



CITY OF
PORTLAND, OREGON

HEARINGS OFFICE

1900 S.W. 4th Avenue, Room 3100
Portland, Oregon 97201
Telephone: (503) 823-7307
FAX: (503) 823-4347
TDD (503) 823-6868

www.portlandonline.com/auditor/hearings

DECISION OF THE HEARINGS OFFICER

I. GENERAL INFORMATION

File No.: LU 09-102113 CU AD (HO 4090011)

Applicants: Robert T. and Rosalinda M. Asa
12045 SE Pardee Street
Portland, OR 97266

Representatives: Kathy Bash and Dave Spitzer
DMS Architects
2440 NE Milk Blvd Ste 202
Portland OR 97212

Hearings Officer: Ian Simpson

Bureau of Development Service (BDS) Staff Representative: Kathleen Stokes

Site Address: 12042 SE Holgate Boulevard, 12032 SE Holgate Boulevard, 12045 SE Pardee Street

Legal Description: TL 600 0.41 ACRES, SECTION 15 1S 2E; TL 2900 0.43 ACRES, SECTION 15 1S 2E; TL 400 0.24 ACRES, SECTION 15 1S 2E

Tax Account No.: R992151440, R992151610, R992153370

State ID No.: 1S2E15AA 00600, 1S2E15AA 02900, 1S2E15AA 00400

Quarter Section: 3542

Neighborhood: Powellhurst-Gilbert

Business District: Midway

District Coalition: East Portland

Plan District: Johnson Creek Basin

Zoning: R1a, R2a, CM (R1,000, Medium Density Multi-dwelling Residential and R2,000, Low Density Multi-dwelling Residential Zones, with Alternative Design Density Overlay Zone and Mixed Commercial/Residential Zone)

Land Use Review: Type III, Conditional Use and Adjustment Reviews (CU AD)

BDS Staff Recommendation to Hearings Officer: Approved with conditions

Public Hearing: The hearing was opened at 10:34 a.m. on June 1, 2009, in the 3rd floor hearing room, 1900 SW 4th Avenue, Portland, OR, and was closed at 11:30 a.m. The applicants' representative waived the applicants' 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:

Kathleen Stokes, BDS Staff Representative
Dave Spitzer, DMS Architects, 2440 NE MLK Blvd., Ste. 202, Portland OR 97212
James Stites, PO Box 90665, Portland OR, 97290
Michelle Dewey, Portland Bureau of Transportation, Bldg.106 /Rm. 800
Mark Beirwagen, 11127 SE 121st Ct., Happy Valley, OR 97086

Proposal: Owners of the two adjoining and existing residential care facilities on this site, Asa Care and Hope N' Care, are proposing construction of a third building on the abutting lot to the east. The new building will contain 14 bedrooms, providing space for 15 new residents. Because the two existing facilities and the new proposed facility are all located on contiguous properties under the same ownership, for purposes of the Portland Zoning Code (Title 33), the operations are considered to be one group living use on one site. In the multi-dwelling zones, group living uses of up to 15 residents are allowed by right. Larger group living uses are allowed when approved as Conditional Uses. In this case, the additional facility will increase the overall numbers of group living residents for the site, from 50 to 65. Because this is an increase of more than 10% in the number of residents, the total floor area and the size of the site, the required Conditional Use review is processed through a Type III procedure.

The two existing site facilities have 12 staff members, who work in three shifts over each 24-hour period, with two staff members, per shift, at each building. The new facility would have the same staffing level, with two staff each shift or a total of six for each day. Shifts for the facilities will remain on the same schedule, beginning at 7 AM, 3 PM and 11 PM. Currently, six staff members live on-site and about half of the new staff members will also live at the facility.

The remaining staff members live nearby and either walk or take the bus to work. The owners provide monthly bus passes for staff, upon request. Mass transit and TriMet lift vehicles are also used by residents. Visitors to the site mainly consist of medical personnel, physical therapists,

nutritionists and other care providers. On average, these visitors come only in the daytime, with three to four arriving during the morning hours and one to two in the afternoon.

Seven parking spaces are currently located on-site; three are adjacent to the Asa Care building on SE Holgate Boulevard and four are adjacent to the Hope N' Care building on SE Pardee Street. The previous land use review for the site, LU 04-011947 CU, found that this number of spaces was adequate, due to the proximity of frequent transit service to the site. Four new spaces will be located adjacent to the new building, which meets the minimum required number of spaces for the increased number of group living residents (one space per four residents). Two bus lines are within 500 feet of the site. The No. 71 line, on SE 122nd, offers 20-minute peak-hour service in both the 7 to 8:30 AM morning peak and the 4 to 6 PM evening peak. The No. 17 line, on SE Holgate Boulevard, offers 20 minute peak-hour service in the morning and from 4 to 5 PM in the evening.

The proposed development is subject to the standards of Chapter 33.120 for multi-dwelling zones. The following Adjustments for exceptions to these standards have been requested:

1) To waive the Maximum Transit Street Setback from SE Holgate Boulevard, in order to allow development in the R1-zoned portion of the lot, with access along the 16-foot wide CM-zoned portion of the lot. A previous condition of approval, for an adjustment in 2004 to the maximum transit street setback for the portion of the site to the west, required a pedestrian plaza to be built for transit users along the frontage on SE Holgate Boulevard. This plaza was never built and the applicants are now asking, as a part of this current adjustment request, to waive that condition of approval.

(Code Section 33.120.220 B limits building setbacks from Transit Streets to a maximum of 20 feet from the street lot line. At least 50% of the ground-level, street-facing building façade must meet this requirement).

2) To increase the allowed building coverage on the R1-zoned portion of the eastern lot, from 5,443 square feet to 6,415 square feet (approximately 70.7%).

(Code Section 33.120.225, Table 120-3 limits the maximum building coverage, including covered porches and decks, to 60% of the site area that is in the R1 zone.).

3) To increase the allowed percentage of the street frontage along SE Holgate Boulevard that is devoted to vehicle area, from 50% to 84%.

(Code Section 33.266.130 C.3.a. states that no more than 50% of the frontage on a street may be used for vehicle areas. On sites with more than one street frontage, this standard applies to the street with the highest transit designation).

4) To waive the requirement for a five-foot setback, with perimeter landscaping, on the east side of the driveway for the new building. The applicants propose having no landscaping but to install a wooden fence to provide screening for the adjacent residential property.

(Code Section 33.266.130 G.2: A 5-foot setback, with L3 (high screen) perimeter landscaping, is required at the edge of driveways and parking areas that abut a residential lot line).

Approval Criteria: Conditional Use - 33.815.105 A-E, Institutional and Other Uses in R Zones. Adjustments- 33.805.040 A-F.

II. ANALYSIS

Site and Vicinity: The applicants' site consists of three parcels that are located on the south side of SE Holgate Boulevard, about 200 feet to the west of SE 122nd Avenue. The southern portion of the site extends through to SE Pardee Street, one block south of SE Holgate Boulevard. The entire site has an area of 47,168 square feet. The flag-shaped eastern parcel that is the subject of this review proposal has an area of 10,592 square feet.

