

CITY OF PORTLAND

Office of City Auditor Mary Hull Caballero

Hearings Office

1900 SW 4th Avenue, Room 3100

Portland, OR 97201

phone: (503) 823-7307 - fax: (503) 823-4347

web: www.portlandoregon.gov/auditor/hearings



DECISION OF THE HEARINGS OFFICER IN UNCONTESTED CASE

File No.: LU 15-133124 CU TR
(Hearings Office 4150013)

Applicant: Eddie Radulescu
EPR Design, LLC
919 NE 19th Avenue, Suite 155
Portland, OR 97232

Property owner: Aris Paguio
Senior Haven
12140 SE Foster Road
Portland, OR 97266

Hearings Officer: Gregory J. Frank

Bureau of Development Services (BDS) Representative: Sylvia Cate

Site Address: 6439 SE 122nd Avenue

Legal Description: N 100' OF LOT 21&22, FOSTER VILLAGE; LOT 24 EXC PT IN ST,
FOSTER VILLAGE

Tax Account No.: R293801470, R293801550

State ID No.: 1S2E22AA 00800, 1S2E15DD 03000

Quarter Section: 3742

Neighborhood: Pleasant Valley

Business District: Foster Area

District Coalition: East Portland Neighborhood Office

Plan District: Johnson Creek Basin – South

Zoning: R5a: Single Dwelling 5,000 with Alternative Design Density overlay

Land Use Review: Type III, Conditional Use and Tree Review (CU TR)

BDS Staff Recommendation to Hearings Officer: Approval with Conditions

Public Hearing: The hearing was opened at 1:37 p.m. on July 13, 2015, in the 3rd floor hearing room, 1900 SW 4th Avenue, Portland, Oregon, and closed at 2:02 p.m. The applicant waived applicant's rights granted by ORS 197.763 (6)(e), if any, to an additional 7 day time period to submit written rebuttal into the record. The record was closed at the end of the hearing.

Testified at the Hearing:

- Sylvia Cate
- Eddie Radulescu

Proposal:

The applicant requests a Conditional Use to expand an existing residential care facility by adding a 2-story building with an additional 27 beds for residents that connects to the existing building. An additional 7 spaces of on-site parking will be provided as well as new landscaping and fencing, and half-street improvements. Six trees are proposed to be removed from the site. Four of these trees are exempt from the Tree Review by regulations of Title 33, but two are not exempt and are subject to the Tree Review.

Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33, Portland Zoning Code. The applicable approval criteria are:

- 33.815.105, *Institutional and Other Uses in the R zones*
- 33.853.040, *Tree Review*

Hearings Officer Decision: It is the decision of the Hearings Officer to adopt and incorporate into this decision the facts, findings, and conclusions of the Bureau of Development Services in their Staff Report and Recommendation to the Hearings Officer dated July 2, 2015, and to issue the following approval:

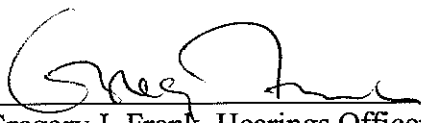
Approval of

- A Conditional Use for a 27 bed Group Living Facility; and
- A Tree Review for development of the facility, subject to the following conditions:
 - A. As part of the building permit application submittal, the following development-related conditions (B through E) must be noted on each of the 4 required site plans or included as a sheet in the numbered set of plans. The sheet on which this information appears must be labeled

"ZONING COMPLIANCE PAGE - Case File LU 15-133124 CU TR." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."

- B. Prior to issuance of final occupancy permit for the 27 bed facility, the applicant must remove existing impervious paved surfaces as identified on Exhibit C-3 and replace them with pervious materials so that the entire site complies with the 50% impervious surface maximum.
- C. The pervious asphalt material to be utilized on both lots of the site must be of a color lighter than a traditional dark/black asphalt color.
- D. The applicant must install a minimum of 15 trees on the site for tree removal mitigation. These trees will be selected from the Portland Plant List. These trees must comply with the requirements of 33.248.030.C.1.a. and b.
- E. At time of building permit, the applicant will submit a Tree Protection and Preservation Plan that identifies all trees on the site 6-inches or greater in diameter that will be preserved and have a root protection zone identified around each tree, consistent with Exhibit C.-1.

Basis for the Decision: BDS Staff Report in LU 15-133124 CU TR, Exhibits A.1 through H.4, and the hearing testimony from those listed above.



Gregory J. Frank, Hearings Officer

7/15/15

Date

Application Determined Complete: May 15, 2015
Report to Hearings Officer: July 2, 2015
Decision Mailed: July 16, 2015
Last Date to Appeal: 4:30 p.m. on July 30, 2015
Effective Date (if no appeal): July 31, 2015

Conditions of Approval. This project may be subject to a number of specific conditions, listed above. Compliance with the applicable conditions of approval must be documented in all related permit applications. Plans and drawings submitted during the permitting process must illustrate how applicable conditions of approval are met. Any project elements that are specifically required by conditions of approval must be shown on the plans, and labeled as such.

These conditions of approval run with the land, unless modified by future land use reviews. As used in the conditions, the term "applicant" includes the applicant for this land use review, any person undertaking development pursuant to this land use review, the proprietor of the use or development approved by this land use review, and the current owner and future owners of the property subject to this land use review.

Appeal of the decision. ANY APPEAL OF THE HEARINGS OFFICER'S DECISION MUST BE FILED AT 1900 SW 4TH AVENUE, PORTLAND, OR 97201 (503-823-7526). Appeals can be filed at the Development Services Center Monday through Wednesday and Fridays between 8:00 am to 3:00 pm and on Thursdays between 8:00 am to 12:00 pm. After 3:00 pm Monday through Wednesday and Fridays, and after 12:00 pm on Thursdays, appeals must be submitted at the reception desk on the 5th floor. **An appeal fee of \$5,000 will be charged (one-half of the application fee for this case, up to a maximum of \$5,000).** Information and assistance in filing an appeal can be obtained from the Bureau of Development Services at the Development Services Center.

Who can appeal: You may appeal the decision only if you wrote a letter which is received before the close of the record on hearing or if you testified at the hearing, or if you are the property owner or applicant. If you or anyone else appeals the decision of the Hearings Officer, only evidence previously presented to the Hearings Officer will be considered by the City Council.

Appeal Fee Waivers: Neighborhood associations recognized by the Office of Neighborhood Involvement may qualify for a waiver of the appeal fee provided that the association has standing to appeal. The appeal must contain the signature of the Chair person or other person authorized by the association, confirming the vote to appeal was done in accordance with the organization's bylaws.

Neighborhood associations, who wish to qualify for a fee waiver, must complete the Type III Appeal Fee Waiver Request for Organizations Form and submit it prior to the appeal deadline. The Type III Appeal Fee Waiver Request for Organizations Form contains instructions on how to apply for a fee waiver, including the required vote to appeal.

Recording the final decision.

If this Land Use Review is approved the final decision must be recorded with the Multnomah County Recorder. A few days prior to the last day to appeal, the City will mail instructions to the applicant for recording the documents associated with their final land use decision.

- *Unless appealed*, the final decision may be recorded on or after a date that will be identified in the Hearings Officer's decision.
- A building or zoning permit will be issued only after the final decision is recorded.

The applicant, builder, or a representative may record the final decision as follows:

- By Mail: Send the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to: Multnomah

County Recorder, P.O. Box 5007, Portland OR 97208. The recording fee is identified on the recording sheet. Please include a self-addressed, stamped envelope.

- In Person: Bring the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to the County Recorder's office located at 501 SE Hawthorne Boulevard, #158, Portland OR 97214. The recording fee is identified on the recording sheet.

For further information on recording, please call the County Recorder at 503-988-3034
For further information on your recording documents please call the Bureau of Development Services Land Use Services Division at 503-823-0625.

Expiration of this approval. An approval expires three years from the date the final decision is rendered unless a building permit has been issued, or the approved activity has begun.

Where a site has received approval for multiple developments, and a building permit is not issued for all of the approved development within three years of the date of the final decision, a new land use review will be required before a permit will be issued for the remaining development, subject to the Zoning Code in effect at that time.

Zone Change and Comprehensive Plan Map Amendment approvals do not expire.

Applying for your permits. A building permit, occupancy permit, or development permit may be required before carrying out an approved project. At the time they apply for a permit, permittees must demonstrate compliance with:

- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations of the City.

