

STAFF REPORT (updated 10/18/11)

Townhouse Planned Unit Development Application

APPLICANT: Aqua Vista Square LLC and Our Coastal Village, Inc.

A. REPORT OF FACTS

1. Applicant's Request: The applicant proposes a Townhouse Planned Unit Development that includes 7 dwelling units consisting of 5 townhouse buildings and 2 stacked residential flats located within a 6th townhouse building. The proposed townhouse development results in 7 tax lots with one dwelling each on Lots 1-5, two dwellings on Lot 6, and Lot 7 consisting of common open space (driveway, parking, walkways, garden, grill patio, and fountain. Access to the development is proposed off Aqua Vista Loop. No access is proposed off Hwy 101.
2. Property Location: The property is located at the southwest corner of Hwy. 101 and Aqua Vista Loop and further identified on Lincoln County Assessors Map #14-12-27AA as tax lots 1308 and 1309.
3. Zoning: Retail Commercial C-1
4. Plan Designation: Commercial
5. Property Size: The site currently consists of two tax lots. Each tax lot consists of 6,744 square feet with dimensions of 67.44' x 100'. The two tax lots total 13,488 square feet with dimensions of 134.88' x 100'.
6. Existing Structures: None.
7. Surrounding Land Use: Surrounding land uses are primarily single family residential. Existing zoning is C-1 Retail Commercial to the north and south along the Highway 101 frontage. R-1 Residential zoned land is adjacent to the west, and R-3 Residential zoned land is across Highway 101 to the east.
8. Access: Both tax lots are accessed from Aqua Vista Loop. Tax Lot 1309 also has frontage along Hwy 101 however access is only proposed from Aqua Vista Loop.
9. Existing Utilities:
Sanitary Sewer Services: City of Yachats
Water Services: City of Yachats
Electric Services: Central Lincoln PUD
10. Development Constraints: None identified.

B. EVALUATION OF REQUEST

1. Applicant's Proposal: The applicant submitted the application fee and a booklet that includes the following information:

#1-THPUD-PC-11 Aqua Vista Square Townhouse Planned Unit Development
October 18, 2011 Planning Commission Hearing

- Introduction
- The Property
- Surrounding Land Use and Zoning
- Existing Utilities
- Application Form
- Preliminary Map
- Applicable Standards
- PUD Concessions, Benefits, and Requested Modifications
- Conclusion
- List of Appendices
 - A. Description of OCV's Perpetua Housing Fund
 - B. Description of Potential Eligible Persons for OCV's Affordable Home Ownership Program
 - C. Table and Chart Depicting Affordable Housing Costs
 - D. Assessor's Parcel Map
 - E. Aerial Photograph of Property
 - F. Photos of Property
 - G. Planning Commission Findings and Order dated July 26, 2010
 - H. City of Yachats PUD Application Form
 - I. Preliminary Map of Aqua Vista Square (page 1 of 10) and Concept Sketches (pages 2-10 of 10)
 - J. Letter to County Surveyor on Name Approval
 - K. Aqua Vista Square Conceptual Design Program

Please refer to the application for a detailed description of the proposed development.

2. Relevant Yachats Municipal Code Standards:

(See Attachment A for complete descriptions of relevant criteria.)

Yachats Municipal Code, Title 9 Zoning and Land Use

- Chapter 9.28 C-1 Retail Commercial Zone
- Chapter 9.48 Off-Street Parking and Loading
- Chapter 9.56 Subdivisions and Partitions
- Chapter 9.62 Townhouse Planned Unit Development

Yachats Comprehensive Plan

3. Public Agency Comments

Yachats Public Works. The Yachats Public Works Director stated that water, sewer and storm drainage facilities are available to serve the proposed development. The City requires review and approval of final engineering plans.

Oregon Department of Transportation (ODOT). ODOT stated they are supportive of construction of a minimum 6 foot wide sidewalk along the highway frontage. An ODOT miscellaneous permit will be required for any work within the highway right-of-way.

4. Public Testimony

At the time this staff report was prepared, the City had not received any written testimony.

C. STAFF ANALYSIS

1. The Purpose of a Townhouse Planned Unit Development

The purpose of the Townhouse P.U.D. is to permit the application of new technology and greater freedom in design in land development than may be possible under a strict interpretation of the provisions of this title to allow for different ownership patterns by allowing townhouses in certain zones subject to specific development standards, to regulate the development of townhouses, and to outline specific development criteria and design parameters to protect public health, safety, and welfare. The use of these provisions is dependent upon the submission of an acceptable plan and satisfactory assurance it will be carried out. Such plan should accomplish substantially the same objectives as are proposed by the comprehensive plan for the area.

2. Townhouse PUD Allowed in the C-1 Zone

A Townhouse PUD may be established in the C-1 Commercial Retail Zone.

3. Density

The maximum number of townhouse dwelling units shall not exceed that allowed by the underlying zone. In the C-1 zone, the maximum density of 1 dwelling unit per 2,500 sq. ft. of land may be increased to 1 dwelling per 1,500 sq. ft. of land if ~~the applicant is will to yield to~~ approved by the Planning Commission through a public hearing design control.

