



CITY OF ST. HELENS PLANNING DEPARTMENT

MEMORANDUM

TO: Planning Commission
FROM: Jacob A. Graichen, AICP, City Planner
RE: City Council remand of Appeal AP.2.24 – AP.6.24 (CUP.2.24 & V.8.24 V.11.24) back to the Planning Commission
DATE: February 28, 2025

Pursuant to SHMC 17.24.370(2) an appealed matter may be remanded provided all parties provide written consent to extend the 120-day limit and with certain findings made.

Written consent pertaining to the 120-day rules per ORS 227.178 has been provided by the applicant on January 23, 2025.

The basis for the remand is consideration of the same building plans but as a duplex (instead of a triplex) that utilizes some of the requested Variances. This concept was posed after the Planning Commission’s hearing where the Commission unanimously denied everything, and the Council felt the Commission should reconsider the matter with this new information.

As a reminder, this proposed is a Conditional Use Permit for a triplex (multidwelling development) and four Variances. The Variances were for dwelling unit/minimum lot size, reduced yard along the Wyeth Street side of the property, off-street parking reduction, and exterior elevation requirements for multidwellings. The Planning Commission denied all and the matter was appealed to the Council, who remanded the matter back to the Commission.

Based on the deliberations of both the Commission and Council, there does not appear to be much support for the triplex. That would rule out consideration of the dwelling unit/minimum lot size and exterior elevation Variances, unless the commission feels otherwise.

Assuming the Commission continues to agree with this, that leaves consideration of the parking Variance (to allow all off-street parking to be on-street along Wyeth) and the reduced yard (setback) Variance along Wyeth Street.

Regarding the reduced yard (setback) along Wyeth Street, the Commission could consider at least two things:

1. The location of the former structure on the subject property and utilization of existing grade differential; and



Left: November 2024 of the subject property a seen from Wyeth Street following demolition of the building. Note the foundation wall and grade difference.

One basis for the reduces yard (setback) variance is the location of this foundation wall/previous building.

2. The buildings along the North side of Wyeth along the subject property's block and the two adjacent blocks on either side all appear to be very close to the property line.



Above: April 2022 aerial photo with the subject property outlined in blue. The back lines are property or right-of-way lines. Note the proximity of other buildings along the north side of Wyeth Street.

Regarding the off-street parking Variance, the triplex needed 6 off-street parking spaces, whereas the duplex only needs two spaces. The applicant requests that the off-street parking spaces be allowed to be on-street, along Wyeth.

One alternative to this is a driveway approach along N. 5th Street, which could be as narrow as 16 feet wide, with a minimum depth of 18' deep into the property. That would meet the minimum off-street parking requirement. There would need to be a paved driveway connecting to the paved portion of the street.

Note that there is an existing sidewalk along Wyeth Street, that is undersized (too narrow for normal standards) and will be required to be rebuilt with the development of the lot, including paving of the shoulder. Human nature being what it is, people may still park on the street, so it's partly a question of if there should be the off-street and on-street parking for the use. If you think the off-street parking should remain in the equation, then you would consider denying the Variance. If you think the on-street parking will be sufficient, you could consider approving this Variance.

If the Planning Commission approves the two Variances and denies the others (including the Conditional Use Permit), the conditions of approval could be:

1. Variances are valid for a limited time pursuant to SHMC 17.108.040.
2. The approved Variances shall apply to the plans presented and not to other plans. Except the plans may be modified for the use as a duplex as long as the building footprint does not change.
3. Wyeth Street shall be improved with a rebuilt sidewalk and pavement of the area between the sidewalk and paved street section.

If want to approve more than this, then we need to go back to the Commission staff report from December 2024 for consideration of the various options.

The Commission could still deny these matters too.

Attached: Site plan
Building Plans
Photo pages from Planning Commission's staff report
Planning Commission's December '24 decision (the decision that was appealed)

For additional information please see the previous meeting packets (<https://www.sthelensoregon.gov/meetings>) for:

- Planning Commission December 10, 2024 meeting (item C on amended agenda)
- City Council January 15, 2025 6:15pm public hearing

