

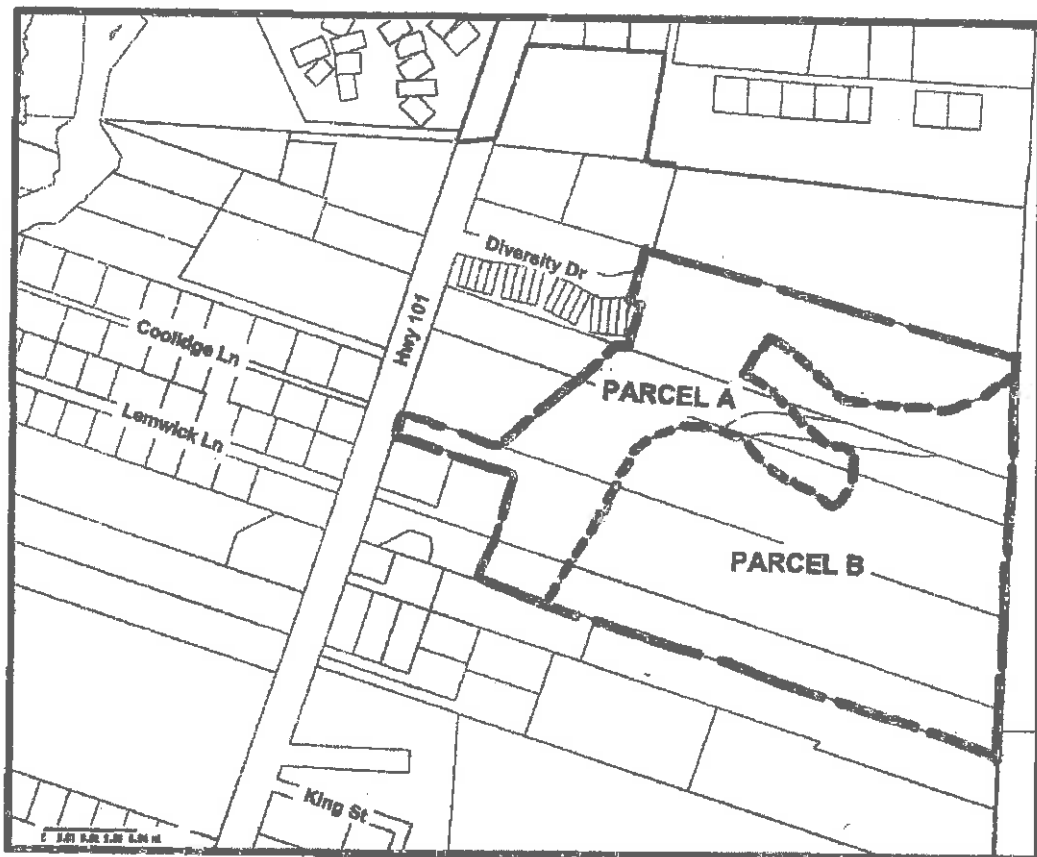
STAFF REPORT

2-Lot Partition Application

OWNER/APPLICANT: Elk Mountain Properties, LLC

A. REPORT OF FACTS

1. Applicant's Request: The applicant proposes to convert seven (7) existing parcels totaling 22.82 acres into two (2) parcels. Proposed Parcel A (northerly lot) totals 8.45 acres and proposed Parcel B (southerly lot) totals 12.37 acres.



2. Property Location: The subject site is located in the northeast portion of Yachats. The site is east of Highway 101 and the Sea-Aire Assisted Living Facility, west of the Siuslaw National Forest, and north of the Yachats Memorial Cemetery, and further identified on Lincoln County Assessors Map #14-12-23CC as tax lots 3100, 1101, 1102, 1103, 1300, 1400, and 1900.
3. Zoning: Residential Zone R-3
4. Plan Designation: Residential

5. Lot Size: The existing lot totals 22.82 acres.
6. Existing Structures: None.
7. Surrounding Land Use: The Fistera Garden Apartments, and Fistera Townhomes (under construction) are located northwest of the subject property. The Sea-Aire Assisted Living Facility and some single family dwellings are located west of the property on the east side of Hwy. 101. The Siuslaw National Forest is located west of the site and undeveloped residential zoned land is located south of the site.
8. Existing Utilities:
Water & Sewer: City of Yachats
Electricity: Central Lincoln PUD
9. Development Constraints: Steep slopes.

B. EVALUATION OF REQUEST

1. Applicant's Proposal: The applicant submitted the application form and fee, and the following material:
 - Narrative including Background, Introduction, The Partitioned Parcels, Fistera PUD, Elements Required for Partition, Surveyor/Civil Engineer, and Conclusion
 - Partial Reconveyance
 - Alta Survey with Legal Description
 - Assessor Parcel Map
 - Proposed Partition Map
 - Access and Utility Easement Map
 - Table with Area Calculations and Approved Dwelling Unit Densities
 - Final Order for Fistera Planned Unit Development

2. Relevant Code Standards:

Yachats Municipal Code Chapter 9.16.020 R-3 Residential Zone Standards

A. Lot Size and Dimensions

1. The minimum lot area shall be six thousand (6,000) square feet for a one-family dwelling; seven thousand five hundred (7,500) square feet for a two-family dwelling; six thousand (6,000) square feet for the first dwelling unit and two thousand five hundred (2,500) square feet for each additional unit in a multifamily dwelling when a lot is served by both a public water supply and public sewage disposal system. However, the maximum density in the R-3 zone shall not exceed twelve (12) dwelling units per acre.
2. (Not applicable)
3. The minimum lot width at the front building line shall be 50 feet for an interior lot and 55 feet for a corner lot when the lot is served by both a public water supply and public sewage system.
4. (Not applicable)
5. The minimum lot depth shall be 80 feet.
6. (Not applicable)
7. (Not applicable)

- B. Yards.** The minimum yard requirements in the R-3 zone shall be as follows:
1. Front yard shall be a minimum of twenty (20) feet.
 2. Each side yard shall be a minimum of either five feet or one foot for each three feet of building height, whichever requirement is greater. Corner side yards shall not be used for clothes lines, incinerators, permanent storage of trailers, boats and recreational vehicles nor shall said yard be used for the regular or constant parking of automobiles or other vehicles.
 3. The street side yard shall be a minimum of twenty (20) feet.
 4. The rear yard shall be a minimum of ten (10) feet, except that on a corner lot it shall be a minimum of either five feet or one foot for each three feet of building height, whichever requirement is the greater.
- C. Building Height.** No building in the R-3 zone shall exceed a height of thirty (30) feet from finished grade or from natural grade see Chapter 9.52.180.
- D. Lot Coverage.** Structures, including, but not limited to buildings, porches and decks shall not occupy more than forty (40) percent of the total lot area.
- E. Off-Street Parking.** Residential dwellings shall have at least two permanent parking spaces per dwelling unit. Such a parking space, garage or carport shall provide for the ingress and egress of a standard size automobile. Each parking space must be at least twenty (20) feet long and nine feet wide. Regular off-street parking shall not be permitted within the required yards adjacent to a street.
- F. General Criteria.** The vehicle and pedestrian access to the site can be safely and efficiently provided and the necessary utility systems and public facilities are available with sufficient supply and distribution capacity. If not provided by the city, it shall be the responsibility of the developer to insure these standards are met.

Yachats Municipal Code Chapter Section 9.56.020 General Requirements and Minimum Standards of Design and Development for Partitions and Subdivisions

The following are the minimum requirements and standards to which partitions and subdivisions must conform before approval:

- A. Conformity to the Comprehensive Plan.** All partitions and subdivisions shall conform with all adopted portions of the comprehensive plan, zoning ordinance and all other adopted plans. Major streets, parkways, parks and recreation areas, community and neighborhood facilities should be placed in approximately the same locations designated by the comprehensive plan.
- B. Access.** The partitioning and subdividing of land shall provide each lot or parcel, by means of a public or private road or street, satisfactory vehicular access to an existing street.
- C. Relation to Adjoining Street System.** A partition or subdivision shall provide for the continuation of the major and secondary streets existing in the adjoining subdivisions or partitions and for their proper projection when the adjoining property is not subdivided. If the planning commission adopts a plan for a neighborhood of which the partition or subdivision is a part, the partition or subdivision shall conform to such adopted neighborhood or area plan. If, in the opinion of the planning commission, topographic conditions make such continuation or conformity impractical, exceptions may be made.

When a tract is partitioned or subdivided into lots of an acre or more, the planning commission may require an arrangement of lots and streets such as to permit a later repartitioning or resubdivision in conformance with the street requirements and other requirements contained in these regulations.

D. Easements.

1. Where alleys are not provided, easements of not less than five feet in width shall be provided on each side of the rear line or side line for necessary utility lines, wires, conduits, storm and sanitary sewers, gas and water. Easements of the same or greater widths may be required along boundary lines or across lots or parcels where necessary for the extension of utility lines, waterways and walkways, and to provide necessary drainage ways or channels.
2. A private easement established without full compliance with these regulations may be approved by the planning commission provided it is the only reasonable method by which the rear portion of an unusually deep lot or parcel may be provided vehicular access.

E. Public Access Ways. When necessary for public convenience and safety, the planning commission may require the land divider to dedicate to the public access ways ten to twenty (20) feet in width to connect to cul-de-sacs, to pass through oddly shaped or unusually long blocks, to provide for a network of public paths according to adopted plans or to provide access to schools, parks, beaches or other public areas, of such design and location as reasonably required to facilitate public use.

F. Lots and Parcels.

1. Every lot and parcel shall abut on a street and the frontage of each shall not be less than twenty-five (25) feet, unless the planning commission grants otherwise.
2. Each side line shall be as close to perpendicular to the adjacent street line or radial to a curved street line as possible.
3. Lots or parcels with double frontage shall not be permitted unless, in the opinion of the planning commission, an odd shaped tract or existing topography makes such lot or parcel unavoidable.
4. Lot and parcel sizes and dimensions shall conform to the requirements for lot size and area of the zoning classification in which the partition or subdivision is located.
5. Lots and parcels under twenty-five thousand (25,000) square feet in area must not exceed a depth to width ratio of two and one-half to one. Lots and parcels over twenty-five thousand (25,000) square feet in area must not exceed a depth to width ratio of three and one-half to one.

G. Performance Agreement. If all improvements required by the planning commission and this title are not completed according to specifications as required herein prior to the time the plat is duly submitted for consideration and approval, the planning commission may accept in lieu of the completion of improvements a performance agreement or bond executed by the partitioner or subdivider and his or her surety company with the city council conditioned upon faithful performance and completion of all such improvements within a period of time stated in such performance agreement and approved by the planning commission.

H. Water. All lots in partitions or subdivisions shall be served by a public water system. No

plat of a partition or subdivision shall be approved unless the city has received and accepted:

1. A certification by the city water Director that water will be available from the nearest point of supply; or
2. A performance agreement, bond contract or other assurance that a water supply system will be installed by or on behalf of the subdivider to every lot or parcel depicted in the proposed partition or subdivision.

I. Sewer. No plat of a partition or subdivision shall be approved unless the city has received and accepted:

1. A certification by the city sewer Director that sewage service will be available at the nearest point of collection; or
2. A performance agreement, bond, contract or other assurance that sewage disposal lines will be installed by or on behalf of the partitioner or subdivider to the boundary line of each and every lot or parcel depicted in the proposed partition or subdivision;
3. Where no sewerage service is available, the Department of Environmental Quality or county health department shall approve the proposed method of sewage disposal adequate to support the proposed use of the land for the partition or subdivision. A statement that no sewerage service is available and that the proposed method of sewage has been approved will be provided to the purchaser of each lot or parcel in the proposed partition or subdivision. A copy of any such statement signed by the partitioner or subdivider and endorsed by the planning commission chair shall be filed by the partitioner or subdivider with the real estate commissioner.

Yachats Municipal Code Chapter Section 9.56.040 Partition Procedure for Dividing Land.

D. Submitting the Plat. Within one year after the approval of the preliminary plan becomes effective, a partition plat shall be submitted to the planning commission for approval which is in substantial conformity to the approved preliminary plan and conditions of approval.

The partition plat shall be prepared by a professional land surveyor who is licensed in the state of Oregon, and shall conform to the surveying requirements in ORS 92.050 through 92.080 and the Lincoln County surveyor's plat standards. In addition to the information as required on the preliminary plan, and the information required by ORS 92, the following information shall be provided:

1. A preliminary title report, lot book report, subdivision guaranty report or equivalent documentation of the ownership of the subject property, issued not more than thirty (30) days prior to the date that the partition plat is submitted for final approval. Such report shall also identify all easements of record;
2. The deed dedicating to the public all common improvements, including but not limited to streets and roads, the donation of which was made a condition of approval of the preliminary plan for the partition;
3. A copy of all protective deed restrictions proposed;
4. The certification, performance agreement, bond, contract or other assurances regarding the availability or installation of water and sewer services as provided in Section 9.56.020;

5. The location of the approved site for the septic system if applicable.

Yachats Municipal Code Chapter 9.56.64 Street Construction and Design, Section 9.64.020 Private Streets

A. General Requirements.

1. Private streets shall provide access only to abutting lots. No street providing access to other streets or to areas not abutting such streets shall be approved as private streets.
2. At such time as a preliminary plan is proposed which includes private streets, all adjacent property owners shall be notified of such proposal and the time and place of the planning commission hearing.
3. A private road shall be approved provided:
 - a. The planning commission is satisfied that such street is not presently needed as a public road;
 - b. It will never be extended through to adjacent property;
 - c. It will not be utilized for public road purposes in the normal growth area.
4. Modification of private street requirements and/or standards shall be approved only:
 - a. For street creation in areas where because of topographical or geological conditions full compliance or strict adherence to the standards and requirements would prevent reasonable access to the area; or
 - b. For access created to not more than three lots.
5. Yard setbacks shall be determined from the road right-of-way or access easement line in instances where private roads are considered.

B. Standards for Private Streets.

1. Private road right-of-way may be approved of less than fifty (50) feet in width except that the right-of-way width shall not be less than ten percent of the road length and in no instance shall the road right-of-way be less than thirty (30) feet except that a private road to two lots may be twenty (20) feet in width. In all instances where the road access is less than fifty (50) feet in width a ten foot utility easement on each side of the road right-of-way or easement shall be provided.
2. Improvements on private roads shall be the same as those for public roads providing access to similar development, and shall adhere to all provisions of Chapter 7.04.

3. **Public Testimony:** At the time this staff report was prepared, no written testimony was provided to the city.

C. STAFF ANALYSIS

1. **R-3 Standards.** The following table identifies the applicable R-3 standards and the proposed 2-lot partition.

Standard	Minimum Requirement	Proposed Parcel 1	Proposed Parcel 2
Lot Size	6,000 sq. ft.	8.45 acres (368,082 sq. ft.)	12.37 acres (538,837.2 sq. ft.)
Lot Width at front bldg. line	50 ft. for interior lot 55 ft. for corner lot	~725 ft.	~500 ft.
Avg. Lot Depth	80 ft.	~500 ft.	~1,000 ft.

The above table demonstrates the two proposed parcels meet the minimum R-3 lot size, lot width and lot depth standards.