The two western parcels are already developed, with two group living residences that are both owned by the applicants. Asa Care was previously approved as an 8,045 square-foot facility for 25 residents on SE Holgate Boulevard, and Hope N' Care was previously approved as a 9,091 square-foot facility for 25 residents on SE Pardee Street. Each structure has a small parking area located in front of the building. A decorative brick wall at the entrance to the Asa Care residence on SE Holgate Boulevard is positioned over one of the previously required parking spaces.

The eastern parcel is a flag lot with paved driveway on the access pole that is flanked on both sides with narrow vegetated strips. The property is developed with a single-dwelling residence and a detached garage. These structures would be demolished, if the current development proposal is approved.

The area around the site is developed with a mix of residential housing types. Along SE Holgate Boulevard, the development is predominantly multi-dwelling, with a few older single-dwelling structures. On SE Pardee Street, the development includes a larger number of single-dwelling structures, but multi-dwelling development is also present. Adjacent to 122nd Avenue, which is less than 200 feet to the east, development is primarily commercial, with some more intense multi-dwelling development.

Southeast Holgate Boulevard is classified as a Neighborhood Collector, Transit Access Street, City Bikeway, City Walkway, Local Service Truck Street, Major Emergency Response Street, and Local Street for design classification. Southeast Pardee Street is classified as a Local Service Street for all transportation modes. Both streets are paved, but SE Pardee Street lacks sidewalks or curbs. Southeast Holgate Boulevard has curbs and also sidewalks in some locations, but some existing walkways are substandard in width and there are no planting strips. *(The City's Bureau of Transportation (PBOT) indicated that a right-of-way dedication of 5 feet will be required at the flag lot frontage on SE Holgate Boulevard to accommodate an extension of the sidewalk width).*

Zoning: The site has multiple zoning designations. Group Living uses are allowed in the portions of the site that are zoned for multi-dwelling development, but group living uses of this size require approval through a Conditional Use Review. The portion of the site where the proposed development would be located is zoned R1, Medium Density Multi-dwelling Residential. This zone allows up to one unit per 1,000 square feet of site area and requires a minimum of one unit per 1,450 square feet of site area, or 1 unit per 2,000 square feet of site area for sites that are smaller than 10,000 square feet. Allowed housing is characterized by one to four story buildings and a higher percentage of building coverage than in the lower density multi-dwelling zones. The major type of new housing will be condominiums and apartments, duplexes, town houses, and row houses. Generally, R1 zoning will be applied near neighborhood collector and district collector streets, and local streets adjacent to commercial areas, or major streets.

The portion of the site that is already developed is zoned R2, Low Density Multi-dwelling Residential. This zone allows approximately 21.8 dwelling units per acre. The major type of new development will be duplexes, town houses, row houses and garden apartments. These housing types are intended to be compatible with adjacent houses. Generally, R2 zoning will be applied near neighborhood collector and district collector streets, and local streets adjacent to commercial areas or major streets.

The residentially zoned portions of the site also have an “a” or Alternative Design Density Overlay. This zone allows increased density, in certain situations, when design standards are met. This overlay designation does not apply to group living uses.

The vehicle access to the R1-zoned portion of the site is zoned CM, Mixed Commercial/Residential. The CM zone promotes development that combines commercial and housing uses on a single site. This zone allows increased development on busier streets without fostering a strip commercial appearance. This development type will support transit use, provide a buffer between busy streets and residential neighborhoods, and provide new housing opportunities in the City. The emphasis of the non-residential uses is primarily on locally oriented retail, service, and office uses. Other uses are allowed to provide a variety of uses that may locate in existing buildings. Development is intended to consist primarily of businesses on the ground floor with housing on the upper stories. Development is intended to be pedestrian-oriented with buildings close to and oriented to the sidewalk, especially at corners.

The site is located in the Johnson Creek Basin Plan District. This plan district provides for the safe, orderly, and efficient development of lands within the Johnson Creek Basin. Many of the lands in this area are subject to a number of physical constraints and the development in these areas is subject to regulations that are designed to limit impacts on the environment. In other areas, development is encouraged and mechanisms are included that provide relief from environmental restrictions. Erosion control is important throughout the plan district and all vegetation removal activities must be surrounded or protected in a manner to prevent erosion and sediment from leaving the altered site.

Land Use History: City records indicate that prior land use reviews include:

MCF 5-85 LD 1985 Multnomah County decision approving a land division that created a flag lot. *(This is the parcel that is proposed to be developed with an additional group living residence in this 2009 Conditional Use Review).* Conditions of approval required meeting County Codes for water and sewer and providing a driveway in the flagpole, with a minimum width of ten feet. Landscaping was required for the remaining width of the access pole. *(The existing driveway is paved, but appears to exceed ten feet in width, due to the narrow vegetated strips that flank each side of the paving).*

MCF 2-85 E 1985 Multnomah County decision, County Code, Chapter 11.15, Section MCC 11.15.2616 h, to approve an exception to side yard setback requirements to accommodate the existing house on the northerly parcel in the 1985 land division proposal. *(The parcel for which this exception was approved is the abutting property to the east of the access pole and north/northeast of the flag portion of the applicants' site).*

LUR 97-00457 MP (97-014503) 1997 approval of a two-lot partition of Tax Lot 600 (the northwest parcel at 12032 SE Holgate Boulevard) to create a flag lot. *(This approval was never implemented and so has subsequently expired).*

LU 04-011947 CU AD 2004 Approval of a Conditional Use Review to construct additions to the each of the group living residences, Asa Care and Hope N' Care, for a combined total of 6,608 new square feet, that would increase the combined total number of group living residents from 30 to 50. Adjustments were also approved to waive the Maximum Transit Street Setback requirement from SE Holgate Boulevard and to waive the perimeter landscaping requirement for the vehicle areas adjacent to the western and northern property lines. Conditions of approval (summarized below) required the applicants to:

- A. Submit plans for building permits that were in substantial compliance with proposed site plans and elevation drawings and noting conditions B through F on the submitted documents;
- B. Implement a Transportation Demand Management plan that would make transit passes available for employees of the facilities;
- C. Provide a pedestrian plaza, in substantial compliance with the proposed site plan, along the frontage on SE Holgate Boulevard;
- D. Provide a stormwater management plan that was approved by BES and BDS Site Development;
- E. Provide sprinklers that met requirements of Fire Bureau Policy B-1;
- F. Meet all development standards that were not waived through the approved adjustments or gain approval of adjustments for any further exceptions to the standards, and
- G. Replace perimeter landscaping, adjacent to the parking area along SE Holgate Boulevard, with screening consisting of a 3.5-foot-tall wooden fence, if the landscaping had to be removed as a result of street improvements.

(Compliance with some of these conditions was not met. The fence that was erected, when landscaping had to be removed for widening the sidewalk along SE Holgate Boulevard exceeds the

3.5-foot height limit required by Title 33. The applicants have shown on the proposed site plans for the current review that the fence height is to be lowered to meet the Code's height limit and a monument sign that is part of the fence will be removed from a required parking space. The pedestrian plaza was not constructed, as required by Condition C. This issue will be discussed in the findings for the adjustment to the Maximum Transit Street Setback, below).