EXHIBITS
NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement
 - 1. Conditional Use Narrative
 - 2. Tree Review Narrative
 - 3. Diagram of paving removal from Foster site
- B. Zoning Map
- C. Plans and Drawings
 - 1. Site Plan
 - 2. East elevation
 - 3. Impervious surface removal diagram
- D. Notification information
 - 1. Request for response
 - 2. Posting letter sent to applicant
 - 3. Notice to be posted
 - 4. Applicant's statement certifying posting
 - 5. Mailing list
 - 6. Mailed notice
- E. Agency Responses
 - 1. Bureau of Environmental Services
 - 2. Bureau of Transportation Engineering and Development Review
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development Review Section of Bureau of Development Services
 - 6. Bureau of Police
 - 7. Life Safety Plans Examiner Section of Bureau of Development Services
- F. Letters: *None received by time of Staff Report Publication*
- G. Other
 - 1. Original LUR Application
 - 2. Letter to applicant; April 9, 2015, re; need more information
 - 3. Pre Application Conference Summary Notes
 - 4. Surrounding Area Map
- H. Received in Hearings Office
 - 1. Notice of Public Hearing -- Cate, Sylvia
 - 2. Staff Report -- Cate, Sylvia **(attached)**
 - 3. PowerPoint presentation printout -- Cate, Sylvia
 - 4. Record Closing Information Hearings Office -- Cate, Sylvia



City of Portland, Oregon
Bureau of Development Services
Land Use Services

FROM CONCEPT TO CONSTRUCTION

Amanda Fritz, Commissioner
Paul L. Scarlett, Director
Phone: (503) 823-7300
Fax: (503) 823-5630
TTY: (503) 823-6868
www.portlandoregon.gov/bds

STAFF REPORT AND RECOMMENDATION TO THE HEARINGS OFFICER

CASE FILE: LU 15-133124 CU TR
PC # 14-186390

REVIEW BY: Hearings Officer

WHEN: Monday, July 13, 2015 at 1:30 PM

WHERE: 1900 SW Fourth Ave., Suite 3000
Portland, OR 97201

RECEIVED
JUL 02 2015
HEARINGS OFFICE

It is important to submit all evidence to the Hearings Officer. City Council will not accept additional evidence if there is an appeal of this proposal.

BUREAU OF DEVELOPMENT SERVICES STAFF: SYLVIA CATE / SYLVIA.CATE@PORTLANDOREGON.GOV

GENERAL INFORMATION

Applicant: Eddie Radulescu, main contact
EPR Design, LLC
919 NE 19th Ave Suite 155
Portland ORegon 97232

Property owner: Aris Paguio
Senior Haven
12140 SE Foster Rd
Portland, OR 97266

Site Address: 6439 SE 122ND AVE

Legal Description: N 100' OF LOT 21&22, FOSTER VILLAGE; LOT 24 EXC PT IN ST, FOSTER VILLAGE.

Tax Account No.: R293801470, R293801550

State ID No.: 1S2E22AA 00800, 1S2E15DD 03000

Quarter Section: 3742

Neighborhood: Pleasant Valley, contact Karen Hubbard at 503-760-3670.

Business District: Foster Area, contact Seth Richardson at 503-771-1737.

District Coalition: East Portland Neighborhood Office, contact Richard Bixby at 503-823-4550.

Plan District: Johnson Creek Basin - South

Zoning: R5a: Single Dwelling 5,000 with Alternative Design Density overlay

Case Type: CU TR: Conditional Use and Tree Review

Procedure: Type III, with a public hearing before the Hearings Officer. The decision of the Hearings Officer can be appealed to City Council.

1900 SW 4th Avenue, Suite # 5000, Portland, OR 97201

CITY OF PORTLAND
HEARINGS OFFICE
Exhibit #H-2
Case # 4150013
Bureau Case # 15-133124 CU

Proposal:

The applicant requests a Conditional Use to expand an existing residential care facility by adding a 2-story building with an additional 27 beds for residents that connects to the existing building. An additional 7 spaces of on-site parking will be provided as well as new landscaping and fencing, and half-street improvements. Six trees are proposed to be removed from the site. Four of these trees are exempt from the Tree Review by regulations of Title 33, but two are not exempt and are subject to the Tree Review.

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- 33.815.105, *Institutional and Other Uses in the R zones*
- 33.853.040, *Tree Review*

ANALYSIS

Site and Vicinity: The site is 'L' shaped, comprising two lots, one with frontage along Foster [12140 SE Foster] and the other with frontage along SE 122nd [6439 SE 122nd Avenue]. The 'Foster' lot is zoned CG, General Commercial and is developed with a one-story senior residential care facility [Group Living] that was completed in 2012.

After construction was completed, it was found that 71.5% of the 'Foster' lot site is covered with impervious surface. Both lots are within the Johnson Creek south sub-district that limits the amount of impervious surface to a 50% maximum. The applicant previously requested an Adjustment to increase the maximum impervious surface limit for this site from 50% to 71.5%. This request was denied.

Subsequently, the applicant proposed to develop the '122nd' lot with an additional wing of the care facility, and develop that lot, in combination with the removal of 3,646 square feet of impervious surface from the 'Foster' lot. This proposal will result in the total site complying with the 50% impervious maximum.

The '122nd' lot is proposed to be developed with an attached two-story wing to the existing care facility which will expand the number of residents at the facility by 27 beds. Because the '122nd' lot is zoned R5, single dwelling residential, the proposal for a Group Living use triggers a Conditional Use review.

Neighboring properties near the intersection of SE Foster Road and SE 122nd Avenue are developed with a variety of commercial uses, and single-dwelling homes predominate in the areas surrounding the commercial district. The '122nd' lot is immediately south of an existing gas station and is the first R5a zoned lot abutting the CG zoning along SE Foster Road in this area. Directly across SE 122nd from the site is a parcel developed with four, four-unit apartments served by a driveway from SE 122nd. Immediately south and west of the site are lots developed with Single Dwelling residential uses.

Zoning: The site is zoned R5a, Single Dwelling residential 5,000 with the Alternative Design Density overlay. The site is also located in the South Subdistrict of the Johnson Creek Basin Plan District.

The R5 zone is a high density single-dwelling zone. The R5 zone allows attached and detached single-dwelling structures and duplexes. It is one of several zones that implement the Comprehensive Plan designation for single dwelling residential.

The purpose of the Alternative Design Density Overlay Zone is to focus development on vacant sites, preserve existing housing and encourage new development that is compatible with and supportive of the positive qualities of residential neighborhoods. The concept for the zone is to allow increased density for development that meets additional design compatibility requirements.

The *Johnson Creek Basin Plan District* provides for the safe, orderly, and efficient development of lands which are subject to a number of physical constraints, including significant natural resources, steep and hazardous slopes, flood plains, wetlands, and the lack of streets, sewers, and water services.

Land Use History: City records indicate there are the following land use reviews for the site:

Foster' lot:

- *LU 13-203896 AD:* An Adjustment request to exceed the maximum 50% impervious surface coverage and allow 71.5%. The requested was denied and the denial upheld on appeal.

'122nd' lot:

- No prior reviews

Agency Review: A "Request for Response" was mailed June 6, 2015. The following Bureaus have responded with no issues or concerns:

- Water Bureau
- Fire Bureau
- Site Development Section of BDS
- Life Safety-Plans Examiner Section of BDS

The Bureau of Environmental Services responded with no objections to the proposal and included an analysis of public services available for sanitary and stormwater disposal. The full response is contained in Exhibit E-1; the specific BES findings are found under 33.815.105.D.3.

The Bureau of Transportation Engineering responded with no objections to the proposal and included an analysis of the transportation impacts based on the applicant's submitted Traffic Analysis and the applicable approval criteria. The full response is contained in Exhibit E-2; the specific PBOT findings are found under 33.815.105.D.1. – D.2.

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on June 22, 2015. No written responses have been received from either the Neighborhood Association or notified property owners in response to the proposal. However, staff did receive phone inquiries regarding the proposal from members of the Pleasant Valley Neighborhood Association. Concerns raised included a correction to the contact information for the Pleasant Valley Neighborhood Association; questions regarding the maximum 50% impervious surface coverage standard required by the Johnson Creek Plan District; questions regarding the Tree Review; and concerns raised regarding emergency vehicle access to the site.

Staff Comment: The Neighborhood Association contact information has been updated and corrected. Discussion regarding the 50% impervious coverage are found in the findings, below, in this Report. A Tree Review is concurrently reviewed with the Conditional Use request. Concerns regarding emergency vehicles was noted to PBOT staff, and findings addressing this concern are also contained in the findings below in this report.

ZONING CODE APPROVAL CRITERIA

33.815.105 Institutional and Other Uses in R Zones

These approval criteria apply to all conditional uses in R zones except those specifically listed in sections below. The approval criteria allow institutions and other non-Household Living uses in a

residential zone that maintain or do not significantly conflict with the appearance and function of residential areas. The approval criteria are:

A. Proportion of Household Living uses. The overall residential appearance and function of the area will not be significantly lessened due to the increased proportion of uses not in the Household Living category in the residential area. Consideration includes the proposal by itself and in combination with other uses in the area not in the Household Living category and is specifically based on:

1. The number, size, and location of other uses not in the Household Living category in the residential area; and
2. The intensity and scale of the proposed use and of existing Household Living uses and other uses.

Findings: The residential area for this analysis is a 400-foot radius around the site (Exhibit G-4) which includes lands zoned R2a to the northwest; CG zoned lands are to the north and east; R5 to the southeast and south; and R10 further south and to the southwest. This radius also includes a portion of OS zoned parcels to the southeast, which contains part of the Leach Botanical Gardens.

