'42" East, 260.93 feet to a point;
Thence along a 230.00 foot radius curve to the right, an arc distance of 107.76 feet (the long chord bears North 67°49'03" East, 106.78 feet) to a point;
Thence North 81°14'25" East, 30.10 feet to a point;

Thence South 08°58'51" East, 13.00 feet to a point;
Thence North 81°14'25" East, 20.00 feet to a point;
Thence North 08°32'16" West, 13.00 feet to a point;
Thence North 81°14'25" East, 9.05 feet to a point;
Thence along a 180.00 foot radius curve to the right, an arc distance of 76.65 feet (the long chord bears South 86°33'38" East, 76.07 feet) to a point;
Thence continuing along a 180.00 foot radius curve to the right, an arc distance of 81.95 feet (the long chord bears South 61°19'04" East, 81.25 feet) to a point;
Thence South 48°16'28" East, 127.70 feet to a point;
Thence along a 120.00 foot radius curve to the left, an arc distance of 104.07 feet (the long chord bears South 73°07'07" East, 100.84 feet) to a point;
Thence South 00°27'55" East, 42.37 feet to the POINT OF BEGINNING;
all being within the Southwest Quarter of the Southwest Quarter of Section 23, Township 14 South, Range 12 West, Willamette Meridian, Lincoln County, Oregon.

Containing: 3.45 Acres

Basis of Bearing: Lincoln County Survey C.S. 17936

REGISTERED
PROFESSIONAL
LAND SURVEYOR

David H. Wellman

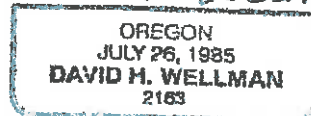
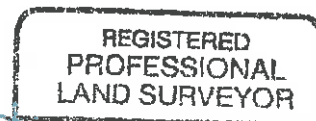
OREGON
JULY 26, 1985
DAVID H. WELLMAN
2163

RENEWS: *June 30, 2016*

Thence South 08°58'51" East, 13.00 feet to a point;
Thence North 81°14'25" East, 20.00 feet to a point;
Thence North 08°32'16" West, 13.00 feet to a point;
Thence North 81°14'25" East, 9.05 feet to a point;
Thence along a 180.00 foot radius curve to the right, an arc distance of 76.65 feet (the long chord bears South 86°33'38" East, 76.07 feet) to a point;
Thence continuing along a 180.00 foot radius curve to the right, an arc distance of 81.95 feet (the long chord bears South 61°19'04" East, 81.25 feet) to a point;
Thence South 48°16'28" East, 127.70 feet to a point;
Thence along a 120.00 foot radius curve to the left, an arc distance of 104.07 feet (the long chord bears South 73°07'07" East, 100.84 feet) to a point;
Thence South 00°27'55" East, 42.37 feet to the POINT OF BEGINNING;
all being within the Southwest Quarter of the Southwest Quarter of Section 23, Township 14 South, Range 12 West, Willamette Meridian, Lincoln County, Oregon.

Containing: 3.45 Acres

Basis of Bearing: Lincoln County Survey C.S. 17936



1.2

(ALTA / ACSW LAND TITLE SURVEY)

PARCELS 2, PARTITION PLAT 150 S, FILED FOR RECORD MARCH 23, 1988, LINCOLN COUNTY, OREGON TOGETHER WITH A NON-EXCLUSIVE EASEMENT FOR HIGHWAY AND UTILITIES AS SET FORTH IN AGREEMENT RECORDED MAY 27, 1976 IN BOOK 18, PAGE 1786, MICROFILM RECORDS.

R. M. Allen
 DATE: 9-18-66
 RECEIPT NO: 2685



- 1 TITLE DESCRIPTION
- 2 TITLS INFORMATION
- 3 SCHEDULE "B" ITEMS
- 4 SURVEYOR CERTIFICATION
- 5 APPARENT ENCROACHMENTS
- 6 SURVEYOR'S NOTES
- 7 BASIS OF MEASUREMENTS
- 8 LAND AREA
- 9 BUILDING AREA
- 10 BUILDING HEIGHT
- 11 FLOOD INFORMATION
- 12 ZONING INFORMATION
- 13 PARKING INFORMATION
- 14 VICINITY MAP
- 15 SCALE
- 16 LEGEND

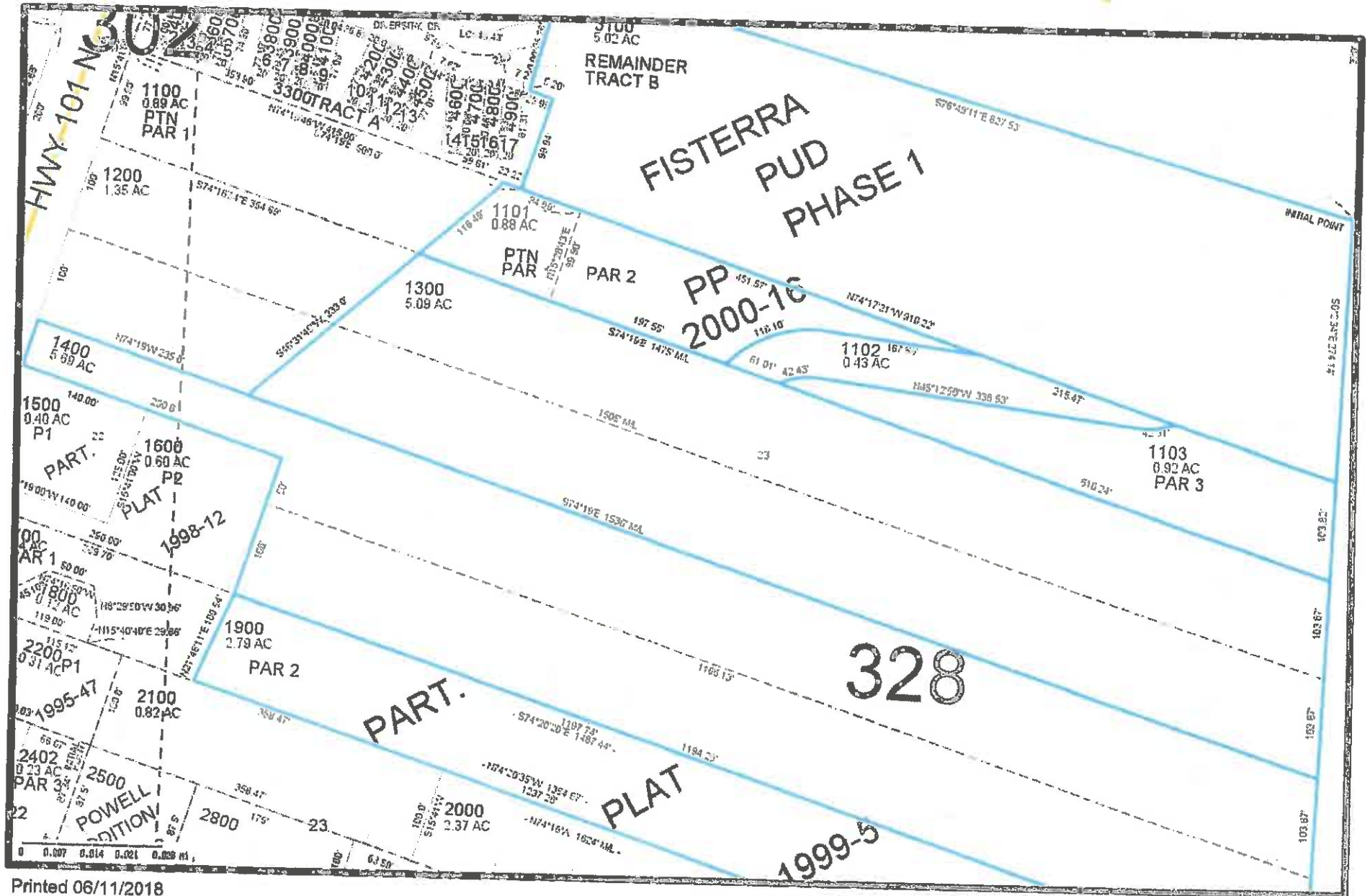
FLOOD INFORMATION
 CITY OF CHICAGO, PLANNING COMMISSION, THE PROPERTY IS IN ZONE "D" OF THE FLOOD INSURANCE RATE MAP, COMMUNITY PANEL NO. 10135 AND IS IN A FLOOD HAZARD AREA. AN EFFECTIVE DATE OF 05-01-1979 AND IS NOT IN A SPECIAL FLOOD HAZARD AREA. NO FLOOD SURVEYING HAS BEEN PERFORMED TO DETERMINE THIS ZONE AND AN ELEVATION CERTIFICATE MAY BE NEEDED TO VERIFY THIS DETERMINATION. TO APPLY FOR FINANCIAL FROM THE FEDERAL EMERGENCY MANAGEMENT AGENCY, ZONE "D" DENOTES AREAS OF MODERATE FLOODING.

[illegible]

PREPARED FOR		PROJECT ADDRESS: 15 ELK MOUNTAIN ROAD	
WESTERN ENVIRONMENTAL CONSTRUCTION CORPORATION		PROJECT LOCATION: YACHTA, OREGON	
		PROJECT NAME: ELK MOUNTAIN SUBDIVISION	
PROJECT	05-024	FIELD DATE	7/25/08
DRAWN BY:	J.S.M.	CHECKED BY:	L.M.A.
		SCALE	1" = 100'
		DWG. NO.	05-024-003G
DATE	5/2/08	REVISION	J.S.M.
DATE		REVISION	

Elk Mountain Properties LLC

Assessor Parcels



Printed 06/11/2018

Lincoln County government use only. Use for any other purpose is entirely at the risk of the user. This product is for informational purposes and may not have been prepared for, or be suitable for legal, engineering, or surveying purposes. Users should review the primary information sources to ascertain their usability.



PARCEL A

PARCEL B

PHASE AREA:	
PHASE #	ACRES
PA	1.81
PH	0.53
PD	1.00
PI	3.32
PO	0.47
PHASE 1 TOTAL ACRES = 7.13	
PH	0.48
PI	1.00
PHASE 2 TOTAL ACRES = 1.48	
PH	0.53
PI	0.95
PO	1.07
PHASE 3 TOTAL ACRES = 4.17	

TOTAL SITE AREA = 22.03 AC

TOTAL AREA SUMMARY		
AREA	AREA (AC)	% OF TOTAL
IMPERVIOUS	1.2	5.5%
PERVIOUS	2.1	9.5%
WATER	0.7	3.2%
OPEN SPACE	18.0	81.8%
TOTAL	22.0	100%

IMPERVIOUS AREA SUMMARY		
AREA	AREA (AC)	% OF TOTAL
ROADS	0.8	3.6%
PARKING LOT	0.4	1.8%
DRIVEWAY	0.1	0.5%
ROOF	0.1	0.5%
TOTAL	1.4	6.4%



PacWest Engineering
1530 Ninth Avenue SE
Albany, OR 97322
Phone (541) 926-7634
Fax (541) 926-7539

FISTERRA

PREPARED FOR:
ELK MOUNTAIN PROPERTIES

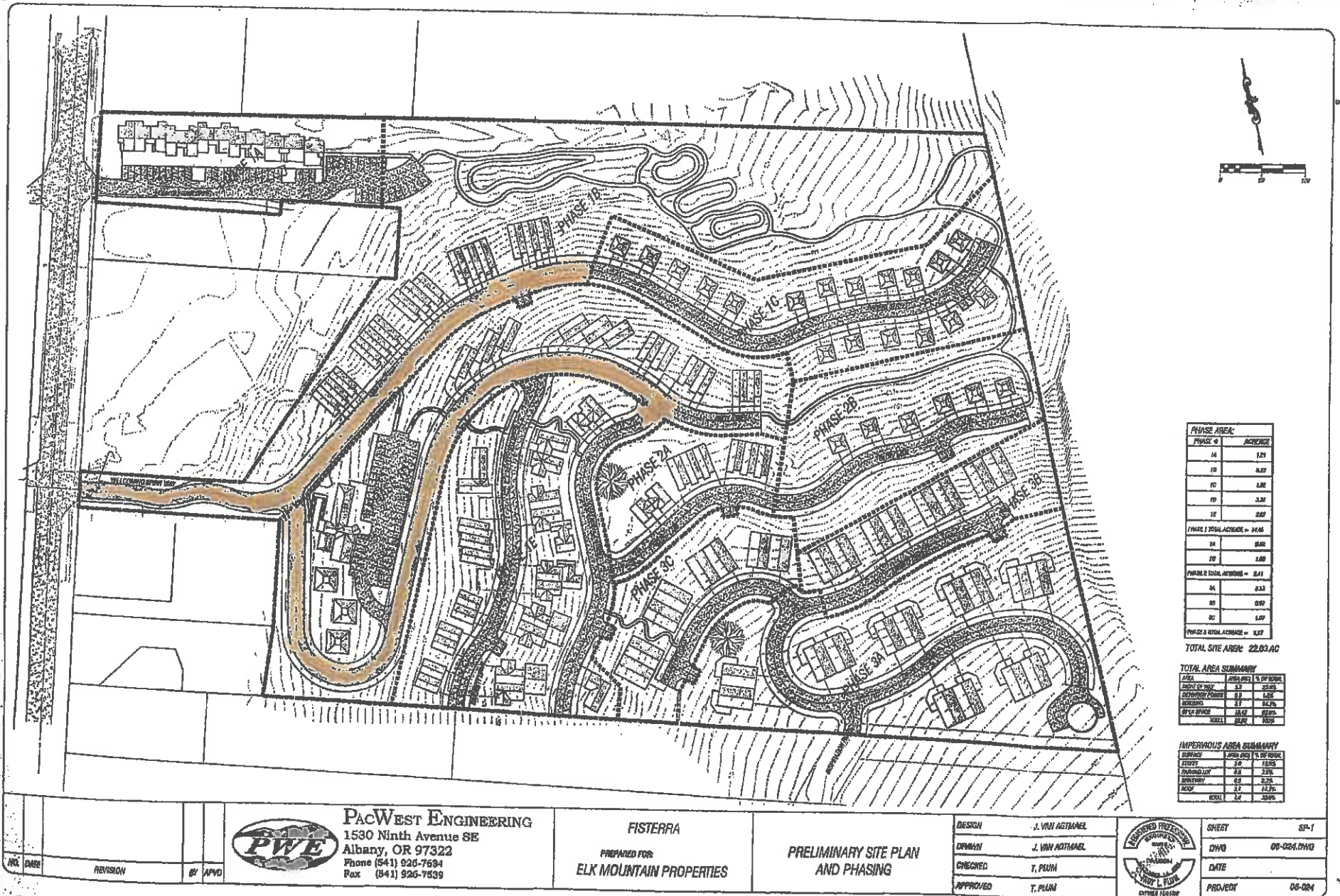
PRELIMINARY SITE PLAN
AND PHASING

DESIGN J. VAN ANTHAM
DRAWN J. VAN ANTHAM
CHECKED T. PLUM
APPROVED T. PLUM



SHEET SP-1
DWG 06-024.DWG
DATE
PROJECT 06-024

NO.	DATE	REVISION	BY	APPROVED



PacWest Engineering
1530 Ninth Avenue SE
Albany, OR 97322
Phone (541) 926-7654
Fax (541) 926-7659

FISTERRA

PREPARED FOR:
ELK MOUNTAIN PROPERTIES

**PRELIMINARY SITE PLAN
AND PHASING**

DESIGN: J. VAN AGTHAMER
DRAWN: J. VAN AGTHAMER
CHECKED: T. PLUM
APPROVED: T. PLUM



SHEET: SP-1
DWG: 06-024.DWG
DATE:
PROJECT: 06-024

CITY OF YACHATS

P.O. Box 345, Yachats, OR 97498 • (541) 547-3565 • FAX (541) 547-3063

Partition/Subdivision

Partitions \$200.00
Subdivision:
4-9 lots 250.00
10 or more lots 350.00

Date Received:
Fee Received:
Staff Initials: _____
(Actual expenses in excess of
fee will be billed.)

