CITY OF ST. HELENS PLANNING DEPARTMENT STAFF REPORT

Conditional Use Permit CUP.2.24 & Variances V.8.24 - V.11.24 (four Variances total)

DATE:

December 2, 2024

To:

Planning Commission

FROM:

Jacob A. Graichen, AICP, City Planner

APPLICANT: Dan Hatfield

OWNER:

LAGRAND TOWNHOMES LLC

ZONING:

General Residential, R5

LOCATION:

5N1W-34CC-09200; NE corner of the Wyeth and N. 5th Streets intersection

PROPOSAL:

Build a triplex on formerly developed lot with multiple Variances

SITE INFORMATION / BACKGROUND

The site was developed with a triplex that utilized on-street parking for decades. Around 2021 there was a fire that destroyed the building, and it was left in a state of disrepair until it was recently demolished; a demo permit to do this was applied for on August 29, 2024 (permit number 749-24-000287-DEMO).

The triplex was an existing non-conforming use as the lot is technically too small to allow three dwelling units and the structure (demolished except for a below grade wall along Wyeth Street) was non-conforming given its close proximity to Wyeth Street, at least. Chapter 17.104 SHMC governs nonconforming structures and when a nonconforming structure is destroyed by more than 60%, it shall not be reconstructed, except in conformity with the Development Code.

There is an exception to this per SHMC 17.104.040(1)(b)(ii):

Be occupied by detached single-dwelling unit(s) or a duplex as permitted outright in a residential zoning district, if located in a residential zoning district; the house may be rebuilt on the same size, or smaller, footprint if destroyed by fire or natural disasters over 60 percent of value (any changes to the footprint must meet all setbacks and other regulations of the zone).

However, the applicant does not propose a detached single-family dwelling or duplex. They proposed multi-family development (3 or more dwelling units), in which case this exception does not apply.

This Conditional Use Permit is accompanied by four Variances pertaining to: 1) minimum lot size and the density allowed, 2) reduced exterior side yard (setback) along Wyeth Street, 3) reduction of off-street parking to allow all parking to be street (off site) parking, and 4) relief from the exterior elevation requirements applicable to multifamily development per SHMC17.96.180(3).



Upper left: 2012 Google Earth street view of the subject property viewed from the Wyeth Street / N. 5th Street intersection.

Left: August 2024 photo of the same side of the building. Note the stake in the ground identifying a property corner.

Lower left: November 2024 photo from the same intersection following demolition efforts.

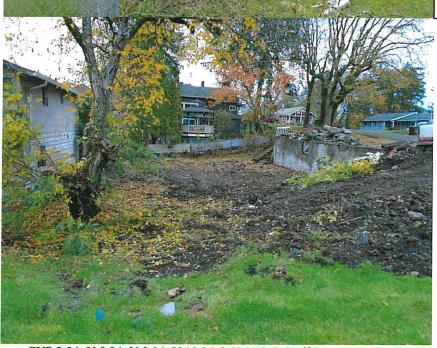


CUP.2.24, V.8.24, V.9.24, V.10.24 & V.11.2 & Staff Report



Upper left: June 2022 photo of the subject property from Wyeth Street, showing extent of fire damage.

Left: June 2022 photo of the subject property from N. 5th Street. **Lower left:** November 2024 photo of the subject property from N. 5th Street following demolition. Note the remaining retaining wall that was part of the original foundation. This wall parallels and is along Wyeth Street.



CUP.2.24, V.8.24, V.9.24, V.10.24 & V.11.2 & Staff Report

PUBLIC HEARING & NOTICE

Public hearing before the Planning Commission: December 10, 2024

Notice of this proposal was sent to surrounding property owners within 300 feet of the subject property(ies) on November 19, 2024 via first class mail. Notice was sent to agencies by mail or e-mail on the same date.

Notice was published on November 29, 2024 in the Columbia County Spotlight newspaper.

APPLICATION COMPLETENESS

This application was originally received on October 31, 2024. The 120-day rule (ORS 227.178) for final action for this land use decision is February 28, 2024.

