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FOREST GROVE PLANNING COMMISSION MEETING

COMMUNITY AUDITORIUM, 1915 MAIN STREET
MONDAY MARCH 27, 2017-- 7:00 P.M.

PLANNING COMMISSION

Tom Beck, Chair

Lisa Nakajima
Carolyn Hymes
Dale Smith

Hugo Rojas
Phil Ruder, Vice Chair
Sebastian B. Lawler

The Planning Commission welcomes your attendance and participation. If you wish to speak on an agenda item, please feel free to do so. However, in fairness to others, we respectfully ask that you observe the following:

- * Please follow sign-in procedures on the table by the entrance to the auditorium.
- * Please state your name and address clearly for the record.
- * Groups or organizations are asked to designate one speaker in the interest of time and to avoid repetition.
- * When more than one citizen is heard on any matter, please keep your comments to five minutes and avoid repetition in your remarks. Careful attention to the previous speaker's points will help in this regard.
- * The Planning Commission carefully considers all the facts before a decision is made. Brief statements are most helpful in reaching a decision based on sound judgment.

Planning Commission meetings are electronically recorded and are handicap accessible. Assistive Listening Devices (ALD) or qualified sign language interpreters are available for persons with impaired hearing or speech. For any special accommodations, please contact the City Recorder at 503.992.3235, at least 48 hours prior to the meeting.

AGENDA

(1.) Roll Call

(2.) Public Meeting

1. Public Comment Period for Non-Agenda Items

2. **Public Hearing:**

A. Planning Commission review and approval of a conditional use permit for a day care serving up to sixteen children at 3015 18th Avenue (File #311-17-000006-PLNG and Tax Lot 1S306AA07100).

B. Applicant is requesting a variance to Development Code §10.8.905(F)(2) which requires that a parcel has at least 15 feet of frontage onto a public street. Address – 1919 26th Avenue. The tax lot in question has no street frontage. (File # 311-17-000003-PLNG and Tax Lot 1N331BC03900.)

C. Site Plan and Design Review of proposed 20,200 sq. ft. three-story commercial building, a 3, 149 sq. ft. day care facility, a coffee kiosk drive-through, and parking at 3424 Pacific Avenue, 1943 Oak Street, and 1954 Poplar Street. (File # 311-16-000200-PLNG and Tax Lots # 1S305BA-300, 500, 501 and 1700.)

3. Action Item: None Scheduled
4. Work Session Items: None Scheduled
- (3) Business Meeting
 1. Approval of Minutes
 2. Reports from Commissioners/Subcommittees
 3. Director's Report
 4. Announce next meeting
 5. Adjourn



Conditional Use Permit Staff Report and Recommendation

Community Development Department, Planning Division

REPORT DATE: March 20, 2017

HEARING DATE: March 27, 2017

LAND USE REQUEST: Planning Commission review and approval of a conditional use permit for a day care serving up to sixteen children

FILE NUMBER(S): 311-17-000006-PLNG

PROPERTY LOCATION: 3015 18th Avenue

LEGAL DESCRIPTION: Washington County Map and Tax Lot 1S306AA07100

OWNER/APPLICANT(S): Applicant: Karissa Wold dba Little Turtles Child Care, 3015 18th Avenue Forest Grove, OR 97116
Owner: Scott Bailey, 45975 NW Levi White Rd., Banks, Oregon

COMPREHENSIVE PLAN MAP AND ZONING MAP DESIGNATIONS: Comprehensive Plan Map Designation: B-Standard
Zoning Map Designation: Single Family Residential (R-7)

APPLICABLE STANDARDS AND CRITERIA: Forest Grove Development Code
Conditional Use Review Criteria (10.2.220 et. seq.)

REVIEWING STAFF: Daniel Riordan, Senior Planner

RECOMMENDATION: Approval with conditions

I. BACKGROUND

On February 9, 2017, the owner and operator of Little Turtles Child Care, Karissa Wold, submitted an application to the City for conditional use review and approval of a child care facility providing child care for up to sixteen children (Exhibit A). The location of the child care is 3015 18th Avenue. The operator of the child care does not reside in the home and the home will be used exclusively for child care services.

The subject property is in the R-7 zone and contains one single family dwelling. The site is located across from Joseph Gale Park and about 200 feet from Joseph Gale Elementary School. According City business license records the day care began operating at the present location in 2014. The child care operating has been providing child care services in Forest Grove since at least 2009 according to the City's business license records. At that time, the business license application indicated child care was for four children plus the provider's child. Business license renewals do not require updating the number of children provided with child care.

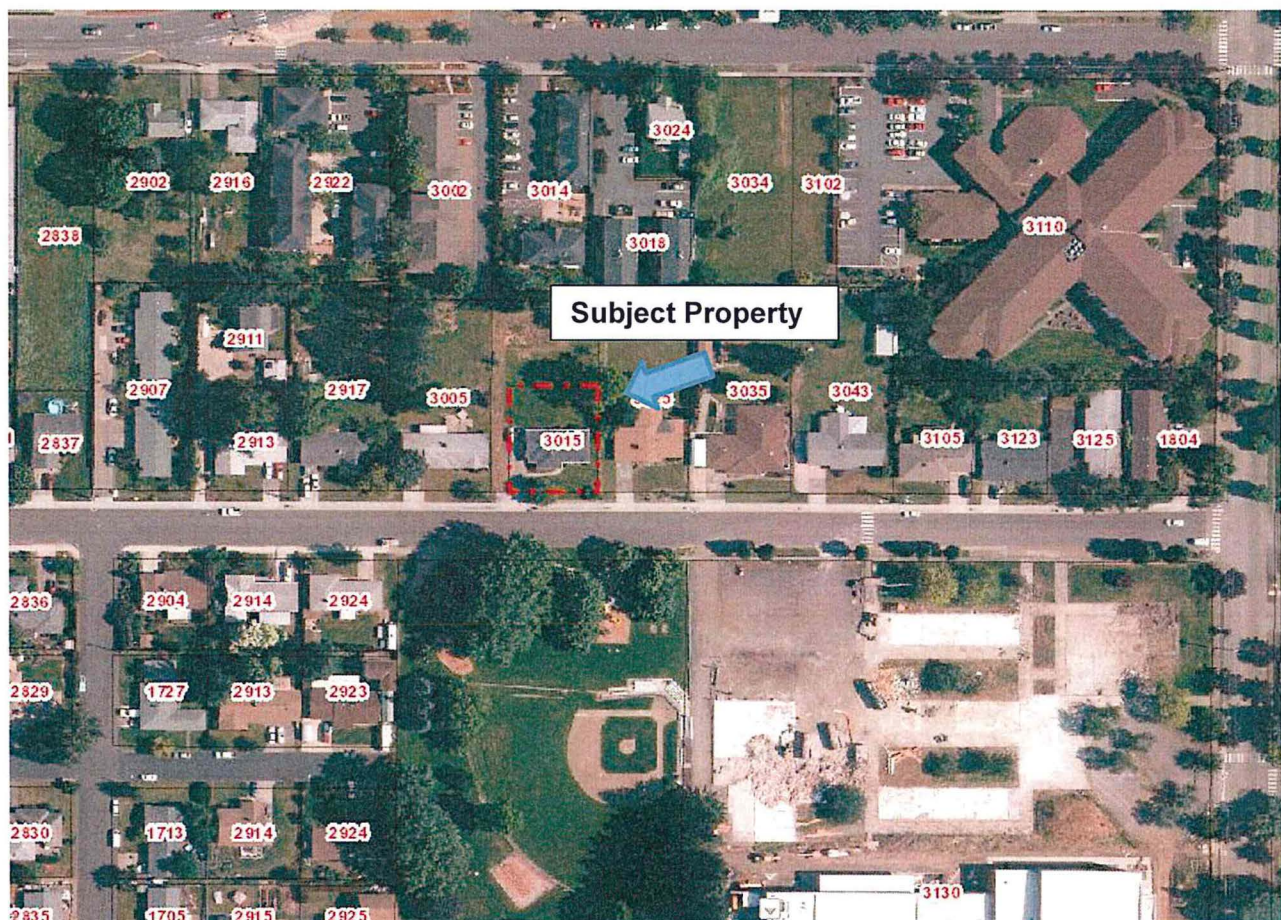
The Forest Grove Development Code §10.3.120 allows child care services for up to twelve children in residential zones as an allowed use without conditional use approval. The operator of the child care facility is licensed by the State of Oregon Office of Child Care Early Learning Division to provide day care services for up to sixteen children. Since the child care provider does not reside in the home the Early Learning Division requested the City verify the day care complies with City land use regulations (Exhibit B). The Development Code is silent about whether the day care provider must reside in the home.

In 2005, the Oregon Legislature amended the Oregon Revised Statutes to allow a registered or certified family child care home for no more than sixteen children as a permitted use in all areas zoned for residential or commercial purposes provided the day care operator resides in the home. If the child care provider resides in the home, State law restricts a city or county from imposing zoning conditions on the establishment and maintenance of a registered or certified family child care home. This restriction does not apply to a certified family child care home where the provider does not reside in the dwelling (ORS §329A.440(4)). Approval of the applicant's request for conditional use approval will allow the day care to continue operation consistent with State licensing and City land use requirements pertaining to child care. Staff has not received any complaints about the operation.

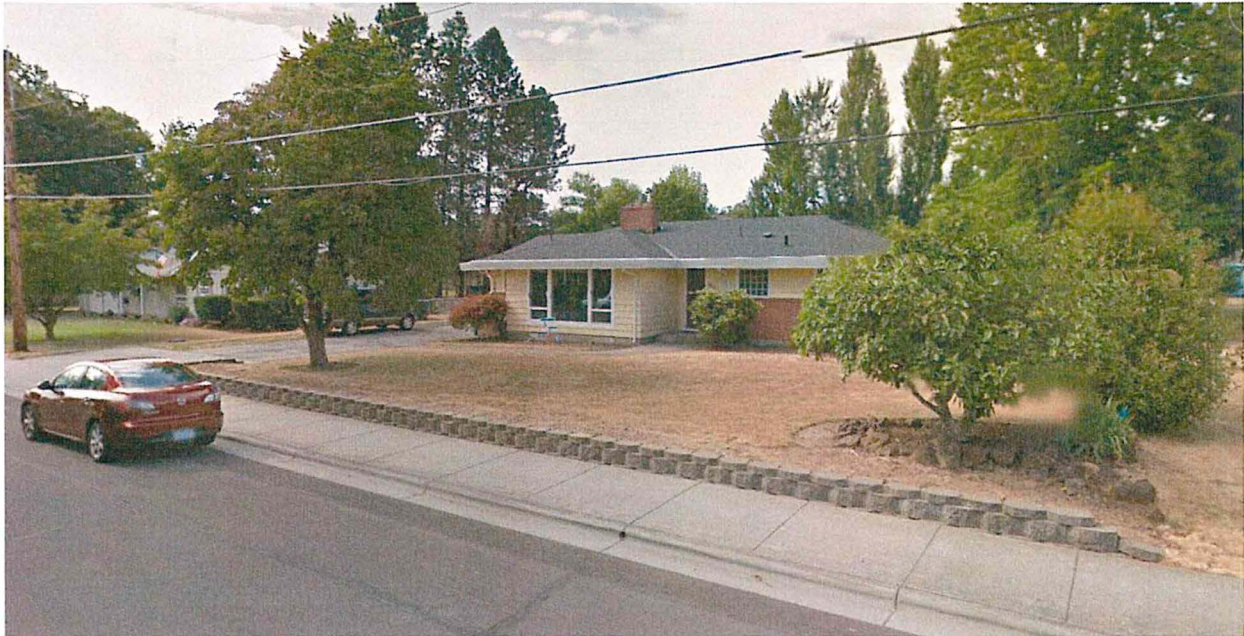
II. ANALYSIS

- A. Description of Proposal: This application is for conditional use approval of a child care facility for up to sixteen children operated by a provider not residing at the home. The day care takes place in an existing single family dwelling. No alteration to the structure or site is proposed. The business license indicates four full-time equivalent employees.
- B. Site Examination: The subject tax lot is approximately 0.20 acres in area. The subject property is contiguous with another in common ownership. This additional lot is 0.24 acres in area. The table and image below shows land use near the subject property. The subject property is located near a variety of land uses including an assisted living facility to the northeast, apartment buildings to the north, single family homes, a park, and the location of what is now the new Joseph Gale Elementary School.

LOCATION	COMPREHENSIVE PLAN DESIGNATION	ZONE DISTRICT	LAND USE
Site	B-Standard	R-7	Single-family detached dwelling being used as a child day care.
North	Community Commercial	CC	Multiple-family residential Assisted living facility
South	Public Park B-Standard	Institutional R-7	Joseph Gale Elementary School Joseph Gale Park Single-family detached homes
East	B-Standard	R-7	Single-family detached homes
West	B-Standard	R-7	Single-family detached homes



The child care services are provided in a 1,430 square foot single-family home constructed circa 1954. The structure is single story and is representative of the single family homes in the area. The image below shows the structure and site.



A site visit was made by Planning Division and Building Division staff on February 14, 2017. The home meets building code and state licensing requirements for a child care home.

III. APPROVAL CRITERIA, FINDINGS AND ANALYSIS

Conditional Use Review Criteria (Development Code §10.2.220)

A. Physical Compatibility

1. The proposed use will be compatible with adjacent developments based on characteristics such as site size, building scale and style, setbacks, and landscaping; or

2. The proposed use will mitigate differences in appearance or scale through setbacks, screening, landscaping, and other design features.

Findings and Analysis: The use is conducted inside an existing single family home with no external impacts. The dwelling is one story and was constructed circa 1954. The structure is approximately 1,430 square feet in area. This structure is characteristic of the size, scale and style of other homes along 18th Avenue. The home is set back from the public right-of-way typical of other dwellings on 18th Avenue. The site is landscaped with lawn, shrubbery and trees typical of a residential neighborhood.

The child care is characteristic of a home occupation allowed in residential neighborhoods. However, since the day care operator does not reside in the home it is technically not a home occupation. Therefore, to ensure compatibility with the residential area the following conditions of approval are proposed. The conditions of approval are those that would apply to a day care as a home occupation:

1. The day care shall not change the residential character of the dwelling;
2. The day care facility shall not generate vehicular traffic measurable in excess of that normally associated with single-family use;

3. One sign shall be permitted, not exceeding six (6) square feet in area and non-illuminated;
4. The day care shall not cause the elimination of required off-street parking.
5. The day care shall not cause any external effects such as increased noise or excessive noise that is incompatible with the site location in a residential zone near a park and elementary school;
6. There shall be no more than four outside paid employees unless additional employees are necessary to meet State licensing requirements for child day care providers;
7. A current City of Forest Grove business license is required as long as the day care is operating.

Conclusion: This criterion is met with the proposed conditions of approval.

B. Public Services

1. The transportation system is capable of safely supporting the proposed use in addition to the existing uses in the area. Evaluation factors include street capacity and level of service, access to arterials, transit availability, on-street parking impacts, access requirements, neighborhood impacts, and pedestrian safety.

Findings and Analysis: The subject property is located on 18th Avenue. 18th Avenue is designated as a neighborhood route in the Forest Grove Transportation System Plan. The Forest Grove Transportation System Plan describes neighborhood routes as streets that are:

“long relative to local streets and provide connectivity to collectors or arterials. Because neighborhood routes have greater connectivity, they generally have more traffic than local streets and are used by residents in the area to get into and out of the neighborhood, but do not serve citywide or large area circulation.”

Since the child care is located on a neighborhood route with higher traffic volumes than a local street it can be expected that the child care will not increase traffic beyond what is expected. Furthermore, this neighborhood route also serves Joseph Gale Park and Joseph Gale Elementary School. The child care activity will not increase traffic beyond that associated with the park and school land uses.

The subject property is located just west of Maple Street. Maple Street is designated as a collector street in the Forest Grove Transportation System Plan. Both streets also serve Joseph Gale Elementary School and the nearby residential and commercial areas. Since 18th Avenue and Maple Street have capacity to serve higher intensity uses there is sufficient street capacity to handle traffic associated with the child care facility.

The child care will not negatively impact on-street parking as there is off-street parking available for the child care provider and caretakers on the driveway. Temporary and limited duration use of on-street parking is likely when parents drop-off or pick-up children. The City has not received complaints about parking or other activities associated with the child care. This suggests the child care will not negatively impact the neighborhood.

Conclusion: This criterion is met.

2. Public services for water supply, sanitary sewer, stormwater disposal, police and fire protection are capable of serving the proposed use and previously approved uses.

Findings and Analysis: Public facilities for water supply, sanitary sewer, stormwater disposal are provided to the home. According to Clean Water Services data an existing 30" sanitary sewer line is present along 18th Avenue and a twelve inch storm water line is present along 18th Avenue. A 12" sanitary sewer line also runs north and south between the subject property (3015 18th Avenue) and 3005 18th Avenue. A water line is also present along 18th Avenue and serves the subject property.

The site is located in a developed area near a school, park and assisted living facility. Police and fire protection are capable of serving these higher intensity uses and a child care facility serving up to sixteen children would not be expected to place an additional burden on these public services. There are no reported issues with capacity or other factors that would indicate inadequate services.

Conclusion: This criterion is met.

C. Livability

The proposed conditional use will not have significant adverse impacts on the livability of nearby lands due to:

1. Noise, glare from lights, late-night operations, odors, and litter; and 2. Privacy and safety issues.

Finding and Analysis: The child care will not have significant adverse impacts on the livability of nearby lands due noise, glare from lights, late-night operations, odors, litter; and privacy and safety issues for the following reasons. The child care is operated indoors and is occurs during the day. There will be no late night operations. The child care takes place in a single family dwelling. Lighting is typical of a single-family home and will not create glare. The child care will not create noise beyond what is typical for a residential neighborhood or home occupation. The City has no complaints on file with respect to noise. The child care activity will not create odors or generate litter. Furthermore, the child care is required to meet State of Oregon licensing requirements related to safety. Privacy issues are not expected since the activity takes place primarily within a residential structure with a fenced yard.

Conclusion: This criterion is met.

IV. ALTERNATIVES

The Planning Commission has the following alternatives available:

1. Approve the conditional use permit for the child care with the conditions of approval identified above;
2. Approve the conditional use permit with modified conditions of approval; or
3. Deny this request and adopting findings supporting the decision.

V. RECOMMENDATION

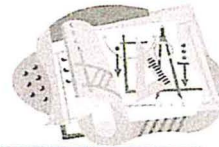
Staff recommends the Planning Commission approve the conditional use permit for a child care facility providing services for no more than sixteen children with the conditions of approval identified above.

VI. EXHIBITS

- A. Land Use Application Form
- B. State of Oregon Zoning Verification Form

City of Forest Grove

LAND USE APPLICATION FORM



File NO. 1308-1.260

APPLICATION FOR: 311-17-000006-PLNG



- Site Plan Approval
- ☒ Conditional Use
- ☐ Variance
- ☐ Appeal to _____

Zoning Ordinance Amendment:

- ☐ Text ☐ Map

Land Division:

- ☐ Subdivision ☐ Partition
- ☐ Tentative Plat ☐ Final Plat

Establish a Planned Development:

- ☐ PRD ☐ CPD ☐ PID

Comprehensive Plan Amendment:

- ☐ Text ☐ Map

Other _____

Applicant:

Name Karissa Wold

Address 3015 18th Ave

City Forest Grove

State OR Zip 97116

Phone 5038879133 Fax _____

Email karissawold@gmail.com

Property Description:

Site Address 3015 18th Ave

Map & Tax Lot # _____

(Please attach legal description)

Total Acres or Square Feet:

Acres _____ Sq. Feet 1300

Property Owner:

Name Scott Bailey

Address 45975 NW Levi Whitford

City Banks

State OR Zip 97114

Phone 5037201093 Fax _____

Email scott.bailey@gmail.com

Property Use Description

Existing Land Use _____

Existing Zoning al

Proposed Zoning (if applicable) _____

Proposed Use _____

Additional Information:

In order to expedite and complete the processing of this application, the Planning Division requires that all pertinent material required for review be submitted at the time application is made. If the application is found to be incomplete, review and processing of the request will not begin until the application is made complete. The submittal requirements relative to this application may be obtained from the specific sections of the Zoning or Land Division Ordinances pertaining to this application and from Planning Division staff. Pre-application conferences with Planning Division staff are encouraged. If there are any questions as to submittal requirements, contact the Planning Division prior to formal submission of the application. In submitting this application, the applicant should be prepared to give evidence and information which will justify the request. The filing fee must be paid at the time of submission. This fee in no way assures approval of the application and is non-refundable.



Continued

Exhibit A

Additional Information

I certify that the statements made in this application are complete and true to the best of my knowledge. I understand that any false statements may result in denial of this application.