☒ Partition ☐ Subdivision 4-9 lots ☐ Subdivision 10 or more lots

Address of Property: _____

Tax Lot No. 14-12-23-CC-03100, -01101, -01102, -01103, -01300,
Property Owner: Elk Mountain Properties, LLC Phone: 602-432-
Mailing Address: PO Box 108 Yachats OR 97498-6291 -01400, and
Agent (if any): None Phone: 0108 0-1900

Address: _____

Surveyor: Peter Seaders MSS Inc Phone: 541-753-1320 X 20

Directions to property: _____

Current Zone: R-3 Lot Dimensions: Irregular Area: 20.82 acres

Flood Zone: NO Natural Hazard: Hillside

Name of Subdivision: 1

Water Source: City Sewage Disposal: City

Other Utilities: Central Lincoln PUD; Pioneer Telephone; Charter
Cable

The following information is required at the time of submittal.

An incomplete application will not be accepted.

A map of the property containing the following information:

- Date, north point and scale of the drawing.
- A vicinity sketch showing the location of the partition/subdivision.
- The approximate location and dimensions of all proposed boundary/lot lines.
- Approximate area of the property being partitioned and each proposed parcel. For a subdivision - Gross acreage of the property being subdivided, number of lots within the plat, and size of the smallest lot in the plat.
- Name, location, and width of all existing and proposed roads, right-of-way, and easements.
- Existing and proposed uses of the property.
- Approximate location and use of all existing structures to remain on the site. Indicate those to be removed.
- Any limitations to development; i.e. topography, areas subject to flooding, geologic hazards, drainage channels on property, etc.
- A copy of the request to the County Health Department for site inspection.

For subdivision also include:

- Names, surfacing, direction of drainage, and approximate grade of all streets within and abutting the subdivision.
- Legal access to subdivision, if not abutting a public road. (If by easement, a copy of the deed giving easement.)
- Proposed lot and block numbers.
- Width, depth, and direction of flow of all drainage channels on the property.
- Contour lines with a ten (10) foot interval if slope exceeds 10%; five (5) foot intervals if less than 10%. State the source of the contour information.
- All existing and proposed easements crossing the property.
- Pedestrian walkways (if any).
- Areas other than streets to be offered for dedication to the public - example - parks.
- Heavily wooded areas.
- Adjacent land owned by the subdivider.
- The feasibility report.

Note: Some of the above items may not apply to the property being subdivided, however, as much information as possible must be shown. A preliminary plan may be returned until adequate information is given.

I certify that this application and its related documents are accurate to the best of my knowledge.

Elk Mountain Properties LLC

7L3 Moore

Signature of Applicant or Agent

Date

6/28/18

Signature of Owner
(if different than agent)

Date

Notes:

- Within 5 business days following the acceptance of an application by City Staff, copies of the preliminary plan shall be distributed to appropriate agencies and departments for review, comments, and recommendations.
- If approved, the preliminary approval is valid for one year for a partition, two years for a subdivision. During that time all conditions set out by the Planning Commission should be completed.
- Please review the current ordinance to ensure all requirements are met when submitting final plat.
- For a subdivision: At such time as a preliminary plan is proposed which includes private streets, all adjacent property owners will be notified of such proposal and the time and place of the Planning Commission meeting.

For subdivision also include:

- Names, surfacing, direction of drainage, and approximate grade of all streets within and abutting the subdivision.
- Legal access to subdivision, if not abutting a public road. (If by easement, a copy of the deed giving easement.)
- Proposed lot and block numbers.
- Width, depth, and direction of flow of all drainage channels on the property.
- Contour lines with a ten (10) foot interval if slope exceeds 10%; five (5) foot intervals if less than 10%. State the source of the contour information.
- All existing and proposed easements crossing the property.
- Pedestrian walkways (if any).
- Areas other than streets to be offered for dedication to the public - example - parks.
- Heavily wooded areas.
- Adjacent land owned by the subdivider.
- The feasibility report.

Note: Some of the above items may not apply to the property being subdivided, however, as much information as possible must be shown. A preliminary plan may be returned until adequate information is given.

I certify that this application and its related documents are accurate to the best of my knowledge.

Elk Mountain Properties LLC

[Signature]

Signature of Applicant or Agent

Date

6/28/18

Signature of Owner
(if different than agent)

Date

Notes:

- Within 5 business days following the acceptance of an application by City Staff, copies of the preliminary plan shall be distributed to appropriate agencies and departments for review, comments, and recommendations.
- If approved, the preliminary approval is valid for one year for a partition, two years for a subdivision. During that time all conditions set out by the Planning Commission should be completed.
- Please review the current ordinance to ensure all requirements are met when submitting final plat.
- For a subdivision: At such time as a preliminary plan is proposed which includes private streets, all adjacent property owners will be notified of such proposal and the time and place of the Planning Commission meeting.

CITY OF YACHATS

P.O. Box 345, Yachats, OR 97498 • (541) 547-3565 • FAX (541) 547-3063

Partition/Subdivision

City Office Use Only

Special standards must be met for development as follows:

- | | |
|---|---|
| ☐ 1 Flooding | ☐ 2 Shorelands |
| ☐ 3 Geologic Hazards | ☐ 4 Habitat/Scenic Areas |
| ☐ 5 High Groundwater | |
| ☐ 6 Estuarine | ☐ 8 Other |
| ☐ 7 Beaches & Dunes | |

This application for a partition/subdivision is

- ☐9 Denied
- ☐10 Tentatively approved subject to the following conditions (as checked)
- ☐11 Within one year of tentative approval, two years for subdivision, a plat of the partition/subdivision conforming to surveying requirements in ORS 92.050 through 92.080 shall be submitted to the Planning Commission for a determination of substantial conformity with the tentative plan.
- ☐12 Each parcel shall contain at least _____ acres/square feet
- ☐13 Each parcel shall contain a minimum of 25 feet frontage on a public road.
- ☐14 Provide documentation from the County Road Department, Oregon State Highway Department, or the City of Yachats guaranteeing access to each parcel from the County road, State Highway, or City Street.
- ☐15 Provide documentation, certification, performance agreement, or statement regarding the availability of water and sewage service for each parcel.
- ☐16 Provide deed(s) dedicating to the public all common improvements, including but not limited to streets and roads, the donation of which is made a condition of this approval of the preliminary plan.
- ☐17 Lots/parcels and streets must be arranged in such a way as to permit a later re-subdivision in conformance with the street requirements.
- ☐18 Other

The sale of parcels described in this tentative approval is prohibited until all conditions are met and final plat has been recorded.

City Planner

Date

Chair - Planning Commission

Date

Partition Application
Elk Mountain Properties LLC

Phase	Type of Unit	Acreage	Square Feet	# Of Units
1B	Town Homes	5.13	223,462.80	20
1D	Studio Getaways	<u>3.32</u>	<u>144,619.20</u>	18
	Town Homes (Triplex)			<u>12</u>
Total Parcel A		8.45	368,082.00	<u>50</u>
1C	Cabins/Treehouses	1.92	83,635.20	14
	Town Homes (Duplex)			12
1E	Town Homes (Triplex)	2.87	125,017.20	13
	Town Homes (Detached)			1
2A	Town Homes (Triplex)	0.82	35,719.20	6
	Town Homes (Detached)			2
2B	Cabins/Treehouses	1.59	69,260.40	6
3A	Town Homes (Duplex)	3.13	136,342.80	13
3B	Town Homes (Duplex)	0.97	42,253.20	7
3C	Town Homes (Duplex)	<u>1.07</u>	<u>46,609.20</u>	<u>8</u>
Total Parcel B		<u>12.37</u>	<u>538,837.20</u>	<u>82</u>
Total for Property		20.82	906,919.20	<u><u>132</u></u>



City of Yachats

441 Hwy 101 N.
P O Box 345
Yachats, OR 97498

September 27, 2016

Fisterra 1A Devco Inc/Elk Mountain Properties LLC
PO Box 108
Yachats, OR 97498

Re: Case File #1-PD-PC-07 (Mod. #3)
Fisterra Planned Unit Development

Dear Mr. Morrill:

On Tuesday, September 20, 2016, the Yachats Planning Commission voted to approve your request for the above referenced planned unit development modification subject to conditions which must be fulfilled. The enclosed Findings and Conclusions were signed September 27, 2016 and include the conditions of approval.

This decision will become effective on Wednesday, October 12, 2016 at 4:30 p.m. unless an appeal is filed with the City of Yachats. An application for an appeal shall include the specific rationale for the appeal with sufficient clarity to allow the City and respondents an adequate opportunity to respond to or resolve each issue. To appeal the decision of the Planning Commission, it is necessary to submit a fee of \$750.00 along with a written statement explaining the reasons for the appeal.

If you have questions regarding this matter, please contact me at 541-547-3565.

Sincerely,

Larry Lewis
City Planner

Enclosure: Findings and Conclusion

cc: June O'Connor
William & Susan Schroeder
Joni Bicksler

**BEFORE THE PLANNING COMMISSION
OF
YACHATS, OREGON**

**Request for Modification to
Fisterra Planned Unit Development**

Order #1-PD-PC-07 (Mod. #3)

Applicant: Fisterra 1A Devco, Inc/Elk Mountain Properties LLC

FINDINGS AND CONCLUSION

Nature of the Application

The applicant requested a modification to the preliminary plan approval of the Fisterra Planned Unit Development (PUD). The preliminary plan for the Fisterra PUD was originally approved by the Planning Commission on April 17, 2007. Modifications to the original PUD were approved on July 11, 2007 and March 17, 2010.

The Fisterra PUD totals 22.91 acres located in the northeast portion of Yachats. **The approximate 0.92 acres that are located on the south side of Diversity Drive is the portion of the Fisterra PUD for which the modification is requested.**

The applicant seeks several minor modifications and provided the following description of the request to modify the Fisterra PUD:

1. Recognize the (0.92 acre) Site as a Townhouse Planned Unit Development under Chapter 9.62 of the City Code. When initial approvals were obtained, the Townhouse PUD Ordinance had not yet been enacted. Now that it has, it is appropriate for the Commission to recognize that the Site, within the larger Fisterra PUD, itself meets the requirements for a Townhouse PUD.
2. Approve a revised site plan for the Townhouse Site reflecting the following changes:
 - a. Reduces the portion of the (0.92 acre) Site covered by buildings by 31% from 11,270 to 8,213 square feet, increasing usable common area by about 3,500 square feet.
 - b. Sixteen large townhouses in four large buildings spread evenly across the Site will be replaced by 15 clustered townhomes and a 16th building containing six stacked flats.
 - c. The units will be clustered so as to consolidate open space in a more usable central location for more effective use by the residents; and
 - d. As authorized by Section 9.62.030(E) of the Code, minor modifications to the parking requirements to allow parking spaces that are 8' x 16' instead of the 9' x 18' otherwise required in the R-3 zone and to allow rounding down the number of required parking spaces.
3. Reduce the density allowed on the hillside portions of Fisterra by 5 units from 137 to 132 to offset the increased density allowed on the Site.
4. Revised time frames for submitting additional final plats for various phases of Fisterra PUD.

**BEFORE THE PLANNING COMMISSION
OF
YACHATS, OREGON**

**Request for Modification to
Fisterra Planned Unit Development**

Order #1-PD-PC-07 (Mod. #3)

Applicant: Fisterra 1A Devco, Inc/Elk Mountain Properties LLC

FINDINGS AND CONCLUSION

Nature of the Application

The applicant requested a modification to the preliminary plan approval of the Fisterra Planned Unit Development (PUD). The preliminary plan for the Fisterra PUD was originally approved by the Planning Commission on April 17, 2007. Modifications to the original PUD were approved on July 11, 2007 and March 17, 2010.

The Fisterra PUD totals 22.91 acres located in the northeast portion of Yachats. The approximate 0.92 acres that are located on the south side of Diversity Drive is the portion of the Fisterra PUD for which the modification is requested.

