

Lincoln Palisades Phase VI

Conditional Use Permit & Modification Application

Prepared for:

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Submitted to:

City of Lincoln City
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Prepared by:



REECE
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Project Summary

Request:	<p>Application for a Conditional Use Permit to construct a sanitary sewer extension and fill/earthwork on a city-owned Open Space zoned property.</p> <p>Application for a Modification of Approved Plans to decrease the number of lots to twenty-nine (29) and develop the project in two phases.</p>
Location:	<p>Unaddressed Intersection of NE 51st Place and NE Wave Lane Lincoln County Assessor’s Map No. 6s11w35CD, Lot 102</p>
Owner/Applicant:	<p>Alpha Building Ventures, LLC C/O Steve Lindell 15350 Hidden Hills Court McMinnville, Oregon 97128 Phone: 971-241-8870 Email: stephenlindell6@gmail.com</p>
Engineer/Planner:	<p>Reece Engineering & Survey 321 1st Avenue Suite 3A Albany OR 97321 541-926-2428 Engineer: David J. Reece, PE Planner: Hayden Wooton dreece@reece-eng.com hwooton@reece-eng.com</p>

Exhibits

A – Final Order No. 2022-01

Plans

- Sheet 1.0 – Cover
- Sheet 2.0 – Existing Conditions
- Sheet 3.0 – Site & Phasing Plan
- Sheet 4.0 – Landscape Plan

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I. Project Description

Alpha Building Ventures, applicant, received land use approval for Lincoln Palisades Phase VI, a thirty-two (32) lot residential planned development, on January 18th, 2022 (Exhibit A). To serve these lots, the applicant proposed to construct a connection and extension of a sanitary sewer system located on an adjoining property owned by the City of Lincoln City. This adjacent property was zoned R1-7.5 at the time Lincoln Palisades Phase VI was designed and approved. Since then, however, the adjoining property has been rezoned Open Space (OS). In this zoning designation, public utilities are considered conditional uses. Consequently, a conditional use permit is required to construct Lincoln Palisades Phase VI.

In addition to construction of an off-site sanitary sewer line, grading will occur on Lincoln City's property to support the approved construction of NE 51st Loop. The proposed earthwork will occur on the portion of OS zoned property located between Lots 21 and 22 of Lincoln Palisades Phase VI. The applicant is currently coordinating with Lincoln City Public Works to ensure that the proposed earthwork satisfies the relevant structural and design requirements; as such, the applicant understands and would support a Condition of Approval requiring a geotechnical report be provided prior to construction of this roadway.

Alpha Building Ventures is also proposing to modify the approved development plan. In the original submittal, all thirty-two (32) lots were going to be constructed in a single phase. The applicant is now proposing to decrease the number of lots to twenty-nine (29) and develop the project in two phases. No other alterations will be made to the approved tentative plans.

The proposed development conforms to all applicable sections of the Lincoln City Municipal Code (LCMC). This application narrative provides findings of fact that demonstrate conformance with all applicable sections of the above-mentioned governing regulations. Applicable criteria of the LCMC will appear in italics followed by the applicant's responses in regular font.

II. Conditional Use Permit (LCMC 17.77.060)

A. *Purpose. In all zones, conditional uses listed in that zone may be permitted subject to the granting of a conditional use permit. Because of their unusual characteristics, or the special characteristics of the area in which they are to be located, conditional uses require special consideration so that they may be properly located with respect to the objectives of this title and their effect on surrounding properties.*

Response: This application is requesting a Conditional Use Permit to allow the construction of a sanitary sewer line on a property zoned Open Space (OS). Additionally, this application will permit grading and earthwork on the same OS zoned property. This grading is associated with the construction of NE 51st Loop, a public street containing public utilities. Because this grading is a key component of a public utility, it fits best under the "public utilities" classification. Public utilities and drainage facilities are listed as conditional uses in this zoning district under LCMC 17.43.030.C. Therefore, both proposed improvements, the sanitary sewer and grading are conditionally permitted on the subject property.

B. *Procedure. Conditional use permit requests are subject to the Type III procedure, as described in LCMC 17.76.050.*

Response: This Conditional Use Permit request will be processed through a Type III procedure by the City of Lincoln City in accordance with LCMC 17.76.050.