2. Partitions. General Requirements and Minimum Standards of Design and Development for Partitions and Subdivisions

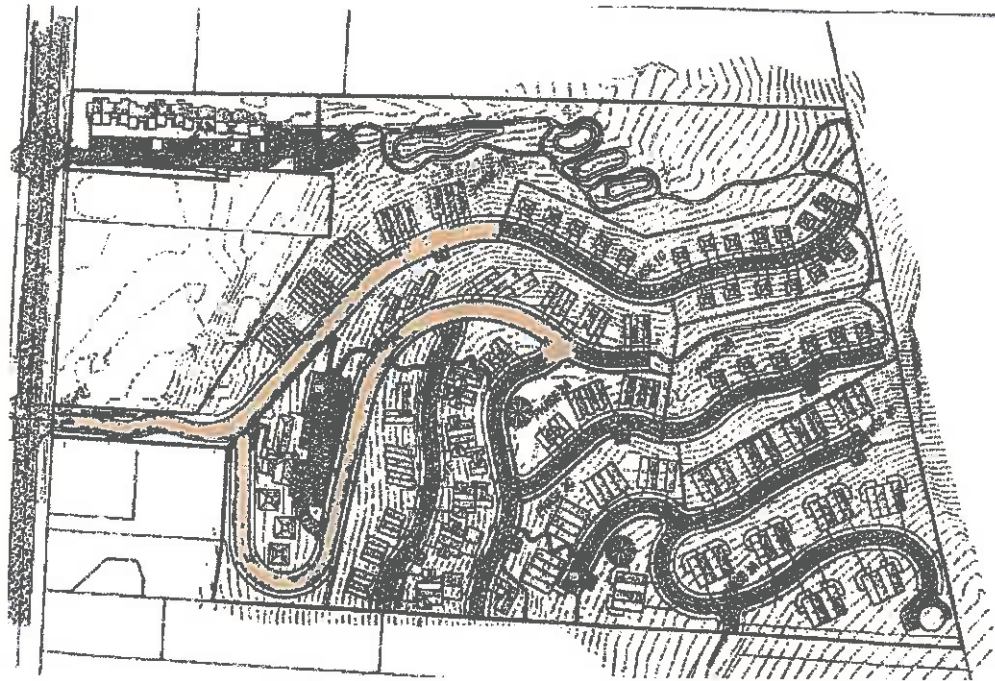
a. Conforms with the Comprehensive Plan and Zoning Ordinance.

Applicant Response: The City of Yachats Comprehensive Plan allows multifamily residential use on the Property and Property is currently zoned R-3. The Final Order granted modifications to certain of the R-3 requirements.

b. Access.

Applicant Response: Parcel A and the lower elevations of Parcel B have access from Highway 101 as shown on Exhibit B. The upper elevations of Parcel B have access from Elk Mountain Road over the Creekside subdivision, the Cemetery Property, and other properties between the Cemetery Property and the upper elevations of Parcel B, as shown on Exhibit B.

Staff Analysis: The access is consistent with the preliminary approval of the Planned Unit Development (PUD). Upon approval of this partition application, it is recommended to include a condition that the lower portion of Parcel B shall have legal access from Highway 101 through Parcel A as shown on the submitted plan. Item 'e. Easements' below provides the Applicant's proposal to grant an easement for access and utilities to Parcel B.



c. Relation to Adjoining Street System.

Applicant Response: The Final Order describes the relation of the Property to the adjoining street system and describes the interior streets proposed for the Property. In particular, Fistera PUD is required to include an alignment for Elk Mountain Road coming from the South which is designated as Diversity Drive on the approved Tentative Plan for Fistera but was changed to Elk Mountain Road as acknowledged in the Final Order.

d. Easements.

Applicant Response: Easements on Parcel A and Parcel B will include all those shown on the approved Tentative Plan for Fistera. In addition, as a condition of the Partition, Elk Mountain Properties will grant an easement for access and utilities over Parcel A to Larry Claussen and his principals for access to Phases 1C, 1E, 2A, and 2B.

e. Public Access Ways.

Applicant Response: There will be no changes to the provisions made in the Final Order for public accessways.

f. Lots and Parcels.

Applicant Response: Lots and Parcels on Parcel A and Parcel shall be as described and approved in the Final Order.

g. Performance Agreement.

Applicant Response: If any plat within the Property is to be recorded prior to construction of the required improvements, Applicants will post the required Performance Agreement.

h. Water and Sewer.

Applicant Response: Water and Sewer will be provided by the City subject to all the terms and conditions of the Final Order.

3. Conformance with Fistera PUD Preliminary Plan Approval.

Staff Analysis. City staff verifies that the proposed partition application is consistent with the 2016 preliminary approval of the Fistera PUD.

D. CONCLUSIONS

If the request is denied, the Planning Commission should state the general reasons and facts relied on, and direct staff to prepare findings for adoption at the next meeting. If the request is approved, staff offers the following recommended conditions of approval, which may be added to or amended at the Commission's discretion:

1. Within one year after the approval of this preliminary plan becomes effective, a partition plat shall be submitted to the City Planner for approval which is in substantial conformity to the approved proposed partition plat and conditions of approval. Any substantial change to the approved preliminary plan shall require a new application.

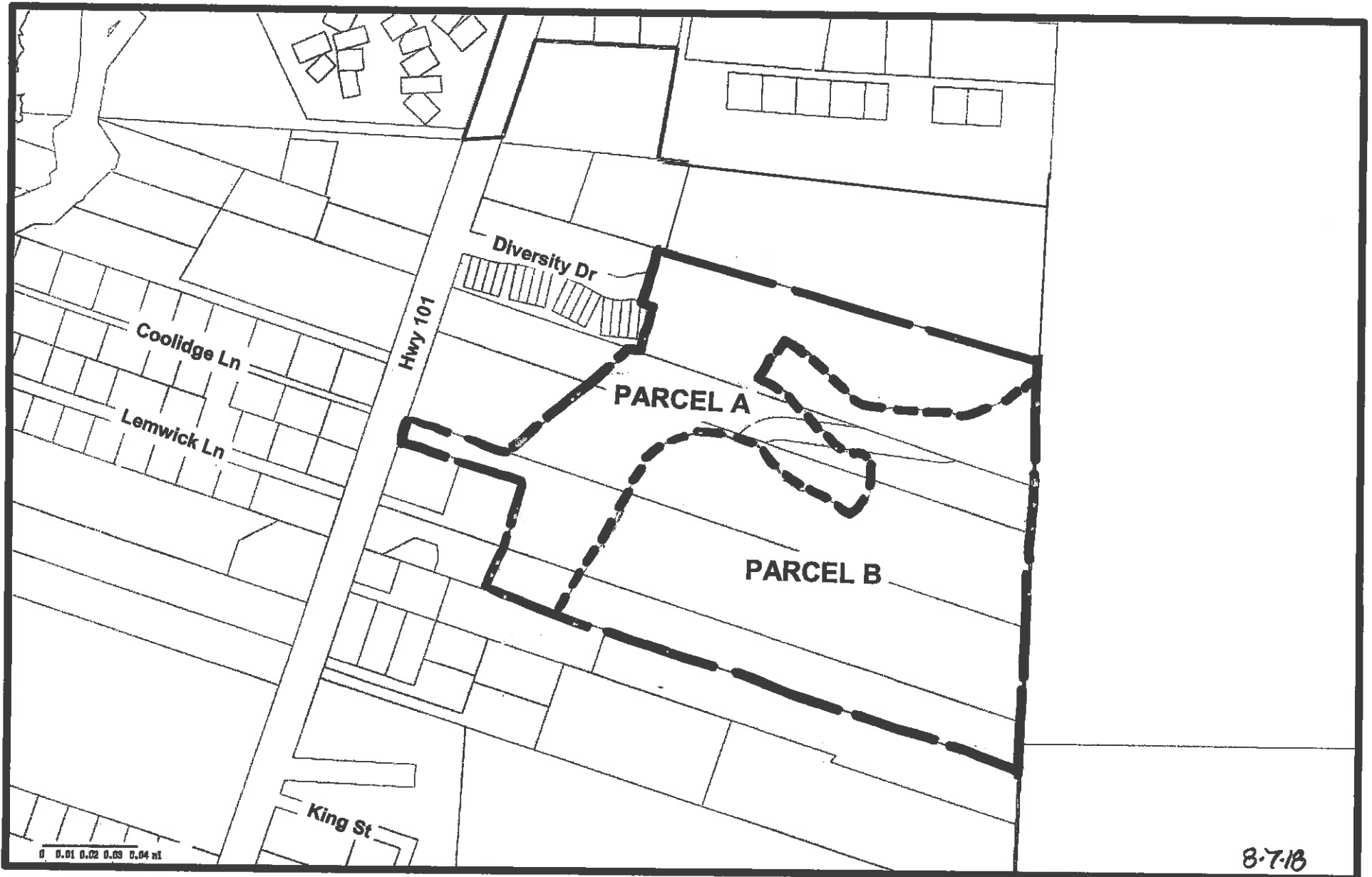
The partition plat shall be prepared by a professional land surveyor who is licensed in the state of Oregon, and shall conform to the surveying requirements in ORS 92.050 through 92.080 and the Lincoln County surveyor's plat standards.

2. Parcel B shall have access and utility easements from Highway 101 through Parcel A as shown on the submitted partition plan. The easements shall be shown on the partition plat.

Submitted by,

Larry Lewis
City Planner

Enclosures: Vicinity Map
Applicant's Partition Application



Printed 07/31/2018

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**CITY OF YACHATS
PLANNING COMMISSION**

June 28, 2018

PARTITION APPLICATION

ELK MOUNTAIN PROPERTIES LLC

**K. Layne Morrill
P.O. Box 108
Yachats, Oregon 97498-0108
541-547-3108
541-547-3408 (Facsimile)
klaynemorrill@gmail.com**

**8857 N. 63rd Place
Paradise Valley, Arizona, 85253
602-432-6291
480-584-3157 (Facsimile)
klaynemorrill@gmail.com**

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BACKGROUND

This Partition Application relates to approximately 20.82 acres (906,919.20 square feet) of real property located in the City of Yachats (the "Property"). All of the Property is located in Map 14-12-23-CC and the Property consists of Assessor Parcels -03100, -01101, -01102, -01103, -01300, -01400, and -01900.

The Property is currently owned by Elk Mountain Properties, LLC, an Oregon limited liability company. One portion of the property (the "Released Property") has been released from a seller carryback Trust Deed by Partial Reconveyance recorded on October 5, 2015, as Instrument No. 2015-10001 of the records of Lincoln County. One objective of this Partition Application is to consolidate the Released Property into a single parcel (the "Released Parcel").

The remainder of the property (the "Unreleased Property") is still subject to a seller carryback Trust Deed (the "Seller Carryback") recorded on October 24, 2006 as Instrument No. 2006-16260, as modified by Amended and Restated Trust Deed recorded April 6, 2009 at Instrument No. 2009-04002, as partially assigned by Assignment of Beneficial Interest recorded December 27, 2012 as Instrument No. 2012-12503, as modified by Modification to Restated Trust Deed recorded August 18, 2015 at Instrument No. 2015-08364 (collectively the "Seller Carryback"). The other objective of this Partition Application is to consolidate the Unreleased Property in a single parcel ("Parcel B") which Elk Mountain Properties LLC will convey to the holders of the Seller Carryback in exchange for cancellation of the non-recourse debt secured by the Seller Carryback.

After the Partition and conveyance, seven parcels will have become two parcels – Parcel A owned by Elk Mountain Properties LLC and Parcel B, owned by Larry Claussen and his principals.

Pursuant to Section 9.56.040A of the Yachats City Code, Applicant and Larry Claussen had a preliminary conversation with Larry Lewis, Planning Director, concerning the proposed Partition in January 2018.

INTRODUCTION

The Property that will become Parcel A is described in the recorded Partial Reconveyance, a copy of which is attached hereto as **Exhibit A**.

The Property that will become Parcel B is described as the entire Property except Parcel A. Attached as **Exhibit B** is a copy of an Alta Survey which contains the legal description of the entire Property (as well as some other parcels previously sold). An Assessor parcel map on which are outlined in blue the Assessor Parcels making up the Property is attached as **Exhibit C**.

On **Exhibit D**, Parcel A is highlighted in yellow, and Parcel B is highlighted in pink.

The area over which the owner of Parcel B will be granted easements for access and utilities over Parcel A is highlighted in orange on **Exhibit E**.

A copy of the completed City of Yachats Partition/Subdivision Form is attached as **Exhibit F**.

THE PARTIONED PARCELS

The entire Property, according to the Survey, contains approximately 20.82 acres (906,919.20 square feet). This is the sum of the area for Phase 1B, 1C, 1D, 1E, 2A, 2B, 3A, 3B, and 3C shown on **Exhibit D**. (Phase 1A on the approved preliminary plan was previously sold to a third party and is owned by Fisterra Gardens Apartments Limited Partnership.)

Parcel A will contain approximately 8.45 acres (368,082 square feet). This is the sum of the area for Phase 1B and 1D shown on **Exhibit D**.

Parcel B will contain approximately 12.37 acres (538,837.20 square feet). This is the Property total less the area of Parcel A.

Exhibit G summarizes the areas and approved dwelling unit densities of the portions of the Property making up Parcel A and Parcel B.

FISTERRA PUD

The Property is currently part of the Fisterra PUD (Case File #1-PD-PC-07 (mod#3 9-27-16) (the "Findings and Order") along with other lands that are not part of the Property. The Final Order contains approval for a total of 178 dwelling units in the Fisterra PUD, subject to the terms and conditions set forth therein. A copy of the Final Order is attached as **Exhibit H**.

Land that is part of Fisterra PUD but is not part of the Property has 46 approved dwelling units (25 units in Fisterra Gardens Apartments north of Diversity Drive and 21 units in Fisterra Gardens Townhomes currently under construction south of Diversity Drive.) As a result of the completed construction of Fisterra Garden Apartments and the construction in progress at Fisterra Gardens Townhomes, Elk Mountain Properties LLC's right to develop the Property in accordance with the Final Order has become a vested property right.

Total density allowed for the Property under the Final Order is 132 (178 minus 46).

Of the remaining approved density of the Property, 50 dwelling units are allocable to Parcel A and 82 dwelling units are allocable to Parcel B.

ELEMENTS REQUIRED FOR PARTITION APPLICATION

Section 9.56.020 of the Yachats City Code sets forth the general requirements and minimum standards that must be addressed for approval of a Partition. Each of these is addressed below:

1. Conformity to the Comprehensive Plan and Zoning Ordinance.

The City of Yachats Comprehensive Plan allows multifamily residential use on the Property and the Property is currently zoned R-3. The Final Order granted modifications to certain of the R-3 requirements.

2. Access.

Parcel A and the lower elevations of Parcel B have access from Highway 101 as shown on Exhibit B. The upper elevations of Parcel B have access from Elk Mountain Road over the Creekside subdivision, the Cemetery Property, and other properties between the Cemetery Property and the upper elevations of Parcel B, as shown on Exhibit B.

3. Relation to Adjoining Street System.

The Final Order describes the relation of the Property to the adjoining street system and describes the interior streets proposed for the Property. In particular, Fisterra PUD is required to include an alignment for Elk Mountain Road coming from the South which is designated as Diversity Drive on the approved Tentative Plan for Fisterra but was changed to Elk Mountain Road as acknowledged in the Final Order.

4. Easements.

Easements on Parcel A and Parcel B will include all those shown on the approved Tentative Plan for Fisterra. In addition, as a condition of the Partition, Elk Mountain Properties will grant an easement for access and utilities over Parcel A to Larry Claussen and his principals for access to Phases 1C, 1E, 2A, and 2B.

5. Public Accessways.

There will be no changes to the provisions made in the Final Order for public accessways.

6. Lots and Parcels.

Lots and Parcels on Parcel A and Parcel B shall be as described and approved in the Final Order.

7. Performance Agreement.

If any plat within the Property is to be recorded prior to construction of the required improvements, Applicants will post the required Performance Agreement.

8. Water and Sewer.

Water and Sewer will be provided by the City subject to all the terms and conditions of the Final Order.

SURVEYOR/CIVIL ENGINEER

Upon Planning Commission Approval of the Partition, Applicant will engage Peter Seaders of MSS, Inc., in Corvallis to prepare the final partition plat.

CONCLUSION

Applicants have undertaken the actions and submitted the information necessary for approval of this Partition Application. Applicants therefore request that the Planning Commission approve this Partition Application.

EXHIBITS

Tab A	Recorded Partial Reconveyance Instrument No. 2015-1001
Tab B	Alta Survey of the Property (and Phase 1A on the preliminary plan)
Tab C	Assessor Parcel Map
Tab D	Assessor Parcel Map with Parcel A (Yellow) and Parcel B (Pink)
Tab E	Assessor Parcel Map with easements for access and utilities (orange)
Tab F	City of Yachats Partition/Subdivision Form
Tab G	Table of Areas Making Up Parcels A and B and Related Densities
Tab H	Final Order

Recorded by First American
Title Insurance Co.
Order # 15-0316

First American Title Accommodate
Recording Assumes No Liability

AFTER RECORDING RETURN TO:

K. Layne Morrill
Morrill & Aronson, P.L.C.
One E. Camelback Road, Suite 340
Phoenix, Arizona 85012

Lincoln County, Oregon
10/05/2015 01:31:14 PM
DOC-PR/REC

2015-10001

Cnt=1 Pgs=8 Stn=20

\$40.00 \$11.00 \$20.00 \$10.00 \$7.00 - Total = \$88.00



00110812201500100010080082

I, Dana W. Jenkins, County Clerk, do hereby certify
that the within instrument was recorded in the Lincoln
County Book of Records on the above date and time.
WITNESS my hand and seal of said office affixed.

