

**CITY OF FLORENCE
RESOLUTION No. 35, SERIES 2022**

A RESOLUTION FOR A PERMIT TO INSTALL A 424 SQUARE FOOT MURAL ON THE WEST WALL/STOREFRONT OF LINDA DID IT DELI & ESPRESSO LOCATED AT 1856-2 37TH STREET.

RECITALS:

1. The Applicant, Linda Did It Deli & Espresso business and property owner, Linda Wilcox, has made application for a mural permit as required by FCC 10-1-1-4, FCC 10-1-1-6-3, and FCC 10-26-5.
2. The City Council met in a duly-advertised public hearing on November 7, 2022, as outlined in Florence City Code 10-1-1-6-3, to consider the application, evidence in the record, and testimony received; and
3. The Florence City Council, per FCC 10-1-1-6-3 and FCC 10-26, finds, based on the Findings of Fact, application, evidence and testimony presented to them, that the application meets the applicable criteria through compliance with certain Conditions of Approval.

Based on these findings,

THE CITY COUNCIL OF THE CITY OF FLORENCE RESOLVES AS FOLLOWS:

Based on the findings of fact and the evidence in record the request for a Mural Permit to paint a 424 square foot mural on the west wall of Linda Did It Deli & Espresso located at 1856-2 37th St., meets the applicable criteria in Florence City Code and the Florence Realization 2020 Comprehensive Plan with the conditions of approval as listed below.

Approval shall be shown on:

- "A" Findings of Facts
- "B" Application
- "C" Narrative & Maintenance Statement
- "D" Mural Art
- "E" Property Map
- "F" Resolution PC 22 11 COU 01

1. Findings of Fact attached as Exhibit "A" are incorporated by reference and adopted in support of this decision. Any modifications to the approved plans or changes of use, except those changes relating to Building Codes, will require approval by the Community Development Director or City Council.
2. Regardless of the content of material presented for this City Council hearing, including application text and exhibits, staff reports, testimony and/or discussions, the applicant agrees to comply with all regulations and requirements of the Florence City Code which are current on this date, EXCEPT where variance or deviation from such regulations and requirements has been specifically approved by formal City Council action as documented by the records of this decision and/or the associated Conditions of Approval. The applicant shall submit to

the Community Development Department a signed "Agreement of Acceptance" of all conditions of approval prior to issuance of a building permit.

3. The applicant shall provide the contract or other obligation to complete the mural to the Community Development Department.
4. The applicant shall provide the Community Development Department with a statement that the mural is an original work of art by the muralist and not subject to copyright regulations.
5. The building face shall be properly cleaned and prepared prior to installing the mural to ensure proper binding to the surface and maximize life of the mural.
6. The mural shall be protected and sealed to enhance the life of the mural and allow for graffiti or vandalism to be stripped while protecting the mural. A 2-step system is recommended; step 1 as a permanent isolation coat to protect the mural, and step 2 a removable varnish that can be stripped and replaced in the event of graffiti or vandalism.
7. The applicant shall contact the Community Development Department when the work is ready for inspection. The mural shall be in conformance with the application and the provisions of the FCC 10-26.
8. The mural permit shall obtain inspection approval within 12 months of the date of this approval or the mural permit is considered expired. No further work may be performed on the mural prior to obtaining a new permit.

Informational:

1. A one-time extension of 12 months may be requested and granted subject to the criteria of FCC 10-26-9-C.
2. Thirty days prior to removal of the mural the property owner must submit notice to the Community Development Department.

ADOPTION:

This Resolution is passed and adopted on the 7th day of November, 2022.



Joe Henry, Mayor

Attest:


Lindsey White, City Recorder

**FINDINGS OF FACT
FLORENCE CITY COUNCIL
Exhibit "A"**

Public Hearing Date: November 07, 2022
Application: Resolution No. 35, Series 2022/ CC 22 07 MUR 01

I. PROPOSAL DESCRIPTION

Proposal: Request for a permit to install a 424 square foot mural on the west wall face/storefront of Linda Did It Deli & Espresso located at 1856-2 37th Street.

Applicant: Linda Wilcox, Owner of Linda Did It Deli & Espresso, 37th Street Coin Laundry, and Linda's Affordable Thrift Stores

Property Owner: Linda Wilcox

Location: 1856-2 37th Street, located at the southeast corner of the intersection of Highway 101 and 37th Street

Site: Map # 18-12-23-22; Tax lot 01800

Comprehensive Plan Map Designation: Downtown

Zone Map Classification: Highway District

Surrounding Land Use / Zoning:

Site: Deli, Laundromat, and Retail / Highway District (H)
North: RV Park / H
South: Restaurant and Commercial / H
East: Residential Properties / Low Density Residential (LDR)
West: Commercial and Retail / H

Streets / Classification:

North – 37th St./ Local; South – None; West – Highway 101/ Major Arterial; East – Spruce St. / Collector

II. NARRATIVE:

The applicant is proposing a mural approximately 424 square feet in size on the storefront of Linda Did It Deli & Espresso at the southeast intersection of Highway 101 and 37th Street. On July 12, 2022 Planning Commission approved Resolution PC 22 11 COU 01, allowing for this space to change use to a deli. The building and businesses are owned by the applicant. The building houses a laundromat on the north end of the building and the deli is located in the south portion of the building. The mural is proposed to be installed on the storefront of the deli only.

The applicant states the theme of Linda Did It Deli & Espresso will be Red, White, & Blue. The proposed mural ties in with the theme of the deli, the proposed mural serves to honor the applicant's own family ties to the military and honor local veterans.

The proposed mural will be an image of the U.S. Flag and a silhouette of a kneeling soldier. The blue square of the flag and stars will be on the north edge of the mural and the soldier silhouette will be on the south portion of the mural.

III. NOTICES:

Notice: On October 18, 2022 notice was mailed to surrounding property owners within 100 feet of the property. The property was posted on the same date. Notice was published in the Siuslaw News on November 2, 2021.

IV. APPLICABLE REVIEW CRITERIA

Florence City Code

Title 10:

Chapter 1: Zoning Administration, Sections 1-1-5 and 1-6-3

Chapter 6: Design Review, Sections 6-6-4-G and 6-7

Chapter 26: Mural Regulations, Sections 1 through 6

Title 4:

Chapter 7: Sign Regulations, Section 4-7-4-C

Florence Realization 2020 Comprehensive Plan

Chapter 1: Citizen Involvement: Policies 4 through 6

Chapter 2: Policy 3

Resolution PC 22 11 COU 01

V. FINDINGS

Code criteria are listed in **bold**, with response beneath. Only applicable criteria are listed.

FLORENCE CITY CODE

TITLE 10: CHAPTER 1: ZONING ADMINISTRATION

10-1-1-5: GENERAL PROVISIONS

- A. **120-Day Rule: The City shall take final action on Type I, II, and III permit applications that are subject to this Chapter, including resolution of all appeals, within 120 days from the date the application is deemed as complete, unless the applicant requests an extension in writing. Any exceptions to this rule shall conform to the provisions of ORS 227.178. (The**

120-day rule does not apply to Type IV legislative decisions – plan and code amendments – without an applicant under ORS 227.178.)

- 1. The City shall take final action on housing applications meeting the criteria of ORS 197.311 within 100 days.**

B. Consolidation of proceedings: When an applicant applies for more than one type of land use or development permit (e.g., Type II and III) for the same one or more parcels of land, the proceedings shall be consolidated for review and decision.