This application proposes 7 dwelling units on the 13,488 sq. ft. property or 1,927 sq. ft. of land per dwelling. ~~Since the request is a greater density than 1 dwelling per 2,500 sq. ft. of land, the Planning Commission is able to control the design of the development. Therefore the Planning Commission can either express satisfaction with the proposed design or require design modifications.~~ Therefore, the Planning Commission considers the request for the increased density in accordance with Chapter 9.72 Conditional Uses. Chapter 9.72 Conditional Uses does not include standards specific to requests for increased density. Per Conditional Use Section 9.72.010(B), the Planning Commission may impose conditions when necessary to protect the best interests of the surrounding city as a whole. Such conditions includes but are not limited to increased yard dimensions, building height, vehicle access points, number of required off-street parking spaces, signs, and screening.

4. Modifications to Regulations

In a Townhouse PUD the regulations may be modified as they apply to streets, blocks and lots, lot area, lot width, lot depth, lot coverage, and building setbacks when adequate access to major thoroughfares, adequate light and air circulation, recreational areas, and open space are provided.

a. Lot Area, Width and Depth

The minimum lot area per multifamily dwelling unit may be 1,500 square feet ~~if the developer is willing to yield to the planning commission design control~~ if approved by the Planning Commission. In a Townhouse PUD lot area may be modified when adequate access to major thoroughfares, adequate light and air circulation, recreational areas, and open space are provided. Approximate lot areas proposed for the Aqua Vista Square development are as follows:

Lot 1:	856 sq. ft.	Lot 5:	972 sq. ft.
Lot 2:	752 sq. ft.	Lot 6:	1,724 sq. ft.
Lot 3:	1,540 sq. ft.	Lot 7 (Common space):	<u>6,672 sq. ft.</u>
Lot 4:	972 sq. ft.	Total Area:	13,488 sq. ft.

Minimum lot widths in the C-1 zone are 60 feet and 65 feet for a corner lot. Minimum lot depths in the C-1 zone are 80 feet. With the exception of Lot 7 (Common space) all lots have substandard lot widths and depths. Lot widths and depths may be modified in a Townhouse PUD when adequate access to major thoroughfares, adequate light and air circulation, recreational areas, and open space are provided.

b. Lot Coverage

The lot coverage for the parent lot may not exceed the maximum lot coverage allowed in the underlying zone. In the C-1 zone, 100% lot coverage is permitted. In residential only developments in the C-1 zone the R-4 standard applies, i.e. maximum 45% lot coverage. The proposed Aqua Vista Square development has coverage of 33% including building footprints and porches.

c. Building Setbacks

The standard setbacks for a residential-only development in the C-1 zone are: 20' front yard; 10' rear yard; 1' (interior) side yard for every 3' of adjacent building height; and 20' street side yard. The Aqua Vista Square development satisfies the standard setbacks except for the front yard (Aqua Vista frontage) where a 10' front yard is requested. Porches are proposed to extend within 2' of the front property line.

5. Building Height

The building height must not exceed 30' unless the height increase can be justified either on the basis of: (a) "unique lot characteristics, topographical conditions or other natural features, or (b) "amenities provided or concessions made by the developer for which some bonus incentive is warranted." Applicants propose that 2 of the 6 units (Units 4 and 5) have a 35' height limit in exchange for the concession that the height of the 2 units immediately adjacent to the residential zone (to the west) be limited to 25'.

6. Parking

In the C-1 zone, a multifamily residential development shall have 1.5 parking spaces for each dwelling unit, rounded up with parking space dimensions of 9x20'. Aqua Vista Square proposes 7 dwellings therefore 11 parking spaces are required. Eleven (11) on-site parking spaces are proposed including 6 outdoor surface parking spaces and 5 garage parking spaces. Units 4 and 5 each have 2 tandem garage parking spaces.

7. Fences and Walls

Fences and walls are allowed within required yards but are not to exceed 3 feet in height "in any required yard that abuts a street other than an alley." The Planning Commission is authorized to allow higher screen walls with proper setbacks for clear vision. The applicant requests the Planning Commission allow a 7' screen wall on the east property line within the required Hwy 101 setback except that any portion of said wall within the northernmost 15' of the property line shall not exceed 3 feet in height. Any portion of the buffer wall on the western property line that is within 15' of the north property line will also be a maximum 3 feet tall.

The intent of the 7 foot high wall/fence (versus the required 3 foot maximum height) on the east (highway) side is to provide Units 3-6 with privacy from Hwy. 101. The Planning Commission should consider the visual impact of a 7 foot high wall/fence as seen from the highway and from the east side of the highway. If the Planning Commission believes there would be adverse visual

impacts, the Commission may require a lower fence height and/or specify the type and design of the wall or fence that would mitigate adverse visual impacts. Street trees and shrubs are proposed to be planted on the outside of the fence within the Hwy 101 right-of-way.

A 7 foot high wall/fence is also proposed on the south and east sides.

8. Underground Utilities

All electric and telephone facilities, fire alarm conduits, street light wiring, and other wiring, conduits and similar facilities shall be placed underground by the developer unless waived by the Planning Commission.

