Eugene Hearings Official

AGENDA

Phone: 541-682-5377
www.eugene-or.gov/hearingsofficial

Meeting Location:
Sloat Room, Atrium Building
99 West 10th Avenue
Eugene, Oregon

The Eugene Hearings Official welcomes your interest in these agenda items. Feel free to come and go as you please at any of the meetings. This meeting location is wheelchair-accessible. For the hearing impaired, FM assistive-listening devices are available or an interpreter can be provided with 48 hours' notice. To arrange for these services, contact the Planning Division at (541) 682-5481.

WEDNESDAY, NOVEMBER 30, 2016
(5:00 p.m.)

I. PUBLIC HEARING

MARKET DISTRICT TOWNHOMES (WG 16-2/SR 16-9/ST 16-9/ARA 16-12)

Request: Tentative Subdivision, Site Review, Adjustment Review - Minor and Willamette Greenway Permit approval for a new 20-lot subdivision with attached and detached residential dwellings.

Location: North side of Shelton McMurphey Boulevard, south of Skinner Butte Park (Assessor's Maps/Tax Lots: 17-03-30-43-00300/00400

Applicant: Skinner's Landing, LLC

Representative: Mark Miksis, DeChase Miksis Development

Lead City Staff: Erik Berg-Johansen
Telephone: (541) 682-5437
E-mail: erik.berg@ci.eugene.or.us

II. PUBLIC HEARING

SOUTHTOWNE MEMORY CARE (CU 16-5)

Request: Conditional Use Permit approval for a building addition to an existing assisted care facility.

Location: 360 West 28th Avenue
(Assessor's Maps/Tax Lots: 18-03-06-34-10300/10400

Applicant: Southtowne Living/Ageia Health Services

Representative: Sara Bergby, Ascent Architecture and Interiors

Lead City Staff: Althea Sullivan
Telephone: (541) 682-5282
E-mail: althea.c.sullivan@ci.eugene.or.us

Public Hearing Format:

1. Staff introduction/presentation.
2. Public testimony from applicant and others in support of application.
3. Comments or questions from neutral parties.
4. Testimony from opponents.
5. Staff response to testimony.
6. Questions from Hearings Official.
7. Rebuttal testimony from applicant.
8. Closing of public hearing.

The Hearings Official will not make a decision at this hearing. The Eugene Code requires that a written decision must be made within 15 days of close of the public comment period. To be notified of the Hearings Official's decision, fill out a request form at the public hearing or contact the lead City staff as noted above. The decision will also be posted at www.eugene-or.us/hearingsofficial

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TENTATIVE SUBDIVISION, SITE REVIEW, ADJUSTMENT REVIEW, AND WILLAMETTE GREENWAY PERMIT STAFF REPORT

Application File Name (Number):
Market District Townhomes (ST 16-9; SR 16-9; ARA 16-12; WG 16-2)

Applicant's Request:
Tentative Subdivision (ST), Site Review (SR), Adjustment Review - Minor (ARA) and Willamette Greenway Permit (WG) approval for a new 20-lot subdivision with attached and detached residential dwellings.

Applicant/Owner:
Skinner's Landing, LLC

Applicant's Representative(s):
Mark A. Miksis, Architect; (541) 232-2508

Lead City Staff:
Erik Berg-Johansen, Associate Planner, (541) 682-5437

Subject Property/Location/Size:
Tax Lots 300 and 400 of Assessor's Map 17-03-30-43; North side of Shelton McMurphey Boulevard, south of Skinner Butte Park; Approximately 1.67 acres

Existing Zoning:
S-W/SR Whiteaker Special Area Zone with Site Review Overlay

Relevant Dates:
Applications submitted August 1, 2016; supplemental materials submitted September 26, 2016 and October 12, 2016; applications deemed complete October 14, 2016; public hearing scheduled for November 30, 2016.

<u>Purpose of Staff Report</u>
To allow community members an opportunity to learn more about the request and to review the staff analysis of the land use application(s), a written report concerning the applicant's request is prepared by staff and available seven days prior to the public hearing (see EC 9.7320). The staff report provides only preliminary information and recommendations. The Hearings Official will also consider additional public testimony and other materials presented at

the public hearing before making a decision on the application. The Hearings Official's written decision on the application is generally made within 15 days following close of the public record, following the public hearing (see EC 9.7330). For reference, the quasi-judicial hearing procedures applicable to this request are described at EC 9.7065 through EC 9.7095. In this case, the Tentative Subdivision, Site Review and Adjustment Review applications (Type II applications) were elevated to Type III so they could be processed concurrently with the Willamette Greenway Permit request.

The Hearings Official is required to approve, approve with conditions, or deny a Type III land use application (see EC 9.7330). The decision must be based on, and be accompanied by, findings that explain the criteria and standards considered relevant to the decision. It must also state the facts relied upon in rendering the decision, and explain the justification for the decision based upon the criteria, standards, and facts set forth.

Background and Present Request

The subject property is located at the northern extent of Eugene's downtown neighborhood. The property is bounded by Shelton McMurphey Boulevard to the south, an existing apartment complex to the east, a City-owned property developed with warehouse buildings to the west, and Skinner Butte Park to the north. The subject property is approximately 1.67 acres in size and is currently undeveloped. The property contains a number of trees, but is dominated by mowed grasses, weeds and Himalayan blackberry. A degraded concrete pad also exists in the northwestern section of the site. Staff believes the concrete area was at one time utilized by the property to the west.

The present request is to subdivide the property into 20 residential lots and construct 20 new dwelling units. A new private street, driveways, landscaping, and other necessary site improvements are also proposed as part of the development. Due to the property's zoning and location near Skinner Butte Park, a number of additional land use applications are required beyond a Tentative Subdivision application. First, since the property has a /SR Site Review overlay zone, a Site Review approval is required. An Adjustment Review approval is required because the applicant is requesting to adjust lot area, landscaping and setback standards. Finally, a Willamette Greenway Permit is required because a portion of the property exists within the Willamette Greenway boundary[1].

For additional details about the project, please review the applicant's written narrative which is available in the application file for reference. The following report is divided into four sections: Section 1 – Tentative Subdivision (page 3); Section 2 – Site Review Evaluation (page 23); Section 3 – Adjustment Review Evaluation (page 28); and Section 4 – Willamette Greenway Evaluation (page 33).

[1] The entirety of Skinner Butte Park exists within the WG boundary. Due to a past property line adjustment, which granted the subject property a piece of the adjoining park property, the northern portion of the subject property now falls within the WG boundary (even though it is relatively far from the river and it is not part of Skinner Butte Park).

Each evaluation provides details of the proposal in the context of the applicable approval criteria and related standards.

Application Referrals and Public Hearing Notice

The applicant met with staff on April 28, 2016 to discuss the proposal, consistent with EC 9.7005 Pre-application Conference. The applicant held a neighborhood meeting on May 16, 2016 in compliance with EC 9.7007 Neighborhood/Applicant Meetings. This meeting provided neighborhood members an opportunity to review the proposal, share information, and identify issues regarding the proposal. One community member attended the meeting and provided comments to the applicant's representative. On August 1, 2016, the applicant submitted each required land use application, and after an initial review staff determined that the applications were incomplete; on September 26, 2016 the applicant submitted supplemental information to address staff's comments. Additional supplemental information was submitted on October 12, 2016 in response to further staff comments. All four applications were deemed complete on October 14, 2016. On October 28, 2016 the Planning Division mailed and posted written notice of the public hearing, in accordance with the applicable code requirements.

Written public testimony was received from Arthur Farley. Mr. Farley states that he has no objections to the development and believes that the project meets the goals of city development near the core of the city, public services, and downtown. He states there is always the sense of loss with development near Skinner Butte, but he does not see serious negative impacts. No additional written testimony was received.

Relevant referral comments received from other City departments are incorporated into the following evaluation, in the context of the applicable criteria and related standards. Any written testimony received after the date of this report but prior to the public hearing will be forwarded to the Hearings Official for consideration in making a decision on the subject applications. Public testimony, written or otherwise, may also be presented at the public hearing on this matter.

Section 1: Tentative Subdivision Evaluation

EC 9.8515(1): The proposed subdivision complies with the following, unless specifically exempt from compliance through a code provision applicable to a special area zone or overlay zone:

(a) EC 9.2000 through 9.3915 regarding lot dimensions and density requirements for the subject zone. Within the /WR Water Resources Conservation Overlay Zone or /WQ Water Quality Overlay Zone, no new lot may be created if more than 33% of the lot, as created, would be occupied by either:

1. **The combined area of the /WR conservation setback and any portion of the Goal 5 Water Resource Site that extends landward beyond the conservation setback; or**

2. The /WQ Management Area.

Regarding lot dimensions, the S-W zone standard at EC 9.3915(8) states: "Each lot or development site shall have a minimum area of 4,500 square feet. However, lot area, frontage, and width minimums may be adjusted by the planning director if consistent with the purpose and intent of this land use code and necessary and suitable within the zone." Since the proposed lots are smaller than 4,500 square feet and do not meet the lot frontage and lot width minimums for the C-2 zone[2], an adjustment is requested and further evaluated in Section 3 of this report. In summary, staff finds that the smaller lots allow for increased residential density in the downtown area, which is consistent with the City's goal of bringing additional residents into the downtown. Staff further notes that these smaller lots are suitable for the type of proposed development, which is attached urban townhomes.

In regards to density, the S-W zone special use limitation at EC 9.3911(2) states the following: "Residential Density. There is no minimum density; maximum density is according to the R-4 residential density requirements in Table 9.2750." The R-4 zone allows for 112 units per acre, and the subject project proposes close to 12 units per acre. Based on these findings, the proposal meets the minimum and maximum density requirements of the S-W zone.

Finally, staff notes that no portion of the subject property is within the /WR or /WQ overlay zone. Based on the above findings, this standard is met.

(b) EC 9.6800 through EC 9.6875 Standards for Streets, Alleys, and Other Public Ways;

The subject property is bounded to the south by Shelton McMurphey Boulevard, a major collector. Access to all proposed lots will be provided via a new private street that connects to Shelton McMurphey Boulevard. As conditioned, the proposal meets the applicable standards for streets, alleys, and other public ways. An evaluation of all applicable standards for improvements is provided in the Public Works referral comments, which are available in the application file for reference.

Of note, EC 9.6815(2)(b) requires the development to include street connections in the direction of existing or planned streets, and to extend streets that abut, are adjacent to, or terminate at the development site. The only street that abuts the development site is Shelton McMurphey Boulevard. Skinner's Butte Loop (located north of the site) is a local road within the adjoining Skinner Butte Park, which is used primarily for access to the recreational facilities at the top of the Butte. Since the intervening slopes are well in excess of the maximum City street standard of 15%, a public street connection between Shelton McMurphey Boulevard and Skinner's Butte Loop is not feasible. Staff further notes that no streets terminate at the development site.

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[2] As discussed throughout this report, the S-W zone requires residential uses to follow the C-2 standards.

A condition related to EC 9.6830 Intersections of Streets and Alleys is also recommended. The street angle standards require that all streets intersect one another at an angle as near to a right angle as practicable considering topography of the area and previous adjacent layout. As proposed, the intersection of the new private street with Shelton McMurphey Boulevard appears to be significantly less than 90-degrees. In order to ensure compliance with this standard, the following condition is warranted:

- The Final Site Plans shall show that the new private street intersects Shelton McMurphey Boulevard at a right angle.

Based on the above findings and condition, the proposed development will comply with the standards for streets, alleys, and other public ways.

(c) EC 9.6500 through EC 9.6510 Public Improvement Standards

As conditioned, the proposal meets the applicable public improvement standards. Relevant excerpts and related conditions of the approval are provided below. An evaluation of all applicable standards for improvements is provided in the Public Works referral comments, which are available in the application file for reference. Staff has also provided a number of informational items related to public improvement standards; these items are also included in the Public Works referral comments.

EC 9.6500 Easements (Public). The applicant is proposing a variety of width of Public Utility Easements (PUEs) for public wastewater, power and water. Per the findings at EC 9.6505(2) below, the proposed 7-foot PUE along the westerly boundary of proposed Lot 1 does not meet the required width for public wastewater mainlines. To address this, staff is recommending a condition of approval which is noted under the evaluation of EC 9.6505(2) below. Otherwise, Public Works staff is unaware of the need for any additional on-site public easements to address present or future public wastewater or public stormwater needs.

EC 9.6505 Improvement Specifications. As an informational item, staff notes that an Engineering and Construction agreement is required for the private construction of public improvements and must be submitted when the construction plans are submitted for review and approval. The configuration and size of the public improvements is also subject to approval by the City Engineer upon review of the design and supporting analysis prepared by the applicant's engineer as part of the Privately Engineered Public Improvement (PEPI) permitting process. In order to ensure compliance with EC 9.6505, the following condition of approval is recommended:

- Prior to final plat approval, a PEPI permit shall be issued for the construction of public improvements. In lieu of a PEPI permit, a bond or other financial instrument guaranteeing the construction of public improvements shall be submitted by the applicant and accepted by the City Engineer.

1) Water: Water service for the proposed development must be provided in accordance with Eugene Water and Electric Board (EWEB) policies and procedures. To ensure compliance, the following condition of approval is recommended:

- Prior to final plat approval the applicant shall provide documentation that EWEB has received a financial guarantee, ensuring water will be provided to each lot in the plat.

2) Sewage: Public wastewater is currently available to the subject property from a 6-inch public wastewater stub in Shelton McMurphey Boulevard that is located near the southwest corner of the proposed subdivision. The applicant proposes to extend the public system from the existing stub in a northerly direction along the westerly boundary of proposed Lot 1 and in an easterly direction in the private street. A 7-foot PUE is proposed for the wastewater sewer in Lot 1 and a variable width PUE, ranging from 14 feet to more than 20 feet, is proposed for the portion of the wastewater sewer located in the private street. In addition to wastewater, the variable width PUE will also accommodate power and water. As discussed below, the applicant's proposal is not acceptable and will need to be revised.

Regarding the wastewater line that will be constructed in the private street, staff notes that the standard construction practice is for the wastewater pipe to be centered within a standard 14-foot PUE, i.e., at least 7-feet from each edge of the PUE. As proposed, significant portions of the public wastewater mainline will be located within as little as 3 feet of the southerly edge of the variable width PUE. Therefore, the following condition is recommended:

- The Final Site Plans shall locate the centerline of the proposed public wastewater mainline in the private street at least 7-feet north of the southerly edge of the variable width PUE.

With respect to the wastewater segment located near the westerly boundary of Lot 1, the proposed 7-foot width is inadequate. Per EC 9.6500 – Easements, the City may require the developer to dedicate an easement at a sufficient width for the intended use. Historically, the City standard for PUEs has been 14-feet for most sewers and 20-feet for larger and/or deeper pipes. In this case, however, the site is constrained. A 14-foot PUE would likely result in a significant re-configuration of the lots and structures of the proposed development. Staff confirms that this particular wastewater segment is short (80 feet) and will be accessible from the private street above and the public right-of-way below. As a result, a 10-foot PUE, which is the minimum industry standard in other jurisdictions, meets the "sufficient width" standard of EC 9.6500. Therefore, in order to guarantee proper maintenance and continued use of the public wastewater system, the following condition of approval is recommended:

- The Final Site Plans shall show a 10-foot wide PUE along the westerly boundary of Lot 1. Alternatively, the applicant may arrange for a 7-foot wide PUE to be dedicated by the adjoining property owner and show a 14-foot PUE on the Final Site Plans.

Dolan Findings: It is in the public interest to ensure that the City has access to public wastewater systems to allow for routine maintenance tasks such as inspection and cleaning of pipes and for remedial action to address blockages or other issues that could result in backups and damage to the public system and the private properties served by the system. If the 10-foot PUE, which would provide access to the portion of the public system located within the applicant's property, is not dedicated, the City's ability to protect the public's interest as well as the applicant's private property served by the public system would be compromised. As such, there is a nexus between the public interest at issue and the requirement that the applicant dedicate an easement.

The dedication of a 10-foot wide PUE is roughly proportional to the impact that the proposed subdivision and new residential development will have on the City's existing wastewater system. The creation of 20 new vacant lots will allow for the construction of 20 new townhouses; these new structures will generate waste materials that will be disposed of into the City's wastewater system. As waste from the townhouses is generated and added to the public wastewater system, the City will need to be able to access that portion of the public pipe that is located on the applicant's property so that routine maintenance and necessary repairs can be performed. Also, in addition to the public interest, the easement will benefit the applicant because, if there is a blockage or other maintenance problem within the wastewater system that serves the proposed development, the easement will allow the City to address the problem quickly and potentially prevent damage to the applicant's property.

If the City approves the proposed subdivision application the applicant will be able to secure permits and connect the new residential lots to the public wastewater system. This connection increases the amount of waste directed to the existing wastewater system, and this land use application process is the last opportunity the City has to obtain the needed public utility easement with findings justifying compliance with constitutional requirements, prior to its need.

Based on these findings, conditions, and subject to a more detailed review of the number and location of service laterals during the PEPI and building permit process, the applicant's proposal complies with applicable sewage standards.

3) Streets & 4) Sidewalks: EC 9.6505(3)(a) does not apply because there are no public streets within the development. Unless adjacent streets and alleys are already improved to City standards, EC 9.6505(3)(b) requires the developer to pave streets and alleys adjacent to the development site to the width specified in EC 9.6870 Street Width and to construct related street improvements: drainage, curb and gutter, sidewalks, street trees, and street lights.

With the exception of street trees, Shelton McMurphey Boulevard was improved to City standards under City Contract No. 2006-0004 with 32-foot paving, 6-foot raised medians, curbs and gutters, sidewalks, storm drainage, street trees and street lights under City Contract No.

2006-0004. Regarding the missing street trees, the applicant's Landscape Tree Plan (Sheet L-1) proposes 9 new street trees within the planter strip that is located behind the existing sidewalk. Prior to planting the trees, the applicant will be required to obtain a Street Tree Planting Permit from Urban Forestry. Staff notes that the number, location and type of trees is not specifically approved, but will be determined prior to issuance of the permit. EC 9.6505(4) requires new sidewalk construction to be designed and constructed to applicable standards; there standards will be evaluated through a future development permit.

5) Bicycle Paths and Accessways: This standard is not applicable as there are no requirements for a bicycle path or public accessway, according to referral comments from Public Works staff.

> **EC 9.8515(2): Approval does not impede the future best use of the remainder of the property under the same ownership or adversely affect the development of the remainder or any adjoining land or access thereto, based on the provisions of this land use code. For subdivisions involving phasing, it shall be demonstrated that each sequential phase will maintain consistency with the provisions of EC 9.8515 Tentative Subdivision Approval Criteria -General.**

There is no "remainder of the property under the same ownership" to warrant further consideration of the future best use of the property, pursuant to the above approval criterion. With regard to "any adjoining land or access thereto," the adjoining properties all have existing frontage and access to public streets. Therefore this proposal will not adversely affect development or access to these properties. Finally, the subdivision does not involve phasing.

Based on these findings, this criterion is met.

> **EC 9.8515(3): Any existing improvements on the proposed lots are consistent with the provisions of this land use code.**

This criterion is not applicable as the property is undeveloped and there are no existing improvements.