The applicant seeks several minor modifications and provided the following description of the request to modify the Fisterra PUD:

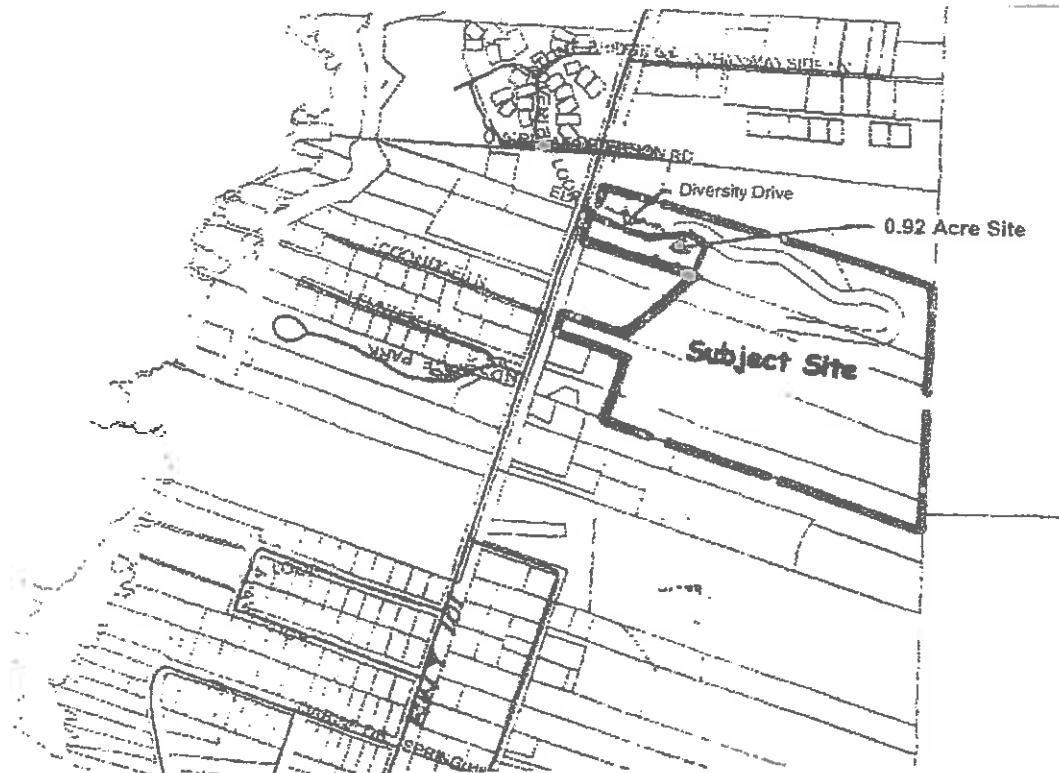
1. Recognize the (0.92 acre) Site as a Townhouse Planned Unit Development under Chapter 9.62 of the City Code. When initial approvals were obtained, the Townhouse PUD Ordinance had not yet been enacted. Now that it has, it is appropriate for the Commission to recognize that the Site, within the larger Fisterra PUD, itself meets the requirements for a Townhouse PUD.
2. Approve a revised site plan for the Townhouse Site reflecting the following changes:
 - a. Reduces the portion of the (0.92 acre) Site covered by buildings by 31% from 11,270 to 8,213 square feet, increasing usable common area by about 3,500 square feet.
 - b. Sixteen large townhouses in four large buildings spread evenly across the Site will be replaced by 15 clustered townhomes and a 16th building containing six stacked flats.
 - c. The units will be clustered so as to consolidate open space in a more usable central location for more effective use by the residents; and
 - d. As authorized by Section 9.62.030(E) of the Code, minor modifications to the parking requirements to allow parking spaces that are 8' x 16' instead of the 9' x 18' otherwise required in the R-3 zone and to allow rounding down the number of required parking spaces.
3. Reduce the density allowed on the hillside portions of Fisterra by 5 units from 137 to 132 to offset the increased density allowed on the Site.
4. Revised time frames for submitting additional final plats for various phases of Fisterra PUD.

These Findings only address the modifications requested with the 2016 application.

Relevant Facts

The following is a summary of the facts and testimony found to be relevant to this decision.

- A. **Property Location.** The 22.91 acre Fistera PUD is located in the northeast portion of Yachats. **The approximate 0.92 acre Site that is proposed to be modified is located on the south side of Diversity Drive.** The 0.92 acre property is further identified on Lincoln County Assessors Map #14-12-23CC as tax lots 3300-4900.



- B. **Zoning.** Residential Zone R-3.
- C. **Plan Designation.** Residential
- D. **Site Size.** The Fistera PUD totals 22.91 acres. The Site proposed to be modified with this application totals approximately 0.92 acres.
- E. **Existing Structures.** No structures are located on the 0.92 acre site.
- F. **Surrounding Land Use.** The 25-unit Fistera Garden Apartments are located on the north side of Diversity Drive. Land north of the Fistera Garden Apartments is sparsely developed with single family residential uses; the Sea-Aire Assisted Living Facility is south of the Site, undeveloped Fistera PUD property is to the east, and motel/hotels and single family dwellings are located across Highway 101 to the west.
- G. **Access.** Existing access to the 0.92 acre site is from Diversity Drive off of Hwy 101.

H. **Utilities.** Sanitary Sewer Services: City of Yachats
Water Services: City of Yachats
Electric Services: Central Lincoln PUD

I. **Development Constraints.** No development constraints are identified for the 0.92 acre site.

J. **Applicant Submittals.** The application is attached to the staff report and is herein incorporated into the record. The applicant submitted the following:

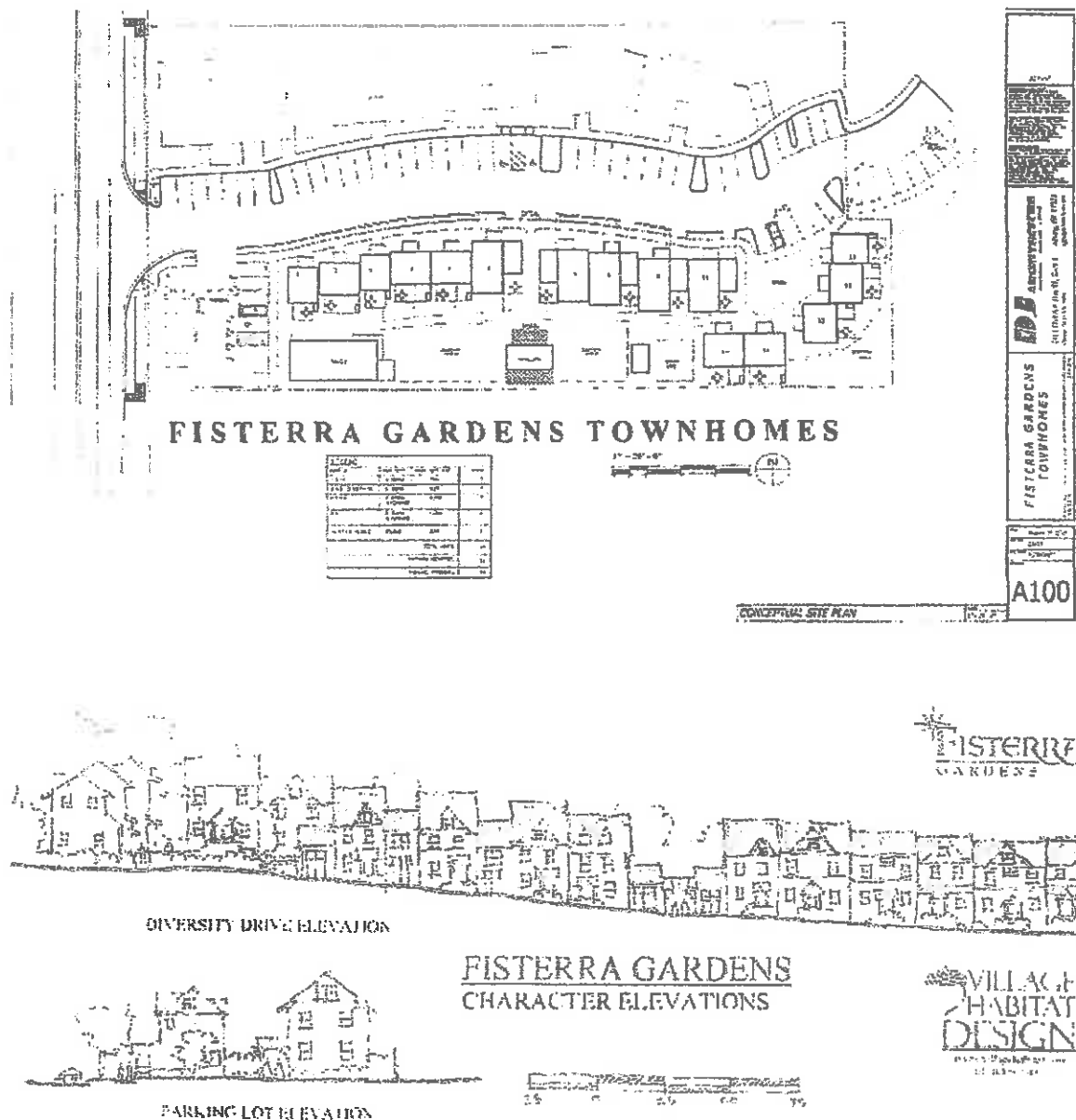
- Planned Unit Development application form and fee
- A 12-page narrative providing descriptions of the following:
 - History of Planning Commission Actions
 - Development History
 - Recent Economic and Housing Trends
 - Modifications Sought
 - The Property and the Site
 - Zoning
 - PUD Ordinances
 - Proposed PUD Plat Narrative Discussion: *Introduction, Location and Dimension of Structures, Residential Building Types and Dwelling Units, Parking, Access-Roads and Circulation, PUD Accommodations Requested*
- Phasing
- Street, Grading and Drainage Plan
- Water System Plan
- Sanitary Sewer System Plan
- Storm Drainage System Plan
- Traffic Analysis
- Conclusion
- Appendices
 - Tab A. Recorded Plat
 - Tab B. Planning Commission Order in Docket 1-PD-PC-07 dated 3/17/10
 - Tab C. City of Yachats PUD Application Form
 - Tab D. Proposed Modified Site Plan for the Site
 - Tab E. Concept Site Plan, Elevations and Unit Elevations and Floor Plans
 - Tab F. Minutes of Planning Commission Extending Dates for Final Plat Applications
 - Tab G. Supplemental Traffic Analysis

H. **Utilities.** Sanitary Sewer Services: City of Yachats
Water Services: City of Yachats
Electric Services: Central Lincoln PUD

I. **Development Constraints.** No development constraints are identified for the 0.92 acre site.

J. **Applicant Submittals.** The application is attached to the staff report and is herein incorporated into the record. The applicant submitted the following:

- Planned Unit Development application form and fee
- A 12-page narrative providing descriptions of the following:
 - History of Planning Commission Actions
 - Development History
 - Recent Economic and Housing Trends
 - Modifications Sought
 - The Property and the Site
 - Zoning
 - PUD Ordinances
 - Proposed PUD Plat Narrative Discussion: *Introduction, Location and Dimension of Structures, Residential Building Types and Dwelling Units, Parking, Access-Roads and Circulation, PUD Accommodations Requested*
- Phasing
- Street, Grading and Drainage Plan
- Water System Plan
- Sanitary Sewer System Plan
- Storm Drainage System Plan
- Traffic Analysis
- Conclusion
- Appendices
 - Tab A. Recorded Plat
 - Tab B. Planning Commission Order in Docket 1-PD-PC-07 dated 3/17/10
 - Tab C. City of Yachats PUD Application Form
 - Tab D. Proposed Modified Site Plan for the Site
 - Tab E. Concept Site Plan, Elevations and Unit Elevations and Floor Plans
 - Tab F. Minutes of Planning Commission Extending Dates for Final Plat Applications
 - Tab G. Supplemental Traffic Analysis



- J. **Public Meeting.** A public meeting was held before the Yachats Planning Commission on September 20, 2016 at 3:00 p.m. in order to consider the applicant's modified PUD request. Due notice of the meeting was given and all interested parties were given an opportunity to present testimony.
- K. **Testimony.** The applicant provided testimony at the September 20, 2016 public hearing. No written testimony was received. Four people provided oral testimony at the September 20, 2016 Planning Commission hearing. Oral testimony included 1) questions about the square footage of the proposed townhouses, 2) the financial stake of the applicant in this proposed development, 3) concern about city water shortage and the impact this development would have on the water system, 4) concern about the stabilization of the hillside in the upper parts of the Fistera PUD, 5) question about tenant

Case File #1-PD-PC-07 (Modification #3) Fistera Planned Unit Development
Findings and Conclusion

qualifications regarding income, preference, and future changes in tenant preferences, 6) statement that vacation rentals should be limited, 7) question what the name of the Florence development is that Northwest Realty Corporation manages (Northwest Realty Corporation is the proposed manager of the development), 8) Concern about storm water, 9) question if a left turn lane will be installed on Hwy 101 and, 10) comment regarding accessory dwelling units. The applicant responded to the questions and comments. The minutes of the September 20, 2016 Planning Commission meeting are herein incorporated into the record.

Relevant Yachats Municipal Code Criteria

Relevant Yachats Municipal Code Standards are identified below. Complete descriptions are attached to the staff report.

Yachats Municipal Code, Title 9 Zoning and Land Use

Chapter 9.20	R-3 Residential Zone	-	Chapter 9.56	Subdivisions and Partitions
Chapter 9.48	Off-Street Parking and Loading	-	Chapter 9.60	Planned Unit Development
Chapter 9.52	Supplementary Use and Design Regulations	-	Chapter 9.62	Townhouse Planned Unit Development
		-	Chapter 9.72	Conditional Uses

Yachats Comprehensive Plan: Goal J. Meeting Housing Needs

Public Agency Comments

At the time the original Fistera PUD application was submitted, meetings were conducted and/or comments were received from Yachats Public Works, Yachats Rural Fire Protection District, Oregon Department of Transportation, Central Lincoln PUD, and the Oregon Historic Preservation Office (SHPO). The Yachats Public Works Department confirmed that street improvements have been completed, and water and sewer services are available.

Findings

This applicant addressed the relevant criteria as well as additional information pertaining to the application. The Planning Commission concurs with the following analysis provided by the applicant. (Note: References to 'Tabs' are found in the application attached to the staff report.)

1. History of Planning Commission Action

On April 17, 2007, the Planning Commission approved the Fistera PUD Application dated February 15, 2007 and the Order containing conditions of approval was signed on April 25, 2007.

On June 26, 2007, the Planning Commission approved an Application to Modify the Fistera PUD to include the additional property now lying directly south of Diversity Drive and grant a conditional use permit for a community health clinic.

In January 2008, the Planning Commission approved the Request for Final Approval of Phase 1A and the plat was recorded on in March 2008 at Book 18 of Maps, Page 25 of the Records of Lincoln County (the "Plat"). A copy of the recorded Plat is found at **Tab A**.

On March 17, 2010, the Planning Commission issued its most recent Order which approved the second modification and granted a conditional use permit for a 20 bed Memory Care Center on the eastern half of Phase 1A (the "Order"). For the convenience of the Commissioners, a copy of the Order is found at **Tab B**.

**Case File #1-PD-PC-07 (Modification #3) Fisterra Planned Unit Development
Findings and Conclusion**

qualifications regarding income, preference, and future changes in tenant preferences, 6) statement that vacation rentals should be limited, 7) question what the name of the Florence development is that Northwest Realty Corporation manages (Northwest Realty Corporation is the proposed manager of the development), 8) Concern about storm water, 9) question if a left turn lane will be installed on Hwy 101 and, 10) comment regarding accessory dwelling units. The applicant responded to the questions and comments. The minutes of the September 20, 2016 Planning Commission meeting are herein incorporated into the record.

Relevant Yachats Municipal Code Criteria

Relevant Yachats Municipal Code Standards are identified below. Complete descriptions are attached to the staff report.

