

FINDINGS OF FACT (Proposed)
FLORENCE PLANNING COMMISSION
Exhibit “A”

Public Hearing Date: May 10, 2022 **Planner:** Roxanne Johnston
Date of Report: May 3, 2022
Application: PC 22 07 DR 05 – Hoagland Balcony & Deck

I. PROPOSAL DESCRIPTION

Proposal: A request for a design review of a deck and balcony with exception from FCC 10-17B-3-D-2 allowing for a 5-foot encroachment exception within the front yard setback for a balcony and deck addition. Also included is a change of use to multifamily from a group home.

Applicant: Loretta Hoagland

Property Owners: Gary and Loretta Hoagland Family

Location: 1567 1st. St.
90 feet SW of the intersection of 1st. St. and Oak St.
Map # 18-12-34-11, TL 06100

Comprehensive Plan Map Designation: Downtown District

Zone Map Classification: Old Town District ‘B’

Surrounding Land Use / Zoning:

Site: Former group home/ Old Town District B

North: Residential / Old Town District B

South: Port of Siuslaw Parking Lot / Waterfront Marine

East: Residential / Old Town District B

West: Residential / Old Town District B

Streets / Classification:

East – Oak St. / Local; North – N/A; West – Nopal St. / Local; South – 1st St. / Local

II. NARRATIVE

The subject structure been used as some form of residential space since its construction. For example, it was originally constructed as a four-plex in the mid-70’s. At that time, the property also contained a duplex, which in combination with the four-plex, created a multi-family use. In the mid 1990’s, the downstairs units were changed into rooms for the purposes of a residential group home where it has continued this use up until recently.

The owners seek to revert the subject structure into its original form as a multi-family development, yet add an extra unit, which requires a change of use because the group home was less intensive in terms of parking. Five units in total are now proposed. One of these units will contain 1 bedroom and the remaining four units will each contain 2 bedrooms. With the switch back to multi-family use, additional parking and the provision of two long-term bicycle spaces are now required and discussed in this design review. The owners also seek to add a balcony and deck facing 1st St. Once approved, this addition would offer a degree of open space to its residents. Construction of the deck and balcony means that these new additions would need to encroach five feet into the required 10-foot front yard setback. Under FCC 10-17B-3 D 2, Planning Commission has the authority to approve up to a five-foot setback in Old Town District B.

The proposed materials for the deck and balcony construction include pressure treated wood and wire metal which is typically not in keeping with the architectural guidelines of the historic downtown area. It will be the Planning Commission's decision on what materials should be used in this new construction. The images of proposed materials may be found in Exhibit H.

III. NOTICES & REFERRALS

Notice: On April 20, 2022 notice was mailed to surrounding property owners within 100 feet of the property. The property was posted the same day. Notice was then published in the Siuslaw News on April 30, 2022.

At the time of this report, the City had received no public comments on the proposal:

Referrals: Referrals were sent to the Florence Public Works and Police, Department, and Siuslaw Valley Fire and Rescue on May 2, 2022.

At the time of this report, the City had received no referral comments on the proposal:

IV. APPLICABLE REVIEW CRITERIA

Florence City Code:

Title 10: Zoning Regulations

Chapter 1: Zoning Administration, Sections 1-4 A and B 2 and 3, 1-5, and 1-6-3

Chapter 3: Off-Street Parking & Loading, Sections 3 through 5 and 8 through 10

Chapter 6: Design Review, Sections 5, and 10

Chapter 17: Old Town District Sections 17B-1 through 4

Chapter 34: Landscaping, Sections 1 and 2

Chapter 37: Lighting, Section 2

V. PROPOSED FINDINGS

Code criterion are listed in **bold**, with staff response beneath. Only applicable criteria have been listed.

FLORENCE CITY CODE

TITLE 10: CHAPTER 1: ZONING ADMINISTRATION

10-1-1-4: APPLICATION:

- A. Applications and Petitions required by Title 10 and 11 of this Code shall be on forms prescribed by the City and include the information requested on the application form.**

The applicant submitted their request on a form prescribed by the City. Any missing information has been conditioned in these findings.

- B. Applicability of Review Procedures: All land use and development permit applications, petitions, and approvals shall be decided by using the procedures contained in this chapter. The procedure type assigned to each application governs the decision making process for that permit or approval. There are four types of approval procedures as described in subsections 1-4 below. Table 10-1-1 lists some of the City's land use and development approvals and corresponding review procedures. Others are listed within their corresponding procedure sections.**

[...]

- 2. Type II (Administrative) Review Procedure (Administrative/Staff Review with Notice). Administrative decisions are made by the City Planning Director, with public notice and an opportunity for appeal to the Planning Commission. Alternatively the City Planning Director may refer an Administrative application to the Planning Commission for its review and decision in a public meeting;**

The proposed change of use from a residential care facility to multi-family housing would typically be handled under a Type II review process. Also, the addition of the proposed deck and balcony would also have been handled under a Type II per FCC 10-6-3 B-1-a-ii and c. The request has been consolidated with a Type III process as described below:

- 3. Type III (Quasi-Judicial) Procedure (Public Hearing). Quasi-Judicial decisions are made by the Planning Commission after a public hearing, with an opportunity for appeal to the City Council; [...] Quasi-Judicial decisions involve discretion but implement established policy.**

Because the request also involves the encroachment of the deck and balcony into the front yard setback, these requests are now consolidated under a Type III procedure because under FCC 10-17B-3 D 2, Planning Commission has the authority to approve up to a five-foot setback in Old Town District B, which would effectively be similar to an exception from the front yard setback.