Dana W. Jenkins, Lincoln County Clerk



PARTIAL RECONVEYANCE

KNOW ALL MEN BY THESE PRESENTS, that the undersigned, Trustee under that certain Trust Deed Recorded October 24, 2006 at Document No. 2006-16260, as modified by Amended and Restated Trust Deed recorded April 6, 2009 at Document No. 2009-04002, as partially assigned by Assignment of Beneficial Interest recorded December 27, 2012 as Document No. 2012-12503, as modified by Modification to Restated Trust Deed recorded August 18, 2015 at Document No. 2015-08364 (the "Modification"), Records of Lincoln County, Oregon (collectively, the "Trust Deed") executed and delivered by Elk Mountain Properties, LLC, an Oregon limited liability company, as Grantor and in which Larry Claussen and others are named as Beneficiary, having received from the Grantor under the Trust Deed, a written request accompanied by the evidence required for a partial release under Section 6.17(2) of the Trust Deed (as reflected in the Modification), to reconvey a portion of the real property covered by the Trust Deed (the "Property"), does hereby, for value received, grant, bargain, sell and convey, but without any covenant or warranty, express or implied, to the person or persons legally entitled thereto, all of the estate held by the undersigned in and to the following described portion of the Property, to-wit:

See Exhibits A and B attached hereto which by this reference are incorporated herein.

The remaining Property shall continue to be held by the Trustee under the terms of the Trust Deed. This partial reconveyance is made without affecting the liability of any person for payment of the indebtedness secured by the Trust Deed.

IN WITNESS WHEREOF, the undersigned Trustee has executed this document; if the undersigned is a corporation, it has caused its name to be signed and seal affixed by an officer duly authorized thereto by order of the Board of Directors.

DATED: ~~August~~ ^{October} 5, 2015

FIRST AMERICAN TITLE INSURANCE
COMPANY OF OREGON

By: Lamin D. Dawarun
Its: authorized representative

STATE OF OREGON)
)
County of Lincoln)

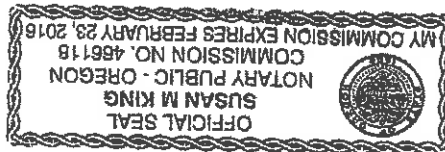
This document was acknowledged before me on October 5, 2015, by Laurie D. Garbarino, the authorized representative of First American Title Company of Oregon.



Notary Public

My Commission Expires:

February 23, 2016



STATE OF OREGON)
)
County of Lincoln)

This document was acknowledged before me on October 5, 2015, by Laurie D. Garbano, the authorized representative of First American Title Company of Oregon.



Notary Public

My Commission Expires:

February 23, 2016

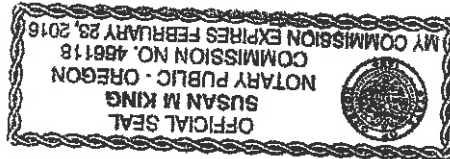


EXHIBIT A
(Legal Description of Fistera Phase 1B)

EXHIBIT A

Description of Fistera PUD
(Yachats Planning Commission No. 1-PD-PC-07)
Phase 1B

An area of land further described as follows:

COMMENCING at the West 1/16 corner between Section 23 and Section 26, Township 14 South, Range 12 West of the Willamette Meridian as being marked by a set 2-1/2" Brass cap dated 1966 per Lincoln County Survey C.S. 3137;
Thence along the East line of the Southwest Quarter of the Southwest Quarter of said Section 23, Township 14 South, Range 12 West, North 00°02'34" West, 295.46 feet to a point;
Thence continuing along said East line North 00°02'34" West, 129.18 feet to a point;
Thence continuing along said East line North 00°02'34" West, 129.71 feet to a point;
Thence continuing along said East line North 00°02'34" West, 222.20 feet to the POINT OF BEGINNING;

Thence South 56°02'12" West, 137.69 feet to a point;
Thence North 89°47'19" West, 250.91 feet to a point;
Thence North 54°30'25" West, 226.30 feet to a point;
Thence South 33°07'53" West, 103.78 feet to a point;
Thence along a 180.00 foot radius curve to the left, an arc distance of 76.65 feet (the long chord bears North 86°33'38" West, 76.07 feet) to a point;
Thence South 81°14'25" West, 9.05 feet to a point;
Thence South 08°32'16" East, 13.00 feet to a point;
Thence South 81°14'25" West, 20.00 feet to a point;
Thence North 08°58'51" West, 13.00 feet to a point;
Thence South 81°14'25" West, 30.10 feet to a point;
Thence along a 230.00 foot radius curve to the left, an arc distance of 107.76 feet (the long chord bears South 67°49'03" West, 106.78 feet) to a point;
Thence South 54°23'42" West, 260.93 feet to a point;
Thence South 59°41'21" West, 69.53 feet to northeast corner of Parcel 2 Lincoln County Partition Plat 1998-12 being marked by a 5/8" iron rod with yellow plastic cap inscribed "John Hanna RLS 306";
Thence along the northerly boundary of said Partition Plat 1998-12, North 74°14'45" West, 289.71 feet to the easterly margin of Highway 101 being marked by a 5/8" iron rod with yellow plastic cap inscribed "John Hanna RLS 306";
Thence northerly along said easterly margin North 15°46'56" East, 50.13 feet to a 5/8" iron rod with yellow plastic cap inscribed "John Hanna RLS 306";
Thence leaving said easterly margin South 74°12'56" East, 234.77 feet to a 5/8" iron rod with yellow plastic cap inscribed "Nyhus LS 2515";
Thence North 46°36'43" East, 232.51 feet to a 5/8" iron rod with yellow plastic cap inscribed "Nyhus LS 2515";

EXHIBIT A

Description of Fistera PUD
(Yachats Planning Commission No. 1-PD-PC-07)
Phase 1B

An area of land further described as follows:

COMMENCING at the West 1/16 corner between Section 23 and Section 26, Township 14 South, Range 12 West of the Willamette Meridian as being marked by a set 2-1/2" Brass cap dated 1966 per Lincoln County Survey C.S. 3137;
Thence along the East line of the Southwest Quarter of the Southwest Quarter of said Section 23, Township 14 South, Range 12 West, North 00°02'34" West, 295.46 feet to a point;
Thence continuing along said East line North 00°02'34" West, 129.18 feet to a point;
Thence continuing along said East line North 00°02'34" West, 129.71 feet to a point;
Thence continuing along said East line North 00°02'34" West, 222.20 feet to the POINT OF BEGINNING;

Thence South 56°02'12" West, 137.69 feet to a point;
Thence North 89°47'19" West, 250.91 feet to a point;
Thence North 54°30'25" West, 226.30 feet to a point;
Thence South 33°07'53" West, 103.78 feet to a point;
Thence along a 180.00 foot radius curve to the left, an arc distance of 76.65 feet (the long chord bears North 86°33'38" West, 76.07 feet) to a point;
Thence South 81°14'25" West, 9.05 feet to a point;
Thence South 08°32'16" East, 13.00 feet to a point;
Thence South 81°14'25" West, 20.00 feet to a point;
Thence North 08°58'51" West, 13.00 feet to a point;
Thence South 81°14'25" West, 30.10 feet to a point;
Thence along a 230.00 foot radius curve to the left, an arc distance of 107.76 feet (the long chord bears South 67°49'03" West, 106.78 feet) to a point;
Thence South 54°23'42" West, 260.93 feet to a point;
Thence South 59°41'21" West, 69.53 feet to northeast corner of Parcel 2 Lincoln County Partition Plat 1998-12 being marked by a 5/8" iron rod with yellow plastic cap inscribed "John Hanna RLS 306";
Thence along the northerly boundary of said Partition Plat 1998-12, North 74°14'45" West, 289.71 feet to the easterly margin of Highway 101 being marked by a 5/8" iron rod with yellow plastic cap inscribed "John Hanna RLS 306";
Thence northerly along said easterly margin North 15°46'56" East, 50.13 feet to a 5/8" iron rod with yellow plastic cap inscribed "John Hanna RLS 306";
Thence leaving said easterly margin South 74°12'56" East, 234.77 feet to a 5/8" iron rod with yellow plastic cap inscribed "Nyhus LS 2515";
Thence North 46°36'43" East, 232.51 feet to a 5/8" iron rod with yellow plastic cap inscribed "Nyhus LS 2515";

Thence continuing North 46°36'43" East, 116.28 feet to a 5/8" iron rod with yellow plastic cap inscribed "Nyhus LS 2515" marking the southerly boundary of Lincoln County Fistera Planned Unit Development Phase I being recorded as Book 18 Page 25, Lincoln County, Oregon Plat Records;

Thence following along the southern and eastern boundary of said Planned Unit Development the following courses:

South 74°12'56" East, 22.22 feet to a 5/8 inch iron rod with yellow plastic cap inscribed "John Hanna RLS 306";

Thence North 15°47'55" East, 99.94 feet to a 5/8 inch iron rod with yellow plastic cap inscribed "John Hanna RLS 306";

Thence North 74°12'27" West, 25.99 feet to a 5/8 inch iron rod with yellow plastic cap inscribed "77369LS";

Thence North 13°10'49" East, 125.66 feet to the northeast corner of said Planned Unit Development being marked by a 5/8 inch iron rod with yellow plastic cap inscribed "77369LS";

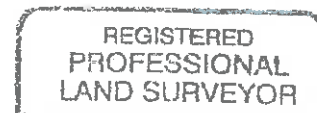
Thence leaving the boundary of said Planned Unit Development, South 76°49'11" East, 868.02 feet, more or less, to a 5/8 inch iron rod with yellow plastic cap inscribed "John Hanna RLS 306" marking said East line of the Southwest Quarter of the Southwest Quarter of Section 23;

Thence along said East line South 00°02'34" East, 60.96 feet to the POINT OF BEGINNING;

all being within the Southwest Quarter of the Southwest Quarter of Section 23 and the Southeast Quarter of the Southeast Quarter of Section 22, Township 14 South, Range 12 West, Willamette Meridian, Lincoln County, Oregon.

Containing: 5.14 Acres

Basis of Bearing: Lincoln County Survey C.S. 17936



David H. Wellman

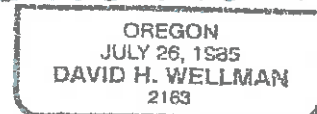


EXHIBIT B
(Legal Description of Fistera Phase 1D)

EXHIBIT B
(Legal Description of Fistera Phase 1D)

EXHIBIT B

Description of Fistera PUD
(Yachats Planning Commission No. 1-PD-PC-07)
Phase 1D

An area of land further described as follows:

COMMENCING at the West 1/16 corner between Section 23 and Section 26, Township 14 South, Range 12 West of the Willamette Meridian as being marked by a set 2-1/2" Brass cap dated 1966 per Lincoln County Survey C.S. 3137;
Thence along the East line of the Southwest Quarter of the Southwest Quarter of said Section 23, Township 14 South, Range 12 West, North 00°02'34" West, 295.46 feet to a point;
Thence continuing along said East line North 00°02'34" West, 129.18 feet to a point;
Thence continuing along said East line North 00°02'34" West, 129.71 feet to a point;
Thence South 89°10'16" West, 342.86 feet to the POINT OF BEGINNING;

Thence South 20°40'04" West, 82.84 feet to a point;
Thence North 63°52'15" West, 34.44 feet to a point;
Thence North 80°22'19" West, 50.42 feet to a point;
Thence along a 172.06 foot radius non-tangent curve to the right, an arc distance of 86.77 feet (the long chord bears North 65°44'46" West, 85.85 feet) to a point;
Thence North 42°54'48" West, 62.18 feet to a point;
Thence along a 180.00 foot radius curve to the left, an arc distance of 112.70 feet (the long chord bears North 61°44'57" West, 110.87 feet) to a point;
Thence continuing along a 180.00 foot radius curve to the left, an arc distance of 234.81 feet (the long chord bears South 62°56'38" West, 218.51 feet) to a point;
Thence South 25°34'24" West, 248.14 feet to a point;
Thence South 25°34'24" West, 88.95 feet to a point;
Thence North 74°16'54" West, 185.97 feet to the southeast corner of Parcel 1 Lincoln County Partition Plat 1999-5 being marked by a 5/8" iron rod with yellow plastic cap inscribed "John Hanna RLS 306";
Thence northerly along easterly boundary of said plat North 21°56'28" East, 100.55 feet to the northeast corner of said Parcel 1 and further being the southeast corner of Parcel 2 of Lincoln County Partition Plat 1998-12, being marked by a 5/8" iron rod with yellow plastic cap inscribed "John Hanna RLS 306";
Thence along the easterly boundary of said Partition Plat 1998-12, North 15°45'19" East, 149.94 feet to the northeast corner of Parcel 2 Lincoln County Partition Plat 1998-12 being marked by a 5/8" iron rod with yellow plastic cap inscribed "John Hanna RLS 306";
Thence North 59°41'21" East, 69.53 feet to a point;
Thence North 54°23'42" East, 260.93 feet to a point;
Thence along a 230.00 foot radius curve to the right, an arc distance of 107.76 feet (the long chord bears North 67°49'03" East, 106.78 feet) to a point;
Thence North 81°14'25" East, 30.10 feet to a point;

Thence South 08°58'51" East, 13.00 feet to a point;
Thence North 81°14'25" East, 20.00 feet to a point;
Thence North 08°32'16" West, 13.00 feet to a point;
Thence North 81°14'25" East, 9.05 feet to a point;
Thence along a 180.00 foot radius curve to the right, an arc distance of 76.65 feet (the long chord bears South 86°33'38" East, 76.07 feet) to a point;
Thence continuing along a 180.00 foot radius curve to the right, an arc distance of 81.95 feet (the long chord bears South 61°19'04" East, 81.25 feet) to a point;
Thence South 48°16'28" East, 127.70 feet to a point;
Thence along a 120.00 foot radius curve to the left, an arc distance of 104.07 feet (the long chord bears South 73°07'07" East, 100.84 feet) to a point;
Thence South 00°27'55" East, 42.37 feet to the POINT OF BEGINNING;
all being within the Southwest Quarter of the Southwest Quarter of Section 23, Township 14 South, Range 12 West, Willamette Meridian, Lincoln County, Oregon.

Containing: 3.45 Acres

Basis of Bearing: Lincoln County Survey C.S. 17936

REGISTERED
PROFESSIONAL
LAND SURVEYOR

David H. Wellman

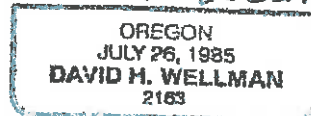
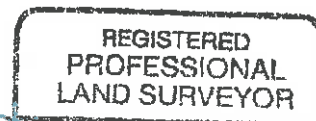
OREGON
JULY 26, 1985
DAVID H. WELLMAN
2163

RENEWS: *June 30, 2016*

Thence South 08°58'51" East, 13.00 feet to a point;
Thence North 81°14'25" East, 20.00 feet to a point;
Thence North 08°32'16" West, 13.00 feet to a point;
Thence North 81°14'25" East, 9.05 feet to a point;
Thence along a 180.00 foot radius curve to the right, an arc distance of 76.65 feet (the long chord bears South 86°33'38" East, 76.07 feet) to a point;
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Thence South 00°27'55" East, 42.37 feet to the POINT OF BEGINNING;
all being within the Southwest Quarter of the Southwest Quarter of Section 23, Township 14 South, Range 12 West, Willamette Meridian, Lincoln County, Oregon.