> **EC 9.8515(4): The proposed subdivision will be consistent with the property's designation in the Metro Plan and applicable adopted plan policies as reflected in the sections beginning at EC 9.9500.**

The Metro Plan diagram designates the subject property for "Mixed-Use." The S-W Whiteaker Special Area Zone correctly implements this plan designation for the subject property, and the proposed residential development is an allowed use in this mixed-use zone. There are five adopted Metro Plan policies at EC 9.9560, however only Policy (5) is potentially applicable or relevant to the subject proposal:

(5) Environmental Design Element. *Natural vegetation, natural water features, and drainageways shall be protected and retained to the maximum extent practicable, considering the economic, social, environmental, and energy consequences in the design and construction of urban developments. Landscaping shall be utilized to enhance distinctive natural features. (Policy 2, page III-E-3)*

While there are no natural water features or drainage ways on the subject property, there is natural vegetation including significant trees. The applicant proposes to remove a number of trees and other existing vegetation on-site. However, and as discussed in more detail below under Tentative Subdivision criterion EC 9.8515(7), the applicant proposes tree plantings and landscaping to mitigate impacts to the natural environment. It is also important to note that the site is zoned S-W, which allows for a wide variety of commercial, industrial, and residential uses; given the site's base zoning and development potential, the applicant is retaining natural vegetation to the maximum extent practical considering the economic, social, environmental, and energy consequences in the design of this urban development project.

The Whiteaker Plan designates the property for "mixed use," and the following policies at EC 9.9690 are also relevant to the subject proposal:

(1) Neighborhood History and Character Element.

- *(a) Preserve existing trees on public land and right-of-way. (Policy 3)*
- *(b) Continue, enhance, and promote the street tree planting program. (Policy 4)*
- *(c) Inventory and promote protection of significant trees on private property. (Policy 5)*
- *(d) In evaluating proposed changes to the transportation systems that affect Whiteaker, consider the impacts on historic and character defining features of the neighborhood and design system that not only move traffic but link and reinforce elements of neighborhood character. (Policy 9)*
- *(e) Protect and enhance the natural characteristics of Skinner Butte and the Willamette River. (Policy 10)*
- *(f) Protect and enhance positive features of the neighborhood that help create a strong sense of neighborhood identity. (Policy 11)*

The proposal is consistent with policy (a) because it does not include the removal of existing trees on public land. Policy (b) is directed towards the City of Eugene, and therefore does not apply to the applicant's proposal. The proposal is consistent with policy (c) as the applicant completed an inventory of significant trees on the property; while the applicant proposes to remove the majority of existing trees on-site, staff finds the tree removals are warranted per the findings at Tentative Subdivision criterion EC 9.8515(7). Policy (d) does not apply as the project does not propose a change to the existing transportation system. The proposal is consistent with policy (e) because the project will not impact the natural characteristics of Skinner Butte or the Willamette River (this is also further discussed in Section 4 of this report). The project is consistent with policy (f) because the development will bring a new residential

component to the mixed-use neighborhood surrounding Skinner Butte Park, and these additional residents will support the wide variety of businesses in the downtown area.

(2) Land Use Element.

(a) Use the land-use diagram and policies of this plan along with other City policies in making land-use decisions for the Whiteaker community. (Policy 1)

(b) In areas designated for medium- or high-density residential use, allow single-family housing that can be rehabilitated to help maintain a variety of dwelling unit types and densities. (Policy 3)

(c) Guide the use of public land in a manner that recognizes the needs of the public agency and yet also helps ensure compatibility between adjoining land uses. (Policy 6)

(d) Recognize that about 3,000 residents live within one quarter mile of the railroad and are directly impacted by railroad operations and practices. (Policy 7)

(e) Recognize the important link Monroe Street serves between residential portions of the Blair and Sladden neighborhoods, and encourage preservation of its mixed use character. (Policy 8)

(f) Recognize the important link the 3rd/4th Avenue serves between the residential areas around Skinner Butte and encourage surrounding land uses that will preserve natural, scenic, and historic resources in the area and prevent the road from becoming a high-speed thoroughfare. (Policy 9)

(g) Increase efforts to preserve and rehabilitate existing housing resources, and minimize conversion to non-residential uses or demolition. (Policy 10)

(h) Explore and implement ways to increase owner-occupied housing within those portions of Whiteaker designated for residential use. Increase options/opportunities for purchase or home ownership to interested low income renters. (Policy 11)

The project is consistent with policy (a) because the land-use diagram and policies of the Whiteaker Plan are being considered as part of this decision. Policies (b) and (c) do not apply because the site is designated for mixed use and the land is privately owned. Policy (d) is directed towards the City of Eugene; the City is currently exploring options to reduce railroad impacts in downtown Eugene. Policy (e) does not apply as the project does not impact Monroe Street. The proposal is consistent with policy (f) because the development will not impact natural, scenic or historic resources, and the uses will not create a significant amount of new traffic that could turn Shelton McMurphey Boulevard into a high-speed thoroughfare (impacts to surrounding uses is further evaluated under Site Review criterion #1). Policy (g) does not apply because there are no existing structures on the property. Policy (h) is directed towards the City of Eugene, however the project supports this policy as it will provide opportunity for owner-occupied housing.

(11) Transportation Element.

(a) Design any new arterial/bridge or major reconstruction of an existing arterial/bridge to minimize noise pollution, appropriately screen the facility from abutting properties, and minimize the negative impacts to nearby properties.(Policy 2)

(b) Take steps to mitigate excessive noise on existing arterials and establish screening as needed. (Policy 3)

(c) Encourage reduction of through traffic on non-arterial streets within the Whiteaker neighborhood. (Policy 4)

(d) Maintain and improve the operation of the street system to facilitate circulation within the neighborhood. (Policy 5)

(e) Improve traffic safety for the various modes of transportation either by implementing measures to separate different modes or to make shared travel lanes more functional, compatible, and safer. (Policy 7)

(f) Continue to improve safe bicycle access to and throughout the Whiteaker neighborhood. (Policy 9)

(g) Encourage the installation of bus shelters, especially near areas with concentrations of senior citizens or where there is high transit usage and limited opportunities for shelter during bad weather. (Policy 10)

(h) Provide adequate pedestrian facilities for crossing of arterial streets at their points of greatest demand. (Policy 13)

(i) Continue to install sidewalk access ramps at intersections within the Whiteaker area. (Policy 14)

(j) Retain alleys and encourage their appropriate use as important elements of the transportation network. (Policy 15)

(k) Enhance the function alleys and pedestrian ways currently perform as part of the pedestrian system. (Policy 16)

(l) Recognize street trees as a significant public asset and help integrate where possible into the streetscape. Planting strips can soften the edge adjacent to residential areas and visually integrate residential and nonresidential areas. (Policy 17)

(m) Require property owners to replace removed street trees at the time of removal or during the next planting season, subject to adopted planting standards. (Policy 18)

The vast majority of the above policies are directed towards City of Eugene public street improvement projects (as opposed to private developers). Subsection (m), however, requires property owners to replace removed street trees; the proposal is consistent with this policy as no street trees will be removed.

Based on the above findings, EC 9.8515(4) is met.

<u>EC 9.8515(5)</u>: The proposed subdivision will:

(a) Not result in unreasonable risk of fire, flood, geological hazards, or other public health and safety concerns;

With regard to risk of flood, the subject property is not located within a special flood hazard area. The subdivision itself will not result in unreasonable risk of flood per the stormwater drainage evaluation at EC 9.6791 Stormwater Flood Control. With regard to the risk of geological hazards, per the findings at EC 9.6710 and the applicant's geotechnical report, several geotechnical issues have been identified including organic-based fills in the southern half of the site, surficial gravel-based fills in the northern half of the site, shallow bedrock in the north/northeast portion of the site and highly expansive soils through the site. However, the report concludes that these geotechnical issues can be mitigated provided that the recommendations of the report are implemented in the design and construction of the project.

In regards to water supply for firefighting, the applicant proposes a fire hydrant on the southeast corner of the new T-intersection within the development. This location is within the maximum hose lay distance for all of the proposed dwellings for this development. As an informational item, the hydrant shall provide a minimum flow of 1,500 gallons per minute at 20 psi per Eugene Fire Code Appendix D105.3.1, and the public fire hydrant location is subject to EWEB review and approval. Through the project consultation process, Fire Department staff reviewed the proposed subdivision and concurred that a fire apparatus turnaround would not be required. Secondary access is also not required by the Fire Code since the proposed number of dwelling units on a single fire apparatus access road does not exceed 30 per Eugene Fire Code Appendix D107.1. Regardless, the Fire Department recommends three conditions to ensure Fire Code standards are met:

- The Final Site Plans shall note that parking on the 27 foot wide access road will be on one side only per Eugene Fire Code Section 503.2.1 and the Eugene Code Chapter 9 Local Street Standards.

- The Final Site Plans shall note that "No Parking Fire Lane" signs will be posted on one side of the fire apparatus access road per Eugene Fire Code Section 503.3 and Eugene Fire Code Appendix D103.6.

- The Final Site Plans shall note that the fire apparatus access road will support an 80,000 lb. imposed load per Eugene Fire Code Section 503.2.3.

Other public health and safety issues such as those related to necessary infrastructure improvements have been previously addressed with respect to EC 9.8515(1)(b) and (c). Based on the available information and findings above, this standard is met.

(b) Provide adequate transportation systems, water supply, sewage disposal, drainage, and other public utilities;

The previous findings and conditions of approval regarding public street standards and other public infrastructure improvements under EC 9.8515(1)(b) and (1)(c) are incorporated herein by reference. Based on these findings, this standard is met.

(c) Not hamper the adequate provision of publicly owned open space for recreation needs.

The subject property is not specifically needed as publicly owned open space for recreation, and there is no evidence that the proposed subdivision will directly hamper adequate provision for open space needs in the area. Skinner Butte Park, a large open space area, is located just north of the subject property and will not be impacted by the subject project. Based on these findings, this standard is met.

Based on the findings above, EC 9.8515(5) is met.

<u>EC 9.8515(6)</u>: The proposed subdivision provides safe, convenient, and direct bicycle and pedestrian access to nearby and adjacent residential areas, transit stops, neighborhood activity centers, commercial areas, and industrial areas, and provides safe, convenient and direct transit circulation, provided the city makes findings to demonstrate consistency with constitutional requirements. "Nearby" means uses within 1/4 mile that can reasonably be expected to be used by pedestrians, and uses within 2 miles that can be reasonably expected to be used by bicyclists.

The property is located on the northern edge of downtown Eugene and on the eastern edge of the Whiteaker Neighborhood. Existing sidewalks along Shelton McMurphey Boulevard provide pedestrian access to nearby uses such as restaurants, retail outlets, industrial parks, office parks, nearby residential neighborhoods and other amenities in downtown Eugene. Bicycle lanes also exist along Shelton McMurphey Boulevard, and are easily accessible from the development site.

The site is within ¼ mile of multiple bus stops, including nearby stops on Pearl Street to the east. These stops are served by LTD bus routes #66, and #67; all of these lines connect the site to downtown Eugene and also to areas north of the subject property.

Based on the available information and findings above, EC 9.8515(6) is met.

<u>EC 9.8515(7)</u>: The proposed subdivision is designed and sited such that roads, infrastructure, utilities, and future development of proposed lots will minimize impacts to the natural environment by addressing the following:

(a) <u>Protection of Natural Features.</u>

1. **For areas not included on the city's acknowledged Goal 5 inventory, the preservation of significant natural features to the greatest degree attainable or feasible, including:**

a. **Significant on-site vegetation, including rare plants (those that are proposed for listing or are listed under state or federal law), and native plant communities.**
b. **All documented habitat for all rare animal species (those that are proposed for listing or are listed under State or Federal law).**
c. **Prominent topographic features, such as ridge lines and rock outcrops.**
d. **Wetlands, intermittent and perennial stream corridors, and riparian areas.**
e. **Natural resource areas designated in the <u>Metro Plan</u> diagram as "Natural Resource" and areas identified in any city-adopted natural resource inventory.**

2. For areas included on the city's acknowledged Goal 5 inventory, the preservation of natural features shall be consistent with the acknowledged level of preservation provided for the area.

The subject site is not included on the City's acknowledged Goal 5 inventory, and therefore subsection (1) applies. There are no documented rare plants, wetlands, stream corridors, riparian habitat areas, or prominent topographic features such as ridgelines or rock outcrops. Further, there is no documented habitat for rare animal species. During a site visit it was observed that the property is used as a throughway between Shelton McMurphey Boulevard and Skinner Butte Park (there is evidence of illegal camping and foot traffic throughout the site). These human impacts have further degraded the vegetation and trees onsite. An old concrete pad was also observed in the northwestern section of the site which has prevented the establishment of vegetation. There are, however, a number of significant trees on the property, which is further discussed under subsection (b) below.

(b) <u>Tree Preservation.</u> The proposed project shall be designed and sited to preserve significant trees to the greatest degree attainable or feasible, with trees having the following characteristics given the highest priority for preservation:

1. **Healthy trees that have a reasonable chance of survival considering the base zone or special area zone designation and other applicable approval criteria;**
2. **Trees located within vegetated corridors and stands rather than individual isolated trees subject to windthrow;**
3. **Trees that fulfill a screening function, provide relief from glare, or shade expansive areas of pavement;**
4. **Trees that provide a buffer between potentially incompatible land uses;**
5. **Trees located along the perimeter of the lot(s) and within building setback areas;**
6. **Trees and stands of trees located along ridgelines and within view corridors;**
7. **Trees with significant habitat value;**
8. **Trees adjacent to public parks, open space and streets.**
9. **Trees along water features.**
10. **Heritage trees.**

Certified arborist Alby Thoumsin completed an inventory of existing trees on the property on behalf of the applicant. The arborist documented 28 trees on the subject property, and found 12 trees in "good" condition, 11 in "fair" condition, and 5 in "poor" condition. The most common species found on the property are bigleaf maple, black cottonwood, incense cedar, and Western filbert. The arborist also evaluated the 10 preservation priorities listed above and determined which trees onsite meet each priority. The arborist's full report is included in the application file for reference as Exhibit D to the applicant's written narrative.

The applicant states that necessary grading impacts will impact on-site trees, and therefore only 2 existing trees will be preserved. The preservation trees are both incense cedars, and are located at the northeast and northwest corners of the property.

Staff finds that based the site's base zoning, location, and lack of intact natural habitat (i.e. large stands of trees), the proposed tree removals are justified. The S-W zone allows for a wide range of uses, including manufacturing, hospitals, nursing homes, vehicle repair and body shops, parking structures, retail outlets, agricultural machinery rental/sales/service, and electrical substations (see EC Table 9.3910 for a full list of permitted uses). The S-W zone also allows industrial development to follow the I-2 Light-Medium Industrial zone standards, and commercial, office and residential development to follow the C-2 Community Commercial zone standards. Both the industrial and commercial development standards allow for relatively minimal setbacks, a high percentage of lot coverage[3], and limited landscape area. All considered, the applicant's proposed residential development is much less intense than what could occur on S-W zoned property. Most importantly, and further discussed under subsection (c) below, the applicant proposes ample landscaped area and tree replanting throughout the development site.

The applicant also asserts that substantial grading will be needed to prepare the site for development, and that the grading will increase tree root impacts. Staff concurs that based on the property's slope, additional grading for the proposed street and home sites will be needed and that preserving more trees is not feasible.

According to the Landscape Plan (Sheet L-2) 43 new trees will be planted on the subject property, which is discussed in more detail under subsection (c) below. Based on the underlying zoning of the property, the poor health of numerous trees on-site, proposed tree plantings, and the presence of mature trees in Skinner Butte Park, staff finds that the project has been designed and sited to preserve significant trees to the greatest degree attainable or feasible.

(c) <u>Restoration or Replacement</u>.

1. For areas not included on the city's acknowledged Goal 5 inventory, the

[3] Lot coverage is the percent of the site that can be occupied by structures. For example, an allowable lot coverage of 100% means buildings could occupy 100% of the total lot area. An allowable lot coverage of 50% means that buildings can occupy half of the total lot area.

proposal mitigates, to the greatest degree attainable or feasible, the loss of significant natural features described in criteria (a) and (b) above, through the restoration or replacement of natural features such as:

a. Planting of replacement trees within common areas; or
b. Re-vegetation of slopes, ridge lines, and stream corridors; or
c. Restoration of fish and wildlife habitat, native plant habitat, wetland areas, and riparian vegetation.

To the extent applicable, restoration or replacement shall be in compliance with the planting and replacement standards of EC 6.320.

2. For areas included on the city's acknowledged Goal 5 inventory, any loss of natural features shall be consistent with the acknowledged level of protection provided for the resource.

As mentioned above, the applicant proposes to remove 26 trees on the subject property. To mitigate these removals and increase the overall aesthetic value of the site, the applicant is proposing 43 new trees on the subject property (see Landscape Tree Plan, Sheet L-1). The applicant proposes to plant a variety of native species along the northern property line (adjacent to Skinner Butte Park) such as incense cedar, Douglas fir, and Oregon white oak. Two Oregon white oak trees are also proposed on either side of the proposed private street where it connects to Shelton McMurphey Boulevard.

Additional non-native trees such as Chinese pistachio, royal star magnolia, and a pink dawn chitalpa are proposed in areas along the new private street and between the townhomes. These species were likely selected because they do not grow as large as Douglas fir or oak trees, and are therefore more manageable in an urban neighborhood setting.

(d) <u>Street Trees</u>. If the proposal includes removal of any street tree(s), removal of those street tree(s) has been approved, or approved with conditions according to the process at EC 6.305 of this code.

This standard is not applicable as the applicant does not propose to remove street trees.

<u>EC 9.8515(8)</u>: On R-1 zoned property, if the subdivision results in a lot greater than 13,500 square feet in size based on EC 9.2761(5)(b), the application shall indicate the location of lot lines and other details of layout that show future division of the lot may be made without violating the requirements of this land use code and without interfering with the orderly extension of adjacent streets, bicycle paths, and accessways. If the planning director deems it necessary for the purpose of future land division, any restriction of buildings within future street, bicycle path, and accessway locations shall be made a matter of record in the tentative plan approval.

This criterion is not applicable as the property is zoned S-W (not R-1) and none of the proposed lots are greater than 13,500 square feet.

<u>EC 9.8515(9)</u>: As far as is practicable, lot side lines shall run at right angles to the street upon which the lots face, except that on curved streets they shall be radial to the curve.

The applicant states that "Due to the small lot size, existing lot line configuration and complex multiple curves along Shelton McMurphey Blvd. it is impractical to have the lot line radial to the curve of the street." Staff agrees that the proposed street and lot layout is practicable and reasonable given the curve of Shelton McMurphey Boulevard. It is also beneficial that the applicant attempted to run the proposed east/west private street consistent with the curve of Shelton McMurphey Boulevard. Based on these findings, this criterion is met.

<u>EC 9.8515(10)</u>: The proposed subdivision complies with all of the following (an approved adjustment to a standard pursuant to the provisions beginning at EC 9.8015 of this land use code constitutes compliance with the standard):

(a) EC 9.6706 <u>Development in Flood Plains</u> through EC 9.6709 <u>Special Flood Hazard Areas - Standards</u>.

These standards do not apply because the subject property is not located within a special flood hazard area as mapped by the Federal Emergency Management Agency (FEMA) on Flood Insurance Rate Maps (FIRM) No. 41039C-1136-F and No. 41039C-1137-F, dated June 2, 1999.

(b) EC 9.6710 <u>Geological and Geotechnical Analysis</u>.