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.

These proceedings have been consolidated into a Type III process because they involve three land use decisions: change of use, design review and the reduction in front yard setback.

10-1-1-6-3 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:**

Outdoor storage and display (FCC 10-27-5-J)

Applicant is proposing a project which requires Planning Commission approval. Review applies as per 10-1-1-6-3 and a hearing is required. The proposal also includes a change of use as explained earlier. The criteria associated with that proposal are also included in the findings of fact.

- B. Notification of Hearing:**

- 1. At least twenty (20) days prior to a 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 quasi-judicial hearing, notice shall be published one (1) time in a newspaper of general circulation.**

Notification of the quasi-judicial land use hearing for this application was mailed on April 20, 2022, 20 days prior to the hearing, to all property owners within 100 feet of the subject

property. A notice was also published in the Siuslaw News one time on April 30, 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 criterion 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 criterion 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 notice mailed to surrounding property owners was consistent with the criteria noted above. The application was properly noticed and these criteria are met.

D. Hearing Procedure: All quasi-judicial hearings shall conform to the procedures of Florence City Code Title 2 Chapter 10.

The Planning Commission is scheduled to meet on May 10, 2022 in a duly-noticed public hearing and may act upon the application in accordance with FCC 2-10 at that time. In the event the Planning Commission were to decide to postpone their decision to a future date, all hearing procedures will be observed according to FCC Title 2, Chapter 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.**

The Planning Commission will receive all evidence deemed relevant at the public hearing. The Planning Commission may deny approval should they determine that insufficient evidence has been provided to indicate that the application meets the applicable criterion. The burden to supply such evidence is upon the applicant.

TITLE 10: CHAPTER 3: OFF-STREET PARKING AND LOADING

10-3-3: MINIMUM STANDARDS BY USE: The number of required off-street vehicle parking spaces shall be determined in accordance with the standards in Table 10-3-1. Where a use is not specifically listed in this table, parking requirements are determined by finding that a use is similar to one of those listed in terms of parking needs, or by estimating parking needs individually using the demand analysis option described below:

- A. **Parking that counts toward the minimum requirement is parking in garages, carports, parking lots, bays along driveways, and shared parking. Parking in driveways does not count toward required minimum parking.**

The subject property does contain space for some parking, including a carport, but it is unknown if the off-site parking requirements will be able to be met without removing a storage shed at the north of the property. A parking plan was not submitted with this application. The applicant will be conditioned later in these findings to provide the City with a parking plan demonstrating that parking will be met prior to issuance of building permits.

10-3-4: MINIMUM REQUIRED PARKING BY USE: During the largest shift at peak season, fractional space requirements shall be counted as the next lower whole space (rounded down). Square footages will be taken from the gross floor area (measurements taken from exterior of building). Applicants may ask the Planning

Commission for a reduction for parking spaces as part of their land use application. The applicant will have to provide the burden of evidence to justify the reduction proposed. The Planning Commission and/or staff may require the information be prepared by a registered traffic engineer. Table 10-3-1 lists the minimum parking spaces required by use, with a minimum no less than two (2) spaces for non-residential uses, plus additional space(s) as needed to meet the minimum accessible parking requirement.

At this time, the applicant has not requested a reduction in minimum parking with this application for the proposed use.

Table 10-3-1, Minimum Required Parking By Use:

A. Residential and Commercial Dwelling Types:

Tri-plex or Quad-plex Cluster Housing Multiple-family dwelling Studio & one bedroom units Two-bedroom units Three-bedroom units or larger	1 space per unit 1 1/2 spaces per unit 2 spaces per unit
Residential Care Facility/Nursing Home	1 space per 2 beds

Code Requirement--The proposal includes a change of use from a residential care facility requiring 1 parking space per 2 beds to multifamily which requires more parking spaces. The applicant will be conditioned later in these findings to provide the City with a parking plan demonstrating that parking will be met prior to issuance of the certificate of occupancy.

10-3-5: VEHICLE PARKING - MINIMUM ACCESSIBLE PARKING:

- A. Accessible parking shall be provided for all uses in accordance the standards in Table 10-3-2; parking spaces used to meet the standards in Table 10-3-2 shall be counted toward meeting off-street parking requirements in Table 10-3-1;**
- B. Such parking shall be located in close proximity to building entrances and shall be designed to permit occupants of vehicles to reach the entrance on an unobstructed path or walkway;**
- C. Accessible spaces shall be grouped in pairs where possible;**
- D. Where covered parking is provided, covered accessible spaces shall be provided in the same ratio as covered non-accessible spaces;**
- E. Required accessible parking spaces shall be identified with signs and pavement markings identifying them as reserved for persons with disabilities; signs shall be posted directly in front of the parking space at a height of no less than 42**

inches and no more than 72 inches above pavement level. Van spaces shall be specifically identified as such.