Yachats Municipal Code, Title 9 Zoning and Land Use

Chapter 9.20	R-3 Residential Zone	-	Chapter 9.56	Subdivisions and Partitions
Chapter 9.48	Off-Street Parking and Loading	-	Chapter 9.60	Planned Unit Development
Chapter 9.52	Supplementary Use and Design Regulations	-	Chapter 9.62	Townhouse Planned Unit Development
		-	Chapter 9.72	Conditional Uses

Yachats Comprehensive Plan: Goal J. Meeting Housing Needs

Public Agency Comments

At the time the original Fisterra PUD application was submitted, meetings were conducted and/or comments were received from Yachats Public Works, Yachats Rural Fire Protection District, Oregon Department of Transportation, Central Lincoln PUD, and the Oregon Historic Preservation Office (SHPO). The Yachats Public Works Department confirmed that street improvements have been completed, and water and sewer services are available.

Findings

This applicant addressed the relevant criteria as well as additional information pertaining to the application. The Planning Commission concurs with the following analysis provided by the applicant. (Note: References to 'Tabs' are found in the application attached to the staff report.)

1. History of Planning Commission Action

On April 17, 2007, the Planning Commission approved the Fisterra PUD Application dated February 15, 2007 and the Order containing conditions of approval was signed on April 25, 2007.

On June 26, 2007, the Planning Commission approved an Application to Modify the Fisterra PUD to include the additional property now lying directly south of Diversity Drive and grant a conditional use permit for a community health clinic.

In January 2008, the Planning Commission approved the Request for Final Approval of Phase 1A and the plat was recorded on in March 2008 at Book 18 of Maps, Page 25 of the Records of Lincoln County (the "Plat"). A copy of the recorded Plat is found at Tab A.

On March 17, 2010, the Planning Commission issued its most recent Order which approved the second modification and granted a conditional use permit for a 20 bed Memory Care Center on the eastern half of Phase 1A (the "Order"). For the convenience of the Commissioners, a copy of the Order is found at Tab B.

2. Development History

Initially, all of Phase 1A, both north and south of Diversity Drive, was to be occupied by a 41 unit affordable apartment complex. However, the Oregon Housing and Community Services Department ("OHCS") approved funding for only twenty-five apartment units, which utilized only the portion of Phase 1A north of Diversity Drive (the "Apartment Site").

On March 8, 2008, Applicant sold the Apartment Site to Cascade Housing Group LLC ("Cascade"). Applicant then built the necessary infrastructure for Phase 1A and dedicated it to the City which accepted ownership and responsibility for maintenance. Shortly thereafter, Cascade began construction of the Fisterra Gardens Apartments, a 25 unit affordable rental property, financed by the 9% low income housing tax credit ("LIHTC") program as well as funding from state sources. Fisterra Gardens Apartments was completed and opened to tenants in 2009.

Fisterra Gardens Apartments was intended to provide housing for our local workforce whose income was at or under 60% of area median income ("AMI"). Local employers were informed that apartments would be allocated on a first-come, first-served basis and that they needed to encourage their employees to make early application. The necessary applications were not filed and Housing Authority of Lincoln County ("HALC"), as general partner, filled the apartments in the order in which applications were received, with many going to out of town applicants and elderly applicants who were out of the work force. However, a number of local employees have lived there for some periods of time. Sea-Aire reported that over the years four of their employees have lived at Fisterra Gardens Apartments.

From the time of its opening in 2009, the Fisterra Gardens Apartments has been full. HALC reports that there is currently a two-year waiting and that only five apartments turned over in the last twelve months. Aqua Vista Square provides 7 units of affordable workforce housing to tenants whose income is at or under 80% of AMI. Since its opening in the fall of 2012, it has had a vacancy rate of 1%.

The portion of Phase 1A lying south of Diversity Drive (the "Site") was initially approved for sixteen town house units with an alternative use for the west half of the Site being for a community health clinic, which later decided against relocating there. Later, the Planning Commission approved a special use permit for the eastern half of the Site as a 20-bed memory care facility to be operated in conjunction with Sea-Aire Assisted Living Center. For several reasons, the memory care facility designed for the site and approved by DHS was never constructed on the site.

3. Recent Economic and Housing Trends

The Great Recession brought high rates of foreclosure and short-sales, investor purchases of those distressed properties, and a curtailing of the sub-prime financing that had fueled the housing boom. One tragic legacy of the Great Recession is a dramatic and continuing surge in the percentage of the population opting to rent, which now stands at 36%, the highest percentage since the late 1960s. Harvard University Joint Center for Housing Studies, "The State of the Nation's Housing 2016," at 3. For a copy of this report go to: http://www.jchs.harvard.edu/research/state_nations_housing.

The number of "cost burdened" renters (those who pay more than 30% of their income in rent) increased by 3.6 million to 21.3 million between 2008 and 2014. The number of severely "cost burdened" renters (those who pay more than 50% of their income in rent) increased by 2.1 million to a record 11.4 million. The severely burdened share among the nation's 9.6 million lowest-income renters (earning less than \$15,000) is particularly high at 72%. *Id.*, at 4.

Nationwide, for every 100 households at or under 60% of area median income ("AMI") only 57 units are affordable and available to them. And for every 100 households at or under 30% of area median income, only 31 housing units are actually affordable and available to them. *Id.*, at 5.

The study concludes that there is an "affordability crisis" for renters throughout the country and that the federal government has not come forward with any strong response. *Id.*

Rural Oregon is no exception to those trends, as evidenced by recent legislation.

In 2015 the Legislature appropriated \$40 million to encourage construction of new affordable rental housing in our rural communities. OHCS is now implementing that appropriation through its LIFT program that will fund subsidies up to \$38,000 per unit on projects that display local initiative in solving the affordable housing crisis and that can be built on a "fast track." LIFT funds can be used in conjunction with the 4% LIHTC program and the Oregon tax exempt bond financing program.

In 2016 the Legislature passed Senate Bill 1533, which lifted two longstanding bans on cities. Cities can now adopt "inclusionary" zoning ordinances which require developers of large apartment projects to make a certain percentages of the units affordable to low income families. Also, cities can now adopt a tax on construction activity up to 1% of the value of construction within the city; and if they do, 48% of the revenue must be devoted to developer incentives to build affordable housing; 13.6% must be paid to OHCS to support their low income housing initiatives; and 31.4% must be used by the city for its own housing programs.

3. Recent Economic and Housing Trends

The Great Recession brought high rates of foreclosure and short-sales, investor purchases of those distressed properties, and a curtailing of the sub-prime financing that had fueled the housing boom. One tragic legacy of the Great Recession is a dramatic and continuing surge in the percentage of the population opting to rent, which now stands at 36%, the highest percentage since the late 1960s. Harvard University Joint Center for Housing Studies, "The State of the Nation's Housing 2016," at 3. For a copy of this report go to: http://www.jchs.harvard.edu/research/state_nations_housing.

The number of "cost burdened" renters (those who pay more than 30% of their income in rent) increased by 3.6 million to 21.3 million between 2008 and 2014. The number of severely "cost burdened" renters (those who pay more than 30% of their income in rent) increased by 2.1 million to a record 11.4 million. The severely burdened share among the nation's 9.6 million lowest-income renters (earning less than \$15,000) is particularly high at 72%. *Id.*, at 4.

Nationwide, for every 100 households at or under 60% of area median income ("AMI") only 57 units are affordable and available to them. And for every 100 households at or under 30% of area median income, only 31 housing units are actually affordable and available to them. *Id.*, at 5.

The study concludes that there is an "affordability crisis" for renters throughout the country and that the federal government has not come forward with any strong response. *Id.*

Rural Oregon is no exception to those trends, as evidenced by recent legislation.

In 2015 the Legislature appropriated \$40 million to encourage construction of new affordable rental housing in our rural communities. OHCS is now implementing that appropriation through its LIFT program that will fund subsidies up to \$38,000 per unit on projects that display local initiative in solving the affordable housing crisis and that can be built on a "fast track." LIFT funds can be used in conjunction with the 4% LIHTC program and the Oregon tax exempt bond financing program.

In 2016 the Legislature passed Senate Bill 1533, which lifted two longstanding bans on cities. Cities can now adopt "inclusionary" zoning ordinances which require developers of large apartment projects to make a certain percentages of the units affordable to low income families. Also, cities can now adopt a tax on construction activity up to 1% of the value of construction within the city; and if they do, 48% of the revenue must be devoted to developer incentives to build affordable housing; 13.6% must be paid to OHCS to support their low income housing initiatives; and 31.4% must be used by the city for its own housing programs.

In light of the current affordability crises in rental housing, the highest and best use of the Site is for affordable workforce housing. Our Coastal Village, Inc. ("OCV" is in the final stages of preparing an application to OCHS for funding of a development to be known as Fisterra Gardens Townhomes (the "Project"). The Project incorporates these features:

- Fifteen of the dwelling units will be townhomes, not apartments. Access to each townhome will be on ground level; and each will have a front porch and a back patio. Six units will be stacked flats located next to parking and to the open area common space with on ground level and
- The dwelling units will be clustered to maximize open space for common area amenities on the "sunny" south side of the development and on the prominent "ridge" at the Site's northeast corner.
- There will be a preference for applicants who are currently working in Yachats or who have offers of employment here that they desire to accept. HUD and OCHS allow this type of a preference. Only if no preferred applicant is on the waiting list will a person who is not employed in Yachats be accepted for tenancy.
- Tenants will be given the opportunity to purchase their townhomes at prices that are affordable to them, following the model now being implemented at OCV's Aqua Vista Square Townhomes. Under regulations applicable to state and federal grant money, however, the sales to tenants cannot occur until after the Project has been operated for 15 years as a rental property.

4. Modifications Sought

This Application to Modify the Fisterra PUD seeks several minor modifications to accommodate the Project:

1. Recognize the Site as a Townhouse Planned Unit Development under Chapter 9.62 of the City Code. When initial approvals were obtained, the Townhouse PUD Ordinance had not yet been enacted. Now that it has, it is appropriate for the Commission to recognize that the Site, within the larger Fisterra PUD, itself meets the requirements for a Townhouse PUD.
2. Approve a revised site plan for the Townhouse Site reflecting the following changes:
 - a. Reduces the portion of the Site covered by buildings by 31% from 11,270 to 8,213 square feet, increasing usable common area by about 3,500 square feet.
 - b. Sixteen large townhouses in four large buildings spread evenly across the Site will be replaced by 15 clustered townhomes and a 16th building containing six stacked flats.

Case File #1-PD-PC-07 (Modification #3) Fistera Planned Unit Development
Findings and Conclusion

- c. The units will be clustered so as to consolidate open space in a more usable central location for more effective use by the residents; and
 - d. As authorized by Section 9.62.030(E) of the Code, minor modifications to the parking requirements to allow parking spaces that are 8' x 16' instead of the 9' x 18' otherwise required in the R-3 zone and to allow rounding down the number of required parking spaces.
3. Reduce the density allowed on the hillside portions of Fistera by 5 units from 137 to 132 to offset the increased density allowed on the Site.

Please note, the following narrative only addresses those sections in the Application as reflected in the Findings and Order dated March 17, 2010 that are affected by the requested changes. Applicant incorporates by reference the Application as approved by the prior Orders in this matter.

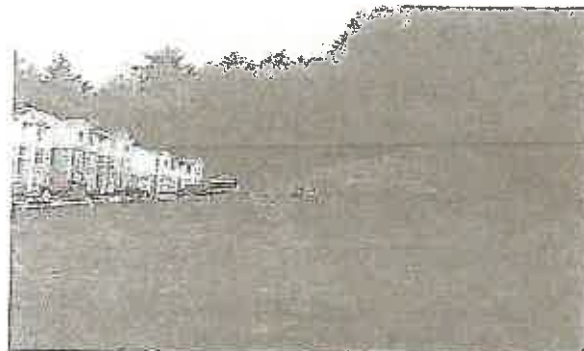
5. The Property and the Site

Fistera covers a total of 22.91 acres (997,960 square feet) of land zoned R-3 in the northeast quadrant of Yachats (the "Property").

This modification application relates primarily to the Site and only incidentally to the hillside portions of Fistera. Two photos of the Site follow:



View from the East.



View from the West.

**Case File #1-PD-PC-07 (Modification #3) Fistera Planned Unit Development
Findings and Conclusion**

- c. The units will be clustered so as to consolidate open space in a more usable central location for more effective use by the residents; and
 - d. As authorized by Section 9.62.030(E) of the Code, minor modifications to the parking requirements to allow parking spaces that are 8' x 16' instead of the 9' x 18' otherwise required in the R-3 zone and to allow rounding down the number of required parking spaces.
3. Reduce the density allowed on the hillside portions of Fistera by 5 units from 137 to 132 to offset the increased density allowed on the Site.

Please note, the following narrative only addresses those sections in the Application as reflected in the Findings and Order dated March 17, 2010 that are affected by the requested changes. Applicant incorporates by reference the Application as approved by the prior Orders in this matter.

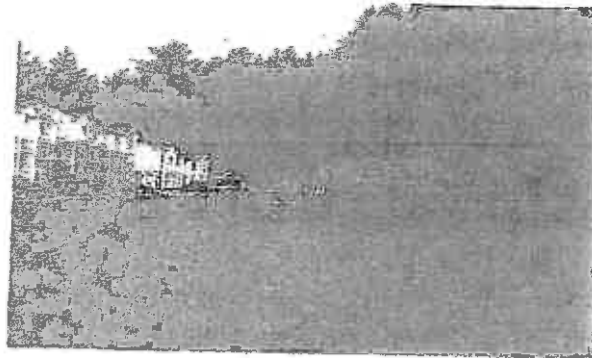
5. The Property and the Site

Fistera covers a total of 22.91 acres (997,960 square feet) of land zoned R-3 in the northeast quadrant of Yachats (the "Property").

This modification application relates primarily to the Site and only incidentally to the hillside portions of Fistera. Two photos of the Site follow:



View from the East.



View from the West.

6. Zoning

The present R-3 zoning on the Property allows for twelve (12) dwelling units to the acre, which would theoretically permit 274 dwelling units on the Property. The most recent Order approves 178 dwelling units of different sizes, types, and price ranges. Of those, 41 are in Phase 1A at Highway 101 and Diversity Drive and 137 are on the hillside in Phases IB-E, IIA-C, and IIIA-C. The approved density represents about 65% of the R-3 maximum permitted density. This density is approximately 7.77 dwelling units per acre. Outside Phase 1A, the density is approximately 6.04 units per acre.

The R-3 Zone provides for a maximum coverage of 40%. The coverage requirement could be met on the Property with the theoretical maximum of 274 dwelling units on the Property.

Minimum lot sizes in the R-3 Zone are: for a one-family unit, 6,000 square feet; 7,500 square feet for a two-unit building; and 6,000 square feet for the first unit and 2,500 square feet for each additional dwelling unit in a building with more than two units. The minimum lot size requirement could be met with 194 dwelling units on the Property.