For the Aqua Vista Square development, the applicant requests that the Planning Commission waive the underground utility requirement because all dry utilities serving the property are already installed, some underground, others above ground, and Aqua Vista Square will use the facilities already in place. The intent of the underground utility requirement is to improve the visual appearance of the site and of the community. The Planning Commission should consider whether or not there are circumstances that warrant above ground utilities.

9. Common Areas and Pedestrian Ways

The Planning Commission may require the developer to provide up to 5% of a Townhouse PUD area for park and recreation purposes of a design and location acceptable to the Planning Commission. Aqua Vista Square proposes approximately 2,025 square feet of common area consisting of a barbecue grill and adjacent seating area, a fountain, and a common lawn/garden area. This is 15% of the 13,488 sq. ft. total land area. Any common areas must be subject to an association of owners or tenants created for the purpose of maintaining those common areas. The applicant proposes to form an association to provide for maintenance of the common areas.

10. Proposed Development Concessions, Benefits, and Requested Modifications

The applicant identifies “substantial concessions” that “more than justify the small departures requested from otherwise applicable standards.” These “concessions” are summarized below. Please refer to page 6 of the AVS Townhouse PUD Application for a detailed description.

- a. Previously identified commercial uses have been omitted based on neighbors’ preference for a residential-only development.
- b. With even a small amount of commercial use, no yards would be required with exceptions, lot coverage could be 100%, and density would allow for 8 residential units. Aqua Vista Square proposes a 10’ front yard setback (excluding porches), a 10’ rear yard, a 33% lot coverage, and 7 residential units.
- c. Lot coverage is proposed to be limited to 33% versus the maximum 45% allowed in the R-4 zone (for residential-only use in the C-1 zone).
- d. Applicants have provided about 15% common area rather than the 5% the Planning Commission can require.
- e. Applicants are reducing the building height limit for 2 units adjacent to the residential zone from the 30’ allowed to 25’.
- f. Applicants are providing a masonry or concrete wall between Aqua Vista Square and the adjacent residential zone to the west and the adjacent mixed use to the south; such a non-combustible barrier was requested by the Fire Marshall, but is not required.

Summary of Modifications Requested

- a. Front yards of 10’ rather than 20’ and porches within the front yard.

- b. For two units, a height limit of 35'.
- c. A 7' screening wall within the Hwy 101 setback (except the wall will not exceed 3' within the clear vision area).

11. Public Right-of-Way Improvements

The applicant proposes improvements within the Aqua Vista Loop right-of-way including a sidewalk and landscape strips with street trees. The application notes that an existing tree within the Aqua Vista Loop right-of-way will be preserved if possible.

Landscaping including street trees and shrubs is proposed within the Hwy 101 right-of-way. City plans, i.e. the Village Circulation Plan and the Hwy 101 Refinement Plan, recommend sidewalks along Hwy 101 including the Aqua Vista Square frontage. The most recent Highway 101 plan identifies an 8 foot wide sidewalk with a 5 foot wide landscape strip between the sidewalk and a curb. The Planning Commission should consider a requirement for a Hwy 101 sidewalk along the Aqua Vista Square frontage. ODOT is supportive of a minimum 6' wide sidewalk and requires a miscellaneous permit to work in the Hwy 101 right-of-way.

12. Water, Sewer, Storm Drainage, and Other Utilities

Any approval of a preliminary plan for a PUD needs to include a condition that final engineering design for water, sewer, stormwater, and other utilities must be reviewed and approved by the City of Yachats, ODOT, and other applicable agencies. At minimum, this review and approval includes the following:

<u>Street/Utility</u>	<u>Agency Review/Approval</u>
Streets	City of Yachats, Yachats Rural Fire Protection District (YRFPD), ODOT
Water	City of Yachats, YRFPD
Sewer	City of Yachats
Stormwater/Erosion Control	City of Yachats, ODOT (if stormwater facilities/improvements are in the Hwy. 101 right-of-way)
Power	Central Lincoln PUD
Other Utilities	Applicable utility company

Note: There may be other agencies requiring review and approval of utilities.

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. Phasing, Timing of Development, and Final Approval

Aqua Vista Square is proposed to be developed in three phases with Units 1-2 constructed in Phase I, Units 3-5 constructed in Phase II, and Units 6-7 constructed in Phase III. In the event of preliminary approval by the Planning Commission, the following applies: Within one year after the approval of the preliminary plan, a map of the Townhouse PUD may be submitted to the Planning Commission for approval. The map shall be a survey of the Townhouse PUD or a photographic copy thereof. Maps shall be in substantial conformity to the approved preliminary plan and conditions of approval. The applicant may file for final approval by the Planning Commission of a single phase or multiple phases no later than the approved schedule. A recommended phasing schedule is provided below.

Phase Application for Final Plat
(by Dec. 31 of)

I	2012
II	2013
III	2014

In addition to the information as required on the preliminary plan the following information shall be provided:

- 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 and roads, 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 and drainage construction plans;
- e. The certification, performance agreement or statement regarding the availability of water and sewerage services as provided in YMC Section 9.60.040.