Table 10-3-2 - Minimum Number of Accessible Parking Spaces Source: ADA Standards for Accessible Design 4.1.2(5)			
Total Number of Parking Spaces Provided (per lot)	Total Minimum Number of Accessible Parking Spaces (with 60" access aisle, or 96" aisle for vans*)	Van Accessible Parking Spaces with min. 96" wide access aisle	Accessible Parking Spaces with min. 60" wide access aisle
1 to 25	Column A 1	1	0
*vans and cars may share access aisles **one out of every 8 accessible spaces ***7 out of every 8 accessible parking spaces			

The applicant proposes 5 apartment units in total. The following table demonstrates the breakdown of the overall proposal for determining the minimum parking requirements:

1 st Floor	Required Minimum Parking Spaces per Unit
1 – 1 bedroom unit	1
2 – 2 Bedroom Units	3
2 nd Floor	
2 – 2 Bedroom Units	3
Total # of Units = 5	7, including 1 ADA with one being Van accessible

As shown in the above table, the applicant will need to provide a minimum of 7 (seven) parking spaces. One of these shall be van ADA accessible.

In accordance with FCC 10-3-9, the applicant shall provide the City with a parking plan demonstrating that parking requirements will be met prior to issuance of building permits. This plan shall include a minimum of 7 total off-street spaces including one ADA van accessible parking space meeting all applicable requirements of FCC 10-3-5. An ADA access aisle shall meet dimension standards and signage. **[Condition 4]**

10-3-8: PARKING AREA IMPROVEMENT STANDARDS: All public or private parking areas, loading areas and outdoor vehicle sales areas shall be improved according to the following: All required parking areas shall have a durable, dust free surfacing of asphaltic concrete, cement concrete , porous concrete, porous asphalt, permeable pavers such as turf, concrete, brick pavers or other materials approved by the City. Driveways aprons shall be paved for the first fifty feet (50') from the street.

B. All parking areas except those required in conjunction with a single-family or duplex dwelling shall be graded so as not to drain storm water over public sidewalks. All drainage systems shall be connected to storm sewers where available. Parking lot surfacing shall not encroach upon a public right of way

except where it abuts a concrete public sidewalk, or has been otherwise approved by the City.

- C. **Parking spaces shall be located or screened so that headlights do not shine onto adjacent residential uses.**

The applicant shall provide all parking consistent with the requirements of FCC 10-3-8. **[Condition 5]**

- F. **Except for parking in connection with dwellings, parking and loading areas adjacent to a dwelling shall be designed to minimize disturbance by the placement of a sight obscuring fence or evergreen hedge of not less than three feet (3') nor more than six feet (6') in height, except where vision clearance is required. Any fence, or evergreen hedge must be well kept and maintained.**

Until a parking plan has been submitted as conditioned to the City for review and approval, this criterion is not met.

- G. **Lighting: Refer to Section 10-37 of this Title for requirements.**

Lighting requirements will be addressed within staff review of FCC 10-37.

- H. **Except for single-family and duplex dwellings, groups of more than two (2) parking spaces shall be so located and served by a driveway that their use will require no backing movements or other maneuvering within a street right of way other than an alley.**
- I. **Unless otherwise provided, required parking and loading spaces shall not be located in a required front or side yard.**

Until a parking plan has been submitted as conditioned to the City for review and approval, these criteria have not been met.

10-3-9: PARKING STALL DESIGN AND MINIMUM DIMENSIONS: All off-street parking spaces (except those provided for single-family and duplex homes) shall be improved to conform to City standards for surfacing, stormwater management, and striping and where provisions conflict, the provisions of FCC Title 9 Chapter 5 shall prevail. Standard parking spaces shall conform to minimum dimensions specified in the following standards and Figures 10-3(1) and Table 10-3-3:

- A. **Motor vehicle parking spaces shall measure nine (9) feet and six (6) inches wide by nineteen (19) feet long.**
- B. **Each space shall have double line striping with two feet (2') wide on center.**
- C. **The width of any striping line used in an approved parking area shall be a minimum of 4" wide.**

- D. All parallel motor vehicle parking spaces shall measure eight (8) feet six (6) inches by twenty-two (22) feet;
- E. Parking area layout shall conform to the dimensions in Figure 10-3(1), and Table 10-3-3, below;
- F. Parking areas shall conform to Americans With Disabilities Act (ADA) standards for parking spaces (dimensions, van accessible parking spaces, etc.). Parking structure vertical clearance, van accessible parking spaces, should refer to Federal ADA guidelines.

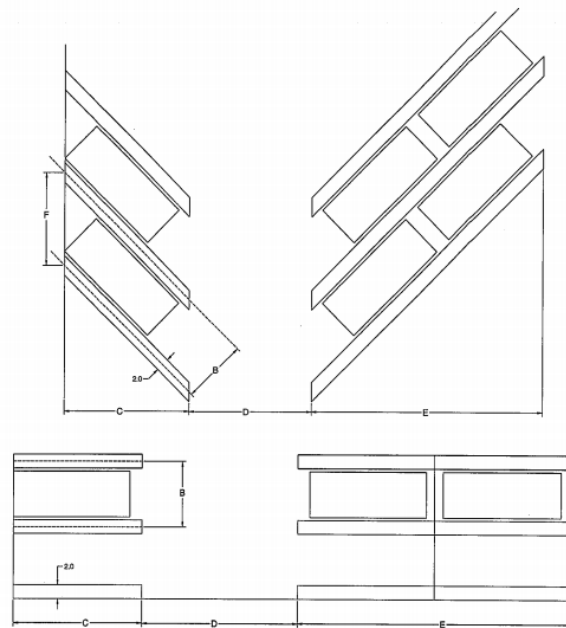


FIGURE 10-3 (1)