Agency Review: A “Request for Response” was mailed March 20, 2009. The following agencies responded with either no issues or concerns or recommendations for approval with conditions:

- BES provided information on the availability of water and sewer connections, projected requirements for easements and a summary of storm water management requirements. BES originally noted that additional stormwater management information was needed to determine whether or not they could recommend approval. The applicants subsequently provided the needed information and, in an addendum, BES noted that the stormwater management plan is adequate. Lot consolidation must be completed prior to approval of building permits, in order to allow a permissible sanitary sewer connection (Exhibits E-1, a and b).
- Transportation Engineering indicated that, with adherence to the proposed Transportation Demand Management Plan, there will be no significant impacts. Further detail on PBOT's response is included in the findings for the Conditional Use Review, below. (Exhibit E-2)
- Water Bureau provided information on water service for the properties. Lot consolidation is required to prevent water lines that cross property lines. (Exhibit E-3)
- Fire Bureau – no concerns
- Police Bureau expressed no concerns. The response noted that the owner/operators for the care facilities should work with the East Precinct Commander on public safety issues or concerns should any ever arise. (Exhibit E-4)
- BDS Site Development Section originally agreed with the BES initial response, indicating that additional information was needed to determine whether the stormwater management plan was adequate. With the submittal of the additional required information, Site Development also issued an addendum, finding that stormwater treatment and disposal methods will work for this site. Other points noted included a requirement to register drywells and soakage trenches with the Oregon Department of Environmental Quality (DEQ) and a need to verify decommissioning of pre-existing cesspools prior to approval of building permits. (Exhibits E-5, a and b)
- Life Safety Plan Review Section of BDS noted that a building permit for the proposal is currently under review. (Exhibit E-6)
- Parks-Forestry Division sent an electronic response that stated that no trees over 12 inches dbh (diameter at breast height) may be removed prior to issuance of building permit, unless permitted through Urban Forestry. (Exhibit E-7)

Neighborhood Review: A Notice of Proposal in Your Neighborhood was mailed on April 8, 2009. A second notice of the rescheduled hearing for this case was mailed on May 11, 2009. No written responses were received from either the Neighborhood Association or notified property owners before the June 1, 2009 hearing in this case.

Jay Stites, representing his mother and himself as owners of 12050 SE Holgate Boulevard, the lot bordering on the north of the subject site and east of the subject site's flagpole, raised several concerns during the hearing. Mr. Stites was concerned that adequate fencing be built between the subject site and his site to promote privacy and block visibility. There is currently no fence or other buffer between the two sites, and Mr. Stites was concerned about impacts on his property during construction.

Mr. Stites also raised a concern about the turning lane that provides access to his property via SE Holgate Boulevard. He stated that the turning lane is very long and its configuration creates problems for vehicles accessing his property. He recommended that the turning lane needs to be shortened or otherwise reconfigured. Mr. Stites said that there is a traffic safety issue on SE Holgate Boulevard, with vehicles pulling in and out of driveways onto the street.

Michelle Dewey, representing PBOT, stated that the area is in transition, and the traffic lanes on SE Holgate Boulevard are expected to be reconfigured. Ms. Dewey stated that PBOT can look at possibly shortening the left turn lane Mr. Stites was referring to. Ms. Dewey said that there were no major safety problems at this location.

Mark Beirwagen, the applicants' contractor, stated that the site plan calls for a six-foot tall cedar fence along the property with the neighbor, except for three and one half feet in the first ten feet from SE Holgate Boulevard. Mr. Beirwagen stated that the site plan calls for having the fence along the entire property line with Mr. Stites's property.

Dave Spitzer, the applicants' representative, requested that a condition of approval be put in the decision, requiring the applicants to build the six-foot fence along the entire property line in common with 12050 SE Holgate Boulevard, along both the east side of the flagpole and the north side of the flag portion of the site.

Mr. Stites raised a concern about the overhead power and telephone lines across his property going to the subject site. Mr. Beirwagen stated that the applicants want to be a good neighbor. The existing overhead lines will be removed, and new lines will be buried beneath the subject site's driveway. The subject site has an existing sewer line running under Mr. Stites's property. This sewer line will be abandoned and capped. A new sewer line will also run under the site's driveway.

ZONING CODE APPROVAL CRITERIA

CHAPTER 33.815 CONDITIONAL USES

33.815.040 Review Procedures

The procedure for reviews of conditional uses depends on whether the applicants are proposing a new conditional use, changing to another type of conditional use, or modifying development or intensity on an existing conditional use site. The review procedure may also depend upon the type of use that is being proposed. This proposal is to add a new parcel to the site, as the location for a new building that

increases the floor area on the site and also increases the number of group living residents. The proposal calls for the site size, the floor area and the number of residents to increase by more than 10% and, so, requires approval through a Type III Conditional Use Review.

33.815.105 Approval Criteria for Institutional And Other Uses In R Zones

These approval criteria apply to most conditional uses in R zones. The approval criteria allow institutions and other non-household living uses in a residential zone which maintain or do not significantly conflict with the appearance and function of residential areas:

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

Findings: Staff detailed that the residential area in this case includes residentially-zoned properties that are within a radius of approximately 200 to 400 feet, as determined by access on through streets. The area extends to the west, from SE 122nd Avenue to SE 118th Avenue, to the south to SE Liebe Street, and to the north to SE Boise Street. A small residential care facility was previously noted to be located next door, on the west side of the site. This facility is for disabled persons and, therefore, could qualify as a Household Use under the definitions of the Zoning Code, Chapter 33.910. But due to its small size, even as a Group Living Use this use does not require approval as a Conditional Use. No other uses were noted that did not also qualify as household uses in this residential area.

The Group Living Use on the applicants' site is not a new use, but continues a use that has existed on this site for a number of years. The change that is the focus of this review consists of the increase in the size of the site, incorporating the property to the east, the new structure and the increase in the number of residents that are served by the use.

The addition of the new property will result in the loss of one housing unit, fronting onto SE Holgate Boulevard, which previously served a household living use. Staff determined that there will be no change in the number or location of household living uses on SE Pardee Street. On SE Holgate Boulevard, there are a large number of multi-dwelling household units. Due to the predominant number of residential households in the immediate area, this small change in the number and location of non-household living uses in the area will not significantly impact the residential appearance and function of the area. Therefore, approving expanding this group living use will not significantly lessen the residential character of area, due to the increased proportion of uses not in the Household Living category. The Hearings Officer finds that this criterion is met.

2. The intensity and scale of the proposed use and of existing Household Living uses and other uses.

Findings: Staff detailed that the applicants' proposal includes construction of a third group living residence on this site, requiring the demolition of an existing single-dwelling residence. The increase in the intensity and scale of the use is expected to be minimal, essentially the same as or less than the impact of the allowed number of multi-dwelling units which could be accommodated on this site.

The existing development on the western portion of the site is in the R2 multi-dwelling zone. This portion of the site has an area of 36,576 square feet, and currently houses 50 residents and six live-in care givers in two residential care buildings. With multi-dwelling development, this portion of the site would allow up to 18 residential units. The new property to the east has a total area of 10,532 square feet. A 1,460 square-foot portion of this parcel is zoned CM and provides vehicular access from SE Holgate Boulevard. The developable (flag) portion of the parcel is zoned R-1 and consists of 9,072 square feet, which could accommodate up to nine residential units. The proposed new residential care building would provide housing for up to 15 adult residents and three live-in care givers.