- 1. If more than one approval authority would be required to decide on the applications if submitted separately, then the decision shall be made by the approval authority having original jurisdiction over one of the applications in the following order of preference: the Council, the Commission, or the City Planning Official or designee.**

2. When proceedings are consolidated:

- a. The notice shall identify each application to be decided.**
- b. The decision on a plan map amendment shall precede the decision on a proposed land use district change and other decisions on a proposed development. Similarly, the decision on a zone map amendment shall precede the decision on a proposed development and other actions.**
- c. When appropriate, separate findings shall be prepared for each application. Separate decisions shall be made on each application.**

C. Check for acceptance and completeness. In reviewing an application for completeness, the following procedure shall be used:

- 1. Acceptance. When an application is received by the City, the City Planning Official or designee shall immediately determine whether the following essential items are present. If the following items are not present, the application shall not be accepted and shall be immediately returned to the applicant.**

- a. The required forms.**
- b. The required, non-refundable fee.**
- c. The signature of the applicant on the required form and signed written authorization of the property owner of record if the applicant is not the owner.**

2. Completeness.

- a. **Review and notification.** After the application is accepted, the City Planning Official or designee shall review the application for completeness. If the application is incomplete, the City Planning Official or designee shall notify the applicant in writing of exactly what information is missing within 30 days of receipt of the application and allow the applicant 180 days from the date that the application was submitted to submit the missing information. Applications which have been deemed incomplete and for which the applicant has not submitted required information or formally refused to submit additional information shall be deemed void on the 181st day after original submittal.
 - b. **Application deemed complete for review.** In accordance with the application submittal requirements of this Chapter, the application shall be deemed complete upon the receipt by the City Planning Official or designee of all required information. The applicant shall have the option of withdrawing the application, or refusing to submit information requested by the City Planning Official or designee in section 10- 1-1-5-C-2-a, above.
 - c. **Standards and criteria that apply to the application.** Approval or denial of the application shall be based upon the standards and criteria that were applicable at the time it was first accepted.
 - d. **Coordinated review.** The City shall also submit the application for review and comment to the City Engineer, road authority, and other applicable County, State, and federal review agencies.
- D. City Planning Official's Duties.** The City Planning Official (Director) or designee shall:
- 1. **Prepare application forms based on the criteria and standards in applicable state law, the City's comprehensive plan, and implementing ordinance provisions.**
 - 2. **Accept all development applications that comply with the requirements of this Chapter.**
 - 3. **Prepare a staff report that summarizes the application(s) and applicable decision criteria, and provides findings of conformance and/or non-conformance with the criteria. The staff report and findings may also provide a recommended decision of: approval, denial; or approval with specific conditions that ensure conformance with the approval criteria.**

4. **Prepare a notice of the proposal decision:** a. In the case of an application subject to a Type I or II review process, the City Planning Official or designee shall make the staff report and all case-file materials available at the time that the notice of decision is issued. b. In the case of an application subject to a hearing (Type III or IV process), the City Planning Official or designee shall make the staff report available to the public at least seven (7) days prior to the scheduled hearing date, and make the case-file materials available when notice of the hearing is mailed, as provided by Sections 10-1-1-6-1 (Type I), 10-1-1-6-2 (Type II), 10-1-1-6-3 (Type III), or 10-1-1-6-4 (Type IV).
 5. **Administer the hearings process.**
 6. **File notice of the final decision in the City's records and mail a copy of the notice of the final decision to the applicant; all persons who provided comments or testimony; persons who requested copies of the notice; and any other persons entitled to notice by law.**
 7. **Maintain and preserve the file for each application for the time period required by law. The file shall include, as applicable, a list of persons required to be given notice and a copy of the notice given; the affidavits of notice; the application and all supporting information; the staff report; the final decision including the findings, conclusions and condition, if any; all correspondence; minutes of any meeting at which the application was considered; and any other exhibit, information, or documentation that was considered by the decision-maker(s) on the application.**
 8. **Administer the appeals and review process.**
- E. Amended Decision Process.**
1. **The purpose of an amended decision process is to allow the City Planning Official or designee to correct typographical errors, rectify inadvertent omissions and/or make other minor changes that do not materially alter the decision.**
 2. **The City Planning Official or designee may issue an amended decision after the notice of final decision has been issued but before the appeal period has expired. If such a decision is amended, the decision shall be issued within 14 business days after the original decision would have become final, but in no event beyond the 120-day period required by state law. A new appeal period shall begin on the day the amended decision is issued.**
 3. **Notice of an amended decision shall be given using the same mailing and distribution list as for the original decision notice.**

4. Modifications to approved plans or conditions of approval requested by the application shall follow the procedures outlined in section 10-1-1-6. All other changes to decisions that are not modifications under 10-1-1-6 follow the appeal process.

F. Re-submittal of Application Following Denial. An application that has been denied, or an application that was denied and on appeal or review has not been reversed by a higher authority, including the Land Use Board of Appeals, the Land Conservation and Development Commission, or the courts, may not be resubmitted as the same or a substantially similar proposal for the same land for a period of at least 6 months from the date the final City action is made denying the application, unless there is substantial change in the facts or a change in City policy that would change the outcome, as determined by the City Planning Official or designee.

This section was included as it is referenced in FCC 10-26-5 regarding mural permit applications. The application was deemed complete for processing on October 5 2022. These criteria have been satisfied.

10-1-1-6-3: TYPE III REVIEWS – QUASI-JUDICIAL LAND USE HEARINGS:

A. Hearings are required for Type III (quasi-judicial) land use matters requiring Planning Commission review. Type III applications include, but are not limited to:

The applicant has proposed a mural, requiring a land use hearing as stated under 10-26-5-A. The applicant has applied for a Type III Quasi-Judicial Review. This criterion is met.

B. Notification of Hearing:

1. At least twenty (20) days prior to a Type III (quasi-judicial) hearing, notice of hearing shall be posted on the subject property and shall be provided to the applicant and to all owners of record of property within 100 feet of the subject property, except in the case of hearings for Conditional Use Permits, Variance, Planned Unit Development and Zone Change, which notice shall be sent to all owners of record of property within 300 feet of the subject property.

[...]

2. Prior to a Type III (quasi-judicial) hearing, notice shall be published one (1) time in a newspaper of general circulation. The newspaper's affidavit of publication of the notice shall be made part of the administrative record.

Notice of the public hearing was posted on the subject property on October 18, 2022. On these same dates, notices were mailed to all property owners within 100 feet of the property. Notice was also published within the Siuslaw News one time on November 2, 2022. These criteria are met.

C. Notice Mailed to Surrounding Property Owners - Information provided:

1. The notice shall:

- a. **Explain the nature of the application and the proposed use or uses which could be authorized;**
- b. **List the applicable criteria from the ordinance and the plan that apply to the application at issue;**
- c. **Set forth the street address or other easily understood geographical reference to the subject property;**
- d. **State the date, time and location of the hearing;**
- e. **State that failure of an issue to be raised in a hearing, in person or by letter, or failure to provide sufficient specificity to afford the decision maker an opportunity to respond to the issue precludes further appeal based on that issue;**
- f. **State that application and applicable criteria are available for inspection at no cost and will be provided at reasonable cost;**
- g. **State that a copy of the staff report will be available for inspection at no cost at least 7 days prior to the hearing and will be provided at reasonable cost;**
- h. **Include a general explanation of the requirements for submission of testimony and the procedure for conduct of hearings.**
- i. **Include the name of a local government representative to contact and the telephone number where additional information may be obtained.**

The provided notice contained all information required according to FCC 10-1-1-6-3-C. These criteria are met.

D. Hearing Procedure: All Type III hearings shall conform to the procedures of Florence City Code Title 2, Chapters 3 and 10.

E. Action by the Planning Commission:

- 1. **At the public hearing, the Planning Commission shall receive all evidence deemed relevant to the issue. It shall then set forth in the record what it found to be the facts supported by reliable, probative and substantive evidence.**
- 2. **Conclusions drawn from the facts shall state whether the ordinance requirements were met, whether the Comprehensive Plan was complied with and whether the requirements of the State law were met.**
- 3. **In the case of a rezoning request, it shall additionally be shown that a public need exists; and that the need will be best served by changing the zoning of the parcel of land in question.**

4. **There is no duty upon the Planning Commission to elicit or require evidence. The burden to provide evidence to support the application is upon the applicant. If the Planning Commission determines there is not sufficient evidence supporting the major requirements, then the burden has not been met and approval shall be denied.**

Florence City Code Title 10 Chapter 26 states the City Council shall consider mural permit applications under the proceedings of the land use hearing procedure. The City Council held a public hearing on November 7, 2022 in accordance with this code section. These criteria are met.

TITLE 4: CHAPTER 7: EXEMPT SIGNS

4-7-4: EXEMPT SIGNS: Except for signs prohibited by this chapter, the following signs are exempt from the provisions of the Florence Sign Code, but may be subject to other portions of the City Code:

- C. **Permitted Murals, as defined and regulated in Title 10 Chapter 26.**

The proposed mural is not being proposed as a sign. No portion of the mural as proposed includes the business name, or other wording. This code section was included to show that the proposed mural is exempt from sign regulations in the underlying zone. This criterion is met.

TITLE 10: CHAPTER 6: DESIGN REVIEW

10-6-6-4: PERMITTED VISIBLE BUILDING MATERIALS: Building materials which have the same or better performance may be substituted for the materials below provided that they have the same appearance as the listed materials.