C. *Submittal Requirements.*

1. *Type III application submittal requirements are set forth in LCMC 17.76.050. Specific submittal requirements are provided on application forms and checklists as authorized in LCMC 17.76.110.*

Response: All applicable submittal requirements required by LCMC 17.76.050 and 17.76.110 have been included in the application materials. Therefore, this standard is met.

2. *At a minimum, an application for a conditional use shall include the following:*
 - a. *An application form signed by the applicant and every current property owner of record as shown on the most current recorded deed;*

Response: Alpha Building Ventures, applicant, has signed the Conditional Use Application form. This form includes all relevant contact information for the applicant and the applicant's engineer. Therefore, this standard is met.

- b. *Full payment of the application fee, based on the fee schedule in effect on the date of submittal;*

Response: A completed Online Direct Pay Authorization Agreement has been submitted alongside this land use application, permitting full payment of the application fee. Therefore, this standard is met.

- c. *Existing conditions plan;*

Response: An existing conditions plan has been included in the accompanying tentative plan set as Sheet 2.0. Therefore, this standard is met.

- d. *Site plan;*

Response: A site plan has been included in the accompanying tentative plan set as Sheet 3.0. Therefore, this standard is met.

- e. *Landscape plan;*

Response: A landscape plan has been included in the accompanying tentative plan set as Sheet 4.0. Therefore, this standard is met.

- f. *Building elevations (for new construction);*

Response: The proposed Conditional Use Permit does not include the construction of buildings. Therefore, building elevations are not included in this application package and this standard does not apply.

- g. *Phasing plan (if phasing is proposed);*

Response: The site plan included in the tentative plan set as Sheet 3.0 also illustrates the proposed phasing plan. Therefore, this standard is met.

- h. *Traffic impact study pursuant to LCMC 17.52.300; and*

Response: The proposed development does not involve or create any of the situations outlined under LCMC 17.52.300.B. Therefore, a traffic impact study is not required.

- i. *Narrative addressing compliance with each approval criterion and applicable standard.*

Response: This application narrative provides responses to each applicable decision criterion and standard. Therefore, this standard is met.

D. *Approval Criteria. In order to grant any conditional use, the planning commission must find, based upon evidence, both factual and supportive, provided by the applicant, that:*

1. *The proposal is in compliance with the comprehensive plan;*

Response: As required by this criterion, an application for a Conditional Use Permit must be evaluated against the relevant goals outlined in Lincoln City's Comprehensive Plan and determined to be supportive of these statements. In addition to the brief responses to each applicable goal, below, compliance with the applicable development code standards and decision criteria ensures a base level of compatibility with the Comprehensive Plan. Because the development code enforces the Comprehensive Plan goals, compliance with LCMC results in a project that is compliant with the Comprehensive Plan.

Goal – Planning

To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.

The proposed Conditional Use Permit application will be processed through a Type III procedure as outlined in LCMC 17.76.050. This process provides a policy framework and basis for land use planning decisions. Adequate processing of this application ensures it supports this goal.

Goal – Citizen Involvement

Develop a Citizen Involvement Program (CIP) which ensures the continued participation of citizens in the land use planning process.

As previously mentioned, the proposed Conditional Use Permit application will be processed through a Type III procedure as outlined in LCMC 17.76.050. This process includes opportunities for citizen involvement during the public hearing before the Planning Commission (a citizen board). Additionally, a public notice will be mailed to surrounding property owners and to affected government agencies. Therefore, adequate processing of this application ensures it supports this goal.

Goal – Public Services and Utilities

To plan and develop a timely, orderly, and efficient arrangement of public facility and services which compliment [sic] the area and serve as a framework for urban and rural development.

The city-owned property adjacent to Lincoln Palisades Phase VI was previously zoned R-1-7.5, which permitted the construction of public utilities in service of residential development. A sanitary sewer line was constructed under the city-owned property to serve past residential development – without this gravity line many of the previous subdivisions in this area would require lift stations.

As an existing public utility, it is more orderly and efficient for Lincoln Palisades Phase VI to connect to an existing gravity sanitary sewer line than construction and dedicate to the city a new sanitary sewer lift station (both costly to construct and maintain). The proposed route effectively utilizes existing infrastructure to serve new residential development.