Staff determined that if developed with family-sized apartments, the number of residents in the 27 multi-dwelling household residential units that would be allowed, would likely be about the same as the 65 adult residents of the facility and their nine live-in care takers (2.74 persons per unit). The addition of the proposed building in the R1-zoned portion of the site would be an even smaller population, proportionate to the numbers that would be expected from the nine units that could be built on the property (two persons per unit). The allowed multi-dwelling units would likely generate more activity, more traffic, and more noise than the proposed expansion of residents to be accommodated in this group living facility. Staff determined that the intensity and scale of the proposed use is not expected to negatively impact the appearance or function of the residential area. The Hearings Officer finds that this criterion is met.

B. Physical compatibility.

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

Findings: Staff detailed that the approval criteria require that either 2 or 3 must be met. The architecture of group living uses can be different from surrounding residential architecture, based on characteristics such as site size, building scale and style, especially

in single-dwelling zones. However, this site is located in multi-dwelling zones. Staff determined that the existing facility that fronts onto SE Pardee Street is compatible with the predominantly single-dwelling development in the R2 zone on that street. Although it will be set back some distance from the street, due to the access pole on the lot, the proposed building will be compatible with the scale and architectural features of the existing development along the more built-up streetscape on SE Holgate Boulevard. The single-story structure will not overwhelm smaller structures that are nearby and the density of the building coverage will still be compatible with the larger apartment buildings in the area. Landscaping and screening will also be provided to ensure that there is adequate screening. The Hearings Officer finds that 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: Staff detailed that the proposed increase in the number of residents and the addition of the eastern parcel with the proposed new structure will accommodate up to 65 care residents and nine live-in care givers. Staff determined that the impacts from this number of residents will be no different than the equivalent number of residents that would live in the 27 housing units that could be built by right on this site. Due to the limited activity of many of the residents, these impacts may be much less than the impacts of residential development that could be allowed by right. The elderly and disabled residents of the care facility will not generate any additional impacts related to noise, glare from lights, late-night operations, odors or litter. No activities are expected that raise issues of privacy or safety. The Hearings Officer finds that these criteria are 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 (LOS), 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: PBOT reviewed the application for its potential impacts regarding the public right-of-way, traffic impacts and conformance with adopted policies, street designations,

Title 33, Title 17, and for potential impacts upon transportation services. The Bureau's analysis of the proposal in regards to Title 33 approval criteria is contained below:

Street Designations - SE Holgate Boulevard is classified as a Neighborhood Collector, Transit Access Street, City Walkway, City Bikeway, and a Major Emergency Response street in the Transportation Element of the Comprehensive Plan (TSP). SE Pardee Street is classified as a Local Service Street for all transportation modes in the TSP.

The existing and proposed uses for the site conform to the Neighborhood Collector designation of SE Holgate Boulevard, and the Local Service Street designations of SE Pardee Street in the Transportation Element of the Comprehensive Plan (TSP). The TSP states that, "Local Service Traffic Streets are intended to distribute local traffic and provide access to local residences or commercial uses." The TSP states that, "The design of Neighborhood Collectors may vary over their length as the land use character changes from primarily commercial to primarily residential. Some Neighborhood Collectors may have a regional function, either alone or in concert with other nearby parallel collectors."

Access to arterials - The site will have direct driveway access to SE Holgate Boulevard, designated as a Neighborhood Collector Street in the City's Transportation System Plan, and the site is within 500 feet of SE 122nd Avenue, a Major City Traffic Street.

Connectivity - The City's connectivity guidelines state that through streets should generally be provided no more than 530 feet apart, and pedestrian connections should generally be provided no more than 330 feet apart. The street network in the immediate vicinity of the site meets connectivity guidelines for east-west oriented streets (400-foot spacing between SE Holgate Boulevard and SE Pardee Street), but the street network does not meet connectivity guideline for north-south oriented streets (1000-foot spacing between SE 118th Avenue and SE 122nd Avenue). It would be desirable to have an additional north-south oriented public street between SE 118th Avenue and SE 122nd Avenue; however, any new street should be located west of the existing site. A street connection in the location of the subject site would be too close to the intersection of SE Holgate Boulevard/SE 122nd Avenue.

Transit availability - Transit service is provided by TriMet on SE 122nd Avenue (bus line 71) and on SE Holgate Boulevard (bus line 17).

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 LOS only at intersections during the critical time period, such as AM or PM peak hours. 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.

None of the residents in any of the existing or proposed facilities have or will drive vehicles. Currently each of the two existing facilities has six staff members (12 staff total). The applicants' narrative indicates that 50% of the existing staff members live on site, and the other 50% walk or take the bus to access the site. The proposed facility will have an additional six staff for a total of 18 staff for the entire site. The narrative indicates that the proposed facility will have the same on-site living opportunities for new staff and similar commuting patterns for new staff. With 50% of the staff living on site, and the majority of the remaining staff accessing the site by walking or taking transit, the proposal will have minimal impact on the transportation system in the vicinity of the site. In addition, for each facility, changes in shifts occur at 7am, 3pm, and 11pm. These shifts occur outside of typical peak hour traffic time periods.

A traffic impact study was not required for the subject land use review, because of the minimal amount of additional traffic associated with the site and because PBOT has existing LOS information for the nearby signalized intersections of SE Holgate Boulevard/SE 122nd Avenue, and SE Holgate Boulevard/SE 112th Avenue. Both intersections meet the City's Performance Standards in Portland Policy Document TRN-10.27 listed above. PBOT also has future year traffic analyses showing that both intersections will continue to meet LOS standards in the year 2029 (SE Holgate Boulevard/SE 122nd Avenue will be LOS D in 2029, SE Holgate Boulevard/SE 112th Avenue will be LOS B in 2029).

On-street parking/neighborhood impacts - The applicants provided a supplemental narrative (dated 3/17/09) describing the parking demand that will be associated with the proposed use of the site. The applicants' narrative also describes the number of spaces available on the site. There are currently seven parking spaces on-site. Four additional spaces are proposed with the subject conditional use, for a total of 11 parking spaces. The applicants' narrative states that two spaces are currently used for staff, and that the new facility will require that one of the new parking spaces be used as a staff parking space. The narrative indicates that the remaining eight spaces would be for visitors (two-three per day) and health care providers (three-four per day). PBOT does not anticipate any significant overflow parking from the site that will significantly impact the adjacent neighborhood.

Adequate Transportation Demand Management (TDM) strategies - The applicants included a Traffic Demand Management Plan (TDM) in the narrative submitted for the conditional use. The following points from that plan will be required:

- The site's owner is the transportation coordinator and will be responsible for posting TriMet schedules and helping residents that use TriMet to schedule and coordinate pick-up by the TriMet lift service.
- A bulletin board will be provided in each facility that will post TriMet schedules, phone numbers that can be utilized for special scheduling of lift services and also encouragement for alternative modes of transportation such as carpooling and bicycle use by staff.
- Bike racks at each facility will be provided to encourage use of this alternative means of transportation.
- Management of 'Asa Care' and 'Hope N' Care' and the new residence building are required to encourage mass transit use for staff and provide monthly bus passes upon request.