- G. **Building and Site Material Colors: Color finishes on all building exteriors shall be approved by the City and be of a muted coastal Pacific Northwest palette. Reflective, luminescent, sparkling, primary, and "day-glow" colors and finishes are prohibited. The Planning Commission/Planning Commission or their designee may approve adjustments to the standards as part of a site Design Review approval.**

Color finishes on all exteriors shall be approved by the City and be of a muted coastal Pacific Northwest palette. Primary colors are prohibited under this Code section. The applicant had initially brought a color palette with primary red and blue for the exterior colors for the deli to incorporate the deli's patriotic theme with the exterior paint colors. This was denied based on 10-6-6-4-G. The applicant then brought the City a proposal for a U.S Flag mural as a way to incorporate interior themes with the exterior finish. This Code section is not necessarily applicable as murals are exempt from the exterior finish colors, but was included to explain this mural proposal. These criteria are not applicable to permitted murals.

10-6-7: NON-RESIDENTIAL DESIGN REQUIREMENTS: In districts other than Mainstreet and Old Town, the architectural design requirements of this section shall apply to all commercial buildings.

- A. All commercial buildings shall meet the standards of FCC 10-6-6-3 and 10-6-6-4-G above.
- B. All commercial buildings shall incorporate not fewer than three types of architectural features from 1 through 6 below. Applicants are encouraged to use those elements that best suit the proposed building style and design.
 - 1. Covered front entrance. Not less than six feet in depth and not less than 10 percent the width of the building, excluding the landing for entrance.
 - 2. Windows: not less than 30 percent of surface area of all street-facing elevation(s) with the following features:
 - a. Trim, reveals, recesses, or similar detailing of not less than four-inches in width or depth as applicable.
 - b. The use of decorative detailing and ornamentation around windows (e.g., corbels, medallions, pediments, or similar features).
 - 3. Pedestrian Shelters: as described in FCC 10-6-6-6-G.
 - 4. Eaves (where applicable): overhang of not less than 12 inches.
 - 5. Decorative top: e.g., cornice or pediment with flat roof or brackets with pitched roof. Towers may be included where building height limitations and surrounding structures deem them appropriate.
 - 6. Awnings and canopies: extending not less than 30% of the elevation where applied.

This Code section was included for reference to non-residential design requirements. No changes to the exterior are proposed except for the mural installation. It is significant to note this building includes a covered front entrance not less than 6 feet in depth in accordance with FCC 10-6-7-B-1 that spans the entire length of the west building face. The proposed mural site is under the covered entrance that will provide protection to the proposed mural from weather and climate. These criteria are met where applicable.

TITLE 10: CHAPTER 26: MURAL REGULATIONS

10-26-1: PURPOSE, GENERAL PROVISIONS: The purpose of this chapter is to allow for murals on a content-neutral basis while maintaining specific standards with regard to the location, size, quantity and installation. Murals provide benefits distinct from signs, such as improved aesthetics and community identity if they are located at heights and scales visible to pedestrians.

The proposed mural is content neutral. The image is of the American Flag and a silhouette of a kneeling soldier. During holidays such as Memorial Day, July 4th, Veterans Day, and Labor Day

Highway 101 and Kingwood are lined with American Flags placed within the right-of-way by the Kiwanis with approval from the right-of-way authority. When these flags are on display the mural will tie into this aesthetic. This mural will be in keeping with the patriotic culture the City has established through flag flying and honoring veterans. The mural is proposed to be installed on a single-story storefront visible from adjacent public rights-of-way and to patrons visiting the lot's commercial businesses. While the proposed mural will tie into themes of the deli, it will also serve as a standalone piece of art improving aesthetics and incorporating community identity. These criteria are met.

MURAL: A work of visual art which is tiled or painted directly upon, or affixed directly to a fence, wall or an exterior wall of a building and exceeds the maximum size of wall sign allowed in a sign district. Visual art that is intended to communicate an informational message is not considered a mural and is regulated under the sign code.

The proposed mural will cover the entire deli's storefront, approximately 424 square feet, which exceeds the maximum 6% allowed for a wall sign. The Mural meets this definition as it will be a work of visual art either painted directly onto the exterior building wall and/or mounted. The mural is not intended to communicate an informational message and no words are proposed on the mural. Any message that may be communicated will be through the symbolism of the images. The applicant states the mural is intended to communicate honoring veterans and incorporate community values of the same. This proposal meets the definition of a mural.

10-26-3: PROHIBITED MURALS:

A. Murals that include any of the following are prohibited and are nuisances. A mural shall not include:

- 1. Electrical or mechanical components; or**
- 2. Changing images.**

The proposed mural does not include any electrical or mechanical components or changing images. This criterion is met.

10-26-4: PROHIBITED MURALS:

A mural that is not visible from the public right-of-way and not visible from public property is allowed without a mural permit.

The proposed mural will be visible from Highway 101 and 37th Street rights-of-way and thus requires a mural permit. The applicant has submitted a complete application for review. This criterion is met.

10-26-5: MURAL PERMIT APPLICATION:

A. A mural permit application shall be considered by the City Council and shall proceed under the procedures of FCC 10-1-1-5, "Land Use Hearings."

This criterion is included under Title 10, Chapter 1 reviewed earlier in the report and is met.

B. The general application requirements of FCC 10-4-1-4 shall apply, except for the submittal information required under FCC 10-1-1-4-B-2 and B-3. An application for a mural permit must contain the following information:

1. Authorization from the property owner of the location where the mural is to be installed and agreement to maintain the mural for the life of the mural, unless the mural is removed under the circumstances specified in Section 10-26-11 of this Title.

The applicant is the property owner and the business owner. The applicant has submitted a statement of a plan to maintain the mural as required. This criterion is met.

2. A site plan drawn to scale that shows the location of existing structures and where the mural is to be installed, location of property lines, abutting right-of-way, names of streets, information of other murals on abutting properties and north arrow.

The applicant has submitted a site plan drawn to scale that shows the location of existing structures and where the mural is proposed to be installed. This criterion is met.

3. A map (e.g. tax map or aerial map) that shows the existing land use on-site and the surrounding land uses within three-hundred feet (300') of the site.

A map showing existing land uses on-site and the surrounding land uses within 300 feet of the proposed mural site has been included in the record. This criterion is met.

4. A color image of the proposed mural with dimensions drawn to scale.

The applicant submitted color images of the proposed mural drawn to scale. The applicant has also submitted a color palette sample of the intended colors to be used. This criterion is conditioned to be met.

5. A building elevation depicted to scale showing the proposed building area where the mural is to be installed. Information detailing the existing building materials and architectural features, as well as proposed mural materials, construction size, and depth.

The applicant has provided exterior elevations of the building that are relevant to this mural and other applicable information necessary to make the decision. This criterion is met.

6. Information regarding the expected life span of the mural and maintenance plan for the life of the mural. The maintenance plan shall specify the frequency of maintenance and provisions to address fading and vandalism (i.e. durable exterior paints, cleanable surfaces, and/or other measures that will discourage vandalism or facilitate easier and cheaper repair of the mural if needed).

The applicant states high-quality paint and vinyl will be used and that all needed maintenance to address fading or vandalism will be handled promptly. This mural is proposed to be installed on a lot with two other commercial businesses and a residential unit. There are anticipated to be enough presence at all times of the day and night to discourage vandalism.

The proposed mural will be under the covered entrance on the west face of the building that extends approximately 6 feet from the buildings wall face. This covered entrance will provide additional protection from weather and climate factors. To ensure maximum life and success of the mural the building surface shall be properly cleaned and prepared prior to installation (Condition 5). Both red and blue are prone to fading and therefore a protective finish shall be applied to the mural to minimize fading (Condition 6). This criterion is met or conditioned to be met.

10-26-6: MURAL PERMIT CRITERIA: No person may commence mural installation on a site without first obtaining a mural permit. Murals without a mural permit are signs regulated by Title 4, Chapter 7. Use of murals does not affect the amount or type of signage otherwise allowed by the sign regulations of Title 4 Chapter 7. For approval, a mural permit application must meet the following criteria.

A. The Mural is compatible with the aesthetic appearance of adjacent buildings and the surrounding community character.

In evaluating this criterion, the following are examples of factors that can be used to measure compatibility and community character.

- 1. The mural is harmonious with or integrates aspects of special architectural and design features of surrounding buildings or the larger neighborhood.**
- 2. The mural may reflect the diversity of the world.**
- 3. The mural may reflect historic, cultural, or natural heritage.**
- 4. The mural respects the original character of the building and surrounding buildings**

The proposed mural is an American flag image with a silhouette of a kneeling soldier. The image reflects historic and cultural heritage, meeting item 3. During holidays such as Memorial Day, July 4th, Veterans Day, and Labor Day Highway 101 and Kingwood are lined with American Flags placed within the right-of-way by the Kiwanis with approval from the right-of-way authority. When these flags are on display the mural will tie into this aesthetic. This mural will be in keeping with the patriotic culture the City has established through flag flying and honoring veterans such as through establishment as a Coast Guard City. The image will be installed on the front entrance of Linda Did It Deli & Espresso, adding visual interest to the building and in keeping with a similar color scheme of buildings on the same lot. All buildings on the lot are a muted northwest palette red, this mural will be red, white and blue, in keeping with a similar color scheme already present on the lot.

