AGENDA

Meeting Location:
Sloat Room – Atrium Building
99 West 10th Avenue
Eugene, Oregon 97401

Phone: 541-682-5481
www.eugene-or.gov/pc

The Eugene Planning Commission 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, February 15, 2017
(6:00 p.m.)

I. PUBLIC HEARING ON APPEAL OF PLANNING DIRECTOR’S DECISION

The Oaks at 14th (ARB 16-5)

Assessors Map: 17-04-35-43 Tax Lot: 600 and 601

Decision: The Planning Director approved adjustments to Multiple-Family Development, and Public Access standards for the development of a 54-unit apartment complex.

Appellant: Mary McCollough

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

Public Hearing Format:

1. The Planning Commission Chair will summarize procedures and commence the hearing.
2. City staff will provide a brief introduction and summary of the application/appeal.
3. Testimony will first be allowed from the proponent/applicant.
4. Comments or questions will then be allowed from interested people who are neither proponents nor opponents.
5. Testimony will then be allowed from opponents.
6. Staff may provide a response to testimony, as needed.
7. Planning Commissioners may then ask questions of staff (note that commissioners may also raise questions that might arise during any individual testimony).
8. Rebuttal will then be allowed from the proponent/applicant.
9. Finally, the Planning Commission Chair will announce whether the hearing and record is closed, held open, or if a public hearing will be continued.

Please note that the Planning Commission will not make a decision at this hearing. Additional meetings for deliberation and a final decision will be scheduled following the public hearing. Once made, the decision of the Eugene Planning Commission will be final at the local level. Persons who appear before the local government orally or in writing may appeal the decision to the Oregon Land Use Board of Appeals within 21 days of the Planning Commission’s decision. Appeals to the Oregon Land Use Board of Appeals are governed by ORS 197.805 to 197.860 and OAR Chapter 661, Division 10.
AGENDA ITEM SUMMARY
February 15, 2017

To: Eugene Planning Commission

From: Erik Berg-Johansen, Associate Planner, Eugene Planning Division
       Althea Sullivan, Assistant Planner, Eugene Planning Division

Subject: Appeal of Planning Director Decision: The Oaks at 14th (ARB 16-5)

ACTION REQUESTED
The Planning Commission will hold a public hearing on February 15, 2017 to consider an appeal of the Planning Director’s decision approving an Adjustment Review, which granted adjustments to Multiple-Family Development and Public Access standards for the development of a 54-unit apartment complex on a 1.48 acre site zoned medium-density residential (R-2).

BACKGROUND
The subject property is located at 1420 and 1430 Oak Patch Road, within the boundary of the Churchill Area Neighbors neighborhood. A vicinity map is included as Attachment A, and a reduced site plan is included as Attachment B.

On April 27, 2016 building permits were issued for construction of Controlled Income and Rent Housing, which is a permitted use subject to multiple-family standards. The building permits were approved authorizing the construction of five residential buildings, which will total 54 units, and one community building, along with associated site improvements for the proposed development (see building permit numbers: 16-00282-01; 16-00394-01; 16-00395-01; 16-00396-01; 16-00397-01; and 16-00398-01). The building permits were appealed to the Oregon Land Use Board of Appeals (LUBA). As a precautionary measure, in case of a remand from LUBA, the applicant filed an application seeking adjustment to the specific standards that were at issue in the LUBA appeal.

The application for adjustment review submitted on October 25, 2016 requested adjustments to the following multiple-family development standards:

- EC 9.5500(5)(a) Building Orientation
- EC 9.5500(5)(b) Ground Floor Building Entrances
- EC 9.5500(12)(b)(2) Parking Court Width
- EC 9.5500(12)(c) Limitation on Parking Frontage

The City mailed notice of the adjustment review application on October 26, 2016 consistent with the land use code. The open record for the first notice closed on November 9, 2016. On November 18, 2016 the applicant requested that the application be placed on hold. On November 22, 2016 the applicant submitted additional materials requesting adjustments to two more code standards:

- EC 9.5500(4)(b) Street Frontage
- EC 9.6735(2) Public Access Required
To provide all potentially interested parties sufficient notice, the City mailed a second, updated notice of the application, consistent with the land use code on December 6, 2016, which re-opened the record for 14 more days. The open record period for the second notice closed on December 20, 2016. On December 7, 2016 the applicant requested that the City proceed with the formal review of their request for adjustments.

On December 21, 2016 LUBA remanded the City’s decision to issue building permits, based in part on the determination that the development proposal did not meet certain requirements of specific multi-family development standards. The LUBA remand is included as Attachment E, and the relationship of the remanded building permits and the adjustment review application is explained further below, in the summary of appeal issues. LUBA determined that the development proposal does meet the requirements of EC 9.5500(12)(b)(2). On January 10, 2017, the applicant sent an e-mail requesting that the City withdraw from consideration the applicant’s previous request for an adjustment to EC 9.5500(12)(b)(2).


The Planning Director provided two conditions of approval, which are listed below:

- For consistency with the adjustment review criteria for EC 9.5500(4)(b): In addition to the proposed walkway, driveway, and landscaping, the applicant shall provide one of the following as part of the frontage on Oak Patch Road: textured paving, a planter connected to the earth, a planting area, a kiosk, a colonnade, a drinking fountain, or public art.

- For consistency with the adjustment review criteria for EC 9.6735: The applicant shall provide the City with a statement that the development’s proposed access from Oak Patch Road will “provide safe ingress and egress to the development site, will not negatively impact the efficiency of the public right-of-way, and will not result in a hazard to the bicycle, pedestrian or vehicular traffic using the right-of-way” from either: (1) a licensed Civil Engineer with special training and experience in transportation engineering and planning; or (2) a Traffic Engineer currently licensed to practice within the State of Oregon, and with special training and experience in transportation engineering and planning.

In response to the Planning Director’s conditional approval, Kevin Matthews, on behalf of Mary McCollough, filed an appeal on January 23, 2017. The appeal statement is included as Attachment C.

**PLANNING COMMISSION’S REVIEW ROLE**
The Planning Commission will consider this appeal of the Planning Director’s decision based on the procedural requirements set at EC 9.7065 through 9.7095. These procedures include a quasi-judicial hearing which is scheduled for February 15, 2017.
In most cases, an appeal of a Type II application is decided by the Eugene Hearings Official, rather than the Planning Commission. In this case, the applicant’s request for adjustments constitutes a “Major” Adjustment Review, based on the definition at EC 9.0500 which distinguishes between “major” and “minor” adjustment reviews. The definition of Adjustment Review-Major is provided below for reference:

**EC 9.0500 Adjustment Review – Major.** An adjustment review that includes a request to adjust at least 2 of the following:

(A) Maximum front yard setbacks,
(B) Building orientation,
(C) Building entrances,
(D) On-site pedestrian circulation,
(E) Block requirements or street layout,

When such request is for a large commercial facility, large multi-tenant commercial facility, or multiple family development.

In accordance with EC Table 9.7055 Applications and Review Authorities, the Planning Commission is the decision maker for any appeals of a Type II “Major” Adjustment Review.

The Eugene Code requires that the Planning Commission limit its review of the Planning Director’s decision to the issues raised in the appeal statement included at Attachment C. With respect to each of those issues, the Planning Commission’s decision on this appeal must either:

- Find that the Planning Director did not commit an error in his evaluation of the application’s consistency with the adjustment review criteria (affirm); or
- Clearly state how the Planning Director failed to properly evaluate the application or make a decision consistent with the applicable adjustment review criteria and either:
  - find that the applicant has demonstrated consistency with the adjustment review criteria, but modify the Planning Director’s decision approving the application to properly evaluate the application or address the criteria (modify); or
  - find that the applicant has not demonstrated consistency with the adjustment review criteria (reverse).

The Planning Commission’s review is not limited to the existing record; participants in the appeal may provide new evidence and it may be considered by the Planning Commission to the extent it pertains to one of the issues identified in the appeal statement at Attachment C.

Following the public hearing and close of the record, the Planning Commission will conduct deliberations leading to a final local decision on the appeal.

**SUMMARY OF APPEAL ISSUES**

The appeal statement alleges that the Planning Director erred in nine different instances. Some of the alleged errors relate to specific adjustments and standards, and others relate to the use of the site and process. To assist the Planning Commission in determining whether to affirm, reverse, or modify the
Planning Director’s decision, staff has provided each statement below, followed by a discussion of pertinent record information, and considerations. Staff has reordered the statements from the appeal, and recommends that the Planning Commission follow this order, as the issues regarding process, and use of the site are best addressed first because they have implications for the review of other issues raised. The full text of the Appeal Statement and Planning Director’s Decision are also attached for reference (see Attachments C and D).

1. “The Planning Director erred in approving these adjustments because they were improperly considered while a parallel LUBA process was underway, considering some of the same specific land use issues. And in which, in fact, in which a remand was recently granted.”

The appellant cites no legal authority or explanation as to how the City’s process caused the Planning Director to improperly evaluation the application. The LUBA appeal: (1) related to the building permit issuance; and (2) was complete before the Planning Director’s decision on the adjustment review application. Staff has not located any regulation in the Eugene Code or under any statute that would preclude the applicant from filing their request for adjustments, or for planning staff to process the application while the building permits were on appeal at LUBA. In fact, the City had an obligation under the local code and state statute to process the application, including this appeal process, to issue a final local decision on the adjustment review.

2. “The Planning Director erred in approving these adjustments because they failed to consider any of the several relevant arguments in the testimony which was submitted in the form of LUBA appeal documents.”

During the Planning Director’s process, opponents submitted an October 20, 2016, Petition for Review (with Exhibits 1 and 5) from the LUBA case. The LUBA appeal documents, referenced by the appellant, are related to the appeal of the six building permits mentioned in the Background portion of this AIS. The LUBA appeal raised valid questions about whether or not standards had been met at the time of building permit issuance. Staff notes that while related, there is a difference between the Planning Director’s decision on the proposed adjustment to the standards, and the City’s issuance of building permits. In this instance, the relevant difference between the two types of applications is that the issuance of building permits is generally limited to objective application of code standards. While the LUBA appeal documents raised issues as to whether code standards had been strictly met, no arguments were made regarding the approval criteria for the requested adjustments. Without more specific identification of “relevant arguments” in the LUBA Petition, staff cannot provide a more specific response.

It would have been the appellant or other interested parties’ obligation to specify those arguments, demonstrate how they might be relevant, and to put them in the context of the approval criteria for the adjustments. No such attempt appears to have been made in the initial testimony received by the City during the written comment period, other than to mention there were arguments raised in the LUBA appeal documents that they believed to be relevant. It is still not clear to staff which specific arguments those may be, or how they are relevant under the adjustment review criteria.

In any event, LUBA did find that certain standards were not clearly met as part of the building permit review, and remand was necessary. The City’s land use code provides an appropriate, alternative...
means to address the standards through the adjustment review process. The scope of this appeal is limited to those specific requests for adjustment review, and whether or not the Planning Director erred in conditionally approving them.

3. “The Planning Director also erred in approving these adjustments where judgement is called of regarding compatibility due to reading into the code words and meaning not there i.e. that compatibility concerns are limited to landscape and architectural physical features, when the code includes no such qualification on the meaning of “compatibility”. Contextual and social issues are just as important to project compatibility as physical factors. In the proposal, both are deficient.”

The Planning Director provided two statements which address the type of use the applicant has proposed. The first statement starts on page 1 of the Planning Director’s decision, and notes that Controlled Income and Rent Housing is listed as a permitted use subject to multi-family development standards or Planned Unit Development (PUD) approval in the R-2 Medium-Density Residential zone. The second statement starts on page 6 and notes that, while a petition was submitted asserting that there is no place for criminals in a densely populated family neighborhood, the scope of the compatibility criterion in this case is limited to landscaping and design features and not the people who will live in the development.

Staff notes that the appellant’s argument appears to be focused on the use of the site, asserting that it should not be allowed. The Planning Director relied on EC Table 9.2740 which makes it clear that Controlled Income and Rent Housing is permitted subject to multiple-family standards or PUD approval. Additionally, LUBA’s decision issued on December 21, 2016 further confirms that Controlled Income and Rent Housing is an allowed use of the site subject to one of the two aforementioned sets of standards and process. Staff finds the Planning Director was correct to consider the use of the site as being allowed, and to limit his review to the approval criteria for the requested adjustments. Staff does not see anything in the code that would have given the Planning Director code authority to deny an adjustment based on the use of the site or the legal history of residents, when the use had already been confirmed as allowed.

The Planning Director concluded that the residential use and the applicant’s proposed design including setbacks, building height, features such as the enhanced pedestrian areas, landscaping, and preservation of the Oak tree grove were collectively sufficient to meet the approval criteria for adjustment.

4. “The Planning Director erred in approving adjustment to EC 9.5500(4) because the proposal does not create or contribute to the continuity of building facades along the street, does not create an attractive pedestrian environment along all streets, and because the proposal is not compatible with adjacent development, especially so the south, east, and west.”

The appellant appears to have restated portions of the approval criteria at EC 9.8030(2), however, no explanation is provided which demonstrates how the Planning Director erred. The Planning Director  

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1 The Oaks is a 54-unit apartment complex that will provide affordable, permanent housing for people with criminal histories.
addresses each of the approval criteria for the adjustment to EC 9.5500(4), beginning on page 4 of the decision.

First, the Planning Director found that the applicant’s proposal contributes to the continuity of building facades along the West 14th Avenue. This was because the building located across from the subject site is oriented in a similar fashion to the applicant’s Building 1, and the area is residential and has a multitude building orientations and setbacks from streets. As the applicant set buildings back from the street, they generally mimic the variable orientation of buildings in the surrounding area. Second, the Planning Director found that along West 14th Avenue an attractive pedestrian space had been created by the plaza, gazebo, picnic area, and lawn. The Planning Director also agreed with the applicant that increased setbacks, reduction in building height, and preservation of the Oak grove made the project compatible with adjacent development as it relates to the requested adjustment for the orientation and setbacks of Building 1.

Along Oak Patch Road, the Planning Director found that an additional feature was needed to clearly provide an attractive pedestrian environment, which generated the condition of approval requiring textured paving, a planter connected to the earth, a planting area, a kiosk, a colonnade, a drinking fountain, or public art. See appeal issue #5 below for more discussion about the requirements for enhanced pedestrian space along Oak Patch Road.

5. “The Planning Director erred in conditioning approval of an adjustment to EC 9.5500(4) because EC 9.0500 defines “enhanced pedestrian space” to be “characterized by the incorporation of permanent amenities” plural, and to create an overall positive effect, not just one single item from the list. The Planning Director here lowered the adjustment bar below that called for in the code. It takes more than one item to make an effective pedestrian environment.”

The Planning Director found that the applicant had not provided sufficient evidence to demonstrate that an attractive pedestrian environment was created along Oak Patch Road and therefore imposed the following condition of approval which relied upon the definition of enhanced pedestrian space:

In addition to the proposed walkway, driveway, and landscaping, the applicant shall provide one of the following as part of the frontage on Oak Patch Road:

textured paving, a planter connected to the earth, a planting area, a kiosk, a colonnade, a drinking fountain, or public art.

The appellant states that the Planning Director erred in conditioning approval of an adjustment to EC 9.5500(4) because EC 9.0500 defines “enhanced pedestrian space” to be “characterized by the incorporation of permanent amenities” plural, and to create an overall positive effect, requires more than one item from the list. The appellant states that the Planning Director lowered the “adjustment bar” below what is called for in the code, and that more than one item is needed to make an attractive pedestrian environment.

The Planning Director’s condition states that the applicant is required to provide one of the following:

textured paving, a planter connected to the earth, a planting area, a kiosk, a colonnade, a drinking fountain, or public art. However, this one item is in addition to the proposed walkway, driveway, and
lanscaping already proposed. Staff also notes that the definition of *enhanced pedestrian space* provided by EC 9.0500 includes the improvements proposed by the applicant (definition provided below for reference).

\textit{EC 9.0500 Enhanced Pedestrian Space:} A paved area for use by pedestrians characterized by the incorporation of permanent amenities such as textured paving, planters connected to the earth and planting areas, kiosks, colonnades, drinking fountains, public art, etc. A paved area with portable seating adjacent to a restaurant is also an enhanced pedestrian space.

With this condition of approval, the Planning Director concluded that the adjustment review criteria would be met with respect to the street frontage along Oak Patch Road.

6. “The Planning Director erred in approve an adjustment to EC 9.5500(5) for Building 1 because the non-street-facing entrances do not promote compatibility with adjacent property, do not achieve a strong building presence on existing streets, and do not provide socialization benefits to the residents.”

Although the appellant asserts that the approval criterion at EC 9.8030(4) is not met, no evidence, or discussion is provided which demonstrates what the appellant means when stating that the non-street-facing entrances of Building 1 do not promote compatibility with adjacent property, do not achieve a strong building presence on existing streets, and do not provide socialization benefits to residents. Additionally, staff notes that the Planning Director only needed to find that either EC 9.8030(4)(a) or EC 9.8030(4)(b) was met. The Planning Director found that both were met based on evidence provided by the applicant.

In granting the adjustment, the Planning Director summarized portions of the applicant’s written narrative which addressed the approval criteria. The Planning Director also reviewed the applicant’s site plans, which include elevations for the buildings, and used professional judgement to determine that the approval criteria were met.

Staff notes that the orientation of Building 1 allowed for the creation of an amenity titled *The Plaza* located within the site. The applicant has made it clear that *The Plaza* will serve as an inviting entrance to the site from West 14th Avenue, as well as providing open space for residents. Staff notes that the orientation of Building 1 promotes compatibility with properties to the west by acting as a buffer to noise, odors, or other negative impacts that could come from a common open space area. Additionally, the non-street facing entrances will allow residents to walk directly to an open space, providing a socialization benefit.

Regarding the strong building presence on existing streets, the development is located in a residential area where some buildings front directly on streets, and others are setback from the street. Staff finds that requiring the applicant to place the buildings directly on the street and orient entrances to the street would not be with the character of the area, and would not create a living arrangement which would allow residents to walk out their door into an open space area.

7. “The Planning Director erred in approving an adjustment to EC 9.5500(5) for building 1
because “efficient massing” is not an approval criterion. The building features across West 14th Avenue with which compatibility is alleged to be enhanced are not even visible from the relevant aspects on The Oaks site.”

Staff notes that the Planning Director summarized the applicant’s written narrative and did use the term “efficient massing”, but also considered additional design details and factors when granting an adjustment to EC 9.5500(5)(b) Ground Floor Building Entrances. The Planning Director reviewed the applicant’s written narrative, and site plans, which include elevations, and concluded that the criteria for the adjustment had been met. Also see appeal issue #8 below for more discussion about the Planning Director’s conclusions regarding compatibility.

8. “The Planning Director erred in approving these adjustments where judgement is called of regarding compatibility due to the inadequately addressing the full scope of relevant architectural issues including building placement, alignment, height, bulk, and massing. Use of the acknowledged design device of reducing height near lot boundaries and slightly increased building setbacks in themselves reflect attempts to mitigate the impact of the much larger, non-compatible institutional-scale buildings. The fact that the buildings are less incompatible with the apartment development to the north in no way addresses the compatibility, or lack thereof, with small single family homes to the south.”

Staff notes that the appellant’s statement does not address a specific adjustment criterion, however, there are three adjustments staff believes the appellant could be referencing. The adjustments are Adjustment Request 1, Adjustment Request 2, and Adjustment Request 3 (as labeled in the Planning Director’s decision).

As previously mentioned, the Planning Director concluded that the residential use and the applicant’s proposed design including setbacks, building height, other features such as the enhanced pedestrian areas, landscaping, and saving the grove of Oak trees on the site are collectively sufficient to meet the approval criteria for adjustment. While some single story homes abutting the subject site, there are also multi-story homes to the south as well as a large apartment complex to the north. Staff does not fully understand what the appellant is referring to when stating that the Planning Director inadequately addressed the full scope of relevant architectural issues. As the use is permitted subject to multi-family standards, the Planning Director’s tool for review of architectural details was only the adjustment review, unlike uses which are subject to land use application types which provide broad statements about compatibility such as site review, conditional use permits, and planned unit developments. Additionally, the Planning Director reviewed the applicant’s site plans which include elevations that show the architectural details proposed by the applicant.

9. “The Planning Director erred in approving an adjustment to EC 9.5500(12) because of incomplete parking impact analysis, including the notable lack of available “on-street parking” as called for in EC 9.8030(8). The parking adjustment requires consideration of available street parking spaces, which in fact are practically nill.”

The Planning Director considered an adjustment to the standard at EC 9.5500(12)(c) Limitation of Parking Frontage, under the criteria at EC 9.8030(8)(f) which is provided below for reference.
. While the Planning Director provides no consideration of available on-street parking spaces, the mention of on-street parking spaces by the approval criteria at EC 9.8030(8)(f) is not a discrete approval criterion, and is associated with cost considerations and parking beneath or within residential buildings. Staff has provided EC 9.8030(8)(f) below for reference:

**EC 9.8030(8) - Multiple-Family Standards Adjustment.**

Where this land use code provides that the multiple-family standards may be adjusted, the standards may be adjusted upon finding that the design achieves all of the following:

(f) Vehicle Parking. The requirements set forth in EC 9.5500(12) may be adjusted if the proposal achieves to the same degree as would strict compliance with the standards all of the following:

1. Limitations on the use of continuous parking drives in large-scale multiple-family developments.
2. Limitations on the size of individual parking lots in multiple-family development.
3. Minimal negative aspects of parking uses in multiple-family developments.