With the transportation demand management strategies listed above the demand for parking and traffic associated with the site will be further reduced.

Access restrictions - The site will utilize a driveway connection to SE Holgate Boulevard. No access restrictions are necessary.

Impact on pedestrian, bicycle, and transit circulation - There is no reason to believe that the proposed conditional use will have negative impacts on pedestrian, bicycle or transit circulation in the adjacent neighborhood.

Safety for all modes - No negative safety impacts are expected with this proposal on any mode of the transportation system.

In consideration of the proximity of transit and the limited increase in traffic anticipated, PBOT concludes that the transportation system can support the proposed development for all of the stated evaluation factors.

Conclusion: PBOT/Development Review sees no impacts on transportation services from this proposal and states that there is no objection to approval of the Conditional Use. The Hearings Officer finds that these criteria are 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 BES.

Findings: Staff detailed that the City's other service agencies evaluated this proposal and responded to indicate that public services are adequate or can be made adequate to serve the proposed use. The proposed stormwater system is acceptable to BES. With a condition that requires the completion of a Lot Consolidation process, prior to approval of building permits, the City's regulations for the provision of water and sanitary sewers can be met. The Hearings Officer finds that this criterion is met.

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

Findings: Staff detailed that the site is within the boundaries of the Powellhurst-Gilbert Neighborhood Plan and the Outer Southeast Community Plan. There are no policies or objectives of the Powellhurst-Gilbert Neighborhood Plan or the Outer Southeast Community Plan that are specifically relevant to this proposal. However, the proposal is generally consistent with Objective 3.9 A of the City's Comprehensive Plan, which is cited in the Neighborhood Plan:

"Make the Powellhurst-Gilbert Neighborhood an enjoyable and pleasant place to live by improving the physical appearance of the neighborhood, improving commercial viability, and residential diversity."

- The proposed development maintains the physical appearance of the residential area and includes enhancement to the appearance of the site with the addition of landscaping and on-site pedestrian improvements.
- Residential diversity is maintained through the addition of more housing of a residential character that is compatible for the senior and disabled population.
- The proposal includes efficient use of mass transit, with increased use by both employees and residents of the facility.

Based on this analysis, staff determined that the proposal is consistent with the adopted area plans. The Hearings Officer finds that this criterion is met.

CHAPTER 33.805 ADJUSTMENTS

33.805.010 Purpose of Adjustments

The regulations of the zoning code are designed to implement the goals and policies of the Comprehensive Plan. These regulations apply city-wide, but because of the city's diversity, some sites are difficult to develop in compliance with the regulations. The adjustment review process provides a mechanism by which the regulations in the zoning code may be modified if the proposed development continues to meet the intended purpose of those regulations. Adjustments may also be used when strict application of the zoning code's regulations would preclude all use of a site. Adjustment reviews provide flexibility for unusual situations and to allow for alternative ways to

meet the purposes of the code, while allowing the zoning code to continue to provide certainty and rapid processing for land use applications.

33.805.040 Adjustment Approval Criteria

Adjustment requests will be approved if the review body finds that the applicants have shown that approval criteria A. through F. stated below have been met.

- A. Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and

Findings: Staff detailed that the applicants are asking for approval of Adjustment Reviews to allow exceptions to four development standards:

Adjustment 1. Maximum Transit Street Setback

Waive the Maximum Transit Street Setback from SE Holgate Boulevard, in order to allow development in the R1-zoned portion of the lot, with access along the 16-foot wide CM-zoned portion of the lot.

(Code Section 33.120.220 B limits the building setback from Transit Streets to a maximum of 20 feet from the street lot line. At least 50% of the ground-level, street-facing building façade must meet this requirement. The purpose of the regulation is to create an environment that is inviting to pedestrians and transit users).

The new building is proposed to be situated on the only available building location on the property. Because the parcel that is being added to the site was created as a flag lot, the street-facing portion of the lot is only 16 feet wide. The remainder of the site that abuts SE Holgate Boulevard is already fully developed with non-conforming structures that are outside of the maximum setback. Locating the new building within 20 feet of the street lot-line is, therefore, not an option. The edge of the frontage includes existing and proposed landscaped areas and an attractive fence that preserves an environment that is inviting to pedestrians and transit users.

A previous condition of approval for an adjustment to the maximum transit street setback for the western portion of the site (LU 04-011947 CU AD) required a pedestrian plaza to be built for transit users along the frontage on SE Holgate Boulevard. This plaza was offered by the applicants, as mitigation for approval of the requested adjustment, but was never built and the applicants are now asking, as a part of this current adjustment request to waive that condition of approval. The proposed landscaped areas will provide a greater amenity for pedestrians and transit users than an extension of the hard surface area. Bureau staff, who supported the original condition of approval of the 2004 adjustment to the maximum transit street setback, concurred that, after the subsequent widening of the sidewalk on SE Holgate Boulevard, the retention of landscaped areas would be equally supportive of the environment on the transit street as the addition of a pedestrian plaza.

Therefore, for this adjustment and for the request to waive the requirement to build a pedestrian plaza, this criterion is met.

Adjustment 2. Building coverage

Increase the allowed building coverage on the R1-zoned portion of the eastern lot, from 5,443 square feet to 6,415 square feet, which is about 70.7% of the R1 area. (An additional 85 square feet is covered by a pergola or overhead trellis, but since this is not a roofed area, it is not included in the building coverage calculations).

(Code Section 33.120.225, Table 120-3 limits the maximum building coverage, including covered porches and decks, to 60% of the site area that is in the R1 zone. This regulation is intended, along with the height and setback standards, to limit the overall bulk of structures. They assure that larger buildings will not have a footprint that overwhelms adjacent development. The standards help define the character of the different zones by determining how built-up a neighborhood appears).

The portion of the site that is in the CM zone is not configured to allow any portion of the building to be located in that area, so the entire structure is located in the R1-zoned flag portion of the lot. Overall, the building coverage for the entire site is within the allowed limits, since the R2-zoned lots have about 45.8% building coverage, when a maximum of 50% is allowed. The proposed 6,415 square-foot building coverage in the R1 zone is 70.7% of the R1-zoned area. The proposed building is a one-story structure, as needed to provide an accessible residence for the projected tenants. The building is tucked away from the street and meets the required setbacks from the adjacent residential properties. Landscaping requirements will be met in the setbacks to provide screening. Due to the low profile and screening, the building will not overwhelm adjacent development or appear to be too built-up. Therefore, for this adjustment, this criterion is met.

Adjustment 3. Street frontage devoted to vehicle area

Increase the allowed percentage of the street frontage along SE Holgate Boulevard that is devoted to vehicle area, from 50% to 84%.

(Code Section 33.266.130 C.3.a. states that no more than 50% of the frontage on a street may be used for vehicle areas. On sites with more than one street frontage, this standard applies to the street with the highest transit designation. The purpose for this regulation is to promote vehicle areas which are safe and attractive for motorists and pedestrians. Restrictions for sites on transit streets are intended to provide a pedestrian access that is protected from auto traffic; and create an environment that is inviting to pedestrians and transit users).