The geotechnical analysis requirements beginning at EC 9.6710 apply because the proposed development is on a site with slopes greater than 5% and will include the construction of public wastewater systems. Also, pursuant to EC 9.6710(5), a Level Two Analysis is required because the slopes exceed 10%.

The applicant submitted a Level Two Analysis entitled Geotechnical Foundation Investigation – Market District Townhomes – Eugene, Oregon, dated September 7, 2016. The report meets the Level One and Level Two Analysis requirements of EC 9.6710(4)(a) and (4)(b), including a compilation of record geological data, analysis of site characteristics, sub-surface investigation and testing to establish soil types and distribution. Geotechnical issues identified in the report "include an average 5-foot thick layer of organic-based fill material in the southern-half of the site, surficial gravel-based fill (average 2.5 feet) in the northern-half of the site, shallow (within 5-feet below existing ground surface) massive/hard basalt bedrock in the north/northeast portion of the site, and highly expansive soils throughout the site". The report concludes that "…other than those described above, no geotechnical/geologic hazards were identified at the site that would impede the planned development" and that "…the geotechnical issues described above can be mitigated provided that the recommendations of this report are implemented in the design and construction of the project."

Public Works staff concurs with this initial geotechnical assessment. Adherence to the report recommendations will be required during the subsequent PEPI permit, and through building and site development processes. Based on these findings and future permit requirements, the development complies with this criterion.

(c) EC 9.6730 Pedestrian Circulation On-Site.

These standards are specific to institutional, office, commercial, and industrial developments as described in EC 9.6730(2), and therefore do not apply to the proposed residential subdivision.

(d) EC 9.6735 Public Access Required.

The proposed subdivision complies with this standard as lots 1-10 have frontage on a public street (Shelton McMurphey Boulevard) and the remaining lots 11-20 have access to the public street via the proposed private street. Access to all lots will be from the proposed private street which is not subject to these standards (but is subject to the intersection standards at EC 9.6830 Intersection of Streets and Alleys).

Based on these findings, the public access standards are met.

(e) EC 9.6750 Special Setback Standards.

Based on the Public Works referral comments for EC 9.6870, there are no requirements for a special setback for future street right-of-way since Shelton McMurphey Boulevard is fully improved to City standards (other than street trees). Further, there are no known planned utility easements or long range infrastructure plans within the development site which would dictate a special setback for future public utility easement acquisition.

(f) EC 9.6775 Underground Utilities.

At the time of development, all on-site utilities will be placed underground consistent with this standard.

(g) EC 9.6780 Vision Clearance Area.

Vision Clearance Areas (VCA) are shown on the tentative plan at the proposed street intersections. There are no existing or proposed visual obstructions within the vision clearance area. This standard is met and will be further enforced at the time of development.

(h) EC 9.6791 through EC 9.6797 regarding stormwater flood control, quality, flow control for headwaters area, oil control, source control, easements, and operation and maintenance.

EC 9.6791 <u>Flood Control</u>: Runoff from the subject site, which is located in sub-basins WRWS-080 and WRWS-100 of the City's Willamette River Basin Drainage System, will be directed toward the public storm drainage system in Shelton McMurphey Boulevard, which was designed and constructed in conjunction with the Shelton McMurphey Boulevard street improvements under City Contract No. 2006-0004. It is noted that per Volume VI of the Stormwater Basin Master Plan, modeling of a major portion of the Willamette River Basin was deemed to be unnecessary because the basin experienced only limited problems as a result of the 25 year storm event of February, 1996. Additionally, the applicant provided an analysis for the "3rd-4th connector project" which demonstrates that there is adequate capacity in the receiving 10-inch pipe in Shelton McMurphey Boulevard.

EC 9.6792 <u>Stormwater Quality</u>: On-site soils are identified as Type D, which are poorly draining soils not suitable for infiltration; therefore, the selection of filtration as the appropriate water quality management strategy demonstrates compliance with subsection (3)(d). The development will comply with subsection (3)(e) by utilizing four filtration planters to treat runoff from the impervious surface areas of 4 separate basins, as depicted on Sheet C3 - Stormwater Management Plan. Preliminary sizing information is based on a sizing factor of 0.03, which is the simplified sizing factor for stormwater planters to provide water quality treatment.

The proposed private storm drainage and treatment system is conceptually acceptable, with the exception that the outlet pipe and downstream manhole from the Filtration Facility "A" are part of the private system, but are shown as being within the public right-of-way. As such, the pipe and manhole will need to be located on private property. Additionally, the lateral connection to the back of the curb inlet (structure no. 62149) should be as near as practicable to a right angle. Therefore, the following condition is recommended:

- The Final Site Plans shall locate the entirety of the private storm drainage system (including the outfall pipe from filtration facility "A" and the downstream connecting manhole) on private property. Additionally, the public lateral connection to the back of the curb inlet (structure no. 62149) shall be as near as practicable to a right angle.

The proposed water quality facilities are conceptually acceptable, including the proposal for the bubbler system to be utilized for Sub-Basin A. Planting and design details will be further evaluated at the time of building permit review.

Public Works staff confirms that the proposed facilities demonstrate conceptual compliance with these standards, subject to a more detailed review during the site development permit review.

EC 9.6793 through EC 9.6797 do not apply because the proposed subdivision is at an elevation less than 500 feet; does not drain to a Headwaters facility; does not generate high concentrations of oil and grease; does not include any specific pollutants of concern identified

in EC 9.6795(2); and, does not propose or require public stormwater facilities that are located outside of the public right-of-way. In regards to EC 9.6797, all stormwater facilities within the private street and in private storm drainage easements will be privately owned, operated and maintained in accordance with Eugene Code Chapters 6 and 7, and the Stormwater Management Manual.

(i) The proposed subdivision complies with other applicable development standards for features explicitly included in the application.

The S-W special development standard at EC 9.3915(1) states: "Residential Standards. Except as provided in subsections (5) to (12) of this section, all residential development shall be subject to the standards established for the C-2 zone." Based on this requirement, the subject development is subject to the C-2 development standards. The following standards are explicitly addressed in the application:

Setbacks: EC 9.2170(4)(b)2. states that "In C-2 and C-3, a minimum of 25% of all street facing facades must be within the specified maximum front yard setback, or, orientation to an internal accessway, private drive, or shopping street as defined in EC 9.2175(3) is permitted in compliance with EC 9.2173(4)(a)." The maximum front yard setback in the C-2 zone is 15 feet. The applicant is requesting adjustment to this standard as not all proposed structures are located within the maximum front yard setback from Shelton McMurphey Boulevard. This adjustment is further evaluated in Section 3 of this report.

EC 9.2170(4)(c) states "Where lot lines abut property within a residential zone category, the minimum interior yard setback for any building shall be 10 feet." Since the property to the east of the subject site is zoned R-3, this standard applies to the subject site's eastern interior yard setback. The applicant requests adjustment to this standard, but this standard can only be adjusted when the subject property is within the Downtown Plan Area (as shown on Map 9.2161(6) of the Eugene Code). Since the subject property falls outside the Downtown Plan Area boundary, the standard cannot be adjusted. A condition of approval addressing this issue is included in the Adjustment Review evaluation (Section 3 of this report).

Vehicle Parking: Eugene Code Table 9.6410 outlines the off-street motor vehicle parking standards for new development projects. For single-family homes, 1 off-street parking space is required for each dwelling unit. Since 1 garage space per unit is provided, this standard is met.

Landscaping: EC 9.2170(5)(a) requires 5% of the development site to be landscaped with living plant materials. Subsection (b) also requires that landscape areas must comply with the L-1 Basic Landscape Standard. While it is clear the applicant proposes to landscape well over 5% of the site, the proposed landscape plan (Sheet L-2) does not clarify which areas on-site will meet the L-1 landscape standard. To ensure compliance the following condition is recommended:

- The Final Site Plans shall delineate areas that will meet the L-1 landscape standard. The total area of L-1 landscaping shall be greater or equal to 5% of the development site.

EC 9.2170(5)(c) requires interior yard setbacks abutting a residential zone to contain a 7-foot wide landscape buffer that meets the L-3 High Screen Landscape Standard. Since the property to the east of the subject site is zoned R-3, this standard applies to the subject property's eastern interior yard setback. The applicant is requesting adjustment to this standard which is further evaluated in Section 3 of this report.

Building Height: The S-W height standard at EC 9.3915(7) limits building height to 45 feet. According the Eugene Code's definition of "Building Height", the height for a flat roof is highest point of the coping of a flat roof, and for a stepped or terraced building the height is the maximum height of all segments of that building. This measurement method applies as the applicant proposes buildings with flat roofs. The Eugene Code also prescribes two different "reference datums", and the overall slope of the site determines which is used for the calculation (see page 9.0-9 of Eugene Code Chapter 9 for full definition). The reference datum shall be whichever of the following two measurements results in the greater building height:

A. *The reference datum is the lowest grade[4] when the highest ground surface within a five-foot horizontal distance of the exterior wall of the building is not more than 10 feet above the lowest grade.*
B. *The reference datum is 10 feet higher than the lowest grade when the highest ground surface described in item (A) above is 10 feet or more above the lowest grade.*

Consistent with the prescribed measurement techniques, the applicant made a horizontal measurement of 5 feet from the lowest point of elevation, and then measured 45 feet upwards from that point (see applicant's sheet A-3, submitted August 19, 2016). Based on the applicant's elevation drawings, the maximum height standard of 45 feet would be met regardless of which reference datum is used. Maximum building height will also be evaluated through a future development permit(s), and it is noted that all proposed buildings will be required to meet the maximum height standard of 45 feet.

The subject property is also within the "Skinner Butte Height Limitation Area." The Height Limitation Areas standard at EC 9.6715 states: "The boundaries of the Skinner Butte Height Limitation Area are as follows: All property lying east of Washington Street, lying north of, and including, the north side of 6th Avenue, lying west of Coburg Road, and lying south of the Willamette River. (See Map 9.6715(3) Skinner Butte Height Limitation Area.) Within the Skinner Butte Height Limitation Area, the maximum height of any structure where the existing ground elevation is at, or below, 460 feet above mean sea level shall be to an elevation of 500 feet above mean sea level. The maximum height of any building where the existing ground

[4] Eugene Code Chapter 9 – Definition of "Grade": For purposes of determining building height, the grade shall be the lowest point of elevation of the finished surface of the ground, paving, or sidewalk within a five foot horizontal distance of the exterior wall of the building…

elevation is above 460 feet mean sea level shall be 40 feet above the existing ground elevation at all points. In neither case shall the maximum height of any building or structure exceed the maximum allowed in the zone."

The applicant analyzed the Skinner Butte Height Limitation standard and provided a graphical representation of the standard on sheet A-3 (Building Elevations). The building elevations include a dashed line representing 460 feet above mean sea level; from this drawing it appears that all of the proposed structures will be built on ground elevations above 460 feet above mean sea level, and shall therefore be built no more than 40 feet above the existing ground elevation. While it appears this standard will be easily met, the elevation drawings do not make it clear that *existing* ground elevation (as opposed to finished grade) is below 460 below mean sea level. The following condition is recommended to ensure this is clarified:

- The Final Site Plans shall clarify the location of 460 feet above mean sea level in relation to the existing ground elevation, and all structures evaluated through a future development permit(s) shall comply with the Skinner Butte Height Limitation standard at EC 9.6715(3).

Stormwater: The proposed impervious surface areas trigger the need for stormwater management facilities which require compliance with EC 9.6792(2)(d). This is further discussed at EC 9.6792, and those findings are incorporated herein by reference.

Based on the findings above, EC 9.8515(10) is met.

EC 9.8515(11): The proposal complies with the Traffic Impact Analysis Review provisions of EC 9.8650 through 9.8680 where applicable.

The anticipated traffic generated by the proposed subdivision does not meet any of the thresholds established in EC 9.8650 through 9.8680. Anticipated traffic would not reach the threshold of 100 or more peak hour trips, there are no documented concerns to warrant further review under these standards, nor will the proposed residential development generate or receive vehicles of heavy weight in routine daily operations. Based on these findings, this criterion is not applicable.

EC 9.8515(12): For applications intended to implement an approved tentative or final planned unit development for the site…

This criterion does not apply as the application does not implement a tentative or final PUD.

Section 2: Site Review Evaluation

EC 9.8440(1): The site review plan's general design and character is reasonably compatible with surrounding properties, as it relates to building locations, bulk and height, noise, glare and odors.

The subject property is bounded by Skinner Butte Park to the north, an apartment complex to the east, City-owned warehouses to the west, and Shelton McMurphey Boulevard to the south. The property slopes downwards from north to south, with the lowest elevation existing along to Shelton McMurphey Boulevard. The proposed two and three-story dwelling units range from 30-35 feet in height, consistent with the 45-foot maximum height standard for development in the S-W zone.

South and West: S-W zoning exists south and west of the subject property. To the south is Shelton McMurphey Boulevard and two properties owned by Hummingbird Wholesale (an organic food and seed company). A Site Review application has been submitted for development of the vacant Hummingbird Wholesale property to the southeast; this application is currently under review. The company plans to construct a new mixed-use building that will include warehouse space, a factory, and offices. According to their website, Hummingbird Wholesale produces animal feed, fruit products, grains, flours, nut butters, spices, chocolate, and oils. Production of these products is not heavy industry, and Hummingbird noted in their Site Review application that noise and odor emissions for their operations "…would be characterized as very little, if any noise and odors are emitted." The Shelton McMurphey Boulevard right-of-way also serves as a buffer between the subject property and uses to the south. Based on these findings, staff does not expect the Hummingbird Wholesale facilities to negatively impact the subject property, and vice-versa.

The S-W zoned property to the west is developed with City-owned warehouses. The warehouses have most recently been used by the Police Department for evidence storage, but it is uncertain if and when the property will be redeveloped in the future. Based on this property's current use, it would not be expected to negatively impact future residents of the subject project.

East: The property east of the subject site is zoned R-3 Limited High-Density Residential and is currently developed with an apartment complex. Given that the subject proposal is a low-density housing project involving two and three-story buildings, staff expects the townhomes to be compatible with the adjacent apartments. While the neighboring property supports multi-family apartments, it is still a residential use that has very similar operating characteristics.

North: The property north of the subject site is zoned PL Public Land and currently supports Skinner Butte Park. In addition to providing public access to the top of Skinner Butte and the Willamette River, the park supports walking and biking paths, the RiverPlay Discovery playground, open grass fields, a natural wall of columnar basalt that is regularly used for

recreational climbing, ball fields and other amenities. The park also supports National Register historic resources such as the Shelton-McMurphey Johnson House and the University of Oregon "O" at the top of the Butte. That said, the portion of the park adjacent to the subject site is mostly undeveloped (likely due to the steep slope of this area). The only feature in near vicinity is Skinner Butte Loop, which provides vehicle access to the top of the Butte and exists approximately 150 feet north of the subject property.

With consideration of the factors outlined above, the subject proposal is not expected to negatively impact users of the park or the park itself. The proposed townhomes will also be built below the maximum height allowed which will minimize any visual impacts to the park property. If anything, the subject development will increase safety in and around the park (which is known to support a high amount of illegal camping). Illegal camping not only deters visitors, but it leads to destruction of natural habitat and increases fire danger in these heavily forested areas.

Building Elevations: The applicant's sheet A-3 provides elevation drawings for the proposed townhomes. Staff finds the modern design of the structures to be both attractive and consistent with existing development along Shelton McMurphey Boulevard. For example, the proposed flat roofs and rectangular building shapes resemble industrial-type buildings such as the existing Hummingbird Wholesale structure across the street. The large windows and south-facing balconies also provide interest and articulation to the townhomes, and the separation between structures facilitates views of the Butte's forested slopes. Based on these findings, the design of the townhomes is reasonably compatible with surrounding properties.

Based on the findings above, EC 9.8440(1) is met.

> **EC 9.8440(2): Proposed lots, buildings, streets, parking lots, recreation areas, and other proposed uses are designed and sited to minimize impacts to the natural environment by addressing following…**

With the exception of an additional parking standard (which is addressed below), this criterion is identical to Tentative Subdivision criterion EC 9.8515(7). Those findings are incorporated herein by reference.

> **(e) Parking. There is a need for parking in the area and the proposed parking area will provide shared parking.**

Staff finds there not a need for additional shared parking in the area, particularly as it relates to the protection of natural features as addressed in the context this criterion. The existing developments along Shelton McMurphey Boulevard provide their own on-site parking. The applicant also provides the required parking for the development within the bounds of the subject property.

Based on the available information and findings above, EC 9.8440(2) is met.

<u>EC 9.8440(3)</u>: The proposal provides safe and adequate transportation systems through compliance with all of the following:

(a) Compliance with EC 9.6800 through EC 9.6875 Standards for Streets, Alleys, and Other Public Ways.

Based on the findings and recommended conditions at Tentative Subdivision criterion EC 9.8515(1)(b), which are incorporated herein by reference, the proposed subdivision complies with the standards at EC 9.6800 through EC 9.6870.

(b) Pedestrian, bicycle and transit circulation, including related facilities, as needed among buildings and related uses on the development site, as well as to adjacent and nearby residential areas, transit stops, neighborhood activity centers, office parks, and industrial parks, provided the city makes findings to demonstrate consistency with constitutional requirements. "Nearby" means uses within 1/4 mile that can reasonably be expected to be used by pedestrians, and uses within 2 miles that can reasonably be expected to be used by bicyclists.

The property is located on the northern edge of downtown Eugene and eastern edge of the Whiteaker Neighborhood. Existing sidewalks along Shelton McMurphey Boulevard provide pedestrian access to nearby uses such as restaurants, retail outlets, industrial parks, office parks, nearby residential neighborhoods and other amenities in downtown Eugene. Bicycle lanes also exist along Shelton McMurphey Boulevard and are easy accessible from the development site.

The site is within ¼ mile of multiple bus stops, including stops along Pearl Street to the east. These stops are served by LTD bus routes #66, and #67; all of these lines connect the site to the downtown Eugene bus station and to areas north of the subject property.

Based on the available information and findings above, EC 9.8440(3) is met.

<u>EC 9.8440(4)</u>: The proposal will not be a significant risk to public health and safety, including but not limited to soil erosion, slope failure, stormwater or flood hazard, or an impediment to emergency response.

Based on the findings at Tentative Subdivision criterion EC 9.8515(5)(a), which are incorporated herein by reference, the proposed subdivision will not result in unreasonable risk of fire, flood, geological hazards, or other public health and safety concerns. This criterion is met.

<u>EC 9.8440(5)</u>: The proposal complies with all of the following standards (An approved adjustment to a standard pursuant to the provisions beginning at EC 9.8015 of this land use code constitutes compliance with the standard.):

(a) EC 9.2000 through 9.3915 regarding lot dimensions and density requirements for the subject zone.

Based on the findings at Tentative Subdivision criterion EC 9.8515(1)(a), which are incorporated herein by reference, the public improvement standards are met.

(b) EC 9.6500 through 9.6505 Public Improvement Standards.

Based on the findings and conditions at Tentative Subdivision criterion EC 9.8515(1)(c), which are incorporated herein by reference, the public improvement standards are met.

(c) EC 9.6706 Development in Flood Plains through EC 9.6709 Special Flood Hazard Areas - Standards.

Based on the findings at Tentative Subdivision criterion EC 9.8515(10)(a), which are incorporated herein by reference, the standards referenced above are met.