Where cost considerations preclude parking beneath or within residential buildings, combinations of partial and interrupted parking drives; on-street parking; and small, dispersed parking courts are an acceptable alternative.

The applicant’s site plan (sheet G002) shows a parking calculation which demonstrates that the applicant’s proposal is providing 9 spaces beyond what they are required to by code (see EC Table 9.6410). Staff is unsure how the Planning Director erred in not considering on-street parking, as possible negative aspects of parking on surrounding properties have been minimized by providing parking beyond what is required.

**STAFF RECOMMENDATION**

Staff recommends that the Planning Commission hold the public hearing, review public testimony and upon subsequent deliberations determine whether to affirm, modify, or reverse the Planning Director’s decision. Depending on that determination, the Planning Commission may need to adopt supplemental or revised findings as part of its Final Order.

**ATTACHMENTS**

A. Vicinity Map  
B. Reduced Site Plan  
C. Appeal Statement  
D. Planning Director Decision  
E. Land Use Board of Appeals Remand Decision  
F. Additional Testimony

The entire record of materials for the subject application is available for review at the Eugene Planning Division offices and will be provided to the Planning Commission separately. Record materials will also be available at the public hearing, and are available on the City’s website at: [http://pdd.eugene-or.gov/LandUse/ApplicationDetails?file=ARB-16-0005](http://pdd.eugene-or.gov/LandUse/ApplicationDetails?file=ARB-16-0005)
FOR MORE INFORMATION:
Please contact Erik Berg-Johansen, Associate Planner, Eugene Planning Division, by phone at (541) 682-5437, or by e-mail at erik.berg@ci.eugene.or.us
Caution:
This map is based on imprecise source data, subject to change, and for general reference only.

Legend

Subject Site

0 75 150 300 Ft
Appeal Statement for Planning Director Decision on ABB-16-45 for The Oaks

The Planning Director erred in approving an adjustment to EC9.5500(4) because the proposal does not create or contribute to the continuity of building facades along the street, does not create an attractive pedestrian environment along all streets, and because the proposal is not compatible with adjacent development, especially to the south, east, and west.

The Planning Director erred in conditioning approval of an adjustment to EC9.5500(4) because EC 9.05000 defines “enhanced pedestrian space” to be “characterized by the incorporation of permanent amenities” plural, and to create an overall positive effect, not just one single item from the list. The Planning Director here lowered the adjustment bar below that called for in the code. It takes more than one item to make an effective pedestrian environment.

The Planning Director erred in approving an adjustment to EC9.5500(5) for Building 1 because the non-street-facing entrances do not promote compatibility with adjacent property, do not achieve a strong building presence on existing streets, and do not provide socialization benefits to the residents.

The Planning Director erred in approving an adjustment to EC9.5500(5) for building 1 because “efficient massing” is not an approval criterion. The building features across West 14th Avenue with which compatibility is alleged to be enhanced are not even visible from the relevant aspect on The Oaks site.

The Planning Director erred in approving these adjustments where judgement is called of regarding compatibility due to the inadequately addressing the full scope of relevant architectural issues including building placement, alignment, height, bulk, and massing. Use of the acknowledged design device of reduced height near lot boundaries and slightly increased building setbacks in themselves reflect attempts to mitigate the impact of the much larger, non-compatible, institutional-scale buildings. The fact that the buildings are less incompatible with the apartment development to the north in no way addresses the compatibility, or lack there’re of, with small single family homes to the south.

The Planning Director also erred in approving these adjustments where judgement is called of regarding compatibility due to reading into the code words and meaning not there, i.e. that compatibility concerns are limited to landscape and architectural physical features, when the code includes no such qualification on the meaning of “compatibility”. Contextual and social issues are just as important to project compatibility as the physical factors. In the proposal, both are deficient.

The Planning Director erred in approving an adjustment to EC9.5500(12) because of incomplete parking impact analysis, including the notable lack of available “on-street parking” as called for in EC 9.8030(8). The parking adjustment requires consideration of available street parking spaces, which in fact are practically nil.
The Planning Director erred in approving these adjustments because they failed to consider any of the several relevant arguments in the testimony which was submitted in the form of LUBA appeal documents.

The Planning Director erred in approving these adjustments because they were improperly considered while a parallel LUBA process was underway, considering some of the same specific land use issues. And in which, in fact, in which a remand was recently granted.
This appeal form applies to appeals of interpretation of this Land Use Code made according to EC 9.0040(1) and to appeals to all Type II land use applications. The appeal of the Planning Director’s decision provides for a review of an administrative decision by a higher review authority specified in this Land Use Code. The Planning Director’s decision may be affirmed, reversed, or modified.

Please check one of the following:

- Adjustment Review, Minor
- Adjustment Review, Major
- Code Interpretation
- Hazardous Materials Review
- Historic Property Alteration
- Historic Property Demolition
- Historic Property Move
- Modification of a Conditional Use Permit
- Modification of a PUD Tentative
- Modification of a PUD Final
- Modification of a Site Review
- Modification of a Standards Review
- Modification of a Subdivision Plan
- Modification of a Willamette Greenway
- Partition Tentative
- Partition Final
- PUD Final
- Site Review
- Standards Review
- Subdivision Tentative
- Subdivision Final
- Traffic Impact Analysis
- Vacation Improved Public R-O-W
- Vacation Improved Public Easement
- Unimproved Public R-O-W with Re-dedication
- Variance

City File Name: The Oaks at 14th

City File Number: ARB 16-DS 5

Date of Planning Director Decision: 1/11/2017

Date Appeal Filed: 1/23/2017

(This date must be within 12 days of the date of the mailing of the Planning Director’s decision.)

Attach a written appeal statement. The appeal statement shall include a written statement of issues on appeal and be limited to the issues raised in the appeal. The appeal statement shall explain specifically how the Planning Director’s decision is inconsistent with applicable criteria. Please contact Planning staff at the Permit and Information center, 99 West 10th avenue, 541-682-5377, for further information on the appeal process.

A filing fee must accompany an appeal of a Planning Director decision, with some exceptions for neighborhood groups. The fee varies depending upon the type of application and is adjusted periodically by the City Manager. Contact Planning staff at the Permit and Information Center to determine the required fee or check on the web at: www.eugeneplanning.org
Acknowledgment
I (we), the undersigned, hereby acknowledge that I (we) have read the above appeal form, understand the requirements for filing an appeal of a planning director decision, and state that the information supplied is as complete and detailed as is currently possible, to the best of my (our) knowledge.

APPELLANT:
Name (print): Mary McCollough  Phone: 541.954.2901

Company/Organization:

Address: 3170 W. 14th Ave

City/State/Zip: Eugene, OR 97402

Signature: Mary McCollough

APPELLANT'S REPRESENTATIVE:
Name (print): Kevin Matthews

Company/Organization: Friends of Eugene

Address: PO Box 1588, Eugene, OR 97440

City/State/Zip: Eugene, OR 97440  E-mail (if applicable): suanfarmdexter@gmail.com

Phone: 541.514.4766  Fax:

Signature:

IF this appeal is being filed by the affected recognized neighborhood association, complete the following:

Name of Association:
# PLANNING RECEIPT

## Date
1/23/2017

### Method of Payment
- [ ] Cash
- [ ] Check
- [X] Visa/MC

### Customer Information
- **Name**: Mary L. McCool
- **Address**: [Provided on the document]
- **Project**: ARB 16-5 Appeal

### Application Type

<table>
<thead>
<tr>
<th>#</th>
<th>Application Type</th>
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<td>Appeal of PD Decision, other than subdivision or par</td>
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**Subtotal App Fees**: 

**Subtotal Other Fees**: 

**Admin Fee** (not included on appeals or other fees): 9%

**Total**: $250.00

### Staff Receiving Application
- kew

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FINDINGS AND DECISION OF THE PLANNING DIRECTOR

CONDITIONAL APPROVAL OF ADJUSTMENT REVIEW FOR THE OAKS AT 14th (ARB 16-5)

Application Summary:
Request for adjustment to Multiple-Family Development standards, and Public Access.

Owner/Applicant:
Housing Community Services Agency of Lane County (Owner/Applicant)
Cameron McCarthy Landscaping Architecture & Planning. (Applicant’s Representative)

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

Subject Property/Location/Zoning:
Location: 1420 and 1430 Oak Patch Road
Assessors Map/ Tax Lot(s): 17-04-35-43/ 600 & 601
Zoning: Medium-Density Residential (R-2)

Relevant Dates:
Application received October 25, 2016; deemed complete at the applicant’s request on October 26, 2016; application placed on hold November 18, 2016; additional materials submitted November 22, 2016; application re-noticed on December 6, 2016; applicant requested the City proceed with review of the application on December 7, 2016; decision granting conditional approval issued January 11, 2017.

Background and Present Request
The subject site is approximately 1.48 acres in size, is zoned medium-density residential (R-2), and is located between Oak Path Road and West 14th Avenue. Land to the north and east has a base zone of R-2, while land to the south and west has base zones of R-2 and low-density residential (R-1). The land surrounding the property is developed with single family homes, and multiple-family developments.

On April 27, 2016 building permits were issued for construction of Controlled Income and Rent Housing, which is listed as a permitted use subject to multiple-family standards or PUD approval (see EC Table 9.2740). The applicant opted to have the project reviewed subject to multi-family
development standards as part of the building permit process, rather than requesting PUD approval for the proposed development. The building permits were approved and authorized the construction of five residential buildings which will total 54 units, and one community building, along with associated site improvements for the proposed development (see building permit numbers: 1G-00282-01; 1G-00394-01; 1G-00395-01; 1G-00396-01; 1G-00397-01; and 1G-00398-01). The building permits were appealed to the Land Use Board of Appeals (LUBA), which has prompted the applicant to file what they refer to as a “precautionary” Adjustment Review.

The applicant’s adjustment request was submitted on October 25, 2016 and initially requested that EC 9.5500(5)(a), EC 9.5500(5)(b), EC 9.5500(12)(b)(2), and EC 9.5500(12)(c) be adjusted. Consistent with Type II procedures, the City mailed notice of the application on October 26, 2016. The open record for the first notice closed on November 9, 2016. On November 18, 2016 the applicant requested that the application be placed on hold. On November 22, 2016 the applicant submitted additional materials requesting adjustments to two more code standards: EC 9.5500(4)(b) and EC 9.6735. To give all potentially interested parties sufficient notice, the City mailed a second, updated notice of the application, consistent with Type II procedures on December 6, 2016, which re-opened the record for 14 more days. The open record period for the second notice closed on December 20, 2016. On December 7, 2016 the applicant requested that the City proceed with the formal review of their request for adjustments.

On January 10, 2017, the applicant sent an e-mail to Lead City Staff for this application, requesting that the City withdraw from consideration the applicant’s previous request for an adjustment to EC 9.5500(12)(b)(2).

This application for Adjustment Review is subject to the Type II land use application procedures, which are primarily addressed at Eugene Code (EC) 9.7200 through 9.7230. The following report and decision evaluates the application for compliance with EC 9.8030 Adjustment Review – Approval Criteria.

**Referrals/Public Notice**

The Planning Division initially mailed notice of the application on October 26, 2016 as per the applicable requirements of EC 9.7210. As noted above, additional information was submitted by the applicant on November 22, 2016 and a second notice was sent which included additional addresses from a petition and other interested parties that submitted testimony in response to the first notice. Public testimony is briefly summarized below, and further addressed in the context of the following evaluation of compliance with the applicable approval criteria where relevant to the applicant’s requested adjustments.

**Testimony Received – First Open Record Period**

**Testimony from Mary McCollough received November 9, 2016:** McCollough provided testimony which addresses site review approval criteria for an application titled *The Oaks at 14*th (SR 16-15), which is not included in the present request for adjustment review. McCollough also provided testimony which addresses two of the approval criteria for adjustments at EC 9.8030(4) and EC 9.8030(8). McCollough states that the development will create safety issues for children, and ought to be torn down and replaced with a library to serve women and children. McCollough
ought to be torn down and replaced with a library to serve women and children. McCollough provided a petition, and stated a video was provided to City staff in a separate email. Staff notes that no video was received.

**Testimony from M. Martin received November 9, 2016:** Martin states that the access/exit to Acorn Park Street is dangerous for pedestrians and motorists, and that adding another housing complex will complicate existing safety issues.

**Testimony from Kevin Matthews received November 9, 2016:** Matthews provided comments which address an application for a site review titled *The Oaks at 14th (SR 16-15)* which is not included in the present request. Matthews also provided testimony which addresses specific criteria for approval of adjustment requests. As the testimony relates to specific approval criteria, it is addressed in the following evaluation.

Staff notes that Matthews and McCollough also attached materials related to the LUBA appeal of the building permits noted above (LUBA Nos. 2016-058/059/060/061/052/063), with testimony they submitted on November 9, 2016. Staff notes that these items are not directed towards the approval criteria for the requested adjustments.

**Testimony Received – Second Open Record Period**

**Testimony from Kevin Matthews received November 13, 2016:** Matthews sent an email on November 13, 2016, which was after the close of the first open record, stating that the testimony attached to the email was identical to testimony previously submitted. Matthews provided this testimony to amend formatting issues. Staff placed this testimony into the record during the second open record period.

**Testimony from Kevin Matthews received December 20, 2016:** Testimony from Matthews states that the applicant should have filed a new application, and that re-noticing was not an appropriate way to address new information that was submitted. The main argument is that the City of Eugene process allows for consultation and completion, followed by public comment, and then a decision. In this case Matthews asserts that the applicant’s request would have been a denial, due to issues raised by opponents, and that the City has improperly followed the aforementioned process.

Staff notes in response to Matthews concerns that a fair and open public process is an important aspect of the City’s land use application process. However, staff disagrees with Matthews, finding that the second, additional public notice provided ample opportunity for public comment to be submitted regarding the new information included in the applicant’s request. Additionally, if an opponent had not provided comment on the materials that had initially been submitted, they would have had another opportunity to do so. If anything, the applicant’s additional materials and subsequent re-notice allowed more time (28 days) for the public to review the first materials that were submitted, and also met the code requirement of 14 days for the second set of materials.

**Testimony from an anonymous source received December 20, 2016:** Testimony was received from an individual who explicitly requested that their name and address not be associated with their testimony. Staff explained that while the testimony could be considered in the context of approval
criteria, the individual’s entitlement to future notices, and standing is not guaranteed. Staff had no reason to believe the individual did not fully understand this, and is honoring their request to have anonymous testimony added to the record.

The anonymous testimony raised concerns about the project not meeting the intent of the multiple-family standards at EC 9.5500. Staff notes that the statements related to the intent of multiple-family standards are not approval criteria for the adjustment requests, and does not find a need to further evaluate them. Staff does further evaluate the individual’s comments as they are related to adjustment approval criteria, below.

As previously mentioned, the second public notice included all addresses from the petition submitted by McCollough which were legible. Staff notes that the re-notice generated multiple phone calls from individuals who did not remember signing a petition, or stating that they had not signed a petition and were unsure as to why they had received a notice. Staff also received two written comments about the petition, one from Susan Edson who did not remember signing the petition but recognized other names on the petition. The other comment was from Barbara L. Gunn who did not sign the petition and requested that they be removed from the interested parties list.

To the extent that the public testimony received by the City to date is relevant to the applicant’s specific requests for Adjustment Review and the related approval criteria, the substance of that testimony is further addressed below in the following evaluation.

**Evaluation**

The Eugene Code allows for the adjustment of standards when specific criteria set out at EC 9.8030 are met, instead. The adjustment process is available only where the EC Chapter 9 specifies that an alternative way of meeting a standard is available, see EC 9.8020 Adjustment Review - Applicability.

The applicant has requested to adjust five standards, and in an effort to make this decision easy to read, the adjustment requests are separated into five sections. Each section provides the standard for which the adjustment request has been made (in italics), and an evaluation of the request with findings addressing the approval criteria which are provided (in bold). EC 9.8030 makes clear that the Planning Director shall approve, conditionally approve, or deny an adjustment review application based on compliance with listed criteria.

**Evaluation of Adjustment Request 1**
The applicant has requested to adjust the standard which is provided below:

*EC 9.5500(4) Minimum and Maximum Building Setbacks:*

(b) Street Frontage On development sites that will result in 100 feet or more of public or private street frontage, at least 60 percent of the site frontage abutting the street (including required yards) shall be occupied by a building(s) or enhanced pedestrian space with no more than 20 percent of the 60 percent in enhanced pedestrian space, placed within 10 feet of the minimum front yard setback line. (See Figure 9.5500(4)(b) Multiple-Family Minimum Building Setback Along Streets.) On development sites with less than 100 feet of public or private street frontage, at least
40% of the site width shall be occupied by a building(s) placed within 10 feet of the minimum front yard setback line. Building projections and offsets with an offset interval of 10 feet or less meet this standard (excluding required yards). “Site width,” as used in this standard, shall not include areas of street frontage that have significant natural resources as mapped by the city, delineated wetlands, slopes greater than 15%, recorded easements, required fire lanes or other similar non-buildable areas, as determined by the planning director.

This standard applies to the frontage along Oak Patch Road, and West 14th Avenue. The applicant has requested to adjust this standard, which is evaluated according to the approval criteria below. Staff notes that EC 9.5500(4)(c) specifies that adjustment to the above standard will be considered under the criteria at EC 9.8030(2).

EC 9.8030(2) - Setback Standards Adjustment.
Where this land use code provides that the landscape standards may be adjusted, the standards may be adjusted upon finding that the proposed landscape 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 of significant natural resources.

Regarding subsection (a)(1), the applicant states that the proposal contributes to the continuity of building facades along the street by placing buildings along West 14th Avenue in a similar fashion and distance to the apartment complex to the north that shares access. The applicant also notes that the buildings are located as close to the frontage as possible given the need to provide site access and desire to retain compatibility with adjacent developments by saving trees on-site that provide buffering and screening. The applicant states that the site has 49 feet of frontage along Oak Patch Road which is primarily occupied by an access drive, landscaping and sidewalks.

Testimony from Matthews states that the applicant has not placed buildings as near to the right-of-way as possible. Testimony from the anonymous individual states that the oak grove is limited and does not extend the full width of the proposed apartments.

Staff notes that the apartment complex to the north of the subject site has a building located along West 14th Avenue that has the side of the building oriented towards the street. Staff finds that the applicant’s proposed Building 1 will be oriented in a similar fashion and contributes to the continuity of building facades along the street. Additionally staff notes that the area is residential and many existing buildings are not located directly on the street, often being setback beyond required setbacks. By setting buildings back on the subject site, the applicant mimics the existing landscape.
Regarding subsection (a)2, the applicant states that Sheet G002, of the site plan, demonstrates that the proposal creates an attractive pedestrian environment. The applicant proposes a pedestrian plaza with different paving styles, a gazebo, picnic area, lawn, and landscaped area along West 14th Avenue. Along Oak Patch Road, the applicant states that an attractive pedestrian environment is created by providing clear sidewalk connections that are complimented by pedestrian scale lighting and dense landscaping along the right-of-way.

Testimony from Matthews states that no attractive pedestrian environment is provided as most of the street frontage is taken up by motor vehicle passage.

Staff finds that the applicant’s proposal for the plaza, gazebo, picnic area, and lawn creates an enhanced pedestrian space along West 14th Avenue meeting the requirement of subsection 2 above. However, staff finds that along Oak Patch Road the applicant has not provided sufficient evidence to demonstrate that the proposal creates an attractive pedestrian environment. Staff relies upon the definition of enhanced pedestrian space, which is provided below, to provide a clear condition of approval.

**EC 9.0500 Enhanced Pedestrian Space:** A paved area for use by pedestrians characterized by the incorporation of permanent amenities such as textured paving, planters connected to the earth and planting areas, kiosks, colonnades, drinking fountains, public art, etc. A paved area with portable seating adjacent to a restaurant is also an enhanced pedestrian space.

The applicant will meet the (a)2 criterion by compliance with the following condition of approval:

- In addition to the proposed walkway, driveway, and landscaping, the applicant shall provide one of the following as part of the frontage on Oak Patch Road: textured paving, a planter connected to the earth, a planting area, a kiosk, a colonnade, a drinking fountain, or public art.

Regarding subsection (a)3, the applicant states compatibility with the apartments to the north is achieved by preserving the oak grove to provide screening. Additionally an attractive pedestrian environment faces the apartments to the north. The applicant states that where proposed buildings are adjacent to single family homes, the height of the building has been reduced from 3 stories to 2 stories and a 10 foot setback is provided. Along Oak Patch Road the applicant has set the nearest 3 story building back from the two single family homes on either side of the access drive. The applicant also proposes a new six foot fence around the entire development site, as well as landscaping to buffer all adjacent single family homes.

Testimony provided by the anonymous individual states that the buildings are not all setback 10 feet and that in two cases the setback from low-density residential (R-1) property is only 5 feet. The anonymous individual also states that the windows located on the buildings will overlook neighboring properties, and landscaping will not mask windows. Testimony from Matthews states that concept drawings were shown to many neighbors who signed the petition opposing the project, making the claim of compatibility specious.
Staff measured the distance of the buildings using sheet G002 which has a scale of 1”= 20’ and finds that all buildings are setback at least 10 feet from adjacent properties, staff is unsure what the anonymous individual is referring to. Additionally, staff finds that windows facing adjacent development are not something that is inherently incompatible, especially considering the fact that the applicant has set the buildings 5 feet further from the property line than required, and the use, Controlled Income and Rent Housing, is a permitted residential use (see EC 9.2750 and EC Table 9.2740 respectively).