Table 10-3-3 – Parking Area Layout							
Space Dimensions in feet	Parking Angle <°	Stall Depth		Aisle Width		Stall width (B)	Curb Length (F)
		Single (C)	Double (E)	One Way (D)	Two Way (D)		
	30°	15.6	26.7	12	18	9.5	19.0
	45°	18.4	33.4	13	18	9.5	13.4
	60°	20	38.8	17	18	9.5	11.0
	70°	20.3	40.6	18	19	9.5	10.1
	80°	20	41.2	22	22	9.5	9.6
	90°	19	40.5	23	23	9.5	9.5

Until a parking plan has been submitted as conditioned to the City for review and approval, this criterion is not met.

10-3-10: BICYCLE PARKING REQUIREMENTS: All new development that is subject to Site Design Review, shall provide bicycle parking, in conformance with the standards and subsections A-H, below.

- A. Minimum Size Space: Bicycle parking shall be on a two (2) feet by six (6) feet minimum.

[...]

- C. Long Term Parking.** Long term bicycle parking requirements are only for new development of group living and multiple family uses (three or more units). The long term parking spaces shall be covered and secured and can be met by providing a bicycle storage room, bicycle lockers, racks, or other secure storage space inside or outside of the building; Multifamily= 1 per 4 units/ Group Living = 1 per 20 bedrooms/ Dormitory = 1 per 8 bedrooms.
- D. Location and Design.** Bicycle parking should be no farther from the main building entrance than the distance to the closest vehicle space other than handicap parking, or fifty (50) feet, whichever is less and shall be easily accessible to bicyclists entering the property from the public street or multi-use path.
- E. Visibility and Security.** Bicycle parking for customers and visitors of a use shall be visible from street sidewalks or building entrances, so that it provides sufficient security from theft and damage;
- F. Lighting.** For security, bicycle parking shall be at least as well lit as vehicle parking. Refer to Section 10-37 of this Title for requirements.
- G. Reserved Areas.** Areas set aside for bicycle parking shall be clearly marked and reserved for bicycle parking only.
- H. Hazards.** Bicycle parking shall not impede or create a hazard to pedestrians. Parking areas shall be located so as to not conflict with vision clearance standards. If bicycle parking cannot be provided safely, the Planning Commission or Community Development Director may waive or modify the bicycle parking requirements.

The minimum requirement for bicycle parking spaces for the proposed 5-unit development is two spaces. This proposed change of use requires a design review. As such, the applicant shall provide a bicycle parking plan demonstrating a minimum provision of 2 long-term parking spaces that meet the requirements of FCC 10-3-10 prior to issuance permits. [\[Condition 6\]](#)

TITLE 10: CHAPTER 6: DESIGN REVIEW

10-6-5-2: GENERAL STANDARDS FOR RESIDENTIAL DEVELOPMENT: Residential projects and mixed-use buildings with a residential component shall meet the following standards. The Planning Director shall approve or approve with conditions the proposed development based on compliance with the following standards:

- A. Setbacks, yards, height, density, lot area, dimensions, percentage of coverage, and similar design features** according to the underlying zoning district.

The proposal does not include changes that trigger review of height, area, dimensions, or percentage of coverage. The proposal does request approval for a front yard encroachment

allowance/exception of 5' for the placement of a deck and balcony allowing for open space as part of this review.

B. Design standards set forth in FCC 10-10 for the proposed residential type, if applicable, except buildings with residential uses in the Old Town or Main Street Districts shall meet Downtown Architectural Design Standards of 10-6-6 subsections: 3-C, 4 and 5 as implemented by the Comprehensive Plan, Multi-family dwellings and mixed-use buildings with a residential component located in any zone other than Old Town or Mainstreet Districts shall comply with the Multi-Family Dwelling Standards in FCC 10-10-9.

The review of a change of use to multi-family in Old Town will not include a review of FCC 10-6-6-3-C, 4 and 5, nor FCC 10-10-9.

C. Installation and maintenance of fences, walls, hedges, screens and landscaping according to standards set forth in FCC 10-34 Landscaping, and any requirements of the underlying zoning district.

The applicant is conditioned elsewhere to supply a landscaping plan.

D. The location and design of access and egress points for vehicles and pedestrians, including access points along State highways according to standards set forth in FCC 10-35 Access and Circulation, and any requirements of the underlying zoning district.

E. Parking and outside display areas, dimensions, surfacing and on-site traffic circulation according to standards set forth in FCC 10-3 Parking and Loading.

F. Exterior lighting according to the standards set forth in FCC 10-37 Lighting.

The applicant is being conditioned elsewhere in these findings to supply both a landscaping and lighting plan.