The Planning Commission may approve or disapprove a request for a one-year extension if the preliminary plan is substantially unchanged from the plan previously approved.

D. CONCLUSIONS

The Planning Commission has the discretion 1) to continue the public hearing and request additional or revised information, 2) to deny the request, 3) or approve the request.

If the request is continued, the Planning Commission should state additional and/or revised information that is needed in order for the Commission to make an informed decision.

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.

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. Preliminary Plan Approval

Preliminary plan approval is granted for the Aqua vista Square Townhouse PUD. The preliminary plan approval is based on the submitted plan and conditions of approval. Key components of the preliminary plan approval include 7 dwelling units consisting of 5 townhouse buildings and 2 stacked residential flats located within a 6th townhouse building. The proposed townhouse development results in 7 tax lots with one dwelling on Lots 1-5, two dwellings on Lot 6, and Lot 7 consisting of common open space (driveway, parking, walkways, garden, grill patio, and fountain). Access to the development is proposed off Aqua Vista Loop. No access is proposed off Hwy 101.

2. Standards and Modifications to Regulations

2a. Lot Area, Width and Depth

Approximate lot areas proposed for the Aqua Vista Square development are as follows:

Lot 1:	856 sq. ft.
Lot 2:	752 sq. ft.
Lot 3:	1,540 sq. ft.
Lot 4:	972 sq. ft.
Lot 5:	972 sq. ft.
Lot 6:	1,724 sq. ft.
Lot 7 (Common space):	<u>6,672 sq. ft.</u>

Total Area: 13,488 sq. ft.

Lot widths and depths are modified as shown on the approved site plan dated 9-13-11.

2b. Lot Coverage

Lot coverage of the parent lot shall be approximately 33% and include building footprints, porches and decks.

2c. Setbacks/Required Yards

Setbacks/yards for the parent lot shall be as follows:

Front Yard (Aqua Vista Loop frontage):	Minimum 10 feet for buildings Minimum 2 feet for porches
Rear Yard (south):	Minimum 10 feet
Interior Side Yard (west):	1 foot for every 3 feet of adjacent building height
Street Side Yard (Hwy 101):	Minimum 20 feet

2d. Building Height

Building heights shall be as follows:

Units 1 and 2:	Maximum 25 foot height
Unit 3:	Maximum 30 foot height
Units 4 and 5:	Maximum 35 foot height
Unit 6/Unit 7 Above Unit 6:	Maximum 30 foot height

3. Parking

A minimum of 11 on-site parking spaces with dimensions of 9x20' shall be provided as shown on the approved preliminary plan.

4. Fences and Walls

A maximum 7' high screen wall is permitted on the east side within the required Hwy 101 setback except that any portion of said wall within the northernmost 15' of the property line shall not exceed 3 feet in height. Street trees and shrubs shall be planted in front of the wall within the Hwy 101 right-of-way.

Any portion of the buffer wall on the western property line that is within 15' of the north property line will also be a maximum 3 feet tall. Street trees and shrubs are proposed to be planted on the outside of the fence within the Hwy 101 right-of-way.

5. Underground Utilities

All electric and telephone facilities, fire alarm conduits, street light wiring, and other wiring, conduits and similar facilities shall be placed underground

6. Common Areas and Pedestrian Ways

Aqua Vista Square shall have approximately 15% of the total area (approx. 2,025 square feet) of common area consisting of a barbecue grill and adjacent seating area, a fountain, and a common lawn/garden area. Common areas shall be subject to an association of owners or tenants created for the purpose of maintaining those common areas.

7. Public Right-of-Way Improvements

7a. Aqua Vista Loop Right-of-Way. Improvements shall be made within the Aqua Vista Loop right-of-way as shown on the approved site plan dated 9-13-11 including a minimum 5 foot sidewalk with minimum 5 foot landscape strip on the north and south sides of the sidewalk. Street trees shall be planted in the landscape strip between the sidewalk and the Aqua Vista Loop travel way.

7b. Highway 101 Right-of-Way. An 8 foot wide sidewalk with a 5 foot wide landscape strip between the sidewalk and a curb shall be constructed along the Hwy 101 frontage. An ODOT miscellaneous permit is required to work in the Hwy 101 right-of-way.

8. Water, Sewer, Stormwater, and Other Utilities

Prior to construction, final engineering design for water, sewer, stormwater, and other utilities shall be reviewed and approved by the City of Yachats, ODOT, and other applicable agencies. At minimum, this review and approval includes the following:

<u>Street/Utility</u>	<u>Agency Review/Approval</u>
Streets/Right-of-Way	City of Yachats, Yachats Rural Fire Protection District (YRFPD), ODOT
Water	City of Yachats, YRFPD
Sewer	City of Yachats
Stormwater/Erosion Control	City of Yachats, ODOT (if stormwater facilities/improvements are in the Hwy. 101 right-of-way)
Power	Central Lincoln PUD
Other Utilities	Applicable utility companies

Note: There may be other agencies requiring review and approval of utilities.

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 final engineering plans.