(d) EC 9.6710 Geological and Geotechnical Analysis.

Based on the findings at Tentative Subdivision criterion EC 9.8515(10)(b), which are incorporated herein by reference, the geological and geotechnical analysis standards are met.

(e) EC 9.6730 Pedestrian Circulation On-Site.

The on-site pedestrian circulation standards do not apply because the proposal is not a multi-family development. Regardless, the applicant proposes a sidewalk along all segments of the new private street within the development site. These sidewalks connect each of the proposed townhomes to Shelton McMurphey Boulevard.

(f) EC 9.6735 Public Access Required.

Based on the findings at Tentative Subdivision criterion EC 9.8515(10)(d), which are incorporated herein by reference, the public access standards are met.

(g) EC 9.6750 Special Setback Standards.

Based on the findings at Tentative Subdivision criterion EC 9.8515(10)(e), which are incorporated herein by reference, the special setback standards are met.

(h) EC 9.6775 Underground Utilities.

Any new utilities will need to be placed underground consistent with these standards. These standards will be subject to further review during the building permit process.

(i) EC 9.6780 Vision Clearance Area.

Based on the findings at Tentative Subdivision criterion EC 9.8515(10)(g), which are incorporated herein by reference, the vision clearance area standards are met.

(j) EC 9.6791 through 9.6797 regarding stormwater flood control, quality, flow control for headwaters area, oil control, source control, easements, and operation and maintenance.

Based on the findings at Tentative Subdivision criterion EC 9.8515(10)(h), which are incorporated herein by reference, the stormwater standards are met.

(k) All other applicable development standards for features explicitly included in the application.

All other applicable development standards are addressed at Tentative Subdivision criterion EC 9.8515(10)(i). Those findings are incorporated herein by reference.

Based on the findings above, EC 9.8815(7) is met.

EC 9.8440(6): The proposal complies with applicable adopted plan policies beginning at EC 9.9500.

The Metro Plan and the Whiteaker Plan are the applicable adopted plans for the subject area. Relevant Metro Plan and Whiteaker Plan policies are previously discussed as part of the Tentative Subdivision evaluation at EC 9.8515(4). Those findings are incorporated herein by reference.

To the extent that adopted plan policies are relevant, EC 9.8440(6) is met.

EC 9.8440(7): Any additional specific factors applied at the time the /SR designation was applied.

A previous zone change application was approved in 1977 (file # Z 77-34). This zone change added the /SR Site Review overlay and established four "additional specific factors," or considerations, for development on the subject property. Each additional factor is evaluated below.

a) Compatibility with the surroundings, particularly when residential in character.

As discussed in more detail under Site Review criterion EC 9.8440(1), the property to the east is currently developed with residential apartments. Staff finds that the proposed residential project is compatible with these existing apartments, and also with other non-residential uses in the area including Skinner Butte Park and commercial businesses along Shelton McMurphey Boulevard.

b) *Efficient, workable, and safe inter-relationships among buildings, parking, circulation, open space and landscaped areas, as well as related activities and uses.*

The development proposes a new private street, sidewalks, landscaped areas, and garage parking for each dwelling unit. Based on the applicant's site plan, the development provides for safe and efficient inter-relationships among buildings, circulation and open space.

c) *Structures designed, sized, and shaped in scale and harmony with intended uses and resulting in a pleasant environment for living, working, or shopping, as the case may be.*

The proposed townhomes are designed, sized, and shaped in scale and harmony with the intended single-family residential use. Residents will have access to both private and public open spaces, and will be conveniently located on the edge of downtown Eugene.

d) *Safe and efficient ingress, egress, and on-site traffic circulation.*

Staff finds that safe and efficient circulation will be provided as the private street will be constructed in accordance with applicable design requirements of the Eugene Code.

Based on the available information and findings above, EC 9.8440(7) is met.

Section 3: Adjustment Review Evaluation

EC 9.8015 Adjustment Review – Purpose explains this process as encouraging design proposals that respond to the intent of the code in an efficient and effective manner. EC 9.8020 Adjustment Review – Applicability confirms that this process is available only where the land use code states that a specific standard may be adjusted. In this case, a *Minor Adjustment* (as opposed to a *Major Adjustment*) is appropriate because the proposal does not include a large commercial facility, large multi-tenant commercial facility, or multiple-family development[5].

In summary, the applicant is requesting adjustments to the following:

1. **EC 9.3915(8)** which requires each lot or development site to have a minimum area of 4,500 square feet and that lots meet the commercial zone lot standards.

[5] **Definition:** Adjustment Review – Minor. Any adjustment review that is not defined as "major." This includes all adjustments to any proposed project that does not contain a large commercial facility, large multi-tenant commercial facility, or multiple-family development (page 9.0-7 of Eugene Code Chapter 9).

2. **EC Table 9.2170** which requires a 15-foot maximum front yard Setback in the C-2 zone.

3. **EC 9.2170(4)(c)** which requires a 10-foot minimum interior yard setback where property lines abut a residential zone.

4. **EC 9.2170(5)(c)** which requires 7-foot wide landscape beds meeting the High Screen Landscape Standard (L-3) within interior yard setbacks abutting residential zones.

➢ **<u>Adjustment #1</u>: EC 9.3915(8)**

The lot standards for the S-W zone are at EC 9.3915(8). The standard requires a minimum lot area of 4,500 square feet, and also that lots in this zone meet C-2 lot standards. For interior and corner lots, the C-2 zone requires 50 feet of lot frontage and a 50-foot minimum lot width. According to EC 9.3915(8), "…lot area, frontage, and width minimums may be adjusted by the planning director if consistent with the purpose and intent of this land use code and necessary and suitable within the zone." The purpose of the S-W zone, which exists at EC 9.3900, is as follows:

> **<u>Purpose of S-W Whiteaker Special Area Zone</u>.** ***The purpose of the S-W Whiteaker Special Area Zone is to encourage the economic vitality of the area for employment and industrial, institutional, and commercial uses while also allowing a mix of residential dwellings. This zone has a broad range of permitted uses. No single use is mandated or required within the area and the zone encourages both a mixture of uses within a building as well as within a block. The mix of land uses and increase in residential density and employment opportunities is designed to provide a place for people to live and work in the same area. It is intended that the character of the zone develop so that the diversity of uses are enhanced and tied together with various forms of usable public and private open space where there is pedestrian-oriented activity. Appropriate intermingling of structures, street amenities, and major landscape features will be necessary in order to integrate older development with newer development. Development within the zone will occur incrementally over time and this zoning will help ensure a coordinated effort is undertaken to improve the area by the public and private sectors. The S-W zone is also designed to:***
>
> ***(1) Encourage the continued economic vitality of existing and redeveloped commercial and employment and industrial uses with recognition of their role in providing a needed diversity of land uses and job opportunities.***
> ***(2) Encourage an increase in residential density to create additional opportunities for people to live close to major employment areas.***
> ***(3) Encourage actions that will enhance the attractiveness of the area and increase the use of major landscape features that can help tie the public and private open spaces together.***

(4) Encourage the preservation, rehabilitation, and restoration of significant historic structures and retention of older, mature street trees.

The applicant proposes townhouse lots between 2,465-6,962 square feet in size (only lots 19 and 20 meet the 4,500 square feet minimum). Lot widths and frontages range from 31-46 feet in length, where 50 feet is the minimum according to C-2 lot standards. For details, see applicant's sheet C-4, Tentative Subdivision Plan.

Staff finds the requested adjustment to lot standards is warranted because the proposed development is consistent with the S-W zone purpose statement (see above). Specifically, the proposal encourages residential density that will allow people to live close to major employment areas (in this case downtown Eugene). Considering the high quality design of the townhomes and substantial landscaping throughout the site, the project will enhance the attractiveness of the area and also serve as a transition between higher intensity downtown development and Skinner Butte Park. Finally, the purpose statement calls for a mix of uses in the neighborhood; with existing and new proposed commercial, office, industrial, and park uses in the area, this residential development will help to provide a variety of land uses along Shelton McMurphey Boulevard.

Based on the findings above, staff supports an adjustment to the S-W lot standards to allow lots that are smaller than 4,500 square feet and that do not meet minimum lot width and frontage standards.

- **<u>Adjustment #2</u>: EC Table 9.2170**

The proposal is subject to the setbacks established for the C-2 zone. Per EC Table 9.2170, the property is subject to a 15-foot maximum yard setback; the proposed buildings on lots 6, 8, 9, and 10 are setback more than 15 feet from the front property line. According to EC 9.2170(4)(e), adjustments to minimum and maximum front yard setbacks may be made based on the criteria at EC 9.8030(2), which are as follows:

> **<u>Setback Standards Adjustment</u>. Where this land use code provides that the setback standards applicable to specific zones may be adjusted, the standards may be adjusted upon finding that the proposed setback is consistent with the following applicable criteria:**
>
> **(a) Minimum and Maximum Front Yard Setback Adjustment. The minimum or maximum required front yard setback may be adjusted if the proposal achieves all of the following:**
>
> 1. **Contributes to the continuity of building facades along the street.**
> 2. **Creates an attractive pedestrian environment along all adjacent streets**
> 3. **Is compatible with adjacent development.**

Maximum front yard setbacks may be adjusted without any requirement for pedestrian amenities if the location of the front yard is unsafe or intrinsically unsuitable for pedestrians or to protect disruption to significant natural resources.

1. Contributes to the continuity of building facades along the street.

First, staff notes that a number of the proposed structures along Shelton McMurphey Boulevard meet the 15-foot maximum front yard setback. The structures not meeting this requirement are located on lots 6, 8, 9, and 10. For details, see applicant's sheet A-1, Site Plan.

Second, staff notes that the existing apartment buildings to the east are set back from the sidewalk, and the area between the buildings and the sidewalk is occupied by a line of shrubs and canopy trees. This is similar to the applicant's proposal where a landscape buffer exists between the right-of-way and the proposed townhomes. The Shelton McMurphey Johnson House (which is listed on the National Register of Historic Places) also exists east of the existing apartment complex. This historic home is sited even farther up on the Butte and relatively far from the Shelton McMurphey Boulevard right-of-way. Therefore, it is beneficial that the subject development follows this development trend (to some extent) by providing a landscape buffer between the sidewalk and the new structures.

The existing Hummingbird Wholesale building across the street is built relatively close to the sidewalk, but this is a completely different development type (industrial) so it is reasonable that it is configured differently than the subject proposal.

Based on the above findings, staff finds that the proposal contributes to the continuity of building facades along the street.

2. Creates an attractive pedestrian environment along all adjacent streets

As shown on the applicant's landscape plan (sheet L-2), a new landscape area will exist along the Shelton McMurphey Boulevard sidewalk. Since the subject property currently lacks trees along the sidewalk, the new development will be an improvement from existing conditions. The proposed trees and grass lawns along the sidewalk will create an attractive pedestrian environment, and the trees will also provide shade for pedestrians during the warmer months. Based on these findings, the proposal creates an attractive pedestrian environment along all adjacent streets.

3. Is compatible with adjacent development.

Compatibility with adjacent development is evaluated under Site Review criterion EC 9.8440(1). Those findings are incorporated herein by reference. Per the findings under adjustment requests #3 and #4 below, staff also recommends conditions that would increase setbacks and

require L-3 High Screen landscaping along the eastern property boundary (which is adjacent to existing apartments). These requirements will increase compatibility between the subject property and the property to the east through enhancement of this physical buffer.

Based on the findings above, staff supports an adjustment to the maximum front yard setback standard.

- **<u>Adjustment #3</u>: EC 9.2170(4)(c)**

The applicant has requested to adjust this standard; however, EC 9.2170(4)(c) states that adjustments can only be made within the Downtown Plan Area as shown on Map 9.2161(5). The subject property falls just outside the Downtown Plan Area and therefore the standard cannot be adjusted. Based on these findings, the following condition of approval is recommended:

- The Final Site Plans shall site all buildings a minimum of 10 feet from the eastern property boundary, consistent with EC 9.2170(4)(c).

With this condition of approval, no adjustment is necessary and the setback standard at EC 9.2170(4)(c) is met.

- **<u>Adjustment #4</u>: EC 9.2170(5)(c)**

The applicant has requested to adjust this standard; however, this standard cannot be adjusted as subsection (5) of EC 9.2170 does not provide the opportunity to do so. If these standards were adjustable, there would be an additional section under subsection (5) titled "Adjustments." Based on these findings, the following condition of approval is recommended:

- The Final Site Plans shall include a 7-foot wide planting bed meeting the High Screen Landscape Standard (L-3) along the eastern property boundary, consistent with EC 9.2170(5)(c).

With this condition of approval, no adjustment is necessary and the setback standard at EC 9.2170(5)(c) is met.

Section 4: Willamette Greenway Permit Evaluation

EC 9.8815(1): To the greatest degree possible, the intensification, change of use, or development will provide the maximum possible landscaped area, open space, or vegetation between the activity and the river.

As shown on the applicant's site plan (sheet A-1), the Willamette Greenway (WG) boundary intersects the northern portion of the subject property. As explained on page 2 of this report, the existence of the WG boundary on the subject property is due to a past property line adjustment where a portion of the park property was added to the subject property. To be clear, this strip of land is within the WG boundary, but is privately owned and now a part of the applicant's development site. As such, it is available for the proposed development subject to approval of a WG Permit. This is a unique situation because the subject property is more than ¼ mile from the Willamette River, and Skinner Butte serves as a prominent physical buffer between the subject property and the River. Based on the existence of Skinner Butte Park, a forested and landscaped public open space, there is more than adequate landscape area, open space and vegetation between the subject property and the Willamette River.

Based on these findings, this criterion is met.

EC 9.8815(2): To the greatest possible degree, necessary and adequate public access will be provided to and along the river by appropriate legal means.

As mentioned under criterion #1, this is a unique Willamette Greenway Permit because the subject property is not adjacent to the Willamette River. In fact, the river is not visible from the property and the river's southern bank is more than ¼ mile (as the crow flies) from the subject property. That said, the subject development provides access to the public street and sidewalk afforded by Shelton McMurphey Boulevard, and this street provides access to other roads that connect to the River. To the east Shelton McMurphey Boulevard connects to High Street, which ultimately connects to the northern portion of Skinner Butte Park (which is adjacent to the River). To the west Shelton McMurphey Boulevard connects to Lincoln Street, which turns into Skinner Butte Loop and leads to the portion of Skinner Butte Park adjacent to the River.

Based on the fact that direct access to the River is not possible, the proposal provides for adequate public access to the River to the greatest degree possible. This criterion is met.

EC 9.8815(3): The intensification, change of use, or development will conform with applicable Willamette Greenway policies as set forth in the Metro Plan.

Pages III-D-4 and 5 of the Metro Plan contain the Willamette Greenway policies. Of these, several policies apply specifically to local government agency services. Staff finds that none of these policies are directly applicable as approval criteria in this case because the subject

property is not within close proximity to the Willamette River where scenic and natural resources would be directly affected or negatively impacted.

Based on these findings, the proposal is consistent with the Metro Plan. This criterion is met.

> **EC 9.8815(4): In areas subject to the Willakenzie Area Plan, the intensification, change of use, or development will conform with that plan's use management considerations.**

This criterion does not apply as the property is not within an area subject to the Willakenzie Area Plan.

> **EC 9.8815(5): In areas not covered by subsection (4) of this section, the intensification, change of use, or development shall conform with the following applicable standards:**
>
> **(a) Establishment of adequate setback lines to keep structures separated from the Willamette River to protect, maintain, preserve, and enhance the natural, scenic, historic, and recreational qualities of the Willamette Greenway. Setback lines need not apply to water related or water dependent activities as defined in the Oregon Statewide Planning Goals and Guidelines (OAR 660-15-000 et seq.).**
> **(b) Protection of significant fish and wildlife habitats as identified in the Metropolitan Plan Natural Assets and Constraints Working Paper. Sites subsequently determined to be significant by the Oregon Department of Fish and Wildlife shall also be protected.**
> **(c) Protection and enhancement of the natural vegetative fringe along the Willamette River to the maximum extent practicable.**
> **(d) Preservation of scenic qualities and viewpoints as identified in the Metropolitan Plan Natural Assets and Constraints Working Paper.**
> **(e) Maintenance of public safety and protection of public and private property, especially from vandalism and trespass in both rural and urban areas to the maximum extent practicable.**
> **(f) Compatibility of aggregate extraction with the purposes of the Willamette River Greenway and when economically feasible, applicable sections of state law pertaining to Reclamation of Mining Lands (ORS Chapter 517) and Removal of Material; Filling (ORS Chapter 541) designed to minimize adverse effects to water quality, fish and wildlife, vegetation, bank stabilization, stream flow, visual quality, noise, safety, and to guarantee necessary reclamation.**
> **(g) Compatibility with recreational lands currently devoted to metropolitan recreational needs, used for parks or open space and owned and controlled by a general purpose government and regulation of such lands so that their use will not interfere with adjacent uses.**

As used in this section, the words "the greatest possible degree" are drawn from Oregon Statewide Planning Goal 15 (F.3.b.) and are intended to require a balancing of factors so that each of the identified Willamette Greenway criteria is met to the greatest extent possible without precluding the requested use.

Staff finds that subsections (a)-(c) do not apply to the proposal because the subject property is located more than a ¼ mile from the River; based on the distance from the river, the project will not impact riparian vegetation or fish and wildlife habitat along the River.

In regards to subsection (d),

The purpose of subsection (e) is met as the subject site will become fully developed; the presence of new homes and residents is expected to deter trespassers on the subject property and along the fringe of Skinner Butte Park. Subsection (f) does not apply as aggregate extraction is not proposed. The proposal is consistent with subsection (g) as the development is compatible with Skinner Butte Park (the proposed residential use will not negatively impact this recreational area).

Based on the findings above, EC 9.8815(5) is met.

EC 9.8815(6): When site review approval is required, the proposed development will be consistent with the applicable site review criteria.

The proposed project requires a Site Review approval; the Site Review criteria are evaluated in Section 2 of this report.

EC 9.8815(7): The proposal complies with all applicable standards explicitly addressed in the application. An approved adjustment to a standard pursuant to provisions beginning at EC 9.8015 of this land use code constitutes compliance with the standard.

All other applicable development standards are addressed at Tentative Subdivision criterion EC 9.8515(10)(i). These findings are incorporated herein by reference.

Staff Recommendation

Based on the available evidence, and consistent with the preceding findings, staff recommends the Hearings Official approve the Tentative Subdivision, Willamette Greenway Permit, Site Review, and Adjustment Review applications with the following conditions of approval:

1. The Final Site Plans shall show that the new private street intersects Shelton McMurphey Boulevard at a right angle.

2. Prior to final plat approval, a PEPI permit shall be issued for the construction of public improvements. In lieu of a PEPI permit, a bond or other financial instrument guaranteeing the construction of public improvements shall be submitted by the applicant and accepted by the City Engineer.

3. Prior to final plat approval the applicant shall provide documentation that EWEB has received a financial guarantee, ensuring water will be provided to each lot in the plat.

4. The Final Site Plans shall locate the centerline of the proposed public wastewater mainline in the private street at least 7-feet north of the southerly edge of the variable width PUE.

5. The Final Site Plans shall show a 10-foot wide PUE along the westerly boundary of Lot 1. Alternatively, the applicant may arrange for a 7-foot wide PUE to be dedicated by the adjoining property owner and show a 14-foot PUE on the Final Site Plans.