The proposed extension of NE 51st Loop requires a structural support system. After reviewing potential options and coordinating with Lincoln City Public Works, the applicant is proposing structural fill to support the proposed public street extension. The applicant believes it is more cost effective, safer, and easier to maintain. As noted in Section I, Project Description, of this application narrative, the applicant will provide a geotechnical report detailing the construction and placement of fill in the proposed area prior to constructing the street.

The proposed earthwork will impact an existing stormwater quality facility serving Lincoln Palisades Phase I. To ensure runoff generated by the impervious surface in Phase I is still treated prior to exiting the site, a new bioswale will be constructed on Lots 19 and 29. This swale will intercept runoff from Phase I and treat it prior to the water leaving the property. The proposed replacement quality facility is illustrated on Sheet 3.0 of the attached tentative plan set. Therefore, this application is supportive of the Public Services and Utilities Goal.

Housing Goal

To provide for the housing needs of all citizens.

The proposed Conditional Use Permit application would permit the supporting infrastructure necessary to develop an additional twenty-nine (29) residential units. This project will provide housing for the citizens of Lincoln City; therefore, the proposed application is supportive of this goal.

Overall Environmental Goal

To achieve a balance between the need to provide housing and services and the need to protect and enhance the natural environments of the City.

There are wetlands located on the city-owned property; however, the proposed grading and sanitary sewer extension will not impact these wetlands (Illustrated on Sheet 3.0). By avoiding significant natural features, the proposed Conditional Use Permit application

effectively provides housing without sacrificing the natural resources in the area. Therefore, the proposed project is supportive of this goal.

The proposed Conditional Use Permit application satisfies this criterion.

2. *The site for the proposed use is adequate in size and shape to accommodate the use and all required setbacks, common spaces, retaining walls, parking and loading areas, landscaping, and other features required by this title;*

Response: The proposed development does not involve or require setbacks, common spaces, retaining walls, parking and loading areas, or landscaping. However, the site is of an adequate size and shape to allow infrastructure to be constructed without impacting the on-site natural features. Therefore, this criterion is satisfied.

3. *The site for the proposed use relates to streets and highways adequate in width and degree of improvement to handle the quantity and kind of vehicular traffic that would be generated by the proposed use;*

Response: The proposed grading and sanitary sewer extension will not generate additional vehicle or pedestrian traffic when completed. As noted above in the applicant's response to LCMC 17.70.060.C.2.h., these improvements do not warrant a traffic impact study. Therefore, this criterion does not apply to this Conditional Use Permit application.

4. *The proposed use will have minimal adverse impact upon adjoining properties and the improvements thereon. In making this determination, the review authority shall consider, but not be limited to, the proposed location of the improvements on the site, vehicular egress/ingress and internal circulation, pedestrian access, setbacks, height and mass of buildings, retaining walls, fences, landscaping, screening, exterior lighting, and signage;*

Response: The proposed does not contain any of the features listed in this criterion. There will be no visual impacts as the sanitary sewer improvements will be underground and natural ground cover will eventually mask any evidence of earthwork. The grading associated with NE 51st Loop would also have no visual impact on adjacent properties because it would occur at ground level and be seeded with natural ground cover to prevent erosion.

The existing stormwater quality facility serving Lincoln Palisades Phase I will be replaced. The proposed grading will need to occur where the facility is currently located. To continue to provide water quality treatment for the runoff generated by Lincoln Palisades Phase I, a new stormwater quality swale will be constructed on Lots 19 and 29. This swale will collect water from the existing stormwater system and treat it prior to the water entering the stormwater system constructed to serve Lincoln Palisades Phase VI. Therefore, this Conditional Use Permit application will have no adverse impact on the adjoining properties. This criterion is satisfied.

5. *In areas designated as requiring preservation of historic, scenic or cultural attributes, proposed structures will be of a design complementary to the surrounding area.*

Response: There are no structures proposed by this Conditional Use Permit application. Therefore, this criterion does not apply.

III. Modifications of Approved Applications, Plans, or Conditions of Approval (LCMC 17.77.110)

A. *Purposes. The modification process allows approved applications, plans, or conditions of approval to be modified under an appropriate review process without initiating repetition of the original application.*

Response: The applicant is proposing to decrease the number of lots from thirty-two (32) to twenty-nine (29) and construct the project in two phases. Conversations with city staff have indicated that these alterations will require a modification under this code section.