AGENCY REFERRALS & COMMENTS

CRFR: After reviewing the proposed plans and driving by the site the fire district has the following:

- Due to multiple occupancy Fire Suppression/Sprinkler system.
- 360 degree fire access to the building. There are several properties that are very close in proximity to the building, for suppression and life safety access the fire district requires the ability to access all sides of the structure.

APPLICABLE CRITERIA, ANALYSIS & FINDINGS

Conditional Use Permit CUP.2.24

Zoning Compliance: The site is zoned R5.

Lot size needs to be 7,500 square feet for triplex. Lot is only 5,800 square feet size. **Need Variance**: see V.8.24.

Min front yard (from N 5th Street) is 20 feet. Site plan shows approximately 30'.

Min rear yard (opposite N 5th Street) is 10 feet. Site plan shows 15 feet.

Min exterior yard (corner lot) along Wyeth is 10 feet. Site plan shows 4.5 feet. **Need Variance**: see V.9.24.

Min side yard (opposite Wyeth) is 10' for multifamily structures. Site plan shows 12.5 feet.

Maximum building/structure coverage is 50% for multifamily development. ½ of the lot size is 2,900 square feet. The sole building proposed has a footprint of approximately 2,200 square feet.

Minimum landscaping required is 25%. Open space (unpaved/unbuilt area) exceeds 25%, though this will be reduced some, if the parking variance is not granted.

Maximum building height is 35 feet. Total height does not exceed 30 feet.

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Addition Yard Setback Reqs & Exceptions: When there is a minimum yard requirement, such is in the case of the subject property, no building, structure or portion thereof, be placed within three feet of a property line.

The significance of this for this case is if the exterior side yard (setback) along Wyeth Street is allowed to be 4.5 feet via the Variance, the building includes a 1' eve, which would still be more than three feet and not conflicting with Chapter 17.64 SHMC.

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<u>Landscaping/buffering/screening</u>: Street trees can be required having more than 100 feet of street frontage. The reduced yard (setback) Variance along Wyeth will impact available space for trees; lack of available space is one of the exemptions for street trees requirements.

Tree spacing will be based on tree size per 17.72.035(2)(a)-(c). Tree location shall also comply with requirements per 17.72.035(2)(d)-(l).

This chapter requires buffering. This applies in this case as follows:

• Site abuts R5 zoned properties occupied by detached single-family dwellings on two sides. The normal requirement is a minimum 10' of buffer plus screening.

The buffering and screening requirements shall be included on revised final plans. Note CRFR comments above; buffer should not conflict with emergency access.

This chapter requires screening (unrelated to buffering above). This applies in this case as follows:

Parking lots greater than three spaces is required to be screened. For screening in this case, the city usually requires landscaping along the perimeter that includes a balance of low lying and vertical shrubbery and trees. If the Commission grants a Variance that allows no or less off-street parking, this may not apply.

Service facilities and equipment (e.g., HVAC and other mechanical unit) visible from a public street, customer or residential parking area, any public facility or residential area are required to be screened whether they are ground, wall or roof mounted. In addition, rooftop facilities and equipment are required to be screened from street and adjacent properties.

This is not addressed at this time and will need to be addressed with final plans.

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<u>Visual Clearance</u>: Chapter 17.76 SHMC requires proper sight distances at intersections to reduce traffic hazard potential. The required area to maintain clear vision is greater for arterial streets.

This could potentially affect the final design of the proposal.

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<u>Off-Street Parking/Loading</u>: Off street parking is normally required as new development. However, the applicant is requesting all parking spaces to be on-street. **Need Variance**: see V.10.24.

Normally, 2 spaces per 2-bedroom (or more) dwelling unit requires two spaces each, for a normal minimum requirement of six spaces.

A standard parking space is at least 9' x 18'. If on-street parking is allowed along Wyeth for the parking requirement, the "shoulder" is large enough.

Bicycle parking. Not required for triplexes.