Containing: 3.45 Acres

Basis of Bearing: Lincoln County Survey C.S. 17936



ALTA / ACSMLAND TITLE SURVEY

[Faint, illegible markings]

NO OTHER INFORMATION OF THIS USE AS A SOURCE OF
DATA, BUT ONLY FOR ANALYSIS PURPOSES
NO OTHER INFORMATION OF THIS USE AS A SOURCE OF
DATA, BUT ONLY FOR ANALYSIS PURPOSES

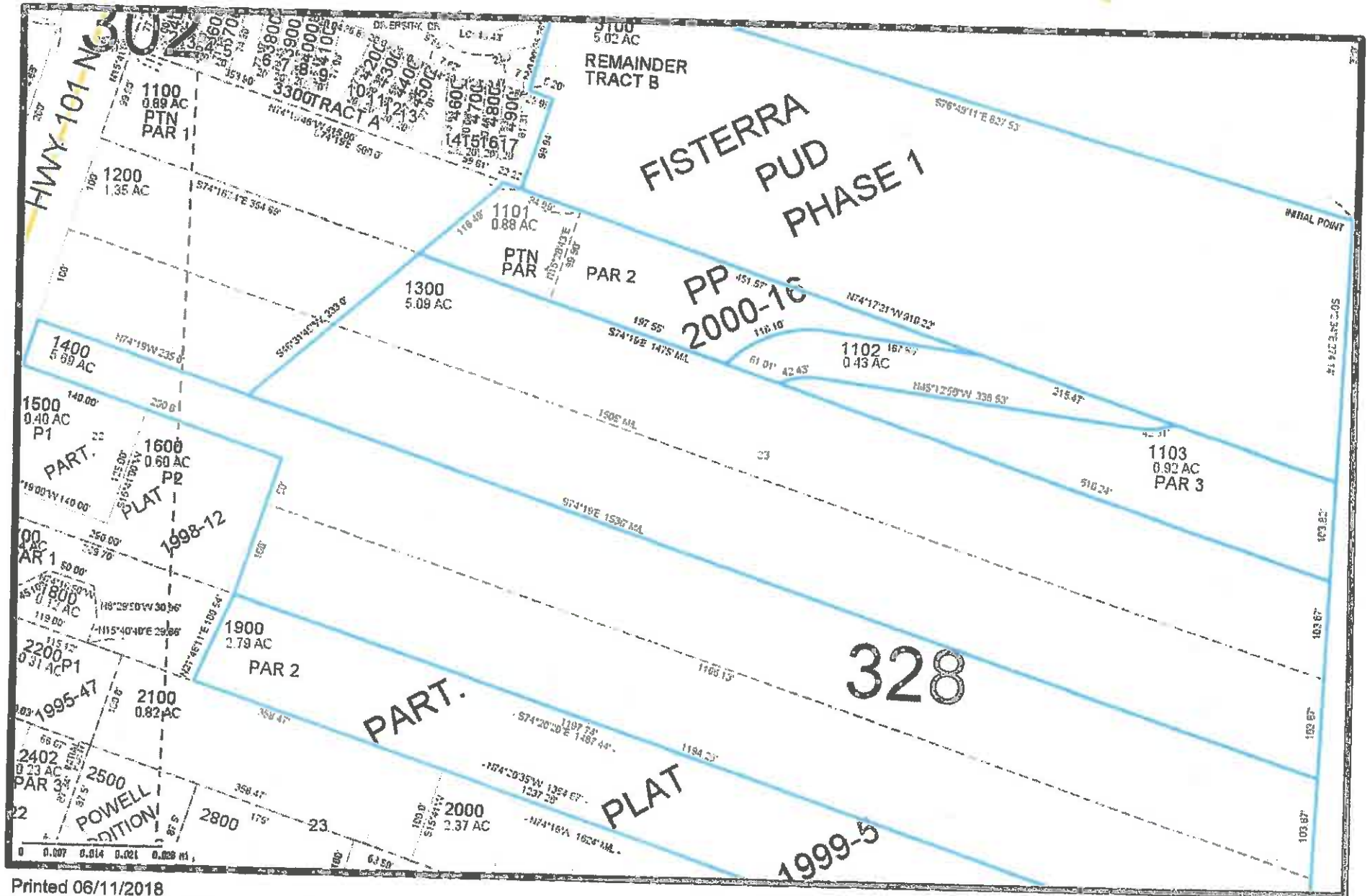
ALSO
A PART OF SECTION 22 AND 23, TOWNSHIP 4 NORTH, RANGE 14 WEST, COUNTY OF LINCOLN, MISSOURI, BEING
DEPOSITED AS FOLLOWING

[illegible]

WILL PROSECUTION

Elk Mountain Properties LLC

Assessor Parcels



Printed 06/11/2018
Lincoln County government use only. Use for any other purpose is entirely at the risk of the user.
This product is for informational purposes and may not have been prepared for, or be suitable for legal, engineering, or surveying purposes. Users should review the primary information sources to ascertain their usability.



PARCEL A

PARCEL B

PHASE AREA:	
PHASE #	ACRES
PA	1.81
PB	0.53
PC	1.00
PD	3.32
PE	0.47
PHASE 1 TOTAL ACRES = 7.13	
PF	0.48
PG	1.00
PHASE 2 TOTAL ACRES = 1.48	
PH	0.53
PI	0.95
PJ	1.07
PHASE 3 TOTAL ACRES = 4.17	

TOTAL SITE AREA = 22.03 AC

TOTAL AREA SUMMARY		
AREA	AREA (AC)	% OF TOTAL
IMPERVIOUS	1.2	5.4%
PERVIOUS	2.1	9.5%
WATER	0.7	3.1%
OPEN SPACE	18.0	81.9%
TOTAL	22.0	100%

IMPERVIOUS AREA SUMMARY		
AREA	AREA (AC)	% OF TOTAL
ROADS	0.8	3.6%
PARKING LOT	0.4	1.8%
DRIVEWAY	0.1	0.5%
ROOF	0.1	0.5%
TOTAL	1.4	6.4%



PacWest Engineering
1530 Ninth Avenue SE
Albany, OR 97322
Phone (541) 926-7634
Fax (541) 926-7539

FISTERRA

PREPARED FOR:
ELK MOUNTAIN PROPERTIES

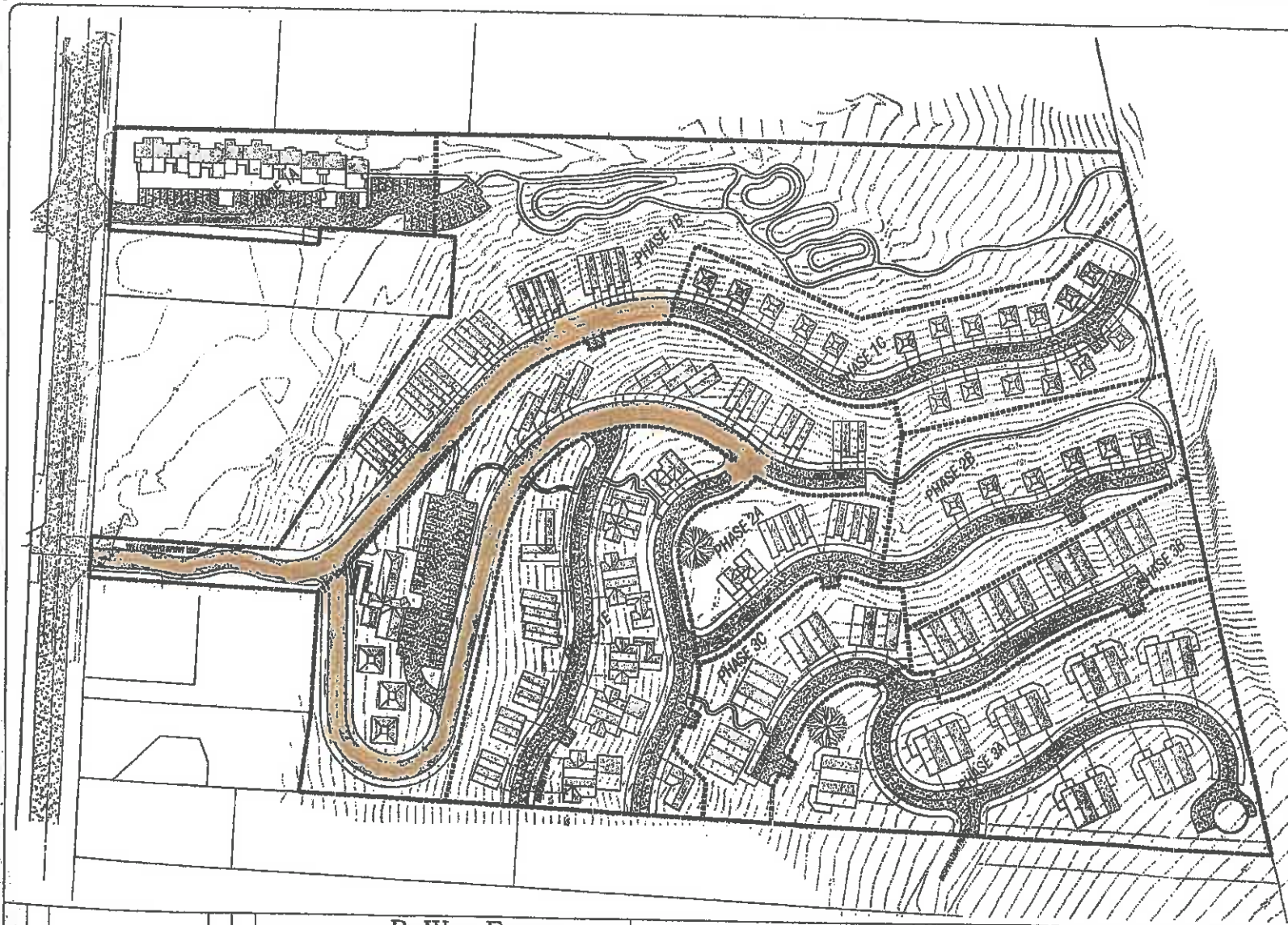
PRELIMINARY SITE PLAN
AND PHASING

DESIGN J. VAN ANTHAM
DRAWN J. VAN ANTHAM
CHECKED T. PLUM
APPROVED T. PLUM



SHEET SP-1
DWG 06-024.DWG
DATE
PROJECT 06-024

NO.	DATE	REVISION	BY	APPROVED



PHASE AREA:	
PHASE	ACRES
1A	1.21
1B	0.87
2A	1.88
2B	2.37
3A	2.87
PHASE 1 TOTAL ACRES = 2.08	
2A	1.88
2B	1.88
PHASE 2 TOTAL ACRES = 3.76	
3A	2.87
3B	0.87
3C	1.87
PHASE 3 TOTAL ACRES = 5.61	

TOTAL SITE AREA: 22.03 AC

TOTAL AREA SUMMARY	
AREA	% OF TOTAL
PHASE 1	9.4%
PHASE 2	17.1%
PHASE 3	25.5%
OTHER SPACE	48.0%
TOTAL	100%

IMPERVIOUS AREA SUMMARY	
AREA	% OF TOTAL
PAVEMENT	1.8%
ROOF	1.2%
WATER	0.2%
TOTAL	3.2%

NO.	DATE	REVISION	BY	APPROVED

PacWest Engineering
 1530 Ninth Avenue SE
 Albany, OR 97322
 Phone (541) 926-7654
 Fax (541) 926-7659

FISTERA
 PREPARED FOR:
ELK MOUNTAIN PROPERTIES

**PRELIMINARY SITE PLAN
 AND PHASING**

DESIGN	J. VAN AGTHAMER
DRAWN	J. VAN AGTHAMER
CHECKED	T. PLUM
APPROVED	T. PLUM



SHEET	SP-1
DWG	06-024.DWG
DATE	
PROJECT	06-024

CITY OF YACHATS

P.O. Box 345, Yachats, OR 97498 • (541) 547-3565 • FAX (541) 547-3063

Partition/Subdivision

Partitions \$200.00
Subdivision:
4-9 lots 250.00
10 or more lots 350.00

Date Received:
Fee Received:
Staff Initials: _____
(Actual expenses in excess of
fee will be billed.)

☒ Partition ☐ Subdivision 4-9 lots ☐ Subdivision 10 or more lots

Address of Property: _____

Tax Lot No. 14-12-23-CC-03100, -01101, -01102, -01103, -01300,
Property Owner: Elk Mountain Properties, LLC Phone: 602-432-
Mailing Address: PO Box 108 Yachats OR 97498-6291 -01400, and
Agent (if any): None Phone: 0108 0-1900

Address: _____

Surveyor: Peter Seaders MSS Inc Phone: 541-753-1320 X 20

Directions to property: _____

Current Zone: R-3 Lot Dimensions: Irregular Area: 20.82 acres

Flood Zone: NO Natural Hazard: Hillside

Name of Subdivision: 1

Water Source: City Sewage Disposal: City

Other Utilities: Central Lincoln PUD; Pioneer Telephone; Charter
Cable

The following information is required at the time of submittal.

An incomplete application will not be accepted.

A map of the property containing the following information:

- Date, north point and scale of the drawing.
- A vicinity sketch showing the location of the partition/subdivision.
- The approximate location and dimensions of all proposed boundary/lot lines.
- Approximate area of the property being partitioned and each proposed parcel. For a subdivision - Gross acreage of the property being subdivided, number of lots within the plat, and size of the smallest lot in the plat.
- Name, location, and width of all existing and proposed roads, right-of-way, and easements.
- Existing and proposed uses of the property.
- Approximate location and use of all existing structures to remain on the site. Indicate those to be removed.
- Any limitations to development; i.e. topography, areas subject to flooding, geologic hazards, drainage channels on property, etc.
- A copy of the request to the County Health Department for site inspection.

For subdivision also include:

- Names, surfacing, direction of drainage, and approximate grade of all streets within and abutting the subdivision.
- Legal access to subdivision, if not abutting a public road. (If by easement, a copy of the deed giving easement.)
- Proposed lot and block numbers.
- Width, depth, and direction of flow of all drainage channels on the property.
- Contour lines with a ten (10) foot interval if slope exceeds 10%; five (5) foot intervals if less than 10%. State the source of the contour information.
- All existing and proposed easements crossing the property.
- Pedestrian walkways (if any).
- Areas other than streets to be offered for dedication to the public - example - parks.
- Heavily wooded areas.
- Adjacent land owned by the subdivider.
- The feasibility report.

Note: Some of the above items may not apply to the property being subdivided, however, as much information as possible must be shown. A preliminary plan may be returned until adequate information is given.

I certify that this application and its related documents are accurate to the best of my knowledge.

Elk Mountain Properties LLC

7L3 Moore

Signature of Applicant or Agent

Date

6/28/18

Signature of Owner
(if different than agent)

Date

Notes:

- Within 5 business days following the acceptance of an application by City Staff, copies of the preliminary plan shall be distributed to appropriate agencies and departments for review, comments, and recommendations.
- If approved, the preliminary approval is valid for one year for a partition, two years for a subdivision. During that time all conditions set out by the Planning Commission should be completed.
- Please review the current ordinance to ensure all requirements are met when submitting final plat.
- For a subdivision: At such time as a preliminary plan is proposed which includes private streets, all adjacent property owners will be notified of such proposal and the time and place of the Planning Commission meeting.

For subdivision also include:

- Names, surfacing, direction of drainage, and approximate grade of all streets within and abutting the subdivision.
- Legal access to subdivision, if not abutting a public road. (If by easement, a copy of the deed giving easement.)
- Proposed lot and block numbers.
- Width, depth, and direction of flow of all drainage channels on the property.
- Contour lines with a ten (10) foot interval if slope exceeds 10%; five (5) foot intervals if less than 10%. State the source of the contour information.
- All existing and proposed easements crossing the property.
- Pedestrian walkways (if any).
- Areas other than streets to be offered for dedication to the public - example - parks.
- Heavily wooded areas.
- Adjacent land owned by the subdivider.
- The feasibility report.

Note: Some of the above items may not apply to the property being subdivided, however, as much information as possible must be shown. A preliminary plan may be returned until adequate information is given.

I certify that this application and its related documents are accurate to the best of my knowledge.