Applicants Signature K. Wold Date 2/7/17
Property Owner's Signature _____ Date _____

For Office Use:	
Received by <u>CPmg</u>	Date <u>2/9/17</u>
Fee Paid <u>\$500 deposit</u>	Date <u>2/9/17</u>
<u>@ \$78.85/hr</u>	
Receipt Number <u>6839</u>	
Application Number <u>311-17-000006-PLNG</u>	
File Number <u>1308-1.260</u>	

Community Development Department
City of Forest Grove
PO Box 326
1924 Council Street
Forest Grove, OR 97116
Phone: (503) 992-3227



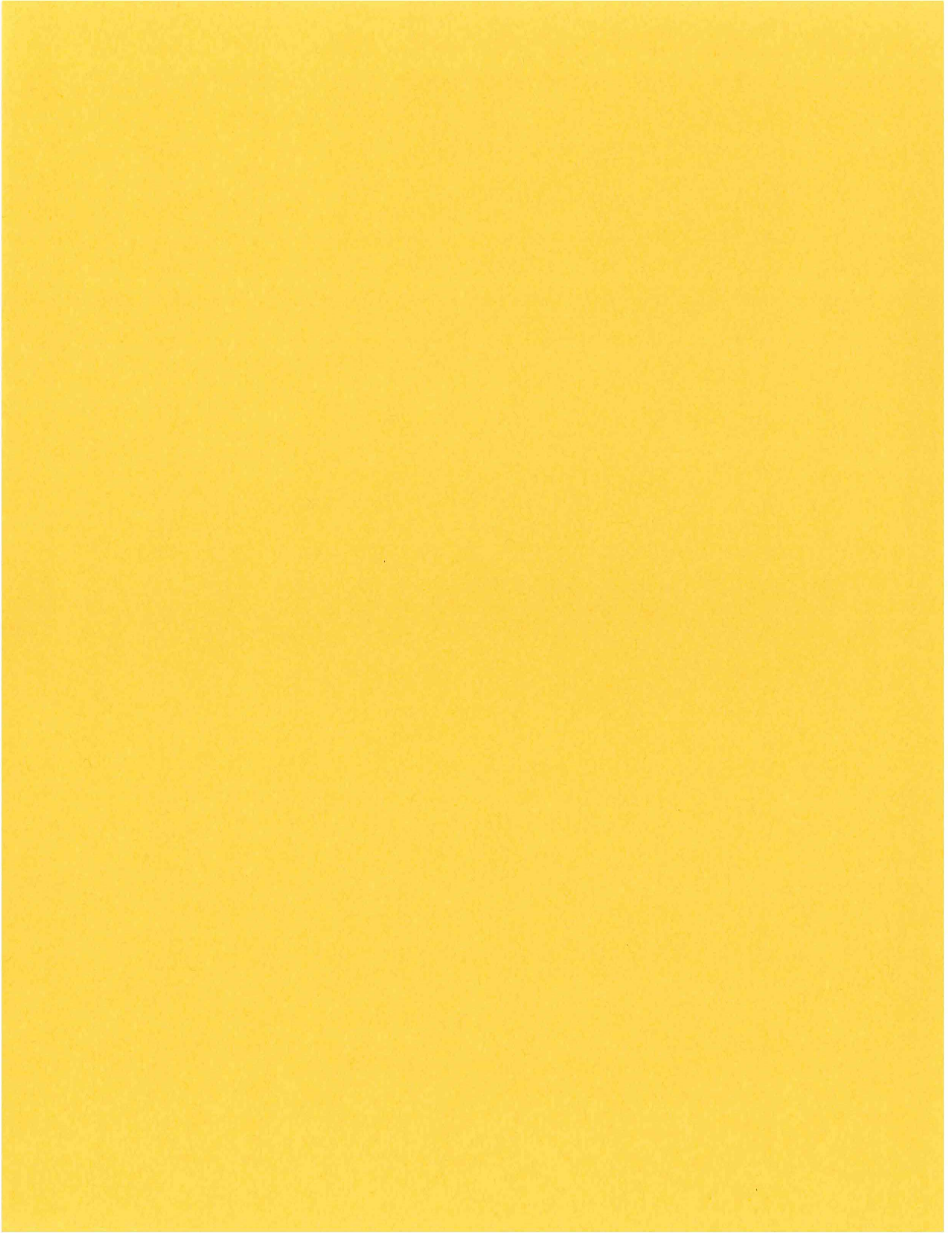
city of
forest
grove



Verification of Compliance with City or County Planning and Zoning, Occupancy, and Building Codes

*Prior to licensing, you must provide the Office of Child Care with verification that your facility meets local planning and zoning, occupancy, and building requirements.**

Type of License Applying for:	☐ Certified Family Child Care Home (CF) ☐ Certified Child Care Center (CC)
Age range of Children being served:	☐ Infants/Toddlers ☐ Preschool ☐ School Age
Site Address (street address, city, zip, county): _____	
Verification of Compliance with city/county ordinances needed because: ☐ Not living in the home where care will be provided (CF) ☐ Home is not located in a commercial or residential zone (CF) ☐ Building may/may not be zoned to operate a child care business (CC)	
Planning and Zoning Approval The proposed certified child care facility is in an approved zone ☐ YES ☐ NO Signature of authorized representative of Planning and Zoning: _____	
Occupancy and Building Codes Approval The proposed certified child care facility meets occupancy and building codes ☐ YES ☐ NO Signature of authorized representative of Occupancy and Building: _____	
* CF rule: OAR 414-350-0130(2) <i>A home that is not the residence of the provider or a home located in a zone other than residential or commercial shall meet all state and local planning and zoning, occupancy, and building code requirements for a child care facility.</i>	
* CC rule: OAR 414-300-0010(12)(a) and (b) <i>An operator shall provide verification to CCD that the center meets all applicable building codes and zoning requirements that apply to child care facilities:</i> <i>(a) Before the initial certificate is issued; and</i> <i>(b) Whenever the facility is remodeled.</i>	
_____ Signature of provider/operator of facility	
_____ Date	





Lot Frontage Variance Staff Report and Recommendation

Community Development Department, Planning Division

REPORT DATE: March 20, 2017

HEARING DATE: March 27, 2017

LAND USE REQUEST: The applicant is requesting a variance to Development Code §10.8.905(F)(2) which requires that a parcel has at least 15 feet of frontage onto a public street. The tax lot in question has no street frontage.

FILE NUMBER(S): 311-17-000003-PLNG

PROPERTY LOCATION: 1919 26th Avenue

LEGAL DESCRIPTION: Washington County Tax Lot 1N331BC03900

OWNER/APPLICANT(S): Applicant: J. David Bennett, Landye Bennett Blumstein LLP, 1300 SW Fifth Avenue Suite 3500, Portland, Oregon 97201

Property Owners: Alberto R. Rodrigues and Margarita Zambrano, 18383 SW Jann Drive, Beaverton, Oregon 97036

**COMPREHENSIVE
PLAN MAP AND
ZONING MAP
DESIGNATIONS:** High Density Residential (HDR)

Multi-Family Residential (RMH)

**APPLICABLE
STANDARDS
AND CRITERIA:** City of Forest Grove Development Code:
§10.2.700 et. seq. *Variance*
§10.3.100 et. seq. *Residential Zones*
§10.6.045 et. seq. *Partitions*
§10.8.905(F)(2) *Land Division Standards - Frontage*

REVIEWING STAFF: James Reitz (AICP), Senior Planner

RECOMMENDATION: Staff recommends approval of the requested variance

I. LAND USE HISTORY

History and Request: To understand why this variance request has been filed, one must first understand the difference between a legal lot of record and a tax lot.

- **Lot of Record:** Any lot or parcel of land that was lawfully created by a subdivision or partition plat of record in the Washington County Cartography and Records office, or a lawfully created unit of land that was created by deed or land sales contract prior to annexation to the City. The lot of record for 1919 26th Avenue has been surveyed; see Exhibit D.
- **Tax Lot:** As stated on every Washington County tax map, these maps are “For *assessment purposes only* – do not rely on for other use.” (Emphasis added. See Exhibit B for the area around Washington County tax lot 1N331BC03900).

The property owners acquired a tax lot that does not have frontage onto a public street, as required by city code. The saga of this landlocked tax lot began in 2007, when a two-building eight-unit condominium project was initiated on the site at 1919 26th Avenue, also known as Washington County tax lot 1N331BC03900. The first building, utilities and related car park improvements were completed and a condominium association created. This resulted in the creation of several additional tax lots: 90000 is the tax lot for the land, while tax lots 90111, 90121, 90131 and 90141 were created for the four condominium units. The balance of the parcel retained the original tax lot number of 3900 (see Exhibit B). Creation of a condominium project is not a land use matter, and does not require City review or approval. Tax lot numbers are assigned by the Washington County Department of Assessment and Taxation; no City review or approval is required.

Due to the Great Recession of 2008-09, the developer defaulted on the project before the second building could be constructed. Washington Federal assumed ownership of the vacant tax lot. There was no known activity related to the lot until 2015, when staff became aware that Tax Lot 3900 was placed on the market.

After consulting with the City Attorney, staff sent a letter to Pablo Valentine, the attorney representing Washington Federal (see Exhibit C). This letter advised that Tax Lot 3900 was just that: a tax lot, not a lot of record. As such, it could not be legally conveyed to another party. Furthermore, because it lacked a physical connection to a public street as required by Development Code §10.8.905(F)(2) *Frontage*, the City could not authorize any construction on it.

The City Attorney and Mr. Valentine considered options to declare Tax Lot 3900 a legal lot of record. The City Attorney concluded that none of the suggested alternatives would satisfy state statutes and city code requirements. Meanwhile, the tax lot remained on the market, and staff responded to several inquiries about it, including those of the present owners. They were advised that the lot was not a legal lot of record, that they should seek representation to ensure their interests were protected if they decided to make an offer on the lot, and that the City would not accept or process any building permits for it until/unless it became a legal lot of record.

The current owners proceeded to purchase the property. While not a legal lot of record that could be legally conveyed, Washington Federal “sold their interest” in the parcel. The City Attorney has observed that while the owners appear to have a cause of action against Washington Federal for knowingly selling a non-buildable parcel, there is no guarantee that such a lawsuit would be successful.

Process: The requested variance would allow for the creation of a legal lot of record without the requisite frontage onto a public street as stipulated by DC §10.8.905(F)(2) *Frontage*. The action of approving the variance request would not by itself result in the creation of a legal lot of record. The present owners would still need to file for a partition, obtain City approval of the proposed plat, and then record the plat to establish a legal property line between tax lots 1N331BC03900 and 1N331BC90000. The partition plat would also include the City file numbers of this variance proceeding and the partition, to document that this landlocked parcel is indeed a legal lot of record.

DC §10.2.710 *Procedure* authorizes the Planning Commission to act on a request for a variance after holding a public hearing pursuant to Type III review procedures.

Public notice for this application was mailed to property owners and residents within 300 feet of the site on March 6, 2017, as required by DC §10.1.160. Notice of this request was also provided to the Plans Review Board, and published in the *News Times*.

The Plans Review Board has no objection to the requested variance. As of the writing of this report, no comments have been received from the public, although several have contacted staff to try and gain a better understanding of the request.

II. PROJECT DESCRIPTION AND ANALYSIS

- A. Description of Proposal: The request, if approved, would allow the property owners to proceed with filing a partition request for a lot that does not and will not have frontage on a public street, as stipulated by DC §10.8.905(F)(2) *Frontage*:

Each lot and parcel shall have a minimum frontage on a public street of at least twenty (20) feet with two exceptions:

- a. *A lot or parcel on the radius of a curved street or on the circular end of a cul-de-sac shall have frontage of not less than thirty (30) feet upon the abutting street right-of-way measured on the arc.*
- b. *Where a flag lot is proposed and the access strip is serving only one lot, the frontage shall be not less than fifteen (15) feet.*

Washington Federal did make some effort to ensure that Tax Lot 3900 could be provided utilities from and had access to 26th Avenue. An Easement Agreement was concluded in 2015 with the 26th Avenue Condominium Owners Association for "An easement for ingress, egress and access ... (this) easement entitles Grantee to tie into and to use the water, sewer, storm sewer, electrical, gas, telephone, cable, internet or other utility lines ... and to connect with streets or utility systems..." (See Exhibit E). This 20-foot-wide easement is over the driveway area of Tax Lot 90000, between Tax Lot 3900 and 26th Avenue. So, while Tax Lot 3900 does not have a physical connection to a public street, it does have access via an easement.

- B. Site Examination: The site is mostly flat with the exception of mounds of earth near the condominium building left over from its construction. Most of the site is covered in grass, with a few deciduous trees along the west property line inside a curbed landscape area, and blackberries on the earth mounds. Gravel was installed north of the existing paving in anticipation of extending the driveway (see photos in Exhibit F).

C. Existing Comprehensive Plan Designation and Zoning of Site and Area

LOCATION	COMPREHENSIVE PLAN DESIGNATION	ZONE DISTRICT	LAND USE
Site	High Density Residential (HDR)	Multi-Family Residential (RMH)	Vacant
North	High Density Residential (HDR)	Multi-Family Residential (RMH)	Apartments
South	High Density Residential (HDR)	Multi-Family Residential (RMH)	4-Unit Condominium
East	High Density Residential (HDR)	Multi-Family Residential (RMH)	Duplex
West	High Density Residential (HDR)	Multi-Family Residential (RMH)	Single-Family Residential

III. APPROVAL CRITERIA, FINDINGS AND ANALYSIS

Development Code §10.2.720 *Review Criteria* requires that the Commission find that the proposal complies with the following criteria:

- (A) The need for the variance does not result from prior actions of the applicant or owner, or from personal circumstances of or caused by the applicant or owner, such as financial circumstances;

Applicant's Response: *The need for the variance arises from a project that was not completed after the platting of a four-unit condominium, a foreclosure by the lender of land intended for the second phase and the expiration of the time for annexation of additional units.*

Finding: The creation of this landlocked parcel, known as Washington County Tax Lot 1N331BC03900, is not the result of actions by the applicant or current owners. It was created by Washington Federal - the previous owner - sometime between 2007 and 2015. As the current owners acquired the tax lot in 2016, the need for the variance is not as a result of their personal circumstances or was caused by them.

- (B) To meet the need, the request is the minimum necessary variation from the Code requirement; and

Applicant's Response: *Absent access by helicopter or from a public alley, the only access to Tax Lot 3900 that will allow for development is along the existing 40-foot-wide easement that already benefits Tax Lot 3900. The functionality of the access will be the same as it would if the easement area was a part of Tax Lot 3900.*

Finding: No physical connection from Tax Lot 3900 to a public street is possible unless it was purchased from or donated by the owners of the adjoining Tax Lot 90000. While Tax Lot 3900 does abut a public alley, an alley is not a public street and would therefore not satisfy the provisions of DC §10.8.905(F)(2). Because Tax Lot 3900 has a recorded legal access and utility easement over Tax Lot 90000, Tax Lot 3900 could be accorded legal lot of record status, if the requested

variance is approved. Furthermore, a partition request would need to be filed to review the new parcel for compliance with the provisions of DC §10.3.130 *Residential Zone Development Standards*, pursuant to DC §10.6.045 et. seq. *Partitions*.

- (C) The circumstances that apply to the site do not typically apply to other properties in the same vicinity or zoning district and are unique and unusual.

Applicant's Response: *Tax Lot 3900 resulted from a planned staged condominium development that was not completed and the time for annexation of additional units has expired. Further, any such annexation would require unanimous approval of all four unit owners and the mortgagees. This is a very unusual circumstance. Most failed or interrupted condominium projects do not leave landlocked parcels. There is no reason that developable lots should remain unused when a legal easement of adequate width allows access for full development of a land resource within the City.*

Finding: The circumstances that apply to this site are unusual: a partially completed project lost to foreclosure, resulting in the creation of a landlocked tax lot; and the conveyance of that tax lot to a third party. No other properties in the vicinity and no other properties in the same zone are known to share these circumstances.

IV. ALTERNATIVES

The Planning Commission may approve as submitted, continue deliberations to a date certain, or deny this request.

V. RECOMMENDATION

Based on the information provided in the application and the findings above, staff recommends approval of the variance request.

The present owners would still need to file for a partition, obtain City approval of the proposed plat, and then record the plat to establish a legal property line between tax lots 1N331BC03900 and 1N331BC90000. The partition plat would also include the City file numbers of this variance proceeding and the partition, to document that this landlocked parcel is indeed a legal lot of record.

VI. LIST OF EXHIBITS

The following exhibits were received, marked, and entered into the record as evidence for this application at the time this staff report was written. Exhibits received after the date of this report will be marked beginning with the next consecutive letter and will be entered into the record at the time the public hearing is opened, prior to oral testimony.

- Exhibit A** Variance application material, prepared and submitted by the applicant
- Exhibit B** Washington County Tax Map 1N3 31BC
- Exhibit C** Staff Letter to Washington Federal attorney dated April 2, 2015
- Exhibit D** Washington County Survey Number 30874
- Exhibit E** Easement Agreement
- Exhibit F** Site Photos

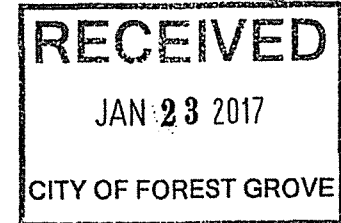
EXHIBIT A

Variance Application Material

Prepared and Submitted by the Applicant

January 19, 2017

James Reitz
Community Development Department
City of Forest Grove
PO Box 326
1924 Council Street
Forest Grove, OR 97116



Re: *Land Use Application Form*
Alberto R. Rodrigues and Margarita Zambrano
1919 26th Avenue

Dear James:

I represent Alberto Rodrigues and Margarita Zambrano. They own a parcel of land in the City of Forest Grove located at 1919 26th Ave. (Tax Lot 3900) that was intended as the second stage of the 26th Avenue Commons Condominium. The condominium developer did not build all of the units planned for this project and it remains a four-unit condominium. The lender, Washington Federal, took back the land intended for additional units. This additional land does not have deed frontage on a public road. It does have a 40 foot wide easement to 26th Ave. The land is zoned for a minimum of four units. The right to construct and annex additional units to 26th Avenue Commons Condominium has long expired.

In a letter dated April 2, 2015 to Pablo Valentine, attorney for Washington Federal, Senior Planner James Reitz, stated that the City's street frontage requirements will not allow the development of Tax Lot 3900 unless it has deeded access to a public street. He suggests either developing Tax Lot 3900 as part of the condominium or for my clients to acquire title to the easement area and making it part of Tax Lot 3900. For my clients to do either is problematic, and even if it could be done, there would be no functional change to the use of the area between 26th Ave and Lot 3900. There would simply be considerable expense and likely a dead end. Either would require the agreement of the owners of all four condominium unit owners and their mortgagees. Hence a valuable piece of land zoned for residential units would remain a vacant lot.

Attached is my clients' application for a variance from the minimum density and the deeded frontage requirement. My clients, through no fault of their own, find themselves the owners of land on which they cannot build without a variance, the granting of which serves both them and the City in providing for infill of residentially zoned land. The strict application of the City's requirements serves no one.

The variance application form states that the following regulations of the Development Code are not eligible for a variance:

- A. The uses permitted in the zoning district.
- B. Definitions.
- C. The minimum and maximum residential density allowed in a zoning district.
- D. Restrictions on uses or development that contain the word "Prohibited."
- E. A change in established procedures.

This application seeks none of the above. My clients do want to site a single-family home (likely a mobile or modular home) on Tax Lot 3900, but that home can be sited in a manner that will not preclude future homes being located on this 11,326 square foot lot.

The variance application form states that a variance may be granted when sufficient evidence is provided to support the following findings of fact:

A. The need for the variance does not result from the prior actions of the applicant or owner, or from personal circumstances or caused by the applicant or owners, such as financial circumstances. *The need for the variance arises from a project that was not completed after the platting of a four-unit condominium, a foreclosure by the lender of land intended for the second phase and the expiration of the time for annexation of additional units.*

B. To meet the need, the request is the minimum necessary variation from the Code requirement. *Absent access by helicopter or from a public alley, the only access to the Tax Lot 3900 that will allow for development is along the existing 40 foot wide easement that already benefits Tax Lot 3900. The functionality of the access will be the same as it would if the easement area was a part of Tax Lot 3900.*

C. The Circumstances that apply to the site do not typically apply to other properties in the same vicinity or zoning district and are unique or unusual. *Tax Lot 3900 resulted from a planned staged condominium development that was not completed and the time for annexation of additional units has expired. Further, any such annexation would require unanimous approval of all four unit owners and their mortgagees. This is a very unusual circumstance. Most failed or interrupted condominium projects do not leave landlocked parcels. There is no reason that developable lots should remain unused when a*

Community Development Department

January 19, 2017

Page 3

legal easement of adequate width allows access for full development of a land resource within the City.

On behalf of my clients, we respectfully request that a variance be granted from the City's street frontage requirements and, to the extent required, that a variance be granted from the current requirement that Tax Lot 3900 be developed with a minimum of four homes. This minimum development variance would be subject to siting the first home in such a way as to not preclude full development of the minimum number of homes in the future. Enclosed is the completed Land Use Application Form, together with a check in the amount of \$3,000.00 for payment of the filing fee.

Please contact me if you require additional information to make this application for a variance complete. I understand that a hearing before the City Planning Commission may be required. If so, please advise me of the time and place for that hearing.

Very truly yours,



J. David Bennett

JDB/drk

Enclosures

cc: Alberto R. Rodrigues and Margarita Zambrano

Washington County Tax Map 1N3 31BC

(Area Surrounding Tax Lot 3900)

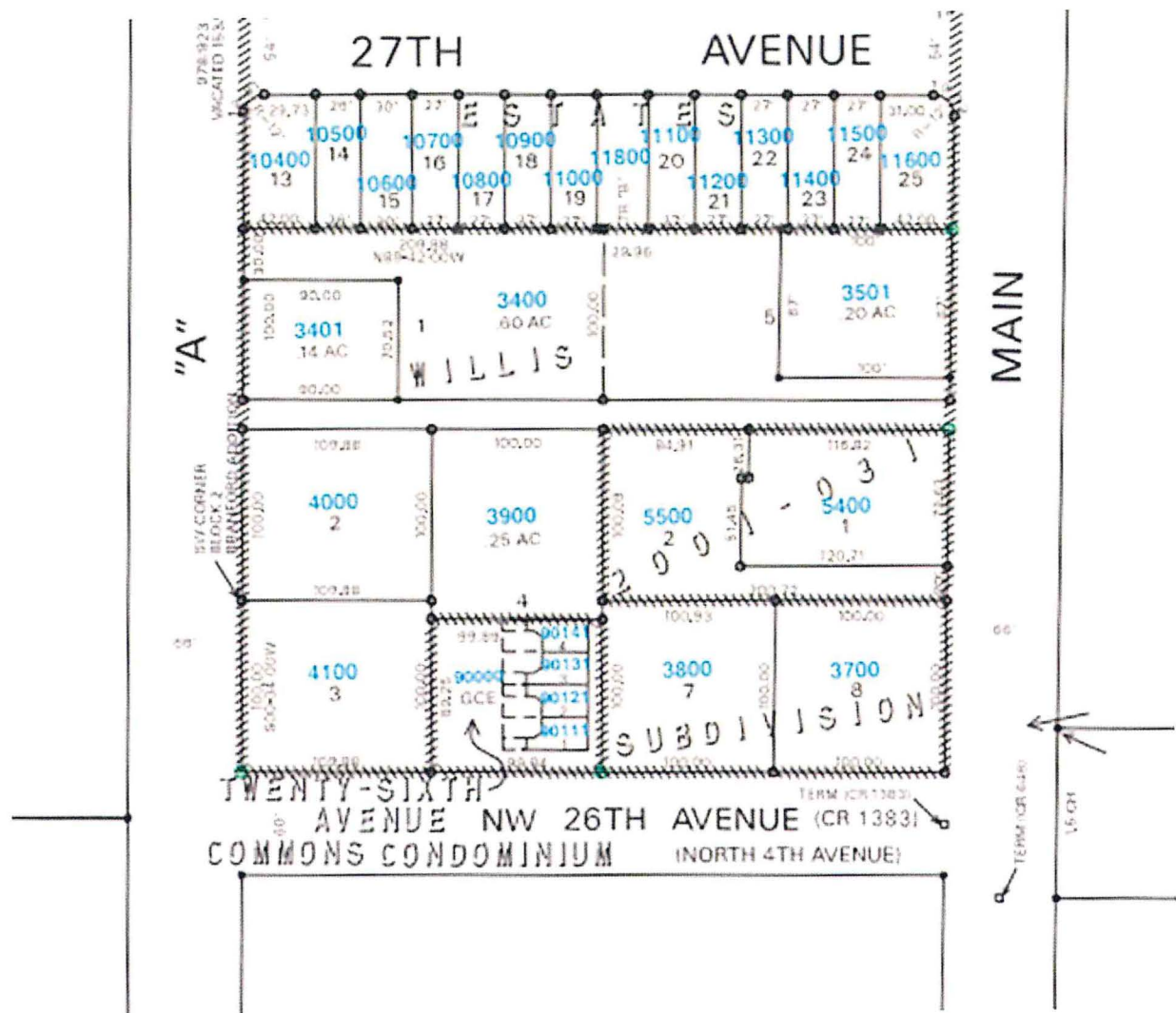


EXHIBIT C

Staff Letter to Washington Federal Attorney

Dated April 2, 2015



April 2, 2015

Pablo Valentine
Hershner Hunter LLP
PO Box 1475
Eugene, Oregon 97440

Re: Washington County Tax Lots 1N3 31BC-3900 and 90000
Washington County Document Number 2015-006985

Dear Mr. Valentine:

The City has received a copy of the Easement Agreement between Washington Federal and the 26th Avenue Commons Condominium Owners' Association, recorded with Washington County as document number 2015-006985. This document appears to have been recorded for the purpose of providing access and utilities over tax lot 90000 to the benefit of tax lot 3900.

At issue for the City is the fact that TL 3900 is not a separate lot of record. Because the property was never partitioned, the areas shown on the tax map as TL 3900 and TL 90000 are legally still a single parcel. Staff has confirmed with the City Attorney that recording the condominium plat does not act to partition the property:

ORS 92.010:

(9) "Partitioning land" means dividing land to create not more than three parcels of land within a calendar year, but does not include:

- (a) Dividing land as a result of a lien foreclosure, foreclosure of a recorded contract for the sale of real property or the creation of cemetery lots;
- (b) Adjusting a property line as property line adjustment is defined in this section;
- (c) *Dividing land as a result of the recording of a subdivision or condominium plat;* (emphasis added)

For this reason, and despite what the tax map might indicate, TL 3900 and TL 90000 are NOT separate, legal parcels. As we understand it, the 26th Avenue Commons Condominium Owners' Association and Washington Federal jointly own the entire property, which, for tax purposes, is divided among a number of separate accounts.