Surface area. If the Commission approved the Variance for on-street parking, it should be paved; this area currently is not.

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Access/egress/circulation:

Public street access. All vehicular access and egress per Chapter 17.84 SHMC is required to directly connect to a public or private street approved by the city for public use. Moreover, vehicular access is required to be within 50' of principle entrances.

The site abuts the following streets:

Street/Road Name	Public or Private	Street Class (TSP)	Jurisdiction	Improved?
Wyeth Street	Public	Collector	City of St. Helens	partial; street paved with old style sidewalk

N. 5 th Street	Public	Local	City of St. Helens	partial; street
				paved with bike
				lanes

The site utilizes these streets for access and the streets are within the statutory distance of the primary entrances.

Pedestrian access (interior walkways). Within all attached housing and multifamily developments, each residential dwelling shall be connected by walkway to the vehicular parking area, and common open space and recreation facilities.

Walkways connecting the front doors facing Wyeth Street to the sidewalk appear to be proposed.

Required walkways shall be paved with hard-surfaced materials such as concrete, asphalt, stone, brick, etc. Walkways shall be required to be lighted and/or signed as needed for safety purposes. Soft-surfaced public use pathways may be provided only if such pathways are provided in addition to required pathways.

Lights will be necessary, associated with each front door.

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<u>Solid Waste/Recyclables</u>: Chapter 17.92 SHMC includes provisions for functional and adequate space for on-site storage and efficient collection of mixed solid waste and recyclables subject to pick up and removal by haulers. However, this does not apply to triplexes.

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<u>Site Development Review</u>: The applicable standards are as follows:

Note that because the subject property is well within a quarter mile via walkways to 6th Street Park, private and shared open space requirements can be exempt.

Per SHMC 17.96.180(3)—Exterior Elevations:

Along the vertical face of single-dwelling units – attached and multiple-dwelling unit structures, offsets shall occur at a minimum of every 30 feet by providing any two of the following:

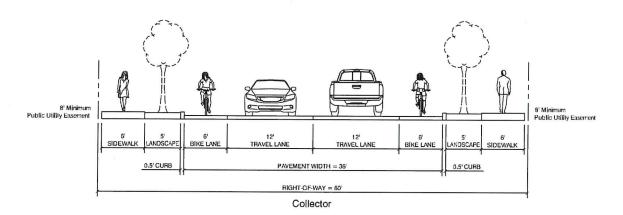
- (a) Recesses (decks, patios, entrances, floor area, etc.) of a minimum depth of eight feet;
- (b) Extensions (decks, patios, entrances, floor area, etc.) of a minimum depth of eight feet, and maximum length of an overhang shall be 25 feet; and
 - (c) Offsets or breaks in roof elevations of three or more feet in height;

This is not met; **Need Variance**: see V.10.24.

Per SHMC 17.96.180(11)—Distance between Multiple-Family Residential Structure and Other:

(c) Driveways, parking lots, and common or public walkways shall maintain the following separation for dwelling units within eight feet of the ground level:

- (i) Driveways and parking lots shall be separated from windowed walls by at least eight feet; walkways running parallel to the face of the structures shall be separated by at least five feet; and (ii) Driveways and parking lots shall be separated from living room windows by at least 10 feet; walkways running parallel to the face of the structure shall be separated by at least seven feet;
- Non-living windowed room areas are along the Wyeth Street side of the building. Provided the existing sidewalk does not move (which is shown incorrectly on the preliminary plans as the sidewalk does not abut the property line), there should be 8' of separation, but maybe not 10 feet. Living room areas are proposed on the opposite side of the building from Wyeth Street.



Because new frontage improvements are possible, that should be examined. The normal cross section shown above has the sidewalk close to the property line. However, it also calls for a 60' wide right-of-way width, and the current width is 80' wide. The improved (asphalt) street is also more-or-less centered in the right-of-way (not skewed to one side). So, it is conceivable the extra right-of-way can accommodate the walkway separation and proposed on-street parking and shall be a condition of approval to ensure design consideration.