Elk Mountain Properties LLC

[Signature]

Signature of Applicant or Agent

Date

6/28/18

Signature of Owner
(if different than agent)

Date

Notes:

- Within 5 business days following the acceptance of an application by City Staff, copies of the preliminary plan shall be distributed to appropriate agencies and departments for review, comments, and recommendations.
- If approved, the preliminary approval is valid for one year for a partition, two years for a subdivision. During that time all conditions set out by the Planning Commission should be completed.
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CITY OF YACHATS

P.O. Box 345, Yachats, OR 97498 • (541) 547-3565 • FAX (541) 547-3063

Partition/Subdivision

City Office Use Only

Special standards must be met for development as follows:

- | | |
|---|---|
| <input type="checkbox"/> 1 Flooding | <input type="checkbox"/> 2 Shorelands |
| <input type="checkbox"/> 3 Geologic Hazards | <input type="checkbox"/> 4 Habitat/Scenic Areas |
| <input type="checkbox"/> 5 High Groundwater | |
| <input type="checkbox"/> 6 Estuarine | <input type="checkbox"/> 8 Other |
| <input type="checkbox"/> 7 Beaches & Dunes | |

This application for a partition/subdivision is

- ☐9 Denied
- ☐10 Tentatively approved subject to the following conditions (as checked)
- ☐11 Within one year of tentative approval, two years for subdivision, a plat of the partition/subdivision conforming to surveying requirements in ORS 92.050 through 92.080 shall be submitted to the Planning Commission for a determination of substantial conformity with the tentative plan.
- ☐12 Each parcel shall contain at least _____ acres/square feet
- ☐13 Each parcel shall contain a minimum of 25 feet frontage on a public road.
- ☐14 Provide documentation from the County Road Department, Oregon State Highway Department, or the City of Yachats guaranteeing access to each parcel from the County road, State Highway, or City Street.
- ☐15 Provide documentation, certification, performance agreement, or statement regarding the availability of water and sewage service for each parcel.
- ☐16 Provide deed(s) dedicating to the public all common improvements, including but not limited to streets and roads, the donation of which is made a condition of this approval of the preliminary plan.
- ☐17 Lots/parcels and streets must be arranged in such a way as to permit a later re-subdivision in conformance with the street requirements.
- ☐18 Other

The sale of parcels described in this tentative approval is prohibited until all conditions are met and final plat has been recorded.

City Planner

Date

Chair - Planning Commission

Date

Partition Application
Elk Mountain Properties LLC

Phase	Type of Unit	Acreage	Square Feet	# Of Units
1B	Town Homes	5.13	223,462.80	20
1D	Studio Getaways			18
	Town Homes (Triplex)	<u>3.32</u>	<u>144,619.20</u>	<u>12</u>
Total Parcel A		8.45	368,082.00	<u>50</u>
1C	Cabins/Treehouses	1.92	83,635.20	14
	Town Homes (Duplex)			12
1E	Town Homes (Triplex)	2.87	125,017.20	13
	Town Homes (Detached)			1
2A	Town Homes (Triplex)	0.82	35,719.20	6
	Town Homes (Detached)			2
2B	Cabins/Treehouses	1.59	69,260.40	6
3A	Town Homes (Duplex)	3.13	136,342.80	13
3B	Town Homes (Duplex)	0.97	42,253.20	7
3C	Town Homes (Duplex)	<u>1.07</u>	<u>46,609.20</u>	<u>8</u>
Total Parcel B		<u>12.37</u>	<u>538,837.20</u>	<u>82</u>
Total for Property		20.82	906,919.20	<u><u>132</u></u>



City of Yachats

441 Hwy 101 N.
P O Box 345
Yachats, OR 97498

September 27, 2016

Fisterra 1A Devco Inc/Elk Mountain Properties LLC
PO Box 108
Yachats, OR 97498

**Re: Case File #1-PD-PC-07 (Mod. #3)
Fisterra Planned Unit Development**

Dear Mr. Morrill:

On Tuesday, September 20, 2016, the Yachats Planning Commission voted to approve your request for the above referenced planned unit development modification subject to conditions which must be fulfilled. The enclosed Findings and Conclusions were signed September 27, 2016 and include the conditions of approval.

This decision will become effective on Wednesday, October 12, 2016 at 4:30 p.m. unless an appeal is filed with the City of Yachats. An application for an appeal shall include the specific rationale for the appeal with sufficient clarity to allow the City and respondents an adequate opportunity to respond to or resolve each issue. To appeal the decision of the Planning Commission, it is necessary to submit a fee of \$750.00 along with a written statement explaining the reasons for the appeal.

If you have questions regarding this matter, please contact me at 541-547-3565.

Sincerely,

Larry Lewis
City Planner

Enclosure: Findings and Conclusion

cc: June O'Connor
William & Susan Schroeder
Joni Bicksler

**BEFORE THE PLANNING COMMISSION
OF
YACHATS, OREGON**

**Request for Modification to
Fisterra Planned Unit Development**

Order #1-PD-PC-07 (Mod. #3)

Applicant: Fisterra 1A Devco, Inc/Elk Mountain Properties LLC

FINDINGS AND CONCLUSION

Nature of the Application

The applicant requested a modification to the preliminary plan approval of the Fisterra Planned Unit Development (PUD). The preliminary plan for the Fisterra PUD was originally approved by the Planning Commission on April 17, 2007. Modifications to the original PUD were approved on July 11, 2007 and March 17, 2010.

The Fisterra PUD totals 22.91 acres located in the northeast portion of Yachats. **The approximate 0.92 acres that are located on the south side of Diversity Drive is the portion of the Fisterra PUD for which the modification is requested.**

The applicant seeks several minor modifications and provided the following description of the request to modify the Fisterra PUD:

1. Recognize the (0.92 acre) Site as a Townhouse Planned Unit Development under Chapter 9.62 of the City Code. When initial approvals were obtained, the Townhouse PUD Ordinance had not yet been enacted. Now that it has, it is appropriate for the Commission to recognize that the Site, within the larger Fisterra PUD, itself meets the requirements for a Townhouse PUD.
2. Approve a revised site plan for the Townhouse Site reflecting the following changes:
 - a. Reduces the portion of the (0.92 acre) Site covered by buildings by 31% from 11,270 to 8,213 square feet, increasing usable common area by about 3,500 square feet.
 - b. Sixteen large townhouses in four large buildings spread evenly across the Site will be replaced by 15 clustered townhomes and a 16th building containing six stacked flats.
 - c. The units will be clustered so as to consolidate open space in a more usable central location for more effective use by the residents; and
 - d. As authorized by Section 9.62.030(E) of the Code, minor modifications to the parking requirements to allow parking spaces that are 8' x 16' instead of the 9' x 18' otherwise required in the R-3 zone and to allow rounding down the number of required parking spaces.
3. Reduce the density allowed on the hillside portions of Fisterra by 5 units from 137 to 132 to offset the increased density allowed on the Site.
4. Revised time frames for submitting additional final plats for various phases of Fisterra PUD.

**BEFORE THE PLANNING COMMISSION
OF
YACHATS, OREGON**

**Request for Modification to
Fisterra Planned Unit Development**

Order #1-PD-PC-07 (Mod. #3)

Applicant: Fisterra 1A Devco, Inc/Elk Mountain Properties LLC

FINDINGS AND CONCLUSION

Nature of the Application

The applicant requested a modification to the preliminary plan approval of the Fisterra Planned Unit Development (PUD). The preliminary plan for the Fisterra PUD was originally approved by the Planning Commission on April 17, 2007. Modifications to the original PUD were approved on July 11, 2007 and March 17, 2010.

The Fisterra PUD totals 22.91 acres located in the northeast portion of Yachats. The approximate 0.92 acres that are located on the south side of Diversity Drive is the portion of the Fisterra PUD for which the modification is requested.

The applicant seeks several minor modifications and provided the following description of the request to modify the Fisterra PUD:

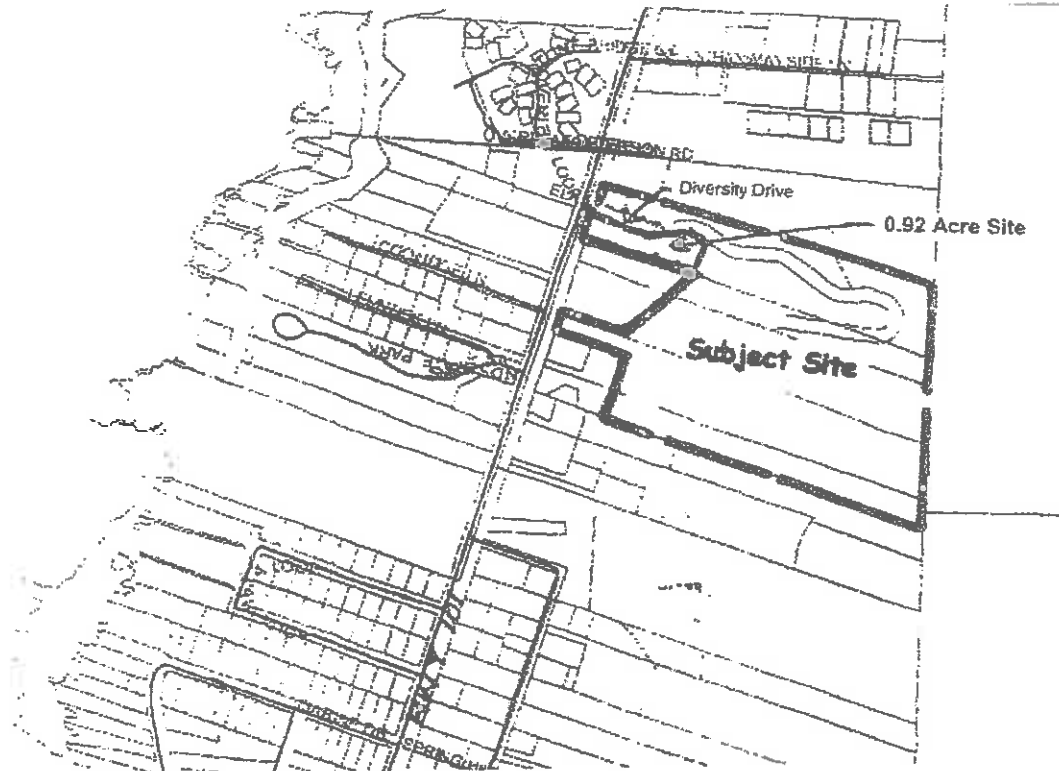
1. Recognize the (0.92 acre) Site as a Townhouse Planned Unit Development under Chapter 9.62 of the City Code. When initial approvals were obtained, the Townhouse PUD Ordinance had not yet been enacted. Now that it has, it is appropriate for the Commission to recognize that the Site, within the larger Fisterra PUD, itself meets the requirements for a Townhouse PUD.
2. Approve a revised site plan for the Townhouse Site reflecting the following changes:
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3. Reduce the density allowed on the hillside portions of Fisterra by 5 units from 137 to 132 to offset the increased density allowed on the Site.
4. Revised time frames for submitting additional final plats for various phases of Fisterra PUD.

These Findings only address the modifications requested with the 2016 application.

Relevant Facts

The following is a summary of the facts and testimony found to be relevant to this decision.

- A. **Property Location.** The 22.91 acre Fistera PUD is located in the northeast portion of Yachats. **The approximate 0.92 acre Site that is proposed to be modified is located on the south side of Diversity Drive.** The 0.92 acre property is further identified on Lincoln County Assessors Map #14-12-23CC as tax lots 3300-4900.



- B. **Zoning.** Residential Zone R-3.
- C. **Plan Designation.** Residential
- D. **Site Size.** The Fistera PUD totals 22.91 acres. The Site proposed to be modified with this application totals approximately 0.92 acres.
- E. **Existing Structures.** No structures are located on the 0.92 acre site.
- F. **Surrounding Land Use.** The 25-unit Fistera Garden Apartments are located on the north side of Diversity Drive. Land north of the Fistera Garden Apartments is sparsely developed with single family residential uses; the Sea-Aire Assisted Living Facility is south of the Site, undeveloped Fistera PUD property is to the east, and motel/hotels and single family dwellings are located across Highway 101 to the west.
- G. **Access.** Existing access to the 0.92 acre site is from Diversity Drive off of Hwy 101.

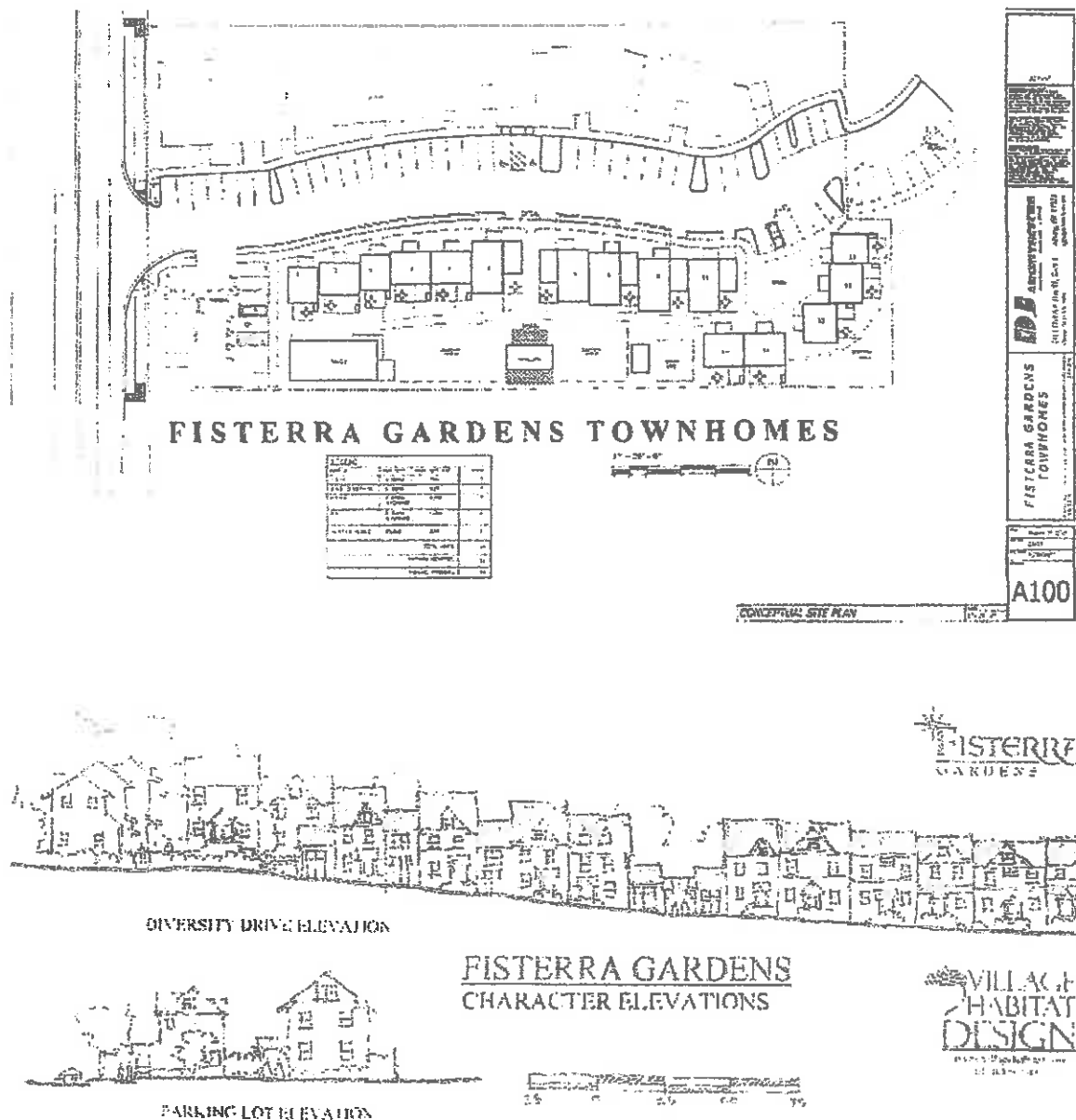
H. **Utilities.** Sanitary Sewer Services: City of Yachats
Water Services: City of Yachats
Electric Services: Central Lincoln PUD

I. **Development Constraints.** No development constraints are identified for the 0.92 acre site.

J. **Applicant Submittals.** The application is attached to the staff report and is herein incorporated into the record. The applicant submitted the following:

- Planned Unit Development application form and fee
- A 12-page narrative providing descriptions of the following:
 - History of Planning Commission Actions
 - Development History
 - Recent Economic and Housing Trends
 - Modifications Sought
 - The Property and the Site
 - Zoning
 - PUD Ordinances
 - Proposed PUD Plat Narrative Discussion: *Introduction, Location and Dimension of Structures, Residential Building Types and Dwelling Units, Parking, Access-Roads and Circulation, PUD Accommodations Requested*
- Phasing
- Street, Grading and Drainage Plan
- Water System Plan
- Sanitary Sewer System Plan
- Storm Drainage System Plan
- Traffic Analysis
- Conclusion
- Appendices
 - Tab A. Recorded Plat
 - Tab B. Planning Commission Order in Docket 1-PD-PC-07 dated 3/17/10
 - Tab C. City of Yachats PUD Application Form
 - Tab D. Proposed Modified Site Plan for the Site
 - Tab E. Concept Site Plan, Elevations and Unit Elevations and Floor Plans
 - Tab F. Minutes of Planning Commission Extending Dates for Final Plat Applications
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- J. **Public Meeting.** A public meeting was held before the Yachats Planning Commission on September 20, 2016 at 3:00 p.m. in order to consider the applicant's modified PUD request. Due notice of the meeting was given and all interested parties were given an opportunity to present testimony.
- K. **Testimony.** The applicant provided testimony at the September 20, 2016 public hearing. No written testimony was received. Four people provided oral testimony at the September 20, 2016 Planning Commission hearing. Oral testimony included 1) questions about the square footage of the proposed townhouses, 2) the financial stake of the applicant in this proposed development, 3) concern about city water shortage and the impact this development would have on the water system, 4) concern about the stabilization of the hillside in the upper parts of the Fistera PUD, 5) question about tenant

Case File #1-PD-PC-07 (Modification #3) Fisterra Planned Unit Development
Findings and Conclusion

qualifications regarding income, preference, and future changes in tenant preferences, 6) statement that vacation rentals should be limited, 7) question what the name of the Florence development is that Northwest Realty Corporation manages (Northwest Realty Corporation is the proposed manager of the development), 8) Concern about storm water, 9) question if a left turn lane will be installed on Hwy 101 and, 10) comment regarding accessory dwelling units. The applicant responded to the questions and comments. The minutes of the September 20, 2016 Planning Commission meeting are herein incorporated into the record.