6. The Final Site Plans shall note that parking on the 27 foot wide access road will be on one side only per Eugene Fire Code Section 503.2.1 and the Eugene Code Chapter 9 Local Street Standards.

7. The Final Site Plans shall note that "No Parking Fire Lane" signs will be posted on one side of the fire apparatus access road per Eugene Fire Code Section 503.3 and Eugene Fire Code Appendix D103.6.

8. The Final Site Plans shall note that the fire apparatus access road will support an 80,000 lb. imposed load per Eugene Fire Code Section 503.2.3.

9. The Final Site Plans shall locate the entirety of the private storm drainage system (including the outfall pipe from filtration facility "A" and the downstream connecting manhole) on private property. Additionally, the public lateral connection to the back of the curb inlet (structure no. 62149) shall be as near as practicable to a right angle.

10. The Final Site Plans shall delineate areas that will meet the L-1 landscape standard. The total area of L-1 landscaping shall be greater or equal to 5% of the development site.

11. The Final Site Plans shall clarify the location of 460 feet above mean sea level in relation to the existing ground elevation, and all structures evaluated through a future development permit(s) shall comply with the Skinner Butte Height Limitation standard at EC 9.6715(3).

12. The Final Site Plans shall site all buildings a minimum of 10 feet from the eastern property boundary, consistent with EC 9.2170(4)(c).

13. The Final Site Plans shall include a 7-foot wide planting bed meeting the High Screen Landscape Standard (L-3) along the eastern property boundary, consistent with EC 9.2170(5)(c).

Consistent with EC 9.7330, unless the applicant agrees to a longer time period, within 15 days following close of the public record, the Eugene Hearings Official shall approve, approve with conditions, or deny this Type III application. The decision shall be based upon and be accompanied by findings that explain the criteria and standards considered relevant to the decision, stating the facts relied upon in rendering a decision and explaining the justification for the decision based upon the criteria, standards, and facts set forth. Notice of the written decision will be mailed in accordance with EC 9.7335. Within 12 days of the date the decision is mailed, it may be appealed to the Eugene Planning Commission as set forth in EC 9.7650 through EC 9.7685.

In this instance, a final site plan and performance agreement will also be required.

Attachments

Vicinity and Zoning maps and Informational Items are attached. The applicant's full-size site plans, and the entire application file, are available for review at the Eugene Planning Division offices. The Hearings Official will receive a full set of application materials for review prior to the public hearing. These materials will also be made available for review at the public hearing.

For More Information

Please contact Erik Berg-Johansen, Associate Planner, City of Eugene Planning Division, at: (541) 682-5437; or by e-mail, at: erik.berg@ci.eugene.or.us

Attachment A - Vicinity Map

Legend

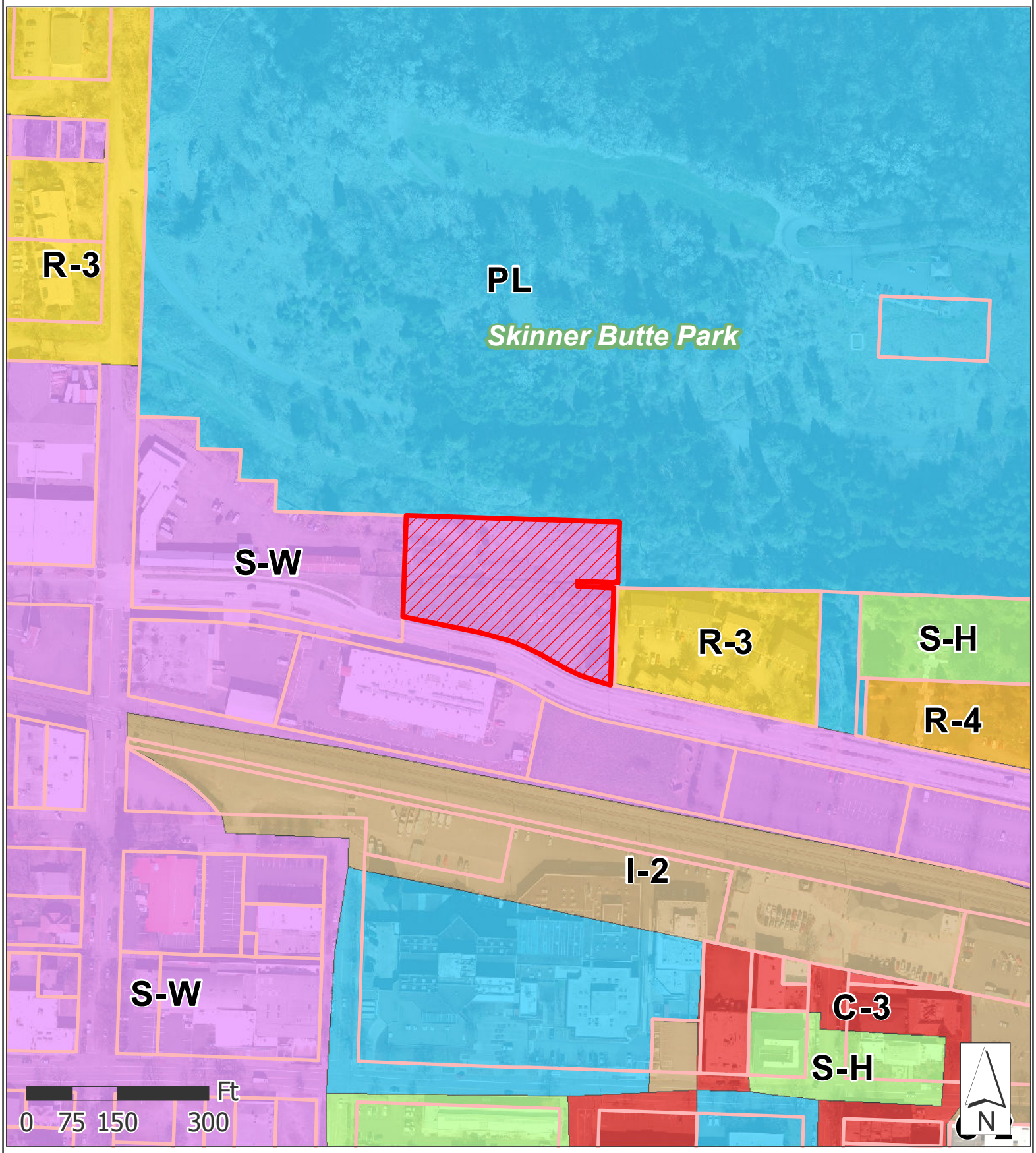
- Subject Property
- Taxlots

0 250 500 1000 Ft

Caution:
This map is based on imprecise source data, subject to change, and for general reference only.

November 2016

Attachment B - Zoning Map



Subject Property
Taxlots
C-3
I-2
PL
R-3
R-4
S-H
S-W

Caution:
This map is based on imprecise source data, subject to change, and for general reference only.

November 2016

Attachment C – Informational Items

- A plat-check fee will be required at the time of final plat application. These fees are subject to change; plat-check fees will be determined according to the fee schedule in effect when the final plat application is submitted.

- Lane County Surveyor's Office is responsible for review of ORS 209. A separate copy of the final plat and Lane County application fees must be submitted to Lane County Surveyor's Office prior to the first plat review.

- A current title report must be submitted with the final plat. The final plat must show all easements listed in the title report, and interest-holders must sign the Declaration or submit concurrences.

- The final plat must show the relationship between the property boundary and right-of-way centerline monuments.

- An Engineering and Construction agreement is required for the private construction of public improvements and must be submitted when the construction plans are submitted for review and approval. The configuration and size of the public improvements shall further be subject to approval by the City Engineer upon review of the design and supporting analysis prepared by the applicant's engineer.

- If the final plat includes any public easements, the following restriction will be required to be shown on the final plat in accordance with EC 9.6500(3): "No building, structure, tree or other obstruction shall be placed or located on or in a Public Utility Easement."

- The private street will be formally created by a separate document, i.e., *Private Joint Access and Utility Easement and Maintenance Agreement* (JAM). The JAM will include a description of the area of the private street and will also identify permitted improvements, construction expectations, rights of usage and maintenance responsibilities for the facilities in the street. The JAM will be recorded concurrent with and cross-referenced on the final plat.

- The structural design and construction inspection for the private street shall remain the developer's responsibility. Certification by a licensed engineer that a structural design meeting the public standards outlined above has been completed shall be submitted at the time of the site development permit for the private street.

- The access connection to the private street shall be constructed as a standard driveway apron.

- *Sheet L1 – Landscape Tree Plan* shows nine trees as proposed within the planter strip located behind the existing sidewalk. Prior to planting the trees, the applicant shall obtain a

Street Tree Planting Permit from Urban Forestry. Staff notes that the number, location and type of trees is not specifically approved, but will be determined prior to permit issuance.

- All City liens and assessments must be paid prior to final plat approval.

- Taxes for the current year must be paid prior to recording of the final plat. The applicant should contact the Lane County Surveyor's Office to make arrangements.

For additional information, contact Ed Haney, City of Eugene Public Works, at 541-682-8361; ed.r.haney@ci.eugene.or.us

- The applicant proposes a fire hydrant on the southeast corner of the T intersection of their development. This location is within the maximum hose lay distance for all of the proposed dwellings for this development. The hydrant shall provide a minimum flow of 1,500 gpm at 20 psi per EFC Appendix D105.3.1. The public fire hydrant location is subject to EWEB review and approval.

For more information regarding the item above, contact Gilbert Gordon, Eugene Springfield Fire, at 541-726-2293; gilbert.r.gordon@ci.eugene.or.us

- EWEB has both overhead transmission and distribution electric facilities north of the proposed development. No structures or trees shall be placed or encroach within a minimum of 10 feet of overhead lines without prior EWEB written approval. Per OSHA requirements, all construction activity must maintain a minimum clearance of 20' to overhead lines. EWEB is evaluating the proposed development to ensure minimum clearances required of National Electric Safety Code (NESC) are maintained. The applicant or their representative should initiate a design with EWEB electric by contacting Distribution Engineering at 541-685-7521 or DistributionEngineering@eweb.org. Extension of electric facilities can be designed by EWEB to meet required City of Eugene Utility Permitting ordinances, EWEB standards, National Electric Safety Code, land use ordinances, and other applicable codes. The cost of facility extension to this development will be borne by the requesting customer and executed under EWEB policies and procedures at the time request for electric service is made. Easements needed to serve the propose development will be determined at the time of the electric design in coordination with the customer.

- EWEB electric does not allow installation of any electric facilities under proposed "rain gardens" or any open drainage structure within the right-of-way. Provisions within the design must be made to accommodate the installation of electric facilities to meet community needs.

- EWEB owns, maintains, and specifies service conduit and conductors. Typically the electric service conduit and conductors is installed by customer and inspected by EWEB. These

requirements, information about new electric service and all EWEB standards are available on EWEB's website at http://www.eweb.org/electriccontractors/standards

For more information regarding the item above, contact Jon Thomas, Eugene Water & Electric Board, at 541-685-7472; jon.thomas@eweb.org.

- There is an existing 8" water main on the north side of Shelton McMurphey Blvd. Contact EWEB's Building & Renovation services department at (541) 685-7086 to arrange for a new water service and fire line.

- EWEB Water recommends the developer contact the Fire Marshall concerning fire protection requirements for building permits.

- EWEB water does not allow installation of any water facilities under proposed "rain gardens" or any open drainage structure within the right-of-way. Provisions within the design must be made to accommodate the installation of water facilities (services & hydrants) at common lot corners. A minimum 5' wide "utility corridor" at service crossing and hydrant locations is required.

- State Drinking Water regulations (OAR 333-061-0050(10)) require a minimum separation between water and sewer lines of 10' where they run parallel to each other, unless the sewer line is located with 1.5' of clearance lower than the water line then the required separation is 5'.

- EWEB owned water facilities will be located in the right-of-way, or in a minimum 7' public utility easement (PUE) adjacent to the public right-of-way, or in a minimum 14' PUE when not adjacent to public right-of-way.

For more information regarding the items above, contact Bill Johnson, Eugene Water & Electric Board, at 541-685-7377; bill.johnson@eweb.org.

Atrium Building, 99 West 10th Avenue
Eugene, Oregon 97401
Phone: 541-682-5377
Fax: 541-682-5572
www.eugene-or.gov/planning

CONDITIONAL USE PERMIT STAFF REPORT

Application File Name (Number):
Southtowne Memory Care (CU 16-5)

Applicant's Request:
Conditional use permit approval for a building addition to an assisted care facility.

Applicant/Owner:
Kevin Cox, Ageia Health Services

Applicant's Representative(s):
Sara Bergby, Ascent Architecture and Interiors

Lead City Staff:
Althea Sullivan, Assistant Planner, (541) 682-5282

Subject Property Location:
Address: 360 West 28th Avenue
Assessors Map/ Tax Lot: 18-03-06-34/ 10300 & 10400

Existing Zoning:
Low-Density Residential (R-1)

Relevant Dates:
Application submitted August 10, 2016; application deemed incomplete September 7, 2016; supplemental materials submitted on September 22, 2016; application deemed complete on October 12, 2016; public hearing scheduled for November 30, 2016.

Purpose of Staff Report
Staff reports provide community members an opportunity to learn more about the land use request and to review staff analysis of the application. Staff reports are available seven days prior to the public hearing (see EC 9.7320). The staff report provides only preliminary information and recommendations. The Hearings Official will also consider additional public testimony and other materials presented at the public hearing before making a decision on the application. The Hearings Official's written decision on the application is generally made within 15 days following close of the public record, following the public hearing (see EC 9.7330). For reference, the quasi-judicial hearing procedures for this request are described at EC 9.7065 through EC 9.7095.

Site Characteristics/ Background/ Current Request

The subject site is currently developed with an existing memory care facility. Chapter 9 of the Eugene Code (EC) does not provide a definition for memory care, however, a definition of assisted care is provided which includes the 24-hour care of individuals including training and rehabilitation for physically, mentally, or socially dependent persons (see EC 9.0500). The term assisted care is used by this staff report when referencing the facility and the type of care which is provided.

The Southtowne Memory Care facility is currently operating under a conditional use permit which was originally approved in 1968 (see CU 68-5). Since the original issuance of the permit, modifications have included changes to parking arrangements, building alterations, and the inclusion of the house on Tax Lot 10300 as an office building (see MD 92-7 and MD 95-10).

The current development on the site includes a 14,035 square foot main building, open space, and parking area located on Tax Lot 10400 which abuts West 28th Avenue to the north. The site also includes an office building which is located on Tax Lot 10300 which abuts West 29th Avenue to the south.

The applicant's present request is for a conditional use permit (CUP) for an addition to the existing facility. The applicant has stated that the addition is required due to a change in State regulations limiting the number of residential beds per room to two, previously four were allowed. The existing facility contains eighteen beds which do not comply with the new State regulations, meaning that in order to meet the new regulations, space for the eighteen beds is needed.

The applicant has proposed an addition of approximately 8,648 square feet to accommodate the eighteen beds and existing office space (currently located in the building on Tax Lot 10300). Additionally the applicant is proposing laundry facilities, electrical and mechanical spaces, a dining room, new access to the existing courtyard, and a new main facility entrance.

The criteria for a CUP modification are listed below, staff notes that the applicant would not meet the second criterion based on the significant change in physical appearance of the development and potential for impact on the surrounding properties. As a result, the applicant is pursuing a new CUP to evaluate this request.

> **EC 9.8107 Modifications to Approved Conditional Use Permit:**
> **After the effective date of the approval of the conditional use permit, modifications to the approved conditional use permit may be considered in accordance with the Type II application procedures contained in EC 9.7200 through 9.7230, Type II Application Procedures. The planning director shall approve the request only if it complies with the following criteria:**
> **(1) The proposed modification is not materially inconsistent with the conditions of the original approval; and**
> **(2) The proposed modification will result in insignificant changes in the physical appearance of the development, the use of the site, and impact on the surrounding properties.**
> **If the requested modification does not meet the criteria for approval, the application will be denied. The applicant may submit the requested modification as a new conditional**

use permit application based on Type III procedural requirements. Nothing in this land use code shall preclude the applicant from initially submitting the requested modification as a new conditional use permit application.

The applicant met with staff on July 28, 2016 to discuss the proposal, in compliance with EC 9.7005 Pre-application Conference. The applicant held a neighborhood meeting on July 28, 2016, in compliance with EC 9.7007 Neighborhood/Applicant Meetings.

Application Referrals and Public Hearing Notice

Public notice of the subject application was mailed on October 14, 2016, and posted on October 17, 2016, consistent with the requirements of EC 9.7315 Public Hearing Notice. The Planning Division has received one piece of written testimony provided by Marshal Wilde. Mr. Wilde's testimony expressed concerns about the care of the residents in the facility and their lack of access to appropriate recreation space. Where Mr. Wilde's testimony is related to approval criteria, staff has addressed it in the following staff report. Any additional testimony received following the completion of this staff report, and prior to the public hearing, will be presented to the Hearings Official at the hearing.

The Planning Division also provided information concerning the application to other appropriate City departments, public agencies, service providers, and the affected neighborhood group. All referral comments received by the Planning Division on this application are included in the application file for reference, and addressed in the context of applicable approval criteria and standards in the following evaluation.

Evaluation of Conditional Use Permit

In accordance with EC 9.7330, the Hearings Official is required to approve, approve with conditions, or deny a Type III land use application. The decision must be based on, and be accompanied by, findings that explain the criteria and standards considered relevant to the decision. It must also state the facts relied upon in rendering the decision, and explain the justification for the decision based upon the criteria, standards, and facts set forth.

To assist the Hearings Official in rendering a decision on the application, staff presents the following Conditional Use Permit approval criteria (shown below in **bold** typeface), with findings related to each, based on the evidence available as of the date of this staff report. Staff has also provided a recommendation to the Hearings Official following the staff evaluation, below.

EC 9.8090(1): The proposal is consistent with applicable provisions of the Metro Plan and applicable refinement plans.

The subject site is zoned Low-Density Residential (R-1), and designated as Low Density Residential in the Metro Plan, making the site subject to the maximum density of 14 units per net acre as prescribed by EC Table 9.2750 Residential Zone Development Standards. The assisted care facility is subject to CUP approval see "*Assisted Care (6 or more people living in facility) (All Assisted Care uses shall meet minimum and maximum density requirements in accordance with Table 9.2750 Residential Zone Development Standards unless specifically exempted elsewhere in this code or granted a modification through an approved conditional use permit.)"* of EC Table 9.2740 Residential Zone Land Uses and Permit Requirements.

The applicant has stated that the site area is 1.11 acres and that the maximum number of permitted beds would be 23.25, as the definition of assisted care states that 1.5 beds shall be considered 1 dwelling for calculating density (see EC 9.0500). The applicant also notes that the facility has an existing conditional use approval and references a modification in 1992 which mentioned the 60 beds (MD 92-7).

Staff notes that the facility was legally established with 60 beds dating back to at least 1968 (see CU 68-5) but is not in compliance with the current standard for maximum residential density listed in EC Table 9.2750 Residential Zone Development Standards, making it a legal nonconforming use (see EC 9.1220 Legal Nonconforming Use). Since the use of the facility is not changing and the density is not being increased, the existing nonconformity is allowed to continue consistent with the provisions at EC 9.1220. Additionally staff notes that the reason the applicant is seeking a new CUP is that State regulations have changed, requiring that no more than two beds be located in a room. This means that the structure in which the use is occurring must be expanded to comply with the State regulation.

