

**CITY OF FLORENCE  
PLANNING COMMISSION**

**RESOLUTION PC 24 19 DR 05**

A DESIGN REVIEW REQUEST FOR AN EXCEPTION TO LIGHTING ILLUMINATION LEVELS AS SHOWN ON ASSESSOR'S MAP 18-12-14-33, TAX LOT 1302 AT 3944 OAK ST.

**WHEREAS**, application was made by Layne Morrill, on behalf of Oak Manor Apartments LP, for a Design Review approval as required by FCC 10-1-1-4, FCC 10-1-1-6-3, and FCC 10-37-4B; and

**WHEREAS**, the Planning Commission met in a duly-advertised public hearing on June 25, 2024, as outlined in Florence City Code 10-1-1-6-3, to consider the application, evidence in the record, and testimony received; and

**WHEREAS**, the Planning Commission of the City of Florence, per FCC 10-1-1-4, FCC 10-1-1-6-3, and FCC 10-37-4B finds, based on the Findings of Fact, application, staff recommendation, evidence, and testimony presented to them, that the application *[meets / does not meet]* the applicable criteria *[through compliance with certain Conditions of Approval]*.

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

The request for exception to the permitted illumination levels *[meets / does not meet]* the applicable criteria in Florence City Code *[with the conditions of approval as listed below / and is therefore denied]*.

***[Conditions of Approval:***

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

*Approval shall be shown on conditions of approval as supported by the following record:*

"A"	<i>Findings of Fact</i>
"B"	<i>Application</i>
"C"	<i>Lighting Plans-Luminaire and Photometric Designs</i>
"D"	<i>Testimony--Brock</i>
"E"	<i>Applicant Post Site Visit Memo, March 13, 2022</i>

*Findings of Fact attached as Exhibit “A” are incorporated by reference and adopted in support of this decision.*

- 1. Findings of Fact attached as Exhibit “A” are incorporated by reference and adopted in support of this decision. Any modifications to the approved plans or changes of use, except those changes relating to the structural integrity or ADA access which are regulated by Building Codes, will require approval by the Community Development Director or Planning Commission/Design Review Board.*
- 2. Regardless of the content of material presented, including application text and exhibits, staff reports, testimony and/or discussions, the applicant agrees to comply with all regulations and requirements of the Florence City Code which are current on this date, EXCEPT where variance or deviation from such regulations and requirements has been specifically approved by formal Planning Commission action as documented by the records of this decision and/or the associated Conditions of Approval. The applicant shall submit to the Community Development Department a signed “Agreement of Acceptance” of all conditions of approval prior to issuance of a building permit.*

**FCC 10-37: Lighting**

- 3. Less than 2 footcandles and greater than 5 but not more than 7 footcandles is permitted within the parking area.]*
- 4. Wall Pack lighting adjacent to the residential doors must be no more than 315 lumens.*

**ADOPTED BY THE FLORENCE PLANNING COMMISSION/DESIGN REVIEW BOARD** the 25<sup>th</sup> day of June, 2024.

\_\_\_\_\_  
Sandra Young, Chairperson  
Florence Planning Commission

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DATE

**CITY OF FLORENCE—PLANNING COMMISSION**  
**FINDINGS OF FACT**  
**Design Review**  
**Exhibit “A”**

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**Hearing Date:** June 21, 2024      **Planner:** Wendy Farley Campbell

**Application:** PC 24 19 DR 05 Oak Manor Lighting Exception

**I. PROPOSAL DESCRIPTION**

**Proposal:** Design Review application requesting an exception to lighting illumination levels.

**Applicant:** Oak Manor Apartments LP, represented by Layne Morrill

**Property Owner:** same as applicant

**Location:** 3944 Oak St.  
Assessor’s Map 18-12-14-33, Tax Lot 1302  
General Location: East of Oak St. North of 38<sup>th</sup> Loop

**Comprehensive Plan Map Designation:** Highway

**Zone Map Classification:** Highway District

**Surrounding Land Use / Zoning:**

Site: Apartments / Highway District (HD)  
North: Vacant & Retail Service/ HD  
South: Vacant / HD  
East: Hotel / HD  
West: Single Unit Detached Residential PUD / HD

**Streets / Classification:**

South – None; East – None; West – Oak St. / Collector; North – None

**II. NARRATIVE:**

In the fall of 2021, the applicant applied for and received approval under AR 21 11 DR 02 for design review of a 24-unit apartment complex. Then in the spring of 2022 secured MUPTE status from the City Council after having proposed the City adopt policy to support tax abatement as a tool in support of housing production. City Council adopted the city code for the MUPTE program effective January 2022. The project also received state funding to construct units classified as affordable housing. The development went into construction in the Spring of 2023.