To resolve this matter, it appears there are at least these two options:

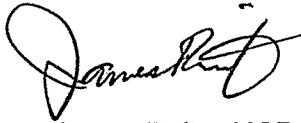
1. Washington Federal, in conjunction with the condominium owners, could jointly develop the balance of the condominium project as per the approved plan; or
2. TL 3900 could be partitioned from tax lot 90000. TL 3900 would have to meet the City's street frontage requirements, which means that most or all of the easement area, including everything to the western property line, likely would have to become part of TL 3900. It may also require granting an easement to the owners of the existing condominium units for their limited common elements.

It is important to note that the City cannot accept for review any development proposals for TL 3900 until this issue is satisfactorily resolved.

If you have another idea about how this issue can be addressed, in a manner that will satisfy both State subdivision statutes and City ordinance requirements, we would welcome that discussion. Absent that, one of the above-described solutions will need to be implemented before the City will entertain any development proposals for TL 3900.

Please feel free to contact me at jreitz@forestgrove-or.gov or 503/992-3233 to discuss this further.

Sincerely,

A handwritten signature in black ink, appearing to read "James Reitz", with a stylized flourish at the end.

James Reitz, AICP
Senior Planner

C City Attorney

EXHIBIT D

Washington County Survey Number 30874

Survey Number 30874

30,874

RECORD OF SURVEY
FOR F.J. HANDY CONSTRUCTION INC.
BEING LOT 4 IN WILLIS SUBDIVISION, SITUATED IN THE NORTHWEST
AND SOUTHWEST ONE-QUARTER OF SECTION 31, T11 N., R13 W.,
W.M., CITY OF FOREST GROVE, WASHINGTON COUNTY, OREGON
SEPTEMBER 10, 2007

NARRATIVE

PURPOSE: TO ESTABLISH THE BOUNDARY TO THAT TRACT OF
LAND DESCRIBED IN DEED TO F.J. HANDY CONSTRUCTION INC.
IN DOCUMENT NUMBER 2007-029480, BOOK OF RECORDS,
WASHINGTON COUNTY, OREGON, FOR A PROPOSED
SUBDIVISION.

BASIS OF BEARING: HELD BEARING OF S 89°42'00" E
BETWEEN FOUND MONUMENTS AT "A" AND "B" PER PARTITION
PLAT NO. 2001-031.

NORTH LINE: HELD MONUMENTS FOUND AT "A" AND "B" PER
WILLIS SUBDIVISION.

EAST LINE: HELD MONUMENT FOUND AT "C" NOTED IN
PARTITION PLAT NO. 2001-031 AND MONUMENT FOUND AT "D"
PER WILLIS SUBDIVISION.

WEST LINE: ESTABLISHED THE NORTHWEST CORNER OF LOT
4, WILLIS SUBDIVISION AT A PROPORTED DISTANCE OF 99.94
FEET MEASURED FROM "C", COMPARED WITH DISTANCE
BETWEEN MONUMENTS "C" AND "A". HELD MONUMENT FOUND
AT "A" PER WILLIS SUBDIVISION.

SOUTH LINE: HELD MONUMENTS FOUND AT "D" AND "E" PER
WILLIS SUBDIVISION.

LEGEND

- DENOTES 5/8" X 30" I.R. W/PPC STAMPED
"SPRINKLER P.L.S. 2221" SET
- DENOTES FND. I.P. AS NOTED IN WILLIS SUBDIVISION
OR AS OTHERWISE NOTED
- DENOTES FND. 5/8" I.R. W/PPC STAMPED "KEENON
LAND SERVICES" PER PARTITION PLAT NO. 2001-031
- S.N. SURVEY NUMBER
- FND. FOUND
- BK. PG. BOOK, PAGE
- I.R. IRON ROD
- I.P. IRON PIPE
- W/PPC WITH YELLOW PLASTIC CAP
- DOC. NO. DOCUMENT NUMBER

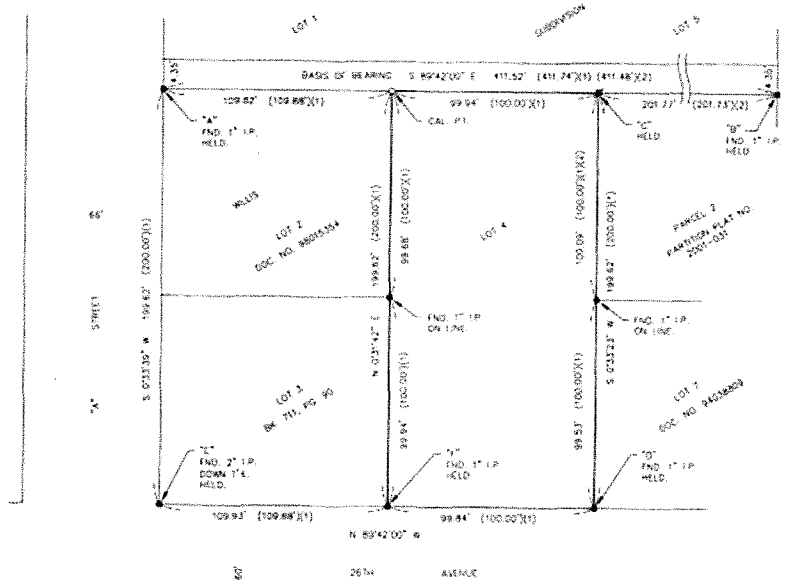


EXHIBIT E

Easement Agreement

After recording, return to:

Hershner Hunter, LLP
Attn: Pablo Valentine
P. O. Box 1475
Eugene, OR 97440

**Until a change is requested,
mail all tax statements to:**

NO CHANGE

EASEMENT AGREEMENT

PARTIES:

TWENTY-SIXTH AVENUE COMMONS CONDOMINIUM OWNERS'
ASSOCIATION, an Oregon nonprofit corporation ("Owner")

WASHINGTON FEDERAL ("Grantee")

RECITALS:

A. Owner is the Unit Owners' Association for that certain condominium development known as Twenty-Sixth Avenue Commons Condominium, an Oregon condominium, located on the real property subject to the condominium form of ownership as described in the Declaration of Condominium Ownership for Twenty-Sixth Avenue Commons Condominium recorded in the Washington County Official Records on May 22, 2008, as Instrument No. 2008-046547 (the "Condominium"). The Condominium, including the common area, is further described on the official plat recorded in the Washington County Official Records on May 22, 2008, as Instrument No. 2008-046546. Each owner of a Condominium unit is a member of Owner (a "Unit Owner").

B. Grantee is the owner of real property located directly north of the Condominium and legally described on the attached Exhibit A (the "Grantee Property").

C. The Condominium is located adjacent to a public road. Owner wishes to provide Grantee with access over the Condominium common area, so that Grantee will be able to access the public road and develop the Grantee Property. The parties enter into this Easement Agreement (the "Easement Agreement") to provide for such an easement, on the terms as more particularly described below.

After recording, return to:

Hershner Hunter, LLP
Attn: Pablo Valentine
P. O. Box 1475
Eugene, OR 97440

**Until a change is requested,
mail all tax statements to:**

NO CHANGE

Washington County, Oregon	2015-006985
D-E	
Stn=4 K GRUNEWALD	02/02/2015 01:50:19 PM
\$55.00 \$11.00 \$5.00 \$20.00	\$91.00
I, Richard Hobernicht, Director of Assessment and Taxation and Ex-Officio County Clerk for Washington County, Oregon, do hereby certify that the within instrument of writing was received and recorded in the book of records of said county.	
Richard Hobernicht, Director of Assessment and Taxation, Ex-Officio	

EASEMENT AGREEMENT

PARTIES:

TWENTY-SIXTH AVENUE COMMONS CONDOMINIUM OWNERS'
ASSOCIATION, an Oregon nonprofit corporation ("Owner")

WASHINGTON FEDERAL ("Grantee")

RECITALS:

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B. Grantee is the owner of real property located directly north of the Condominium and legally described on the attached Exhibit A (the "Grantee Property").

C. The Condominium is located adjacent to a public road. Owner wishes to provide Grantee with access over the Condominium common area, so that Grantee will be able to access the public road and develop the Grantee Property. The parties enter into this Easement Agreement (the "Easement Agreement") to provide for such an easement, on the terms as more particularly described below.

THIS PAGE IS A PART OF
THE OFFICIAL DOCUMENT
PLEASE DO NOT REMOVE

AGREEMENTS:

1. GRANT. Owner hereby grants and conveys to Grantee easements over the Condominium common elements (the "Easements") for the following purposes:

1.1 An easement for ingress, egress and access to the Grantee Property to and from the public road immediately to the south of the Condominium (the "Driveway Easement"), which public road is currently known as 26th Avenue, Forest Grove, Oregon, over the existing driveway and other areas used by the Unit Owners for ingress, egress and access to the Condominium and their units (with such easement to be no less than a 20 foot strip from the public street to the Grantee Property in order to give the Grantee Property at least 20 feet of street frontage). This easement will allow ingress, egress and access to the Grantee Property by all means and for all purposes, including development of the Grantee Property. Without limiting or defining the scope of the Driveway Easement, the path of the Driveway Easement is generally shown as depicted on Exhibit B.

1.2 An easement over and across any existing and future easements, streets, and utility lines in the Condominium, as well as the right to connect to any such easement, street and utility lines, for the purpose of developing, occupying, repairing, and maintaining the Grantee Property. This easement entitles Grantee to tie into (including maintaining and repairing such tie in) and to use the water, sewer, storm sewer, electrical, gas, telephone, cable, internet or other utility lines of all varieties in the Condominium and to connect with streets or utility systems within the Condominium, to benefit the Grantee Property. Grantee shall bear the cost of tie-ins to such roadways and utilities and will not connect with such utilities in a manner that impairs or significantly reduces the quality of the utility service for the Condominium.

1.3 An easement to construct and maintain (at any time and at Grantee's sole cost and expense and in the exercise of Grantee's sole discretion) signs along the public right of way as Grantee may deem necessary for the identification of the name, location and direction of the Grantee Property, and for the sale of the Grantee Property or portions therein.

2. EASEMENT TERMS.

2.1 The Easements are non-exclusive and perpetual, and are subject to all senior easements, covenants, restrictions, liens and encumbrances of record.

2.2 The Easements are appurtenant to the Grantee Property and shall run with the land and be binding upon, apply and inure to the benefit of the successors and assigns of the respective parties hereto.

2.3 Grantee shall not use or occupy nor suffer any use or occupancy of the Easements so as to (a) violate any law, ordinance, regulation, rule, or other restriction imposed by any governmental body or agency; provided that Grantee shall only be required to comply with a land use regulation upon notice of a governmental body or agency of a violation of the same, and shall have a reasonable opportunity to contest such notice if Grantee believes the notice to be in error; (b) violate any easements, covenants, conditions, or restrictions of record applicable to the Easements; (c) create or maintain a nuisance on the Easements; or

(d) materially interfere with Owner's use or occupancy of the remaining portion of the Condominium.

2.4 Grantee shall not store any property on the Driveway Easement, including without limitation, vehicles, equipment or implements. Owner shall not be allowed to place a gate at either end of the Driveway Easement without Grantee's written consent.

2.5 The parties acknowledge that the Grantee Property is a vacant, unimproved lot, and will likely be developed at some time in the future. If the Grantee Property is developed in the future, any additional property divisions, condominium units and any future improvements placed on the Grantee Property will benefit from the Easements.

3. **MAINTENANCE AND REPAIR.** Owner and Grantee will share the maintenance and repair of the Easements according to the use of the Easements by each party or by those claiming under the party (including the Unit Owners who are the members of Owner). There will be a rebuttable presumption that each party uses the Easements in proportion to the number of residential units on each property. Such maintenance shall include, without limitation, regular upkeep of the surface of the Driveway Easement, and keeping the Driveway Easement free of noxious weeds and vegetation and free of trash and other debris. If damage occurs to the Easements through fault or negligence of one of the parties, that party's agents, guests, tenants or permittees, or anyone claiming through the party, then that party shall promptly repair such damage at the party's sole cost and expense. Owner will regularly maintain and repair the Easements as necessary to keep the Easements in good, functional order, based on Owner's reasonable determination of the timing and the extent of necessary maintenance or repair of the Easements. Owner shall inform Grantee of the anticipated timing and cost of such maintenance or repair at least one month prior to commencement of such maintenance or repair; provided that, if an emergency or urgent repair is needed, Owner will give Grantee notice of the repair as soon as possible and as is reasonable in the circumstance. Grantee shall pay Grantee's share of the maintenance or repair expenses within two weeks following Owner's written notice to Grantee of the cost of maintenance or repair, which written notice will include copies of the estimates or copies of the actual invoices for the cost of the maintenance or repair. If the Grantee's cost is based on estimates and the actual cost is more than the estimate, then Owner shall give Grantee written notice of Grantee's share of the excess, which notice shall contain copies of the actual invoices for the cost of the maintenance or repair, and Grantee shall pay Grantee's share within ten business days of the notice. If the Grantee's cost is based on estimates and the actual cost is less than the estimate, then Owner shall refund Grantee's overpayment within five business days of paying the final invoices for the repair or maintenance, along with a copy of the actual invoices. If Grantee does not pay Grantee's share as required by this section, then interest will accrue on the unpaid balance at 10% per annum from the date due until the date paid. If a dispute arises over the necessity of or the cost of repairs or maintenance of any Easements, that dispute will be settled as between the parties through binding arbitration pursuant to the rules of the American Arbitration Association.

4. **INDEMNITY.** Grantee shall defend, indemnify and hold Owner harmless from and against any claim, loss, liability or expense (including attorney fees) arising out of the Grantee's exercise of its rights or obligations under the Easements, or arising out of any use or occupancy of the Easements by or through Grantee. Owner shall defend, indemnify and hold

Grantee harmless from and against any claim, loss, liability or expense (including attorney fees) arising out of the Owner's or any Unit Owner's exercise of its rights or obligations under the Easements, or arising out of any use or occupancy of the Easements by or through Owner or any Unit Owner.

5. **REMEDIES.** If either party fails to perform any of such party's obligations under this Easement Agreement after being notified of non-performance and given a reasonable opportunity to cure, the other party shall be entitled to require such performance by suit for specific performance or, where appropriate, through injunctive relief. Such remedies shall be in addition to any other remedies afforded under Oregon law.

6. **RESERVATION OF RIGHTS.** Owner reserves the right to use the Easements for any use that is not inconsistent with Grantee's use of the Easements as provided herein.

7. **TERMINATION OF EASEMENT OVER OWNER'S PROPERTY.** Grantee's Property is subject to Owner's property benefits from an easement granted in a Declaration of Access Easement dated February 22, 2008, and recorded in the Washington County Official Records on March 4, 2008, as Recording Number 2008-019183 (the "Declaration of Access Easement"). This Declaration of Access Easement is hereby dissolved, terminated and vacated.

8. **BINDING EFFECT.** All of the covenants, agreements, conditions and terms contained in this Easement Agreement shall be binding upon, apply and inure to the benefit of the successors and assigns of the respective parties hereto. This Easement Agreement shall be recorded at Grantee's cost and expense.

9. **FUTURE ASSURANCES.** Each of the parties shall, upon request of the other party, execute and deliver such additional documents as may be necessary or convenient for the purpose of evidencing or perfecting any rights or interests arising under this Easement Agreement. In addition, Owner shall, upon the request of Grantee, execute and deliver such additional documents as may be necessary or convenient for the purpose of allowing Grantee to develop the Grantee Property, as long as such additional documents do not create any material liability or obligation for Owner (unless Grantee agrees to satisfy such liability or obligation) or do not materially alter the terms of this Easement Agreement.

10. **LEGAL PROCEEDINGS.** If any legal proceeding is commenced for the purpose of interpreting or enforcing any provision of this Easement Agreement, the prevailing party in such proceeding shall be entitled to recover a reasonable attorney's fee in such proceeding, or any appeal thereof, in addition to the costs and disbursements allowed by law.

11. **WAIVER.** No waiver of any right arising out of a breach of any covenant, term or condition of this Easement Agreement shall be a waiver of any right arising out of any other or subsequent breach of the same or any other covenant, term or condition or a waiver of the covenant, term or condition itself.

12. **INTEGRATION.** This Easement Agreement constitutes a final and complete statement of the agreement between the parties, and fully supersedes all prior agreements or negotiations, written or oral.

13. COUNSEL. Each of the parties hereto acknowledges that each party has been or had the opportunity to be represented by counsel in connection with the preparation and execution of this Easement Agreement and that each party has thoroughly reviewed this Easement Agreement.

14. INTERPRETATION. In interpreting this Easement Agreement, (a) headings and captions are for convenience only and are not to be used in the interpretation of this Easement Agreement nor a limitation on the scope of the particular paragraph to which each refers; (b) the term "including" is always deemed to mean "including, without limitation"; and (c) the rule of construction that a written agreement is construed against the party preparing or drafting an agreement is specifically not applicable to the interpretation of this Easement Agreement.

15. SEVERABILITY. If any provision of this Easement Agreement is found by a court of competent jurisdiction to be unenforceable, all other provisions nevertheless continue in full force and effect, and that unenforceable provision shall be deemed modified to the extent necessary to render it enforceable, preserving to the fullest extent the intent of the parties set forth in this easement.

16. WARRANTY OF AUTHORITY. Each person executing and delivering this Easement Agreement on behalf of a party represents and warrants that such person is duly authorized to do so and that the execution and delivery of this Easement Agreement are the lawful and voluntary acts of the party on whose behalf this Easement Agreement is executed.

17. GOVERNING LAW. This Easement Agreement and the performance hereunder shall be governed, interpreted, construed, and regulated by the laws of the state of Oregon.

18. CAPTIONS. The captions are inserted only for convenience and are not part of this Easement Agreement nor a limitation on the scope of the particular paragraph to which each refers.

19. CONDOMINIUM REPRESENTATION. Owner, and the President and Secretary of Owner signing on Owner's behalf, represents that this is a valid Easement Agreement and that the grant of this Easement Agreement was first approved by the minimum required vote of Unit Owners and the Board of Directors as required by the Oregon Condominium Act and ORS 100.405(6), the Condominium Declaration and the Condominium Bylaws.

[SIGNATURES ON FOLLOWING PAGE]

DATED effective as of December 10, 2014.

WASHINGTON FEDERAL

TWENTY-SIXTH AVENUE COMMONS
CONDOMINIUM OWNERS'
ASSOCIATION

By: _____
Name: _____
Title: _____

By: _____
Guadalupe Insaurralde, President

By: Claire Cunningham
Claire Cunningham, Secretary

STATE OF OREGON)
) ss.
COUNTY OF _____)

This instrument was acknowledged before me on _____, 2014, by
_____, as _____ of Washington Federal on behalf
of Washington Federal.

Notary Public for Oregon
My commission expires: _____

STATE OF OREGON)
) ss.
COUNTY OF WASHINGTON)

This instrument was acknowledged before me on _____, 2014, by
Guadalupe Insaurralde, President of Twenty-Sixth Avenue Commons Condominium Owners'
Association on behalf of Twenty-Sixth Avenue Commons Condominium Owners' Association.

Notary Public for Oregon
My commission expires: _____

DATED effective as of December 10, 2014.

WASHINGTON FEDERAL

TWENTY-SIXTH AVENUE COMMONS
CONDOMINIUM OWNERS'
ASSOCIATION

By: _____
Name: _____
Title: _____

By: *Guadalupe Insaurralde*
Guadalupe Insaurralde, President

By: _____
Claire Cunningham, Secretary

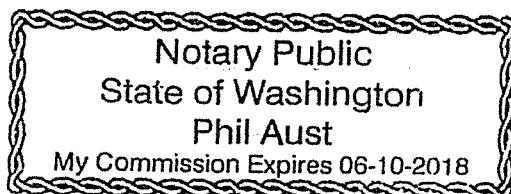
STATE OF OREGON)
) ss.
COUNTY OF _____)

This instrument was acknowledged before me on _____, 2014, by
_____, as _____ of Washington Federal on behalf
of Washington Federal.

Notary Public for Oregon
My commission expires: _____

STATE OF OREGON)
) ss.
COUNTY OF WASHINGTON)

This instrument was acknowledged before me on January 13th, 2014, by
Guadalupe Insaurralde, President of Twenty-Sixth Avenue Commons Condominium Owners'
Association on behalf of Twenty-Sixth Avenue Commons Condominium Owners' Association.



Phil Aust
Notary Public for Oregon
My commission expires: 06/10/2018

DATED effective as of December 10, 2014.

WASHINGTON FEDERAL

TWENTY-SIXTH AVENUE COMMONS
CONDOMINIUM OWNERS'
ASSOCIATION

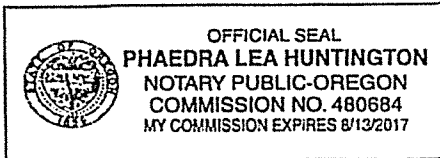
By: [Signature]
Name: Peggy Hebin
Title: Regional President

By: [Signature]
Guadalupe Insaurralde, President

By: [Signature]
Claire Cunningham, Secretary

STATE OF OREGON)
) ss.
COUNTY OF Linn)

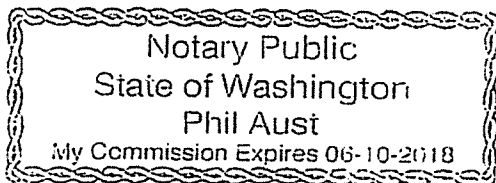
This instrument was acknowledged before me on January 20th, 2015, by
Peggy Hebin, as Regional President of Washington Federal on behalf
of Washington Federal.



[Signature]
Notary Public for Oregon
My commission expires: 8/13/2017

STATE OF OREGON)
) ss.
COUNTY OF WASHINGTON)

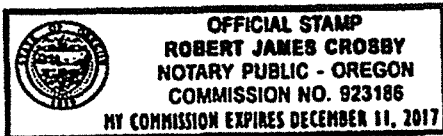
This instrument was acknowledged before me on December 10th, 2014, by
Guadalupe Insaurralde, President of Twenty-Sixth Avenue Commons Condominium Owners'
Association on behalf of Twenty-Sixth Avenue Commons Condominium Owners' Association.



[Signature]
Notary Public for Oregon
My commission expires: 06/10/2018

STATE OF OREGON)
) ss.
COUNTY OF WASHINGTON)

This instrument was acknowledged before me on January 05, ^{2015-RC}~~2014~~, by
Claire Cunningham, Secretary of Twenty-Sixth Avenue Commons Condominium Owners'
Association on behalf of Twenty-Sixth Avenue Commons Condominium Owners' Association.