The applicant has cited several policies from the Metro Plan and provided broad general statements about encouraging density, providing ranges of housing types, and reducing impacts on surrounding properties. While staff believes some of these policies may have relevance, they are not directly applicable and staff finds no need to further evaluate them.

Based on these findings, EC 9.8090(1) is met.

EC 9.8090(2): The location, size, design, and operating characteristics of the proposal are reasonably compatible with and have minimal impact on the livability or appropriate development of surrounding property, as they relate to the following factors:

(a) The proposed building(s) mass and scale are physically suitable for the type and density of use being proposed.

The applicant has stated that the proposed building addition is designed to meld with the existing neighborhood and has provide a calculation of the building height (22 feet), and lot coverage (48%). The applicant's site plans provide building elevations on sheet A301 which provide additional support for the applicant's statement that the building has a similar appearance as surrounding homes. Additionally the applicant has provided a landscaping plan which indicates that landscaping will be placed along the east property line of Tax Lot 10300.

With regards to density, staff has provided an analysis of density at EC 9.8090(1) of this staff report which concluded that the use can be considered legal non-conforming, making density a standard which is not subject to evaluation in this instance. For the purpose of addressing the above criterion staff notes that the expansion of the building will provide a better living arrangement for residents of the facility, as the building addition will provide more space for the 60 beds allowed by the use.

(b) The proposed structures, parking lots, outdoor use areas or other site improvements which could cause substantial off-site impacts such as noise, glare and odors are

oriented away from nearby residential uses and/or are adequately mitigated through other design techniques, such as screening and increased setbacks.

The applicant has stated that the proposed parking area is oriented away from adjacent development and will sit lower than abutting properties. The applicant's proposal includes 15 parking spaces which complies with the parking requirement as 1 space for every 4 beds is required, and the applicant has stated that 60 beds are located within the facility. For reference, the parking calculation is based on EC Table 9.6410 Required Off-Street Motor Vehicle Parking. Additionally, the applicant is proposing landscaping along the west edge of the parking to screen cars from view of adjacent properties.

Staff notes that the applicant's site plan includes 12 foot high pole mounted light fixtures to illuminate the parking area, see applicant's sheet A102. Staff finds that while the 12 foot poles are shorter than what is allowed, see EC Table 9.6725(9), the lights will be required to meet standards for cut-off fixtures to ensure that glare is reduced. Staff has provided the following condition to ensure that the glare from the parking area lighting will be mitigated in a way that complies with the above criterion:

- At the time of building permit review the applicant will provide details for new parking area light fixtures to demonstrate that they will comply with the standards at EC 9.6725(9).

(c) If the proposal involves a residential use, the project is designed, sited and/or adequately buffered to minimize off-site impacts which could adversely affect the future residents of the subject property.

The intention of this subsection is to address situations where residential uses are proposed near existing incompatible uses normally associated with industrial and commercial zones. In this case, the subject site is surrounded by residential use, staff finds that no mitigation to address the above criterion is necessary.

Based on these findings, EC 9.8090(2) is met.

EC 9.8090(3): The location, design, and related features of the proposal provides a convenient and functional living, working, shopping or civic environment, and is as attractive as the nature of the use and its location and setting warrant.

The applicant has stated that the proposed addition will provide efficient connections between the existing building, new courtyard areas, and new emergency egress. Additionally the applicant states that the exterior of the building will complement the existing neighborhood, and the facility itself will provide an opportunity for individuals in the neighborhood to stay if they find themselves needing care.

The public testimony received from Mr. Wilde specifically references the above criterion, and expresses a concern that the proposal provides a poor working and living environment. Mr. Wilde states that he has filed reports of residents wishing to leave and being prevented from doing so, additionally Mr. Wilde's comments focus on a lack of walks or off-site activities.

Staff finds that the comments from Mr. Wilde are concerning and has passed the comments on to the applicant so that they can respond to the testimony and provide clarity regarding some of the questions raised by Mr. Wilde (see Attachment D for a copy of the email staff sent). However, beyond his statement received in written testimony, staff has not been provided with any substantial evidence that the proposal does not meet the above criterion.

Based on these findings, EC 9.8090(3) is met.

EC 9.8090(4): The proposal demonstrates adequate and safe circulation exists for the following:

(a) Vehicular access to and from the proposed site, and on-site circulation and emergency response.

The applicant has proposed diagonal parking spaces along the access connection that runs from West 29th Avenue to West 28th Avenue. While the access is proposed to be reduced in width, Public Works staff confirms that the proposal is acceptable. A referral comment from the Fire Marshal's Office, which is available in the application file for reference, confirms that access to the building for fire protection is adequate.

(b) Pedestrian, bicycle and transit circulation, including related facilities, as needed among buildings and related uses on the development site, as well as to adjacent and nearby residential areas, transit stops, neighborhood activity centers, office parks, and industrial parks, provided the City makes findings to demonstrate consistency with constitutional requirements. "Nearby" means uses within 1/4 mile that can reasonably be expected to be used by pedestrians, and uses within 2 miles that can reasonably be expected to be used by bicyclists.

The applicant has stated that pedestrian and bicycle access is provided along the access connection that runs from West 29th Avenue to West 28th Avenue. Additionally staff notes that there are existing bicycle lanes along West 29th Avenue, and transit stops within ¼ mile of the facility. The applicant has provided 2 bicycle parking spaces at the building entrance located on the west side of the building, and 2 spaces in the building. Referral comments from Land Use staff note that the applicant's proposal for bicycle circulation is conceptually acceptable but the following condition is warranted to ensure compliance:

- The applicant will provide the number of employees that work at the facility as well as details for the location of the indoor bicycle parking spaces to demonstrate compliance with bicycle parking standards starting at EC 9.6100.

Based on these findings and conditions, EC 9.8090(4) is met.

EC 9.8090(5): The proposal is designed and sited to minimize impacts to the natural environment by addressing the following:

(a) <u>Protection of Natural Features</u>.

1. **For areas not included on the City's acknowledged Goal 5 inventory, the preservation of significant natural features to the greatest degree attainable or feasible, including:**
   a. **Significant on-site vegetation, including rare plants (those that are proposed for listing or are listed under State or Federal law), and native plant communities.**
   b. **All documented habitat for all rare animal species (those that are proposed for listing or are listed under State or Federal law).**
   c. **Prominent topographic features, such as ridgelines and rock outcrops.**
   d. **Wetlands, intermittent and perennial stream corridors, and riparian areas.**
   e. **Natural resource areas designated in the <u>Metro Plan</u> diagram as "Natural Resource" and areas identified in any city-adopted natural resource inventory.**
2. **For areas included on the City's acknowledged Goal 5 inventory, the preservation of natural features shall be consistent with the acknowledged level of preservation provided for the area.**

The subject property is not part of the City's acknowledged Goal 5 inventory, additionally the applicant has indicated that significant on-site vegetation will not be removed, there are no documented habitat areas for rare animal species, no prominent topographic features, no wetlands, and no natural resource areas as designated by the <u>Metro Plan</u>.

(b) <u>Tree Preservation</u>. The proposed project shall be designed and sited to preserve significant trees to the greatest degree attainable or feasible, with trees having the following characteristics given the highest priority for preservation:

1. **Healthy trees that have a reasonable chance of survival considering the base zone or special area zone designation and other applicable approval criteria;**
2. **Trees located within vegetated corridors and stands rather than individual isolated trees subject to windthrow;**
3. **Trees that fulfill a screening function, provide relief from glare, or shade expansive areas of pavement;**
4. **Trees that provide a buffer between potentially incompatible land uses;**
5. **Trees located along the perimeter of the lot(s) and within building setback areas;**
6. **Trees and stands of trees located along ridgelines and within view corridors;**
7. **Trees with significant habitat value;**
8. **Trees adjacent to public parks, open space and streets;**
9. **Trees located along a water feature;**
10. **Heritage trees.**

The applicant has stated that the existing trees located on the subject property will be preserved to the greatest extent possible. The applicant's site plan sheet A104 shows two trees, and an existing line of shrubs which will be removed as a result of the building addition. Sheet A104 also provides a specific preservation plan which includes protection measures to be implemented during construction. The applicant's written narrative also states that the trees to be removed have a diameter at breast height (DBH) less than 8 inches.

Staff finds that while the applicant has proposed the removal of two trees to accommodate the building expansion, they cannot be considered significant as the City defines significant trees as having a minimum DBH of at least 8 inches, see EC 9.0500. For this reason, staff finds that the removal of the trees is not relevant under the above criterion.

(c) <u>Restoration or Replacement</u>.

1. **For areas not included on the city's acknowledged Goal 5 inventory, the proposal mitigates, to the greatest degree attainable or feasible, the loss of significant natural features described in criteria (a) and (b) above, through the restoration or replacement of natural features such as:**
   a. **Planting of replacement trees within common areas; or**
   b. **Re-vegetation of slopes, ridgelines, and stream corridors; or**
   c. **Restoration of fish and wildlife habitat, native plant habitat, wetland areas, and riparian vegetation.**

   To the extent applicable, restoration or replacement shall be in compliance with the planting and replacement standards of EC 6.320.
2. **For areas included on the city's acknowledged Goal 5 inventory, any loss of significant natural features described in criteria (a) and (b) above shall be consistent with the acknowledged level of protection for the features.**

The applicant stated that new trees will be planted in the common area to mitigate removal of the two trees located within the footprint of the proposed addition. The applicant has also provided a landscaping sheet in their site plan which indicates that several new trees will be planted. Staff notes that the two proposed Japanese Maples along West 29th Avenue will need to be replaced with trees from the City's Approved Street Tree Species List. Staff has provided further reasoning for this in this staff report at EC 9.8090(8)(b).

(d) <u>Street Trees</u>. If the proposal includes removal of any street tree(s), removal of those street tree(s) has been approved, or approved with conditions according to the process at EC 6.305.

The proposal does not include the removal of existing street trees, therefore this criterion is inapplicable.

Based on these findings, <u>EC 9.8090(5)</u> is met.

<u>EC 9.8090(6)</u>: The proposal provides adequate public facilities and services including, but not limited to utilities, streets, and other infrastructure.

Public Works staff confirms that although no public improvements are proposed, the existing street system and public utilities can adequately serve the proposed development. Findings that demonstrate how this conclusion was reached are available in the Public Works referral comments, located in the application file for reference.

Based on these findings, <u>EC 9.8090(6)</u> is met.

EC 9.8090(7): The proposal does not create any significant risk to public health and safety, including but not limited to soil erosion and flood hazard, or an impediment to emergency response.

The subject property is not located within a regulatory Special Flood Hazard Area and will not create an unreasonable risk of flooding or soil erosion. With regards to emergency response, the Fire Marshal's Office has noted that an area on the southeast corner of the future building addition will need special features with regards to fire protection. The applicant has already made arrangements with the Fire Marshal to provide fire resistant exterior wall finishes and dry sidewall fire sprinklers which will be further verified at the time of building permit. For additional information on the applicant's proposed safety features and correspondence with the Fire Marshal's office, see referral comments which are included in the application file.

Based on these findings, EC 9.8090(7) is met.

EC 9.8090(8): The proposal complies with all applicable standards, including but not limited to:

(a) EC 9.2000 through 9.3915 regarding lot dimensions, solar standards, and density requirements for the subject zone;

Staff notes that density has been addressed by this staff report at EC 9.8090(1), which is incorporated herein by reference.

With regards to lot dimensions, no changes are proposed in the configuration of the Tax Lots included within the development area. Additionally the proposed building addition will comply with regards to setbacks specified by EC Table 9.2750 Residential Zone Development Standards.

With regards to solar standards the proposed building addition is on the southern side of an existing structure on the applicant's property, making the requirements of EC 9.2795 Solar Setback Standards inapplicable.

Based on these findings, EC 9.8090(8)(a) is met.

(b) EC 9.6500 through EC 9.6505 Public Improvement Standards

EC 9.6500 Easements authorizes the City to require dedication of easements for public utilities and access under certain circumstances. The applicant does not propose nor has Public Works staff identified the need for additional public easements to address stormwater or wastewater needs for present or future development of the area.

EC 9.6505 Public Improvement Standards requires that all public improvements be designed and constructed in accordance with adopted plans, policies, procedures and standards specified in EC Chapter 7. No public improvements are proposed or required of this development; however, all developments are required to make and be served by the infrastructure improvements described below.

With regard to EC 9.6505(1) Water Supply, EWEB referral comments confirm that water service already serves the development and is available to serve the proposed addition.

With regard to EC 9.6505(2) Sewage, referral comments from Public Works staff confirm that the applicant's proposal to connect to an existing 8-inch public wastewater line along the eastern property line is conceptually acceptable. Further evaluation of the applicant's construction plans will occur during the building permit process and will ensure that any applicable standards are met.

With regard to EC 9.6505(3) and (4) Streets, Alleys, and Sidewalk, referral comments from Public Works staff confirm that the streets surrounding the development, West 28th and 29th Avenues are fully improved with paving, sidewalks, and street lights. The applicant has proposed the planting of two trees in the public right-of-way along West 29th Avenue. Any trees placed within the public right-of-way are considered street trees and are required to comply with the City's adopted plant list. Staff has provided the following condition to ensure that the trees comply with standards for street trees:

- The applicant will revise the landscaping plan by replacing the Japanese Maples with trees from the City's Approved Street Tree Species List.

With regard to EC 9.6505(5) Bicycle Paths and Accessways, no bicycle paths or access ways are required based on findings in the Public Works referral comments at EC 9.6835. The referral comments are available in the application file for reference.

(c) EC 9.6735 Public Access Required

The development abuts West 28th and West 29th Avenues, both of which are public streets. Referral comments from Public Works staff confirm that as the applicant's proposal will not increase the number of peak hour trips, and no additional access is proposed, there is no need to further evaluate the existing access connections.

(d) EC 9.6791 through EC 9.6797 regarding stormwater flood control, quality, flow control for headwaters area, oil control, source control, easements, and operation and maintenance; and

An evaluation of all applicable standards for EC 9.6791 through EC 9.6797 is provided in the Public Works referral comments, which are available in the application file for reference. The referral comments confirm that the applicant's plans are conceptually acceptable, and further evaluation at the time of the building addition will ensure that the above standards are met. Public Works staff has provided the following informational item to ensure that the applicant is aware of the requirements to maintain stormwater facilities:

- An operation and maintenance plan will be developed consistent with the City's Stormwater Management Manual. The plan will be submitted for review at the time of building permit, and notice of this plan will be recorded during the building permit process.

(e) EC 9.6800 through EC 9.6875 Standards for Streets, Alleys, and Other Public Ways

Referral comments from Public Works staff confirm that the proposal meets all applicable standards for streets, alleys and other public ways. An evaluation of each applicable street standard is provided in the referral comments, which are available in the application file for reference.

(f) Where the proposal is to establish non-residential uses subject to residential density requirements on development sites in the residential zone category…

This standard does not apply as the project would establish a residential use.

Based on the findings and conditions above, EC 9.8090(8) is met.

<u>EC 9.8090(9)</u>: The proposal complies with the Traffic Impact Analysis Review provisions of EC 9.8650 through 9.8680 where applicable.

Public Works staff concur with the applicant's assertion that the proposal does not meet any of the thresholds established in EC 9.8650 through 9.8680. Accordingly, there is no requirement for a Traffic Impact Analysis.

<u>Staff Recommendation</u>

Based on the available evidence, and consistent with the preceding findings, staff recommends the Hearings Official approve the conditional use permit with the conditions listed below:

1. At the time of building permit review the applicant will provide details for new parking area light fixtures to demonstrate that they will comply with the standards at EC 9.6725(9).

2. The applicant will provide the number of employees that work at the facility as well as details for the location of the indoor bicycle parking spaces to demonstrate compliance with bicycle parking standards starting at EC 9.6100.

3. The applicant will revise the landscaping plan by replacing the Japanese Maples with trees from the City's Approved Street Tree Species List.

Consistent with EC 9.7330, unless the applicant agrees to a longer time period, within 15 days following close of the public record, the Eugene Hearings Official shall approve, approve with conditions, or deny this Type III application. The decision shall be based upon and be accompanied by findings that explain the criteria and standards considered relevant to the decision, stating the facts relied upon in rendering a decision and explaining the justification for the decision based upon the criteria, standards, and facts set forth. Notice of the written decision will be mailed in accordance with EC 9.7335. Within 12 days of the date the decision is mailed, it may be appealed to the Eugene Planning Commission as set forth in EC 9.7650 through EC 9.7685.

Attachments

The applicant's full-size site plans, and the entire application file, are available for review at the Eugene Planning Division offices. The Hearings Official will receive a full set of application materials for review prior to the public hearing. These materials will also be made available for review at the public hearing.

Attachment A: Vicinity Map
Attachment B: Applicant's Site Plan (reduced)
Attachment C: Referral Comments
Attachment D: Staff email regarding comments from Mr. Wilde

For More Information

Please contact Althea Sullivan, Assistant Planner, City of Eugene Planning Division, at:
(541) 682-5282; or by e-mail, at: althea.c.sullivan@ci.eugene.or.us

Vicinity Map

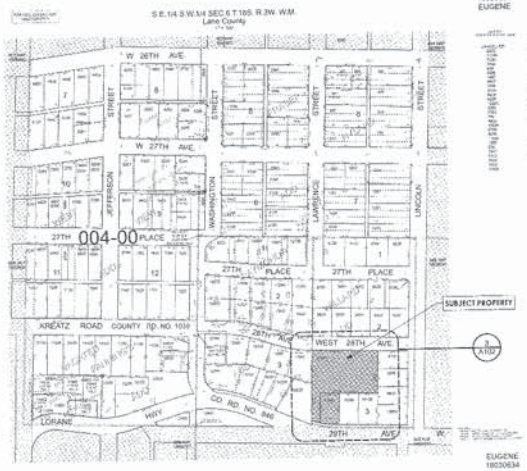
Legend

Subject Property

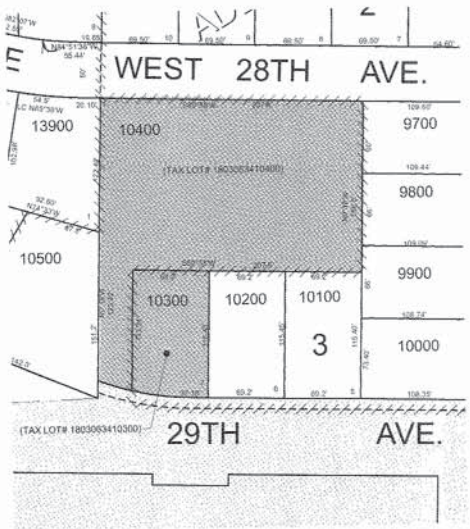
0 50 100 200 Ft

Caution:
This map is based on imprecise source data, subject to change, and for general reference only.