The mural is proposed to be on the south portion of the building that contains the deli. It will add visual interest to a long expanse of wall without significant architectural interest. Additionally, the mural will directly relate to the theme of the deli and is intended as tribute to local veterans and service members. If the deli were to change uses or themes this mural would continue to serve as visual interest on the site and continue to be in keeping with established community culture. These criteria are met

- B. The mural will enhance the building appearance and overall visual attractiveness of the City. The overall objective is for viewers of all ages to experience a sensation of engagement, humor, wonder or delight, or all of these emotions.**

In evaluating this criterion, the following are examples of factors that can be used to measure appearance and attractiveness.

1. The mural will not adversely dominate the building or surrounding area.

The mural will not adversely dominate the building or surrounding areas. The face of the building, where the mural is proposed to be installed, is set back approximately 125 feet from Highway 101 and 75 feet from the driveway access on 37th Street. The space is on a single story and under a covered entrance that extends 6 feet beyond the building over the entrance walkway. There is customer parking in front of the building. In addition to the location preventing the proposed mural from adversely dominating the building, it will be partially blocked during the business day by pedestrian traffic and parked vehicles. This criterion is met.

2. The mural will not create traffic or safety hazards.

The image is not overly distracting because of both the design and location. The mural will primarily be visible to patrons of the businesses on the lot. The mural will only be partially visible from Hwy 101 north and south bound traffic and east bound traffic on 37th St. Additionally, American Flags are a common sight along Highway 101 and the Highway District. As this is a common sight it is not anticipated to be distracting but will serve to add to established community culture and aesthetics. There is no traffic light or stop sign on 101 at the intersection. There is a stop sign on west bound 37th, but the mural will not be visible from west bound traffic at this intersection. The mural is not proposing any moving components, reflective finishes, or any other components that may adversely affect traffic or distract drivers. These criteria are met.

3. The mural is harmonious with the scale, color, details, materials, and proportion of the building.

The colors of the mural will be harmonious with the current muted Pacific Northwest red used on the exteriors of all buildings on the lot. The proposed mural will extend from the north edge of the deli storefront to the south edge of the wall. The proposed mural will fit between the sidewalk and covered entrance. The location of the mural provides space for the flag to be painted approximately to scale along the deli's storefront. The applicant has balanced the stars on the left/north portion of the mural with the soldier silhouette on the right/south portion of the mural to maintain visual interest among the red and white stripes while keeping with the patriotic theme that the applicant is intending to achieve. This criterion is met.

- C. Internal illumination of a mural is not permitted. External illumination is allowed and shall be consistent with the illumination standards of Section 4-7-25 of this Code.**

The mural proposal does not include any source of internal or external illumination. This criterion is met.

- D. Murals are permitted only on the flat planes of walls and may extend no more than six inches (6") from the plane of the wall, unless approved by the City Council.**

The proposed mural will either be painted directly on the west facing wall and/or mounted directly to the building only. There are no projections proposed and the mural will be contained on the storefront of the business only and will not extend onto the storefront of the laundromat or wrap around the south face of the building. These criteria are met.

- E. Murals shall be installed for durability and maintained for the life of the mural or until the mural is removed. Murals shall consist of materials that have proven performance for withstanding the coastal climate.**

The mural's paint type or brand were not provided to determine suitability for the climate and sun exposure. The applicant states they will use "high quality paint and vinyl." The mural will be installed under a covered entrance that extends approximately 6 feet beyond the building which will provide additional protection from the elements. A maintenance statement was included as part of the application. The wall face shall be properly cleaned and prepared prior to installation to ensure proper binding to the surface (Condition 5) and the mural shall be sealed with a protective coat (Condition 6). These criteria are met or conditioned to be met.

- F. The Mural shall use materials, coatings, or other protective techniques that will be resistive to vandalism and graffiti.**

The applicant has included a maintenance statement and states high quality material will be used. The applicant shall use a protective coating that will be resistive to vandalism and graffiti (Condition 6). This criterion is met or is conditioned to be met

- G. The creator/artist is under contract or other obligation to complete the Mural.**

The applicant is proposing to paint the red and white stripes herself and will contract with West Coast Media for the stars of the flag and the silhouette of the kneeling soldier. The applicant shall provide the City with a copy of the contract obligating West Coast Media to complete the mural (Condition 3). This criterion is met or conditioned to be met.

- H. The Mural is an original work of art.**

The mural is not an original work of art. The mural is proposed to be of the United States Flag and a silhouette of a kneeling soldier. While the individual aspects of the mural are not original works of art, they are an original combination of the images. The applicant states they will be working with West Coast Media to ensure no part of the mural is under copyright. Because West Coast Media and the applicant will be working together to ensure no part of this mural is copyrighted, the image of the soldier may change slightly, but it will remain a silhouette of a kneeling soldier holding a weapon (Condition 4). This criterion is met or conditioned to be met.

- I. If a mural installation includes any changes to a building that would otherwise require Design Review as described in Title 10 Chapter 6, those changes must be approved through the Design Review process simultaneous with approval of the Mural Permit. Murals may not otherwise result in the site property or structure becoming out of**

compliance with other land use code provisions, prior land use approvals, or prior conditions of approval governing the building or property on which the mural is to be located.

The applicant has proposed no changes to the exterior building other than the installation of the proposed mural. There is no additional design review that is required under Title 10, Chapter 6. This criterion is met.

In applying the above criteria, the City shall make its decision in accordance with applicable constitutional requirements.

10-26-7: STRUCTURAL REVIEW: Murals with any element that weighs more than 7 pounds per square foot or in total weigh more than 400 pounds require structural review.

The proposed mural paint will be applied directly to the walls of the building. This criterion is not applicable.

10-26-9: INSPECTIONS AND EXPIRATION OF PERMIT:

A. Inspections: The Director will conduct inspection of murals for which a permit has been issued. The permit holder must notify the Director when the work is ready for inspection.

The inspection shall verify that the mural is in conformance with the application and in conformance with the provisions of this Chapter. Structural inspections shall be completed in conjunction with any required building or structural permits and shall verify the applicable requirements from the applicable codes. The inspector shall take at least one photo to be kept on file to document the site, mural size, mural location and mural image consistency.

The Director may conduct inspections whenever it is necessary to enforce any provision of the City Code, to determine compliance with the City Code, or whenever the Director has reasonable cause to believe there exists any violation of the City Code.

The applicant shall contact the Community Development Director when the work is ready for inspection. The mural shall be in conformance with the application and the provisions of the FCC 10-26, (Condition 7).

B. Expiration of Permit: If inspection approval has not been obtained by the applicant within twelve months of issuance of a mural permit, the permit is void, and no further work on the mural may be done at the premises until a new permit has been secured and a new fee paid.

The mural permit shall obtain inspection approval within 12 months of the date of this approval, or the mural permit is considered expired. No further work may be performed on the mural prior to obtaining a new permit, (Condition 8).

C. Extensions of Permit: The Director may extend a permit for one period of twelve months upon finding the following criteria have been met.

1. The request for an extension is made in writing prior to expiration of the original approval.
2. There are special or unusual circumstances that exist which warrant an extension.
3. No material changes of surrounding land uses or zoning has occurred.

The Director may deny the request for an extension of the mural permit if new land use regulations have been adopted that affect the applicant's proposal.

A one-time extension of 12 months may be requested and granted subject to the criteria of FCC 10-26-9-C. (Informational 1)

10-26-10: MAINTENANCE OF A PERMITTED MURAL: For any mural approved after March 21, 2011, the building owner is responsible for ensuring that a permitted mural is maintained in good condition, fading is addressed and the mural is repaired in the case of vandalism or accidental destruction in accordance with the approved maintenance plan.

The application included a maintenance plan for the mural. The City's nuisance code in FCC 6-1 requires graffiti removal within 5 days of written notice to remove. This criterion is met.

10-26-11: ALTERATIONS TO A PERMITTED MURAL: Alterations of the mural must be approved by obtaining a new permit through the process described in Section 10-26-3 of this Chapter.

10-26-12: REMOVAL OF A PERMITTED MURAL:

Prior to removal of a mural the property owner must notify the Community Development Department at least 30 days prior to its removal with a letter stating the intent to remove the mural. Any associated materials that were used to affix or secure the mural to the wall must be removed at the time of the removal of the mural or incorporated into a new mural application. This includes, but is not limited to mounting hardware or brackets, caulk or grout, and adhesives or glues.