However, as the criterion specifically notes 'other non-household living uses in the residential area,' this analysis is limited to an inventory of such uses on residentially zoned lands. Within this area, there are no non-household living uses within the proximate residential zones.

The applicant notes (Exhibit A-1) that '...having the facility near commercial development and being a buffer between commercial developments and being a buffer between commercial developments and single family development in the area will have a much better transition between commercial and residential with the proposed use in the middle of the two types of zones.' The proposal would result in a 27 bed residential care facility that will be home to 27 elderly and disabled individuals.

The applicant also notes that the new wing of the facility will be developed on a lot that has close proximity to SE Foster Road, and is located directly behind a gas station and auto body shop. The site is not located in the heart of a residential area, but rather on the edge of an abutting commercial zoning. The applicant also notes that because of the location of the driveway to the proposed new wing being placed adjacent to the commercial zone along the north property line, any traffic related to the use will access the site roughly 200 feet south of Foster Road at the proposed driveway. This configuration will minimize the amount of traffic entering into the primarily residential area to the south.

The intensity and scale of the project does not exceed what the zoning code allows for density, height, setbacks, etc for the site. All standards are being met and there are no Adjustments requested for the project.

For all of these reasons, this criterion is met.

B. Physical compatibility.

1. The proposal will preserve any City-designated scenic resources; and

Findings: City designated resources are shown on the zoning map by the 's' overlay; there are no such resources present on the site. Therefore, this criterion is not applicable.

2. The proposal will be compatible with adjacent residential developments based on characteristics such as the site size, building scale and style, setbacks, tree preservation, and landscaping; or
3. The proposal will mitigate differences in appearance or scale through such means as setbacks, screening, landscaping, tree preservation, and other design features.

Findings: The applicant notes that with this development proposal, several upgrades will be made to the site that will enhance the neighborhood. For example, the 9-foot dedication of frontage along the 122nd frontage will allow for a new sidewalk, swale, and bike lane. The building will be 2-stories to keep the overall footprint as small as feasible for the development, and is similar in scale to the multi-dwelling site across 122nd Avenue from the site. The parking lot is designed to be similar to the parking layout of the apartment site across the street.

The proposed building will have larger than required five foot setbacks found in the R5 zone, as the facility will be setback 15-feet from the south property line, which abuts a single story home and garage. The setback from the west property line will be 10 feet. In addition to the deeper setbacks, the property lines abutting R-zoned lots [to the south and west] will be landscaped to L3 standards [trees, shrubs and ground cover] as well as provide a 6-foot tall wooden and site obscuring 'good neighbor' fence for added privacy. As many existing trees as feasible will be preserved with the development as well as new trees planted along the perimeter and within the site to meet City standards.

The site is configured to place the residential facility approximately 16 feet back from the street and the parking lot is setback 9-feet from the street, as well. The additional setback helps the residential appearance of the facility appear similar to other nearby homes, and the 2-story portion of the building is located at the middle portion of the site, thus keeping the additional mass of the building from dominating the streetscape. An additional design feature includes the 1-story roof line 'hugging' the 2-story portion of the building in order to break up the massing of the building.

The applicant notes that the building will be constructed with several differences in materials, window sizes, roof lines and wall breaks so that no walls appear excessively long or blank. The proposed building will utilize residential style finishes and materials to enable the residential facility to blend well with the surrounding area.

The zoning standards applicable to group living facilities allow a maximum residential density of 1.5 per 1,000 square feet of site area. The proposed 27 beds on the 18,668 square foot '122nd lot' meet this standard, and therefore the facility is not increasing the intensity of the use more than is allowed by the zoning code.

Finally, the proposal will mitigate for scale and appearance by complying with the maximum 50% impervious coverage on the site [cumulative of both lots]. As noted in the BES response, a previous requested Adjustment for the 'Foster' lot to increase the impervious surface to 71.5% was denied. Therefore, in the development of the '122nd lot, impervious surface area will be reduced, and at least 3,640 square feet of impervious concrete will be removed from the 'Foster' lot in order to meet this standard. Exhibit C-3 is a diagram identifying the areas to be removed. A small area of concrete will remain, as it covers an underground utility vault which cannot accept

any stormwater and remain functional. The applicant has noted that pervious asphalt and pavers will be utilized to replace the hardscaped on the 'Foster' lot and all of the hardscaped on the '122nd' lot also will be pervious asphalt and / or pavers. Staff notes that pervious asphalt is available in a variety of colors, from near black to some very light colored tans and grays. As noted in the BES response [Exhibit E. 1.] under 'Site Considerations' the 50% impervious requirement must be met. The response also notes that in order to reduce heat island effect, BES recommends installing light colored pervious pavement which has a higher reflection coefficient and would reflect more solar energy and help lower the temperature of incidental stormwater runoff resulting in less thermal shock to aquatic life in waterways.

Additionally, given the amount of hardscaped necessary to allow resident pick-ups and drop-offs, utilizing a darker colored pervious asphalt would result in a more commercial appearance, not in keeping with the surrounding residential character to the west, south and east. Therefore a condition is warranted to require that at time of building permit, the plans must demonstrate that a full development, the site will comply with the 50% maximum impervious surface requirement of the Johnson Creek Plan District. Furthermore, the pervious asphalt utilized on both the 122nd and Foster lots must be of a lighter color than a traditional dark or black asphalt appearance.

With these two conditions, and for the reasons and facts described above, this criterion is met.

C. Livability. The proposal will not have significant adverse impacts on the livability of nearby residential zoned lands due to:

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

Findings: The applicant describes how the layout of the site and the operations of the facility will have little impact on the surrounding homes to the west and south. By placing the parking lot and curb cut next to the CG zoned lot to the north, this will keep vehicles arriving at the facility from SE Foster Road from going deeper into the residential area to the south. Given the location, the residential care facility will block the parking lot from the residential uses to the south and landscaping and screening will provide additional screening and buffering of the parking lot from the street. This will also help to block car headlights from shining into residential lots as they arrive or leave.

Illumination on the property will be residential in style and will provide light at entrances and exits. The fixtures will be downward oriented so that they do not directly point toward or spill over onto neighboring properties.

The facility will be a secured facility and open to visitors only during the regular business hours of 8 AM to 6 PM. No visitors, deliveries or other activities will take place at night or in the very early hours of the morning to avoid excessive noise, with the exception of an emergency situation.

Residential care facilities tend to be quiet residential-like uses with very low traffic impacts. The residents themselves will not own cars and are unable to drive themselves. The parking area will be for staff and visitors only.

All garbage will be collected to an existing garbage and recycling area located on the northerly half of the site, fronting SE Foster. No garbage area will be located on the '122nd' lot. This eliminates the need for garbage collection at the new wing, and thus the nearby residential area will not be disturbed by such activity.

Because the facility is licensed and monitored by the state of Oregon, operational standards will be strictly adhered to; the site will be kept clean and clear of all hazards, odors and other debris. A maintenance company is currently maintaining the portion of the facility on the Foster lot, and their care will expand to the new wing, as well.

Due to the vulnerability of the residents, the facility will have 24-hour staff which increases 'eyes on the street' and surrounding area, thereby increasing security and safety for the immediate area adjacent to the facility.

The outdoor activity area is a courtyard that is situated between the two wings of the building. This enables the courtyard to provide privacy and reduce the chance of noise impacts on the surrounding properties when residents are using the outdoor space.

For all of these reasons, this criterion is met.

D. Public services.

1. The proposal is supportive of the street designations of the Transportation Element of the Comprehensive Plan;
2. The transportation system is capable of supporting the proposal in addition to the existing uses in the area. Evaluation factors include street capacity, level of service, and other performance measures; access to arterials; connectivity; transit availability; on-street parking impacts; access restrictions; neighborhood impacts; impacts on pedestrian, bicycle, and transit circulation; safety for all modes; and adequate transportation demand management strategies;

Findings: The Portland Bureau of Transportation reviewed the proposal for its potential impacts on the public rights of way, traffic impacts and conformance with adopted policies, street designations and potential impacts upon transportation services. PBOT notes the following regarding street designations:

The Transportation System Plan (TSP) classifies the surrounding rights-of way as follows:

- SE 122nd: City Bikeway, City Walkway, Local Service for all other transportation modes.
- SE Foster: Major City Traffic Street, Major Transit Priority, City Bikeway, City Walkway, Truck Access Street, a Major Emergency Response Route, and a Regional Corridor

The TSP states that *Local Service Streets*, "provide local circulation for traffic, pedestrians, and bicyclists and (except in special circumstances) should provide on-street parking."

City Walkways are intended to provide safe, convenient, and attractive pedestrian access to activities along major streets and to recreation and institutions; provide connections between neighborhoods; and provide access to transit.

City Bikeways are intended to serve the Central City, regional and town centers, station communities, and other employment, commercial, institutional, and recreational destinations. Auto-oriented land uses should be discouraged from locating on City Bikeways that are not also classified as Major City Traffic Streets.

Major City Traffic Streets are intended to serve as the principal routes for traffic that as at least on trip end within a transportation district.

Major Transit Priority Streets are intended to provide for high-quality transit service that connects the Central City and other regional and town centers and main streets.