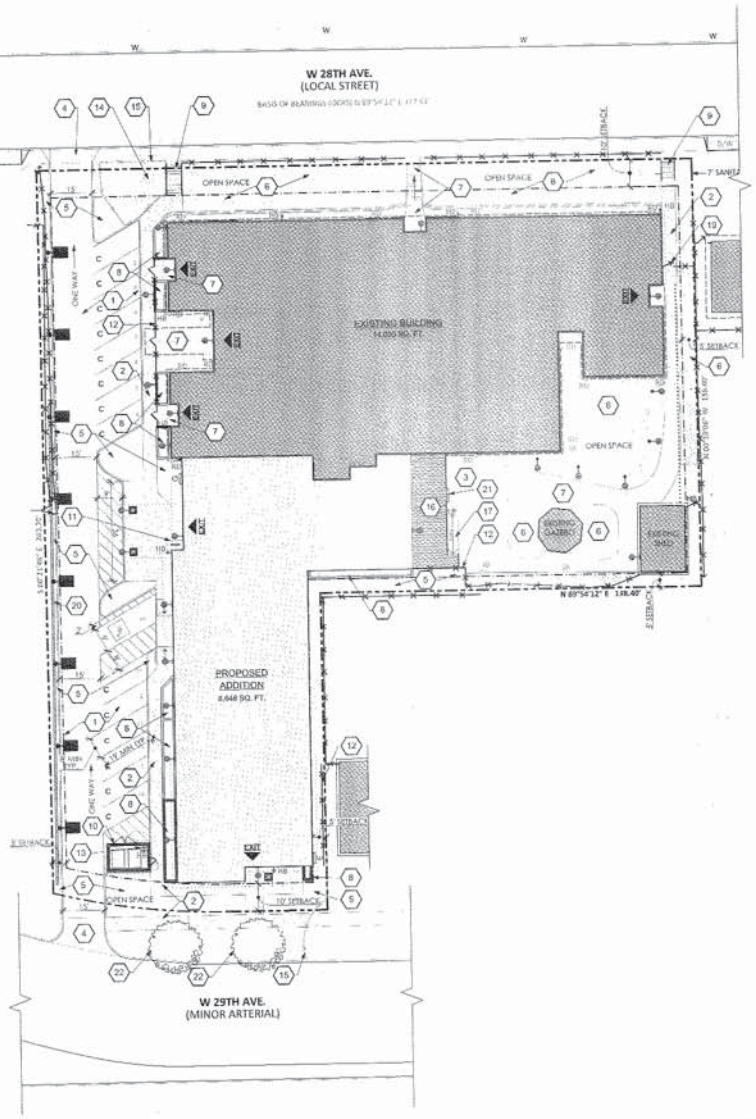
11/23/2016



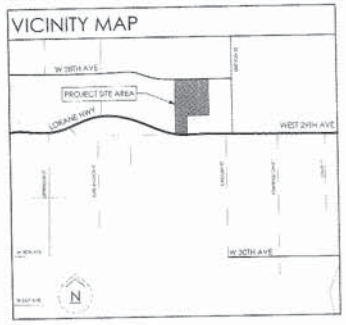
ASSESSOR'S MAP: EUGENE 18030634 (2)



ENLARGED ASSESSOR'S MAP: EUGENE 18030634 (3)



SITE PLAN (1)
SCALE: 1" = 20'



SITE DATA

SITE AREA:	48,351 SQ. FT.
LANDSCAPE AREA:	8,222 SQ. FT.
PROPOSED PARKING LOT AREA:	7,068 SQ. FT.
PARKING SPACES:	15
EXISTING IMPERVIOUS AREA (EXISTING BUILDING, CONCRETE WALKWAYS, PATIOS, PARKING AREA AND DRIVE AISLES):	15,857 SQ. FT.
PROPOSED IMPERVIOUS SURFACE AREA (EXISTING BUILDING AND NEW ADDITION, CONCRETE WALKWAYS AND PATIOS, PARKING AREA AND DRIVEWAY:	23,177 SQ. FT.
EXISTING BUILDING AREA:	14,086 SQ. FT.
EXISTING SHED AREA:	390 SQ. FT.
EXISTING UNENCLOSED GAZEBO AREA:	204 SQ. FT.
FORMER OFFICE AREA (TO BE REMOVED):	1,620 SQ. FT.
EXISTING TOTAL BUILDING AREA:	16,249 SQ. FT.
TOTAL EXISTING BUILDING AREA TO REMAIN:	14,629 SQ. FT.
PROPOSED ADDITION AREA:	8,648 SQ. FT.
PROPOSED TRASH/RECYCLING AREA:	153 SQ. FT.
PROPOSED TOTAL BUILDING AREA (AFTER IMPROVEMENTS):	23,430 SQ. FT.
OPEN SPACE (SITE AREA MINUS PROPOSED IMPERVIOUS SURFACE AREA):	15,134 SQ. FT.
SQUARE FOOTAGE INCREASE:	+44.19%
BUILDING LOT COVERAGE (TOTAL BUILDING AREA / TOTAL SITE AREA 23,430 SQ. FT. / 48,351 SQ. FT.):	48.46%
BUILDING OCCUPANCY: I-1, CONDITION 2 (NO BUILDING OCCUPANY CHANGE) CONSTRUCTION TYPE:	VB, NON SEPARATED USES

SITE PLAN KEYNOTES

1. NEW ASPHALT PARKING LOT PER CIVIL DRAWINGS
2. NEW CONCRETE SIDEWALK (SHOWN SHADED) PER CIVIL DRAWINGS
3. EXISTING CONCRETE PATIO
4. NEW PARKING LOT ENTRANCE, SEE CIVIL DRAWINGS
5. NEW LANDSCAPING PER LANDSCAPE DRAWINGS
6. EXISTING LANDSCAPE TO REMAIN
7. EXISTING CONCRETE WALK
8. NEW RAISED PLANTER PER CIVIL AND LANDSCAPE DRAWINGS
9. NEW STEPS PER CIVIL DRAWINGS WITH HANDRAIL EACH SIDE
10. NEW TRASH/RECYCLE ENCLOSURE, SEE DETAILS 1/A103, 2/A103, 4/A103, 5/A103, 7/A103, 8/A103
11. (1) NEW BIKE RACK, PROVIDING (2) SHORT TERM BIKE STALLS. SEE DETAIL 3/A103, (2) MIN LONG TERM PARKING STALLS LOCATED WITHIN BUILDING
12. NEW WOOD FENCE, 6' H. PROVIDE GATES WHERE SHOWN 3' W MIN
13. HOSE BIB. PROVIDE HOT & COLD WATER
14. EXISTING EVERGREEN TREE, PROTECT DURING CONSTRUCTION
15. CONSTRUCTION FENCING, PROTECT EXISTING TREE DURING CONSTRUCTION
16. NEW WOOD-FRAMED DECK
17. NEW ACCESSIBLE RAMP WITH HANDRAILS FROM DECK TO PATIO
18. NOT USED
19. REVERSE SWING OF EXISTING GATE. ADD ELECTRIFIED ACCESS CONTROL
20. NEW RETAINING WALL (APPROXIMATE LOCATION SHOWN). SEE CIVIL DRAWINGS
21. NEW WOOD STEP WITH HANDRAIL
22. NEW STREET TREE, SEE LANSCAPE PLANS

SITE PLAN LEGEND

- PROPERTY BOUNDARY
- BUILDING SETBACK
- FENCE, EXISTING U.N.O.
- UTILITY EASEMENT
- EXIT — BUILDING EXIT
- G — GAS METER, SEE CIVIL DRAWINGS
- E — ELECTRICAL METER, SEE CIVIL DRAWINGS
- LANDSCAPING
- CONCRETE
- HB — HOSE BIB
- RD — ROOF DRAIN
- C — INDICATES COMPACT PARKING SPACE
- NEW 12' H DIRECTIONAL LIGHT FIXTURE: DFA 9A17 BY KIM LIGHTING WITH PICOEMITTER
- NEW 42" H BOLLARD: ACCUBRIT PL2 SERIES
- NEW EXTERIOR BUILDING OR FENCE MOUNTED LIGHT FIXTURE, MOUNT AT 5.5' H UNLESS LOCATED ABOVE DOOR. FIXTURE TBD

ASCENT ARCHITECTURE
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Bend, Oregon 97703
SITE ARCHITECTS | T: 541-447-5675

REGISTERED ARCHITECT
5291
SETH E. ANDERSON
BEND, OREGON
STATE OF OREGON

Digitally signed by Seth Anderson
Date: 2016.09.22 08:47:08 -07'00'

Received
SEP 22 2016
City of Eugene
Planning Division

SITE PLAN & INFORMATION

LAND USE SUBMITTAL

SOUTHTOWNE MEMORY CARE
360 W 28TH AVENUE
EUGENE, OREGON 97405
TAX LOTS:1803063410400 & 1803063410300

Project: 16020
Date: 9/21/2016
Current Revision

A101

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PUBLIC WORKS REFERRAL RESPONSE
CONDITIONAL USE PERMIT - GENERAL CRITERIA

Date: November 18, 2016
To: Althea Sullivan, Planning Division
From: Donna Stark, Public Works Engineering
Subject: **CU 16-05 Southtowne Memory Care**

Disclaimer: The following referral comments from Public Works staff reflect a preliminary evaluation of compliance with applicable approval standards and criteria. These referral comments include draft findings and recommended conditions of approval, as well as related informational items, relevant to surveying, engineering, transportation, and maintenance issues identified by Public Works staff in the context of the applicable standards and criteria.

These referral comments are intended for review by Planning staff, for incorporation into the City's written decision on the subject application, however, they do not represent a final determination of compliance with the applicable approval standards and criteria. It is acknowledged these referral comments are subject to revision upon further coordination with other affected City departments and utility providers.

Summary: Public Works staff recommends conditional approval of the conditional use application based on the following evaluation of the criteria specific to our area of expertise.

9.8090 Conditional Use Permit Approval Criteria - General

(4) The proposal demonstrates adequate and safe circulation exists for the following:
(a) Vehicular access to and from the proposed site, and on-site circulation and emergency response.

One-way circulation is proposed to accommodate angled parking spaces, with access from West 29th Avenue, and exit to W. 28th Avenue. Proposed revisions to existing access connections are discussed further per the findings provided at EC 9.6735 Public Access Required, incorporated herein by reference. Evaluation of access and on-site circulation for emergency response will be further evaluated by the Fire Marshal's Office. Based on these findings, this criterion is met.

(b) Pedestrian, bicycle and transit circulation, including related facilities, as needed among buildings and related uses on the development site, as well as to adjacent and nearby residential areas, transit stops, neighborhood activity centers, office parks, and industrial parks, provided the City makes findings to demonstrate consistency with constitutional requirements. "Nearby" means uses within 1/4 mile that can reasonably be expected to be used by pedestrians, and uses within 2 miles that can reasonably be expected to be used by bicyclists.

Per planning review.

(5) The proposal is designed and sited to minimize impacts to the natural environment by addressing the following:

(d) Street Trees: If the proposal includes removal of any street tree(s), removal of those street tree(s) has been approved, or approved with conditions according to the process at EC 6.305 of this code.

The proposal does not include the removal of existing street trees, however plans call for two sugar maple trees to be planted within the West 29th Avenue right-of-way. Public Works staff note that there is currently a moratorium on planting non-native maples. This particular variety is capable of growing taller than 30 feet, which would also create a conflict with existing overhead electrical lines.

Planting of street trees requires a permit issued through Urban Forestry staff at the City of Eugene's Parks and Open Space Division. To ensure compliance with street tree standards, Public Works staff recommend the following condition of approval:

- Prior to final site review approval, the Final Site Plan shall either be modified to remove the trees shown to be planted within the right-of-way, or modified to show that the species of tree will be determined during the tree permit process.

(6) The proposal provides adequate public facilities and services including, but not limited to utilities, streets, and other infrastructure.

Public Works staff confirms that although no public improvements are proposed, the existing street system and public utilities can adequately serve the proposed development per the findings provided at EC 9.8090(8)(b), (8)(d) and (8)(e).

(7) The proposal does not create any significant risk to public health and safety, including but not limited to soil erosion and flood hazard, or an impediment to emergency response.

The subject property is not located within a regulatory Special Flood Hazard Area. A Flood Insurance Rate Map has not been printed for this area, which has been determined by the Federal Emergency Management Agency (FEMA) to be entirely in Zone X (outside the 500-year flood).

The development itself will not result in unreasonable risk of flood per the stormwater management evaluation at **EC 9.8090(8)(d)**. Other public health and necessary infrastructure improvements are addressed below at **EC 9.8090(8)(b)**. PW staff defer to the Fire Marshal's office for potential impediments to emergency response. Given the available information, and based on the findings as set forth above, it is concluded that the proposed development will comply with the applicable criterion.

(8) The proposal complies with all applicable standards, including but not limited to:

(b) EC 9.6500 through EC 9.6505 Public Improvement Standards

9.6500 Easements

This section authorizes the City to require dedication of easements for public utilities and access under certain circumstances. The applicant does not propose nor has Public Works staff identified

the need for additional public easements to address stormwater or wastewater needs for present or future development of the area.

In the event, a PUE is required by a referral agency other than Public Works, the following informational note is pertinent. Pursuant to EC 9.6500(3), the final site plan shall note the following restriction: No building, structure, tree, or other obstruction shall be placed or located on or in a public utility easement. Based on these findings, the proposal complies with EC 9.6500.

9.6505 Improvements – Specifications

This section requires that all public improvements be designed and constructed in accordance with adopted plans, policies, procedures and standards specified in EC Chapter 7. No public improvements are proposed or required of this development; however, all developments are required to make and be served by the infrastructure improvements described below.

1) Water Supply

Per EWEB referral

2) Sewage

All developments are to be served by wastewater sewage systems of the city, in compliance with the provisions of Chapter 6 of this code. The applicant proposes to connect to an existing 8-inch public wastewater line within a Public Utility Easement along the eastern property line. Construction details for the private system will be evaluated for compliance with applicable codes during the building permit process.

3) Streets and Alleys and 4) Sidewalks

EC 9.6505(3)(a) does not apply because there are no streets within the development. Unless adjacent streets and alleys are already improved to City standards, EC 9.6505(3)(b) requires the developer to pave streets and alleys adjacent to the development site to the width specified in EC 9.6870 Street Width and to construct related street improvements: drainage, curb and gutter, sidewalks, street trees, and street lights. The standard at (3)(b) may be adjusted if consistent with the criteria of EC 9.8030(19).

As noted in EC 9.6870, which is incorporated herein by reference, West 28th and West 29th Avenues are fully improved with paving, sidewalks, and street lights. As such, this criterion is met and the standards of EC 9.6505(4) do not apply.

5) Bicycle Paths and Accessways

No bicycle paths or public access ways are required per the findings at EC 9.6835, which are incorporated by reference.

(c) EC 9.6735 Public Access Required

(1) Except as otherwise provided in this land use code, no building or structure shall be

erected or altered except on a lot fronting or abutting on a public street or having access to a public street over a private street or easement of record approved in accordance with provisions contained in this land use code.

The development site abuts West 28th and West 29th Avenues, both of which are public streets.

(2) Access from a public street to a development site shall be located in accordance with EC 7.420 Access Connections – Location. If a development will increase the development site's peak hour trip generation by less than 50% and will generate less than 20 additional peak hour trips, the development site's existing access connections are exempt from this standard.

The applicant's written statement indicates the proposed development is to address state regulations and will not increase the number of beds at the facility. The access connection from West 29th Avenue will be reduced in width, but the development will continue to use existing access connections, will not increase peak hour trips, and are considered exempt from the standards.

(d) EC 9.6791 through EC 9.6797 Stormwater Management

With respect to **EC 9.6791 Flood Control**, in order to protect lives and properties from flood and drainage hazards, stormwater runoff from development sites, as calculated utilizing the Rational Method and considering all developments having received tentative or final plan approval, shall be discharged into existing stormwater flood control facilities that have the capacity to handle the stormwater runoff; or, be retained or detained onsite; or discharged into a new stormwater flood control facility constructed by the applicant. Proposed and required stormwater flood control facilities shall be designed and constructed in compliance with code requirements.

The proposed development is located in sub-basin AMMD-090 of the City's Amazon Basin. The City of Eugene's Stormwater Basin Master Plan, Volume II, indicates the public system is deficient at the 10-year storm. A stormwater report prepared by Anna Backus P.E., of KPFF Consulting Engineers, was submitted providing calculations showing that the proposed private stormwater facilities on-site will be designed to limit the post-development flow to pre-development levels, demonstrating that flood control requirements are met.

Regarding **EC 9.6792 Stormwater Quality**, the afore-mentioned Stormwater Drainage Report proposes the use of filtration facilities to provide water quality treatment for new impervious surfaces areas and equivalent on-site areas, as the on-site soils do not allow for infiltration. The design is conceptually acceptable. Final design and planting plan details will be evaluated at the time of building permit.

Because the proposed development is at an elevation less than 500 feet and does not drain to a headwaters facility, does not generate high concentrations of oil and grease, and does not employ public maintenance of a pollution reduction facility; **EC 9.6793**, **EC 9.6794** and **EC 9.6796** are not applicable. The proposed trash enclosure is subject to the standards of **EC 9.6795(2)(c)** and is

shown as conceptually meeting this standard, which will be further evaluated during the building permit process.

In regards to **EC 9.6797**, all stormwater facilities constructed within the development will be privately owned, operated and maintained in accordance with EC Chapters 6 and 7, and the Stormwater Management Manual. The following informational item is noted:

- An operation and maintenance plan will be developed consistent with the City's Stormwater Management Manual. The plan will be submitted for review at the time of building permit, and notice of this plan will be recorded during the building permit process.

With the findings, conditions, and future permit requirements noted above, staff finds that the stormwater criterion will be met.

(e)EC 9.6800 through EC 9.6870 Standards for Streets, Alleys, and Other Public Ways

As no streets are proposed or required, there is no requirement for the dedication of right of way.

EC 9.6810 Block Length

The block length requirements are not applicable in this instance because no new streets are proposed or required.

EC 9.6815 Connectivity for Streets

These standards require developments to include street extensions to complete the existing street network and to serve undeveloped or partially developed adjacent lands. Public Works staff concur with the applicant's statement that a new street through the subject property is not needed to complete the street network or serve adjacent lands and is precluded by the developed nature of the surrounding properties. Based on these findings, an exception from these standards is warranted pursuant to EC 9.6815(2)(g)(2).

EC 9.6820Cul-de-Sacs and Turnarounds

These standards do not apply because no new cul-de-sacs or streets are proposed or required.

EC 9.6830 Intersections of Streets and Alleys

This standard does not apply because no new intersections are proposed.

9.6835 Public Accessways

This standard does not apply as there are no existing or potential accessways on adjacent sites that dictate the dedication or construction of a public access way.

EC 9.6840 Reserve Strips

This standard does not apply because no new streets are proposed or required.

EC 9.6845 Special Safety Requirements
This standard does not apply because street improvements are not proposed or required.

EC 9.6850 Street Classification Map
This standard does not apply because no new streets are proposed or required.

EC 9.6855 Street Names
This standard does not apply because no new streets are proposed or required.

EC 9.6860 Street Right-of-Way Map
The proposal does not amend the right-of-way map. This criterion is not applicable.

EC 9.6870 Street Width
Pursuant to EC 9.6870, when a street segment right-of-way width is not designated on the adopted Street Right-of-Way map, the required street width shall be the minimum width shown for its type in **Table 9.6870** Right-of-Way and Paving Widths", although a greater width can be required based on adopted plans and policies, adopted 'Design Standards and Guidelines for Eugene Streets, Sidewalks, Bikeways and Accessways or other factors which in the judgment of the planning and public works director necessitate a greater street width.

West 28th Avenue, adjacent to the north, is fully improved with paving, curbs and gutters, sidewalks and street lights within a 50-foot right-of-way. The right-of-way width is within the required range for local streets. No additional right-of-way is required.