LEGEND

PROPERTY LINE	
SETBACK LINE	
EASEMENT	
CONTOUR LINE	
SIDEWALK	
PLANTERS STRIP	
CENTER LINE OF ROAD	
ROOF LINE	
SEWER/SEPTIC LINE (S/L)	S/L
FENCE	
WELL	⊙
WATER LINE (W/L)	W/L
UG POWER (UGP)	UGP
OH POWER (OHP)	OHP
HEAVILY TREED AREA	
TREE	*
PROPOSED TREE REMOVAL	* (with slash)
DECIDUOUS TREE	
DECIDUOUS TREE REMOVAL	
ELEVATIONS	X'



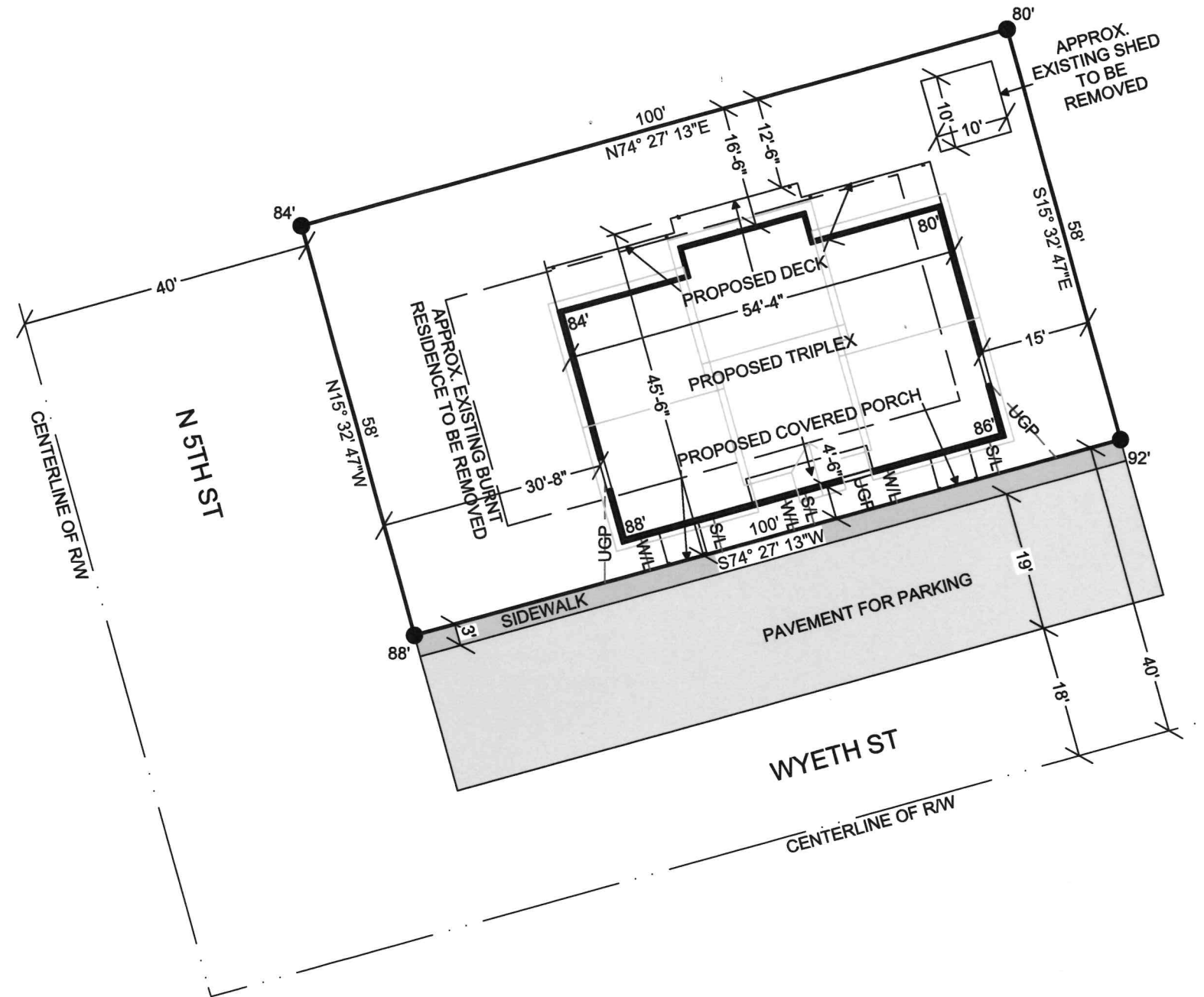
**EVERGREEN
SITE PLANS**

2311 SE 192ND AVE UNIT 103
CAMAS, WA 98607
360-521-6272

OWNER: HATFIELD
CONTRACTOR:
ADDRESS: 470 WYETH ST
CITY, STATE: ST HELENS, OR
MAP & TAX LOT: 5134-CC-09200
ACCOUNT NUMBER: 13940
SCALE: 1"=20'
DATE: 8/29/2024