The applicants indicated to staff that it is important for the new building to be a one-story structure, in order to allow complete accessibility for the projected tenants. A single-story structure will also fit better onto the flag portion of this lot, as infill development that appropriately relates to the adjacent residential properties. The proposal for a one-story

structure leaves only the area adjacent to SE Holgate Boulevard as a location for the four required parking spaces. The frontage already contains a parking area, to the west of the building site, and a driveway on the access pole of the flag lot parcel. The proposed new parking area will be screened from the SE Holgate Boulevard frontage by the required perimeter landscaping, which will protect pedestrians on the sidewalk from the vehicle area and help to maintain an inviting environment for pedestrians and transit users. Therefore, for this adjustment, this criterion is met.

Adjustment 4. Perimeter landscaping at driveway edge (Code Section 33.266.130 G.2)
Waive the requirement for a five-foot setback, with perimeter landscaping, on the east side of the driveway for the new building. The applicants are proposing to have no landscaping but to install a wooden fence to provide screening for the adjacent residential property.

(Code Section 33.266.130 G.2: A 5-foot setback, with L3 (high screen) perimeter landscaping, is required at the edge of driveways and parking areas that abut a residential lot line. The landscaping requirements are intended to:

- *Improve and soften the appearance of parking areas;*
- *Reduce the visual impact of parking areas from sidewalks, streets, and especially from adjacent residential zones;*
- *Direct traffic in parking areas;*
- *Shade and cool parking areas;*
- *Reduce the amount and rate of stormwater runoff from vehicle areas;*
- *Reduce pollution and temperature of stormwater runoff from vehicle areas; and*
- *Decrease airborne and waterborne pollution).*

The applicants have proposed a wood fence along the eastern edge of the driveway, in order to provide screening for the abutting residential property. Landscaping is proposed at both the northern and southern edges of the new parking area. The addition of landscaping on the east edge of the driveway would not allow adequate turning radii for cars to enter the proposed parking area and could also impede access for emergency vehicles. Landscaping along this driveway edge would do little to improve or soften the appearance of the parking area. Visual impacts from the sidewalk and street are already reduced by the landscaping that is proposed. There is no need to direct traffic for this small parking area. Shading and cooling is not as critical along an access drive to a very small parking area and trees that are proposed in other landscaped areas will be adequate for both shading and cooling and for decreasing airborne and waterborne pollution. BES Site Development indicated that the proposed methods of stormwater management will be appropriate, without having any landscaping at the driveway edge. The Hearings Officer finds that this criterion is met.

- B.** If in a residential zone, the proposal will not significantly detract from the livability or

appearance of the residential area, or if in an OS, C, E, or I zone, the proposal will be consistent with the classifications of the adjacent streets and the desired character of the area; and

Findings: Staff explained that the new building will be compatible with the scale and architectural features of the existing site development. The size, scale and location of the building and the new parking area are consistent with multi-dwelling development in the surrounding area but also provide a low enough profile and adequate screening, so as not to overwhelm single-dwelling residences. The location of the building will mainly be visible from the internal view of the site. Existing and proposed landscaping and setbacks on the site create screening that provides a buffer and minimizes visual impacts on nearby residential properties, thereby maintaining the livability and appearance of the residential area.

A portion of the site is in a CM (Mixed Commercial/ Residential) zone. The existing landscaped area along the street edges of the abutting western portion of the site preserves a pleasing pedestrian environment. The proposed location of the new building, which is the only place where it can physically be constructed, is outside of the CM zone. The access driveway will be located in the CM zone, where the group living use is allowed by right. The CM zoning designation was placed on this access pole to a flag lot and will continue to provide a means of vehicular access to the new building. As the CM designation calls for residential uses to be co-located with commercial uses, the access to this group living residential use in the CM zone is consistent with this zoning designation which is a zone that is called for in areas with these types of street classifications. The proposal can therefore also be found to be consistent with the desired character of the area. Therefore, for all of the requested adjustments, this criterion is met.

- C. If more than one adjustment is being requested, the cumulative effect of the adjustments results in a project which is still consistent with the overall purpose of the zone; and

Findings: Staff explained that the purpose of the multi-dwelling zones, including both R1 and R2, is to preserve land for urban housing and to provide opportunities for multi-dwelling housing. Group living uses of the size that is located on this site are allowed when approved as Conditional Uses.

The purpose of commercial zone designations is to implement the commercial policies and plan map designations of the Comprehensive Plan. The particular characteristics that the CM zone designation intends to implement are the promotion of development that combines commercial and housing uses on a single site. All group living uses, except for alternative or post incarceration facilities, are allowed by right in the CM zone.

The requests for adjustments to the maximum transit street setback (including the request to waive the requirement for a pedestrian plaza) and to maximum building coverage apply

to the development in the R1 zone, where the proposed building would be located. The request for an adjustment to the percentage of the street frontage that is devoted to vehicle area applies to proposed development in the R2 and CM zones. The request for an adjustment to the perimeter landscaping requirement for the driveway applies to proposed development in the CM zone.

The configuration of the parcel where the new building is proposed to be located, which was originally platted as a flag lot, allows the proposed infill development for the group living use, which was found to meet the approval criteria as a Conditional Use. The configuration does not allow the maximum transit street setback to be met and, in fact, the R1 zone is not even within the maximum setback distance from SE Holgate Boulevard. As explained in the findings for Criterion A, above, the proposed setback and increase in the allowed building coverage will still be compatible with the desired streetscape and with the multi-dwelling zone and the surrounding development in the area.

The proposed new vehicle area mainly consists of the parking area that is to be located in the R2 zone. However, the existing driveway in the CM zone will also be widened to the full width of the access pole. The CM zone encourages a built-up streetscape that includes both commercial and residential uses. However, the 16-foot-wide access pole on the eastern parcel of this site is the only portion of the site that has this zoning designation and it does not provide adequate space for development.

The proposed increase in vehicle area, which will bring the amount to about 84% of the total site frontage on SE Holgate Boulevard, will be mitigated by the perimeter landscaping that will run along the north side of the parking stalls. The provision of the required parking, adequately screened, as proposed, will address other, potentially more serious, impacts that could be placed on the residential area if on-site parking were not provided. Providing the parking and the means to access the parking area, through the widening of the driveway, are consistent with the needs and requirements of the group living residential use that is either allowed, outright, in the CM zone or is approved as a Conditional Use, in the R2 zone.

The request to waive the perimeter landscaping requirement, along the eastern edge of the driveway in the CM zone, will allow adequate room to access the parking area for the group living use. Adequate buffering for the adjacent residential property will still be provided, with the proposed wood fence. The use of this piece of property, which has always been designated as a driveway, since the lot was created, will support the residential use of the overall site, which is in keeping with the purpose of the CM zone.

The four requested Adjustments are not inconsistent with the purposes of the zones, either individually or cumulatively. Therefore, for all of the requested adjustments, this criterion is met.

- D.** City-designated scenic resources and historic resources are preserved; and
- E.** Any impacts resulting from the adjustment are mitigated to the extent practical.
- F.** If in an environmental zone, the proposal has as few significant detrimental environmental impacts on the resource and resource values as is practicable.