Maximum building height is 30' measured from post-construction grade, with grade being determined by an average of the corners method.

The parking standard in the R-3 zone is two 9' by 18' spaces for a one family dwelling, four spaces for a two-family dwelling, five spaces for a three family dwelling, and 1½ per spaces per dwelling unit for four-family and larger dwellings.

7. PUD Ordinances

Under the Yachats PUD Ordinance, if certain requirements are met, the Planning Commission is authorized to relax minimum lot size, setbacks, building heights, and other requirements of the R-3 classification. Code Section 9.60.020(A). Those requirements are: (1) the PUD must include at least three (3) contiguous acres; (2) 40% of the area (exclusive of roads) is dedicated to common area open space; (3) the average residential lot size (building area plus common area divided by the number of housing units) is equal to or greater than the minimum lot size for the R-3 zone; (4) appropriate utility easements are provided and all utilities are located underground; (5) common areas are to be owned by a property owners' association that will maintain the common areas.

Fistera, as most recently modified in the Order, meets all pre-requisites of the PUD Ordinance.

First, it involves 22.91 contiguous acres.

Second, 13.43 acres constituting 78% of the area (total area less roads) are set aside as open space and common areas.

Third, the average residential lot size (lot area plus common area divided by the total number of dwelling units) is 4,119 square feet which exceeds the minimum lot size required in the R-3 zone for the configuration of buildings and dwelling units shown on the Preliminary Plat, which is 3,817 square feet. The changes requested herein do not materially change the calculation of average residential lot size reflected in the Order.

Fourth, appropriate utility easements are provided and all utilities will be located underground.

Finally, the Plat for Fisterra Phase I was recorded in March 2008. Fisterra is subject to covenants, conditions and restrictions ("CCRs") that regulate and control the architectural standards of the Project, including all remodeling, renovation, and reconstruction that would occur decades hence. The CCRs also provide a mechanism for assessments against the lots/residences to cover operating costs and capital replacement costs for the common area facilities. They provide for an Association and an architectural review committee that will administer the provisions of the CCRs and undertake the maintenance and operation of the common areas. The CCRs for Fisterra PUD were recorded on March 27, 2008, as Instrument No. 2008-03762 of the Records of Lincoln County. The CCRs were modified by a set of Variances granted to Fisterra Garden Apartments Limited Partnership in a document dated July 7, 2010 and recorded on August 30, 2010, as Instrument No. 2010-08795 of the Records of Lincoln County Oregon. The Articles of Incorporation of the Association were filed with the Oregon Secretary of State on March 28, 2008. The Bylaws of the Association were adopted on March 28, 2008 and were recorded on April 9, 2008 as instrument No. 2008-04396 of the Records of Lincoln County.

Under the Yachats Townhouse PUD Ordinance, if certain requirements are met, the Planning Commission is authorized to relax minimum lot size, setbacks, building heights, parking, and other requirements of the R-3 classification. Code Section 9.62.030(A). Those requirements are: (1) density requirements shall be guided by the standards of the zone in which property lies; (2) parking requirements are also guided by the standards of the underlying zone, but those may be modified in minor ways "such as" rounding down rather than rounding up in calculation of parking spaces and allowing the spaces to be less than the current parking space dimension required in the underlying zone; (3) building height is limited to 30' with certain exceptions; (4) coverage of individual lots may exceed the maximum lot coverage of the underlying zone; (5) there must be an association formed to maintain the common areas. Code Section 9.62.030(B) - (K).

The modified plan for the Site meets all pre-requisites of the TPUD Ordinance:

First, the density requirements are guided by the standards of the R-3 zone. The Fisterra PUD as a whole satisfies the density requirements for the R-3 zone; and a density offset will be provided for the 5 additional units requested on the Site.

Second, as allowed, although parking requirements are guided by the standards of the R-3 zone, under TPUD parking can be modified in minor ways to allow rounding down in the calculation and to allow parking spaces that are 8' x 16' instead of the 9' x 18' required in the R-3 zone..

Third, the average residential lot size (lot area plus common area divided by the total number of dwelling units) is 4,119 square feet which exceeds the minimum lot size required in the R-3 zone for the configuration of buildings and dwelling units shown on the Preliminary Plat, which is 3,817 square feet. The changes requested herein do not materially change the calculation of average residential lot size reflected in the Order.

Fourth, appropriate utility easements are provided and all utilities will be located underground.

Finally, the Plat for Fisterra Phase I was recorded in March 2008. Fisterra is subject to covenants, conditions and restrictions ("CCRs") that regulate and control the architectural standards of the Project, including all remodeling, renovation, and reconstruction that would occur decades hence. The CCRs also provide a mechanism for assessments against the lots/residences to cover operating costs and capital replacement costs for the common area facilities. They provide for an Association and an architectural review committee that will administer the provisions of the CCRs and undertake the maintenance and operation of the common areas. The CCRs for Fisterra PUD were recorded on March 27, 2008, as Instrument No. 2008-03762 of the Records of Lincoln County. The CCRs were modified by a set of Variances granted to Fisterra Garden Apartments Limited Partnership in a document dated July 7, 2010 and recorded on August 30, 2010, as Instrument No. 2010-08795 of the Records of Lincoln County Oregon. The Articles of Incorporation of the Association were filed with the Oregon Secretary of State on March 28, 2008. The Bylaws of the Association were adopted on March 28, 2008 and were recorded on April 9, 2008 as instrument No. 2008-04396 of the Records of Lincoln County.

Under the Yachats Townhouse PUD Ordinance, if certain requirements are met, the Planning Commission is authorized to relax minimum lot size, setbacks, building heights, parking, and other requirements of the R-3 classification. Code Section 9.62.030(A). Those requirements are: (1) density requirements shall be guided by the standards of the zone in which property lies; (2) parking requirements are also guided by the standards of the underlying zone, but those may be modified in minor ways "such as" rounding down rather than rounding up in calculation of parking spaces and allowing the spaces to be less than the current parking space dimension required in the underlying zone; (3) building height is limited to 30' with certain exceptions; (4) coverage of individual lots may exceed the maximum lot coverage of the underlying zone; (5) there must be an association formed to maintain the common areas. Code Section 9.62.030(B) - (K).

The modified plan for the Site meets all pre-requisites of the TPUD Ordinance:

First, the density requirements are guided by the standards of the R-3 zone. The Fisterra PUD as a whole satisfies the density requirements for the R-3 zone; and a density offset will be provided for the 5 additional units requested on the Site.

Second, as allowed, although parking requirements are guided by the standards of the R-3 zone, under TPUD parking can be modified in minor ways to allow rounding down in the calculation and to allow parking spaces that are 8' x 16' instead of the 9' x 18' required in the R-3 zone..

Case File #1-PD-PC-07 (Modification #3) Fisterra Planned Unit Development
Findings and Conclusion

Third, building height is limited to 30' with no exceptions.

Fourth, under the TPUD coverage of individual lots may exceed the maximum lot coverage of the underlying zone.

Fifth, there will be an association formed to maintain the common areas.

8. Existing and Proposed Uses

The Site is currently approved for 16 town homes, located in four buildings of four townhomes each. Under the recorded plat, each of the 16 town home units contains approximately 1,465 square feet on two levels. The total square footage of all sixteen approved units is 23,440 square feet. All required infrastructure -- streets, parking, utilities, and storm drainage have been constructed. No structures have yet been constructed on this portion of the Property.

The proposed use of the portion of the Site is 21 dwelling units ranging from 350 square foot studio units to 1,240 square foot three bedroom units. The total livable square feet under the proposed modification is 16,426, which is a reduction of 7,015 square feet., which increases usable common area by 3,500 square feet. The town home units are clustered on the site to create more usable and more appealing open space and common areas. The parking requirements are reduced slightly as permitted by Section 9.62.030(E) of the Code.

9. Proposed PUD Plat Narrative Discussion

Introduction

The proposed modified site plan for the Site is found at **Tab D**. A concept site plan, elevations, and dwelling unit elevations and floor plans can be found at **Tab E**. As required by the Ordinance, the proposed modified site plan for Phase 1A shows all of the following:

- The approximate location and dimensions of all structures proposed to be located on the site.
- Proposed number of dwelling units to be located in each building.
- Proposed circulation pattern, including the location, width, and surfacing of streets, private drives, sidewalks, and trails.
- The location of parking areas and the number of spaces therein.
- Utility easements.
- Proposed uses of all open spaces.

Each of these items is addressed briefly in this section.

Location and Dimension of Structures

The modified plan for the Site has 16 buildings, of which 15 are single family attached townhomes and the sixteenth is a larger building containing six studio stacked flats.

Residential Building Types and Dwelling Units

The modified plan for the Site has 21 dwelling units, consisting of 6 stacked flats in one building at the southwest corner of the Site plus fifteen townhomes clustered around the northern boundary of the Site and, at the east end, against the eastern and southern borders..

Changes to the above may occur based on market conditions and other factors, as final plat application is filed for the Site.

Residential building heights for the Site do not exceed the R-3 height limit of 30'.

The 21 residential units are intended to qualify as affordable workforce rental housing under OHCS and HUD regulations. The tenants in the 15 town home units will be offered the opportunity to purchase their town homes at affordable prices when allowed by HUD regulations; and the six stacked flats may also be converted to condominiums and sold to tenants when allowed by HUD regulations.

The location is across the street from the Overleaf and the Fireside, and just a few blocks north of the Adobe, and nest door to Sea Aire. It is an ideal live-work location for workers at these employers and for other tourism workers in the City of Yachats.

The feasibility of the affordable workforce rental housing on the Site is dependent upon obtaining the approval of OHCS for participation in the LIFT program, the 4% LIHTC tax credit program, and the tax exempt bond funding for the acquisition, development and construction loan. It will also be necessary to obtain a commitment for satisfactory permanent debt financing. The OHCS application will be sponsored by Our Coastal Village, Inc., a 501(c)(3) public charity whose mission is relief of the poor and the distressed in the greater Yachats area, primarily through affordable housing ("OCV"). OCV has been working on the application for about six weeks and will file it as soon as OHCS opens the filing "window." Based upon conversations with OHCS personnel and other industry experts, OCV believes that the Project will have a high likelihood of success in obtaining the necessary OHCS funding as well as funding from other sources in amounts sufficient to permit construction of the units. No assurance can be given, however, that the requested grants and debt financing will be obtained.

Location and Dimension of Structures

The modified plan for the Site has 16 buildings, of which 15 are single family attached townhomes and the sixteenth is a larger building containing six studio stacked flats.

Residential Building Types and Dwelling Units

The modified plan for the Site has 21 dwelling units, consisting of 6 stacked flats in one building at the southwest corner of the Site plus fifteen townhomes clustered around the northern boundary of the Site and, at the east end, against the eastern and southern borders..

Changes to the above may occur based on market conditions and other factors, as final plat application is filed for the Site.

Residential building heights for the Site do not exceed the R-3 height limit of 30'.

The 21 residential units are intended to qualify as affordable workforce rental housing under OHCS and HUD regulations. The tenants in the 15 town home units will be offered the opportunity to purchase their town homes at affordable prices when allowed by HUD regulations; and the six stacked flats may also be converted to condominiums and sold to tenants when allowed by HUD regulations.

The location is across the street from the Overleaf and the Fireside, and just a few blocks north of the Adobe, and nest door to Sea Aire. It is an ideal live-work location for workers at these employers and for other tourism workers in the City of Yachats.

The feasibility of the affordable workforce rental housing on the Site is dependent upon obtaining the approval of OHCS for participation in the LIFT program, the 4% LIHTC tax credit program, and the tax exempt bond funding for the acquisition, development and construction loan. It will also be necessary to obtain a commitment for satisfactory permanent debt financing. The OHCS application will be sponsored by Our Coastal Village, Inc., a 501(c)(3) public charity whose mission is relief of the poor and the distressed in the greater Yachats area, primarily through affordable housing ("OCV"). OCV has been working on the application for about six weeks and will file it as soon as OHCS opens the filing "window." Based upon conversations with OHCS personnel and other industry experts, OCV believes that the Project will have a high likelihood of success in obtaining the necessary OHCS funding as well as funding from other sources in amounts sufficient to permit construction of the units. No assurance can be given, however, that the requested grants and debt financing will be obtained.

Parking

The modified plan for the Site contains 31 (1.5 x 21 units, rounded down to 31) parking spaces that are 8' x 16' feet in size. Five parking spaces are in private garages attached to the larger two and three bedroom units. Ten parking spaces are clustered at the northeast corner of the Site. This still leaves four spaces for trailhead parking for the Ya'Xaik trail. This is more than adequate, because most users are walking from the 804 trail through the Overleaf Property to access the Ya'Xaik trailhead, and so do not arrive by car. And 16 parking spaces are clustered at the west end of the Site, adjacent to Highway 101. The 31 parking spaces include one handicapped space.

Access, Roads, and Circulation

No changes are being made to the previously approved access and roads.

PUD Accommodations Requested

The Project (modified as requested herein) is within the letter and spirit of Yachats's PUD Ordinance and its TPUD Ordinance. It employs new technology and greater freedom in design than a strict interpretation of the R-3 zoning ordinance would permit, and provides to residents and the community at large a more attractive, less intrusive development than would otherwise occur. See Yachats City Code, Sections 9.60.010; and 9.62.010. We believe the advantages to the community of the approach taken for the Property more than justify the departures requested from R-3 standards.

To recapitulate, the departures from R-3 Zone standards requested for the Site are:

1. Clustering of the dwelling units as shown on the modified plan for the Site submitted herewith to maximize and centralize open space, using a zero lot line, zero setback approach.
2. Increasing the number of residential units from 16 units containing 23,440 square feet to 21 units containing about 16,425 square feet.
3. Declaring the Site to be a Townhouse PUD and allowing 31 parking spaces that are 8' x 16', instead of the 32 parking spaces of 9' x 18' that would be required under the R-3 Standards.
4. Reducing the density permitted for the hillside phases by 5 units, from 137 to 132.

10. Phasing

The Planning Commission last addressed the issue of dates for filing of final maps for the various phases of Fistera in December 2012. The minutes of the Planning Commission meeting are found at Tab F.