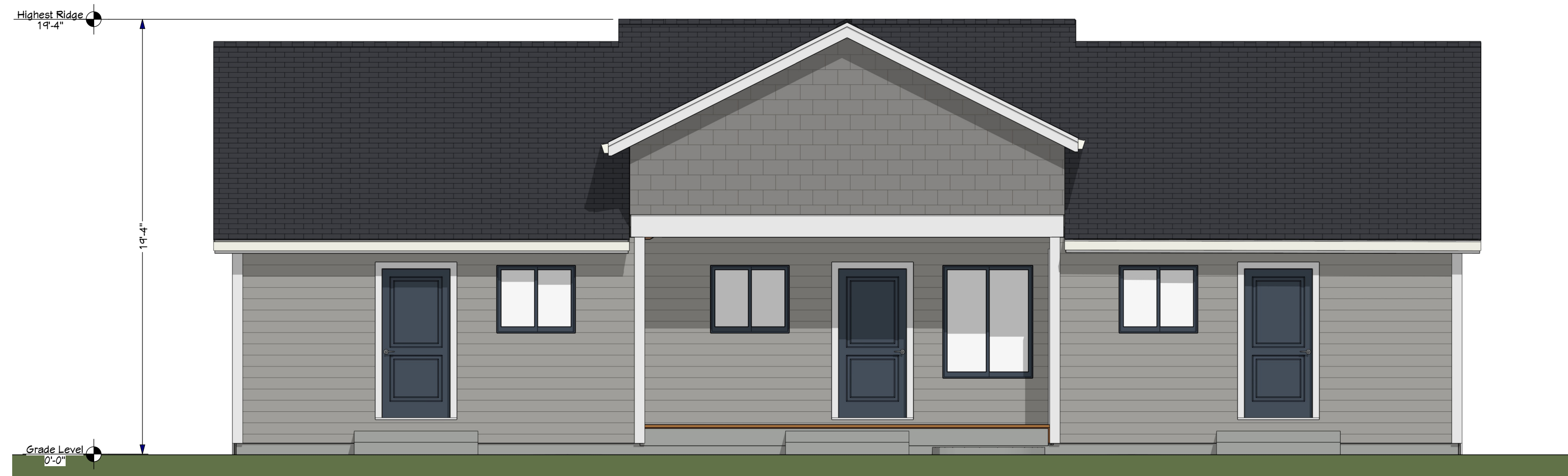
SITE PLAN





FRONT CAMERA VIEW

NTS



FRONT ELEVATION

SCALE: 1/4" = 1'-0"

Highest Ridge
14'-4"

Grade Level
0'-0"



REAR ELEVATION

SCALE: 1/4" = 1'-0"



LEFT ELEVATION

SCALE: 1/4" = 1'-0"

Highest Ridge
14'-4"

21'-0"

0'-4"



RIGHT ELEVATION

SCALE: 1/4" = 1'-0"



NOTE: ALL CONSTRUCTION IS TO BE ACCORDANCE WITH THE LOCAL BUILDING CODES AND REGULATIONS. IT IS THE RESPONSIBILITY OF THE CLIENT TO OBTAIN ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL BUILDING DEPARTMENT. DESIGN NW MAKES NO WARRANTY OR REPRESENTATION AS TO THE ACCURACY OF THE INFORMATION PROVIDED IN THESE PLANS. THE CLIENT IS RESPONSIBLE FOR VERIFYING ALL INFORMATION AND FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL BUILDING DEPARTMENT. DESIGN NW MAKES NO WARRANTY OR REPRESENTATION AS TO THE ACCURACY OF THE INFORMATION PROVIDED IN THESE PLANS. THE CLIENT IS RESPONSIBLE FOR VERIFYING ALL INFORMATION AND FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL BUILDING DEPARTMENT.