Regarding the testimony provided by Matthews, staff finds that the petition does not address compatibility in the context of the above criterion. Staff notes that the above criterion is related to landscape, and how built features will related to one another. The petition makes an argument about the types of people who will live in the development, asserting that there is no place for criminals in a densely populated family neighborhood.

Staff finds that the applicant’s statements provide adequate evidence for how the proposed landscape will be compatible with adjacent development. As staff mentioned before, the buildings will be setback 5 more feet than required by EC 9.2750, and to the extent that they will be taller than those located on adjacent properties, residential buildings are not inherently incompatible with other residential buildings.

Based on the above findings, and evidence submitted, EC 9.8030(2) is conditionally met and the adjustment to EC 9.5500(4) is granted.

**Evaluation of Adjustment Request 2**
The applicant has requested to adjust the standard which is provided below for its Building 1:

*EC 9.5500(5) Building Orientation and Entrances:*

(a) **Building Orientation.** Multiple-family residential buildings located within 40 feet of a front lot line shall have their primary orientation toward the street.

The applicant states that Building 1 is located within 40 feet of West 14th Avenue, and the primary entrance is not oriented towards the street (see site plan sheet G002). Staff notes that the above standard would require the building entrance be oriented towards West 14th Avenue, unless adjusted. The applicant has requested an adjustment to this standard, which is evaluated below. Staff notes that EC 9.5500(5)(d) specifies that adjustment to the above standard will be considered under the criteria at EC 9.8030(4).

**EC 9.8030(4) - Building Orientation and Entrance Standards Adjustment.**
Where this land use code provides that building orientation and entrance standards may be adjusted, the standards may be adjusted upon finding that the proposal complies with one of the following:

(a) Promotes compatibility with adjacent property.
(b) Creates building orientations and entrances that achieve all of the following:
   1. Support and augment the building setback, massing and architectural details.
   2. Achieve an attractive streetscape with a strong building presence on existing and future streets.
3. In the case of multiple-family developments, provides socialization benefits to residents.

With regards to EC 9.8030(4)(a), the applicant states that Building 1’s entrance is oriented towards their development site, with the intention of buffering the development from nearby single and multiple-family dwellings. The applicant notes that the surrounding properties have significant open space and tree canopy coverage, and the applicant’s proposal preserves an oak grove which maintains compatibility and aesthetic integrity in relation to surrounding properties.

With regards to EC 9.8030(4)(b), the applicant states that the north side of Building 1 has window coverings, decorative window trim, and fiber cement lap siding (see site plan sheet A211). The applicant notes that the orientation of Building 1 provides a semi-enclosed plaza which will establish an inviting and accessible entry to the site, and provides a gazebo, pedestrian walkway, and preserved oak grove, all of which are amenities for residents and visitors.

The applicant’s narrative also discusses an alternate orientation of Building 1 which would comply with EC 9.5500(5) to demonstrate that the requested adjustment provides more open space and amenities for socialization benefits to residents.

Staff notes that testimony from opponents of the project does not raise points which are specific enough to address in the context of the above criteria. Based on the evidence provided, staff generally concurs with the applicant, and finds that EC 9.8030(4) is met and the requested adjustment is granted.

**Evaluation of Adjustment Request 3**
The applicant has requested to adjust the standard which is provided below for its Building 1:

**EC 9.5500(5) Building Orientation and Entrances:**
(b) Ground Floor Building Entrances. The main entrance(s) of ground floor units of any residential building located within 40 feet of a street must face the front lot line. Main entrances may provide access to individual units, clusters of units, courtyard dwellings, or common lobbies. The following exceptions shall apply:

1. On corner lots the main building entrance(s) may face either of the streets or be oriented to the corner.
2. For buildings that have more than 1 entrance serving multiple units, only 1 entrance must meet this requirement.
3. For buildings proposed to be “side oriented” to public streets due to access requirements and/or dimensional constraints not created by the applicant, main entrances may face up to 90 degrees away from the street provided both of the following apply:
   a. They are visible from the street.
   b. The building side facing the street shall not include windows or views into a parking area or garage and shall contain windows that occupy a minimum of 15% of the facade.

The applicant states that Building 1 is located within 40 of West 14th Avenue. Staff notes that the above code section would technically require all main entrances to be oriented towards the front lot line. The applicant requests that this standard be adjusted, which is evaluated below. Staff notes that
EC 9.5500(5)(d) specifies that adjustment to the above standard will be considered under the criteria at EC 9.8030(4).

**EC 9.8030(4) - Building Orientation and Entrance Standards Adjustment.**
Where this land use code provides that building orientation and entrance standards may be adjusted, the standards may be adjusted upon finding that the proposal complies with one of the following:
(a) Promotes compatibility with adjacent property.
(b) Creates building orientations and entrances that achieve all of the following:
   1. Support and augment the building setback, massing and architectural details.
   2. Achieve an attractive streetscape with a strong building presence on existing and future streets.
   3. In the case of multiple-family developments, provides socialization benefits to residents.

Regarding EC 9.8030(4)(a), the applicant has stated that Building 1’s entrances will mirror the orientation of similar structures immediately across West 14th Avenue, which establishes cohesion with adjacent properties.

Regarding EC 9.8030(4)(b), the applicant states that the location of the entries along the east side of Building 1 promotes efficient massing and enhanced architectural features, such as covered areas in front of the entry doors. The applicant states that the orientation of Building 1 allows for a 700 square foot rain garden (for purposes of providing stormwater treatment) to be located on the north side of the building, mitigates impacts to pedestrian space, preserves natural features, and creates a streetscape comparable to surrounding properties. The applicant states that the orientation of Building 1, in conjunction with Buildings 2, and 6, creates a semi-enclosed plaza, which the entries of Building 1 will face. As noted previously, the amenities of the community plaza include a gazebo, pedestrian walkway, and convenient access to the preserved oak grove.

Staff finds that the applicant’s written narrative and site plans demonstrate that the proposal complies with EC 9.8030(4)(a) and EC 9.8030(4)(b), therefore the adjustment to 9.5500(5)(b) is granted.

**Evaluation of Adjustment Request 4**

The applicant has requested to adjust the standard which is provided below:

**EC 9.5500(12) Vehicle Parking:**
(c) Limitation on Parking Frontage. To strengthen the presence of buildings on the street, parking and vehicle use areas and garages adjacent to any public or private street frontage shall extend across no more than 50 percent of any street frontage. No parking spaces, with the exception of underground parking, shall be placed within any required front yard area. Parking areas shall not be located between buildings and the street. A single-story street level parking garage may not occupy the street frontage of a multiple-family development, except for parking garage driveways.
The applicant’s site plan sheet G002 shows parking placed between Oak Patch Road and Building 5, contrary to the above standard. The applicant has requested to adjust the underlined portion of the above standard to allow that parking, which is evaluated below. Staff notes that EC 9.5500(12)(d) specifies that adjustment to the above standard will be considered under the criteria at EC 9.8030(8)(f).

EC 9.8030(8) - Multiple-Family Standards Adjustment.
Where this land use code provides that the multiple-family standards may be adjusted, the standards may be adjusted upon finding that the design achieves all of the following:

(f) Vehicle Parking. The requirements set forth in EC 9.5500(12) may be adjusted if the proposal achieves to the same degree as would strict compliance with the standards all of the following:
   1. Limitations on the use of continuous parking drives in large-scale multiple-family developments.
   2. Limitations on the size of individual parking lots in multiple-family development.
   3. Minimal negative aspects of parking uses in multiple-family developments.
      Where cost considerations preclude parking beneath or within residential buildings, combinations of partial and interrupted parking drives; on-street parking; and small, dispersed parking courts are an acceptable alternative.

Regarding EC 9.8030(8)(f)1., the applicant states that the proposal achieves compact parking design by concentration required parking on the east portion of the development site, which allows for the preservation of the existing oak grove. Additionally the applicant states that they have met or exceed all applicable codes regulating parking court size and design.

McCollough states that the applicant has provided one access which is a long parking drive. Staff finds that the parking area is not a single drive aisle as the plaza (shown on site plan sheet G002) creates a barrier to the parking area continuing. This limits the parking to the east side of the lot, and maintains an area free of parking drive aisles.

Staff finds that the concentration of the parking on the eastern portion of the site (including the parking located between the building and the road) and the bollards which prevent access to West 14th Avenue effectively limit the parking drive so that it cannot be considered a continuous parking drive. This achieves, to at least the same degree as would strict compliance with the standard, a "limitation on the use of a continuous parking drive."

Regarding EC 9.8030(8)(f)(2), the applicant states that the parking court in question is 6,689 square feet in size, which is less than the 9,000 square feet maximum (see EC 9.5500(12)(b)1.). The site design also uses the minimal permitted depth and width of spaces and the 25 percent reduction in parking that is available at EC 9.6400. Additionally the applicant notes that the parking is concentrated on the eastern portion of the development site to preserve the oak grove along West 14th Avenue.

Staff finds that by reducing the amount of parking spaces provided, and limiting the size of spaces the applicant has limited the size of parking lots consistent with the approval criteria.
Regarding EC 9.8030(8)(f)(3), the applicant states that negative aspects of parking uses in multiple-family developments are: destruction of open space; disruption of current and future transportation patterns; and, unfavorable visual impacts to adjacent properties. The applicant supports their proposal by stating that the oak grove will be preserved, and a 6 foot tall, wood fence will be provided to buffer vehicle parking from adjacent properties.

Staff finds that the applicant has adequately minimized the potential negative aspects of the proposed parking area through a combination of design elements including landscaping, fencing, pedestrian walkways, the gazebo, plaza and protected oak grove, along with the bollards which will restrict through motor-vehicle access other than emergency response vehicles. The condition of approval at Evaluation of Adjustment Request 1 above, will further minimize potential negative impacts and facilitate a more pleasant pedestrian environment along Oak Patch Road through the provision of an enhanced pedestrian space.

Based on the evidence submitted, above findings, and condition contained in this decision EC 9.8030(8)(f) is met and an adjustment to EC 9.5500(12)(c) is granted.

**Evaluation of Adjustment Request 5**
The applicant has requested to adjust the underlined portion of the standard at EC 9.6735(2) which is provided below:

**EC 9.6735 Public Access Required:**
(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.
(3) The standard at (2) may be adjusted if consistent with the criteria of EC 9.8030(28).

Staff notes that the above code section would require the primary access to be taken from West 14th Avenue, rather than Oak Patch Road. The applicant has stated that vehicle access is proposed from West 14th Avenue and Oak Patch Road. Site plan sheet G002 makes it clear that the access connection to Oak Patch Road is intended to serve as the primary access to the development site.

**EC 9.8030(28) - Public Access Required.**
The public access requirement of 9.6735(2) may be adjusted if the site developer demonstrates any of the following:
(a) Physical conditions preclude compliance with EC 7.420. Such conditions may include, but are not limited to, topography, trees, existing buildings or other existing development on the subject property or adjacent property.
(b) The proposed adjustments to the standards will provide safe ingress and egress to the development site, will not negatively impact the efficiency of the public right-of-way, and will not result in a hazard to the bicycle, pedestrian or vehicular traffic using the right-of-way.
(c) The proposed development will not impact one or more of the existing access connections to the development site. Impact to an existing access connection includes,
but is not limited to, increasing the number of vehicles, either directly or indirectly, that will utilize an existing access connection for ingress or egress to the development site. (d) Compliance with EC 7.420(1)(c) will result in traffic patterns inconsistent with the character of the property located within a quarter mile radius of the development site or will increase the number of vehicular trips using the street with the lower classification above the typical daily trip range for that street’s classification.

The application addresses 9.8030(28)(b), underlined above. It states that no hills, curves, or other developments provide visual obstructions traveling to or from the site on Oak Patch Road in either direction. Additionally clear vision exiting the driveway is provided, as single family homes on both sides of the driveway are setback from the street a sufficient distance. The applicant also states that the proposed driveway width is designed to City code standards, allowing for free and easy turning movements for vehicles entering and exiting. The driveway also aligns directly across from a driveway, serving a single family home, which is intended to eliminate conflicting turning movements. Additionally the sidewalks on both sides of Oak Patch Road exist to ensure pedestrian safety, while the flat terrain and clear vision along the road will ensure no hazards are created for vehicles or bicycles.

Matthews submitted testimony which states that the applicant is far from complying with EC 9.8030(28)(b), and that the proposed adjustments would create hazards for bicycles and pedestrians due to lack of refuge from excessive motor vehicle frontages. Matthews also states that the applicant needs to provide specific expert findings, and that they cannot just say something is safe.

Staff finds that the Matthews comments do not provide any evidence which demonstrates that the applicant’s proposal is unsafe, moreover, the applicant has made several specific points as to why their proposal is safe. Staff does not doubt the validity of the applicant’s statements but provides the following condition of approval to add additional credibility to the applicant’s statements and ensure that the criterion at EC 9.8030(28)(b) is met:

- The applicant shall provide the City with a statement that the development’s proposed access from Oak Patch Road will “provide safe ingress and egress to the development site, will not negatively impact the efficiency of the public right-of-way, and will not result in a hazard to the bicycle, pedestrian or vehicular traffic using the right-of-way” from either: (1) a licensed Civil Engineer with special training and experience in transportation engineering and planning; or (2) a Traffic Engineer currently licensed to practice within the State of Oregon, and with special training and experience in transportation engineering and planning.

Based on the evidence provided, an adjustment to EC 9.6735(2) is conditionally granted to allow the primary access to be taken from Oak Patch Road.

**Decision**
Based on the available information and evidence, and based on the preceding findings of compliance with applicable approval criteria and standards, the applicant’s requested adjustments are conditionally approved.

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Conditions of Approval
The following conditions of approval must be met prior to issuance of any occupancy permit for the development:

- In addition to the proposed walkway, driveway, and landscaping, the applicant shall provide one of the following as part of the frontage on Oak Patch Road: textured paving, a planter connected to the earth, a planting area, a kiosk, a colonnade, a drinking fountain, or public art.

- The applicant shall provide the City with a statement that the development’s proposed access from Oak Patch Road will “provide safe ingress and egress to the development site, will not negatively impact the efficiency of the public right-of-way, and will not result in a hazard to the bicycle, pedestrian or vehicular traffic using the right-of-way” from either: (1) a licensed Civil Engineer with special training and experience in transportation engineering and planning; or (2) a Traffic Engineer currently licensed to practice within the State of Oregon, and with special training and experience in transportation engineering and planning.

Post Approval
Pursuant to EC 9.7220, the Planning Director’s decision regarding this Type II application is effective on the 13th day after notice of the decision is mailed, unless appealed according to the procedures in EC 9.7605. This approval does not relieve the applicant of complying with other applicable code provisions or Oregon Revised Statutes, which may otherwise govern the development of the subject property.

Approval Date: 1/11/17

Approved By: [Signature]
Gabriel Flock, Senior Planner, for Eugene Planning Director
BEFORE THE LAND USE BOARD OF APPEALS

OF THE STATE OF OREGON

MARY MCCOLLOUGH
and ACORN PARK COMMUNITY
FOR WELL BEING,
Petitioners,

vs.

CITY OF EUGENE,
Respondent,

and

HOUSING AND COMMUNITY
SERVICES AGENCY OF LANE COUNTY,
Intervenor-Respondent.

LUBA Nos. 2016-058/059/060/061/062/063

FINAL OPINION
AND ORDER

Appeal from City of Eugene.

Zack P. Mittge, Eugene, filed the petition for review and argued on behalf of petitioners. With him on the brief was Hutchinson Cox.

Emily N. Jerome, City Attorney’s Office, Eugene, filed a response brief and argued on behalf of respondent.

Ross M. Williamson, Eugene, filed a response brief and argued on behalf of intervenor-respondent. With him on the brief was Local Government Law Group, PC.

BASSHAM, Board Member; HOLSTUN, Board Chair; RYAN, Board Member, participated in the decision.

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You are entitled to judicial review of this Order. Judicial review is governed by the provisions of ORS 197.850.
Opinion by Bassham.

**NATURE OF THE DECISION**

Petitioners appeal six building permits authorizing construction of a 54-unit apartment complex housing ex-convicts, along with accessory office space for probation and parole officers.

**FACTS**

The subject property is a narrow, mostly rectangular-shaped parcel, 1.48 acres in size, zoned R-2 (Medium Density Residential). To the east the parcel has 50 feet of frontage on Oak Patch Road, a major collector. To the northwest, the parcel abuts an unimproved cul-de-sac at the end of W. 14th Avenue, a local street.

In March 2015, intervenor-respondent Housing and Community Services Agency of Lane County (HACSA) sought a zone verification decision from the city to categorize proposed development of the property and determine what land use reviews would be required. The development proposed in the request for zone verification included five, three-story multi-family structures, with 54 total units, and one single-story community building. The community building would include an office for two probation and parole officers, who would provide services to the residents.

On March 30, 2015, the city issued the zone verification decision, concluding that under the Eugene Code (EC) the proposed development qualified as Controlled Income and Rent Housing (CIR), which is a type of
multi-family development that is a permitted use in the R-2 zone, subject to special standards.\(^1\) Record 458. The decision noted that the maximum density on the property for multi-family development in the R-2 zone would be 28 units, but that as CIR development the proposal qualifies for a density bonus and reduced parking requirements, allowing a maximum of 62 units. The zone verification decision also concluded that the proposed probation office would be allowed as an accessory use to the CIR development, if the office is limited to providing services only to the residents. Otherwise the proposed office would require a conditional use permit.

Subsequently, HACSA filed six building permit applications with the city, seeking approval of the six proposed buildings and the proposed accessory probation office. To illustrate compliance with parking, access, grading and other requirements, HACSA submitted a number of plans, including a site plan. The site plan proposes several parking courts and two paved open areas,

\(^1\) The city’s code at EC 9.0500 defines CIR development as follows:

"**Controlled Income and Rent Housing.** A housing project, or that portion of a larger project, consisting of any dwelling type or types exclusively for low-income individuals and/or families, sponsored by a public agency, a non-profit housing sponsor, a developer, a combination of the foregoing, or other alternatives as provided for in the Oregon Revised Statutes or Federal Statutes to undertake, construct, or operate housing for households that are low-income. For the purposes of this definition, low-income means having income at or below 80 percent of the area median income. (See Map 9.2740 Areas Unavailable for Controlled Income and Rent (CIR) Housing with Increased Density.)"
described as The Plaza and the Courtyard, as well as a stormwater retention facility. HACSA proposed to provide vehicular access to the site via a 20-foot wide driveway connecting to Oak Patch Road, with the remainder of the 50-foot-wide frontage occupied by a sidewalk and a parking lot. Fire access would be provided by connecting a 20-foot-wide fire lane to the unimproved cul-de-sac that abuts the northwest end of the property, with the fire lane closed by bollards. HACSA proposed to pave a portion of the cul-de-sac to connect the fire lane to the existing pavement in W. 14th Avenue.

On April 27, 2016, the city approved the six building permits. Petitioners appealed the six permits to LUBA, and those appeals have been consolidated for review.  

FIRST ASSIGNMENT OF ERROR

Petitioners argue that the city erred in failing to process the application for the proposed CIR development as a statutory “permit” decision, as defined at ORS 227.160(2), which would have provided for notice to nearby landowners and an opportunity for a public hearing. ORS 227.160(2) in relevant part defines “permit” as the “discretionary approval of a proposed development of land, under ORS 227.175 or city legislation or regulation.”

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2 In a previous order, LUBA rejected HACSA’s motion to dismiss these appeals based on the “ministerial” exception to LUBA’s jurisdiction, at ORS 197.015(10)(b)(A). McCollough v. City of Eugene, __ Or LUBA __ (LUBA Nos. 2016-058/059/060/061/062/063, Order, September 1, 2016).

3 ORS 227.160 provides, in relevant part:

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ORS 227.175 generally requires a city to provide notice and hearing on an
application for a “permit.”

In Tirumali v. City of Portland, 41 Or LUBA 231, 240 (2001), aff’d 180
Or App 613, 45 P3d 519 (2002), LUBA held that a decision approving a
building permit for a use permitted in the applicable zone did not constitute the
“discretionary approval of a proposed development of land,” even if the
standards that governed approval of the building permit included ambiguous
terms that required interpretation. In Richmond Neighbors v. City of Portland,
67 Or LUBA 115, 121 (2013), we explained that a building permit approval
could potentially constitute a statutory “permit,” if the decision requires
interpreting ambiguous or discretionary land use standards that go to the nature

“As used in ORS 227.160 to 227.186:

“* * * * *”

“(2) ‘Permit’ means discretionary approval of a proposed
development of land, under ORS 227.215 or city legislation
or regulation. ‘Permit’ does not include:

“(a) A limited land use decision as defined in ORS
197.015;

“(b) A decision which determines the appropriate zoning
classification for a particular use by applying criteria
or performance standards defining the uses permitted
within the zone, and the determination applies only to
land within an urban growth boundary[.]”
of the proposed use itself, and whether or not the use is correctly categorized as
a permitted use.

In the present case, petitioners argue that, for the reasons set out in the
second assignment of error, the city was required to conduct site review of the
proposed development under EC at EC 9.8425 et seq., because the proposed
CIR development constitutes “needed housing” as defined by statute. As
explained below, we disagree with petitioner that site review is required under
the city’s code. For that reason alone, petitioners’ arguments under the first
assignment of error do not provide a basis for reversal or remand. In any case,
even if petitioners were correct that the city’s code requires site review for the
proposed CIR development, that conclusion would not mean that the six
building permit decisions before us are “permits” as defined at ORS
227.160(2).