9. Phasing, Timing of Development, and Final Approval

Aqua Vista Square is proposed to be developed in three phases with Units 1-2 constructed in Phase I, Units 3-5 constructed in Phase II, and Units 6-7 constructed in Phase III. Within one year after the approval of the preliminary plan, a map of the Townhouse PUD may be submitted to the Planning Commission for approval. The map shall be a survey of the Townhouse PUD or a photographic copy thereof. Maps shall be in substantial conformity to the approved preliminary plan and conditions of approval. The applicant may file for final approval by the Planning Commission of a single phase or multiple phases no later than the following schedule:

<u>Phase</u>	<u>Application for Final Plat</u> <u>(by Dec. 31 of)</u>
I	2012
II	2013
III	2014

In addition to the information as required on the preliminary plan the following information shall be provided:

- Accurate legal description of all parcels and roads;
- 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 P.U.D.;

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- c. A copy of all protective deed restrictions;
- d. Street and drainage construction plans;
- e. The certification, performance agreement or statement regarding the availability of water and sewerage services as provided in YMC Section 9.60.040.

The Planning Commission may approve or disapprove a request for a one-year extension if the preliminary plan is substantially unchanged from the plan previously approved.

Submitted by,

Larry Lewis
City Planner

Enclosures: • Attachment A. Yachats Municipal Code, Title 9 Zoning and Land Use
 Aqua Vista Square Townhouse PUD Relevant Criteria
 • Vicinity Map
 • Site Plan
 • Aerial Sketch
 • AVS Townhouse PUD Application

Attachment A. Yachats Municipal Code, Title 9 Zoning and Land Use
Aqua Vista Square Townhouse PUD Relevant Criteria

Chapter 9.28 C-1 Retail Commercial Zone

Section 9.28.010 Permitted uses.

In a C-1 zone the following uses and their accessory uses are permitted, subject to the provisions of Chapters 9.44, 9.48 and 9.52 where applicable:

B. Any use which would be permitted outright in any residential zone;

Section 9.28.030 Standards.

Except as provided in Chapters 9.44, 9.48, 9.52 and 9.72, in any C-1 zone the following standards apply:

A. Lot Size and Dimensions. The minimum lot size and dimensions in the C-1 zone shall be as follows:

1. The lot area, lot width, and lot depth requirements in the C-1 zone shall be as follows:
 - a. Lot area, six thousand (6,000) square feet with public water and sewer system.
 - b. Lot width, sixty (60) feet minimum at front building line for interior lot and sixty-five (65) feet for a corner lot with public water and sewer system.
 - c. Lot width, seventy (70) feet minimum at front building line for interior lot and seventy-five (75) feet for a corner lot with public water but no public sewer.
2. The minimum lot area per multifamily dwelling unit shall be two thousand five hundred (2,500) square feet with a public water and sewer system.
 - a. The minimum lot area per multifamily dwelling unit may be lowered to one thousand five hundred (1,500) square feet with a public water and sewer system if ~~the developer is willing to yield to the planning commission design control.~~ approved by the Planning Commission through a public hearing in accordance with Chapter 9.72 Conditional Uses.
3. The minimum lot depth shall be eighty (80) feet.
4. Minimum setback, lot coverage requirements and parking requirements in the C-1 zone for residential only use shall be the same specifications outlined in R-4.

B. Building Height. No building in a C-1 zone shall exceed a height of thirty (30) feet from finished grade or from natural grade, see Chapter 9.52.180.

C. Lot Coverage. For nonresidential uses lot coverage may be one hundred (100) percent except all yards abutting a residential zone shall be a minimum of ten feet.

D. No structure shall be located closer than sixty (60) feet from the center line of any state highway, nor thirty (30) feet from the center line of any collector or arterial street.

E. Outdoor storage shall be screened with a sight-obscuring screen.

F. Yard Regulations. Yards are not required ~~for nonresidential uses except where~~ except for residential-only uses, unless setbacks have been established for road widening, abutment to residential zones or other purposes. ~~For residential uses, the minimum yard requirements which apply in the residential zones apply in the C-1 zone.~~

G. Residential-only uses.

1. Yards proposed to be less than the minimum yard requirements which apply in the residential zones shall be subject to approval by the Planning Commission through a public hearing in accordance with Chapter 9.72 Conditional Uses.

2. Parking requirements shall be the same specifications outlined in R-4.

H. Fences, Hedges, Walls and Landscaping. Where a commercial use abuts a residential zone, ~~the planning commission may require that~~ a fence, evergreen hedge, wall or landscaping shall be constructed and maintained immediately adjacent to the abutting property line. Such a buffer shall screen at least seventy (70) percent of the view between the zones. The buffer shall not be less than five or more than eight feet in height, except where vision clearance would be interrupted. ~~The planning commission's review shall consider aesthetic and maintenance factors.~~ Exceptions shall be subject to approval by the Planning Commission through a public hearing in accordance with Chapter 9.80 Variances.

- I. 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.

Chapter 9.48 Off-Street Parking and Loading

Section 9.48.010 General requirements.

At the time a structure is erected or enlarged or the use of an existing structure is changed, off-street parking spaces, loading areas and access thereto shall be provided as set forth in this section unless: (1) greater requirements are otherwise established; or (2) the approved covenants, conditions and restrictions (CC and Rs) of approved planned unit developments (PUDs) provide other parameters. If such facilities have been provided in connection with an existing use, they shall not be reduced below the requirements of this title.