Thirty days prior to removal of the mural the property owner must submit notice to the Community Development Department. (Informational 2) No mounting hardware or adhesives are proposed for this mural project.

FLORENCE REALIZATION 2020 COMPREHENSIVE PLAN

CHAPTER 1: CITIZEN INVOLVEMENT

POLICY 4. Official City meetings shall be well publicized and held at regular times. Agendas will provide the opportunity for citizen comment.

POLICY 5. Records of all meetings where official action is taken shall be kept at City Hall and made available on request to the public.

POLICY 6. Planning documents and background data shall be available to interested citizens.

The City Council public hearing was well publicized and held at a regular time. The agenda provided the opportunity for comment both on this item and for general comment. Records of the meeting where an official action will take place will be kept at City Hall and made available on request. Documents are available to the public upon request. Policies 4 through 6 have been satisfied.

CHAPTER 2: LAND USE

Policy 3: The quality of residential, commercial and industrial areas within the City shall be assured through the enforcement of City zoning, design review, applicable conditions of development approval, parking and sign ordinances, and the enforcement of building, fire, plumbing and electrical codes.

The City Council is providing design review for the proposed mural to ensure the quality of residential, commercial, and industrial areas within the City. Policy 3 is satisfied through this review process.

VI. CONCLUSION

The proposed mural meets FCC Title 10, Chapter 26 criteria for a mural. The proposed mural does not contain wording or letters that suggest this is a sign and therefore is exempt from sign regulation under Title 4, Chapter 7. While the proposed mural will tie into themes of the deli, it also ties into established community culture. This mural proposal meets the definition of a mural according to FCC 10-26. Criteria that have not been met outright have been conditioned to be met.

VII. EXHIBITS

- "A" Findings of Facts
- "B" Application, Narrative, & Maintenance Statement
- "C" Mural Images & Color Pallet
- "D" Site Plan & Exterior Elevations
- "E" Property Map
- "F" Resolution PC 22 11 COU 01



City of Florence
Community Development Department
250 Highway 101
Florence, OR 97439
(V) (541) 997-8237 (F): (541) 997-4109

Mural Permit Application

I. Applicant Information

Name: Linda Wilcox Phone () - _____
Email Address: _____ Cell _____
Address: _____ Date: _____
Applicant's Signature: Linda Wilcox

II. Property Owner Information

Name: Linda Wilcox Phone () - _____
Email Address: _____ Cell _____
Address: _____ Date: _____
Applicant's Signature: Linda Wilcox

If applicant and property owner are not the same, either sign or submit a letter of authorization to allow the applicant to act as agent for the property owner.

III. Property Description

Property Address: 1856-2 37th ST Florence OR
General Location (example: City Hall is southwest corner of Second Street and Highway 101):
corner of 37th ST & Hwy 101
Map Number 18-12- 23 - 22 Tax Lot 01800 and _____
Zoning District: H- Highway District



VI. Fee Calculation

Fees for mural permits is set at \$532.84.

Applicant--Square feet of Mural: 424

Staff-- Mural Permit Fee _____

PAID (Y) / N

VII. Submittals

The following is a check list of the required information to determine an application complete as directed by Florence City Code (FCC) Title 10, Chapter 26. All drawings will need submitted as follows:

- Authorization from the property owner of the location where the mural is to be installed and agreement to maintain the mural for the life of the mural, unless the mural is removed under the circumstances specified in Section 10-26-11 of this Title.
- A site plan drawn to scale that shows the location of existing structures and where the mural is to be installed, location of property lines, abutting right-of-way, names of streets, information of other murals on abutting properties and north arrow.
- A map (e.g. tax map or aerial map) that shows the existing land use on-site and the surrounding land uses within three-hundred feet (300') of the site.
- A color image of the proposed mural with dimensions drawn to scale.
- A building elevation depicted to scale showing the proposed building area where the mural is to be installed. Information detailing the existing building materials and architectural features, as well as proposed mural materials, construction size, and depth.
- Information regarding the expected life span of the mural and maintenance plan for the life of the mural. The maintenance plan shall specify the frequency of maintenance and provisions to address fading and vandalism (i.e. durable exterior paints, cleanable surfaces, and/or other measures that will discourage vandalism or facilitate easier and cheaper repair of the mural if needed).
- Permit Fee calculated above

According to FCC Title 10, Chapter 1, Staff has 30 days which to review the application. A written notice will be provided to the applicant and/or representative. If you have questions, contact the Planning Department at (541) 997-8237.

VIII. Criteria

Criteria which the mural will be reviewed are found in Florence City Code Title 10, Chapter 26. The City Council will hold a public hearing in which to review the criteria.

5/2021

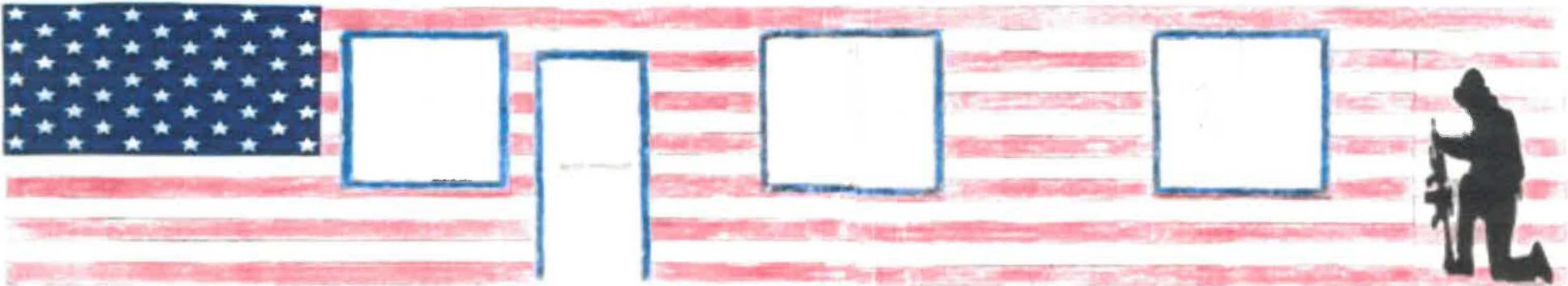
Linda Did it Deli & Espresso

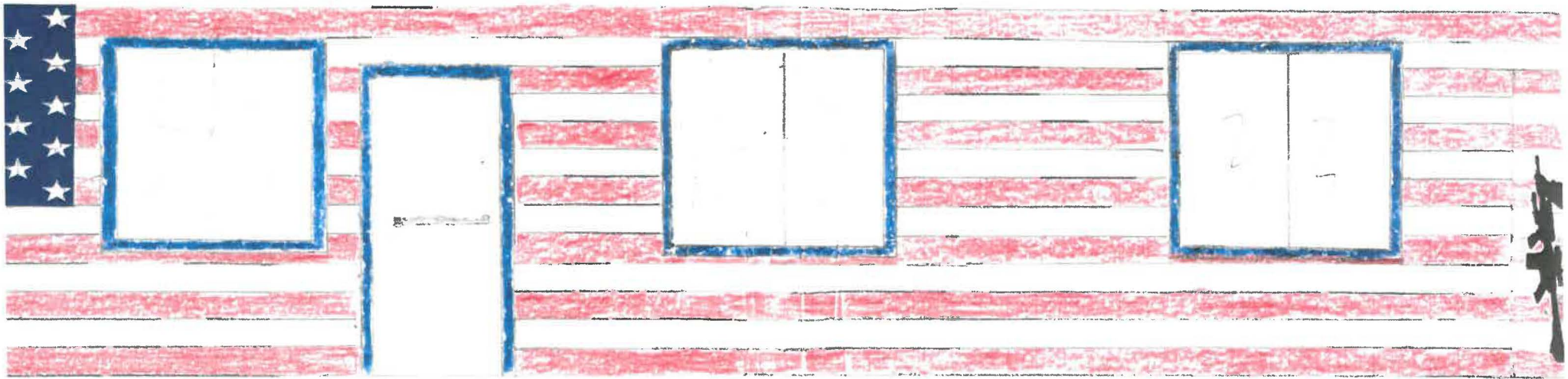
The proposed Linda Did it Deli & espresso mural will only be in front of Deli not the whole building.

For the mural we will use high quality paint and Vinyl for our mural, the mural is under a covered porch so will get limited abuse from weather. Thereafter any areas of the mural which suffer any damage due to weather or vandalism will be repaired promptly.