**Case File #1-PD-PC-07 (Modification #3) Fistera Planned Unit Development
Findings and Conclusion**

The market for residential lots in Yachats still has not recovered from the Great Recession. With 12 bank-owned Blackstone Lots overhanging the market and listed at about \$35,000 each, it is not economically feasible to build streets and utilities on the upper elevation Phases at this time. Accordingly, Fistera respectfully requests that the time frames for submitting additional final plats for various phases of Fistera be revised so that the final map for each phase of development shall be submitted no later than the following schedule:

<u>Phase</u>	<u>Application for Final Plat</u> <u>(by Dec. 31 of)</u>
1A	2020
1B	2021
1C	2022
1D	2023
1E	2024
2A	2025
2B	2026
3A	2027
3B	2028
3C	2029

As permitted by the Order, "The applicant may file final plat applications in a different order than the numeric order specified on the Phasing Map, and adjust the phasing boundaries, provided that applications for final plats have been filed according to the phasing schedule. If final plat applications are filed in an order different than the numeric order specified on the Phasing Map, then the deadline date for the out of order phase will be substituted as the deadline date for the next numeric order phase on the phasing schedule."

11. Street, Grading, and Drainage Plan

No changes are proposed to the preliminary street, grading, and drainage plan previously approved for Fistera; or to the street, grading, and drainage plan previously approved, constructed, and accepted by the City for the Site.

12. Water System Plan

No changes are proposed to the preliminary water system plan previously approved for Fistera; or to the water system plan previously approved, constructed, and accepted by the City for the Site.

13. Sanitary Sewer System Plan

No changes are proposed to the sanitary sewer water system plan previously approved for Fistera; or to the sanitary sewer system plan previously approved, constructed, and accepted by the City for the Site.

**Case File #1-PD-PC-07 (Modification #3) Fistera Planned Unit Development
Findings and Conclusion**

The market for residential lots in Yachats still has not recovered from the Great Recession. With 12 bank-owned Blackstone Lots overhanging the market and listed at about \$35,000 each, it is not economically feasible to build streets and utilities on the upper elevation Phases at this time. Accordingly, Fistera respectfully requests that the time frames for submitting additional final plats for various phases of Fistera be revised so that the final map for each phase of development shall be submitted no later than the following schedule:

<u>Phase</u>	<u>Application for Final Plat</u> <u>(by Dec. 31 of)</u>
1A	2020
1B	2021
1C	2022
1D	2023
1E	2024
2A	2025
2B	2026
3A	2027
3B	2028
3C	2029

As permitted by the Order, "The applicant may file final plat applications in a different order than the numeric order specified on the Phasing Map, and adjust the phasing boundaries, provided that applications for final plats have been filed according to the phasing schedule. If final plat applications are filed in an order different than the numeric order specified on the Phasing Map, then the deadline date for the out of order phase will be substituted as the deadline date for the next numeric order phase on the phasing schedule."

11. Street, Grading, and Drainage Plan

No changes are proposed to the preliminary street, grading, and drainage plan previously approved for Fistera; or to the street, grading, and drainage plan previously approved, constructed, and accepted by the City for the Site.

12. Water System Plan

No changes are proposed to the preliminary water system plan previously approved for Fistera; or to the water system plan previously approved, constructed, and accepted by the City for the Site.

13. Sanitary Sewer System Plan

No changes are proposed to the sanitary sewer water system plan previously approved for Fistera; or to the sanitary sewer system plan previously approved, constructed, and accepted by the City for the Site.

14. Storm Drainage System Plan

No changes are proposed to the preliminary storm drainage system plan previously approved for Fistera; or to the storm drainage system plan previously approved, constructed, and accepted by the City for the Site.

15. Traffic Analysis

The Applicant has requested that Lancaster Engineering revise its traffic study to reflect the density increase on the Site from 16 to 21 residential units and the traffic impacts at Highway 101 and Diversity Drive. A copy of a letter from Lancaster Engineering addressing this issue is found at **Tab G**. The letter concludes that after increasing the Site to 21 residential units, the site plan still meets all necessary traffic requirements and that warrants for mitigation measures are not triggered by the modified plan for the Site requested herein.

16. Conclusion

The requested modifications are in response to the nationwide affordability crisis in rental housing that affects Yachats more than many other parts of the country.

The requested modifications substantially reduce the percentage of the Site area covered by buildings. Clustering 10 buildings near the northern sidewalk and 5 buildings near the eastern and southern borders of the Site optimizes the available common areas for the use and enjoyment of the residents. The revised plan for the Site, and the resulting building elevations and common areas, are far more aesthetically pleasing than the plan reflected in the currently recorded Plat.

Fistera, as modified by this Modification Application, still satisfies all requirements for PUD and TPUD approval, and provides ample open space and amenities that justify the requested departures from R-3 standards.

17. Additional Analysis (provided by city staff)

Analyses of additional items are not addressed in this modified application request. However, the analysis and findings of those items addressed in the prior preliminary plan approval of the entire Fistera PUD are still valid, i.e. the pedestrian system, residential design/architectural guidelines, general landscape treatment, geotechnical evaluation and recommendations, street design, storm drainage, water service, sanitary sewer service, 'dry' utilities, environmental standards, archaeological review, and signage.

Conclusions

Based on the above facts and findings, the Yachats Planning Commission finds:

- A. The 22.91 acre site under consideration is suitable for development of a planned unit development with a maximum of 178 residential units and a community/retreat center.
- B. The 0.92 acre site under consideration is suitable for development of a townhouse planned unit development with a maximum of 21 residential units.
- C. The proposed uses, as approved by the Planning Commission, are compatible with existing and projected uses on surrounding lands.

**Case File #1-PD-PC-07 (Modification #3) Fisterra Planned Unit Development
Findings and Conclusion**

D. This application, as approved by the Planning Commission, satisfies the provisions of the Yachats Municipal Code and Comprehensive Plan.

Order

It is ORDERED by the Yachats Planning Commission that Case File #1-PD-PC-07 (Mod. #3) for the Modification of the Fisterra Planned Unit Development (P.U.D.) consisting of 178 residential units and a community/retreat center be and is hereby approved. Said approval is subject to the following conditions:

1. **Preliminary Plan Approval.** Preliminary plan approval is granted by the Planning Commission for the Fisterra Planned Unit Development including the modified Phase 1A plan for a Townhouse Planned Unit Development for 15 clustered townhomes and a 16th building containing six stacked flats on the south side of Diversity Drive. The preliminary plan approval is based on the originally submitted plan, the 2007 and 2010 modified PUD approvals, and these 2016 conditions of approval. Exceptions to R-3 standards approved with this modified preliminary plan approval include:
 - a. Clustering of the dwelling units as shown on the modified plan for the Site submitted herewith to maximize and centralize open space, using a zero lot line, zero setback approach,
 - b. Increasing the number of residential units from 16 units containing 23,440 square feet to 21 units containing about 16,425 square feet,
 - c. Declaring the 0.92 acre Site to be a Townhouse PUD and allowing 31 parking spaces that are 8' x 16',
 - d. Reducing the density permitted for the hillside phases by 5 units, from 137 to 132.

Additionally, the community/retreat center shall have a maximum height of 35 feet.

2. **Phase 1A Multi-Family Building Height.** A maximum of 65% of the Phase 1A multi-family buildings may have a maximum height of 35 feet if it qualifies and is developed as affordable workforce rental housing according to the Oregon Department of Housing and Community Services. Residential building heights for the 0.92 acre Site shall not exceed the R-3 height limit of 30 feet.
3. **Phasing.** The final map for each phase of development shall be submitted no later than the following schedule.

<u>Phase</u>	<u>Application for Final Plat (by Dec. 31 of)</u>
1A	2020
1B	2021
1C	2022
1D	2023
1E	2024
2A	2025
2B	2026
3A	2027
3B	2028
3C	2029

**Case File #1-PD-PC-07 (Modification #3) Fistera Planned Unit Development
Findings and Conclusion**

- D. This application, as approved by the Planning Commission, satisfies the provisions of the Yachats Municipal Code and Comprehensive Plan.

Order

It is ORDERED by the Yachats Planning Commission that Case File #1-PD-PC-07 (Mod. #3) for the Modification of the Fistera Planned Unit Development (P.U.D.) consisting of 178 residential units and a community/retreat center be and is hereby approved. Said approval is subject to the following conditions:

1. **Preliminary Plan Approval.** Preliminary plan approval is granted by the Planning Commission for the Fistera Planned Unit Development including the modified Phase 1A plan for a Townhouse Planned Unit Development for 15 clustered townhomes and a 16th building containing six stacked flats on the south side of Diversity Drive. The preliminary plan approval is based on the originally submitted plan, the 2007 and 2010 modified PUD approvals, and these 2016 conditions of approval.

Exceptions to R-3 standards approved with this modified preliminary plan approval include:

- a. Clustering of the dwelling units as shown on the modified plan for the Site submitted herewith to maximize and centralize open space, using a zero lot line, zero setback approach,
- b. Increasing the number of residential units from 16 units containing 23,440 square feet to 21 units containing about 16,425 square feet,
- c. Declaring the 0.92 acre Site to be a Townhouse PUD and allowing 31 parking spaces that are 8' x 16',
- d. Reducing the density permitted for the hillside phases by 5 units, from 137 to 132.

Additionally, the community/retreat center shall have a maximum height of 35 feet.

2. **Phase 1A Multi-Family Building Height.** A maximum of 65% of the Phase 1A multi-family buildings may have a maximum height of 35 feet if it qualifies and is developed as affordable workforce rental housing according to the Oregon Department of Housing and Community Services. Residential building heights for the 0.92 acre Site shall not exceed the R-3 height limit of 30 feet.
3. **Phasing.** The final map for each phase of development shall be submitted no later than the following schedule.

<u>Phase</u>	<u>Application for Final Plat (by Dec. 31 of)</u>
1A	2020
1B	2021
1C	2022
1D	2023
1E	2024
2A	2025
2B	2026
3A	2027
3B	2028
3C	2029

The applicant may file final plat applications in a different order than the numeric order specified on the Phasing Map, and adjust the phasing boundaries, provided that applications for final plats have been filed according to the phasing schedule. If final plat applications are filed in an order different than the numeric order specified on the Phasing Map, then the deadline date for the out of order phase will be substituted as the deadline date for next numeric order phase on the phasing schedule.

Each phase of the project shall include all required and approved parking for the residential units and other buildings included in that phase. Each phase of the project shall include the common/open space areas that are physically located within the boundaries shown for that phase. To the extent a particular phase requires infrastructure that is located in another phase, that infrastructure shall be constructed prior to or concurrently with that phase.

4. **Additional Information Required for Final Approval.** In addition to the information required on the preliminary plan the following information shall be provided at the time the final map for each phase of development is submitted:
 - a. Accurate legal description of all parcels and roads;
 - b. The deed dedicating to the public all common improvements, including but not limited to streets, if the streets are to be public streets, and the donation of which was made a condition of approval of the preliminary plan for the P.U.D.;
 - c. A copy of all protective deed restrictions;
 - d. Street, water, sanitary sewer, and drainage construction plans;
 - e. The certification, performance agreement or statement regarding the availability of water and sewerage services as provided in Section 9.60.040;
5. **Maximum Density.** There shall be a maximum of 178 residential dwelling units in substantial conformance with the approved preliminary plan.
6. **Access, Circulation, and Street Design.** At the time the applicant submits the Phase 1 map of the P.U.D. to the Planning Commission for final approval, written statements of approval and/or conditions regarding access, circulation, and street design shall be provided from the City of Yachats Public Works Department, the Yachats Rural Fire Protection District, and the Oregon Department of Transportation.

For the two streets that stub-out at the south end of the property, the applicant shall demonstrate that 1) the stub-outs are located to enable feasible extensions of the streets to the south from a physical standpoint, i.e. considering topographic conditions; and 2) the locations will not cause adverse impacts to future development of properties south of Fistera. What is shown as Diversity Drive on the preliminary plat will be renamed Elk Mountain Road. The present Elk Mountain Road at Highway 101 shall be renamed something other than Elk Mountain Road.

7. **Common Area/Open Space.** A minimum of 70% of the total land area (excluding street right-of-way) shall be dedicated or reserved as usable common outdoor living and open space land as identified on the preliminary plan. The common area/open space shall be maintained by the established homeowners association. At the time the applicant submits final maps of the P.U.D. to the Planning Commission for approval, a landscape plan shall be submitted.

8. **Pedestrian System.** The applicant shall be responsible for the design and construction of the pedestrian system. The pedestrian system shall be in substantial conformance with the approved plan. The applicant shall work with the City's Trails Committee regarding minimum trail construction standards, i.e. trail width, materials, construction, and signage.

The public pedestrian system shall, at minimum, consist of:

- streets,
- a series of trails through the 'Fern Gully' connecting existing Elk Mountain Road in the northwest section of the site to the northeast corner of the site and to Habitat Street. This trail will continue into the Siuslaw National Forest if the Siuslaw National Forest approves the Loop Trail through Forest Service property,
- a trail that extends eastward from the end of Unity Street to the eastern edge of the property and connects to Habitat Street and to Slow Lane,
- trail connections between parallel streets, i.e. between Habitat St./Unity St; Unity St./Elk Mountain Road; Elk Mountain Road/Independence St; and Independence St./Dignity Circle.

Public pedestrian trails separated from vehicular travel lanes shall be constructed as shown on the preliminary plan, i.e. the south side of Welcoming Spirit Way (the entry street off Hwy. 101) connecting via a street crossing to a trail on the southeast side Habitat Street which connects to the north end of the Community/Retreat Center parking lot. Additionally, a public pedestrian trail separated from vehicular travel lanes shall be constructed along Elk Mountain Road. The separated Elk Mountain Road trail shall extend from the south end of the property north to connect with the trail identified on the preliminary plan that goes west toward the Community/Retreat Center and east to Independence Street. The pedestrian trail shall be ADA accessible unless topographic constraints prevent handicapped access. The pathway shall be safe, well-marked, and not conflict with vehicular traffic.

The applicant shall continue to pursue discussions with the U.S. Forest Service, as well as the Oregon Parks and Recreation Department, the City, and other adjoining property owners to provide a trail that would connect the East Side Trail within Fisterra to the Siuslaw National Forest just east of Fisterra.

9. **Parking.** The number and dimensions of parking spaces for the single family, two-family, three-family, and multi-family residential units shall satisfy the minimum R-3 parking standards. A total of 50 parking spaces shall be provided adjacent to the community/retreat center and 18 studio getaway units.

The 0.92 Townhouse PUD Site shall have a minimum 31 parking spaces with dimensions of 8' x 16'.

Public parking spaces shall be provided at the trailhead just east of the termination of Diversity Drive.

Each phase of the project shall contain all required parking for the residential units and other buildings included in that phase.

10. **Geotechnical Investigation.** In accordance with Yachats Municipal Code Section 9.52.050(B), developers of property having a slope of twelve (12) percent or within five hundred (500) feet of a landslide or fault area shall also be subject to the following requirements:

8. **Pedestrian System.** The applicant shall be responsible for the design and construction of the pedestrian system. The pedestrian system shall be in substantial conformance with the approved plan. The applicant shall work with the City's Trails Committee regarding minimum trail construction standards, i.e. trail width, materials, construction, and signage.

