

**CITY OF ST. HELENS PLANNING DEPARTMENT
STAFF REPORT
Variance V.1.24**

DATE: February 5, 2024
TO: Planning Commission
FROM: Jacob A. Graichen, AICP, City Planner

APPLICANT: Russ and Mary Hubbard
OWNER: same as applicant

ZONING: Mixed Use, MU
LOCATION: 4N1W-4AC-305
PROPOSAL: Variance to allow a reduced distance between windowed wall and walkway for dwelling unit, which is part of a mixed-use building under construction.

SITE INFORMATION / BACKGROUND

The mixed-use building development that this Variance focuses on was approved by the Planning Commission in 2020 (files CUP.4.20, and Variances V.13.20 and V.14.20). The 2020 application was specifically for a new 7-unit multi-dwelling complex with one commercial suite, including a Variance for a reduced front yard setback (20' to 0') and side yard (10' to 5') and a Variance for increased dwelling unit density (5 to 7 units). The proximity of windowed walls to a walkway through the center of the complex was identified as an issue to be addressed in the 2020 decision. Mid-construction and after being notified of the staff observed issue, the applicant has opted to seek another Variance.

PUBLIC HEARING & NOTICE

Public hearing before the Planning Commission: February 13, 2024

Notice of this proposal was sent to surrounding property owners within 100 feet of the subject property(ies) on January 23, 2024 via first class mail. Notice was sent to agencies by mail or e-mail on the same date.

Notice was published on January 31, 2024 in The Chronicle newspaper.

APPLICABLE CRITERIA, ANALYSIS & FINDINGS

DISCUSSION:

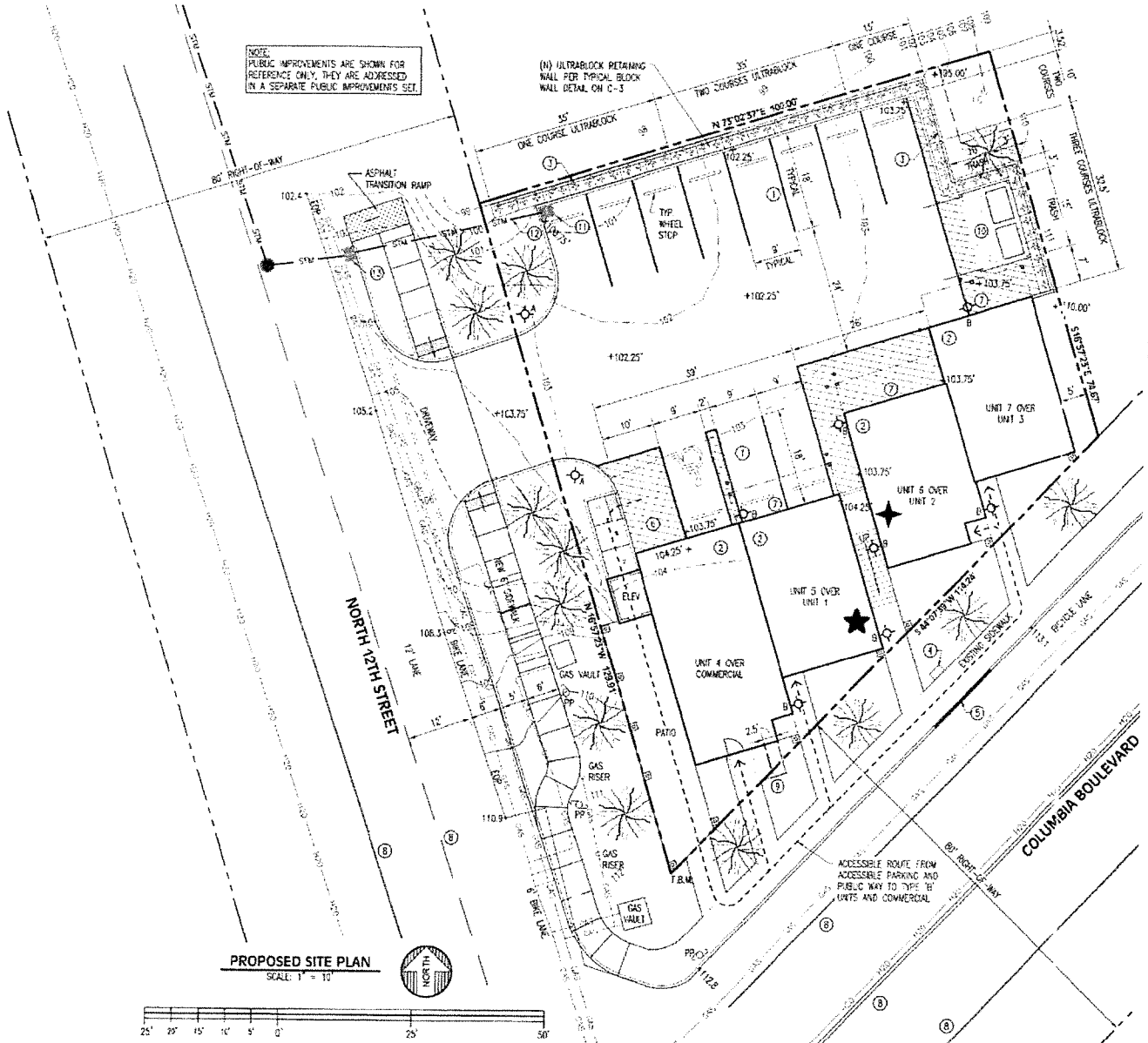
The specific law that this Variance pertains to is SHMC 17.96.180(11)(c):