- A. Requirements for types of buildings and uses not specifically listed herein shall be determined by the planning commission, based upon the requirements of comparable uses listed.
- B. In the event several uses occupy a single structure or parcel of land, the total requirements shall be the sum of the requirements of the several uses computed separately.
- C. Owners of two or more uses, structures or parcels of land may agree to utilize jointly the same parking and loading spaces when the hours of operation do not overlap, provided that satisfactory legal evidence is presented to the planning commission in the form of deeds, leases or contracts to establish joint use.
- D. Off-street parking spaces for dwellings shall be located on the same lot with the dwelling. Other required parking spaces shall be located not farther than five hundred (500) feet from the building or use they are required to serve, measured in a straight line from the building.
- E. Required parking spaces shall be available for the parking of operable passenger automobiles of residents, customers, patrons and employees only, and shall not be used for storage of vehicles or materials or for the parking of trucks used in conducting the business or use.
- F. Areas used for parking and maneuvering of vehicles shall have durable and dustless surfaces improved to minimum city road standards, maintained adequately for all-weather use, and be so drained as to avoid flow of water across public sidewalks.
- G. Except for parking to serve dwelling uses, parking and loading areas adjacent to or within residential zones or adjacent to residential uses shall be designed to minimize disturbance of residents by the erection between the uses of a sight-obscurer fence of not less than five feet in height where vision clearance is required.
- H. Parking spaces along the outer boundaries of a lot shall be contained by a curb or bumper rail at least four inches high and set back a minimum of four and one-half feet from the property line.
- I. Any lights provided to illuminate any public or private parking area or sales area shall be arranged so as to reflect the light away from any abutting or adjacent residential zone.
- J. Required off-street parking areas shall not be located in the required front or street side-yard areas in a residential zone.
- K. Groups of more than four parking spaces shall be served by a driveway so that no backing movements or other maneuvering within a street, other than an alley, will be required.
- L. Passenger Loading. A driveway designed for continuous forward flow of passenger vehicles for the purpose of loading and unloading children shall be located on the site of any school having a capacity greater than twenty-five (25) students.
- M. Loading of Merchandise, Materials or Supplies. Buildings or structures which receive and distribute material or merchandise by truck shall provide and maintain off-street loading berths in sufficient numbers and size to adequately handle the needs of the particular use. Off-street parking areas used to fulfill the requirements of this title may be used for loading and unloading operations during periods of the day when not required to take care of parking needs.
- N. Individual parking spaces shall not measure less than nine feet by twenty (20) feet.
- O. Off-street parking space requirements:
 - 1. Residential dwellings: refer to specific zones for parking regulations.

Chapter 9.56 Subdivisions and Partitions

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.

Section 9.56.030 Additional Requirements for Subdivisions.

- A. Private Streets.
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 a private street.
 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 meeting.
 3. Yard setbacks shall be determined from the road right-of-way or access easement line in instances where private roads are considered.
- B. Blocks. No block shall be longer than one thousand two hundred (1,200) feet between street lines.
- C. Parks and Open Space. The planning commission may require the subdivider to provide up to five percent of the subdivision area for park and recreation purposes. These areas shall be of a design and location acceptable to the planning commission, based on the suitability of the area for park and recreation purposes.
- D. Partial Development. If a proposed subdivision area includes only part of the tract owned by the subdivider, the planning commission may require a sketch of the tentative layout of streets in the remainder of that tract.
- E. Duplication of Names. The name of a tentative plan must not duplicate the name used in any other

legally recorded subdivision in Lincoln County, except for the words "town," "city," "place," "court," "addition" or similar words, unless the land platted is contiguous to and platted by the same party that platted the subdivision bearing that name or unless the party files and records the consent of the party that platted the subdivision bearing that name. All plats must continue the block numbers of the plat of the same name last filed.

- O. Pedestrian Ways. Developments shall provide for safe, well-marked pedestrian ways that do not conflict with vehicular traffic.

Chapter 9.62 Townhouse Planned Unit Development

Section 9.62.010 Purpose.

The purpose of the Townhouse P.U.D. is to permit the application of new technology and greater freedom in design in land development than may be possible under a strict interpretation of the provisions of this title to allow for different ownership patterns by allowing townhouses in certain zones subject to specific development standards, to regulate the development of townhouses, and to outline specific development criteria and design parameters to protect public health, safety, and welfare. The use of these provisions is dependent upon the submission of an acceptable plan and satisfactory assurance it will be carried out. Such plan should accomplish substantially the same objectives as are proposed by the comprehensive plan for the area.

Section 9.62.010 Definitions.

Parent Lot. The legal lot or lots in existence prior to the townhouse planned unit development.

Townhouse. A residential building having a minimum of two accesses to the outside, which is detached from any other building or separated from any other building by one or more common walls, and which has its own underlying townhouse lot. A building may contain not more than two residential units in the form of stacked flats provided that the upper residential unit shall at all times be owned by the same owner as both the lower residential unit and the townhouse lot on which it is situated.