* * *

Conditional Use: Pursuant to SHMC 17.100.040:

- (1) The planning commission shall approve, approve with conditions, or deny an application for a conditional use or to enlarge or alter a conditional use based on findings of fact with respect to each of the following criteria:
 - (a) The site size and dimensions provide adequate area for the needs of the proposed use:
- (b) The characteristics of the site are suitable for the proposed use considering size, shape, location, topography, and natural features;
 - (c) All required public facilities have adequate capacity to serve the proposal:
- (d) The applicable requirements of the zoning district are met except as modified by this chapter;
- (e) The supplementary requirements set forth in Chapter 17.88 SHMC, Signs; and Chapter 17.96 SHMC, Site Development Review, if applicable, are met; and
 - (f) The use will comply with the applicable policies of the comprehensive plan.

If some of the Variances are denied, this Conditional Use Permit may also warrant denial.

SHMC 17.100.150 has additional requirements for certain conditional use types. The proposal does not include any of these.

SHMC 17.100.040(3) provides "condition of approval guidance" as follows:

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

(a) Limiting the hours, days, place, and manner of operation;

(b) Requiring design features which minimize environmental impacts such as noise, vibration, air pollution, glare, odor, and dust;

(c) Requiring additional setback areas, lot area, or lot depth or width;

- (d) Limiting the building height, size or lot coverage, or location on the site;
- (e) Designating the size, number, location, and design of vehicle access points;
- (f) Requiring street right-of-way to be dedicated and the street to be improved;
- (g) Requiring landscaping, screening, drainage and surfacing of parking and loading areas;

(h) Limiting the number, size, location, height, and lighting of signs;

(i) Limiting or setting standards for the location and intensity of outdoor lighting;

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

These are for the Commission's consideration.

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Variance: See Variance section below.

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<u>Tree Removal/Preservation</u>: Chapter 17.132 SHMC addresses the preservation of trees with a diameter at breast height (DBH) >12 inches. Protection is preferred over removal per this Chapter and Site Development Review Chapter 17.96 SHMC.

There is one large tree within the subject property. Staff believes this a walnut tree, which is large for the minimal yard area and building proximity. It could be kept, though if removed, would need to be replaced by two trees.

If proposed to be kept, a protection program by a certified arborist defining the standards and methods that will be used to protect the existing trees to be preserved is required. This shall be on or with the Building Permit plan set to ensure contractors and others follow the tree protection plan during site development.

* * *

<u>Street/Right-of-Way Standards</u>: Both abutting streets are improved with paved travel lanes. Wyeth, a collector street, includes an old style 4' wide sidewalk on the side of the subject

property and an approximate 18' wide gravel shoulder previously used as on-street parking before the triplex was destroyed. N. 5th Street includes designated bike lanes. Both streets are within 80' wide rights of way.

For frontage improvement considerations, the physical improvements can be required or a minimum 125% fee in lieu per code. Staff feels the physical improvements are warranted given the new construction, especially the Variance request to use of on-street parking.

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<u>Mailboxes</u>: Per SHMC 17.152.030(22) joint mailbox facilities shall be provided in all residential developments. Location is subject to city and postmaster approval. Input from the local postmaster will be required as part of final plans.

* * *

Utility Standards:

Given the site was occupied by a triplex with prior connections to utilities, they are available and this does not pose an increased intensity of use compared to the recent past.