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

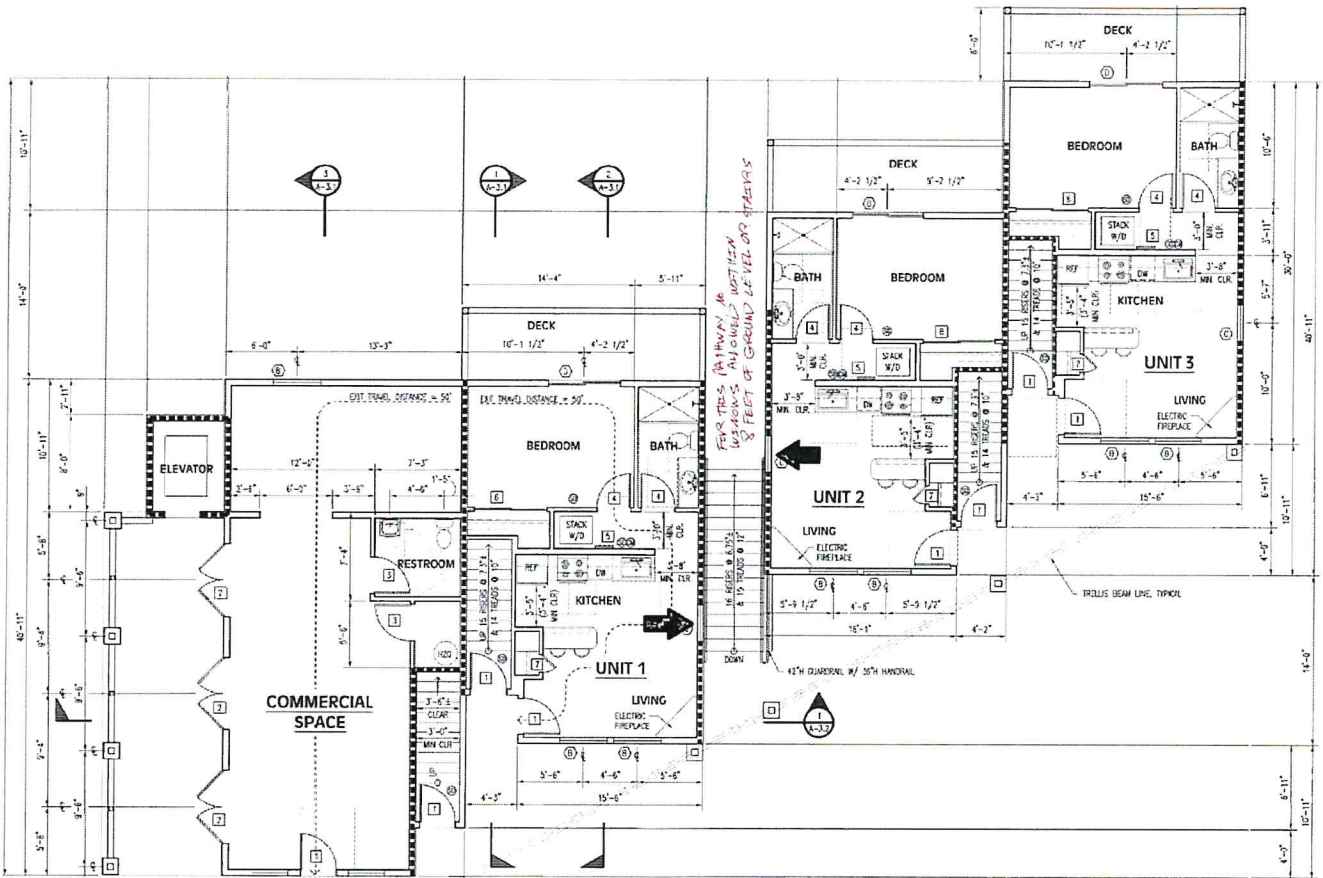
(i) Driveways and parking lots shall be separated from windowed walls by at least eight feet; walkways running parallel to the face of the structures shall be separated by at least five feet; and