First, the March 30, 2015 zone verification decision determined that the
proposed use is properly categorized as a CIR use under the city’s zoning code,
which is a permitted use in the R-2 zone, subject to special standards.
Petitioner does not dispute that determination (and any dispute on that point
advanced in this appeal would be an impermissible collateral attack on the zone
verification decision). The March 30, 2015 zone verification decision

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4 The March 30, 2015 zone verification decision constituted what LUBA has described as a “zoning classification” decision, defined at ORS 227.160(2)(b) as a “decision which determines the appropriate zoning classification for a particular use by applying criteria or performance standards
answered the posed questions about the nature of the proposed use, and whether it is a permitted use in the R-2 zone, and those answers cannot be collaterally attacked in the present appeals of the building permit decisions. The building permit decisions simply relied upon those prior determinations about the nature and proper categorization of the proposed use, and those questions were therefore not at issue in rendering the building permit decisions. For those reasons, the building permit decisions did not involve or require exercise of the kind of discretion that we noted in *Tirumali* and *Richmond Neighbors* might be sufficient to render a building permit decision a “permit” decision as defined at ORS 227.160(2).

Second, a conclusion that the city’s site review standards apply to the proposed development would not support—in fact it would undermine—petitioners’ argument that the building permit decisions are “permit” decisions as defined at ORS 227.160(2). That is because ORS 227.160(2)(a) excludes from the definition of “permit” that species of decision known as a limited land use decision. See n 3. ORS 197.015(12) defines “limited land use decision” in relevant part as the “approval or denial of an application based on discretionary defining the uses permitted within the zone[.]” See n 3. A zoning classification decision is appealable to LUBA. ORS 227.175(11). The March 30, 2015 zone verification decision was not appealed to LUBA, and it is a final land use decision that cannot now be challenged in the appeal of the building permit decisions that rely on the March 30, 2015 decision. That said, it is important to recognize that a zoning classification decision is a limited tool that resolves only those land use planning questions regarding a specific proposed development that are actually asked and answered.
standards designed to regulate the physical characteristics of a use permitted
outright, including but not limited to site review and design review.” The
city’s site review standards appear to be standards “designed to regulate the
physical characteristics” of permitted uses, which is a common function of site
review. Even if some of the city’s site review standards are discretionary, as
petitioners argue, that would only confirm that a decision applying such
standards would constitute a limited land use decision, which is expressly
excluded from the definition of “permit.” Accordingly, petitioners’ argument
that the city’s site review standards apply undercuts their position that the
building permit decisions are “permit” decisions as defined at ORS 227.160(2).

The first assignment of error is denied.

SECOND ASSIGNMENT OF ERROR

Petitioners argue that because the proposed CIR development qualifies
as “needed housing” as that term is defined under state law, the EC provisions
governing site review at EC 9.8425 et seq. require the development to undergo
site review. As discussed below, EC 9.8425 provides that site review “shall be
applied” to an “application that proposes needed housing.” Further, because

5 And if none of the city’s site review standards are discretionary, then for
that reason alone a decision applying only nondiscretionary site review
standards could not constitute a “permit” decision, which is defined as the
“discretionary approval of a proposed development of land[,]” See n 3.

6 EC 9.8430 provides, in relevant part:
site reviews for needed housing must be processed under "Type II" procedures, which require notice to nearby landowners and an opportunity to comment, petitioners argue that the city failed to follow the correct procedure.

"Applicability. Site review provisions shall be applied when any of the following conditions exist:

"(1) Property is zoned with the /SR overlay zone and the proposal would result in either of the following:

(a) New development of vacant sites **.

(b) An expansion of 20 percent or more of the total existing building square footage on the development site.

"(2) The proposed use on the property is identified as a use which requires site review under other provisions of this land use code and the proposal would result in either of the following:

(a) New development of vacant sites **.

(b) An expansion of 20 percent or more of the total existing building square footage on the development site.

"(3) The application proposes needed housing, as defined by State statutes. Applications proposing needed housing shall be reviewed through the Type II site review procedures utilizing the criteria at EC 9.8445 Site Review Approval Criteria - Needed Housing unless the applicant specifically request[s] in the application that the city apply the criteria at EC 9.8440 Site Review Approval Criteria - General." (Emphasis added).
EC 9.8430, entitled “Applicability,” requires that site review provisions “shall be applied when any of the following conditions exist[,]” followed by three conditions. See n 6. The first condition is where the property is zoned with an /SR overlay, which is not the case here. The second condition is where “proposed use on the property is identified as a use which requires site review under other provisions of this land use code for the property[.]” This second condition appears to apply when EC provisions, such as EC Table 9.2740, which we discuss below, specify that site review is required for a particular use category. The second condition also does not apply in this case.

Petitioners argue that the third condition applies in the present case. The third condition is where “[t]he application proposes needed housing, as defined by State statutes.” As petitioners argue, ORS 197.303(1) defines “needed housing” in relevant part to include “Government assisted housing[.]”

7 ORS 197.303(1) provides:

“As used in ORS 197.307, ‘needed housing’ means housing types determined to meet the need shown for housing within an urban growth boundary at particular price ranges and rent levels, including at least the following housing types:

“(a) Attached and detached single-family housing and multiple family housing for both owner and renter occupancy;

“(b) Government assisted housing;

“(c) Mobile home or manufactured dwelling parks as provided in ORS 197.475 to 197.490;
Petitioners argue that the proposed CIR development is accurately described as “Government assisted housing,” and therefore is “needed housing” as defined by ORS 197.303(1). Because the proposed CIR development is “needed housing,” petitioners argue based on the plain text of EC 9.8430(3) that the city’s site review provisions “shall be applied” to the proposed CIR development.

The city and intervenor do not dispute that CIR development is “needed housing” as defined at ORS 197.303(1). However, respondents argue in their briefs that EC 9.8430(3), read in context, should not be interpreted, as petitioners do, to require site review for all applications that happen to involve needed housing as defined by ORS 197.303(1).

Under respondents’ view, the starting point for analysis is EC Table 9.2740. EC Table 9.2740 is entitled “Residential Zone Land Uses and Permit

(d) Manufactured homes on individual lots planned and zoned for single-family residential use that are in addition to lots within designated manufactured dwelling subdivisions; and

(e) Housing for farmworkers.”

The challenged building permit decisions include no findings or interpretations of the applicable code provisions, so there are no interpretations to review. In such cases, LUBA may interpret the relevant code provisions in the first instance, based on the general template for statutory construction set out in PGE v. BOLI, 317 Or 606, 610-12, 859 P2d 1143 (1993). See also ORS 197.829(2) (where the local government fails to adopt a reviewable interpretation of a local regulation LUBA may make its own determination whether the local government decision is correct).
“(P) Permitted.

“(SR) Permitted, subject to an approved site review plan or an approved final planned unit development.

“(C) Subject to an approved conditional use permit or approved final planned unit development.

“(PUD) Permitted, subject to an approved final planned unit development.

“(S) Permitted, subject to the Special Development Standards for Certain Uses beginning at EC 9.5000.”

Table 9.2740 includes a section that lists “Residential” “Dwellings,” which range from one-family dwelling to CIR development. Most residential use categories are identified with a single review type in the various residential zones. For example, a one-family dwelling is identified as “P” (permitted) in the R-1, R-2, R-3 and R-4 zones. Notably, none of the residential uses listed in Table 9.2740 identify “SR” (permitted, subject to site review) as a required review type in any zone. However, two residential uses in Table 9.2740 present the applicant with a choice between two review types in the R-2 zone,
and for one of those use types, manufactured home park, the applicant has the choice of seeking site review:

<table>
<thead>
<tr>
<th>Dwellings</th>
<th>R-2 Zone</th>
</tr>
</thead>
<tbody>
<tr>
<td>Manufactured Home Park. Shall comply with EC 9.5400 or site review.</td>
<td>S or SR</td>
</tr>
<tr>
<td>Controlled Income and Rent Housing where density is above that normally permitted in the zoning yet not to exceed 150%. (Shall comply with multiple-family standards in EC 9.5500 or be approved as a PUD)</td>
<td>S or PUD see Map 9.2740</td>
</tr>
</tbody>
</table>

Table 9.2740 thus provides that the applicant for a proposed CIR use may choose one of two paths to approval: under “S” (Permitted, subject to the “Special Development Standards for Certain Uses beginning at EC 9.5000”), or PUD (Permitted, subject to an approved final planned unit development). In the present case, HACSA chose the S path rather than the PUD path.

The city and HACSA argue that the fact that Table 9.2740 includes a review type of “SR” (permitted, subject to an approved site review plan), and that the CIR use category does not specify “SR” in the R-2 zone, means that the city did not intend to require that CIR development in the R-2 zone be potentially subject to site review standards. As context, the city also notes that the immediately preceding use category, manufactured home park, offers the applicant the choice of proceeding under the “S or SR” path. The city argues that this context makes it clear that the omission of “SR” from the Table 9.2740 entry for CIR development was not accidental, and had the city intended to
require an applicant for CIR development to obtain site review, or even offer that option, the city clearly knew how to do so.

Further, the city and, at greater length, HACSA, argue that the fact that Table 9.2740 makes site review *optional* for some listed uses, such as manufactured home parks, has implications for the meaning of EC 9.8430(3). Read in this context, respondents argue, EC 9.8430(3) is directed at circumstances where the EC provides the applicant the *option* of seeking site review for proposed needed housing, and the applicant chooses to exercise that option. HACSA argues that this more limited interpretation of EC 9.8430(3) is consistent with its terms, which concerns applications where the applicant “proposes” needed housing. According to respondents, the term “proposes” suggests that the applicant must intend, and deliberately choose, to seek review of the application as needed housing.

Respondents also argue that a more limited interpretation of EC 9.8430(3) harmonizes that code provision with Table 9.2740, and avoids absurd consequences that would flow from adopting petitioners’ more expansive interpretation of EC 9.8430(3). Respondents note that even single-family dwellings constitute needed housing as defined at ORS 197.303(1) (*see n 7*), and argues that under petitioners’ interpretation a building permit application for any single family dwelling in the city’s residential zones would be required to undergo site review under the city’s Type II process. According to respondents, mandating site review under Type II procedures for every
possible form of needed housing, including building permit applications for single family dwellings, would be inconsistent with ORS 197.307(4), which prohibits local governments from implementing standards that “have the effect, either in themselves or cumulatively, of discouraging needed housing through unreasonable cost or delay.” Respondents argue that LUBA should not adopt petitioners’ expansive interpretation of EC 9.8430(3), because it would force the city’s code into unnecessary conflict with ORS 197.307(4).

With respect to Table 9.2740, petitioners argue to the extent Table 9.2740 and EC 9.8430(3) conflict, the city’s code provides that the latter controls. Petitioners cite EC 9.8005, entitled “Applicability and Effect of Application Requirements, Criteria, and Concurrent Review,” which provides in relevant part:

“Additional provisions addressing the applicability of sections 9.8000 through 9.8865 are found in EC 9.2000 through 9.3915, which identify various uses that require approval of a particular land use application. Land use applications referred to in EC 9.8000 through 9.8865 are subject to the procedural requirements in EC 9.7000 through 9.7885, Application Procedures, and any additional requirements of EC 9.8000 through 9.8865. To the extent there is a conflict, the provisions in EC 9.8000 through 9.8865 control.” (bold added).

Thus, petitioners argue, if Table 9.2740 conflicts with EC 9.8430(3) by omitting to specify that CIR development (and presumably other needed housing) is subject to required site review, then Table 9.2740 must give way to EC 9.8430(3).
The city’s code is no model of clarity on this point. However, while it is a reasonably close question, we agree with respondents that, read in context, EC 9.8430(3) should not be interpreted to require that all applications for development that falls within the definition of needed housing at ORS 197.303(1) must undergo site review.

There is no dispute that the disputed CIR housing qualifies as “needed housing,” under the statutory definition of that term. Therefore, if the phrase “[t]he application proposes needed housing,” requires no particular intent on the part of the applicant, and the only question is whether the proposed housing qualifies as “needed housing” as the statutes defines that term, then the application in this case is subject to site review under EC 9.8430(3). But so would a building permit for one single family dwelling if that dwelling qualifies as needed housing under the statute. We seriously doubt the city intended to subject every single building permit for housing that qualifies as needed housing to site review. As respondents point out, such a requirement could easily run afoul of ORS 197.307(4), which prohibits local governments from imposing standards, conditions and procedures that have the effect, either in themselves or cumulatively, of discouraging needed housing through unreasonable cost or delay.

Although the parties do not discuss it, we note that the similar phrase “applications proposing needed housing” is expressly defined earlier in the EC at EC 9.6010, which states:
"(1) As used in EC chapter 9.6000, the term 'applications proposing needed housing' includes:

"(a) Applications that are proceeding (or have proceeded) under EC 9.8100, 9.8220, 9.8325, 9.8445, or 9.8520 [setting out alternative clear and objective tracks for needed housing under chapters governing conditional use permits, PUDs, site review, subdivisions etc.]; or

"(b) Applications for development permits for uses permitted outright in the subject zone if the applicant has demonstrated that the proposed housing is needed housing as defined by state statutes.

"(2) The term does not include an application that could have proceeded under EC 9.8100, 9.8220, 9.8325, 9.8445, or 9.8520, but the applicant elected to proceed under the discretionary approval process." (Emphasis added).

EC chapter 9.600 sets forth a number of general development standards that apply to all development. The phrase “applications proposing needed housing” is used several times in EC chapter 9.6000 to flag general development standards that can be waived or avoided if the application proposes needed housing. See, e.g., EC 9.6815(2)(e), EC 9.6845, and EC 9.6865(1) and (2).

Under the above definition of the phrase “applications proposing needed housing,” some action on the part of the applicant must be taken to qualify the application for the special treatment that is provided under the EC for needed housing. Importantly, “for development permits for uses permitted outright in the subject zone,” the applicant must demonstrate that the proposed housing is needed housing, before the applicant is entitled to differential treatment under EC 9.6000 et seq. Without that demonstration, the application for a
development permit for a use permitted outright would not be treated as one for
needed housing, even if the development is in fact “needed housing” as defined
by statute.

It seems highly likely that the term “permitted outright,” as used in EC
9.6010(1)(b) includes what EC 9.2740 calls “(P) Permitted,” as well as “(S)
Permitted subject to the Special Development Standards for Certain Uses
beginning at EC 9.5000.” Thus, an application for a P or S use can become an
application entitled to the special treatment given to needed housing under EC
9.6000 et seq., if the applicant makes the demonstration required by EC
9.6010(1)(b).

EC 9.8430(3) uses almost the identical phrase as defined in EC 9.6010,
“[t]he application proposes needed housing,” and it seems highly likely that the
city intended that phrase to have a similar meaning and to play a similar role.
Under this view, for purposes of EC 9.8430(3) an applicant “proposes” needed
housing for permitted uses (e.g., uses categorized on Table 9.2740 as P or S)
when the applicant takes positive steps to qualify the development as needed
housing. If the applicant chooses to do so, then the applicant can qualify for
special treatment not only under EC chapter 9.6000 but also under EC 9.8445,
which sets out a special non-discretionary approval track for site review for
needed housing.

As evidenced by the cross-references between EC 9.6010 and EC
9.8445, it is clear that the two provisions are intended to work together. In our

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view, if an applicant for a permitted use chooses to demonstrate that proposed
development qualifies as “needed housing,” and thus becomes entitled to
special treatment under EC chapter 9.6000, it follows that the development is
also treated as “needed housing” for purposes of EC 9.8445, and vice versa. In
both cases, the applicant must qualify for the special treatment afforded
under those provisions by positively seeking to qualify the development as
“needed housing.” See EC 9.8445(1) (requiring the applicant to “demonstrate[]
that the proposed housing is needed housing as defined by State statutes”). If
the applicant chooses not to make that demonstration, then the development is
subject to all applicable standards in EC chapter 9.6000 and, if site review is
otherwise required, also subject to the discretionary and more difficult to
satisfy general site review standards at EC 9.8440.

Under the foregoing view, the phrase “[t]he application proposes needed
housing” as used in EC 9.8430(3) refers, however imperfectly, to permitted
uses for which Table EC 9.2740 or other EC provisions do not require site
review, but for which the applicant seeks to qualify as needed housing, in order
to take advantage of special treatment for needed housing under several EC
provisions. That view perhaps does as much as possible to harmonize Table
whole, and avoid the alleged code conflicts that petitioners and respondents
create by their contrasting interpretations, which tend to focus on isolated code
provisions without viewing them in their full context.
Applying our interpretation to the present circumstances, it is undisputed that HACSA did not seek to qualify the proposed CIR development as needed housing, for purposes of EC chapter 9.6000, EC 9.8445, or any other code provision. Had HACSA attempted to make that demonstration for some code purposes, it would necessarily qualify the development as needed housing for all code purposes, including site review. However, we agree with respondents that because HACSA did not attempt to demonstrate that the CIR development qualifies as needed housing for any purpose, including to receive special treatment under EC 9.6000 et. seq., the application did not "propose[]" needed housing within the meaning of EC 9.8430(3).

For the foregoing reasons, we disagree with petitioners that the city erred in failing to require HACSA to undergo site review and process the building permit applications under Type II procedures.

The second assignment of error is denied.

THIRD ASSIGNMENT OF ERROR

Petitioners argue that the city erred in failing to impose a condition to ensure that the proposed probation office serves only residents of the development.

As noted, the March 30, 2015 zone verification decision concluded that a parole and probation office could be approved as an accessory use to the CIR development, if services were limited to residents. Otherwise, the decision concluded, conditional use review would be required.
Petitioners argue that at a January 29, 2015 neighborhood meeting on the CIR proposal, a HACSA representative indicated that the probation office would house two officers, and that each officer has a caseload capacity of approximately 65 persons. Supp Record 2. Petitioners argue that this potential capacity of 130 persons far exceeds the maximum number of residents in the CIR development. According to petitioners, a condition of approval limiting services to residents is necessary to prevent the possibility that the probation and parole agency would assign a full case load including some non-residents to the two case officers and that the officers would serve those non-residents from the offices at the site.

The city and HACSA respond, and we agree, that the city is not required to impose a condition of approval limiting parole and probation services to residents. The March 30, 2015 zone verification decision reviewed the proposed accessory use, which was limited to providing services to residents, and carefully noted that the office use qualified as a permitted accessory use to the permitted residential use only if limited to providing services to the residents. In submitting the building permit applications, HACSA proposed the same development evaluated in the zone verification decision, and the city approved the same. We disagree with petitioners that under these circumstances the city must impose a condition of approval to prohibit what is
essentially a different use than that authorized in the challenged decisions. As we noted in our order denying the motion to dismiss, if HACSA in fact develops a different type of office use on the property than the one approved, the city has enforcement authority to limit development to that approved in the building permits.

The third assignment of error is denied.

9 The cases petitioners cite for that proposition involve very different circumstances. *Neste Resins Corp. v. City of Eugene*, 23 Or LUBA 55 (1992), involved a comprehensive plan amendment that would allow a high density of residential development inconsistent with school capacity. To avoid violating a statewide planning goal, the applicant promised to develop only housing for senior citizens, but the decision did not impose any condition of approval to that effect or limit the type or density of residential development allowed under the plan amendment. Here, the applicant proposed and the challenged building permits approved an accessory office limited to serving residents, an accessory use that has already been determined to be a permitted use in the R-2 zone, and we do not believe that the city was required to anticipate that the applicant might in fact operate a different use, a non-accessory office, that is a conditional use in the R-2 zone. Similarly, in *K.B. Recycling, Inc. v. Clackamas County*, 41 Or LUBA 29 (2001), the county imposed a condition to ensure that truck traffic from a proposed use did not cause intersections to fail, in violation of the statewide transportation planning goal. LUBA concluded that the evidentiary record did not demonstrate that the condition would be effective to ensure compliance with the goal. While it is common to impose conditions to ensure that approved development satisfies applicable criteria, we do not believe it is common, or required, to impose a condition to prohibit an applicant from developing different uses than that proposed and approved.
FOURTH ASSIGNMENT OF ERROR

Petitioners contend that the city misapplied several general development standards at EC 9.6000 et seq., with respect to site access and required public dedications.

A. Site Access

As noted, the applicant proposed and the city approved taking site access from Oak Patch Road, a major collector, instead of W. 14th Avenue, a local street. EC 9.6735(2) requires that access from a public street to a development site be located in accordance with EC 7.420. In turn, EC 7.420(1)(c) requires that “[i]f a parcel has frontage on two or more streets with different street classifications, the access connection shall access the street of the lowest classification[.]” unless the applicant can demonstrate that one of three exceptions apply.¹⁰

¹⁰ EC 7.420(1)(c) provides:

“If a parcel has frontage on two or more streets of different street classifications, the access connection shall access the street with the lowest classification. The access connection can access the street with the higher classification if the applicant can demonstrate (1), (2) or (3):

“1. Both of the following conditions are met:

   “a. The proposed access connection is abutted by two or more directional travel lanes or an auxiliary deceleration lane; and
Petitioners argue that nothing in the applications or building permit decisions address compliance with EC 7.420(1)(c), or attempt to demonstrate that any of three exceptions in EC 7.420(1)(c) apply to authorize taking access from Oak Patch Road, the higher classification street. Petitioners note that a narrative on the site plan addressing one of the multi-family standards at EC 9.5500(4)(b) states that “the frontage on W 14th Avenue is limited by the existing conditions: the cul-de-sac was never developed and supports a wonderful Natural Feature—a mature Oak grove.” RE-2. Petitioners speculate that the foregoing was perhaps intended to serve double duty in demonstrating that “[p]hysical conditions preclude locating the access connection on the street with the lower classification,” for purposes of EC 7.420(1)(c)(2). However, petitioners argue that, even if so, the narrative fails to demonstrate that “physical conditions preclude locating the access connection” on W. 14th Avenue. Petitioners argue that the undeveloped status of the cul-de-sac is not a

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“b. The applicant proposes a restricted movement access connection, including but not limited to median barriers or directional in/out barriers.