Townhouse Lot. The underlying real estate associated with a townhouse.

Section 9.62.020 General requirements.

- A. In the case of a townhouse planned unit development the regulations contained in this chapter and the underlying zoning district may, if necessary, be modified as they apply to streets, blocks and lots, lot area, lot width, lot depth, lot coverage, and building setbacks when adequate access to major thoroughfares, adequate light and air circulation, recreational areas, and open space are provided.
- B. A townhouse planned unit development may be established in the R-2, R-3, and R-4 residential zones and the C-1 Retail Commercial zone.
- C. A townhouse planned unit development may include any uses permitted outright or conditionally in the zone in which it occurs.
- D. Requirements pertaining to density and parking shall be guided by the standards of the zone in which the townhouse planned unit development is proposed, i.e. the maximum number of townhouse dwelling units shall not exceed that allowed by the underlying zone.
- E. No building shall exceed a height of thirty (30) feet except:
 - 1. That the height increase can be justified on the basis of unique lot characteristics, topographical conditions or other natural features; and/or
 - 2. That the height increase can be justified on the basis of amenities provided or concessions made by the developer for which some bonus incentive is warranted.

- F. The lot coverage for individual lots may exceed the maximum lot coverage of the underlying zone. The maximum lot coverage of the parent lot may not exceed the maximum lot coverage allowed in the underlying zone.
- G. All electric and telephone facilities, fire alarm conduits, street light wiring, and other wiring, conduits and similar facilities shall be placed underground by the developer unless waived by the planning commission.
- H. The planning commission or city council may require easements necessary for orderly extension of public utilities to future adjacent developments.
- I. If there are lands and structures not dedicated to the public but reserved for use by owners or tenants and their guests those lands and/or structures must be subject to an association of owners or tenants created to form a nonprofit corporation under the laws of the state of Oregon. The association shall be formed and continued for the purpose of maintaining such common areas and structures.
- J. Developments shall provide for safe, well-marked pedestrian ways that do not conflict with vehicular traffic. (Ord. 73E § 7.020, 1992)

Section 9.62.030 Procedure for proposing Townhouse P.U.D.

- A. Preliminary Plan Application. An applicant shall submit at least five copies of a preliminary plan of a townhouse planned unit development to the planning commission for study at least thirty (30) days prior to the planning commission meeting at which it will be discussed. The preliminary plan shall include the following data:
 - 1. The name, address and phone number of the land owner, partitioner and engineer or surveyor;
 - 2. The tax lot number and the section, township and range in which the property is located;
 - 3. The date, north point and scale of the drawing;
 - 4. A vicinity sketch showing the location of the Townhouse P.U.D. in relation to known landmarks in the city;
 - 5. The approximate location and dimensions of all proposed boundary lines;
 - 6. Approximate area of the property being subdivided and each parcel;
 - 7. Name, location and width of all existing and proposed roads, rights-of-way and easements;
 - 8. Existing zoning of the property;
 - 9. Existing and proposed uses of the property;
 - 10. Approximate location and use of all existing structures to remain on site. Indicate those to be removed;
 - 11. Any limitations to development; e.g. topography, areas subject to flooding, geologic hazards, drainage channels on property, etc. In areas of twelve (12) percent or greater slope, a geological report shall be submitted, in accordance with provisions of Section 9.52.050;
 - 12. Proposed use, location, dimensions, height and type of construction of all buildings. Proposed number of dwelling units, if any, to be located in each building;
 - 13. Proposed circulation pattern including the location, width and surfacing of streets, private drives, and sidewalks; the location of any curbs; the status of street ownership; and the location of parking areas and the number of spaces therein;
 - 14. Proposed use of all open spaces including a plan for landscaping;
 - 15. Proposed grading and drainage pattern;
 - 16. Proposed method and plan for provision of water supply, sewage disposal, and electrical facilities;
 - 17. Relationship of the proposed development to the surrounding area and to the comprehensive plan.