ORIG		
FIN	4/10/2024	SG
JOB#	21-337	
PLAN	TRI-PLEX	



GOVERNING DESIGN CODE:
2018 INTERNATIONAL BUILDING CODE
2018 INTERNATIONAL RESIDENTIAL CODE
SPECIFICATIONS AND CODES REFERENCED IN
THESE NOTES ARE THE VERSIONS MOST
RECENTLY ADOPTED BY THE PERMITTING
AUTHORITY. FIELD VERIFY DIMENSIONS AND
ELEVATIONS RELATIVE TO THE EXISTING
STRUCTURE PRIOR TO FABRICATION OF MAT-
TERIALS FOR FUTURE CONSTRUCTION. FIELD
VERIFY DIMENSIONS ON LOT WITH SETBACKS
AND ELEVATIONS RELATIVE TO HEIGHTS LIMITS.
PER GC'S OR PER LOCAL JURISDICTIONS,
APPLY PLACE, ERECT OR INSTALL ALL
PRODUCTS AND MATERIALS IN ACCORDANCE
WITH THE MANUFACTURER'S INSTRUCTION.
ADEQUATELY BRACING STRUCTURE AND
ALL STRUCTURAL COMPONENTS AGAINST WIND,
LATERAL EARTH AND SEISMIC FORCES UNTIL
THE PERMANENT LATERAL FORCE RESISTING
SYSTEMS HAVE BEEN INSTALLED. PROVIDE
BLOCKING BETWEEN STUDS (OR OTHER
MEANS OF BRACING) AT JOOD BEARING
WALLS TO PREVENT STUD BUCKLING PRIOR TO
INSTALLATION OF GYPSUM WALLBOARD.

LIFE SAFETY:
HALLWAYS MIN. WIDTH SHALL BE NOT LESS
THAN 36 INCHES.

MEANS OF EGRESS:
EGRESS DOOR: NOT LESS THAN ONE EXIT
DOOR PER DWELLING UNIT. SIDE HINGED AND
SHALL PROVIDE A CLEAR WIDTH OF NOT LESS
THAN 32 INCHES (WHERE MEASURED BETWEEN
THE FACE OF THE DOOR AND THE STOP, WITH
THE DOOR OPEN 90 DEGREES). THE CLEAR HEIGHT
OF THE DOOR OPENING SHALL NOT BE LESS
THAN 78 INCHES IN HEIGHT MEASURED FROM
THE TOP OF THE THRESHOLD TO THE BOTTOM
OF THE STOP. THE LANDING ON THE INTERIOR
SIDE OF THE REQUIRED EGRESS DOOR SHALL
NOT BE MORE THAN 15 INCHES LOWER THAN
THE TOP OF THE THRESHOLD. THE LANDING
OF THE EXTERIOR SIDE SHALL NOT BE MORE
THAN 15" BELOW THE TOP OF THRESHOLD
PROVIDING THE DOOR DOES NOT SWING OVER
THE LANDING OR FLOOR. SLOPE OF EXTERIOR
LANDING SHALL NOT EXCEED 2% (25 UNITS VERT.
IN 12 UNITS HORIZONTAL).

SMOKE DETECTORS SHALL BE INSTALLED IN
EACH SLEEPING ROOM AND CENTRALLY
LOCATED IN ADJACENT CORRIDOR. SMOKE
DETECTORS SHALL BE INSTALLED ON EACH
FLOOR LEVEL AND IN BASEMENTS. DETECTORS
SHALL SOUND ALARM AUDIBLE IN ALL SLEEPING
AREAS AND SHALL BE EQUIPPED WITH BATTERY
BACKUP AND INTERCONNECTED AND HARD
WIRED.

EGRESS:
EMERGENCY ESCAPE AND RESCUE OPENINGS:
BASEMENTS, HABITABLE ATTICS AND EVERY
SLEEPING ROOM SHALL HAVE AT LEAST ONE
EGRESS OPENING TO A PUBLIC WAY OR YARD
PROVIDING AN UNOBSTRUCTED PATH WIDTH OF
NOT LESS THAN 36 INCHES. SILL HEIGHT MAX
44 INCHES ABOVE THE FLOOR.
MIN. NET CLEAR OPENING OF 5'5.0 FT.
MIN. NET CLEAR HEIGHT OF 24 INCHES
MIN. NET CLEAR WIDTH OF 20 INCHES
MIN DOWN WELLS: 9" SOFT MIN HORIZONTAL AREA
& MIN. 30" HORIZONTAL PROJECTION & WIDTH.