“2. Physical conditions preclude locating the access connection on the street with the lower classification. Such conditions may include, but are not limited to, topography, trees, existing buildings or other existing development on the subject property or adjacent property.

“3. The access connection for a parcel with frontage on an arterial or major collector can be located consistent with the requirements of EC 7.420(2)(a)-(e).”
“physical condition” that precludes access, because the city could simply require the applicant to develop the cul-de-sac to the extent necessary to provide access. Further, petitioners argue that, as approved, the cul-de-sac will accommodate a 20-foot wide driveway and access point for fire access, the same width as for the proposed 20-foot wide driveway accessing Oak Patch Road, so the “mature Oak grove” located near the cul-de-sac clearly does not “preclude” a 20-foot wide access connection to the cul-de-sac. Petitioner also notes that the applicant proposes to landscape some of the cul-de-sac frontage and to construct a gazebo near the middle of the cul-de-sac frontage, in order to satisfy requirements, discussed below, to locate buildings with a certain distance of street frontage.

HACSA responds that the existing grove of oak trees at one corner of the cul-de-sac frontage limits full access to the cul-de-sac and therefore the exception at EC 7.420(1)(c)(2) applies. However, physical conditions that may “limit” access is not the test under EC 7.420(1)(c)(2); the test is whether physical conditions “preclude” access to the lower classification street. Nothing in the record establishes that either the applicant or the city considered that question at all, or establishes compliance with EC 7.420(1)(c) in general. We agree with petitioners that remand is necessary for the city to consider compliance with EC 7.420(1)(c) in the first instance.

This sub-assignment of error is sustained.
B. Dedication and Construction of Infrastructure

Several EC 9.6000 general development standards, which apply to all development, require the developer to dedicate land for or to construct public infrastructure improvements. EC 9.6505(3)(b) provides in relevant part that:

"The developer shall pave streets and alleys adjacent to the development site to the width specified in EC 9.6870 Street Width, unless such streets and alleys are already paved to that width, provided the City makes findings to demonstrate consistency with constitutional requirements."

Similarly, EC 9.6770(1) requires the public transit operator to review site plans and may recommend transit-related facilities for residential development having an average peak hour trip rate of 25 trips or greater, and if so that the city shall require that the transit-related facilities recommended by the transit operator be identified on the site plan and constructed at the time of development, "[t]o the extent [the city] demonstrates consistency with constitutional requirements[.]

Finally, EC 9.6835(1) provides that the "city shall require within the development site the dedication to the public and improvement of accessways for pedestrian and bicyclist use to connect the development site to adjacent cul-de-sacs * * * provided the city makes findings to demonstrate consistency with constitutional requirements." The site plan at RE-2 appears to show

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Petitioners argue that, according to the Institute of Traffic Engineers' manual, apartments such as those proposed generate .58 trips per unit during the p.m. peak hour, or a total of 31 trips.
construction of a sidewalk connecting the proposed development to the W. 14th Avenue cul-de-sac, but nothing in the record indicates that the city considered requiring the dedication of that sidewalk. EC 9.6835(2) imposes a similar obligation with respect to existing unimproved public accessways on properties adjacent to the development site.

Petitioners argue that each of these three code provisions are mandatory and applicable to the proposed development, but that the record does not include any indication that either the applicant or the city considered them in approving the development, or that any attempt was made to address them.

The city responds that each of the cited EC provisions merely authorizes the city to require dedications or construction of public improvements, if the city makes findings to demonstrate consistency with constitutional requirements. In some cases such findings cannot be made, the city argues, and even if such findings could be made, nothing in the EC requires the city to exact land or improvements in all cases.

HACSA responds that these three EC provisions are not land use standards at all, but rather provisions that simply govern how much property might be dedicated for public infrastructure and how that infrastructure is to be constructed. HACSA also agrees with the city that the three EC provisions authorize, but do not require, the city to impose exactions, if the city chooses to make the necessary findings.
We disagree with HACSA that the cited EC provisions are not land use standards potentially applicable to the proposed development. Land use standards often impose requirements for dedication and construction of required public improvements, and the three EC provisions at issue here are atypical only in expressly recognizing that the city’s ability to require dedication of land or construction of public infrastructure may be limited by constitutional constraints, specifically the Takings Clause of the United States Constitution.

EC 9.6505(3)(b), EC 9.6770(1), EC 9.6835(1) each mandate that developers provide specified dedications and public infrastructure, if among other things the city can justify those exactions as being consistent with constitutional limits on unlawful takings. As expressed in its brief, the city takes the apparent position that the requirement to adopt findings to justify exactions means that city staff have the discretion to choose whether or not to pursue the exactions specified by these three code provisions. The city appears to suggest that city staff can simply decide to waive the potential application of EC 9.6505(3)(b), EC 9.6770(1), EC 9.6835(1) in individual cases, without any explanation, standards or authority for such waiver. If that is the city’s position, it would seem to invite potentially unequal application of the law in a manner that might create more constitutional problems than it would avoid. No authority that we are aware of would allow city staff to make ad hoc decisions
on whether or not to seek to impose specific exactions potentially required by city code.

We do not mean to suggest that EC 9.6505(3)(b) and EC 9.6835(1) require the city to prove a negative, i.e., that required exactions cannot be constitutionally justified. However, in our view, at a minimum EC 9.605(3)(b) and EC 9.6835(1) impose on the city the obligation to consider whether it will seek to justify exactions of land or improvements that these provisions potentially require from developers, even if it ultimately decides that some or all potentially required exactions cannot be justified consistent with constitutional limitations, and even if it ultimately decides that an adjustment is warranted for some or all requirements.

EC 9.6770(1) imposes on the city the initial obligation of referring to the local public transit authority the question of whether dedications or exactions for transit-related facilities are warranted, and further obligations if the transit authority recommends such facilities. Even if some uncited authority exists for city staff to waive the potential application of these code provisions prior to conducting an analysis of consistency with constitutional limitations, the record must at a minimum include some evidence that staff consciously exercised that authority, if not a principled explanation of the reasons. The present record includes no such evidence or explanation. Absent such authority, the city must squarely address its obligations under EC 9.6505(3)(b), EC 9.6770(1), and EC 9.6835(1) in the first instance.
This sub-assignment of error is sustained.

The fourth assignment of error is sustained.

FIFTH ASSIGNMENT OF ERROR

Petitioners argue that the city misapplied several multi-family development standards at EC 9.5500.

A. Street Frontage

As noted, the subject property has 50 feet of frontage on Oak Patch Road, and at least 145 feet of frontage, perhaps more, along the W. 14th Avenue cul-de-sac. EC 9.5500(4) requires that for sites with 100 feet or more of street frontage, at least 60 percent of the street frontage must be occupied by a building or enhanced pedestrian space within 10 feet of the front yard setback line. For sites with less than 100 feet of street frontage, at least 40 percent of

EC 9.5500(4)(b) provides, in relevant part:

“Street Frontage. On development sites that will result in 100 feet or more of public or private street frontage, at least 60 percent of the site frontage abutting the street (including required yards) shall be occupied by a building(s) or enhanced pedestrian space with no more than 20 percent of the 60 percent in enhanced pedestrian space, placed within 10 feet of the minimum front yard setback line. (See Figure 9.5500(4)(b) Multiple-Family Minimum Building Setback Along Streets.) On development sites with less than 100 feet of public or private street frontage, at least 40% of the site width shall be occupied by a building(s) placed within 10 feet of the minimum front yard setback line. * * * ‘Site width,’ as used in this standard, shall not include areas of street frontage that have significant natural resources as mapped by the city, delineated wetlands, slopes greater than 15%, recorded easements,
the site width must be occupied by buildings within 10 feet of the front yard setback. However, petitioners argue that HACSA proposed a 20-foot wide driveway and a parking lot, and no buildings, within 10 feet of the front yard setback within the Oak Patch frontage. Further, petitioners argue that HACSA did not satisfy the requirement that at least 60 percent of the W 14th Avenue frontage be occupied by buildings or enhanced pedestrian space within 10 feet of the setback.

With respect to Oak Patch Road, HACSA responds that the 50-foot frontage along that street is not actually "frontage" within the meaning of EC 9.5500(4). HACSA argues that the subject property is effectively a flag lot, with a relatively narrow 50-foot wide "pole" and a wider "flag" portion in the interior.

EC 9.0500 defines Lot Frontage" as "[t]hat portion of a single lot abutting a street." Nothing cited to us in the record or EC suggests that the subject property was created as a "flag lot," or even if it is, that a 50-foot wide "pole" does not constitute "frontage" on the abutting street for purposes of EC 9.5500(4). There is nothing in the record cited to us that suggests the city required fire lanes or other similar non-buildable areas, as determined by the planning director."

EC 9.0500 defines "Flag Lot" as

"A lot located behind another lot except for a narrow portion extending to the public street which is suitable for vehicular, bicycle and pedestrian access. The 'flag pole' of a flag lot is the access corridor to the buildable 'flag portion' of the lot."
made a considered decision with respect to compliance with EC 9.5500(4) and the frontage on Oak Patch Road, or that the city approved an adjustment to that code provision. We agree with petitioners that remand is necessary for the city to consider compliance with EC 9.5500(4) with respect to Oak Patch Road in the first instance.

With respect to the W. 14th Avenue frontage, the site plan at R-2 indicates that HACSA calculated the site's frontage along the cul-de-sac by drawing a straight line, 145 feet in length, from the property line at one end of the cul-de-sac to the other, without following the contours of the site's actual property line with the cul-de-sac. The site plan includes the following note:

"The street frontage, including a straight line across the cul-de-sac, is 145 linear feet minus the 20' access driveway = 125 linear feet @ 60 percent = 75 feet. Building 1 occupies 37 [linear feet within 10 feet of the front yard setback], the Gazebo another 26 [linear feet]—leaving 12 feet for pedestrian amenity around the gazebo."

The city presumably accepted that calculation. However, petitioners argue that the frontage measured along the actual property line with the cul-de-sac is approximately 167.4 feet. Record 32. HACSA does not offer any explanation or cite to any basis in the EC to measure frontage of a cul-de-sac based on drawing a straight line across the cul-de-sac, rather than along the property line. The accurate measurement of frontage has significant consequences for

We note that the fact that HACSA proposed a parking lot within the 50-foot wide "pole" of the property suggests that at least a portion of that "pole" is buildable and not needed for access.
how much of the land within 10 feet of the frontage must be occupied by buildings or enhanced pedestrian amenities. We agree with petitioners that remand is necessary for the city to address this issue in the first instance.

This sub-assignment of error is sustained.

B. Primary Orientation and Building Entrances

EC 9.5500(5)(a) requires that multiple family buildings within 40 feet of a front lot line “shall have their primary orientation toward the street.” As proposed, Building 1 is located within 40 feet of the W. 14th Avenue frontage, but its long axis, with ground-floor entrances and staircases to upper units, is oriented eastward toward a courtyard, while its short northern side faces W. 14th Avenue. Petitioners argue that Building 1 does not comply with EC 9.5500(5)(b).

Relatedly, EC 9.5500(5)(b) requires that main entrances of ground-floor units within 40 feet of a front lot line must face the street, with an exception for buildings that may be “side-oriented” “due to access requirements and/or dimensional constraints not created by the applicant[.]” Petitioners argue that

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14 EC 9.5500(5)(a) provides:

“Building Orientation. Multiple-family residential buildings located within 40 feet of a front lot line shall have their primary orientation toward the street.”

15 EC 9.5500(5) continues, providing, in relevant part:

“(b) Ground Floor Building Entrances. The main entrance(s) of ground floor units of any residential building located within
the applicant made no effort to establish that a side orientation is necessary “due to access requirements and/or dimensional constraints not created by the applicant[.]”

The EC does not define “primary orientation,” and it is not clear to us how the primary orientation standard in EC 9.5500(5)(a) differs from and interacts with the building entrance standards in EC 9.5500(5)(b) and (c).

HACSA argues that Building 1’s side orientation is authorized by EC 9.5500(5)(b)(3) and is sufficient to satisfy or obviate the primary orientation

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40 feet of a street must face the front lot line. Main entrances may provide access to individual units, clusters of units, courtyard dwellings, or common lobbies. The following exceptions shall apply:

“* * * * *

“3. For buildings proposed to be ‘side oriented’ to public streets due to access requirements and/or dimensional constraints not created by the applicant, main entries may face up to 90 degrees away from the street provided both of the following apply:

“a. They are visible from the street.

“b. The building side facing the street shall not include windows or views into a parking area or garage and shall contain windows that occupy a minimum of 15% of the facade.

“(c) Upper Story Building Entrances. The main entrance of upper story units shall be provided from the interior of the building or from an exterior walkway that serves no more than 2 units. * * * Access to upper-story units may be provided at the front, side or rear of a building.”

Page 35
1 standard in EC 9.5500(5)(a). However, HACSA does not argue that a side orientation is necessary due to access requirements and/or dimensional constraints, or cite to any place in the record where a demonstration to that effect was made to the city. We agree with petitioners that remand is necessary for the city to consider in the first instance the relationship between, and the proposal’s compliance with, EC 9.5500(5)(a), (b) and (c).

This sub-assignment of error is sustained.

C. Parking Drives and Parking Courts

The proposed site plan includes several “parking courts,” each comprised of rows of parking spaces strung out along a “parking drive” that provides access from Oak Patch Road. The parking drive is blocked by bollards from reaching the W. 14th Avenue cul-de-sac.

EC 9.5500(11)(b)(2) provides that parking drives for multiple-family developments with more than 20 units shall be designed so as to permit no through-motor vehicle movements, as illustrated by Figure 9.5500(12). The

16 EC 9.5500(11)(b)(2) provides:

"Parking Drives. Parking drives are driveways lined with head-in parking spaces, diagonal parking spaces, garages, or any combination thereof along a significant portion of their length. Parking drives for multiple-family developments with more than 20 units shall be designed so as to permit no through-motor vehicle movements. (See Figure 9.5500(12) Multiple-Family Parking.)"
site plan narrative states that this criterion is met, because the bollards prevent
through-motor-vehicle movement to W. 14th Avenue. RE-2.

Petitioners argue that the parking drive does not comply with EC 9.5500(1)(b)(2), but we do not understand the argument. Petitioners appear to argue that each individual parking court must connect directly to a street, and cannot consist of a linear series of parking courts connected by a parking drive. The cited source for that argument is Figure 9.5500(12), referenced in EC 9.5500(1)(b)(2). However, as far as we can tell Figure 9.5500(12) provides no support for that argument. Petition for Review App 5 (drawing showing three parking courts serially connected by a single parking drive to the closest street).

Further, EC 9.5500(12)(b)(1) provides that “[n]o more than 3 individual parking courts may be connected by an aisle or driveway[,]” which indicates that parking courts can be connected in a linear series by a common driveway.\(^{17}\)

\(^{17}\) EC 9.5500(12)(b) provides, as relevant:

“1. **Maximum Size of Parking Courts.** Individual parking courts shall be no more than 9,000 square feet in size and shall be physically and visually separated by a landscape area a minimum of 20 feet in width. No more than 3 individual parking courts may be connected by an aisle or driveway. *(See Figure 9.5500(12) Multiple-Family Parking and Multiple-Family Parking[)].*

2. **Parking Court Width.** A parking court of any length shall consist of no more than one 1 double-loaded parking aisle.”
Petitioners argue that there are in fact four or more parking courts, but does not explain that assertion. The site plan shows three parking courts, each separated by the required 20-foot-wide planting island. RE-2.

Next, petitioners argue that the middle parking court violates EC 9.5500(12)(b)(2) because it consists of more than one “double-loaded parking aisle.” See n 17. A “double-loading parking aisle” is apparently a parking drive with parking spaces on either side of it. The middle parking court is located where the parking drive takes a 90-degree bend to the north, and then another 90 degree bend to the west, with parking stalls located on both sides of the drive between each bend. Because of the bends, petitioners argue, the middle parking court is actually quadruple-loaded, with parking spaces on four sides, north, south, east and west. We reject the argument. The middle parking court consists of a single parking drive with a row of parking spaces on each side, consistent with EC 9.5500(12)(b)(2). That the drive bends twice, causing the parking spaces to face four different directions, is not a violation of EC 9.5500(12)(b)(2).

These subassignments of error are denied.

D. Limits on Parking Areas within Frontage

Finally, petitioners argue that the eastern parking court, located adjacent to the Oak Patch Road frontage, violates EC 9.5500(12)(c), which prohibits (1) “parking and vehicle use areas” from extending across more than 50 percent of any street frontage, and (2) locating parking areas between buildings and the
According to petitioners, the driveway and eastern parking court together occupy more than 50 percent of the Oak Patch frontage, and further the eastern parking court is located between Building 5 and Oak Patch Road.

HACSA's only response to this argument is that the 50-foot-long property line along Oak Patch Road is not "frontage" within the meaning of EC 9.5500(12)(c), but only the "pole" of a flag lot. We have already rejected a similar argument under the first sub-assignment of error. HACSA does not cite us to any place in the record where either the applicant or the city considered whether the proposed parking lot complies with EC 9.5500(12)(c). We conclude that remand is necessary for the city to consider that question in the first instance.

This sub-assignment of error is sustained. The fifth assignment of error is sustained, in part. The city's decision is remanded.

18 EC 9.5500(12)(c) provides, in relevant part:

"Limitation on Parking Frontage. To strengthen the presence of buildings on the street, parking and vehicle use areas and garages adjacent to any public or private street frontage shall extend across no more than 50 percent of any street frontage. No parking spaces, with the exception of underground parking, shall be placed within any required front yard area. Parking areas shall not be located between buildings and the street."
Certificate of Mailing

I hereby certify that I served the foregoing Final Opinion and Order for LUBA No. 2016-058/059/060/061/062/063 on December 21, 2016, by mailing to said parties or their attorney a true copy thereof contained in a sealed envelope with postage prepaid addressed to said parties or their attorney as follows:

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Dated this 21st day of December, 2016.

Kelly Burgess
Paralegal

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The Oaks at 14th
Public Outreach Materials

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February 3, 2017

City of Eugene Planning Commission
c/o City of Eugene Planning Department
99 West 10th Ave
Eugene, OR 97401

Dear Planning Commissioners,

Housing and Community Services Agency of Lane County (HACSA) and Sponsors Inc. are partnering to bring a very important project to our community to help improve livability in Eugene and Lane County called the Oaks at 14th. The Oaks at 14th will be a 54 unit apartment community of long-term, affordable, permanent housing, for people with criminal histories, including: veterans, seniors, and people with disabilities. Re-entry supportive services will be provided by Sponsors, Inc., and its community partners who have employed best practices since 1973 to help the previously incarcerated become taxpaying, law abiding individuals who contribute to a safer community.

Ensuring that people with criminal histories are successful upon re-entry serves a fundamental public safety interest in our community. Helping people released from prisons or jails to find safe places to live is critical to reducing homelessness, recidivism and future crime. This project will play a significant role in the County's efforts to reduce recidivism, resulting in reduced expenditures for law enforcement, the judicial system and in corrections. Recognizing this important need, numerous community partners have stepped forward to support this project financially, including Lane County, the Oregon Criminal Justice Commission, Oregon Housing and Community Services, Meyer Memorial Trust, The Collins Foundation, US Bank CDC and numerous private donors through Sponsors Inc.

From the beginning of the project HACSA and Sponsors Inc. have been committed to a robust public outreach process. This process included 3 public meetings that allowed input regarding the design of the project (See pages 6-16). This was followed by the creation of a Citizens Advisory Committee (CAC) that included direct neighbors, elected officials, public safety officials and other concerned citizens (See pages 19-24). During this time, communication about the project was made through a variety of channels including: mailings in both English and Spanish, updates to the Acorn Park Neighborhood Facebook page, the Churchill Area Neighbors Newsletter, a neighboring home owners association (HOA) newsletter and by email to an interested parties list. HACSA staff also participated in the Churchill Area Neighbors (CAN) meetings to provide updates on the project and answer questions.

Neighbors voiced a number of concerns related to traffic, infrastructure, bulk, height, privacy and the type of tenants that would be served on the site. As shown in the attached materials, the architect and project team took input gathered from neighbors and directly responded to concerns (see page 5).

Continuous neighbor engagement – HACSA staff made efforts to arrange individual meetings with direct neighbors of the project in order to facilitate communication, address questions and general concerns, as well as work through a number or construction related processes:

- New fencing - All direct neighbors of the project benefited from a new cedar fence at no cost to them. Coordination of the fence building process was as a complex task.
Removal of trees in the property line - The neighbors were given an opportunity to decide whether some of the trees growing directly on the property line or their back yards should be removed for their benefit at no cost to them.