The reason for this mural is, for one my father and my brother, which have both passed, were in the Army. I was always raised to look up to all veterans. So when I decided to open up a deli I wanted to honor our veterans in some way so my theme in the Deli is Red, white & blue, with tiles on one wall with our local veterans name on them, proceeds from the tiles will go to the local veterans. Having the American flag on the front of my Deli will let the Veterans know how welcome they are. We have a large % of veterans in our community

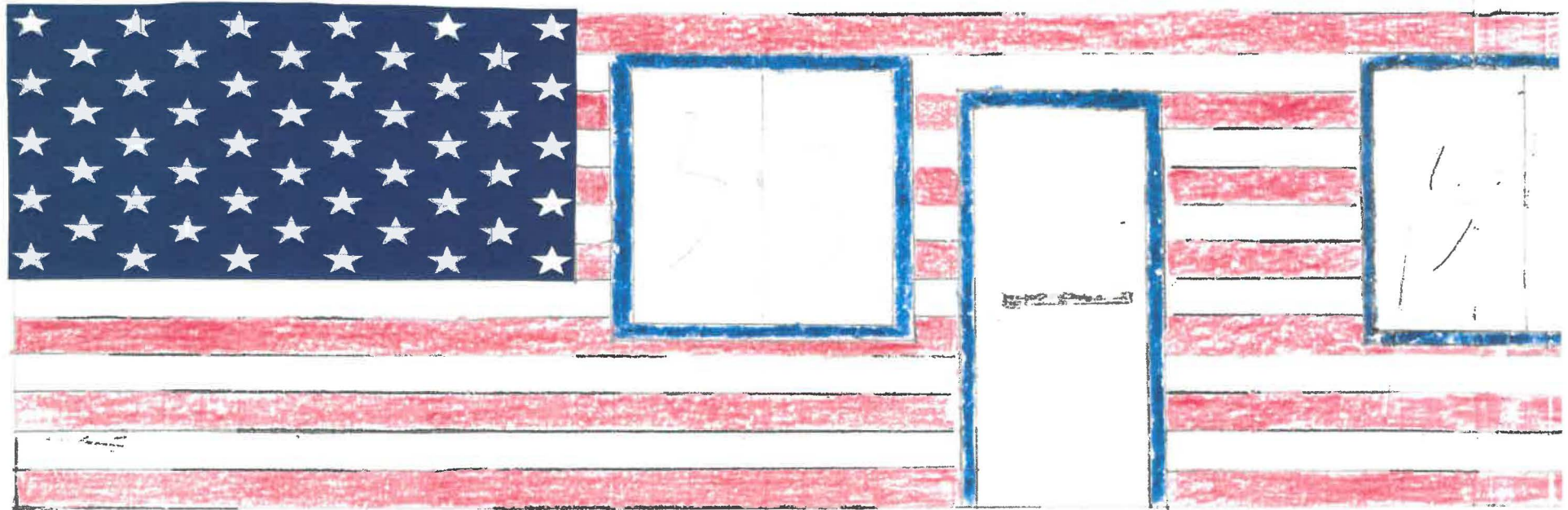
EXHIBIT C

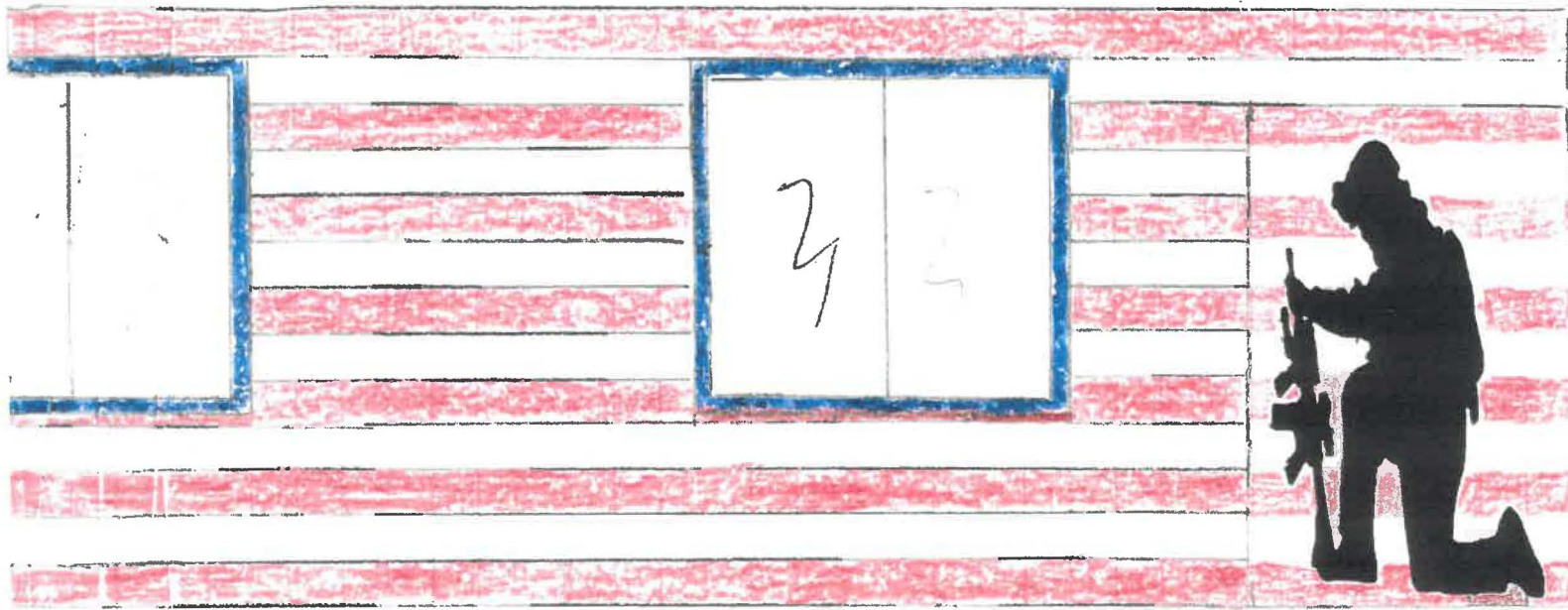




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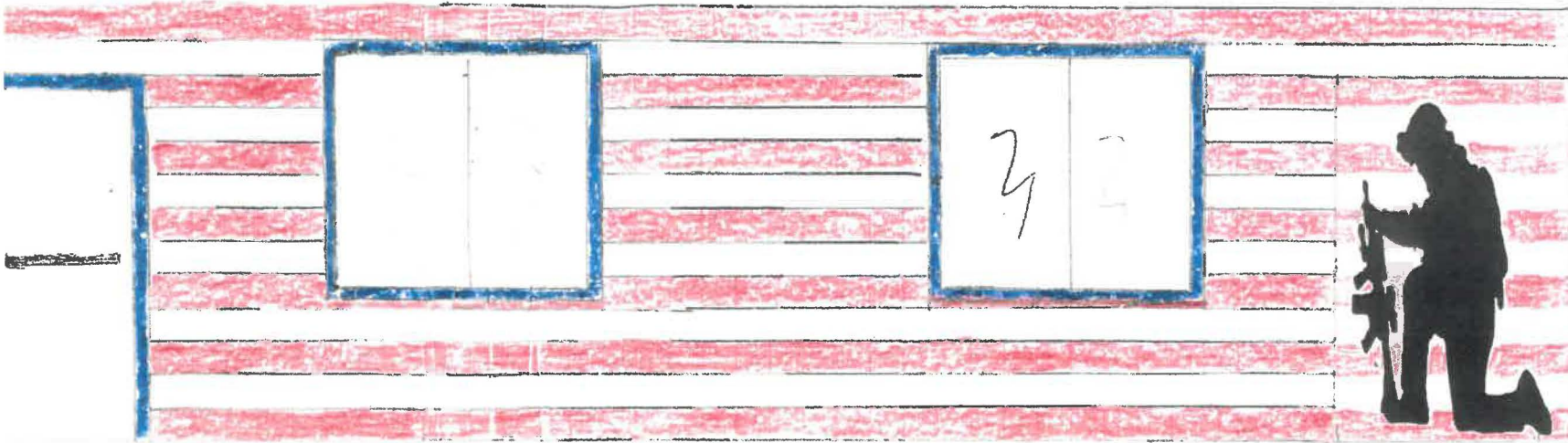