In 2024 planning staff performed conditions check site visits to sign off on the land use conditions so that final occupancy could be issued and the building permits closed out. One item needing correction was the lighting. One site visit noted that the parking lot lighting proposed along the northern property line had not been installed. When asked about the reason for the change, the reply was that the contractor had found the northern lights were not necessary. The photometric provided with the 2021 approval illustrated a deficiency in the illumination levels on the northern parking area and over illumination adjacent to the bicycle parking and the findings included a condition for correction as shown below.

*“28. The Lighting Plan demonstrates that there are areas in the most northern area of the parking area that do not meet the minimum requirement of 2 foot-candles. Additionally, bicycle area lighting nearest the office measures 16 foot-candles whereas another measures only on (1.4). To meet requirements of FCC 10-37 3, the applicant shall either amend the Lighting Plan to reflect compliance or request an exception to be decided upon by the Planning Commission.*

So, it was puzzling that the light levels would be sufficient with the removal of the parking lot lighting on the northern side. An evening site visit found the site to be over illuminated. The unshielded wall packs on the apartment buildings were providing the extra illumination needed for the northern parking lots spaces but were also creating significant light trespass and glare. Code Enforcement staff and the applicant’s contractor each performed illumination level testing. It was found that the lighting levels along the northern parking spaces where no light fixtures were installed had illumination levels over the maximum foot candle level. Additionally, the entry wall packs located at each of the unit doors exceeded the allowable lumens. The applicant was asked to adjust the dimmable wall packs to be in compliance with the allowable lumens to see if that helped reduce the foot-candle amounts along the northside of the parking lot.

The applicant worked with their electrical engineer to adjust the illumination levels on the site. This included replacing the non-dimmable wall packs with the originally specified dimmable version and then performing a new illumination test. The applicant’s electrical engineer found illumination level readings in the parking lot less than 2-foot candles along the northern parking spaces and illumination levels greater than 5-foot candles directly under the lighting fixtures adjacent to the buildings on the south side of the parking lot. It is unknown what level the wall packs were dimmed to. The applicant has changed the lighting plan as required in Condition 28 of their original approval but has found that they still need an exception review to be considered by the Florence Planning Commission.

### **III. NOTICES & REFERRALS:**

**Notice:** On June 5, 2024, notice was mailed to surrounding property owners within 100 feet of the property and a sign posted on the property. On June 15, 2024 the notice was published in the Siuslaw News.

At the time of this report, the city had received no written comments.

**Referrals:** No referrals were sent as there are no utility stakeholders related to this application.

#### IV. APPLICABLE REVIEW CRITERIA

**Criteria Applying to this Matter for the application include:**

**Florence City Code, Title 10:** (<http://www.ci.florence.or.us/council/title-10-zoning-regulations>)

Chapter 1: Zoning Administration, Section 1-6-3

Chapter 37: Section 4B, 5R and 8

#### V. FINDINGS

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

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#### **FLORENCE CITY CODE**

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#### **TITLE 10: CHAPTER 1: ZONING ADMINISTRATION**

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#### **10-1-1-4: APPLICATION:**

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

The applicant submitted their request on a form prescribed by the city.

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

[...]

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

Title 10 Chapter 37 requires Planning Commission to hear exceptions to lighting code. This application is therefore a Type 3.

#### **10-1-1-6-3 LAND USE HEARINGS:**

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

FCC 10-37-4-B offers an opportunity for the Design Review Board to consider exceptions to the lighting illumination levels in parking lots. In accordance with FCC 10-6, The Planning Commission serves as the Design Review Board. Exceptions to the code considered by the Design Review Board require a Type III process which requires a public hearing.

**B. Notification of Hearing:**

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

Notification of the quasi-judicial land use hearing for this application was mailed on June 5, 2024 20 days prior to the hearing, to all property owners within 100 feet of the subject property. A notice was also published in the Siuslaw News one time on June 15, 2024. These criteria are met.