**Building Design** – Concerns were raised regarding building height, bulk and privacy. The project was redesigned to incorporate the following elements:

- **Reduced Height** – The buildings were redesigned to be two-story along all sides adjacent to neighboring homes. This resulted in a reduction of six-units in the project.

- **Landscape and Fence Buffer** – Landscaping and a 6-foot fence will be provided along all areas adjacent to neighboring homes. The landscape architect was directed to provide as much landscape screening in the landscape area between the property lines as possible. The current landscape plan which will be included in the record reflects this approach. Initially an 8-foot fence was proposed but it was later found that a solid 8-foot fence is not allowed in the R-1 zone. A six-foot fence was built with 8-foot posts which will allow for partial obscuring for the top 2-feet.

- **Windows on the second floors facing neighboring properties** were reduced in size and all second story windows along the south property line directly adjacent to homes are being obscured.

- The initial design already included a ten-foot setback which exceeds the 5-foot minimum required. Additionally, there is a significant grade change between the properties to the south resulting so that The Oaks buildings are up to 5-feet lower than the homes to the south in some areas.

**Traffic and Infrastructure** – Neighborhood concerns were raised regarding the amount of traffic on Acorn Park Road and the lack of sidewalks and safe pedestrian crossing locations on that road (See pages 12-13). The population the Oaks will serve drives much less than the general population. Sponsors Inc. was able to purchase a neighboring property along Oak Patch Road which facilitated a property line adjustment to allow primary access onto Oak Patch Road. This allows only secondary access onto Acorn Park Drive. HACSA and Sponsors Inc. are also committed to working with the Churchill Area Neighbors to extend sidewalks on Acorn Park Road and support several other transportation improvements that have been prioritized in neighborhood meetings. Sponsors and HACSA have also voiced commitment at neighborhood meetings to helping provide volunteers to clean up areas along the nearby Amazon Channel.

Following these design changes and initial public meetings, the CAC met regularly until construction started to engage neighbors further on the project (see pages 19-24) and discuss the population being served. These meetings included site plan updates, presentations and information sessions from Lane County Parole and Probation, Sponsors Inc., Essex Construction, Bergsund Delaney Architects, and Cascade Property Management. Furthermore, neighbors were given the opportunity to tour existing Sponsors facilities. The CAC will reconvene once lease up on the property starts so that neighbors can engage with the project residents.

HACSA and Sponsors Inc. and all of our stakeholders strongly believe that the public process we have engaged in has resulted in a project that is not only compatible with the surrounding neighborhood but will help enhance it and result in a better and safer community for everyone.
The Oaks at 14th Ground Breaking Ceremony
June 17, 2016

Photo above Breaking Ground at the Oaks at 14th Project with Key Partners and Supporters:
Jacob Fox (HACSA)
Donovan Dumire (Lane Co
Steve Mokrohisky (Lane Co)
Paul Solomon (Sponsors Inc.)
Mayor Kitty Piercy (City of Eugene)
Commissioner Faye Stewart (Lane Co)
Surrounding Infrastructure

- Can we add sidewalks on Acorn Park Street from W14th going south as far as possible?
- Can we get signal lights at intersection of Oak Patch and 11th?
- Can we get stop signs on Acorn Park Street intersections?
- Can we continue our sidewalk from the site all the way to Acorn Park Street?
  - These items require working with City of Eugene and public works engineering and HACSA could join in and participate with the Neighborhood Group in their pursuit of these items. They are not part of the current project.

Site Design

- Use lighting that does not shine on neighbors, add lights to the Oak Patch driveway.
  - Yes we can do this.
- Use both access points to minimize traffic on Acorn Park Street.
  - Yes we can do this.
- Could we save more trees on site?
  - We would love to and we worked really hard to save a small grove of Oaks and Firs toward the front of the project. For a tree to remain healthy maybe a 1/4 of its root zone can be impacted. The root zone is measured as the drip line of its overhead canopy. This is a very large area as these are big trees. Buildings and driving surfaces would need to be outside of these drip lines. To keep more trees we would need significantly fewer number of units and fewer number of buildings. This is in direct conflict with the goals of Envision Eugene, increasing density within our Urban Growth Area, and neighborhood infill as a tool for increasing density. The R2 zoning is for medium density residential developments.
- Could we save the two organic gardens on site
  - Not with the current number of units/buildings.

Building Design

- Minimize units looking into adjacent neighbors yards: take away windows, use obscure glass, use non-operable windows, move buildings farther away from property line.
  - We have minimized the number of windows and their sizes on our perimeter (as well as reduced to two story heights.
- Can we do stepped buildings to lower the height for adjacent neighbors
  - Yes we can step all buildings that meet the perimeter of the property to two story height, keeping three stories toward the center of the site.
- Can we do fewer units to lessen the impact of such a tenant population
  - Yes, the results of stepping the buildings has removed 6 units, so project is 54 units
- Are we using PV's on roofs
  - We might prepare the Community Building roof for a future photo voltaic installation, but it is budget dependent.
MEETING NOTES
Neighborhood Meeting
5:30 – 7 p.m. January 29th, 2015
Valley Covenant Church – 3636 West 18th Ave

Presenters:    Val Hoyle, Facilitator
               Jacob Fox, HACSA Deputy Director
               Vernon Madsen, Neighbor of Project
               Paul Solomon, Sponsors Executive Director
               Donovan Dumire, Lane County Parole & Probation Director

Attendees:  42 residents (that signed in) and individuals affiliated with the project.

I.  Introductions/Facilitation: Val Hoyle

Ms. Hoyle discussed the need for the meeting and set communication parameters.

II.  Project Background (Jacob Fox, HACSA Deputy Director)

Mr. Fox discussed HACSA mission as a Public Housing Agency to help provide affordable housing. He noted that the project did come about quickly as other projects slated for 2015 funding were not ready. He noted the zone change was needed whether or not the project was to be developed now. He noted that the team was open to discussing design possibilities.

Discussion and feedback:
• Why is this project going now for funding?
  A: Oregon Housing Community Services has annual competitive funding application process. This project will be applying for funding in April.

• What amount of funding will come from tax payers?
  A: The majority of funding (around 70 percent) comes from tax credits from the State. Investor’s buy these tax credits. Indirectly, tax payer money would need to make up the credits that are granted.

• Who makes final decision to go ahead with this project?
  A. HACSA board which consists of Lane County Commissioner’s plus two other representatives approves request to apply to the state. The State of Oregon makes the decision on which projects get funded.

• How about City Council or other public officials?
A: HACSA board is Lane County Commissioners plus 2 low income citizens. County Commissioners will vote on allocating funding. No City Council decision is required.

- If this doesn’t go through, and HACSA still owns property, then what are we looking at for future?
  A: HACSA and Sponsors will pursue funding for this project in future years if it is not funded this year.

- Can HACSA can build without input?
  A: Yes, but HACSA and Sponsors are committed to gathering input and responding to neighbor concerns

- How did word get out?
  A: Postcard about first meeting sent to 640 addresses within 500 feet of site (300 was quoted in the meeting in error). Communication moving forward will be through Sponsor’s website will stay updated.

- Comments: List should have been expanded, and be more clarity early on describing what the project is about. When received notice of re-zone, we didn’t understand that it was this type of project and therefore feeling blindsided.

- How long does this process normally take? Till construction? Till end of project?
  A: 1 year. Other projects in this area? Roosevelt Crossing, Bothay Cottage.

- How does timing compare on this project for pre-construction compared to others?
  A: Normally 6 months this project is 3 mos.

- Of HACSA clients, what proportion is with Sponsors?
  A: $20 million in housing, target lower income. Sponsor’s collaboration is relatively small (around 10%)

- How many of this type of housing is in this type of neighborhood?
  A: Sponsor’s has projects all over. Throughout town, Jefferson Westside, West University Neighborhood.

- Several in our neighborhood, but how about South Hills, or Fairmount?
  A: Yes, there are some low income housing projects throughout community but there is truth to perception that many get pushed into this part of town.

III. Vernon Madsen – Neighborhood Concerns

- We feel this is fast paced and moving quickly. Mid December – letter about zone change, recognize this was not an obligation.

- Only about 10 out of 200 people knew what was happening. HACSA and Sponsors have been non-transparent about the project therefore people feel defensive and cornered.

- This project should move to another location and need to hear from every voice.

• Area is becoming overbuilt, pushing limits with traffic, parking, sidewalks. Will bring in 60 people, including sex offenders. Not about Sponsor’s, but really about children. Studies about re-offending rates. 76% reoffend within 5 years. Want to be able to sleep at night.
• 2 parole officers is not enough and they are not police. This project needs to be in an area less populated with children. Sponsor’s needs to insure us that our children will be safe.

IV.  Sponsors Information (Paul Solomon, Sponsors Executive Director)

Mr. Solomon spoke about Sponsors long history of helping ex-offenders become productive tax paying citizens and Sponsors history of being a good neighbor.

• Will there be children in this development?
  A: No, most people coming into transitional housing because they don’t have families they are connected with. We also work on family re-unification.
• Difference between predatory sex offenders and sex offenders?
  A: Yes, the housing will allow sex offenders, but not predatory sex offenders. Validated risk assessment designates predatory. For example, stranger crimes are considered predatory.
• What is a non-dangerous sex offense?
  A: Any offense is dangerous. We are talking about risk to re-offend. Criminal history – pattern of offense, re-offenders, with full information we can look at past behavior.
• How accurate are assessments?
  A: We have very competent officers. Since Sponsor’s has been in business, no residents have committed a crime on our property. Historically, our programs have been very safe. Concern is drugs and alcohol.
• I live right on alley, been collecting petitions. Don’t think that is the right place for a building. Sex offenders, we don’t want them around. I have a child.
  A: In the general population, one out of 4 people have a criminal history, 11% of males have a felony conviction. These people already live in our neighborhoods.
• Criteria for defining “stable”?
  A: Passed drug and alcohol tests, engaged in treatment requirements. Employed or in school, or in SSI, and are compliant in their parole requirements.
• My neighbor did not get a notice. She wanted to convey concern that it will destroy property values. Also, a lot of people are not here, low income families, and a lot are hispanic and they don’t speak language, and may be afraid. They are not represented. Not enough notification. How many people look at white sign on the side of the road? Concern with under-represented and folks without a voice.
  A: We are open to ideas to get out word about the projec, such as spanish speaking. There was a mailing to owners and occupants within 500 feet of the
project site (640 addresses). I don’t think that property values will drop as a result of the property. Studies have shown that house values are not correlated with siting low income housing.

- What other levels of crimes, or criteria...what is that line? And concerns about communication?
  A: Yes, on website will post, and yes, will build list.

V. Public Safety (Donovan Dumire, Lane County Parole & Probation Director)
Parole and probation works with many individuals on probation, look closely at risk assessment. Science of supervision, and how we prioritize. Community safety is key, and Sponsors is an essential component. Sponsors clients do not need a lot of supervision because they choose to be involved. This program is a reward for people that are doing well. Showing eagerness to make changes in their lives. We screen and assess all individuals. Individuals identified for this project will be ready to make changes, and they will be monitored closely by 2 parole officers.

- We have varying levels of crime. What kinds of crimes?
  A: People who are being supervised range from theft to murder. Exception is no predatory sex offenders.

- Statistics can be shaped, and will everyone be incarcerated?
  A: No, range of histories...not just who have been to jail. Some have just offended and have never been incarcerated.

- Q: I think Sponsors is wonderful. My main concern is how large this project is. Can it be scaled down?
  A: Next Tuesday, can talk with architects and design. Tour site.

- I am a resident of neighborhood, military vet, volunteer with law enforcement. I don’t appreciate the way this forum has been conducted. Spent time overseas. Don’t like people aggressively talking to me. Do appreciate you being here tonight. No matter what % of re-offense, any percent is too much.

- Will on-site probation be servicing only residents, or have other case load?
  A: 2 parole officers. We work to maintain case loads, so if we are not at capacity, we will give them other case loads.

- What is the average caseload of an officer?
  A: 65 is goal. Right now we are 5 officers down and are actively recruiting.

- One in 4 americans has an arrest record. And the rate of Sponsors is 6% recind. If the rate is lower because they are being supervised, then actually they are behaving better than the general population.
  A: If you are not interested in change, then you won’t be in this program.

- Sponsors is successful with 70% of their population, that’s 30%, not 6%. Numbers can be made to say anything. We need accurate statistics. Would like specific paper with quotes.
  A: State recidivism rate is changing every 6 months....26% was last number I looked at. 70% completed – because it is rigorous. 30% choose not to complete, but that is a different statistics than the re-offending rate.
• I am a parole and probation officer. Been in a situation where they were going to put Hawthorne Estate in my neighborhood. We were all concerned. Community did not feel heard. It was a whole issue. I feel your concern, I supervise sex crimes, do sex offender community education, and I would be happy to help. There are convicted felons everywhere, high and low income. And sex offenders everywhere. More eyes the better. Gonna be here no matter what. We have productive citizens if we can work together.

• How fast do people get moved out if they drink?
  A: Parole being on site expedites process. Random drug and alcohol testing. Eviction process is 48 to 72 hour process. Swift and certain. Could include jail, continuum of sanctions. Much more strict than landlord. One strike and you are out.

• I am the Sponsors Women’s Program Director. I hear concerns about women and children, worked in this field for 20 years. Came from State of Main to work for Sponsors. I watched people go back to prison. I hear concerns about re-offending. This program really makes a difference.

• I’ve lived in community for 25 years. I have a lot of empathy for homes next to complex. I might feel differently if I had children. I also feel if not our neighborhood, then whose? These folks have done their time and have survived and been successful, and now they have to integrate. Lots of support and monitoring. I believe we are caring and watchful. If not us then who?

• How about another site? Is another available? I knew the site could be built for low income housing, but not this.
  A: No, we don’t have another site. Affordable housing projects are accountable to the community, unlike private projects.

• Co-ed or men only?
  A: Mostly men

• Is this happening for sure?
  A: Yes. We do want to work with you. Private developer would probably not.

• Other projects similar to this?
  A: Yes, will post on website.

• We have been battered by crime. This bees nest won’t go over well. Not to mention property values. We have many crimes. Why this site?
  A: Access to transit, services and work opportunities.

• Been connected with Sponsors for a long time – 35 years. Retired professor at UO. What Sponsors does is to assist with transition. All people from Lane County. Every Spring term, taught poetry. Take students to OSCI, meet with inmates, about to be transitioned. They would read poetry. Sponsors goal is to give people a life after prison. This is totally unique. They help find jobs, bus tickets, school. When we have a need around our house. I hire Sponsors clients to help me out. They are responsible, have wives, children. The fear can be dissipated by education. What would we do without Sponsors? All the people not in program, they are still in your neighborhood. Educate yourself.
Lived in Eugene for 45 years. I am a confident women. This community is nothing like our community, Oakland CA. We are all trying to get ahead. Sponsors will make sure residents don’t mess up! They offer support. Dumb mistakes, stupid things. Being black is not a lot of fun. You don’t have priviledge of telling people you can’t live in this neighborhood. Take charge, don’t let these people scare you. They are like the rest of us.

Sponsors works to prevent crimes. Works, changes lives, makes community safer.

I am a Eugene police officer, on the streets every day. Housing at 17th and Pearl didn’t increase crime. Sponsors holds people accountable. I live in Coburg near low income housing project, and now I pay more taxes every year! Fears are real, but I don’t experience it.

VI. Next Steps – Paul Solomon: Will post information on website, make a plan to publicize more widely, and host more neighborhood meetings.
Presenters:    Jacob Fox, HACSA Deputy Director  
Steve Ochs, HACSA Real Estate Development Director  
Paul Solomon, Sponsors Executive Director  
Sara Bergsund, Bergsund Delaney Architects  

Attendees:  14 residents and individuals affiliated with the project.  

I.     Project Background (Jacob Fox)  

Jacob discussed HACSA’s mission as a Public Housing Agency to help provide affordable housing. He noted that the project did come about quickly as other projects slated for 2015 funding were not ready. He noted the zone change was needed whether or not the project was to be developed now. He noted that the team was open to discussing design possibilities.  

II.     Communication (Steve Ochs)  

Steve noted that there had been issues with communication and confusion with the zone change notice and notices HACSA had sent. He noted that HACSA had sent meeting notices to 640 addresses which included anyone (renter or owner) within 500 feet of the project. Looking at a map it looked like it did miss people on the other side of the park and that he was open to ideas about how to reach people moving forward.  

Residents offered the following ideas:  
- Use the Acorn Park facebook page to keep people informed  
- Set up a webpage with information moving forward.  
- Keep a list of interested people and put out information via email.  
- Setup meeting times so that people that work and have kids can attend (weekends)  
- Put out information in Spanish  

Steve also noted that he would like to meet with neighbors in the future to discuss surrounding infrastructure.  

III.    Sponsors Information (Paul Solomon, Sponsors Executive Director)  

Paul spoke about Sponsors long history of helping ex-offenders become productive tax paying citizens and Sponsors history of being a good neighbor at all their current locations.
Residents asked why this facility was being built at this location and not further outside of town.

Paul noted that this site had been chosen because their residents would need good access to transit, commercial areas and other services. The likelihood of success is much greater if they have permanent housing in a normal neighborhood. Most areas the were mentioned did not have the right zoning of residential for this project.

IV. **Site Design and infrastructure – Sara Bergsund of Bergsund Delaney Architects.**

Sara talked about the overall design of the project which included 60 single bedroom units located in 5 buildings plus a community building. She noted that because of the City’s required solar setback requirements, the buildings could not be moved to the north side of the site.

**Surrounding Infrastructure**

**Neighbor Questions/Comments:**

- Can we add sidewalks on Acorn Park Street from West 14th going south as far as possible (to 18th?)
- Can we get signal lights at intersection of Acorn Park and West 11th?
  - Steve Ochs to check with the City if anything is planned.
- Can we get stop signs on Acorn Park Street intersections?
- Can we continue our sidewalk from the site all the way to Acorn Park Street
  - All four of these items are really about what kind of finances you can get to do work Off-Site, all of these items require working with City of Eugene public works engineering, all of these items could be under way independent of this project’s time line. How do you want to proceed?

**Site Design**

**Neighborhood Comments/Questions:**

- Use lighting that does not shine on neighbors, add lights to the Oak Patch drive.
- Research recorded easements on site - the gravel road use by interior neighbors (Lots 4 & 5 as you go east to west along the south property line) - these two lots have second driveways onto parcel.
- Use both access points to minimize traffic on Acorn Park Street
- Use access onto Oak Patch Road. Will look into having a one way in or one-way out.
  - Will look into options
- Could we save more trees on site?
  - If the number of units is reduced significantly, more trees could be saved but stand of trees to be saved is better than single trees. Tree roots are so large almost any development will have negative impact on them.
- Could we save the two organic gardens on site
  - same as the trees - not with the current number of units/buildings but a new garden will be provided for residents.
Building Design

- Minimize tall units looking into adjacent neighbors yards: take away windows, use obscure glass (non-operable), remove units, push farther away from property line?
  - Will look at addressing
- Can we do stepped buildings to lower the height for adjacent neighbors?
  - Will look at design options
- Can we do fewer units to lessen the impact of such a tenant population?
  - Stepped buildings may result in fewer units.
- Are we using solar?
  - Community Building could be used for solar

V. Next Steps

Sara to look at options to address site design and building design concerns. Steve to meet with neighbors to discuss future outreach and infrastructure issues in the neighborhood. A follow-up meeting will be set up once Sara has made design changes.
The Oaks at 14th

HACSA and Sponsors have a 20+ year history of designing and developing quality projects that enhance our community, create safe neighborhoods, and are aesthetically attractive and environmentally friendly. Unlike many private developments, Sponsors and HACSA projects remain accountable to neighbors and elected officials through the life of the development.

What is it and who does it serve?

- The Oaks will be a 50-60 units apartment complex of long-term, affordable, permanent housing, not transitional housing, for people with criminal histories, including: veterans, seniors, and people with disabilities.
- Residents of this project will be stable, employed or on disability. All residents must be able to self-sustain their rent payments. This housing is not for people straight out of jail or prison.

Should I be concerned?

- Sponsors provides accountability-based programs that make our community safer and actually decrease new criminal activity. The Oaks will be drug and alcohol free housing (providing additional remedies to remove people who begin using illegal substances). Additionally, unlike most rental properties, our residents will have to agree to random drug testing prior to moving in.
- Sponsors has been providing reentry services since 1973 offering a range of programs designed to assist people to become productive, taxpaying, law abiding members of the community. On-site Sponsors staff will case manage clients (24/7) and provide resident services. Additionally, two Lane County parole officers will be permanently stationed at the facility and will be available to respond to any signs of drug use or problem behavior.
- Sponsors and HACSA work very closely with the neighbors and neighborhood associations and have a strong track record of developing projects that improve our community and actually make us safer. Sponsors has 12 buildings on 5 sites with 145 beds of transitional and long-term housing. We encourage you to talk to neighbors of existing Sponsors projects as well as law enforcement familiar with Sponsors projects. We would gladly facilitate that discussion.
What is the background of people who will be living at the Oaks?

- Sponsors residents have a criminal history, which means they have offended and are now on probation. Some residents will have been incarcerated at one time, but others have not spent time in jail. People with criminal histories already live in our neighborhood: one out of four people in the United States has an arrest record, and 11% of males have a felony conviction. There are currently over 2,800 men and women on active supervision living throughout Lane County.