856-2 37th ST
FLORENCE ST

1 square = 8 inches

LINDA DID IT
DELI & ESPRESSO



850-2 37" 5"
1011/12 OR

1 square = 8 inches

LINDA DID IT
DELI & ESPRESSO

EXHIBIT D

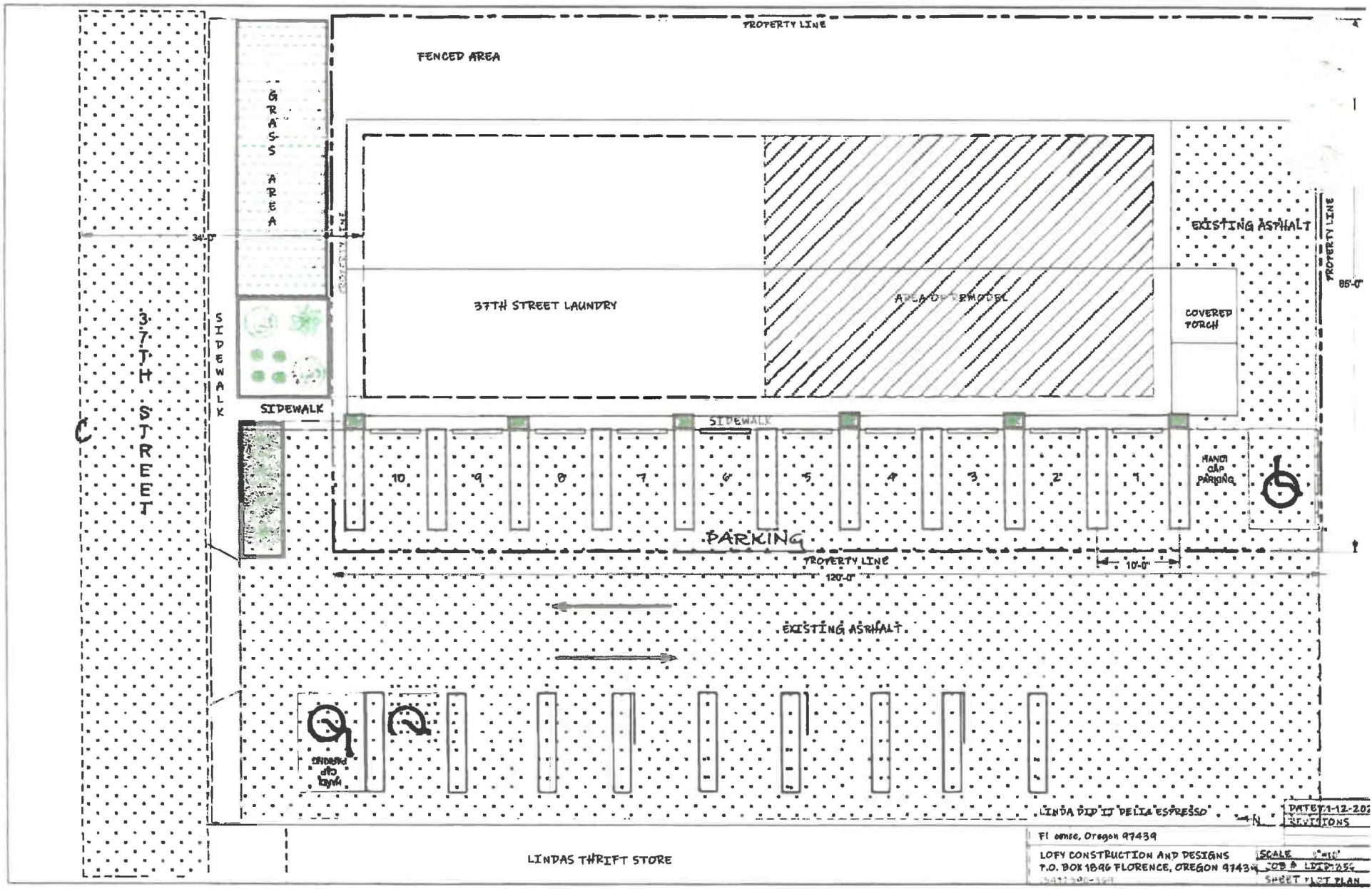


EXHIBIT D - Resolution No. 35, Series 2022
CC 22 07 MUR 01 - Linda Did It Deli & Espresso Mural

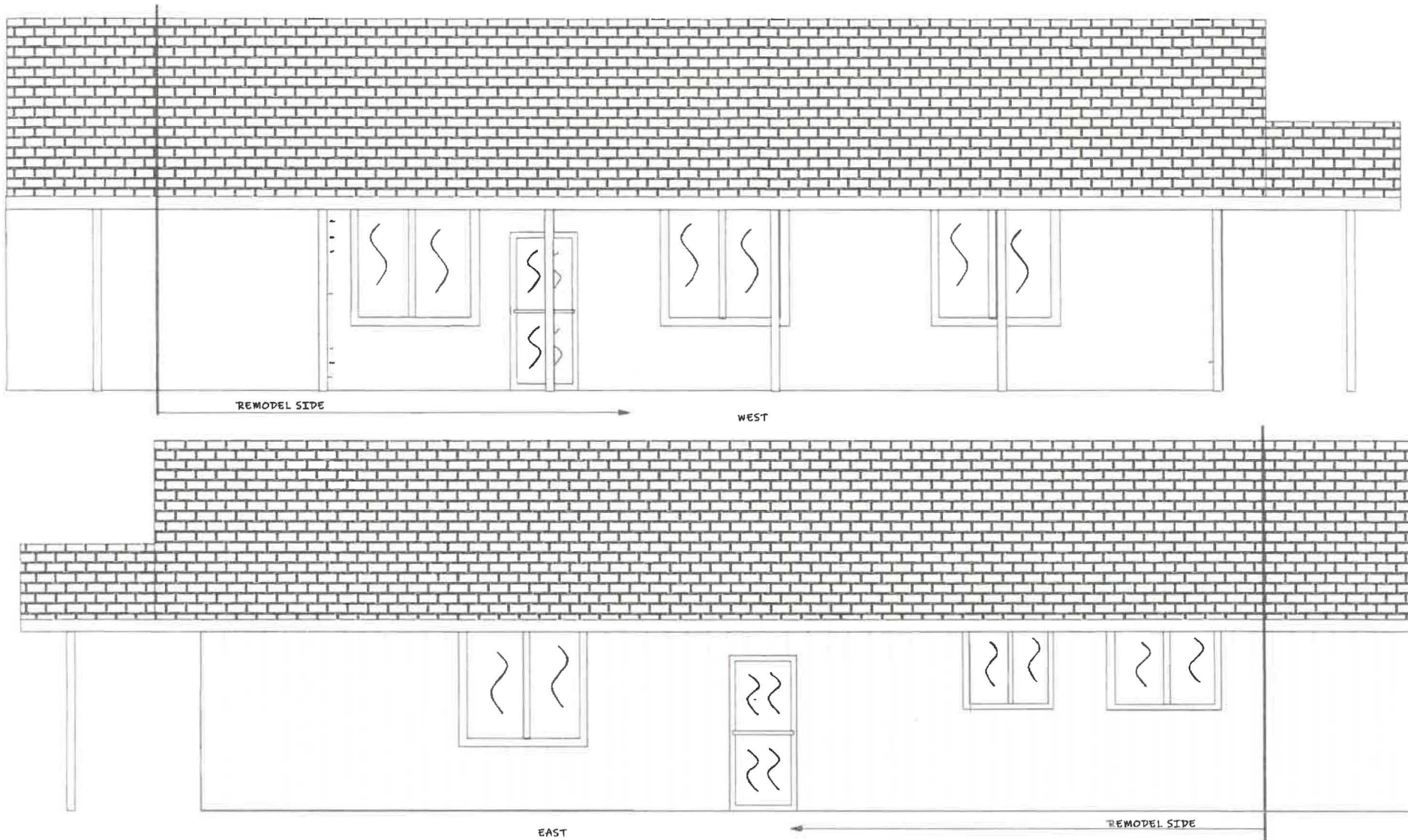
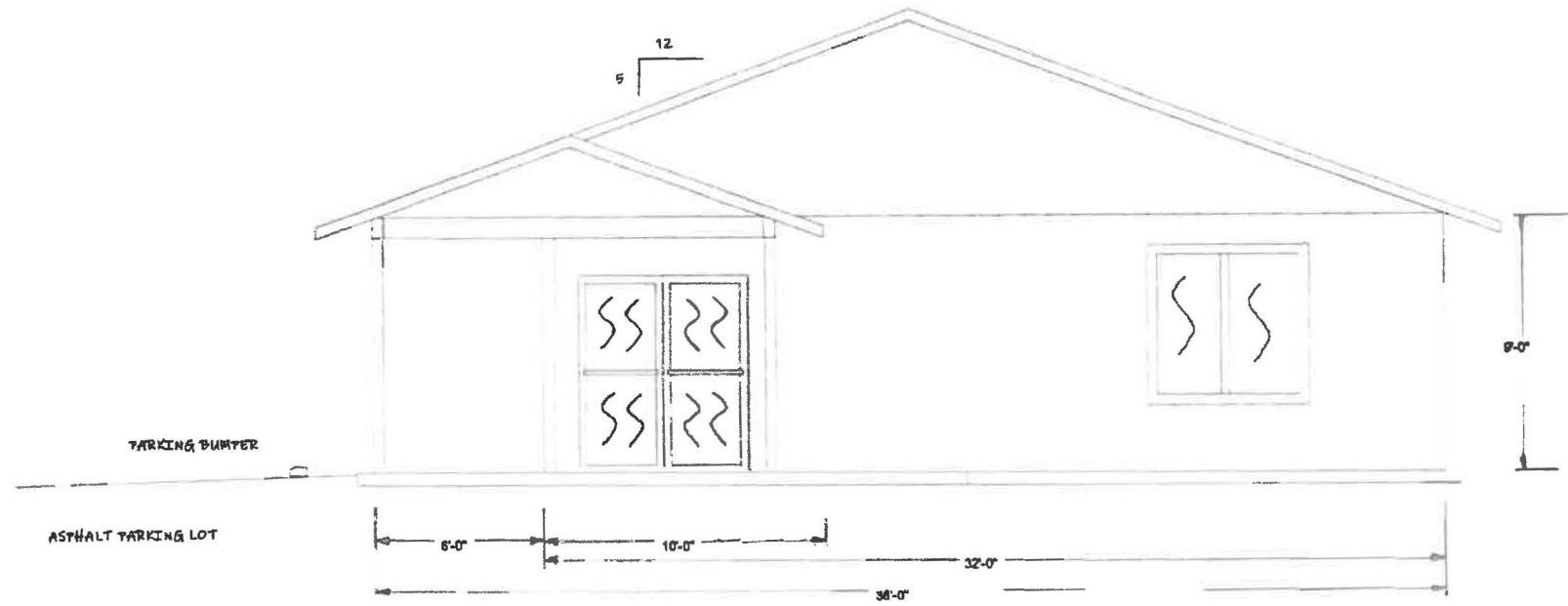