(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;

There is a windowed wall within 8' of ground level immediately adjacent to a walkway. The minimum distance is not met, and the Variance request is to allow zero feet.



Above: Excerpt of the site plan for the development proposed. The five-point star is the general location of the window in question, which has been installed. The four-point star is another window identified in the plans for the 2020 application as an issue but omitted for construction.



Above: Excerpt of the street level floor plan for the development proposed. The walkway in question cuts through the center. The arrow on the left points to the window in question, which has been installed. The arrow on the right points to a window that was originally proposed but omitted. **Below left:** The window in question. **Below right:** The walkway area in question. Note no window along the abutting wall on the right side which was omitted for construction.



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): The standard can be thought of as a livability issue. Applicant notes use of opaque glass to remedy the mistake. If the Commission finds it can approve this variance, that is a potential condition of approval.

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

- Staff comment(s): The Commission could consider the site is confined, especially given other variances previously granted for reduces yards (setbacks).

(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.

- Staff comment(s): The walkway will be right up to the window, but the path serves a limited number of people.

(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): This criterion is probably moot. If the Variance is not granted, the window would need to be replaced by a wall; otherwise, the development plan would not change.

(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): Regarding the self-imposed aspect, the proximity to windowed walls to the walkway was identified as an issue, but only one of two that were identified as problems were omitted. Applicant notes that the window was left by the engineer (i.e., the design professionals who prepared the plans) and identifies the issue as a mistake.

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.

Things to consider include requiring opacity to the window to minimize the ability to peer into the dwelling unit area from the outside and maybe more extensive modifications, if the Commission finds it can approve this. If not approved, the window in question will need to be replaced with wall.

The Commission can find all criteria are met based on the above and/or any other findings, or specify which criteria are not met and why as a basis for Variance denial.

CONCLUSION & RECOMMENDATION

Based upon the facts and findings herein, if the Commission approved this, we'll need to start with the default conditions of approval (1 and 3 below) and other potentials (like 2 below). No conditions necessary if denied.

1. This Variance approval is valid for a limited time pursuant to SHMC 17.108.040.
2. — require opaque window or...? —
3. Owner/applicant and their successors are still responsible to comply with the City Development Code (SHMC Title 17), except for the Variance(s) granted herein.