- Sponsors will only provide housing to clients who pass regular drug and alcohol tests, are compliant in treatment and parole requirements, and have the ability to pay rent (working, in school, or on disability).

What is the public process regarding project siting, funding and communication?

- Sponsors has projects in many different neighborhoods, including Jefferson Westside, West University Neighborhood, and Bethel (Active Bethel Citizens). HACSA purchased the parcel on Acorn Park at the beginning of 2014 because it is zoned medium-density residential, is served by sewer, water, and roads, and meets the needs of residents, including access to shopping, jobs and transit.

- After the design is final, the HACSA board, which consists of the Lane County Commissioner’s plus two representatives of low income citizens, will need to authorize HACSA to apply for funding. The funding request will then be sent to the State of Oregon Housing and Community Services. This project will be applying for funding in April of this year.

- The project team, with recommendations from Acorn Park Neighbors, has expanded how it is communicating with the neighborhood. The initial meeting was communicated by a postcard sent to around 640 addresses within 500 feet of site. Since then a webpage has been created that is dedicated to the project to house project information and materials. The project team has been able to use the Acorn Park Neighbors Facebook group to communicate information and use email lists to reach additional neighbors. A second postcard mailing to over 700 addresses has been used to advertise the open house and also includes information in Spanish.

- HACSA and Sponsors are holding at least three formal meetings and will hold extra meetings as necessary to discuss neighborhood concerns and possible infrastructure improvements.
  1. On January 29th the project team discussed project goals, process, and next steps with residents and community members from 5:30 to 7:30 at Valley Covenant Church, 3636 West 18th Ave.
  2. On February 3rd the project team discussed the design with residents and community members at the 5:30 – 7 p.m. at Sponsors, 338 Hwy 99 North in Eugene.
  3. On February 28th an Open House has been scheduled at Richardson Bridge apartments. This location and time was chosen in response to recommendations by neighbors at the January 29th meeting. The Open House is an opportunity to meet neighbors and explain design changes in response to feedback received at previous meetings.

- Find out more at: http://www.sponsorsinc.org/programs/oaks-development-project/

For more information, please contact:
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Steve Ochs, Real Estate Development Director, Housing And Community Services Agency of Lane County (HACSA),
Ph: 541.682.2530, Email: sochs@hacsa.us
The Oaks at 14th

HACSA and Sponsors have a 20+ year history of designing and developing quality projects that enhance our community, create safe neighborhoods and are aesthetically attractive and environmentally friendly. Unlike many private developments, Sponsors and HACSA projects remain accountable to neighbors and elected officials through the life of the development.

Project Overview

Ensuring that ex-offenders are successful upon re-entry after incarceration serves a fundamental public safety interest in our community. Helping people released from prisons or jails to find safe places to live is critical to reducing homelessness, recidivism and crime. Without this project Lane County’s recidivism rate will be higher forcing Oregon taxpayers to pay for more costly interventions including law enforcement, the judicial system and the corrections system.

- The Oaks at 14th will be a 54 unit apartment community of long-term, affordable, permanent housing, not transitional housing, for people with criminal histories, including: veterans, seniors, and people with disabilities.
- Residents of this project will be stable, employed or on disability. All residents must be able to self-sustain their rent payments. This housing is not for people straight out of jail or prison.
- Re-entry supportive services will be provided by Sponsors, Inc., and its community partners who have employed best practices since 1973 to help the previously incarcerated become taxpaying, law abiding individuals who contribute to a safer community.

Next Steps

As the project will be receiving funding this year, HACSA and Sponsors Inc. are working to form a Citizen Advisory Committee to guide the project and help work through neighborhood concerns. This committee will include elected officials, government officials and neighbors. This group will meet monthly to hear and discuss concerns and ideas, as well as provide recommendations to the development team on how to proceed.

An Architectural firm and Construction Company will be chosen in July 2015 in order to work towards being able to start construction in March or April of 2016. It is anticipated that construction will be complete in the spring of 2017.
**Project Changes Made based on Neighborhood Input**

Neighbors voiced a number of concerns related to traffic, infrastructure, bulk, height, privacy and the type of tenants that would be served on the site.

- **Building Design** – Concerns were raised regarding building height, bulk and privacy the project was re-designed to incorporate the following elements:
  - Reduced Height – The buildings were redesigned to be two-story along all sides adjacent to neighboring homes. This resulted in a reduction of six-units in the project.
  - Landscape and Fence Buffer – Landscaping and an 8-foot fence will be provided along all areas adjacent to neighboring homes.
  - Windows on the second floors facing neighboring properties were reduced in size and in some cases obscured.

- **Traffic and Infrastructure** – Concerns were raised regarding the amount of traffic on Acorn Park Road and the lack of sidewalks and safe pedestrian crossing locations on that road. The population the Oaks will serve drives much less than the general population. The design team is also looking at providing a driveway on Oak Patch that was previously emergency entrance only and will continue to work the neighborhood to identify pedestrian improvements that can be helped by the project.

- **Populations served** – Concerns were raised that crime would increase in the neighborhood due to the criminal histories of residents of The Oaks at 14th.
  - On-site Sponsors staff will case manage clients (24/7) and provide resident services. Additionally, Lane County parole officers will be permanently stationed at the facility and will be available to respond to any signs of drug use or problem behavior.
  - Residents must pass regular drug and alcohol tests, must be in compliance with treatment and parole requirements, and must pay rent (working, in school, or on disability).
  - Sponsors and HACSA work very closely with the neighbors and neighborhood associations and have a strong track record of developing projects that improve our community and actually make us safer. Sponsors currently has 12 buildings on 5 sites with 145 beds of transitional and long-term housing.


For more information, please contact:
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Citizen Advisory Committee – The Oaks at 14th

The CAC aims to help work through neighborhood concerns. This Committee includes a mix of diverse stakeholders, and follows the following principles:

- Create a forum for discussion of concerns related to the project
- Bring ideas of mutually beneficial cooperation for the community, positive spill-over effects for the community
- Find solutions for education and information sharing for the community of the project
- Promote mutual respect towards the project as well as community needs

Draft Meeting Guidelines:

**Chairperson**
The Chairperson will preside over all meetings; appoint any subcommittees; certify all correspondence, reports and minutes.

**Agenda**
The agenda consists of the items of business to be discussed by a meeting. It is made up of “special” and “general” orders. Usually the chair or another designated person is charged with the responsibility for preparing the agenda. The agenda can be amended either before or after it is adopted. Until the meeting adopts the proposed agenda, the latter is merely a proposal. When a motion to adopt the agenda is made, therefore, the meeting can, by motions requiring simple majorities, add items to, delete items from, or rearrange the order of items on the proposed agenda.

**Minutes**
Minutes will be taken at each meeting and circulated to members before the next meeting. They will be subject to edits and adoption at each following meeting.

**Meeting Ground Rules**

- Start / end our meetings on time
- Members will read materials, minutes etc. and be prepared to discuss at meetings
- Be courteous, listen respectfully, and do not interrupt
- We will follow an agenda
- Committee members will support committee recommendations
- Agree on what information goes “out” and what stays in the group
• Accept the fact that there will be differences of opinion
• Show mutual respect
• Use Meeting Summaries (Includes Agenda Items & Minutes)
• Share time so that all can participate
• People will speak when recognized
• Identify pending issues and agreements at end of meeting
• Respect that everyone has a valuable contribution to our work together and expect that all will participate in it
• Listen actively to the opinions of others, refrain from speaking over others or in side conversations, disagree respectfully
• The goal will not be forced agreement — it is about hearing and exploring divergent perspectives so that informed deliberations can take place
Citizen Advisory Committee

Membership details

1. David Schuman – University of Oregon School of Law Committee Chair
2. Rick Duncan – Real Estate consultant Committee Vice-Chair
3. Mike White – local community representative
4. Joann Ernst – neighbor
5. Thomasina Bates – CAN neighborhood association board member
6. Dean Alft – Parole and Probation
7. Chris Pryor – City of Eugene Councilor
8. Faye Stewart – Lane County Commissioner
9. Edward MCGlone – LTD Governmental Relations
10. Eva Edelman – direct neighbor
11. Edward Schessil – neighboring property owner
12. Richard Greene – local community representative
13. Morgan Taylor – local community representative
14. Sean McGann – Eugene Police Department
YOU’RE INVITED!

The Oaks at 14th will provide long term low income, affordable housing for people with criminal histories, including veterans, seniors, and people with disabilities. This will translate into a 54 unit apartment community with stable, self-sustained, employed or on disability residents. Sponsors will be providing on site resident services, Sponsors has been successfully providing re-entry supportive services since 1973.

HACSA and Sponsors Inc. formed a Citizen Advisory Committee in order to guide their project: “The Oaks at 14th”. The CAC will help work through neighborhood concerns. This Committee includes a mix of diverse stakeholders: elected officials, government officials, neighborhood association representatives, and direct neighbors of the project.

To learn more about the project please come to the next Citizen Advisory Meeting scheduled for Tuesday November 17th, 2015 at 6pm at the Valley Covenant Church, 3636 W. 18th Ave., Eugene, OR 97402

Project website http://www.sponsorsinc.org/programs/oaks-development-project
YOU’RE INVITED! To the next Citizen Advisory Committee Meeting

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HACSA and Sponsors Inc. formed a Citizen Advisory Committee in order to guide their project: “The Oaks at 14th”. The CAC will helps work through neighborhood concerns. This Committee includes a mix of diverse stakeholders: elected officials, government officials, neighborhood association representatives, and direct neighbors of the project.

To learn more about the project please come to the next Citizen Advisory Meeting scheduled for Tuesday January 19th, 2016 at 6pm at the Living Hope Church, 2801 W 18th Ave, Eugene, OR 97402
Project website http://sponsorsinc.org/home/theoaks/
YOU’RE INVITED! To the next Citizen Advisory Committee Meeting

The Oaks at 14th will provide long term low income, affordable housing for people with criminal histories, including veterans, seniors, and people with disabilities. This will translate into a 54 unit apartment community with stable, self-sustained, employed or on disability residents. Sponsors will be providing on site resident services, Sponsors has been successfully providing re–entry supportive services since 1973.

HACSA and Sponsors Inc. formed a Citizen Advisory Committee in order to guide their project: “The Oaks at 14th”. The CAC will helps work through neighborhood concerns. This Committee includes a mix of diverse stakeholders: elected officials, government officials, neighborhood association representatives, and direct neighbors of the project.

To learn more about the project please come to the next Citizen Advisory Meeting scheduled for Thursday April 7th, 2016 at 6pm

at the Living Hope Church, 2801 W 18th Ave, Eugene, OR 97402
Project website http://sponsorsinc.org/home/theoaks/
Neighbors voiced a number of concerns related to traffic, infrastructure, bulk, height, privacy and the type of tenants that would be served on the site.

**Building Design** – Concerns were raised regarding building height, bulk and privacy the project was redesigned to incorporate the following elements:

- **Reduced Height** – The buildings were redesigned to be two-story along all sides adjacent to neighboring homes. This resulted in a reduction of six-units in the project.
- **Landscape and Fence Buffer** – Landscaping and an 6-foot fence will be provided along all areas adjacent to neighboring homes.

**Traffic and Infrastructure** – Concerns were raised regarding the amount of traffic on Acorn Park Road and the lack of sidewalks and safe pedestrian crossing locations on that road.

The residents the Oaks will serve drives much less than the general population. The main access has been changed to Oak Patch Rd leaving Acorn Park St as emergency entrance only and will continue to work with the neighborhood to identify pedestrian improvements that can be helped by the project.

**Windows** on the second floors facing neighboring properties were reduced in size and in some cases obscured.

Ensuring that people are successful upon re-entry after incarceration serves a **fundamental public safety interest in our community**. Helping individuals released from prisons or jails to find safe places to live is critical to reducing homelessness, recidivism and crime.

This project will greatly enhance Lane County’s efforts to reduce recidivism, saving taxpayers the expense of more costly interventions with law enforcement, the judicial system and the corrections system.

The Oaks at 14th will be a 54 unit apartment community of long-term, affordable, permanent housing, not transitional housing.

The project will serve people with criminal histories, including: veterans, seniors, and people with disabilities.

Residents of this project will be stable, employed or on disability. All residents must be able to self-sustain their rent payments. **This housing is not** for people straight out of jail or prison.

Re-entry support services will be provided by Sponsors, Inc., and its community partners who have employed best practices since 1973 to help the previously incarcerated become productive, taxpaying, law abiding individuals who contribute to a safer community.

HACSA and Sponsors have a 20+ year history of designing and developing quality projects that enhance our community, create safe neighborhoods and are aesthetically attractive and environmentally friendly. Unlike many private developments, Sponsors and HACSA projects remain accountable to neighbors and elected officials through the life of the development.
POPULATION SERVED AND SECURITY MEASURES

On-site Sponsors staff will case manage clients and provide (24/7) resident services. Additionally, Lane County parole officers will be permanently stationed at the facility and will be available to respond to any signs of drug use or problem behavior.

Residents must pass regular drug and alcohol tests, must be in compliance with treatment and parole requirements, and must pay rent (working, in school, or on disability).

Sponsors staff will be patrolling the property perimeter, lighting and cameras will assist in ensuring security in the community.

Sponsors and HACSA work very closely with the neighbors and neighborhood associations and have a strong track record of developing projects that improve our community and actually make us safer. Sponsors currently has 13 buildings on 6 sites with 150 beds of transitional and long-term housing.

PROJECT UPDATES

A Citizen Advisory Committee was formed to provide input for the project. The committee meets on a monthly basis to discuss concerns and help better understand the project. The committee includes a mix of diverse stakeholders from neighborhood association representatives to elected officials, and other community members. Minutes and future meeting details can be found at:

http://sponsorsinc.org/home/theoaks/

FOR MORE INFORMATION PLEASE CONTACT:

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Ph: 541.682.2530
Email: sochs@hacsa.us  I www.hacsa.org
**HACSA y Sponsors**, tienen más de 20 años de historia, desarrollando y diseñando proyectos de calidad que mejoran nuestra comunidad, creando vecindarios seguros que son estéticamente atractivos y amigables con el medio ambiente. A diferencia de muchos desarrollos privados, **Sponsors y HACSA** son proyectos responsables para con los vecinos y los oficiales electos a través de la vida del desarrollo.

**The Oaks at 14th**

**Descripción General del Proyecto**

Garantizar que las personas tendrán éxito reingresando a la sociedad después del encarcelamiento, esto es de gran interés, **fundamentalmente para la Seguridad pública de nuestra comunidad**. Ayudando a personas recientemente liberadas de prisión o cárceles, para encontrar lugares seguros para vivir, esto es importante para reducir el número de personas sin hogar, al igual que la reincidencia y el crimen.

Éste proyecto mejorará en gran medida los esfuerzos del condado de Lane, reduciendo la reincidencia, ahorrando a los contribuyentes los elevados gastos por las intervenciones de las fuerzas del orden, el sistema judicial y el sistema correccional.

**The Oaks at 14th** consistirá de una comunidad de 54 apartamentos de largo plazo, económicamente accesible y será una vivienda permanente. **No es una vivienda tradicional**.

**Cambios del Proyecto Incorporados por los Vecinos**

Los vecinos han mencionado un número de preocupaciones con respecto al tráfico, la infraestructura, la altura, privacidad y el tipo de inquilinos que serán observados en este sitio.

**Diseño del edificio** – Varias inquietudes se manifestaron con respecto a la altura del edificio, y la privacidad. El proyecto fue rediseñado para incorporar los siguientes elementos.

**Altura reducida** - El edificio fue diseñado para ser de dos pisos a todo lo largo, resultando en una reducción de 6 unidades del proyecto.

**Áreas verdes y el enrejado** – La reja de 6 pies de alto y las áreas verdes serán colocadas en todas las áreas que sean contiguas a las casas de los vecinos.

**Ventanas** – En el Segundo piso frente a las propiedades vecinas será reducido el tamaño y en algunos casos serán oscurecidas.

**Infraestructura y tráfico** – Algunas preocupaciones fueron manifestadas respecto al aumento del tráfico sobre Acorn Park Rd. la ausencia de banquetas y la Seguridad de los peatones que cruzarán por la calle.

Los habitantes de Oaks conducirán mucho menos que la población general, la entrada principal ha sido cambiada a Oak Patch Rd. dejando la calle Acorn Park solamente como entrada de emergencia. Y se continuará trabajando con el vecindario para identificar, ayudar, proteger y mejorar las necesidades de los peatones. Por este proyecto.
HABITANTES BENEFICIADOS Y MEDIDAS DE SEGURIDAD

Personal de Sponsors - gestionará cualquier asunto que tenga el cliente, y proveerá de este servicios a los habitantes 24/7. Además los oficiales de la libertad condicional del condado de Lane estarán permanentemente en el edificio y estarán disponibles para responder a cualquier signo de uso de drogas o problema de comportamiento.

Los habitantes del complejo deben pasar los exámenes regulares de droga y alcohol, deben ser de conformidad con el tratamiento y con los requisitos de la libertad condicional, así como pagar la renta trabajando en escuelas o en lugares de discapacidad.

ACTUALIZACION DEL PROYECTO

Un comité consultivo ciudadano fue formado para hacer aportaciones al proyecto. El comité se reunirá mensualmente para discutir los asuntos y ayudar a entender mejor el proyecto. El comité incluye una diversidad de personas representantes de la asociación de vecinos interesadas en elegir a los oficiales y a otros miembros de la comunidad. Para ver detalles de la minuta y futuras reuniones pueden encontrarse en: http://sponsorsinc.org/home/theoaks/

Personal de Sponsors estará patrullando el perímetro de la propiedad, se contará con cámaras de vigilancia y alumbrado para asegurar la seguridad de la comunidad. Sponsors y HACSA trabajan muy de cerca con la asociación de vecinos y con el vecindario y tiene una fuerte trayectoria desarrollando proyectos que embellecen nuestra comunidad y que actualmente nos hace sentir seguros. Sponsors actualmente tiene 13 edificios en 6 lugares con 150 camas que pueden ser ocupadas temporalmente o por largo tiempo.
Citizen Advisory Committee The Oaks at 14th

DRAFT AGENDA

First Meeting

October 14th, 2015

1. Welcome - Introductions
2. Project presentation
3. Neighborhood engagement
4. Committee Ground Rules
5. Public Comment process
6. Future Scheduling and Communication
7. Designation of the Chair
8. Next steps

The purpose of the Citizen Advisory Committee is to engage with the community. This first meeting will serve as an introduction of the CAC members to each other and will focus on determination of how the meetings will be conducted in the future.
Citizen Advisory Committee on *The Oaks at 14th*

First Meeting, Minutes 10/14/2015

CAC members present: Edward Schiessl, Eva Edelman, Rick Duncan, Richard Greene, Mike White, Dean Alft, Chris Pryor, Faye Stewart, Edward McGlone, David Schuman, Nora Cronin (proxy for Tomi Bates)

CAC members absent: Tree Adams, Tomi Bates, Lt. David Natt, Joann Ernst, Morgan Taylor

HACSA: Jacob Fox, Steve Ochs, Sandy Young, Ela Kubok

Sponsors: Aria Seligmann, John Hawley

1. Welcome – introductions

   Steve Ochs (SO) welcomes everyone and invites introductions from everyone.

2. Project presentation

   SO: We wanted to clarify what the committee can and cannot do, the intend is not for the public to decide or stop the project, the funding has been approved and the project is getting ready to break ground in March 2016. The Citizen Advisory Committee is really about how we communicate with neighbors and will be the forum for getting ideas for involvement in the community.

   The plan which you have in front of you shows a different access that will be changed, initially the access was going to be from Acorn Park side, but Sponsor was able to purchase the adjacent parcels marked R-2, this will allow for better access to the project, we are trying to work through that, this perspective here is an old one. Now the plan is that the main access will come from Oak Patch Rd.

   As you may already know we had met the community on this issue before plans were finalized, the biggest change that resulted was that the buildings were reduced to 2 stories when they are next to neighboring property.

   Other issues already discussed at previous meetings Acorn Park, which is on the left side from the site plan, there is no shoulder very narrow, we could help the neighborhood to improve that walk way.

   Hope is to also to save a few oaks and imbed them into the project.

   Plan is the expand the drive way, the funding on the project pays for the original plan, maybe in the future we will be able to develop the R-2 properties,

   Chris Pryor (CHP): How many residents would use cars?

   Paul Solomon (PS): A lot more folks will bike and ride the bus, half more than in any other development.

   CHP: Acorn Park is not and improved road, so primary access should be from oak patch, I like the fact you transferred the traffic to the real city street.

   Rick Duncan (RD): You lost six units as a result of the change in stories.

   SO: Timing wise building permits will be drafted in early January, construction is planned to start late march, which means the architect and the construction team are in the “cranking it out” phase, as far as the design goes, we are locked into the number of units, we can discuss small adjustments, like landscaping, no major changes.
development team consists of Essex Construction and Bergsund DeLaney Architecture & Planning, US Bank is the investor, state awarded us the money. We have weekly calls with the US Bank, State of Oregon has an officer assigned to us as well. As we get closer to March closing timeframe, the calls become more frequent, they look at all the financial information. We are happy to provide more information on that.

Faye Stewart (FS): There were a lot of concerns with access from Acorn Park, is it really the indentation to use Oak Patch as the main access, and reduce the Acorn Park side more as emergency access area.

PS: that is exactly what we are doing. The exception would be if someone is moving, there will be no traffic from Acorn Park. We are looking at a couple of the designs.