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Variances

- Variance V.8.24—dwelling unit/minimum lot size
- Variance V.9.24—reduced yard along the Wyeth Street side of the property
- Variance V.10.24—off-street parking reduction
- Variance V.11.24—noncompliance with Exterior Elevation requirements for multidwelling

CRITERIA:

SHMC 17.108.050 (1) - Criteria for granting a Variance

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

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

The Commission needs to find all these criteria (a) - (e) are met in order to approve the variance

FINDINGS:

- (a) This criterion requires a finding that the variance will not be detrimental.
- Staff comment(s): A triplex with no off-street parking would normally not be allowed today. However, in this case, this occurred at the site for decades until the triplex burned and was left to weather in a state of disrepair for several years. So does the Commission think this use fits the site now?
- (b) The criterion requires a finding that there are special and unique circumstances.
- See applicant's narrative. Basis is the historic triplex on the site and topography.
- (c) This criterion prohibits a use variance and requires a finding that the applicable standards are maintained to the greatest extent that is reasonably possible.
- See applicant's narrative. The applicant notes other properties using on-street parking as comparisons.
- Staff comment(s): Regarding density (lot size), there is wider than normal right-of-way to make up the needed lot area. 7,500 square feet for necessary for triplex and the lot is only 5,800 square feet, thus there is a 1,700 square foot deficiency. The extra right-of-way exceeds 1,700 square feet in area.

The remaining foundation wall along Wyeth Street is a reasonable yard reduction consideration.

Regarding parking, if it was a duplex, it could be more reasonable for the requisite amount of off-street parking (2 spaces) to fit via N. 5th access.

Regarding the exterior multidwelling elevation requirements, the building's length is 55 feet which would require one vertical face offset. In this case, there are more, though the recess and extension are only 4 feet (not the minimum 8 feet) and the break/offset in roof elevation is one foot instead of three feet.

- (d) This criterion requires a finding that existing physical and natural systems will not be adversely affected as a result of the requested Variance.
- Staff comment(s): Street frontage improvements will formalize the on-street parking (if granted) to include paving and ensure an updated designed sidewalk is the proper distance from windowed walls, and if new, less likely to be replaced and/or relocated for the life of the new triplex.

- (e) This criterion requires a finding that the variance issue is not self-imposed and that the variance is the minimum necessary to alleviate the hardship.
- Staff comment(s): The current owner acquired the property after the triplex was built but before the fire that destroyed it.

The Commission needs to find all these criteria (a) - (e) are met in order to approve the variances. If you think one of these is not met, we'll need to address why.

If you approve some of the Variances but not all, please note:

- Variance V.8.24—dwelling unit/minimum lot size. If this is denied, the property can still be developed with single or two dwelling unit development. It is also a question of **does it fit**? That said, this Variance and the off-street parking Variance go hand-in-hand; if one is denied, the other should be denied.
- Variance V.9.24—reduced yard along the Wyeth Street side of the property. This could be approved and still apply to a duplex or detached single-family dwelling and not the triplex as proposed.
- Variance V.10.24—off-street parking reduction. As mentioned, this Variance goes hand-in-hand with the dwelling unit/minimum lot size Variance.
- Variance V.11.24—noncompliance with Exterior Elevation requirements for multidwelling development. If this is denied, multifamily development is still possible, but the proposed building would have to change.

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CONCLUSION & RECOMMENDATION

Based on the facts and findings herein, if the Planning Commission approves this Conditional Use Permit and Variances, staff recommends the following conditions:

- 1. This Conditional Use Permit and Variance approval is valid for a limited time (to establish the use) pursuant to SHMC 17.100.030 and 17.108.040.
- 2. The following shall be required prior to any development or building permit issuance:
 - a. Final plans as submitted with any development or building permit(s) shall comply with the submitted application materials, with the following additions and/or corrections:
 - A. Buffering and screening along the north and east property lines. Buffering shall not inhibit the fire district's ability to access all sides of the structure.
 - B. As per condition 4.
 - C. Lighting for/by the doors of each unit along Wyeth Street.
 - D. If the walnut tree (assumed species) is proposed to be kept, a protection program by a certified arborist defining the standards and methods that will be used to protect the existing trees to be preserved is required. This shall be on or with the Building