Major Emergency Response Streets are intended to serve primarily the longer, most direct legs of emergency response trips.

Regional Corridors are designed to include special amenities to balance motor vehicle traffic with public transportation, bicycle travel, and pedestrian travel.

Finding: The site's surrounding streets will accomplish the above referenced goals and the continuation/expansion of the site as a residential care facility will not impact the classifications of said streets. PBOT finds that the proposed use is supportive of the street designations of the Transportation Element of the Comprehensive Plan.

Based on the above facts and analysis, criterion D.1. is met.

PBOT also evaluated the proposal and specific impacts on the transportation system and whether the system has capacity of supporting the proposal in addition to other existing uses in the area. The applicant submitted a professional traffic analysis prepared by Charbonneau Engineering, addressing the evaluation factors. PBOT prepared the following analysis and findings:

Street Capacity/Level of service/other performance measures

Per Portland Policy Document TRN-10.27 - Traffic Capacity Analysis for Land Use Review Cases: For traffic impact studies required in the course of land use review or development, the following standards apply:

1. For signalized intersections, adequate level of service is LOS D, based on a weighted average of vehicle delay for the intersection.
2. For stop-controlled intersections, adequate level of service is LOS E, based on individual vehicle movement.

The industry standard is to measure street capacity and level-of-service (LOS) only at intersections during the critical time period, such as AM or PM peak hour. Although capacity is a part of the LOS, the City of Portland's performance standards are defined only by LOS, which is defined by average vehicle delay. The City does not have performance standards for any of the other evaluation factors.

The applicant's trip generation calculations were based on data from the *ITE Trip Generation Manual, Ninth Edition* for land use code #254, assisted living, for a total of 27 residents (proposed expansion).

A net increase of up to 4 trips is projected during the morning peak hour and 6 during the afternoon peak hour. A weekday total of 72 additional trips are projected.

The applicant conducted traffic counts at the 122nd/Foster intersection during the PM peak period (4:00-6:00) during a weekday. The intersection of SE Foster/SE 122nd, a

signalized intersection, was found to be operating at LOS C which currently meets the City's performance measures. When factoring in the additional traffic generated by the proposed development, this intersection will continue to operate at LOS C.

As previously noted, the proposed development will function as an expansion of the existing residential care facility currently developed on the CG zoned lot to the north. Consistent with Administrative Rule 10.27, the existing development on this lot represents in *no increase in vehicle trips over what is allowed by the existing zoning of the property*. The existing CG zoning designation permits a wide range of higher traffic generating uses than the existing care facility. Accordingly, no additional capacity analysis is required for the existing development.

Finding: There is sufficient capacity to accommodate future traffic generated by the additional 27-bed assisted living facility.

Access to arterials

SE 122nd, a Local Service Street, provides direct access to SE Foster, a Major City Traffic Street located approximately 180-ft to the north of the site. From SE Foster vehicles can easily access the greater transportation network.

Finding: The site is currently well connected to area arterial roadways and this connectivity will not be negatively impacted by the proposed development.

Connectivity

The City's spacing goals for public through streets and public pedestrian connections, typically applied to land division requests, is a maximum of 530-ft and 330-ft, respectively. The site's location, approximately 180-ft from SE Foster Rd, generally meets the City's spacing goals. Future connectivity in this area would more appropriately be achieved at such time as the larger lots located mid-block are redeveloped.

Finding: No new public connections are required and/or appropriate in relation to the proposed project

Transit Availability

There is transit service available in the vicinity with the closest bus stop located approximately 180 feet to the north at SE Foster & SE 122nd (TriMet Route #10/71).

Finding: Transit service is currently available in close proximity to the subject property and said service will not be negatively impacted by the proposed project.

On-street parking impacts

The proposed development will include seven parking spaces accessed via a 20-ft wide driveway on SE 122nd. Additionally, residents are not permitted to have vehicles and therefore, will not need on-site parking. To evaluate existing on-street parking conditions and evaluate whether a sufficient on-street parking supply exists to accommodate additional demand not met on-site, the applicant's traffic consultant performed a parking capacity and demand analysis of surrounding streets. The study area included SE 122nd Ave from Foster Road to Claybourne Street and SE Foster Rd 300-ft east and west of SE 122nd. Based upon this analysis, the study area has capacity to accommodate 42 on-street parking spaces.

The applicant's traffic consultant conducted three separate surveys of on-street parking demand within the study area during the midday peak period (11am-1pm). The results of the survey indicate that, at a maximum, 55% of the available spaces within the study area were being utilized (19 spaces). Thus there were over 20 unused on-street spaces available within the study area.

Based upon parking generation rates obtained from the ITE parking manual, the proposed use will generate the demand for 15 spaces (0.54 spaces per unit). With the 7 on-site spaces provided, there is a potential on-street demand of 8 spaces generated by the proposed development.

Finding: Based upon the results of the on-street parking survey supplied by the applicant, there is ample on-street parking to accommodate existing uses in the area in addition to the demand generated by the proposed development.

Access restrictions

Finding: There are no access restrictions in the immediate vicinity of the site, nor are any proposed restrictions called for as a result of the planned improvements.

Neighborhood impacts

As demonstrated by the applicant's analysis and discussed herein, intersections in the area are currently operating within the City's performance measures and the proposed development will not negatively impact intersection operations or on-street parking in the vicinity.

Finding: The existing residential care facility does not significantly affect the surrounding neighborhood under current conditions, and is not projected to significantly impact the adjacent neighborhood under future conditions even with the additional 27 bed facility.

Impacts on pedestrian, bicycle, and transit circulation/safety for all modes

There are continuous sidewalks along both the north and south sides of SE Foster and sidewalks exist on SE 122nd from SE Foster for approximately 90-ft. As a condition of the building permit associated with the proposed development, the applicant will be required to construct sidewalks along the site's SE 122nd frontage. This will improve pedestrian connectivity to transit facilities on SE Foster. There are nearby identified bicycle facilities (City's Bike/Walk Map) in the vicinity. Specifically, SE Foster and SE 122nd (north of SE Foster) have painted bike lanes on both sides. Additionally, the applicant is being required to construct frontage improvements along SE 122nd which will provide sufficient space to accommodate future bike lanes.

The applicant reviewed crash history data from ODOT's Crash Analysis and Reporting Unit for the most recent available 5 years, 2009-2013 for the intersection of SE Foster and SE 122nd. The data revealed a total of 30 crashes over the 5-year period, or 0.53 crashes per million vehicles entering the intersection. This rate is well below the threshold (1.0 crashes per million vehicles entering the intersection) and, as a result, no additional safety mitigation measures are required/recommended.

Staff is aware of citizen concern regarding the level of service at SE Foster/SE 122nd and emergency vehicle access to the area south of SE Foster. As noted herein, this intersection is currently operating well within the City's performance measures (LOS C currently and with the additional project traffic) and an analysis of ODOT crash data revealed no safety issues at this intersection.

SE 122nd, south of the subject site, is a 2-lane roadway consisting of 20-ft of paving with no on-street parking. The applicant's trip distribution analysis indicates that very few, if any, vehicle trips generated by the proposed development will be heading south on SE 122nd. Therefore, the project will not have an impact upon existing emergency service access on SE 122nd and no safety concerns associated with this request have been identified.

Finding: The proposed project will not result in negative impacts to pedestrian, bicycle, or transit circulation in the vicinity

Adequate transportation demand management strategies

The goal of a transportation demand management plan (TDMP) is to reduce the number of single occupancy vehicle trips to a site in favor of modes less taxing to the transportation system. TDM Plans are also typically required to minimize impacts to adjacent neighborhoods. As previously reviewed above, PBOT has not identified any impacts related to the proposed development. However, the applicant has indicated that employees are encouraged to use nearby transit facilities and monthly bus passes are offered. It is recommended that the applicant voluntarily continue to employ these TDM strategies and continue to explore new TSM measures in the future, however, this will not be a condition of approval for this land use review.

Based on the above facts and analysis, criterion D.2. is met.

3. Public services for water supply, police and fire protection are capable of serving the proposed use, and proposed sanitary waste disposal and stormwater disposal systems are acceptable to the Bureau of Environmental Services.

Findings: The *Water Bureau* has responded [Exhibit E-3 contains the full response] with no issues to the proposal, and includes a number of technical comments describing the requirements that are necessary at time of Building Permit Review. There is an existing 5/8th inch metered service which provides water to this location from an existing 8-inch water main located within the SE 122nd right of way.

The *Police Bureau* has responded with no objections, and includes a list of advisory comments for the maintenance, lighting and landscaping of the site to ensure Crime Prevention Through Environmental Design [CPTED]. The full response is contained in Exhibit E.7.

The *Fire Bureau* has responded no objections and notes that a separate building permit is required. The applicant shall meet all applicable fire code requirements at the time of permit review and development.