Relevant Yachats Municipal Code Criteria

Relevant Yachats Municipal Code Standards are identified below. Complete descriptions are attached to the staff report.

Yachats Municipal Code, Title 9 Zoning and Land Use

Chapter 9.20	R-3 Residential Zone	-	Chapter 9.56	Subdivisions and Partitions
Chapter 9.48	Off-Street Parking and Loading	-	Chapter 9.60	Planned Unit Development
Chapter 9.52	Supplementary Use and Design Regulations	-	Chapter 9.62	Townhouse Planned Unit Development
		-	Chapter 9.72	Conditional Uses

Yachats Comprehensive Plan: Goal J. Meeting Housing Needs

Public Agency Comments

At the time the original Fisterra PUD application was submitted, meetings were conducted and/or comments were received from Yachats Public Works, Yachats Rural Fire Protection District, Oregon Department of Transportation, Central Lincoln PUD, and the Oregon Historic Preservation Office (SHPO). The Yachats Public Works Department confirmed that street improvements have been completed, and water and sewer services are available.

Findings

This applicant addressed the relevant criteria as well as additional information pertaining to the application. The Planning Commission concurs with the following analysis provided by the applicant. (Note: References to 'Tabs' are found in the application attached to the staff report.)

1. History of Planning Commission Action

On April 17, 2007, the Planning Commission approved the Fisterra PUD Application dated February 15, 2007 and the Order containing conditions of approval was signed on April 25, 2007.

On June 26, 2007, the Planning Commission approved an Application to Modify the Fisterra PUD to include the additional property now lying directly south of Diversity Drive and grant a conditional use permit for a community health clinic.

In January 2008, the Planning Commission approved the Request for Final Approval of Phase 1A and the plat was recorded on in March 2008 at Book 18 of Maps, Page 25 of the Records of Lincoln County (the "Plat"). A copy of the recorded Plat is found at **Tab A**.

On March 17, 2010, the Planning Commission issued its most recent Order which approved the second modification and granted a conditional use permit for a 20 bed Memory Care Center on the eastern half of Phase 1A (the "Order"). For the convenience of the Commissioners, a copy of the Order is found at **Tab B**.

**Case File #1-PD-PC-07 (Modification #3) Fisterra Planned Unit Development
Findings and Conclusion**

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2. Development History

Initially, all of Phase 1A, both north and south of Diversity Drive, was to be occupied by a 41 unit affordable apartment complex. However, the Oregon Housing and Community Services Department ("OHCS") approved funding for only twenty-five apartment units, which utilized only the portion of Phase 1A north of Diversity Drive (the "Apartment Site").

On March 8, 2008, Applicant sold the Apartment Site to Cascade Housing Group LLC ("Cascade"). Applicant then built the necessary infrastructure for Phase 1A and dedicated it to the City which accepted ownership and responsibility for maintenance. Shortly thereafter, Cascade began construction of the Fisterra Gardens Apartments, a 25 unit affordable rental property, financed by the 9% low income housing tax credit ("LIHTC") program as well as funding from state sources. Fisterra Gardens Apartments was completed and opened to tenants in 2009.

Fisterra Gardens Apartments was intended to provide housing for our local workforce whose income was at or under 60% of area median income ("AMI"). Local employers were informed that apartments would be allocated on a first-come, first-served basis and that they needed to encourage their employees to make early application. The necessary applications were not filed and Housing Authority of Lincoln County ("HALC"), as general partner, filled the apartments in the order in which applications were received, with many going to out of town applicants and elderly applicants who were out of the work force. However, a number of local employees have lived there for some periods of time. Sea-Aire reported that over the years four of their employees have lived at Fisterra Gardens Apartments.

From the time of its opening in 2009, the Fisterra Gardens Apartments has been full. HALC reports that there is currently a two-year waiting and that only five apartments turned over in the last twelve months. Aqua Vista Square provides 7 units of affordable workforce housing to tenants whose income is at or under 80% of AMI. Since its opening in the fall of 2012, it has had a vacancy rate of 1%.

The portion of Phase 1A lying south of Diversity Drive (the "Site") was initially approved for sixteen town house units with an alternative use for the west half of the Site being for a community health clinic, which later decided against relocating there. Later, the Planning Commission approved a special use permit for the eastern half of the Site as a 20-bed memory care facility to be operated in conjunction with Sea-Aire Assisted Living Center. For several reasons, the memory care facility designed for the site and approved by DHS was never constructed on the site.

3. Recent Economic and Housing Trends

The Great Recession brought high rates of foreclosure and short-sales, investor purchases of those distressed properties, and a curtailing of the sub-prime financing that had fueled the housing boom. One tragic legacy of the Great Recession is a dramatic and continuing surge in the percentage of the population opting to rent, which now stands at 36%, the highest percentage since the late 1960s. Harvard University Joint Center for Housing Studies, "The State of the Nation's Housing 2016," at 3. For a copy of this report go to: http://www.jchs.harvard.edu/research/state_nations_housing.

The number of "cost burdened" renters (those who pay more than 30% of their income in rent) increased by 3.6 million to 21.3 million between 2008 and 2014. The number of severely "cost burdened" renters (those who pay more than 50% of their income in rent) increased by 2.1 million to a record 11.4 million. The severely burdened share among the nation's 9.6 million lowest-income renters (earning less than \$15,000) is particularly high at 72%. *Id.*, at 4.

Nationwide, for every 100 households at or under 60% of area median income ("AMI") only 57 units are affordable and available to them. And for every 100 households at or under 30% of area median income, only 31 housing units are actually affordable and available to them. *Id.*, at 5.

The study concludes that there is an "affordability crisis" for renters throughout the country and that the federal government has not come forward with any strong response. *Id.*

Rural Oregon is no exception to those trends, as evidenced by recent legislation.

In 2015 the Legislature appropriated \$40 million to encourage construction of new affordable rental housing in our rural communities. OHCS is now implementing that appropriation through its LIFT program that will fund subsidies up to \$38,000 per unit on projects that display local initiative in solving the affordable housing crisis and that can be built on a "fast track." LIFT funds can be used in conjunction with the 4% LIHTC program and the Oregon tax exempt bond financing program.

In 2016 the Legislature passed Senate Bill 1533, which lifted two longstanding bans on cities. Cities can now adopt "inclusionary" zoning ordinances which require developers of large apartment projects to make a certain percentages of the units affordable to low income families. Also, cities can now adopt a tax on construction activity up to 1% of the value of construction within the city; and if they do, 48% of the revenue must be devoted to developer incentives to build affordable housing; 13.6% must be paid to OHCS to support their low income housing initiatives; and 31.4% must be used by the city for its own housing programs.

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In light of the current affordability crises in rental housing, the highest and best use of the Site is for affordable workforce housing. Our Coastal Village, Inc. ("OCV" is in the final stages of preparing an application to OCHS for funding of a development to be known as Fisterra Gardens Townhomes (the "Project"). The Project incorporates these features:

- Fifteen of the dwelling units will be townhomes, not apartments. Access to each townhome will be on ground level; and each will have a front porch and a back patio. Six units will be stacked flats located next to parking and to the open area common space with on ground level and
- The dwelling units will be clustered to maximize open space for common area amenities on the "sunny" south side of the development and on the prominent "ridge" at the Site's northeast corner.
- There will be a preference for applicants who are currently working in Yachats or who have offers of employment here that they desire to accept. HUD and OCHS allow this type of a preference. Only if no preferred applicant is on the waiting list will a person who is not employed in Yachats be accepted for tenancy.
- Tenants will be given the opportunity to purchase their townhomes at prices that are affordable to them, following the model now being implemented at OCV's Aqua Vista Square Townhomes. Under regulations applicable to state and federal grant money, however, the sales to tenants cannot occur until after the Project has been operated for 15 years as a rental property.

4. Modifications Sought

This Application to Modify the Fisterra PUD seeks several minor modifications to accommodate the Project:

1. Recognize the Site as a Townhouse Planned Unit Development under Chapter 9.62 of the City Code. When initial approvals were obtained, the Townhouse PUD Ordinance had not yet been enacted. Now that it has, it is appropriate for the Commission to recognize that the Site, within the larger Fisterra PUD, itself meets the requirements for a Townhouse PUD.
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- c. The units will be clustered so as to consolidate open space in a more usable central location for more effective use by the residents; and
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3. Reduce the density allowed on the hillside portions of Fistera by 5 units from 137 to 132 to offset the increased density allowed on the Site.

Please note, the following narrative only addresses those sections in the Application as reflected in the Findings and Order dated March 17, 2010 that are affected by the requested changes. Applicant incorporates by reference the Application as approved by the prior Orders in this matter.

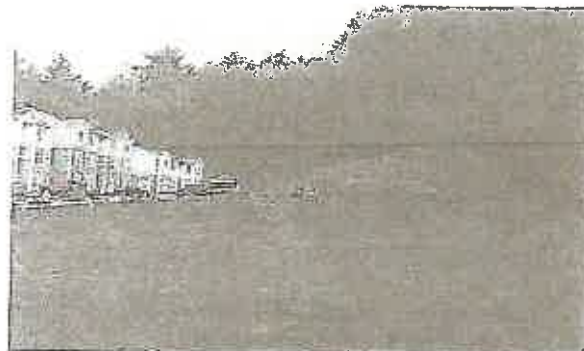
5. The Property and the Site

Fistera covers a total of 22.91 acres (997,960 square feet) of land zoned R-3 in the northeast quadrant of Yachats (the "Property").

This modification application relates primarily to the Site and only incidentally to the hillside portions of Fistera. Two photos of the Site follow:



View from the East.



View from the West.

**Case File #1-PD-PC-07 (Modification #3) Fistera Planned Unit Development
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- c. The units will be clustered so as to consolidate open space in a more usable central location for more effective use by the residents; and
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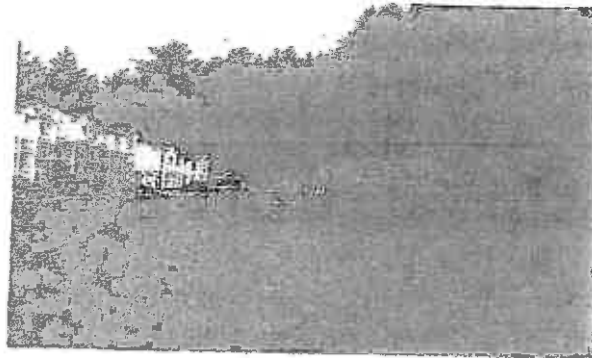
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View from the East.



View from the West.

6. Zoning

The present R-3 zoning on the Property allows for twelve (12) dwelling units to the acre, which would theoretically permit 274 dwelling units on the Property. The most recent Order approves 178 dwelling units of different sizes, types, and price ranges. Of those, 41 are in Phase 1A at Highway 101 and Diversity Drive and 137 are on the hillside in Phases IB-E, IIA-C, and IIIA-C. The approved density represents about 65% of the R-3 maximum permitted density. This density is approximately 7.77 dwelling units per acre. Outside Phase 1A, the density is approximately 6.04 units per acre.

The R-3 Zone provides for a maximum coverage of 40%. The coverage requirement could be met on the Property with the theoretical maximum of 274 dwelling units on the Property.

Minimum lot sizes in the R-3 Zone are: for a one-family unit, 6,000 square feet; 7,500 square feet for a two-unit building; and 6,000 square feet for the first unit and 2,500 square feet for each additional dwelling unit in a building with more than two units. The minimum lot size requirement could be met with 194 dwelling units on the Property.

Maximum building height is 30' measured from post-construction grade, with grade being determined by an average of the corners method.

The parking standard in the R-3 zone is two 9' by 18' spaces for a one family dwelling, four spaces for a two-family dwelling, five spaces for a three family dwelling, and 1½ per spaces per dwelling unit for four-family and larger dwellings.

7. PUD Ordinances

Under the Yachats PUD Ordinance, if certain requirements are met, the Planning Commission is authorized to relax minimum lot size, setbacks, building heights, and other requirements of the R-3 classification. Code Section 9.60.020(A). Those requirements are: (1) the PUD must include at least three (3) contiguous acres; (2) 40% of the area (exclusive of roads) is dedicated to common area open space; (3) the average residential lot size (building area plus common area divided by the number of housing units) is equal to or greater than the minimum lot size for the R-3 zone; (4) appropriate utility easements are provided and all utilities are located underground; (5) common areas are to be owned by a property owners' association that will maintain the common areas.

Fistera, as most recently modified in the Order, meets all pre-requisites of the PUD Ordinance.

First, it involves 22.91 contiguous acres.

Second, 13.43 acres constituting 78% of the area (total area less roads) are set aside as open space and common areas.

Third, the average residential lot size (lot area plus common area divided by the total number of dwelling units) is 4,119 square feet which exceeds the minimum lot size required in the R-3 zone for the configuration of buildings and dwelling units shown on the Preliminary Plat, which is 3,817 square feet. The changes requested herein do not materially change the calculation of average residential lot size reflected in the Order.

Fourth, appropriate utility easements are provided and all utilities will be located underground.

Finally, the Plat for Fisterra Phase I was recorded in March 2008. Fisterra is subject to covenants, conditions and restrictions ("CCRs") that regulate and control the architectural standards of the Project, including all remodeling, renovation, and reconstruction that would occur decades hence. The CCRs also provide a mechanism for assessments against the lots/residences to cover operating costs and capital replacement costs for the common area facilities. They provide for an Association and an architectural review committee that will administer the provisions of the CCRs and undertake the maintenance and operation of the common areas. The CCRs for Fisterra PUD were recorded on March 27, 2008, as Instrument No. 2008-03762 of the Records of Lincoln County. The CCRs were modified by a set of Variances granted to Fisterra Garden Apartments Limited Partnership in a document dated July 7, 2010 and recorded on August 30, 2010, as Instrument No. 2010-08795 of the Records of Lincoln County Oregon. The Articles of Incorporation of the Association were filed with the Oregon Secretary of State on March 28, 2008. The Bylaws of the Association were adopted on March 28, 2008 and were recorded on April 9, 2008 as instrument No. 2008-04396 of the Records of Lincoln County.