EXHIBIT D - Resolution No. 35, Series 2022
 CC 22 07 MUR 01 - Linda Did It Deli & Espresso Mural

LINDA DID IT DELI & ESPRESSO 1856 37TH STREET UNIT 2 Florence, Oregon 97439	← N	DATE 01-12-202
		REVISIONS
LOFY CONSTRUCTION AND DESIGNS P.O. BOX 1846 FLORENCE, OREGON 97439 (541) 629.2601	SCALE 1/4" = 1'-0" 10/21/2022	SHEET A-3



SOUTH

LINDA DID IT DELI & ESPRESSO 1056 9TH STREET UNIT 2 Florence, Oregon 97439	← N	DATE 01-12-20 REVISIONS
LOFY CONSTRUCTION AND DESIGNS P.O. BOX 1046 FLORENCE, OREGON 97439 411.590.3491	SCALE 1/4" = 1'-0"	JOB # LXD1256 SHEET A-4



**CITY OF FLORENCE
PLANNING COMMISSION**

RESOLUTION PC 22 11 COU 01

AN APPLICATION FOR A CHANGE OF USE FROM A PRINT SHOP TO A DELICATESSAN AT 1856 37TH STREET REQUIRING MORE THAN FIVE (5) ADDITIONAL PARKING SPACES IN ACCORDANCE WITH FLORENCE CITY CODE FCC 10-1-1-6-3 A. 2 IN THE HIGHWAY DISTRICT.

WHEREAS, application was made by Dan Lofy, of Lofy Construction, on behalf of property owner Linda Wilcox located at property shown on Assessor's Map #18-12-23-22, Tax Lot 01800, for a Change of Use Permit as required by FCC 10-1-1-4, 10-1-1-6-3 and 10-6.; and

WHEREAS, the Planning Commission/Design Review Board met in a duly-advertised public hearing on July 12, 2022 as outlined in Florence City Code 10-1-1-6-3, to consider the application, evidence in the record, and testimony received; and

WHEREAS, the Planning Commission/Design Review Board of the City of Florence, per FCC 10-1-1-4, 10-1-1-6-3 and FCC 10-6, finds, based on the Findings of Fact, application, staff recommendation, evidence and testimony presented to them, that the application meets the applicable criteria through compliance with certain Conditions of Approval.

NOW THEREFORE BE IT RESOLVED that the Planning Commission/Design Review Board of the City of Florence finds, based on the Findings of Fact and the evidence in record that:

The request for a Change of Use from a former print shop to a delicatessen in the Highway District meets the applicable criteria in Florence City Code and the Florence Realization 2020 Comprehensive Plan with the conditions of approval as listed below.

Conditions of Approval:

The application, as presented, meets or can meet applicable City codes and requirements, provided that the following conditions of approval are met.

1. Approval for shall be shown on:

- "A" Findings of Fact
- "B" Parking and Site Plan
- "C" Floor Plan
- "D" Building Elevations
- "E" Land Use Application
- "F" RLID Building Use Appraiser Plans

Findings of Fact attached as Exhibit "A" are incorporated by reference and adopted in support of this decision. Any modifications to the approved plans or changes of use, except those changes relating to Building Codes, will require approval by the Community Development Director or Planning Commission/Design Review Board.

2. Regardless of the content of material presented for this Planning Commission, including application text and exhibits, staff reports, testimony and/or discussions, the applicant agrees to comply with all regulations and requirements of the Florence City Code which are current on this date, EXCEPT where variance or deviation from such regulations and requirements has been specifically approved by formal Planning Commission action as documented by the records of this decision and/or the associated Conditions of Approval. The applicant shall submit to the Community Development Department a signed "Agreement of Acceptance" of all conditions of approval prior to issuance of a building permit.

3. Upon encountering any cultural or historic resources during construction, the applicant shall immediately contact the State Historic Preservation Office and the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians. Construction shall cease immediately and shall not continue until permitted by either a SHPO or CTCLUSI representative.

4. Parking Requirements

4.1 To meet the intent of FCC 10-3, prior to final inspection, the applicant shall supply an updated parking plan indicating one of the following: 24 parking spaces provided; or provide a thrift store floor plan illustrating half the floor area is bulk retail sales and an updated parking plan indicating 23 parking spaces. The approved plan shall be implemented prior to issuance of final inspection.

4.2 Required parking spaces shall be maintained and shall not be eliminated, used for the storage of materials of any type, or used for loading or unloading operations during business hours in accordance with FCC 10-3-2 A through F.

4.3 The parking lots shall be striped to meet the standards in 10-3-9 (4" wide striping for parking spaces double-line striped, two feet on center) prior to issuance of the final building inspection.

4.4 Two bicycle spaces shall be required to meet the bicycle to vehicular parking ratio. The spaces shall meet the minimum size, location, design, security, and other requirements listed in FCC 10-3-10.

5. Design Review Requirements

5.1 Unless otherwise specified, Conditions of Approval shall be completed prior to six months from the issuance of the Final Building inspection.

5.2 The approval for Design Review of the proposed delicatessen shall expire on July 12, 2023.

6. District Standards

6.1 In order to further ensure public health and safety, all trash receptacles shall be located inside the deli or in a trash enclosure that is fully screened by a solid fence or wall not less than 5' in height. Trash receptacle areas shall be kept clean. Trash shall not be allowed to blow about the site nor onto neighboring sites, nor shall any trash be stored in a manner to attract rodents.

6.2 The applicant shall provide appropriate vision clearance at both driveway entrances in accordance with FCC 10-35-2-14.

7. Lighting

7.1 Any lighting installed on the exterior of the subject building shall be evaluated by the Planning Department prior to installation and prior to issuance of Certificate of Occupancy or final building permit.

7.2 Within one year of approval July 12, 2023 all lighting on and serving the laundromat building shall come into compliance with 10-37. Existing non-compliant light fixtures shall be replaced or converted to be full-cut off whereby the bulb is shielded and no light is projected at or above the horizontal plane. The applicant shall ensure that lighting fixtures do not project light skyward or onto adjacent or nearby property.

7.3 Main lights shall be extinguished at the end of work hours. A minimum amount of lighting may remain on if needed due to security concerns.

ADOPTED BY THE FLORENCE PLANNING COMMISSION/DESIGN REVIEW BOARD the 12th day of July, 2022.


Sandra Young, Vice Chairperson
Florence Planning Commission

7/19/2022
Date