[Signature]
Notary Public for Oregon
My commission expires: December 11, 2017

EXHIBIT B

MAP OF DRIVEWAY EASEMENT

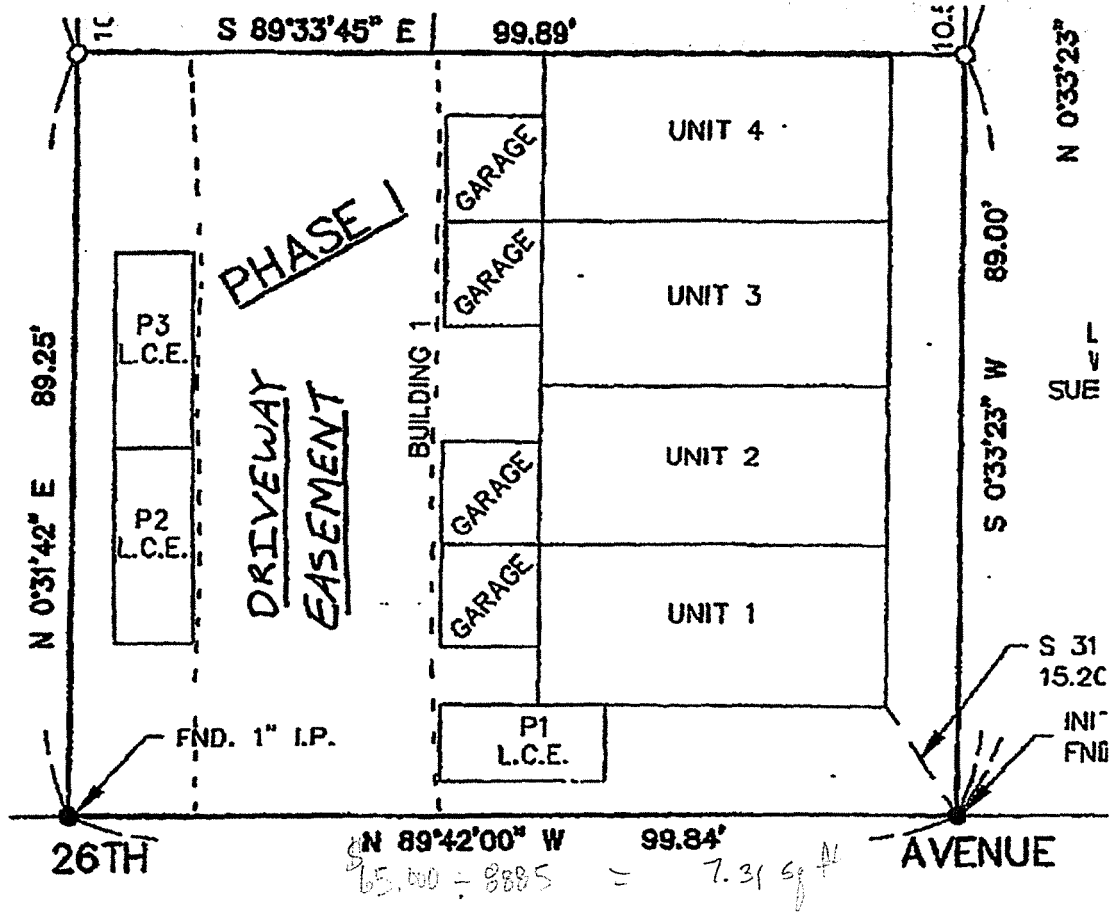


EXHIBIT A

GRANTEE PROPERTY

**LOT 4, WILLIS SUBDIVISION, IN THE CITY OF FOREST GROVE, COUNTY OF WASHINGTON AND
STATE OF OREGON.**

**EXCEPTING THEREFROM THAT PORTION CONTAINED IN THE PLAT OF TWENTY-SIXTH AVENUE
COMMONS CONDOMINIUMS ACCORDING TO THE OFFICIAL PLAT THEREOF, RECORDED MAY
22, 2008 AS 2008046546.**

EXHIBIT F

Site Photos

Alley

2615

2614

2618

Site 1919

1903

1925

1925

1919

1919

1919

1919

2610

26th Ave

26th Ave

A place where businesses and families thrive.



Site – View North From 26th Avenue

A place where businesses and families thrive.



Site – View to Southeast

Condominium Building to the Right

A place where businesses and families thrive.



Site — View to North

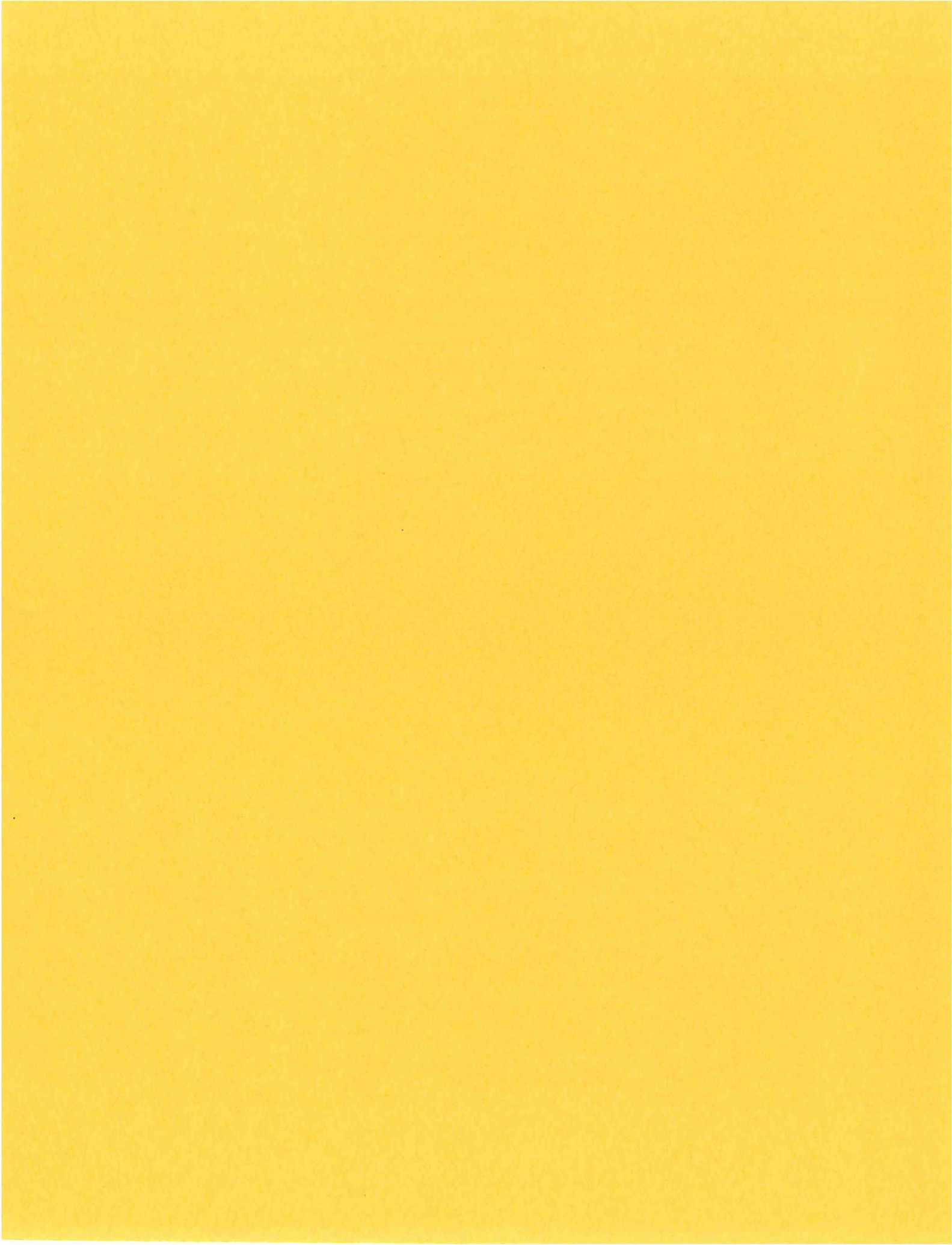
Public Alley Beyond Fence

A place where businesses and families thrive.



Site – View to Northwest

A place where businesses and families thrive.





Site Plan and Design Review Staff Report and Recommendation

Community Development Department, Planning Division

REPORT DATE: March 17, 2017

HEARING DATE: March 27, 2017

LAND USE REQUEST: Site Plan and Design Review of a proposed 20,220-square-foot three-story commercial building; a 3,149 square-foot day care facility; a coffee kiosk drive-through; and parking

FILE NUMBER: 311-16-000200-PLNG

PROPERTY LOCATION: 3424 Pacific Avenue; 1943 Oak Street; and 1954 Poplar Street

LEGAL DESCRIPTION: Washington County Tax Lots 1S3 5BA-300, 500, 501 and 1700

OWNER/APPLICANT(S): Applicant/Property Owner: PacOak Development LLC (Jared Thompson), 1951 Oak Street - Suite A, Forest Grove, Oregon 97116
Applicant's Representative: DOWL (Serah Breakstone). 720 SW Washington Street - Suite 750, Portland, Oregon 97205

**COMPREHENSIVE PLAN
MAP AND ZONING MAP
DESIGNATIONS:** Community Commercial (CC)
Community Commercial (CC)

**APPLICABLE
STANDARDS
AND CRITERIA:** City of Forest Grove Development Code
☐ §10.3.300 - .340 *Commercial and Mixed Use Zones*
☐ §10.7.200 et. seq. *Solid Waste and Recycling*
☐ §10.8.000 et. seq. *General Development Standards*

City of Forest Grove Design Guideline Handbook
☐ Focus Area II *Commercial Corridor Focus Area*

REVIEWING STAFF: James Reitz (AICP) Senior Planner

RECOMMENDATION: Staff recommends approval with conditions

I. LAND USE HISTORY

The project site consists of four tax lots. It has been improved with at least six buildings of indeterminate age. They have been occupied by a variety of residential and commercial uses, including car sales and second-hand stores. A billboard is also located near the west property line of the project site. The balance of the property is used for outdoor storage or vehicular access.

Development Code (DC) §10.2.300 et. seq. *Design Review* requires review of new commercial development. The Commission can act on a request for design review after holding a public hearing pursuant to DC §10.1.600 et. seq. Type III Process.

The application was submitted on December 20, 2016. It was deemed complete on February 21, 2017.

Public notice for this application was mailed to property owners and residents within 300 feet of the site on March 6, 2017 as required by DC §10.1.610. Notice of this request was also provided to the Plans Review Board, and published in the *News Times*.

Comments received from the Plans Review Board pertain to complying with various standard building and fire code requirements that will be addressed through the building permit review process. Additional comments regarding traffic generation, parking, and street improvements will be discussed later in this report, along with staff's recommendations for conditions of approval.

As of the writing of this report, no comments have been received from the public.

II. PROJECT DESCRIPTION AND ANALYSIS

1. Description of Proposal: The proposal would result in the construction of three new commercial buildings and associated parking and landscaping.
 - Building One would be a three-story structure fronting Pacific Avenue. It would have 20,220 square feet of floor area. Ground-floor commercial/retail is proposed, while floors two and three would be offices.
 - Building Two would be a one-story building of 3,149 square feet fronting Oak Street. It would be developed as a day care center.
 - Building Three would be a coffee kiosk, accessed from Poplar Street. It would be a drive-through only; no on-site seating is proposed.
 - The balance of the site would be improved with 42 parking spaces, landscaping, and a trash/recycling storage area.
 - The applicant also owns the parcel at 1951 Oak Street, which has been developed with a building housing a dental office and an insurance office. Access would be provided through that site to connect Oak Street and Poplar Street, and all existing Pacific Avenue driveways would be abandoned.

The site would be completely built-out with this project. The applicant intends to construct the project in a single phase.

2. Site Examination: The project site has an area of 1.28 acres. It abuts Pacific Avenue, Oak Street and Poplar Street. It is flat and virtually devoid of landscaping. It has been

improved with numerous structures of indeterminate age. All existing structures, including the billboard, would be removed with this project.

The site is comprised of four parcels, which the applicant proposes to consolidate into one. The City has no lot consolidation review criteria. Lot consolidation is achieved by filing and recording a new legal description with Washington County. Due to building code requirements, the lot consolidation process would need to be completed prior to the issuance of any building permits for any buildings on or near the existing lot lines. Staff has proposed a **condition** to require that the applicant submit a copy of the recorded legal description to consolidate the properties prior to filing for permits for any building so situated.

3. Existing Comprehensive Plan Designation and Zoning of Site and Area

LOCATION	COMPREHENSIVE PLAN DESIGNATION	ZONE DISTRICT	LAND USE
Site	Community Commercial (CC)	Community Commercial (CC)	Commercial / Retail
North	Community Commercial (CC)	Community Commercial (CC)	McMenamins Grand Lodge
South	Community Commercial (CC)	Community Commercial (CC)	Single-Family Residential Vacant Land
East	Community Commercial (CC)	Community Commercial (CC)	Single-Family Residential Vacant Land
West	Community Commercial (CC)	Community Commercial (CC)	Commercial / Retail Vacant Land

4. Site Design: All existing improvements would be removed, including the billboard. Staff has included a **condition** to require that the billboard be removed within 60 days of the current lease's termination, pursuant to DC §10.8.855 *Nonconforming Signs*.

The site plan consists of three buildings in an east-west orientation. Building One (a three-story mixed-use building) would front Pacific Avenue, while Building Two (a one-story day care facility) would front Oak Street. A drive aisle would be located between the two buildings that would provide access to both Oak and Poplar streets. A new car park would be located south of Building One and east of Building Two. Building Three would be a drive-through coffee kiosk near Poplar Street.

The drive aisle would connect with the existing drive aisle serving the car park at 1951 Oak Street. This would provide through access between Oak and Poplar streets, and would also provide access to both car parks. No vehicular access is proposed to Pacific Avenue.

The kiosk would be located along Pacific Avenue east of Building One. It could be accessed from both Oak and Poplar streets via the access described above. It appears from the application that there would be only one service window, on the north elevation. The application indicates that there is queueing space for four vehicles. Further discussion follows in the Traffic and Circulation section below.

Parking would be provided south of Building One and east of Building Two. Further discussion follows in the Parking section below. Walkways would connect the car park with the buildings and the buildings with the public sidewalk.

5. Building Design Standards for Commercial Development: The standards of DC §10.8.710(B) applies to commercial development in the Community Commercial zone district, as follows:

- Building Orientation. This section requires that buildings be designed and constructed so that at least one façade is within 60 feet of a public street; and that a minimum of one primary building entrance for each building either faces the street or an internal roadway. Both Building One and Building Two are located within 60 feet of a street, and both would have entrances facing the street.
- Massing and Form. This section requires building articulation including changes in depth of façade, maximum building length, varied rooflines, and vertical elements. Both buildings exhibit these characteristics, with changes in façade depth, varied roof heights, and vertical elements. Neither building exceeds 200 feet in length.
- Design Elements. This section requires buildings near the street to have an entrance every 100 feet; weather protection if adjacent to the sidewalk; transparent windows; and no synthetic materials on the ground floor. Both buildings will have a ground floor entrance facing the street; both would provide sheltered areas at building entrances; windows will be transparent; and no synthetic materials are proposed.
- Compatibility. This section requires a “step-down” in building height near adjacent residential uses; and a gabled roof. Only Building Two would be less than 50 feet from an adjacent residential use; as it is proposed to be only one story in height, it would comply with this section. Both buildings are proposed to have gable roofs.
- Safety. This section prohibits security bars and motion activated lighting, none of which is proposed. This section further requires public access to all plazas, etc., but none are proposed in this project. Lastly, this section requires that car parks not be gated or secured; no gates are proposed.

6. Setbacks and Height Requirements:

- The site is located in the Community Commercial (CC) zone district. No front, side, or rear setbacks apply. The buildings would be set back from Pacific Avenue by about 2 ½ feet (the west end of Building One) to 23 feet (kiosk); and 12 ½ feet from Oak Street (Building Two). Along the south property line, both Building Two and the trash/recycling enclosure would be set back 10 feet. As no setbacks are required in the CC zone district, staff finds the proposed setbacks acceptable, and no conditions of approval appear necessary.
- The trash and recycling enclosure would be located 10 feet from the south property line. The enclosure would be constructed of concrete block and covered with lap siding to match the other buildings. To minimize weather and wildlife intrusions as well as to provide more visual screening, it would also be roofed.

- The height limit in the CC zone district is 45 feet. The height of the Building One would be 42 feet at the roof peak. The height of Building Two would be 17 feet. As the height of the proposed buildings would all be less than the maximum, staff concludes that the heights are acceptable and no conditions of approval appear to be necessary.

As there are no setbacks required in the CC zone district, and the building heights would be less than the maximum allowed, staff concludes that these provisions have been met.

7. Compatibility: A day care facility is proposed for Building Two, and a coffee kiosk. The specific tenants for Building One have not been identified. The Community Commercial zone district allows a range of permitted uses, including day care, restaurants, personal services such as banks and beauty shops, and offices. The applicant's building at 1951 Oak Street is occupied by a dental office and an insurance agency. If the tenants of this project are similar, they would be compatible with the purpose statement of the CC zone district, to wit: a concentration of mixed uses, including retail, service, offices and residential uses along the regional transit corridor.

The site abuts properties in a variety of uses, including -

- Single-family homes to the south and east. Both homes are also located in the Community Commercial zoning district. Building Two would be located ten feet from the property line shared with 1935 Oak Street, while the car park improvements adjacent to 1948 Poplar Street would be between five and ten feet from the property line. The remaining area adjacent to both properties would be landscaped (further discussion follows in the Landscaping section below). No fencing is proposed. Because the new buildings would be located in the same zone district as the existing single-family homes, would be set back from the property line in excess of Development Code standards, and would be separated from the adjoining properties by landscaping, no additional conditions pertaining to compatibility appear necessary.
- Redevelopment of this site could result in greater demand to redevelop other nearby properties, including the existing single-family home sites all the way to 19th Avenue. Seven single-family homes are extant along either side of Oak Street between Pacific and 19th avenues, while only one home remains along Poplar Street, the others having been removed in anticipation of a shopping center project that never came to fruition.
- Redevelopment of the site might result in off-site noise impacts. However, if any noise issues did arise, Municipal Code §5.250 et. seq. *Noise Regulations* would regulate the intensity of allowable noise in both daytime and evening hours. Because the City has an existing ordinance in place to respond to potential noise complaints, staff concludes that there should be no significant neighborhood noise compatibility issues.
- On-building, pathway and car park lighting is proposed. Car park lighting would be on 18-foot-tall poles, in compliance with DC §10.8.755(D)(2). To ensure compliance with the remaining provisions of DC §10.8.755(D) i.e., fixture base height and cut-off shields, staff has proposed a **condition** that lighting complies with all the provisions of DC Section 10.8.750(D) *Lighting Standards for Multi-Unit Development*, and DC §10.8.755(C) *Pedestrian Lighting Standards*.

Summary and conclusion: With the condition noted above, the project would be compatible with the surrounding development.

8. Traffic and Circulation:

The applicant intends to lease the ground floor of Building One for commercial purposes. Based on the ITE *Trip Generation Report 7th Edition*, that could result in the following Average Daily Trips (ADT): 63 for a general office; 207 for a medical or dental office; 255 for specialty retail; and 730 for a high-turnover (sit-down) restaurant. At this time it is not known what the tenant mix might be.

The other two floors would not likely be developed with retail or a restaurant, but could be developed with offices or medical offices. Those uses would generate from 126 to 414 ADT.

Traffic generation for Building Two (the day care facility) would be about 250 ADT.

Traffic generation rates for coffee drive-through kiosks are not well documented. Because there are so few studies, the data is more anecdotal than statistically reliable. However, those studies do seem to indicate that up to 95% of the traffic at a coffee drive-through is pass-by traffic, i.e., it consists almost exclusively of vehicles that are already traveling on the adjacent street.

The site fronts Pacific Avenue, a designated Arterial street. It has two travel lanes in each direction and a central left-turn lane. The site would have vehicular access to both Oak and Poplar streets, both of which are designated Local streets. Because the site fronts an arterial street and would have access to the two other streets, staff is not proposing any conditions to address traffic capacity.

The Pacific Avenue frontage is not fully improved, lacking curbs, gutters, sidewalks, and street trees. Staff is proposing a **condition** to require full City-standard frontage improvements.

The Oak Street frontage is not fully improved as it lacks street trees. Staff is proposing a **condition** to require full City-standard frontage improvements. The existing drive approaches serving 1943 Oak Street – site of the new day care facility - will be abandoned with this project; staff has proposed a **condition** to require restoration of the curb and parkway.

The Poplar Street right-of-way between Pacific and 19th avenues is only 40 feet wide. To construct a Local street with no on-street parking restrictions, a 58-foot-wide right-of-way is required. This would allow for the eventual construction of a 32-foot-wide street. Staff is proposing a **condition** to require a half-street width dedication of 9 feet.

The Poplar Street frontage is not fully improved, lacking curbs, gutters, sidewalks, and street trees. Staff is proposing a **condition** to require full City-standard frontage improvements.

Where missing, sidewalks are proposed to be installed in compliance with DC §10.8.620(A). While §10.8.620(C) requires a sidewalk width of 10 feet in the Town Center, no minimum dimension width is stipulated by code in any other zone district. Instead, FGC §3.110 *Sidewalk Specifications* only requires that sidewalks comply with City Engineering standards for grades, locations, widths, materials and construction. A five-foot sidewalk is proposed on all street frontages.

On-site access would be provided by a central 24-foot-wide drive aisle located south of Building One. It would connect with the existing 23-foot-wide drive aisle that takes access from Oak Street, and would extend through to Poplar Street. The new car park would be located south of the central drive aisle.

DC §10.8.135(B)(2) stipulates that “parking areas shall be designed to connect with parking areas on adjacent properties unless not feasible.” As noted above, the application includes a connection to the 1951 Oak Street car park. While both sites are now owned by the applicant, there is no guarantee that would continue in perpetuity. Therefore, staff is recommending a **condition** to record access cross-easements over both parcels, to ensure this access remains available to subsequent property owners. Staff is also recommending a **condition** to require the recordation of an agreement to ensure the shared responsibility to maintain the access aisle and car park in good condition, as stipulated by §10.8.525(J).

Staff is concerned about the access to and queueing for the coffee kiosk. The kiosk would be located along Pacific Avenue east of Building One. It could be accessed from both Oak and Poplar streets. It appears from the application that there would be only one service window, on the north elevation, which means that vehicles would most likely enter the drive aisle from Poplar Street (i.e., traveling east-to-west). The application indicates that there is queueing space for four vehicles.

DC §10.8.530 Table 8-6 requires a minimum of 10 spaces per service window for drive-in restaurants. Staff’s online research of the queueing requirements from other jurisdictions found very few examples specific to coffee kiosk drive-throughs. The requirements for restaurant drive-throughs range from 3 to 10 spaces, with most requiring a number in the upper end of the range. Some examples include:

Jurisdiction	Queueing Requirement	Additional Regulations / Notes
San Diego, CA	Five cars	40 feet of additional stacking space is required on the premises
Louisville, KY	Three cars	
Eugene, OR	80 feet / 4 cars	For buildings < 200 square feet
Henrico County, VA	250 feet queue length	About equal to 12 cars
Markham, Canada	Ten cars	
Forest Grove, OR	Ten cars	

Eugene’s code is the most directly comparable to this request, as the kiosk in this proposal would have a floor area of approximately 200 square feet. However, while the proposed queueing would comply with Eugene’s minimum standard, the proposed design would not provide sufficient queueing for peak hour demand. Any more than four queued vehicles would be backed up into Poplar Street, and possibly into the Pacific Avenue intersection, thus potentially endangering other traffic.

To address the stacking issue, staff is recommending a **condition** to reconfigure the drive-through so that vehicles would travel west-to-east. That would provide on-site stacking space for more than ten vehicles along the central drive aisle, all the way to Oak Street. Vehicles could still access the drive-through via Poplar Street, but they would have to travel about 80 feet into the site before turning into the drive-through lane.

Summary and conclusion: With the conditions noted above, traffic access and circulation requirements would be met.