10-6-6: DOWNTOWN ARCHITECTURAL DESIGN: The Architectural Design criteria are designed to address and implement the Florence Downtown Architectural Guidelines. Where applicable, the following criteria consider the historical character of Florence through proper building massing, siting, and materials which reflect important aspects of Oregon's traditional Northwest architecture. The type of building to which this code may apply may differ by district. The following requirements are intended to create and maintain a built environment that is conducive to walking; reduces dependency on the automobile for short trips; provides natural surveillance of public spaces; creates a human-scale design, e.g., with buildings placed close to streets or other public ways and large building walls divided into smaller planes with detailing; and maintains the historic integrity of the community.

Development in the Old Town and Mainstreet districts shall comply with the standards in this section. T

The City Planning Official, the City Planning Official's designee, or the Planning Commission may require any of the following conditions in order to establish a minimum level of design quality and compatibility between buildings. The Planning Commission may approve adjustments or variances to the standards as part of a site Design Review approval, pursuant with FCC 10-5 and 10-6, respectively.

10-6-6-1: BUILDING TYPE: These types of buildings currently exist within the applicable zoning districts and are compatible with each other, despite being different in their massing and form. The following building types are permitted in future development and infill. Other building types not listed which are compatible with the surrounding area and buildings and are compatible with the historic nature of the zoning district are also permitted. Not all types may be permitted or regulated in all zoning districts.

A. Residential Type, single-family, duplex (attached & detached), or multi-family

The multi-family use is allowed in Old Town District B. Given that the base construction has already been incorporated into the district, the addition of a deck and balcony, with the property construction materials that echo others in the area, will not detract from the overall theme of the historic downtown, where not all buildings are historic, but they are compatible in design and scale as outlined in the following code section.

10-6-6-2: BUILDING STYLE:

A. Context: Each building or addition shall be designed within the context of its larger surroundings and environment in terms of overall street massing, scale and configuration.

B. Historic Style Compatibility: New and existing building design shall be consistent with the regional and local historical traditions. Where historic ornament and detail is not feasible, historic compatibility shall be achieved through the relation of vertical proportions of historic façades, windows and doors, and the simple vertical massing of historical buildings. Some examples of architectural styles currently or historically present in the Florence area are: Queen Anne, Shingle Style, Second Empire, Victorian, Italianate, Tudor Style, Craftsman Bungalow, American Foursquare, and Vernacular.

1. Existing buildings: Maintain and restore significant historic details.

2. New Buildings: Design shall be compatible with adjacent historic buildings.

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.

A. Exterior Building Walls:

1. Lap siding, board and batten siding, shingles and shakes. Metal siding and vinyl siding shall not be permitted.
2. Brick or stone masonry with a minimum 2 ½" deep solid veneer material.
3. Cement-based stucco.
4. Secondary materials: Any of the materials listed above as permitted may also be used as secondary materials or accents. In addition, the materials listed above are allowed as secondary materials, trims, or accents (e.g., flashing, wainscoting, awnings, canopies, ornamentation) when non-reflective and compatible with the overall building design, subject to approval. Secondary materials may be used on up to 30% of the façade.

B. Roofs, Awnings, Gutters, and Visible Roofing Components:

1. Composition shingles, concrete, slate or cedar shingles, or concrete or clay tiles. Red composition shingle similar to the Kyle Building are encouraged.
2. Standing seam roofing: copper, terne metal or coated metal.
3. Gutters and downspouts: copper, terne metal, or coated metal.
4. Single or multi-ply roofing, where visibly concealed.

[...]

D. Windows, Entrances, and Accessories:

1. Wood, vinyl or pre-finished metal frames and sashes.
2. Glazed and unglazed entry doors shall be wood, pre-finished or coated metal or fiberglass.
3. Solid wood or fiberglass shutters.
4. The use of decorative detailing and ornamentation around windows (e.g., corbels, medallions, pediments, or similar features) is encouraged.

E. Trellises, Decks, Stairs, Stoops, Porches, and Balconies

1. Architectural concrete, brick and stone masonry, solid wood or fiberglass columns, posts, piers and arches.
2. Wood, brick, concrete and stone masonry decks, stoops, stairs, porches, and balconies.
3. Solid wood, painted welded steel or iron trellises.

4. Railings, balustrades, and related components shall be solid wood, painted welded steel or iron.
- F. Landscape/Retaining Walls and Fences:** Shall be subject to the FCC 10-34 and the following requirements:
1. Brick and stone masonry or precast concrete.
 2. Architecturally finished exposed concrete.
 3. Cement-based stucco over masonry or concrete substrate.
 4. Solid wood pickets, lattice and boards.
 5. Painted welded metal or iron.
- 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.

A common theme in the design elements meeting this code section is painted welded metal, steel or iron and solid wood. Livestock fencing is not a material mentioned in this section. As discussed elsewhere, the Planning Commission will be making a decision on whether the proposed fencing material for the construction of the balcony and patio are in keeping with the architectural elements of Old Town.

10-6-6-5: MATERIAL APPLICATIONS AND CONFIGURATIONS:

A. Building Walls:

1. For each building, there shall be one single, clearly dominant exterior wall material and finish.

The existing building contains horizontal siding as its dominant exterior wall material and finish.

[...]

3. Building walls of more than one materials shall change along horizontal lines only, with a maximum of three materials permitted per façade.
4. Heavier materials, such as stone, shall only be used below lighter materials, such as siding.
5. Siding and shingles shall have a maximum 6” to the weather.