B. *Applicability. The following applications, approved through the provisions of this code, may be modified pursuant to this section:*

3. *Planned development.*

Response: This application proposes to modify Lincoln Palisades Phase VI, an approved planned development.

C. *Procedure for Modifications. Modification applications are subject to the Type II procedure as described in LCMC 17.76.040 or the Type III procedure as described in LCMC 17.76.050, based upon the procedure type of the original application.*

Response: This modification approved application request will be processed through a Type III procedure by the City of Lincoln City in accordance with LCMC 17.76.050.

D. *Submittal Requirements. Type II and Type III application submittal requirements are set forth in LCMC 17.76.040 and 17.76.050, respectively.*

Response: All applicable submittal requirements required by LCMC 17.76.050 and 17.76.110 have been included in the application materials. Therefore, this standard is met.

E. *Scope of Review. The scope of review for a modification shall be limited to the modification request.*

Response: The proposed modification will decrease the number of lots from thirty-two (32) to twenty-nine (29) and divide the project into two phases. As required by this standard and decision criterion LCMC 17.77.110.F.3., this portion of the application narrative only discusses these two proposed alterations.

F. *Approval Criteria. To approve modification application, the review authority shall make findings of fact, based on evidence provided, that the following criteria are satisfied:*

1. *The location, size, and functional characteristics of the modified development can be made reasonably compatible with, and would have a minimal impact on, properties surrounding the subject site; and*

Response: The location or size of improvements associated with Lincoln Palisades Phase VI have not been altered by this modification. Decreasing the number of lots will slightly alter the functional characteristics of the development but primarily in a manner that would decrease impacts. With fewer lots, Lincoln Palisades Phase VI would generate less traffic, noise, light, and stormwater runoff. Consequently, this modification would have minimal impact on properties surrounding the subject site.

Dividing Lincoln Palisades Phase VI into two phases of construction does not alter the project's location, size, or its functional characteristics post-development. Therefore, this criterion is satisfied.

2. *New elements are provided that functionally compensate for any negative effects caused by the requested modification(s). New elements used to compensate for a negative effect shall be of at least equal value to the elements proposed to be changed.*

Response: As described in the applicant's response to the previous decision criteria, the proposed modification decreases the impacts to surrounding properties. As such, there are no negative effects that require compensation. Therefore, this criterion is satisfied.

3. *The criteria in subsections (F)(1) and (F)(2) of this section shall be applied only to the area and/or lots within the development that are affected by the proposed modification.*

Response: The applicant's responses have been limited to the subtraction of three lots and the proposal to construct this project in two phases. Therefore, this criterion is satisfied.

4. *The proposed modification shall demonstrate compliance with the approval criteria of the original application.*

Response: The approval criteria for a Planned Development Preliminary Master Plan were as follows at the time Lincoln Palisades Phase VI was original submitted:

- 17.77.120.H.1. *The planning commission shall approve, or approve with conditions, the plan if it finds that the plan, either as submitted or with conditions, meets all of the following criteria. The planning commission shall disapprove the plan if it finds that the plan, either as submitted or with conditions, does not meet any one or more of the following criteria:*
 - a. *The proposed planned development will be substantially compatible with existing development in the surrounding area; and undeveloped land in the surrounding area can be developed in a manner substantially compatible with the proposed planned development.*

Response: In the initial response to this criterion the applicant stated:

"Substantially compatible with existing development does not require proposed development to be identical to existing nearby structures and uses. Instead, compatibility is a development's

capacity to exist in harmony with surrounding uses. An analysis of compatibility identifies the existing uses, describes the proposed use, assesses the type and extent of impacts created by the proposed use, and estimates the effects of those impacts.