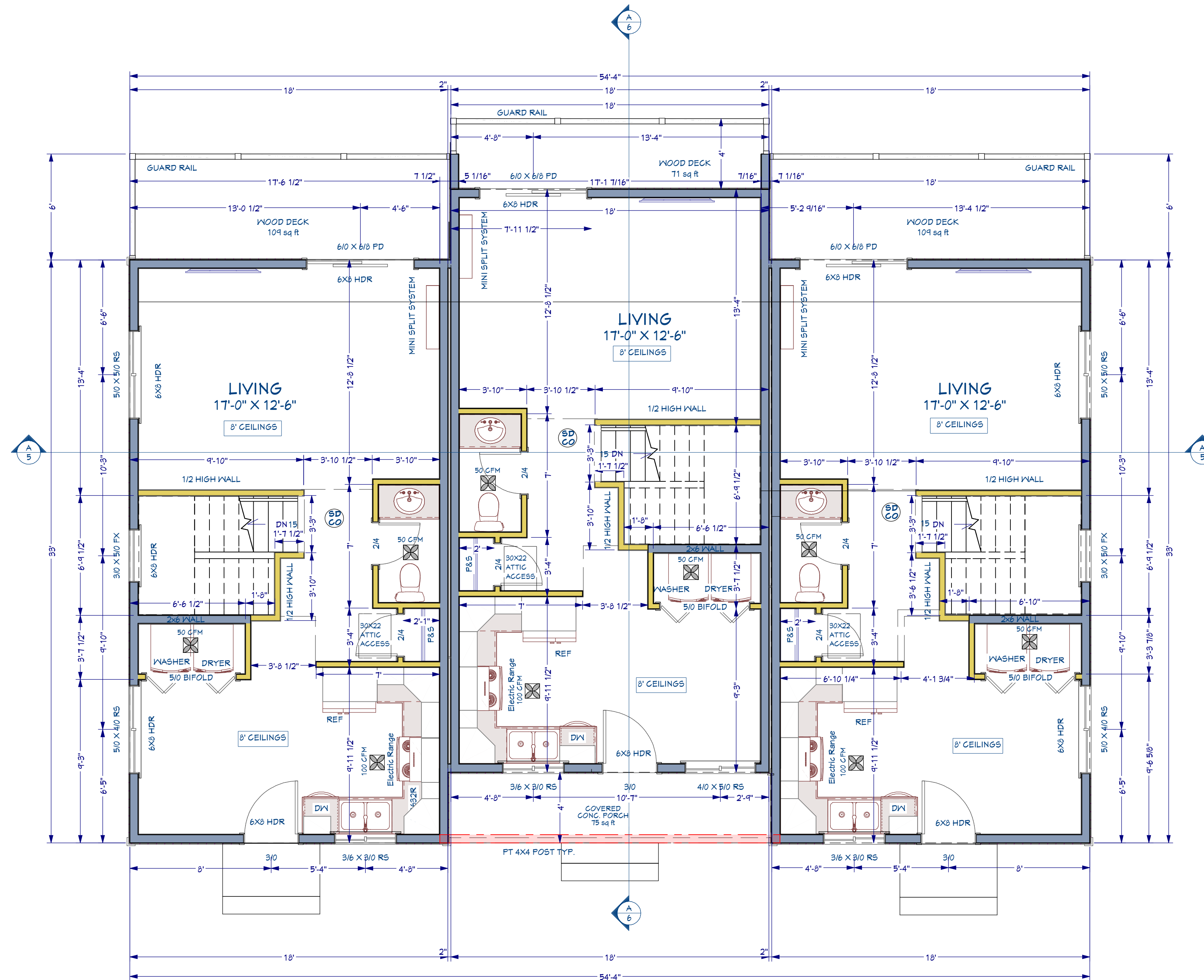
POSTS & STUDS
6X6 POSTS OR (3) 2X6
4X8 POSTS OR (3) 2X4
4X4 POSTS OR (2) 2X4
TO BE DETERMINED BY
FRAMER UNLESS SPECIFIED
ON THE PLAN

HEADERS:
6X8 HDR MIN T-4" CEILINGS
4X10 HDR MIN 2'-0" CEILINGS
4X10 HDR MIN 4'-0" CEILINGS

LUMBER GRADE:
ALL BEAMS, RAFTER, JOIST, HDRS, POST, AND
STUDS ARE OF #2 L U. O. N. PLAN, AND WOOD
IN CONTACT WITH CONCRETE MUST BE
PRESSURE TREATED.