6. **4" minimum width corner, skirt, rake and eave trim shall run the full height of each façade, flush, or protrude beyond the surrounding wall surface.**
7. **Board and batten siding: battens shall be spaced a maximum of 8" on center.**

B. Roofs, Awnings, Gutters and Roofing Accessories:

Exhibit D indicates that the upstairs balcony roof will tie into the existing roofline with the same style shingles.

1. **Visibly sloped roofs shall pitch a minimum of 5:12 to a maximum 12:12 with symmetrical gable or hip configuration.**
2. **Eaves shall be continuous except at sheds and dormers.**
3. **Shed roofs shall attach to the main building wall or roof ridge with minimum 3:1 slope.**
4. **Flat roofs shall be concealed by cornices or parapets.**
5. **Gutters shall be round or ogee profile. Leaders shall be round or square.**
- [...]
7. **Sloped roof eaves shall overhang exterior wall planes at least 12" and shall be visibly supported by exposed rafter ends or other compatible architectural detailing.**

D. Visible Windows, Glazing, and Entrances:

1. **Windows shall be square and/or vertical rectangular shape with straight, bow, or arch tops.**
2. **10% of total windows maximum on the public façade may be circular, hexagonal, octagonal or other window configurations.**
3. **Bay windows shall have visible bracket support.**
- [...].
7. **No single lite or glass panel visible from the street shall be greater than 24 square feet in area except in storefront glazing systems.**
8. **Multiple vertical windows may be grouped in the same horizontal opening provided they are separated by 4" minimum width vertical trim.**

9. **Windows and doors in exterior walls shall be surrounded with 2 ½” minimum width trim applied flush or projecting beyond the finished wall surface.**
10. **Profiles of window mullions shall extend out beyond the exterior glass surface. Windows shall have muntins which create True Divided Lights or a similar simulated appearance.**

Upon submitting building plan for permitting, the applicant shall supply the Planning Department a list of materials such as windows, exterior doors, gutters and roofing in accordance with requirements of FCC 10-6-6-5. **[Condition 11]**

- E. Visible Decks and Balconies: All balconies and decks attached to building faces, whether cantilevered or supported below or above, shall be visibly supported by vertical and horizontal elements such as brackets, columns, or beams. Exterior posts and columns, solid or encased, shall be minimum 5 ½” in cross-section.**

Applicant is proposing the use of pressure treated posts and hog wire for the balcony and deck materials. Had this request been reviewed entirely through a Type II administrative process, staff would request alternative materials that are in keeping with the materials used with similar construction in Old Town. Aside from the change of use and front yard encroachment request, the Planning Commission is therefore tasked to decide if these building materials are in keeping with the architecture of Old Town District B.

Upon submitting building plan for permitting, the applicant shall supply the Planning Department a list of materials such as windows, exterior doors, gutters and roofing in accordance with requirements of FCC 10-6-6-5. **[Condition 12]**

The applicant indicated in their application (Exhibit B), the new construction create “general construction noise.” Aside from reasonable construction activities for the balcony and deck, no noise, vibration, smoke, dust, odor, intense light nor electrical interference will be permitted from the building or outdoor areas per the City’s nuisance code. **[Condition 7]**

10-6-11: LAPSE OF DESIGN REVIEW APPROVAL: Authorization of a design review permit shall be void one (1) year after the date of approval of a either a Type II or III design review application, unless a building permit has been issued and substantial construction pursuant thereto has taken place. Substantial construction shall be considered to be completion of a building foundation. The applicant may apply to the Planning Commission for a one-time extension of one (1) year maximum duration based on compliance with the following criteria:

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

The Planning Commission may deny the request for an extension of a design review permit if new land use regulations have been adopted that affect the applicant's proposal. (Ord 26, 2008)

The request for Design Review approval shall expire on May 10, 2023, unless a building permit has been issued and substantial construction/remodeling has taken place. [\[Condition 3\]](#)

TITLE 10: CHAPTER 17: OLD TOWN DISTRICT

10-17B-1 Purpose for Area B: Old Town Area B is an area of mixed use residential intended to provide a transition between the waterfront visitor attractions and the Events Center campus, with Quince/2nd Street as the pedestrian-friendly link between these key areas.

10-17B-2 Land Uses for Area B: The following establishes permitted, conditional, and prohibited uses for the Old Town District Area B:

A. Permitted Uses: Uses which are administratively determined to have an impact similar to or less than Permitted listed uses below:

[...]

Residential: multi-family, townhouses, duplexes

The proposed change of use from a care facility to multi-family is consistent with the permitted uses allowed in Old Town District B.

10-17B-3 Lot and Yard Provisions for Area B

A. Lot Area: The lot area shall be a minimum of 2,500 square feet. Lot area for a duplex shall be at least 5,000 sq ft, and lot area for a multiple family structure shall be at least 2,500 sq ft for each ground floor unit.

B. Lot Dimensions: The minimum lot width shall be twenty-five feet (25').

The overall lot totals 7,405.2 sq ft. with a lot width of approximately 75 feet. These criteria have been met.

C. Lot Coverage: The maximum lot coverage allowed shall be seventy percent (70%) for buildings and structures and a total of eighty percent (80%) for all buildings and other impervious surfaces.