Findings: Staff explained that city-designated scenic resources are indicated by application of the “s” or Scenic Resource Overlay. Historic Resources are designated by adoption of Landmark Status. There are no City-designated scenic or historic resources on this site. No impacts, either individually or cumulatively, are expected to result from approval of the requested Adjustments. The site is not located within an environmental zone. Staff determined that these criteria do not apply.

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.

Title 17, Street Configuration and Public Improvement/Dedication Requirements

SE Holgate Boulevard - SE Holgate Boulevard is improved with two travel lanes in each direction, a center turn lane, a parking lane on both sides of the roadway and a curb. Almost the entire frontage of the subject flag lot property will contain a driveway to serve the new building. The applicants will need to design the driveway to accommodate the extension of a six-foot wide sidewalk separated from the curb by a four-foot furnishing zone. A right-of-way dedication of five feet will be necessary along the flag lot frontage on SE Holgate Boulevard to accommodate the sidewalk location. This dedication is consistent with the dedication done for the adjacent property to the west that is under common ownership.

SE Pardee Street - SE Pardee Street is improved with 32 feet of paving in a 50-foot right-of-way. The site’s SE Pardee Street frontage is not improved with curb or sidewalk. Right-of-way dedication was required, but no frontage improvements were required on SE Pardee Street with the 03-159857 land use case. PBOT will not require any frontage improvements on SE Pardee Street as a condition of the subject land use case. The subject flag lot that where the new building will be constructed does not have any frontage on SE Pardee Street.

Building Permit Information - At the time of building permit review (following the land use review) the applicants should be aware of the following:

- System Development Charges (SDCs) may be assessed for this development. The applicants can receive an estimate of the SDC amount, prior to submission of building permits, by contacting Rich Eisenhauer at (503) 823-6108.
- Curb-cuts and driveway construction must meet the requirements in Title 17. The Title 17 driveway requirements will be enforced during the review of building permits.

III. CONCLUSIONS

The proposed increase in the site area, to incorporate the flag lot abutting the existing Conditional Use site to the east and the proposed new building to house an additional 15 group living residents, with three live-in staff members will replace one single-dwelling residence. This will not make any significant change to the proportion of non-household living uses in the residential area. The proposed intensity of the use will not increase the intensity of use beyond what would be allowed by right with multi-dwelling development in the R1 and R2 zones. The proposed development is in keeping with the appearance of the adjacent residential development and adequate setbacks and landscaping are proposed to provide buffering and screening. No impacts on livability for the residential area are projected to occur. The proposed use and development are supportive of the street designations of the Transportation Element of the Comprehensive Plan and the transportation system will be capable of supporting the proposal in addition to the existing uses in the area, with adherence to the continuation of the Transportation Demand Management Plan. Public services are capable of supporting the proposed use, with the requirement that the lots be consolidated so that water service and sanitary sewer connections will not be crossing the property lines of separate lots. With these conditions, the proposed Conditional Use can be approved.

The requested Adjustments to standards for:

- increasing maximum transit street setback (including waiving a previous requirement for a pedestrian plaza),
- increasing maximum building coverage,
- increasing the percentage of street frontage devoted to vehicle areas, and
- waiving the perimeter landscaping for the east side of the driveway

have all been found to equally or better meet the purposes of the standards that are to be adjusted. No impacts on the appearance or livability of the residential area are expected to occur from approval of these exceptions. The proposal in the CM zone is consistent with the classifications of the streets and the desired character of the area. The requests are consistent with the purposes of the R1, R2 and CM zones, so there are no cumulative effects from approval that would be inconsistent with these designations. No impacts are expected to occur from approval of the adjustments that would require additional mitigation. Therefore, the adjustment requests can be approved, in accordance with the proposed site plans and elevation drawings.

IV. DECISION

Approval of a Conditional Use Review to allow the proposed expansion of this group living use, in substantial compliance with the proposal that includes increasing the size of the site by about 10,532 square feet, in order to allow the addition of the eastern parcel to the site, and the construction of a new building of approximately 6,415 square feet to house an additional 15 residents and three live-in staff members, subject to conditions A through D, below.

Approval of the following Adjustments, which are subject only to condition A, below:

1) To Code Section 33.120.220 B, to waive the Maximum Transit Street Setback from SE Holgate Boulevard, in order to allow development in the R1-zoned portion of the lot, with access along the 16-foot wide CM-zoned portion of the lot, and also to waive Condition C of LU 04-011947 CU AD, so that no pedestrian plaza will be required along the frontage on SE Holgate Boulevard.

2) To Code Section 33.120.225, Table 120-3, to increase the allowed building coverage on the R1-zoned portion of the eastern lot, from 5,443 square feet to 6,415 square feet or approximately 70.7% of the R1-zoned area.

3) To Code Section 33.266.130 C.3.a, to increase the allowed percentage of the street frontage along SE Holgate Boulevard that is devoted to vehicle area, from 50% to 84%.

4) To Code Section 33.266.130 G.2, to waive the requirement for a five-foot setback, with perimeter landscaping, on the east side of the driveway for the new building. The applicants are proposing to have no landscaping but to install a wooden fence to provide screening for the adjacent residential property.

A. As part of the building permit application submittal, each of the four required site plans and any additional drawings must reflect the information and design approved by this land use review as indicated in Exhibits C.1-C.3. The sheets on which this information appears must be labeled, "Proposal and design as approved in Case File # LU 09-102113 CU AD. Conditions B and C apply only to CU approval, but must be noted on the submitted plans."

B. A Traffic Demand Management Plan (TDM) must be followed for all of the residences on the site, which includes the following:

- The site owner is the transportation coordinator and will be responsible for posting TriMet schedules and helping residents that use TriMet to schedule and coordinate pick-up by the TriMet lift service.
- A bulletin board will be provided in each facility that will post TriMet schedules, phone numbers that can be utilized for special scheduling of lift services and also encouragement for alternative modes of transportation such as carpooling and bicycle use by staff.
- Bike racks at each facility will be provided to encourage using this alternative means of transportation.

- Management of 'Asa Care' and 'Hope N' Care' and the new residence building are required to encourage mass transit use for staff and provide monthly bus passes upon request.
- C. Before building permits are approved, consolidation of the three existing lots, according to the requirements of the Portland Water Bureau and BES, is required to ensure that no combined water service or sanitary sewer lines cross separate property lines.
- D. The applicants must build a six-foot high fence along the entire property line in common with the property located at 12050 SE Holgate Boulevard (except for three and one half feet for the first ten feet of the fence from SE Holgate Boulevard, as per the Code). The fence will run along both the east side of the flagpole and the north side of the flag portion of the subject site.

Ian Simpson, Hearings Officer

Date

Application Deemed Complete: March 18, 2009
Report to Hearings Officer: May 22, 2009
Decision Mailed: June 17, 2009
Last Date to Appeal: 4:30 p.m., July 1, 2009
Effective Date (if no appeal): July 2, 2009 Decision may be recorded on this date.