Under the Yachats Townhouse PUD Ordinance, if certain requirements are met, the Planning Commission is authorized to relax minimum lot size, setbacks, building heights, parking, and other requirements of the R-3 classification. Code Section 9.62.030(A). Those requirements are: (1) density requirements shall be guided by the standards of the zone in which property lies; (2) parking requirements are also guided by the standards of the underlying zone, but those may be modified in minor ways "such as" rounding down rather than rounding up in calculation of parking spaces and allowing the spaces to be less than the current parking space dimension required in the underlying zone; (3) building height is limited to 30' with certain exceptions; (4) coverage of individual lots may exceed the maximum lot coverage of the underlying zone; (5) there must be an association formed to maintain the common areas. Code Section 9.62.030(B) - (K).

The modified plan for the Site meets all pre-requisites of the TPUD Ordinance:

First, the density requirements are guided by the standards of the R-3 zone. The Fisterra PUD as a whole satisfies the density requirements for the R-3 zone; and a density offset will be provided for the 5 additional units requested on the Site.

Second, as allowed, although parking requirements are guided by the standards of the R-3 zone, under TPUD parking can be modified in minor ways to allow rounding down in the calculation and to allow parking spaces that are 8' x 16' instead of the 9' x 18' required in the R-3 zone..

Third, the average residential lot size (lot area plus common area divided by the total number of dwelling units) is 4,119 square feet which exceeds the minimum lot size required in the R-3 zone for the configuration of buildings and dwelling units shown on the Preliminary Plat, which is 3,817 square feet. The changes requested herein do not materially change the calculation of average residential lot size reflected in the Order.

Fourth, appropriate utility easements are provided and all utilities will be located underground.

Finally, the Plat for Fisterra Phase I was recorded in March 2008. Fisterra is subject to covenants, conditions and restrictions ("CCRs") that regulate and control the architectural standards of the Project, including all remodeling, renovation, and reconstruction that would occur decades hence. The CCRs also provide a mechanism for assessments against the lots/residences to cover operating costs and capital replacement costs for the common area facilities. They provide for an Association and an architectural review committee that will administer the provisions of the CCRs and undertake the maintenance and operation of the common areas. The CCRs for Fisterra PUD were recorded on March 27, 2008, as Instrument No. 2008-03762 of the Records of Lincoln County. The CCRs were modified by a set of Variances granted to Fisterra Garden Apartments Limited Partnership in a document dated July 7, 2010 and recorded on August 30, 2010, as Instrument No. 2010-08795 of the Records of Lincoln County Oregon. The Articles of Incorporation of the Association were filed with the Oregon Secretary of State on March 28, 2008. The Bylaws of the Association were adopted on March 28, 2008 and were recorded on April 9, 2008 as instrument No. 2008-04396 of the Records of Lincoln County.

Under the Yachats Townhouse PUD Ordinance, if certain requirements are met, the Planning Commission is authorized to relax minimum lot size, setbacks, building heights, parking, and other requirements of the R-3 classification. Code Section 9.62.030(A). Those requirements are: (1) density requirements shall be guided by the standards of the zone in which property lies; (2) parking requirements are also guided by the standards of the underlying zone, but those may be modified in minor ways "such as" rounding down rather than rounding up in calculation of parking spaces and allowing the spaces to be less than the current parking space dimension required in the underlying zone; (3) building height is limited to 30' with certain exceptions; (4) coverage of individual lots may exceed the maximum lot coverage of the underlying zone; (5) there must be an association formed to maintain the common areas. Code Section 9.62.030(B) - (K).

The modified plan for the Site meets all pre-requisites of the TPUD Ordinance:

First, the density requirements are guided by the standards of the R-3 zone. The Fisterra PUD as a whole satisfies the density requirements for the R-3 zone; and a density offset will be provided for the 5 additional units requested on the Site.

Second, as allowed, although parking requirements are guided by the standards of the R-3 zone, under TPUD parking can be modified in minor ways to allow rounding down in the calculation and to allow parking spaces that are 8' x 16' instead of the 9' x 18' required in the R-3 zone..

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Third, building height is limited to 30' with no exceptions.

Fourth, under the TPUD coverage of individual lots may exceed the maximum lot coverage of the underlying zone.

Fifth, there will be an association formed to maintain the common areas.

8. Existing and Proposed Uses

The Site is currently approved for 16 town homes, located in four buildings of four townhomes each. Under the recorded plat, each of the 16 town home units contains approximately 1,465 square feet on two levels. The total square footage of all sixteen approved units is 23,440 square feet. All required infrastructure -- streets, parking, utilities, and storm drainage have been constructed. No structures have yet been constructed on this portion of the Property.

The proposed use of the portion of the Site is 21 dwelling units ranging from 350 square foot studio units to 1,240 square foot three bedroom units. The total livable square feet under the proposed modification is 16,426, which is a reduction of 7,015 square feet., which increases usable common area by 3,500 square feet. The town home units are clustered on the site to create more usable and more appealing open space and common areas. The parking requirements are reduced slightly as permitted by Section 9.62.030(E) of the Code.

9. Proposed PUD Plat Narrative Discussion

Introduction

The proposed modified site plan for the Site is found at **Tab D**. A concept site plan, elevations, and dwelling unit elevations and floor plans can be found at **Tab E**. As required by the Ordinance, the proposed modified site plan for Phase 1A shows all of the following:

- The approximate location and dimensions of all structures proposed to be located on the site.
- Proposed number of dwelling units to be located in each building.
- Proposed circulation pattern, including the location, width, and surfacing of streets, private drives, sidewalks, and trails.
- The location of parking areas and the number of spaces therein.
- Utility easements.
- Proposed uses of all open spaces.

Each of these items is addressed briefly in this section.

Location and Dimension of Structures

The modified plan for the Site has 16 buildings, of which 15 are single family attached townhomes and the sixteenth is a larger building containing six studio stacked flats.

Residential Building Types and Dwelling Units

The modified plan for the Site has 21 dwelling units, consisting of 6 stacked flats in one building at the southwest corner of the Site plus fifteen townhomes clustered around the northern boundary of the Site and, at the east end, against the eastern and southern borders..

Changes to the above may occur based on market conditions and other factors, as final plat application is filed for the Site.

Residential building heights for the Site do not exceed the R-3 height limit of 30'.

The 21 residential units are intended to qualify as affordable workforce rental housing under OHCS and HUD regulations. The tenants in the 15 town home units will be offered the opportunity to purchase their town homes at affordable prices when allowed by HUD regulations; and the six stacked flats may also be converted to condominiums and sold to tenants when allowed by HUD regulations.

The location is across the street from the Overleaf and the Fireside, and just a few blocks north of the Adobe, and nest door to Sea Aire. It is an ideal live-work location for workers at these employers and for other tourism workers in the City of Yachats.

The feasibility of the affordable workforce rental housing on the Site is dependent upon obtaining the approval of OHCS for participation in the LIFT program, the 4% LIHTC tax credit program, and the tax exempt bond funding for the acquisition, development and construction loan. It will also be necessary to obtain a commitment for satisfactory permanent debt financing. The OHCS application will be sponsored by Our Coastal Village, Inc., a 501(c)(3) public charity whose mission is relief of the poor and the distressed in the greater Yachats area, primarily through affordable housing ("OCV"). OCV has been working on the application for about six weeks and will file it as soon as OHCS opens the filing "window." Based upon conversations with OHCS personnel and other industry experts, OCV believes that the Project will have a high likelihood of success in obtaining the necessary OHCS funding as well as funding from other sources in amounts sufficient to permit construction of the units. No assurance can be given, however, that the requested grants and debt financing will be obtained.

Location and Dimension of Structures

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Residential Building Types and Dwelling Units

The modified plan for the Site has 21 dwelling units, consisting of 6 stacked flats in one building at the southwest corner of the Site plus fifteen townhomes clustered around the northern boundary of the Site and, at the east end, against the eastern and southern borders..

Changes to the above may occur based on market conditions and other factors, as final plat application is filed for the Site.

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The location is across the street from the Overleaf and the Fireside, and just a few blocks north of the Adobe, and nest door to Sea Aire. It is an ideal live-work location for workers at these employers and for other tourism workers in the City of Yachats.

The feasibility of the affordable workforce rental housing on the Site is dependent upon obtaining the approval of OHCS for participation in the LIFT program, the 4% LIHTC tax credit program, and the tax exempt bond funding for the acquisition, development and construction loan. It will also be necessary to obtain a commitment for satisfactory permanent debt financing. The OHCS application will be sponsored by Our Coastal Village, Inc., a 501(c)(3) public charity whose mission is relief of the poor and the distressed in the greater Yachats area, primarily through affordable housing ("OCV"). OCV has been working on the application for about six weeks and will file it as soon as OHCS opens the filing "window." Based upon conversations with OHCS personnel and other industry experts, OCV believes that the Project will have a high likelihood of success in obtaining the necessary OHCS funding as well as funding from other sources in amounts sufficient to permit construction of the units. No assurance can be given, however, that the requested grants and debt financing will be obtained.

Parking

The modified plan for the Site contains 31 (1.5 x 21 units, rounded down to 31) parking spaces that are 8' x 16' feet in size. Five parking spaces are in private garages attached to the larger two and three bedroom units. Ten parking spaces are clustered at the northeast corner of the Site. This still leaves four spaces for trailhead parking for the Ya'Xaik trail. This is more than adequate, because most users are walking from the 804 trail through the Overleaf Property to access the Ya'Xaik trailhead, and so do not arrive by car. And 16 parking spaces are clustered at the west end of the Site, adjacent to Highway 101. The 31 parking spaces include one handicapped space.

Access, Roads, and Circulation

No changes are being made to the previously approved access and roads.

PUD Accommodations Requested

The Project (modified as requested herein) is within the letter and spirit of Yachats's PUD Ordinance and its TPUD Ordinance. It employs new technology and

greater freedom in design than a strict interpretation of the R-3 zoning ordinance would permit, and provides to residents and the community at large a more attractive, less intrusive development than would otherwise occur. See Yachats City Code, Sections 9.60.010; and 9.62.010. We believe the advantages to the community of the approach taken for the Property more than justify the departures requested from R-3 standards.

To recapitulate, the departures from R-3 Zone standards requested for the Site are:

1. Clustering of the dwelling units as shown on the modified plan for the Site submitted herewith to maximize and centralize open space, using a zero lot line, zero setback approach.
2. Increasing the number of residential units from 16 units containing 23,440 square feet to 21 units containing about 16,425 square feet.
3. Declaring the Site to be a Townhouse PUD and allowing 31 parking spaces that are 8' x 16', instead of the 32 parking spaces of 9' x 18' that would be required under the R-3 Standards.
4. Reducing the density permitted for the hillside phases by 5 units, from 137 to 132.

10. Phasing

The Planning Commission last addressed the issue of dates for filing of final maps for the various phases of Fistera in December 2012. The minutes of the Planning Commission meeting are found at Tab F.

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The market for residential lots in Yachats still has not recovered from the Great Recession. With 12 bank-owned Blackstone Lots overhanging the market and listed at about \$35,000 each, it is not economically feasible to build streets and utilities on the upper elevation Phases at this time. Accordingly, Fistera respectfully requests that the time frames for submitting additional final plats for various phases of Fistera be revised so that the final map for each phase of development shall be submitted no later than the following schedule:

<u>Phase</u>	<u>Application for Final Plat</u> <u>(by Dec. 31 of)</u>
1A	2020
1B	2021
1C	2022
1D	2023
1E	2024
2A	2025
2B	2026
3A	2027
3B	2028
3C	2029

As permitted by the Order, "The applicant may file final plat applications in a different order than the numeric order specified on the Phasing Map, and adjust the phasing boundaries, provided that applications for final plats have been filed according to the phasing schedule. If final plat applications are filed in an order different than the numeric order specified on the Phasing Map, then the deadline date for the out of order phase will be substituted as the deadline date for the next numeric order phase on the phasing schedule."

11. Street, Grading, and Drainage Plan

No changes are proposed to the preliminary street, grading, and drainage plan previously approved for Fistera; or to the street, grading, and drainage plan previously approved, constructed, and accepted by the City for the Site.

12. Water System Plan

No changes are proposed to the preliminary water system plan previously approved for Fistera; or to the water system plan previously approved, constructed, and accepted by the City for the Site.

13. Sanitary Sewer System Plan

No changes are proposed to the sanitary sewer water system plan previously approved for Fistera; or to the sanitary sewer system plan previously approved, constructed, and accepted by the City for the Site.

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Findings and Conclusion**

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12. Water System Plan

No changes are proposed to the preliminary water system plan previously approved for Fistera; or to the water system plan previously approved, constructed, and accepted by the City for the Site.

13. Sanitary Sewer System Plan

No changes are proposed to the sanitary sewer water system plan previously approved for Fistera; or to the sanitary sewer system plan previously approved, constructed, and accepted by the City for the Site.

14. Storm Drainage System Plan

No changes are proposed to the preliminary storm drainage system plan previously approved for Fistera; or to the storm drainage system plan previously approved, constructed, and accepted by the City for the Site.

15. Traffic Analysis

The Applicant has requested that Lancaster Engineering revise its traffic study to reflect the density increase on the Site from 16 to 21 residential units and the traffic impacts at Highway 101 and Diversity Drive. A copy of a letter from Lancaster Engineering addressing this issue is found at **Tab G**. The letter concludes that after increasing the Site to 21 residential units, the site plan still meets all necessary traffic requirements and that warrants for mitigation measures are not triggered by the modified plan for the Site requested herein.

16. Conclusion

The requested modifications are in response to the nationwide affordability crisis in rental housing that affects Yachats more than many other parts of the country.

The requested modifications substantially reduce the percentage of the Site area covered by buildings. Clustering 10 buildings near the northern sidewalk and 5 buildings near the eastern and southern borders of the Site optimizes the available common areas for the use and enjoyment of the residents. The revised plan for the Site, and the resulting building elevations and common areas, are far more aesthetically pleasing than the plan reflected in the currently recorded Plat.

Fistera, as modified by this Modification Application, still satisfies all requirements for PUD and TPUD approval, and provides ample open space and amenities that justify the requested departures from R-3 standards.

17. Additional Analysis (provided by city staff)

Analyses of additional items are not addressed in this modified application request. However, the analysis and findings of those items addressed in the prior preliminary plan approval of the entire Fistera PUD are still valid, i.e. the pedestrian system, residential design/architectural guidelines, general landscape treatment, geotechnical evaluation and recommendations, street design, storm drainage, water service, sanitary sewer service, 'dry' utilities, environmental standards, archaeological review, and signage.

Conclusions

Based on the above facts and findings, the Yachats Planning Commission finds:

- A. The 22.91 acre site under consideration is suitable for development of a planned unit development with a maximum of 178 residential units and a community/retreat center.
- B. The 0.92 acre site under consideration is suitable for development of a townhouse planned unit development with a maximum of 21 residential units.
- C. The proposed uses, as approved by the Planning Commission, are compatible with existing and projected uses on surrounding lands.

**Case File #1-PD-PC-07 (Modification #3) Fisterra Planned Unit Development
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D. This application, as approved by the Planning Commission, satisfies the provisions of the Yachats Municipal Code and Comprehensive Plan.

Order

It is ORDERED by the Yachats Planning Commission that Case File #1-PD-PC-07 (Mod. #3) for the Modification of the Fisterra Planned Unit Development (P.U.D.) consisting of 178 residential units and a community/retreat center be and is hereby approved. Said approval is subject to the following conditions:

1. **Preliminary Plan Approval.** Preliminary plan approval is granted by the Planning Commission for the Fisterra Planned Unit Development including the modified Phase 1A plan for a Townhouse Planned Unit Development for 15 clustered townhomes and a 16th building containing six stacked flats on the south side of Diversity Drive. The preliminary plan approval is based on the originally submitted plan, the 2007 and 2010 modified PUD approvals, and these 2016 conditions of approval. Exceptions to R-3 standards approved with this modified preliminary plan approval include:
 - a. Clustering of the dwelling units as shown on the modified plan for the Site submitted herewith to maximize and centralize open space, using a zero lot line, zero setback approach,
 - b. Increasing the number of residential units from 16 units containing 23,440 square feet to 21 units containing about 16,425 square feet,
 - c. Declaring the 0.92 acre Site to be a Townhouse PUD and allowing 31 parking spaces that are 8' x 16',
 - d. Reducing the density permitted for the hillside phases by 5 units, from 137 to 132.