D. Yard Regulations:

1. Garage and Carport Entries: Garage and carport entries shall have a minimum setback of twenty feet (20').

The existing carport north of the main structure is set back in excess of 75 feet. This criterion has been met.

- 2. Front Yard: Front yard setback shall be a minimum of ten feet (10') and up to five feet (5') with approval by the Planning Commission.**

The front yard setback is approximately 13 ft. 4 in as shown in Exhibit C. Construction of a deck and balcony along 1st St would require a five-foot extension into the front yard setback which is why this overall application is being considered through a Type III process - Planning Commission has the authority to approve a setback of up to five feet. The proposed deck and balcony including the 1 ft. 4 in. roof overhang would measure 7 ft. 4 in. total in depth. Approval of the 5 ft encroachment would allow the space needed for the construction.

- 3. Side Yard: Zero lot line spacing is allowed for row-house (townhouse) development between the interior and exterior units. All other development is required to have a minimum of a five foot (5') sideyard, unless zero lot line spacing is approved by the Planning Commission.**
- 4. Rear Yard or Alley: Rear yard or alley setback shall be a minimum of five feet (5'). For single family dwellings, the rear yard shall have a minimum setback of ten feet (10').**
- 5. The Planning Commission may allow reduction of any Area B setbacks, if an easement is approved and dedicated that will preserve mature trees, sand banks, and/or bank vegetation.**

E. Common Open Space: Common open space is required for multi-family housing developments of four (4) or more units as follows:

- 1. An area on the site measuring a minimum of 100 square feet per dwelling unit shall be designated and permanently reserved as common open space.**
- 2. In meeting the common open space standard, the multiple family development shall contain one or more of the following: outdoor recreation area, protection of sensitive lands (e.g., trees or bank vegetation preserved), play fields, outdoor playgrounds, outdoor sports courts, swimming pools, walking fitness courses, pedestrian amenities, or similar open space amenities for residents.**
- 3. To receive credit under this section, a common open space area shall have an average width that is not less than twenty feet (20') and an average length that is not less than twenty feet (20').**
- 4. Any common areas shall be owned as common property and maintained by a homeowners association or other legal entity. A copy of any applicable covenants, restrictions and conditions shall be recorded and provided to the city prior to building permit approval.**

The site consists of structures that were constructed prior to requirements of this code. Any outdoor area that would count as open space, including landscaping, appears to measure +/- 800 sq ft. The requirement as stated above requires a minimum of 500 sq. ft. for the proposed use. Adding the first floor deck would remove 195 square feet of common open space from the front yard (i.e., leaving a total of approximately 605 sq. ft), meaning that there would still remain the required minimum 500 st. ft. . Adding the upstairs balcony adds an additional 195 sq ft of open space to the adjoining upstairs units, respectively. Given the pre-existing element of the site, there was originally no provision nor room for the site to meet the intent of FCC 10-17B-3-E-3. The Planning Commission is tasked with deciding whether the tradeoff between the provision of additional housing to the existing land use residential inventory is more desirable for the community overall than the provision of open space that provides recreation activities and amenities for its residents given the close proximity to natural and man-made recreational open space and resources enjoyed by the community in the downtown area.

10-17B-4 Site and Development Provisions for Area B

A. Building or Structural Height Limitations.

[...]

3. **For any building two (2) stories or more above grade, two (2) or more of the following design options shall be employed to reduce the perceived scale of the structure:**
 - a. **Pitched or gable roofs are encouraged, with offsets, valleys, or false dormers to break up the roof plane as viewed from any abutting street.**
 - b. **Building exterior shall be broken into shapes and planes of less than 750 square feet for any building plane. Such planes shall have a two foot (2') minimum relative off-set.**
 - c. **Windows, balconies, entryways, and/or arcades shall be used to create visual interest and reduce the apparent bulk/mass of the building; and variation in materials, textures, colors, and shapes shall be used to break up wall planes.**

The proposed balcony and decks, in combination with sliding glass doors, will serve to break up the planes of the building's exterior as shown in Exhibit D. This criterion is met.

- d. **A public plaza may be provided between the building and the street right-way. The plaza shall be a minimum of four feet (4') in depth (in addition to any required sidewalk), with a minimum of 100 square feet wide for seating, landscaping, and weather protection, such as awnings, canopies, overhangs, or similar features.**

- E. Parking and Loading Spaces:** All required residential parking spaces must be located on-site, but may not be located within the front yard.

[...]

- H. Fences, Hedges, Walls and Landscaping:** Landscaping shall be in accordance with FCC 10-34, except as modified by the following specific standards:

- 1. Landscaping:** A minimum of ten percent (10%) landscaping is required. The calculation of the required minimum may include street trees installed and maintained by an applicant, planters and window boxes which are the property of the applicant/owner, as well as plantings within courtyard areas. All landscaping included within the 10% calculation must be installed and maintained by the applicant or his/her successors.

Landscaping area exceeds the required 10 percent and is discussed elsewhere in these findings.

- 2. Walls, Fences and Hedges:** Interior parking lots may be separated from rear courtyards by walls, fences and/or hedges four feet (4') in height or less. Eating establishments may separate outdoor eating areas from parking areas and adjacent buildings or structures by a fence, wall or hedge not to exceed six feet (6') in height. Pedestrian walkways may be separated from abutting uses by plantings or fences which allow visual surveillance of the walkway and surrounding areas. Chain link fences are prohibited in Area B.