Conditions of Approval. This approval is 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 (823-7526). Until 3:00 p.m.,

Monday through Friday, file the appeal at the Development Services Center on the first floor. Between 3:00 p.m. and 4:30 p.m., file the appeal at the Reception Desk on the 4th Floor. **An appeal fee of \$4,778.00 will be charged (one-half of the application fee for this case).** 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, City Council will hold an evidentiary hearing, one in which new evidence can be submitted to them. Upon submission of their application, the applicant for this land use review chose to waive the 120-day time frame in which the City must render a decision. This additional time allows for any appeal of this proposal to be held as an evidentiary hearing.

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.

BDS may also grant fee waivers to low income applicants appealing a land use decision on their primary residence that they own in whole or in part. In addition, an appeal fee may be waived for a low income individual if the individual resides within the required notification area for the review, and the individual has resided at that address for at least 60 days. Individuals requesting fee waivers must submit documentation certifying their annual gross income and household size (copies of tax returns or documentation of public assistance is acceptable). Fee waivers for low-income individuals must be approved prior to filing your appeal; please allow three working days for fee waiver approval.

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 **the day following the last day to appeal.**
- 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

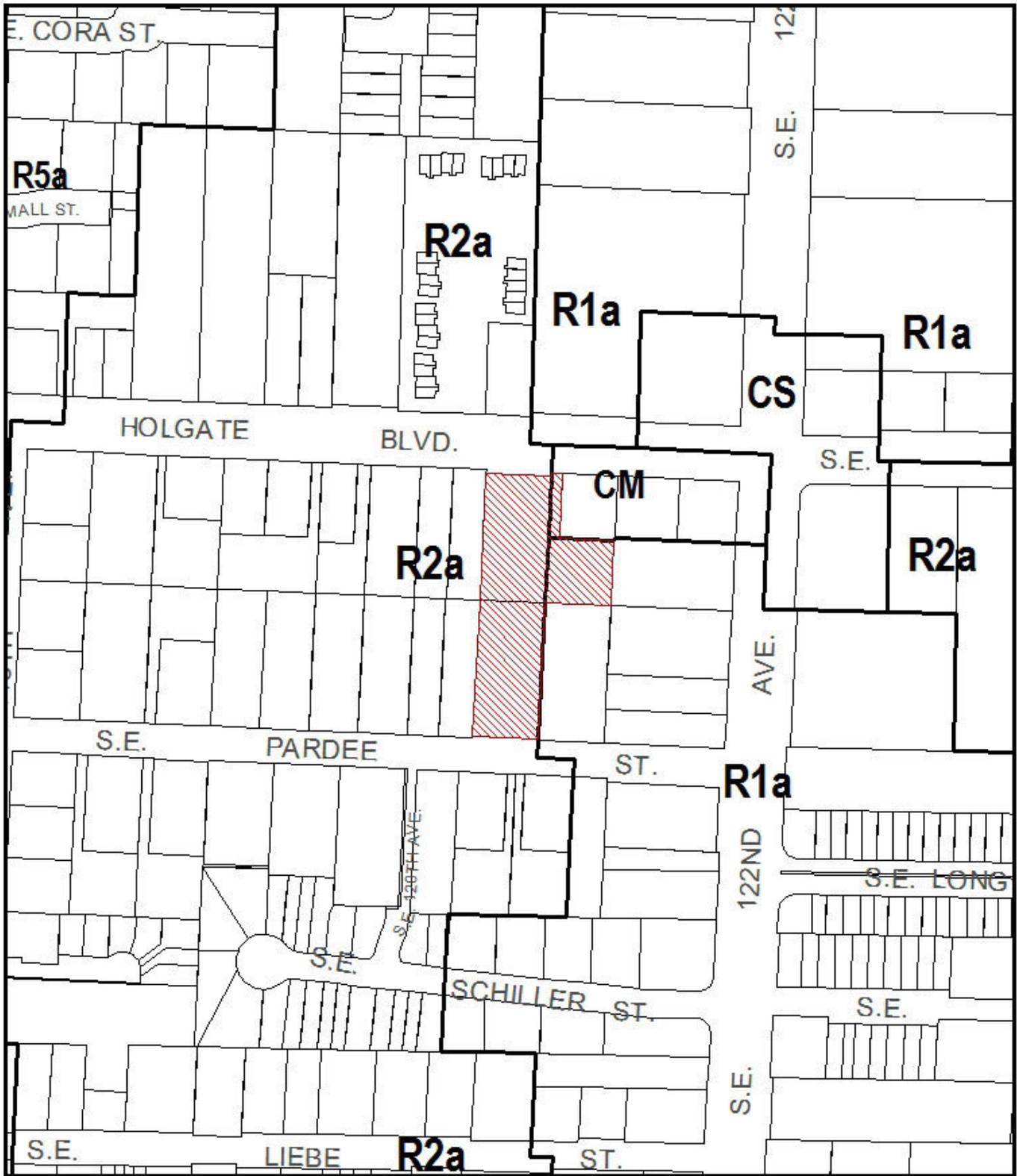
- A. Applicant's Statement:
 - 1. Application and original submittal
 - 2. 120-day waiver, dated February 3, 2009
 - 3. Transit information showing bus routes and frequent peak hour service
 - 4. Supplemental information, dated March 10, 2009
 - 5. Supplemental information, received March 12, 2009
 - 6. Supplemental information via email, March 16, 2009
 - 7. Supplemental information via email, March 17, 2009
 - 8. Supplemental information (stormwater management), received April 22, 2009
 - 9. Supplemental information, received May 7, 2009
- B. Zoning Map (**attached**):
- C. Plans & Drawings (**attached**):
 - 1. Site plan
 - 2. Detail site and landscape plan
 - 3. Elevation drawings
- 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
 - 7. Mailing list for hearing cancellation notice
 - 8. Mailed hearing cancellation notice
 - 9. Second posting letter
 - 10. Second posting notice
 - 11. Second statement certifying posting
 - 12. Mailing list for notice of rescheduled hearing
 - 13. Mailed notice of rescheduled hearing
- E. Agency Responses:
 - 1. BES (a and b)
 - 2. PBOT/Engineering and Development Review
 - 3. Water Bureau
 - 4. Police Bureau
 - 5. Site Development Review Section of BDS (a and b)
 - 6. Life Safety Plan Review Section of BDS
 - 7. Bureau of Parks, Forestry Division
 - 8. Agency response electronic data sheet
- F. Letters: (none received)

G. Other:

1. Site history research
2. Letter from Kathleen Stokes to Kathy Bash, February 3, 2009
3. Pre-application Conference summary notes
4. Request to postpone original hearing date

H. Received in the Hearings Office:

1. Hearing notice - Stokes, Kathleen
2. Request to reschedule - Stokes, Kathleen
3. Notice of postponed hearing - Stokes, Kathleen
4. Rescheduled hearing notice - Stokes, Kathleen
5. Staff report - Stokes, Kathleen
6. PowerPoint presentation w/notes attached - Stokes, Kathleen



ZONING

 Site



This site lies within the:
JOHNSON CREEK BASIN PLAN DISTRICT

File No.	LU 09-102113 CU AD
1/4 Section	3542
Scale	1 inch = 200 feet
State Id	1S2E15AA 600
Exhibit	B (Mar 19, 2009)