The *Bureau of Environmental Services* has responded with comments and analysis of the proposal. The full response is contained in Exhibit E.-1. The following are comments from the BES response regarding sanitary waste disposal:

Existing Sanitary Infrastructure: According to best available GIS data, the following public sewer infrastructure is located in the vicinity of the project site:

- There is a public 8-inch PVC sanitary gravity sewer located in SE Foster Road that can serve the sanitary disposal needs of this project (BES project #4716).
- There is a public 8-inch PVC sanitary gravity sewer located in SE 122nd Avenue that can serve the sanitary disposal needs of this project (BES project #5887).

Service Availability: Sanitary connections from private property that are to be permitted according to PCC 17.32.090 must be separately conveyed to the property line and connected through individual laterals to a City sanitary or combined sewer. All discharge must be connected via a route of service approved by the BES Chief Engineer.

Existing Development: According to City records, the existing structure at 12140 SE Foster is currently connected to the 8-inch sanitary sewer in SE Foster Rd.

Proposed Development: The proposed development at 6439 SE 122nd will be served by a new connection to the 8-inch sanitary sewer in SE 122nd within its frontage.

Connection Requirements: Connection to public sewers must meet the standards of the City of Portland's Sewer and Drainage Facilities Design Manual. New laterals required to serve the project must be constructed to the public main at the developer's expense during site development.

BES Staff finds the applicant's proposed sanitary sewer service acceptable for the purpose of reviewing the conditional use application against the sanitary sewer disposal approval criterion.

The following are comments from the BES response regarding Stormwater management and disposal:

For the conditional use application to be approved, the applicant must show that the proposal complies with the public services approval criterion related to stormwater disposal (PCC 33.815.105.D.3). The comments below are in response to this criterion.

Existing Stormwater Infrastructure: According to best available GIS data, the following public stormwater infrastructure is located in the vicinity of the project site:

- There is no public storm-only sewer available to this property.
- Public underground injection control (UIC) systems ("sumps") infiltrate stormwater runoff from the public right-of-way in the vicinity of the site. Stormwater from private development cannot be discharged to public UICs.

General Stormwater Management Requirements: Development and redevelopment sites that include any of the triggers listed in PCC 17.38.040 are subject to the policies and standards of PCC 17.38.035 and Portland's Stormwater Management Manual (SWMM). Projects must comply with the current adopted version of the SWMM as of the permit application date. A fundamental evaluation factor in the SWMM is the Stormwater Infiltration and Discharge Hierarchy (Section 1.3.1) which sets the framework that will be used to determine when a project's stormwater runoff must be infiltrated onsite and when offsite discharge will be permitted, and the parameters that must be met for either scenario. Pollution reduction and flow control requirements must be met using vegetated facilities to the maximum extent feasible, though roof runoff is exempt when it drains directly to a UIC. See Section 1.7 of the SWMM for information concerning appeals of these requirements.

Onsite Stormwater Management for 6439 SE 122nd Development: Stormwater runoff from this project must comply with all applicable standards of the SWMM and be conveyed to a discharge point along a route of service approved by the BES Director or the Director's designee. Staff reviewed the project's stormwater report from Burton Engineering dated April 28, 2015 that describes Presumptive Approach infiltration test results of 21 inches per hour at a depth of 2 feet and 26 inches per hour at a depth of 4 feet. The applicant proposes to infiltrate runoff from the proposed building via a drywell that can meet minimum setbacks as established in the facility design standards and Exhibit 2-1 of the SWMM. Pervious pavement is proposed for the new parking areas and walkways on 6439 SE 122nd.

Public Right-of-Way Stormwater Management: Stormwater runoff from public right-of-way improvements as required by the City of Portland Bureau of Transportation (PBOT) must be managed according to the standards of the SWMM and the Sewer and Drainage Facilities Design Manual.

- PBOT requires the construction of public frontage improvements which must be reviewed through a Public Works Permit (PWP). As a condition of the building permit, PBOT requires the applicant to construct a new curb 18 feet from centerline and a 16-foot wide pedestrian corridor. A 9-foot dedication of property to accommodate these improvements is required.

Public drainage improvements per the standards of the SWMM and the Sewer and Drainage Facilities Design Manual are required and are currently being reviewed under Public Works Permit (PWP) #EP146.

BES Staff finds the applicant's proposed stormwater management plan acceptable for the purpose of reviewing the conditional use application against the stormwater management approval criterion.

BES added additional comments specific to the existing conditions at the site and the proposed development:

Site Considerations

The following information relates to specific site conditions or features that may impact the proposed project.

Johnson Creek Basin Plan District, South Subdistrict: Zoning Code Section 33.537.140, Johnson Creek Basin Plan District, South Subdistrict Development Standards, states that no more than 50% of any site may be developed in impervious surface. The combined site has a total area of 36,668 square feet (SF) and 18,334 SF of the site must be pervious. Please see BES response for EA 14-186390 section E.1. The 12140 SE Foster Rd parcel exceeded the 50% impervious area by 21.5% or 3,870 S.F and an adjustment to this regulation was denied (13-203896 AD). The applicant submitted a pavement removal plan for 12140 SE Foster via email that proposes removing 3,646 SF of impervious pavement and replacing it with pervious pavement leaving 9,224 SF of impervious area on that property. The applicant is proposing 9,134 SF of impervious area to 6439 SE 122nd Ave for a total impervious area for both properties of 18,358 SF, which is 24 SF over the impervious area limit or 50.07%. **BES understands that BDS will include a condition of land use approval requiring this project to comply with the impervious area limitations of the Johnson Creek Basin Plan District, South Subdistrict Development Standards. Therefore BES does not object to approval of the Conditional Use application, with the conditions identified by BDS.**

Pervious area allows rain water to infiltrate into the ground, thereby slowing the stream response and reducing the amount of stormwater that enters the stream network, which minimizes damage to property caused by flooding. This groundwater recharge is critical to maintain summertime baseflow and improve water temperature in Johnson Creek. Pervious area is also important to the health of the Johnson Creek Watershed, as it helps prevent pollutants and erosive flows from entering Johnson Creek.

To assist with reducing heat island effect, BES would support installing light colored pervious pavement, which has a higher reflection coefficient and would reflect more solar energy and help lower the temperature of incidental stormwater runoff resulting in less thermal shock to aquatic life in waterways.

Based upon the above facts and analysis by the Water, Police, and Fire, there are adequate public services available. The Bureau of Environmental Services confirms that public services are available for sanitary disposal, and notes that the stormwater management plan is acceptable. However, as discussed above under stormwater, BES notes the importance of the site complying with the maximum 50% impervious surface standard that applies to the site, as well as selection of the pervious asphalt materials to avoid a heat island effect. With two such Conditions of Approval, discussed earlier in this Report in findings under 33.815.105.B. 3., this criterion can be found to be met.

- E. Area plans.** The proposal is consistent with any area plans adopted by the City Council as part of the Comprehensive Plan, such as neighborhood or community plans.

Findings: Two of the Policies in the Pleasant Valley Neighborhood Plan are found to be relevant to this application:

Policy 2, Environment: *Preserve the ecosystem and diverse character of Pleasant Valley.*

Objectives:

1. *Preserve and enhance the current quality of life and retain the area's diversity through careful land use planning, protecting environmentally sensitive areas, such as steep slopes, landslide areas, floodways, floodplains, and wetlands.*
2. *Monitor the implementation and enforcement of all existing environmental regulations, permit conditions, master plans and adopted studies.*
3. *Maintain the scenic and natural resources of the Johnson Creek Basin and the present location of Johnson Creek.*
4. *Stimulate environmental awareness through information programs.*

Policy 7, Transportation: *Promote the efficient use of the transportation system while reducing traffic and environmental impacts upon the residential areas of the neighborhood.*

Objectives:

1. *Ensure that roads are constructed, maintained, and reconstructed in a manner in a way which assures the safety of persons on and near them, and to assure connectivity throughout the system.*
2. *Resolve traffic-related and/or safety problems in ways which will not compromise the character of Pleasant Valley.*
3. *Promote alternative modes of transportation.*
 - a. *Improve the transit system to and within the neighborhood.*
 - b. *Improve and make known bicycle-pedestrian access areas and routes.*

The proposal is consistent with both of these policies and objectives because after development, the site will comply with the maximum 50% impervious surface limit. Stormwater will be managed to BES requirements which will preserve and protect the inherently sensitive environment within the Johnson Creek South sub district and the Johnson Creek flood plain.

The proposal is also consistent with the Transportation objectives, because after the development, there will be full half street improvements along the SE 122nd Avenue frontage that will include a sidewalk, swale, and bike lane. For these reasons, this criterion is met.

33.853.040 Approval Criteria

A. Trees in the Scenic Overlay Zone, Johnson Creek Basin plan district, or Rocky Butte plan district. A request to remove trees in the Scenic Overlay Zone, Johnson Creek Basin plan district, or Rocky Butte plan district will be approved if the review body finds that the applicant has shown that either criterion A.1 or A.2 is met and criterion A.3 is met:

1. The removal is necessary to allow for reasonable development of the site, including access to the site for construction, required parking, pedestrians, and utilities, and considering the allowed uses and characteristics of the area. Alternative locations and construction methods for structures, utilities and paved areas must be considered to maximize preservation of trees, with emphasis on preservation of trees that are 20 or more inches in diameter and tree groves; or

Findings: This proposal is subject to Criterion A.1. and A.3. The site is not located in a Scenic overlay zone or within the Rocky Butte Plan District, so therefore Criterion A.2 does not apply.