- I. Lighting:** Street lighting, building lighting, and lighting of parking lots and walkways shall conform to the following lighting standards:

- 1. Where there are antique street lights within the public right of way, new light fixtures shall match the antique streetlights. (See Figure 17.2)**
- 2. In the areas where the antique street lights are not currently located, the light fixtures within the public right of way shall use the Central Lincoln Public Utility District's Ornamental streetlights. (See Figure 17.2)**
- 3. Light fixtures shall conform to the lighting styles in the Downtown Architectural Guidelines.**
- 4. Lighting shall be pedestrian scaled.**
- 5. Refer to Section 10-37 of this Title for additional requirements.**
- 6. Wiring for historic light fixtures shall be placed underground.**
- 7. Other overhead wiring shall be placed underground, where possible.**

The applicant shall submit a new outdoor lighting plan addressing fixtures required for the deck and balcony areas. This plan shall be administratively reviewed with building permits to

ensure that they meet the requirements of FCC 10-37, and any new overhead wiring shall be placed underground, where possible, per FCC 10-17-B – I-7. **[Condition 8]**

- J. Trash Enclosures:** At least one trash receptacle shall be provided on site. Dumpsters or similar utilitarian trash receptacles shall be screened with a solid fence or wall not less than 5' in height. Trash receptacles for pedestrians shall have a consistent design in order to provide consistency in street furniture.

The applicant shall provide a trash enclosure meeting the requirements of FCC 10-17-B – J. **[Condition 9]**

- K. Design Review:** All uses in the Old Town District Area B, whether permitted or conditional uses, shall be subject to design review (FCC 10-6) to insure compatibility and integration with the character of the district and to encourage revitalization. Architectural design shall be reviewed against criteria contained within FCC 10-6-6: Architectural Design to determine compatibility with the character of the district, with the exception of solar photovoltaic and solar thermal energy systems as allowed by HB3516 on properties not listed in the Comprehensive Plan's Historic Inventory.

1. Additional Requirements:

- a. Survey:** All new development and redevelopments and/or additions must also submit a recent survey map with their Design Review Application. The survey must show:
- i. Property lines**
 - ii. Easements**
 - iii. 2' Contours**
 - iv. Existing structures**

The applicant has submitted a change of use application with site plans demonstrating the proposed and existing structure, and also includes an elevation and proposed decking and balcony area plan. Contours are not contained in the site plan because the site is built-out.

TITLE 10: CHAPTER 34: LANDSCAPING

10-34-3-1: Applicability. Except for single-family and duplex dwelling uses, this Section shall apply to all new development as well as changes of use and expansions as described below, and shall apply in all districts except where superseded by specific zoning district requirements. These provisions shall be in addition to the provisions of FCC Title 9 Chapter 5 and where there are conflicts, the provisions of Title 9 Chapter 5 shall prevail.

- A. For new developments, all landscaping shall meet current code requirements. (Ord. 4, 2011)**

The applicant proposes 195 sq. ft. of additional outdoor space not counting the space the downstairs balcony will remove from the current landscaped area. The 195 sq. ft of area represents percent of use area.

10-34-3-2: Landscaping Plan Required. A landscape plan is required. All landscape plans shall include the following information:

- A. The location and height of existing and proposed fences and walls, buffering or screening materials.
- B. The location of existing and proposed terraces, retaining walls, decks, patios, shelters, and play areas.
- C. The location, size, and species of the new proposed plant materials (at time of planting).
- D. The location(s) of areas where existing vegetation will be cleared and the location(s) of areas where existing vegetation will be preserved, delineated on a recent aerial photo or site plan drawn to scale.
- E. Existing and proposed building and pavement outlines.
- F. Specifications for soil at time of planting, irrigation and anticipated planting schedule.
- G. Other information as deemed appropriate by the City Planning Official.

The applicant shall provide a landscape plan that includes the landscape buffering areas required in this review. This plan shall be processed as a Type 2 and shall be required to be submitted for review and approval prior to receipt of a Certificate of Occupancy. **[Condition 10]**

TITLE 10: CHAPTER 37: LIGHTING

10-37-2: APPLICABILITY: Section 10-37 applies to installation of all lighting fixtures as of the effective date of this Ordinance, except as exempted by provision of this Ordinance. Devices include but are not limited to, lights for: buildings and structures, recreational areas, parking lot and maneuvering areas, landscape areas, streets and street signs, product display areas, building overhangs and open canopies, holiday celebrations, and construction lights.

A lighting plan has been conditioned earlier through Condition 8 of these findings.

All plans conditioned for submittal in Resolution PC 22 07 DR 05 shall be submitted within 6 months, prior to submission of building permits. **[Condition 13]**

VI. CONCLUSION

Staff finds that the proposed application meets the requirements of City Code with conditions, and recommends approval of the Design Review application subject to the conditions.

VII. Exhibits:

"A"	Findings of Fact - Proposed
"B"	Application
"C"	Proposed Balcony and Deck Site
"D"	Side and Front Elevations
"E"	Existing 1 st Floor Layout
"F"	Proposed 1 st Floor Layout
"G"	Existing 2 nd Floor Layout
"H"	Proposed Deck and Balcony Materials