SO: I wanted to just clarify the site design issue, why are the buildings on this side, there is a solar setback – we have to utilized this side of the site for the buildings, and thus this drove the site plan here.

PS: I wanted to talk about the project operational wise, why we decided to do this project which stands for a long desire for affordable housing ... Access to decent housing, it is almost impossible for people who have been incarcerated. We have created partnerships with HACSA, SVDP but it is not enough, this project is designed for stable people who completed Sponsor program, prioritized for veterans, seniors and people with disabilities, we want to make sure we priorities them. We will have support on site; we will have a property manager, parole officers, case managers, supervising people living in the project. The community building will be great, with space for group meetings, therapy, gym, access to those services, nutshell of the services, population.

Mike White (MW): The resident’s services I assume will be 24-7, and the parole officers, Monday through Friday?

Affirmative

Eva Edelman (EE) Parole officers usually have 70 people, so if you have 2 parole officers that is a 160 people, are there going to have people from outside, could there be just one parole officer.

PS: because of city regulations we will not have people visit the site to access services the PO would only supervise people from the site.

RD: from the site plan I see one person per apartment

PS: Yes, we have different facilities which are aimed at different populations; in this case it would have single men living on site,

Jacob Fox (JF) there can be more than one person per unit, this project is targeted for single males, however we have to follow fair housing law.

Edward McGlone (EM) how you can prioritize one gender?

JF: The state tax credit rule does a lot of unit prioritization.

EM: Do you know how that impacts transgender persons?

JF: That is a very good question. We will find out.

EE: Do you intend to get conditional use permit for the Parole officers

PS: Not at this stage. There would be a public hearing and an extensive public consultation process.

Dean Alft (DA): We serve geographical areas, there is just this one, we might have already have people we serve in that neighborhood.
EE: concentration of 54 people already and have more people come through,

PS: As a point of reference, at our facility on Highway 99. We are not bringing people from outside of the neighborhood, we understand the city rules, we would need conditional use permit for bringing outside people, and at this point in time we have not pursued it.

EE: I heard that it is because you had problems in the past?

PS: That is not true.

DA: Usually having two parole officers is for safety reasons; always better to be 2 officers arresting someone.

Edward Schiessil (ES) How do you priorities who gets housing, people need it the most or people that are more stable and want to be a part of a positive community?

PS: we are picking from persons who have completed our programs and shown they have achieved a level of success and stability and, number of different factors, we have not developed strict criteria, it would be on a first come first served basis, then it will be based on staff recommendation, completing the programming, these would weight pretty heavy, and income – huge one.

ES: Are those guidelines something we can help develop?

PS: For the most part no – some of them like income is set by the state. We could take a look at the criteria, but I'm not sure there would be a lot of flexibility. Graduating from Sponsors means people would pass all drug and alcohol screenings, compliance with conditions of their release, full time employment, full time schooling, or acquired benefits, they will have completed all of the programming, we do a risk assessment, and full needs assessment, where are the areas of getting in trouble, we plug people into programming based on these assessments, the chosen people would have to be successful in all those areas

SO: these folks will be paying rent, they have to have some sort of income to live here (450$ for the cheaper unit)

EE: My alley -3 feet, would it be safe for me to keep it to still access my gate?

PS: Eva, I do not have reason to believe that your access would have you less safe, we never had a problem with a direct neighbor by having access to our property.

RD: Do you have a plan to transition people out?

PS: The idea with this project is more permanent housing, homeownership is our goal, this is a housing continuing, this is permanent housing, but this is not the end of the road.

JF: this is a community that has supportive services, to help them get permanent services.

FS: I wanted to remind that the drive is the path of correction, the program is proven the best in the state, we are a model for the rest of the state, case in point, I have an acquaintance friend... went to prison, he did not think there was going to be any opportunity for him after. Because of Sponsors, he is back and able to have a life, I want to acknowledge that there are situations that are concerning but that the program we have is great.

Audience intervention neighbor: convicts coming in side this property, which levels are they? What would be a reason of not getting this program?

PS: We are trying to establish the criteria.

Audience intervention neighbor: Who will be living there, rapist, pedophiles, we asked around and we do not know,
PS: NO predatory sex offenders at this project, in terms of security, we have 15 buildings across Eugene, neighborhood safety has improved contrary to the common belief, Please talk to our neighbors and hear it from people who live around our properties, we don’t have people committing crimes around our properties, we have a strong track record, when there are problems we deal with them immediately. Please talk to Dean, he supervises sex offenders in this community, we intend to make this program as safe as anybody here, it will add safety to the neighborhood, For example in the Roosevelt Crossing there were more police calls prior to us moving in, there are a lot of people in your community that have no structure, this program provides a lot of accountability, they deserve to live in our community, people born and raised here, they are coming back whether we like it or not.

ES: Will there be exclusions for violent offenders, when do plan to finalize the guidelines on admittance.

PS: The only groups that won’t be allowed are arsonists, and predatory sex offenders – we should have that established in the next couple of months. We will share those guidelines as soon as we have them.

CHP: The concerns seem to suggest this a miniature prison – the impression I have is that this is not a prison, it’s an apartment complex for people who had to jump though a series of hoops so that they could live in the apartment complex, everybody wants good a neighboring, what will be the opportunity to not live in a segregated facility, they will get involved in the community? These people could be very good neighbors? Community event, they could be helping.

PS: It is my belief they will be that, we work closely with neighborhood associations and we engage with communities, we are open to clean up that area we can use the man power of people to live there, they don’t want to be separated.

SO: I’m hopeful, that neighbors will feel comfortable check-in with Sponsors and expressing their concerns in good faith, I am coming over as a good neighbor, I’m concerned because ....

PS: We are a non-profit, we are responsible to the community, we are accountable, and we contract with Lane County we have to be accountable to this community, I have always reached out to people, we have staff 24 on call.... We are good neighbors that respond to concerns, we are not building substandard housing, this is going to be beautiful site, and it will increase the beauty in the neighborhood...

JF: Please also check out the Sponsors website, read the work that we already did for this project.

3. Neighborhood engagement – discussion intertwined with the Project Presentation

4. Committee ground rules

SO: The ground rules presented to you are sample ground rules we would like to follow as a committee, if you have any ideas on that it will be an open agenda item

EM: Majority vs consensus – what is that mean

SO: Do we want to work towards consensus or majority as a committee?

EVA we could do consensus on some items, if there was a request for us, can we meet closer to the neighborhood. Our intent was to have it.

JF: This is an advisory committee, it’s about answering questions, there are some settle things we can do with the project, we want input, majority and consensus suggest decision – strike that bullet

RD: You mentioned the Sponsors website – will all materials be on the sponsor’s website, the more information that can be put on the website will be beneficial for the community.
SO: At this point we could jump to Chair designation to facilitate the meeting, nominating a chair any suggestions?

PS: The chair will help set the agenda run the meeting, this would not take extra work

RD: I hear judges make good Chairmen David Schuman?

RD: I was on Eugene planning commission, I am happy to help out.

PS: Two co-chairs would be good.

Motion Adopted. Rick Duncan and David Schuman will act as co-chairs.

5. Public comment

RD: I find that the 3 minute limitation could be a struggle, depends how many you have... level of control over that... better to have a conversation rather than a testimony style public comment.

DS: I agree

PS: we can set a standard process but we can have an agenda item option if the Chairs and the committee feel there is need for more conversation.

CHP: people in the audience regularly participate, I think initially we could say the point could be constructive, but when it becomes disruptive, - constructive you keep it!!!

EM: questions are immediate – it would important to find a way to get those questions, in advance to the meeting, figuring out in advance, if we could find a way to facilitate this through the website.

FS: It is important to have rules because people can be disrespectful, I want to make sure we get to hear everything because we are an advisory board on this project, we are here to help the citizens through the process... We have to be respectful.

JF: We were also thinking of having a sign in for the public comment... which could be turned in to the Co-Chairs

EE: This in an interesting consensus we are developing here, we should be flexible, we see how it goes...

RF, public comment could be towards the end??? Because we will all be learning, good idea... makes it flexible, if a committee member wants to hear more

6. Future scheduling and communication

SO: Comunication – Ela and Sandy, will publish the minutes, keep the website updated, set the agenda, if the public wants to have a person taking public comment, or straight to the group. We were thinking of not having the meeting in December.

JF we would be meeting until construction, and then starting again as people move in... so this would be the long term timing of the committee.

7. Designation of the chairs Rick Duncan, David S.

8. Next steps

DS: The committee will not take public comment, there were two submissions tonight.
PUBLIC COMMENT

DAVID TROSCLAYR

I lived in Eugene since February, I caught wind of this project. How far and along should this action go, after a child, boy or a girl that has been hurt and damaged for the rest of their lives, to me it’s to high price, the damage that is going to be done to that child, mother, it’s too high of a price. Like I mentioned before, I heard nothing about the protection of neighborhood, I have not heard anything.

Come forward? What about my neighbor? What happens when I come home? When it comes to arsonist, the bulgers, they are reaching out, the kids and rapist. This is not going to happen. Shame on you HACSA for putting financial gains above our women and children, kids are standing and waiting for their school bus right there. Level 4 high risk... If he is a rapist on his jacket, he is still a rapist, and he is going to do it again, if you guys comes up with some kind of solution,

This is unacceptable; do not allow these people in our neighborhood.

DS: Thank you for sharing those concerns. Please take the time to talk to Paul Solomon he can address those questions.

JO CO

Is it possible to have identities of these residents, access of these residents,

PS: it has not been the practice in the past, it subjects the residents to unnecessary potential harassment and attacks, parole and probation supervises people and most of that is public information

JO CO: If we do not have the names of those people how would we know?

DA: I would ask you to do parole drive for probation, to see how many people are already on supervision in your area.

AGENDA ITEM for next meeting, report on security measures and suggestions that might be taken, educational staff in the future.

JO: There were no public meetings? Before you decided on this project people are angry.

Steve: we had three meetings, we could have done none, it was not a requirement, and there was no design to vote on it or anything like that. Per Zoning Code, anybody could have done this without any notification, that is the way the code is written.

CHP: They have reached out more than the law required, which is more than anyone else... This is very unusual for any kind of development; we are inventing this as we go along.

JO: People feel like gunny pigs, so many children, people are moving out... among home owners and renters. A lot of school kids,

DS: Thank you your concerns can be addressed at the next meeting.

MARY: How many of you are paid to be here. I drive taxi, I picked up a sponsors resident recently... he stunk. They have a lot of anger... they may sweet talk their parole officer; there are a lot of petitions going through. City will pay out, because you were told not to build. Cameras in Acorn Park and 15th street will be monitored by neighbors in their own kitchen; each citizen will get 50.000 dollars for peaking at their fences, Security Company, loss of property value.

DS: That exhausts the agenda!!!
Citizen Advisory Committee The Oaks at 14th

DRAFT AGENDA

November 17th, 2015

1. Welcome – Introductions
2. Minutes adoption
3. Project updates – new site plan
4. Security Measures
5. Neighborhood engagement
6. Public Comment
7. Next meeting - January
Citizen Advisory Committee on *The Oaks at 14th*

Meeting Minutes Summary 11/17/2015, 6.00PM-8.00PM

CAC members present: Edward Schiessl, Eva Edelman, Rick Duncan, Richie W, Mike White, Dean Alft, Chris Pryor, David Schuman, Joan Ernst, Richie Weinman

CAC members absent: Tree Adams, Tomi Bates, Lt. David Natt, Morgan Taylor

HACSA: Steve Ochs, Ela Kubok, Spencer McCoy

Sponsors: Aria Seligmann, John Hawley, Paul Solomon,

1. **Welcome – introductions** – Committee members and public introductions

2. **Agenda adoption** – Agenda is adopted unanimously

3. **Minutes adoption** – Minutes are adopted unanimously

4. **Project Presentation**
   Steve Ochs walks thought the new site plan, explains the changes in access, and building heights, as well as planned landscaping and parking adjustments. No further project updates are presented.

5. **Security Measures**
   Paul Solomon discusses the security measures planned to ensure a safe and pleasant site, more lighting, cameras, patrolling the neighborhood. Questions from the committee members are addressed on the population which will be serviced, and further clarification on the security measures takes place.

6. **Neighborhood engagement**
   How could the residents at the Oaks and 14th become more of a positive part of community, projects that need assistance in the neighborhood, patrolling, neighborhood improvements. 
   Discussion result: spend more time at the next meeting discussing needs brought up by the neighborhood communities on the issues they see that would need assistance in solving, and finding cooperation between Sponsors and the community in order to enhance safety and general wellbeing on the neighborhood.

7. **Public Comment**
   a. JO CO
   b. MARY McCollough

8. **Next Meeting**
   Next meeting is set for January 17th, 2016 (Third Tuesday) at 6.00PM

For full details on the discussion please refer to the recording of the meeting which can be accessed following this link [https://soundcloud.com/cactheoaksat14th/cac-meeting-recording-11172015](https://soundcloud.com/cactheoaksat14th/cac-meeting-recording-11172015)
Citizen Advisory Committee The Oaks at 14th

DRAFT AGENDA

January 19th, 2016

1. Welcome – Introductions
2. Minutes adoption
3. Project updates
4. Presentation on offenders and recidivism from Lane County Parole
5. Neighborhood infrastructure
6. Public Comment
7. Next meeting - March
Citizen Advisory Committee on The Oaks at 14th

Meeting Minutes Summary 1/19/2016, 6.00PM-8.00PM

CAC members present: Edward Schiessl, Eva Edelman, Mike White, Dean Alft, David Schuman, Joan Ernst, Richie Weinman, Tomi Bates, Lt Jason Berreth

CAC members absent: Tree Adams, Morgan Taylor, Rick Duncan, Chris Pryor, Faye Stewart, Edward McGlone, Lt. Sean T. McGann

HACSA: Jacob Fox, Steve Ochs, Ela Kubok, Spencer McCoy

Sponsors: Aria Seligmann, John Hawley, Paul Solomon,

1. **Welcome – introductions** – Committee members and public introductions

2. **Minutes adoption** – Minutes are adopted with one abstention

3. **Project Update**
   Steve Ochs walks thought the site plan, explains the emergency access, and building heights and specifications, roof adjustments, as well as planned landscaping and parking adjustments. He highlights changes which were already implemented to the project including the property line adjustment. Other general updates on meeting with direct neighbors on their access, new fence and tree removal, including HOA outreach, newsletter. The city of Eugene has requested an arborist to evaluate the impact of the construction on all the trees on the site. Some of the trees will be milled and used for picnic tables, we are also planning to salvage the fence for repairs of the HOA other fencing. Construction is set to start in mid-April 2016.

4. **Presentation on offenders and recidivism from Lane County Parole**
   Dean Alft presents on the issue, he highlights the key for success of offenders is stable, long term housing. He stresses his presentation is based on statistics and research on how to manage offenders. Future offences are determined by homelessness, drug and alcohol issues not location of residence i.e. next to a school, park or playground.

5. **Neighborhood infrastructure**
   Paul Solomon asks what types of neighborhood improvements could the project contribute to? More lighting? Better sidewalks. Patrolling the bike path? The committee brings up that W15th avenue is very dark, suspicious activities at the nearby Dari Mart - patrolling the neighborhood could help. Paul Solomon explains that protecting Sponsors clients from illegal behavior is very important the project. The public makes comments regarding LTD suspending bus service on Oak Patch and effects of needing to walk to W11th or W18th for transportation which unveil infrastructure needs for better traffic cross walks – pedestrian friendly.

6. **Public Comment**
   a. Cathy
   b. Debra
   c. Jo Co
   d. Mary

7. **Next Meeting**
   Next meeting is set for April 7th, 2016 at 6.00PM

For full details on the discussion please refer to the recording of the meeting which can be accessed following this link [https://soundcloud.com/cactheoaksat14th](https://soundcloud.com/cactheoaksat14th)
Citizen Advisory Committee The Oaks at 14th

DRAFT AGENDA

April 7th, 2016

1. Welcome – Introductions
2. Minutes adoption
3. Project updates
4. Neighborhood infrastructure
5. Public Comment
6. Future meetings scheduling
Citizen Advisory Committee The Oaks at 14th

DRAFT MEETING SUMMARY MINUTES

April 7th, 2016 6pm-8pm

1. **Welcome – Introductions**
   
   Chris Pryor is filling in for the CAC Chair. Present Citizen Advisory Committee Members: Eva Edelman, Mike White, Edward Schiessl, Tomi Bates
   
   HACSA Staff: Steve Ochs, Ela Kubok
   
   Sponsor Staff: Paul Solomon, Nick Grapser
   
   Essex General Construction: Tim McMahen, Mark Bruer
   
   Cascade Management: Joann Garcia

2. **Minutes adoption – Minutes Adopted**

3. **Project updates**

   **General Project Updates**
   
   Steve Ochs HACSA Real Estate Development Director presents the overview of the site plan including traffic arrangements, explaining the design decisions on placing the building, including parking, reducing of height of the building as part of the neighbors input. Site Plan, conference rooms available to the community. Trees which will be transformed into picnic tables and park benches to potentiality share with the neighborhood. Around 30 trees will be added in the landscaping. Building permits will be ready early next week. Construction will begin in early May.

   **Essex Construction**
   
   Tim McMahen: We have done many projects like this in the community. Typical working hours 7am – 3.30pm, minimal need to work on the weekend or working late.
   
   No pesticides will be used.
   
   Tree protection has been put up around trees that are subject to minimal root zone impact.
   
   I can be contacted directly at my office or my cell phone; we want to be good neighbors during this construction process and are open to questions or suggestions.

   **Interruption from the public:** Is everybody here for this thing? I am confused?

   **Chris Pryor:** The purpose of this group is to not debate whether the project should be build or take place. We are here to talk about what is the most accommodating way to the neighbors. This committee is an advisory committee, how to build the project well.

   **Interruption from the public:** When did the neighborhood had an opportunity to comment on this project?
Chris Pryor: I would encourage you to speak directly to Sponsor and HACSA to explain the process that the project been through in terms of public comment opportunity. I encourage everyone to stay after the meeting to address any questions you may have.

Cascade Management
Joann Garcia: Cascade Management currently oversees properties in the area and will be providing property management services at the Oaks at 14th, we will focus on ensuring that the community tenants are complainant with their lease rules. This is long term housing, qualified to reside there, they can be a long term tenants. There are rules to abide, those residence can’t cause disturbance in a neighborhood. Typical tenant-landlord law will be enforced. Parole and Probation presence has a very positive impact for the neighborhood.

Paul Solomon calls to 911 reduce when our program is present in the neighborhood. People, who will be moving into this project, are successful in their transition.

4. Neighborhood infrastructure discussion:
   ✓ Bus on Oak Patch, evening bus
   ✓ Stop Light on the corner of 18th and Oak Patch, which is a blind corner
   ✓ Flashing lights cross walk

   There will be a brainstorming session at the CAN neighborhood meeting on what to do in regards to infrastructure, and which of the priorities could be helped by the project.

5. Public Comment
   ✓ Marine
   ✓ Jo
   ✓ Mary

6. Future meetings scheduling

Next meeting have another session for more questions, after we break ground. Thursday June 2nd, 2016 at 6pm

For full details on the discussion please refer to the recording of the meeting, please contact ekubok@hacsa.us
The Oaks at 14th project is a HACSA partnership with Sponsors Inc. The Oaks at 14th will be a six building, 54 unit apartment community of long-term, affordable, permanent housing, not transitional housing, for people with criminal histories, including: veterans, seniors, and people with disabilities. This housing is not for people straight out of jail or prison.

Re-entry supportive services will be provided by Sponsors, Inc., which has employed best practices since 1973 to help the previously incarcerated become taxpaying, law abiding individuals who contribute to a safer community. The project has received a lot of support from local law enforcement and authorities, as access to a stable housing greatly increases the likelihood that formerly incarcerated individuals will not re-offend. This makes the community safer and saves taxpayers money.

A Citizen Advisory Committee (CAC) has been formed on the project, to provide a forum for input and information on the project. This committee has started discussions around neighborhood infrastructure improvements that the project could assist with. Ideas so far include better lighting, additional sidewalks and crosswalks on Acorn Park and neighborhood patrolling, including the bike path. There will be follow up discussions at the next Churchill Area Neighbors meeting in May and at future CAC meetings if you would like to provide input.

Construction will be breaking ground in May 2016; it is scheduled to take up to 13 months. The local construction firm, Essex Construction has been selected as the General Contractor supporting the architect team from Bergsund DeLaney.

For further information on this project please visit [http://sponsorsinc.org/the-oaks/](http://sponsorsinc.org/the-oaks/)
Hi Erik,

Please accept the following information into the record for The Oaks at 14th (ARB 16-5) appeal. HACSA will comply with the first condition of approval from the decision (ARB 16-5) by providing a planter connected to the earth/planting area along Oak Patch Road as shown on the attached site plan. In addition, as shown on the attached site plan we will provide a wooden bench as a second pedestrian amenity. This bench has been made from wood harvested from the site and will be located along the sidewalk leading into the site.

HACSA has hired Branch engineering to conduct a comprehensive traffic, bicycle and pedestrian analysis of the area and expects to have the results of this study soon to confirm compliance with the second condition of ARB 16-5 (which was related to criteria that is not part of this appeal).

Thanks,
Steve O.

Steve Ochs
Real Estate Development Director

Housing and Community Services Agency of Lane County
177 Day Island Road, Eugene OR 97401
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