The site is located within the South Subdistrict of the Johnson Creek Basin Plan District (JCBPD). The development plan proposes to remove a total of 6 trees from the site while preserving all others 6-inches or greater in diameter. Because the site is located in the south subdistrict of JCBPD, section 33.537.125, *Tree Removal Standards* applies to trees that are 6 or more inches in diameter. Trees within 10 feet of an existing or proposed building or structures, or within 10 feet of a proposed driveway or right of way improvements are exempt, and removal is allowed.

The development of the Group Living facility on the 122nd lot will require the removal of trees. As identified on Exhibit C-1, site plan, the six trees proposed to be removed include the following:

- | | | |
|----|--------------------|--|
| 1) | 42-inch evergreen | [not exempt, within parking area] |
| 2) | 14-inch evergreens | [one exempt, within building footprint;
one not exempt, adjacent to parking area] |
| 1) | 40-inch evergreen | [exempt, within 10-feet of building] |
| 1) | 28-inch evergreen | [exempt, in the ROW improvement area] |
| 1) | 24-inch evergreen | [exempt, in the ROW improvement area] |

Four of these trees are exempt from review because they are either within 10-feet of the building, or within the right of way along 122nd Avenue that will be have half street improvements that include a stormwater swale, sidewalk, and curb.

As a result, two trees are subject to the Tree Removal review: a 14-inch evergreen just north and abutting the parking area, and a 42-inch evergreen located within the parking area.

The applicant notes the following [Exhibit A. 3., page 1-2]:

The trees to be removed through this review is a 42" evergreen tree and other smaller trees for the purpose developing the subject to allow for an expansion to the existing group living structure from the adjacent lot fronting SE Foster Rd. that will be built on this site. The development includes a new driveway and required parking area. The main existing large tree that is 42" in diameter will be in the center of the parking lot drive isle and will need to be removed. The parking is absolutely necessary for the development so that off-street parking will not need to be utilized and therefore minimizing impacts to the surrounding area. The

parking area and drive-isle will also be crucial to getting handicapped and wheelchair bound residence to and from the main entry.

Although this tree will need to be removed, there are 2 additional large trees, a 40" evergreen [Staff note: this appears to be a deciduous tree per Exhibit C-1, site plan] and another 42" evergreen, that will be preserved as part of the development and will not be affected by the placement of the building or parking area. New trees will also be proposed as part of the building permit that will provide mitigation for the existing tree removed. Per Table 853-1, a total of 15 new trees would need to be planted to replace a tree that is larger than 30" in diameter. The proposed development will incorporate these new trees on the new and existing sites under the same ownership.

All other trees to be removed are smaller in size and are required to be removed because they are within the building footprint of the proposed structure or within the new required right of way dedication where a new sidewalk, swale, and bicycle lane will be constructed per PBOT requirements. These smaller trees (5 total) range from 14" to 28" in diameter. A total of 6 trees will be preserved on site, ranging from 5" to 42" in diameter.

Given the required development standards and the desire to have the curb cut and driveway abutting the commercial zone, there is not enough space to meet all of the dimensional requirements and preserve this tree. Alternatively, the curb cut could be located at the south property line of the site, but this would place any additional impacts onto the residential area and in particular, the abutting residence that is directly south of the site. By placing the driveway as proposed, the overall impacts from vehicle traffic to the residential area are reduced. Given the location of the tree and the required dimensions for drive aisle, there is not sufficient clearance to meet the requirements without severely impacting the tree. Staff concurs with the applicant's analysis above, and concludes that this criterion is met.

2. For sites within the Scenic overlay zone or Rocky Butte plan district, the removal is to create or enhance a public view from public property or from a public right-of-way. Consultation with the City Forester is required; and
3. The proposal will continue to meet the purpose of the relevant tree preservation or removal standards. Replacement plantings within the Scenic overlay zone must consist of approved vegetation listed in the *Scenic Resources Protection Plan* appendix.

Findings: The applicant notes the following [Exhibit A. 3., page 2]:

The proposed development will continue to meet the purpose of the tree preservation and removal standards by protecting all other trees that will not be required to be removed as part of this development (6 total). Further, the proposed development will incorporate new landscaping and trees, approved and selected from the City plant list that will be planted on the site. As mentioned previously, a total of 15 trees will be incorporated on the site and the adjacent site under the same ownership to mitigate for the large tree being removed. Although Table 853-1 is a guide for tree replacement for violations, we have used the tree standards listed in this table for mitigation purposes as to ensure that as much tree replacement as may be required and feasible is proposed to ensure that impacts are minimal and that the character of the site and neighborhood remain as consistent as possible.

Staff concurs with this analysis. However, a Condition of Approval is warranted to ensure mitigation and tree replacement occurs on the site at time of development. Therefore, the applicant will be required to install a total of 15 trees selected from the Portland Plant List that meet the size requirements of 33.248.030.C.1.a. and b. At time of building permit the applicant will be required to submit a Tree Protection and Preservation Plan, identifying all trees 6-inches or greater on the site that are identified as being preserved per Exhibit C.1. With these conditions, this criterion is met.

DEVELOPMENT STANDARDS

Development Standards

Unless specifically required in the approval criteria listed above, this proposal does not have to meet the development standards in order to be approved during this review process. The plans submitted for a building or zoning permit must demonstrate that all development standards of Title 33 can be met, or have received an Adjustment or Modification via a land use review prior to the approval of a building or zoning permit.

CONCLUSIONS

The applicant requests a Conditional Use to expand an existing residential care facility by adding an additional 2-story building with an additional 27 beds for residents. An additional 7 spaces of on-site parking will be provided as well as new landscaping and fencing, and half-street improvements. A concurrent Tree Review is required to evaluate tree removal and mitigation for the proposed development. With conditions of approval, the proposal meets all of the applicable approval criteria and therefore should be approved.

TENTATIVE STAFF RECOMMENDATION

(May be revised upon receipt of new information at any time prior to the Hearings Officer decision)

Approval of

- A Conditional Use for a 27 bed Group Living Facility; and
 - A Tree Review for development of the facility, subject to the following conditions:
- A. As part of the building permit application submittal, the following development-related conditions (B through E) must be noted on each of the 4 required site plans or included as a sheet in the numbered set of plans. The sheet on which this information appears must be labeled "ZONING COMPLIANCE PAGE - Case File LU 15-133124 CU TR." All requirements must be graphically represented on the site plan, landscape, or other required plan and must be labeled "REQUIRED."
 - B. Prior to issuance of final occupancy permit for the 27 bed facility, the applicant must remove existing impervious paved surfaces as identified on Exhibit C-3 and replace them with pervious materials so that the entire site complies with the 50% impervious surface maximum.
 - C. The pervious asphalt material to be utilized on both lots of the site must be of a color lighter than a traditional dark/black asphalt color.
 - D. The applicant must install a minimum of 15 trees on the site for tree removal mitigation. These trees will be selected from the Portland Plant List. These trees must comply with the requirements of 33.248.030.C.1.a. and b.
 - E. At time of building permit, the applicant will submit a Tree Protection and Preservation Plan that identifies all trees on the site 6-inches or greater in diameter that will be preserved and have a root protection zone identified around each tree, consistent with Exhibit C.-1.

Procedural Information. The application for this land use review was submitted on March 13, 2015, and was determined to be complete on May 15, 2015.

Zoning Code Section 33.700.080 states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. Therefore this application was reviewed against the Zoning Code in effect on March 13, 2015.

ORS 227.178 states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant did not waive or extend the 120-day review period. Unless further extended by the applicant, **the 120 days will expire on: September 12, 2015.**

Some of the information contained in this report was provided by the applicant.

As required by Section 33.800.060 of the Portland Zoning Code, the burden of proof is on the applicant to show that the approval criteria are met. The Bureau of Development Services has independently reviewed the information submitted by the applicant and has included this information only where the Bureau of Development Services has determined the information satisfactorily demonstrates compliance with the applicable approval criteria. This report is the recommendation of the Bureau of Development Services with input from other City and public agencies.

Conditions of Approval. If approved, this project may be subject to a number of specific conditions, listed above. Compliance with the applicable conditions of approval must be documented in all related permit applications. Plans and drawings submitted during the permitting process must illustrate how applicable conditions of approval are met. Any project elements that are specifically required by conditions of approval must be shown on the plans, and labeled as such.

These conditions of approval run with the land, unless modified by future land use reviews. As used in the conditions, the term "applicant" includes the applicant for this land use review, any person undertaking development pursuant to this land use review, the proprietor of the use or development approved by this land use review, and the current owner and future owners of the property subject to this land use review.