9. Sidewalks and Pedestrian Walkways:

- No sidewalks exist on either the Pacific Avenue or Poplar Street frontages. A five-foot sidewalk is proposed on all street frontages. Staff has proposed **conditions** to require their installation.
- Concrete pedestrian walkways are proposed to connect the parking stalls to the buildings. DC §10.8.115(4) requires a minimum walkway width of four feet. The proposed walkways would be five feet wide.
- The walkways do not extend to all spaces. Staff is proposing a **condition** so that the walkway along the east car park would be extended south to abut all of those adjacent spaces and to the spaces next to the trash enclosure.
- While the walkway widths exceed the minimum required, staff has included a **condition** to require a minimum 6 ½-foot-width for walkways adjacent to the parking stalls. The additional width would allow for vehicle overhang, and would eliminate the need for wheel stops, which can be a tripping hazard and a barrier to mechanized parking area cleaning equipment. As the proposed standard parking stalls would be 18 feet long, shortening them by 1-½ feet would not compromise their functionality since the curb/wheel stop would be at the 16-½-foot mark, and still function as a full-sized space.

Summary and conclusion: With the conditions noted above, pedestrian access requirements would be met.

10. Parking: DC §10.8.515 Table 8-5 *Parking Requirements* regulates the minimum number of parking stalls required.

Use	Spaces/1,000 S.F.	Proposed S.F.	Spaces Required
General Retail	3.7	5,740	21
General Office	2.7	11,480	31
Medical/Dental Office	3.9	11,480	45
Coffee Kiosk	9.9	180	2
Daycare	2.0/classroom	2 classrooms	4

Because the tenants and uses are unknown at this point, it is difficult to determine what the ultimate parking demand might be. For instance, if the tenants are retail, general office, day care and coffee kiosk, then 58 spaces would be required (21 + 31 + 4 + 2). If the general office floor area was instead occupied by medical or dental offices, then 72 spaces would be required (21 + 45 + 4 + 2).

The car park at 1951 Oak Street has been developed with 14 spaces; additional spaces would be available on-street. While the proposed project would share a drive aisle to Oak Street, no shared parking is proposed.

Parking Reductions Allowed by Code - The applicant proposes to reduce the minimum number of required spaces predicated on two Development Code provisions:

§10.8.515(A) *Multiple Uses.* *In the event several uses occupy a single-building or parcel of land, a reduction of 25% of the total required parking is allowed for projects that utilize shared parking on a blended ratio for complementary uses.*

Key to any reduction predicated on multiple uses is whether or not they could be considered complementary. "Complementary" is not defined in the Development

Code, but DC §10.8.510(D) Joint Use of Parking does provide some guidance: *Owners of two (2) or more uses, structures, or parcels of land may agree to jointly use the same parking and loading spaces when the peak hours of operation do not overlap, provided that satisfactory legal evidence is presented to the Director in the form of deeds, leases, and/or contracts to establish the joint use.*

Hours of operation for retail uses can vary widely. While many stores might be open only between 10:00 a.m. and 6:00 p.m., these tenants could be open earlier and/or later, or could even be open 24 hours. An office or medical/dental office would most likely be open between 8:00 a.m. and 5:00 p.m. but an urgent care might be open earlier and later. A day care would likely be open before 8:00 a.m. and after 5:00 p.m. to allow for child drop-off and pick-up before and after the parents' workday. Actual tenants are not known at this time and could vary over time. Because the parking demands for all the proposed uses could and likely would significantly overlap, staff concludes that the 25% reduction is not applicable.

§10.8.520(A)(1) Parking Reductions Allowed By Right. *The following reductions of minimum required parking may be taken by right. Reductions provided below may not be taken jointly. The reductions allowed by this section may not be used in conjunction with the reductions allowed by subsection (B) below. In determining walking distance, the shortest distance measured along sidewalks, improved pedestrian ways, or streets, where side-walks or improved pedestrian ways are not present, shall be used. Walking distance shall be measured from the point on the subject lot located nearest to the transit stop along the shortest course.*

1. *Parking for commercial and industrial uses may be reduced by 10% providing the development is within 500 feet walking distance to a transit stop.*

A transit stop is located on Pacific Avenue on the west side of Oak Street, adjacent to 3300 Pacific Avenue. It is less than 200 feet walking distance from Building One. Since a transit stop is located within 500 feet walking distance of the site, a 10% parking reduction may be taken by right. If 58 spaces are required overall, a 10% reduction would allow 52 spaces. If 72 spaces are required overall, the reduction would allow 65 spaces.

DC §10.8.510(H) Eligible Parking provides a third option to reduce the amount of on-site parking.

Parking spaces available along the public street frontage or alleys are eligible in fulfilling the parking requirements, except for single-family dwellings and duplexes.

On-street parking is permitted on all the abutting streets. Up to 11 on-street spaces would be available immediately adjacent to the site on Pacific Avenue; one additional space would be available on Poplar Street between the intersection and the driveway; and three more spaces would be available on Oak Street in front of the day care, for a total of 15 spaces.

Parking Provided - Depending on the tenant mix, between 58 and 72 spaces would be required overall. As designed, 42 spaces would be constructed on-site; and up to 15 on-street spaces would be available, for a total of 57 spaces.

Of the 42 spaces, 32 (or 76%) would be standard-sized (including 4 ADA-accessible spaces), while 10 (24%) would be compact spaces. DC §10.8.510(G) allows for up to 50% compact spaces.

With the 10% reduction for transit noted above, the minimum number of spaces required would be 52 to 65 spaces. With 57 spaces available, the lower range of expected demand would be satisfied. If demand is nearer the upper end of the range, then the site plan would be deficient by up to 8 spaces.

Car Park Design Options – To provide more on-site parking, at least three revisions to the site plan are possible:

- a. The proposal includes 4 ADA-accessible spaces; only 2 are required for car parks with 26 to 50 spaces. While this would not change the overall supply of parking, 2 of those spaces could remain available for general use versus being specifically designated as ADA-spaces only.
- b. The 10 spaces along the east property line would be standard (9 by 18-foot) spaces. Those could be designated as compact (8 by 16-foot) spaces, thus increasing the number by one. As up to 50% of the spaces can be compact, and only 10 of the 42 (or 24%) are proposed as such, designating an additional space as compact would still be below the 50% threshold.
- c. The drive aisles through the car park are all proposed to allow for two-way traffic, with a width of 23 feet each. If the east and west drive aisles were designated as southbound one-way only, then the southerly east/west drive aisle could also be reduced in width from 23 feet to 15 feet. This would allow for the creation of up to 5 more spaces.

A combination of (b) and (c) above could increase the number of on-site spaces from 42 to 48 on-site. Combined with the 15 available on-street spaces, 63 would be available overall. That would still be 2 spaces shy of the 65 spaces needed at the top end of the range.

There does not appear to be an opportunity to provide additional on-site parking beyond that described above. The only remaining option would be to place a use restriction on the type of tenants that would be allowed to occupy the buildings, which staff has included as a possible **condition** of approval.

Staff has included all four options above as possible **conditions** of approval.

11. Environmental Quality: There is no City record of any prominent environmental conditions. Runoff from new impervious surfaces would be routed to a new on-site water quality facility located under the car park. The water quality facility would consist of storm filter catch basins. Due to constricted downstream capacity, a storm water detention system would also be constructed to regulate runoff into the public system (see Exhibit A Sheet C4.0). Additional landscaping is proposed to be installed (see below) that may improve air quality and reduce glare and heat.
12. Landscaping: DC §10.8.545 requires landscaping and screening of car parks. Proposed landscaping would include Bowhall red maple street trees, with zelkova, ginkgo and hornbeam trees scattered throughout the site. The plans also include various shrubs, groundcover and ornamental grasses including Oregon grape, cotoneaster, kinnickinnick and juniper. The landscape plan appears to comply with the provisions of this code section.

13. Public Services: The application has been reviewed by the Engineering, Fire, Light and Power, Police, and Public Works departments. Several standard building and fire code conditions of approval will be applied through the building permit review process. Specific comments included:

- Engineering Department Review:
 - Public infrastructure shall comply with City-standard design and construction standards including CWS requirements.
 - The existing storm system is at the end of the line and very shallow. Engineering will be working with the applicant on a detailed design for the new pipe, and will look into possibility shifting the alignment out of the parkway, provided there is enough pipe cover.

The preliminary Utility Plan (Exhibit A Sheet C4.0) notes that “Existing street trees to be replaced for storm line”. If in fact the Pacific Avenue street trees adjacent to 1951 Oak Street need to be removed to allow for the installation of a new storm pipe, and if the new pipe is to be located within the parkway as indicated, staff is recommending two **conditions** of approval:

1. Existing street trees shall be removed, stored and re-installed; or replaced in-kind with trees of not less than a 2 ½-inch caliper.
2. To minimize pipe and tree root conflicts, all street trees in the Pacific Avenue parkway shall be installed with a tree root barrier.

- Fire Department Review:
 - Upgrade the fire hydrant at the intersection of Pacific Avenue and Poplar Street to current City standards.
 - Each building shall be identified with digits at least 8 inches tall that contrasts with the background. Individual unit (suite) numbers shall be at least 6 inches in height and contrast with the background.

The above **conditions** are included in staff’s recommendations.

14. Site Development Approval Criteria: DC §10.2.450 *Site Development Review Criteria* are as follows:

The Planning Commission shall review and approve, conditionally approve, or deny the site development plan based on the following criteria:

- A. The site development plan complies with all applicable standards of the base zoning district, any overlay district, and the applicable general development standards of Article 8.

Finding: All existing improvements would be removed, including the billboard. Staff has included a condition to require that the billboard be removed within 60 days of the current lease’s termination, pursuant to DC §10.8.855 *Nonconforming Signs*.

Finding: The site is located in the Community Commercial (CC) zone district. No front, side, or rear setbacks apply. The buildings would be setback from Pacific Avenue by about 2 ½ feet (west end of Building One) to 23 feet (kiosk); and 12 ½ feet from Oak Street (Building Two). Along the south property line, both Building Two and the trash/recycling enclosure would be setback 10 feet. As no setbacks

are required in the CC zone district, staff finds the proposed setbacks acceptable, and no conditions of approval are necessary.

Finding: The trash and recycling enclosure would be located 10 feet from the south property line. The enclosure would be constructed of concrete block and covered with lap siding to match the other buildings. To minimize weather and wildlife intrusions as well as to provide more visual screening, it would also be roofed.

Finding: The height limit in the CC zone district is 45 feet. The height of the Building One would be 42 feet at the roof peak. The height of Building Two would be 17 feet. As the height of the proposed buildings would all be less than the maximum, staff concludes that the heights are acceptable and no conditions of approval appear to be necessary.

Finding: The coffee kiosk would be located along Pacific Avenue east of Building One. It could be accessed from both Oak and Poplar streets. It would have only one service window, on the north elevation, which means that vehicles would most likely enter the drive aisle from Poplar Street (i.e., traveling east-to-west). The application indicates that there is queueing space for four vehicles. The proposed design would not provide sufficient queueing for peak hour demand. Any more than four queued vehicles would be backed up into Poplar Street, and possibly into the Pacific Avenue intersection, thus potentially endangering other traffic. To address the stacking issue, staff is recommending a condition to reconfigure the drive-through so that vehicles would travel west-to-east. That would provide on-site stacking space for more than ten vehicles along the central drive aisle, all the way to Oak Street. Vehicles could still access the drive-through via Poplar Street, but they would have to travel about 80 feet into the site before turning into the drive-through lane.

Finding: The walkways do not extend to all spaces. Staff is proposing a condition so that the walkway along the east car park would be extended south to abut all of the adjacent spaces and east along the south drive aisle to connect to the spaces located by the trash enclosure.

Finding: While the walkway widths exceed the minimum required, staff has included a condition to require a minimum 6 ½-foot-width for walkways adjacent to the parking stalls. The additional width would allow for vehicle overhang, and would eliminate the need for wheel stops, which can be a tripping hazard and a barrier to mechanized parking area cleaning equipment. As the proposed standard parking stalls would be 18 feet long, shortening them by 1-½ feet would not compromise their functionality since the curb/wheel stop would be at the 16-½-foot mark, and still function as a full-sized space.

Finding: Because the tenants and uses are unknown, it is difficult to determine what the ultimate parking demand might be. For instance, if the tenants are retail, general office, daycare and coffee kiosk, then 58 spaces would be required (21 + 31 + 2 + 4). If the general office floor area was instead occupied by medical or dental offices, then 72 spaces would be required (21 + 45 + 2 + 4). As designed, 42 spaces would be constructed on-site; and up to 15 on-street spaces would be available, for a total of 57 spaces.

Finding: The applicant proposes to reduce the minimum number of required spaces predicated on two Development Code provisions:

§10.8.515(A) Multiple Uses. *In the event several uses occupy a single-building or parcel of land, a reduction of 25% of the total required parking is allowed for projects that utilize shared parking on a blended ratio for complementary uses.*

Based on staff's analysis above, this project does not qualify for this reduction.

§10.8.520(A)(1) Parking Reductions Allowed By Right. *The following reductions of minimum required parking may be taken by right. Reductions provided below may not be taken jointly. The reductions allowed by this section may not be used in conjunction with the reductions allowed by subsection (B) below. In determining walking distance, the shortest distance measured along sidewalks, improved pedestrian ways, or streets, where side-walks or improved pedestrian ways are not present, shall be used. Walking distance shall be measured from the point on the subject lot located nearest to the transit stop along the shortest course.*

1. *Parking for commercial and industrial uses may be reduced by 10% providing the development is within 500 feet walking distance of a transit stop.*

A transit stop is located on Pacific Avenue on the west side of Oak Street, adjacent to 3300 Pacific Avenue. It is less than 200 feet walking distance from Building One. Since a transit stop is located within 500 feet walking distance of the site, a 10% parking reduction may be taken by right.

Finding: Including the 15 on-street spaces immediately adjacent to the site, 57 parking stalls would be available overall (42 on-site and 15 on-street). With the 10% reduction noted above, the minimum number of spaces required would be 52 spaces.

With the 10% reduction for transit noted above, the minimum number of spaces required would be 52 to 65 spaces. With 57 spaces available, the lower range of demand would be satisfied. If demand is nearer the upper end of the range, then the site plan is deficient by 8 spaces.

Finding: To provide more on-site parking, at least three revisions to the site plan are possible:

- a. The proposal includes 4 ADA-accessible spaces; only 2 are required for car parks with 26 to 50 spaces. While this would not change the overall supply of parking, 2 of those spaces could remain available for general use versus being specifically designated as ADA-spaces only.
- b. The 10 spaces along the east property line would be standard (9 by 18-foot) spaces. Those could be designated as compact (8 by 16-foot) spaces, thus increasing the number by one. As up to 50% of the spaces can be compact, and only 10 of the 42 are proposed as such, designating an additional space as compact would still be below the 50% threshold.
- c. The drive aisles through the car park are all proposed to allow for two-way traffic, with a width of 23 feet each. If the east and west drive aisles were designated as southbound one-way only, then the southerly east/west drive aisle could also be reduced in width from 23 feet to 15 feet. This would allow for the creation of up to 5 more spaces.

A combination of (b) and (c) above could increase the number of on-site spaces from 42 to 48 on-site. Combined with the 15 available on-street spaces, 63 would be available overall, which would still be 2 spaces shy of the 65 spaces needed at the top end of the range.

There does not appear to be an opportunity to provide additional on-site parking beyond that described above. The only remaining option would be to place a use restriction on the type of tenants that would be allowed to occupy the buildings, which staff has included as a possible condition of approval.

Finding: DC §10.8.545 requires landscaping and screening of car parks. Proposed landscaping would include Bowhall red maple street trees, with zelkova, ginkgo and hornbeam trees scattered throughout the site. The plans also include various shrubs, groundcover and ornamental grasses including Oregon grape, cotoneaster, kinnickinnick and juniper. The landscape plan appears to comply with the provisions of this code section.

Summary and Conclusion: With the conditions noted above, the project would meet or exceed Development Code standards.

B. The site development plan ensures reasonable compatibility with surrounding uses as it relates to the following factors:

1. Building mass and scale do not result in substantial visual and privacy impacts to nearby residential properties; and

Finding: Building One would be three stories, and would be erected abutting Pacific Avenue at the maximum distance possible from nearby residences. Two single-family residences abut the project site on the south. Both are also located in the Community Commercial zone district. The single-story daycare facility and parking would be located abutting 1937 Oak Street, while a drive aisle and parking would abut 1948 Poplar Street. The daycare facility would be setback 10 feet from the property line and the entire south property line of the project site would be landscaped. Additional landscaping – including canopy trees – would be installed in the car park, thus obscuring views from Building One.

Summary and Conclusion: Because the new buildings would be located in the same zone district as the abutting single-family homes, would be setback from the property line in compliance with Development Code standards, and would be visually screened from the adjoining properties by new landscaping, no conditions pertaining to visual and privacy impacts appear necessary.

2. Proposed structures, parking lots, outdoor use areas or other site improvements that could cause substantial off-site impacts such as noise, glare and odors are oriented away from nearby residential uses and/or adequately mitigated through other design techniques.

Finding: Single-family homes are located to the south and east of the project site. Both homes are also located in the Community Commercial zoning district. Building Two would be located ten feet from the property line shared with 1937 Oak Street, while the car park improvements adjacent to 1948 Poplar Street would be between five and ten feet from the property line. No fencing is proposed.

Finding: As a retail and office project, off-site noise impacts are not anticipated. Should noise become a complaint issue, the City has in place a noise control ordinance that could be used to abate the nuisance.

Finding: On-building, pathway and car park lighting is proposed. Lighting will be required to comply with the provisions of DC §§10.8.755(C) and (D).

Finding: The trash and recycling enclosure would be located 10 feet from the south property line, and would be constructed of concrete block with a roof. Potential odor transmission to nearby residential uses should be minimal.

Finding: DC §10.8.545 requires landscaping and screening of car parks. Proposed landscaping would include zelkova, ginkgo and hornbeam trees scattered throughout the site. The plans also include various shrubs, including Oregon grape, cotoneaster, and spirea along the south property line, which would provide a visual separation from the abutting residential uses. The landscape plan appears to comply with the provisions of this code section.

Summary and Conclusion: Because the new buildings would be located in the same zone district as the existing single-family homes, would be setback from the property line in excess of Development Code standards, and would be separated from the adjoining properties by landscaping, no noise, glare or odor impacts are anticipated and no additional conditions pertaining to compatibility appear necessary.

- C. The site development plan preserves or adequately mitigates impacts to unique or distinctive natural features including, but not limited to:
1. Significant on-site vegetation and trees;
 2. Prominent topographic features; and
 3. Sensitive natural resource areas such as wetlands, creek corridors and riparian areas.

Finding: No sensitive natural resource areas, prominent topographic features, or sensitive natural resource areas exist on or adjacent to the site. This criterion does not apply.

- D. The site development plan preserves or adequately mitigates impacts to designated historic resources.

Finding: No designated historic resources are present on or adjacent to the site. This criterion does not apply.

- E. The site development plan provides adequate right-of-way and improvements to abutting streets to meet the street standards of the City. This may include, but not be limited to, improvements to the right-of-way, sidewalks, bikeways, and other facilities needed because of anticipated vehicular and pedestrian traffic generation.

Finding: The Pacific Avenue frontage is not fully improved, lacking curbs, gutters, sidewalks, and street trees. Staff is proposing a condition to require full City-standard frontage improvements.

Finding: The Oak Street frontage is not fully improved as it lacks street trees. Staff is proposing a condition to require that the abandoned drive approaches be replaced with City-standard curbs, the parkway restored, and the installation of street trees.

Finding: The Poplar Street frontage is not fully improved, lacking curbs, gutters, sidewalks, and street trees. In addition, it is of substandard right-of-way width for a Local street. Staff is proposing a condition to require full City-standard frontage improvements, and a condition to require the dedication of 9 feet of right-of-way, resulting in an ultimate width of 60 feet. While that is greater than the current code requirement of 58 feet, it would be consistent with the right-of-way previously dedicated on other segments of this street. A uniform right-of-way width would facilitate the installation of public utilities, sidewalks and street trees since no adjustments would need to be made in response to a variable right-of-way width.

Summary and Conclusion: With the conditions noted above, the site development plan would comply with City street standards.

- F. The site development plan promotes safe, attractive and usable pedestrian facilities that connect building entrances, public sidewalks, bicycle and auto parking spaces, transit facilities, and other parts of a site or abutting properties that may attract pedestrians.

Finding: DC §10.8.115(4) requires a minimum walkway width of four feet. Concrete pedestrian walkways are proposed to connect each building to the car park and public sidewalk. All walkways would be at least five feet wide. This criterion is met.

- G. Design Review Criteria: Projects subject to design review by the Director (Type II) or the Design Review Commission (Type III) shall be evaluated based on the following:
 - A. The development standards of the applicable zoning district and any overlay district;
 - B. The general development standards of Article 8.
 - C. Departures from code requirements may be permitted as part of a Track 2 Design Review Process, when the following criteria are met:
 - 1. The design guidelines contained in the applicable section of the "Design Guideline Handbook" are adequately addressed.
 - 2. The applicant demonstrates that the overall development would result in a development that better meets the intent of the design guidelines than a design that simply meets the Code.

The Design Guideline Handbook Section II *Commercial Corridor Design Guidelines* establishes specific design review criteria intended to respond to typical commercial development common to Forest Grove, as follows. With minor exceptions, the project complies with the clear and objective criteria established in the Development Code.

Site – Circulation

- *Access to parking shall be from a local or collector street, an adjacent development, alley, or existing driveways along arterial roadways.* Complies. Access would be from both Oak and Poplar streets. Both are designated Local streets.
- *The site plan shall provide connection to vehicular and pedestrian system into adjacent developments.* Complies. Both pedestrian and vehicular connections are proposed with those located on the property at 1951 Oak Street.
- *Where buildings are setback from right-of-ways, a continuous and direct sidewalk with a 12-foot minimum width shall be provided between the public sidewalk and the front door to all buildings on site.* Complies. Connections are provided to the public sidewalk along both Pacific Avenue and Oak Street.
- *All walkways shall include canopy trees spaced at maximum of 30 feet on center. Trees shall be placed in ornamental cast iron tree grates or planting beds.* Complies. Canopy trees are proposed throughout the car park.
- *All roadways or drives shall include sidewalks on both sides of travel lanes with the exception of vehicle facilities that provide access to loading and service areas.* Partially complies. Walkways are provided along the travel lanes connecting the buildings. No walkway is proposed along the south side of the Poplar Street driveway. Due to the shallow lot depth along Poplar Street (about 100 feet) which would limit the need for out-of-direction travel, additional walkways do not appear to be warranted.

Site – Parking

- *Construct off-street surface parking that does not occupy more than 50% of the street frontage. Where a site has frontage along a side street a surface parking lot may occupy more than 50% of the side street frontage.* Complies. The parking area is located completely behind Building One.
- *A minimum 5' landscaped strip abutting property lines and at least 8% of the interior parking lot area shall be landscaped.* Complies. The proposed landscape strips would be 10 feet wide. Interior car park landscaping will total 3,700 square feet, in excess of the 8% (1,974 square feet) required.
- *Screen parking with solid perimeter wall, earthen berm or evergreen hedge (or a combination thereof) at a minimum spacing of 3 feet and a maximum of 5 feet in height.* Complies. The parking area would be largely screened because it would be located behind Building One. Landscaping located throughout the car park and along the perimeter would provide additional screening.
- *Provide a minimum of 15% of parking lot as water pervious surface – either paving or landscaped retention areas.* Complies. Landscape areas totaling nearly 25% of the site (13,408 square feet) would provide water pervious surfaces.
- *Development sites shall not consist of paved parking areas of more than 50% of the entire site area.* Complies. Total site area equals 1.28 acres; the car park equals 0.58 acres, or 45% of the site area.