- Permit plan set to ensure contractors and others follow the tree protection plan during site development. If not to be kept, there shall be at least two street trees for replacement purposes.
- E. Joint mailbox facilities shall be provided in all residential developments. Location is subject to city and postmaster approval. Input from the local postmaster will be required as part of final plans.
- F. ...anything needed to cover a variance condition or limitation from the Commission or due to a Variance denial?...
- b. Engineering construction plans shall be submitted for review and approval addressing all public improvements including but not limited to:
 - A. Street frontage improvements along Wyeth Street and N. 5th Street.
 - B. Street trees along N. 15th Street. Note if parking Variance is granted, street trees should be exempted along Wyeth Street and this should be noted in this condition.
 - C. On-street parking along Wyeth Street for at least 6 spaces, in improved (paved and marked/striped) form.
 - D. Sidewalk based on current standards and placed so it will not be closer than 8' from the windowed walls along Wyeth Street.
- **3.** The following shall be required **prior to** Certificate of Occupancy by the City Building Official / final inspection:

All improvements necessary to address the requirements herein shall be in place.

- **4.** Any refuse container or refuse collection area visible from a public street, parking lot, residential or commercial area, or any public facility (e.g., school or park) shall be screened or enclosed from view by a solid wood (or otherwise sight-obscuring) fence, masonry wall or evergreen hedge.
- **5.** Owner/applicant and their successors are still responsible to comply with the City Development Code (SHMC Title 17).

Attachment(s): Applicant narrative

Site plan

Building plans

To: City of St. Helens

From: LaGrand Townhomes LLC

Dan Hatfield, Sr.

RE: 470 Wyeth St and N. 5th Street

This is the Reponses for land use application Variances to build triplex on the lot address 470 Wyeth Street.

Variance-minimum lot size and density:

The existing structure on the lot was built as triplex and therefore I should be able to build the same footage triplex. I did plan based on the existing foundation. Foundation is 5 feet from the property line. There won't be no porch.

Variance-minimum exterior side yard (along Wyeth)

The existing foundation is only 5 feet from the property line and I am using the existing foundation to build.

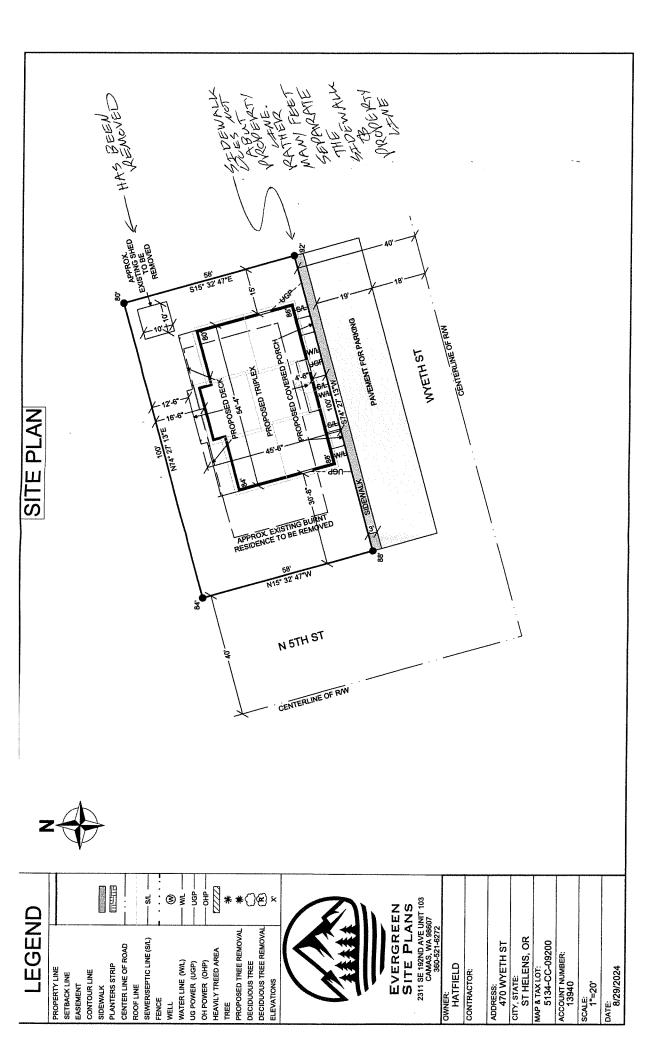
Variance - Minimum Side yard (opposite Wyeth)

I want to set 4 feet offset for the center unit. Ane the shed will be removed.