- B. Review of Preliminary Plan by Other Departments. Within five days after the Townhouse P.U.D. application is submitted and prior to consideration of the preliminary plan by the planning commission, the city recorder shall distribute copies of the preliminary plan to the Yachats Public Works Department; Yachats Rural Fire Protection District; Oregon Department of Transportation, if the proposed development is within one thousand (1,000) feet of a state highway; and to any other appropriate federal, state or local agencies. Officials of these agencies shall be given at least ten days to review the plan, suggest revisions, and return the plans to the planning commission.
- C. Approval of Preliminary Plan.
1. When all comments and recommendations from appropriate agencies or departments have been received or within forty-five (45) days after receiving the application as provided for in this title, whichever date shall occur first, the city staff shall place the preliminary plan on the agenda of the next scheduled meeting of the planning commission and notify the applicant of the meeting date and time. Following consideration of the preliminary plan, the replies from the other agencies and departments and such other testimony offered, the planning commission shall schedule a hearing within forty-five (45) days. At the conclusion of the hearing, the planning commission shall approve, conditionally approve, disapprove for cause or, when further information is required, postpone a decision on the preliminary plan. Unless appealed, the decision of the planning commission shall become effective on the fifteenth day after rendered. The approval or conditional approval is valid for two years from the effective date of that approval.
 2. If the preliminary plan for the townhouse planned unit development is approved, the planning commission (or city council in the case of appeal) may attach conditions it finds necessary to carry out the purpose of this title. These conditions may include, but are not limited to, the following:
 - a. Increasing the required setbacks;
 - b. Limiting the height of buildings;
 - c. Controlling the location and number of vehicular access points;
 - d. Establishing new streets, increasing the right-of-way or roadway width of existing streets, requiring curbs and sidewalks, and, in general, improving the traffic circulation, in accordance with recommendations given by the Yachats department of public works and/or the public works and streets commission, and the Yachats Rural Fire Protection District;
 - e. Increasing the number of parking spaces and improving design standards for parking areas;
 - f. Limiting the number, size, location and lighting of signs;
 - g. Designating sites for open space and recreational development, and, in general, improving landscaping requirements;
 - h. Requiring additional view-obscuring screening or fencing;
- D. Approval of Final Plan.
1. Within three years after the approval of the preliminary plan, a map of the Townhouse P.U.D. may be submitted to the planning commission for approval. The map shall be a survey of the P.U.D. or a photographic copy thereof. Maps shall be in substantial conformity to the approved preliminary plan and conditions of approval.
 2. In addition to the information as required on the preliminary plan the following information shall be provided:
 - 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 and roads, the donation of which was made a condition of approval of the preliminary plan for the Townhouse P.U.D.;

- c. A copy of all protective deed restrictions;
- d. Street and drainage construction plans;
- e. The certification regarding the availability of water and sewerage services as provided in Section 9.60.040;
- f. The location of the approved site for the septic system if applicable.
- g. Within thirty days of the receipt of a Townhouse P.U.D. map as provided in this title, the city staff shall refer the map to the planning commission for a decision. The applicant shall be notified in writing of the time and place of the planning commission meeting. Unless appealed, the decision shall become effective on the fifteenth day after rendered. When the approval becomes effective, the city recorder shall endorse his or her approval on the map. The map shall then be recorded in the offices of the county clerk, with a copy of the certified map retained by the city. Approval of the submitted map shall be considered as final when properly endorsed and recorded. (Ord. 175 (part), 1995; Ord. 73E § 7.030, 1992)

Section 9.62.040 Development of a Townhouse P.U.D.

A. Building Permits.

- 1. Building permits for all or any portion of a Townhouse P.U.D. shall be issued on the basis of the approved plan. An application for a building permit shall be preceded or accompanied by submission of any required bonds or deeds for public dedication or contractual agreements for development of public facilities.
- 2. If no building permits have been issued within two years of the date of final approval of the Townhouse, the Townhouse P.U.D. shall be terminated automatically unless a request to extend the time limit is approved by the city council.

B. Abandonment. Upon abandonment of a particular development authorized under this section, or if the development has not been substantially completed within five years from the date of its final approval, the city council may determine that the granting of approval shall be nullified.

C. Parks and Open Spaces. The planning commission may require the developer to provide up to five percent of the Townhouse P.U.D. area for park and recreation purposes. These areas shall be of a design and location acceptable to the planning commission, based on the suitability of the area for park and recreation purposes.

D. Partial Development. If a proposed Townhouse P.U.D. area includes only part of a tract owned by the subdivider, the planning commission may require a sketch of the tentative layout of streets in the remainder of that tract.

E. Duplication of Names. The name of a tentative plan must not duplicate the name used in any other legally recorded P.U.D. in Lincoln County, except for the words "town," "city," "place," "court," "addition" or similar words, unless the land platted is contiguous to and platted by the same party that platted the P.U.D. bearing that name, or unless the party files and records the consent of the party that platted the P.U.D. bearing that name. All plats must continue the block numbers of the plat of the same name last filed.

F. Water. All lots in the Townhouse P.U.D. shall be served by a public water system. No plat or map of a Townhouse P.U.D. shall be approved unless the city has received and accepted a certification by the city water superintendent that water will be available from the nearest point of supply

G. Sewer. No plat or map of a Townhouse P.U.D. shall be approved unless the city has received and accepted:

- 1. A certification by the city sewer superintendent that sewage service will be available at the nearest point of collection; ~~or~~

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2. Where sewerage service is not available, the Department of Environmental Quality or county health department shall approve the proposed use of the land for the Townhouse P.U.D. A statement that public sewerage service is not available and that the proposed method of sewage disposal has been approved will be provided to the purchaser of each lot or parcel in the proposed Townhouse P.U.D. A copy of any such statement signed by the developer and endorsed by the planning commission chair shall be filed by the developer with the real estate commissioner.
- H. Power. All lots in a Townhouse P.U.D. shall be served by power (electricity). No plat of a Townhouse P.U.D. shall be approved unless the city has received and accepted a certification by the Central Lincoln PUD that power will be available from the nearest point of supply to every lot or parcel depicted in the proposed Townhouse P.U.D.
- I. Appeals. See Section 9.88.120. (Ord. 73E § 7.040, 1992)