Site – Building Orientation

- *Design and construct buildings no greater than sixty (60) feet from a dedicated public right-of-way. Complies. Both Building One and Building Two would be located within 10 feet of a right-of-way.*
- *Design and construct a minimum of one primary building entrance for each building ground floor use or tenant along a public right-of-way or internal roadway built to City public street engineering standards. Complies. Both buildings have their primary building entrances along a public street.*

Site – Pedestrian Environment

- *The sidewalk system shall connect all customer entrances to the public sidewalk. Complies. Walkways extend from the customer entrances to the public sidewalk.*
- *Minimum sidewalk width of ten (10) feet. Sidewalks shall meet American with Disabilities Act (ADA) requirements and may include landscaped areas, benches and other pedestrian amenities. Does not comply. Sidewalk width is proposed to be 5 feet, consistent with the sidewalks constructed outside the town center.*
- *Plazas, squares or courts shall be fronted by commercial building facades with 75% or more transparency/window openings of first 15 feet of building. Not applicable, as no plazas, etc. is proposed.*
- *All development shall provide a sheltered entry area at the entrance to each commercial establishment with a minimum area of fifty (50) square feet and a minimum dimension of six (6) feet. Complies. Both buildings have entrances that meet or exceed these dimensions.*

Site – Screening/Service Areas

- *All loading areas shall be physically separated from customer pedestrian and residential areas with a solid fence, evergreen hedge, arbor, berm or a combination of these elements. Not applicable, as there are no loading areas proposed.*
- *See landscape requirements in §10.8.545 Landscaping and Screening of Parking and Loading Areas. Complies. Perimeter car park landscaping and interior parking lot landscaping complies with this standard, as indicated on Sheet L1.0 of the submittal.*
- *All ground level and roof-top mechanical equipment shall be screened from view with landscaping, fencing and or walls. The height of the screen shall equal or exceed the height of the equipment, and include screening from views from above when visible from adjacent inhabited buildings. No mechanical equipment is described in the application. Screening of such equipment is included in the conditions of approval.*

Site – Landscaping

- *A landscaped strip at least five (5) feet in width shall be provided between a parking area and any property line facing a street, except in the Community Commercial zone, the minimum width shall be ten (10) feet. The landscaped strip shall be appropriately landscaped with ground cover, planted berm, shrubbery and/or trees. Complies. The landscape strip located along both the Pacific Avenue and Poplar Street frontages would be at least 10 feet wide. No parking area abuts Oak Street.*
- *At least 75% of required landscaped area shall be planted with any suitable combination of trees, shrubs, or evergreen ground cover.*

Complies. All landscaped areas are proposed to be planted with trees, shrubs and evergreen ground cover.

- *A maximum of 25% of required landscaped area may include architectural features or artificial ground covers such as sculptures, benches, masonry or stone walls, rock groupings, decorative hard paving and gravel areas interspersed with planting areas. Not applicable, as no such materials are proposed.*
- *Buffering and screening is required as specified in §10.8.400 et. seq. Complies; a continuous evergreen hedge is proposed.*
- *All development projects fronting on a public or private street more than 100 feet in length approved after the adoption of this title shall be required to plant street trees (spacing, and tree type varies according to §10.5.120(A)(1)). Complies. Bowhall red maple trees are proposed for installation in all adjacent parkways.*

Building – Massing and Form

- *Provide changes in the depth of the façade plane in excess of two (2) feet for all building walls more than 75 feet in length. Complies. Building length of Building One is about 140 feet. Three plane changes are proposed along the Pacific Avenue façade.*
- *Maximum length of building facades shall be 200 feet. Complies. Building length of Building One is about 140 feet; Building Two is less.*
- *Roofline heights must be varied a minimum of 2 feet for building facades greater than 75 feet in length. Complies. In addition to the Building One's primary east-west ridge line, several north-south facing gables are proposed.*
- *Provide vertical partitioning of facades by using columns, pilasters and other vertical elements a minimum of every twenty-five (25) feet. Complies. Three vertical rock elements are proposed on Building One that would extend to the third floor gables. The day care facility (Building Two) would have two projecting bays extending upward into west-facing gables.*
- *Articulation of building fronts through changes in depth or building relief (e.g., windows, doors, cornices, columns, and a change in materials) shall occur a minimum of every fifteen (15) feet in the horizontal or vertical dimensions. Complies. Both buildings have changes in both depth and materials.*

Building – Design Elements

- *Every building elevation adjacent to a street with a horizontal dimension of more than 100 feet shall have a building entrance. Building One complies as its entrance faces Pacific Avenue. Building Two does not have a horizontal dimension of more than 100 feet; this standard does not apply.*
- *Building facades adjacent to sidewalks or pedestrian connections must include weather protection canopies or awnings along at least 75% of the length of the ground floor façade. Complies. The pedestrian connections would be sheltered with an awning or a pergola.*
- *Incorporate a minimum of 50% transparency or window openings on the ground floor facades of buildings facing the public right-of-way. Complies. Multiple window openings are proposed on the ground floor facades facing public streets.*

- *Windows shall not be reflective, tinted or treated in such a way as to block views into or out of windows.* Complies, as no such window treatments are proposed.
- *Windows must be recessed a minimum of 4 inches from building facades.* Complies, based on the submitted architectural renderings.

The following applies for facades with primary building entries within 60 feet of public streets:

- *Materials such as synthetic stucco (EIFS, Dryvit, etc.) are prohibited at ground floor.* Complies, as no such materials are proposed.
- *Jumbo bricks with dimensions larger than 4x8x2 inches are prohibited at ground floor.* Complies, as no such bricks are proposed.
- *Walls constructed of spandrel glazing/curtain wall (i.e. smooth glass concealing structural elements) are prohibited at ground floor.* Complies, as no curtain walls are proposed.
- *Vinyl cladding of building façade is prohibited at ground floor.* Complies. Ground floor siding is proposed to be fiber cement and ledger stone veneer.

Building – Compatibility

- *Any building or portion of a building that is less than 50 feet from existing residential dwellings must not be higher than 15 feet above the top of the roofline of the nearest existing dwelling.* Complies. The day care facility building (Building Two) would be a single story with a roof peak height of 17 feet. Building One would be located farther than 50 feet from the nearest residential building.
- *When adjacent to existing residential development, all commercial structures with floor areas less than 20,000 square feet of total building area must have sloped roofs.* Complies. Building One exceeds 20,000 square feet in area. The day care facility building (Building Two) would have an area of 3,150 square feet. Both buildings will have sloped roofs.

Building – Safety

- *Security gates or bars on windows or doors are prohibited along ground floors of commercial buildings, excluding loading and storage areas.* Complies, as no security gates, bars or doors are proposed.
- *Motion activated security lighting is prohibited along building facades that front onto public rights-of-way.* Complies, as no motion-activated lighting along the public way is proposed.
- *Public access shall be provided to all commercial uses that provide plazas, squares, or courts intended for food, beverage or entertainment uses.* Not applicable, as no such features are proposed.
- *Parking lots or roadways shall not be gated or secured excluding loading and storage areas or residential parking areas.* Complies, as no gates are proposed.

Lighting – Exterior Building

- *Building lighting shall be directed downward with no splay of light off the site.* Complies; the lights are to be shielded.
- *Any light source over ten (10) feet high shall incorporate cut-off shield.* Complies, as the lights are to be shielded.

Lighting – Parking Lot

- *Lights shall not obstruct vehicular or pedestrian traffic.* Complies; the lights will not be installed in travel lanes or within walkways.

- *Poles outside of the public right-of-way shall be a maximum of 14 feet in height.* Light poles in the car park are proposed to be 18 feet tall, in compliance with DC §10.8.755(E)(2)(b).
- *Concrete light fixture bases taller than 8" are prohibited.* Complies; the fixture bases will not exceed 8 inches in height.
- *Lights shall be equipped with cut-off fixture to ensure that light does not spill onto adjacent residential property.* Complies; the lights will be shielded.

Lighting – Sidewalk and Landscape

- *All bollard, wall or stairway lighting shall be directed exclusively downward.* Complies, as all lighting shall be directed downward.
- *All uplighting fixtures shall be screened by landscaping or concealed within structures or located below or flush with grade.* None proposed; not applicable.
- *No walkway lighting shall exceed 18 feet in height.* Complies; light poles are proposed to be 18 feet in height.

Lighting – Signs

- *Interior lighted plastic signs are prohibited.* None proposed.
- *Moving or flashing signs are prohibited.* None proposed.

Pole and Monument Signs

- *No more than one (1) pole or free-standing sign shall be allowed per individual business or frontage (whichever is less).* No signs have been proposed.
- *All pole signs shall have a minimum clearance of ten (10) feet below the sign and shall have a maximum height of twenty (20) feet. No pole sign shall have a total area of more than forty (40) square feet per face.* No signs have been proposed.
- *The maximum height for a free-standing sign is eight feet.* No signs have been proposed.

Summary and Conclusions: With the conditions described in the Project Description and Analysis section above, the design guidelines have been adequately addressed by the application.

III. ALTERNATIVES

The Planning Commission may approve as submitted, approve with conditions, continue deliberations to a date certain, or deny this request.

IV. RECOMMENDATION

Based on the information provided in the application and the findings above, staff recommends approval of the application for site design and design review for the proposed PacOak Project, with the following conditions:

GENERAL

1. The applicant is bound to the project description and all representations made by the applicant during the application and decision-making proceeding.
2. The applicant must comply with all applicable City and CWS building and development standards, including all dimensional standards and public works specifications.
3. All utility connections shall be underground (DC §10.8.645(A) *Underground Utilities*).
4. The applicant shall submit a copy of the recorded legal description to consolidate all four lots into one, prior to requesting building permits for any structure located within 10 feet of an existing lot line.
5. The applicant shall record access cross-easements over the project site and Washington County Tax Lot 1S305BA00600, also known as 1951 Oak Street, to ensure through access remains available to subsequent property owners.
6. The applicant shall record a maintenance agreement that includes the project site and Washington County Tax Lot 1S305BA00600, also known as 1951 Oak Street, to ensure the joint use access aisle and car park are maintained in good condition.
7. Dedicate right-of-way along Poplar Street to provide a 29-foot half-width.

STREET IMPROVEMENTS

8. Improve the Pacific Avenue street frontage to City standards including curbs, gutters, sidewalks, and street trees.
9. Improve the Poplar Street frontage to City standards including curbs, gutters, sidewalks, and street trees.
10. Improve the Oak Street frontage with a City-standard curb in place of the abandoned drive approaches, restore the parkway and install street trees.
11. If the existing Pacific Avenue street trees adjacent to 1951 Oak Street have to be removed to allow for construction of a new storm line, the trees shall be stored and re-installed.

ACCESS AND CIRCULATION

12. Walkways adjacent to the car park shall be at least 6 ½ feet wide, to allow for vehicle overhang. No additional curb stops shall be required.
13. Extend the walkway along the east car park to abut all of the adjacent spaces; and extend the walkway along the south drive aisle to the five spaces located by the trash enclosure.
14. Reconfigure the drive-through aisle so that vehicles would travel west-to-east.

LIGHTING

15. All lighting shall comply with the provisions of DC §10.8.755(C) *Pedestrian Lighting Standards* and §10.8.755(E) *Lighting Standards for Commercial Development*.

FIRE DEPARTMENT CONDITIONS

16. Each building shall be identified with digits at least 8 inches tall that contrasts with the background. Individual unit (suite) numbers shall be at least 6 inches in height and contrast with the background.
17. Upgrade the fire hydrant at the intersection of Pacific Avenue and Poplar Street to current City standards.

OTHER

18. All ground level and roof-top mechanical equipment shall be screened from view with landscaping, fencing and or walls. The height of the screen shall equal or exceed the height of the equipment, and include screening from views from above when visible from adjacent inhabited buildings.
19. The billboard located at 3424 Pacific Avenue shall be removed, pursuant to DC §10.8.855(A)(3) *Nonconforming Signs*. The billboard structure shall be removed in its entirety within sixty days of the current lease's termination date.
20. If the Pacific Avenue street trees are removed to allow for the installation of a new storm pipe, and if the new pipe is located within the parkway, then:
 - a. Existing street trees shall be removed, stored and re-installed; or replaced in-kind with trees of not less than 2 ½-inch caliper; and
 - b. To minimize pipe and tree root conflicts, all street trees in the Pacific Avenue and Poplar Street parkways shall be installed with a tree root barrier.

PARKING (Optional Conditions)

21. Reduce the number of ADA-accessible spaces to two.
22. Designate the 10 spaces along the east property line as compact (8-foot-wide) spaces, thereby creating 1 additional space.
23. Designate the east, west and south drive aisles as one-way and reduce their widths to 15 feet each. Reconfigure the car park to create 5 additional parking spaces.
24. Tenancy shall be restricted so that overall parking demand does not exceed 63 spaces.

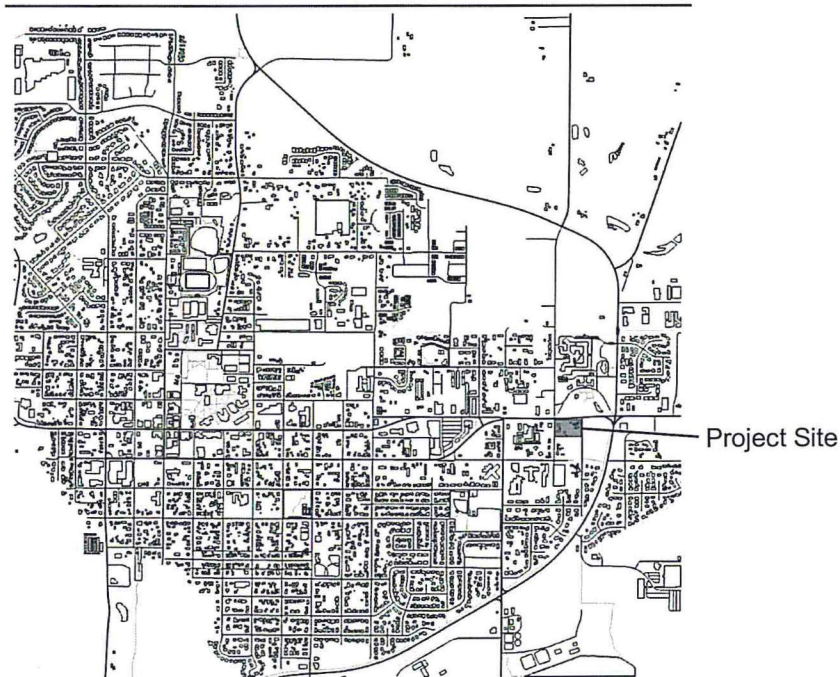
V. LIST OF EXHIBITS

The following exhibits were received, marked, and entered into the record as evidence for this application at the time this staff report was written. Exhibits received after the date of this report will be marked beginning with the next consecutive letter and will be entered into the record at the time the public hearing is opened, prior to oral testimony.

Exhibit A Site Plan and Design Review application materials, submitted by the applicant



Vincity Map:



Project Information:

Site Data:		Building Data:	
Consolidated Lot Size:	54,737 SF	Building One Area	
Building Footprints:	8,889 SF	1st Level:	5,740 SF
Hardscape Area:	25,315 SF	2nd Level:	5,740 SF
Landscape Area:	20,533 SF	3rd Level:	5,740 SF
Parking Data:		Total:	20,220 SF
Required Stalls:	51	Building Two Area	
ADA:	2	1st Level:	3,149 SF
Bicycle:	10	Total:	3,149 SF
Provided Stalls:	54		
Standard:	38		
Compact:	10		
ADA:	6		
Bicycle:	10		

Index:

A100	Cover
A110	Existing Site Photos
A120	Site Plan
A300	Exterior Elevations - Building One
A310	Exterior Elevations - Building Two
A320	Exterior Elevations - Details
A400	Persepctives
A500	References



Looking Southwest (Corner of Pacific & Popular)



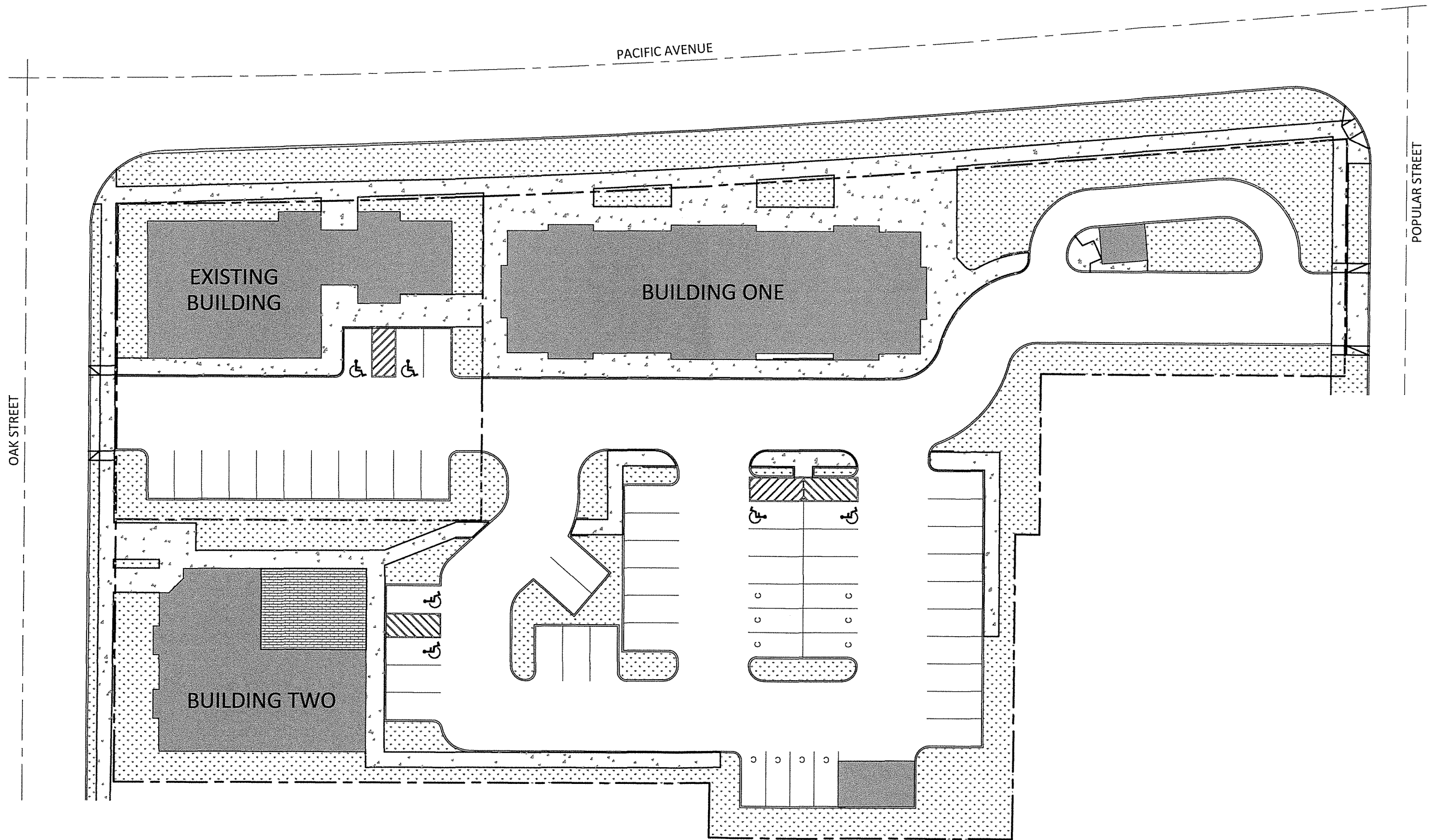
Looking Southeast (Corner of Pacific & Oak)



Existing Buildings to be Removed



Existing Building to Remian (Pacific Oak Dental & Allstate Insurance)





North Elevation (Street Facing Facade)



East Elevation (Parking Lot Facing Facade)



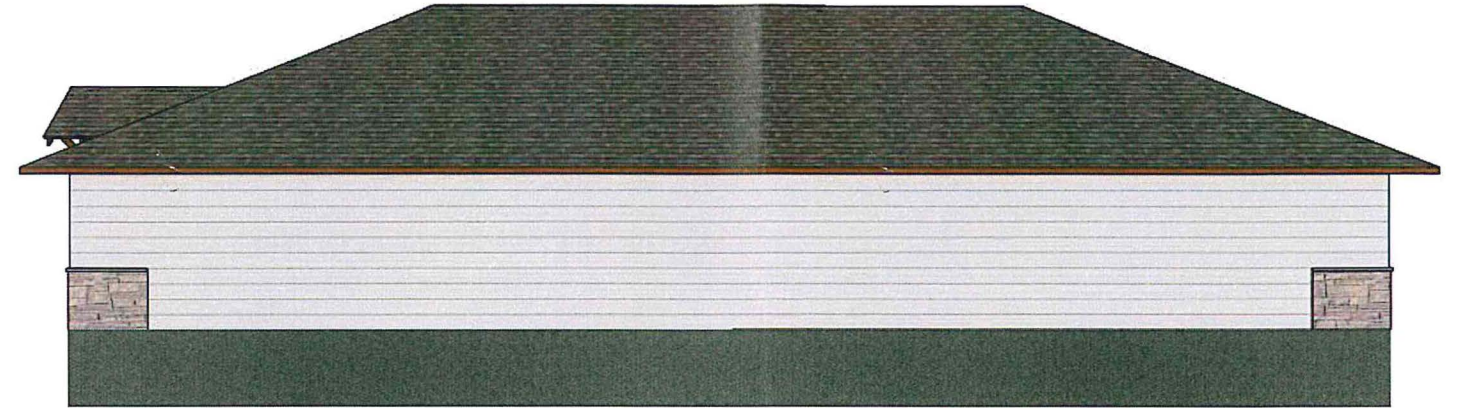
South Elevation (Parking Lot Facing Facade)



West Elevation (Dental Building Facing Facade)



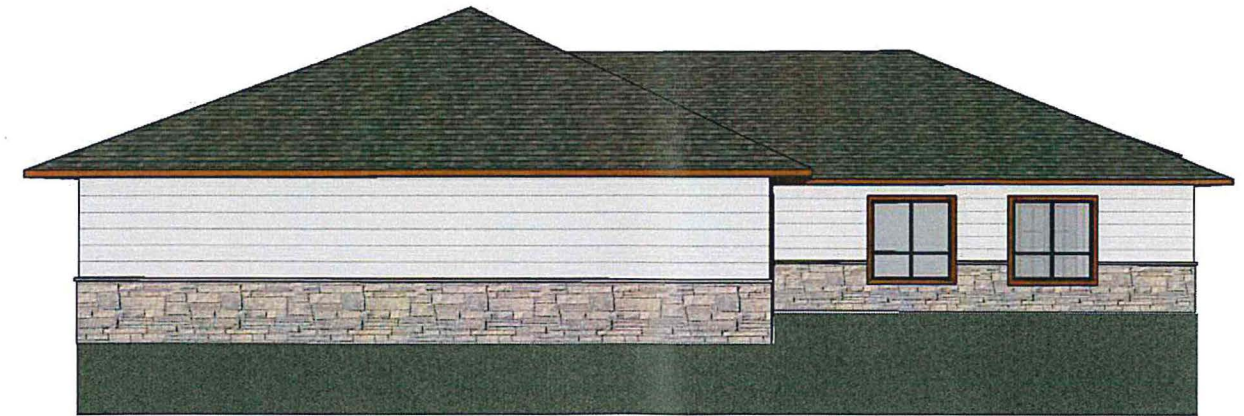
North Elevation (Dental Building Facing Facade)