This report is not a decision. The review body for this proposal is the Hearings Officer who will make the decision on this case. This report is a recommendation to the Hearings Officer by the Bureau of Development Services. The review body may adopt, modify, or reject this recommendation. The Hearings Officer will make a decision about this proposal within 17 days of the close of the record. Your comments to the Hearings Officer can be mailed c/o the Hearings Officer, 1900 SW Fourth Ave., Suite 3100, Portland, OR 97201 or faxed to 503-823-4347.

You will receive mailed notice of the decision if you write a letter received before the hearing or testify at the hearing, or if you are the property owner or applicant. This Staff Report will be posted on the Bureau of Development Services website. Look at www.portlandonline.com. On the left side of the page use the search box to find Development Services, then click on the Zoning/Land Use section, select Notices and Hearings. Land use review notices are listed by the District Coalition shown at the beginning of this document. You may review the file on this case at the Development Services Building at 1900 SW Fourth Ave., Suite 5000, Portland, OR 97201.

Appeal of the decision. The decision of the Hearings Officer may be appealed to City Council, who will hold a public hearing. If you or anyone else appeals the decision of the Hearings Officer, only evidence previously presented to the Hearings Officer will be considered by the City Council.

Who can appeal: You may appeal the decision only if you write a letter which is received before the close of the record for the hearing, if you testify at the hearing, or if you are the property owner/applicant. Appeals must be filed within 14 days of the decision. **Appeals must be filed within 14 days of the decision. An appeal fee of \$5,000.00 will be charged (one-half of the BDS application fee, up to a maximum of \$5,000).**

Appeal Fee Waivers: Neighborhood associations recognized by the Office of Neighborhood Involvement may qualify for a waiver of the appeal fee provided that the association has standing to appeal. The appeal must contain the signature of the Chair person or other person authorized by the association, confirming the vote to appeal was done in accordance with the organization's bylaws.

Neighborhood associations, who wish to qualify for a fee waiver, must complete the Type III Appeal Fee Waiver Request for Organizations Form and submit it prior to the appeal deadline. The Type III Appeal Fee Waiver Request for Organizations Form contains instructions on how to apply for a fee waiver, including the required vote to appeal.

Recording the final decision.

If this Land Use Review is approved the final decision must be recorded with the Multnomah County Recorder. A few days prior to the last day to appeal, the City will mail instructions to the applicant for recording the documents associated with their final land use decision.

- *Unless appealed,* The final decision may be recorded on or after a date that will be identified in the Hearings Officer's decision.
- A building or zoning permit will be issued only after the final decision is recorded.

The applicant, builder, or a representative may record the final decision as follows:

- **By Mail:** Send the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to: Multnomah County Recorder, P.O. Box 5007, Portland OR 97208. The recording fee is identified on the recording sheet. Please include a self-addressed, stamped envelope.
- **In Person:** Bring the two recording sheets (sent in separate mailing) and the final Land Use Review decision with a check made payable to the Multnomah County Recorder to the County Recorder's office located at 501 SE Hawthorne Boulevard, #158, Portland OR 97214. The recording fee is identified on the recording sheet.

For further information on recording, please call the County Recorder at 503-988-3034
For further information on your recording documents please call the Bureau of Development Services Land Use Services Division at 503-823-0625.

Expiration of this approval. An approval expires three years from the date the final decision is rendered unless a building permit has been issued, or the approved activity has begun.

Where a site has received approval for multiple developments, and a building permit is not issued for all of the approved development within three years of the date of the final decision, a new land use review will be required before a permit will be issued for the remaining development, subject to the Zoning Code in effect at that time.

Zone Change and Comprehensive Plan Map Amendment approvals do not expire.

Applying for your permits. A building permit, occupancy permit, or development permit may be required before carrying out an approved project. At the time they apply for a permit, permittees must demonstrate compliance with:

- All conditions imposed herein;
- All applicable development standards, unless specifically exempted as part of this land use review;
- All requirements of the building code; and
- All provisions of the Municipal Code of the City of Portland, and all other applicable ordinances, provisions and regulations of the City.

Planner's Name: Sylvia Cate

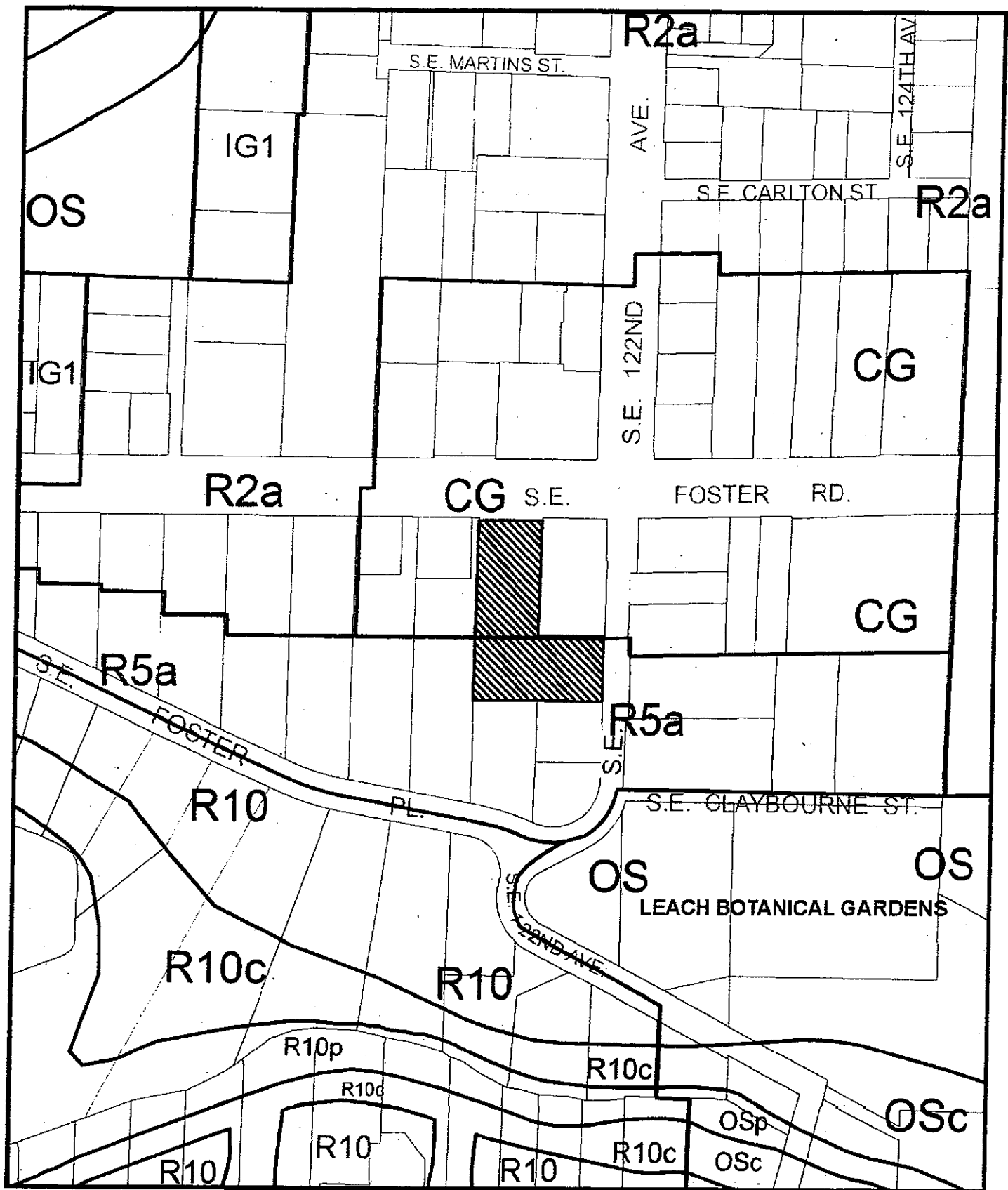
Date: July 2, 2015

EXHIBITS

NOT ATTACHED UNLESS INDICATED

- A. Applicant's Statement:
 - 1. Conditional Use Narrative
 - 2. Tree Review Narrative
 - 3. Diagram of paving removal from Foster site
- B. Zoning Map (attached):
- C. Plans & Drawings:
 - 1. Site Plan (attached)
 - 2. East elevation (attached)
 - 3. Impervious surface removal diagram (attached)
- D. Notification information:
 - 1. Request for response
 - 2. Posting letter sent to applicant
 - 3. Notice to be posted
 - 4. Applicant's statement certifying posting
 - 5. Mailing list
 - 6. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Bureau of Transportation Engineering and Development Review
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development Review Section of Bureau of Development Services
 - 6. Bureau of Police
 - 7. Life Safety Plans Examiner Section of Bureau of Development Services
- F. Letters: *None received by time of Staff Report Publication*
- G. Other:
 - 1. Original LUR Application
 - 2. Letter to applicant; April 9, 2015, re; need more information
 - 3. Pre Application Conference Summary Notes
 - 4. Surrounding Area Map
- H. Hearing Exhibits

The Bureau of Development Services is committed to providing equal access to information and hearings. Please notify us no less than five business days prior to the event if you need special accommodations. Call 503-823-7300 (TTY 503-823-6868).