**C. Notice Mailed to Surrounding Property Owners – Information provided:**

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

- i. **Include the name of a local government representative to contact and the telephone number where additional information may be obtained.**

The notice mailed to surrounding property owners was consistent with the criteria noted above. The application was properly noticed and these criteria are met.

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

The Planning Commission met on June 25, 2024 in a duly-noticed public hearing. They acted upon the application in accordance with FCC 2-10 and observed all hearing procedures in accordance to FCC Title 2, Chapter 10.

**E. Action by the Planning Commission:**

1. **At the public hearing, the Planning Commission shall receive all evidence deemed relevant to the issue. It shall then set forth in the record what it found to be the facts supported by reliable, probative and substantive evidence.**
2. **Conclusions drawn from the facts shall state whether the ordinance requirements were met, whether the Comprehensive Plan was complied with and whether the requirements of the State law were met.**
3. **In the case of a rezoning request, it shall additionally be shown that a public need exists; and that the need will be best served by changing the zoning of the parcel of land in question.**
4. **There is no duty upon the Planning Commission to elicit or require evidence. The burden to provide evidence to support the application is upon the applicant. If the Planning Commission determines there is not sufficient evidence supporting the major requirements, then the burden has not been met and approval shall be denied.**

The Planning Commission received all evidence available and deemed relevant at the public hearing. The Planning Commission had the option to deny approval if they determined that insufficient evidence had been provided to indicate that the application had not met the applicable criterion. The findings of fact include conclusions regarding compliance with the applicable criteria. The burden to supply such evidence is upon the applicant.

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**TITLE 10: CHAPTER 37: LIGHTING**

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**10-37-3: LIGHTING PLANS REQUIRED: All applications for building permits and land use planning review which include installation of exterior lighting fixtures, not exempted, shall include the number of luminaires, the number of lamps in each luminaire, a photometric report for each type of luminaire and a site plan with the photometric plan of the lumen output.**

The City shall have the authority to request additional information in order to achieve the purposes of this Ordinance.

The applicant submitted a photometric site plan with the proposed footcandles of the lumen output for the development and cutsheets for the fixtures that were used for the Type 2 review. Plans were subsequently provided with the building permit application. Parking lot, building, and bollard lighting were then installed. With this application another photometric plan was submitted that illustrates the parking lot lights that were eliminated along the northern border. It also includes cloud annotations with the new footcandle amounts along the northern parking spaces and directly under the fixtures on the south side. The applicant is using unshielded fixtures at each door of the 24 dwelling units. The presence of this number of unshielded luminaires has an effect on the illumination levels in the parking lot.

**10-37-4: LIGHTING STANDARDS:**

**A. All exterior lighting fixtures subject to this code section must be designed as a full cut-off fixture or have a shielding method to direct light emissions downward below the horizontal plane onto the site and does not shine illumination or glare skyward or onto adjacent or nearby property.**

The 2021 Type 2 application and the 2023 building permits included parking lot photometrics and lighting plans for the proposed lighting. They include two types of pole lighting for the parking areas, bollard lighting for the open space areas and wall packs for the dwelling unit porches and other exterior doors. Except for the EL-1511 wall pack porch light the proposed luminaires appear to be full-cut off. This chapter offers residential door lighting an exemption to full-cut off if held to a certain lumen level. The exterior lighting fixtures meet this criterion or are available for an exemption.

**B. Parking areas shall have lighting to provide at least two (2) foot-candles of illumination at any point in the entire lot with a maximum of five (5) foot-candles over parking spaces and walkways. The Design Review Board may decrease the minimum if the applicant can provide documentation that the overall parking lot has adequate lighting. The Design Review Board may increase the maximum on a case-by-case basis, with no greater than 7 foot-candles measured directly under the light fixture.**



The photometric site plan submitted for the 2021 Type 2 design review application included illumination levels for the site. The review found areas of the parking lot along the northern parking



area that were less than 2-foot candles. Condition 28 of that review required modification of the lighting plan or illumination levels to achieve the requirements of 10-37-4-B or receive approval from the Design Review Board. This condition is included in the narrative above. In December 2022 a revised photometric was provided that resolved the illumination issues.