MIN LOADS
FLOOR:
NON-SLEEPING ROOMS - LIVE 40 lbs PSF
SLEEPING ROOMS - LIVE 30 lbs PSF
DEAD 10lbs PSF
ROOF:
SNOW 25lbs PSF
DEAD 15lbs PSF
DECKS:
LIVE 60lbs PSF

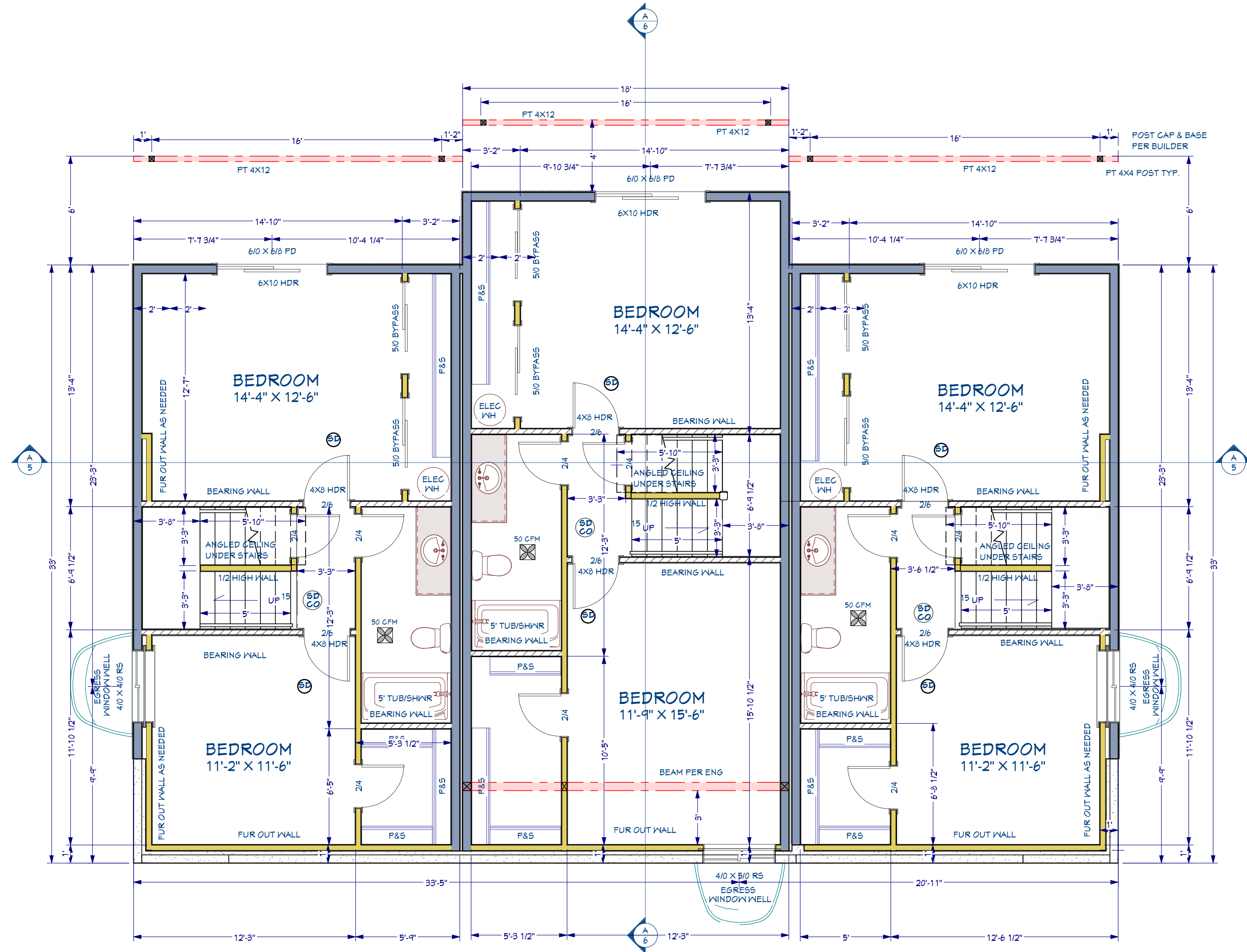
REFER TO ENGINEERING FOR SPECS IF LATERAL
ENGINEERING IS REQUIRED ACCORDING TO LOCAL
BUILDING CODES AND/OR ZONING REGULATIONS



1ST FLOOR PLAN
SCALE: 1/4" = 1'-0"