ZONING



Site



NORTH

This site lies within the:
JOHNSON CREEK BASIN PLAN DISTRICT - SOUTH

File No. LU 15-133124 CU

1/4 Section 3742

Scale 1 inch = 200 feet

State_Id 1S2E22AA 800

Exhibit B (Mar 16, 2015)

epr
DESIGN

810 N.E. 19th Ave, Suite 155
Portland, Oregon 97232
503-288-5400 FAX
www.eprdesign.com

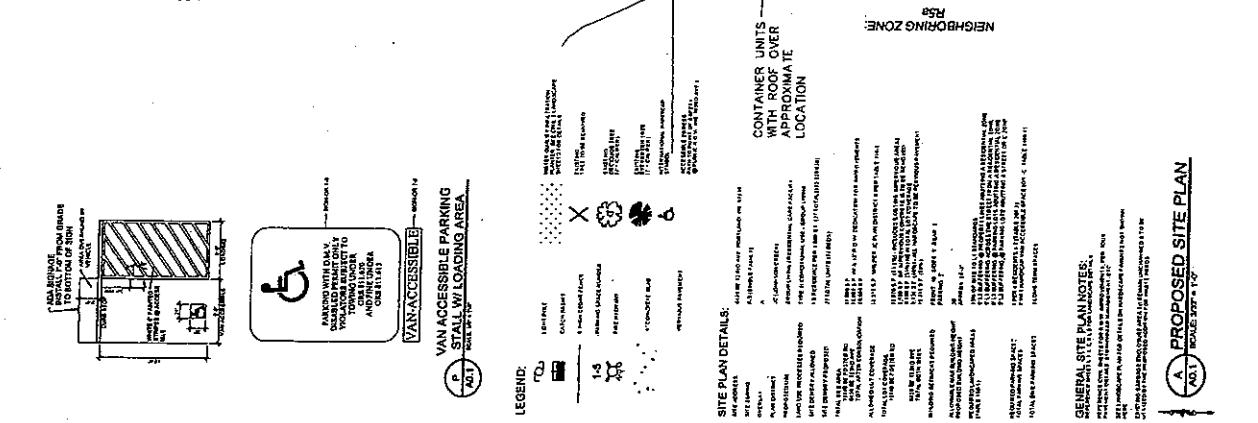
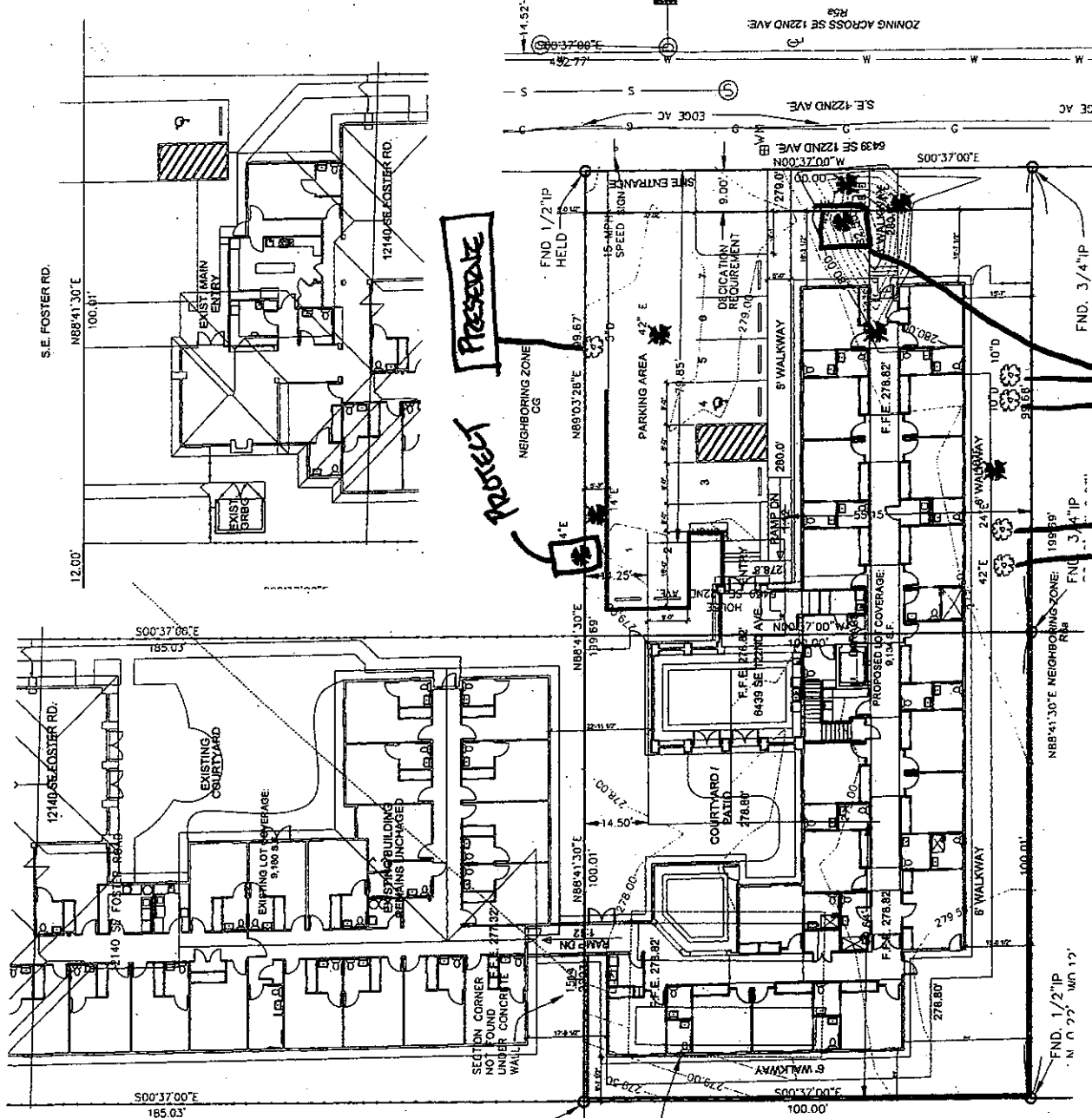
PRELIMINARY

Senior Haven Phase 2
6439 SE 122nd Ave.
General Contractor:
NW Specialty Construction

-SITE PLAN

DATE: 5/12/2015
DRAWN BY:
REVIEWED BY:
BRIEF:
REV. NO. DATE

A0.1



15-138124 CU
EXHIBIT C-1

epr
DESIGN

915 W. 18th Ave., Suite 100
Portland, OR 97201
503-255-4400
503-255-4401 FAX
www.eprdesign.com

PRELIMINARY

Senior Haven Phase 2
6439 SE 122nd Ave.
Addition
General Contractor
NW Specialty Construction

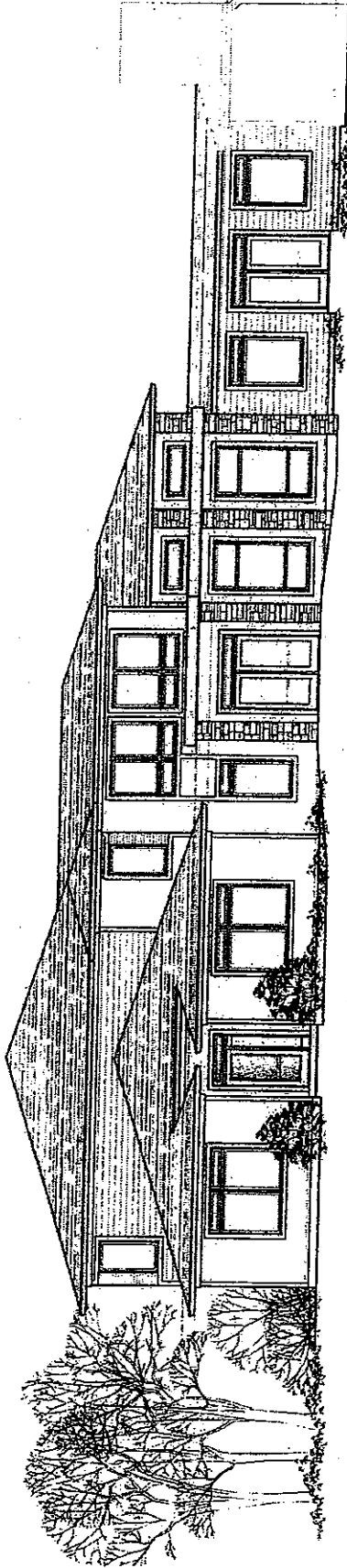
These plans are the property of EPR Design, LLC.
They are to be used only for the project and location specified.
Any other use without the written consent of EPR Design, LLC is prohibited.

**EAST BUILDING
ELEVATION**

REV. NO. DATE

DATE: 3/19/2013
DRAWN BY: [blank]
REVIEWED BY: [blank]
SHEET: [blank]

A1.1



A EAST ELEVATION (SE 122ND AVE.)
A1.1 SCALE 1/4" = 1'-0"

EXHIBIT C-2

LN 15-133124 CU



EXHIBIT C.3.