The public pedestrian system shall, at minimum, consist of:

- streets,
- a series of trails through the 'Fern Gully' connecting existing Elk Mountain Road in the northwest section of the site to the northeast corner of the site and to Habitat Street. This trail will continue into the Siuslaw National Forest if the Siuslaw National Forest approves the Loop Trail through Forest Service property,
- a trail that extends eastward from the end of Unity Street to the eastern edge of the property and connects to Habitat Street and to Slow Lane,
- trail connections between parallel streets, i.e. between Habitat St./Unity St; Unity St./Elk Mountain Road; Elk Mountain Road/Independence St; and Independence St./Dignity Circle.

Public pedestrian trails separated from vehicular travel lanes shall be constructed as shown on the preliminary plan, i.e. the south side of Welcoming Spirit Way (the entry street off Hwy. 101) connecting via a street crossing to a trail on the southeast side Habitat Street which connects to the north end of the Community/Retreat Center parking lot. Additionally, a public pedestrian trail separated from vehicular travel lanes shall be constructed along Elk Mountain Road. The separated Elk Mountain Road trail shall extend from the south end of the property north to connect with the trail identified on the preliminary plan that goes west toward the Community/Retreat Center and east to Independence Street. The pedestrian trail shall be ADA accessible unless topographic constraints prevent handicapped access. The pathway shall be safe, well-marked, and not conflict with vehicular traffic.

The applicant shall continue to pursue discussions with the U.S. Forest Service, as well as the Oregon Parks and Recreation Department, the City, and other adjoining property owners to provide a trail that would connect the East Side Trail within Fistera to the Siuslaw National Forest just east of Fistera.

9. **Parking.** The number and dimensions of parking spaces for the single family, two-family, three-family, and multi-family residential units shall satisfy the minimum R-3 parking standards. A total of 50 parking spaces shall be provided adjacent to the community/retreat center and 18 studio getaway units.

The 0.92 Townhouse PUD Site shall have a minimum 31 parking spaces with dimensions of 8' x 16'.

Public parking spaces shall be provided at the trailhead just east of the termination of Diversity Drive.

Each phase of the project shall contain all required parking for the residential units and other buildings included in that phase.

10. **Geotechnical Investigation.** In accordance with Yachats Municipal Code Section 9.52.050(B), developers of property having a slope of twelve (12) percent or within five hundred (500) feet of a landslide or fault area shall also be subject to the following requirements:

**Case File #1-PD-PC-07 (Modification #3) Fistera Planned Unit Development
Findings and Conclusion**

- a. A performance bond or other type of acceptable financial instrument shall be posted with the city to ensure short and long term maintenance of site stability and prevention of landslides as a result of the development. The performance bond shall be an amount sufficient to secure completion of site preparation, excavation, fill, grading, drainage, planting, revegetation or site stabilization plans. The amount of such security will be determined after receipt of all information pertinent to the development and prior to final approval of project.
 - b. The site must be replanted and stabilized in accordance with the recommendations outlined in the geotechnical report. This vegetation must be maintained to ensure the continuous stability of the area.
 - c. All construction materials shall be stored in such a manner as recommended by the geotechnical report.
 - d. The geotechnical engineer must certify that all work has been completed as stated in the report. The February 9, 2007 Geotechnical Investigation specifies 27 design and construction recommendations addressing materials, site preparation-fill slopes, site preparation-cut slopes, retaining wall design and construction, and utility trenches. With the exception of the 41-unit apartment building in the northwest corner of the property, a site specific geotechnical report shall be required for all structures at the time a building permit application is submitted.
11. **Street Design.** All streets, other than Diversity Drive at the northwest corner of the property and Welcoming Spirit Way off Hwy. 101, shall have a minimum 40 foot right-of-way width with a minimum 22 foot paved surface width or greater if required by the City of Yachats Public Works Department or Yachats Rural Fire Protection District. Diversity Drive and Welcoming Spirit Way shall have a minimum 50 foot right-of-way width with a minimum 22 foot paved surface width or greater if required by the City of Yachats Public Works Department, Yachats Rural Fire Protection District, or ODOT.

Minimum five (5) foot wide public utility easements shall be provided outside the public right of way on both sides of each street. The width of these easements shall be increased if the Yachats Public Works Department or utility agencies determine that increased widths are needed.

As stated by the applicant, roadway design will minimize cuts and fills on the site thereby minimizing the height of necessary retaining walls. Longitudinal slopes of the proposed roads will also be evaluated to minimize slopes to the extent possible in this interplay between cuts, fills and roadway geometry.

Landscaping of street right-of-way shall be provided in general conformance with the approved preliminary plan.

Final engineering design for streets shall be reviewed and approved by the City of Yachats, YRFPD, ODOT (where applicable), and affected utility companies. The applicant/developer shall be responsible for any costs the City incurs to have an engineer, acting on behalf of the City, review and approve the final engineering plans.

12. **Storm Drainage.** Storm drainage shall be accomplished in general conformance with the approved preliminary plan. Final engineering design for storm water must be reviewed and approved by the City of Yachats, ODOT, and other applicable agencies. The applicant/developer shall be responsible for any costs the City incurs to have an engineer, acting on behalf of the City, review the final engineering plans.
13. **Water.** All lots shall be served by the City's public water system. No final map or plat of the planned development shall be approved unless the City has received and accepted either 1) A certification by the city water superintendent that water will be available from the nearest point of supply; or 2) A performance agreement, bond contract or other assurance that a water supply system will be installed by or on behalf of the subdivider to every lot or parcel depicted in the proposed subdivision or partition.

Final engineering design for water must be reviewed and approved by the City of Yachats, Yachats Rural Fire Protection District, and other applicable agencies. The applicant/developer shall be responsible for any costs the City incurs to have an engineer, acting on behalf of the City, review the final engineering plans.
14. **Sanitary Sewer.** No plat of the planned development shall be approved unless the City has received and accepted either 1) A certification by the city sewer superintendent that sewage service will be available at the nearest point of collection; or 2) A performance agreement, bond, contract or other assurance that sewage disposal lines will be installed by or on behalf of the subdivider to the boundary line of each and every lot or parcel depicted in the proposed subdivision or partition.

Final engineering plans for sewer services, prepared by the applicant, shall be reviewed and approved by the Yachats Public Works and other applicable agencies. The applicant/developer shall be responsible for any costs the City incurs to have an engineer, acting on behalf of the City, review the final engineering plans.
15. **Utilities.** Utilities shall be placed underground by the developer, i.e. electric and telephone facilities, fire alarm conduits, street light wiring, and other wiring, conduits and similar facilities.
16. **Environmental Protection.** The proposed development will implement all measures that the environmental consultant recommends to protect the creek and its riparian zone against adverse impacts (located in the northern portion of the property).
17. **Archaeological Resources.** If any historic resources, archaeological ruins, or artifacts are discovered at anytime, i.e. during any grading or excavation, construction activities shall cease and not continue until the Oregon State Historic Preservation Office (SHPO) and other appropriate authorities are contacted, investigate the site, and allow construction activity to continue, as required by Oregon Revised Statutes.
18. **Signage.** Signage shall be permitted as described in the approved preliminary plan, i.e:
 - a. **Entry Signs.** One entry sign may be located at Welcoming Spirit Way and Hwy. 101 and another entry sign may be located at Diversity Drive and Hwy. 101. These entry signs shall be no larger than 40 square feet of surface area each and the top of each sign shall be placed

12. **Storm Drainage.** Storm drainage shall be accomplished in general conformance with the approved preliminary plan. Final engineering design for storm water must be reviewed and approved by the City of Yachats, ODOT, and other applicable agencies. The applicant/developer shall be responsible for any costs the City incurs to have an engineer, acting on behalf of the City, review the final engineering plans.
13. **Water.** All lots shall be served by the City's public water system. No final map or plat of the planned development shall be approved unless the City has received and accepted either 1) A certification by the city water superintendent that water will be available from the nearest point of supply; or 2) A performance agreement, bond contract or other assurance that a water supply system will be installed by or on behalf of the subdivider to every lot or parcel depicted in the proposed subdivision or partition.

Final engineering design for water must be reviewed and approved by the City of Yachats, Yachats Rural Fire Protection District, and other applicable agencies. The applicant/developer shall be responsible for any costs the City incurs to have an engineer, acting on behalf of the City, review the final engineering plans.
14. **Sanitary Sewer.** No plat of the planned development shall be approved unless the City has received and accepted either 1) A certification by the city sewer superintendent that sewage service will be available at the nearest point of collection; or 2) A performance agreement, bond, contract or other assurance that sewage disposal lines will be installed by or on behalf of the subdivider to the boundary line of each and every lot or parcel depicted in the proposed subdivision or partition.

Final engineering plans for sewer services, prepared by the applicant, shall be reviewed and approved by the Yachats Public Works and other applicable agencies. The applicant/developer shall be responsible for any costs the City incurs to have an engineer, acting on behalf of the City, review the final engineering plans.
15. **Utilities.** Utilities shall be placed underground by the developer, i.e. electric and telephone facilities, fire alarm conduits, street light wiring, and other wiring, conduits and similar facilities.
16. **Environmental Protection.** The proposed development will implement all measures that the environmental consultant recommends to protect the creek and its riparian zone against adverse impacts (located in the northern portion of the property).
17. **Archaeological Resources.** If any historic resources, archaeological ruins, or artifacts are discovered at anytime, i.e. during any grading or excavation, construction activities shall cease and not continue until the Oregon State Historic Preservation Office (SHPO) and other appropriate authorities are contacted, investigate the site, and allow construction activity to continue, as required by Oregon Revised Statutes.
18. **Signage.** Signage shall be permitted as described in the approved preliminary plan, i.e:
 - a. **Entry Signs.** One entry sign may be located at Welcoming Spirit Way and Hwy. 101 and another entry sign may be located at Diversity Drive and Hwy. 101. These entry signs shall be no larger than 40 square feet of surface area each and the top of each sign shall be placed

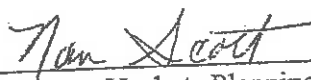
Case File #1-PD-PC-07 (Modification #3) Fistera Planned Unit Development
Findings and Conclusion

no higher than 8 feet above grade. Any directional lighting onto these signs shall not shine on the roadway or toward passing cars. ODOT approval shall be required for signs along the Hwy. 101 frontage.

- b. Identification Signs. Identification signs may be placed at the community/retreat center and one for each of the five principal common areas. These signs shall be no larger than 10 square feet of surface area and the top of each sign shall be placed no higher than 6 feet above grade. Appropriate directional lighting onto these signs shall not shine on the roadway or toward passing cars.
- c. Directional Signs. Directional signs may be placed as needed on sidewalks, trails, and pathways which will be spaced about the property with arrows providing direction and (if desired, distance) to the community/retreat center and the various principal common areas and trails from various locations on the property. These signs would also identify the various pedestrian trailheads where they intersect streets. These signs shall be no larger than 6 square feet of surface area and the top of each sign shall be placed no higher than 6 feet above grade. No lighting shall be provided to these signs.

19. **Performance Agreement.** Prior to construction, the applicant shall provide a performance agreement, bond, contract or other assurance for the construction of streets, storm drainage, water service and sanitary sewer service. Water service and sewage disposal lines shall be installed by or on behalf of the developer to the boundary line of each and every lot or parcel depicted in the proposed planned development.

This ORDER was presented to and approved by the Yachats Planning Commission on September 20, 2016.



Nan Scott, Yachats Planning Commission Chair

09/27/2016
Date

YACHATS PLANNING COMMISSION

July 17, 2018

Draft Minutes

Chair Helen Anderson called the July 17, 2018 meeting of the Yachats Planning Commission to order at 3:00 pm in the Room 1 of the Yachats Commons. Members present: Ron Urban, Helen Anderson, Ginny Hafner, Mary Ellen O'Shaughnessey, Shelly Shrock, and James Kerti. Absent: none. Staff present: City Planner Larry Lewis. Audience: 3.

I. Announcements and Correspondence - none

II. Minutes

A. June 19, 2018 Work Session Meeting

Commissioner Urban moved to approve the June 19, 2018 work session minutes as presented: Aye – 6; No – 0.

B. June 19, 2018 Regular Meeting

Page 1, Line 45: "not testimony was" should read "no testimony was"

Page 1, Lines 48-49: "Lewis suggesting" should be "Lewis suggested"

Page 3, Line 25: add, "vacation rental" to the end of the sentence.

Page 3, Line 39: "indicated" is repeated twice.

Page 4, Line 12: "speed sign" should be "dead end sign"

Commissioner Kerti moved to approve the June 19, 2018 Planning Commission meeting minutes as amended: Aye - 6; No – 0.

III. Planning Commissioner Interview – Lance Bloch

Anderson reminded Commissioners that Bloch has previously applied to the Commission.

Urban moved to recommend to the City Council that Lance Bloch be appointed to the Planning Commission to fill the vacant seat: Aye - 6; No – 0.

IV. Citizen's Concerns - none

Rhonda Moran (214 Coolidge Lane) asked that rules be applied equally to everyone. She also noted how some entities talk about the same issues at every meeting without making any decisions. Moran suggested the accessory dwelling unit allowance would create another avenue for people to create vacation rentals and create greater drain on the already limited water supply. She raised issues around dogs, parking, neighbors, and other nuisances. Moran also asked that restaurants not serve water unless it was requested. Anderson suggested Moran raise this issue with Council. Urban noted the water restrictions require this action.

V. Public Hearings - none

Commissioner Hafner clarified the previously scheduled Hearings were delayed as the OLDC was late getting out.

VI. Planner's Report

Lewis summarized building activity from June 6 to July 10, 2018 in his Planner's Report in the meeting packet. Commissioner Shrock asked about the permit for the home without a street number. Lewis explained lots are given street numbers when building begins, and the Hanley Drive lot had not yet been assigned.

1 **VII. Other Business**

2 **A. From the Commission**

3 Kerti noted Section 5.04.020 of the Code prohibits sale of fireworks, but the market sells sparklers.
4 Commissioners were not certain as to whether sparklers were considered to be fireworks. Kerti
5 clarified legal fireworks can only be set off private property. Commissioners noted most fireworks
6 set off in the City were not legal.
7

8 Urban expressed concern about the placement of an awning in the old laundromat parking lot that
9 was supposed to provide 5 spaces. Anderson stated the Commission would need to redress
10 parking requirements for the Drift Inn properties.
11

12 O'Shaughnessey asked about the retail tent set up with an RV on the Alder Bistro parking lot.
13 Anderson explained the retail tent is not illegal if the property owner gives permission and the
14 vendor gets a temporary business license. She reported the City Manager has been talking to the
15 property owner about the situation. Anderson also noted there are limitations on how long one can
16 live in an RV on any property. Commissioners discussed whether the back lot at the Alder would
17 need to be opened.
18

19 **B. From Staff - none**

20
21 Anderson adjourned the meeting at 3:29 pm.
22
23
24
25

26 _____
Helen Anderson, Chair

Date

27
28 Minutes prepared by H H Anderson on August 14, 2018.
29

YACHATS PLANNING COMMISSION

July 17, 2018

Work Session Draft Minutes

Vice-Chair Ron Urban called the July 17, 2018 meeting of the Yachats Planning Commission to order at 2:00 pm in the Room 1 of the Yachats Commons. Members present: Ron Urban, Helen Anderson, Mary Ellen O'Shaughnessey, Ginny Hafner, and James Kerti, Shelly Shrock. Absent: none. Staff present: City Planner Larry Lewis. Audience: 3.