West 29th Avenue, adjacent to the south, is fully improved with paving, curbs and gutters, sidewalks and street lights within a variable width right-of-way that includes 40-feet of right-of-way north of the center line. The right-of-way width is within the required range for minor arterial streets. No additional right-of-way is required.

EC 9.6875 Private Street Design Standards
These standards do not apply because no private streets are proposed.

(9) The proposal complies with the Traffic Impact Analysis Review provisions of EC 9.8650 through 9.8680 where applicable.
Public Works staff concur with the applicant's statement that the proposal does not meet the thresholds established in EC 9.8650 through 9.8680. Accordingly, there is no requirement for a Traffic Impact Analysis.

CONCLUSION
Public Works staff recommends the following conditions of approval:

- Prior to final site review approval, the Final Site Plan shall either be modified to remove the trees shown to be planted within the right-of-way, or modified to show that the species of tree will be determined during the tree permit process.

INFORMATIONAL ITEMS:

- An operation and maintenance plan will be developed consistent with the City's Stormwater Management Manual. The plan will be submitted for review at the time of building permit, and notice of this plan will be recorded during the building permit process.

CUP 16-5 Southtowne Memory Care Referral Comments

11/4/16

By Mike McKerrow, Land Use Analyst
682-5288

I have reviewed the updated project plans and information and provide the following land use comments for consideration.

Suggested condition of approval: One long term bike parking space is required for every 10 employees per Table EC 9.6105(5). The total number of employees in the building at one time along with a detailed floor plan showing the location of bike racks to verify compliance with this standard is needed.

Suggested condition of approval: EC 9.6420(3)(b) requires one canopy tree for every 3,000 square feet of vehicle use area. Please replace the Japanese Maple proposed at the W. 29th Street entrance with a canopy tree from Eugene's Plant List.

Informational Item: To increase the aesthetics of the entrance, additional landscaping is suggested directly in front of the new garbage and recycling structure, including ground cover, perennials and faster growing shrubs.

Informational Item: Documentation that all new lighting fixtures will meet the industry standard of "cut-off" fixtures will be required at the time of building permit review.

Eugene Water & Electric Board
4200 Roosevelt Blvd.
P.O. Box 10148
Eugene, OR 97440-2148

November 1, 2016

City of Eugene Planning Division
Attn: Althea Sullivan
99 W 10th Ave.
Eugene, OR 97401

Re: CU-16-5 360 West 28th

Dear Althea,

EWEB staff has reviewed the Land Use Referral: CU-16-5 360 West 28th Map: 18-03-06-34, TL 10300, 10400, and have no objections to the proposed land-use action assuming the following comments and conditions are required to be addressed by the applicant prior to obtaining electric, water, and/or Fiber services from EWEB.

General Comments:

Utility services for development are provided in accordance with EWEB policies and procedures which are available at our main office or online at http://www.eweb.org/policies.

Electric Comments:

"EWEB has overhead electric distribution facilities adjacent to the proposed development. The high voltage (115KV) transmission lines along the north right-of-way of W. 29th require additional clearances. All construction work must maintain a minimum of 20' clearance to the conductor at all times. The applicant is currently working with EWEB Electric Distribution for the relocation of the services to 389 W. 29th and 360 W. 28th Ave. that are in conflict with the proposed addition. Relocation of existing electric facilities will be designed to meet the City of Eugene Utility Permitting ordinances, land use ordinances, EWEB standards, and other applicable codes. The cost of facility relocations and extension to these parcels will be borne by the requesting customer and executed under EWEB policies and procedures at the time request for electric service is made.

The specific locations and sizes of EWEB Utility easements must be recorded on the plat prior to EWEB extending service. Electric facilities extending across tax lots to serve adjacent properties will require easement.

EWEB electric does not allow installation of any electric facilities under proposed "rain gardens" or any open drainage structure within the right-of-way.

EWEB owns, maintains, and specifies service conduit and conductors. Typically the electric service conduit and conductors is installed by customer and inspected by EWEB. These

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EWEB
Eugene Water & Electric Board
4200 Roosevelt Blvd.
P.O. Box 10148
Eugene, OR 97440-2148

requirements, information about new electric service and all EWEB standards are available on EWEB's website at http://www.eweb.org/electriccontractors/standards

Electric comments or questions can be directed to:

Jon Thomas
Planner III
Eugene Water & Electric Board
Office/Fax 541-685-7472; jon.thomas@eweb.org

Water Comments:

EWEB water has no objections the the proposed building addition at 360 W. 28th Ave. There is a 12" water main on the south side of W. 29th Ave, and the site has an existing 3/4" service. Contact EWEB's Building & Renovation Services Department at (541) 685-7086 to request additional services or fire lines.
EWEB Water recommends the developer contact the Fire Marshall concerning fire protection requirements for building permits.
EWEB water does not allow installation of any water facilities under proposed "rain gardens" or any open drainage structure within the right-of-way. Provisions within the design must be made to accommodate the installation of water facilities (services & hydrants) at common lot corners. A minimum 5' wide "utility corridor" at service crossing and hydrant locations is required.
State Drinking Water regulations (OAR 333-061-0050(10)) require a minimum separation between water and sewer lines of 10' where they run parallel to each other, unless the sewer line is located with 1.5' of clearance lower than the water line then the required separation is 5'.
EWEB owned water facilities will be located in the right-of-way, or in a minimum 7' public utility easement (PUE) adjacent to the public right-of-way, or in a minimum 14' PUE when not adjacent to public right-of-way.

Water comments or questions can be directed to:

Bill Johnson
Water Engineering Technician IV
Eugene Water & Electric Board
Office/Fax 541-685-7377; bill.johnson@eweb.org

Right-of-Way Comments:

EWEB has a current EASEMENT on TL 10400, Recorded on October 6, 1976, as Instrument Number 76-44358, on REEL 809, Lane County Official Records. If an EWEB Easement is designated on the plat, EWEB requests that a Note be added to the plat stating: "EWEB easements shall include EWEB and its joint users with whom it may contract. At no time shall any building, structure, sign or other obstruction be erected or placed or located within an EWEB utility easement area without prior written consent of EWEB."

Rely on us.

Eugene Water & Electric Board
4200 Roosevelt Blvd.
P.O. Box 10148
Eugene, OR 97440-2148

Right-of-Way comments or questions can be directed to:

Lori Price
Right-of-Way Agent
Eugene Water & Electric Board
Office/Fax 541-685-7366; lori.price@eweb.org

As always, EWEB recommends property owners and contractors call for locates before digging for installation of any underground supports to verify that no utility facilities will be affected by this construction.

Sincerely,

Alan Fraser
Distribution Engineering Supervisor
Eugene Water & Electric Board
(541) 685-7186; alan.fraser@eweb.org

Wallace McCullough
Water Engineering Supervisor
Eugene Water & Electric Board
(541) 685-7435; wallace.mccullough@eweb.org

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EUGENE
SPRINGFIELD
FIRE

Eugene Office
1320 Willamette Street
Eugene, OR 97401
(541) 682-5411
(541) 682-6882 FAX

Springfield Office
225 Fifth Street
Springfield, OR 97477
(541) 726-3737
(541) 741-2214 FAX

Fire Marshal's Office

FIRE DEPARTMENT COMMENTS FOR EUGENE OR SPRINGFIELD PLANNING DEPARTMENTS

Date:	November 1, 2016
Project:	Southtowne Memory Care
File Number:	CU-16-05
Address:	360 West 28th Avenue-Eugene
Existing Use:	Memory Care Facility
Proposal:	Add 9,081 sq. ft. to the existing facility
Planner:	Althea Sullivan, Associate Planner

Fire Department Comments/Conditions

Water Supply: OK; pre-existing fire hydrants are available on West 28th and West 29th within the 600 foot maximum supply hose lay distance to the furthest point on the proposed building layout along an approved route meeting 2014 Eugene Fire Code 507.5.1, Exception 2.

Access: OK. There is pre-existing access from West 28th Avenue. With the proposed new addition, South 29th Avenue also becomes available and viable.

An area on the southeast corner where the future addition and the existing building will connect and a portion of the new building does not comply with the requirement for all points of a building to be within 150 feet of a fire apparatus access road along an approved route. However, a proposed modification of a combination of fire resistant exterior wall finishes and dry sidewall fire sprinklers for that approximately 45 foot exterior space in question was submitted by the architect and has been approved by Eugene Springfield Fire. See the other attachment. This approved modification will require building permit and fire sprinkler design submittals to include the modifications as described.

Thursday, June 16, 2016 at 7:53:02 AM Pacific Daylight Time

Subject: RE: Southtowne Memory Care | Project Consultation Followup
Date: Wednesday, June 15, 2016 at 5:19:11 PM Pacific Daylight Time
From: BRUSHETT Austin T
To: Sara Bergby (Laudenslayer)
CC: Seth Anderson
Attachments: image004.png, image001.png

Sara,

This modification will be approved as stated for this development. Please submit the modification request and this email with the building permit so whoever reviews the plans knows that this has already been approved. Thanks again for working this out ahead of time, let me know if you have any further questions.

Austin Brushett
Deputy Fire Marshal
W 541-682-8356
C 541-501-7070
EUGENE
SPRINGFIELD
FIRE

From: Sara Bergby (Laudenslayer) [mailto:sbergby@ascentarch.com]
Sent: Wednesday, June 15, 2016 4:29 PM
To: BRUSHETT Austin T <Austin.T.Brushett@ci.eugene.or.us>
Cc: Seth Anderson <sanderson@ascentarch.com>
Subject: Re: Southtowne Memory Care | Project Consultation Followup

Austin,

Per our conversation this afternoon, attached is our revised proposal.

Thanks,

Sara Bergby (Laudenslayer)
Assoc. AIA, LEED AP BD+C, LEED AP Homes, EAC-PS
Design Professional
Ascent Architecture & Interiors
920 NW Bond St., # 204, Bend, OR 97701
Office: 541-647-5675
www.ascent-architecture.com

collaborate » create » elevate

ASCENT ARCHITECTURE and interiors
920 Northwest Bond Street, Suite 204 » Bend, Oregon 97703
Office: 541-647-5675 » www.ascent-architecture.com

June 15, 2016

Austin Brushett
City of Eugene
99 West 10th Avenue
Eugene, OR 97401
541-682-8356

RE: Southtowne Memory Care Addition
360 West 28th Avenue, Eugene, OR 97405

Dear Mr. Brushett,

As discussed in the May 26th Project Consultation Meeting, the Southtowne Memory Care Addition is requesting a modification to the 2014 Eugene Fire Code Section 503.1 for portions of the building that exceed the 150 foot "hose drag" limitation.

As shown in the attached exhibit, there are approximately 45 lineal feet of the existing building and 104 lineal feet of the proposed building exterior that will be beyond the reach of a 150 foot hose from either 28th or 29th Avenue. We propose the following modifications to the standard fire access requirements:

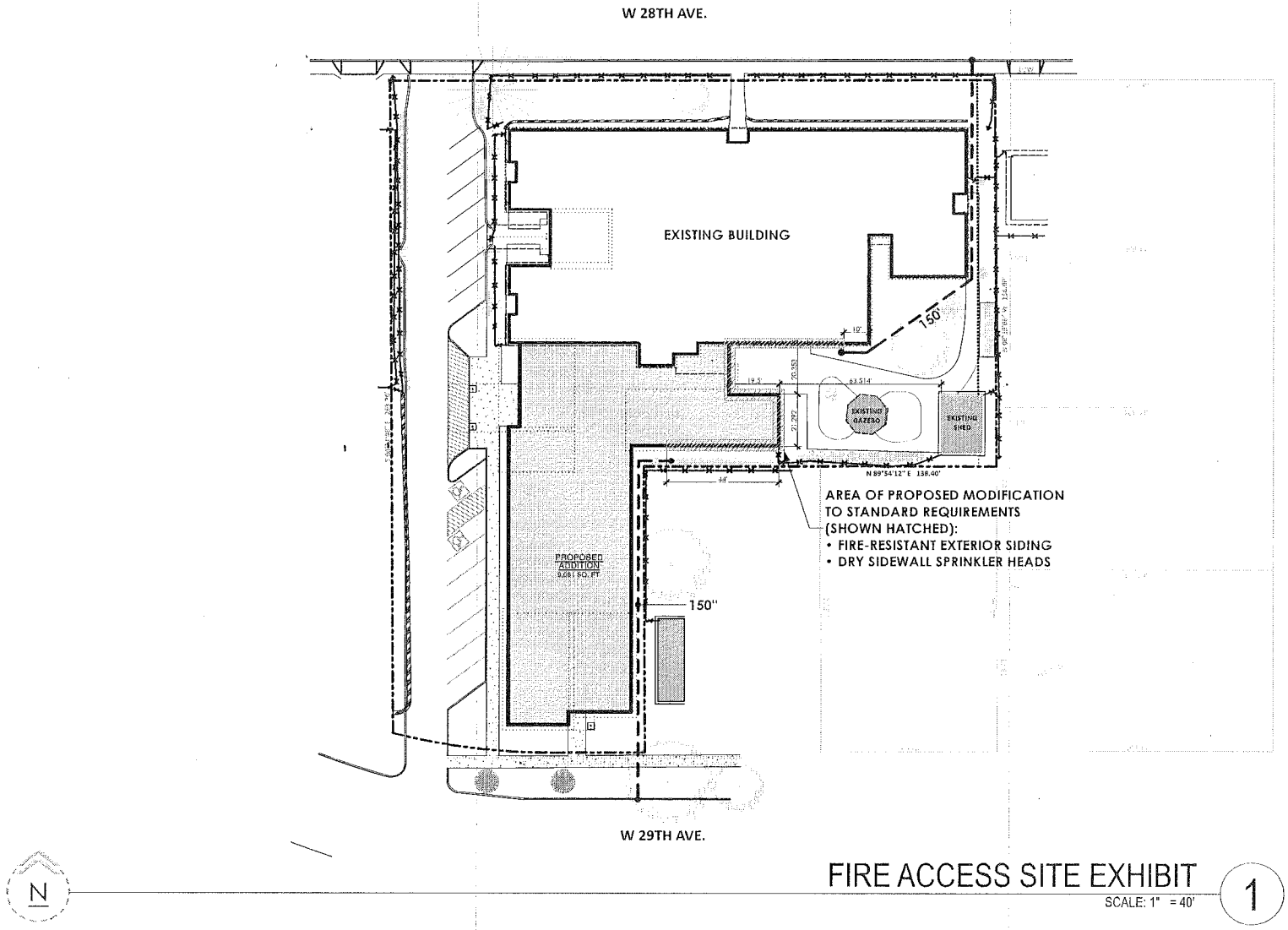
- Provide fire-resistant exterior wall finishes within the area requiring alternate compliance. Such products will meet ASTM E136 testing requirements as non-combustible, and will have a flame spread of less than 25 and smoke developed index of less than 450 when tested in accordance with ASTM E84.
- Provide dry sidewall sprinkler heads within the area requiring alternate compliance. Heads will be spaced at 10 feet maximum and 5 feet at edges.
- No additional wall ratings or protection of openings shall be required.

The entire building will be sprinklered throughout per OSSC and NFPA 13 requirements.

Sincerely,

Seth E Anderson

Seth Anderson
AIA, NCARB, LEED AP
Principal Architect



FIRE ACCESS SITE EXHIBIT

SCALE: 1" = 40'

1

ASCENT ARCHITECTURE and interiors
920 NW Bond St. Suite 204
Bend, Oregon 97703
t | 541-647-5675
e | info@ascentarch.com
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Date: 6/14/16

Project: 16020

FIRE ACCESS SITE EXHIBIT
SOUTHTOWNE
MEMORY CARE

Attachment C

SULLIVAN Althea C

From: CIKA Garian E
Sent: Friday, October 21, 2016 9:49 AM
To: SULLIVAN Althea C
Cc: Sara Bergby
Subject: FW: City of Eugene Land Use Referral for file: CU-16-5

Althea,

Thank you for your work on this project.

The site plan has been looked at for accessible parking spaces and allowable areas per the 2014 OSSC. It complies. It is not a full plan review (that will come with the building permit). I left a courtesy voicemail to the Sara Bergby (Architect) this morning.

Should you have further questions/comments, please don't hesitate to contact me.

Thank you!

Best,

Garian

LAND USE APPLICATION REFFERAL

Application name: Southtowne Memory Care
File Number: CU-16-5
Location: 360 West 28th
Applicant's Request /Project Summary: Addition
Additional Planning Comments:
Return comments by: 11/01/16
Return comments to: Althea Sullivan, althea.c.sullivan@ci.eugene.or.us

Click on the following link to access file details and application referral materials:
http://pdd.eugene-or.gov/LandUse/ApplicationDetails?file=CU-16-5

Please use the documents located in the folders named Application Materials (under evaluation) and Site Plans (under evaluation) for your review.

Please return comments via email to the name above.

Entering comments into OnTrack(internal City staff only):
Click and open OnTrack, click on the Referral Tab, locate your referral group name and double click on the Create button. When the template opens, fill in the heading information and type your comments. When you are finished, click save and send an email to the planner notifying him/her that your comments have been added to OnTrack.

If you have any questions or difficulty accessing the materials, please contact:

Amy Janisch
Land Use Planning Specialist
City of Eugene Planning Division
amy.c.janisch@ci.eugene.or.us99 West 10th Avenue, Eugene Or 97401
Phone 541-682-5699 Fax 541-682-5572

SULLIVAN Althea C

From: SULLIVAN Althea C
Sent: Monday, November 21, 2016 4:29 PM
To: 'Sara Bergby'
Subject: Southtowne Memory Care

Hi Sara,

I received testimony regarding the Southtowne Memory Care conditional use permit request and am wondering if you or the facility manager can provide more information that would help inform the Hearings Official's decision. This testimony will be placed online later this week if you wish to access it from our website as well. If you choose to respond you are welcome to reply to this email or bring additional information to the hearing next week.

Testimony Received November 15

Ms. Sullivan -

Thank you for forwarding me the criteria. I have the following inputs -

Under 9.8090, the facility is not appropriately configured for the neighborhood. It does not provide a convenient and functional living, working, shopping and civic environment." Currently, the facility is licensed as a locked memory care unit. However, there have been substantial problems with the facility's respect for resident rights, including the right to access the outdoors. I do not believe that the proposed layout will provide sufficient outdoor access for the number of residents.

Similarly, the current common spaces are poorly configured, resulting in dysfunctional living spaces for the residents. The proposed layout worsens this problem by failing to improve the staff's ability to supervise residents and providing a much greater distance that the same number of staff will have to travel. As such, it is a poor working and living environment.

It is also a poor civic environment. I have filed repeated reports of residents wishing to leave and being prevented from doing so. The facility almost never takes residents on walks or otherwise engages with them on off-site activities. They do not take them to the shopping mall a few blocks away. The consistent failure of the facility to engage the residents with the community is problematic, and makes assessment of the real impacts of a properly managed facility with the proposed residency rates.

Also, it is not clear that the facility will retain a memory care endorsement. If not, the residents of the facility would engage in more driving, creating conflicts with the R-1 neighborhood. The facility would also lack sufficient parking to accommodate its operation as an assisted living or residential care facility.

Thank you,

Althea Sullivan
Assistant Planner
City of Eugene Planning Division
99 West 10th Avenue, Eugene, OR 97401
541-682-5282