Existing: North, south, and west of Lincoln Palisades Phase VI surrounding existing uses are residential in nature. To the east, Lincoln City owned land remains undeveloped for the preservation of natural features. Lincoln Palisades (60 lots platted in 1996), Lincoln Palisades Phase 2 (34 lots platted in 2007), Lincoln Palisades Phase 3 (12 lots platted in 2018), Lincoln Palisades Phase 4 (11 lots platted in 2019), and Lincoln Palisades Phase V (18 lots currently under construction) are five subdivisions in the immediate area. Palisades Condominiums consists of 50 units built in 1981 on 5.91 acres. The floor area of each unit is 945 SF. The density is 8.5 DU/Ac. There are five buildings with 8 units and one building with 10 units. All buildings are two-story with separate ground floor and second floor units. Buildings are oriented around a central parking area. The grounds are landscaped close to the buildings and naturally vegetated around the perimeter.

Proposed Uses: The character of the proposed PUD is residential in nature, being comprised solely of single-family dwellings. No other uses are proposed. All lots within Lincoln Palisades Phase VI comply with the minimum dimension standards for the R-1-7.5 zoning district. The project is proposing a density of approximately four units per acre; this is a density comparable to surrounding developments. The operating characteristics of the proposed PUD would be no different than those for the existing neighborhood in terms of light, sounds, and vehicle movement. The effect of additional traffic is summarized previously in this application narrative, those findings and conclusions being incorporated here by reference. Therefore, this standard is met.

The foregoing description and analysis finds no material difference between existing and proposed uses in terms of size, scale, and operating characteristics. Therefore, the proposed PUD is substantially compatible with the surrounding area as required by this criterion.”

This statement remains factual regardless of the proposed modifications. Therefore, this criterion continues to be satisfied.

- b. *Construction of the planned development can be accomplished in a manner that does not create unreasonable negative impacts on the area surrounding the development or in the city. In order to assure the avoidance or mitigation of negative construction impacts on the area surrounding the development or in the city, the planning commission may impose conditions including but not limited to:*
 - i. *Requirements that removal of existing landscaping during construction be limited to areas of the planned development to be constructed shortly following removal and to portions of those areas on which construction will occur;*
 - ii. *Prohibitions of open burning on the site during construction;*
 - iii. *Prohibitions or limitations on construction track-out;*

- iv. *Restrictions on construction noise; and*
- v. *Restrictions on construction traffic.*

Response: In the initial response to this criterion the applicant stated:

“Short-term construction impacts are typically associated with clearing of land, movement of vehicles, storage of materials, and operation of equipment. Municipal ordinances adopted by the city safeguard the public welfare against these and other factors. Those protections include the following:

- LCMC 8.08.020 Outdoor burning of construction waste is prohibited.
- LCMC 8.12.040 Authorized construction projects must apply reasonable safeguards to avoid creating attractive nuisances.
- LCMC 9.10.030 Sound that exceeds 50 dBA as measured at the property boundary is prohibited between 7:00 p.m. and 7:00 a.m.
- LCMC 9.10.040 Construction activities are exempt from sound limitations between 7:00 a.m. and 7:00 p.m.
- LCMC Chapter 12.08 Contractor must install and maintain City-approved erosion control measures.
- LCMC 12.12.090 All work undertaken, including but not limited to excavation, backfilling, surface restoration, protection of utilities, traffic control, safety precautions, noise and dust control and cleanup, shall be approved by the city.

These local ordinances regulate many activities associated with construction. No additional construction activities have been identified that would warrant mitigation. Therefore, no additional restrictions are proposed.”

This statement remains factual regardless of the proposed modifications. Therefore, this criterion continues to be satisfied.

- c. *The development will not create unreasonable negative impacts on the area surrounding the development or in the city. In order to assure the avoidance or mitigation of negative impacts, the review authority may require the filing of restrictions in the county deed records including but not limited to restrictions:*
 - i. *Prohibiting the removal of specified landscaping; and*
 - ii. *Prohibiting open burning during construction.*

Response: In the initial response to this criterion the applicant stated:

“Appropriate Use of Property: The subject property is zoned for residential development. The proposed preliminary master plan would be the first step in development of the subject property for uses intended by the Code.

Vegetation Removal: Constructing buildings, streets, and utilities, will require the removal of some brush and trees that directly conflict with these improvements. However, every effort has been made in the design of the site improvements to retain significant natural vegetation including large trees that are compatible with development. Additional brush and undergrowth may be removed for safety and security purposes. The City Engineer is responsible for reviewing plans for tree removal and preservation of remaining trees. Details of those plans are presented earlier in this narrative under review criterion LCMC 17.77.120(G)(13). Those findings and conclusions are incorporated herein by reference.