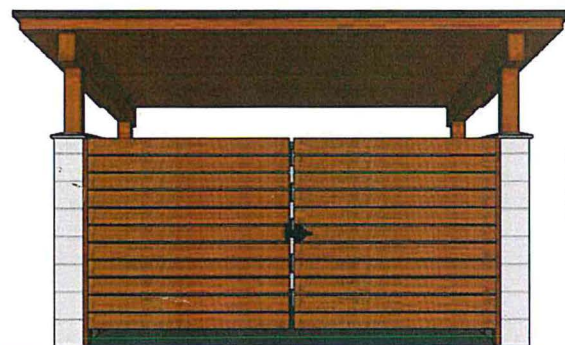
South Elevation (Property Facing Facade)



West Elevation (Oak Street Facing Facade)

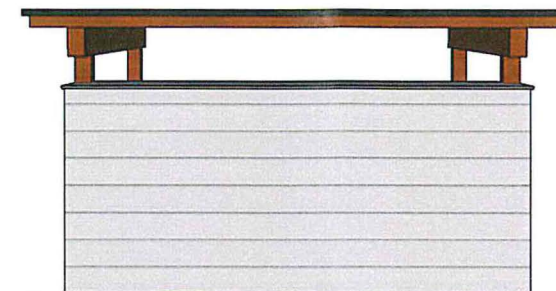


East Elevation (Parking Lot Facing Facade)



5'-6" TALL SOLID WOOD GATE WITH
LATCHING HARDWARE &
DROP ROD TO HOLD GATE OPEN OR CLOSED

North Elevation (Front Facade)



6'-0" TALL CMU WALL WITH
LAP SIDING TO MATCH DEVELOPMENT

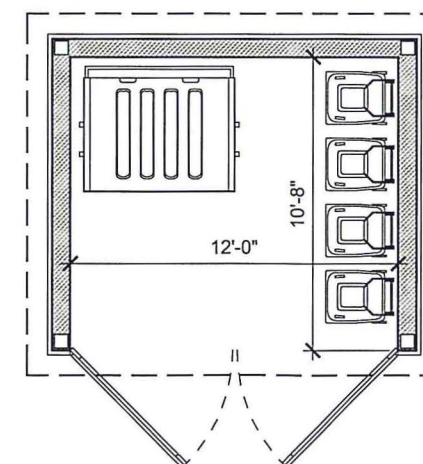
South Elevation (Back Facade)



BACK FACADE
CLEAR HEAD HEIGHT IS 8'-0"

FRONT FACADE
CLEAR HEAD HEIGHT IS 9'-0"

East Elevation (Side Facade)



Schematic Floor Plan

Architectural Composite Shingles

Exposed Fascia / Soffit

Fiber Cement Siding

Premium Vinyl Windows
w/ Fiber Cement Trim

Fiber Cement Belly Band

Wood Canopy

Ledger Stone Veneer

Alumimum Storefront



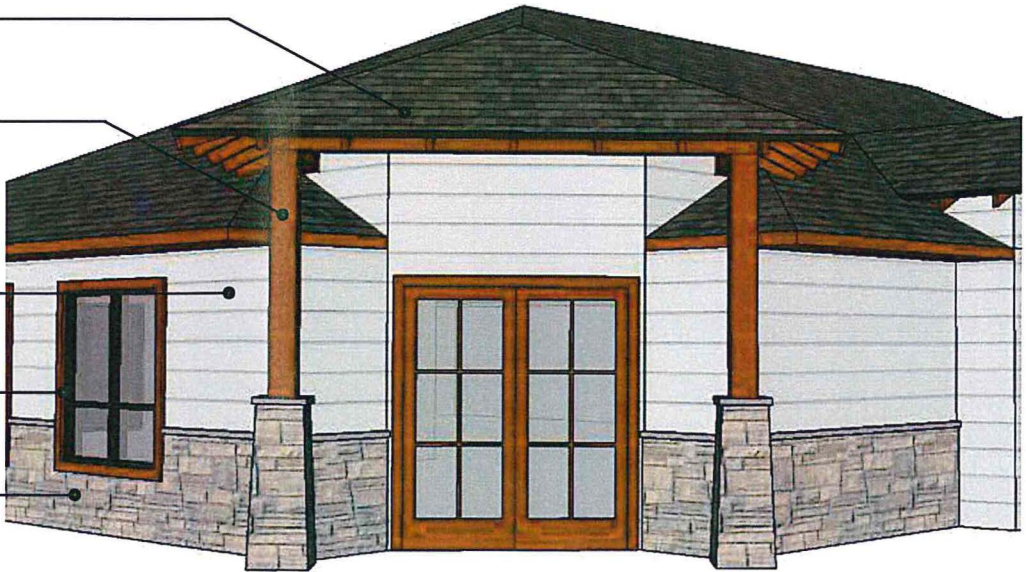
Architectural Composite
Shingle

Wood Columns
w/ Stone Veneer Base

Fiber Cement Siding

Premium Vinyl Windows
w/ Fiber Cement Trim

Ledger Stone Wainscot



Application for Design Review
City of Forest Grove
30 - September - 2016

PROJECT TITLE:

PacOak Development
Pacific Avenue & Oak Street, Forest Grove, Oregon

SHEET TITLE:

Exterior Elevations - Details

A
320



Building One - Southeast Corner - Parking Lot Side



Building One - Northwest Corner - Pacific Street Side



Building Two - Northeast Corner - Plaza



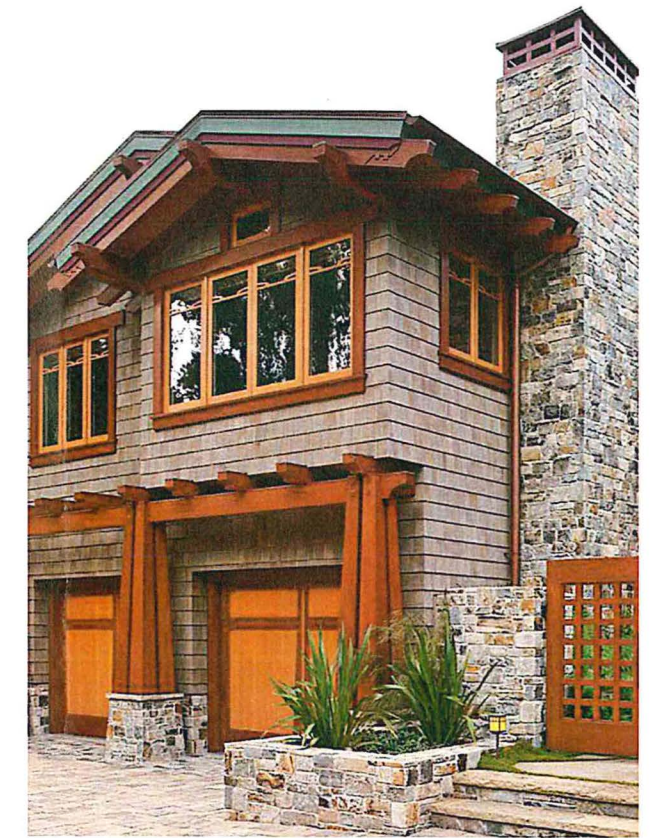
Building Two - Northeast Corner - Entry



Pedestrian Experience



Building Two Entry



Building One Gable Treatment



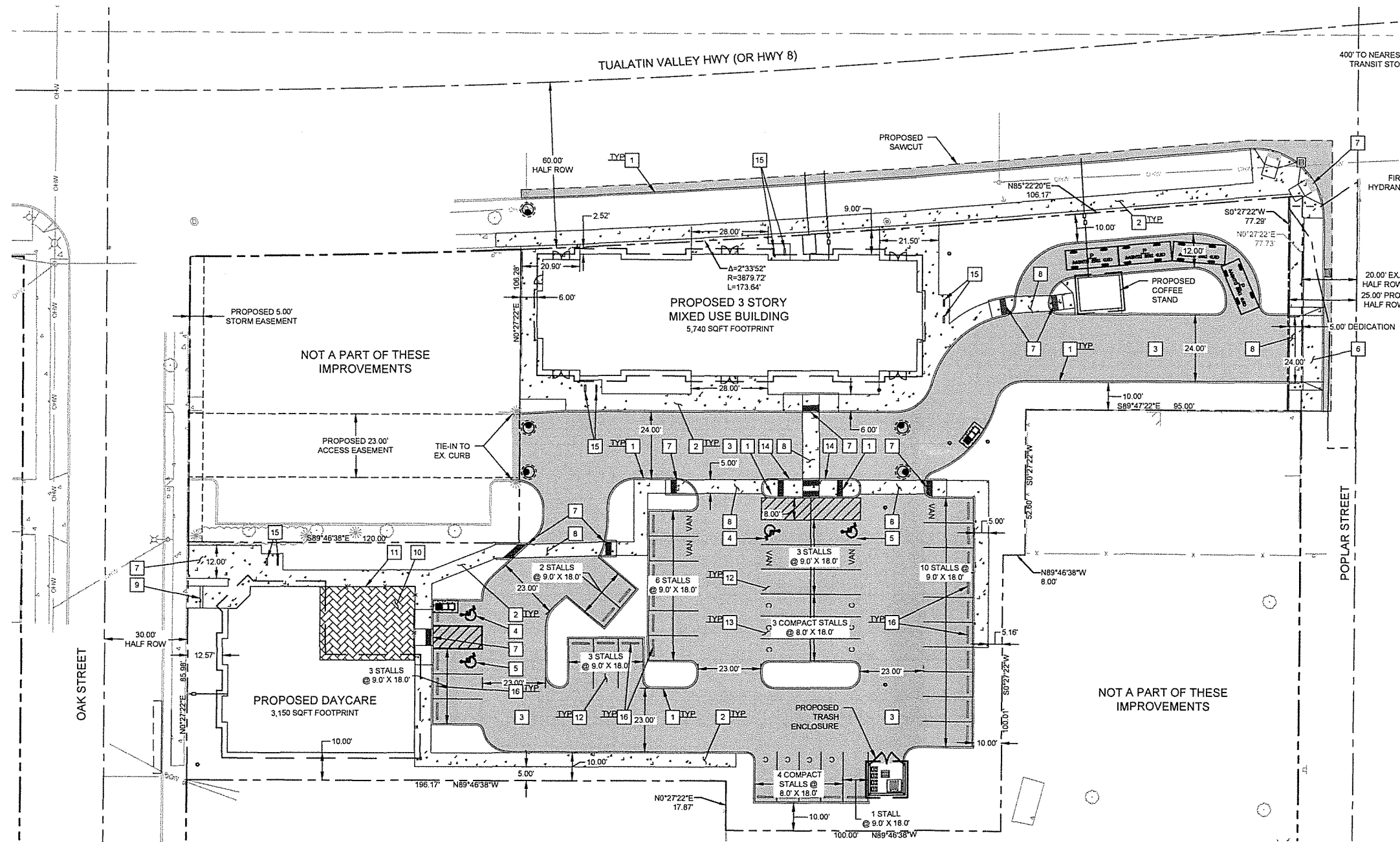
Building Material Composition



Existing Building to Incorporate into Development

Q:\2214297-01\SCAD\DDISC\14-CS-SI-FOREST.dwg PLOT DATE 2017-02-12 10:13 SAVED DATE 2017-02-12 10:11 USER: klenick

OREGON UTILITY
NOTIFICATION CENTER
1-800-332-2344



LEGEND

- | | | | | | |
|--|---------------------------------|--|-------------------------------------|--|--|
| | - EXISTING PROPERTY LINE | | - EXISTING STREET LIGHT (COBRA ARM) | | - PROPOSED ASPHALT SURFACE |
| | - EXISTING CENTERLINE | | - EXISTING UTILITY POLE | | - PROPOSED CONCRETE PAVERS |
| | - EXISTING RIGHT-OF-WAY LINE | | - EXISTING MAILBOX | | - PROPOSED MANHOLE |
| | - EXISTING FENCE LINE | | - EXISTING SIGN POST | | - PROPOSED 2 CARTRIDGE STORMFILTER CATCH BASIN |
| | - EXISTING OVERHEAD WIRE | | - EXISTING UNKNOWN CLEANOUT | | - PROPOSED CLEANOUT |
| | - EXISTING BUILDING FACE | | - EXISTING CATCH BASIN | | - PROPOSED CATCH BASIN |
| | - EXISTING CURB | | - EXISTING WATER METER BOX | | |
| | - EXISTING TREE/VEGETATION LINE | | - EXISTING SANITARY SEWER MANHOLE | | |
| | - EXISTING CONIFEROUS TREE | | - PROPOSED SAWCUT | | |
| | - EXISTING DECIDUOUS TREE | | - PROPOSED CURB | | |
| | | | - PROPOSED BUILDING OVERHANG | | |
| | | | - PROPOSED CONCRETE SURFACE | | |

SITE INFORMATION

SITE AREA: 54,737 SF

BUILDING INFO:

GROUND RETAIL: 5,740 SF
2 STORIES OFFICE: 5,740 SF X 2
COFFEE STAND: 180 SF
DAY CARE: 3,150 SF
BUILDING FOOTPRINT TO LOT COVERAGE: 16.2%

PARKING REQUIRED:

GROUND RETAIL 3.7 PER 1000 SF = 22 STALLS
OFFICE 2.7 PER 1000 SF = 31 STALLS
COFFEE STAND 9.9 PER 1000 SF = 2 STALLS
DAY CARE 2 PER CLASSROOM = 4 (ASSUME 2 ROOMS)
REQUIRED PARKING: 59 STALLS

PARKING REDUCTIONS:

25% FOR MULTIPLE USES: 14 STALLS
10% FOR TRANSIT: 4 STALLS
REQUIRED PARKING AFTER REDUCTION: 41 STALLS

PARKING PROVIDED:

PARKING: 38 (10 COMPACT & 5 VAN)
ADA PARKING: 4 STALLS
PUBLIC PARKING: 17 STALLS
PARKING PROVIDED: 59 STALLS

BIKE PARKING REQUIRED:

28% OF REQUIRED OFFICE/RETAIL PARKING : 7 STALLS

BIKE PARKING PROVIDED:

BIKE PARKING: 8 STALLS

PARKING LOT REQUIREMENTS:

PARKING LOT COVERAGE TO SITE < 50% = 27,368 SF

PARKING LOT PROVIDED:

PARKING LOT AREA: 24,672 SF (45.1%)

LANDSCAPE REQUIREMENTS:

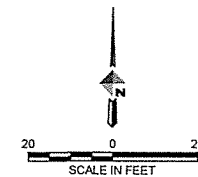
INTERIOR LANDSCAPING 8% OF PARKING LOT AREA: 1,974 SF
LANDSCAPING AREA 15% OF PARKING LOT AREA: 3,700 SF
TOTAL LANDSCAPE > 15% OF SITE AREA = 8,210 SF

LANDSCAPE PROVIDED:

INTERIOR LANDSCAPING: 1,980 SF
LANDSCAPING AREA: 3,798 SF
TOTAL LANDSCAPE: 13,408 SF (24.5%)

PROPOSED SITE NOTES

- 1 PROPOSED STANDARD CONCRETE CURB
- 2 PROPOSED CONCRETE SIDEWALK
- 3 PROPOSED ASPHALT SURFACE
- 4 PROPOSED STANDARD ADA STALL
- 5 PROPOSED VAN ACCESSIBLE ADA STALL
- 6 PROPOSED CONCRETE DRIVEWAY
- 7 PROPOSED ADA RAMP
- 8 PROPOSED CONCRETE CROSSWALK
- 9 PROPOSED STAIRS
- 10 PROPOSED OUTDOOR PLAZA SPACE
- 11 PROPOSED FENCE
- 12 PROPOSED STANDARD PARKING STALL
- 13 PROPOSED COMPACT PARKING STALL
- 14 PROPOSED FLUSH CONCRETE CURB
- 15 PROPOSED BIKE PARKING
- 16 PROPOSED WHEEL STOP

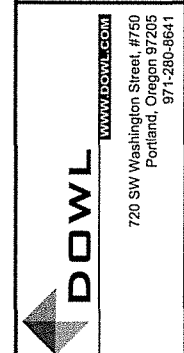


FOREST GROVE RETAIL
PAC OAK DEVELOPMENT
SITE PLAN
DESIGN REVIEW
FOREST GROVE, OREGON

PROJECT 14297-01
DATE 2016-12-16
DESIGNED BY KDD
DRAWN BY KDD/BCF
CDDMA 2016
SHEET

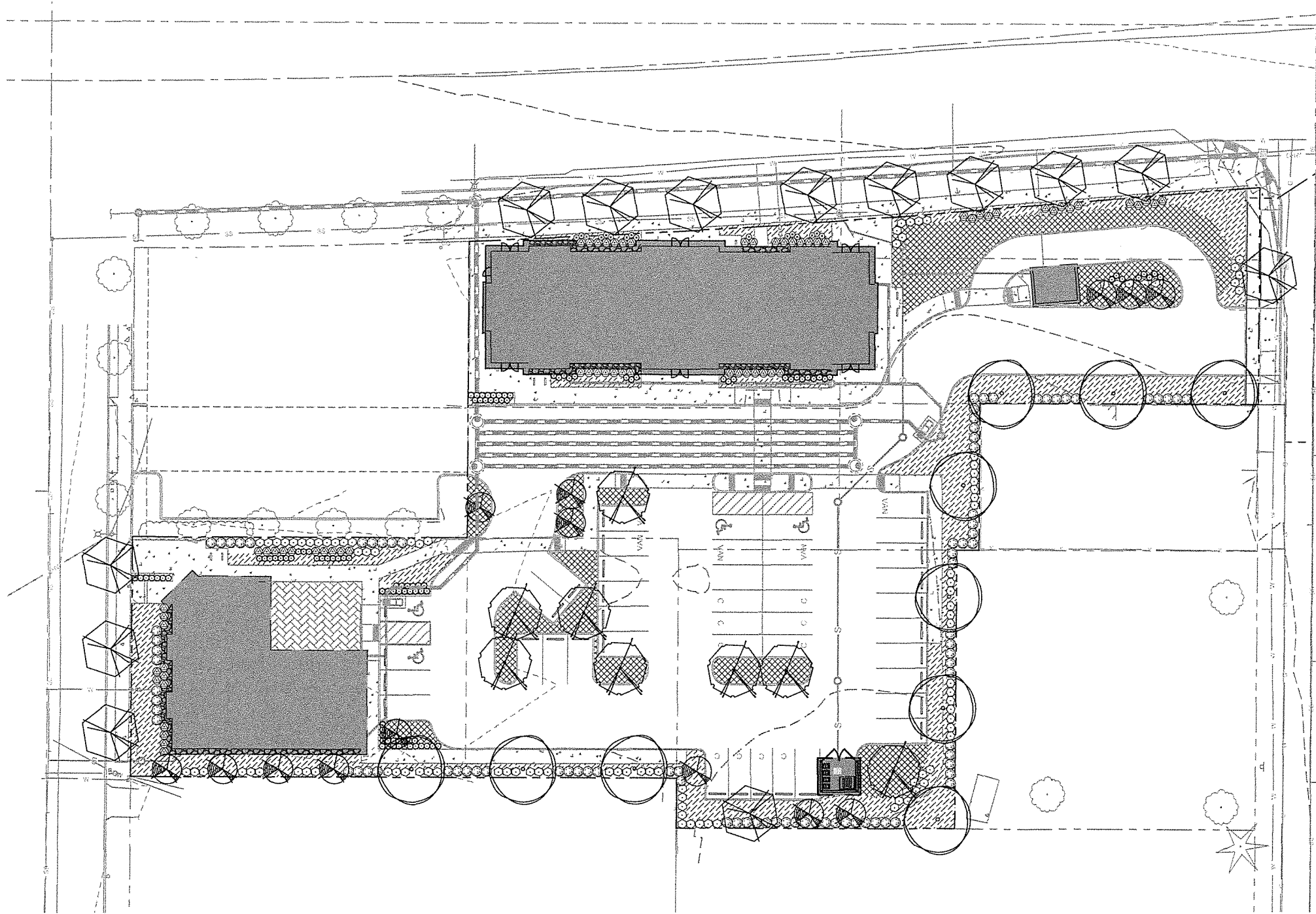
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REV	DATE	DESCRIPTION	BY



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Q:\221\4297-01\65CAD_D\SC14.LA-PG-FOREST.dwg PLOT DATE 2017-2-13 12:37 SAVED DATE 2016-12-16 11:15 USER: pggwmer



LANDSCAPE PLANT AND MATERIALS LEGEND

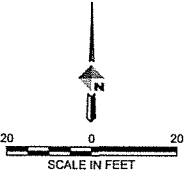
TREES ITEM	SIZE	QTY.
ACER RUBRUM 'BOWHALL' BOWHALL RED MAPLE	2" CAL. / B&B 40'-0" O.C.	13
ZELKOVA SERRATA 'VILLAGE GREEN' VILLAGE GREEN ZELKOVA	2" CAL. / B&B 40'-0" O.C.	10
GINKGO BILOBA 'PRINCETON SENTRY' PRINCETON SENTRY GINKGO	2" CAL. / B&B AS SHOWN	8
CARPINUS BETULUS 'FRANS FONTAINE' FRANS FONTAINE HORNBEAM	2" CAL. / B&B AS SHOWN	14
EXISTING TREES TO REMAIN	SPECIES AND DBH/VARIES	
SHRUBS & FRASSES ITEM	SIZE	QTY.
MAHONIA AQUIFOLIUM OREGON GRAPE	5 GAL. - PERIMETER 2 GAL. - INTERNAL	68 32
ROSMARINUS OFFICINALIS 'ARP' ARP ROSEMARY	1 GAL. 3'-0" O.C.	67
COTONEASTER LACTEUS PARNEY COTONEASTER	5 GAL. - PERIMETER 2 GAL. - INTERNAL	71 10
SPIRAEA JAPONICA 'GOLDMOUND' GOLDMOUND SPIRAEA	1 GAL. 3'-0" O.C.	77
CALAMAGROSTIS A. 'KARL FOERSTER' KARL FOERSTER REED GRASS	1 GAL. 2'-0" O.C.	26
DESCHAMPSIA CESPITOSA TUFTED HAIR GRASS	1 GAL. 2'-0" O.C.	16
GROUNDCOVERS & ROCK ITEM	SIZE	QTY.
ARCTOSTAPHYLOS UVA-URSI KINNICKINNICK	1 GAL. 2'-6" O.C.	
JUNIPERUS HORIZONTALIS 'BAR HARBOR' BAR HARBOR JUNIPER	1 GAL. 3'-0" O.C.	
NATIVE EROSION CONTROL GRASS MIX SUNMARK SEEDS - FAIRVIEW, OR	SEED @ 1 LBS. / 1,000 SF	
1-1/2" ROUND RIVER ROCK BANDING FROM A LOCAL SUPPLIER	6" DEPTH 24" WIDTH	

GENERAL NOTES: LANDSCAPE PLAN

- LANDSCAPE PLANTING SHALL CONFORM TO THE STANDARDS ESTABLISHED UNDER CITY OF FOREST GROVE PLANNING DEPARTMENT.
- ALL PLANT BEDS SHALL HAVE A 3" DEPTH OF BARK MULCH NUGGETS.
- ALL LANDSCAPE AREAS SHALL BE SERVICED BY AN UNDERGROUND AUTOMATIC IRRIGATION SYSTEM, CAPABLE OF PROVIDING COMPLETE PLANTING COVERAGE AT THE TIME OF INSTALLATION.
- ALL PLANT MATERIAL DELIVERED TO THIS SITE SHALL MEET THE AMERICAN NURSERYMAN'S ASSOCIATION STANDARDS, CURRENT VERSION.
- CONTRACTOR SHALL OBTAIN WRITTEN APPROVAL FOR ALL PLANT MATERIAL SUBSTITUTIONS FROM THE LANDSCAPE ARCHITECT PRIOR TO INSTALLATION. PLANT SUBSTITUTIONS WITHOUT PRIOR WRITTEN APPROVAL THAT DO NOT COMPLY WITH THE DRAWINGS AND SPECIFICATIONS MAY BE REJECTED BY THE LANDSCAPE ARCHITECT AT NO COST TO THE OWNER. THESE ITEMS MAY BE REQUIRED TO BE REPLACED WITH PLANT MATERIALS THAT ARE IN COMPLIANCE WITH THE DRAWINGS.