MAIN FLOOR LIVING AREA	544 SF
DAYLIGHT BASEMENT	544 SF
TOTAL FLOOR AREA PER UNIT	1188 SF
TOTAL FLOOR AREA	3564 SF

NOTE: ALL CONSTRUCTION TO BE IN ACCORDANCE WITH THE LOCAL BUILDING CODES AND ZONING REGULATIONS. IT IS THE RESPONSIBILITY OF THE CLIENT TO OBTAIN ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL BUILDING DEPARTMENT. THE CLIENT IS RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION PROVIDED TO THE ARCHITECT. THE ARCHITECT IS NOT RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION PROVIDED TO THE ARCHITECT. THE ARCHITECT IS NOT RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION PROVIDED TO THE ARCHITECT.	
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JOB#	21-337
PLAN	TRI-PLEX



REFER TO ENGINEERING FOR SPECS IF LATERAL ENGINEERING IS REQUIRED ACCORDING TO LOCAL BUILDING CODES AND/OR ZONING REGULATIONS

LOWER FLOOR PLAN
SCALE: 1/4" = 1'-0"



NOTE: ALL CONSTRUCTION IS TO BE ACCORDANCE WITH THE LOCAL BUILDING CODES AND ZONING REGULATIONS. IT IS THE RESPONSIBILITY OF THE CLIENT TO OBTAIN ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL BUILDING DEPARTMENT. DESIGN NW MAKES NO WARRANTY OR REPRESENTATION AS TO THE ACCURACY OF THE INFORMATION PROVIDED IN THESE PLANS. THE CLIENT IS RESPONSIBLE FOR VERIFYING ALL DIMENSIONS AND CONDITIONS ON THE JOB SITE. DESIGN NW SHALL NOT BE RESPONSIBLE FOR ANY ERRORS OR OMISSIONS IN THESE PLANS. THE CLIENT IS RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL BUILDING DEPARTMENT. DESIGN NW MAKES NO WARRANTY OR REPRESENTATION AS TO THE ACCURACY OF THE INFORMATION PROVIDED IN THESE PLANS. THE CLIENT IS RESPONSIBLE FOR VERIFYING ALL DIMENSIONS AND CONDITIONS ON THE JOB SITE. DESIGN NW SHALL NOT BE RESPONSIBLE FOR ANY ERRORS OR OMISSIONS IN THESE PLANS.

ORIG	
FIN	9/10/2024 SG
JOB#	21-337
PLAN	TRI-PLEX

Excerpt of Planning Commission staff report -- pages (2) with photos



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.



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.

**CITY OF ST. HELENS PLANNING DEPARTMENT
FINDINGS OF FACT AND CONCLUSIONS OF LAW
Conditional Use Permit CUP.2.24 & Variances V.8.24 - V.11.24 (four Variances total)**

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).

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. This was denied by the Commission.

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. This was denied by the Commission.

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 because the parking variance was not granted, the actual open space cannot be determined.

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

* * *

Addition Yard Setback Reqs & Exceptions: When there is a minimum yard requirement, such as 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. However, since the Commission denied the Variance for this, this issue is moot.

* * *

Landscaping/buffering/screening: **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. However, this issue is moot because the Variance was denied.

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. This could apply if the Conditional Use Permit was approved, but the parking Variance not approved. As neither was approved, this issue is moot.

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. Given denial, this issue is moot.

* * *

Visual Clearance: 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.

* * *

Off-Street Parking/Loading: 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. This Variance was denied.

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. However, as the Variance was not approved, this issue is moot.

* * *

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.

* * *

Solid Waste/Recyclables: 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.

* * *

Site Development Review: 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:

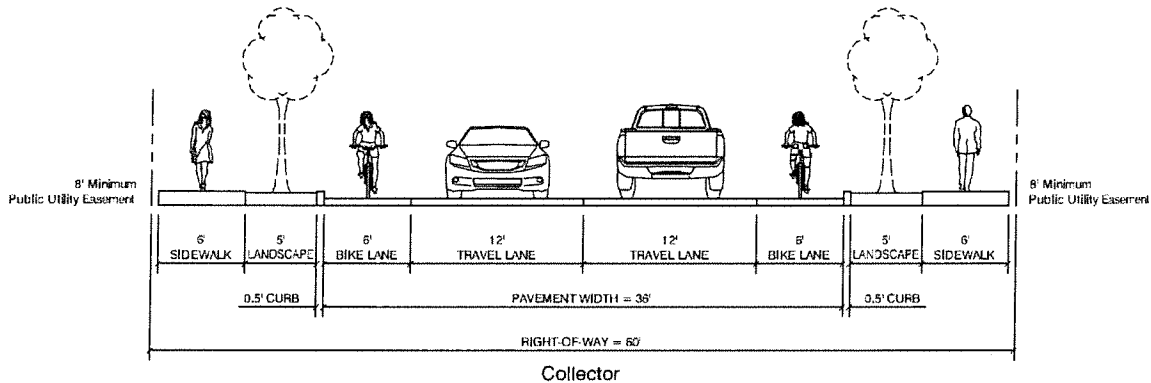
- (a) Recesses (decks, patios, entrances, floor area, etc.) of a minimum depth of eight feet;
- (b) Extensions (decks, patios, entrances, floor area, etc.) of a minimum depth of eight feet, and maximum length of an overhang shall be 25 feet; and
- (c) Offsets or breaks in roof elevations of three or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

This is not met; **Need Variance:** see V.10.24. The Commission denied this Variance.

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 (if approved) 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.

The Commission finds that the multiple Variances cannot be approved and as such the zoning district and other supplemental requirements of the Development Code cannot be met. This demonstrates that the site size and dimension are not adequate, and the site characteristics are unsuitable for the proposed use. Thus, the Commission denies this Variance request.

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
- (l) Requiring the protection and preservation of existing trees, soils, vegetation, watercourses, habitat areas, and drainage areas.

Because the Commission denies the proposal, there are no additional condition considerations.

* * *

Variance: See Variance section below.

* * *

Tree Removal/Preservation: 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.

* * *

Street/Right-of-Way Standards: 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. However, this proposal is denied.

* * *

Mailboxes: 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.

* * * * *

Variations

- 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.

The Commission finds that the purpose of the code includes a key difference between single-family dwelling/duplexes use and multifamily (3 or more dwelling units) use. The lot size is too small for multifamily. Moreover, the purpose of the city's nonconforming regulations is to allow preexisting lawfully existing uses, but once those uses are gone, the new use is supposed to comply with law. This proposal does not comply with the Development Code. The proposed use does not fit the site.

The quantity of parking and potential visitors of the triplex, does not align with the neighborhood.

(b) The criterion requires a finding that there are special and unique circumstances.

The Commission is not convinced that there are special or unique circumstances. Even topography was not a justification for the reduced yard Variance along Wyeth Street, because there is no proposal to evaluate for the justification since the CUP and all Variances are denied.

(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.

The Commission finds that this is a use Variance and must be denied. There is a difference between single-family dwelling/duplexes use and multifamily (3 or more dwelling units) uses, since they are listed separately in the R5 zoning district, as permitting and conditional use, respectively. Multifamily is not a possible use as the lot size is too small.

The Commission finds that the standards are not maintained to the greatest reasonable extent with zero off-street parking spaces; a 100% reduction as opposed to a partial reduction. This Variance must be denied.

Because the triplex cannot be approved, the reduced yard Variance along Wyeth Street for a different use (e.g., a duplex) cannot be approved because there is no approvable proposal to evaluate for the reduced yard. Whether or not a different use than proposed would need the Variance cannot be determined.

Because of aspects that result in denial of the Conditional Use Permit, the other Variances are moot and must be denied.

(d) This criterion requires a finding that existing physical and natural systems will not be adversely affected as a result of the requested Variance.

Relying on a 100% off-street parking reduction for six spaces can have a detrimental effect on the street system, as well as cause parking congestion challenges for the neighborhood.

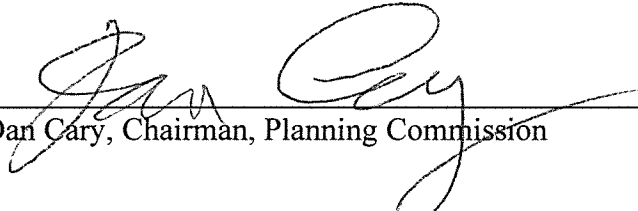
(e) This criterion requires a finding that the variance issue is not self-imposed and that the variance is the minimum necessary to alleviate the hardship.

The Commission finds that the lot size issue is self-imposed and the minimum necessary findings cannot be met.

* * * * *

CONCLUSION & DECISION

Based on the facts and findings herein, the Planning Commission denies this Conditional Use Permit and all Variances.



Dan Cary, Chairman, Planning Commission

12/11/2024

Date