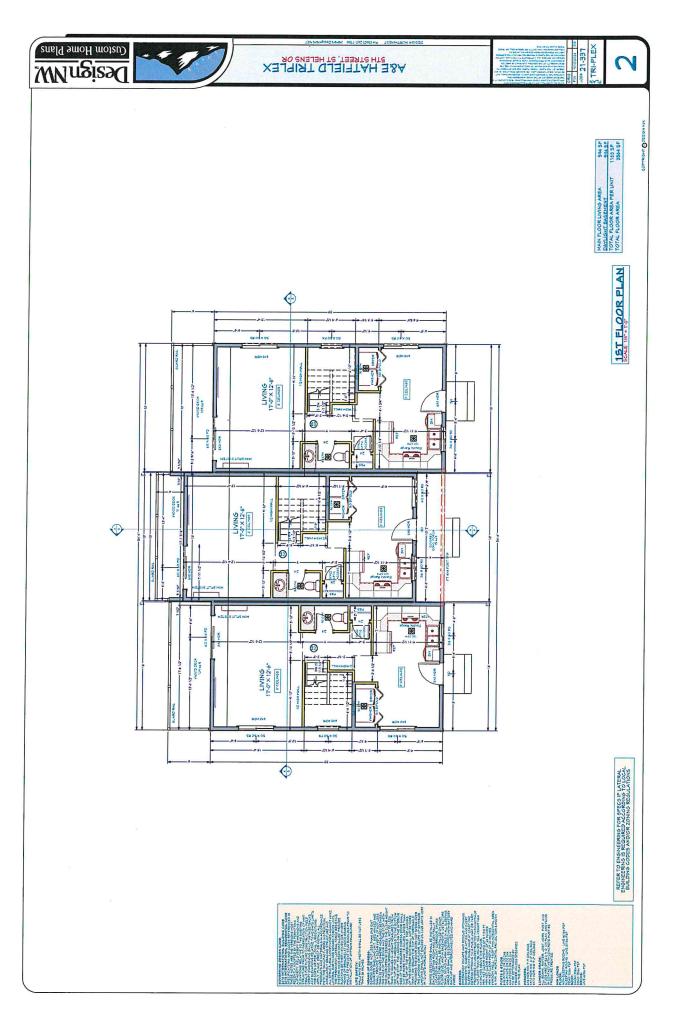
Variance – Off street parking

I am not able to put parking on the back or the side of the property. Street is 9 feet higher then the back of the property.

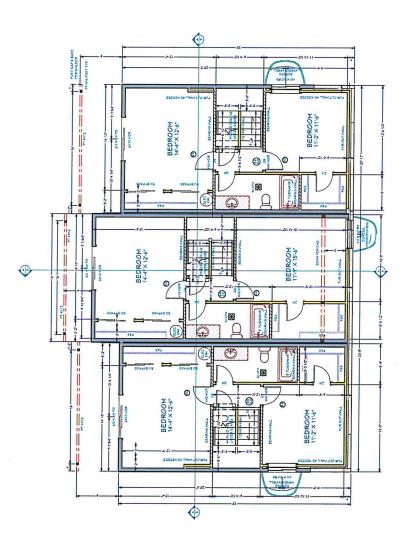
There are many buildings that have parking in the front of the property. For example, 4 plex on 1661 Wyeth street has parking in the front of the building and 4 plex on 1671 Wyeth also has parking in the front of the building. There are parkings in the front of the buildings throughout the Wyeth Street.







LOWER FLOOR PLAN



REFER TO ENGINEERING FOR SPECS IF LATERAL ENGINEERING IS REQUIRED ACCORDING TO LOCAL BUILDING CODES ANDIOR ZONING REGULATIONS