Additionally, the community/retreat center shall have a maximum height of 35 feet.

2. **Phase 1A Multi-Family Building Height.** A maximum of 65% of the Phase 1A multi-family buildings may have a maximum height of 35 feet if it qualifies and is developed as affordable workforce rental housing according to the Oregon Department of Housing and Community Services. Residential building heights for the 0.92 acre Site shall not exceed the R-3 height limit of 30 feet.
3. **Phasing.** The final map for each phase of development shall be submitted no later than the following schedule.

<u>Phase</u>	<u>Application for Final Plat (by Dec. 31 of)</u>
1A	2020
1B	2021
1C	2022
1D	2023
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2A	2025
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**Case File #1-PD-PC-07 (Modification #3) Fistera Planned Unit Development
Findings and Conclusion**

- D. This application, as approved by the Planning Commission, satisfies the provisions of the Yachats Municipal Code and Comprehensive Plan.

Order

It is ORDERED by the Yachats Planning Commission that Case File #1-PD-PC-07 (Mod. #3) for the Modification of the Fistera Planned Unit Development (P.U.D.) consisting of 178 residential units and a community/retreat center be and is hereby approved. Said approval is subject to the following conditions:

1. **Preliminary Plan Approval.** Preliminary plan approval is granted by the Planning Commission for the Fistera Planned Unit Development including the modified Phase 1A plan for a Townhouse Planned Unit Development for 15 clustered townhomes and a 16th building containing six stacked flats on the south side of Diversity Drive. The preliminary plan approval is based on the originally submitted plan, the 2007 and 2010 modified PUD approvals, and these 2016 conditions of approval.

Exceptions to R-3 standards approved with this modified preliminary plan approval include:

- a. Clustering of the dwelling units as shown on the modified plan for the Site submitted herewith to maximize and centralize open space, using a zero lot line, zero setback approach,
- b. Increasing the number of residential units from 16 units containing 23,440 square feet to 21 units containing about 16,425 square feet,
- c. Declaring the 0.92 acre Site to be a Townhouse PUD and allowing 31 parking spaces that are 8' x 16',
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3B	2028
3C	2029

The applicant may file final plat applications in a different order than the numeric order specified on the Phasing Map, and adjust the phasing boundaries, provided that applications for final plats have been filed according to the phasing schedule. If final plat applications are filed in an order different than the numeric order specified on the Phasing Map, then the deadline date for the out of order phase will be substituted as the deadline date for next numeric order phase on the phasing schedule.

Each phase of the project shall include all required and approved parking for the residential units and other buildings included in that phase. Each phase of the project shall include the common/open space areas that are physically located within the boundaries shown for that phase. To the extent a particular phase requires infrastructure that is located in another phase, that infrastructure shall be constructed prior to or concurrently with that phase.

4. **Additional Information Required for Final Approval.** In addition to the information required on the preliminary plan the following information shall be provided at the time the final map for each phase of development is submitted:
 - a. Accurate legal description of all parcels and roads;
 - b. The deed dedicating to the public all common improvements, including but not limited to streets, if the streets are to be public streets, and the donation of which was made a condition of approval of the preliminary plan for the P.U.D.;
 - c. A copy of all protective deed restrictions;
 - d. Street, water, sanitary sewer, and drainage construction plans;
 - e. The certification, performance agreement or statement regarding the availability of water and sewerage services as provided in Section 9.60.040;
5. **Maximum Density.** There shall be a maximum of 178 residential dwelling units in substantial conformance with the approved preliminary plan.
6. **Access, Circulation, and Street Design.** At the time the applicant submits the Phase 1 map of the P.U.D. to the Planning Commission for final approval, written statements of approval and/or conditions regarding access, circulation, and street design shall be provided from the City of Yachats Public Works Department, the Yachats Rural Fire Protection District, and the Oregon Department of Transportation.

For the two streets that stub-out at the south end of the property, the applicant shall demonstrate that 1) the stub-outs are located to enable feasible extensions of the streets to the south from a physical standpoint, i.e. considering topographic conditions; and 2) the locations will not cause adverse impacts to future development of properties south of Fistera. What is shown as Diversity Drive on the preliminary plat will be renamed Elk Mountain Road. The present Elk Mountain Road at Highway 101 shall be renamed something other than Elk Mountain Road.

7. **Common Area/Open Space.** A minimum of 70% of the total land area (excluding street right-of-way) shall be dedicated or reserved as usable common outdoor living and open space land as identified on the preliminary plan. The common area/open space shall be maintained by the established homeowners association. At the time the applicant submits final maps of the P.U.D. to the Planning Commission for approval, a landscape plan shall be submitted.

8. **Pedestrian System.** The applicant shall be responsible for the design and construction of the pedestrian system. The pedestrian system shall be in substantial conformance with the approved plan. The applicant shall work with the City's Trails Committee regarding minimum trail construction standards, i.e. trail width, materials, construction, and signage.

The public pedestrian system shall, at minimum, consist of:

- streets,
- a series of trails through the 'Fern Gully' connecting existing Elk Mountain Road in the northwest section of the site to the northeast corner of the site and to Habitat Street. This trail will continue into the Siuslaw National Forest if the Siuslaw National Forest approves the Loop Trail through Forest Service property,
- a trail that extends eastward from the end of Unity Street to the eastern edge of the property and connects to Habitat Street and to Slow Lane,
- trail connections between parallel streets, i.e. between Habitat St./Unity St; Unity St./Elk Mountain Road; Elk Mountain Road/Independence St; and Independence St./Dignity Circle.

Public pedestrian trails separated from vehicular travel lanes shall be constructed as shown on the preliminary plan, i.e. the south side of Welcoming Spirit Way (the entry street off Hwy. 101) connecting via a street crossing to a trail on the southeast side Habitat Street which connects to the north end of the Community/Retreat Center parking lot. Additionally, a public pedestrian trail separated from vehicular travel lanes shall be constructed along Elk Mountain Road. The separated Elk Mountain Road trail shall extend from the south end of the property north to connect with the trail identified on the preliminary plan that goes west toward the Community/Retreat Center and east to Independence Street. The pedestrian trail shall be ADA accessible unless topographic constraints prevent handicapped access. The pathway shall be safe, well-marked, and not conflict with vehicular traffic.

The applicant shall continue to pursue discussions with the U.S. Forest Service, as well as the Oregon Parks and Recreation Department, the City, and other adjoining property owners to provide a trail that would connect the East Side Trail within Fisterra to the Siuslaw National Forest just east of Fisterra.

9. **Parking.** The number and dimensions of parking spaces for the single family, two-family, three-family, and multi-family residential units shall satisfy the minimum R-3 parking standards. A total of 50 parking spaces shall be provided adjacent to the community/retreat center and 18 studio getaway units.

The 0.92 Townhouse PUD Site shall have a minimum 31 parking spaces with dimensions of 8' x 16'.

Public parking spaces shall be provided at the trailhead just east of the termination of Diversity Drive.

Each phase of the project shall contain all required parking for the residential units and other buildings included in that phase.

10. **Geotechnical Investigation.** In accordance with Yachats Municipal Code Section 9.52.050(B), developers of property having a slope of twelve (12) percent or within five hundred (500) feet of a landslide or fault area shall also be subject to the following requirements:

8. **Pedestrian System.** The applicant shall be responsible for the design and construction of the pedestrian system. The pedestrian system shall be in substantial conformance with the approved plan. The applicant shall work with the City's Trails Committee regarding minimum trail construction standards, i.e. trail width, materials, construction, and signage.

The public pedestrian system shall, at minimum, consist of:

- streets,
- a series of trails through the 'Fern Gully' connecting existing Elk Mountain Road in the northwest section of the site to the northeast corner of the site and to Habitat Street. This trail will continue into the Siuslaw National Forest if the Siuslaw National Forest approves the Loop Trail through Forest Service property,
- a trail that extends eastward from the end of Unity Street to the eastern edge of the property and connects to Habitat Street and to Slow Lane,
- trail connections between parallel streets, i.e. between Habitat St./Unity St; Unity St./Elk Mountain Road; Elk Mountain Road/Independence St; and Independence St./Dignity Circle.

Public pedestrian trails separated from vehicular travel lanes shall be constructed as shown on the preliminary plan, i.e. the south side of Welcoming Spirit Way (the entry street off Hwy. 101) connecting via a street crossing to a trail on the southeast side Habitat Street which connects to the north end of the Community/Retreat Center parking lot. Additionally, a public pedestrian trail separated from vehicular travel lanes shall be constructed along Elk Mountain Road. The separated Elk Mountain Road trail shall extend from the south end of the property north to connect with the trail identified on the preliminary plan that goes west toward the Community/Retreat Center and east to Independence Street. The pedestrian trail shall be ADA accessible unless topographic constraints prevent handicapped access. The pathway shall be safe, well-marked, and not conflict with vehicular traffic.

The applicant shall continue to pursue discussions with the U.S. Forest Service, as well as the Oregon Parks and Recreation Department, the City, and other adjoining property owners to provide a trail that would connect the East Side Trail within Fistera to the Siuslaw National Forest just east of Fistera.

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Public parking spaces shall be provided at the trailhead just east of the termination of Diversity Drive.

Each phase of the project shall contain all required parking for the residential units and other buildings included in that phase.

10. **Geotechnical Investigation.** In accordance with Yachats Municipal Code Section 9.52.050(B), developers of property having a slope of twelve (12) percent or within five hundred (500) feet of a landslide or fault area shall also be subject to the following requirements:

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- a. A performance bond or other type of acceptable financial instrument shall be posted with the city to ensure short and long term maintenance of site stability and prevention of landslides as a result of the development. The performance bond shall be an amount sufficient to secure completion of site preparation, excavation, fill, grading, drainage, planting, revegetation or site stabilization plans. The amount of such security will be determined after receipt of all information pertinent to the development and prior to final approval of project.
 - b. The site must be replanted and stabilized in accordance with the recommendations outlined in the geotechnical report. This vegetation must be maintained to ensure the continuous stability of the area.
 - c. All construction materials shall be stored in such a manner as recommended by the geotechnical report.
 - d. The geotechnical engineer must certify that all work has been completed as stated in the report. The February 9, 2007 Geotechnical Investigation specifies 27 design and construction recommendations addressing materials, site preparation-fill slopes, site preparation-cut slopes, retaining wall design and construction, and utility trenches. With the exception of the 41-unit apartment building in the northwest corner of the property, a site specific geotechnical report shall be required for all structures at the time a building permit application is submitted.
11. **Street Design.** All streets, other than Diversity Drive at the northwest corner of the property and Welcoming Spirit Way off Hwy. 101, shall have a minimum 40 foot right-of-way width with a minimum 22 foot paved surface width or greater if required by the City of Yachats Public Works Department or Yachats Rural Fire Protection District. Diversity Drive and Welcoming Spirit Way shall have a minimum 50 foot right-of-way width with a minimum 22 foot paved surface width or greater if required by the City of Yachats Public Works Department, Yachats Rural Fire Protection District, or ODOT.

Minimum five (5) foot wide public utility easements shall be provided outside the public right of way on both sides of each street. The width of these easements shall be increased if the Yachats Public Works Department or utility agencies determine that increased widths are needed.

As stated by the applicant, roadway design will minimize cuts and fills on the site thereby minimizing the height of necessary retaining walls. Longitudinal slopes of the proposed roads will also be evaluated to minimize slopes to the extent possible in this interplay between cuts, fills and roadway geometry.

Landscaping of street right-of-way shall be provided in general conformance with the approved preliminary plan.

Final engineering design for streets shall be reviewed and approved by the City of Yachats, YRFPD, ODOT (where applicable), and affected utility companies. The applicant/developer shall be responsible for any costs the City incurs to have an engineer, acting on behalf of the City, review and approve the final engineering plans.

12. **Storm Drainage.** Storm drainage shall be accomplished in general conformance with the approved preliminary plan. Final engineering design for storm water must be reviewed and approved by the City of Yachats, ODOT, and other applicable agencies. The applicant/developer shall be responsible for any costs the City incurs to have an engineer, acting on behalf of the City, review the final engineering plans.
13. **Water.** All lots shall be served by the City's public water system. No final map or plat of the planned development shall be approved unless the City has received and accepted either 1) A certification by the city water superintendent that water will be available from the nearest point of supply; or 2) A performance agreement, bond contract or other assurance that a water supply system will be installed by or on behalf of the subdivider to every lot or parcel depicted in the proposed subdivision or partition.

Final engineering design for water must be reviewed and approved by the City of Yachats, Yachats Rural Fire Protection District, and other applicable agencies. The applicant/developer shall be responsible for any costs the City incurs to have an engineer, acting on behalf of the City, review the final engineering plans.
14. **Sanitary Sewer.** No plat of the planned development shall be approved unless the City has received and accepted either 1) A certification by the city sewer superintendent that sewage service will be available at the nearest point of collection; or 2) A performance agreement, bond, contract or other assurance that sewage disposal lines will be installed by or on behalf of the subdivider to the boundary line of each and every lot or parcel depicted in the proposed subdivision or partition.

Final engineering plans for sewer services, prepared by the applicant, shall be reviewed and approved by the Yachats Public Works and other applicable agencies. The applicant/developer shall be responsible for any costs the City incurs to have an engineer, acting on behalf of the City, review the final engineering plans.
15. **Utilities.** Utilities shall be placed underground by the developer, i.e. electric and telephone facilities, fire alarm conduits, street light wiring, and other wiring, conduits and similar facilities.
16. **Environmental Protection.** The proposed development will implement all measures that the environmental consultant recommends to protect the creek and its riparian zone against adverse impacts (located in the northern portion of the property).
17. **Archaeological Resources.** If any historic resources, archaeological ruins, or artifacts are discovered at anytime, i.e. during any grading or excavation, construction activities shall cease and not continue until the Oregon State Historic Preservation Office (SHPO) and other appropriate authorities are contacted, investigate the site, and allow construction activity to continue, as required by Oregon Revised Statutes.
18. **Signage.** Signage shall be permitted as described in the approved preliminary plan, i.e:
 - a. **Entry Signs.** One entry sign may be located at Welcoming Spirit Way and Hwy. 101 and another entry sign may be located at Diversity Drive and Hwy. 101. These entry signs shall be no larger than 40 square feet of surface area each and the top of each sign shall be placed

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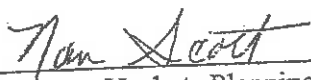
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no higher than 8 feet above grade. Any directional lighting onto these signs shall not shine on the roadway or toward passing cars. ODOT approval shall be required for signs along the Hwy. 101 frontage.

- b. Identification Signs. Identification signs may be placed at the community/retreat center and one for each of the five principal common areas. These signs shall be no larger than 10 square feet of surface area and the top of each sign shall be placed no higher than 6 feet above grade. Appropriate directional lighting onto these signs shall not shine on the roadway or toward passing cars.
- c. Directional Signs. Directional signs may be placed as needed on sidewalks, trails, and pathways which will be spaced about the property with arrows providing direction and (if desired, distance) to the community/retreat center and the various principal common areas and trails from various locations on the property. These signs would also identify the various pedestrian trailheads where they intersect streets. These signs shall be no larger than 6 square feet of surface area and the top of each sign shall be placed no higher than 6 feet above grade. No lighting shall be provided to these signs.

19. **Performance Agreement.** Prior to construction, the applicant shall provide a performance agreement, bond, contract or other assurance for the construction of streets, storm drainage, water service and sanitary sewer service. Water service and sewage disposal lines shall be installed by or on behalf of the developer to the boundary line of each and every lot or parcel depicted in the proposed planned development.

This ORDER was presented to and approved by the Yachats Planning Commission on September 20, 2016.



Nan Scott, Yachats Planning Commission Chair

09/27/2016
Date