As noted in the preceding subsection, outdoor burning of construction waste is prohibited (LCMC 8.08.020). Approved landscaping planted in accordance with the preliminary master plan would not be removed in subsequent phases, Therefore, the proposed PUD would not create unreasonable negative impacts on the surrounding area.”

This statement remains factual regardless of the proposed modifications. Therefore, this criterion continues to be satisfied.

- d. *Street, water, sewer, drainage and drainage pretreatment, storm water detention, and other similar facilities in the area surrounding the development and in the city are or will be adequate to provide for the health, safety and welfare for the development’s population densities and the type of development proposed, taking into consideration existing and projected future demands on those facilities.*

Response: In the initial response to this criterion the applicant stated:

“Streets in Lincoln Palisades Phase VI are designed to comply with city standards and to accommodate anticipated traffic loads. Off-site traffic impacts are summarized earlier in this application narrative, which are incorporated herein by reference.

The municipal water supply that would serve the proposed planned development is stored in a reservoir on Port Lane, a short distance from the subject property. Transmission lines are of sufficient capacity to serve the planned needs of the proposed planned development and the surrounding area.

The proposed planned development is situated in sewer basin 4007. Sanitary sewer lines currently terminate at the property boundaries and will be extended through the project.

The proposed planned development would be developed in a manner designed to minimize the impact of the downstream area as well as the environment within the development. Water quality features would be designed to help minimize the impact of sediments on runoff facilities.”

Except for the Conditional Use Permit required to construct the grading associated with NE 1st Loop and off-site sanitary sewer extension, this statement remains factual regardless of the proposed modifications. Therefore, this criterion continues to be satisfied.

- e. *Street, water, sewer, drainage and drainage pretreatment, storm water detention and other similar facilities proposed to be constructed as part of the development are adequate to provide for the health, safety and welfare for the population densities and the type of development proposed.*

Response: In the initial response to this criterion the applicant stated:

“The City of Lincoln City has adopted and maintained standards for streets, water systems, sanitary sewer systems, stormwater drainage systems, and stormwater pretreatment to protect the health, safety, and welfare of its citizens. The design and construction of these facilities in Lincoln Palisades Phase VI as shown on the utilities plan would conform to those standards.”

This statement remains factual regardless of the proposed modifications. Therefore, this criterion continues to be satisfied.

- f. *The proposed number of residential units does not exceed the maximum permitted number of residential units, and at least 15 percent of the gross area is dedicated to landscaping. For purposes of computing area dedicated to landscaping, dedicated open space and protected resource areas may be treated as area dedicated to landscaping, but parking areas may not.*

Response: In the initial response to this criterion the applicant stated:

“Lincoln Palisades Phase VI was initially a subphase of an approved master plan for the greater Lincoln Palisades project. To ensure the larger project provided adequate landscaping and open space, Final Order 94-07 required the applicant to designate 18.63 acres of land as open space. This open space was created and dedicated by Partition Plat 2015-03. This partition divided a 38.77-acre parcel into a 12.56-acre parcel, a 7.57-acre parcel (the property being divided as Lincoln Palisades Phase VI), and an 18.64-acre tract. These 18.64 acres were dedicated despite not all approved lots being created at the time of dedication. Therefore, open space associated with the lots proposed as Phase VI has already been dedicated and no additional dedication should be required.”

This statement remains factual regardless of the proposed modifications. Therefore, this criterion continues to be satisfied.

All previous decision criteria continue to be satisfied; therefore, this modification criterion is also satisfied.

- G. *Conditions of Approval. Pursuant to LCMC 17.76.120, the review authority may impose conditions on the approval of a modification application to ensure compliance with the original approval criteria.*

Response: The applicant acknowledges that the review authority may impose conditions of approval on the modification application to ensure compliance with the original approval criteria.

IV. Conclusions

This application narrative, accompanying exhibits, and site plan demonstrate that the applicable decision criteria of the Lincoln City Municipal Code have been satisfied. Therefore, Reece Engineering and Survey on behalf of the applicant, Alpha Building Ventures, respectfully request approval of this application.