LANDSCAPE CODE SUMMARY

- SECTION 10.8.415 (E)**
REQUIRED: 1 TREE / 1,600 SF OF INTERIOR PARKING LOT = 16
PROPOSED: 16 TREES
- SECTION 10.8.425 (B)(3)**
REQUIRED: 1 ROW OF 2" CALIPER TREES (SPACING CAN VARY BY SPECIES)
(10) 5 GALLON SHRUBS / 1,000 SF REQUIRED BUFFER
LIVING GROUNDCOVER TO FILL AREA
PROPOSED: 1 ROW OF 2" CALIPER TREES (SPACING VARIES, REFER TO PLAN)
(10) 5 GALLON SHRUBS / 1,000 SF REQUIRED BUFFER
LIVING GROUNDCOVER TO FILL AREA
- SECTION 10.8.425 (B)(3)**
REQUIRED: 4' HT. CONTINUOUS EVERGREEN HEDGE IN 2 YEARS
PROPOSED: CONTINUOUS EVERGREEN HEDGE CAPABLE OF 4' HT IN 2 YEARS.



REVISIONS

REV	DATE	DESCRIPTION	BY

REGISTERED
FOR
PAC OAK
LANDSCAPE ARCHITECT
08/18/11
EXPIRES 08/18/17

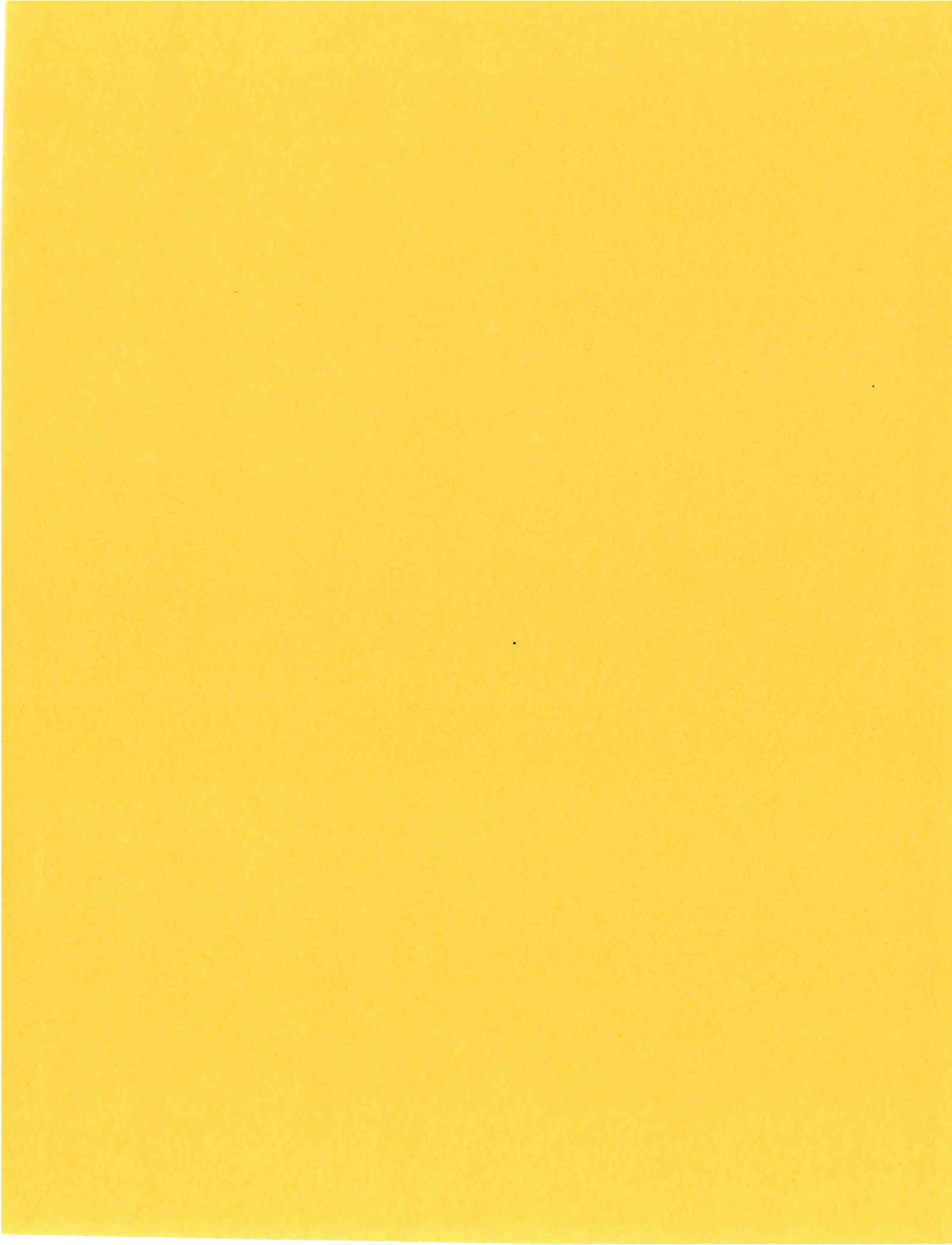
WWW.DOWL.COM
DOWL
720 SW Washington Street, #750
Portland, Oregon 97205
971-280-8644

FOREST GROVE RETAIL
PAC OAK DEVELOPMENT
LANDSCAPE PLANTING PLAN

DESIGN REVIEW
FOREST GROVE OREGON

PROJECT	14297-01
DATE	2016-12-16
DESIGNED BY	PEG
DRAWN BY	PEG
©DOWL 2016	
SHEET	

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**PLANNING COMMISSION MEETING MINUTES
FOREST GROVE COMMUNITY AUDITORIUM**

February 20, 2017--7:00 P.M.

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DRAFT

1. CALL TO ORDER:

Vice-Chair Ruder called the meeting to order at 7:00 p.m.

Planning Commission Present: Sebastian B. Lawler, Dale Smith, Phil Ruder and Hugo Rojas.

Planning Commission Excused: Tom Beck, Carolyn Hymes, Lisa Nakajima

Staff Present: Jon Holan, Community Development Director; James Reitz, Senior Planner; Marcia Phillips, Planning Commission Coordinator

2. PUBLIC MEETING:

2.1 PUBLIC COMMENT PERIOD FOR NON-AGENDA ITEMS: None.

2.2 PUBLIC HEARING:

A. Legislative amendment to Forest Grove Development Code §10.8.130 Widths and Locations of Driveways and Curb Cuts. The purpose of the amendment would be to provide flexibility for driveway widths in residential zones. The current maximum driveway width is 24 feet; the amendment, if approved, would allow some driveways to have a maximum width of 30 feet.

Vice Chair Ruder opened the public hearing at 7:01, and called for the staff report.

Mr. Reitz explained that Forest Grove's regulations pertaining to driveway width have changed several times over the past few decades. He said the current standards were put in place in 2009 with the adoption of the Development Code. Reitz said the Zoning Ordinance was in effect from 1980 to 2009 and allowed residential driveway widths of up to 30 feet. He said the Zoning Ordinance in effect from 1971-1980 apparently did not specify a maximum width, but instead the curb cut width was determined by the City Engineer. However, this code did have an additional provision that driveways on the same lot had to be separated by at least 30 feet. Reitz gave a PowerPoint presentation showing examples of 30 foot driveways. One slide showed a "field decision" to have two drive approaches to the same house each in compliance to circumnavigate a catch basin that was not noted on the building plans.

Mr. Reitz explained that the applicant is currently building homes in both the Pacific Crossing and Silverstone subdivisions. Since Pacific Crossing was approved when 30 foot driveways were permitted before the 2009 Development Code took effect, the City has continued to allow wider driveways in that project. Reitz explained that Silverstone was approved in 2014, and driveway widths are subject to current Development Code requirements (24 feet).

Mr. Reitz said the applicant has stated there is a demand for homes with 3-car garages, and has requested an amendment to the Development Code to allow 30 foot driveways. He said the applicant is suggesting 24 foot driveway widths for lots with less than 60 foot street frontage, and 30 foot driveway widths on lots with greater than 60 foot street frontage. Reitz said staff is proposing an additional condition to give the City Engineer the authority to restrict the width and location of any driveway to ensure that driveways do not conflict with public infrastructure.

**PLANNING COMMISSION MEETING MINUTES
FOREST GROVE COMMUNITY AUDITORIUM**

February 20, 2017–7:00 P.M.

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APPLICANT:

Mimi Doukos, AKS Engineering, 12965 SW Herman #100, Tualatin, OR 97062.

Ms. Doukos explained that the Silverstone subdivision offers four different housing types, with some larger lots and bigger garages (3 bay). She explained that the 30 foot driveways would only be applicable to lots with over 60 feet of street frontage. Doukos said staff is making sure this does not take up too much on-street parking, and this amendment does allow for at least one (likely more) additional off-street parking spaces, which would balance or make up for any loss to on-street parking. Ms. Doukos said the applicant is in agreement with the staff report.

PROPONENTS: None.

OPPONENTS: None.

OTHER: None.

Vice Chair Ruder closed the public hearing at 7:21 p.m.

COMMISSION DISCUSSION:

Vice Chair Ruder stated that the amendment seems reasonable.

Commissioner Lawler agreed with the amendment, and stated that right now there is a market for homes with 3-car garages. He asked if there is any regulation on the driveway “wings”.

Mr. Reitz stated that the “wings” have never been an issue, and the Engineering Department has a standard. He explained that the “wings” serve a purpose as cars can park too close to the driveway entrance to allow the homeowner ample room to maneuver into the driveway.

Commissioner Rojas made a motion to approve the legislative amendment to the Forest Grove Development Code §10.8.130 Widths and Locations of Driveways and Curb Cuts to provide flexibility for driveway widths in residential zones and allow some driveways to have a maximum width of 30 feet. Commissioner Lawler seconded. Motion passed 4-0.

**B. Appeal of Community development Director’s interpretation of
DC§10.12.210(M8) Marijuana Processor at 1714 Pacific Avenue (Tax Lot
1S401AA00300).**

Vice-chair Ruder opened the public hearing at 7:30 pm, read the hearing procedures, and asked for disclosure of any conflicts of interest, ex-parte contacts, bias, or abstentions. There were none, and no challenges from the audience. Ruder called for the staff report.

Mr. Holan stated that the appellant is interested in leasing a tenant space at 1714 Pacific Avenue in the Community Commercial (CC) zone for the purpose of opening “a small scale Marijuana Product Manufacturing Company.” Holan said the facility would process marijuana into cannabinoid products, and he said the appellant described the business as a “Marijuana Product Manufacturing Company”, which would fall within the common definition of processing or compounding. He said staff learned that the product line would include three types of edible bars,

**PLANNING COMMISSION MEETING MINUTES
FOREST GROVE COMMUNITY AUDITORIUM**

February 20, 2017-7:00 P.M.

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a CBD-infused soap bar, and a CBD-infused lotion. The appellant proposed to use the site at 1714 Pacific Avenue based on the theory that the use described above would comply with the definition of Light Industrial as described in Section §10.12.140(B) Manufacturing and Production. Holan explained that because the Development Code specifically lists marijuana processing as an allowed use only in the General Industrial zone district and not the Community Commercial zone district it is not allowed in the Community Commercial district.

APPELLANT:

Jason Parkinson, 1944 NW Johnson St. #104, Portland, OR 97209. Mr. Parkinson gave Handout # 1 to staff and to the Commission. He said under Article # 12 *Specific Words and Terms* the definition for a Marijuana Processor is a facility licensed by the Oregon Liquor Control Commission or registered by the Oregon Health Authority to process, compound or convert marijuana into cannabinoid products, cannabinoid concentrates or cannabinoid extract. Marijuana processors are classified as industrial, manufacturing and production. Parkinson said classifying Marijuana Processors as industrial is not exclusively General Industrial, and that is where he is building his case under Article # 12 Section B that industrial is inclusive of both Light Industrial and General Industrial. Parkinson said from that definition his case is built that industrial includes Light Industrial. He said a Marijuana Processor may only process and sell cannabinoid products, concentrates or extracts if the processor has received an endorsement from the Commission for that type of processing activity.

Mr. Parkinson said a cannabinoid product means a cannabinoid edible and any other product intended for human consumption or use, including a product intended to be applied to the skin or hair that contains cannabinoids or dried marijuana leaves or flowers. He said a cannabinoid product does not include usable marijuana itself, a cannabinoid extract by itself, or a cannabinoid concentrate by itself. He explained that a cannabinoid edible means food or potable liquid into which a cannabinoid concentrate, cannabinoid extract or dried marijuana leaves or flowers have been incorporated, so in this sense the concentrate, extract or dried leaves would be previously processed materials. He said a cannabinoid extract means a substance obtained by separating cannabinoids from marijuana by a chemical extraction process, or any other process identified by the Commission in consultation with the authority by rule. Parkinson said these definitions were taken directly from Division 25 of the State's statutes on marijuana.

General Industrial is defined as manufacturing, processing and assembling of "semi-finished" or finished products from raw materials. He explained that in this case "extracts and concentrates" are considered semi-finished goods produced from raw materials (marijuana). Parkinson said Light Industrial is defined as production, processing, assembling, packaging or treatment of finished products from previously prepared materials or components. He explained that in this case edibles or topicals are finished goods prepared from previously prepared materials (concentrates or extracts), so concentrates and extracts are classified as semi-finished goods due to the additional processing required to produce a cannabinoid product. This distinction of goods between concentrate and extract endorsements, and topical and edible endorsements clearly shows the need to reclassify topical and edible endorsements to Light Industrial use.

Mr. Parkinson stated that this processing is very compatible with the Light Industrial zone. He said the issues seem to be with safety and odor, and the State statutes have rules in place for that.

**PLANNING COMMISSION MEETING MINUTES
FOREST GROVE COMMUNITY AUDITORIUM**

February 20, 2017–7:00 P.M.

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Parkinson said the greatest concern, given the industry, is private security. He said measures will be taken to ensure a maximum level of security. He said the small amount of odor that is produced can be easily maintained with a carbon filter and proper ventilation system.

In response to a question from Vice Chair Ruder, Mr. Parkinson stated that he would not necessarily have a retail storefront if that prevents him from doing this. He suggested the processing area may not necessarily be closed off to view but the doors and windows could be closed off.

In response to a question from Vice Chair Ruden, Mr. Holan stated that the location is within 1,000 feet of Tom McCall School, so retail is not allowed.

In response to a question from Commissioner Lawler, Parkinson said there would be roughly five employees in the beginning with more added later as the business grows.

Commissioner Lawler asked if as a processing business it would generate lots of traffic and deliveries as far as bringing in materials.

Mr. Parkinson said not necessarily because the ingredients are in the form of concentrates (so smaller amounts), and are easy to store.

In response to a question from Commissioner Rojas, Mr. Parkinson said the description of a Marijuana Processor classifies it as industrial production and manufacturing which is in a section of Article # 12 Section B, and it is inclusive of both light industrial and general industrial rather than being exclusively general industrial. Parkinson said if this section stated it was exclusively general industrial, then he would have no case, but because it just says industrial in Section B, it is inclusive of light industrial and general industrial. He said for his case, to obtain the endorsements he needs, it is necessary to make those distinctions, because of the fact this is dealing with concentrates and extracts. He said if this were using heat and gases it should be kept in the general industrial zone, but for a topical or edible company using concentrates and extracts that have already been processed, there would be no safety concerns. He said it was more a regulatory concern, and if anything it comes down to what the actual process involves. Parkinson stated that he did not feel this is anything outside the normal for that use for that zone – it is just more regulated.

PROPONENTS: None.

OPPONENTS:

Carole Thalman, 3310 Hillside Way, Forest Grove, OR 97116. Ms. Thalman said this was very emotional for her. She explained that she was a retired therapist that started out as a school teacher, school counselor and has worked with addiction for many years. Thalman said she had to speak for the children. She explained that with the proximity of the school, she has seen children walk to Scottie's Drive-In, a favorite place for all children in town to get their treats. She said she finds it incongruent to have a marijuana manufacturer near there. Thalman said the reason she finds it incongruent is normalizing something the under developed brain cannot process yet and putting this place next to where they get their treats. Thalman said children cannot make those decisions until much later in life – whether or not they will use. She is concerned for the adjacent

**PLANNING COMMISSION MEETING MINUTES
FOREST GROVE COMMUNITY AUDITORIUM**

February 20, 2017–7:00 P.M.

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businesses (Scottie's Drive-In and the Puppy Parlor). She said the appellant talked about boarding it up so people will not know it is there – people will know it is there. Thalman said there is a very large recovery program less than a block away. She said it is very difficult for these people to recover and become productive citizens, and it is a slap in the face to have a Marijuana Processor so close to where people are trying to heal.

Judy Lohrer, Scottie's Drive-In Owner, 1702 Pacific Avenue, Forest Grove, OR.

Ms. Lohrer said she has been an owner of Scottie's for 37 years, and it is a family owned business. She said security is their main concern, and there has been an influx of severe crime involving drugs in the neighborhood due to the hotel behind them. Lohrer said she understands there will not be an open storefront, but she is still concerned for the kids that constantly pass by going to Scottie's. She said marijuana processing is not going to add to the area, which is a residential area with a few scattered businesses. Lohrer said what people do in their homes has nothing to do with this – it is totally having to do with the surrounding area and what it is going to do to it. She said she is concerned about traffic and where the employees of this proposed business will park as there were problems with traffic/parking when Sugar Mama's was there. She said the security of her business is her main concern. She said she is concerned about odor, and does not want her restaurant filled with smells other than her food.

Jeanie & Steve Wright, Jeanie's Puppy Parlor, 1714 Pacific Avenue, Forest Grove, OR.

Mr. Wright stated their concern about the children nearby, and a storefront should not be allowed. He shared his concerns for the safety of their customers and their pets. He said their business is located at 1714 Pacific Avenue in Suite D at the end of the building, and they share a filtration system with Suite C, so fumes would come into their area where the animals are groomed. Wright said he is concerned about the loss of business due to the perception of a dangerous drug business in the same building with them. He said customers may feel uncomfortable entering a business under the same roof as a drug business. Wright said it does not matter if the danger is real or not – if a customer perceives it as dangerous they may not want to do business with them.

Jeff Dolan, 1908 "C" Street, Forest Grove, OR. Mr. Dolan said he lives half a block from Scottie's Drive-In where the neighborhood is filled with children that go around the neighborhood and play with each other and generally have a good time especially right after school. He said the bus stops right there and drops off high schoolers, grade schoolers, all ages. He stated that he has worked at a warehouse that was next door to a dispensary, the odor could be smelled quite clearly in front of the warehouse even with the filtration system they had there. Dolan said he does not want to live in an environment that has that smell especially with all the kids running around. Dolan said this would not be a good addition to the neighborhood.

Mr. Holan said staff has a response to the applicant's presentation. Holan said Parkinson's testimony only stems from definitions – he ignores Development Code Article 3 that deals with use requirements. Holan said while the definition is industrial, and could be interpreted either light or general industrial, the use tables have specifically addressed marijuana processing. He said in Table 3-14 under *Industrial Zones* there can be found under general industrial medical and recreational marijuana processing which is only conditionally permitted in the general industrial zone – no such use is applicable or included in the Community Commercial zone. He explained that is the point staff is making. It is not about the definitions, it is about the use classification as it applies to the specific zones. Holan said since there was a specific identification of marijuana processors as part of the most recent marijuana related text amendments, it is staff's position the

**PLANNING COMMISSION MEETING MINUTES
FOREST GROVE COMMUNITY AUDITORIUM**

February 20, 2017–7:00 P.M.

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City has to be guided by the most specific meaning in the code. In this instance there is the specific reference to processors that are allowed in the General Industrial zone. He said the issue of whether it is Light Industrial or General Industrial from a definition standpoint is immaterial because of what Article 3 provides for direction as to what is allowed.

REBUTTAL:

Mr. Parkinson said he would not advertise at the location, so the children would not know the business was there. He said the filtration system works very well. He said working with concentrates does not produce the smells that come from the actual raw marijuana, so odor would not be a problem. Parkinson said he does not want to take business away from others – he wants to enhance the area. He said he does not see his business as a turn off, because people will not know it is a marijuana processor. He suggested that the building could be subdivided and have the marketing company he plans to have there in the front where the windows are located, and the processing in the back, so anybody in the area would only see the marketing company. He said the odors will be maintained – that is the point of the filtration system. Parkinson said he will also be renting out Suite C, and it will remain open so Suite D will not have to worry because the processing will only take place in Suite A. He said some of the codes may need to be amended. Parkinson said this is an industry that, like it or not is coming, and it will do more good than bad. He said he appreciated everyone's testimony.

Vice Chair Ruder closed the public hearing at 8:02 p.m.

COMMISSION DISCUSSION:

Vice Chair Ruder said the Planning Commissioners debated for hours the amendments to the Development Code to include marijuana processing, etc. and to establish zones where it would and would not be allowed. Ruder said he saw no grounds to rule in favor of the appeal.

Commissioner Lawler said he actually found a glass container of marijuana on the ground near Scottie's Drive-In, called the police, and an officer came out and got it. Lawler said when the Commission put parameters in place; it looked at seven different processes. He said there is room for an amendment to the Development Code. He said he agreed with the appeal.

In response to a question from Commissioner Rojas, Mr. Holan said if the bakery being proposed sold goods without marijuana in them, it would be allowed in the CC zone.

Vice Chair Ruder said he could not see a case here to uphold the appeal with the central issue being what the Development Code allows and there is no issue beyond that.

Commissioner Rojas asked if this could be approved as a Conditional Use in this zone.

Mr. Holan explained that the Commission would have to ignore the specific land use listed.

Vice Chair Ruder called for a vote. He explained that a "yes" vote would be in favor of the appeal, and a "no" vote would be in agreement with staff's interpretation. He explained that there must be a majority to uphold the appeal.

**PLANNING COMMISSION MEETING MINUTES
FOREST GROVE COMMUNITY AUDITORIUM**

February 20, 2017-7:00 P.M.

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Commissioner Lawler voted yes.
Commissioner Rojas voted yes.
Commissioner Ruder voted no.
Commissioner Smith voted no.

Vice Chair stated that the appeal was denied.

2.3 ACTION ITEMS: None.

2.4 WORK SESSION ITEMS: None.

3.0 BUSINESS MEETING:

3.1 APPROVAL OF MINUTES: Commissioner Smith made a motion to approve the minutes of the February 6, 2017 meeting. Commissioner Rojas seconded. Motion passed 4-0.

3.2 REPORTS FROM COMMISSIONERS/SUBCOMMITTEES: None.

3.3 DIRECTOR'S REPORT:

Mr. Holan said there would be no meeting on March 6th. Since the City Council preempted the second Commission meeting in March, Holan polled the Commissioners and it was decided to hold March 27th open instead. He added that an open house will be held around March 3rd on the Westside Planning Project.

3.4 ANNOUNCEMENT OF NEXT MEETING: Next meeting will be held on March 27, 2017.

3.5 ADJOURNMENT: The meeting was adjourned at 8:24 p.m.

Respectfully submitted by:

Marcia Phillips

Planning Commission Coordinator