I. Certificate of Occupancy and Business Licensing

Anderson explained she drafted a memo to Council based on the City Attorney's feedback with Option A being requiring a certificate of occupancy as part of getting a license and Option B as enabling the City to revoke a license if a certificate was not obtained. She interpreted the Attorney's feedback to be saying there was potential liability for the City to require a certificate of occupancy as part of business licensing in the event of a business not getting the certificate and someone subsequently getting hurt, as it would be the City's responsibility to see the license was obtained. She noted he suggested they could alternatively put language in the Code to have a lack of a certificate being a reason for revoking a license. Commissioner O'Shaughnessey noted that it was hard to take something away once someone has obtained it. Commissioner Kerti suggested the language of Option B could allow for not issuing the license, but Option A is more direct for that approach.

Urban asked why Anderson was not recommending the Option B that the Attorney seemed to be recommending. He noted how the Attorney had previously challenged the language and work of previous Commission proposals such as with the former business and light industrial language. Anderson explained she saw the Attorney as preferring Option B because of potential liability with Option A, and she did not agree that the liability of Option A was such a risk. Urban thought it would be more prudent to follow the Attorney's advice.

Anderson read the section of the Attorney's email explaining the liability involved in Option A. Anderson did not believe the Attorney was strongly against Option A. Commissioner Hafner asked if the City would be liable for an accident that occurred in the business that was operating without building permits. Kerti suggested the City would have liability in both approaches. O'Shaughnessey agreed that the City could have liability for any unpermitted area where an accident occurs.

Kerti did not read the Attorney's comments as an outright endorsement of Option B. Kerti also referred to the comment that Option B would be turning the requirement from an application issue into an enforcement issue and noted the City has not had consistent code enforcement in recent times.

Anderson stated she was not clear in explaining to Commissioners that draft was her first attempt of a draft and not reflective of what the Commission had decided. She also noted that she had talked to Clerk Kimmie Jackson who oversees the licensing process, and Jackson was in favor of having the certificate be part of the licensing documentation.

Urban wanted clarification on why the Planning Commission was addressing this topic. Anderson indicated it was because of the Farm Store operating without a license. Commissioners noted it was uncertain as to whether other businesses were operating in buildings not up to code. O'Shaughnessey suggested the County provide the evidence of occupancy. Anderson argued it would be easiest on City staff to have the business owner provide the information. Anderson noted

1 that once the certificate was on file with the City, the owners would not have to resubmit it unless
2 they made significant changes to the building. Lewis agreed that it would be better to not issue
3 licenses to businesses without proper permits.

4
5 Commissioners discussed the pros and cons of asking the County to provide the certificates versus
6 having the owners provide the certificates, and Anderson noted there are over 400 business
7 licenses in the City. Anderson asked Code Enforcer Quinton Smith how he would address a
8 business operating without building permits, noting the citation would give the violator time to
9 remedy the situation. Anderson noted Chapter 1.12 of the code outlines the process of issuing
10 citations.

11
12 Urban had concerns about the reasons for the Commission to take up this matter and how a viable
13 business could get the certification to meet code requirements. Hafner wanted clarification on the
14 responsibilities of the City versus the County. Lewis explained the County issues and oversees the
15 building permits. He noted the County makes the first few attempts to ask a business to correct the
16 violation, and then the matter gets turned over to the City to manage.

17
18 Anderson asked if Commissioners would prefer to have the memo indicate there are two options to
19 address the certificate of occupancy matter rather than to state a preference for one.
20 O'Shaughnessey asserted the Commission should make a recommendation if it had a clear
21 preference.

22
23 Urban wanted to see that there were ways for a business in violation to get compliant without
24 closing them down. Anderson agreed that there should be avenues to allow time to get compliant.
25 Anderson noted there are actually two businesses in current violation of getting building permits.
26 Lewis noted how the Farm Store has continually delayed and made excuses for not working to get
27 compliant, and he would welcome stronger code to force the business to take the matter seriously.
28 O'Shaughnessey suggested it was common sense that a certificate be required so it was not really
29 about one businesses action.

30
31 O'Shaughnessey suggested the memo be phrased in a more positive way. Anderson suggested
32 they could add a statement about allowing businesses to have a period of time to bring violations
33 into compliance. O'Shaughnessey raised the issue of businesses renting space from an owner
34 who does not have records of certificate of occupancy. Lewis noted the record should be on file
35 with the County. O'Shaughnessey suggested a year would be reasonable.

36 37 **II. Accessory Dwelling Units and Types of Dwellings (Stick Built, Tiny Homes, 38 Manufactured Homes, Pre-Fabricated Structures)**

39 Anderson explained she asked this topic to be on the agenda as there was confusion at the
40 previous meeting about the classifications. Lewis noted the ability to have a Tiny Home depends
41 on how it was classified:

- 42 - If classified as recreation vehicle, they are not permitted.
- 43 - If classified as manufactured home, they are not permitted, as manufactured homes must
44 be multi-sectional.
- 45 - If classified as a stick built home, they would be permitted, as the city has no minimum
46 size requirement on a stick built home. The County does have minimum size
47 requirements for living, sanitation, and kitchen areas, which roughly totals 220 square
48 feet. A permanent prefabricated structure is allowed (sections manufactured off site
49 and assembled as permanent structure on site).

50
51 Anderson asked if a Tiny Home could be a type of accessory dwelling unit. Lewis said a Tiny
52 Home could be an ADU if it were stick built and not a recreational vehicle or manufactured home.

1 Urban explained there is pressure to allow for more affordable, higher density housing. Hafner
2 clarified the Planning Commission had previously sent a memo to Council recommending that
3 apartment or town homes was a more appropriate approach to affordable housing rather than Tiny
4 Homes.

6 **III. ADU Draft Ordinance**

7 Urban stressed the importance of not allowing loopholes. Commissioners discussed the three
8 listed options of "interior, attached, or detached."

10 Urban adjourned the work session at 2:55 pm and suggested reconvening after the regular
11 meeting.

13 Urban reopened the work session at 3:30 pm.

15 Lewis explained classifying an ADU as a conditional use would require Planning Commission
16 approval where as outright use would enable building without Planning Commission approval.

18 Kerti suggested the Commission get public input on whether ADUs are desired. Hafner did not
19 want to allow ADUs where density was already high. Anderson noted the minimum lot size for a
20 dwelling unit is 7,500 sf, so the Commission could require that a lot size be double that, or 15,000
21 sf, if the owner wanted to add an ADU. Commissioners agreed a maximum of one unit should be
22 allowed in an R-1 zone. Lewis noted some communities have seen owners building a detached
23 ADU and having interior space within the primary dwelling.

25 Commissioners returned to the principal that the most practical way to create affordable housing is
26 Yachats is through apartments. Lewis discussed some of the ways other cities are using to
27 encourage apartment-type developments.

29 Lewis noted in the R-2 zones, duplexes are allowed, but the units must be attached. Anderson
30 suggested they could allow a maximum of two dwelling in R-2, so that if there was already a
31 duplex, an ADU could not be added. However, if there was only a single-family home, an ADU
32 could be added.

34 Commissioners discussed the practicality of getting too detailed about regulations without getting
35 further direction either from the public or the Council. Anderson wanted the Council to give the
36 Commission specific direction to allow ADUs in R-1 before the go further on regulations around
37 that allowance. Kerti was not certain ADUs would be affordable. Commissioners agreed there
38 needed to be incentives for a developer to build affordable apartments. Kerti noted the State did
39 not impose the allowance of ADUs in smaller cities, which indicates there are reasons why the
40 requirement might not be appropriate to smaller communities.

42 Commissioners discussed how to reply to the Council's request to look into the possibility of having
43 ADUs. Anderson indicated she would draft a memo to be discussed at the next work session.

45 **IV. Clear Vision Standards**

46 Anderson explained this issue arose when Doug Connor asked about hedge height in the yard
47 setback area. The City Attorney noted the language on limiting fence, hedge and wall heights in
48 the required yard setback area was in the wrong section of the code. In the current location of
49 9.52.030, it only applies to "accessory uses," and it needs to apply to all uses. Lewis noted the
50 proposed language for Chapter 9.64 would apply everywhere in the City. Anderson asked if the
51 clear sight area should apply to driveways as well as streets, noting Chapter 9.64 is directed at two

1 intersecting streets. Anderson suggested the Commission continue this discussion at the next
2 work session.

3
4 Urban adjourned the work session at 3:58 pm.
5
6
7

8
9 _____
10 Ron Urban, Vice-Chair

_____ Date

11 Minutes prepared by H H Anderson on August 14, 2018.
12

YACHATS PLANNING COMMISSION

August 21, 2018

Work Session Approved Minutes

Vice-Chair Ron Urban called the August 21, 2018 meeting of the Yachats Planning Commission to order at 2:00 pm in the Room 1 of the Yachats Commons. Members present: Ron Urban, Helen Anderson, Mary Ellen O'Shaughnessey, Ginny Hafner, James Kerti, and Shelly Shrock. Absent: none. Staff present: City Planner Larry Lewis. Audience: 3.

The Commission welcomed its newest member, Lance Bloch.

I. Clear Vision Standards and Fences, Hedges and Walls Regulations

Commissioner Urban noted from Planner Lewis' memo that item b in 9.52.030 should be removed as Chapter 9.52.030 as the attorney noted this requirement only applies to accessory uses.

Urban noted the new language in 9.64.010 Street Construction and Design:

Add "to all streets, i.e, public streets and private streets" to the end of the second sentence to read, "In addition, the following standards shall apply to all streets, i.e., public streets and private streets:"

Add to the first sentence in section A "and at the intersection of a street and a driveway" to read, "Clear-Vision Areas. A clear-vision area shall be maintained on the comers of all property at the intersection of two (2) streets and at the intersection of a street and a driveway."

Add section B to read, "B. Fences, hedges and walls may be located within required yards, but shall not exceed three (3) feet in height in any required yard which abuts a street other than an alley."

Anderson got clarification on the clear-sight area meaning the triangle going fifteen feet back from the corner in each direction, and noted the change would impact many homes. Lewis added that the Commission needed clarification from the attorney on what would or would not be grandfathered in. Commissioner O'Shaughnessey noted this requirement was about safety and the grandfather issue might apply differently. Lewis noted the City has traditionally always applied the three feet height limitation in required setbacks. Lewis noted a height of 2.5 feet is common in clear-vision areas.

Commissioner Shrock noted any changes to existing structures or hedges would only come up if someone complains, while any new building would definitely adhere to this requirement.

Urban suggested the language is ready to proceed with a public hearing. Anderson asked if the issue should be bundled with other hearings and noted would need to be notified. Shrock was against waiting to bundle the item with others, asserting that new code needed to be enacted as soon as possible. Commissioners agreed with Shrock.

Lewis noted in item J, "City Council" should be changed to "Planning Commission," as the Commission is the one who has the variance hearings.

Commissioner Bloch asked for clarification on the grandfathering and variance process. O'Shaughnessey pointed out the issue is for safety so grandfathering should not apply. Bloch asked about a situation where a hedge exists under the three feet limit and would that be allowed to grow if it was grandfathered. Anderson noted if the grandfathering was not allowed, it would not be an issue as in either case it would be limited to three feet.

1
2 Anderson asked if Commissioners wanted any clarification on the PUD for Elk Mountain Properties
3 as it stands now. Anderson noted the original Fistera PUD was in 2005, noting everyone on
4 Diversity Drive was a phase of the Fistera PUD. Lewis noted the last revision was in 2016.
5 Anderson noted a PUD stays with the property regardless of ownership and ownership change.

6
7 Hafner clarified the Fistera construction now would be affordable housing with priority given to
8 Yachats residents and local workers.
9

10 The section of the Fistera PUD for the hearing today consisted of seven lots but 132 homes.
11 Shrock was concerned about the density of housing in this area. Anderson noted in 2016, the
12 Commission approved a slight change in parking and units for the phase that is currently under
13 construction. Lewis noted only the existing apartments and the condos under construction have
14 had final approval on the PUD. Construction on later phases in the area under consideration at the
15 hearing today would come when they are ready to begin development. O'Shaughnessey
16 expressed concern over the removal of so many trees destabilizing the slopes on the hillside.
17 Commissioners briefly discussed building on steep slopes. Kerti suggested the City could consult
18 with a certified geologist on the stability of the hillside. Urban reiterated the hearing today was not
19 about changing the PUD but on the combining of lots. Urban wanted to have clarification of the
20 map on page 154, and Lewis indicated he would explain more during the public hearing.
21

22 Shrock asked about inclusion of trails and suggested this issue be addressed before any building
23 begins. Lewis noted the Ya'Xiak Trail runs on the north side just east of the Fistera apartments.
24

25 Bloch asked if there was discussion about the impact of this plan on water and sewer systems.
26 Anderson reported that Dave Buckwald had told her that the sewer plant could handle all planning
27 building on the hillside. She was not certain of water supply issues, but suggested that the City
28 would need additional water storage to supply this proposed building. Lewis indicated the PUD
29 does incorporate its own water reservoir on the southeast corner of the development. Anderson
30 asked what the water supply resource would be. Lewis was not aware of the source of the water
31 location.
32

33 Lewis noted he would re-evaluate the parking required for the Drift Inn complex given the
34 additional outside seating and the loss of parking in front of the old laurdromat. Anderson asked
35 what the standard parking space size was. Lewis believed that to be 9 x 18 feet.
36

37 Lewis reported the deadline for revised plans from the Farm Store and their architect expired last
38 week, so the City Attorney would need to follow up. Anderson noted she would be presenting the
39 Certificate of Occupancy requirement for business licenses to Council in September. Lewis
40 explained the County is contracted with the City to get compliance on building codes with orders,
41 but the County turns the matter over to the City if they are unsuccessful in getting compliance.
42

43 Urban adjourned the work session at 2:54 pm.
44
45
46

47 _____
Ron Urban, Vice-Chair

Date

48
49 Minutes prepared by H H Anderson on September 16, 2018