When staff were performing the conditions check site in March 2024 it was noted that the parking lot lighting proposed along the northern property line had not been installed. When asked about it the applicant stated the contractor has found the northern lights were not necessary. On April 3<sup>rd</sup> the applicant provided a revised photometric with the as-built lighting which included two new lights installed at the east and west ends of the lot. On the 4<sup>th</sup> the contractor did an on-site illumination test with readings as follows: along the north side from the north west corner going east: 5.1, 3, 4, 2.1, 2.3, 2.5, and 3.8. On April 5<sup>th</sup> code enforcement staff performed an illumination test and found the readings to be similar but calculated an 8.3 at the east end. It is unknown if one of the two readers transposed numbers on the last reading. Either way it concluded that the lighting in the parking lot along the northern spaces where there are no lighting fixtures had illumination levels over the maximum foot candle level. It can then be presumed that the lighting closer to the buildings and in the middle of the parking lot would be well over the allowable levels. On April 7<sup>th</sup> planning staff did an evening site visit and noted the site was in fact over illuminated. The unshielded wall packs were providing the extra illumination and, in the process, creating significant light trespass and glare. On the 8<sup>th</sup> when reviewing the lighting spec sheets it was noted that the wall packs offered an output of 700 lumens but were dimmable. The applicant was asked to adjust the wall packs to the 315 allowable lumens and see if that helped reduce the foot-candle amounts.

The applicant worked with their electrical engineer to adjust the illumination levels on the site. This included replacing the installed wall packs with a dimmable version and then performing a new illumination test. The application materials state the minimum levels range from 0.10 to 1.70-foot candles along the northern extent of the parking lot. And that the levels directly under the poles along the southern edge of the parking lot are 5.85, 5.72, 5.82, 5.13, and 6.17 with 1.13 and 2.47 in between the poles. The readings in the parking lot include illumination levels less than 2-foot candles along the northern parking spaces and illumination levels greater than 5-foot candles directly under the lighting fixtures adjacent to the buildings on the south side of the parking lot. It is unknown what level the wall packs were dimmed to. The applicant has changed the lighting plan as required in Condition 28 of their original approval but has found that they still need an exception.

In accordance with code the Design Review Board may decrease the minimum foot candle if the applicant can provide documentation that the overall parking lot has adequate lighting. Also, the Design Review Board may increase the maximum on a case-by-case basis, with no greater than 7 foot-candles measured directly under the light fixture. The applicant has applied and provided an amended photometric plan and a statement about the process and activities done to adjust the site lighting.

*[At the time of writing staff had not performed a separate illumination test on the revised lighting fixtures. Parking lot illumination can be considered for an exception. However, the wall packs must meet the allowed lumen levels. If staff testing from the site visit and applicant's post site testing*

response corroborate that the illumination levels are adequate for the site then staff will recommend approval.]

**10-37-5: EXEMPTIONS:**

**R. In addition to exceptions mentioned above the below apply to residential uses.**

- 1. One partly shielded or unshielded luminaire at the main entry, not exceeding 630 lumens.**
- 2. Any other partly shielded or unshielded luminaires not exceeding 315 lumens.**
- 3. Low voltage landscape lighting aimed so that glare is not visible from adjacent properties and not exceeding 525 lumens per fixture.**
- 4. Shielded directional flood lighting aimed so that direct glare is not visible from adjacent properties and not exceeding 1,260 lumens.**
- 5. Lighting installed with a vacancy sensor, where the sensor extinguishes the lights no more than 10 minutes after the area is vacated.**
- 6. Decorative low wattage lights.**

The above code was written in 2014 with the intent of it applying to single and duplex unit dwellings. At the time multi-family dwelling units were considered commercial structures. However, with the changes in state code for clear and objective criteria applying to residential uses this exemption section was used to apply to the apartment residential units even though the impact would be similar to a hotel with the numerous doors and associated porch lights. So, as stated above the wall packs have been included in this exemption section and must not exceed the maximum illumination level in section 2 above.

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**VI. CONCLUSION**

The proposed application [meets/does not meet] the exception criteria of City Code with conditions.

**VII. EXHIBITS:**

"A"	Findings of Fact
"B"	Application and Narrative
"C"	Application Photometric Spot Calculations
"D"	AR 21 11 DR 02 Photometric Plan & Lighting Schematics
"E"	Revised Photometric Plan, December 2022
"F"	Revised Photometric Plan, April 4, 2024
"G"	Lighting Fixture Cutsheets